



CITY OF FORT LAUDERDALE

MEETING MINUTES  
CITY OF FORT LAUDERDALE  
CHARTER REVISION BOARD  
FORT LAUDERDALE EXECUTIVE AIRPORT  
RED TAILS CONFERENCE ROOM  
6000 NW 21<sup>ST</sup> AVENUE, FORT LAUDERDALE, FLORIDA 33309  
THURSDAY, JULY 6, 2023 – 5:30 P.M.

Cumulative Attendance  
January-December 2023

Judith Stern, Chair (arr. 5:41)	P	4	0
Christopher Fertig, Vice Chair	P	4	0
Harrison Grandwilliams	P	3	0
Ben Sorensen	P	4	0
Richard Weiss	P	4	0

**Staff**

Junia J. Robinson, Assistant Neighbor Support Manager, MPA  
Paul Bangel, Assistant City Attorney  
Anthony Fajardo, Assistant City Manager  
David Solomon, City Clerk  
J. Opperlee, Recording Secretary, Prototype, Inc.

**Communications to City Commission**

None.

**I. CALL TO ORDER / PLEDGE OF ALLEGIANCE**

Vice Chair Fertig called the meeting to order at 5:32 p.m.

**II. DETERMINATION OF QUORUM**

It was noted a quorum was present at the meeting.

**III. APPROVAL OF MAY 04<sup>TH</sup> AND JUNE 01<sup>ST</sup> 2023 MEETING MINUTES**

**Motion** made by Mr. Weiss, seconded by Commissioner Sorensen, to approve [the May 4, 2023 minutes]. In a voice vote, the **motion** passed unanimously.

**Motion** made by Mr. Weiss, seconded by Commissioner Sorensen, to approve [the June 1, 2023 minutes]. In a voice vote, the **motion** passed unanimously.

**IV. FOLLOW UPS FROM PRIOR MEETING**

- **LIST OF CHARTER SECTIONS SUGGESTED FOR REVISION**

Mr. Weiss commented that while there are a number of “hot-button” issues the Board wishes to discuss, he felt they needed to move through the Charter section by section. This would also allow the public to know when the Board will be discussing a particular topic so they can be present to provide comment.

It was determined that the list of Charter sections suggested for revision would be retained as a reminder that the Board has specific issues they wished to address. It was also determined that the Board would discuss elections on tonight’s Agenda as planned at the previous meeting.

Assistant City Attorney Paul Bangel advised that he has prepared draft language for Charter sections addressing property and elections.

Chair Stern arrived at 5:41 p.m.

- **WRITTEN LEGAL OPINION AS TO WHETHER A LOBBYIST IS PROHIBITED FROM SERVING ON CITY BOARDS**

Attorney Bangel stated that he had addressed the question of whether Section 2-264 applies to advisory board members. His conclusion was that this Section does not apply to those individuals, as they are not mentioned in the Section’s text, and the heading serves only as a catch line.

Chair Stern commented that this opinion is consistent with past performance, as City Commissioners have appointed lobbyists to advisory entities in the past. She noted that no member of the public has indicated this interest to the Board itself, and Ms. Robinson clarified that she has not received any communications on this issue. Commissioner Sorensen asserted that some of his constituents have expressed interest in this topic. It was determined that the public will have the opportunity to provide feedback later on in the meeting during public comment.

The following Item was taken out of order on the Agenda.

**V. OVERVIEW OF CITY AND COUNTY ELECTIONS**

**SPEAKER:**

**NATHANIEL KLITSBERG, SENIOR ASSISTANT COUNTY ATTORNEY, OFFICE OF THE COUNTY ATTORNEY FOR BROWARD COUNTY**

Chair Stern stated that Senior Assistant Broward County Attorney Nathaniel Klitsberg is an expert on election law and redistricting, and recalled that these two issues were mishandled by the City in 2022.

Attorney Klitsberg explained that in 2022, Broward County was redistricted and re-precincted as a result of the 2020 U.S. Census. The Broward County Supervisor of Elections reached out to each Broward municipality and advised them of the timeline in which these changes must be made, as the County needed input from the municipalities regarding their districts.

