

CITY OF OPA-LOCKA
"The Great City"

AGENDA
SPECIAL COMMISSION MEETING
JULY 18, 2012
4:00 P.M.
Opa-locka Municipal Complex
780 Fisherman Street, 2nd Floor
Opa-locka, FL 33054

1. CALL TO ORDER:

Mayor Myra L. Taylor called the meeting to order on Wednesday, July 18, 2012 at 4:00 p.m. on the 2nd Floor of the Opa-locka Municipal Complex, 780 Fisherman Street, Opa-locka, Florida.

2. ROLL CALL:

The following members of the City Commission were present: Commissioner Rose Tydus, Commissioner Gail E. Miller, Commissioner Timothy Holmes and Mayor Myra L. Taylor. Also in attendance were: City Manager Kelvin L. Baker, Sr., City Attorney Joseph S. Geller, and Interim City Clerk Joanna Flores.

3. INVOCATION:

The Invocation was delivered by Mayor Myra L. Taylor.

4. PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was recited in unison.

5. REVIEW DRAFT CHARTER/PUBLIC HEARING:

Attorney Geller advised the Commission that they were to consider resolution 6a and a public hearing should take place prior to discussion and action.

6. RESOLUTION/COMMISSION ACTION:

a) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, APPROVING, SETTING FORTH AND SUBMITTING TO THE ELECTORATE A PROPOSED REFERENDUM TO REPLACE THE OLD OPA-LOCKA CITY CHARTER, FIRST ADOPTED IN 1955, IN ITS ENTIRETY, WITH A NEW, MODERN, UPDATED CHARTER, IN THE FORM MAINTAINED AND AVAILABLE IN THE CITY CLERK'S OFFICE; CALLING AND PROVIDING FOR

A REFERENDUM SPECIAL ELECTION TO BE HELD ON NOVEMBER 6, 2012, FOR THE PURPOSE OF SUBMITTING SAID NEW CHARTER TO THE ELECTORATE AT SAID REFERENDUM; FURTHER DIRECTING THE CITY CLERK TO CAUSE A CERTIFIED COPY OF THE HEREIN RESOLUTION TO BE DELIVERED TO THE SUPERVISOR OF ELECTIONS OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

The above resolution was read by title by Attorney Geller.

It was moved by Commissioner Miller, seconded by Commissioner Holmes to pass the above resolution.

Commissioner Holmes asked, would the city have enough time to advertise the public hearing to allow the citizens an opportunity to express their concerns.

Attorney Geller said that the Commission could have a further proceeding to have the public discuss and indicate whether they are for it or against it, ask questions, etc. However, Miami-Dade County Elections is very strict with their deadlines, but certainly there is an opportunity after this to have a public forum where citizens can speak.

Commissioner Holmes asked, when is the deadline for getting this on the ballot for the November election?

Attorney Geller stated that the official deadline is Tuesday, July 24, 2012, however, the City Clerk spoke with someone at elections which allowed an extension through the end of that week. But to be on the safe side, the City Commission should pass it and there would be time for changes in the text prior to the City Clerk submitting the text the following week.

Commissioner Holmes suggested that the Commission go through the revised charter and at the end they could decide whether or not to move forth with a public hearing.

Commissioner Miller expressed her concerns relating to the length of time it took to present the revised charter to the City Commission.

Commissioner Tydus asked, has this item been properly advertised as a public hearing?

Clerk Flores replied that there was not an advertisement for this item.

Attorney Geller stated that he has suggested a public hearing, but there is not a requirement that there be one.

Commissioner Tydus suggested that this be open to a public hearing because it is an agenda item.

Attorney Geller suggested that the Mayor open the public hearing at that time.

Mayor Taylor opened the floor for a public hearing. There being no persons to speak on the public hearing, the public hearing was closed.

Mayor Taylor asked, how would the actual question appear on the ballot?

Clerk Flores directed Mayor Taylor to page 3 of the resolution which reflected the actual language of the ballot question as follows: "Question 1: Shall the Old Opa-locka City Charter first adopted in 1955 be replaced in its entirety with a new modern updated Charter in the form maintained and available in the City Clerk's Office? Yes ___ No ___".

Mayor Taylor asked, today's resolution would take it to the Elections Department?

Attorney Geller replied, yes.

Commissioner Holmes suggested that the City Attorney go over the proposed updated charter.

Attorney Geller went over the proposed new modern updated Charter with the City Commission.

Mayor Taylor asked, when the City Attorney talked about if there's a conflict between the Code and the Charter, did he make it clear that the Charter takes precedence?

Attorney Geller stated that the new Charter controls if there's a conflict, other than that, the old code will stay in force until the Commission should decide to change it.

Commissioner Tydus expressed her concern with the section that read: "all city boards and agencies existing prior to the adoption of this charter shall be de-authorized subject to reauthorization"? She asked, does that mean the current members of the board terms are terminated and started from scratch?

Attorney Geller replied, yes, the same members can be appointed, but it would have to start from scratch.

Commissioner Tydus referred to page 10, section 4.2B "Interference with Administration". She said that on many occasions during commission meetings, the Commission have called upon staff members to come up by saying "through the Manager", but they are speaking for the City Manager. If the City Manager doesn't want an individual to come up, does he have the right to say "no I don't", because they are not giving him the opportunity. She asked, does this section address that and is the Commission correct by doing that? She provided an example: "I want Dr. Orji to come, Finance Director, through the Manager". She said, how is that through the Manager if they didn't ask the Manager and the Manager might not want him to come up.

