



A G E N D A

**CHARTER ADVISORY BOARD MEETING
TO BE HELD April 8, 2020
AT 5:30 PM Commission Chambers & ZOOM
121 SW FLAGLER AVE.
STUART, FLORIDA 34994**

CHARTER ADVISORY BOARD MEMBERS

**Tom Campenni
Joe Capra
Donald Cuozzo
Amelia Fry
Jim Gallegos
Tom Harmer
Larry Howell
Helen McBride
Jessica Seymour
Allen Solomon
James Vopal**

ADMINISTRATIVE

**City Manager, David Dyess
City Attorney, Michael J. Mortell
City Clerk, Mary R. Kindel**

Agenda items are available on our website at <http://www.cityofstuart.us>
Phone: (772) 288-5306 . Fax: (772) 288-5305 . E-mail: mkindel@ci.stuart.fl.us

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation to attend this meeting should contact the City's ADA coordinator at 772-288-5306 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which

the appeal is to be based.

(RC) next to an item denotes there is a City Code requirement for a Roll Call vote.

(QJ) next to an item denotes that it is a quasi-judicial matter or public hearing.

WHAT IS CIVILITY? *Civility is caring about one's identity, needs and beliefs without degrading someone else's in the process. Civility is more than merely being polite. Civility requires staying "present" even with those persons with whom we have deep-rooted and perhaps strong disagreements. It is about constantly being open to hear, learn, teach and change. It seeks common ground as a beginning point for dialogue. It is patience, grace, and strength of character. Civility is practiced in our City Hall.*

ROLL CALL

PLEDGE OF ALLEGIANCE

TOPICS

1. JOIN ZOOM MEETING:
<https://zoom.us/j/806286831>
Dial by your location: +1 646 558 8656 US
Meeting ID: 806 286 831
2. APPROVAL OF 04/01/2020 CAB MINUTES
3. RECOMMEND APPROVAL OF THE 2020 CITY CHARTER AMENDMENTS
4. APPROVAL OF FINAL VERSION OF REVISED CHARTER (RC)

ADJOURNMENT

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
Charter Advisory Board Meeting**

Meeting Date: 4/8/2020

Prepared by: Mary Kindel

Title of Item:

JOIN ZOOM MEETING:

<https://zoom.us/j/806286831>

Dial by your location: +1 646 558 8656 US

Meeting ID: 806 286 831

Summary Explanation/Background Information on Agenda Request:

N/A

Funding Source:

N/A

Recommended Action:

N/A

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
Charter Advisory Board Meeting**

Meeting Date: 4/8/2020

Prepared by: Mary Kindel

Title of Item:

APPROVAL OF 04/01/2020 CAB MINUTES

Summary Explanation/Background Information on Agenda Request:

N/A

Funding Source:

N/A

Recommended Action:

Approve Minutes

ATTACHMENTS:

Description	Upload Date	Type
04/01/2020 CAB Minutes	4/6/2020	Attachment

**MINUTES
CHARTER ADVISORY BOARD MEETING
HELD April 1, 2020
AT 5:30 PM Commission Chambers & ZOOM
121 SW FLAGLER AVE.
STUART, FLORIDA 34994**

CHARTER ADVISORY BOARD MEMBERS

**Tom Campenni
Joe Capra
Donald Cuozzo
Amelia Fry (Absent)
Jim Gallegos
Tom Harmer
Larry Howell (Late 5:59 PM)
Helen McBride
Jessica Seymour
Allen Solomon
James Vopal (Absent)**

