



1015 Cultural Park Blvd.
Cape Coral, FL

AGENDA

CHARTER REVIEW COMMISSION

July 19, 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 meeting minutes - June 21, 2018 meeting
- B. List of Recommendations to Date
- C. Article VII, Section 7.09 Amendments after adoption
- D. Article VII, Section 7.10 Lapse of appropriations
- E. Article VII, Section 7.11 Administration of Budget
- F. Article VIII - Elections
- G. Article IX - Initiative and Referendum
- H. Article X - General Provisions

5. Commissioner Comments

6. Date and Time of Next Meeting:

A. Thursday, August 16, 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.

Item Number:	4.A.
Meeting Date:	7/19/2018
Item Type:	Business

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Approval of meeting minutes - June 21, 2018 meeting

SUMMARY:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▢ June 21, 2018 meeting minutes	Backup Material

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

THURSDAY, JUNE 21, 2018

Conference Room 220A

3:00 P.M.

Chair Peterson called the meeting to order at 3:00 p.m.

Roll Call: Kitchen, McNamara, Peterson, Robinson, Sund, and Alternate Stewart were present. Bennie was excused. Jenkins arrived at 3:04 p.m.

Also Present: Marilyn Stout, Council Liaison
Dolores Menendez, City Attorney
Mark Moriarty, Assistant City Attorney

Public Input

No speakers

BUSINESS

Approval of Minutes – May 17, 2018 meeting

Chair Peterson stated the minutes of the May 17, 2018 meeting were presented for approval.

Commissioner Sund moved, seconded by Vice Chair Kitchen, to approve the minutes of the May 17, 2018 meeting as presented.

Commission polled as follows: Kitchen, McNamara, Peterson, Robinson, Sund, and Stewart voted “aye.” Six “ayes.” Motion carried 6-0.

List of Recommendations to date

Chair Peterson stated the last time we agreed to the current proposals and added the substantiation.

Vice Chair Kitchen stated the list was very well done.

Chair Peterson stated it was entered into the record so far with updates and asked for a motion that everyone agreed.

Vice Chair Kitchen moved, seconded by Commissioner Stewart, to accept the updated list of recommendations provided.

Commission polled as follows: Kitchen, McNamara, Peterson, Robinson, Sund, and Stewart voted “aye.” Six “ayes.” Motion carried 6-0.

Article V, Section 5.03 – Acting City Manager

Discussion held regarding the following:

- At what point is the City Manager no longer able to carry on his duties?
- Is it when he leaves the building?
- Is he truly absent if he has his cell phone with him?
- Would his duties conclude at the close of business for that day?
- At what point does the City Manager need to appoint an acting City Manager?

Commissioner Jenkins arrived at 3:04 p.m.

- The way it was worded it seemed to say that he did not appoint one. City Council could not appoint one without removing him first.
- Does the City Council have the ability to appoint an Acting City Manager if the City Manager were, for instance, to be involved in a car accident without having to remove the existing City Manager? Are we looking for a problem that does not exist?

Council Liaison Stout stated when the City Manager is gone for any length of time, such as when he left today to go to Michigan for two weeks, he appointed the Chief of Police and the Public Affairs Manager to act in his stead while he is gone. He can be reached by cell phone.

City Attorney Menendez stated they were not appointed officially as Acting City Managers but to handle the day-to-day operations.

Discussion held regarding

- The City Manager has appointed Department Directors in the past to handle the job.
- No dual office holding
- If the City Manager was in an accident, there was no language that says Council has the authority to appoint an Assistant City Manager.
- Meeting backup entitled “Various charter sections regarding the incapacity of the City Manager.”
- As written, Council can revoke the City Manager’s choice, but there is nothing there that says Council can appoint their own choice.

Vice Chair Kitchen suggested adding language noting that Council can appoint their own choice.

