

**MANDEVILLE CITY COUNCIL
PROPOSED AMENDMENTS TO THE HOME RULE CHARTER
MINUTES FOR THE PUBLIC HEARING OF APRIL 29, 2014**

The Public Hearing was called to order by Mayor Pro Tem Clay Madden at 6:00 p.m.

PRESENT: Clay Madden, Rick Danielson, David Ellis, Carla Buchholz, Ernest Burguieres

ALSO: Mayor Villere, Edward Deano, Victor Franckiewicz, David deGeneres, David Folse, Tammany West, Faimon Roberts, The Advocate

I. Discussion on Potential Substantive Changes and Policy Choices

Section 2-13 Emergency Ordinances

Allow for suspension of existing ordinances, as opposed to merely passing new emergency ordinances, giving the council greater flexibility in the event of an emergency. This proposal may be viewed as a technical amendment. Mr. Deano suggested that we may want to track provisions in the Lawrason Act that allows for the suspension of ordinances. Emergency ordinances become effective in a compressed timeframe and then automatically die after sixty (60) days.

Section 2-06(D) Special Meetings

Specify the difference between a special meeting and an emergency meeting along with the public notice requirements for each. Special meetings require four day notice according to the charter and emergency meetings follow the State Open Meetings Act.

Section 2-10(12) Action requiring an Ordinance

The charter states that acquiring or accepting immovable property, specifically a servitude, requires an ordinance. However, minor acquisitions, budgeted or connected to an approved project, could be authorized with standard language in the budget ordinance itself rather than separate ordinances for each servitude. The amendment in section 2-10 clarifies that point.

Section 3-08(E) Mayor's Temporary Absence

Allow the mayor to use electronic signatures to execute documents or authorize actions provided under the charter. This could be considered either a technical change or a substantive change. There was consensus to make it a technical change.

Section 4-01(E) Chief Administrative Officer

This provision allows, but does not require, the city to establish the position of chief administrative officer, specifying the duties and authorities of the position by ordinance. The charter amendment is needed in order to establish the hierarchy of the position as a manager over other department heads. The exact amount of authority or power would be controlled by the ordinance establishing the position. Any chief administrative officer shall be nominated by the mayor and confirmed by the council and shall serve at the pleasure of the mayor. Mayor Villere stated that, currently, the city's finance director is basically acting as the chief administrative officer.

Section 4-02 Legal Department

Allow the appointment of a special counsel to advise the city council under specified circumstances, with four affirmative votes and establish the procedure for doing so. Currently the city attorney is the head of the legal department and the client is the city as a whole. The city attorney represents the entity, not individuals. The council may engage special legal counsel to advise the council in situations where the council determines that advice independent of the executive branch is required. Mr. Madden clarified that the city attorney is appointed by the mayor, confirmed by the council and cannot be fired by the council. Mr. Franckiewicz warned that if abused, it could be an extraordinarily dangerous provision that could foster conflict rather than resolve conflict, if the special counsel seeks to advocate rather than enlighten and educate. Mrs. Buchholz stated that the council budgets \$50,000 per year for special counsel; would this be different? Mr. Burguieres stated yes, currently the special council would be considered an assistant city attorney under the authority of the city attorney and therefore not independent. Mr. Franckiewicz encouraged the inclusion of specific language in the resolution engaging special counsel to include: (1) a description of circumstances, (2) substantive scope of the engagement, (3) the duration of the engagement, not to exceed six months, and (4) the compensation. The mayor argued that the council has received specific legal advice from assistant city attorneys under the current legal structure. He added that the engagement of special counsel by the council would create a division or an adversarial environment. Mr. Deano stated that the resolution that authored the charter changes specifically stated that we were doing technical changes. That might be the reason why we do not have as much public participation as we hoped. You do not have a citizen's charter committee but rather have the council acting as a charter group. It calls into question the entire process; you have opted away from a citizens group, advertised technical changes, and now we have provisions that are segued and changes which favor the council. Not just on this issue, but on all issues, there could be potential for misperception. When the people get into the full blown debate and see what the issues really are, they probably would vote them down. Mr. Deano suggested looking at and modeling what other cities, our size, are doing in the state with regards to this issue. A vast majority have our identical charter language. He added that based on our past experiences and discourse we would have had four votes to seek an attorney for the council and increased (sky rocketed) attorney fees. The awareness of the authority that the council has in the budget process, which is immense, will resolve a lot of conflicts. The council has to assert its authority in the budgetary process. Mr. Franckiewicz added that without the proposed limitations, he thought this amendment would be a bad idea. The provision should go hand and hand with the limitations.