ADMINISTRATIVE

**City Manager, David Dyess
City Attorney, Michael J. Mortell
City Clerk, Mary R. Kindel**

 **5:39 PM MEETING CALLED TO ORDER**

Prior to Roll call, City Manager David Dyess announce instructions for this virtual public meeting pursuant to Executive Order 20-69 issued by Governor Ron DeSantis on March 20, 2020. Municipalities may conduct meetings of their governing boards without having a quorum of its members physically or at any specific location and utilizing communications media such as telephonic or video conferencing as provided by Florida Statute 120.54. Procedures for commenting by the board or by public, but in this meeting, there is no public comment, it will be by raising your hand for acknowledgment. To raise a hand, you open the participant window on the bottom of the screen, a list of participants will open and when you hover over your name, select "raise hand". The Chair will then see who raised their hand in order and will call on you. Participants are asked to mute their own microphones and unmute when they are ready to speak. The keyboard spacebar will unmute and allow you to be heard and when you release it, it will automatically mute you again. Dyess

instructed all members to state whether they are present in person or attending the meeting virtually during Roll Call.

 **5:39 PM ROLL CALL**

Present: Tom Campenni (in person), Joe Capra (virtual), Donald Cuzzo (virtual), Jim Gallegos (virtual), Tom Harmer (virtual), Helen McBride (in person), Jessica Seymour (virtual), and Alan Solomon (in person), and Larry Howell (virtual)

Absent: Amelia Fry, James Vopal

PLEDGE OF ALLEGIANCE

TOPICS

**1. JOIN ZOOM MEETING: <https://zoom.us/j/649473761>
Meeting ID: 649 473 761
Dial by your location: +1 646 558 8656 US (New York)**

2. APPROVAL OF 03/11/2020 CAB MINUTES

 **5:43 PM MOTION: So moved.
Moved by: Board Member Cuzzo
Seconded by: Board Member Capra
Motion passed unanimously.**

3. REVIEW OF CHARTER

Chair Campenni and Attorney Mortell commented on leaving off at Section 7.05 or 7.08 and briefly reviewed Quorums.

Mary Kindel, City Clerk commented that according to her notes and the March 11th Minutes, the board had already reviewed Sections 7 and 8 and were to begin on Article IX and Section 9 at this meeting. The board agreed and decided to move forward.

ARTICLE IX.

 **5:48 PM Review of Article IX. Vacation of Streets**

Board Member Harmer commented on the road closure of main thorough fare issues pertaining to public events such as the annual Boat Show. Board discussion resulted in agreement to leave related issues up to the commission and not making it part of the Charter.

Section 9.01 through 9.03

- **No changes.**

 5:59 PM Board Member Howell joined the meeting virtually.

Section 9.04

Discussion of public notifications. Board Member Gallegos suggested that a change be added in addition to the required Florida Statute of newspaper advertising. He preferred the language be updated to move with the times and state “website” instead. The City Attorney explained that the newspaper advertising of general circulation has been a bill in the legislature for many years and has yet to be changed. The information is posted to the City’s website via the agendas and calendars, and it was noted that if the statute ever changed, the Charter would change without going for a referendum vote.

Chair Campenni suggested that the board create a list of secondary recommendations for the Commission to review that may be better suited as future Ordinances or amendments to Ordinances rather than changes to the Charter.

Board Member Gallegos wanted to ensure that the City would be in compliance if the statute changed in the future but agreed that it may be better as an Ordinance recommendation. The board agreed to no changes in Section 9.04.

- No changes.

Section 9.05

City Manager Dyess noted the Commissioner comments pertaining to expanding the property to more than just waterfront. Board discussion included thoughts and clarification from Board Members Cuzzo and McBride.

Attorney Mortell gave the example of Mulligan’s Restaurant and the Stuart Heritage Museum as being waterfront properties, explaining that those properties currently need to go for referendum vote at the end of their leases and the decision of what to do with that property is not solely up to the commission, but up to the citizens.

- No changes.

ARTICLE X.

 6:20 PM Review of Article X. General Provisions

Section 10.01 through 10.04

- No changes.

ARTICLE XI.

 6:24 PM Review of Article XI. Transition Schedule

Section 11.01 through 11.04

- No changes.

Section 11.05

- Charter effective date will change if the Charter is updated by referendum.

Chair Campenni asked the board to bring back any items they would like to see changed by Ordinance to next meeting.