City Attorney Menendez stated if the City Manager were to designate someone to act day-to-day and then something happened where he was disabled, this could be

interpreted that the Council could appoint someone. If the City Manager were to appoint someone who wasn't vastly experienced and he was only going to be away for a couple of days, and if something were to happen to make that a longer lasting period of incapacitation, Council would have the ability to get someone more experienced. She did not think a Court would say that they do not have the ability to appoint someone in the absence of the City Manager.

Chair Peterson stated the City Manager is in Michigan for two weeks. If he did not appoint an actual Acting City Manager in his stead, and if Council disagreed with his decision to do what he did now, could Council decide to appoint an Acting City Manager?

Council Liaison Stout stated she did not know how it could come together because of the Sunshine Law.

City Attorney Menendez discussed an example if one of the Councilmembers was unhappy that the City Manager did not appoint an official Acting City Manager while he was gone, and Council meetings were being held during his absence.

Chair Peterson stated technically the rules are not being followed since we do not have an Acting City Manager, but we do have someone experienced handling the position. He stated there was nothing significant here to fix.

No action was needed on this Section.

Article VI – Administrative Departments

Article VI, Section 6.01 – General Provisions

No discussion held.

Article VI, Section 6.02 – Direction by City Manager

Discussion held regarding the following:

- The City Manager can serve as the head of two or more departments.
- Has this ever happened before?
- The City Manager has decided to keep the Assistant City Manager position open, but not to fill it.

City Attorney Menendez stated if there is a vacancy for a Department Director, there is a very good chance that someone will be appointed as the Acting Director. Deputy Directors do not exist in every department. She mentioned that Jay Murphy at one point served as the Acting HR Director while he was in the Police Department. Usually, they try to find someone to act as the head of that particular department to carry on business.

Discussion held regarding:

- What would be the consequences of removing that position?
- Could the City Manager act as the Department Director?
- If this happened, it seems like it would just be temporary.

City Attorney Menendez stated right now most of the employees are for cause. They are disciplined by their Department Directors. They can seek review of that decision to the City Manager, and there is an appeal process.

Discussion held regarding:

- No one recalled it ever happening
- Still has to go through the approval of City Council

No action was needed on this Section.

Article VI, Section 6.03 – Personnel system; merit principle

No discussion held.

Article VI, Section 6.04 – Standards

Discussion held if there was any need for any change in this Section; there was none.

Article VI, Section 6.05 – Legal Officer

No discussion held.

Article VI, Section 6.06 – City Auditor's Office

Chair Peterson recalled that prior discussion was held on this Section; there were no issues.

Article VI, Section 6.07 – Reserved

No discussion held.

Article VI, Section 6.08 – Disposition of Funds

Discussion held regarding the following:

- Shall be promptly paid to the Department designated by the City Manager
- Monies collected by the Court shall be revenue of the City

No action was needed on this Section.

Article VI, Section 6.09– Power of enforcement

No discussion held.

Article VI, Section 6.10 – Arrest without warrant

Discussion held regarding the term “hot pursuit.”

No action was needed on this Section.

Commissioner McNamara stated before we move on, he mentioned the potential need for setting up assistants to the elected officials for Councilmembers and the Mayors where those Councilmembers could give those employees direction. He questioned if something was done through an Ordinance.

City Attorney Menendez stated they tried adding it into the Charter with language that was very similar in the City Auditor’s Article and that was defeated.

Council Liaison Stout stated she would not be in favor of Councilmembers giving department employees directions.

Commissioner McNamara clarified what he was referring to was setting up employees that would work for Councilmembers to handle phones, requests, research, etc.

Council Liaison Stout stated Council has three administrative assistants who work under the Council.

City Attorney Menendez explained there is a Council Office by an adopted ordinance.

Article VII – Financial Procedures

Article VII, Section 7.01 – Fiscal year

No discussion held.

Article VII, Section 7.02 – Submission of budget and budget justification

No discussion held.

Article VII, Section 7.03 – Budget justification

Chair Peterson reminded the members to keep an eye out for related remnants that may also need to be changed due to the change in the veto language.

Article VII, Section 7.04 – Budget

Discussion held regarding the following:

- Total proposed expenditures shall not exceed total estimated income.
- How effective has the City been in meeting that criteria in the last 5-6 years?

