

CHARTER REVIEW COMMITTEE WORKSHOP MINUTES
January 30, 2003

This meeting of the Malabar Town Council was held at the Town Hall at 2725 Malabar Road. The meeting was called to order at 7:00 pm by the Chair, Bobbi Moccia. The prayer and pledge were lead by Mr. Rivet.

ROLL CALL: MAYOR:	PHILLIP CREWS
CHAIR:	BOBBI MOCCIA
VICE-CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	JANE HAVET
	BRIAN HUNTER
	BOB ROSSMAN
COMMITTEE MEMBERS:	CAROL BRIGGS
	FRANK HICKSON
	DON KRIEGER
	STUART BORTON
	CHUCK FRAZEE
	CHRIS NORTON
	WILLIAM WITHERS
	ROY BAKER – EXCUSED
	PAT BENINGTON – EXCUSED
	PAT DEZMAN
ADMINISTRATOR:	ED BOOTH
CLERK:	SUSAN KABANA

Also present were Carl Beatty, Public Works Supervisor, and Fire Chief Chuck McClelland.

Moccia – asks each member to state their name before speaking.

Rivet – do we modify the existing charter or do we throw it out and start from the beginning? He feels that what we have is pretty good but it does need a few changes.

Hunter – has spent much time on the charter and feels our charter is good but needs fine tuning. There is no need to throw it out and start over.

Moccia – feels the same. Asks Beatty to make some comments.

Beatty – feels that many steps were skipped in the original adoption of the charter. He feels that there is a possibility that it could be challenged and feels that the committee should start over. Kabana – feels much of the errors were corrected in the 1995 charter review. Beatty – but is not sure the original charter adoption procedure was done correctly. Is not sure it was passed as a bill in the State Senate, which he thinks is a requirement. Moccia – we will get Bohne to look into this but feels we can continue tonight. Withers – thinks we can adopt the entire charter as a whole at the polls and

take care of any problems like this.

Krieger – is not sure the charter is broke, feels like the Council has the authority to deal with items that other people think are missing.

Norton – this is not broke, it only needs tweaking. Maybe we want to add having a charter review every five years, or after every census. Notes that he likes the additional handouts about what the city manger does.

Dezman – feels it will be more efficient if we go through the generalities and work on common comments.

Havet – would like to suggest that Council Member would sit for 4 years. Withers – but if you have a bad member then you are stuck with them for four years.

Borton – feels that the committee needs comments and direction from Council. Would like to know if Council wants to throw it out or if they feel it is a good document and they want only tweak it.

Rivet – as a whole he feels it is a good document. His comments:

Sec 2.04 – Qualifications and Duties of Mayor – has a problem with the Mayor having the power to veto any ordinance. He does not think this is consistent with a strong council form of government.

Sec 2.07 – Election and Terms – feels that council term limits are fine but feels the Mayor should be limited to two four-year terms. Withers – can Crews be elected two times and then run for Council? Rivet – yes. Withers – is that what we want?

Sec 2.09 – Filling of Vacancies – we get into an area that could be a problem if a Council seat were to become vacant after the end of the qualification period but more than one year after the expiration of the term. Feels it should state that if there is a vacancy before the end of the qualification period then there will be an election.

Sec 2.11 – Meetings - we specify Roberts Rules of Order, Rivet thinks in general this is good but thinks there should be some provision for the chair to suspend some of the formality some of the time.

Sec 3.01 – Powers and duties of the Council – would like to see some comment about the ability of the Council to delegate duties to the Administrator.

Sec 3.02 – Administrative Units of the Town Government – needs a description of the duties of the administrator

Sec 3.05 – Advisory Boards – should say that members of the boards are appointed by the Council, thinks it is implied but should be spelled out.

Need a section with more guidance for budget process, maybe setting some dates

or at least some responsibilities. Feels Council has the ultimate responsibility but we need to formalize the procedure.

Krieger – couldn't that be done through policy and procedure? Getting back to the feel of a general charter, couldn't it be taken care of under ordinances? Feels the administrator's position could be taken care of the same way. Notes in the history of the town the Clerk's position was important and in the Charter it almost rises to the top level under the Council, maybe that should be thought about. He thinks some of this could be polished by ordinances.

Withers – when this Charter was written there was no Administrator's position but now it needs to be defined. Feels our ordinances are very confusing and notes that a charter is a generality.

Havet – agrees with Rivets comments.

Sec 2.04 – Mayor duties – feels that the Mayor's veto power needs clarification.

Crews – is concerned with ambiguity and conformance with State Statute.

Sec 2.02 – Composition – feels that we do not vote by what is in the charter, Council is elected at large, not by district, and the charter states that we should be elected by district.

Sec 2.04 – Mayor duties – there needs to be a veto somewhere, not necessarily by the Mayor but it needs to be somewhere.

Sec 2.08 – Vacancy and Forfeiture of office – the language does not reflect current Florida Statutes.

