



# CITY OF GREENACRES, FLORIDA

## MINUTES

Charter Review Committee Meeting

March 2, 2017 – 5:30 p.m.

City Hall Council Chambers  
5800 Melaleuca Lane

### Committee Members

Chuck Shaw, Chairman  
Frank Simon, Vice Chairman

Dannette Fitzgerald	Ada Harris
Aileen Hernandez	Phil Konz
Emily Robarts	Luis Torres
Larry Tronco	Benjamin Wade
Brian Willever	Toni Willey

### Administration

Andrea McCue, City Manager  
James D. Stokes, City Attorney  
Joanna Cunningham, City Clerk

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Web Site: <http://www.ci.greenacres.fl.us>

**MINUTES**  
**Charter Review Committee**  
**March 2, 2017 – 5:30 p.m.**

Notice: Any person requesting the appeal of a decision of the City Council will require a verbatim record of the proceedings and for that purpose will need to ensure that such verbatim record is made. Pursuant to F.S. 286.0105, the record must include the testimony and evidence upon which the appeal is to be based. The City of Greenacres does not prepare or provide such verbatim record.

**1. Call To Order and Roll Call.**

The Meeting of the Charter Review Committee was called to order at 5:33 p.m. City Clerk Joanna Cunningham called the roll. All Members were present except Committee Members Konz, Willey and Torres.

**2. Pledge of Allegiance to the Flag.**

Vice Chairman Simon led the Pledge of Allegiance.

**3. Comments From the Public for Agenda Items Only.**

There were none.

**4. Approval of Minutes of February 16, 2017 Meeting**

**Motion to approve the Meeting Minutes of February 16, 2017 was made by Committee Member Danette Fitzgerald seconded by Committee Member Brian Willever. The motion passed unanimously 8-0.**

**5. Regular Agenda.**

**A. Old Business.**

**1. Statistics on other cities' voting by district or at-large**

There was a hand out in the packet that stated all surrounding cities elect their Mayor and Council At-Large.

**2. City Election Statistics by Precinct**

The last boundaries were done in 1998/1999 after the last Charter Review Committee met per City Clerk Cunningham

**Motion made by Vice Chairman Simon, seconded by Committee Member Roberts to require a review of the District Boundaries after each Census.**

There was a lengthy discussion regarding when the boundary review should take place and how frequently. Suggestions were in alignment with the census every ten years, and another proposal was every four to coincide with the Council Terms. The issue of a boundary change impacting a sitting Council Member who would no longer be in the same district was discussed. City Attorney Stokes indicated that the current term would be grandfathered into the new revision. It was agreed upon that the boundaries should be as equal in population as possible. One member suggested creating the boundaries based on age 1 population as some areas house more elderly residents and others are more family-oriented.

**The City Attorney was directed to research the attrition rate for the City of Greenacres.**

Vice Chairman Simon said that Gerry meandering needs to be avoided. He reiterated that he thought he had directed staff at the last meeting to research this and find out who creates the districts and how often it should be done. Chairman Shaw stated that the City Clerk pointed out that this was in the minutes from last meeting that were approved earlier in today's meeting. Vice Chair Simon did request that the City look at re-districting and the group was in consensus that they thought the boundaries should be re-drawn.

Committee Member Willever suggested that since the boundaries are not contiguous, the City could be like Palm Beach Gardens and the top vote getters would get the council seats regardless of where they live. The problem with that in Greenacres, since it is a smaller community, you could potentially have three or four Council Members all living in the same development and no representation from other parts of the City. City Attorney Stokes cited an example in Vero Beach where the newly elected Council Members, who were elected all resided beside a power plant, voted to remove it from the beach area.

**Chairman Shaw called for a vote on the Motion, all were in favor. None opposed. Motion Carried 8-0.**

#### **B. Article V – Transition Schedule**

City Attorney Stokes stated there was nothing in this article that would need to be changed as it is statutory.

#### **C. Article VI – Ordinances and Resolutions**

City Attorney Stokes indicated he printed out the Florida Statutes regarding Ordinances and Resolutions, even though City Clerk Cunningham had already included it in the packet. The City follows State Law and cited the police department contract and after the City Council had voted to change to PBSO – there needed to be a formal Ordinance adopted.



Vice Chairman Simon asked about Ordinances expanding or reducing the City boundaries. City Attorney Stokes responded that area is covered in Article 1 and also by Florida Statutes related to annexations. Chairman Shaw asked if the city had any franchises and they do not.

Committee Member Wade stated that Comcast has a franchise in some cities; added that he had an issue when PBSO took over the Greenacres Police Department because he felt that the residents of the City should have voted on that. City Attorney Stokes advised that language could be added into the Charter to prevent something like that from happening again.

