



# CITY OF GREENACRES, FLORIDA

## MINUTES

### Charter Review Committee Meeting

February 2, 2017 – 10:30 a.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
Luis Torres	Larry Tronco
Benjamin Wade	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>

**Agenda**  
**Charter Review Committee**  
**February 2, 2017 - 10:30 a.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.**

Vice Chairman Simon called the meeting to order at 10:34 a.m. City Clerk Joanna Cunningham called the roll. All members were present except for Chairman Shaw, Committee Member Phil Konz, and Committee Member Ada Harris.

**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 January 19, 2017 Meeting**

Motion by Committee Member Willey seconded by Committee Member Fitzgerald to approve the minutes of January 19, 2017 as presented. Motion passed unanimously 7-0.

*Chairman Shaw arrived at 10:35 a.m. and resumed duties as Chairman of the Committee and continued the meeting.*

**5. Regular Agenda.**

**A. Old Business.**

**1. Form of Government**

There was a spreadsheet in the meeting packets that outlined the Cities in Palm Beach County and their form of government. There was no discussion.

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

City Attorney James Stokes indicated that he had not had enough time to collect the data and asked to defer this item to the next meeting. There was no objection.

**3. Term Limits for Council and Mayor**

This topic was discussed later in the meeting.

**4. Council Policy 14**

City Attorney Stokes indicated he would obtain language from other cities and would bring it back at a future meeting.

**5. Schedule of Meetings**

A calendar that listed the future meetings was included in the back-up materials for the meeting.

**6. Participation by telephone –**

Excerpts from the Sunshine Law manual related to participation in meetings by telephone were presented. Vice Chairman Simon asked about Ethics requirements, and asked the City Clerk if two members needed to complete the ethics requirement. City Clerk Cunningham replied that she had received one completion certificate and that the other was outstanding. Vice Chairman Simon then asked the City Attorney if that member could still serve on the Committee without completing their training. City Attorney Stokes responded that there is no deadline, but that it should be done as soon as possible.

Committee Member Wade asked for clarification in the minutes about a January 23<sup>rd</sup> date to discuss Council salary when the meeting was held on the 19<sup>th</sup>. City Attorney Stokes responded that the 23<sup>rd</sup> was the date of the City Council Meeting where salary was discussed and the First Reading of the Ordinance will be proposed at the next meeting. He noted that most cities are moving away from having salaries in the Charter since Charters are difficult to change.

Committee Member Willey opined that she did not feel the salary should be in the Charter at all.

The group then discussed term limits for Council and Mayor. Committee Member Fitzgerald stated that the group had previously discussed four-year terms but wanted to discuss the allowable number of terms.

Chairman Shaw apologized for being late to the meeting. He was at an earlier meeting that ran late with the President of Palm Beach Atlantic University. He wanted to put on the record why the meeting time had been changed from 5:30 pm to 10:30 am and asked the City Attorney to explain. City Attorney Stokes stated that his wife is a principal for a Catholic School and was receiving a Proclamation that evening for "Catholic Schools Week".

Vice Chairman Simon wanted to revisit the term limit discussion again. He noted that the length of term was agreed upon (four years), but did not want anyone to serve more than three terms.

Chairman Shaw polled the group and three members were for a maximum of three terms and three members were for no term limits. Chairman Shaw said there were some pros of having term limits: it keeps new people coming onto the Council so that others are not there forever, but a negative is losing historical knowledge and consistency of an organization.

Vice Chairman Simon added that if you are term limited as a Council Member, it should not preclude you for running for Mayor. The group was in agreement. All agreed, that if passed, the new requirements would apply only to the newly elected officials moving forward, and not those currently in office.

Chairman Shaw felt that the terms limits should be outlined in the Charter. The group discussed what would happen if a person were to be appointed to a Council seat mid-term to fill a vacancy and if that counted towards the three terms.

**After further discussion, the consensus was to allow three consecutive FULL terms to be the language that should be put into the Charter.**

Committee Member Fitzgerald added that after serving for twelve years, there would still be historical knowledge and with staggered terms of Council you could have some consistency. She stated that the City is changing and she would like to see younger people get involved.

Councilman Noble jokingly added that he has no objections to term limits, but he rather has life limitations. He was not opposed to term limits

City Manager McCue agreed that the terms should be longer than the current two year terms as the first year is a learning curve. Projects take time and are in process when there may be a shift in the Council and the priorities change. There are some benefits to term limits. There could be more diversity on the Council to reflect the growing diversity in the community which would be good for the City.

There was some discussion about other cities and how Palm Beach Gardens has its entire Council up for election at the same time; another City that City Attorney Stokes represents stated that when an entire council is replaced at one time, it is very scary for the employees.

Committee Member Willey stated how elections are so costly and by lengthening the terms to every four years would be a cost savings not only

to the City, but to the candidate. It costs a lot of money to run for an office that does not pay much.