Attorney Klitsberg continued that there was communication between Fort Lauderdale and the Supervisor of Elections' Office in early 2022 regarding this timeline. Because the Census results were provided later than expected, all parties involved in redistricting were required to work within a tight time frame. Fort Lauderdale was one of the later Broward municipalities to provide its district information to the County.

Attorney Klitsberg advised that while the City's districting Ordinances and provisions are legally sufficient, they do not provide for a particular time frame in terms of sending information to the Supervisor of Elections, who will create precincts based on this information. This meant there was a delay in the establishment of precincts.

Mr. Weiss stated that the County had instituted a Charter change which required that only public educational institutions, and not political experts, could advise the Broward County Board of County Commissioners on the establishment of districts. This would allow for independent and academically based review of the districts. Chair Stern added that many other Broward municipalities adopted a similar policy; however, Fort Lauderdale hired a commercial litigation firm for this review, which contributed to some of their delays.

Attorney Klitsberg recalled that Florida International University (FIU), the University of Florida, and Florida Atlantic University all submitted proposals to Broward County, and the County Attorney's Office evaluated these proposals and recommended FIU as the entity which would provide district review. Some Broward municipalities piggybacked on this contract. The Supervisor of Elections also piggybacked on this contract to have FIU prepare precinct maps. Fort Lauderdale ultimately reconsidered their contract with the commercial firm and instead contracted with FIU; however, this resulted in a delay in the redistricting process.

Mr. Weiss requested an update on what the City's Charter and Code say about this issue. Attorney Klitsberg advised that Section 712 of the Charter provides for the original districting in the late 1980s, as well as for redistricting after receipt of the most recent published Census information. The Charter does not include language that would determine what entity assists the City with this process.

Mr. Weiss clarified that Fort Lauderdale's Charter addresses the City's districts, while the County precincts address where citizens actually vote. Attorney Klitsberg explained that

precinct information is determined once the City has submitted district information to the County.

Commissioner Sorensen asked if Attorney Klitsberg felt there were any City Charter issues regarding redistricting which should be improved upon. Attorney Klitsberg replied that he did not have an opinion on this policy. He noted that Fort Lauderdale's Charter does not address the entity that assists the City in redistricting or the time frame in which this must be done; however, if the City wished to implement this language, it could be done by Ordinance rather than by Charter Amendment. Chair Stern recalled that the County's policy requiring a public educational institution was supported by a public vote.

With regard to the timeline, Attorney Klitsberg noted that Broward County does not have a requirement of this nature; however, this could also be implemented by Ordinance or by internal policy rather than by Charter Amendment if the City wished to include this type of requirement. He recommended that the Charter not include specific requirements of daily operation, as it may become necessary to change these requirements with little notice, which could not be done if they are in the Charter.

Chair Stern suggested that Fort Lauderdale's City Attorney's Office may wish to discuss a possible Ordinance that would follow the County's policy on limiting the involvement of redistricting review to public educational institutions. Mr. Weiss felt the question was instead whether or not the Board wished to impose this obligation upon the City Commission, or if they preferred to leave this issue to the discretion of the City Commission itself.

Chair Stern noted that the issue was one of concern because of the hardship the City's delay in providing district information had caused for the Supervisor of Elections. Mr. Weiss pointed out that this is the City Commission's responsibility, and that the Charter should address the larger parameters of the City's needs.

Mr. Grandwilliams stated that if the Board wishes to continue discussing Section 712, he would like further discussion of the number of City districts at a later meeting.

Chair Stern requested Attorney Klitsberg's input on election issues. Attorney Klitsberg stated that because Fort Lauderdale has November elections, unique circumstances apply: overseas voters have until 10 days after the election for their ballots, which must be mailed no later than Election Day, to be received by the Supervisor of Elections. The Supervisor of Elections is aware of how many overseas ballots may exist, as well as whether or not they constitute a sufficient number to change the outcome of the election. By law, the final results of an election may not be certified until the 10-day period for receipt of overseas ballots has elapsed.

