



OFFICE OF THE CITY ATTORNEY  
Shawn D. Smith, City Attorney  
Ronald J. Ramsingh, Chief Asst. City Attorney  
Nathalia Mellies, Assistant City Attorney

PHONE: (305) 809-3770  
FAX: (305) 809-3771  
EMAIL: cityattorney@cityofkeywest-fl.gov

## THE CITY OF KEY WEST

1300 WHITE STREET  
KEY WEST, FLORIDA 33040

To: City Commission for the City of Key West  
From: Ron Ramsingh, Chief Assistant City Attorney  
Date: March 14, 2022  
RE: Suggested changes presented to the City Commission on March 1, 2022

Madam Mayor & Commissioners:

The City Charter and District Boundary Review Committee (CRC) voted on all of their final proposed revisions to the city charter and presented them to you at your March 1<sup>st</sup> meeting. During that meeting, modifications were discussed to the CRC's proposals. The CRC proposals and City Commission comments are summarized below, along with some information that you might find helpful:

\*\*\*\*\*

### **Sec. 1.04 Equality of Rights**

(Approved by CRC 4-0; Members M. Holtz, M. Bailey and R. Haskins absent):

The equality of rights under the laws of the City of Key West shall not be denied or abridged because of sex, sexual orientation, gender identity/expression, age, disability, race, creed, irreligion, color, immigration status, or national origin.

*Commissioner Kaufman:*

- Add "religion or irreligion" and not just "irreligion"

\*\*\*\*\*

## **Sec. 1.05 Height Restriction**

(Approved by CRC 5-1; Member Cintron dissenting; R. Haskins absent)

(a) Building height restrictions in the city's land development regulations and building code in effect as of the adoption of this charter section are subject to change only upon approval of a majority of the qualified electors casting ballots at a general municipal election.

(b) If the board of adjustment approves a height variance for habitable building space, this approval shall be submitted to the voters for ratification in the next regularly scheduled election. Board of adjustment approval shall not become effective until voter ratification. Board of adjustment height variances for non-habitable (sic) purposes, including, but not limited to, radio towers, antennae and spires, shall be final and not be subject to referendum. Board of adjustment height variances for a build back of involuntarily destroyed structures which are nonconforming in their height shall also be final and not be subject to referendum.

(c) The maximum allowable height for habitable space on approximately 2.62 acres of City owned property on College Road in the HDR-1 zoning district shall be 40 feet for those projects that are devoted entirely to affordable workforce housing.

(d) The maximum allowable height for habitable space shall be 50 feet for mixed-use development projects that include a minimum 70 percent of workforce housing units and that are located in appropriately zoned areas outside the Historic District.

*Commissioner Weekley:*

- Would like to see the proposed increased height restriction limited to the CG zoning district and make applications for same subject to a conditional use. (This will also require a zoning amendment for CG.)

The maximum allowable height for habitable space shall be 50 feet for mixed-use development projects that include a minimum 70 percent of workforce housing units and that are located in the General Commercial (CG) zoning district.

*Commissioner Kaufman:*

- Needs more input from the Chief Building Official regarding the 50-foot number. Perhaps this needs to be “more or less” to accommodate the desire of the city commission for workforce housing.
- Needs language to ensure that a minimum number or ratio of residential units are in fact built to fulfill the intent of the city commission to provide the maximum viable amount of workforce housing.

The maximum allowable height for habitable space shall be 50 feet for mixed-use development projects that is comprised of a maximum of 25 feet for the first floor commercial component and a minimum of 2 storeys of residential units that are comprised of a minimum of 35 percent “low” income workforce housing units and 35 percent “very low” workforce housing units and that are located in appropriately zoned areas outside the Historic District.

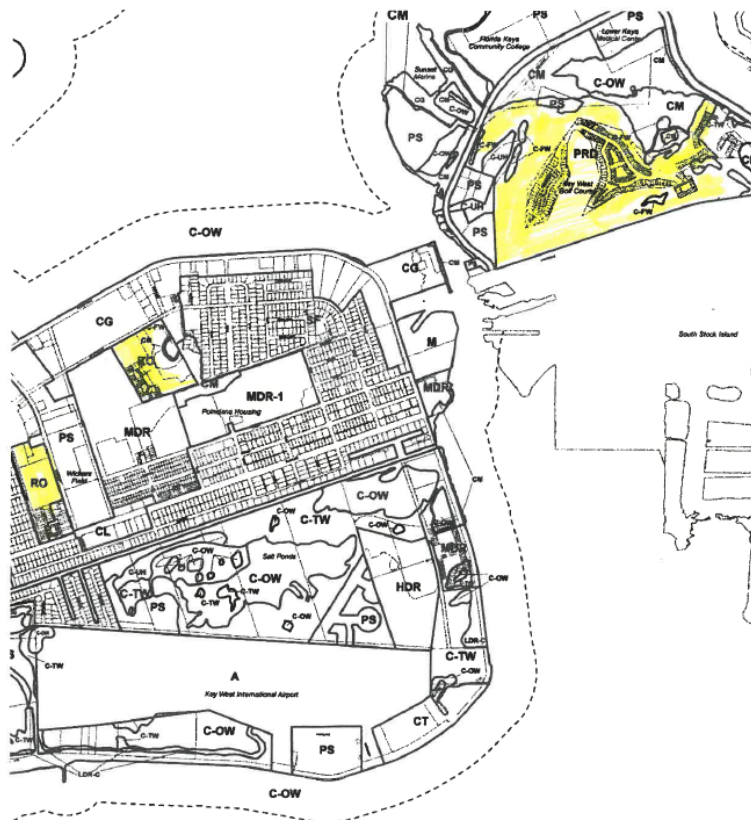
Mayor Johnston:

- Would like more input from the city planner regarding the maximum amount of workforce housing that can be accommodated in such an envelope.
- Would like to see the 50-foot limit be above Base Flood Elevation

The maximum allowable height for habitable space shall be 50 feet above Base Flood Elevation for mixed-use development projects that include a minimum 70 percent of workforce housing units and that are located in appropriately zoned areas outside the Historic District.

*Other information/suggestions from Legal:*

- This existing height limitations in the city for the various zoning districts are: SF- 25', CG- 40' (from 7<sup>th</sup> Ave [sic] to Eisenhower, along N. Roosevelt Blvd.- 30'), Coastal Low Density Residential- 30', MDR- 35', MDR-C- 30', HDR- 40', HDR1 25', CL 40', CT- 40', **RO Residential Office (mixed use)- 35', PRD (mixed use planned development/redevelopment)- 35'.**
- Address density as well such as in the Garden View project.
- Possibly address many of these specifics in a future ordinance and make the referendum subject to implementation of a future ordinance.



CURRENT ZONING DISTRICTS PERMITTING MIXED USE

\*\*\*\*\*

**Sec. 1.07 Citizen Review Board**

(Approved by CRC Unanimously 6-0 Sponsor: S. Harrison; M. Bailey absent):

I. Duties and powers of the board.

- (a) The Citizen Review Board (CRB) is an independent board with authority to review and/or investigate complaints involving Key West police officers and forward findings and/or recommendations to City management, the chief of police, State Attorney, other state and federal law enforcement agencies 6-0and/or grand juries. The chief of police must respond to CRB recommendations in writing within thirty (30) days.
- (b) The CRB may make written recommendations to the city commission, city manager and chief of police concerning police department policies and procedures. The chief of police must respond to CRB recommendations in writing within thirty (30) days.
- (c) The CRB may retain the services of an attorney and professional investigators and may conduct investigations, inquiries and hearings, ~~working as appropriate with the State Attorney and chief of police.~~ The existence of ongoing investigations does not preclude the CRB from acting, but the board should exercise its powers so as not to interfere with ongoing investigations and conduct its activities consistent with applicable law, including the Florida Government in the Sunshine Law ~~and applicable labor laws.~~
- (d) The CRB may subpoena witnesses and documents when conducting an investigation as follows:
  - (1) A request for a subpoena must be reviewed by the CRB attorney;
  - (2) The CRB attorney may or may not approve the request after consulting with the State Attorney's Office; and
  - (3) The CRB does not have the authority to offer immunity from prosecution.

II. Board membership.

- (a) The CRB shall consist of seven (7) volunteer members, to be appointed as follows:
  - (1) The city commission shall appoint four (4) members from nominations from community-based civic and social service organizations, ~~including, but not limited to: the League of Women Voters, the Key West Business Guild, the Bahama Village Business Association, the NAACP, the Key West Chamber of Commeree, the local chapter of the Florida Bar and local organizations of clergymen.~~ Each nomination must be accompanied by an application from the prospective member, outlining why he or she wishes to serve, detailing qualifications and agreeing to the time demands of the job. ~~The Committee for a Citizens Review Board shall, on an ad hoc basis, coordinate the nomination process, including publicly noticing organizations, soliciting nominations, and ensuring that nominations are complete and that the qualifications of prospective members meet the membership criteria specified in this ordinance before they are submitted to the city commission.~~

~~(2) The original four (4) members will then meet to select three (3) additional members from applications from the general public. The Committee for a Citizen Review Board shall coordinate the nomination process, including the placement of public notices soliciting applications and ensuring that nominations are complete and that the qualifications of prospective members meet the membership criteria specified in this ordinance before they are submitted to the first four appointees of the Board for consideration.~~

~~(2 3)~~ All appointments to the CRB should be made with sensitivity to the racial, gender, ethnic, religious, linguistic and cultural diversity of the City of Key West.

