



1015 Cultural Park Blvd.  
Cape Coral, FL

## **AGENDA**

### **CHARTER REVIEW COMMISSION**

**February 15, 2018**

**3:00 PM**

**Conference Room 220A**

**1. Call to Order**

A. Chair Peterson

**2. Roll Call**

A. Bennie, Jenkins, Kitchen, McNamara, Peterson, Robinson, Sund,  
and Alternate Stewart

**3. Public Input**

**4. Business**

- A. Approval of the Agenda
- B. Approval of Minutes - December 21, 2017 meeting
- C. CRC Member Bennie's Resignation Offer
- D. Continue Discussion on Article IV, Section 4.01, Mayor and City Council, Specifically the number of Council people
- E. Continue Discussion on Article IV, Section 4.02, Eligibility, add sentence from Section 4.05
- F. Continue Discussion on Article IV, Section 4.05, Candidate qualifications and election, specifically on partisan and non-partisan elections
- G. Article IV, Section 4.06, Mayor and Mayor Pro Tem
- H. Article IV, Section 4.07, Council, vacancies
- I. Article IV, Section 4.08, Council and Mayor, Compensation, Expenses
- J. Article IV, Section 4.09, General Powers and Duties

**5. Commissioner Comments**

**6. Date and Time of Next Meeting:**

A. Thursday, March 15, 2018, 3:00 p.m. Conference Room 220A

In accordance with the Americans with Disabilities Act and Section of 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the Office of the City Clerk at least forty-eight (48) hours prior to the meeting. If hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

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

SPECIAL NOTE: This is not a meeting of the Cape Coral City Council. However, two or more Council Members may be in attendance and may participate at this workshop/meeting.

<b>Item Number:</b>	<b>4.B.</b>
<b>Meeting Date:</b>	<b>2/15/2018</b>
<b>Item Type:</b>	<b>Business</b>

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Approval of Minutes - December 21, 2017 meeting

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▢ December 21, 2017 meeting minutes	Backup Material

**MINUTES FOR THE MEETING OF THE CITY OF CAPE CORAL  
CHARTER REVIEW COMMISSION**

**Thursday, December 21, 2017**

**Conference Room 220A**

**3:00 P.M.**

The meeting was called to order by Chair Peterson at 3:08 p.m.

Roll Call: Bennie, Jenkins, Kitchen, McNamara, Peterson, Robinson, Sund, and Alternate Stewart was present. Alternate Weiss was absent.

Also Present: Dolores Menendez, City Attorney  
Mark Moriarty, Assistant City Attorney  
Marilyn Stout, Council Liaison  
Jay Murphy, Contract Business Manager

**Public Input**

No speakers

**BUSINESS**

Chair Peterson announced that from now on meetings will begin promptly at 3:00 p.m. as long as a quorum is present.

**Approval of Minutes – November 16, 2017 meeting**

Chair Peterson stated the minutes of the November 16, 2017 meeting were presented for approval.

***Vice Chair Kitchen moved, seconded by Commissioner Sund, to approve the minutes of the November 16, 2017 meeting as presented.***

Chair Peterson noted that there was one item mentioned at that meeting that was to be followed up by the Assistant City Manager with the Supervisor of Elections which now will have to be re-assigned. That topic was to include a timeline of Charter Amendments, the Ordinance Number, and Date.

***Commission polled as follows: Bennie, Jenkins, Kitchen, McNamara, Peterson, Robinson, and Sund voted “aye.” Seven “ayes.” Motion carried 7-0.***

**Continue Discussion of Review of Article III – Powers of the City**

Chair Peterson stated it was requested of the City Attorney at the last meeting to bring back re-wording for Section 3.01 paragraph 3 regarding “up to four months.”

City Attorney Menendez stated she had no re-wording for that paragraph.

Assistant City Attorney Moriarty stated he thought it was the Assistant City Manager who was going to investigate that with the Supervisor of Elections as well.

City Attorney Menendez stated that paragraph had to do with the severance for the Assistant City Manager and the Directors. She stated they had not really developed anything better than what is in there right now. If we come up with something, we will bring it forward to you. If the State Statute is found to be applicable to this type of severance, it has a limit of six weeks. That particular Statute is only a few years old, and it has not been applied to this type of situation. What we were trying to do here is to acknowledge that those items need to be dovetailed if that Statute is deemed in a particular case to be applicable.

Discussion held regarding this being more of a safety net.

City Attorney Menendez stated someone may argue that if that Statute is applicable, that we are exceeding what we are allowed to pay on this Statute.

Commissioner Jenkins asked if it would be possible to add some verbiage that says in accordance or applicable with State Law.

City Attorney Menendez stated we could probably bring something back for the Commission's review.

Chair Peterson stated if we are in agreement, based on the agenda, the only thing we had to talk about in 3.01 was this paragraph, so we don't have to open up all of Article III to go through it. Consensus agreed.

Discussion held regarding the State of Florida being an at will state.

## **Review of Article IV – Government – Sections 4.01 through 4.05**

### **Section 4.01**

Chair Peterson led the discussion on Section 4.01 – Mayor and City Council - and asked the Commission Members for their input.

Vice Chair Kitchen questioned why do we have eight people instead of four. His thought was based on dividing the City into quadrants laid out geographically.

Discussion held regarding redistricting to occur in 2021.

Commissioner Sund was interested in discussing the possibility of changing the number and that by dividing it into quadrants it brings about equal representation issues.

Vice Chair Kitchen questioned why we have at large voting versus individual districts.

Discussion held regarding:

- Districting does not seem to have any meaning since we vote for every district.
- There was a sense of disconnect to your representative.
- Request information concerning population in the districts

Vice Chair Kitchen stated he would like to see fewer rather than more Council people. Getting rid of the at large issues solves some of the economic impact.

Council Liaison Stout explained how she could not support some of the requests from the residents that live in her district and that she did not just represent the citizens in District 3 since she is elected at large.

