

CHARTER REVIEW COMMITTEE MEETING AGENDA

CITY OF NORTH MIAMI BEACH

MONDAY, APRIL 4TH, 2016 6:00 PM

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3. Civil Service Board



CHARTER REVIEW COMMITTEE MEETING AGENDA

CITY OF NORTH MIAMI BEACH
City Hall, Conference Room, 4th Floor
17011 NE 19th Avenue, North Miami Beach, FL 33162

MONDAY, April 4th, 2016 6:00 PM

Charter Review Committee Members:

Charles Asarnow, Chair
Norman Edwards, Vice-chair
Chuck Cook
William Dean Esq.
McKenzie Fleurimond
Bruce Lamberto
Larry Thompson

Appointed by:

Mayor George Vallejo
Councilman Anthony F. DeFillipo
Councilwoman Beth E. Spiegel
Vice-Mayor Phyllis S. Smith
Councilman Frantz Pierre
Councilwoman Barbara Kramer
Councilwoman Marlen Martell

Staff:

Jose Smith, City Attorney
Sarah Johnston, Assistant City Attorney
Jean Olin, Outside Counsel
Pamela L. Latimore, City Clerk
Lynetta Jackson, Deputy City Clerk

1. ROLL CALL OF COMMITTEE MEMBERS.**2. APPROVAL OF MEETING MINUTES.**

- March 9, 2016.

3. CIVIL SERVICE BOARD.

- **Proposed Provision.** *delete the Civil Service Board's powers to give examinations and promotions, appoint/designate a "Chief Examiner", and issue subpoenas/enforce by contempt, while retaining in the Charter remaining provisions of the Board concerning its "Creation", "Composition" and "Appeals"; and*
- *Move provisions concerning "Civil Service", "Classified Service", "Political Activity [of City personnel]" and "Pensions" from the Charter into the City Code, allowing for their amendment via ordinance instead of referendum.*

4. UPCOMING MEETING TOPICS/UPCOMING MEETING DATE.

- Charter Review Citizens Meeting:
 - Wednesday, April 6th, 2016, 6pm-City Council Chambers 2nd Floor.
- Final Meeting Date Options.
 - TBD

5. ADJOURNMENT

NOTE: In order to ensure adequate consideration, if necessary, the members of the Charter Review Committee may move any agenda item to another meeting date and, at their discretion, may adjourn the meeting without reaching all agenda items.

All interested parties are invited to attend and participate in the Public Hearing(s). The items are on file and available for examination at the City Clerk's Office, 17011 N.E. 19 Avenue, North Miami Beach, Florida 33162, Monday through Friday 8:00AM-5:00PM. Questions and written comments can be made by calling 305.787.6001.

Any person who receives compensation, remuneration or expenses for conducting lobbying activities is required to register as a Lobbyist with the City Clerk prior to engaging in lobbying activities before City Boards, Committees, or the City Council.

Upon recommendation by the Committee, the items will be scheduled for City Council consideration. Should any person desire to appeal any decision of the Committee with respect to any matter considered at this meeting, that person must insure that a verbatim record of the proceedings is made, including all testimony and evidence upon which any appeal may be based (See Florida Statutes 286.0105).

In accordance with the Americans with Disabilities Act, persons needing special accommodation to participate in this proceeding should contact the City Clerk no later than two (2) days prior to the proceeding. Telephone 305.787.6001 for assistance, if hearing impaired, telephone our TDD line 305.948.2909 for assistance.

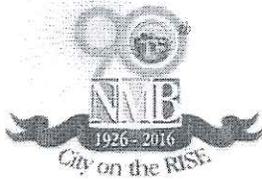
One or more members of other City Boards, Committees, or City Council may attend this meeting.

CHARTER REVIEW COMMITTEE MEETING

CITY OF NORTH MIAMI BEACH

City Hall, Conference Room, 4th Floor

17011 NE 19th Avenue, North Miami Beach, FL. 33162



Wednesday, March 9, 2016 6:00 PM

Charter Review Committee Members:

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Charter Review Committee Meeting Minutes

Roll Call of the Committee Members

The meeting was called to order at 6:04pm. Present at the meeting were Chairman Charles Asarnow, Vice Chariman Norman Edwards, Chuck Cook, William Dean, McKenzie Fleurimond, Bruce Lamberto, and Larry Thompson (arrived at 6:19pm). City Attorney Jose Smith, Assistant City Attorney Sarah Johnston, City Clerk Pamela L. Latimore, Deputy City Clerk Lynnetta Jackson, and Outside Counsel Jean Olin, Esq. were also present.

