



CHARTER REVIEW COMMITTEE March 27, 2024

*Lakeland Electric Conf. Rm 1A & 1B
501 E. Lemon St.*

AGENDA

- I. Approval of Feb. 29, 2024 Minutes**
- II. Review Language Changes from Feb. 29, 2024 Meeting**
- III. Review Sections 6, 10-19 of City Charter**
- IV. Comments from the Public**
- V. Adjourn**

If a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, he or she will need a record of the proceedings, and, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this proceeding, or those requiring language assistance (*free of charge*) should contact the City of Lakeland ADA Specialist, Kristin Meador, no later than 48 hours prior to the proceeding, at (863) 834-8444, Email: ADASpecialist@lakelandgov.net. If hearing impaired, please contact the TDD numbers: Local – (863) 834-8333 or 1-800-955-8771 (TDD-Telecommunications Device for the Deaf) or the Florida Relay Service Number 1-800-955-8770 (VOICE), for assistance.

- **Sec. 6. - Vacancies; forfeiture of office; filling of vacancies.**

(a) *Vacancies.* The office of a commissioner or that of mayor, shall become vacant upon death, resignation, or removal from office in any manner authorized by law or forfeiture of office, such forfeiture to be declared by the remaining members of the commission.

(b) *Forfeiture of office.* A commissioner or the mayor shall forfeit their office if they lack at any time during their term of office any qualification for the office prescribed by this charter or by law.

(c) *Filling of vacancies.* A vacancy of the commission or the office of mayor shall be filled by election at the next available regular city election. The commission, by a majority vote of the remaining members, shall choose a successor to serve until the newly elected mayor or commissioner is qualified. If two (2) years or more remain in the term of the vacated seat at the time of the next available regular city election, that seat shall be filled by election for the remainder of the vacated term. If a vacancy occurs in one of the commission seats designated by district, any successor chosen by the commission to fill the vacancy until the next available regular city election shall reside in the district for which the vacancy exists and shall otherwise possess all qualifications required to serve on the city commission. No individual otherwise precluded by length of previous service from holding the office of city commissioner, or mayor in the case of a vacancy in the office of mayor, may be appointed by the city commission to fill a vacancy in such office.

(d) *Extraordinary vacancies.* Notwithstanding any quorum requirements established herein, if at any time the membership of the commission is reduced to less than a quorum, the remaining members shall, by majority vote, appoint additional members in accordance with the procedures set forth in (c) above until successors are elected at the next available regular city election. In the event that all members of the commission are removed by death, disability, law or forfeiture of office, the governor shall appoint an interim commission that shall call a special election to fill each vacancy, which special election shall be held not sooner than sixty (60) nor more than ninety (90) days following their appointment.

([Ord. No. 5773](#), Att. A, 11-5-19; Ord. No. [5886](#), § 2, 8-16-21)

- **Sec. 10. - City commission.**

The city commission shall consist of seven (7) electors of the city, including the mayor, elected at large, all of whom shall hold office for four (4) years or until their successor takes office. One each of the commissioners shall have been for one (1) year immediately prior to taking office, a resident of that part of said city described as follows:

District A: Being that part of said city bounded on the east by State Road [35](#) and on the south by the Seaboard Coast Line Railroad tracks, extending westerly and northerly to the city limits line;

District B: That part of said city lying east of State Road [35](#) and north of Seaboard Coast Line Railroad tracks, extending easterly and northerly to the city limits line;

District C: That part of said city lying south of the Seaboard Coast Line Railroad tracks and west of State Roads [35](#) and 37 extending westerly and southerly to the city limits line;

District D: That part of the city lying south of Seaboard Coast Line Railroad tracks and east of State Roads [35](#) and 37 extending easterly and southerly to the city limits line of the City of Lakeland;

and two (2) commissioners shall be elected at large, without regard to the district in which they may reside. The mayor shall likewise be elected at large. The present members of the city commission shall hold office for the terms for which they are respectively elected, unless a vacancy occurs by death, resignation or removal in accordance with the terms of this charter and respective successors to the present commissioners shall take office at the first city commission meeting in January after their election, or as soon thereafter as may be practicable.