Assistant City Attorney Moriarty stated this provision prevents one section of a City from having all of the Council people elected.

Discussion held regarding:

- Criteria based upon the census
- Changing to strictly district voting, you might have certain districts with a big voter turnout and some districts with hardly any voter turnout
- Important to stagger voting in even/odd number years (section 4.03)
- Lower turnout because of the odd numbered year elections
- Having the election during an even numbered year
- At large voting
- District identity

City Attorney Menendez stated one issue may be the number of council members, and another issue is whether they should be elected at large or should we have single member districts. Most communities that have single member districts have more diversity among their districts than just geographical. We have not had the kind of population demographic of any one particular area being ethnically, racially, or even socio-economically so vastly different from another group. The Charter requires diversity of where the councilmember lives. The population keeps shifting and with redistricting you want to keep it somewhat equal. Unless you are going to do the kind of quadrant that Mr. Kitchen was referring to, you're still going to have 7 or 8 districts. You are not going to have the gross differences if you're thinking of only 4. She stated more councilmembers may be interested in all residents. Keep those two concepts separate: the difference between a number and how they get there.

Contract Business Manager Murphy introduced himself and provided some history of the City. He discussed the downside of single member districts but also mentioned how

they can work for you. With the demographics of this City, there is no legal reason to go to single member districts at this point. The whole State is changing, and we will see what happens in 2020 with redistricting. He stated you can change the number by one more or one less but do not go to only four.

City Attorney Menendez addressed the comment about Councilmembers being part-time. She explained what a common misconception that was due to the low salaries until a few years ago when it went up with the last referendum. There is no great diversity among any of our districts right now. She noted the population analysis done and distributing evenly after the census. To have a single member district, you need to do an analysis to make sure that you are not disenfranchising any group.

Discussion held regarding why have any districts at all.

Chair Peterson asked if anyone had any different input on this section or wanted to make a motion.

***Vice Chair Kitchen moved, seconded by Commissioner Sund, that we change the City Council membership number from seven to six.***

City Attorney Menendez questioned if that was six plus a Mayor.

Vice Chair Kitchen responded in the affirmative.

***Commission polled as follows: Kitchen and Sund voted "aye." Bennie, Jenkins, McNamara, Peterson, and Robinson voted "nay." Two "ayes." Five "nays." Motion failed 2-5.***

## **Section 4.02**

Chair Peterson led the discussion on Section 4.02 – Eligibility.

Commissioner Sund questioned "only qualified electors of the City, who have been continuous full time residents of the City for the entire calendar year immediately preceding their qualification for office, as provided in Section 4.05, shall be eligible to hold the office of Council member or Mayor."

City Attorney Menendez stated they have researched that and it says you only have to be a resident of the City. It does not say you have had to be a resident of the district in which you intend to run or qualify for. You have to be a resident by the time you take office.

Council Liaison Stout confirmed that the qualifying period is the first week of July and candidates have to live in their district on the day they qualify. If you move out of your district, you lose your seat.

Manager Murphy stated the Commission needs to look at section 4.05, proof of residence shall be established by a valid voter's registration card.

City Attorney Menendez clarified in 4.05 (b) you have to live in your district at the time you qualify. She added you have to be a resident of the City for a year prior to qualifying.

### **Section 4.03 (a)**

Chair Peterson led the discussion on Section 4.03 – Election and terms.

Commissioner McNamara questioned the rationale for changing the election to odd numbered years a few years back.

Council Liaison Stout stated going back several years the Supervisor of Elections determined that the ballot would be too long to put the municipalities on with the even numbered years when you have the election for President, Governor, and State Referendums. That is why all municipalities were changed to the odd numbered years. Some municipalities have their elections in the spring time, but most have them as we do with the General in November. She mentioned how she tried to get it changed to 1, 3, 5, 7 and 2, 4, 6, Mayor since it was easier to remember.

City Attorney Menendez stated when we first moved away from the even years, we had an election in the spring, but then we got back into the odd numbered years but in the fall.

Commissioner McNamara asked if we want to move it, can we change it to even numbered years in a Primary Election to whatever the State Primary election is?

Council Liaison Stout stated the City Manager wanted to put a referendum item on for next year, 2018, which will be the Governor Election, and the Supervisor told him no for either the Primary or General. No municipal referendums or elections are held in even numbered years.

City Attorney Menendez stated the problem is in the past the Supervisor has control over the ballots. He will not put something on a General Election, but there may be some special provisions for referendums. She noted how you cannot truncate a term but you can extend a term. The Supervisor changed to odd years. Then we changed the Charter to comply.

Discussion held regarding:

- The cost of a municipal election in even numbered years could cost the City over \$100,000 just for one seat.
- Were any legal options pursued?



- When all was said and done, all municipalities complied.

Discussion held regarding switching the numbers 2, 4, 6 and Mayor to 1, 3, 5, and 7 would have to be researched if it would shorten or lengthen any of the Councilmember's terms.

Discussion held how the elections are staggered.

Discussion held regarding renaming the districts.

City Attorney Menendez stated if the Board is serious about doing something, staff will research it further and come back with some idea on how it could be done.

Manager Murphy stated you cannot truncate a term so if you go and renumber them, it will extend the term.

Commissioner Sund asked if someone from the City could reach out to the Supervisor of Elections Office to find out if he would be willing to consider moving back to even years for municipal elections. If they come back and say no, then we know who we have to pick the fight with.

Manager Murphy stated he did not know if it would be much of a fight, but we could do that for you.

#### **Section 4.03 (b)**

Chair Peterson asked if anyone had any comments on this section: Mayor's term – four years.

Discussion held regarding term limits; those who opposed and those who supported it.

Discussion held regarding Tony Rotino who served 16 years, elections were every two years then.

City Attorney Menendez stated this provision has been in there for a long time, but not from the inception of the City.

Manager Murphy mentioned Joe Mazurkiewicz was Mayor for 10 years. Term limits were voted on while he was Mayor.