### III. Vacancies.

- (a) If a vacancy occurs among the four members of the CRB appointed by the city commission, that vacancy shall be filled by the city commission from nominations submitted by community-based organizations within ninety (90) days from the time the vacancy is announced. Every nomination must be accompanied by an application from the potential member. The executive director of the CRB will coordinate the nominating process, including noticing the organizations, soliciting nominations, and ensuring that nominations are complete and the qualifications of prospective members meet membership criteria specified in this ordinance before they are submitted to the city commission.
- (b) If a vacancy occurs among the three members appointed by the CRB, the CRB, by majority vote, shall fill that vacancy from nominations from the general public. ~~The executive director of the CRB will coordinate the nominating process.~~

### IV. Qualifications for members of the CRB; training and education.

- (a) All members of the CRB shall be residents of the City of Key West and shall have good reputations for integrity and community service.
- (b) No appointee to the CRB, nor any member of his or her immediate family, shall be currently employed by the City of Key West.
- (c) No appointee may be currently a party in litigation against the City of Key West.
  - (1) The filing of a complaint against the City of Key West alleging liability of the City through actions of any law enforcement officer shall immediately disqualify any appointee from serving on the CRB.
  - (2) Any appointee who has been a legal representative of any party in litigation against the City of Key West is prohibited from serving on the CRB for two years from the conclusion of such litigation.
- (d) Training and education. In applying to become a member of the CRB, applicants must agree to participate in at least 30 hours of structured training, as recommended by the National Association for Civilian Oversight of Law Enforcement, before participating in Board activities, plus extensive continuing education throughout their term of office. In addition, the city manager and city attorney shall coordinate training for the Board concerning applicable City laws and procedures. ~~The CRB must undergo up to six (6) months of training and organization before it accepts the first complaint for action.~~

## V. Terms of office.

- (a) The terms of office for all members is four (4) years, ~~except for the initial terms as follows: two (2) members shall serve for four (4) years; three (3) members shall serve for three (3) years; and two (2) members shall serve for two (2) years. All initial terms shall be determined by lot after all appointments have been made. This formula will result in the terms of either two or three members expiring every year.~~
- (b) CRB members will continue to serve until their successors have been appointed; but no member shall serve more than nine consecutive years on the Board.

## VI. Meetings, quorum and voting; officers.

- (a) Meetings, quorum and voting. All meetings of the CRB will be open to the public and advertised in advance as per the Florida Government in the Sunshine Law. ~~Exceptions shall be to discuss confidential matters before the Board.~~ Meetings shall be conducted at Old City Hall.
  - (1) The chairperson and three members may call a meeting.
  - (2) A quorum shall consist of four members of the CRB.
  - (3) An affirmative vote of not less than 51 percent of the members present and voting at any meeting is required for any action to be taken by the CRB unless otherwise set forth herein.
- (b) Parliamentary authority and rules of procedure. The parliamentary authority of the CRB shall be Robert's Rules of Order (current legislation) unless the CRB adopts its own order of business and rules of procedure governing its meetings.
- (c) The CRB meetings shall be open to the public as per the Florida Government in the Sunshine Law. ~~Notice of the meetings shall be posted by the city clerk at City Hall and other appropriate locations after being advised by the CRB of an upcoming meeting.~~ Advertisements of meetings shall be placed in newspapers of general circulation no less than seven (7) days prior to the meeting. ~~The CRB executive director shall coordinate with the city clerk concerning noticing of CRB meetings.~~
- (d) Recordation. The CRB shall be responsible for the recordation and transmittal of its minutes as per the Florida Government in the Sunshine Law. Copies of minutes of all CRB meetings shall be furnished to the ~~mayor, city commissioners, city manager, city clerk and chief of police, and shall be available for public inspection as per provisions in the Sunshine Law.~~
- (e) Officers. The CRB shall select, from its members, by majority vote, a chairperson, a vice-chairperson, and such other officers as deemed necessary. The chairperson shall have the authority to appoint all members serving on the various committees that the CRB may establish from time to time.

## VII. Procedures.

The following procedures shall be followed:

- (a) Complaints concerning allegations of police officer misconduct may be submitted to the CRB. All complaints shall be in writing using a form approved by the CRB for that purpose.