Vice Chairman Simon recommended extending the terms to four years but stated if a person resigns and there is more than two years left in the term, then there should be a special election.

City Attorney Stokes put the Charter language regarding the filling of a vacancy on the screen for all to see and highlighted where it talked about the length of days until the next election.

City Clerk Cunningham added that the costs of special elections are problematic and dependent upon the Supervisor of Elections' schedule and authority. City Clerk Cunningham pointed out the increase in costs from the SOE which was included in their packets. The cost almost triples.

Chairman Shaw stated you also have to consider the "Resign to Run" law and that was how he first ran for School Board. He finished out Paulette Burdick's term when she resigned to run for County Commission and he finished out the last two years of her term.

Again, the Committee was polled and the consensus was to have four year terms, and recommend a limit of three consecutive **full** terms.

Chairman Shaw asked the City Attorney when the Governor has authority to appoint someone to a vacancy. City Attorney Stokes indicated that is when someone is removed from office against their will (such as an arrest or violation of public trust). City Clerk Cunningham added that if there is another type of election (November) the City could piggyback onto it and share the costs, greatly reducing the cost to the City.

Vice Chairman Simon asked City Attorney Stokes to come back with language that would avoid having to hold special elections.

City Clerk Cunningham provided a personal experience in the City of West Palm Beach where the incumbent, Bill Moss, had won re-election, but then passed away before the swearing in. Since the next election was over 300 days away, the Council appointed a person until the next March election, when someone would run to fill out the remainder of the term (one year). This eliminates having to fund a special election.

City Attorney Stokes asked to clarify whether the Committee was leaning towards changing the elections to November or keeping them in March as that would determine the language he creates. He added there is a much larger voter turn-out in November than in March.

The City Clerk was instructed to inquire about the possibility of hosting elections in November with the Supervisor of Elections office.

**B. New Business - Article IV – Elections****1. Section 1 – Types of Elections**

Committee Member Fitzgerald asked if the City had ever held a special election. To everyone's knowledge, there had not been one. City Attorney Stokes added that if there is a Council vacancy, the Charter indicates that Council must appoint a new member, therefore there is no need for special elections.

**2. Section 2 – Qualifications of Electors, Registration**

**The consensus of the Committee was to not change this Section.**

**3. Section 3.- General Elections; Special Elections; Majority Vote requirement**

City Attorney Stokes indicated that this section would determine how the Council is elected, whether it is city-wide or by District, and in which month elections would be held, either March or November.

The Committee discussed the pros and cons of each and were polled to determine if they wished to have a city-wide vote or district only voting. By a show of hands, those wanting to vote by District was four, and city-wide was three. City Attorney Stokes stated that at the end of the process, the final report will be voted upon to give the recommendations to Council.

The issue of a tie and of tossing the coin to determine the winner was discussed. City Clerk Cunningham was asked how it was done in other cities. She gave the example of the Town of Palm Beach, which is over one hundred years old, and their Charter indicates a drawing of straws if there is a tie. That almost happened in 2009 with her first election when the machines declared a tie for Mayor, but after running the ballots through a second time, as is permitted by State Statute, an over-vote came out of the machine and it was clearly for Mayor McDonald and he won by one vote.

City Attorney Stokes was asked to research other cities who may have changed their language regarding ties and will report back to the Committee. He stated that the likelihood of a tie occurring is very remote and would likely never be used. In updating the Charter, the Committee should consider the costs incurred to host another election. It is a huge expense to have a new, or a run-off election.

Chairman Shaw stated he would like to see the language changed, and Vice Chair Simon asked who would decide on the rules for a coin toss and most likely, they would be set by the Council.

**The consensus of the group was to move the election to November and re-visit that discussion once a clarification is received from the SOE.**

**4. Section 4 – Elections, Qualifications of Candidates**

Chairman Shaw indicated that qualifying a candidate is more of an administrative duty more so than a public challenge.

City Clerk Cunningham clarified that State Statute outlines the length of qualifying and many cities follow the Uniform Election Code. By changing the qualifying dates to earlier in the year, the cities would be in compliance with Federal Election Laws with regard to allowing at least forty five days for overseas and Vote By Mail ballots to be processed. Currently, there is less than a thirty day window. She suggested they move away from date specific in the Charter as an ordinance is adopted each year to set the qualifying period and dates. This would allow more flexibility to comply with the laws.

City Clerk Cunningham responded to a question as to how much the filing fees are. The current filing fees are \$50.00 paid to the City plus 1% of the salary is paid to the State. That percentage is set by State Statute. When asked what other cities charged as a filing fee, she was not aware of what any other cities charge.

**5. Section 5 – Alternative Method of Qualifying**

The Committee discussed Alternative Method of qualifying. Again, State Statute provides provisions for those who cannot afford the filing fees. The City Clerk's office includes this process and forms in their Candidate Handbooks but no one has ever filed by petition in the City of Greenacres.

