

MINUTES OF THE HOWEY IN THE HILLS TOWN COUNCIL  
CHARTER REVIEW WORKSHOP SESSION HELD OCTOBER 19, 2020

Call the Town Council Water Study Workshop Session of October 8, 2020 to order

Mayor MacFarlane called the October 19, 2020 Howey in the Hills Town Council Workshop Session to order at 5:00 p.m.

Present: Mayor MacFarlane, Mayor Pro-Tem Conroy, Councilor Klein, and Councilor Gallelli.

Absent: Councilor Nebel

Discussion: Review of proposed Town Charter

**Mayor MacFarlane** said that the first amendment was the possibility of separating the roles of Town Clerk and Financial Director. **Graham Wells** submitted the following information: Proposed wording:

*I move that we amend Subsection 8(b) of Article II of the proposed Town Charter to add the following sentences to the end of Subsection 8(b):*

*By ordinance, the Town Council may remove the function of Finance Director from the Town Clerk and assign it to another executive officer or to another Town employee. The ordinance shall specify the duties and authority of the employee to which the function is assigned. If and when the ordinance is repealed, the function, duties, and authority of the Finance Director shall return to the position of Town Clerk.*

The position of the Town Clerk/Finance Director allowed the duties to be together or split dependent on whether a separate Finance Director is employed. The separation of duties shown in this subsection are clear and should not require further clarification. However, I suggest that the duties be grouped together forming the basis of the split. Duties (vii), (viii) and (ix) should be moved and renumbered to follow duty (ii) leaving the top five duties to the Clerk and the bottom four duties to the Finance Director. The appointment of a new executive officer is required by ordinance as already stated, and the change in duties of the Clerk can be incorporated in that ordinance if deemed necessary.

Revised wording:

**Sec. 8. Administrative.**

Each department and office under the direction and supervision of the Mayor shall be administered by an executive officer appointed by the Mayor, with the approval of the Council, and subject to the direction and supervision of the Mayor. Executive Officers of

the Town shall include Town Clerk/Finance Director, Director of Public Works and Chief of Police. The Town Council may provide for other executive officers by ordinance. Should the Council employ a Finance Director separate from the Clerk, then the duties set out below in (b) (vi) to (ix) and (x) will become the responsibility of the Finance Director. **Graham Wells** said that the verbiage that is in the Charter regarding the position of Town Clerk/Financial Director allows the duty to be split dependent upon if a Finance Director was hired. He said that the positions of split duties would be covered by the Charter and an ordinance. **Pro-Tem Conroy** said that the Town has to be careful what is constitutionalized in the Charter. He recommended leaving it as written then implementing an ordinance. **Mayor MacFarlane** asked if the Town is amending the proposed Charter what is the proper process. Does the Town have to have amendments to the proposed Charter or can the Charter Review Committee just make the appropriate changes and submit it. **Tom Wilkes** said that the Town Council can modify the Charter but it is best to have a formality by establishing amendments. He also said that the Charter Review Committee could also make the recommended changes and then submit it again to the Town Council for review and approval. **Pat Miller** said that she would recommend that the Charter Review committee revise the Charter and resubmit it back to the Town Council. **Mayor MacFarlane** said that it would need to be done and submitted back to the Town Council to make the motion to vote on in the formal Town Council meeting on October 26<sup>th</sup> so a full public motion and vote of approval could take place at the November 9<sup>th</sup> meeting. **Tom Wilkes** said that the Charter Review Committee having a quorum at this meeting that someone could make a motion and vote to redo the Charter and present the modified Charter at the Town Council meeting on October 26<sup>th</sup>. **Mayor MacFarlane** said that there is a proposed Charter with three amendments so what is the procedural process. She said should the Town Council approve the proposed Charter then read each amendment with the understanding that each of the discussed amendments would be reflected in the final Charter submission. **Pro-Tem Conroy** said during a work shop that action could not be taken. He recommends presenting the Charter at Monday's meeting in agreement with the Committee and presenting the approved amendments. **Tom Wilkes** said he recommends that the changes be done with some sort of formality. He said that he would have the Charter Committee reconvene and make the modifications and present a revised Charter or as an alternative have formal motions and votes to modify the current Charter.

**Mayor MacFarlane** liked the wording that was proposed by **Graham Wells**. Everyone was supportive in how it was written. **Graham Wells** asked **Tom Wilkes** to make the requested amendment.