Council Liaison Stout mentioned there is a fund in Risk Management that covers the hurricanes until FEMA reimburses which is a slow process. Council did not elect to lower the millage at the last budget cycle. The plan was to lower it by just a small amount, and that did not happen; it stayed the same two years in a row. This coming budget is going to be interesting because of the fact that it has taken on funding the School Resource Officers (SROs) for all of the Cape Coral schools which we have never had before.

Discussion held regarding:

- Three cities within the County are challenging the funding for the SROs
- Cape Coral Police Officers in the schools is a good idea.
- \$50,000 per SRO
- What happens if the City goes into a significant deficit? That cannot happen, the budget has to be balanced.
- When it is presented, it cannot be presented as a deficit.
- There are reserves.
- Current millage rate is at 6.7.
- If there is no rollback, that means a tax increase.

No action was needed on this Section.

Article VII, Section 7.05 – Capital program

Discussion held regarding the following:

- Where is the capital program available for review?

Council Liaison Stout stated Financial Services Department would have that document for review.

Vice Chair Kitchen stated that is a public document and should be one of the documents to be put online as we have discussed with section 4.21.

Commissioner McNamara stated if this is to be included, it should be in Section 7.08.

Vice Chair Kitchen stated he would like to see that carried through with anything related.

Commissioner Sund agreed.

Vice Chair Kitchen moved, seconded by Commissioner Stewart, that we add the provision as we did in 4.21 to section 7.08.

Vice Chair Kitchen stated the key purpose was to place it online at no cost.

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

Chair Peterson clarified the wording on this motion. It should be consistent with the proposed amendment. Section 4.21 said “shall be made available online at no cost.”

Vice Chair Kitchen added “placed online at no cost.”

Chair Peterson stated we should follow that language and added “shall be made available to the public at suitable places in the City and placed online at no cost.” He noted we can use the same substantiation for this change as used on the previous ones. ***Consensus agreed.***

Article VII, Section 7.06 – Council action on budget

No discussion held.

Article VII, Section 7.07 – Council action on capital program

No discussion held.

Article VII, Section 7.08 – Public records

Chair Peterson stated discussion and a motion on this Section was made previously.

Commissioner Comments

Commissioner Sund questioned the timeline for placing CRC recommendations on the ballot.

Council Liaison Stout stated the referendum has to be submitted to the Supervisor of Election by 120 days prior to the election.

City Attorney Menendez stated it usually goes to Council by late spring to early summer of next year, definitely before their hiatus, if there is one. Ordinances would come to the CRC for their recommendation for Council's adoption. The language would be formally developed between now and then. Council would have the ability to approve, deny, or modify the Ordinances for the ballot, as well as bringing forward their own items.

Chair Peterson asked the CRC how far they wanted to go with the Articles for the next meeting. He noted he read through Article X, and he did not see anything that stood out as something for lengthy discussion. He stated 10.04 from where we are at now could

be two meetings. We could cover up to 9.06 at the next meeting and then 9.06 to 10.04 for the next meeting after that.

Discussion held regarding having Section 7.09 **up to** Section 10.05 for the next agenda.

Commissioner Sund mentioned he would not be present at the next meeting.

Chair Peterson confirmed we will go up to 10.05 for the next agenda.

Date and Time of Next Meeting

The next meeting would be held on Thursday, July 19, 2018, at 3:00 p.m. in Conference Room 220 A.

Adjournment

There being no further business, the meeting was adjourned at 3:46 p.m.

Submitted by,

Barbara Kerr
Recording Secretary

Item Number:	4.B.
Meeting Date:	7/19/2018
Item Type:	Business

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

List of Recommendations to Date

SUMMARY:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▣ CRC Recommendation made 6 21 18	Backup Material
▣ CRC Recommendation 5 17 18 4.21c	Backup Material
▣ CRC Recommendation 5 17 18 4.21b	Backup Material
▣ CRC Recommendation 5 17 18 4.20 b	Backup Material
▣ CRC Recommendation 4 19 18 4 10 a Prohibitions	Backup Material
▣ CRC Recommendation 3 15 18 4.16 d	Backup Material
▣ CRC Recommendation 3 15 18 4.06b	Backup Material
▣ CRC Recommendation 2 15 18 4.02	Backup Material

II. Charter Review Commission Recommendation Made June 21, 2018

§ 7.08 – Public Records.