Discussion continued regarding term limits in the State Legislature, County Commission, and the School Board.

Commissioner Sund stated he believed the language we have here is the language that is in place at the County level and is something we can look at to see whether or not it is consecutive or stop dead two terms.

Chair Peterson stated he liked the idea of us coming up with ideas and changes to the Charter based on who is on this Commission and not what other cities are doing.

Discussion held regarding a person spending two terms as a Councilmember, then two terms as Mayor, two terms again as Councilmember.

Commissioner Sund mentioned the County Commission's term limits. They are elected at large for a maximum of three four-year terms.

Chair Peterson asked if there were any more comments or a motion.

***Commissioner Bennie moved, seconded by Commissioner Robinson, that we recommend that there be a maximum of 16 years, four 4-year terms, in office in a career.***

***Commission polled as follows: Bennie, Jenkins, and Robinson voted "aye." Kitchen, McNamara, Peterson, and Sund voted "nay." Three "ayes." Four "nays." Motion failed 3-4.***

#### **Section 4.03 (c)**

Chair Peterson stated this section was very similar to Section 4.03 (b) regarding Council instead of Mayor. He asked if there was anything new to add. There was none.

#### **Section 4.03 (d)**

Chair Peterson led the discussion on this section regarding the terms of Council Members and Mayor shall begin on the first regular meeting of the Council held after the date of their election.

Discussion held regarding newly elected Councilmembers being sworn in at the first **regular** meeting after the election.

City Attorney Menendez stated the sitting Council is in place until the new Councilmembers are sworn in with no break in between. She noted how Council only meets twice a month and how Council this year had a special meeting prior to the regular meeting to resolve hanging business.

Discussion held regarding the budget being voted on in September of each year.

Chair Peterson asked if there were any more comments on this Section. There were none.

#### **Section 4.04**

Chair Peterson led the discussion on this Section – Primary Elections; Districts.

Discussion held regarding:

- Having covered the population discussion and the number of districts
- The number of years needs to be revisited
- Getting the population number from the Federal Census unless the City wants to do their own census every five years
- More frequently if deemed necessary by the City Council

Chair Peterson asked if there were any more comments on this section. There were none.

#### **Section 4.05 (a) and (b)**

Chair Peterson led the discussion on Section (a) regarding Candidate Qualifications and Election.

Discussion held regarding:

- The dollar fee will not change without a Charter change.
- The difference of the filing fee between the Mayor and Council

Chair Peterson commented that (a) is almost identical to (b) with the exception of the last sentence regarding proof of residence. He questioned why is it in one paragraph and not the other.

Commissioner Sund stated 4.02 handles being a resident of the City. Section 4.05 is further clarification for that restriction for the councilmembers since they also have to qualify for their district to prove that they are eligible for their district.

Discussion held regarding:

- Difference between 4.02 and 4.05 (b); how does the Mayor qualify to be a citizen of Cape Coral?
- Add the sentence about proof of residence shall be established by a valid voter's registration card
- Matching (a) and (b)

Chair Peterson stated instead of adding that sentence to (a), it would be more appropriate to remove it from (b) and add it to Section 4.02 - Eligibility.

Discussion held regarding the last sentence in (b) starting with proof of residence.

Chair Peterson questioned if that sentence provides a loophole.

City Attorney Menendez explained that the Mayor lives anywhere in the City; so it may be the reason it does not specifically say you have to show the voter's registration card which has your address. For the Council Members they are showing that they live in the district. The Mayoral candidate is already qualified on the voter list so they are coming under 4.02 qualified electors. It is to show your residence, not to show that you are a voter. She stated staff will research any change that you are thinking of making.

Chair Peterson asked staff to research matching 4.05 (a) and 4.05 (b) to identify if there is a problem that needs fixing.

City Attorney Menendez stated she would rather see it added than deleting it from (b).

#### **Section 4.05 (c)**

Chair Peterson led the discussion on Section (c) regarding more than two qualifying candidates.

Commissioner Sund stated the City currently uses non-partisan elections. There is a section further in this Charter that deals with elections again. He questioned if it would be appropriate to have that discussion now. Section 8 refers to the Florida Code for Elections.

Assistant City Attorney Moriarty stated Section 8 is for following the elections code process such as council districts, adjustment of districts, procedures, and how to enact the general authority.

City Attorney Menendez stated if you want to have that discussion about partisan vs. non-partisan, it can be discussed. She reminded the Commission that they have the luxury of more time to be able to come back to another section.

Assistant City Attorney Moriarty noted this provision deals with qualifying.

City Attorney Menendez stated the question is: "if you're going to run by party, then would there be a different primary?"

Commissioner Sund stated if there are more than two candidates, the top two move on which would change if there was a partisan aspect to that.

City Attorney Menendez stated if there is a change to the way the City has been doing business, it would have an impact in more than one location.

Discussion held regarding:

- What would a partisan election solve?
- Opinions about partisan and non-partisan elections
- If the concept of a non-partisan election is governed by State Law

City Attorney Menendez stated she thought it was State Law and would be researched by the Assistant City Attorney.

Discussion held regarding:

- Candidates listing the clubs they belong to
- Voters doing their due diligence and know the parties the candidates belong to
- Information gained through newspapers and social media

Chair Peterson asked if we can have this for the next meeting to know if that is governed by State Election Law.

City Attorney Menendez responded in the affirmative and re-stated the questions: Research what are the ramifications of having non-partisan elections? What baggage and restrictions come along with that? What are the ripple effects of us saying that?

Chair Peterson agreed.

City Attorney Menendez questioned if this would be discussion for the next meeting. Are we going to continue to stay in this section of the Charter or are you going to move to the balance which is subject to how much discussion occurs? Are you also intending to move further into Chapter 4 next session?

Chair Peterson responded in the affirmative.

Vice Chair Kitchen stated he made a motion earlier about adjusting the number of City Council persons. He would like to have a separate discussion on the number of council people for review one more time.