(Ord. No. 2340, § 1, 4-5-82, election of 11-2-82; Ord. No. 2599, § 1, 8-6-84, election of 11-6-84; Ord. No. 2976, § 2, 12-21-87, election of 3-8-88; Ord. No. 4486, § 3, 11-17-03; [Ord. No. 5773](#), Att. A, 11-5-19)

- **Sec. 11. - Qualification of members.**

Members of the city commission shall have been residents of the city for one (1) year immediately prior to taking office, and have the qualifications of electors of the city. No one shall serve, more than three (3) complete terms in any combination of the positions of Mayor and Commissioner. Partial terms greater than 2 years shall constitute a complete term for purposes of this section. Elective officers of the city shall not hold any other elective public office, shall not serve as employees of the City of Lakeland during their terms of office and shall not be interested in the profits or emoluments of any contract, work, or service for the city, and any such contract in which any officer or employee is or may become interested shall be void, and so declared by the city commission. Any member ceasing to possess the qualifications for office required by this charter shall forfeit the office.

Members in office upon the effective date of this Section, shall not serve more than twelve (12) consecutive years or three complete terms in the singular position of Mayor or Commissioner or more than sixteen (16) consecutive years, or four (4) complete terms, in any combination of Mayor or Commissioner.

(Ord. No. 3845, § 1, 9-15-97, election of 9-1-98; H.B. 0825, 2005; [Ord. No. 5773](#), Att. A, 11-5-19)

- **Sec. 12. - Judge of its own election; grounds for forfeiture of office.**

The city commission shall be the judge of the election and qualification of its members, subject to review by the courts. Any member of the commission who shall be convicted of any felony during the term of their office shall thereby forfeit their office. Any member charged with conduct constituting grounds for forfeiture of their office as enumerated in this charter or in ordinances of the City of Lakeland shall be entitled to public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city, or otherwise in a manner provided by law, at least one week in advance of the hearing.

([Ord. No. 5773](#), Att. A, 11-5-19)

- **Sec. 13. - Mayor pro tem.**

The city commission shall elect one of its members as mayor pro tem of the city, at the first regular or regular adjourned meeting in January of each year.

(Ord. No. 2976, § 3, 12-21-87, election of 3-8-88)

- **Sec. 14. - Functions and powers of mayor and mayor pro tem; absence, death, resignation or removal.**

(a) The mayor shall be a member of the commission, shall preside at all meetings of the commission and shall perform such other duties consistent with the office as may be imposed by the commission; and they shall have a voice and a vote in the proceedings of the commission, but no veto power. He or she may use the title of mayor in any case in which the execution of legal instruments or writings or other necessity arising from the general laws of the state so require; but this shall not be considered as conferring the administrative or judicial functions of a mayor under the general laws of the state. He or she shall be recognized as the official head of the city by the courts for the purpose of serving civil processes; by the government in the exercise of military law, and for all ceremonial purposes. The powers and duties of the mayor shall be such as are conferred by the city commission in pursuance of the provisions of this charter and no others.

(b) In the absence of the mayor, the mayor pro tem shall have the same powers and duties as the mayor; and in the event of death, resignation or removal of the mayor in accordance with this charter, the mayor pro tem shall become mayor and shall continue in office until the vacancy is filled in accordance with the provisions of this charter.

(Ord. No. 2976, § 4, 12-21-87, election of 3-3-88; [Ord. No. 5773](#), Att. A, 11-5-19)

- **Sec. 15. - Meetings.**

The city commissioners shall meet at such times as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than twice each month.

- **Sec. 16. - Special meetings, how called; commission rules, etc.**

(a) The mayor, any three (3) members of the city commission, or the city manager, may call special meetings of the commission upon at least three (3) hours' notice to each member, which notice shall announce the purpose of the meeting. All meetings of the city commission and of any committees thereof, shall be open to the public, and any citizen shall have access to the minutes and reports thereof at all reasonable times.

(b) The commission shall determine its own rules and order of business and keep a journal of its proceedings.