Current Wording	Proposed Amendment	If Adopted Will Read
Copies of the budget and capital program as adopted shall be public records and shall be made available to the public at suitable places in the city.	Copies of the budget and capital program as adopted shall be public records and shall be made available <u>on-line at no cost</u> to the public, <u>and</u> at suitable places in the city.	Copies of the budget and capital program as adopted shall be public records and shall be made available on-line at no cost to the public, and at suitable places in the city.

Substantiation:

To leverage technology to make the budget and capital program available and convenient to the broadest audience possible at no cost.

II. Charter Review Commission Recommendation Made May 17, 2018

§ 4.21 (c) – Authentication and recording; codification; printing.

Current Wording	Proposed Amendment	If Adopted Will Read
(c) <i>Printing of ordinances and resolutions.</i> The council shall cause each ordinance and resolution to have the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Cape Coral City Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the state, or the codes of technical regulations and other rules and regulations included in the code.	(c) Printing <u>Publication</u> of ordinances and resolutions. The council shall cause each ordinance and resolution to have the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be <u>placed online at no cost</u> , distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Cape Coral City Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the state, or the codes of technical regulations and other rules and regulations included in the code.	(c) <i>Publication of ordinances and resolutions.</i> The council shall cause each ordinance and resolution to have the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be placed online at no cost, distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Cape Coral City Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the state, or the codes of technical regulations and other rules and regulations included in the code.

Substantiation:

To leverage technology to make ordinances and resolutions available and convenient to the broadest audience possible at no cost.

II. Charter Review Commission Recommendation Made May 17, 2018

§ 4.21 (b) – Authentication and recording; codification; printing.

Current Wording	Proposed Amendment	If Adopted Will Read
(b) Codification. Within three (3) years after adoption of this charter and annually thereafter, the council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published promptly in bound or looseleaf form, together with this charter and any amendments thereto, pertinent provisions of the constitution and other laws of the State of Florida, and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the Cape Coral City Code. Copies of the code shall be furnished to city officers, placed in libraries and public offices for free public reference, and made available for purchase by the public at a reasonable price fixed by the council, all as required by resolution.	(b) Codification. Within three (3) years after adoption of this charter and annually thereafter, the council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published promptly in bound or looseleaf form, together with this charter and any amendments thereto, pertinent provisions of the constitution and other laws of the State of Florida, and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the Cape Coral City Code. Copies of the code shall be furnished to city officers, placed <u>online</u> , in libraries and public offices for free public reference, and made available for purchase by the public at a reasonable price fixed by the council, all as required by resolution.	(b) Codification. Within three (3) years after adoption of this charter and annually thereafter, the council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published promptly in bound or looseleaf form, together with this charter and any amendments thereto, pertinent provisions of the constitution and other laws of the State of Florida, and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the Cape Coral City Code. Copies of the code shall be furnished to city officers, placed online, in libraries and public offices for free public reference, and made available for purchase by the public at a reasonable price fixed by the council, all as required by resolution.

Substantiation:

To leverage technology to make ordinances and resolutions available and convenient to the broadest audience possible at no cost..

II. Charter Review Commission Recommendation Made May 17, 2018

§ 4.20 (b) – Codes of technical regulations.

Current Wording	Proposed Amendment	If Adopted Will Read
(b) Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price.	(b) Copies of any adopted code of technical regulations shall be made available <u>on-line at no cost</u> , by the city clerk for distribution or for purchase at a reasonable price.	(b) Copies of any adopted code of technical regulations shall be made available on-line at no cost, by the city clerk for distribution or for purchase at a reasonable price.

Substantiation:

To leverage technology to make ordinances and resolutions available and convenient to the broadest audience possible at no cost.