Attorney Geller said that any manager that denies commissioners information they are seeking from staff is not likely to be a manager for very long. The reality is that there is a prohibition on giving directions to staff, but that does not extend to asking information and it is generally deemed under all Charter appropriate for Commissioners to request information; that is different than requesting that something be done. You can only request staff members to take action through the City Manager. His opinion is that the City Manager is obligated to provide the information that's being requested. The City Commission does have the authority to get information from city staffers.

Commissioner Tydus suggested a change because to say "through the City Manager" without the City Manager having a say so and the Commission is catching the Manager off guard just as much as the individual asked to come forward which is disrespectful and deceitful. It really is not through the Manager and the City Manager should have some input.

Attorney Geller stated that "through the Manager" is just a figure of speech and it is intended as he understands to be a request to the City Manager, but the City Manager is obligated to provide information to the Commission.

Commissioner Tydus stated that the request should be made to the City Manager and through the Manager from his staff the Commission should receive whatever information.

Mayor Taylor asked, what is the proper way without disrespecting the City Manager?

Attorney Geller stated that it is proper to ask the City Manager for information and it is proper to ask the City Manager if one of his staff is better able to provide that, but yes he believes it should be an actual question and not a figure of speech where the Manager is asked and has an opportunity to respond. Certainly, if a question is going to be asked that way, it seems to him that it would be proper to allow the Manager a moment to confer with staff member first. There is no other way to proceed at that and the courtesy that embodies is required by law.

After hearing the discussion, Mayor Taylor said that the Commission should sharpen up on how they conduct business and approach because there is a proper way to approach everybody.

There being no further discussion, the motion passed by a 4-0 vote.

Commissioner Tydus	Yes
Commissioner Miller	Yes
Commissioner Holmes	Yes
Vice Mayor Johnson	Not present
Mayor Taylor	Yes

Attorney Geller encouraged the Commission to contact him should they have further questions regarding the new modern updated charter. Additionally, if they see something

requiring tweaking, they may be able to tweak the document, but the city will now notify the county that it is having an election.

Mayor Taylor asked, is the City Clerk's Office the only place where the proposed charter would be available?

Attorney Geller stated that it would also be on the website and circulated. It would be provided to anyone who requests a copy, but the City Clerk's Office is just where they would go get it.

Commissioner Holmes suggested that a public hearing be held at the next regular commission meeting to allow the citizens to give input because it would be useless to allow citizens to comment once this item has been sent to the Elections Department. He didn't want the citizens to think the Commission is putting something out there for them to vote on and they didn't have a change to give input.

Attorney Geller stated that the Commission could take comment from the citizens and if there is some need to change a section, the Commission could still do that as long as they are now providing the notification to the county that there will be one question on the ballot. The ballot question will not change, therefore, if a change is needed in a particular section after the public hearing, then the Commission can still do that and they will be timely in terms of the notice and this would be available in the City Clerk's Office.

He strongly urged that the Commission not change the provision relating to them controlling the boards and not vice versa, but other than that, anything they wanted to change and have public hearing next week is fine just as long as everything is final by Thursday of the following week.

Commissioner Holmes asked if the Commission would like to have a public hearing at the next commission meeting.

Following brief discussion, it was the consensus of the Commission to hold a public hearing on the proposed revised charter at the Regular Commission Meeting of July 25, 2012.

The Commission entered into discussion as it relates to the length of commission meetings and Commissioner Holmes said perhaps a provision should have been included in the Charter to limit the amount of time each commissioner speaks on an item.

Attorney Geller advised that the Commission does have the right to fix the terms of debate, if they ever wanted to do that they could, but he doesn't know how they would want to enforce it. It is the authority of the Commission to set its own rules and procedures.

Mayor Taylor expressed her concerns about the length of time spent on individual items at Commission Meetings and asked that her colleagues agree to limit discussion to no more than 10 minutes per item. She said that this issue could be discussed at a later date.

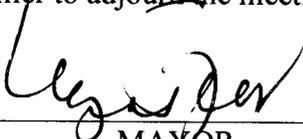
Attorney Geller stated that he and the City Clerk will arrange for this item to be on the agenda for a public hearing and the Commission could limit the time if they see a lot of speakers that they each have. At the conclusion of the public hearing, if there is any pressing need by motion the Commission can instruct him to make a change in the draft and Thursday, July 26, 2012 when it's final then that would be the final draft.

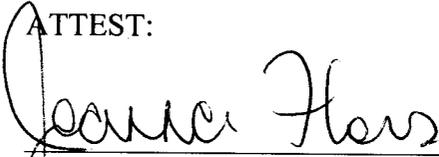
He continued to say the city will notify the Elections Department now, but it would be final in our office as of Thursday, July 26, 2012 which is the deadline. The Miami-Dade County Elections just needs to prepare their ballot and the city just needs to let them know now that we will have a question on the ballot.

Mayor Taylor asked that the public hearing be reflected in red and that the speakers be allowed two minutes each.

7. ADJOURNMENT:

There being no further business to come before the City Commission, it was moved by Commissioner Holmes, seconded by Commissioner Miller to adjourn the meeting.


MAYOR

ATTEST:

CITY CLERK