([Ord. No. 5773](#), Att. A, 11-5-19)

- **Sec. 17. - Absence from meeting.**

No commissioner shall be absent from any regular meeting of the commission without an excuse acceptable to the commission. Absence from three (3) consecutive regular meetings of the commission shall operate to vacate the seat of the member, unless such absence is excused by the commission.

([Ord. No. 5773](#), Att. A, 11-5-19)

- **Sec. 18. - Compensation of city commission.**

The mayor and city commission shall receive the across the board increase as provided to general employees at the beginning of each fiscal year. The city commission shall fix any salary or compensation of the mayor and the city commissioners in excess of the across the board increase by appropriation in the city budget; provided, however, that before the compensation of the mayor or the other city commissioners may be increased from their respective compensations received in the next preceding budget year, the city commission shall first hold a public hearing upon the matter of the increase, notice of which hearing shall be published in a newspaper of general circulation in the City of Lakeland, or as otherwise provided by law, one time not less than sixty (60) days prior to the hearing. The salary or compensation of the mayor as determined herein shall not be an amount less than one hundred fifty (150) percent of the salary or compensation of a city commissioner.

([Ord. No. 5773](#), Att. A, 11-5-19)

- **Sec. 19. - Ordinance enactment.**

Every proposed ordinance or resolution shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly stated in the title. In addition to other requirements of law, each ordinance or resolution shall require the affirmative vote of four (4) members for passage and the passing of all ordinances and resolutions shall be taken by "yeas" and "nays" which shall be recorded in the minutes.

CHARTER REVIEW COMMITTEE

February 29, 2024

The Lakeland Charter Review Committee met in Conference Rooms 1A & 1B. Members Slyvia Blackmon-Roberts, Jason Rodda, Patricia M. Steed, Frank McCaulley, Lincoln Jacobs, Jim Edwards, Jim Scelfo, Terry Coney, Scott Reed, Kimberly Elmhorst, James Ring, Mike Workman, and Ellis Hirsch were present. Members Veronica Rountree, and Teddra Porteous were absent. City Attorney Palmer Davis and City Clerk Kelly Koos were also present along with the media.

Palmer Davis called the meeting to order at 3 p.m.

Election of Chair and Vice Chair

Mike Workman accepted the nomination to serve as Chair and was unanimously elected.

Slyvia Blackmon-Roberts moved to name Terry Coney as Vice Chair. Ellis Hirsch seconded. The motion carried unanimously.

Minutes – March 7, 2024

Action: Frank McCaulley moved to approve the February 7, 2024 Minutes. James Ring seconded and the motion carried unanimously.

Palmer Davis suggested the Committee vote on their recommendations for each section as they are reviewed. The Committee decided at the last meeting to start with sections 1-9. Section 10 may be heavy lifting because of redistricting. There were a couple of ways to approach this. They could review each section word by word, line by line, and make changes to wording or they could address the sections conceptually and Palmer Davis could wordsmith the language and bring it back with ~~striketrough~~/underline for the Committee's review. The previous Charter Review Committee adopted the second approach.

Palmer Davis also asked the Committee to make a motion on each section before moving forward. That will make changes easier to track.

Sec. 1 – Present municipality abolished.

Palmer Davis felt that Section 1 was obsolete and should be deleted.

Motion: Ellis Hirsch moved to remove Section 1. Jim Edwards seconded.

The Committee discussed:

- Was the language in this section intended to preserve something from the past?

- Was this section trying to maintain a historical record? The Charter was not really the place for that. There are other historical records.
- Future changes would be tracked by ordinance number.
- The Charter was adopted well before 1960.
- This may have been added when the Municipal Incorporation Act was adopted.
- The Act was tied to home rule when it was first adopted. With home rule, it was no longer necessary to spell everything out in the Charter.
- The deletion should include the heading at the beginning and the footnote, and all references to the previous documents.

Action: The motion to delete Section 1 was unanimously approved.

Sec. 2 – Title, rights reserved; contracts binding; officers continue to serve; ordinances continue in effect.

Palmer Davis recommended removing references to the municipality being abolished.