The Chief of police shall be notified of complaints received by the CRB within two (2) working days;

- (b) The review or investigation of complaints shall proceed as follows:
- (1) Consulting with the Key West police department and the State Attorney's Office, the CRB Executive Director or attorney will determine if an investigation related to the complaint is already underway.
  - (2) The existence of an ongoing investigation does not preclude the CRB from opening its own investigation when, for example, an internal affairs investigation seems to be taking an inordinately long time to complete. If the CRB votes to take such action, however, it should be based on advice of counsel that such action will not interfere with any ongoing criminal investigation.
  - ~~(3) A decision of the CRB to proceed with an investigation may be challenged by any agency engaged in such investigation or prosecution by seeking a judicial order. Written notification of such challenge to the CRB shall stay the investigation for 48 hours to permit the agency to obtain such an order.~~
  - ~~(3)~~ (4) If it is determined that there is already an ongoing investigation into the complaint submitted to the CRB, the CRB may opt to take no immediate action or delay the investigation and consideration of the complaint, except to monitor the progress and outcome of the current investigation.
  - ~~(4)~~ (5) If the complaint received by the CRB is already being investigated by police internal affairs, the final internal affairs report prepared for the chief of police shall be transmitted to the CRB for review within three (3) working days after it is sent to the chief.
  - ~~(5)~~ (6) When a decision is made to launch an independent investigation of a complaint or after review of an internal affairs report, the CRB may:
    - (i) request that the chief of police conduct further investigation; or
    - (ii) obtain further case-specific information from the chief of police, including written materials, audio or video tapes and related documents; or
    - (iii) conduct an independent investigation, such investigation to be concluded within 180 days or within a time period set by the CRB; or
    - (iv) notice and hold a hearing to gather evidence; or
    - (v) report its written findings and conclusions to the chief of police, with copies to the mayor, city commissioners, and city manager.
  - ~~(6)~~ (7) The CRB chairperson may assign a member or committee to review internal affairs reports and make a recommendation that the CRB take one of the actions enumerated in subsection ~~(5)~~ (6) above.
  - ~~(7)~~ (8) Affected officers and complainants, to the extent permitted by law, shall receive copies of CRB reports to the police department and of the CRB's requests for information.
- (c) The review or investigation process shall be concluded within 180 days or within a time period set by the CRB.

- (d) At the conclusion of each review or investigation, the CRB shall render one of the following findings based on the preponderance of the evidence:
  - (1) Unfounded - where the review or investigation shows that the act or acts complained of did not occur or were misconstrued;
  - (2) Exonerated - where the acts that provide the basis for the complaint occurred, but the review or investigation shows such acts were proper;
  - (3) Not sustained - where, for example, the review or investigation fails to disclose sufficient facts to prove or disprove the allegation made in the complaint;
  - (4) Sustained - where, for example, the review or investigation discloses sufficient facts to prove the allegations made in the complaint;
  - (5) No finding - where, for example, the complainant failed to produce information to further the investigation, the review or investigation revealed that another agency was responsible and the complaint has been referred to that agency, the complainant withdrew the complaint, or the CRB did not reach a conclusion.
- (e) At the conclusion of the review or investigation, the CRB shall forward its written findings and conclusions to the chief of police and to affected officers and, to the extent permitted by law, to the complainants. The chief of police shall respond in writing within 30 days.

#### VIII. Procedures related to city employees and witnesses.

- (a) When a City of Key West employee, including police officers, appears before the CRB in response to a request or subpoena, such employee shall be formally advised prior to the commencement of testimony that if the employee has a good-faith belief that the testimony would tend to be self-incriminating, and if, in reliance upon that good-faith belief, the employee declines to answer any question, that employee's decision not to provide testimony will not subject him or her to any adverse employment consequences. Any employee who, after receiving such advice, decides to testify or provide evidence, must sign a statement acknowledging that the employee understands the advice and is testifying or providing evidence voluntarily and knowingly.
- (b) A police officer who is the subject of an investigation shall be informed of the nature of the investigation and provided with a copy of the complaint prior to being interrogated.
- (c) A person who appears before the CRB in response to a request or subpoena may be represented by counsel or any other representative of his or her choice, which representative may be present at all times during the subject's appearance before the CRB. Rules of procedure shall be established by the CRB.
- ~~(d) Policies and procedures shall be established to ensure compliance with Chapters 112 and 119 of the Florida Statutes and other applicable laws.~~

#### IX. Review and approval of annual budget.

- (a) The City shall adequately fund the CRB to allow it to carry out its function effectively of citizen oversight of the Key West police department.



- (b) The CRB will adopt a fiscal year that coincides with that of the City. The city manager shall assign appropriate personnel to assist the CRB in the preparation of an annual budget and that budget shall be submitted to the city commission as part of ~~his~~ the annual budget proposal.
- (c) While the members of the CRB are volunteers, there shall be a full-time paid Executive Director ~~with clerical assistance~~. The CRB shall also retain an attorney to advise the Board. The CRB may also engage the services of professional investigators, as needed. The cost of appropriate office space, equipment and reasonable office expenses shall also be included in the budget. ~~The cost of necessary training of the CRB members and staff may be a significant budget item the first year.~~
- ~~(d) No expenditure shall be made in any given year without approval by the city commission of the CRB budget for that year and all expenditures shall comply with City procedures for acquisition of goods and services. The city manager shall assign personnel to brief the CRB and staff concerning these procedures and to assist as appropriate.~~
- (d e) Nothing contained herein shall be construed to prohibit the CRB from submitting a supplemental budget and appearing before the City Commission to request approval.

