



CITY OF YUMA
2019 CHARTER REVIEW COMMITTEE
TUESDAY, OCTOBER 8, 2019

MINUTES

Meeting called to order at 5:01 p.m.

Committee members present: Russ Clark, John Courtis, Doug Jennings, Art Morales, Jeff Polston, Bill Regenhardt and Jennifer Tobin

Committee members absent: Barbara Hengl, Gel Lemmon and Russell McCloud

Staff members present: Interim City Administrator, John D. Simonton
Deputy City Attorney, Rodney Short
Deputy City Clerk, Janet L. Pierson

- I. **Selection of Committee Chair and Vice Chair:** Both Doug Jennings and Russ Clark volunteered as Chair of the Committee. Russ Clark was elected Chair by a 5-2 vote. Jeff Polston nominated Bill Regenhardt as Vice Chair. With no other nominations Regenhardt was elected Vice Chair.
- II. **Approval of Meeting Minutes:** A motion was made by Jeff Polston, seconded by John Courtis to approve the September 30, 2019 meeting minutes. The motion carried by a unanimous vote.

III. **Discuss and Strategize Possible Ways to Review the Yuma City Charter:**

Discussion

- Staff stated that in the past the strategy has been to review the Yuma City Charter (Charter) section by section starting at the beginning. (Polston/Pierson/Short)
- It was suggested that additions and deletions can be emailed and then shown on an overhead projector as a collective effort for input by the group. That could be a possibility in the future but not at this point. (Courtis/Clark)
- The Committee can only review and discuss what is on the current meeting agenda. (Morales/Short)
- Review of the entire Charter can be placed on the agenda so that nothing is off limits. (Clark)
- It would be helpful to receive input from staff ahead of time on areas of the Charter with potential issues. (Regenhardt)

- IV. **Review of Yuma City Charter, Articles I-III:** Chairperson Clark addressed each Article and Section separately with key point discussions as follows:

Article 1 Name and Continuity

Section 1. Name.

Discussion

- There is no legal reason to clarify Yuma Arizona. (Polston/Short)

Section 2. Rights and liabilities.

Discussion

- (OC) means Original Charter and the date at the end of each section represents the last time the section was amended. (Polston/Short)
- Charter Cities must often give way to State law that are designed to regulate matters that are not local and are statewide concerns. (Regenhardt/Short)
- Morales asked for clarification of the language: “not pertaining to this municipality.” Short explained that this was original Charter language and meant that Yuma had common law property rights and those same common law property rights would be vested after adoption of the Charter, subject to the existing liabilities and the Charter did not abolish existing laws on the books. But the Charter must be read in harmony with other portions. (Morales/Short)

Article II, Boundaries

Sec. 1. Boundaries.

This section was last changed at the December 6, 1977 General Election. **Polston** questioned what the change was and Short found that prior to the December 6, 1977 election the boundaries were spelled out in greater detail.

Short relayed that in 1977 the Charter was completely reviewed and re-adopted which is why the 12/6/77 date will be seen often at the end of each Section.

Article III. Power of the City

Sec. 1. General powers.

Discussion

- The language in this section is vague because it is not known what the State legislature is going to pass. (Courtis/Short)
- The State Legislature does not always trump the Charter especially when it comes to local concerns. (Polston/Short/Tobin/Jennings)

Sec. 2. Property

Discussion

- Sections 1 and 2 replace four to five sections of the original Charter. (Tobin/Short)
- Eminent Domain in this section must be done in accordance with public interest or public benefit and cannot be taken for business purposes. (Regenhardt/Short/Courtis)
- Eminent Domain is controlled by State law and the State and Federal Constitution. (Morales/Short)

Sec. 3. Money and Bonds

Discussion

- The language “possess the power to” was added to this section at the November 6, 2001, election. (Courtis/Short)

Sec. 4. Tax.

Discussion

- The difference between section 3 and 4 is minimum oversight versus heavy oversight. The borrowing of money/bonds follows State laws and banking laws. (Courtis/Jennings/Poston/Short).
- The oversight on money and bonds is the City Council. (Clark)
- It's not unusual for other governmental bond requests to go to the taxpayers. (Tobin)

Sections 3 and 4 were tabled to the next meeting to allow legal representation to fully brief the Committee on the issue of oversight in dealing with bonds versus taxes.

Sec. 5. Nuisance.

Discussion

- Section 5 states the City may abate nuisances but otherwise is vague. Arizona Revised Statutes § 9-499 is the authority the City follows. (Regenhardt/Courtis/Tobin/Short)
- There is nothing more that can be added to this section to give the City more power to address these issues. The City must follow the statute. (Morales/Short)

Sec. 6. Health.