Pledge of Allegiance was led by the Charter Review Committee.

City Attorney Smith introduced and acknowledged the attendance of Outside Labor Counsel David Miller of Bryant Miller Olive, Deputy City Attorney Dotie Joseph, Director of Human Resources Nadine Lewis, and Deputy Director of Human Resources Audrea Hinds.

Approval of Meeting Minutes

The Committee clarified that the due process provision which was a part of the motion that was approved at the previous meeting for Absenteeism included a good cause provision prior to a forfeiture of office. The Committee commented that the City of Aventura will be having an upcoming special election that could result in imposing a stricter policy on Absenteeism.

Motion to approve the Minutes of February 11, 2016 made by Mr. Cook, seconded by Mr. Lamberto.

MOTION PASSED 6-0 with Mr. Thompson absent.

Civil Service Board

Outside Labor Counsel Miller provided some history of the civil service system and explained that it was difficult many years ago for cities to react to changing circumstances because they only had local control through their charters due to the non-existence of ordinances, but the creation of Home Rule made the process much easier. He provided examples of the archaic language within the current provisions of the Civil Service Board in the current City Charter, such as the Director of Personnel (Human Resources) can also be the City Manager, and referenced the outdated charter of another municipality in South Florida that states the City Manager is also the Chief of Police. Mr. Miller suggested that the City consider moving relevant and modernized provisions of the Civil Service Board from the City Charter to the City Code to improve efficiency and avoid the future need of going to the electorate.

City Attorney Smith, Outside Counsel Olin, Human Resources Director Lewis, and Deputy Human Resources Director Hinds stated and agreed that the majority of the language in the existing provisions for the Civil Service Board was archaic and outdated. The Committee was informed that the majority of the cases heard by the current Civil Service Board involve approving newly created job positions/classifications and outside employment issues. Deputy City Attorney Joseph stated that the Civil Service Board has jurisdiction over certain grievance cases, but the Human Resources Department has been able to resolve most issues during her time as legal advisor and she mentioned that the Civil Service Board recently amended the process of outside employment approval requests on behalf of the employees.

City Attorney Smith stated that he is not recommending the abolition of the Civil Service Board because it serves a purpose in certain circumstances and he encouraged the Committee to retain the Civil Service Board and place updated and modernized provisions in the City Code. The Committee inquired as to whether or not moving Civil Service Board provisions to the City Code would make it easier or harder to terminate an employee and the reply was that it would not make a difference.

The Committee opened the meeting for public comment and North Miami Beach employee Janice Coakley talked about the importance and necessity of the Civil Service Board.

The Committee discussed the need to retain some semblance of a Civil Service Board and asked City Attorney Smith and Outside Counsel Olin to draft language that will address certain concerns and be presented to the Committee. City Attorney Smith stated that the essential powers of the Civil Service Board will be retained in the City Charter and the specific details of how the Civil Service Board will exercise those powers, such as procedural and administrative issues, will be dealt with by Code. City Clerk Latimore stated that the majority of employees in cities without a Civil Service Board are working under an agreement, union, contract, or are at-will as opposed to cities with a Civil Service Board.

No official motion was made concerning the Civil Service Board at this time. The Committee directed City Attorney Smith to present recommendations based on the consensus direction for a vote at a later date.

Recording of Meetings/Bill of Rights

City Attorney Smith announced that the Bill of Rights of the City of North Miami Beach mirrors the Miami-Dade County Bill of Rights. City Clerk Latimore stated that audio and video recordings of meetings can be destroyed, but written summarized notes are permanently retained. The Committee discussed the validity and financial costs associated with recording all City meetings. Outside Counsel Olin explained the Sunshine Law and Public Records Law dealing with government transparency. City Clerk Latimore stated that all current processes for the record keeping of meetings in the City of North Miami Beach are done according to Florida Law.

No official motion was made concerning the Recording of Meetings.

Upcoming Meeting Topics and Dates

The date of the next Charter Review Committee Meeting has yet to be determined.

