

AN ORDINANCE REPEALING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 26, CAPE CORAL CHARTER SCHOOL AUTHORITY, SECTIONS 26-3 AND 26-8 IN ITS ENTIRETY AND AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 26, CAPE CORAL CHARTER SCHOOL AUTHORITY, SECTIONS 26-4, 26-9, 26-10, 26-14, 26-15 AND 26-17, REGARDING THE CAPE CORAL CHARTER SCHOOL POLICIES AND PROCEDURES; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 1002.33, Florida Statutes, it is encouraged for municipalities to form municipal-operated schools through charter school status in order to increase business partnerships in education, reduce school and classroom overcrowding throughout the state, and offset the high costs of education facilities construction; and

WHEREAS, on April 12, 2004, City Council adopted Ordinance 41-04 which established the Cape Coral Charter School Authority for the purpose of operating and managing, on behalf of the City, all charter schools within the City of Cape Coral.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 26, Charter School Authority, Section 26-3, Geographic boundaries and Section 26-8, Initial Authority Board, is hereby repealed in its entirety:

CHAPTER 26 CAPE CORAL CHARTER SCHOOL AUTHORITY

~~§ 26-3—Geographic boundaries~~

~~The geographic boundary of the Authority shall be coterminous with the municipal boundaries of the City of Cape Coral as they presently exist and as they may be changed from time to time. The delineation of the aforementioned boundaries shall not be construed as prohibiting the enrollment of students who, though they may reside outside the municipal boundaries of the city, are otherwise members of one of the groups of students permitted to enroll in the charter school specified in § 26-4 below.~~

~~§ 26-8—Initial Authority Board~~

- ~~(a) The previous appointments by the City Council of the City Council member, the member from the business community, the member from the education community and the members from the community at large to the initial Board as well as the City Manager are hereby ratified and confirmed upon the adoption of this chapter as the initial Board, which shall hold an organizational meeting as soon as practicable after the adoption of this section. At the organizational meeting, the members shall appoint a member to serve as chair and a member to serve as vice chair of the Board until the next organizational meeting of the Board pursuant to § 26-10 below. The City Clerk shall provide a recording secretary to serve as secretary to the Board and keep minutes and records of all Board proceedings until a Superintendent is appointed.~~
- ~~(b) For purposes of this section, the initial terms of the members of the initial Board appointed by the City Council shall be deemed to have begun on April 1, 2004. The term of the Council member appointed by the City Council to the initial Board shall expire on March 31, 2005. With respect to the terms of the five remaining initial Board members (representing the business community, the educational community, and the community at large), and in order to provide for staggering of the terms of the members hereafter, two members shall serve a term of three years; two members shall serve a term of two years; and one member shall serve a term of one year. The initial Board shall, at its initial organization meeting, utilize a random selection process to determine which of the members shall serve a term of one year, two years or three years as provided herein. The one-year term identified in this section shall expire on March 31, 2005; the two terms of two years shall expire on March 31, 2006; and the two terms of three years shall expire on March 31, 2007. Thereafter, the terms of the Board members shall be as provided in §~~

~~26-9 below. Members of the initial Board are eligible for reappointment in accordance with the provisions of this chapter.~~

- ~~(c) Upon the expiration of the term of an initial Board member as provided herein, the City Council shall appoint a replacement member from the same membership class as the predecessor member to fill the vacant Board position in accordance with § 26-9(d) so that upon the expiration of the term of a member from the educational community, the business community, or the community at large, the City Council will appoint a member from the educational community, business community or community at large, respectively.~~
- ~~(d) In the event a position on the initial Board becomes vacant due to the resignation, removal, death or forfeiture of a member, the City Council shall appoint a person to fill the vacancy for the remainder of the unexpired term in accordance with § 26-9(d).~~

SECTION 2. The City of Cape Coral Code of Ordinances, Chapter 26, Charter School Authority, Section 26-4, Student community, Section 26-6, Board appointment and participation, Section 26-9, Terms and Board members, Section 26-10, Organization of Board, Section 26-14, Adopting of regulations, rules, and resolutions, Section 26-15, Powers and duties of Charter School Authority, Superintendent and city and Section 26-17, Administrative Services, is hereby amended as follows:

CHAPTER 26 CAPE CORAL CHARTER SCHOOL AUTHORITY

§ 26-4 – Student community.

