Dear Reader:

We, the members of the City of Winter Haven Charter Review Committee, are pleased to present you with this Final Report describing our recommendations to the City Commission regarding the Charter of the City of Winter Haven.

This report is the culmination of a review process that spanned more than five (5) months during the first and second quarters of 2017. During our time together as a City Committee, we reviewed each of the fifty-six (56) active provisions of the Charter and held numerous productive discussions that led to the recommendations contained herein. We hope that our recommendations, if adopted by the City Commission and by the City’s voters, will lead to positive change for the betterment of our City and its more than 37,000 residents.

We thank our Mayor, Steven B. Hunnicutt, our Mayor Pro Tem, Nathanial J. Birdsong, and our City Commissioners, Bradley T. Dantzler, Peter M. Chichetto and William J. Twyford, for appointing us to the Committee and giving us the opportunity to be of service to our community. We also thank City Manager Mike Herr, Assistant City Manager T. Michael Stavres, City Clerk Vanessa Castillo, Deputy City Clerk Joy Townsend, City Attorney Frederick J. Murphy, Jr., Assistant City Attorney W.A. “Drew” Crawford, and all of the members of the public who attended our meetings, for their assistance and guidance with our review.

Thanks to you as well for your interest in our work and for your thoughtful consideration of our recommendations.

Rev. Dr. Steve Negley  Craig Clevenger  Abdulrahim Al-Khatib  Remington Brown
Chair  Vice-Chair

Amanda Hurles  Robbie Loftus  Steven Vaughan
TABLE OF CONTENTS

§ 1. Executive Summary ................................................................. 1

§ 2. Background and Overview of the Charter Review Committee .................. 3

Summary of Committee Proceedings ............................................. 4

§ 3. History of the Winter Haven City Charter ........................................ 5

§ 4. Committee Recommendations for Amendment and Modification ............ 10

Section 11 .................................................................................... 11
Section 23 .................................................................................... 14
Section 29 .................................................................................... 19
Section 32 .................................................................................... 20
Section 34 .................................................................................... 22
Section 37 .................................................................................... 26
Section 39 .................................................................................... 29
Section 57 .................................................................................... 31
Section 59 .................................................................................... 33
Section 65 .................................................................................... 35
Gender Neutrality ................................................................. 36
Decennial Review ................................................................. 46

§ 5. Additional Discussion Items and Minority Reports ............................... 47

Section 12; Direct Election of the Mayor ........................................ 48
Term Limits ................................................................................. 51
Form of Government ............................................................... 52

§ 6. Final Committee Remarks ......................................................... 54
TABLE OF CONTENTS

Appendix:

A. Resolution R-16-40

B. Chapter 73-660, Laws of Florida, as amended

C. City Attorney’s Office Opinion Letter on the Regularity of Proceedings

D. Resolutions R-CRC-17-01 and R-CRC-17-02


G. Letter of Transmittal to City Commission
Section 1:
Executive Summary

The Charter of the City of Winter Haven ("City Charter" or "Charter") was adopted by the Florida Legislature during the 1973 legislative session and approved by the City's electors at the October 1973 municipal election. While the text of the City Charter has changed somewhat in the years since its adoption and approval, the Charter Review Committee ("Committee") believes that the current form of the Charter has served the City well in the past and continues to serve the City well today. The twelve (12) recommendations for amendment or modification proposed by the Committee in this report are, in the Committee's opinion, minor adjustments to the Charter. They are intended by the Committee to streamline the ability of the City to take administrative action and to help strengthen the City's current "Commission-Manager" form of government.

In brief sum, the Committee's recommendations concern the following topics:

(a) Improvements to City Fiscal Procedures

The Committee's recommendations to the City Commission are intended, in the mind of the Committee, to improve the City's financial procedures and give both the City Commission and the City Manager enhanced flexibility to budget, oversee the City's finances, make appropriations and spend public funds. In its report, the Committee recommends changes to the City Charter that would enable the City Commission to adopt a budget by resolution or ordinance, which, in the Committee's opinion, will simplify the budget adoption and amendment process. The Committee also recommends drawing a bright line for spending authority. According to the Committee's set of recommendations, the City Manager should be given authority to spend a particular department's appropriations on any authorized line item for that department in the City's Budget, so long as the bottom line figure of total appropriations for the department is not affected. The City Commission should retain authority to approve or ratify inter-departmental spending, inter-fund spending, and changes in total
appropriations.

(b) Simplification of Personnel Matters

The Committee strongly believes that the City Manager should oversee all administrative matters involving City personnel. The Committee’s recommendations would remove some of the legacy provisions of the City Charter that require the City Commission to act on routine administrative personnel matters, like appointing the number of police officers and firefighters and setting pay for the City Clerk and public safety employees.

(c) Modernization of Language and Clarification of Confusing Protocols

The Committee recommends that the Charter be drafted with gender neutral language. Further, confusing protocols, such as the procedure for replacing a Commissioner who has vacated his or her elected seat, are recommended to be replaced by the Committee with clearer more specific versions that reflect modern realities.

During the Committee’s proceedings, the most-debated matter was the placement of the City Clerk within the municipal organization. In the current form of the Charter, the City Commission is responsible for hiring the City Clerk and setting the City Clerk’s salary, but the City Manager is responsible for supervising the City Clerk’s daily work activities. The Committee recommends that the City Manager be responsible to hire the City Clerk, set the Clerk’s salary and supervise the Clerk on a daily basis. Because the Clerk serves a unique role in the City’s government, in the Committee’s suggested recommendation for revision, the City Manager must obtain the advice and consent of the City Commission before hiring the City Clerk or terminating the services of the City Clerk.

Other significant topics of debate included the form of the City’s government, the role and selection process for the Mayor in the City’s government, and the role and powers assigned to the City Manager by the City Charter.

While, for the most part, the Committee was of a joint mind on these matters, from time-to-time one (1) or more members of the Committee disagreed with the Majority of the Committee. In an effort to present all viewpoints of the Committee, “Minority” reports are included in the Committee’s Final Report document that reflect the opposing views to the Committee’s suggestions.
Section 2:
Background and Overview of the Charter Review Committee

The City of Winter Haven Charter Review Committee is a special City committee formed by Resolution R-16-40, adopted December 12, 2016. The Committee’s purpose is to provide input and present written recommendations to the City Commission regarding suggested amendments and revisions to the Charter of the City of Winter Haven, Chapter 73-660, Laws of Florida, as amended, which may be advisable for placement on the City of Winter Haven municipal election ballot.

Charter Review Committee membership is by appointment. Pursuant to the Committee’s governing resolution, each City Commissioner is entitled to name and appoint one (1) member directly to the Committee and the City Commission, as a whole, is entitled to name and appoint two (2) members and one (1) alternate member. Charter Review Committee members are required to be residents of the City of Winter Haven at the time of appointment and throughout their service and term of office.

At its January 9, 2017 regular meeting, the City Commission and its members appointed the following individuals to the City of Winter Haven Charter Review Committee:

- Abdulrahim Al-Khatib, appointed by Mayor Pro Tem Birdsong – Retired Chaplaincy Services Specialist, Florida Department of Corrections
- Ramington Brown, appointed by Commissioner Bradley T. Dantzler – Professional Engineer, Insurance Institute for Business & Home Safety
- Craig Clevenger, appointed by Commissioner Peter M. Chichetto – High School Government Teacher
- Amanda Hurles, appointed by the City Commission – Assistant Vice President, Citizens Bank & Trust
- Robbie Loftus, appointed by Mayor Steven B. Hunnicutt – Entrepreneur and Co-Owner of Jessie’s Lounge
• Rev. Dr. Steve Negley, appointed by the City Commission – Pastor, First Presbyterian Church Winter Haven
• Steven Vaughan, appointed by Commissioner William J. Twyford
• Rev. Christopher Darby, appointed by the City Commission as alternate member – Pastor, Zion Hill Missionary Baptist Church.

A suggestion for amendment or modification to the City Charter by the Charter Review Committee is a valid recommendation to the City Commission if it obtains the positive vote of two-thirds (2/3) of a quorum of the Committee present and voting at a regular or specially called meeting. Pursuant to Resolution R-16-40, the Committee is required to provide specific language to the City Commission for any proposed amendment or modification to the City Charter. All recommendations to the City Commission are proposed to either be adopted directly by the City Commission or placed on the November 2017 ballot for approval by City electors. Unless otherwise stated in the text of the proposed amendment or modification, all recommendations to the City Commission are suggested by the Committee to be effective on January 1, 2018.

Action taken by the Charter Review Committee is advisory in character only and does not constitute action by the City of Winter Haven or the City Commission of the City of Winter Haven.

Summary of Committee Proceedings

The Charter Review Committee met to organize on January 17, 2017. At its organization session, the Committee elected Member Steve Negley as Chair and Member Craig Cleveenger as Vice-Chair. The Committee also adopted Resolutions R-CRC-17-01 and R-CRC-17-02, relating to the preparation of monthly reports and public participation respectively.

For the period of February 9, 2017 through June 29, 2017, the Charter Review Committee met nine (9) times, on February 9 and 23, 2017, March 9 and 30, 2017, April 13 and 27, 2017, May 25, 2017 and June 15 and 29, 2017. (One regular meeting, originally scheduled for May 11, 2017, was cancelled.) Meetings were open to the public and held in the John Fuller Auditorium at City Hall, 451 Third Street NW, Winter Haven, Florida 33881. A public hearing was convened at the beginning of each meeting in compliance and before action on each recommendation, in compliance with § 286.0114 of the Florida Statutes and § 2-227 of the Code of Ordinances of the City of Winter Haven, Florida.
At each regular meeting, staff presented the Committee with approximately eight (8) to twelve (12) provisions of the City Charter, grouped together by subject matter, for review and discussion. The Committee finished its review of the complete active text of the City Charter on May 25, 2017. The Committee unanimously approved the text of this Final Report on June 29, 2017.

As a courtesy to the reader, the following public records of the Committee are appended to this Report:

- Appendix A – Resolution R-16-40

  This is the governing resolution for the Charter Review Committee adopted by the City Commission on December 12, 2016

- Appendix B – Chapter 73-660, Laws of Florida, as amended

  This document contains the text of the City Charter in effect as of January 17, 2017, the date the Committee organized.