Charter Review Commission Recommendation Made April 19, 2018

§ 4.10 (a) Prohibitions.

Current Wording	Proposed Amendment	If Adopted Will Read
(a) Holding other office. Except where authorized by law, neither the Mayor nor any Council member shall hold any other City office or employment during the term for which he or she was elected to the Council, and neither a former Mayor nor former Council member shall hold any compensated appointive City office or employment until one (1) year after the expiration of the last term for which he or she was elected as Mayor or Council member. Neither the Mayor nor any Council member, either directly or indirectly, may be a contractor to the City.	(a) Holding other office. Except where authorized by law, neither the Mayor nor any Council member shall hold any other City office or employment during the term for which he or she was elected to the Council, and neither a former Mayor nor former Council member shall hold any compensated appointive City office or employment until one (1) year after the expiration of the last term for which he or she was elected as Mayor or Council member. Neither the Mayor nor any Council member, either directly or indirectly <u>during their active term or until one (1) year after the expiration of the last term for which he or she was elected as Mayor or Council member</u> may be a contractor to the City.	(a) Holding other office. Except where authorized by law, neither the Mayor nor any Council member shall hold any other City office or employment during the term for which he or she was elected to the Council, and neither a former Mayor nor former Council member shall hold any compensated appointive City office or employment until one (1) year after the expiration of the last term for which he or she was elected as Mayor or Council member. Neither the Mayor nor any Council member, either directly or indirectly during their active term or until one (1) year after the expiration of the last term for which he or she was elected as Mayor or Council member may be a contractor to the City

Substantiation:

The change clarifies the time period the member may not be a contractor to the city.

II. Charter Review Commission Recommendation Made March 15, 2018

§ 4.16 (d) – Veto Procedure.

Current Wording	Proposed Amendment	If Adopted Will Read
§ 4.16 (d). <i>Veto procedure.</i> The Mayor's line item veto may be overridden by the Council by an affirmative vote of two-thirds of the entire Council at any time prior to the adoption of the final budget.	§ 4.16 (d). Veto procedure. The Mayor's line item veto may be overridden by the Council by an affirmative vote of two-thirds of the entire Council at any time prior to the adoption of the final budget.	

Substantiation:

See §4.06 substantiation.

II. Charter Review Commission Recommendation Made March 15, 2018

§ 4.06 (b) - Mayor; mayor pro tem.

Current Wording	Proposed Amendment	If Adopted Will Read
§ 4.06 (b). A council member shall be elected by the majority vote of the Council to serve as Mayor Pro Tem. 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 Pro Tem 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.	§ 4.06 (b). A council member shall be elected by the majority vote of the Council to serve as Mayor Pro Tem. 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 Pro Tem 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.	§ 4.06 (b). A council member shall be elected by the majority vote of the Council to serve as Mayor Pro Tem. 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 Pro Tem shall be responsible for the orderly conduct of business in the Mayor's absence, and shall serve for a period of one year.

Substantiation:

See §4.06 (a) Substation.

Charter Review Commission Recommendation Made February 15, 2018

§ 4.02. - Eligibility.

Current Wording	Proposed Amendment	If Adopted Will Read
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	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. <u>Proof of residence shall be established by a valid voter's registration card.</u>	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. Proof of residence shall be established by a valid voter's registration card.

Substantiation:

The requirement is in §4.05(b) and should be added to §4.02

Item Number:	4.C.
Meeting Date:	7/19/2018
Item Type:	Business

AGENDA REQUEST FORM

CITY OF CAPE CORAL



TITLE:

Article VII, Section 7.09 Amendments after adoption

SUMMARY:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Article VII, Section 7.09 Amendments after adoption	Backup Material

§ 7.09.- Amendments after adoption.