Attorney Klitsberg continued that the Board may wish to consider advising the City Commission to amend the Charter's language to make it more consistent with Florida Election Code regarding the following:

- When elected officials are seated
- When results are certified

He also noted that there is a recommendation relating to Section 3.04 of the Charter, which would eliminate the provision that establishes the City Commission as the arbiter of elections. This provision is consistent with the laws governing the U.S. Congress as well as the Florida Legislature: all of these bodies serve as arbiters of their own elections. This is why it is not possible to contest elections for those seats, although Congress has established a Federal Elections Challenge Act to provide for challenges. Attorney Klitsberg noted that Chapter 102.168 of Florida Statutes includes the Florida Election Contest Statute, which establishes the method by which election contests are resolved.

Attorney Klitsberg continued that the City's Charter refers throughout to "quadrennial municipal elections," which means the City's four-year elections occur during the Presidential general election cycle. Section 7.08 states that when a vacancy or vacancies occur for City Commission seats within 18 months or fewer before the next regular quadrennial municipal election, they may be filled by appointment by the remainder of the Commission. This is the case for a number of municipal Charters in Broward County. There is also a provision which calls for special elections if there are more than 18 months before the next quadrennial municipal election.

Attorney Klitsberg continued that when there are more than 28 months between the effective date of a Commissioner's resignation and the end of that individual's term, the election for that seat is held on the date of the next general election. He pointed out that special elections can be very costly to cities, and these costs are significantly lower when a County-wide election is held. Following the general election schedule also offers the benefit of early voting, as well as the additional time period in which overseas ballots may be received. The only costs associated with these elections are incremental increases, as opposed to the costs of postage, staffing, and the entire ballot for a special election.

Attorney Klitsberg added that the Florida Legislature has also imposed additional requirements on the Supervisor of Elections' Office during non-election years, which make the holding of a special election disruptive. There are some circumstances in which the Supervisor of Elections does not have the ability to schedule a special election for a municipality.

Attorney Bangel recalled that recent Charter Amendments were limited: changing the City's election from March to November, as well as changing the election cycle to every four years, had involved only changing the word "triennial" to "quadrennial." Chair Stern added that the rest of this language was not changed for consistency with quadrennial election requirements. Attorney Bangel confirmed this.

Commissioner Sorensen asked if a regular quadrennial election could be held in a different month, such as August. Attorney Klitsberg replied that Broward County's Special

Act of 1975, which governs elections, prohibits this. Primary elections for November municipal elections are also prohibited.

Mr. Weiss observed that there are other issues on which the Board may want Attorney Klitsberg's input in the future, such as staggered Commission terms. He felt these should be addressed in full when it is time for the Board to discuss the election sections of the Charter.

Mr. Grandwilliams commented that he had believed the Board intended to discuss elections in greater depth at tonight's meeting. He cited Section 3.04 as an example, noting that this section states any registered elector of the City of Fort Lauderdale shall be entitled to file an affidavit showing that a candidate has violated the provisions of the City's Charter and the manner thereof. This must be done at the time the City Commission meets with the canvassing board to review the results of the election. He suggested that the Board may wish to consider recommending an amendment to this challenge date in order to avoid going through a full election cycle with a candidate who may be disqualified.

Attorney Klitsberg advised that the Charter already specifies a manner and process by which election results, or of the qualifications of a candidate, may be challenged. Under Florida law, anyone may file a pre-election lawsuit challenging the qualifications of a candidate to run or serve. Post-election challenges, however, must be filed within 10 days of the final certification of the vote. The process for these challenges is very limited under Florida Statute 102.168, which challenges the eligibility of the individual to serve. This differs from the qualifications of a candidate.

Attorney Klitsberg continued that case law delineates when certain types of challenges can be made. Challenges to the qualification of an individual as a candidate may not be made post-election, and should instead address that individual's eligibility to serve.

Attorney Klitsberg advised that a contest of elections under State Statute 102.168 is an expedited process. This means if an election challenge is filed within the required 10-day time frame, the evidentiary hearing for this challenge must be heard within another three weeks.