Chair Peterson stated we covered that in the first part of the meeting.

Vice Chair Kitchen stated we talked about the population that went with it, but not the number of people on the City Council.

Chair Peterson stated that is what the motion was to change the number, and the motion was voted down so there is no reason to revisit that. He stated we are going to come back and talk about 4.05 (c) and discuss the partisan or non-partisan elections.

Commissioner McNamara suggested discussing section 4.05 (d) regarding what to do if a candidate dies.

Chair Peterson stated going back to the first meeting, it was brought up that there might be some significant discussion on Section 4.07 on council vacancies based on what happened recently. Then we get into Compensation and after that we have a short section of 4.09 on General Powers and Duties. He proposed that we stop after 4.09 so discuss half of 4.05 to 4.09. He would entertain opinions if you think we can get through that at the next meeting.

Commissioner Sund stated if the partisan goes nowhere, he had some other suggestions for 4.05 for more discussions.

Commissioner Bennie stated he would like the Commission to have flexibility to bring up something previously discussed.

Chair Peterson responded that he agreed, but not to keep bringing up the same motion with the hope to get a different vote.

Commissioner Bennie stated there could be variations on that.

Chair Peterson stated at the next meeting we can discuss that again and we can look at any new motion in the next meeting compared to the motion that failed in this meeting.

Vice Chair Kitchen clarified that he was not offering to make another motion; he just felt that we did not really spend much time discussing the fact that we have an even number of councilmembers versus an odd number. He asked for consideration for the Commission to think about it and have more discussion.

Chair Peterson agreed.

Commissioner Sund suggested we go through the whole Charter and then revisit certain areas before making final recommendations to go to Council.

Chair Peterson stated we don't want to keep making the same motion and hoping for a different vote. If there is new information, it should be brought up. Everyone should be prepared to get up to 4.09.

Commissioner McNamara stated in preparation for talking about vacancies, he could not find it in the Charter where it requires a Councilmember to resign in order to run for Mayor.

Assistant City Attorney Moriarty stated the Resign to Run Law is a State Statute. He added that when you were speaking of the efficiency of the meeting, at the beginning of the meeting when the body approves or disapproves the agenda, that is how everybody keeps track of what the business is going to be for that meeting. If there is someone by majority vote who wants to revisit something, that was the question of whether or not the body is sticking with the order of business. As a rule, the Chair is the presider and

moves the business, but if someone wants to revisit something, a motion and a second is needed. A majority vote would put it back on the agenda.

Vice Chair Kitchen asked if he was in a position to make a motion that we re-visit the number of Council people.

Assistant City Attorney Moriarty stated in a committee meeting like this you are allowed to do that. You just need the affirmative vote of a majority of the members.

Commissioner Robinson questioned if the motion had to be different than the previous motion.

Chair Peterson stated this was a motion to revisit at the next meeting. At any time in this process, if you go back and see something that you want to revisit, bring it up as a motion and then the Commission has the opportunity to vote on whether or not we want to go back and revisit that. He agreed that Mr. Kitchen could make a motion.

***Vice Chair Kitchen moved, seconded by Commissioner Bennie, that our group reconsiders specifically the number of City Council people, in Section 4.01, that specifically we open further discussion on the number of Council people and that it be based on the fact that should it be an odd or an even number.***

Chair Peterson stated to pass a vote at Council, it does not matter if you have an odd or even number. If it is a tie vote, it fails.

***Commission polled as follows: Bennie, Jenkins, Kitchen, McNamara, Robinson and Sund voted "aye." Peterson voted "nay." Six "ayes." One "nay." Motion carried 6-1.***

Chair Peterson stated 4.01 will be on the next meeting agenda, specifically to talk about the number of council people. We'll pick up again the rest of 4.05, specifically discussion on partisan and non-partisan elections and stop after 4.07. He added we can stick with going to 4.09.

### **Commissioner Comments**

Commissioner Robinson stated 4.02 should be on the next meeting agenda because it was discussed for the addition of the last sentence from 4.05 (a).

Chair Peterson stated he was going to research 4.02 and if it covers the way it is written regarding only qualified electors of the City.

**Date and Time of Next Meeting**

The next meeting would be held on Thursday, January 18, 2018, at 3:00 p.m. in Conference Room 220 A.

**Adjournment**

There being no further business, the meeting was adjourned at 5:26 p.m.

Submitted by,

Barbara Kerr  
Recording Secretary

Subject to approval



<b>Item Number:</b>	<b>4.D.</b>
<b>Meeting Date:</b>	<b>2/15/2018</b>
<b>Item Type:</b>	<b>Business</b>

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Continue Discussion on Article IV, Section 4.01, Mayor and City Council, Specifically the number of Council people

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▣ Article IV, Section 4.01	Backup Material
▣ Oath of Candidate	Backup Material
▣ Charter Review Commission questions from 12212017 final amended 01222018	Backup Material

§ 4.01. - Mayor and city council.

There shall be a City Council of seven (7) members and a Mayor. The Council shall be nominated by the qualified electors as provided hereinafter in this Article IV, and in Article VIII. There shall be one Council member elected from each district by the qualified electors of the City at large.

# CANDIDATE OATH – NONPARTISAN OFFICE

(Not for use by Judicial or  
School Board Candidates)

OFFICE USE ONLY

## OATH OF CANDIDATE

(Section 99.021, Florida Statutes)

I, \_\_\_\_\_  
(PLEASE PRINT NAME AS YOU WISH IT TO APPEAR ON THE BALLOT \* -- NAME MAY NOT BE CHANGED AFTER THE END OF QUALIFYING)

am a candidate for the nonpartisan office of \_\_\_\_\_, \_\_\_\_\_,  
(office) (district #)

\_\_\_\_\_, \_\_\_\_\_; I am a qualified elector of \_\_\_\_\_ County, Florida;  
(circuit #) (group or seat #)

I am qualified under the Constitution and the Laws of Florida to hold the office to which I desire to be nominated or elected; I have qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with the office I seek; and I have resigned from any office from which I am required to resign pursuant to Section 99.012, Florida Statutes; and I will support the Constitution of the United States and the Constitution of the State of Florida.