- ~~(a) The student community to be served by the Cape Coral charter school(s) shall consist of all students residing within the municipal boundaries of the City of Cape Coral; students who are siblings of a student enrolled in a charter school; and students who are children of an employee of the Authority or of a Board member.~~
- (b) Each student shall complete an application to be considered for enrollment. ~~In order to be considered to~~ To be eligible for enrollment, a student's application shall be submitted during the time period established by the Charter for accepting applications. The Charter School shall enroll all eligible students who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. If the number of applications exceeds the capacity of a program, class, grade level or building, then all the applicants who timely ~~submitted an application~~ applied shall have an equal chance of being admitted through a random selection process. Preference shall be given to siblings of a student already enrolled in the Cape Coral charter school(s) and to the children of a member of the Board or of an employee of the Authority.

§ 26-6 – Board appointments and participation.

The members of the Board shall be appointed and participate as follows.

- (a) The City Council member, the member from the business community, the member from the education community and the four members from the community at large shall be appointed by the City Council. All of the aforesaid members shall be residents of the City of Cape Coral both at the time of their appointment and at all times during their membership on the Board. Any member of the City Council, including the Mayor, shall be eligible for appointment by the City Council to the "City Council member" position on the Board, which shall be considered to be an "ex-officio" position. The City Council member who serves as a member of the Board, the member from the business community, the member from the education community and the four members from the community at large shall each have the right to participate and to vote on all decisions of the Board.
- (b) The parent member(s) from each charter school level, i.e. elementary, middle and high school, shall be chosen by and from the parent organization(s) from each school level (elementary, middle and high school) and shall be the parent, legal guardian or legal custodian of a student enrolled in the Cape Coral Charter Schools at the school level (elementary, middle or high school) the parent member represents. The parent member(s) of the Board shall be residents of the City of Cape Coral, both at the time of their appointment and ~~at all times during their membership~~ for the duration of their membership on the Board. Prior to the enrollment of students at any charter school level, the parent position(s) on the Board for the charter school level shall remain vacant. The positions on the Board for parents from each charter school level shall be considered to be "ex-officio"

positions. The parent member(s) of the Board shall have the right to participate in all discussions of the Board, but not to vote on any matter. If, for any reason, the parent organization is unable or unwilling to select a parent member of the Board, absence of the parent member from the Board shall not affect the right of the Board to meet or to take any action it may otherwise lawfully undertake.

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§ 26-9 – Terms and Board members.

- (a) The City Council ~~member~~ Member Board member shall serve a one-year term commencing on ~~April 1~~ December 1, and terminating on ~~March 31~~ November 30, of the next calendar year, or until a successor is appointed. If he or she is otherwise qualified, the City Council member may be reappointed by the City Council for additional one-year terms with no limitation on the number of terms the member may serve on the Board.
- (b) The member from the business community, the member from the education community and the four members from the community at large who are appointed by the City Council shall each serve a three-year term with no limitation on the number of terms any member may serve on the Board.
- (c) The parent Board member(s) shall serve one-year terms commencing on October 1, and terminating September 30, of the next calendar year. If they are otherwise qualified, parents may be reappointed by the parent organization(s) of the charter school(s) for additional one-year terms with no limitation on the number of terms the member may serve on the Board.

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§ 26-10 – Organization of Board.

~~Beginning in April 2005, an~~ The annual organizational meeting of the Authority Board shall be held at the first meeting of the Board that is held during the month of ~~April~~ December, or as soon thereafter as practicable, for the purpose of electing officers for the ensuing calendar year. The annual organizational meeting of the Board may be either a regular or special meeting of the Board. A chair and vice-chair shall be elected by the Board from its voting membership for terms of one year, beginning on ~~April~~ January 1 and expiring on ~~March~~ December 31 of the following calendar year. Non-voting members shall not be eligible to hold any officer position. Officers will holdover until new officers are elected.

§ 26-14 – Adoption of regulations, rules and resolutions.

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- (d) Regulations shall be consecutively numbered for each calendar year with the last two digits of the calendar year appearing first followed by a hyphen with the number of the Regulation following the hyphen. Thus, the first regulation adopted during the ~~2004~~ 2022 calendar year would be designated "~~04-01~~" "22-01".
- (e) Resolutions and rules may be adopted at any regular or special meetings of the Board provided that the proposed resolution or rule appears on the printed agenda, except as otherwise may be provided herein, for that meeting and is not added to the agenda at a meeting. Resolutions shall be numbered ~~similar to~~ like regulations; rules shall be designated using numerals or letters as appropriate. The public shall have the right to appear and be heard prior to the adoption of any resolution or rule.

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§ 26-15 – Powers and duties of Charter School Authority, Superintendent and city.