X. Annual reports.

The CRB shall, at least annually, provide a report in writing to the mayor, the city commission, the city manager, the chief of police and the city attorney. Such reports should include, but are not restricted to, statistics and summaries of citizen complaints, a comparison of the CRB's findings and conclusions with the actions taken by the chief of police, recommendations related to changes in police policies and procedures, and any recommended changes concerning this ordinance.

XI. Severability.

If any section, part of a section, paragraph, clause, phrase or word of this charter section is declared invalid, the remaining provisions of this charter section shall not be affected.

*Other information/suggestions from Legal:*

- After discussion by the CRC, a proposal failed to move the entirety of the regulatory language of the CRB into an ordinance. Thereafter, Members Harrison & Cintron proposed the above referenced language to clean up the section and it passed unanimously.

\*\*\*\*\*

## **Sec. 1.08 Approval by Electorate Required for Annexation of Any Real Property**

(Approved unanimously by CRC 6-0; Sponsored by D. Weekley; M. Bailey absent):

Annexation or acquisition by any means, of any and all real property may only be by a vote of a super-majority of the City Commission. ~~the electors of the City.~~

- *Commissioner Kaufman:*  
Would like to see language that limits just acquisition (not annexation) for purposes of affordable housing:  
Annexation or acquisition by any means, of any and all real property may only be by a vote of a super-majority of the City Commission. Any acquired property shall solely be used for workforce housing. ~~the electors of the City.~~
- *Commissioner Davila:*  
Would like for the voters to consider the proposal as-is.
- *Commissioner Weekley:*  
Would like to include other types of acquisitions such as utilities:  
Annexation or acquisition by any means, including foreclosures, forfeitures and utility liens of any and all real property may only be by a vote of a super-majority of the City Commission. ~~the electors of the City.~~
- *Commissioner Lopez:*  
Would like to see specific language regarding a “specific public benefit”.  
Annexation or acquisition by any means, of any and all real property may only be by a vote of a super-majority of the City Commission. Any acquired property must serve a specific public benefit. ~~the electors of the City.~~
- *Other information/suggestions from Legal:*  
-Suggest that the provision be left as-is except for a supermajority approval for acquisition of any real property that is subject to a code compliance foreclosure or forfeiture action to be used or sold for the purposes of providing and/or funding affordable workforce housing:  
Annexation or acquisition by any means, of any and all real property may only be by a vote the electors of the City. Any real property that is sought to be acquired by the City via a criminal forfeiture action, foreclosure of code compliance lien, or any acquisition or transfer to another local, state or federal governmental organization<sup>1</sup> shall be approved by supermajority of the City Commission and used to create or fund affordable workforce housing. (ex: KOTS, Trumbo Rd)

\*\*\*\*\*

---

<sup>1</sup> New suggestion (*in italics*) made on 4/12/22

**Sec. 3.01 City Commission and Mayor; Election, Term; Term Limits**

(CRC Approved para (a) 4-2; Members M. Bailey and S. Harrison dissenting; R. Haskins absent; paragraph (b) was approved unanimously 6-0 with R. Haskins absent):

- (a) There shall be a city commission with all legislative powers of the city vested therein. The city commission shall consist of seven (7) commissioners, six (6) of whom shall be elected from single member districts numbered I, II, III, IV, V and VI. The mayor shall be elected by the people at large for a term of ~~two (2)~~ four (4) years. Commissioners from districts numbered I, II, III, IV, V and VI shall be elected for a term of four (4) years.
- (b) ~~No person~~ The currently serving mayor, as of September 29, 2021 shall serve no more than a total of eight years in the position of mayor. No person The currently serving city commissioners, as of September 29, 2021, shall serve no more than a total of twelve years in the position of city commissioner. No previous term, or term in progress as of the effective date of this provision, shall be counted toward the limitations contained herein. If the term limit occurs during a term in office, the person holding the office may complete the term.

- *Other information/suggestions from Legal:*

- Paragraph (a) proposes to increase the term of the Mayor from 2 years to 4 years.

- Paragraph (b) proposes to eliminate term limits for the Mayor and City Commission. If passed by the City Commission and by the voters, it is not the intent of the CRC to have the waiver of term limits in paragraph (b) apply to the sitting members of the City Commission. Therefore, the current members would still be subject to term limits.

- The September 29, 2021 date was the date that the CRC voted on the item. However, it was the intent of the CRC that this date could change so long as the spirit of the amendment is intact- which is to have the current term limitation language apply to the current Mayor and City Commissioners but not to those that are subsequently elected.

