



# 2019 Charter Review Board Final Report

January 23, 2020

2019 Charter Review Board Members

Liron Offir, Chair

Helen Dolland

David Iannacone

Cheryl Levy

James Tabeek

## **Introduction**

This Final Report is submitted to the Sunrise City Commission by the Sunrise Charter Review Board in accordance with Resolution No. 19-76.

### **Background**

In 2011, the City of Sunrise Code of Ordinances was amended by Ordinance 530 to create Sec. 2-17, Charter Review, which outlined the decennial process for constituting a charter review board. Prior to convening the Charter Review Board, the City Commission adopted two ordinances on April 9, 2019, which affected the membership of the board. The first, Ordinance 530-19-A, affected the residency requirements for prospective board members. The second, Ordinance 484-19-A, permitted individuals who were already serving on other City boards to concurrently serve on the Charter Review Board and receive a reimbursement for expenses incurred for each meeting. The 2019/2020 decennial Charter Review Board served in an advisory capacity to the City Commission. While the Board was tasked with reviewing the current City Charter and making recommendations to the City Commission with regard to proposed amendments, the City Commission retained the rights to determine the nature and extent of any amendments to be placed on the ballot. All proposed amendments were required to be adopted by the majority of members present at the meeting in order to be forwarded to the City Commission.

### **Charter Review Board**

On May 14, 2019, the City Commission adopted Resolution No. 19-76, which appointed the Charter Review Board members. The Board consisted of five (5) members. Each elected official nominated one (1) member, and the slate was confirmed by a majority vote of the Commission. Each of the members was a resident of the City of Sunrise for at least one year prior to appointment and the member's participation was contingent upon continued residency throughout the member's service, reflecting the amendment to City Code Section 2.17. Each member was required to be a registered voter of Broward County. Comprehensive background checks were performed on each member pursuant to Section 2-76(f) of the City Code of Ordinances. Further, the members served in accordance with City Code Sections 2-76 through 2-81, which generally govern the constitution and procedures of all City boards. The Board was required to meet at least monthly and conducted its inaugural meeting in June 2019. Monthly meetings were held thereafter until their report was finalized in January 2020. In accordance with Resolution No. 19-76, the Charter Review Board's term will be completed on June 1, 2020.

### **Methodology**

The Charter Review Board began its deliberations by reviewing City Charter the articles and sections in numerical order. This broad review eliminated the articles/sections from further discussion and identified specific sections for debate. The Charter Review Board also held two

advertised public hearings specifically to seek public input. However, it must be noted that in accordance with Florida law, open discussion was placed on each agenda, affording the Board to receive public input throughout the process. Additionally, four of the City's five elected officials addressed the Charter Review Board with their ideas or those of their constituents. City officials, which included the City Manager, Assistant City Manager, City Attorney, Assistant City Attorney, Police Chief, and City Clerk attended the meetings. After robust discussions, the Charter Review Board voted on recommendations to be forwarded to the Sunrise City Commission.

### **Charter Review Board Staff**

The Charter Review Board conducted its review with the assistance of the City Attorney's Office, the City Clerk's Office and the City Manager's Office. The City Attorney's Office provided legal research and advice. The City Attorney's Office also drafted the proposed language for the affected sections of the City Charter. The City Clerk's office provided administrative and clerical support, which occasionally took the form of research and dissemination of information. The City Manager's Office also conducted research and disseminated information to the Board.

## **Recommendations**

While the Charter Review Board reviewed the Sunrise City Charter in its entirety, the Board's in-depth deliberations focused on four main issues:

- qualifications of candidates;
- the fire chief as a charter officer position;
- the internal auditor as a charter officer; and
- removing obsolete language/provisions from the City Charter.

Not all of the above-listed issues were recommended for City Charter amendments, but the discussions surrounding the issues were significant. For each item recommended, the draft language for the amendment follows the last page of the report.

### **Qualifications of Candidates**

**Recommendation:** Amend City Charter Section 3.02 by increasing the residency requirement from 1 year to 2 years prior to candidate qualifying.<sup>1</sup>

**Vote:** Unanimous in favor.

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<sup>1</sup> See Page 6 for proposed Section 3.02 amendment.

City Charter Article III, Legislative Branch, Sec. 3.02, Qualifications addresses the qualifications of candidates for elective office, stating, “any elector of the City of Sunrise who has resided continuously in the city for one (1) year prior to qualifying as a candidate for the office shall be eligible to hold the office of City Commissioner, or Mayor.” The 2009 Charter Review Board recommended an increased residency requirement from 6 months to one year. Subsequently, Sunrise voters approved the change in the November 2010 referendum.

