



City of Eustis, Florida

City Hall
10 North Grove Street
Post Office Drawer 68
Eustis, FL 32727-0068

Meeting Minutes – Final* City Commission

Monday, July 13, 2015

5:30 PM

City Hall

CALL TO ORDER: Mayor Holland - 5:30 p.m.

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

Present: 4 - Commissioner Linda Bob; Commissioner Bill Brett; Vice-Mayor Karen LeHeup-Smith; and Mayor Michael Holland

Recused: 1 - Interim Commissioner Carla Gnann-Thompson

I. CONSIDERATIONS

15157 Consideration of qualifications of Egor Emery as candidate for City Commission, Seat #5

Derek Schroth, City Attorney, explained Article III - Sec. 4 of the City Charter designating the Commission as judge of qualifications. He stated the Commission's first consideration is whether to allow Egor Emery to appear by phone as he is out of state. He added that if the Commission does not agree to his participation by phone, Mr. Emery provided a statement to be read into the record.

Mayor Holland asked the Commission their opinion on the phone attendance and explained Interim Commissioner Gnann-Thompson had recused herself.

CONSENSUS: *It was a consensus of the Commission to not allow the telephone participation and to have the statement read into the record.*

Mr. Schroth read Mr. Emery's statement into the record as follows: "Commissioners, for the record I am Egor Emery. I reside at 2617 East Moonlight Lane Eustis. Thank you for the opportunity to appear before you today. I am seeking to have you recognize me as a qualified candidate for the Eustis City Commission Seat 5. I appreciate you taking the time to be here today to resolve this issue as early as possible. Most of you know me either through my children who went to Eustis Elementary, Eustis Middle School and Eustis High School. Or you may know me through my activism where I served on the Lake County Planning and Zoning Board. I also participated in Lake County and Eustis comprehensive planning and I am a current member of Lake Sumter MPO Bicycle and Pedestrian Advisory Committee.

I have worked for several candidates in Eustis and I encouraged several people to run for this special election. Eventually I had to be willing to do what I had asked others to do, and so I made the decision to stand for election. I have read the charter many times previously and am familiar with its requirements. No other elected office for the County, State, or Federal has a similar residency requirement. I am not an attorney but I have read the Attorney General's opinions on several relevant cases. I believe your attorney will tell you to follow the charter and I believe that if I have to challenge your decision based on the charter provisions I may prevail. I submit that I would have a good case. If you ask, your attorney he will tell you that you do not have to follow the charter.

Perhaps we should examine the choices before you. The questions before you are "why is there a two year residency requirement and is it fair?" The time requirement is designed to exclude potential candidates. There may have been other reasons stated in the past, but the effect is to exclude people. During the recent city manager hiring process, the city searched far and wide for the best person to serve Eustis. Should not a similar inclusive philosophy be applied to our City Commission?

The fairest choice for the citizens and candidates in Eustis would be to open the election process to all as is true of the other offices in our area.

I do not take changing the charter lightly; however, I believe that the provisions of the charter are discriminatory and should be changed. You can make that change today by finding me qualified to stand for Eustis City Commission Seat 5. If you do not vote in my favor then I will have to choose whether to go to court which may affect the ability to hold this election and will certainly cost both the City and myself money. If you find in my favor, my opponent may choose to go to court but it will be a difficult argument to tell the citizens of Eustis that you went to court to prevent them from voting for their new City Commissioner. If you vote in my favor you rightly place this matter before the citizens of Eustis and they will have the chance to choose their new commissioner. Therefore, I urge you to choose the highest and fairest choice for an elected official: Let the people decide. Find me qualified for Eustis City Commission Seat 5. Thank you, Egor Emery"

Mr. Schroth noted that Mr. Emery was given the option of requesting that the special meeting be postponed and he declined.

Mr. Schroth confirmed that the Charter does include a two-year residency requirement and stated that the Commission is bound to follow the Charter. He then explained he has researched case law and cited a case from the 2nd District Court of Appeal which struck a two-year residence as being a constitutional violation. He stated that the Attorney General and other courts have indicated that a six-month to one year residency requirement would be upheld but two years would not. He stated that he is not comfortable with telling the Commission to ignore the Charter. He noted that if Mr. Emery were to file a suit the two-year requirement would probably be stricken. He indicated the Commission could pass an ordinance to have in place changing the residency requirement in case the Charter requirement is struck down.

Mr. Schroth then indicated that the Commission first needed to determine whether or not Mr. Emery is a resident now and whether or not he was a resident for two years. He stated that Mr. Emery has admitted he has not been a resident for two years and modified the City's candidate application to remove that requirement. He stated that if the Commission decides to follow the Charter then they would have to find him not qualified to be a candidate. He reviewed Mr. Emery's and the City's options at that point.

Mayor Holland polled the Commission regarding whether or not Mr. Emery meets the qualifications.

CONSENSUS: It was a consensus of the Commission that Mr. Emery does not meet the City's qualifications under the current Charter.

Mayor Holland then asked the Commission if Mr. Emery should be allowed to be a candidate for Seat #5.

The Commission discussed the need for change to be affected correctly and calmly and noted previous Commission discussion about conducting a Charter review.

CONSENSUS: With one Commissioner dissenting, it was a consensus of the Commission that Mr. Emery should not be allowed to be a candidate for Seat #5.

Mayor Holland polled the Commission regarding whether to enact an ordinance to change the residency requirement and whether it should be six months or a year.

The Commission discussed the amount of time to have for a residency requirement and the lack of a set residency time by the surrounding cities.

CONSENSUS: With one Commissioner dissenting, it was a consensus to have an ordinance brought back to the first meeting in August setting a one year residency requirement.

Mr. Schroth stated for the record that Interim Commission Carla Gnann-Thompson recused herself and will complete the required form.

Mayor Holland opened the floor to public comment at 5:47 p.m. There being no public comment, comment was closed at 5:47 p.m.

II. ADJOURNMENT - 5:48 p.m.



MARY C. MONTEZ
City Clerk



MICHAEL L. HOLLAND
Mayor/Commissioner

*These minutes reflect the actions taken and portions of the discussion during the meeting. To review the entire discussion concerning any agenda item, go to www.eustis.org and click on the video for the meeting in question. A DVD of the entire meeting or CD of the entire audio recording or verbatim transcript of the meeting can be obtained from the office of the City Clerk for a fee.