\*\*\*\*\*

**Sec. 3.02 Qualifications For Mayor and Commissioners**

(Sponsored by Commissioner Lopez)

Any elector of the city shall be eligible to hold the office of mayor. Any candidate for mayor shall reside in the City of Key West at the time of qualification continuously for at least one year retroactively from the date of registration with the Supervisor of Elections Office.<sup>2</sup> Any elector of the city who, as of the date of qualification, resides in the district which he or she is seeking to represent continuously for at least one year retroactively from the date of registration with the Supervisor of Elections Office<sup>3</sup> shall be eligible to hold the office of city commissioner. Any

<sup>2</sup> New suggestion (*in italics*) made on 4/12/22

<sup>3</sup> New suggestion (*in italics*) made on 4/12/22

person elected to represent a district shall maintain residency in that district for the term of office. The city commission shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. A member charged with conduct constituting grounds for forfeiture of this office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspapers of general circulation in the city at least one (1) week in advance of the hearing.

- *Other information/suggestions from Legal:*

This measure proposed to add a one-year continuous residency requirement to qualify to run for the office of Mayor and a one year continuous residency requirement in the district that you seek office for City Commissioner.

\*\*\*\*\*

### **Sec. 3.07 Special Meetings; Minutes; Rules; Journal**

(Approved unanimously by the CRC 5-0; Sponsor: S. Harrison; M. Bailey and R. Cintron absent):

The mayor, any two (2) members of the city commission, consistent with the Sunshine Law, or the city manager, may call special meetings of the commission, with every effort made to contact each member by telephone, e-mail or text message with receipt confirmation<sup>4</sup>, upon at least twenty-four (24) hours' notice, ~~to each member, served personally, or left at his usual place of residence with every effort made to contact the member by the city clerk.~~ All meetings of the city commission and of the committees thereof shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times. The commission shall adopt Robert's Rules of Order, determine other of its own rules and order of business, and keep a journal of its proceedings.

- *Other information/suggestions from Legal:*

CRC member Harrison sponsored this amendment that passed unanimously in order to make it easier for the Clerk's Office to notice members of the City Commission of a special meeting during natural disasters such as a hurricane where personal service might not be safe or practical-especially in light of other means of attendance such as video conferencing.

\*\*\*\*\*

---

<sup>4</sup> New suggestion (*in italics*) made on 4/12/22

### **Sec. 3.09 Duties of the Mayor**

(Approved unanimously by the CRC 5-0; Sponsor: S. Harrison; M. Bailey and R. Cintron absent):

The mayor shall preside at all meetings of the commission and perform such other duties consistent with ~~his or her~~ the office as may be imposed by it, and ~~he or she~~ they shall have a voice and a vote in the proceedings of the commission, but no veto power. ~~He or she~~ They may use the title of mayor in any case in which the execution of legal instruments or writing or other necessity arising from the general laws of the state so requires, but this shall not be considered as conferring upon ~~him or her~~ them the administrative or judicial functions of a mayor under the general laws of the state. ~~He or she~~ The mayor shall be recognized as the official head of the city by the courts for the purpose of serving civil processes; by the governor in the exercise of military laws; and for all ceremonial purposes. The powers and duties of the mayor shall be such as are conferred upon ~~him or her~~ them by the city commission in pursuance of the provisions of this Charter and no others.

Assuming responsibility as the strategic leader of the city: (1) in assuring that a vision and long-range goals established by the Commission for the City are established and reviewed annually; (2) in presenting an annual State of the City address which must include an analysis of progress on city vision and goals before the City Commission; (3) in educating the public on citywide issues; (4) in setting the tone for city government; and (5) in assuring that the Commission looks beyond the legal and geographical jurisdiction of the municipality and coordinates Key West leadership with that of regional jurisdictions.

\*\*\*\*\*

### **Sec. 3.10 Powers of Voters to Propose Ordinances; Initiative and Referendum**

(Approved unanimously by the CRC 5-0; Sponsor: S. Harrison; M. Bailey and R. Cintron absent):

- (1) (a) *Initiative*. The qualified voters of the city shall have power to propose ordinances to the commission and, if the commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it 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 voters of the city shall have power to require reconsideration by the commission of any adopted ordinance and, if the commission fails to repeal an ordinance so reconsidered, to approve or reject it 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.
- (2) 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 at the committee's expense.~~

