

City of Palm Coast, Florida Agenda Item

Agenda Date: 2/272018

Department Item Key	ADMINISTRATIVE SERVICES	Amount Account #
Subject	ORDINANCE 2018-XX PROPOSED AMENDMENTS TO THE CITY CHARTER	
Background: In September of 2017, the City of Palm Coast initiated a public participation process to educate the community about the City's charter and solicit input regarding potential changes and amendments to the document. The existing charter was written in 1999 when the City was incorporated, has been amended from time to time, but has not been reviewed in its entirety. Ms. Marilyn Crotty, Director of the Florida Institute of Government at the University of Central Florida, was engaged to facilitate the process. A series of public workshops were held in September and October. Ms. Crotty presented the summary report at the January 9, 2018 City Council Workshop. At the City Council Workshop, City Council directed staff to develop five (5) amendments, one of which (#5) would be considered after City Council reviewed proposed language and discussed further. Below is a summary of the five (5) amendments. <ol style="list-style-type: none">1. Update Outdated and to Clarify Ambiguous Charter Provisions2. Revise the Charter Review Process to Include an Advisory Charter Review Committee3. Revise to Process to Fill a Vacancy in the Office of the Mayor or of a Council Seat4. Revise the Charter Initiative and Referendum Process to Comply with State Law5. Increase the Number of Council Districts from Five (5) to Seven (7) City staff will present the draft Ordinance with proposed titles and summaries along with the implementing charter revisions.		
Recommended Action: Discuss and provide further direction.		

ORDINANCE 2018-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA SUBMITTING TO THE ELECTORS OF PALM COAST PROPOSED AMENDMENTS TO THE CHARTER OF THE CITY OF PALM COAST WHICH SHALL BE CONSIDERED BY BALLOT; PROVIDING BALLOT TITLES AND SUMMARIES FOR THE PROPOSED CHARTER AMENDMENTS; PROVIDING FOR DIRECTION TO THE CITY CLERK;; PROVIDING FOR CONFLICTS, SEVERABILITY. AND PROVIDING FOR AN EFFECTIVE DATE FOR THE ORDINANCE AND FOR THE APPROVED AMENDMENTS.

WHEREAS, the City Council of Palm Coast established a comprehensive public process permitting input about the existing City Charter; and

WHEREAS, the process was designed to provide an open, objective, and deliberative process during which ample opportunity was provided for the public to participate in a comprehensive study of any and all phases of City government; and

WHEREAS, the City Council convened this comprehensive study of the City Charter to avoid piecemeal changes to the City's organic law, an option which the City Council found as essential to the proper and orderly function of government; and

WHEREAS, after conducting numerous public meetings, at which the existing City Charter was examined and debated and various Charter amendment proposals from citizens and advisors were considered, the City Council considered various options for amendments to the existing Palm Coast Charter; and

WHEREAS, as a result of the input, recommendations, and advice received during the Charter Review Process and after careful deliberation and consideration, the City Council finds that it is in the best interests of the public health, safety, and welfare of the citizens of Palm Coast to propose a comprehensive revision of the Palm Coast City Charter in accordance with Section 10 of the Palm Coast City Charter and Section 166.031, Florida Statutes; and

WHEREAS, the City Council finds that the proposed ballot questions and summaries should be submitted to the City electorate for its consideration and final approval or disapproval; and

WHEREAS, the City Council of the City of Palm Coast desires to put to a vote of the citizens the issue of whether the Charter should be changed as proposed by the City Council following the aforescribed public process; and

WHEREAS, Section 166.031, Florida Statutes, provides that the governing body of a municipality may, by ordinance, submit to the electors of said municipality proposed amendments to its Charter, which amendments may be to any part or all of its Charter; and

WHEREAS, Section 10 of the City Charter provides that amendments to the Charter may be submitted to the electors by a majority vote of the Council members, and if the proposed amendments are approved by a majority of the electors, the amendments shall become law; and

WHEREAS, the City Council finds it to be in the best interests of its citizens to submit said proposed Charter amendments to the voters at a referendum election conducted by the Flagler County Supervisor of Elections on November 6, 2018.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF PALM COAST, FLORIDA:

SECTION 1. Referendum Election. The City Council of the City of Palm Coast, pursuant to Sections 166.031 Florida Statutes, hereby proposes and approves amendments to the Charter of the City of Palm Coast, which proposed amendments are set forth below. Each question shall be voted on separately and approved or disapproved based on its own merit. Such referendum election shall be held in conformity with the laws of the State of Florida. The Supervisor of Elections of Flagler County is to coordinate all matters of said referendum election with the Palm Coast City Clerk, pursuant to that Interlocal Agreement between the City and the Supervisor of Elections.