Sec 2.11 – Meetings – under the statutes there are two kinds of meetings, legislative and non-legislative. Special meetings apply only to legislative meetings.

Feels we need an attorney present at some point and time for these workshops.
Booth – he will be here at the next Charter Review Committee Workshop.

Hunter – the Mayor hit several things he was going to comment on.

Sec 2.04 – Mayor duties – Mayor veto power – notes that in other municipalities in the County the Mayor has a full vote and is a member of Council. Is wondering why our Mayor has only veto power and the power to break a tie vote. Has a problem with how we define our Mayor.

Feels the Administrator has to be defined.

Other than these items he is concerned that we are not in alignment with current statute.

Moccia –

Sec 2.04 – Mayor duties – the Mayor has been making motions and seconds, and if we want this then it should be in the there, and if we don't want this it

shouldn't be done. Asks if the Mayor makes a salary. Crews – he does not. Moccia – then maybe that should not be in there, someone who runs for the position may think they will be paid.

Administrator needs to be defined.

Sec 2.11 – Meeting – special meetings and workshops need to be defined.

Norton – thinks basically it is a good document but has several small items to cover.

Preamble - you set the tone in the first sentence and about three or four sentences down it is said again, it seems redundant.

Sec 1.04 – Power and Jurisdiction – the next to last sentence lists utilities - can update it and add cable, wireless, and broadband, etc.

Sec 1.06 – Form of Government – feels that the text 'a strong council plan' should be defined.

Sec 2.02 – Composition – Council elected from 5 separate districts, this needs to be clarified.

Sec 2.03 – Qualification for Council Seat – the last sentence – the candidate must reside in the district for 6 months, should this be changed to 1 year? Also this sentence should match up with whatever is determined in Sec 2.02.

Sec 3.03 – Town Clerk – one of the most important positions is the clerk. He would add that the clerk shall be the custodian of 'all board minutes' unless 'Council journal' means minutes.

Town Administrator – add a new section made up from the information that was handed out by Booth.

Sec 3.05 – Advisory boards – lists the boards – add something like "The Council may establish advisory boards, communities, and commissions as necessary". Also list all the board names.

Maybe create a section, suggests 3.07, that says something like all appointments and promotions of town employees shall be made solely on the basis of merit and qualifications. The Town Council shall establish personnel policies.

Sec 4.03 – Purchase and Sale of Real Property – add that donations of properties will be accepted by the Town Council. Add how to handle donations.

Add a special section – possibly named fines, fees, forfeitures and penalties. Have a sentence that says something like the Town shall have the power to impose and collect fines, fees, forfeitures & penalties for enforcement,

administration and violation of the provisions of the charter and ordinances.

Chuck Frazee –

Sec 2.02 – is confused how did we come about not doing it this way? This needs to be addressed. Discussion of the pros and cons of voting at large and voting in districts. Moccia – we will get the attorney to look into this.

Frazee asks if this is a charter or an operations manual. We have to be careful that this is not a operations manual.

Hunter – reads from manual ‘the charter contains the basic provisions for the organization of municipal government, it is not to be an operations manual. A good charter is one which presents a concise and workable legal framework for the government of the municipality. A good charter is one that sets before the citizens a clear picture of their own powers and responsibilities and before the officials and employees a statement of their duties and mutual interrelations.’ Hunter feels that we basically have a good document. Would like Council to have a copy of the 10 items that should be in every charter as defined in the manual he read from.

Withers – states that we are defining that we have a town administrator in the charter, and then we have a policy and procedures manual to use as an operations manual.

Norton – feels that having the references listed in the Charter let us link to the corresponding ordinances. Crews – those only have to do with the 1995 charter revision. Rivet – it is his understanding that these note are not part of the charter, they are editors notes. Norton – he is only trying to say that this document is not an operations manual.

Dezman – if we make a change to a place in the document that has already been changed, will that old change still be listed? Crews – that would be the case until such time as you replace the entire charter. Dezman – so we are not throwing this out but at some time we may want to adopt the entire charter and start over because it gets confusing.

Dezman –

in the editor’s notes – who is the editor? And there is an editors note between Sec 1.03 and 1.04, get rid of it and just add the map.

Sec 2.02 – Composition – voting districts needs to be looked at

Sec 2.03 – Qualifications for Council Seat – feels that someone needs to live here longer than 6 months before representing the town.

Sec 2.04 – Mayor duties – the Mayor may be elected as the ‘presiding officer’ is ambiguous, she knows it means chairman but it should be better spelled out. Also, separate out duties and qualifications, they are two different things.

Sec 2.06 – Judge of Qualification – she questions the whole section. Feels this can be opened to interpretation. Also feels that if a Council member is convicted of a felony that it should be defined.

Sec 3.03 – Town Clerk – something needs to be put in this in terms of qualifications and duties, and that the clerk should have whistleblower protection.