- Appendix D – Resolutions R-CRC-17-01 and R-CRC-17-02

  These resolutions were adopted by the Committee to govern its proceedings in conjunction with Commission Resolution R-16-40. The resolutions provide for monthly reporting to the City Commission and procedures for public participation respectively.


  These are copies of the monthly status reports prepared by the Chair of the Committee and the Assistant City Attorney for circulation to the City Commission.


  This archive contains copies of agendas and approved minutes for each committee meeting.
Section 3:  
History of the City of Winter Haven  
Charter

The City of Winter Haven was incorporated by the Florida Legislature in 1911. See Ch. 6413, Laws. of Fla. (1911). During the early years of the City, the City’s organic law, known commonly as its Charter, was amended by the Legislature at least once after incorporation. See Ch. 6798, Laws of Fla. (1913).

In 1925, the Florida Legislature adopted the first stable Charter for the organization of the City’s municipal government. See Ch. 11299, Laws of Fla. (1925). Many of today’s municipal institutions can be traced back to the 1925 Legislature’s act. For example, the 1925 Charter adopted a “Commission-Manager” form of government for the City, creating a “City Commission” of three (3) electors and creating the office of a “City Manager” to be the City’s appointed “chief administrative officer.” See §§ 4-5, Ch. 11299, Laws of Fla. The City Commission was charged in the Charter to elect one of its members as the “Mayor” of the City at each annual meeting on the first Tuesday in January. See § 9, Ch. 11299, Laws of Fla. The City Manager was placed in charge of the “Department of Public Safety and Welfare and Public Works,” a global department designation in charge of “all matters making for the welfare of the community, such as the works and undertakings of the City . . . .” See § 28, Ch. 11299, Laws. of Fla. The 1925 Charter also created the office of “City Auditor and Clerk,” a predecessor hybridization of today’s City Clerk and Finance Director. See § 35, Ch. 11299, Laws of Fla.

In 1973, the Florida Legislature modernized the City’s Charter by adopting Chapter 73-660, Laws of Florida. Voters of the City approved the City’s Charter at the October 1973 municipal election. The 1973 Charter is significant as it is one of the last municipal charters to be enacted by the Legislature before the effective date of the Municipal Home Rule Powers Act, a groundbreaking piece of legislation that enables many of the home rule powers enjoyed by Florida municipalities today.

Since the 1973 Charter’s adoption, several attempts have been made by both the
City Commission and the people of the City, to amend the City Charter. As articulated by the City Commission in Resolution R-94-10, and by its official acts thereafter, the consensus view today is that the City Charter has been validly amended by either the City Commission or by the people of the City of Winter Haven thirteen (13) times. A summary of the relevant valid amendments that shaped and created the text of today’s City Charter, indexed by year, follows.

1978:

**Ordinance 1388** Amended Section 60 of the City Charter to hold regular municipal elections on the same date as the first primary election of the State of Florida with a runoff election on the same date as the second primary election of the State of Florida, or similar specific dates in the event the primary election dates are changed.

**Ordinance 1389** Amended Section 12 of the City Charter to generally provide that the names of Commissioners who have held office for more than nine (9) months shall be placed on the ballot at the municipal election for election as Mayor and Mayor Pro Tem; that the Commissioner with the highest vote tally will be named Mayor and the Commissioner with the second highest tally will be named Mayor Pro Tem.

1982:

**Ordinance 1511** Amended Section 12 of the City Charter to provide that the Mayor and Mayor Pro Tem should be chosen by the members of the City Commission.

**Ordinance 1519** Amended Section 10 of the City Charter to require members of the City Commission to be residents of the City at the time of qualification and during respective terms of office.

**Ordinance 1527** Repealed Sections 25 through 28 of the City Charter, relative to the City of Winter Haven Municipal Court System.

**Ordinance 1528** Amended Section 31 of the City Charter to provide for the various duties of the Chief of Police.

**Ordinance 1535** Repealed Section 38 of the City Charter, regarding the “Revision of Appropriations.” See also F.S. §§ 166.241(4)(a), 166.241(4)(c) (authorizing revision of appropriations by motion recorded in the minutes or by adoption of a budget amendment).
1963:

Ordinance 1548  Repealed Sections 44 through 50 and 52 through 56 of the City Charter, relative to taxes. See also F.S. § 200.065 (specifying tax levy procedures and state preemption of certain special acts). Amended Section 57 of the City Charter, to require the City Commission to fix the salary of department heads, police employees, fire employees and board members and to require the City Manager, subject to City Commission approval, to set the salaries and compensation of other employees. Repealed Sections 72 through 78 of the City Charter, relative to the annexation of real property. See also F.S. Ch. 171 (the state “Municipal Annexation or Contraction Act”).

1984:

Ordinance O-84-01  Amended Section 8 of the City Charter to provide that the City Commission shall consist of five (5) electors, elected at large, to serve four (4) year terms.

1994:

Resolution R-94-10  Recognized preemption of Section 35 of the City Charter, relative to the City’s fiscal year, by adoption of § 160.241 of the Florida Statutes.

2003:

Ordinance O-03-73  Amended Section 60 of the City Charter to hold regular municipal elections on the first Tuesday after the first Monday in September in odd-numbered years with runoff elections, if necessary, to be held the first Tuesday in October in odd-numbered years.

2013:

Ordinance O-13-03  Amended Section 60 of the City Charter to hold regular municipal elections on the first Tuesday after the first Monday in November in odd-numbered years with runoff elections, if necessary, to be held the first Tuesday in December in odd-numbered years.

Ordinance O-13-36  Amended Section 12 of the City Charter to provide that the election of the Mayor and Mayor Pro Tem by members of the City Commission should occur at its first meeting in January of each calendar year.
A review of the City's legal archives indicates that major reviews of text of the City Charter were conducted by the City Commission in the early-to-mid 1980's (between 1982 and 1984) and in the mid 1990's (approximately 1994). See Ord. 1511, 1519, 1527, 1529, 1535, 1548, O-84-01; Res. R-94-10. The last legal review of the City Charter occurred at the City Manager's request in 2010.

The Charter Review Committee created by Resolution R-16-40 is the first ever citizen committee empanelled to study the 1973 Charter and make recommendations for amendment and modification to the City Commission.
Section 4:
Committee Recommendations for Amendment and Modification

This section of the Charter Review Committee’s Final Report details the various amendments and modifications that met the two-thirds approval standard required in Section 5 C. of City Resolution No. R-16-40 to be classified as an official recommendation of the Committee.

During its proceedings, the Committee voted to recommend substantive amendments and modifications to ten (10) of the fifty-six (56) active provisions of the City Charter. The Committee also voted to recommend adoption of one (1) global text revision and one (1) new substantive provision.

Each of the Committee’s recommendations is identified separately in this section. To aid the reader, each recommendation will be presented in the following format:

- The **Section Number** of the City Charter will be centered in blue text on the first page of the recommendation.
- The Charter Section text that is currently in effect will follow under the label **Original Text**.
- The Committee’s recommended amendments and modifications to the Charter Section will follow under the label **Text of Recommendation**. Suggested changes to the currently effective Charter Section text will be **highlighted** with yellow highlight. Suggested deletions from the currently effective Charter Section text will appear as a highlighted open spaced bracket [ ]
- The **Committee Action Date** is the date of the meeting that the Committee approved its recommendation for amendment or modification.
- The **Recommendation Vote** is the number of yays and nays recorded on an official vote to recommend an amendment or modification to the City Commission.
- The Committee’s report will appear below the Recommendation Vote. In the event a minority report is included, the Committee report will appear first, followed by the minority report.
Section 11

Sec. 11. - Vacancy in the commission.

If any vacancy occurs in the membership of the commission, said commission shall elect an eligible person to fill the same until the next general municipal election, if not, a special election shall be called within thirty (30) days to fill such vacancy.

(Ord. No. 1520, § 1, 8-23-82; Res. No. R-94-10, § 1, 6-13-94)

Editor's note—The word "occur" in the first sentence of § 11 of Chapter 73-660, Laws of Florida has been editorially corrected to read "occurs."

Text of Recommendation: (highlighted text indicates proposed changes)

Sec. 11. - Vacancy in the commission.

When a vacancy occurs in the membership of the commission, the commission shall address the vacancy as follows:

(a) If, at the time the vacancy occurs, there is one (1) year or more remaining before the term of the prior commissioner would have expired, the commission shall call a special election, to be held within ninety (90) days of the first regular commission meeting after the vacancy subject to state law, to elect a qualified person to fill the vacancy for the remainder of the prior commissioner’s term of office; or

(b) If, at the time the vacancy occurs, there is less than one (1) year remaining before the term of the prior commissioner would have expired, the commission shall choose to (i) elect an eligible person to fill the vacancy for the remainder of the prior commissioner’s term of office, (ii) call a special election, to be held within ninety (90) days of the first regular commission meeting after the vacancy subject to state law, to elect a qualified person to fill the vacancy for the remainder of the prior commissioner’s term of office, or (iii) leave the vacancy open until filled at the next general municipal election.

Committee Action Date: February 23, 2017
Recommendation Vote: 7 votes for recommendation, 0 votes against

Section 11 of the City Charter sets forth the procedure for filling a vacancy in the City Commission in the event of resignation, removal or death of an elected commissioner. Under the current version of the City Charter, if a vacancy occurs on the City Commission, the City Commission (i) may elect a qualified person to serve in the
vacant seat until the next general municipal election or (ii) shall call a special election “within thirty (30) days.” While this timeline is fully compliant with Florida law, it proves difficult to implement in practice, given that the *Florida Election Code* (F.S. Ch. 97 – F.S. Ch. 106) requires the availability of the Supervisor of Elections’ voter registration books, as well as the publication of adequate notice for a special election to be called. See § 100.151, Fla. Stat. (2016) (stating that a municipal authority may not call a special election “until notice is given to the supervisor of elections and his or her consent obtained as to a date when the registration books can be available); § 100.342, Fla. Stat. (2016) (requiring 30 days’ notice of a special election to be published in a newspaper of general circulation). Additionally, the phrase “within thirty (30) days” is latently ambiguous as it is uncertain whether the thirty day window is to be calculated from the date of the actual vacancy or the date the vacancy is recognized by the City Commission.

Under the text of the recommended modification to the City Charter, if a vacancy occurs in the membership of the City Commission, a new process would be followed to select a replacement member. Depending on the amount of time remaining in the term of office that would have been served by the prior commissioner, the City Commission’s choices are as follows:

**One year or more left in the prior commissioner’s term:** When there is a significant period of time remaining in the vacating commissioner’s term of office, the City Commission should call a special election within ninety (90) days after the first City Commission meeting following the vacancy.