SECTION 2. Amendments to City Charter. The form of the ballot for the Charter Amendments proposed in this Ordinance shall be as follows:

City Charter Amendment 1:

TITLE:

CHARTER AMENDMENTS TO UPDATE OUTDATED AND TO CLARIFY AMBIGUOUS CHARTER PROVISIONS.

SUMMARY:

Shall the Charter be amended to delete obsolete sections, to replace the current legal boundary description with a general boundary statement, to establish Council salaries by resolution, and to revise requirements for consistency with state laws.

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

City Charter Amendment 2:

TITLE:

CHARTER AMENDMENT TO REVISE THE CHARTER REVIEW PROCESS TO INCLUDE AN ADVISORY CHARTER COMMITTEE.

SUMMARY:

Shall the Charter be amended to eliminate outdated language regarding an initial Charter review; to include an appointed Advisory Charter Review Committee in the Charter review process, and to require a Charter review at least once every ten (10) years.

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

City Charter Amendment 3:

TITLE:

CHARTER AMENDMENT TO REVISE THE PROCESS TO FILL A VACANCY IN THE OFFICE OF THE MAYOR OR OF A COUNCIL SEAT.

SUMMARY:

Shall the Charter be amended to provide that (1) a vacancy in the office of Mayor shall be filled by the Vice Mayor eliminating the need for a special election, and (2) that a vacancy in the office of a council seat be appointed within 30 days unless the vacancy occurs within 6 months of the next regularly scheduled election?

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

City Charter Amendment 4:

TITLE:

CHARTER AMENDMENT TO REVISE THE CHARTER INITIATIVE AND REFERENDUM PROCESS TO COMPLY WITH STATE LAW.

SUMMARY:

Shall the Charter be amended to change the percentage of qualified electorate needed to initiate the referendum, initiative, and Charter amendment processes consistent with state law and to add a detailed process for the conduct of any such initiatives and referendums.

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

City Charter Amendment 5:

TITLE:

CHARTER AMENDMENT TO INCREASE THE NUMBER OF COUNCIL MEMBERS FROM FIVE (5) TO SEVEN (7).

SUMMARY:

Shall the Charter be amended to increase the number of Council Members from five (5) to seven (7); to provide for the election of a Mayor and two (2) Council members, at large, and to provide for four (4) Council districts, elected also at large, but with required District residency.

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

SECTION 3. The proposed amendments, the ballot titles and summaries of the proposed amendments to the Charter, as contained in this Ordinance, shall appear on the ballot in the form of questions as set forth in Section 2 of this Ordinance.

SECTION 4. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

SECTION 5. CONFLICTS. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 6. EFFECTIVE DATE OF ORDINANCE. This Ordinance shall become effective immediately upon its passage and adoption.

SECTION 7. EFFECTIVE DATE OF CHARTER AMENDMENTS. The revised Charter provisions proposed for approval in this Ordinance shall become effective upon their approval following election of the electors of the City of Palm Coast in accordance with Section 166.031, Florida Statutes, and Section 10 of the City Charter. If the electors reject an amendment, the rejected amendment shall not take effect. The City Clerk is hereby directed, upon adoption of the revised Charter, to renumber the Charter to logically organize all Charter amendments, and to promptly file the revised Charter with the State of Florida, Department of State, as required by Section 166.031, Florida Statutes.

Approved on first reading this _____ day of _____, 2018.

Adopted on the second reading after due public notice and hearing this _____ day of _____, 2018.

CITY OF PALM COAST, FLORIDA

ATTEST:

MILISSA HOLLAND, MAYOR

VIRGINIA SMITH, CITY CLERK

APPROVED AS TO FORM AND LEGALITY

WILLIAM E. REISCHMANN, JR.
CITY ATTORNEY

Proposed City Charter Amendment 1:

TITLE:

**CHARTER AMENDMENT TO UPDATE OUTDATED AND TO CLARIFY
AMBIGUOUS CHARTER PROVISIONS.**

SUMMARY:

Shall the Charter be amended to delete obsolete sections, to replace the current legal boundary description with a general boundary statement, to establish Council salaries by resolution, and to revise requirements for consistency with state laws.

