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Town of Ponce Inlet
Town Council
Special Meeting Minutes
August 19, 2021

6 **1. CALL TO ORDER:** Pursuant to proper notice, Mayor Smith called the meeting to order
7 at 3:00 p.m. in the Council Chambers at 4300 South Atlantic Avenue, Ponce Inlet, Florida.

9 **2. PLEDGE OF ALLEGIANCE:** Mayor Smith led the Pledge of Allegiance.

11 **3. ROLL CALL:**

12 **Town Council:**

13 Mayor Smith, Seat #1

14 Councilmember Milano, Seat #2

15 Councilmember Caswell, Seat #3

16 Councilmember Israel, Seat #4

17 Vice-Mayor Paritsky, Seat #5

18
19 **Staff Members Present:**

20 Ms. Cherbano, Deputy Clerk

21 Ms. Hunt, Assistant Deputy Clerk

22 Attorney Shepard, Town Attorney

23 Ms. Witt, Town Manager

24
25 Mayor Smith noted the following change for all meetings regarding the Charter Review: public
26 comments will be heard before Council discussion and after Council discussion on each Article.
27 Vice-Mayor Paritsky referenced Attorney Shepard's memorandum dated July 23, 2021
28 (Attachment 1) and stated she researched this process with other municipalities and how they
29 encouraged higher public participation; she stated this may be achieved by including the Chair of
30 each of the town's volunteer boards to participate directly in the process by being part of the
31 Charter Review Committee; she also suggested guidelines be established for public comment.
32 Councilmember Israel stated his support of anything Council can do to increase public
33 participation; Council concurred, noting that increased public participation will help Council make
34 informed decisions.

35
36 Attorney Shepard stated that the board representatives would not have a vote on the final ordinance
37 and further explained, after the Charter is reviewed, an ordinance is prepared based on the items
38 recommended by the Committee to be brought forward into the final ordinance, because the
39 Chairpersons are not elected officials, they are not allowed to vote on the final ordinance;
40 depending on how Council sets this up in terms of how something gets advanced to the ordinance
41 for final consideration, the Chairs may be granted authority by the Council to vote during that
42 process, acting as an extension of this body, but again, only the elected officials can vote on the
43 final ordinance. Councilmember Israel noted concerns that changes to the Charter could be
44 confusing to residents and suggested the town send something out letting residents know what the
45 item is about; Vice-Mayor Paritsky agreed adding that this is why she would like to hold town hall
46 style meetings. Mayor Smith asked if this meeting should be adjourned at this time or should we

47 proceed with the first three articles. Attorney Shepard stated the idea of the first meeting is to have
48 discussions on how to proceed, including those items being discussed: adding members to the
49 Committee, setting a meeting schedule, and what articles will be discussed and when (creating the
50 review process); his office would create a memorandum outlining the meeting process, dissecting
51 Articles into sections so that the review can be done in two hours or less (the suggested two hour
52 timeframe is a recommendation to avoid off-topic discussions); and highlighting areas the
53 Committee should consider revising, including the reasons why (i.e., gender neutrality, outdated
54 language, policy issues, etc.), obtains staff input, puts it all together showing how it would read,
55 which forms the basis for discussion and gives the Committee the framework and guidelines for
56 upcoming meetings; if the Committee cannot get through it or does not obtain sufficient input, the
57 Committee can place items in the “parking lot” for consideration at a future meeting; the memo
58 format is provided to keep the Committee on track with the tasks at hand and completing the
59 project on time. He recommended that Council not review any Articles today, and instead asked if
60 the memo format process works for Council, and to then begin setting the meeting agendas.

61

62 **4. REVIEW OF ARTICLES I, II, AND III OF THE TOWN CHARTER:**

63

64 ~~A. Public comment regarding Articles for discussion.~~

65

66 ~~B. Council discussion of noticed Articles.~~

67

68 In lieu of discussing the Articles indicated on the agenda, Council agreed this meeting should
69 instead be an organizational meeting and discussed how to proceed with the process, using
70 Attorney Shepard’s suggestions outlined in his memorandum.