- (3) (a) Initiative and referendum petitions scheduled for a regular election must be signed by qualified voters of the city equal in number to at least ten (10) percent of the total number of qualified voters registered to vote at the last regular city election. Initiative and referendum petitions scheduled for a special election must be signed by qualified voters of the city equal in number to at least twenty percent (20%) of the total number of qualified voters registered to vote in the last regular city election.
- (b) 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) Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that ~~he~~ they personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in ~~his~~ their presence, that ~~he~~ believes they believe them to be the genuine signature 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) Referendum petitions must be filed within thirty (30) days after adoption by the commission of the ordinance sought to be reconsidered.
- (e) Referendum and initiative petitions seeking a special municipal election under subsection (3)(a) shall be titled "Proposed Special Municipal Election." Immediately after the title, the petition shall state the following: "By signing this petition, I am requesting that a special election be held for this question, instead of the scheduling of this question for the next general municipal or statewide election. I understand that the additional cost to the City of Key West to hold such a special election is anticipated to be \$ [insert amount], as determined by the city clerk."
- (4) (a) Within twenty (20) days after the initiative petition is filed and five (5) days for a referendum petition, 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. Grounds for insufficiency are only those specified in subsection (3). A petition certified insufficient for lack of the 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 subsection (3) of section 3.10, 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 commission review under subsection (b) of this section within the time required, (the clerk shall promptly present ~~his~~ their certificate to the commission and the certificate shall then be a final determination as to the sufficiency of the petition).

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 two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the commission. The commission shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the commission's determination shall then be a final determination as to the sufficiency of the petition.

- (5) 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 final determination of insufficiency of the petition, or;
  - (b) The petitioners' committee withdraws the petition, or;
  - (c) The commission repeals the ordinance; or;
  - (d) After a vote of the city on the ordinance has been certified.
- (6)
  - (a) When an initiative or referendum petition has been finally determined sufficient, the commission shall promptly consider the proposed initiative ordinance in the manner provided in Article III or reconsider the referred ordinance by voting its repeal. If the commission 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, it shall submit the proposed or referred ordinance to the voters of the city.
  - (b) The vote of the city on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than sixty (60) days from the date that the petition was determined sufficient. If no regular city election is to be held within the period described in this subsection, the commission shall provide for a special election, except that the commission may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.
  - (c) An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the city by filing with the city clerk or other official designated by the commission 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.
- (7)
  - (a) If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the commission. 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. If a

majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(b) If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

- *Other information/suggestions from Legal:*

This measure seeks to put the responsibility of creating the petitions on the group that is seeking the referendum or ordinance. Currently, the City Clerk has this function, reimbursed by the petitioner group.

\*\*\*\*\*

### **Sec. 4.01 City Manager**

(Approved unanimously by the CRC 6-0; Sponsor: S. Harrison; R. Haskins absent):

There shall be a city manager who shall be the chief executive and the administrative officer of the city. The manager shall be responsible to the commission for the administration of all city functions and affairs placed in ~~his~~ their charge by or under this Charter.

- *Other information/suggestions from Legal:*

This measure seeks to change gender references to neutral language

\*\*\*\*\*

### **Sec. 4.03 Designation of Administrative Officer** **During Temporary Absence of Manager**

(Approved unanimously by the CRC 6-0; Sponsor: S. Harrison; R. Haskins absent):

By letter filed with the clerk, the manager shall designate, subject to approval of the commission, a qualified city administrative officer to exercise the powers and perform the duties of manager during his temporary absence or disability. During such absence or disability, the commission may revoke such designation at any time and appoint another officer of the city to serve until the manager shall return or ~~his~~ their disability shall cease.

- *Other information/suggestions from Legal:*

This measure seeks to change gender references to neutral language



\*\*\*\*\*

**Sec. 4.04 Duties of the City Manager**

(Approved unanimously by the CRC 6-0; Sponsor: S. Harrison; R. Haskins absent):

The city manager shall:

- (a) Appoint, and when ~~he deems~~ they deem it necessary for the good of the city, suspend or remove all city employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter, civil service board rules and regulations or personnel rules adopted pursuant to this Charter. ~~He~~ The manager may authorize any administrative officer who is subject to ~~his~~ their direction and supervision to exercise these powers with respect to subordinates in that officer's department, ~~office~~ office or agency;
  - (b) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this Charter or by law;
  - (c) Attend all commission meetings and shall have the right to take part in discussion but may not vote;
  - (d) See that all laws, provisions of this Charter and acts of the commission, subject to enforcement by ~~him~~ the manager or by officers subject to ~~his~~ direction and supervision, are faithfully executed.
- *Other information/suggestions from Legal:*

This measure seeks to change gender references to neutral language

\*\*\*\*\*

**Sec. 4.05 Departments of the City**

(Approved unanimously by the CRC 6-0; Sponsor: S. Harrison; R. Haskins absent):

All functions of municipal government shall be allotted among various departments including, but not limited to, a finance department, a department of general services, a police department and a fire department. Police and fire departments shall be headed by a police chief and a fire chief whose chiefs shall have exclusive control of the stationing and transfer of all officers and employees of the department as may be prescribed by the ordinances of the city. Department heads shall not be considered employees of the city ~~and~~ covered by the civil service system.