The Committee discussed:

- Was anything missing in sections 2 and 3? Nothing was missing that was keeping the City from conducting business.
- The City Attorney will provide strikethrough/underlined copies to the Committee for their review.
- Delete “to succeed the municipality abolished.”

Action: Pat Steed moved to remove reference to Section 1. Ellis Hirsch seconded. The motion carried unanimously.

Sec. 3 – Municipal government created with perpetual succession.

The Committee discussed:

- Why the City would own property outside the city limits. The City's utility service territory extends far outside the city limits. The City has extensive facilities outside the city limits to serve customers.
- Water wells, wastewater treatment facilities, and many other facilities are located outside the city limits.
- Why utility customers outside the city limits cannot vote. Election laws require residency.
- The City has a Utility Committee with voting representatives for customers outside the city limits.

Action: Sylvia Blackmon-Roberts moved to retain Section 3 as it exists. Ellis Hirsch seconded. The motion carried unanimously.

Sec 4 - Boundaries

Motion: Jim Edwards moved to adopt as is. Frank McCaulley seconded.

Palmer Davis explained that the previous charter had page after page of city boundary legal descriptions. There is no flexibility if the boundaries must be approved by voters for every annexation.

The Committee discussed:

- Annexations: Palmer Davis explained the various ways properties were annexed through interlocal and wastewater agreements and voluntary annexations.
- Elections and allowing customers to vote in elections. That may not be in the Committee's scope. It is an ongoing hot topic.
- Lakeland does have and utilizes water/wastewater agreements.

Action: Mike Workman called for the vote and the motion carried unanimously.

Sec. 5. - Form of government.

Palmer Davis explained the basic forms of municipal government. The strong mayor form of government is where an elected mayor would serve in the capacity of the city manager. Surrounding examples would be Tampa and Orlando. It is more commonly used in larger cities. In Tampa, the mayor has an attorney and the city commission has a different attorney.

The Committee discussed:

- The City Commission hires and fires the City Manager and City Attorney.
- A citizen could still petition for a change in the form of government.

Action: Sylvia Blackmon-Roberts moved to adopt Sec. 5 as is. Pat Steed seconded. The motion carried unanimously.

Sec. 6. - Vacancies; forfeiture of office; filling of vacancies.

Palmer Davis explained the reason for the change to this section. When Commissioner Franklin resigned, it resulted in four elections in a 10-month period due to timing issues. Cities are not permitted to hold elections in conjunction with statewide elections. Holding an independent election without the assistance of the Supervisor of Elections will cost upwards of \$200,000.

The Commission discussed:

- Some citizens did not like the process the Commission used to select the person to fill the vacancy.
- Why was Don Selvage temporarily appointed, Mike Musick elected, and then Samuel Simmons appointed? Palmer Davis explained that Samuel Simmons was appointed in accordance with the new charter language. Don Selvage was appointed pursuant to the old charter language to fill a vacancy until a special election could be held. Mike Musick won the special election to fill the remainder

of the term for the vacancy, and was then elected at a regular City election for a full term.

- Turnout in Special Elections: Special elections typically have low turnout. The City Clerk will research that. The lowest turnout Lakeland has experienced was approximately 9%.
- Even 9% is more than the 5 commissioners who made the last decision.
- Another issue with the selection process was the format used. It seemed the Commission wanted to appoint Commissioner Walker, but he was termed out.
- The voter has a choice because they can vote out the person the Commission appoints.
- The interview process was also a problem. Newly elected officials do not necessarily know about city operations when they first come into office. The interview process focused on operations.
- Some cities do not fill vacancies. The problem with that option is fewer representatives.
- The Committee could recommend another process to make an appointment. A special election in a smaller area could be less expensive to hold if we had single member districts.
- Vetting candidates. The City does not vet candidates for election beyond the qualifying requirements.
- The appointed candidate has the advantage of being an incumbent. The Committee should look at all aspects.

Action: Ellis Hirsch moved to table Sec 6 until they consider Sec 10. Terry Coney seconded, and the motion carried unanimously.