The Charter Review Citizens Meeting will be on April 6, 2016.

Chairman Asarnow confirmed that all members of the Committee received an email from a North Miami Beach resident and asked for the email to become part of the official record of the Committee. City Attorney Smith announced that he answered and responded to every point in the email.

The meeting was opened for **PUBLIC COMMENT**.

North Miami Beach employee Marva Simmonds asked for an explanation of the Municipal Home Rule Powers Act and inquired about the recording of meetings and minutes.

North Miami Beach employee Janice Coakley mentioned recent recommendations and changes made by the current Civil Service Board and asked about the required waiting period to receive certain public records requests.

The meeting was closed for **PUBLIC COMMENT**.

Chairman Asarnow thanked Vice Mayor Spiegel and Councilwoman Smith for attending the meeting.

The meeting was adjourned at 7:48pm.

AGENDA TAB 3

CIVIL SERVICE BOARD:

PROPOSED PROVISION -

Article XIII. - Department of Personnel

Sec. 73. — Director.

~~The city council shall establish a department of personnel, the director of which may be the city manager, or the city manager may appoint a qualified person as such director.~~

Sec. 74. — Duties.

~~The department of personnel shall maintain records relating to the employees of the City of North Miami Beach, including qualifications, employment classification, salary, leave and attendance and such other information as the city manager or the city council may require. It shall provide for the giving of examinations or other determination of qualifications as herein provided, and shall make periodic reports as may be required by the city manager, the city council or the civil service board. The department shall administer the provisions of the civil service system of the City of North Miami Beach.~~

Sec. 75. — Civil service.

~~The civil service of the City of North Miami Beach shall be divided into the classified and the unclassified service. The unclassified service shall consist of the city manager and one secretary of his choosing, heads of departments herein provided, or as hereafter created by the city council, the city attorney, the city auditor appointed by the city council, all elected officials, members of appointive boards, and employees of the legal department; provided, however, that employees of the legal department, other than the city attorney, may be included in the classified service by and with the consent of the city council. All other employees of the city shall be members of the classified service. Department heads, other than those persons to be selected by the city council as herein authorized, shall be appointed by the city manager. For the first six (6) months any such appointment shall be provisional only and thereafter department heads shall be appointed for one year and may be reappointed for successive periods of one year each during which time they shall be removable only for cause. Provided, however, a city manager and a department head who has served the City of North Miami Beach as such for a period of five (5) or more years at the time of any reappointment hereunder shall be reappointed for a term of two (2) years during which time he may be removed only for cause, notwithstanding the provisions of section 32 of this Charter.~~

Sec. 76. — Classified service.

~~The classified service shall be divided into a competitive class, a noncompetitive class and a labor class. The competitive class shall include all positions and employment for which it is practicable to determine the relative fitness of applicants by competitive examination. The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational nature~~

~~as determined by the rules of the civil service board. The labor class shall consist of ordinary unskilled labor. Any person promoted from classified service to the position of department head shall maintain all of his rights under civil service and retain the highest rating achieved by him prior to such promotion, and shall be entitled to reemployment at such rating upon ceasing to be a department head, unless removed for cause authorizing removal under civil service.~~

Sec. 77. - Civil service board-created.

There shall be a civil service board composed of seven (7) members selected as herein provided. The board shall make and adopt reasonable rules and regulations governing the administration of civil service of the City of North Miami Beach, including but not limited to, provision for appointments to the classified service, suspension, removal, leave, merit rating, promotion, demotion, appeals and other such matters as the board may deem necessary to the operation of the civil service. ~~The board shall provide for the giving of examinations and for promotions based on records or merit, ability, efficiency, character, conduct and seniority.~~ Rules and regulations adopted by the board shall be submitted for approval by the city council. If approved, the rules and regulations shall become effective immediately or as otherwise provided therein. Should the city council object to any rule or regulation, such objection shall be stated in writing and the rule or regulation shall be returned to the board together with the objections of the city council for further consideration of the board. The board shall revise such rules or regulations and resubmit same for approval of the city council. Should the city council again refuse to approve same, it shall not become effective. All rules and regulations must receive final approval by the city council before becoming effective. The board shall provide a method of selection of personnel to the noncompetitive classified service based on qualifications relating to education, experience, character and such other factors as the board may by regulation determine.