Section 5-03 B (5) Capital Improvement Budget

The current charter makes capital improvement budgets perpetual unless a project is rescinded or abandoned. The proposed amendment requires disclosure of prior unexpended balances for capital projects and expressly provides authority to rescind prior authorizations. If not reported, it would lapse because an unreported balance cannot be spent. The change fosters openness and transparency. In considering the capital improvement budget, the council

may rescind the unexpended balance of any prior year appropriation that is not contractually obligated. Mr. Burguieres and Mayor Villere disagreed on how to report the maintenance of the water tower. Mayor Villere stated that the maintenance is reported annually as an operating expense in the operating budget. Mr. Burguieres referred to Section 5-03 B(2) in the charter which requires a list of all capital improvements and acquisitions in the capital budget which are proposed for at least the five fiscal years next ensuing with appropriate supporting information. Mr. Deano reminded the council that the budget was the council's instrument. Mayor Villere added that he was in favor of the proposed amendment.

Section 5-04 B Administration of Operating and Capital Budgets

The three year limitation is no longer needed if the discretionary procurement language is adopted.

Section 5-08 Purchasing

Mr. Franckiewicz stated that virtually the whole provision could be addressed through the budget ordinance or a stand-alone ordinance. Mr. Deano has drafted a suggested approach on how to accomplish that task.

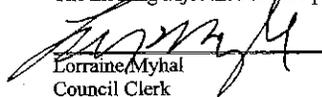
The charter calls for all professional service contracts to come before the council, with the thought that they are not subject to public bid laws, so they have control over those approvals. There is a whole category of purchases that are not governed by purchasing statutes or by the charter. So that is one whole in the existing charter that can be addressed by ordinance. Mr. Deano stated that he would like to define the term "professional service" and update the term "technical equipment" to follow state language. Also, change the language to approve the party and not the contract. He recommended using the provisions outlined by Mr. Franckiewicz, that the council agrees upon, as guidelines to be added to the budget and then allow future council's to do the same thing. This provision defines discretionary procurements as purchases which general state law does not specify a procurement process and award to the lowest responsive bidder. Those shall be advertised, evaluated, and awarded by a competitive selection process by the executive branch following specific requirements. The details of the competitive process can vary. All discretionary procurements shall be reported to the council. Unless expressly approved by the council, the term of a discretionary procurement shall not exceed three years. Mr. Deano recommended introducing some of these concepts in the budgetary process and then taking more time to research and fine tune the details rather than placing the whole provision on a ballot. Mr. Franckiewicz agreed to work on refining some definitions for section 5-08 of the charter to be included as technical charter amendments.

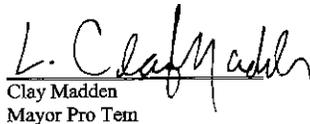
Section 4-05 Personnel System

Mr. Jack McGuire, Chairman of the Civil Service Board, spoke on the history of the Mandeville Police Employees Civil Service System and the Civil Service System for non-police employees. The charter provides that the council shall by ordinance adopt personnel rules, policies, procedures, and practices for all employees, except that the Civil Service System for the Mandeville Police Department as adopted by Act 164 of the 1984 session of the Louisiana Legislature. The charter establishes that the personnel officer, appointed by the mayor, is not included in the classified personnel system. The personnel officer is under the civil service system for the police, but not for the municipal employees. A basic principle of a Civil Service System is that its administrator should be under civil service. Therefore, the personnel officer should be under civil service for both. Mr. McGuire suggested that the council consider placing the personnel officer for the Municipal Employees Civil Service System under civil service by removing the designation as unclassified, and removing the Council's responsibility for rules, procedures and place that under the Municipal Employees Civil Service Board. If this is done, then the personnel officer would be under civil service for both systems and would be hired by and answer to the boards for both. He added that he prefers the title human resources director over personnel officer. Mr. Franckiewicz agreed to draft language to for the proposed amendment for the next could public hearing.

ADJOURNMENT:

The meeting adjourned at 8:30 p.m.


Lorraine Myhal
Council Clerk


Clay Madden
Mayor Pro Tem