The 2019 Charter Review Board debated a range a options which included reducing the residency requirement back to six (6 ) months, as well as increasing the requirement to either eighteen (18) or twenty-four (24) months. The Charter Review Board finally recommended increasing the residency requirement from one (1) year to two (2) years of living in the City continuously prior to qualifying as a candidate for office. The primary reason for increasing the length of residency was that the Board thought a longer residency requirement would give candidates a deeper understanding of the City and its residents’ needs.

### **Fire Chief as a Charter Officer**

**Recommendation:** No change to City Charter.

**Vote:** Three (3) opposed to making Fire Chief a charter officer; two (2) in favor of making the Fire Chief a charter officer.

The Charter Review Board discussed recommending the fire chief as a charter officer. As a department with a mission of public safety, the question was raised as to why the police chief was a charter officer, but the fire chief position was not. It was noted that the police chief initially was an appointed position working under the mayor, but was reclassified as a charter officer in 1988. Parallels were drawn between the police chief and the fire chief’s duties and responsibilities. Both Police Chief Anthony Rosa and Fire Chief John McNamara addressed the Charter Review Board with their perspectives. Chief Rosa noted that the while both services dealt with public safety, law enforcement was inherently different from the fire service in terms their respective roles involving life and liberty. Another discussion point was the cost of establishing another charter officer position. The infrastructure of the Fire Department already existed; therefore, the increased cost differential would be a result of any new contractual obligations the City would incur by creating an additional charter officer position. The Charter Review Board did not identify operational problems or funding issues that needed to be cured by making the fire chief a charter officer. The members supporting the change believed the fire chief should by on par with the police chief in terms of structure and status within the City. As a charter officer, the fire chief could address issues directly with the City Commission. Ultimately, the Board voted in favor of the status quo.

## Internal Auditor as a Charter Officer

**Recommendation:** Amend City Charter Section 4.10 to clarify that the City Commission may hire an independent auditor.<sup>2</sup>

**Vote:** Three (3) in favor of amendment; two (2) opposed to the amendment.

The internal auditor was previously a charter officer position. In 1992, it was removed from the Charter and placed in the Finance Department with a direct report to the Finance Director. The Charter Review Board discussed reinstating the internal auditor as a charter officer position. The discussions pivoted around three possible recommendations:

1. reinstating the internal auditor as a charter officer;
2. clarifying language in the City Charter that would allow the City Commission to hire an independent auditor; and,
3. maintaining the status quo.

The Board discussed the benefits and drawbacks of each option. As a charter officer position, the internal auditor would report directly to the City Commission, providing confidence that audit information was objective, complete and unfiltered. Additionally, the sole purpose of the office would be to respond to the inquiries by the City Commission, possibly reducing the response time. Among the drawbacks was the cost to establish a new department. It would require office space, furnishings, supplies, a minimum staff of three, and the concomitant contractual obligations the City would incur as a result of creating an additional charter officer position. Additionally, the City Manager Richard Salamon stated he would ask to maintain an internal auditor position within the Finance Department, as the position was needed to examine costs and processes to ensure the effectiveness of City administration.

Another examined option was amending the City Charter language to clarify that the City Commission was able to hire an independent consultant to handle internal auditing work on their behalf. It was opined that the City Commission already had this ability, but amending the language would guarantee this prospect. It was thought that hiring an outside consultant would keep costs in check, as the auditor would conduct investigations on an as-needed basis, with no need to underwrite the attendant costs of establishing a new City department.

One member was in favor of maintaining the status quo, but ultimately voted with adopting the revised language guaranteeing access to an independent consultant.

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<sup>2</sup> See Page 7 for proposed Sec. 4.10 amendment.

## **Removing Obsolete Language/Provisions from the City Charter**

**Recommendation:** Amend City Charter Sections 3.12<sup>3</sup> and 3.13<sup>4</sup> to conform to the Municipal Home Rule Powers Act.

**Vote:** Unanimous in favor.

When the Charter Review Board initially began its review of the City Charter, it was immediately noted that there was outdated and unnecessary language that conflicted with State law. The City Attorney created a comparison between the City Charter and Florida Statutes and researched all references to public notice in newspapers. The Charter Review Board decided the most efficient method to resolve the problems was to amend the language in Sections 3.12 and 3.13 to comport with the Municipal Home Rules Powers Act.