Board Member McBride announced that two community members in East Stuart recently passed away, former Commissioner and Mayor Mr. Robert Hall and educator, Mr. William J. Thompson.

Next meeting – April 8, 2020 at 5:30 PM.

Mr. Howell apologized for being last as he had trouble logging on to the Zoom meeting.



6:34 PM ADJOURNMENT

Mary R. Kindel, Secretary

Thomas F. Campenni, Chair

**Minutes to be approved at the Charter Advisory Board
this 8th day April, 2020.**

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
Charter Advisory Board Meeting**

Meeting Date: 4/8/2020

Prepared by: Mary Kindel, City Clerk

Title of Item:

RECOMMEND APPROVAL OF THE 2020 CITY CHARTER AMENDMENTS

Summary Explanation/Background Information on Agenda Request:

Review of Draft 2020 Charter Updates provided as a handout to all board members at the April 1st CAB Meeting.

Funding Source:

N/A

Recommended Action:

Review and prioritize.

ATTACHMENTS:

Description	Upload Date	Type
□ Draft 2020 Charter Updated Language	4/7/2020	Attachment

A municipal charter is the basic document that defines the organization, powers, functions and essential procedures of the city government. It is comparable to the Constitution.

1. **Section 3.04: City Manager/City Attorney/ Human Resources** – If a complaint is made regarding a Charter Officer, the HR Director shall schedule a meeting with the Second Charter Officer and inform the other charter officer regarding the complaint. The Charter Officer shall evaluate the information and notify the individual commissioners when appropriate.
 - a. **City Attorney Comment:** *This appears to be a managerial or disciplinary action and as such could fall within chapter two of the code of ordinances or as an action item for the commission. Also, Section 3.04 defines City Manager. This appears to be a discipline issue and would actually be under powers and duties of City Manager (3.05) and a new section could be created for powers and duties of City Attorney (3.06b)*
2. **Section 3.05: City manager's general powers and duties.**
 - a. Residency was discussed by the Board. It was determined that the residency of the City Manager should be taken into consideration and be made a part of all future contract negotiations but being a resident of Stuart is not a requirement that should be put into the Charter at this time.
 - b. **City Attorney Comment:** *The city will be updating chapter 2. During that time, I will draft proposed language to continue negotiating this issue in future contracts.*
3. **Section 4.01: Creation of Boards**
 - a. Committee Recommends
 - i. Residency should be addressed in bylaws
 - ii. Term limit should be in the charter and limited to 8 years.
 - iii. Elected officials not to serve on boards
 - iv. Stagger current membership expiration to makes sure leadership stays long enough for the boards to transition.
4. **Section 7.01: Electors**
 - a. Salary of Commissioners. Committee Recommends
 - i. Any increase in salary shall not become effective until such time as the commissioner is subject to election.
 - b. City Attorney Comments
 - i. Only discussion of Pay in the charter is 4.01 which says Boards and Committees shall serve without pay. Indicates that the procedure or amount of pay was not contemplated to take place in the Charter.
 - ii. Proposal from board would not change what happened a couple years ago. The final budget meeting took place on a Thursday and no change regarding Commission pay. Then on Friday, (last day to register to run for election), no one ran against commissioners. On Monday at the City Commission Meeting to adopt budget on First Reading, commissioner asked to add a raise and put it in

for second reading. Two weeks later it was added and budget adopted. Then two months later in the election was over and all commissioners received raise.

5. **Section 7.03:** City Commission Qualification for office.

a. Committee Recommends

- i. Change term from 2 year to 4 year to coincide with County.
- ii. Term limit of 8 years to start from the time the charter amendment is adopted.
- iii. If a City Commissioner opens a treasury account or register to run for a different office, then they must resign immediately.

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST Charter Advisory Board Meeting

Meeting Date: 4/8/2020

Prepared by: Mary Kindel, City Clerk

Title of Item:

APPROVAL OF FINAL VERSION OF REVISED CHARTER (RC)

Summary Explanation/Background Information on Agenda Request:

Review of ballot language and/or final changes to be presented to the City Commission.