Mr. Weiss asserted that he felt the intent of the City's Charter is that the City Commission is in charge of the qualification of its members, and that any challenge to these qualifications should be made through a lawsuit rather than asking a municipal clerk to serve as investigator. He asked if Statute 102.168 is mandatory and preempts the manner in which elections may be challenged.

Attorney Klitsberg confirmed that compliance with Statute 102.168 is mandatory. He explained that under common law, there is no right to contest an election, absent a statute to that effect. The State Legislature has created a limited manner by which a party may contest an election, with the only bases for this contest being:

- Misconduct, fraud, or corruption on the part of an election official or the canvassing board sufficient to place the outcome of the election in doubt
- Ineligibility of the successful candidate for the nomination (in the case of a primary) or office in dispute
- Candidate(s) received a number of illegal votes or rejection of a number of legal votes sufficient to change or place in doubt the result of the election
- Proof that an elector, elected official, or canvassing board member was given or offered a bribe for the purposes of procuring the successful candidacy for election

Attorney Klitsberg re-emphasized that election results may not be contested on the basis of a candidate's qualifications to run for office, but on the basis of eligibility to serve in that office.

Mr. Weiss asked if Statute 102.168 would provide for the address of a candidate who was qualified for election by the Clerk's Office but was then determined to, for example, live outside the appropriate district. Attorney Klitsberg stated that this is not addressed by Statute 102.168, but is a common law right: it is possible for a resident to sue for lack of qualifications.

Mr. Weiss also asked if another candidate, or a voter, would have sufficient standing to file this suit. Attorney Klitsberg replied that he was not certain this specific limited issue has been addressed in court; however, the statute refers to "any elector."

Mr. Weiss asked if it is possible to challenge, after a candidate has been elected, whether or not that candidate is a resident of the appropriate district. Attorney Klitsberg confirmed that Statute 102.168 provides for a procedure in this instance.

Mr. Weiss concluded that he is comfortable with these two processes, which would remove the decision from the City Commission and place it in the hands of the court. He asserted that the Charter provision placing the qualification of members in the hands of the Commission should be removed in order to ensure the courts may deal with any such issues, either under common law or under the appropriate Statute. Mr. Grandwilliams also agreed with Mr. Weiss's suggestion.

Mr. Weiss stated that he felt the Board should direct Attorney Bangel to make changes to this section of the Charter to eliminate any provisions that could potentially place the City Commission in the middle of an issue of qualifications. He felt this would remove any uncertainty regarding the procedure to challenge either qualifications or eligibility to serve.

**Motion** made by Mr. Weiss, seconded by Mr. Grandwilliams, if [Attorney Bangel] could bring us back at the next meeting, it will be under "follow-ups," what we need on this issue to take care of this issue. In a voice vote, the **motion** passed unanimously.

Mr. Grandwilliams noted that the Board has raised the issue of primaries, clarifying that under the Special Act, there is no mechanism by which November City elections may be

preceded by primaries. The only mechanism by which the option of primaries might be entertained is if the City Commission requests a local bill. In the absence of such a bill, nothing may be added to the Charter on this issue, as this would be inconsistent with State Statutes. He requested additional explanation of this issue.

Attorney Klitsberg advised that primaries were abolished under Broward County's Special Act. No Broward municipality which holds elections in November may hold a primary. There is no mechanism by which this can be challenged. He noted that even the Broward municipalities which hold March elections do not have primaries.

Attorney Bangel referred to the language of the Special Act, which states: "Municipalities that have general elections in November of even-numbered calendar years shall not have primaries for such elections."

Chair Stern noted that Section 3.09, which addresses organizational meetings, was inconsistent with the City's previous March elections and the swearing-in period that follows. It was further clarified that the Charter must be amended for consistency with procedures related to November elections, including swearing-in of officials.

Attorney Bangel suggested that Section 3.09 remove the words "in December" and leave the remaining language as is. He explained that Section 4 of the Special Act provides that duly elected municipal officers shall take office within 14 days after the general election, with the specific date to be decided by local ordinance. This would mean at the first regular meeting following the election, which would be within 14 days.

