

City of Gainesville

*City Hall
200 East University Avenue
Gainesville, Florida 32601*



Meeting Agenda

August 12, 2015

5:00 PM

Roberta Lisle Kline Conference Room (#16)

Legislative and Organizational Policy Committee

*Mayor Ed Braddy, Chair
Commissioner Todd Chase, Member*

Persons with disabilities who require assistance to participate in this meeting are requested to notify the Equal Opportunity Department at 334-5051 or call the TDD phone line at 334-2069 at least two business days in advance.

CALL TO ORDER

ROLL CALL

ADOPTION OF THE AGENDA

APPROVAL OF MINUTES

[150118.](#)

**Legislative and Organizational Policy Committee Meeting Minutes
from May 4, 2015 (B)**

RECOMMENDATION

*The Legislative and Organizational Policy
Committee approve the minutes from the May 4,
2015 meeting as submitted.*

[150118 May Meeting Minutes 20150812.pdf](#)

DISCUSSION OF PENDING REFERRALS

[120125.](#)

Overall Charter Review Process Referral (B)

Explanation: On June 7, 2012, the City Commission discussed a referral returning from the Audit, Finance and Legislative Committee (AFLC), entitled City of Gainesville Elections - Expanded Examination of Several Issues. As part of that discussion, a motion was approved to refer an overall Charter review process to the AFLC for further discussion.

At the January 29, 2013 AFLC meeting, the Committee discussed the item and requested the City Auditor prepare a plan identifying the timing of a general process for the City Commission to review and discuss possible changes to the City Charter, with a goal for completion by the Spring 2013 election. Included as backup to this item is a draft process and a copy of the City's current Charter Laws.

At the March 14, 2013 AFLC meeting, Committee Chair Craig Lowe, Committee Member Lauren Poe and City Commissioner Thomas Hawkins discussed the item and agreed the proposed City Commission meeting schedule presented should be used as a general timeline for the Charter review process. The Committee also recommended the Clerk of the Commission schedule necessary meetings and the City Attorney provide informational presentations at introductory Charter review meetings.

At the April 18, 2013 City Commission meeting, the City Commission approved as a general timeline the City Auditor's draft overview of the Charter review process, directed the Clerk of the Commission to schedule a series of special City Commission meetings and a minimum of 3 public forums to provide opportunities to review and discuss the City's Charter and evaluate possible changes and directed the City Attorney to provide presentations on the City's Charter for the City Commission and the public at the introductory special meetings and public forums.

On July 29, 2013, the City Commission received an overview of the City's Charter from the City Attorney's Office and asked for future presentations on the following issues:

- 1. Background information regarding the Hogtown Greenway Charter language (Legistar item #130209);*
- 2. Background information regarding the proposed March 2013 Charter amendment on City elections (Legistar item #130251);*
- 3. Information regarding 4/5th's vote requirements or any possible scrivener's errors in the Charter (Legistar item #130248);*
- 4. Charter Officer roles and responsibilities established in the Charter (Legistar item #130227); and*
- 5. Information on forms of municipal government (Legistar item #130250).*

On August 20, and August 27, 2013, the City Commission received presentations from appropriate staff regarding each of the five issues (Legistar item #'s listed above) but took no action in anticipation of two public forums on the Charter Review Process scheduled for September 24, and November 4, 2013.

On September 24, 2013, the City Commission held its first public forum on this issue and discussed multiple issues including charter officer responsibilities, City elections and 4/5th's vote requirements.

On November 4, 2013, the City Commission held its second public forum to discuss the issue. The City Commission directed staff to prepare draft ordinance to place before voters charter amendment to move City elections to coincide with regular elections for federal, state, and county officials; provide for a preceding primary election to avoid run-off; and propose a transition schedule to four year terms that would not extend or shorten any incumbent City Commissioner's term. The Commission also directed staff to prepare a draft ordinance to place before voters a charter amendment to require a 5/7ths vote by the City Commission to place a charter amendment on the ballot.

On July 17, 2014 the City Attorney brought this item back to the City Commission to get further direction and clarification. While working on this referral, staff discovered some legal issues, practical difficulties, and possible unintended consequences. Because the drafting of a proposed

charter amendment ordinance requires considerable staff effort and the expense of advertisement, further Commission direction would be helpful at this point. The proposed charter amendments would make considerable changes to the City's elections. In addition to lengthening the terms of office and reducing elections from every year to every other year, the amendments-- by requiring a preceding primary election and a general election --would appear to institute partisan elections (as Florida is a closed primary state) and would allow the election to be decided by a mere plurality of votes cast in the general election. Staff is not certain that the Commission intended to create partisan elections or a plurality voting system. Holding a preceding primary election will winnow away the candidates who declare a party affiliation on the ballot, but it does not appear that it will avoid a runoff. Rather, the general election will serve as the runoff; however, since all candidates who seek to qualify without party affiliation or as a member of a party without opposition could proceed directly to the general election, the election is likely to be decided by a plurality, rather than majority, of votes cast. If the Commission intends this result, it would be more cost effective to simply hold one plurality election.