The Committee continued to discuss:

- What other cities do. Kelly Koos will look for past research. She previously compared Lakeland to all of Polk County and similar sized (or larger) cities.
- The Commission should have just met and decided on the individual to fill Commissioner Walker's vacated seat, like they did with Don Selvage. Their efforts to be transparent worked against them.
- Someone is going to be unhappy when they are not appointed.
- The 5th line of section C uses the word election. Should it be special election or next regular election? Palmer Davis agreed that could be clarified.

Sec. 7 – Power to borrow money.

Action: Jim Edwards moved to adopt as is. Jason Rodda seconded, and the motion carried unanimously.

Sec. 8 – General powers and duties of commission.

The Committee discussed quit claim deeds vs. warranty deeds. Palmer Davis explained that the Charter prohibition on warranties of title in City deeds was likely in recognition of the fact that the City has acquired title to many properties over many years through

various means and the title to some City property is solid and not as clear for other property. The prohibition on warranties of title would not prohibit the City from agreeing to pay for title insurance in a contract for the sale of property.

Action: Pat Steed moved to leave as is. Ellis Hirsch seconded, and the motion carried unanimously.

Sec. 9 – Limitations on powers of city commission.

The Committee discussed Sec. 9(b) first:

- When the question of the threshold to sell Lakeland Electric was raised in the past, it was because people were working to determine the value of Lakeland Electric, not necessarily to sell the utility.
- The last Charter Review Committee recommended a change to make it easier to sell LE. It was on the ballot in 2019. That amendment failed, with 64% of the electorate voting against the change.
- The Committee debated the threshold to sell Lakeland Electric. If the State restricts a municipal dividend, it may become desirable to sell LE. If the City cannot receive a dividend, LE could reinvest the proceeds or rates may go down. Ad valorem taxes would likely increase to offset the loss of dividend. We would be remiss to not recognize what continues to happen in Tallahassee.
- Maintenance of the utility is a management issue not a Charter issue.
- Anything in the Charter could be subject to action by the legislature. We cannot predict what the legislature will do. Communities that have their own utilities usually do better. Putting it on the ballot again will not get a different result.
- The citizens voted recently that they do not want that change. We can discuss it, but there is no need to ask again.
- As currently drafted, it is impossible as a practical matter to sell Lakeland Electric. There may be circumstances in the future where the City or citizens want to sell.
- The Charter could be amended in the future by a majority vote of the electorate to change the procedure for selling Lakeland Electric to only require a majority vote of the City Commission as a condition of selling Lakeland Electric.
- Some Committee members felt that it is a waste of time and effort to bring this to the electorate right now, especially for a situation that may or may not occur.
- The State could take away ownership of LE, but it would not be an easy thing to do.

The Committee briefly discussed Sec. 9(a) and had no recommended changes.

Motion: Terry Coney moved to leave Sec. 9 as is. Frank McCaulley seconded.

Palmer Davis planned to bring back some subdivision and formatting changes to improve readability.

Amended Motion: The motion was amended to allow for the City Attorney's subdivision and formatting changes.

Action: Mike Workman called for the vote and the motion carried, with Mike Workman and James Ring voting nay.

The Committee discussed sections 6, 10 and 17 and if they belonged together. Palmer Davis recommended the next meeting schedule to include Sec. 6 and then sections 10-19.

Schedule

The Committee revised the schedule. The City Clerk's office will resend updated appointments.

Districts

The Committee reviewed the district map.

Palmer Davis explained how the voting occurs. All 7 City Commission seats are elected at large. 4 seats require residency in the district. State law now requires municipalities to redistrict based on population so that districts are as nearly equal in population as is practicable. The Committee will need to address rebalancing the districts. The Committee could change the number of districts which could change the number of commissioners.

Ellis Hirsch left at 4:51 p.m.

Kelly Koos will research districts and number of commissioners. The change to 7 commissioners may have occurred within the last 40 years. It may have moved from 3 commissioners to 5 and then to 7. Kelly Koos will attempt to confirm.

Audience - None

Adjourn – 4:56 p.m.

Jim Edwards moved to adjourn. James Ring seconded and the motion carried unanimously.