### **Summary**

Over the past seven months, each of the Charter Review Board members conscientiously endeavored to review the City's Charter to ensure that it remains a relevant instrument of Sunrise's municipal government. The limited recommendations suggest that the City's Charter remains a consistent with the City's principles. Two of the recommendations were narrowly approved, which signals these issues may be ripe for additional consideration by the City Commission. It is with this in mind that the Charter Review Board humbly submits this report to the Sunrise City Commission. The Board avails itself to the City Commission to answer any questions it may have related to the recommendations.

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<sup>3</sup> See Page 8 for proposed Section 3.12 amendment.

<sup>4</sup> See Page 10 for proposed Section 3.13 amendment.

# DRAFT

## **PROPOSED AMENDMENT TO INCREASE RESIDENCY REQUIREMENTS FOR A CANDIDATE QUALIFYING TO RUN FOR OFFICE.**

### **Section. 3.02. Qualifications.**

Any elector of the City of Sunrise who has resided continuously in the city for two (2) years ~~one (1) year~~ prior to qualifying as a candidate for the office shall be eligible to hold the office of City Commissioner, or Mayor.

# DRAFT

## PROPOSED AMENDMENT FOR AUDITOR

### Section 4.10 – City Commission Auditor.

The City Commission may retain, at any time, an auditor which may be an individual or a certified public accounting firm duly licensed under Florida Statutes Chapter 473 and qualified to provide audit services. The City Commission shall determine the scope of the audit, compensation, powers and duties of the auditor; however, the individual(s) performing the audit services will report directly to the City Commission and not be considered employee(s) of the City.



# DRAFT

## PROPOSED AMENDMENT TO ORDINANCES, RESOLUTIONS AND MOTIONS OF THE CITY

### **Section 3.12. Ordinances, Resolutions and Motions.**

Ordinance means an official, legislative action of the Commission, which action is a regulation of a general and permanent nature and enforceable as a local law.

A resolution is an expression of the Commission on matters of official concern, opinion or administration, of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.

(1) *Form.* Each ordinance or resolution shall be introduced in writing and shall embrace but one (1) subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act, section, subsection or paragraph of a section or subsection.

(2) *Procedure.* A proposed ordinance shall be enacted in accordance with the procedures for adoption of ordinances set forth in the Municipal Home Rule Powers Act. ~~shall be read by title or in full on the first reading, and by title or in full on the second reading on at least two (2) separate days, at either regular or special meetings of the Commission. At least seven (7)\* days prior to second reading a proposed ordinance shall be advertised once by title only in a newspaper of general circulation in the city. The notice of proposed enactment shall state the date, time and place of the meeting, the title or titles of proposed ordinances and the place or places within the city where such proposed ordinances may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.~~

NOTE: \*City's advertising schedule conforms to state law.

(3) *Effective Date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective upon adoption or as otherwise specified therein.

(4) *Action Requiring an Ordinance.* In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Commission shall be by ordinance which:

- a. Alters or abolishes any city department or agency;
- b. Establish a rule or regulation the violation of which carries a penalty;
- c. Grant, renew or extend a franchise;

d. Authorize the borrowing of money not inconsistent with limitations in constitution and general law of the state;

e. Convey or lease or authorize by administrative action the conveyance or lease of any lands of the city.

(5) *Action by Resolution or Motion.* Other affirmative actions of the City Commission shall be by resolution or motion which shall be approved by a majority of the City Commissioners voting on the issue. Matters requiring a resolution shall be indicated by resolution or ordinance of the City or by general law. Otherwise, Commission action by motion shall be proper.

(6) An ordinance or resolution may not be amended by motion.

# DRAFT

## PROPOSED AMENDMENT TO EMERGENCY ORDINANCES OF THE CITY

### Section 3.13 – Emergency Ordinances.

To meet a public emergency affecting life, health, property, safety or the public peace, the Commission may adopt one (1) or more emergency ordinances, but such ordinances may not authorize the borrowing of money except as provided under the emergency appropriations provisions of Article V, Section 5.05(5), of this Charter. Such ordinances may provide for a waiver of notice and the requirement for public advertising.

(1) *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

(2) *Procedure.* An emergency ordinance shall be enacted in accordance with the procedures for the adoption of ordinances set forth in the Municipal Home Rule Powers Act. ~~may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least a majority of a quorum of the Commission shall be required for adoption. After its adoption, the ordinance shall be published at least once in a newspaper of general circulation.~~

(3) *Effective date.* Emergency ordinances shall become effective upon adoption or at such date as may be specified in the ordinance.

(4) *Repeal.* An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of an emergency ordinance.