In researching these issues and looking for a municipal election model that Gainesville could follow, staff found no other municipalities in the State of Florida with partisan municipal elections. Staff's research was confirmed by an official from the State of Florida Division of Elections. In sum, the issues presented by this referral are complex, appear to result in unintended consequences, and may benefit from more discussion and direction before a charter amendment ordinance is drafted by the Office of the City Attorney.

The City Commission approved referring this matter to the Audit, Finance and Legislative Committee for further discussion and direction. The referral was later transferred to the newly formed Legislative and Organizational Policy Committee.

Fiscal Note: None

RECOMMENDATION

The Committee discuss the Overall Charter Review process, particularly, the elections issues described above and take any action deemed appropriate.

Legislative History

6/7/12	City Commission	Referred to the Audit, Finance and Legislative Committee
1/29/13	Audit, Finance and Legislative Committee	Retained in Committee
3/14/13	Audit, Finance and Legislative Committee	Approved as Recommended, as Modified
4/18/13	City Commission	Approved as Recommended

7/29/13 City Commission Approved, as shown above
9/24/13 City Commission Discussed
11/4/13 City Commission Approved, as shown above - See Motion(s)
7/17/14 City Commission Approved as Recommended

[Draft Charter Review Process Overview.pdf](#)

[Current Charter Laws.pdf](#)

[120125_CHARTER LAWS_20130729.pdf](#)

[120125A_Charter overviewpowerpoint_20131104.pdf](#)

[120125 EO-HR Discussion_20131104.pdf](#)

[120125A_Charter Laws_20150812.pdf](#)

[120125B_Charter Overview Ppt_20150812.pdf](#)

[140186.](#)

Residency Requirement for Candidates (B)

Explanation: On July 17, 2014 the City Commission referred a discussion of Residency Requirement for Candidates to the Audit, Finance and Legislative Committee. The referral was subsequently transferred to the Legislative and Organizational Policy Committee.

Article II, Section 2.03 of the City Charter outlines the eligibility requirements for each district and at-large candidate. Sec. 9-10(b). of the Code of Ordinances- Qualifications of candidates for city commission further states eligibility requirements in a case where redistricting has occurred.

Committee members asked legal staff to conduct additional research to include legal precedent or case law, what entity or agency would receive complaints, hear the case, and who has ultimate authority. At the May 4, 2015 committee meeting, City Attorney staff presented case law where a judge ruled that subjective intent to be in a place supported by the facts, such as car registration, where one sleeps, school children are zoned to, among others could constitute residence. In the particular case sited, the residency in question was a place of business. The Judge ruled that there was no evidence that the person lived anywhere else, hence their intent to be in a place constituted residence.

Florida law puts the responsibility on the candidate (not the Supervisor of Elections or the City) to ensure that he/she complies with all state and local elections laws. It appears from staff research that challenges to candidacy can come from another candidate or a voter. Staff has not found legal precedent for the City itself to bring suit against a candidate. There are several resources available to candidates and others who are concerned about a potential violation of election laws, including but not limited to:

The Florida Division of Elections: Provides information about state

election laws and issues advisory opinions. <<http://www.fec.state.fl.us>>

The Florida Elections Commission: Investigates sworn complaints alleging violations of state election laws.

<<http://election.dos.state.fl.us/index.shtml>>

The Court system: Hears legal challenges brought by persons who have standing to challenge a violation of either local or state election laws.

The Committee asked staff to work on a list of "residency factors" that can be provided to candidates by the Clerk and/or Supervisor of Elections.

Fiscal Note: None

RECOMMENDATION

The Committee: 1) Hear an update from staff; and 2) Remove this agenda item from referral list.

Legislative History

7/17/14	City Commission	Referred to the Audit, Finance and Legislative Committee
11/18/14	Audit and Finance Committee	Retained in Committee
4/14/15	Legislative and Organizational Policy Committee	Continued

[140186A_ARTICLE II CITY COMMISSION_20150414.pdf](#)

[140186B_Qualifications of Candidates for City Commission_20150414.pdf](#)

[140186A_ARTICLE II CITY COMMISSION_20150504.pdf](#)

[140186B_Qualifications of Candidates for City Commission_20150504.pdf](#)

[140186_Charter Laws Article II_20150812.pdf](#)

MEMBER COMMENT

CITIZEN COMMENT

NEXT MEETING DATE

September 9, 2015 at 5:00PM in the Roberta Lisle Kline (#16) conference room

ADJOURNMENT