**Less than one year left in the prior commissioner’s term:** When a short period of time is left in the vacating commissioner’s term of office, the City Commission may choose to elect a qualified person to fill the remainder of the term, choose to call a special election within ninety (90) days after the first City Commission meeting following the vacancy, or choose to leave the vacancy open and unfilled until the next regular election.

The call of any special election is recommended to be subject to state law, which requires the registration books of the Supervisor of Elections to be made available. See § 100.151, Fla. Stat. (2016).

In all instances, a replacement commissioner would serve until the next regular election for the seat is scheduled to be held.

Members of the City Commission are the elected leaders of the City and it is the sense of the Charter Review Committee that a special election should be the preferred method for filling a vacant Commission seat, unless the time remaining in the term is too short to justify the election expense. The “one year” mark designated in the
recommendation is seen by the Committee as the appropriate compromise point between the Committee's preference for an election and the Committee's concern for depletion of the public treasury.
Section 23

Original Text:

Sec. 23. - Powers and duties of city manager.

The city manager shall be responsible to the city commission for the proper administration of all affairs of the city and to that end, his powers are and they shall be:

(a) To see that laws and ordinances are enforced.

(b) Except as hereinafter specifically provided, to appoint and remove all subordinate officers and employees of the city; all appointments to be made upon merit and fitness alone.

(c) To execute control and direct supervision over all departments and divisions of the municipal government under this charter, or which may hereinafter be created by the city commission, including public utilities owned by said city.

(d) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the city attorney whose duty it is hereby made to take such legal steps as may be necessary to enforce the same.

(e) To attend all meetings of the city commission, and of its committees, with right to take part in the discussion, but without having a vote.

(f) To recommend to the commission for adoption such measures as he may deem necessary or expedient in the interests of the city.

(g) To keep the city commission fully advised as to the financial condition and needs of the city and to submit for its consideration an annual budget.

(h) To perform such other duties as may be prescribed under this charter or as may be required of him by ordinance or resolution of the city commission.

(i) The city manager shall be purchasing agent for the city, by whom all purchases of supplies shall be made and he shall approve all vouchers for payment of the same. In the capacity of purchasing agent he shall also conduct all sales of personal property which the commission may authorize to be sold as having become unnecessary or unfit for the city’s use. All purchases and sales shall conform to such regulations as the city commission may from time to time prescribe; but in case of purchases, but not sales, if an amount in excess of three thousand dollars ($3,000.00) be involved, opportunity for competition shall be given.

(j) The city manager, as the administrative officer of the city, shall be the head of each department provided for under this charter and shall be responsible for its successful
and businesslike operation. He shall be the active head of the Department of Public Safety and Welfare and Public Works, which department shall have cognizance of all matters making for the welfare of the community, such as the works and undertakings of the city except as otherwise specifically provided for under this charter.

(k) The city manager shall manage and control all city-owned public utilities operated and managed by the municipality, and the office of the city manager shall be charged with the management and operation of all public works and, subject to regulation by ordinances of the city commission, all charitable and correctional institutions and agencies of the city, enforce all laws, ordinances and regulations relative to the preservation and promotion of public health; shall manage or inspect water, lighting, heating, power and transportation enterprises of the city; shall manage and control the use, construction, improvement, repair and maintenance of all recreational facilities of the city, including parks, playgrounds, and public gymnasiums, and social centers; he shall manage and supervise all public improvements, works and undertakings of the city, except as otherwise provided in this charter; he shall have charge of the construction, improvement, repair, and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, public highways, drains, culverts, streets, water courses and all public buildings; he shall manage and control market houses, crematories, sewage disposal plants, and farms, and he shall enforce all the obligations of privately owned or operated public utilities which are enforceable by the city; he shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for such public works; the cleaning, sprinkling, and lighting of streets, and public places; the collection and disposal of wastes; the preservation of tools and appliances belonging to the city, and pertaining to the functions of its several departments.

(Ord. No. 1523, § 1, 9-13-82; Ord. No. O-83-15, § 1, 12-29-83; Res. No. R-94-10, § 1, 6-13-94)

Text of Recommendation: (highlighted text indicates proposed changes)

Sec. 23. - Powers and duties of city manager.

The city manager shall be responsible to the city commission for the proper administration of all affairs of the city and to that end, the city manager's powers are and they shall be:

(a) To see that laws and ordinances are enforced.

(b) Except as hereinafter specifically provided, to appoint and remove all subordinate officers and employees of the city; all appointments to be made upon merit and fitness alone.

(c) To execute control and direct supervision over all departments and divisions of the municipal government under this charter, or which may hereinafter be created by the city commission, including public utilities owned by said city.
(d) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the city attorney whose duty it is hereby made to take such legal steps as may be necessary to enforce the same.

(e) To attend all meetings of the city commission, and of its committees, with right to take part in the discussion, but without having a vote.

(f) To recommend to the commission for adoption such measures as the city manager may deem necessary or expedient in the interests of the city.

(g) To keep the city commission fully advised as to the financial condition and needs of the city and to submit for its consideration an annual budget.

(h) To perform such other duties as may be prescribed under this charter or as may be required of the city manager by ordinance or resolution of the city commission.

(i) The city manager shall be purchasing agent for the city, by whom all purchases of supplies shall be made and the city manager shall approve all vouchers for payment of the same. In the capacity of purchasing agent the city manager shall also conduct all sales of personal property which the commission may authorize to be sold as having become unnecessary or unfit for the city's use. All purchases and sales shall conform to such regulations as the city commission may from time to time prescribe; but in case of purchases, but not sales, if an amount in excess of five thousand dollars ($5,000.00) be involved, opportunity for competition shall be given.

(j) The city manager, as the administrative officer of the city, shall be the head of each department provided for under this charter and shall be responsible for its successful and businesslike operation. The city manager shall be the active head of the Department of Public Safety and Welfare and Public Works, which department shall have cognizance of all matters making for the welfare of the community, such as the works and undertakings of the city except as otherwise specifically provided for under this charter.

(k) The city manager shall manage and control all city-owned public utilities operated and managed by the municipality, and the office of the city manager shall be charged with the management and operation of all public works and, subject to regulation by ordinances of the city commission, all charitable and correctional institutions and agencies of the city, enforce all laws, ordinances and regulations relative to the preservation and promotion of public health; shall manage or inspect water, lighting, heating, power and transportation enterprises of the city; shall manage and control the use, construction, improvement, repair and maintenance of all recreational facilities of the city, including parks, playgrounds, and public gymnasiums, and social centers; shall manage and supervise all public improvements, works and undertakings of the city, except as otherwise provided in this charter; shall have charge of the
construction, improvement, repair, and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, public highways, drains, culverts, streets, water courses and all public buildings; [ ] shall manage and control market houses, crematories, sewage disposal plants, and farms, and [ ] shall enforce all the obligations of privately owned or operated public utilities which are enforceable by the city; [ ] shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for such public works; the cleaning, sprinkling, and lighting of streets, streets, and public places; the collection and disposal of wastes; the preservation of tools and appliances belonging to the city, and pertaining to the functions of its several departments.

Committee Action Date: April 13, 2017 (Competition Threshold)
May 25, 2017 (Gender Neutrality)
Recommendation Vote: 5 votes for recommendation, 0 votes against (Competition)
7 votes for recommendation, 0 votes against (Gender)

Section 23 of the City Charter describes the powers and duties of the City Manager in the City’s government system. One duty, found in Section 23(i) of the City Charter, is to ensure that an opportunity for vendor competition is provided for all City purchases in excess of three thousand dollars ($3,000.00). This figure is known locally as the competition threshold.

The current threshold level has generally remained in place since the adoption of the City Charter in 1973.¹ A brief survey of area local governments conducted by the staff of the Charter Review Committee determined that a few of the City’s neighboring municipalities have developed the following competition thresholds:

Bartow - $25,000.00; See § 2-283, Code of Ord. of the City of Bartow, Fla.;
Lakeland - $1,500.00; See § 24, Charter of the City of Lakeland;
Orlando - $75,000.00; See §§ 7.202, 7.307, Code of Ord. of the City of Orlando;

¹ In 1983, the City Commission adopted Ordinance O-83-15, which purported to raise the competition threshold to ten thousand dollars ($10,000.00). See Ord. O-83-15. The ordinance was adopted without approval from the voters of the City. In June of 1994, on the advice of the then-City-Attorney, the City Commission adopted Resolution R-94-10 which, according to its title, “formally acknowledg[ed]” the “correct legal status of various charter provisions,” to include Section 23. See Res. R-94-10. Since then, the City has followed the original text of Section 23, and has sought vendor competition for all purchases in excess of three thousand dollars ($3,000.00).
Plant City - $25,000.00; See § 2-143, Code of Ord. of the City of Plant City, Fla.

When adjusted for inflation, using the CPI-U figure published by the federal Bureau of Labor Statistics, the purchasing power of three thousand dollars ($3,000.00) in October of 1973 is apparently equivalent to sixteen thousand eighty-seven dollars ($16,087.00) in April of 2017. After discussion with the Committee, the Interim City Manager and the City Finance Director suggested that a threshold of five thousand dollars ($5,000.00) would be acceptable for most purchases conducted today by the City of Winter Haven.

Purchasing competition ensures that the City is making expenditures of public dollars in a wise and prudent manner. Purchasing competition also provides credibility and trust to the acquisition process. The current threshold of three thousand dollars ($3,000.00) is dated and inefficient. Conversely, a high threshold, while initially appealing, could undermine public trust, as well as the competition rationale, if the figure is set too high. (For example, it would be possible to purchase a fleet automobile without competition if the amount was set at sixteen thousand dollars ($16,000.00) or higher.)

It is the sense of the Committee that the competition threshold suggested by the City’s staff strikes the appropriate balance for the City. In the opinion of the Committee, adjusting the threshold to five thousand dollars ($5,000.00) would increase government efficiency and purchasing speed for some items, but still retain the competitive purpose and spirit that is fostered by the law.

In the version of Section 23 recommended to the City Commission by the Committee, eleven (11) gender-specific references have been removed and replaced with gender-neutral language.
Section 29

Original Text:

Sec. 29. - Police force.