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Proposed City Charter Amendment 2:

TITLE:

CHARTER AMENDMENT TO REVISE THE CHARTER REVIEW PROCESS TO INCLUDE AN ADVISORY CHARTER COMMITTEE.

SUMMARY:

Shall the Charter be amended to eliminate outdated language regarding an initial Charter review; to include an appointed Advisory Charter Review Committee in the Charter review process, and to require a Charter review at least once every ten (10) years.

PROPOSED NEW LANGUAGE

(2) Charter review; schedule, Charter Review Committee.

- (a) Schedule.* The Charter shall be reviewed in accordance with the process outlined in Section 10(2)(b) no later than April 1, 2028 and, at a minimum, every 10 years thereafter.
- (b) Charter Review Committee.* For any Charter review, a five- member Charter Review Committee shall be appointed. Each council member shall appoint one Committee member, and the Mayor shall appoint one member at large. The Palm Coast City Council shall fund this committee. The Charter Review Committee shall be appointed at least one year before the next scheduled general election and complete its work and present any recommendations to the City Council no later than the April 1 before that next general election. The Palm Coast City Council shall hold a minimum of two public hearings on proposed changes by the Council or the Committee to the Charter prior to determining whether to place any changes on the scheduled general election ballot.

EXISTING CHARTER LANGUAGE:

(2) Charter review; schedule, Charter Review Committee.

- (b) Schedule.* The Charter shall be reviewed no sooner than 10 years after the creation of the City of Palm Coast on December 31, 1999, and thereafter it may be reviewed every 10 years.
- (b) Charter Review Committee.* A five-member Charter Review Committee shall be appointed. Each district council member shall appoint one member from his or her district, and the Mayor shall appoint one member at large. The Palm Coast City Council shall fund this committee. The Charter Review Committee shall be appointed at least one year before the next scheduled general election and complete its work and present any recommendations for change no later than 60 days before

the general election. The Palm Coast city Council shall hold a minimum of two public hearings on the proposed changes to the Charter prior to placing the proposed changes on the scheduled general election ballot.

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Proposed City Charter Amendment 3:

TITLE:

CHARTER AMENDMENT TO REVISE THE PROCESS TO FILL A VACANCY IN THE OFFICE OF THE MAYOR OR OF A COUNCIL SEAT.

SUMMARY:

Shall the Charter be amended to provide that (1) a vacancy in the office of Mayor shall be filled by the Vice Mayor eliminating the need for a special election, and (2) that a vacancy in the office of a council seat be appointed within 30 days unless the vacancy occurs within 6 months of the next regularly scheduled election?

Proposed New Language:

(e) Filling of vacancies.

1. If, for any reason other than recall, a vacancy occurs in the office of Mayor, the Vice Mayor shall assume the position of Mayor. Such assumption shall last until the next regularly scheduled election, at which time, the office of the Mayor shall be declared open and an election held for the remaining two years of the original term or the regular four-year term depending on when said vacancy occurred.
2. If, for any reason other than recall or assuming the office of Mayor, a vacancy occurs in the office of any Council seat within the first two years of a term, the office shall be filled by appointment within 30 days following the occurrence of such vacancy by majority vote of the remaining Council members. If said vacancy occurs within six (6) months of the next regularly scheduled election, the remaining Council members may delay the appointment. Such appointments shall last until the next regularly scheduled election, at which time the seat shall be declared open and an election held for the remaining two years of the original term, thus continuing the original staggering of district seats.
3. If, for any reason other than recall or assuming the office of Mayor, a vacancy occurs in the office of any Council seat within the last two years of a term, the office shall be filled by appointment within 30 days following the occurrence of such vacancy by majority vote of the remaining Council members. If said vacancy occurs within six (6) months of the next regularly scheduled election, the remaining Council members may delay the appointment. Such appointments shall last until the next regularly scheduled election, at which time the seat shall be declared open and an election held for the regular four-year term.