Chairman Saw said when that meeting occurred, he did not speak for or against the merger, but against the process and how it was done. Procedure was not followed. Committee Member Willever asked what prevents the City without having a referendum from selling to highest bidder and outsourcing services such as the building or fire departments.

Committee Member Roberts stated that when the merger occurred, there was lack of public participation, the police employees were in favor of it because of a better retirement, but the City did not consider other future aspects.

City Attorney Stokes spoke against putting subcontracting out functions in the Charter. There are small departments, and they use other attorneys for labor law, and it may be cost effective to engage in contract or to help temporarily. The two largest departments that should require a referendum would be public safety: police and fire. The City Manager should still have the authority to combine or separate departments.

Committee Member Hernandez asked if the police contract had not been properly noticed. City Attorney Stokes stated that the Council had voted to merge but had not followed the procedure of adopting an Ordinance, so when he brought it to their attention, they passed an Ordinance and had the proper advertising and public notice, but the decision had already been made. Committee Member Fitzgerald added that if the Council had followed the Charter, the outcome may have been different.

Committee Member Wade asked why the Mayor did not say anything while this was occurring to stop it, or the former City Manager. He said the City needs a strong City Manager to bring forth and outline the proper procedure. He felt that they finally have one now with Manager McCue.

The group discussed and was in consensus that they wanted to add in a requirement about hosting public hearings on matters that affect the dissolution of major departments, or City property. The City Attorney informed the Committee that ALL ordinances are advertised at least ten days prior to adoption per Florida Statute, but hardly anyone reads them in the legal ad section of the newspaper.

Committee Member Willever stated that the City Council circumvented the system and wanted to make sure that this did not happen again. Chairman Shaw stated it would help if there was not a rogue Council and fortunately, the City Attorney advised that an Ordinance was necessary and the Council did listen, but the negotiations were already impacted by the vote already taken.

Vice Chairman Shaw wanted a longer length of public notice. City Clerk Cunningham advised that if there is a First reading of an Ordinance on a Monday evening Council Meeting, the advertising must be to the newspaper by noon on Wednesday in order to comply with the ten day State Statute. City Attorney Stokes added, that if the Charter required a longer period of notice – it would take over a month before anything could get passed. Committee Member Harris added the requirements are already in writing- it was that Council did not follow the procedure. Chairman Shaw opined that the Council absolutely violated the Sunshine Law and that was why the State Attorney's office is investigating a candidate for Mayor. Sunshine Law violations are very difficult to prove. There was discussion about the PBSO merger and if the item could have been tabled. The item was not published on the agenda, and the matter was voted upon by motion. Since it was not a resolution or ordinance, the Mayor could not veto it.

Committee Member Wade discussed a recent Community Meeting held at Rambo Park and said public notices were posted in the area and it was a good meeting.

Committee Member Roberts asked if the City Council can be forced to recuse themselves. City Attorney Stokes noted that you cannot force someone to recuse themselves, but under ethics laws, they are required to disclose any personal benefit and if they do not, they can be charged with an ethics law violation.

Chairman Shaw asked City Clerk Cunningham to read the ending clause of an Ordinance which references severability, repeal of earlier ordinances. She read a zoning ordinance into the record and City Attorney Stokes explained what severability means. Chairman Shaw said that a lot of these issues are easily avoided if the Council is honest and ethical.

Vice Chairman Simon brought up that Dade County has a very efficient Fire Department. Palm Beach County Fire-Rescue is similar. He asked the City Manager when the next Fire negotiations are and she responded that the new contract has already been approved, but does not begin for another year because there is a one year notice clause in the contract.

City Attorney Stoke indicated he had distributed language thus far and indicated already there were twelve questions to be on ballot, and the Committee was not even close to being done with the review. The Committee will need to decide what is most important to recommend to the

Council. Some areas will overlap and some areas could be repealed, or replaced with new language.

**1. Section 1 - Action Requiring an Ordinance**

**2. Section 2 – Form**

**No changes were necessary in this Section.**

**3. Section 3.- Procedure**

City Attorney Stokes stated that this section followed the same format as other statutory ones. Chairman Shaw explained that the intent of a charter is to follow all state laws and eliminate the items/sections that are duplicative of state laws.

City Manager McCue felt that a reference to a State Law is helpful said if there is some language instead of referencing a state law.

Committee Member Willever noted that if a person is interested in their government, they will read all statutes. Vice Chairman Simon stated that if there is a longer notification/publication period, it would be clear to residents what is being proposed.

**4. Section 4 – Emergency Ordinances**

Chairman Shaw asked for an example of an Emergency Ordinance. City Attorney Stokes responded that natural disasters and hurricanes are the most frequent use. It is used when there is too short of a time frame and normal procedures need to be circumvented for emergency purchases and supplies. City Clerk Cunningham added that for FEMA reimbursement requirements, oftentimes an Ordinance declaring an emergency needs to be passed prior to the storm in order to receive assistance.