**X**

( )

Signature of Candidate

Telephone Number

Email Address

Address

City

State

ZIP Code

Candidate's Florida Voter Registration Number (located on your voter information card): \_\_\_\_\_

\* Please print name phonetically on the line below as you wish it to be pronounced on the audio ballot for persons with disabilities (see instructions on page 2 of this form):

\_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Personally Known: \_\_\_\_\_ or

Produced Identification: \_\_\_\_\_

Type of Identification Produced: \_\_\_\_\_

Signature of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public

# INSTRUCTIONS: INSERTING PHONETIC SPELLING OF CANDIDATE'S NAME FOR AUDIO BALLOT

Use the PRONUNCIATION KEY below to provide pronunciations for ambiguous first names and surnames. Capitalize STRESSED syllables, use lower case for unstressed syllables. Use dashes (-) to separate syllables. You should also add any notes such as rhyming examples, silent letters, *etc.*

## Samples:

<b>PRONUNCIATION KEY</b> Stressed Vowel Sounds	
EE	(FEET) <i>feet</i>
I	(FIT) <i>fit</i>
E	(BED) <i>bed</i>
A	(KAT) <i>cat</i> (KAD) <i>cad</i>
AH	(FAH-thur) <i>father</i> (PAHR) <i>par</i>
AH	(HAHT) <i>hot</i> (TAH-dee) <i>toddy</i>
UH	(FUHJ) <i>fudge</i> (FLUHD) <i>flood</i>
UH	(CHUHRCH) <i>church</i>
AW	(FAWN) <i>fawn</i>
U	(FUL) <i>full</i>
OO	(FOOD) <i>food</i>
OU	(FOUND) <i>found</i>
O	(FO) <i>foe</i>
EI	(FEIT) <i>fight</i>
AI	(FAIT) <i>fate</i>
OI	(FOIL) <i>foil</i>
YOO	(FYOOR-ee-uhs) <i>furious</i>

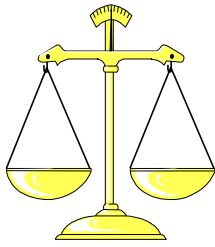
NAME ON BALLOT	PRONOUNCED AS
Mishaud	mee-SHO ('d' is silent)
Jahn	HAHN (rhyme: fawn)
Beauprez	boo-PRAI (rhyme: hooray)
Maniscalco	man-uh-SKAL-ko
Tangipahoa	TAN-ji-pah-HO-uh
Monte	Mahn-TAI
Tanya	TAWN-yuh (not TAN)

<b>Unstressed Vowel Sounds</b>	
uh	(SO-fuh) <i>sofa</i> (FING-guhr) <i>finger</i>

<b>Certain Vowel Sounds with R</b>	
AHR	(PAHR) <i>par</i>
ER	(PER) <i>pair</i>
IR	(PIR) <i>peer</i>
OR	(POR) <i>pour</i>
OOR	(POOR) <i>poor</i>
UHR	(PUHR) <i>purr</i>

<b>Consonant Sounds</b>			
B	(BED) <i>bed</i>	TS	(ITS) <i>its</i> (PITS-feeld) <i>Pittsfield</i>
D	(DET) <i>debt</i>	TH	(THEI) <i>Thigh</i>
F	(FED) <i>fed</i>	TH	(THEI) <i>Thy</i>
G	(GET) <i>get</i>	ZH	(A-zuhr) <i>azure</i> (VI-zuhn) <i>vision</i>
H	(HED) <i>head</i>	Z	(GOODZ) <i>goods</i> (HUH-buhz-tuhn) <i>Hubbardston</i>
HW	(HWICH) <i>which</i>		
J	(JUHG) <i>jug</i>		
K	(KAD) <i>cad</i>		
L	(LAIM) <i>lame</i>		
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W	(WICH) <i>witch</i>		
CH	(CHUCRCH) <i>church</i>		
SH	(SHEEP) <i>sheep</i>		

**NOTE:** This page should not be submitted to the filing officer.



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## CITY ATTORNEY'S OFFICE MEMORANDUM

---

**TO:** Charter Review Commission

**FROM:** Dolores D. Menendez, City Attorney  
Mark Moriarty, Assistant City Attorney

**DATE:** Updated January 22<sup>nd</sup> from the original dated January 8, 2018

**SUBJECT:**

- I. Continue Discussion on Article IV, Section 4.01, Mayor and City Council. Specifically, the number of Council People.
- II. Continue Discussion on Article IV, Section 4.02, Eligibility add sentence from Section 4.05 – Candidate qualifications and election.
- III. Continue Discussion on Article IV, Section 4.0, Candidate qualifications and election, specifically on partisan and non-partisan elections.

**I. Continue Discussion on Article IV, Section 4.01, Mayor and City Council. Specifically, the number of Council People.**

The original city charter had seven (7) council members, and seven (7) districts. Each member was elected at-large by district. A district primary election, open only to residents of the respective district, was held if more than 2 qualified candidates submitted petitions from the same district.

The City Council elected one of the council members to serve as mayor by a majority vote. The term of the mayor was one year.

The mayor was added to the Charter as an elected position in 1977. The term of the mayor was subsequently increased to four years.

**II. Continue Discussion on Article IV, Section 4.02, Eligibility add sentence from Section 4.05 – Candidate qualifications and election.**

**Question Presented or Issue:** Can “Proof of residence shall be established by a valid voter’s registration card” be added to §4.02 Eligibility or §4.05 (a)?

Pursuant to § 4.02 – Eligibility, “Only qualified electors of the City, who have been continuous full-time residents of the City for the entire calendar year immediately preceding their qualification for office, as provided in Section 4.05 shall be eligible to hold the office of Council member or Mayor.”