The police force of the City of Winter Haven shall consist of a chief of police and as many subordinate officers, policemen and employees as the city commission shall by ordinance determine. The chief of police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employees constituting the police force, subject to the approval of the city manager and under such rules and regulations as the city commission may prescribe or as may be prescribed by the ordinances of the city.

Text of Recommendation: (highlighted text indicates proposed changes)

Sec. 29. - Police force.

The police force of the City of Winter Haven shall consist of a chief of police and as many subordinate officers, policemen and employees as the city manager shall determine. The chief of police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employees constituting the police force, subject to the approval of the city manager and under such rules and regulations as the city commission may prescribe or as may be prescribed by the ordinances of the city.

Committee Action Date: May 25, 2017
Recommendation Vote: 7 votes for recommendation, 0 votes against

Section 29 of the City Charter states that the City Commission “shall by ordinance” determine the number of “subordinate officers, policeman and employees” of the City’s police service.

It is the sense of the Charter Review Committee that the ordinance requirement may prevent the City Manager and the Police Chief from taking appropriate personnel action in response to changing conditions. Under Florida law, a proposed ordinance must be read at two City Commission meetings before it can be adopted. Given the City Commission’s regular meeting schedule, at a minimum it would take two (2) to three (3) weeks to draft, read and pass an ordinance to enlarge the police service and authorize the City Manager and Police Chief to hire additional officers.

In the opinion of the Committee, law enforcement personnel decisions are administrative in nature and should be made by the City Manager and Police Chief.
Sec. 32. - Fire force.

The fire force of the city shall consist of a chief, who shall be a fire warden, and as many subordinate officers, firefighter(s) and employees as the city commission shall by ordinance determine. The chief shall have exclusive control of the stationing and transfer of all firefighter(s) and other officers and employees of the fire force subject to such rules and regulations as may be prescribed by the city manager or by ordinance of the city; he shall have exclusive management and control of such officers and employees as may be employed in the administration of the affairs of his force. In case of riot, conflagration or like emergency, the city manager may appoint additional firefighter(s) for temporary service. The fire chief shall have the right to suspend any officer or employee of the fire force because of incompetency, neglect of duty, drunkenness, failure to obey orders given by proper authority or for any other just or reasonable cause, and he shall immediately report the fact of such suspension to the city manager for final action.

Text of Recommendation:  (highlighted text indicates proposed changes)

Sec. 32. - Fire force.

The fire force of the city shall consist of a chief and as many subordinate officers, firefighter(s) and employees as the city manager shall determine. The chief shall have exclusive control of the stationing and transfer of all firefighter(s) and other officers and employees of the fire force subject to such rules and regulations as may be prescribed by the city manager or by ordinance of the city; the chief shall have exclusive management and control of such officers and employees as may be employed in the administration of the affairs of the fire force. In case of riot, conflagration or like emergency, the city manager may appoint additional firefighter(s) for temporary service. The fire chief shall have the right to suspend any officer or employee of the fire force because of incompetency, neglect of duty, drunkenness, failure to obey orders given by proper authority or for any other just or reasonable cause, and shall immediately report the fact of such suspension to the city manager for final action.

Committee Action Date:  May 25, 2017 (City Manager Determination)
May 25, 2017 (Gender Neutrality)
Recommendation Vote:  7 votes for recommendation, 0 votes against (City Manager)
7 votes for recommendation, 0 votes against (Gender)
Section 32 of the City Charter states that the City Commission "shall by ordinance" determine the number of "subordinate officers, firefighters and employees" of the City's fire service.

It is the sense of the Charter Review Committee that the ordinance requirement may prevent the City Manager and the Fire Chief from taking appropriate personnel action in response to changing conditions. Under Florida law, a proposed ordinance must be read at two City Commission meetings before it can be adopted. Given the City Commission's regular meeting schedule, at a minimum it would take two (2) to three (3) weeks to draft, read and pass an ordinance to enlarge the fire service and authorize the City Manager and Fire Chief to hire additional officers and firefighters.

In the opinion of the Committee, fire personnel decisions are administrative in nature and should be made by the City Manager and Fire Chief. Additionally, the dated reference to "fire warden," a mid-twentieth-century designation for a firefighter skilled in fighting agricultural and forest fires, should be removed.

In the version of Section 32 recommended to the City Commission by the Committee, three (3) gender-specific references have been removed and replaced with gender-neutral language.
Section 34

Original Text:

Sec. 34. - City clerk; appointment; salary; powers and duties.

There shall be a city clerk, who shall be appointed by and serve during the pleasure of the city commissioners, and be under the supervision of the city manager. His salary shall be set by the city commission. He shall have the authority and shall be responsible for:

(a) Give notice of the meetings of the city commission.

(b) Attend all meetings of the city commission, and keep a journal of its proceedings, the correctness of which proceedings as entered in such journal shall be certified to after each meeting by his signature and by the signature of the presiding officer of the city commission.

(c) Act as custodian of the seal of the city and all records and papers of a general character pertaining to the affairs of the municipality.

(d) Make and keep a list of outstanding city bonds, for what purpose, when and where payable, and the rate of interest they respectively bear.

(e) Record in full in a book kept for that purpose all ordinances and resolutions.

(f) To keep such minutes of boards and committees as may be prescribed by the city commission.

(g) Act as custodian of all deeds, mortgages, notes and all other legal documents of the city.

(h) Perform such other duties as may be required of him by ordinance or resolution of the city commission, as well as such as may be required of city clerks by the general laws of the state, applicable to municipalities and not inconsistent with this charter or with any ordinance or resolution passed by the city commission.

(Ord. No. 1535, § 1, 12-13-82; Ord. No. 1545, § 1, 2-28-83; Res. No. R-94-10, § 1, 6-13-94)

Text of Recommendation: (highlighted text indicates proposed changes)

Sec. 34. - City clerk; appointment; salary; powers and duties.

The city manager shall, with the advice and consent of the city commission, appoint a city clerk. The city clerk shall be under the direction and supervision of the city manager. The city clerk may be removed upon the recommendation of the city manager with the advice and consent of the city commission. The city clerk shall have the authority and shall be responsible to:

(a) Give notice of the meetings of the city commission.
(b) Attend all meetings of the city commission, and keep a journal of its proceedings, the correctness of which proceedings as entered in such journal shall be certified to after each meeting by the city clerk's signature and by the signature of the presiding officer of the city commission.

(c) Act as custodian of the seal of the city and all records and papers of a general character pertaining to the affairs of the municipality.

(d) Make and keep a list of outstanding city bonds, for what purpose, when and where payable, and the rate of interest they respectively bear.

(e) Record in full in a book kept for that purpose all ordinances and resolutions.

(f) Keep such minutes of boards and committees as may be prescribed by the city commission.

(g) Act as custodian of all deeds, mortgages, notes and all other legal documents of the city.

(h) Perform such other duties as may be required by ordinance or resolution of the city commission, as well as such as may be required of city clerks by the general laws of the state, applicable to municipalities and not inconsistent with this charter or with any ordinance or resolution passed by the city commission.

Committee Action Date: April 27, 2017 (City Clerk)
May 25, 2017 (Gender Neutrality)

Recommendation Vote: 5 votes for recommendation, 1 vote against (City Clerk)
7 votes for recommendation, 0 votes against (Gender)

Committee Report: (5 votes)

Under the current version of the City Charter, personnel decisions regarding the City Clerk are made by the City Commission. The City Commission determines the City Clerk's salary and the City Commission reviews the City Clerk's job performance. The City Manager, however, supervises the City Clerk on a day-to-day basis.

A fundamental tenet of the "Commission-Manager" form of municipal government is the strict separation between policymaking personnel and administrative personnel. Because policymaking involves the exercise of municipal discretion, the policymaking function is reserved in Commission-Manager government for the people's elected representatives – the Commissioners – and their chief advisers. The administrative function, on the other hand, is typically vested in a chief executive officer – the Manager – who employs administrative personnel in order to execute the policy vision and complete the day-to-day tasks involved in running a municipality. In order to insulate a
city’s administrative personnel from the political winds of policymaking, elected officials are usually required to deal with the city’s administrative service solely through the manager.

The City Clerk is unique amongst municipal employees in that the Clerk must, as a matter of employment, interface with the City’s elected officials and perform official government tasks, such as giving notice of Commission meetings, taking custody of the City seal and public records, and preparing the official minutes of Commission meetings and city committee sessions. While these tasks involve the City Commission and its members, they are administrative tasks that enable the Commission to complete its Charter functions.

As is described in the current City Charter, it is the sense of the Charter Review Committee that the most appropriate individual to supervise the City Clerk’s work performance is the City Manager. Because of this, it is the opinion of the Committee that the City Manager should have the authority to hire the City Clerk and to terminate the services of the Clerk. Likewise, the City Manager should have the authority to determine the appropriate level of salary for the City Clerk, and whether to award raises for merit or attainment of professional certifications.

Since the City Clerk has been historically appointed by the City Commission, the Committee believes that the City Commission should continue to play a role, albeit advisory, in the personnel decision making process. According to the text of the recommended revision, the City Manager’s decision to hire the City Clerk is subject to the “advice and consent of the City Commission.” The Committee drew this language directly from Article II, Section 2, Clause 2, of the United States Constitution, which requires the President of the United States to obtain “the Advice and Consent of the Senate” to appoint federal public officials. Therefore, in the opinion of the Committee, to hire a new City Clerk, first the City Manager would solicit applications and determine a appointee candidate for office; second, the City Manager would submit the name of the appointee candidate to the City Commission by placing the matter on a Commission agenda; and third, the City Commission would approve or reject the City Manager’s choice by vote taken after receiving input from the general public in accordance with Florida law and City Ordinance.

Recognizing that the City Clerk must interact with both the City Commission and the City Manager, the Committee believes that neither the Commission nor the Manager should have the unilateral ability to terminate the services of the City Clerk without the “consent” or “recommendation” of the other party. Accordingly, in the Committee’s view, and also pursuant to the text of the recommended revision, if the City Clerk failed to
properly perform the duties of the office outlined in the City Charter, the process for
termination would begin with a “recommendation to terminate” placed on a City
Commission agenda by the City Manager, followed by a vote of “consent” from the City
Commission, made after receiving input from the general public in accordance with
Florida law and City Ordinance.

In the version of Section 34 recommended to the City Commission by the
Committee, three (3) gender-specific references have been removed and replaced with
gender-neutral language. Additionally, two (2) grammatical errors have been corrected
to enhance readability.