- *Other information/suggestions from Legal:*

This measure seeks to remove department heads from the civil service system

\*\*\*\*\*

**Sec. 5.01 Civil Service Board**

(Approved unanimously by the CRC 6-0; Sponsor: M. Holtz; R. Cintron absent):

There shall be a civil service system for employees of the City of Key West. Its specific terms and conditions shall be established by ordinance.

- *Other information/suggestions from Legal:*

It was the desire of the CRC to eliminate the Civil Service Board, but keep the civil service system. The reason for this was the fact that although the Board served a larger role in years past, with the increased footprint of unions and collective bargaining agreements, the role of the Civil Service Board has been reduced to reviewing promotional exams for Police and Fire.

\*\*\*\*\*

**Sec. 6.01 City Commission Election; Runoff**

(Approved unanimously by the CRC 6-0; Sponsor: M. Holtz; R. Cintron absent):

~~The election for city~~ City commissioners in districts I, III and VI ~~shall be held~~ elected on the State of Florida primary election date in 2013 for a three-year term, and beginning in 2016 shall serve a four-year term. ~~The election for city~~ City commissioners in districts II, IV, and V, ~~shall be held~~ elected on the State of Florida primary election date in ~~2015 for a three-year term, and beginning in 2018~~ shall serve a four-year term. The mayor is, chosen by voters ~~city wide~~ citywide ~~and~~ shall be elected for a ~~one-year~~ four year term ~~on beginning with~~ the State of Florida primary election date in ~~2013~~ 2024, ~~and beginning in 2014 shall serve a two-year term~~. Elections shall be held biennially in accordance with the State of Florida primary election date thereafter. The name of any qualified elector of the city shall appear on the ballot as a candidate for the office of city commissioner upon said elector paying as a qualifying fee to the city a sum equal to five (5) percent of the annual salary of the office which said elector seeks, or by the elector qualifying by a petition process prescribed by State law and adopted in specific terms by city ordinance. The candidate qualifying and reporting periods shall be run in conjunction with the state schedule. A majority of votes cast in a particular district is required for a candidate to be elected. If no candidate receives such a majority, then a runoff election shall be held on the State of Florida General Election date following the first election between the two (2) candidates receiving the greatest number of votes. All ties in either election shall be decided by lot in the presence of the candidates concerned, under the direction of the city commission.

- *Other information/suggestions from Legal:*

If the City Commission agrees to place Sec. 3.01(a) (Increasing the Mayor's term from 2 to 4 years), then this will have to be placed on the ballot as well. Additionally, this measure cleans up language regarding the now expired enabling language for having elections scheduled during even-year primary and general election cycles.

\*\*\*\*\*

### **Sec. 8.01 Methods of amending Charter**

(Approved unanimously by the CRC 7-0):

This Charter may be amended in two (2) ways:

(a) The commission may, by ordinance, propose amendments to any part or all of this Charter, except Article II prescribing boundaries, and upon passage of the initiating ordinance shall place the proposed amendment to a vote of the electors at the next general election held within the city or at a special election called for such purpose. Amendment of Article II resulting from annexation done in accordance with general law shall be by ordinance of the commission and shall not be subject to a vote of the electors except as provided by general law.

(b) The electors of the city may propose amendments to this Charter for a regular election by petition signed by at least ten percent (10%) of the total number of qualified voters registered to vote in the last regular city election. Charter amendment petitions scheduled for a special election must be signed by qualified voters of the city equal in number to at least twenty percent (20%) of the total number of qualified voters registered to vote in the last regular city election.

(1) All papers of a petition shall be uniform in size and style and shall be assembled in 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 ~~extend~~ extent of the proposed charter amendment.

(2) Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating ~~that he~~ they personally circulated the paper, the number of signatures thereon~~;~~ that all the signatures were affixed in ~~his~~ their presence, that ~~he believes~~ they believe 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 proposed charter amendment.

(3) Upon certification of the petition by the city clerk, such certification to include the validity of the names on the petition as qualified voters registered to vote in the last regular city election, the commission shall place the proposed amendment to a vote of the electors at the next general election held not less than sixty (60) days after certification or at a special election called for such purpose. If the petition for Charter amendment seeks a special municipal election, it shall be titled "Proposed Special Municipal Election." Immediately after the title, the petition shall state the following: "By signing this petition, I am requesting that a special election be held for this question, instead of the scheduling of this question for the next general municipal or statewide election. I understand that the additional cost to the City of Key West to hold such a special election is anticipated to be \$ [insert amount], as determined by the city clerk."

- *Other information/suggestions from Legal:*

This measure seeks to change gender references to neutral language.