Mr. Weiss requested that Attorney Bangel review this Section once more and bring back a draft including the language he recommended for Charter changes addressing elections. It was noted that Attorney Bangel would also address Section 3.10 at the same time in order to ensure there are no remaining inconsistencies.

Attorney Bangel stated that his recommendation for Section 3.10 would be to include the following: "A member elected at other than a quadrennial regular election shall take office following certification of the special election by the Broward County Supervisor of Elections." It was suggested that this language also include a reference to a specific time period which would allow for the certification of overseas ballots. Attorney Bangel explained that the Special Act states all municipal elections shall be canvassed by the County Canvassing Board, with that board certifying the results to each City Clerk within five days after the election.

It was also noted that any inconsistencies between Code and the Charter should also be addressed or removed.

The Board returned to the following Agenda Items under Item IV:

- **DRAFT CHARTER LANGUAGE REGARDING LEASES ETC.**



Chair Stern noted that one issue brought to her attention was the restriction of advertising leases of City property in the *Sun-Sentinel*, which does not take current internet advertising into account. City Clerk David Solomon advised that Broward County has established a program through which the City can now advertise on the County's website. He added that he would follow up with the incoming City Attorney to determine whether or not that individual feels further change is necessary.

Mr. Weiss commented that Attorney Bangel had provided draft language which would eliminate this language from the Charter, and instead addressed by Ordinance. This would allow the City to keep up with modern technologies for advertising. He referred the members to the materials provided by Attorney Bangel in their Agenda packets to review these changes.

Mr. Weiss continued that the proposed changes to Section 8.01 suggest that personal property belonging to the City shall not be sold except as provided for by Ordinance.

**Motion** made by Mr. Weiss, seconded by Vice Chair Fertig, that that be our first official recommendation. In a voice vote, the **motion** passed unanimously.

Mr. Weiss next addressed Section 8.02 in Attorney Bangel's proposed language, which would eliminate most of that existing section. Attorney Bangel explained that is it only within the past three to four years, since the City's Public Participation Ordinance took effect that a public notice policy existed. The Ordinance requires that before any action is taken by the Commission, it must be open to public comment.

Chair Stern asked what type of public participation process most municipalities follow for the sale of City property. Mr. Weiss advised that there are broad disparities between these processes. He noted that the sale of City property is irreversible, which led to the sentiment that there should be some type of process for public input. Some municipalities require this process only for properties of a certain size or a particular type, such as park space.

Mr. Weiss continued that there is some concern that encumbering the sale of City properties too much could discourage the City from proceeding with public/private development efforts. He concluded that it is necessary to strike a balance between the City's ability to sell land and the public's interest in that sale. This may require a certain time period, such as first and subsequent readings of the sale, with opportunities for the public to respond. This could be a longer time period than the typical two weeks' notice required for Ordinances. Another possibility could be to require appraisals of the property. He also pointed out that some properties, such as parks, need significant protection, while small properties would need less.

Mr. Grandwilliams noted that Attorney Bangel's proposed language for Section 8.02 recognizes that there are countless transactions between governmental bodies, such as

easements, which are *de minimis* in nature. He advised that it would be unusual for members of the public to address these types of sale or lease, as they are negotiated between governmental entities.

Attorney Bangel advised that one reason he recommended simplifying the language of Section 8.02 is due to a legal requirement that members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. This requirement was not in place prior to 2013.

Mr. Weiss asserted that this was insufficient with regard to the sale of City property. He suggested that the Board review a list of City-owned properties to determine the types of properties that may be for sale, and the levels of protection that should be afforded them. He felt Attorney Bangel's draft language may be sufficient for very small properties, but would not be enough to protect parcels of significant acreage.

Assistant City Manager Anthony Fajardo commented that the City often has "leftover pieces" of parcels which are unusable for development, and which the owners of neighboring properties may wish to purchase. He added that the City has a map of its properties, although it does not include a high level of detail. Mr. Weiss stated that a list reflecting the acreage of the properties would be more helpful than a map.

Mr. Grandwilliams advised that a parcel which is not considered suitable for development is typically considered to be *de minimis* due to its size, although he was not certain of the size threshold required for this categorization. He felt parcels considered suitable for development would be of interest in terms of the Charter.