- (a) *Supplemental appropriations.* If during the fiscal year the city manager certifies or the council determines that there are available for appropriation revenues in excess of those estimated in the budget, the council by ordinance may make supplemental appropriations for the year up to the amount of such excess after advertising thereof as provided above.
- (b) *Emergency appropriations.* To meet a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of section 4.19. To the extent that there is no available unappropriated revenue to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- (c) *Reduction of appropriations.* If at any time during the fiscal year it appears probable that the revenues available will be insufficient to meet the amount appropriated, the council shall then take such further action as necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.
- (d) *Transfer of appropriations.* At any time during the fiscal year the city manager or the council may transfer, within a department part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the city manager, the council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.
- (e) *Limitations; effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Item Number:	4.D.
Meeting Date:	7/19/2018
Item Type:	Business

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Article VII, Section 7.10 Lapse of appropriations

SUMMARY:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▢ Article VII, Section 7.10 Lapse of appropriations	Backup Material

§ 7.10.- Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

Item Number:	4.E.
Meeting Date:	7/19/2018
Item Type:	Business

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Article VII, Section 7.11 Administration of Budget

SUMMARY:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▢ Article VII, Section 7.11 Administration of Budget	Backup Material

§ 7.11.- Administration of budget.

- (a) *Work programs and allotments.* At such time as the city manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The city manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. The city manager may revise such allotments during the year if the city manager deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to section 7.09.
- (b) *Payments and obligations prohibited.* No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the city manager or the city manager's designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and the city manager shall also be liable to the city for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease provided for payments beyond the end of the fiscal year, provided that such action is made or authorized by ordinance.

Item Number:	4.F.
Meeting Date:	7/19/2018
Item Type:	Business

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Article VIII - Elections

SUMMARY:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▣ Article VIII - Elections	Backup Material

ARTICLE VIII.- ELECTIONS

§ 8.01. - City elections.

Except as otherwise provided by this Charter, the Florida Election Code shall apply to City election

§ 8.02.- Council districts; adjustment of districts.

- (a) *Number of districts.* There shall be seven (7) city council districts.
- (b) *Districting commission.* The council shall appoint seven (7) qualified electors, determined from the registration for the last statewide general election, who shall comprise the districting commission. The electors chosen shall not be City employees.
- (c) *Report; specifications.* Within six (6) months after the completion and receipt of the federal census and at least each ten (10) years thereafter. The districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the council district boundaries to comply with these specifications:
 - (1) Insofar as practicable, each district shall be formed of compact, contiguous territory, and its boundary lines shall follow the centerlines of streets or canals.
 - (2) Each district shall contain, as nearly as possible equal population.

The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the clerk the report shall be treated as an ordinance introduced by a council member.

- (d) *Procedure.* The procedure for the council's consideration of the report shall be the same as for other ordinances, provided that if a summary of the ordinance is published, it must include both the map and the description of the recommended districts.
- (e) *Failure to enact ordinance.* The council shall act on the proposed ordinance at least one hundred and twenty (120) days before the next primary city election. If the council fails to do so by such date, all council members to be nominated at such election shall be nominated at large, and the districting commission shall reconvene and adjust the district boundaries in accordance with the specifications, requirements and procedures earlier provided in this section, except that the ordinance shall be enacted at least one hundred

and twenty (120) days before the next primary city election following such election at large.

- (f) *Effect of enactment.* The new council districts and boundaries, as of the date of enactment, shall supersede previous council districts and boundaries for all the purposes of the next regular city election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all council members elected at that regular city election take office.

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

Item Number:	4.G.
Meeting Date:	7/19/2018
Item Type:	Business

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Article IX - Initiative and Referendum

SUMMARY:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Article IX, Initiative and Referendum	Backup Material

ARTICLE IX.- INITIATIVE AND REFERENDUM

§ 9.01. - General authority.

(a) *Initiative.* The qualified electors of the city shall have the power to propose ordinances to the council as hereinafter provided in section 9.03 et seq, and if the council fails to adopt the ordinance so proposed, with or without any change in substance, then the same shall be submitted to the electors to adopt or reject at a city election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

(b) *Referendum.* The qualified electors of the city shall have the power to require reconsideration by the council of any adopted ordinance as hereinafter provided in section 9.03 et seq, and if the council fails to repeal an ordinance so reconsidered, then the same shall be submitted to the electors to approve or reject it at a city election, provided that such power shall not extend to the budget or capital programs or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

§ 9.02.- Commencement of proceedings; petitioners' committee; affidavit.