‘Elector’ as defined in Florida Statutes § 97.021 (14) is synonymous with the word “voter” or “qualified elector or voter,” except where the word is used to describe presidential electors. Candidates for Mayor need to show that they have been electors or voters in the city for one year before than can qualify.

The City Clerk is the qualifying or filing officer for the City of Cape Coral. According to her:

*She asks each candidate how long they have been permanent, full-time residents and she accepts that they are providing truthful information. Depending on a candidate’s answer, the Clerk would request additional supporting documentation (i.e., water or cable bill) for those with a potential issue with the residency requirement. Additionally, she also obtains a copy of each candidate’s voter registration card to confirm the accuracy of their current address.*

Section 4.05 requires candidates for mayor to file a sworn statement of qualification. See also Florida Statute § 99.021. A copy of the candidate’s oath is attached for reference. The form requires candidates to take an oath and to provide their Florida voter registration number.

Proof of residence by a valid voter’s registration card can be added to §4.02 Eligibility or §4.05 (a). Adding the provision to §4.05 (a) would require adding the provision to the end of section §4.05 (a). Adding the provision to §4.02 might also involve a second step of deleting the provision from § 4.05 (b).

**III. Continue Discussion on Article IV, Section 4.0, Candidate qualifications and election, specifically on partisan and non-partisan elections.**

**Question Presented or Issue.** *Can the City’s election be made partisan?*

The Cape Coral City Charter § 8.01 - City elections provide: “Except as otherwise provided by this Charter, the Florida Election Code shall apply to City elections.” The Florida Election Code, is provided in Florida Statutes chapters 97-106.

The Florida Election Code authorizes primary elections for national, state, county or district offices. It is silent regarding municipalities.

A ‘*primary election*’ defined by Florida Statutes §97.021 (29), “means an election held preceding the general election for the purpose of nominating a party nominee to be voted for in the general election to fill a national, state, county or district office.” Municipalities are not mentioned.

With regards to the conduct of municipal elections Florida statutes 100.3605 provides:

(1) The Florida Election Code, chapters 97-106, shall govern the conduct of a municipality’s election in the absence of an applicable special act, charter, or ordinance provision. No charter or ordinance provision shall be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities

A search of municipal charters in Florida finds zero municipal elections that are partisan. All appear to be non-partisan.

The Cape Coral City Charter § 10.02. (a) (1) – Prohibitions (Activities prohibited) Indirectly prohibits partisan elections.

No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of such individual's, race, color, religion, sex, sexual orientation, national origin, age, handicap, marital status, political opinions or affiliations, and/or any other class protected under federal, state or local law.” (emphasis added).

Changing the City of Cape Coral Charter to allow for partisan elections would require amending multiple sections so all the Charter’s sections are consistent with each other and State law.

<b>Item Number:</b>	<b>4.E.</b>
<b>Meeting Date:</b>	<b>2/15/2018</b>
<b>Item Type:</b>	<b>Business</b>

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Continue Discussion on Article IV, Section 4.02, Eligibility, add sentence from Section 4.05

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
<input type="checkbox"/> Article IV, Section 4.02	Backup Material
<input type="checkbox"/> Oath of Candidate	Backup Material
<input type="checkbox"/> Charter Review Commission Questions from 12212017 final amended 01222018	Backup Material



§ 4.02.- Eligibility.

Only qualified electors of the City, who have been continuous full time residents of the City for the entire calendar year immediately preceding their \_\_\_\_\_ qualification for office, as provided in Section 4.05. shall be eligible to hold the office of Council member or Mayor.

# CANDIDATE OATH – NONPARTISAN OFFICE

(Not for use by Judicial or  
School Board Candidates)

OFFICE USE ONLY

## OATH OF CANDIDATE

(Section 99.021, Florida Statutes)

I, \_\_\_\_\_  
(PLEASE PRINT NAME AS YOU WISH IT TO APPEAR ON THE BALLOT \* -- NAME MAY NOT BE CHANGED AFTER THE END OF QUALIFYING)

am a candidate for the nonpartisan office of \_\_\_\_\_, \_\_\_\_\_,  
(office) (district #)

\_\_\_\_\_, \_\_\_\_\_; I am a qualified elector of \_\_\_\_\_ County, Florida;  
(circuit #) (group or seat #)

I am qualified under the Constitution and the Laws of Florida to hold the office to which I desire to be nominated or elected; I have qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with the office I seek; and I have resigned from any office from which I am required to resign pursuant to Section 99.012, Florida Statutes; and I will support the Constitution of the United States and the Constitution of the State of Florida.

**X**

( )

Signature of Candidate

Telephone Number

Email Address

Address

City

State

ZIP Code

Candidate's Florida Voter Registration Number (located on your voter information card): \_\_\_\_\_

\* Please print name phonetically on the line below as you wish it to be pronounced on the audio ballot for persons with disabilities (see instructions on page 2 of this form):

\_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Personally Known: \_\_\_\_\_ or

Produced Identification: \_\_\_\_\_

Type of Identification Produced: \_\_\_\_\_

Signature of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public

# INSTRUCTIONS: INSERTING PHONETIC SPELLING OF CANDIDATE'S NAME FOR AUDIO BALLOT

Use the PRONUNCIATION KEY below to provide pronunciations for ambiguous first names and surnames. Capitalize STRESSED syllables, use lower case for unstressed syllables. Use dashes (-) to separate syllables. You should also add any notes such as rhyming examples, silent letters, *etc.*

## Samples:

<b>PRONUNCIATION KEY</b> Stressed Vowel Sounds	
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I	(FIT) <i>fit</i>
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A	(KAT) <i>cat</i> (KAD) <i>cad</i>
AH	(FAH-thur) <i>father</i> (PAHR) <i>par</i>
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AW	(FAWN) <i>fawn</i>
U	(FUL) <i>full</i>
OO	(FOOD) <i>food</i>
OU	(FOUND) <i>found</i>
O	(FO) <i>foe</i>
EI	(FEIT) <i>fight</i>
AI	(FAIT) <i>fate</i>
OI	(FOIL) <i>foil</i>
YOO	(FYOOR-ee-uhs) <i>furious</i>