71

72 Mayor Smith asked how the changes are presented to the public. Attorney Shepard provided an
73 example: the word “he” appears throughout the Charter, the question is “Should the Charter be
74 changed to reflect gender neutrality”? If the answer is yes, the word “he” is ~~struck through~~, and
75 replaced with a new term (underlined), the proposed change must appear on the ballot and would
76 result in numerous pages of one change (and that is just one question, all changes are done the
77 same way). He stated this is why Charters are *amended* more often than reviewed; it is a time
78 consuming and tedious process not only for the Committee, but for the public. He stated that at the
79 end of the process, Council could decide to put it all into one election, or break it into multiple
80 elections; fortunately, that can be decided after the final ordinance is presented to Council. Mayor
81 Smith stated his support of the Attorney’s memo format, allowing the Committee to remain
82 focused. Attorney Shepard added that Councilmembers must be extraordinarily careful about what
83 you say about what you are putting before the residents, so that it is not considered advocacy. For
84 example, you could in a non-judgmental way, explain the attempt of the change; you could not say
85 “the Council wants you to vote for this because ...” or “we think this is a good idea because”....
86 you cannot advocate for it as a body. Councilmember Israel suggested a special election be held
87 for the Charter Review items due to the ballot becoming too lengthy. Council discussed special
88 election processes and costs, voter turnout, use of possible mail-in ballots. Mayor Smith noted that
89 this last election saw only a 30% turnout of registered voters. There was further discussion
90 regarding the time of year the election is held, advertising of the meetings, the order of the
91 memorandum, and next steps. Attorney Shepard stated that allowing the public to comment before
92 discussion, allows the Committee to hear what the citizens want, also there is no reason to not
93 allow a public discussion after Committee discussion. Councilmember Israel concurred and

94 suggested holding the review meetings on the same day as the regular meeting. Councilmember
95 Caswell agreed, adding reaching out to citizens is key, and stated she does not support holding a
96 special election because those funds could be used elsewhere for higher citizen engagement. Ms.
97 Witt clarified that a special election costs approximately \$10,000; she added that Ponce Inlet’s
98 experience shows that if residents are interested in the ballot item, they will turn out. Attorney
99 Shepard stated that changes to a Charter are more about substance and less about form, so if you
100 have a “hot button” issue, voters will turn out; if you have an item regarding “gender neutrality”,
101 they will vote for it if they come, but they will not come out just to vote for that. Attorney Shepard
102 suggested the Council take action today on creating the committee, adding the four board chairs
103 as members, set the sections for the next agenda, and select the meeting schedule. He noted that if
104 Council follows the outline, there would be six or seven meetings scheduled to the entire process.
105 There was a brief discussion regarding the number of meetings, as well as taking the time to review
106 the Charter properly, noting that the ballot wording would be due to the elections office in June
107 2022.

108
109 Council agreed by consensus to schedule the Charter Review meetings on the same day as the
110 regular monthly Council meeting, to begin at 3:00 p.m.

111
112 Mayor Smith opened public comments. Joe Cannon, 109 Beach Street, stated that as Planning
113 Board Chairman he is supportive of including the Board Chairs on the Committee, agreed that
114 public participation at the beginning and end of each Article is necessary so the Committee would
115 be informed of how the public feels about the topic, and the time of day is not an issue, but can
116 always be adjusted as suggested.

117
118 Jim Hinson, 4745 S. Atlantic Avenue, stated his support of Council performing the Charter
119 Review; he stated his wish to have the elections held in November because many residents are not
120 here during the summer; and stated it is time for a review since the last one was done in 2001. Ms.
121 Witt clarified that the Charter was amended in 2001 but did not go through a review process.

122
123 Mayor Smith closed public comment.

124
125 Councilmember Milano asked if the elections were once held in November, but changed because
126 the Charter stated the Councilmember(s) had to be seated in November? Ms. Witt stated town
127 elections used to be held in November but there have been changes statewide which impacted that
128 decision. She advised that one major issue with both a November election, which can be greatly
129 compounded when the first Tuesday falls in the second week of the month, is the timeline for
130 certifying the election results versus when members take office; this is particularly a problem in
131 counting overseas votes; in reality, without the certification completed, you would not be sure who
132 was elected at the point at which they had to be sworn in. Ms. Witt stated the second major issue
133 is that Ponce Inlet has the potential for an election every year; with qualifying dates set by state
134 law to occur in June, regardless of when the election occurs; half of every year could be an election
135 season; this has a great impact on the town’s accomplishments. She advised that these are things
136 the Council looked at when considering August vs November in the unified election process.
137 Mayor Smith stated he could not support extending the election season. Ms. Witt advised that only
138 two municipalities hold an election every year and these are Ponce Inlet and Lake Helen; during
139 even numbered years, the County has an election so there is no additional cost to participate other

140 than individual city election advertising costs. She clarified that if Council chooses, it may elect
141 candidates in August and hold the referendum in November.

