

**City of Sandy Springs Charter Commission Meeting** was held at Sandy Springs City Hall, 7840 Roswell Road, Building 500, Sandy Springs, Georgia, 30350, on July 12, 2011, at 4:00 p.m.

### **Call to Order**

**Chairman Paul** called the meeting to order at 4:05 p.m.

### **Roll call**

**City Clerk Michael Casey** called the roll.

**Board Members Present:** Carolyn Axt, Josh Belinfante, M. Jerome Elmore, Rusty Paul, Oliver Porter, Robert Shaw, Jim Squire were present. Doug MacGinnitie and Larry Young were absent.

**Staff and Representatives Present:** City Clerk Michael Casey, Assistant City Clerk Kelly Bogner, and City Attorney Wendell Willard

### **Ruling on Quorum**

**City Clerk Michael Casey** stated a quorum was in place for the meeting.

### **Approval of Meeting Minutes**

#### **1) June 21, 2011**

**Motion and Vote:** Robert Shaw moved to approve the Charter Commission Meeting Minutes for June 21, 2011, as amended. Josh Belinfante seconded the motion. The motion carried unanimously.

**M. Jerome Elmore** stated at the last meeting there was a vote to abandon Robert's Rules of Order. The Commission never voted to adopt Robert's Rules of Order as the rules for the Commission. The Senate and the House have their own rules, which are not Robert's Rules. Voting to suspend an item that was not previously approved is probably inappropriate.

Chairman Paul stated the City previously voted that the City and City Boards would follow Robert's Rules of Order.

M. Jerome Elmore stated the Commission is not a City Board, but was created by the legislature. He is not suggesting deferring from Robert's Rules. The Commission should not have to wait for a motion to discuss an item, which is part of the Robert's Rules.

Chairman Paul stated he has held strong to procedure, because the Commission is an officially constituted body.

M. Jerome Elmore stated in the context of when a member desires reconsideration of a motion, there should be thought on whether or not the Commission has to follow the rules.

### **Complete Review of Article II. Government Structure, Elections, and Legislative Branch**

**Chairman Paul** asked if there were any recommendations to Section 2.03. Hearing none, he proceeded to Section 2.04. Section 2.04 is defined by State law and probably cannot be changed. Hearing no suggested changes, he proceeded to Section 2.05. Currently, for City elections there must be a fifty

percent plus one vote. If a fifty percent plus one vote is not received, there will be a runoff. Hearing no suggested changes to Section 2.05, he proceeded to Section 2.06. Hearing no suggested changes, he proceeded to Section 2.07, which deals with the Mayor's salary of \$25,000 and the Councilmembers' salaries of \$12,000. Should there be a provision for inflation adjustments in the Charter?

**Carolyn Axt** asked if Council is receiving reimbursement for expenses.

Chairman Paul responded no.

Carolyn Axt asked if the City pays for lodging for a Councilmember who travels to a GMA conference.

Chairman Paul stated when he was a member of Council he did not submit any expense reports. He does not know if Council has an expense report policy. He asked the City Clerk what the procedure is on this.

**City Clerk Michael Casey** stated for the GMA conference in Savannah, GA, the City has paid for Councilmembers' lodging and mileage.

Chairman Paul stated the City can provide reimbursements to Councilmembers as stated by the ordinance.

**Robert Shaw** asked how the salaries would be determined if they were not stated in the Charter.

Chairman Paul stated the amounts would be set by an ordinance. There is no flexibility in adjusting the salaries set in the Charter.

**Jim Squire** stated he emailed a document to the Commission members that lists salaries for local cities. The Mayor for the City of Dunwoody is paid \$16,000 annually and the Councilmembers \$12,000. The City of Mountain Park's Mayor is paid \$200 per month and Councilmembers are paid \$75. The City of Milton's Mayor is paid \$23,000 annually and \$13,000 for the Councilmembers. The City of Alpharetta's Mayor is paid \$30,000 annually and the Councilmembers are paid \$15,000. The City of Johns Creek's Mayor is paid \$25,000 annually and \$15,000 for the Councilmembers. The City of Roswell's Mayor is paid \$3,333 a month and the Councilmembers salaries are \$1,500 a month.

Carolyn Axt stated there has been discussion about requesting another Charter review five or ten years from now, at which time the salaries may be discussed.