Any five {5} qualified voters may commence initiative or referendum proceedings by filing with the city clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners' committee is filed the clerk shall issue the appropriate petition blanks to the petitioners' committee.

§ 9.03.- Petitions.

- (a) *Number of signatures.* Initiative and referendum petitions must be signed by qualified electors of the city equal in number to at least fifteen (15) percent of the total number of qualified electors registered to vote at the last regular city election.
- (b) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- (c) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- (d) *Time for filing referendum petitions.* Referendum petitions must be filed within sixty (60) days after

adoption by the council of the ordinance sought to be reconsidered.

- (e) *Time limitations.* Petitions for an initiative or a referendum shall become null and void if not filed with the city clerk within ninety (90) days after the city clerk has received the petitioners' affidavit and issued the appropriate petition blanks to the petitioner committee.

§ 9.04.- Procedure after filing.

- (a) *Certificate of clerk; amendment.* Within twenty (20) days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by certified mail. A petition certified insufficient for lack of required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within two (2) days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of section 9.03. and within five (5) days after it is filed the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by certified mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review under subsection (b) of this section within the time required, the clerk shall promptly present the clerk's certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.
- (b) *Council reviews.* If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within three (3) days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition.
- (c) *Court review; new petition.* A final determination as to the sufficiency of a petition shall be subject to circuit court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

§ 9.05.- Referendum petitions; suspension of effect of ordinance.

When a referendum petition is filed with the city clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a) There is a final determination of insufficiency of the petition, or
- (b) The petitioners' committee withdraws the petition, or
- (c) The council repeals the ordinance, or
- (d) Sixty (60) days have elapsed after a vote of the city on the ordinance.

§ 9.06. - Action on petitions.

- (a) *Action by council.* When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner provided in section 4.18 or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the electors of the city.
- (b) *Submission to electors.* The vote of the city on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than one (1) year from the date of the final council vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (c) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the thirtieth (30th) day preceding the day scheduled for a vote of the city by filing with the city clerk a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

§ 9.07.- Results of election.

- (a) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification by the City Council of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- (b) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification by the City Council of the election results.

Item Number:	4.H.
Meeting Date:	7/19/2018
Item Type:	Business

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Article X - General Provisions

SUMMARY:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▣ Article X - General Provisions	Backup Material

ARTICLE X.- GENERAL PROVISIONS

§ 10.01. - Code of ethics for city officers and employees.

The conduct of City officers and employees shall comply with State and local law.

§ 10.02. - Prohibitions.

(a) *Activities prohibited.*

- (1) 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. (Ord. 25-15, 6-15-15; approved by referendum vote on November 3, 2015)
- (2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- (3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with that person's test, appointment, proposed appointment, promotion or proposed promotion.

- (b) *Penalties.* Any person who alone or with others willfully violates any of the provisions of paragraphs (1) through (3) shall be ineligible for a period of five (5) years thereafter to hold any city office or position and, if an officer or employee of the city, shall forfeit that office or position.

§ 10.03. - Charter amendment.

Amendments to the City Charter may be proposed by any method authorized by law, including but not limited to petition of electors or by ordinance.

Further, beginning in 2016 and at least every six (6) years thereafter, City Council shall appoint a Charter Commission consisting of seven (7) regular members and two (2) alternate members to make Charter amendment recommendations to City Council. When substituting for an absent member, an alternate member may vote and participate in all discussions of the Charter Commission in the same manner and to the same extent as the regular members of the Charter Commission. When not substituting for an absent member, an alternate member shall not vote on any matter before the Charter Commission, but may participate in all discussions of the Charter Commission in the same manner and to the same extent as the regular members of the Charter Commission. (Ord. 26-15, 6-15-15; approved by referendum vote on November 3, 2015)

§ 10.04. - Severability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