- (a) *Powers and duties of authority.* The powers and/or duties granted by this chapter to the Authority are declared to be public and governmental functions, exercised for public purposes, and are matters of public necessity. Any list of powers and/or duties contained herein is not meant to be exclusive, but only illustrative of the powers that may be exercised by the Authority. The Authority is a public body corporate and shall have the right and responsibility to exercise the following powers and/or duties:
 - (1) Establish positions, duties and a pay plan, and employ, pay and provide benefits for personnel as well as establish personnel policies. All personnel shall be at will employees

with no property rights whatsoever in their employment with the Board whether employed by contract or otherwise. The Board shall have no authority whatsoever to grant any property rights in employment to any person employed by the Authority and any attempt to do so shall be null and void. Authority employees are not employees of the City of Cape Coral, but they are public employees. Authority employees are subject only to the rules, regulations, policies and authority of the Cape Coral Charter School Authority;

- (2) Fix and prescribe bonds, and pay the premium on all those bonds, of all school employees who are responsible for school funds ~~in order~~ to provide reasonable safeguards for all the funds or property;

....

- (25) Provide recommendation to the city for adequate educational facilities and the proper maintenance and upkeep of school plants, so that students may attend school without sanitary or physical hazards; ~~and provide for the necessary heating, cooling, lights, water, power and other supplies and utilities necessary for the operation of the schools;~~

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- (29) Provide for the keeping of all necessary records and the making of all needed or required reports and require at periodic intervals reports by assistant principals and teachers ~~of at~~ the charter school(s) to parents apprising them of the progress being made by students in their studies and other useful information;

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- (35) The Authority may ~~adopt~~ make recommendations to the City regarding policies providing for management of the physical campus and its environs, including but not limited to, energy conservation measures; building and ground maintenance; fencing, landscaping and other property improvements; site acquisition; new construction and renovation; dedication and rededication of charter school buildings and other charter school facilities; and development of facilities management planning and priorities;

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- (43) Appoint an individual who shall be known as the Superintendent of Charter Schools (Superintendent) who shall be the Secretary and executive officer of the Authority Board. The Superintendent shall serve at the pleasure of the Board and be appointed by a vote of four voting members of the Board and may only be removed by a vote of at least four voting members. The Board shall establish a salary and benefit package for the Superintendent from budgeted funds appropriated therefor. The Superintendent shall ~~be in charge of~~ oversee the day-to-day operations of the charter schools with powers as may be otherwise established herein. The Superintendent shall be hired by contract prescribing the Superintendent's compensation, benefits and other appropriate matters. By regulation, resolution or rule the Authority may authorize the Superintendent to perform any of the powers of the Authority in whole or in part and with whatever other limitations it may find appropriate, provided that the authorization does not result in an invalid exercise of delegated legislative authority or is otherwise prohibited by law;

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- (45) ~~Lease real and/or personal property for the use of charter school(s) and charter school facilities, if the lease is first approved by the city. Lease tangible personal property for a term of 12 months or less. Leases with terms longer than 12 months including any options to renew require City Council approval.~~

- (46) Lease real property, if the lease is first approved by the City Council.

- (b) *Powers and duties of Superintendent.* The following list of powers and/or duties contained herein is not meant to be exclusive, but only illustrative of the powers that may be exercised by the Superintendent. In addition to other duties as may, from time to time, be assigned to the Superintendent by the Board or by statute, the Superintendent shall have the right and responsibility to exercise the following powers and/or duties:

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- (6) Exercise general oversight over the charter school system ~~in order~~ to determine problems and needs, and recommend improvements;