Chairman Paul stated there is nothing that prevents the legislature or the City from amending the Charter at any point.

Jim Squire asked if the Charter can be amended by home rule.

**City Attorney Wendell Willard** stated he would need to review the language dealing with home rule. There are things that are limited dealing with the powers. Any change in salary can be done by the City Council.

**Oliver Porter** stated the compensation for the Mayor and Council were set to entice public service. The level was originally set at \$18,000 annually for the Mayor, but that was changed to \$25,000 in the legislature. The rationale for that amount was what it would cost people to run for office. The City has attracted good candidates for office with the current salaries.

Chairman Paul stated he has counseled many potential candidates about running for office. Not a single person asked him what the salary is for the job.

**Josh Belinfante** stated the salary amounts are fine and are in line with other local cities. He would be open to allowing in the Charter an index for inflation.

**Motion and Second:** Josh Belinfante moved to recommend that the Charter reflect the City Council's authority to index the Mayor and Council's salaries on an annual basis to the CPI or any similar Federally recognized inflationary index. Jim Squire seconded the motion.

Jim Squire asked if there is a negative implication if that is all Council can do. Currently, the Council may have the authority under home rule to raise their salaries. If a salary index is placed in the Charter, will that keep the Council from raising their salaries? He would be less inclined to include this language, if it has that implication.

Josh Belinfante stated it would be no different than the language now.

**Vote on the Motion:** The motion carried unanimously.

Chairman Paul stated Section 2.08 gives Council oversight of the City operations.

Carolyn Axt asked if this includes those working for contractors.

Chairman Paul responded yes. The Charter does not specifically reference contractors.

M. Jerome Elmore asked if there would be any reason not to specify contractors in the Charter.

Josh Belinfante asked what the concern is.

Chairman Paul asked if City Council can make inquires or investigations into the conduct of a contractor who is performing services on behalf of the City.

Oliver Porter stated this may be crossing over into the contractual arrangement. Things like this should be part of the contract itself. At this point he does not see a need for this language.

Chairman Paul stated if this is placed in the Charter, there would need to be a provision to make the contracts compliant with the Charter and that the contactor agrees to be subject to the inquiries.

**Motion and Vote:** Carolyn Axt moved to include in Section 2.08 "into the affairs of the city and conduct of any department, office, agency, or contractor providing services to the city thereof".

M. Jerome Elmore seconded the motion. The motion carried unanimously.

Chairman Paul proceeded to Section 2.09. Section 2.09 subparagraph a) deals with the oath that is required in the State of Georgia. Hearing no suggested changes, he proceeded to subparagraph b). Hearing no suggested changes he proceeded to subparagraph c), which states the Mayor and Council are required to hold meetings at a regular time that is advertised to the public.

Carolyn Axt asked if there is a notification required to the public of the time and date for return from a recess.

Chairman Paul stated a notice needs to be provided when the meeting is to reconvene. Hearing no suggested changes, he proceeded to subparagraph d).

Josh Belinfante stated conflicts of interest have to be disclosed prior to a meeting vote. Have there been situations where a conflict is recognized during the discussion on a matter that may not have been apparent before?

Chairman Paul stated he does not recall any discussions during which a Councilmember suddenly learned there was a conflict of interest.

Josh Belinfante stated people can recuse themselves at or prior to a meeting.

Chairman Paul proceeded to Section 2.10. This Section outlines the process for voting. The Mayor shall vote only in the case of a tie or in the case where his or her vote will provide the third affirmative vote required for approval of a matter. An item that came up for discussion by the Commission was whether the Mayor should be allowed a vote.

Jim Squire stated the Charter states the City Council will be composed of a Mayor and six City Councilmembers. The Charter does not consider the Mayor a Councilmember. If there were three Councilmembers and the Mayor present, does that constitute a quorum?

City Attorney Willard responded no. The Mayor does not constitute a member of the quorum. A quorum has to be four members of the Council. There has been only one time when four Councilmembers were not present, which resulted in a meeting not being held.

Chairman Paul stated the Mayor's role on the Council is as the presiding officer. The Mayor has not traditionally been part of the Council.

Robert Shaw asked if the Charter provides for voting by proxy.

Chairman Paul responded no.