Sec 3.06 – Residential zoning – feels that we need something that protects the homeowners who have already bought here.

Sec 5.06 – Action on Petitions – does not feel that the clerk should decide what sufficiency is, the text now reads that the clerk decides on the petition before the Council decides. If there is a definition for 'sufficiency' then it should be in there.

Paul Marpil – from audience – notes that charter is a framework – if we put all this verbiage into the charter it will be very large. Withers – does not think we will ultimately add too much.

Borton –

Preamble – right in the beginning the rural residential statement is in there and he is not so sure we reflect a farming community. Rural to him means farming and he does not see us as a farming community.

Sec 2.02 – Composition – he likes the way this is written because this keeps one or two major groups of people from controlling the town.

Feels salaries and employee direction are already in the charter.

Sec 2.04 – Mayor duties – feels the Council should appoint a town manager and the manager should have the ability to hire and fire. Feels this would take pressure off the Council.

Sec 3.06 – Residential Zoning - this is antiquated. With proper infrastructure you can have more than one house per acre. And there are people who have plenty of property who can't subdivide under our current code. Subdivisions would enhance our tax base. Havet – does not want to see us sell out to ¼ acre lots and lose our rural residential status.

Frank Hickson – at this point most of his items have been brought up.

Sec 2.02 – Composition – voting from districts needs to be looked at, he feels that voting should be from five districts.

Sec 2.04 – Mayor duties – the Mayor needs the ability to veto help to balance the power, especially if we vote by districts.

Sec 2.04 (d) – Mayor duties – the mention of a salary for the Mayor should be removed.

Briggs – feels that most items have been addressed but wants to reiterate that a section for the town administrator needs to be added.

Withers – feels that this is a good document for the most part.

Preamble - likes the rural residential redundancy in the charter, we are rural and he feels we should stay that way.

Sec 1.06 – Form of Government – we are a strong council plan and that is why the mayor is limited but maybe we need to explain that.

Sec 2.02 – Composition – feels that the way we vote now is best, it gives balance but each person on Council affects him and he wants to vote for each of them.

We need to define manager or administrator. A manager is not for a strong Council. A strong Council gives the Administrator the task and he runs with it.

Sec 2.03 – Qualifications for Council Seat – 6 months is not long enough. Feels we should change the length to '1 year as a registered voter'.

Sec 2.04 – Mayor duties – our Mayor is supposed to be limited because we have a strong council government and this works for our town.

Sec 2.08 – Vacancy and forfeiture of office – the last two words 'moral turpitude' should be defined.

Sec 2.08 (e) – feels we should reword this to be a 'full council'.

Sec 2.09 – Filling of Vacancies - why can't we keep it vacant? Crews – Florida Statutes say we can't.

Sec 2.11 – Meetings – agrees with modifying Roberts Rules and adding workshops.

Sec 2.11 – Meetings – we need to spell out what the Mayor can and cannot do. Right now the mayor can make motions because it is in Roberts Rules. Withers feels that the Mayor should be the figure head and only have a tie vote.

Sec 2.13 – Chair and Vice-Chair – the chair and vice chair should only be voted on with a full council present.

Sec 2.14 (b) – Specific Duties – feels that all employees should work for the administrator.

Sec 2.14 (c) – Specific Duties – it should be for 2 years.

Sec 3.03 – Town Clerk – should be better defined.

Sec 3.04 – Town Attorney – we don't have a town attorney, we have a contract employee and it should be noted somewhere.

Sec 3.06 – Residential Zoning – rural residential is exactly what this town wants, we need to keep out the developers.

Agrees with Norton about a clause for donation of property.

Feels that the info provided to the committee tonight by Booth is not written for a strong form of government. It is written for someone who works for a big city.

Also we need to change Ordinance 3-93 that shows who works for who, feels that everybody needs to work for the administrator, including the clerk. Crews – feels that the clerk needs to be separate, it is a bad idea. Feels this idea should be run by our auditors.

Frazee – reiterates that the districts should be voted on exactly as written in the charter. And a total job description should not be in the charter.

Dezman – are all districts represented in the make-up of this committee? Yes.

Krieger – are we always going to have five districts, and how are they divided? Maybe it should refer to the comp plan. Crews – for now five is good but as we grow that number may grow also. Rivet – there should always be an odd number.

Rivet – we need to ask the state, the supervisor of elections, and our attorney questions about what we have discussed tonight. Feels the clerk should organize a document by comments.

Moccia – this needs to be run by our attorney and after that we can schedule another workshop.

Rivet – would like to digest this for awhile, look at the minutes, think about it and eliminate ideas that are not consistent with Florida Statutes and then meet again.

Borton – in about 30 days? Withers – would like the comments organized by section.

Moccia – that would be best.

Meeting adjourns at 8:45 pm

BY:


Chair Bobbi Moccia

ATTEST:


Susan Kabana, CMC
Town Clerk/Treasurer

DATE:

2/24/03