Mr. Weiss added that there may be a separate category for consideration in the case of properties sold or given to other governmental entities. He also emphasized that local control of some properties, such as potential park space, may be important to residents who live near such a property.

Chair Stern strongly emphasized the importance of public purpose to the discussion of City properties. Attorney Bangel reiterated that this language came from case law, and noted that public purpose is often a consideration in tax exemption cases. He continued that this may be defined as "an activity that is essential to the health, morals, protection, or welfare of the city," to which he had added the phrase "as determined by the City Commission." Other public purpose uses may include educational, literary, scientific, or charitable purposes. He had eliminated the mention of religious uses from the draft language, as he did not see how it would apply.

Mr. Weiss asked if the Charter should address the purpose of a sale of City-owned property if all appropriate protections are in place for that sale. It was noted that some of these sales would require voter approval. He suggested that another possibility would be to require a supermajority vote by the City Commission, which would be four votes in

favor. He reiterated that the Board will have to consider which types of properties would need to be designated for public purpose.

Mr. Weiss continued that the Charter could include a list of specific properties that may not be sold without voter approval, citing the Dade County Charter as an example. He explained that his intent was to ensure that park properties cannot be easily rezoned and sold. It was clarified that rezoning a park requires a supermajority vote of the City Commission.

Attorney Bangel stated that Section 8.02 is distinguished from Section 8.04 by the public purpose consideration of Section 8.02. This means a property being sold to a public body may not receive the best price, but will be used for public purpose. Section 8.04 refers to the sale of real property to anyone, without the consideration of public purpose. His draft language included an exception under Section 8.21, which requires a unanimous vote of the full City Commission for lands zoned as Parks.

Attorney Bangel continued that his draft language also adds the phrase “and consistent with applicable law,” as there are certain restrictions related to properties acquired through eminent domain.

Mr. Weiss asked if Attorney Bangel had given any thought to Community Redevelopment Agency (CRA) -owned properties. He pointed out that CRAs may acquire properties and package them for sale as larger parcels with the intent of selling them to private developers. He was not certain of whether or not the Board should consider CRA properties separately in order to make it easier for these entities to sell properties.

Mr. Weiss continued that he felt all disposition of properties should be the same, with a sliding scale for leases of City properties as well as for their sale. He was not in favor of a significant distinction between lease, conveyance, and sale, pointing out that if properties are leased over long terms, such as 50 years, this may be effectively the same as a sale. He emphasized again that his concern was for the sale, lease, or conveyance of park lands, which he felt should be approved by voters in all cases.

Mr. Weiss requested input from the other Board members regarding his suggestion of no differentiation between sale and lease. Mr. Grandwilliams commented that he felt the two are different: in many cases, such as the Fort Lauderdale Executive Airport (FXE), the City wants private companies to lease space and operate as if they own the land. He felt the distinction should be retained between lease and sale, and was in favor of consistent licensing and leasing requirements.

Mr. Weiss asked if a long-term lease of property for a period of 50 years should require a supermajority vote of approval by the Commission, in a similar manner to what is proposed for the sale of certain City properties. It was clarified that the lease of park space requires a unanimous vote of approval. Chair Stern observed that this may have been

one reason for the City entering into a licensing agreement rather than a lease for Lockhart Stadium, as licensing does not require a unanimous vote.

Attorney Bangel noted that his draft language states no lease or licensing agreement shall be extended or renewed earlier than one year prior to its expiration.

Mr. Weiss also commented that he was not in favor of requiring a unanimous vote rather than a supermajority vote, as he did not believe any single elected official should have this type of veto power. He recommended a supermajority vote of four Commissioners be required instead. He also clarified that he was not in favor of back-to-back renewal of leases.

Mr. Weiss asked if the Board members felt a supermajority vote requirement would provide enough protection to prevent the City from leasing expensive property for a nominal amount, or if appraisals and estimates should be required of a lease. Vice Chair Fertig stated that he is in favor of appraisals, depending upon the category in which a property is classified, as this would add further due diligence.