**Minority Viewpoint Report: (1 vote)**

The Minority of the Committee respectfully dissents from the Committee’s Report
and recommendation to modify Section 34 of the City Charter.

It is the strong view of the Minority that the City Charter gives too much power
over personnel matters to the City Manager. The Commission-Manager form of
government notwithstanding, the Minority feels that the City Commission should have
direct supervisory authority over more of the City government’s key employees, like
Department Directors, in addition to its supervisory authority over the City Manager.
Further, with specific regard to the City Clerk, because the City Charter has historically
made the City Clerk a “Commission Employee,” the Minority views the Committee’s
recommendation as reducing the City Commission’s overall power and authority.

The Minority agrees with the Committee Report that the City Clerk plays a unique
role in the City’s government. Because the City Clerk interacts with the City
Commission and facilitates the Commission’s work, the Minority believes that the City
Clerk serves a policymaking function, instead of an administrative function, and that
personnel determinations for the City Clerk position should be vested fully in the City
Commission. While the Minority would prefer revising the language of Section 34 of the
Charter to remove the City Manager “supervision” clause (thus, making the City
Commission the Clerk’s direct “supervisor”), the Minority feels that the substantive
language of Section 34, as currently written, strikes an acceptable moderate balance.

The Minority of the Committee does not object to the proposed modification of
Section 34 to remove gender-specific references and to correct grammatical errors
found in the Section’s text.
Section 37

Original Text:

Sec. 37. - Appropriation ordinance.

The city commission shall carefully consider such estimates before passing an appropriation ordinance for the ensuing year. After such appropriation ordinance has been introduced and before passage, the city commissioners shall cause same as introduced to be published one (1) time in a local newspaper of general circulation in the City of Winter Haven, and shall state in said publication the time and place same will be acted on finally, and shall also state in such notice that the estimates of the city manager upon which same is based are on file for inspection of the public at the office of the city finance director, and such ordinance shall not be passed by said city commission until after five (5) days after such publication.

State Law reference—Procedure for adopting budget and millage, F.S. Ch. 200.

Text of Recommendation: (highlighted text indicates proposed changes)

Sec. 37. - Appropriation measure.

The city commission shall carefully consider such estimates before passing an appropriation measure for the ensuing year by resolution or ordinance. [...] Before such appropriation measure has been passed and adopted, the city commissioners shall give notice to the public of the type and manner required by law.

Committee Action Date: April 13, 2017
Recommendation Vote: 5 votes for recommendation, 0 votes against

Section 37 of the City Charter currently requires the City Commission to adopt its budget and set of appropriations each year by ordinance. It also requires a specific notice to be published in a local newspaper at least five (5) days before the City Commission takes final action to approve appropriations.

The Florida Truth in Millage Act (the “TRIM Law”), adopted by the 1980 Florida Legislature and codified at § 200.065 of the Florida Statutes, outlines a very specific set of procedures for local governments to follow when levying property tax. According to the TRIM Law, the following events must occur before the City may lawfully require property owners to pay tax to the City:

First, Before July 1, the Property Appraiser finishes its annual certification of
value for City real estate.

Second, typically in July, the City Commission generates a proposed tax rate and forwards that to the Property Appraiser’s office, along with the dates of its planned public tax hearings.

Third, the Property Appraiser then sends out a notice to each property owner, typically in the middle of August, advising of the proposed tax rate and the dates of public tax and budget approval hearings.

Fourth, the City Commission holds two (2) public tax and budget approval hearings, typically one (1) in the first half of September and one (1) in the second half of September.

Fifth, and finally, when the tax rate is determined and a municipal budget for the upcoming fiscal year is adopted, the City Commission informs the Tax Collector of its final tax rate. The Tax Collector then sends out tax bills to each property owner, typically in late October or early November.

The TRIM Law requires local governments to publish specific legal notices, depending on the total amount of tax revenue that is sought to be raised from the public. Under normal assumptions, the value of real estate generally increases from year to year. Accordingly, as written, the TRIM Law expects the City’s tax revenues to increase, even if it keeps its taxable rate (“millage”) the same. In these circumstances, a Notice of Proposed Tax Increase is required to be published in the local newspaper that includes details about the prior year’s tax levy and the proposed tax levy for the upcoming year. In the rare instance that tax revenues are not expected to increase, the TRIM Law requires publication of a Notice of Budget Hearing instead. See §§ 200.065(3)(a)-(b), Fla. Stat. (2016). These notices are required to be published between two (2) and five (5) days before the final tax and budget approval meeting in the second half of September.

The TRIM Law allows for cities to adopt taxes and budgets by resolution or ordinance. Because of the inherent differences between resolutions and ordinances, if a city adopts its budget by resolution, it may use a resolution or ordinance to amend its budget. If a city adopts its budget by ordinance however, it may only amend its budget by adopting a second or subsequent ordinance. At the end of each fiscal year, the Municipal Home Rule Powers Act gives cities sixty (60) days to amend the prior year’s budget to reconcile actual expenditures with appropriations. If a city must use the ordinance process to reconcile its budget, as Winter Haven must under the current
version of the City Charter, it can place a burden on the city's financial staff to rush transactions in order to properly close out the municipal fiscal year.

It is the sense of the Charter Review Committee that the City Commission should have the power to determine, for itself, whether it wishes to adopt municipal taxes and a municipal budget by resolution or ordinance. The lawful exercise of municipal discretion is soundly committed to the City's elected officials, who should, in the mind of the Committee, have maximum flexibility, especially with respect to the form of the City's general appropriations measure. Accordingly, the Committee recommends modifying the text of Section 37 to permit the City Commission to adopt a budget and appropriations measure by either resolution or ordinance.

Additionally, because the notice currently required to be published by Section 37 of the City Charter is duplicative of the notices required to be published by the state TRIM Law, the Committee believes it appropriate to recommend advertising savings by deferring to the TRIM notices, which consist of recognized annual advertisements, as well as recognized, specially delivered tax advisories that property owners in the City have seen in the paper and received at their mailing addresses for almost four (4) decades.
Section 39

Original Text:

Sec. 39. - Transfer of funds.

The city manager may approve any transfer of budgeted funds between items appropriated to the same office or department not exceeding three thousand dollars ($3,000.00). Upon request of the city manager, the city commission may transfer between departments of the city any part of an unencumbered balance of an appropriation, or may authorize an interdepartmental transfer of items in excess of three thousand dollars ($3,000.00).

Text of Recommendation: (highlighted text indicates proposed changes)

Sec. 39. - Transfer of funds.

(a) The city manager may approve any expenditure of appropriated funds on any budgeted item in the same office or department if the total appropriations to the office or department does not change. The city manager shall, before the end of the fiscal year, or at such other time as may be prescribed, report to the city commission the amount and details of such expenditures made.

(b) The city commission may, at any time, authorize or ratify the transfer between departments or funds of the city any amount of revenue or any part of an unencumbered balance of an appropriation.

Committee Action Date: April 13, 2017
Recommendation Vote: 5 votes for recommendation, 0 votes against

The current text of Section 39 of the City Charter derives from former Section 59 of the 1925 charter of the City of Winter Haven. See Ch. 11299, Laws of Fla. (1925). In Chapter 11299, the City Commission was authorized to transfer any unencumbered balance of any amount “to a purpose or object for which the appropriation of the current year have proved insufficient.” § 59, Ch. 11299, Laws of Fla. (1925). Further, the City Commission could “authorize any transfer to be made between items appropriated to the same office or department.” Id.

With the adoption of the Florida Constitution of 1968 and the Municipal Home Rule Powers Act, the City Commission no longer required a legislative grant of authority to make transfers between appropriations. In 1973, the electors of the City authorized the City Manager to make any “intradepartmental” transfer of less than three thousand
dollars ($3,000.00). The electors also authorized the City Commission, on the recommendation of the City Manager, to make interdepartmental transfers of any unencumbered sum and interdepartmental transfers of items in excess of three thousand dollars ($3,000.00).

It is the sense of the Charter Review Committee that Section 39 should be amended in order to provide greater flexibility to the City Manager and the City Finance Director in managing the City’s appropriations once a measure is adopted. In the opinion of the Committee, the recommended amendment to Section 39 strengthens commission-manager government and brings the City Charter in line with the fiscal realities of managing a complex multi-million dollar organization. Expenditures of appropriated funds would be measured at the department and office level, instead of the line-item level. Transparency in reporting is ensured as any deviation in line-item expenditures would be required to be shown on the City Manager’s annual estimate report furnished before the end of the fiscal year and in any other report requested by the City Commission. Further, inter-department, inter-office and inter-fund “transfers” of revenues received by the City, or of unspent appropriations, may be authorized in advance by the City’s elected officials, or ratified in arrears, depending on the circumstances involved in the transaction.
Section 57

Original Text:

Sec. 57. - Salaries and compensation.

The commission shall fix by ordinance the salary or compensation of the heads of the departments, members of the police and fire forces and members of boards. The city manager, subject to the approval of the city commission, shall fix the number and compensation of all other officers and employees. The salaries or compensation so fixed shall be uniform for like services in each grade of the city service and the same shall be graded or classified by the city manager. All such salaries and rates of pay with dates of employment and discharge shall be immediately reported to the city finance director. All fees and moneys received or collected by officers and employees shall be paid over to the city finance director in accordance with rules and regulations established by the city commission.

(Ord. No. 1548, § 2, 2-28-83)

Text of Recommendation: (highlighted text indicates proposed changes)

Sec. 57. - Salaries and compensation; collected fees and moneys.

The city commission shall fix the salary or compensation of the heads of the departments and members of boards by resolution or ordinance. The city manager, subject to annual appropriation, shall fix the number and compensation of all other officers and employees. The salaries or compensation so fixed shall be uniform for like services in each grade of the city service and the same shall be graded or classified by the city manager. All such salaries and rates of pay with dates of employment and discharge shall be immediately reported to the city finance director. All fees and moneys received or collected by officers and employees shall be paid over to the city finance director in accordance with rules and regulations established by the city commission.

Committee Action Date: May 25, 2017
Recommendation Vote: 7 votes for recommendation, 0 votes against

Section 57 of the City Charter divides the authority to set municipal pay between the City Commission and the City Manager. Under the current version of Section 57, the City Commission is required to fix the salaries of department heads, police department employees, fire department employees and members of boards and committees by ordinance. The City Manager is required to fix the salaries of all other officers and employees, subject to the City Commission’s annual approval of a budget and
appropriations measure.