Jim Squire stated Chairman Paul's statement contradicts Section 2.01 a). This Section states the legislative authority of the government of Sandy Springs, except as otherwise specifically provided in this Act, shall be vested in a city council to be composed of a Mayor and six Councilmembers. That means the Mayor is part of the City Council.

Chairman Paul stated the interpretation of Mayor and six Councilmembers as the city council does not mean that the Mayor and Councilmembers are the same.

Jim Squire stated he does not understand why the Mayor would not be considered a Councilmember.

Chairman Paul stated the Charter goes on to state the Mayor's role with Council.

City Attorney Willard stated a quorum of four Councilmembers is required to conduct business such as passing resolutions or ordinances.

Oliver Porter stated the intent was to have a sizeable number on the Council present to conduct business.

Jim Squire stated he would prefer to have the Charter state "four Councilmembers excluding the Mayor".

Chairman Paul stated in essence the Charter does that. Since it does not include the Mayor in what constitutes a quorum, it automatically excludes the Mayor.

M. Jerome Elmore stated it seems the Mayor is part of the City Council even though not referred to as a Councilmember.

Chairman Paul asked if the Mayor should be given a vote and more of a role.

Oliver Porter stated from a practical standpoint, he does not think that giving the Mayor a vote adds any additional power to the Mayor, given that the Mayor has the power of veto.

Chairman Paul, hearing no suggested changes to Section 2.10, proceeded to Section 2.11, subparagraph a). Hearing no suggested changes, he proceeded to Section 2.11, subparagraph b).

M. Jerome Elmore stated there was discussion at a previous meeting about changing the universal use of Council to "City Council".

Chairman Paul stated it was recommended at the last meeting that wherever the term "Council" appears in the Charter, it be replaced with the words "City Council". Hearing no suggested changes, he proceeded to Section 2.12, subparagraph a).

Carolyn Axt asked if the word contractor should be added in this Section.

Jim Squire stated the Sandy Springs Perimeter Chamber suggested the Charter be amended to expressly provide for outsourcing functions.

Chairman Paul stated that may be more appropriate for subparagraph b).

Oliver Porter stated he does not oppose addressing this topic. The Charter states the City has the right to contract. Therefore, the City is operating legally.

Josh Belinfante stated the Commission should be careful not to add the word contractor piecemeal. He suggested adding another Section that would state the City can enter into contracts for the provision of services.

**Motion and Second:** Josh Belinfante moved to add a Section c) which would state: except for the positions of the Mayor, City Council, and the City Manager, the City Council may establish contracts for services with private, public, or other outside entities for delivery of services provided by this Charter, general law, or the Constitution of the State of Georgia. Jim Squire seconded the motion.

**Motion on the Vote:** The motion carried 6-1 with Oliver Porter voting in opposition.

Chairman Paul proceeded to Section 2.13, subparagraph a).

Robert Shaw asked if, when the original Charter Commission met, they considered giving Councilmembers input to the selection of Board members.

Oliver Porter stated the appointments have to be confirmed by the Council.

Chairman Paul stated there is a process of matching qualifications and interests of the individual before the Mayor recommends appointments. If this were opened to the Council, a problem might be created where a Councilmember states the Mayor never chose an individual that he or she recommended.

Josh Belinfante stated he would allow members of the Council to appoint some individuals, but the Mayor to make the majority of the appointments. The State Ethics Commission consists of five members with three members being appointed by the governor, one member by the House, and one member by the Senate. Not every State board operates like this.

Chairman Paul stated his concern over this is there could be a deadlock of a 3-3 vote over the nomination, which could cause confusion, uncertainty, and possible disruption of the process. This may cause certain Boards and Commissions to not be operating at full strength.

Josh Belinfante suggested the Mayor make the appointment after the position has remained vacant for six months.

**Motion and Vote:** Oliver Porter moved to not make any changes to Section 2.13, subparagraph a). M. Jerome Elmore seconded the motion. The motion carried 6-1 with Josh Belinfante voting in opposition.

Chairman Paul proceeded to subparagraph b). Hearing no suggested changes he proceeded to subparagraph c). Hearing no suggested changes he proceeded to subparagraph d). Hearing no suggested changes he proceeded to paragraph e). Hearing no suggested changes he proceeded to subparagraph f). Hearing no suggested changes he proceeded to subparagraph g). Hearing no suggested changes he proceeded to Section 2.14, subparagraph a).