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- (19) Prepare an annual tentative budget to be submitted to the Board for adoption according to law and, when adopted by the Board, submit the adopted tentative budget, by the required dates, to the appropriate agencies or authorities, when required by statute, this chapter or rule, and to the City Council which will adopted the official budget;
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- (23) Where necessary, recommend the bonds of all employees who should be bonded ~~in order~~ to provide reasonable safeguards for all school funds or property;
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- (27) Recommend the amounts of bonds, if any, to be issued by the city ~~in regard~~ regarding to charter school(s) and assist in the necessary papers for the sale of the bonds and for the proper expenditure of the funds derived therefrom;
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- (29) Recommend plans for cooperating with, and, ~~on the basis of~~ based on approved plans, cooperate with federal, state, county and municipal agencies in the enforcement of laws and rules pertaining to all matters relating to education and child welfare;
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- (33) Recommend in writing to the Department of Education the ~~revoking~~ revocation or the suspension of any Florida Teaching Certificate for any of the grounds for discipline or dismissal set forth in Florida statutes, certificate for good cause, including a full statement of the reasons for the recommendation;
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- (35) Recommend to the Board procedures whereby the ~~general~~ public can be adequately informed of the educational programs, needs and objectives of the charter school system;
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- (c) *Powers and duties of city.* The following list of powers and/or duties contained herein is not meant to be exclusive, but only illustrative of the powers that may be exercised by the city in regard to charter schools. The following powers, duties and responsibilities shall be exercised by the City of Cape Coral:
- (1) The city shall review the Authority's annual tentative budget. The City Council will have the power to add, delete, amend or modify the Authority's budget. The budget, as approved by the City Council, shall be the budget that is implemented for the fiscal year;
- (~~12~~) The city, on behalf of the Authority, may enter into agreements for accepting credit card, charge card and debit card payments as compensation for goods, services and fees, as authorized by law;
- (~~23~~) The city, on behalf of the Authority, may accept donations of real, tangible and intangible personal property, goods, services or money for use for charter school purposes. The City Council shall adopt policies, rules and regulations for the disposal of surplus real, tangible and intangible personal property using the statutes for the disposal of the property by municipalities and school boards as a guide;
- (~~34~~) The power to approve plans for locating, planning, constructing and condemning property for school uses shall be reserved exclusively to the City of Cape Coral. The Board shall have the right to provide recommendations to the City Council regarding the aforementioned matters;
- (~~45~~) The city shall select and purchase school sites, playgrounds and recreational areas where schools are to be constructed, of adequate size to meet projected student enrollment. Leases or lease purchase agreements for real or tangible personal property may be entered into by the city on behalf of the Authority from funds made available for that purpose. In that event, the Board shall provide input and make recommendations to the city regarding these matters;
- (~~56~~) The city shall supervise the construction; the making or contracting for additions, alterations and repairs on buildings and other school properties, with recommendations from the Board. Any plans and specifications for buildings shall provide for the safety and well-being of students, as well as for economy of construction;
- (~~67~~) The city shall have the authority to contract for materials, supplies and services needed for the charter school system or may delegate this function in whole or in part, with or without

limitations, to the Board, except that the Authority shall use no public funds received from or through the Lee County School District to purchase or lease property, goods or services from any Superintendent, officer or employee of the Authority or the spouse, parent, child, stepchild or sibling of any Superintendent, officer or employee, or from any business in which any officers or employee has an interest, nor shall the Authority use any property, goods or services purchased or leased by public funds for the private benefit of any person or entity;

- (78) The city shall provide for adequate protection against any loss or damage to school property or loss resulting from any liability for which the Authority, city or their officers, agents or employees may be responsible under law. The city may fulfill this responsibility on behalf of the Authority, charging a fee for providing the services. This responsibility may be fulfilled by purchasing insurance, being self-insured, entering into risk management programs managed by district school boards, charter school associations, school-related associations or any other risk management program capable of providing adequate risk management services or any combination thereof. Any risk management program entered into pursuant to this subsection shall provide for strict accountability of all funds and an annual audit by an independent certified public accountant of all receipts and disbursements;
- (89) The city may employ an internal auditor with charter school funds or may use the services of the City Auditor to perform ongoing financial verification of the financial records of the Authority. The internal auditor shall report directly to City Council, and shall also provide copies of any reports to the Authority Board. This section shall not be construed to prohibit the Authority from employing and/or contracting with an auditor to perform auditing services on behalf of the Authority;
- (910) In addition to any audits required by law or statute, city may contract with an independent certified public accountant to conduct a financial or performance audit of the accounts and records retained by the Authority; and
- (4011) The city shall provide for the investment or deposit of funds not needed for immediate expenditures which shall earn the maximum possible yield under the circumstances on the investments or deposits. The city shall cause to be invested at all times all school moneys not immediately needed for expenditures pursuant to the policies of the Board and city.

§ 26-17 – Administrative services.

The ~~city shall have the right to require the~~ Authority ~~to shall~~ use city departments and personnel for services including, but not limited to, human resources, information technology, purchasing, administrative, accounting, financial, engineering, risk management, construction, repair and maintenance, insurance and other related services from the city. The city shall charge a fee or fees for those services; the fee or fees shall be equal to the cost of providing those services.

SECTION 3. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 4. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 11th DAY OF January, 2023.


JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER
STEINKE
SHEPPARD
HAYDEN

aye
aye
aye
aye

CUMMINGS
WELSH
LONG
COSDEN

aye
aye
aye
aye

ATTESTED TO AND FILED IN MY OFFICE THIS 18th DAY OF January, 2023.

Kimberly Bruns
KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY
Ord/CharterSchoolAuthority