City Attorney Stokes said that there is the mechanism in place for someone to file to run, even if they do not have the financial means. Committee Member Willey indicated it also makes a lot more work for the SOE to verify all of the signatures and is time-consuming.

**The consensus was to leave this section as is.**

**6. Section 6 – Form of Ballots**

Vice Chairman Simon indicated there was no language in this section concerning early voting or absentee ballots.

City Attorney Stokes responded that the City does not have early voting for municipal elections and absentee ballots are handled by the SOE. City Clerk Cunningham added that many people do not realize the City (and Taxpayers) pay almost \$5.00 for every absentee ballot and the majority are never returned.

Chairman Shaw indicated this is dictated by State Law.

**The consensus was to eliminate this section since the City must comply with the state law. The plurality should stand.**

**7. Section 7 - Conduct of Elections**

Committee Member Fitzgerald asked about the County Members of the Canvassing Board. City Attorney Stokes responded that the Language regarding the Canvassing Board would need to be updated as the County is no longer part of the Canvassing Board. Designees of the City, including the City Clerk, City Attorney and City Manager are designated by Resolution each year.

**The consensus was to change the language to have the swearing in of new Council and Mayor after the certification of votes is received from the SOE and update the Canvassing Board language.**

**8. Section 8 Arrangement of Names on the Ballot**

**The consensus of the committee was to follow the State Statute on ballot preparation. No changes were needed in this section.**

**9. Section 9 –Special Election**

Chairman Shaw indicated that a lot of the language related to this item is more Statutory than by ordinance. There are mandatory advertising requirements for elections.

Councilman Noble said to consider limiting the number of polling locations since voter turnout is so low. City Clerk Cunningham responded that the City follows the SOE guidelines for where the polling locations are, if possible, and even though the elections are advertised several times and in many locations, voter turn-out is still only about 5% for each municipal election. It costs the City almost \$30,000 per election.

City Clerk Cunningham was asked by a Committee Member where the City advertises. She indicated it is an unfunded mandate to advertise two times a "Notice of Election" in both English and Spanish. It is posted on the city website, and in CityLink which is mailed to each residence. The ballot is also advertised in English and Spanish, along with a notice on the City's marquee sign.

Committee Member Wade asked what the circulation was of the *Greenacres Observer*, which is the local newspaper that the City advertises in. No one knew, but the City Clerk offered to find out and report back to the Committee by the next meeting.



City Attorney Stokes indicated that the courts determine what a newspaper of “general circulation” is and the *Greenacres Observer* is one of them. The Law requires that advertisements be made as an unfunded mandate.

Committee Member Wade added that he worked for a printing company and you are required to print a certain number of publications, and ballots. Printing costs are high too, and a lot of the materials go to waste.

#### **10. Section 10. Initiative, Referendum and Recall**

Chairman Shaw could not recall a recall ever occurring in Greenacres. There was no further discussion on this item.

#### **11. Unopposed Candidate**

Councilman Noble stated that if the voters move to a “district vote only” method, than perhaps only one polling location per precinct would be required.

A committee member asked how the Districts were set up- if it is based on population or precincts. City Clerk Cunningham responded that there are Statutory guidelines for precincts and the numbers that they can have. Also- there are rules that if an HOA is registered with the State, they may have their own polling location if they are a certain size. Precincts are geographically compact and the City follows the SOE assignments of Precinct locations whenever possible. If the City must change a location, the City sends out a written notice to the voters that are affected of the location change.

Committee Member Wade thought that the SOE restricted the locations. Chairman Shaw thought the District boundaries were based on the population in the City and were supposed to be as close in number in each district.

The question was asked if the voters change to Vote by District only, would there be equity in access. City Manager McCue responded that currently, you must live in the District you represent in order to run for a Council Seat, but once elected, you vote for the entire City. She stated that she felt the representation of the City as a whole was still a better representation than breaking it down to only one area and only advocating for one area.

Vice Chairman Simon asked who determines the district boundaries and when are they changed. The City Attorney responded that in Pompano Beach, there was a referendum that districts would be reasonably compact and that is how their districts are defined.

Vice Chairman Simon opined that there are restrictions by district regardless and felt that there should be wording in the Charter about how districts are created and how often they would be reviewed.

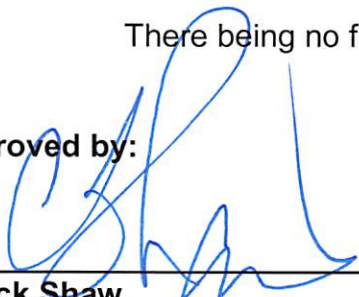
**C. Next Committee Meeting Date and Time**

Thursday, February 16, 2017 @ 10:30 a.m.

**D. Adjournment.**

There being no further business, the meeting was adjourned at 12:05 p.m.

Approved by:

  
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**Chuck Shaw**  
Chairman

Attest:

  
\_\_\_\_\_  
**Joanna Cunningham, MMC**  
City Clerk