Carolyn Axt asked if Section 2.14, subparagraph a) was amended to state an ordinance could be approved after the reading of the title.

Chairman Paul responded yes.

Jim Squire stated Councilmember Karen Meinzen McEnery stated guidelines should be set for what types of agenda items require a public hearing.

Chairman Paul stated the Charter was amended by Council, which they can do by the home rule. If you want to require two readings of an ordinance, it will make the process slower.

Carolyn Axt stated she is just raising this as a point of discussion, since the community has raised this issue.

Chairman Paul, hearing no suggested changes, proceeded to subparagraph b). Hearing no suggested changes he proceeded to subparagraph c). Hearing no suggested changes he proceeded to Section 2.15, subparagraph a). Hearing no suggested changes he proceeded to subparagraph b). Hearing no suggested he proceeded to subparagraph c). There was some discussion on whether the number four is appropriate to override a veto or if five votes should be necessary. If the Mayor vetoes an item, it already has four votes. The Mayor then has to persuade one Councilmember not to override that veto for the veto to stand. If five votes were required, it would give the veto more strength.

Oliver Porter stated if the Mayor were to veto an item, a written reason would be given. The Mayor may very well convince a Councilmember to change their vote and not override a veto. It is one thing to pass an item without opposition and another to pass it with opposition.

Jim Squire stated he would like more discussion regarding the veto. From his experience, a larger percentage of a vote is required to override a veto.

Josh Belinfante stated five seems like a high number. If the Council is set on passing an item, it seems to undermine the veto if they can go in with the same number of votes. The requirement everywhere else is a two thirds vote.

Chairman Paul stated the vote has to be two thirds, but that is also a simple majority. All it takes to override a veto is a simple majority. Traditionally, a higher threshold was required to override a veto. The number should be raised to five, because a veto should have a higher standard. Otherwise, there is no particular check or balance the Mayor has over legislation. In his experience, the Councilmembers would know before the vote that the Mayor would likely veto the vote.

**Motion and Second:** Jim Squire made a motion that the veto threshold number be raised to five and to allow sixty days to override a veto. Robert Shaw seconded the motion.

M. Jerome Elmore asked what the original Charter Commission's opinion was on the veto issue.

Oliver Porter stated the Commission thought that five was high and that four was two thirds.

Chairman Paul stated if tradition is followed, a veto should have a higher standard.

Jim Squire stated that would open up a lot of good dialog in terms of the Councilmembers that voted for the item.

Chairman Paul stated it would cause a lot of dialog and force interaction among Council. It would cause the Council to think before they try to rush an item through that the Mayor is opposed to.

M. Jerome Elmore stated if a vote of five is required, it seems to give the Mayor too much authority. He is in favor of leaving the Charter unchanged on this topic.

**Vote on the Motion:** The motion carried 4-3 with M. Jerome Elmore, Carolyn Axt, and Oliver Porter voting in opposition.

Chairman Paul proceeded to Section 2.15, subparagraph d). Hearing no suggested changes he proceeded to subparagraph e). Hearing no suggested changes, he suspended the discussion at Article III. Section 6 deals largely with the startup of the City, which is rendered moot at this point. There are two sections left for review. After the Commission reviews the Charter they are required to write a report. The Commission was allotted six months to conclude the review of the Charter. The first meeting was March 24, 2011, which means the Commission needs to be finished with the Charter review by the 23<sup>rd</sup> of September. He asked if the Commission wants to have longer meetings or shorter meetings.

Oliver Porter suggested not reading each section of the Charter, but taking each section as it comes up, asking for any questions or suggestions, then moving on.

Josh Belinfante stated Article III is fairly lengthy. Article IV was previously addressed when discussing court. Article V is a short section.

Jim Squire stated in Article VI he would like to review Section 6.04, Charter Commission.

Carolyn Axt stated she believes the remainder of the Charter can be reviewed in the next two hour meeting.

Chairman Paul stated the next Charter Commission meeting will be held on July 26, 2011, in the City Manager's Boardroom. The Commission will begin the meeting by reviewing Article III.

**Adjournment**

**Motion and Vote:** Robert Shaw moved to adjourn the meeting. Josh Belinfante seconded the motion. The motion carried unanimously. The meeting adjourned at 5:25 p.m.

Date Approved: July 26, 2011

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Rusty Paul, Chairman

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Michael Casey, City Clerk