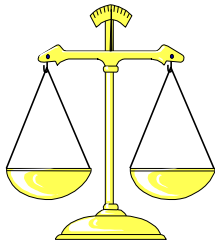
NAME ON BALLOT	PRONOUNCED AS
Mishaud	mee-SHO ('d' is silent)
Jahn	HAHN (rhyme: fawn)
Beauprez	boo-PRAI (rhyme: hooray)
Maniscalco	man-uh-SKAL-ko
Tangipahoa	TAN-ji-pah-HO-uh
Monte	Mahn-TAI
Tanya	TAWN-yuh (not TAN)

<b>Unstressed Vowel Sounds</b>	
uh	(SO-fuh) <i>sofa</i> (FING-guhr) <i>finger</i>

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AHR	(PAHR) <i>par</i>
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UHR	(PUHR) <i>purr</i>

<b>Consonant Sounds</b>			
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## CITY ATTORNEY'S OFFICE MEMORANDUM

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**FROM:** Dolores D. Menendez, City Attorney  
Mark Moriarty, Assistant City Attorney

**DATE:** Updated January 22<sup>nd</sup> from the original dated January 8, 2018

**SUBJECT:**

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Changing the City of Cape Coral Charter to allow for partisan elections would require amending multiple sections so all the Charter’s sections are consistent with each other and State law.

<b>Item Number:</b>	<b>4.F.</b>
<b>Meeting Date:</b>	<b>2/15/2018</b>
<b>Item Type:</b>	<b>Business</b>

## AGENDA REQUEST FORM

CITY OF CAPE CORAL



### TITLE:

Continue Discussion on Article IV, Section 4.05, Candidate qualifications and election, specifically on partisan and non-partisan elections

### SUMMARY:

### ADDITIONAL INFORMATION:

#### ATTACHMENTS:

<b>Description</b>	<b>Type</b>
▣ Article IV, Section 4.05	Backup Material
▣ Oath of Candidate	Backup Material
▣ Charter Review Commission Questions from 12212017 final amended 01222018	Backup Material

§ 4.05.- Candidate qualifications and election.

- (a) Any person eligible to hold the office of Mayor may have his or her name placed on the ballot as a candidate for Mayor of the City upon filing with the City Clerk a sworn statement of qualification and the payment of a one hundred and fifty dollar (\$150) filing fee.
- (b) Any person eligible to hold the office of Council member may have his or her name placed on the ballot as a candidate for Council member for the Council district in which he or she resides upon filing with the City Clerk a sworn statement of qualifications and the payment of a one hundred dollar (\$100) filing fee. Proof of residence shall be established by a valid voter's registration card.
- (c) Should there be more than two qualifying candidates for Mayor or for a given Council district their names will be placed on the primary ballot. The two primary candidates receiving the highest number of votes shall be the candidates in the City General Election. The candidate receiving the highest number of votes in the City General Election shall be declared elected to the office for which he or she was a candidate. In the event there are fewer than three qualifying candidates for Mayor or for a given Council district their names will not appear on the primary election ballot but they will appear on the City General Election ballot.
- (d) If a vacancy in candidacy occurs caused by death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office, then the qualifying date shall be extended to the latest date for which the general election guidelines may be met. If the elections guidelines cannot be met then the remaining candidate shall be declared the winner.

(Ord. 125-02, 12-9-2002, Approved by referendum vote on April 8, 2003)



# CANDIDATE OATH – NONPARTISAN OFFICE

(Not for use by Judicial or  
School Board Candidates)

OFFICE USE ONLY

## OATH OF CANDIDATE

(Section 99.021, Florida Statutes)

I, \_\_\_\_\_  
(PLEASE PRINT NAME AS YOU WISH IT TO APPEAR ON THE BALLOT \* -- NAME MAY NOT BE CHANGED AFTER THE END OF QUALIFYING)  
am a candidate for the nonpartisan office of \_\_\_\_\_, \_\_\_\_\_,  
(office) (district #)  
\_\_\_\_\_, \_\_\_\_\_; I am a qualified elector of \_\_\_\_\_ County, Florida;  
(circuit #) (group or seat #)

I am qualified under the Constitution and the Laws of Florida to hold the office to which I desire to be nominated or elected; I have qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with the office I seek; and I have resigned from any office from which I am required to resign pursuant to Section 99.012, Florida Statutes; and I will support the Constitution of the United States and the Constitution of the State of Florida.

**X**

( )

Signature of Candidate

Telephone Number

Email Address

Address

City

State

ZIP Code

Candidate's Florida Voter Registration Number (located on your voter information card): \_\_\_\_\_

\* Please print name phonetically on the line below as you wish it to be pronounced on the audio ballot for persons with disabilities (see instructions on page 2 of this form):  
\_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Personally Known: \_\_\_\_\_ or

Produced Identification: \_\_\_\_\_

Type of Identification Produced: \_\_\_\_\_

Signature of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public

# INSTRUCTIONS: INSERTING PHONETIC SPELLING OF CANDIDATE'S NAME FOR AUDIO BALLOT

Use the PRONUNCIATION KEY below to provide pronunciations for ambiguous first names and surnames. Capitalize STRESSED syllables, use lower case for unstressed syllables. Use dashes (-) to separate syllables. You should also add any notes such as rhyming examples, silent letters, *etc.*

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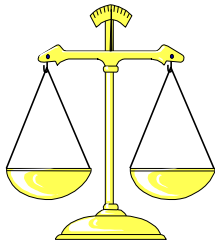
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Mark Moriarty, Assistant City Attorney

**DATE:** Updated January 22<sup>nd</sup> from the original dated January 8, 2018

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**III. Continue Discussion on Article IV, Section 4.0, Candidate qualifications and election, specifically on partisan and non-partisan elections.**

**Question Presented or Issue.** *Can the City’s election be made partisan?*

The Cape Coral City Charter § 8.01 - City elections provide: “Except as otherwise provided by this Charter, the Florida Election Code shall apply to City elections.” The Florida Election Code, is provided in Florida Statutes chapters 97-106.