Existing Charter Language:

- (e) Filling of vacancies.
1. If, for any reason other than recall, a vacancy occurs in the office of Mayor, the Vice Mayor shall assume the position of Mayor, and within 30 days following the occurrence of such vacancy, a Special Election shall be called as outlined in section 8(5)(b). The Special Election for Mayor shall be for the remainder of the unfilled term.
 2. If, for any reason other than recall, a vacancy occurs in the office of any Council seat within the first two years of a term, the office shall be filled by appointment within 30 days following the occurrence of such vacancy by majority vote of the remaining Council members. Such appointments shall last until the next regularly scheduled election, at this time the seat shall be declared open and an election held for the remaining two years of the original term, thus continuing the original staggering of district seats.
 3. If, for any reason other than recall, a vacancy occurs in the office of any Council seat within the last two years of a term, the office shall be filled by appointment within 30 days following the occurrence of such vacancy by majority vote of the remaining Council members. Such appointments shall last until the next regularly scheduled election, at which time the seat shall be declared open and an election held for the regular four-year term.
 4. If a vacancy occurs as a result of a Recall Petition, such vacancy will be filled by Special Election as outlined in section 8(5)(b).
 5. Any person appointed to fill a vacant seat on the Council is required to meet all the qualifications for office except the petition requirement.

City Charter Amendment 4:

TITLE:

CHARTER AMENDMENT TO REVISE THE CHARTER INITIATIVE AND REFERENDUM PROCESS TO COMPLY WITH STATE LAW.

SUMMARY:

Shall the Charter be amended to change the percentage of qualified electorate needed to initiate the referendum, initiative, and Charter amendment processes consistent with state law and to add a detailed process for the conduct of any such initiatives and referendums.

Proposed New Language:

(3) *Initiative and referendum.* At least 10 percent of the qualified electorate of the City shall have the power to petition the Council to propose an ordinance or to require reconsideration of an adopted ordinance, or to propose an amendment to this Charter. If the Council fails to adopt such ordinance or Charter amendment so proposed, or to repeal such adopted ordinance, without any change in substance, then the Council shall place the proposed ordinance or Charter amendment, or the repeal of the adopted ordinance, on the ballot at the next general election. The procedure for such initiative or referendum shall be as established by ordinance.

Existing Charter Language:

(3) *Initiative and referendum.* At least 25 percent of the qualified electorate of the City shall have the power to petition the Council to propose an ordinance or to require reconsideration of an adopted ordinance, or to propose an amendment to this Charter. If the Council fails to adopt such ordinance or amendment so proposed, or to repeal such adopted ordinance, without any change in substance, then the Council shall place the proposed ordinance or amendment, or the repeal of the adopted ordinance, on the ballot at the next general election.

Proposed City Charter Amendment 5:

TITLE:

CHARTER AMENDMENT TO INCREASE THE NUMBER OF COUNCIL MEMBERS FROM FIVE (5) TO SEVEN (7).

SUMMARY:

Shall the Charter be amended to increase the number of Council Members from five (5) to seven (7); to provide for the election of a Mayor and two (2) Council members, at large, and to provide for four (4) Council districts, elected also at large, but with required District residency.

Proposed New Language:

Section 5. City Council.

(1) City Council: composition; qualifications for office:

(a) Composition.

1. There shall be a seven member City Council consisting of six Council members and a Mayor.
2. There shall be four districts within the City, the boundaries of which are as outlined in section 9(2). These districts shall be designated as District One, District Two, District Three and District Four. Candidates for these four District seats shall run from the district in which they live, but be elected at large; and, such Council members elected from each district shall be considered to hold Seat One, Seat Two, Seat Three, and Seat Four. The remaining two Council Members Seats Five and Six, shall be also elected at-large and shall live within the City boundaries.
3. The Mayor shall live within the City boundaries. The Mayor shall run at-large, and be elected at-large.

Further, language will need to be added for transition from four to six Council seats (including 5(b), Qualifications for office; §10(4), Adjustments of Districts; and also, but not limited to, Section 10, Charter Review) to clarify this increase in Council seats.

Existing Charter Language:

Sec. 5. – City Council.

(1) City Council; composition; qualifications for office.

(a) Composition.

1. There shall be a five member City Council consisting of four District members and a Mayor.
2. There shall be four districts within the City, the boundaries of which are as outline in section 9(2). These districts shall be designated as District One, District Two, District Three, and District Four. Each of the four Council members shall run from the district in which they live, but be elected at-large; and, the Council members elected from each district shall be considered to hold Seat One, Seat Two, Seat Three, and Seat Four.
3. The Mayor shall live within the City boundaries. The Mayor shall run at-large, and be elected at-large.

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