

ORDINANCE 2-08

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 26, CAPE CORAL CHARTER SCHOOL AUTHORITY, SECTION 26-5, COMPOSITION OF AUTHORITY BOARD, SECTION 26-6, BOARD APPOINTMENTS AND PARTICIPATION, SECTION 26-8, INITIAL AUTHORITY BOARD, AND SECTION 26-9, TERMS OF BOARD MEMBERS; PROVIDING FOR THE APPOINTMENT OF FOUR COMMUNITY AT LARGE MEMBERS TO THE CHARTER SCHOOL AUTHORITY BOARD; AND CORRECTING A CODE SECTION REFERENCE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

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

SECTION 1. Chapter 26, Cape Coral Charter School Authority, of the City of Cape Coral Code of Ordinances, is hereby amended as follows:

Chapter 26

CAPE CORAL CHARTER SCHOOL AUTHORITY

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Sec. 26-5                      **Composition of Authority Board**

The Board shall be composed of no less than seven (7) and no more than eleven (11) members as follows:

- A.     One City Council member;
- B.     One member from the business community;
- C.     One member from the education community;
- D..    ~~Three~~ Four members from the community at large;
- E.     One parent of an elementary school student (of a City-operated charter school);
- F.     One parent of a middle school student (of a City-operated charter school); ~~and~~
- G.     One parent of a high school student (of a City-operated charter school); ~~and~~

Sec. 26-6.                      **Board Appointments and Participation.**

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

- A.     The City Councilmember, the member from the business community, the member from the education community, and the ~~three (3)~~ four (4) 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 Councilmember" position on the Board, which shall be considered to be an "ex officio" position. The City Councilmember who serves as a member of the Board, the member from the business community, the member from the education community, and the ~~three (3)~~ four (4) 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 on the Board. Prior to the enrollment of students at any charter school level, the parent position(s) on the Board for such 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.
- C. No member of the Board will be an employee of the Authority or receive any financial benefit from the operation of the charter school(s).
- D. No more than one (1) parent, legal guardian, or legal custodian of any student shall serve on the Board at any given time, regardless of whether such parent, legal guardian, or legal custodian is serving as a parent member, as a member from the education community, business community, or community at large, or as a member from any other segment of the community.

**Sec. 26-7. Ex Officio Board Members**

Service on the Authority Board by any ex officio member shall be an additional duty to any and all other duties and responsibilities already exercised by such ex officio officer, official, or member. If, after the appointment of any ex officio member to the Authority Board, a court of competent jurisdiction should determine that such appointment is an additional office, such as might be construed to violate the Cape Coral City Charter or the Florida Constitutional provision against dual office holding, such appointment shall be deemed void *ab initio* and automatically rescinded as of the date of the original appointment so as to avoid any forfeiture of other office for the ex officio appointee and the City shall promptly take all steps reasonably necessary to amend the charter between the City and the Lee County School District and all ordinances, resolutions, or other regulations necessary to address such rescission. Rescission of a Board Member's appointment shall not call into question or invalidate any action or decision voted on by any member subject to the above provision.

**Sec. 26-8. Initial Authority Board**

- A. The previous appointments by the City Council of the City Councilmember, 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 Ordinance as the initial Board, which shall hold an organizational meeting as soon as practicable after the adoption of this Ordinance. 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 Section 26-10. 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 an Administrator 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 Councilmember appointed by the City Council to the initial Board shall expire on March 31, 2005. With respect to the terms of the five (5) 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 such members hereafter, two (2) members shall serve a term of three (3) years; two (2) members shall serve a term of two (2) years; and one (1) member shall serve a term of one (1) year. The initial Board shall, at its initial organization meeting, utilize a random selection process to determine which of such members shall serve a term of one (1) year, two (2) years, or three (3) years as provided herein. The one (1) year term identified in this Section shall expire on March 31, 2005; the two (2) terms of two (2) years shall expire on March 31, 2006; and the two (2) terms of three (3) years shall expire on March 31,

2007. Thereafter, the terms of the Board members shall be as provided in Section 26-9. 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 Section ~~26-9.E.~~ 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 such vacancy for the remainder of the unexpired term in accordance with Section ~~26-9.E.~~ 26-9.D.

**Sec. 26-9. Terms of Board Members.**

- A. The City Councilmember Board member shall serve a one (1) year term commencing on April 1, and terminating on March 31, of the next calendar year. If he or she is otherwise qualified, the City Councilmember may be reappointed by the City Council for additional one (1) year terms with no limitation on the number of terms such member may serve on the Board.
- B. The member from the business community, the member from the education community, and the ~~three (3)~~ four (4) members from the community at large who are appointed by the City Council shall each serve a three (3) year term with no limitation on the number of terms any such member may serve on the Board.
- C. The parent Board member(s) shall serve one (1) 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 (1) year terms with no limitation on the number of terms such member may serve on the Board.
- D. Members shall serve until the expiration of their term, resignation, death, removal or until a successor is appointed. Vacancies shall occur upon the death, resignation, removal, inability of a member to serve, or if a member no longer meets the requirements for a particular class of membership. When a vacancy on the Board occurs, the City Council, or the appointing authority or entity, if the City Council did not originally appoint the member, shall appoint a replacement from the same membership class as the predecessor member. Persons appointed to fill a vacant position shall fill only the remainder of the term. All Board members, except the City Council Member, shall be governed by the provisions of Sections 2-57 and 2-58 of the Cape Coral Code of Ordinances as they may be amended from time to time, at the time of their appointment and while serving as members of the Board.

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SECTION 2. 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 3. Effective Date. This Ordinance shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED AT A REGULAR COUNCIL MEETING THIS 28<sup>th</sup> DAY OF January, 2008.

Eric Feichthaler  
ERIC P. FEICHTHALER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

FEICHTHALER	<u>excused</u>
BURCH	<u>aye</u>
BRANDT	<u>aye</u>
DEILE	<u>aye</u>
BERTOLINI	<u>aye</u>
GRILL	<u>aye</u>
DAY	<u>aye</u>
DONNELL	<u>aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 7<sup>th</sup> DAY OF February, 2008.

Bonnie J. Potter  
BONNIE J. POTTER, CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez  
DOLORES D. MENENDEZ  
CITY ATTORNEY  
ord\charter authority