



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: April 21, 2022
RE: Suggested Charter Review Committee changes presented to the City Commission for 2nd Reading May 3, 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 1st meeting. During that meeting, modifications were discussed to the CRC's proposals.

The City Commission considered all of the proposals on April 20, 2022, and ***declined*** to move forward on the following changes:

- Sec. 1.05 (Height Limit Increase)
- Sec. 1.07 (CRB)
- Sec. 3.01 (Mayor 4-year term/ Eliminate Term Limits)
- Sec. 3.07 (Notice to Commission For Special Meetings)
- Sec. 4.05 (Eliminate Dept Heads from Civil Service)
- Sec. 6.01 (City Commission Election Mayor 4-Year Term).

The remaining 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.

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):

Approved for 2nd reading:

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

Acquisition of any real property by any means may only be by a vote of a supermajority of the city commission for use for a specific public purpose.

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 ~~or city commissioner~~ shall reside in the City of Key West continuously for at least one year at the time of qualification. Any elector of the city who, as of the date of qualification, resides in the district which he or she is seeking to represent shall be eligible to hold the office of city commissioner. Any 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:*

It was the desire of the Commission at 1st reading to make the 1-year residency requirement without the requirement to be in the district for which one runs for that preceding year to being elected. **This measure was not voted on at 1st reading.**

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. 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.

This measure was postponed at 1st reading to hear from Claire Hurd and more information on replacement ideas for the Civil Service Board.

Secs. 1.07, 3.09, 3.10, 4.01, 4.03, 4.04, and 8.01 Gender Reference Revisions

This ordinance combines all of the recommended changes to the Charter concerning gender references.