It is the sense of the Charter Review Committee that the City Manager should have the primary authority to set the salaries of subordinate officials and employees in the municipal organization, with the exception of policy-level salaries, like those of department heads and those of members of boards and committees. By vesting the authority in the City Manager to set police and fire salaries, in addition to the Manager's current authority to set general employee salaries, it is the Committee's view that the City can be nimble, competitive and flexible enough to react and quickly adjust to changing economic circumstances.

In the Committee's opinion, a transparency and reality check regarding municipal salaries will occur each year with the approval of the City's annual budget. Further, while the Committee is recommending the transfer of direct responsibility over police and fire salaries to the City Manager, the Committee is comfortable with the fact that City Commission always retains plenary authority, through its inherent control over the budget and appropriations process, to ensure that police and fire salaries remain fair and competitive.

In the version of Section 57 recommended to the City Commission by the Committee, two (2) insertions of language — a modification to the title of the section and the insertion of the word “city” before “commission” in the first sentence — have been made to enhance clarity of meaning and readability.
Section 59

Original Text:

Sec. 59. - Official bonds.

The city commission or city manager, in fixing the salary of any other officer, clerk or employee, shall determine whether or not such officer, clerk or employee shall give bond, and the amount thereof which bond shall be procured from a regularly accredited surety company, authorized to do business under the laws of Florida, the premiums on such bonds to be paid by the city. All such bonds shall be filed in the office of the city clerk, but all officers, clerks, and employees handling any funds of the city shall be required to give bond to the city.

Text of Recommendation: (highlighted text indicates proposed changes)

Sec. 59. - Official bonds.

The city commission or city manager, in fixing the salary of any other officer, clerk or employee, shall determine whether or not such officer, clerk or employee shall give bond, and the amount thereof which bond shall be procured from a regularly accredited surety company, authorized to do business under the laws of Florida, the premiums on such bonds to be paid by the city. All such bonds shall be filed in the office of the city clerk [1].

Committee Action Date: April 27, 2017
Recommendation Vote: 6 votes for recommendation, 0 votes against

The current version of Section 59 of the City Charter allows the City Commission or the City Manager to determine, as a matter of salary, whether an officer, clerk or employee is required to obtain surety insurance for fidelity and the faithful performance of work. However, Commission and Manager discretion notwithstanding, Section 59 requires all officers, clerks and employees of the City that handle municipal funds to obtain such insurance and “give bond to the city.”

The general law of Florida requires municipal governments to pay the premium for surety insurance whenever a municipal officer or employee is required to “give bond.” § 113.071, Fla. Stat. (2016). During its deliberations, City Staff indicated to the Charter Review Committee that the cost of premium and the cost of professional services involved in making an insurance claim on a surety bond to recover lost monies can, in most everyday instances, far outweigh and exceed the expected loss in the
event that an unscrupulous moneychanger committed an offense against the public treasury.

It is the opinion of the Committee that the City Commission and City Manager should have the flexibility to determine, as a matter of employment policy and as a matter of appropriations policy, which municipal employees should be required to give a surety bond. The Committee recommends deleting the last phrase of the last sentence of Section 57, which appears to be a mandatory command that neither the City Commission nor the City Manager may ignore.
Section 65

Original Text:

Sec. 65. - Dedication of streets.

No street or alley hereinafter dedicated to public use by the owner of any land within the city shall be deemed a public street or alley, under the care or control of the city, unless the dedication be accepted and confirmed by ordinance passed for such purpose.

Text of Recommendation: (highlighted text indicates proposed changes)

Sec. 65. - Dedication of streets.

No street or alley hereinafter dedicated to public use by the owner of any land within the city shall be deemed a public street or alley, under the care or control of the city, unless the dedication be accepted and confirmed by resolution or ordinance passed for such purpose.

Committee Action Date: April 27, 2017
Recommendation Vote: 6 votes for recommendation, 0 votes against

---

Section 65 of the City Charter allows the City Commission to receive dedications of land to the public for use as public streets and alleys. It recites the legal requirement of "public acceptance" for ownership and maintenance purposes by requiring the Commission to take official action on each proposed dedication. Most dedications of land occur during the plat approval process described in Chapter 177 of the Florida Statutes and Chapter 21 of the City’s Code of Ordinances.

The current version of Section 65 limits the Commission to taking an official act of acceptance by ordinance. In the opinion of the Charter Review Committee, the Commission should be able to take an official act of acceptance by resolution or ordinance. The recommended change will align the City Charter with the City’s current practice for plat approvals. The recommended change will also expedite acceptance of public land dedications by not requiring them to be placed on multiple agendas.
Gender Neutrality

Original Text:

Sec. 9. - Exercise of powers.

All powers of the city except as otherwise provided by this charter, and by the constitution of the state, are hereby vested in the city commission; and, except as otherwise provided by this charter, or by the constitution of the state, the city commission may by ordinance or resolution prescribe the manner in which any power of the city shall be exercised. Neither the commission nor any of its members shall dictate the appointment of any person to office or employment by the city manager or in any manner prevent the city manager from exercising his own judgment in selecting the personnel of his administration. The commission and its members shall deal with the administrative service solely through the city manager and neither the commission nor any member thereof shall give orders to, nor make requests of, any of the subordinates of the city manager, either publicly or privately. Any such dictation, orders, requests or other interferences upon the part of a member of the city commission with the administration of the city shall constitute a ground for recall of such commissioner.

Sec. 10. - Qualifications of members of commission.

Members of the city commission shall be residents of the City of Winter Haven at the

Text of Recommendation:

Sec. 9. - Exercise of powers.

All powers of the city except as otherwise provided by this charter, and by the constitution of the state, are hereby vested in the city commission; and, except as otherwise provided by this charter, or by the constitution of the state, the city commission may by ordinance or resolution prescribe the manner in which any power of the city shall be exercised. Neither the commission nor any of its members shall dictate the appointment of any person to office or employment by the city manager or in any manner prevent the city manager from exercising his own judgment in selecting the personnel of his administration. The commission and its members shall deal with the administrative service solely through the city manager and neither the commission nor any member thereof shall give orders to, nor make requests of, any of the subordinates of the city manager, either publicly or privately. Any such dictation, orders, requests or other interferences upon the part of a member of the city commission with the administration of the city shall constitute a ground for recall of such commissioner.

Sec. 10. - Qualifications of members of commission.

Members of the city commission shall be residents of the City of Winter Haven at the
time they qualify for the office of commissioner, and shall remain residents of said city for their respective terms of office. The office of any commissioner who shall remove from the City of Winter Haven during the term for which he was elected shall automatically become vacant from the date of such removal.

(Ord. No. 1519, § 1, 8-9-82)

Sec. 13. - Functions and powers of mayor.

The mayor shall preside at all meetings of the commission and perform such other duties consistent with his office as may be imposed by it; and he shall have a voice and a vote in the proceedings of the commission, but no veto power. He may use the title of mayor in any case in which the execution of legal instruments of writing or other necessity arising from the general laws of the state so requires; but this shall not be considered as conferring upon him the administrative or judicial functions of a mayor under the general laws of the state. He shall be recognized as the official head of the city by the courts for the purpose of serving civil process; by the government in the exercise of military law, and for all ceremonial purposes, he may take command of the police and govern the city by proclamation during times of grave public danger or emergency; provided, however, a majority of the city commission must first declare that such grave public danger or emergency exists. The powers and duties of the mayor shall be such as are conferred upon him by the city commission in pursuance of the provisions of this charter, and no other. In the absence of the mayor, or in the event of his disqualification or vacation of his membership

Sec. 13. - Functions and powers of mayor.

The mayor shall preside at all meetings of the commission and perform such other duties consistent with the office as may be imposed by it, but no veto power. The mayor may use the title of mayor in any case in which the execution of legal instruments of writing or other necessity arising from the general laws of the state so requires; but this shall not be considered as conferring upon the mayor the administrative or judicial functions of a mayor under the general laws of the state. The mayor shall be recognized as the official head of the city by the courts for the purpose of serving civil process; by the government in the exercise of military law, and for all ceremonial purposes, may take command of the police and govern the city by proclamation during times of grave public danger or emergency; provided, however, a majority of the city commission must first declare that such grave public danger or emergency exists. The powers and duties of the mayor shall be such as are conferred upon the mayor by the city commission in pursuance of the provisions of this charter, and no other. In the absence of the mayor, or in the event of the mayor's disqualification or vacation of [ ]
on the commission, the mayor pro tem shall perform his duties.

membership on the commission, the mayor pro tem shall perform the mayor’s duties.

Sec. 14. - Special meetings, how called.

The mayor, any two (2) members of the commission, or the city manager may call special meetings of the commission upon at least six (6) hours' written notice to each member, served personally, or left at his usual place of residence. All meetings of the city commission and of the committees thereof shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business and shall keep a journal of its proceedings.

(Ord. No. O-84-35, § 1, 8-13-84; Res. No. R-94-10, § 1, 6-13-94)

Sec. 21. - City manager—Generally.

The city commission shall appoint a city manager who shall be the administrative head of the municipal government under the direction and supervision of the city commission, and he shall hold office at the pleasure of the city commission. He shall be chosen solely on the basis of his executive and administrative qualifications, and he need not be a resident of the city or state at the time of his appointment. He shall receive a salary to be fixed by the city commission. No person who has served as a member of the city commission shall be eligible for appointment to the office of city manager until two (2) years after he has ceased to be a member of the commission. During the absence or disability of the city

Sec. 21. - City manager—Generally.

The city commission shall appoint a city manager who shall be the administrative head of the municipal government under the direction and supervision of the city commission, and who shall hold office at the pleasure of the city commission. The city manager shall be chosen solely on the basis of executive and administrative qualifications, and need not be a resident of the city or state at the time of appointment. The city manager shall receive a salary to be fixed by the city commission. No person who has served as a member of the city commission shall be eligible for appointment to the office of city manager until two (2) years after ceasing to be a member of the commission.
manager, the city commission may designate some properly qualified person to temporarily execute the functions of the office.

(Ord. No. 1546, § 1, 2-28-83; Res. No. R-94-10, § 1, 6-13-94)

Sec. 31. - Chief of police.