The Florida Election Code authorizes primary elections for national, state, county or district offices. It is silent regarding municipalities.

A ‘*primary election*’ defined by Florida Statutes §97.021 (29), “means an election held preceding the general election for the purpose of nominating a party nominee to be voted for in the general election to fill a national, state, county or district office.” Municipalities are not mentioned.

With regards to the conduct of municipal elections Florida statutes 100.3605 provides:

(1) The Florida Election Code, chapters 97-106, shall govern the conduct of a municipality’s election in the absence of an applicable special act, charter, or ordinance provision. No charter or ordinance provision shall be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities

A search of municipal charters in Florida finds zero municipal elections that are partisan. All appear to be non-partisan.

The Cape Coral City Charter § 10.02. (a) (1) – Prohibitions (Activities prohibited) Indirectly prohibits partisan elections.

No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of such individual’s, race, color, religion, sex, sexual orientation, national origin, age, handicap, marital status, political opinions or affiliations, and/or any other class protected under federal, state or local law.” (emphasis added).

Changing the City of Cape Coral Charter to allow for partisan elections would require amending multiple sections so all the Charter’s sections are consistent with each other and State law.

<b>Item Number:</b>	<b>4.G.</b>
<b>Meeting Date:</b>	<b>2/15/2018</b>
<b>Item Type:</b>	<b>Business</b>

## AGENDA REQUEST FORM

CITY OF CAPE CORAL



### TITLE:

Article IV, Section 4.06, Mayor and Mayor Pro Tem

### SUMMARY:

### ADDITIONAL INFORMATION:

### ATTACHMENTS:

<b>Description</b>	<b>Type</b>
▣ Article IV, Section 4.06	Backup Material

§ 4.06.- Mayor; mayor pro tem.

(a) The Mayor shall be the chief elected officer of the city, preside at all council meetings, be responsible for the orderly conduct of business, have the same powers as a council member, sign all documents as required by the City Council and shall have the power to veto line items in the City budget, provided that such veto is exercised in writing to the City Clerk, with immediate notification to the other members of the City Council at least fourteen (14) days prior to the date of the Final Public Hearing on the budget. The City Council may override such veto with a two-thirds vote of its members as provided in Section 4.16(d).

(b) A council member shall be elected by the majority vote of the Council to serve as Mayor ProTem. Such election shall be held at the first Council meeting following each City General Election, except that in the years in which there is no City General Election, such election shall take place at the first regular City Council meeting on or after the anniversary of the previous City General Election. The Mayor ProTem shall be responsible for the orderly conduct of business in the Mayor's absence, shall not have the power to veto and shall serve for a period of one year. (Ord. 125-02, 12-9-2002, Approved by referendum vote on April 8, 2003; Ord. 73-07, 6-11-7, Approved by referendum vote on November 6, 2007)

A council member shall be elected by the majority vote of the Council to serve as Mayor ProTem. Such election shall be held at the first Council meeting following each City General Election, except that in the years in which there is no City General Election, such election shall take place at the first regular City Council meeting on or after the anniversary of the previous City General Election. The Mayor ProTem shall be responsible for the orderly conduct of business in the Mayor's absence, shall not have the power to veto and shall serve for a period of one year. (Ord. 125-02, 12-9-2002, Approved by referendum vote on April 8, 2003; Ord. 73-07, 6-11-7, Approved by referendum vote on November 6, 2007)



<b>Item Number:</b>	<b>4.H.</b>
<b>Meeting Date:</b>	<b>2/15/2018</b>
<b>Item Type:</b>	<b>Business</b>

## AGENDA REQUEST FORM

CITY OF CAPE CORAL



### TITLE:

Article IV, Section 4.07, Council, vacancies

### SUMMARY:

### ADDITIONAL INFORMATION:

### ATTACHMENTS:

<b>Description</b>	<b>Type</b>
▣ Article IV, Section 4.07	Backup Material

§ 4.07.- Council; vacancies.

A vacancy in the office of the city councilmember or mayor shall be filled by majority vote of the remaining councilmembers according to Section 4.11, to serve until the next City general election only. The vacancy must be filled by an \_\_\_\_\_ individual who is an eligible person, as defined in Section 4.02, and residing within the district in which the vacancy occurs. (Ord. 71-07, 6-11-07, Approved by referendum vote on November 6, 2007)

<b>Item Number:</b>	<b>4.I.</b>
<b>Meeting Date:</b>	<b>2/15/2018</b>
<b>Item Type:</b>	<b>Business</b>

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Article IV, Section 4.08, Council and Mayor, Compensation, Expenses

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▣ Article IV, Section 4.08	Backup Material

§ 4.08.- Council and mayor;compensation,expenses.

- (a) Each city council member shall be compensated at the rate of \$32,600 per year. The Mayor shall be compensated at the rate of \$36,600 per year. The compensation of the Mayor and Council members shall be adjusted annually beginning in january,2017, by the amount of the Social Security cost of living adjustment (COLA).The salaries shall be adjusted annually in the first pay period of each calendar year. (Ord. 22-15,6-15-15; approved by referendum vote on November 3,2015)
- (b) The council members and mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

<b>Item Number:</b>	<b>4.J.</b>
<b>Meeting Date:</b>	<b>2/15/2018</b>
<b>Item Type:</b>	<b>Business</b>

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Article IV, Section 4.09, General Powers and Duties

**SUMMARY:**

**ADDITIONAL INFORMATION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▣ Article IV, Section 4.09	Backup Material

§ 4.09. - General powers and duties.

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.