Discussion

- Section 6 also follows A.R.S. § 9-499. (Short)
- Aligns with the County Health Department. (Clark)

Sec. 7 Disease.

Discussion

- The County Health Department generally would have the oversight on issues of disease. (Clark/Short)

Sec. 8 Public utilities and services.

Discussion

- The City owns its own water and sewer utilities. (Clark)
- It would be cost prohibitive to acquire the electric power infrastructure for the City to own and offer electric power to the citizens of Yuma. (Jennings/Simonton)

Sec. 9. License.

Discussion

- The process for how rates for licenses are determined will be looked into and brought back to the Committee. (Regenhardt/Short/Simonton)

Sec. 10. Fees.

Discussion

- Fees can include trash fees as well as fees for use of Parks and Recreation facilities among others. (Clark/Simonton)
- Fees must be justified and most likely include staff time for providing the service. (Clark/Simonton)

Sec. 11. City as a person.

Discussion

- Relates to the discussion from earlier in Article 2. The City can sue and be sued like any corporation or citizen. The mechanism is controlled by statute. (Clark/Short)

Sec. 12. Land use.

Discussion

- Clarification is needed on what “all land” means. (Jennings/Polston/Courtis/Short)

Section 12 will be revisited at the next meeting so that staff can work with Polston directly on his questions.

Sec. 13. Intergovernmental agreements.

Discussion

- Intergovernmental Agreements (IGAs) fall under Title 9 for Cities and Towns. (Courtis/Short)
- All IGA's are entered into by vote of the City Council. (Courtis/Short/Simonton)

Section 13 will be tabled until the next meeting so that staff can confirm whether all IGA's are done by a vote of the City Council and how other Charter cities handle IGA's.

Sec. 14. Elections. This section was skipped and will be referred back to when reviewing Articles IV and V which are noted as “Cross Reference” items to this section. Short will provide additional information before the next meeting.

Sec. 15. Commercial and industrial pursuits.

Discussion

- The opening of any business pursuant to this section would be at the discretion and authority of City Council. (Polston/Courtis/Jennings/Clark)
- The term “public purpose” as used in this section is subjective. (Jennings/Polston/Clark)
- The City should not be in the business of making a profit. This section simply gives the City the opportunity. (Polston/Clark)

Sec. 16. Special sales tax.

Discussion

- There is no wording that could be added to make this charter provision legally stronger. (Regenhardt/Short)
- The figures used in this section are a result of a special election ballot issue. (Jennings/Short)
- Excess 2% monies can only be applied as specified in this section. City Council determines where it is applied through the budget process. (Courtis/Regenhardt/Tobin/Simonton/Clark)
- Excess 2% money can also be held back in a particular budget cycle but still can only be used for the intended purposes as stated in this section. (Jennings/Simonton/Short)

Sec. 17. Penalties.

Discussion

- The State of Arizona has a fee schedule relative to penalties. (Courtis/Short)

Sec. 18. Liberal construction.

Discussion

- The Charter should be read to reflect the intent of each section without limiting other sections of the Charter. (Short)

Additional discussion

- The ballot box rather than the City Charter is the correct venue for discussing closures of entities that are purportedly losing money for the City such as the City's golf course. (Jennings/Clark/Polston/Regenhardt)
- Section 9 and 10 (License and Fees) are brought forward to City Council by Resolution. (Courtis/Short)
- Adding the word "minimum" in front of items (1), (2) and (3) under Section 16 – Special sales tax - is not possible without going back to the voters as this is language approved at a ballot election. (Morales/Clark/Short)

- V. **Establish Schedule of Future Meeting Dates/Times:** A consensus of those present stated they had a conflict with the October 22nd meeting date and the meeting was moved to Monday, October 21st. Although there was discussion about moving the November 26th and December 24th meeting dates due to the corresponding holidays it was agreed to keep this agenda item on so that the schedule can be discussed each time.

Short advised that a member of the public brought up the meeting time of 5:00 p.m. and how that may be difficult for those coming from work to get here on time. The Committee did not have an issue with the time and agreed to continue meeting at 5:00 p.m.

- VI. **Future Agenda Items/Additional Information:**

Discussion

- Conflict of interest will be discussed in later sections of the Charter. (Jennings/Short)
- It was suggested to include Articles I-VI on the next meeting agenda.
- Any questions for the board need to go through Pierson to avoid any violation of the open meeting law. (Morales/Polston/Short)

There being no further business, Chairperson Clark adjourned the meeting at 6:35 p.m.

Approved:

Janet L. Pierson
Deputy City Clerk

Russ Clark
Chairman of the Board