**Graham Wells** spoke about the qualifications of the Mayor. He presented the following information: Proposed wording:

*I move that we amend the first sentence of Subsection 5(b) of Article II of the proposed Town Charter to read as follows:*

*The Mayor shall be an elector of the Town. Unless the Town Council approves otherwise by a vote of four-fifths of its members, a Councilor is*



*qualified to be mayor only if the Councilor shall have been a member of the Town Council for a period of no less than one year prior to appointment to the office.*

Revised wording;

- (a) **Qualification of Mayor.** The Mayor shall be an elector of the Town and shall have been a member of the Town Council for a period of no less than one year prior to appointment to the office, unless approved otherwise by a vote of four-fifths of its members. If the office of Mayor becomes vacant or is forfeited, the Town Council shall select a new Mayor to serve the unexpired portion of the then current term.

No adverse thoughts were given in regard to this topic. **Graham Wells** asked if it was appropriate to move forward with the amendment as it was written and **Mayor MacFarlane** said yes.

**Graham Wells** then proceeded to the next topic of legal advice. He presented the following information: Proposed wording:

*I move that we amend Subsection 8(e) of Article II of the proposed Town Charter to revise the fifth sentence as follows:*

*Unless provided otherwise by ordinance, all requests by Councilors for legal advice or other contact with the attorney shall be submitted to the Town Clerk, who shall consult with the Mayor and, upon the Mayor's approval, shall forward each request to the Town Attorney for response. If the Mayor withholds approval, the Councilor may request approval by vote of approved by the Mayor or a majority of members attending a the Town Council meeting.*

The inserting of 'by councilors' in the amended wording, supersedes the ALL REQUESTS FOR LEGAL ADVICE.... This therefore restricts council members, but not executive officers or town staff. **Mayor MacFarlane** said after much discussion it seems fine as written. **Pro-Tem Conroy** recommended putting verbiage in the contract with the lawyer that if work would take more than 15 minutes to address that the procedure be the lawyer contact the Mayor to inform them of the costs in order to control expenditures. **Mayor MacFarlane** said she is fine with how it is currently written in the proposed charter.

**Councilor Gallelli** asked about the structural language. **Tom Wilkes** verified the structural language.

**Graham Wells** addressed concerns on page 8 of the Charter referencing the Public Works Director and his duties as code enforcement. He asked if the responsibilities were removed from the Public Works Director and given to the Police Department. **Mayor MacFarlane** confirmed that this was true. **Graham Wells** asked Tom Wilkes to strike that verbiage from the Charter when he was doing the requested modification.

### **Citizens Comments**

**Myron Lewellen, 508 Bellissimo Place** asked about the 4<sup>th</sup> paragraph in section 1 regarding the election of council seats. He asked if something should be added in relation to the highest number of votes for each seat. **Graham Wells** explained that the persons that get the most votes in the entirety would get the open seats. **Mr. Lewellen** said as it is currently written is not fair. **Mayor MacFarlane** said basically the seats are at large. It would be designated as the candidate was only running for Town Council. **Mr. Lewellen** said that the Town should be broken down into districts and that people should be elected to represent those districts. He said that there should be a subsection under the reserve that describes what the reserve is, what it is allowed to be used for, what category of funds are in the reserve, and how the reserve is going to be managed. **Mayor MacFarlane** said that this could be looked at using a resolution to manage the budget process. He mentioned the forfeiture of office verbiage. He said that he thinks this could create a problem with the ACLU and he thinks that this is a civil rights violation. **Mayor MacFarlane** asked that Mr. Lewellen forward her the information regarding the criteria for the reserves because she is going to start the audit process and is currently working with the financial advisor to prepare for the audit. **Mr. Lewellen** said he did not readily have this information, but he would be willing to meet with her to discuss it.

**Graham Wells** wanted to confirm the amendments. **Mayor MacFarlane** said that the 3 proposed amendments are accepted as written and **Tom Wilkes** will make the proposed changes.

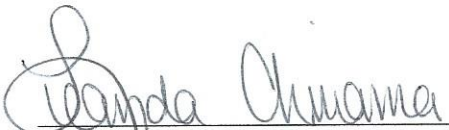
#### **ATTENDEES: 14**

#### **ADJOURNMENT**

The Meeting adjourned at 6:00 p.m.

ATTEST:

  
Mayor MacFarlane

  
Leanda Chinama  
Town Clerk