Funding Source:

N/A

Recommended Action:

Review and conclude.

ATTACHMENTS:

Description	Upload Date	Type
□ Draft 2020 Charter Final Report	4/7/2020	Attachment

CITY OF STUART
STUART CHARTER ADVISORY BOARD



MEMORANDUM

TO: MAYOR AND CITY COMMISSIONERS

SUBJECT: **2020 CHARTER ADVISORY BOARD FINAL REPORT**

CC: DAVID DYESS, CITY MANAGER
MICHAEL MORTELL, INTERIM CITY ATTORNEY

DATE: MONDAY, APRIL 6, 2020

On January 29, 2020 the first meeting of the Charter Advisory Board (CAB) was held. Tom Campenni was appointed as Chairperson, and Jessica Seymour; Amelia Fry; Alan Solomon; Larry Howell; Helen McBride; Joseph Capra; James Vopel; Don Cuzzo; Tom Campenni; Jim Gallegos and Tom Harner were sworn in as members. As provided in Sec. 10.02, Stuart City Charter, this Board is convened every ten (10) years to recommend to the City Commission appropriate changes, if any, to the City Charter. The recommendation is just that, a recommendation, which the City Commission is free to accept, modify or reject.

The Board had met several times before the Governor entered Executive Order 20-91 mandating that Florida Residents remain in their homes because of the spread of COVID-19 (Corona Virus). In order to complete the mission of the board while also complying with the Executive Order, the Charter Advisory Board held its final meetings via video conference as well as a small number were present at City hall. The Board reviewed the entire charter which required a line by line reading with discussion for each section. After careful consideration, the Board recommends the following changes be considered by the City Commission for submittal to public referendum.

The Board recommends that the City Commission revise the pagination as well as changing pronouns to gender neutral such as "the elector" when appropriate and capitalizing City Commission consistently throughout the Charter. Those specific changes are not included but nevertheless remain a recommendation. Florida Statute 163 allows the City Commission to make clerical changes to the Charter without referendum.

Sec 3.03 – Charter Officer’s Authority – The Board recommends that additional language be considered by the City Commission to ensure that the City Commission is aware of any Human Resource issues related to the Charter Officers. PROPOSED WRITING: If a complaint is made regarding a Charter Officer, the Human Resources Director shall schedule a meeting with the other Charter Officer and describe the complaint. The Charter Officer shall evaluate the information and notify the individual Commissioners when appropriate.

Sec. 3.04 – City Manager. The Board believes that it is very important for the City Commission to consider the requirement that the City Manager reside within the City Limits of the City of Stuart as a condition of employment for the City Manager. While the Board determined that there would be circumstances that this condition could be waived, it believed this was important enough to include in the report to ensure that it would be addressed by the City Commission when hiring future City Managers.

Sec. 4.01 – Boards and committees. The Board had significant debate regarding the make up and terms of advisory board members. Consensus was reached that all voluntary boards should have maximum term limits of 8 years. The Charter Members also felt that it was important to stagger the term limits to avoid the loss of all board members at one time. The Residency of the advisory board members was also discussed, and it is advised that the bylaws for each board include a residency section that defines the requirement necessary for serving on each respective board. Finally, it was unanimously determined by the Charter Review Board that no elected officials shall be qualified to serve on an advisory board.

ARTICLE V – DEPARTMENT OF CITY CLERK (no longer “records, taxation, etc.”)

Sec. 5.04 – Annual Financial Audit – should be relocated to Section 6.03

Sec. 5.05 has been moved to Sec. 3.07.

City Commissioner Pay Increase. The Charter Advisory Board believes that there should be language in the City Code that limits the City Commissioners from receiving a raise until an election has taken place.

Sec. 703. Qualification for Office. The board feels the following changes should be added to the qualifications for office of City Commissioner.