It was suggested that a lease of up to 50 years require four votes of approval by the City Commission, while voter approval would be necessary for any longer lease. Commissioner Sorensen requested clarification of the required dwell period for leases capped at 50 years. He explained that this referred to the period between termination of the first 50-year lease and any attempt to issue another 50-year lease.

Chair Stern asked if there are any City-owned properties other than Bahia Mar with leases of 50 years or more. Mr. Fajardo replied that Bahia Mar is the only property with this type of provision.

Mr. Grandwilliams asked if there is a requirement for a competitive process if the City receives an unsolicited proposal. It was confirmed that this is covered by State Statute. Mr. Weiss commented that state law regarding unsolicited proposals can be complicated. Attorney Bangel confirmed that many requirements must be met before an unsolicited proposal can be considered. Chair Stern noted that another consideration for these proposals is the proposed business plan.

Mr. Grandwilliams continued that in the case of a sale of City park land, there should be at least three appraisals of the subject property, as well as review of a submitted business plan by the public, before the sale goes before the voters for approval. He was also in favor of a competitive process for the sale of City properties that are suitable for development.

The Board discussed categories in which City properties would be classified, determining that Category 1 properties would include park lands and would be required to go before the voters for sale approval. A competitive process would also be required. Category 3 would include *de minimis* non-developable pieces of City properties. Mr. Weiss added

that the process for sale of these pieces could be established by Ordinance. Category 2 land sales would require a supermajority vote of the Commission.

Mr. Weiss requested clarification of how the leasing of land would be addressed. Vice Chair Fertig stated that there should be a “carve-out” for leases of 50 years. Mr. Weiss acknowledged that a carve-out would require a separate section addressing leases.

Mr. Grandwilliams commented that the licensing of park space to a concessionaire would be unlikely to rise to the same level as the sale of park land. He also did not wish to create an additional level of regulation that could block any type of development of park property by an outside entity, as he felt limiting the development of park space to any entity other than the City’s Parks and Recreation Department would not be in the best interests of the public. He emphasized that a licensing agreement is closer to that of a concessionaire on public lands, provided that licensing does not convey the land.

Mr. Grandwilliams concluded that language addressing licensing should be crafted in a way that does not over- or under-define licensing, as he did not wish to enact a change that would stop any development of public lands. Vice Chair Fertig stated that he wished to distinguish between a concessionaire and private development.

Chair Stern observed that most people associate “licensing” with a concessionaire rather than with a lessee to whom lands would be conveyed for a long term, such as 50 years. The Board agreed to this by consensus.

Mr. Weiss requested that Attorney Bangel provide draft Charter provisions of the items discussed today and bring them back to the Board for review. Attorney Bangel noted that seeing a list of City-owned lands was likely to be helpful in establishing categories for these lands.

- **DEFINITION AND EXAMPLES OF PUBLIC PURPOSE**

Mr. Weiss asked how the definition of public purpose would affect the Board’s discussion of City lands. Vice Chair Fertig advised that the way the City has undertaken licensing and leasing should require a definition of this term. He felt Attorney Bangel’s draft language represented a positive first step toward this definition.

Attorney Bangel stated that the Recreation of Public Purposes Act in the Code of Federal Regulations defines public purpose as “for the purpose of providing facilities or services for the benefit of the public, in connection with but not limited to public health, safety, or welfare.” He continued that use of lands or facilities for habitation, cultivation, trade, or manufacturing is permissible only when essential to public purpose.

Mr. Weiss noted that this would mean use of Category 1 lands for public purpose must go before the voters. Vice Chair Fertig asserted that Category 2 properties should also

require public purpose use to be leased or licensed for development. The public purpose definition would apply only to leasing or licensing.

Jim Concannon, member of the public, asked if a public purpose use should be put to a vote by the public. He pointed out that some of the City's larger properties have been leased or licensed without voter approval, although they were approved by the City Commission. It was noted that the determination of Categories 1 and 2 would be critical in this case, as one would require a public vote and another would require a supermajority vote. It was also noted that top-tier developers who would be capable of doing the best work might be less willing to bring forward projects that would be contingent upon a referendum. Mr. Weiss stated that this was a trade-off for the protection of the property.