Sec. 78. - Composition of board.

(a) Five (5) members of the civil service board shall be appointed by the city council, and shall be qualified electors of the City of North Miami Beach. They shall not, during the term for which they are appointed, be employed in any manner by the City of North Miami Beach. Two (2) employees of the classified service in the City of North Miami Beach shall be elected in the manner provided by regulations of the board to serve as members of the board. A quorum of the board for any purpose shall consist of four (4) members, at least three (3) of whom shall be members appointed by the city council. Members shall be appointed for staggered terms of two (2) years each. Appointments to fill vacancies shall be for the unexpired term only. Members shall serve until their successors are appointed and qualified.

(b) The employee members shall each be elected from different departments under the government of the city and shall serve for terms of two (2) years, and until their successors are elected and qualified. Any vacancy in employee membership shall be filled by special election in the manner provided by regulations of the board, if such vacancy shall occur more than three (3) months prior to the end of the term. Terms of appointed and elected members shall commence on June 1st of the year in which appointed or elected and end May 31st of the year in which such terms are scheduled to expire. The personnel aide to the director of personnel or employee serving in that capacity or function, shall also be the secretary for the civil service commission or board ~~and may act as examiner or chief examiner but only upon the recorded request of the commission.~~

~~(c) The chief examiner shall be chosen by the members of the civil service board from among the members of the board, excluding the employee representatives. The term of the chief examiner shall be one year commencing on May 1 of each year. Should a vacancy occur in the chief examiner's position prior to the expiration of a term, the board shall make an appointment for the balance of that term. Should an appointment be made for a period of less than nine months, the chief examiner shall be eligible for reappointment for the succeeding one-year term. If the chief examiner serves for a period of nine months or more, he or she shall not be eligible for reappointment as chief examiner for a succeeding term.~~

Sec. 79. - Appeals.

Pursuant to regulations of the board, the city manager may suspend, demote or otherwise discipline any employee in the classified service, except employees in the legal department, who may be disciplined by the city attorney. Such action shall be for cause only as specified in writing and delivered to the employee. Within thirty (30) days of such action, the employee may appeal the action of the city manager or the city attorney to the civil service board and a hearing shall be afforded by the board within fifteen (15) days from the taking of the appeal, unless further time be requested by the employee and allowed by the board. The board shall review the causes for such action and if the charges, in the opinion of the board, be sustained as sufficient and established, action shall be affirmed. If the charges shall be deemed insufficient or unfounded, the employee shall be reinstated with no loss of pay or other rights. The board shall have the power to issue subpoenas to witnesses, require the production of books and other records and administer oaths to persons testifying in any proceedings hereunder. The provisions of this section shall apply to matters of demotion, salary decrease or any other matter concerning which an employee may feel himself aggrieved. The board shall have the power to modify any decision of the city manager or city attorney and impose such punishment for violation of its rules as may be in such ruler provided. ~~The board shall have the power to punish for contempt committed in its presence, which power may be enforced in the county court as for a violation of a city ordinance.~~

Sec. 80. - Political activity.

~~No person in the classified service, or seeking admission thereto, shall be appointed, promoted, demoted, removed, or in any way favored or discriminated against because of political opinion or affiliation. No officer or employee of the city shall directly or indirectly solicit or receive any assessment, subscription or contribution for any candidate for political office in the City of North Miami Beach. No person holding a position in the classified service shall take part in any political campaign for election to office in the City of North Miami Beach in any manner whatsoever, other than to cast his vote or express privately his opinion. Provided, however, the provisions of this section shall not apply to elected officials of the City of North Miami Beach.~~

Sec. 81. - Pensions.

~~The city council shall by ordinance provide for a pension and retirement system for employees of the city in the classified service. The fund established for such purpose may receive gifts, devises, bequests or other donations for the benefit of the fund. The city council may provide for the administration of the fund and the rate of contribution thereto by~~

~~employees, and may make such contribution from public money of the city as it may deem necessary or appropriate. The city council shall have the power to make contracts of insurance with any insurance company, authorized to do business in the State of Florida, insuring the employees of the city, or any class or classes thereof, under a policy or policies of group insurance covering life, health, accident, and annuity insurance, or any of them. Premiums on any such contract shall be deemed paid for a municipal purpose.~~