142 Attorney Shepard suggested that if Council by motion or consensus, wishes to accept the process
143 outlined in his memorandum, that gives staff direction; we can then set the schedule of meeting
144 dates and topics.

145
146 Vice-Mayor Paritsky moved to create a Charter Review Committee consisting of the five members
147 of the Town Council and the four Chairpersons of the Town's Advisory Boards, or the Vice-
148 Chairperson, or a designee, with the understanding that the same individual representing each
149 board shall attend all Charter Review Committee meetings; seconded by Councilmember Caswell.
150 The motion PASSED 5-0, consensus.

151
152 Attorney Shepard reviewed the tentative outline of the meetings: first meeting - Articles, I, II, &
153 III, through section 3.06; second meeting - Article III, Section 3.07; third meeting - Article IV;
154 fourth meeting - Article V; fifth meeting - Article VI; sixth meeting - Article VII; last meeting -
155 Articles VIII through Article X. He reminded Council that along the way, there may be a discussion
156 on term limits. Mayor Smith stated that additional meetings could be scheduled if necessary.
157 Councilmember Milano asked if an entire amendment is necessary to create a gender-neutral
158 change; Attorney Shepard stated yes. Councilmember Israel asked if it would be possible for
159 Council to consider other sections during a meeting if it finishes early. Attorney Shepard stated it
160 comes down to public participation; and Council can meet without an agenda as it is not a
161 requirement, however it is good practice; you could move along but the public would not know if
162 there is no agenda or it is not followed; that is why he used best projections in scheduling the
163 meeting topics. Councilmember Israel suggested wording on the agendas to inform the public that
164 other items may be discussed that do not appear on the agenda. Attorney Shepard stated yes you
165 can, but you still have the same issue of a member from the public stating they could not plan
166 properly to attend and participate because of unknown changes to an agenda. He suggested that
167 the Committee not discuss items not on the agenda, if you reach the end of the agenda earlier than
168 anticipated, then the meeting ends.

169
170 **5. ADJOURNMENT.** Mayor Smith adjourned the meeting at 4:06 p.m.

171
172 Respectfully submitted by:

173
174 _____
175 Jeaneen Witt, CMC, Town Manager/Town Clerk
176 Prepared by: Peg Hunt, Assistant Deputy Clerk

177
178 Attachment(s):
179 1 - Attorney Shepard's memorandum dated July 23, 2021



Attachment 1

Memo

To: Council Members

From: Cliff Shepard

CC: Jeaneen Witt

Re: Charter Review Process – Recommended Procedure

Date: July 23, 2021

I was asked my recommendation of how best to conduct a comprehensive, efficient, and effective review of the Town charter. Based on having participated in numerous charter reviews as legal counsel, my strong recommendation is as follows:

- Keep the charter review process with the members of the Council (as opposed to forming a separate citizen committee).
- Schedule a series of special public meetings limited to the charter review itself (rather than as an add-on to a regular meeting agenda).
- Make the agenda for each charter review meeting specific to certain sections of the charter, starting at the beginning, and moving through to the end of the document. That way, every section of the document gets reviewed and both the members and the public know what to expect.
- Conduct the meetings like regular meetings by allowing a public comment period at the beginning, before getting into the actual discussion of the charter sections on the agenda for that specific meeting. Once the working portion of the meeting begins (council discussion of the various sections), make sure the discussion stays with the council and does not become an open forum.

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- Set a time limit for the meetings (2 hours for example) and stick to it.
- Include legal counsel at all meetings (in person or by Zoom) so any suggestions for changes that may be headed down an illegal path can be redirected before they gain traction. In other words, before the community and council members get invested in a change that doesn't pass legal muster.

I have sound reasoning for all these recommendations based on actual experiences which I am happy to discuss but wanted to keep this memo short and to the point. I hope it helps provide some direction.