Chairman Shaw believed this Section was ok. Vice Chairman Simon thought emergencies were done by Resolution. An example of PBSO setting a curfew if there were riots or storms would be made by Resolution.

**No changes were suggested in this section.**

**5. Section 5 – Vote Required; Ayes and Nays to be Recorded**

City Attorney Stokes stated that in Greenacres all votes must be recorded and each Council Member and Mayor sign every Ordinance and Resolution that is passed/adopted during the Council meeting. The votes are recorded in the official minutes as well. City Attorney Stokes was not aware of any other city that did it that way. City Clerk Cunningham was asked if she knew of any and the Town of Palm Beach does it the same way. West Palm Beach has a strong mayor form of government and only the Mayor signs.

**After a brief discussion, it was the consensus of the Committee that there were no changes to be made to this Section.**

**6. Section 6 –Mayor’s Approval on Ordinances**

This section related to the veto power of the Mayor, as he normally does not have a vote. The mayor’s veto has only been used once in the past thirty two years and it was recently with the Fire Assessment Fee

**The consensus of the Committee was to keep this Section with no changes.**

Committee Member Fitzgerald asked if the Mayor was out of town, could he use an electronic signature, and City Attorney Stokes opined he could. Vice Chairman Simon asked if the Mayor is out of town, does the Deputy Mayor then have veto authority. City Attorney Stokes stated that unless the mayor was incapacitated, that would be the only time a Deputy Mayor could act as Mayor. A vacation would not qualify and with the I-pads and electronic packets, there is no reason to not be aware of an issue.

**7. Section 7 – Codes of Technical Regulations**

There was brief discussion on this item with examples of an Ordinance being passed to allow the City Manager to create policies and has the ability to update those policies. The Finance Department must adhere to Finance Standards and Regulations and could be a conforming part of ordinance to a regulatory statutory change.

**No changes were needed in this section.**

**8. Section 8 – Filing Recording and Certification of Ordinances and Resolutions**

**No changes were needed in this section.**

**9. Section 9 –Codification**

City Clerk Cunningham explained that codification is a very expensive process and costs more than \$1.43 per page to codify. Supplements are printed twice a year or as needed. In the interim, one could go online and see the new ordinances that have been passed but may not be included in a supplement yet. Cities are required through Public Records and Records Retentions laws to keep the original into perpetuity. Most copies are now electronic instead of maintaining several books.

The City Manager was asked how she felt about the City maintaining its own code book. She stated that the Code is printed on special paper (Acid-free) so that it is preserved for as long as possible, and that it may be a

large undertaking. The City Clerk, City Attorney and City Manager will research what it will entail to bring the code in-house- and online instead of using Muni-code.

#### **D. Next Committee Meeting Date and Time**

The next Charter Review Committee Meeting will be held on Thursday, March 16, 2017 @ 10:30 a.m.

Chairman Shaw asked about changing all of the meetings to the morning. There was disparity among the group and Chairman Shaw indicated he would ask to have it as a discussion item on the next agenda.

Vice Chairman Simon requested a discussion regarding the deputy mayor. City Attorney Stokes indicated there will be a draft report at the end that will need to be reviewed before being presented to the City Council.

Chairman Shaw expressed his frustration that some members of the City Council do not care about the work that is being done by the Committee. He stated that it was incumbent upon the committee to get the word out about the review. He was hoping that their efforts are not a waste of time.

City Attorney Stokes described the process and indicated that once finished with a review of the Charter and a draft report is made, the recommendations will be presented to the City Council at a future meeting. The Council would decide which recommendations they would like to see on the ballot, and would then have First and Second Readings of Ordinances for each questions. Each Ordinance would need three Council votes to proceed further. Once the Ordinances are approved, they would be placed on the next election ballot and up to the voters to decide if the questions pass or not. It is a lengthy and methodical process.

Committee Member Willever asked how many questions they could have. City Attorney Stokes suggested that they not have too many, as the voters would not want that, and they should really pair down what would be the most important recommendations to present to the Council.

Vice Chairman Simon, who also served on the last Charter Review Committee. Indicated that they presented recommendations to the Council and to all of them made it to the voters. The Council decided what would move forward. Chairman Shaw opined that he had heard there is an effort to make the City a strong mayor form of government, which would be against the recommendation of the Committee. He cautioned that this is the type of thing to be aware of – that a strong mayor would eliminate having a City Manager.

#### **6. Adjournment.**

There being no further business, the Charter review committee Meeting was adjourned at 7:38 p.m.



Approved by:

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Chuck Shaw  
Chairman



Attest:

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Joanna Cunningham, MMC  
City Clerk