Term Limits:

Shall the City Charter of the City Stuart, Florida be amended to provide that no City Commissioner shall serve longer than 8 consecutive years?

Limits terms by prohibiting incumbents who have held the same elective office for the preceding eight years from appearing on the ballot for re-election to that office. This initiative shall become effective on

January 1, 2021. Source – 1992 Amendment 9 Florida State offices:
[https://ballotpedia.org/Florida Term Limits, Amendment 9 \(1992\)](https://ballotpedia.org/Florida_Term_Limits,_Amendment_9_(1992))

SEEKING PUBLIC OFFICE OTHER THAN CURRENT POSITION

Shall the City Charter of the City Stuart, Florida be amended to provide that no City Commissioner shall actively run for another elected office while serving as a Stuart City Commissioner?

CHARTER LANGUAGE

Sec. 7.03 Qualification for Office

- (A) Candidates for office of city commissioner shall qualify by filing a written notice of candidacy with the city clerk at such time and in such manner as may be prescribed by ordinance. Any elector of the city who has maintained continuous residency within the City of Stuart for more than 12 months immediately preceding the election in which he or she seeks office shall be eligible as a candidate for the office of city commissioner. As used in this section, the term "residency" means the abode where the prospective candidate actually lives. Reasonable evidence that a prospective candidate actually lives in an abode in the city shall be required by the city clerk as a condition to qualifying. Once elected, the commissioner shall maintain continuous residency in the City to continue their service in office.
- (B) Incumbents who have served as City Commissioner for the preceding eight years shall be prohibited from qualifying for re-election to the City of Stuart City Commission. Service prior to the adoption of this ordinance shall not be included in the calculation.
- (C) If a City Commissioner opens a treasury account for the purposes of accepting donations to run for an office other than their current seat or any Commissioner who registers to run for a different office, shall no longer be qualified to serve. Either be deemed as a resignation by the Commissioner effective immediately.

Formatted: Space After: 8 pt, Don't add space between paragraphs of the same style, Line spacing: Multiple 1.08 li, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

FOUR YEAR TERMS

Shall the City Charter of the City Stuart, Florida be amended to provide that beginning in 2022 the term of office of a Stuart City Commissioner shall change from two (2) to four (4) years?

Source – City of Stuart 2002 Referendum Language

SEC 7.05 SCHEDULE

- a) In years when there is a state primary election, that shall be the date upon which the regular municipal election shall be held. In years when there is no state primary election, the regular municipal election shall be held on the date when a state primary election would have occurred, had a state primary election been held, that is, calculated the same as provided by general law.
- (b) A runoff election, when necessary, shall be held on the day designated to be the state general election day. In years when there is no state general election, the runoff election shall be held on the

date when a state general election would have occurred, had a state general election been held, that is, calculated the same as provided by general law.

(c) Any matter which by the terms of this charter may be submitted to the electors of the city at any special election may be submitted and voted upon at a regular or runoff election.

(d) Election procedures.

1. At each annual regular municipal election the commissioners shall be elected from the city at large, by a majority vote of the electors, but the candidates shall be permitted to file for any group in which they prefer to run. Groups 2 and 4 shall be elected in 2021 and shall serve an initial term of three years until 2024, odd-numbered years. Groups 1, 3 and 5 shall be elected in 2022 and serve an initial term of four (4) yearseven-numbered years. Thereafter, the elections shall occur on even years with Groups 2 and 4 beginning in 2024 and Groups 1, 3 and 5 beginning in 2026.