Vice Chair Fertig returned to the issue of leasing, noting that a 50-year lease would constitute a separate category from a one-year lease. Mr. Weiss suggested that there could be subcategories of leasing language, depending upon the length of the proposed lease: for example, a lease of fewer than five years would require City Commission approval, but a lease over a certain number of years would fall into a separate category.

Jacquelyn Scott, member of the public, also felt that requiring a referendum on a 50-year or longer lease would also discourage development proposals. She also pointed out that a referendum would come at some cost to the voters, unless a developer was willing to cover those costs, which would be unlikely.

Mr. Weiss reiterated that five-year leases could require a supermajority vote and leases of longer terms could require voter approval. He acknowledged that this could discourage some developers from bringing forward proposals, but felt it was more important to preserve land. Mr. Grandwilliams cautioned, however, that if more competent and established developers were discouraged, this would mean less experienced and/or competent developers would be the only ones left to bring forward proposals.

It was determined that Attorney Bangel would draft language addressing the items discussed, including the need to strike a balance between the protection of land and the encouragement of development.

## **VI. PUBLIC INPUT ON CITY ELECTIONS**

Chair Stern stated that the goal should be to make the Charter more consistent with State Statutes.

## **VII. CHARTER REVISION BOARD DISCUSSION AND POSSIBLE DECISION AS TO WHETHER CHANGES IN THE CHARTER ARE NEEDED IN THE AREA OF CITY ELECTIONS**

This Item was previously discussed.

## **VIII. UNFINISHED BUSINESS**

### **ETHICS / CONFLICT OF INTEREST**

Mr. Weiss asked if there were any Charter changes the Board wished to discuss with respect to ethics. Chair Stern commented that the County's Ethics Ordinance should be followed more closely by elected officials, and that state ethics regulations should be followed by employees. It was determined that this Item would be removed from forthcoming Agendas.

## **IX. GENERAL PUBLIC INPUT**

Jim Concannon, member of the public, suggested there be an appraised cost threshold associated with City properties for which leases are proposed. He cited the lease of Lockhart Stadium as an example. Mr. Weiss advised that this would be a matter of the City Commission negotiating a deal and bringing it before the voters for referendum. He felt a referendum would effectively safeguard longer leases, which would also allow voters to determine whether or not a proposed lease serves a public purpose.

Jacquelyn Scott, member of the public, recalled that at the beginning of the meeting, there had been brief discussion of whether or not the appointment of current lobbyists to City advisory bodies should be permitted. She cited several individuals who are current or former members of City boards as examples, and asserted that this was a concern to the public and should not be permitted.

Chair Stern advised Ms. Scott to reach out to the City Commission to address this concern, as the Board does not make any final determinations but acts only in an advisory capacity. She added that while this issue has been raised only with respect to the Charter Review Board, there are other City advisory entities that are affected as well. Ms. Scott stated that she was aware of "leaders of this City" who are not in favor of the appointment of paid lobbyists to City advisory bodies, and that this concern was not limited to the Charter Review Board but applied to all boards.

Mr. Weiss concluded that when this issue arises again during the Board's review of the Charter, any member may move to have Attorney Bangel draft a provision that would prohibit lobbyists from service on City boards, and to include this change in their Charter recommendations. If a motion of this nature is made but fails, however, he recommended reaching out to another entity to seek this change.

## **X. DISCUSSION OF TOPIC FOR NEXT MEETING – AUGUST 03<sup>RD</sup>**

Ms. Robinson stated that topics for the next meeting also include review of the list of City-owned property which was requested tonight, as well as draft language regarding leases which would be brought back by Attorney Bangel.

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The Board members also discussed postponing or cancelling their August 3, 2023 meeting.

**Motion** made by Mr. Grandwilliams, seconded by Mr. Weiss, to skip the August meeting and we will reconvene on September 7. In a voice vote, the **motion** passed unanimously.

## **XI. ADJOURN**

There being no further business to come before the Board at this time, the meeting was adjourned at 8:14 p.m.

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.

[Minutes prepared by K. McGuire, Prototype, Inc.]