The chief of police, or his deputy, shall attend all meetings of the city commission and aid in the enforcement of order under the direction of the presiding officer. He shall execute the commands of the city commission and all processes issued by authority thereof. He shall perform such other duties appropriate to his office as may be imposed upon him by law, the ordinances of the city, and direction of the city manager consistent with this charter. He shall have the right to suspend any officer or employee of the police force because of incompetency, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authorities or for any other just and reasonable cause, and he shall immediately report the fact of such suspension to the city manager for final action.

(Ord. No. 1528, § 1, 9-27-82)

Sec. 33. - Director of finance; appointment; qualifications; salary; powers and duties.

There shall be a department of finance, the head of which shall be the director of finance, who shall be appointed by the city manager. He shall have knowledge of municipal accounting and taxation, shall have experience in budgeting and financial controls, and shall

During the absence or disability of the city manager, the city commission may designate some properly qualified person to temporarily execute the functions of the office.

Sec. 31. - Chief of police.

The chief of police, or designated deputy, shall attend all meetings of the city commission and aid in the enforcement of order under the direction of the presiding officer. The chief shall execute the commands of the city commission and all processes issued by authority thereof. The chief shall perform such other duties appropriate to the office as may be imposed by law, the ordinances of the city, and direction of the city manager consistent with this charter. The chief shall have the right to suspend any officer or employee of the police force because of incompetency, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authorities or for any other just and reasonable cause, and the chief shall immediately report the fact of such suspension to the city manager for final action.

Sec. 33. - Director of finance; appointment; qualifications; salary; powers and duties.

There shall be a department of finance, the head of which shall be the director of finance, who shall be appointed by the city manager. The director of finance shall have knowledge of municipal accounting and taxation, shall have experience in budgeting and financial
receive a salary to be fixed by the city manager. The director of finance shall have charge of the administration of the financial affairs of the city and to that end he shall have the authority and shall be required to:

(a) Compile the current expense estimates for the budget for the city manager;

(b) Compile the capital estimates for the budget for the city manager;

(c) Supervise and be responsible for the disbursement of all monies;

(d) Maintain a general accounting system for the city government and each of its offices, departments and agencies, keep separate accounts for the items of appropriation contained in the city budget, each of which account shall show the amount of the appropriation, the amounts paid therefrom and the unexpended balance;

(e) Submit to the city commission through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the financial conditions of the city;

(f) Prepare for the city manager, as of the end of each fiscal year, a complete financial statement and report;

(g) Be responsible for the collection of all taxes, special assessments, license fees, and other revenues of the city or for whose collection the city is responsible, and receive all money receivable by the city from the state or federal government, or from any court, or from any office, department controls, and shall receive a salary to be fixed by the city manager. The director of finance shall have charge of the administration of the financial affairs of the city and to that end [1] shall have the authority and shall be required to:

(a) Compile the current expense estimates for the budget for the city manager;

(b) Compile the capital estimates for the budget for the city manager;

(c) Supervise and be responsible for the disbursement of all monies;

(d) Maintain a general accounting system for the city government and each of its offices, departments and agencies, keep separate accounts for the items of appropriation contained in the city budget, each of which account shall show the amount of the appropriation, the amounts paid therefrom and the unexpended balance;

(e) Submit to the city commission through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the financial conditions of the city;

(f) Prepare for the city manager, as of the end of each fiscal year, a complete financial statement and report;

(g) Be responsible for the collection of all taxes, special assessments, license fees, and other revenues of the city or for whose collection the city is responsible, and receive all money receivable by the city from the state or federal government, or from any court, or from any office, department
(h) Have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government and deposit all funds coming into his hands in such depositories as shall be designated by resolution of the city commission, subject to the requirements of law as to surety and the payment of interest on deposits but all such interest shall be accounted for and credited to the proper account;

(i) Invest city funds in United States, state, county, school district or municipal bonds or in such manner as the city commission shall prescribe by ordinances or resolutions;

(j) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and revenue certificates for transfer, registration or exchange;

(k) Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that moneys have been appropriated and allowed and will be available when the obligations shall become due and payable;

(l) Approve as within the budget all proposed expenditures; unless the director of finance shall certify that there is an unencumbered balance of
appropriation and available funds, no appropriation shall be encumbered and no expenditure made;

(m) Examine all invoices, payrolls, and other evidences of obligations due by the city before their payment;

(n) Require reports of receipts and disbursements from each receiving and spending agency of the city government to be made at such intervals as the he may deem expedient; [and]

(o) Hold all moneys received on account of any special assessment in a special fund from which payment shall be made only on account of such improvement and for no other purpose.

(Ord. No. 1529, § 1, 9-27-82; Res. No. R-94-10, § 1, 6-13-94)

Sec. 36. - Annual estimate.

The city manager, in his annual report covering the operation of the city which it shall be his duty to make and submit to the city commission covering the fiscal year, shall set forth an estimate of the expenditures and revenues of the city for the ensuing year. The estimate shall be compiled from detailed information and in its arrangement the classification of expenditures shall be as nearly uniform as possible for the main functional division and departments of the city and shall give in parallel columns the following information:

(a) Detailed estimate of the expense of conducting each department and

Sec. 36. - Annual estimate.

The city manager, in the annual report covering the operation of the city which it shall be the city manager’s duty to make and submit to the city commission covering the fiscal year, shall set forth an estimate of the expenditures and revenues of the city for the ensuing year. The estimate shall be compiled from detailed information and in its arrangement the classification of expenditures shall be as nearly uniform as possible for the main functional division and departments of the city and shall give in parallel columns the following information:

(a) Detailed estimate of the expense of conducting each department and
division of the city government, including all public utilities and enterprises conducted by the city.

(b) Expenditures for corresponding items during the two (2) fiscal years last past.

(c) Amount of supplies and material on hand.

(d) Increase of demands compared with the corresponding appropriation for the last fiscal year.

(e) Such other information as is required by the city commission or as the city manager may deem advisable to submit.

The estimates so given and constituting the recommendation of the city manager as to the amounts necessary to be appropriated for the ensuing fiscal year shall be supported with information giving the reasons therefor in such detail as may be necessary to afford the city commission a comprehensive understanding of the needs and requirements of the various divisions of the city government for the ensuing period.

Sufficient copies of the annual report and estimate of the city manager shall be prepared so that there may be copies on file in the office of the city finance director for inspection by the public.

Sec. 58. - Oath of office.

Every officer of the city shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation to be filed and kept in the office of the city clerk; which oath shall be in
oath shall be in the form prescribed for state officers by the constitution of the state.

Sec. 64. - Investigations.

The city commission, or any committee thereof, the city manager or any advisory board appointed by the city commission for such purpose, shall have power at any time to cause the affairs of any department or the conduct of any officer or employee to be investigated; and for such purpose shall have power to compel the attendance of witnesses and the production of books, papers, and other evidence and for that purpose may issue subpoenas or attachments which shall be signed by the president or chairman of the body, or by the officer making the investigation, and shall be served by any officer authorized to serve such process. The authority making such investigation shall have power to cause the testimony to be given under oath, such oath to be administered by some officer having authority under the laws of the state to administer oaths; and shall also have power to punish as for contempt any person refusing to testify to any fact within his knowledge, or produce any book or papers under his control relating to the matter under investigation.

(Ord. No. 1548, § 3, 2-28-83; Res. No. R-94-10, § 1, 6-13-94)
During its review, the Charter Review Committee noted thirty eight (38) instances of gender-specific language in various provisions of the City Charter that were not recommended for substantive amendments. In the versions of Sections 9, 10, 13, 14, 21, 31, 33, 36, 58 and 64 found in this recommendation, each instance has been edited to replace gender-specific language with gender-neutral language.

Additionally, four (4) non-substantive edits to the text of Sections 21, 33, 26 and 64, recommended by the Municipal Code Corporation and reflected in the most current published text, are formally recommended by the Committee to be adopted.
Decennial Review

Original Text:

None.

Text of Recommendation: (highlighted text indicates proposed changes)

Sec. 82. - Charter Review.

Beginning with the year 2030, and every ten years thereafter, the city commission shall appoint a committee of city residents to review the city charter. The committee will provide input and present recommendations to the city commission regarding suggested amendments and revisions to the city charter.

Committee Action Date: May 25, 2017
Recommendation Vote: 7 votes for recommendation, 0 votes against

In the current form of the City Charter, there is no requirement for regular periodic review of the City Charter’s provisions.

It is the sense of the Charter Review Committee that a regular review of the City Charter, to be conducted by a committee of city residents at the same time as the decennial census, will provide the City Commission with valuable input regarding the City Charter’s text and policies.
Section 5:  
Additional Discussion Items and Minority Reports

The discussion items that follow in this section of the Charter Review Committee’s Final Report are not official recommendations of the Committee for amendment or modification.

During its proceedings, it was discovered some issues were very important to one (1) or more members of the Committee, but those issues did not garner support from the remainder of the Committee to become an official recommendation for amendment or modification to the City Commission.

In an effort to promote transparency of the Committee’s proceedings, and to give the City Commission a full understanding of not only the Committee’s discussions but also the various viewpoints of the Committee’s members, these “Additional Discussion Items and Minority Reports” are being included in the Committee’s Final Report for information purposes.

- The information Issue will be centered in blue text on the first page of the discussion item.
- If the issue concerns an existing section of the City Charter, the text will follow under the label Text of Charter.
- If a Relevant Vote was taken by the Committee, it will appear next, along with the date of the committee meeting where the vote was taken.
- Discussion will follow last.
Section 12; Direct Election of the Mayor

Text of Charter:

Sec. 12. - Election of mayor and mayor pro tem.

Only commissioners who have held office for more than nine (9) months shall be eligible to serve as mayor and mayor pro tem. The city commission at its first regular meeting in January shall elect one (1) of its members as mayor and another member as mayor pro tem; provided, however, that should the members of the commission be unable to agree within five (5) days after the time fixed herein for the selection of a mayor or a mayor pro tem, then either or both of such officers shall be chosen by lot, conducted by the city clerk, who shall certify the results of such lot upon the minutes of the commission.

(Ord. No. 1389, 7-5-78; Ord. No. 1511, § 1, 7-28-82; Ord. No. O-84-18, § 2, 5-14-84; Ord. No. O-84-47, § 1, 10-22-84; Res. No. R-94-10, § 1, 6-13-94; Ord. No. O-13-36, § 1, 10-28-13)

Relevant Vote: On motion to retain the current charter language:
5 votes to retain, 1 vote not to retain

Meeting Date: March 30, 2017

This discussion item is presented as Committee and minority reports.