~~(a) Groups 1, 3, and 5 shall serve an interim shortened term following their election in November, 2012, or at a subsequent runoff election, but as though elected on the state primary election day in 2012 until the state primary election date in 2014 or until their successors in office are elected and have taken the oath of office in accordance with law. Thereafter, commissioners in Groups 1, 3, and 5 shall serve a two-year term to commence at the next regular city commission meeting after election to office and to terminate at the next regular city commission meeting after the next election held in accordance with the schedule for regular municipal elections or runoff elections provided in Section 7.05(a), as appropriate, and as applicable to Groups 1, 3, and 5.~~

~~(b) Groups 2 and 4 shall serve an interim shortened term following their election in November, 2013, or at a subsequent runoff election, but as though elected on the date a state primary election would have been held in 2013, until the date a state primary election would have been held in 2015 or until successors in office are elected and have taken the oath of office in accordance with law. Thereafter, commissioners in Groups 2 and 4 shall serve a two-year term to commence at the next regular city commission meeting after election to office and to terminate at the next regular city commission meeting after the next election held in accordance with the schedule for regular municipal elections or runoff elections provided in section 7.05(a) as appropriate, and as applicable to Groups 2 and 4.~~

2. All candidates qualifying in any particular group shall run in that group in the regular election, and if one candidate in any one group receives a majority vote in that group, that candidate shall be elected to office. If any one candidate does not receive a majority vote in the regular election for that group, the one receiving the highest vote and the one receiving the next highest vote shall have their names placed on the ballot for the runoff election in that group, and the candidate receiving the highest number of votes in the runoff election in that group shall be elected.

3. No candidate shall qualify in more than one group in any election.

4. In the event of a tie in any of the following situations:

(a) Where there are only two (2) candidates in a given group in the regular election;

(b) Where there are two (2) candidates in a given group in a runoff election;

(c) Between any candidate receiving the same number of votes as another candidate where the effect would be to prevent only two (2) candidates from occupying places in the runoff election; the same shall be decided by drawing a winner from a box containing the names of the appropriate candidates, said procedure shall be open to the public, and conducted by the city clerk not less than five (5) days subsequent to the meeting of the canvassing board as provided hereinafter;

(d) Unopposed candidates. In the event a candidate for the office of city commissioner is unopposed, such candidate shall be considered duly elected without the formality of presentation of his candidacy to the electorate and as otherwise permitted by law.

5. Special elections. Special municipal elections shall be held in the same manner as regular elections except that the city commission, by resolution, shall fix the date for holding such special elections.

6. Public notice. All elections held pursuant to this charter shall have at least thirty (30) days' notice of election or referendum by publication in a local newspaper. The publication shall be made at least twice, once in the fifth week and once in the third week prior to the week in which the election or referendum is to be held.

PUBLIC NOTICE: The Board believes that it is important to have additional notification requirements. The Board didn't feel that notice in a local news paper continues to be relevant in the current social media age.

Respectfully submitted,

THOMAS CAMPENNI
Chairman

1- Section 166.031, Florida Statutes

166.031 Charter amendments.—

(1) The governing body of a municipality may, by ordinance, or the electors of a municipality may, by petition signed by 10 percent of the registered electors as of the last preceding municipal general election, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality. The governing body of the municipality shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose.

(2) Upon adoption of an amendment to the charter of a municipality by a majority of the electors voting in a referendum upon such amendment, the governing body of said municipality shall have the amendment incorporated into the charter and shall file the revised charter with the Department of State. All such amendments are effective on the date specified therein or as otherwise provided in the charter.

(3) A municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. This section shall be supplemental to the provisions of all other laws relating to the amendment of municipal charters and is not intended to diminish any substantive or procedural power vested in any municipality by present law. A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2).

(4) There shall be no restrictions by the municipality on any employee's or employee group's political activity, while not working, in any referendum changing employee rights.

(5) A municipality may, by unanimous vote of the governing body, abolish municipal departments provided for in the municipal charter and amend provisions or language out of the charter which has been judicially construed, either by judgment or by binding legal precedent from a decision of a court of last resort, to be contrary to either the State Constitution or Federal Constitution.

(6) Each municipality shall, by ordinance or charter provision, provide procedures for filling a vacancy in office caused by death, resignation, or removal from office. Such ordinance or charter provision shall also provide procedures for filling a vacancy in candidacy caused by death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office.