Committee Report: (5 votes)

Under the current version of the City Charter, the general powers of the City are vested in a governing body, called the City Commission, which is composed of five (5) elected Commissioners. Each Commissioner has an equal vote in all matters that require its attention and positive action of the Commission – and thus, the City – requires the approval of a majority of a quorum of the body at a duly called public meeting. See §§ 6, 8, 9, 17, City Charter.

The current plan of the City Charter calls for the City Commission to elect one (1) of its Commissioner-members as Mayor and one (1) of its Commissioner-members as Mayor Pro Tem. The Mayor has no special vote or veto power regarding matters coming before the City Commission, but the Mayor does have special functions and powers in the municipal government that are rightfully exercised by one (1) person, instead of by a governing body. For example, the City Charter designates the Mayor as the presiding officer at meetings of the City Commission and authorizes the Mayor to call special City Commission meetings. The Mayor executes Commission-approved
legal instruments and writings on behalf of the City. The Mayor is the head of the City’s government for purposes of service of formal court process. For purposes of military law, and ceremony, the Mayor may “take command of the police and govern the city by proclamation,” provided that the City Commission first determines the existence of a grave public danger or emergency. The Mayor also performs such other duties that the City Commission may confer upon the office. See §§ 12, 13, 14, City Charter.

The Mayor Pro Tem performs the functions of the Mayor in the Mayor’s absence. § 13, City Charter. The Mayor and Mayor Pro Tem are selected by the City Commission each January. Both serve a term of one (1) year. Only Commissioners that have been in office for more than nine (9) months are eligible to serve as Mayor or Mayor Pro Tem. § 12, City Charter.

It is the sense of the Charter Review Committee that the current system serves the City well. Over the years, the role of the Mayor in City government has become increasingly ceremonial in nature. Today, the Mayor’s main municipal duty is to preside at City Commission meetings. As a political body, the City Commission should have the inherent right to develop its own internal operating procedures, which, by necessity, includes determining which member is the most appropriate to preside over its meetings. While it is true that the office of Mayor has been occupied by many different members of the City Commission over the past several years, this is not a sufficient reason, in the Committee’s opinion, to warrant a recommendation for amendment or modification to the City Charter. In fact, the Committee believes that regular changes in Mayoral incumbency serves a political and public good by continually refreshing the leadership of the City’s governing body. Because a Commissioner must, for timing reasons, serve at least a year in office before becoming eligible to serve as Mayor or Mayor Pro Tem, the City Charter ensures that only experienced Commissioners will be asked by their colleagues to lead the Commission’s meetings.

The Committee recommends no changes, amendments or modifications to Section 12.

Minority Report: (1 vote)

The Minority of the Committee respectfully dissents from the Committee’s Report and recommendation for no changes, amendments or modifications to Section 12 of the City Charter.

Regardless of whether a Mayor serves in an executive role or legislative role, a city’s “Mayor” is recognized, throughout Florida and the United States, as that city’s
leader and head of its government. For the period of 1973 to 1982, the Mayor and Mayor Pro Tem of the City were elected by City voters. Candidates for the office were required to be duly-elected Commissioners and required to have nine (9) months of prior service on the City Commission to be eligible for the office. While the Mayor did not have any special vote or veto power on Commission matters, the Mayor served the same role as today: as ceremonial leader of the City, as the person vested with the authority to execute legal instruments for the City, and, most importantly, as the presiding officer during meetings of the City Commission.

In the Minority’s view, because the Mayor is an important and visible figure, the City’s voters should be able to select the right candidate for the office, much in the same way that the City’s voters choose the right candidates to serve as members of the City Commission. An elected Mayor can build consensus, facilitate leadership, articulate a vision, and shepherd appropriate political policies that will benefit the City and its residents as it collectively moves forward. An elected Mayor also affords the citizens with continuity in the management of the City Commission. If the Mayor’s seat is competitive and subject to a popular vote, it affords citizens with the right to choose the leadership style they deem most appropriate for the City Commission. Contrary to the view of the Majority of the Committee, the Minority is of the belief that continual rotation of the office amongst the members of the City Commission does not serve a political and public good, but instead requires citizens and businesses to adjust each year, and every so often, to a new city vision and a new “feel” for the conduct of business coming before the Commission.

The Minority would recommend amending or modifying Section 12 of the City Charter to provide for a direct election of the Mayor from amongst qualifying Commissioners, much in the same way as was provided in the original version of the City Charter in 1973.
Term Limits

Relevant Votes:  
(a) On motion to recommend imposition of term limits by the City Commission:

2 votes to recommend imposition of term limits, 5 votes not to recommend imposition of term limits (motion failed)

(b) On motion to recommend that members of the City Commission discuss the item of term limits with fellow City Commissioners:

5 votes to recommend discussion of term limits, 2 votes not to recommend discussion of term limits (motion carried)

Meeting Date: May 25, 2017

During its deliberations, the Charter Review Committee discussed the topic of City Commissioner term limits.

“Term limits” is an organic legal concept that an elected official may not serve in office for more than a prescribed number of terms. Term limits proponents expect political and social value from the imposition of a limit by continually refreshing the government’s elected branches, usually executive and legislative, and usually every six to ten years. Proponents of term limits recognize, however, that to achieve the full value from the imposition of term limits, a jurisdiction must have a sufficient number of qualified individuals who are interested in pursuing public office.

At this time, the Committee does not recommend that the City Commission propose any amendment or modification to the City Charter that would impose term limits on its members. While the City has more than 37,000 residents, the Committee feels that the City is not yet large enough to reap the benefits of term limits. Instead, term limits would serve to force the current generation of public servants out of office, and may leave no successor generation to take its place.

With that said, the Committee believes that term limits should be discussed by the City Commission and that the discussion should be ongoing. An amendment or modification to the charter imposing term limits on the office of City Commission can be considered when the City’s population reaches the appropriate size.
Form of Government

Relevant Meeting Dates: February 23, 2017; March 9, 2017; April 27, 2017; May 25, 2017

This discussion item is in the nature of a minority report. There are no votes to report, however the minutes of the meeting dates mentioned above contain relevant information.

During the Charter Review Committee’s deliberations, it became apparent that the Majority of the Committee, consisting of six (6) members generally, appears to favor policies that affirm or strengthen the current Commission-Manager form of government in effect in the City today.

The Minority of the Committee, consisting of one (1) member generally, does not share the Majority’s optimism for Commission-Manager government, especially with respect to the powers, duties and responsibilities that are vested in the City Manager by today’s City Charter.

It is the strong opinion of the Minority that the City Commission should have more power over the actions of the City that occur on a daily basis. While the Minority does not necessarily believe that the Commission-Manager form of government should be outright discarded, a hybrid form of the Commission-Manager plan, with legitimate checks on the power of the City Manager, would, in the Minority’s view, be preferable. For example:

- **Department Directors.** In the current version of the City Charter, the City Manager is responsible for the hiring and firing of Department Directors. Department Directors can have a significant impact on the City through their daily decisions that affect the City’s residents. Under the current structure of the City, the City Commission cannot bypass the City Manager and make a direct employment decision regarding a Department Director without violating the City Charter. The Minority believes that this should be corrected. In the Minority’s view, the City Commission should not only be able to set the salary of Department Directors, but the City Commission should be the entity responsible to hire and fire Department Directors, without requiring any input from the City Manager.

- **Alderman-Style Oversight.** In the Alderman style of municipal government, elected City officials are responsible, at the ballot box, for the proper operation of
a specific municipal department, such as public works, police, fire, or building enforcement. The Minority believes that a political check on the operations of the City, such as that offered by the “Alderman” form of government, is appealing. While not perfect, there are elements of the Alderman form that could, in the Minority’s view, be incorporated into the City’s government. The Minority believes more City workers, not less, should be subject to the oversight of the City Commission. The Minority believes political appointees in key City positions will best serve the City’s citizens. If a particular City department, process or employee is not performing to its best, the Minority believes the Commission and its members should be able to address the issue themselves, in a direct manner, without having to involve the City Manager first.

The Minority’s viewpoint centers on the power of the voters. Because City Commissioners are elected by the voters, and are thus accountable to the voters, the Commissioners should be vested with greater oversight of day to day City operations and general City government. In the Minority’s view, the City Commission should propose amendments to the City Charter that would strengthen the City Commission’s power and authority, instead of strengthening the City Manager’s.
Section 6:  
Final Committee Remarks

This Final Report of the Charter Review Committee is the first citizen review document to be drafted regarding the Charter of the City of Winter Haven since the modern version of the Charter was approved by the public in 1973. We, the members of the Committee, feel privileged to have been a part of this historic undertaking.

The reader of this report should be advised that the opinions and views expressed herein are solely the opinions and views of the members of the Winter Haven Charter Review Committee. This report is drafted for and intended to be used by the members of the City Commission of the City of Winter Haven for the purposes espoused in City Resolution R-10-40 and for those purposes only. This report does not reflect the intent or official position of the City of Winter Haven, the City Commission of the City of Winter Haven or any individual member of the City Commission of the City of Winter Haven. It should not be relied upon by any authority as evidence of the intent or official position of the City of Winter Haven, the City Commission of the City of Winter Haven, or any individual member of the City Commission of the City of Winter Haven, with respect to any ordinance, law, or charter provision of the City.

This report, including its attachments, is a public record of the City of Winter Haven as defined in Section 119.011(12) of the Florida Statutes (2016). A record copy of the proceedings of the Committee, including this report, shall be placed on file with the City Clerk of the City of Winter Haven and shall be retained in accordance with Chapter 119 of the Florida Statutes and the rules of the Department of State, Division of Library and Information Services. To inspect or copy this report, or any public record of the Charter Review Committee, interested parties should contact the City’s Custodian of Records. At the time of publication of this report, the Custodian of Records for the City is Vanessa Castillo, City Clerk, MMC, vcastillo@mywinterhaven.com, 863-291-5627, City Hall, 451 3rd Street NW, Winter Haven, FL 33881. The Records Manager for the City is Joy Townsend, jtownsend@mywinterhaven.com, 863-298-7959.
We wish to express our warmest thanks to the reader of this report for your attention and interest in our work. As we expressed in our introductory letter, it is our hope that our recommendations will lead to positive change for the betterment of our City and its residents.

The Winter Haven Charter Review Committee
June 29, 2017