

RESOLUTION 2019-18

New
#16

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, FLORIDA, RETROACTIVELY DECLARING A STATE OF EMERGENCY, AND ENACTING THE POWERS OF CHAPTER 14, ARTICLE III, EMERGENCY MANAGEMENT PROVIDING FOR CONFLICT AND AN EFFECTIVE DATE.

WHEREAS, on August 28, 2019 by Executive Order Number 19-189, Governor Ron DeSantis declared a state of emergency for twenty-six counties, including Flagler, in the State of Florida due to the pending major hurricane "Dorian"; and

WHEREAS, the City determined that in order to protect the health, safety, and welfare of the City and its residents, and to enable the City to respond to, and recover from, the effects of Hurricane Dorian, it is necessary to waive the procedures and formalities otherwise required of the City; and

WHEREAS, the Flagler Beach Code of Ordinance, Chapter 14, Article III , Emergency Management, Section 14-43 Emergency management officials; appointment, general duties, Section 14-44 Emergency Management powers, Section 14-45, Intercommission communications, Section 14-46 Clearing of debris from private, roads and roadways, and any other private property after a disaster empowers the City Commission to declare that a state of emergency exists within the City, consistent with Chapter 252, Florida Statutes; and

WHEREAS, Section 252.38(3), Florida Statutes, provides authority for local governments, such as the City of Flagler Beach, to take actions in emergency situations and to waive the procedures and formalities otherwise required of political subdivisions by law pertaining to: performing of public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community; entering into contracts; incurring obligations; employing of permanent and temporary workers; utilizing of volunteer workers; renting equipment; acquiring and distributing, with or without compensation, of supplies, materials and facilities; and appropriating and expending of public funds.

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, AS FOLLOWS:

SECTION 1. The City Commission of the City of Flagler Beach, does hereby find that the circumstances set forth above do indeed exist, and that Hurricane Dorian posed a serious threat to the lives and property of the residents of the City of Flagler Beach and that a State of Local Emergency is hereby declared, retroactively to August 28, 2019, pertaining to all territory within the legal boundaries and jurisdictional limits of the City of Flagler Beach.

SECTION 2. The City Manager is hereby delegated the power and authority to take all actions necessary to address the emergency repairs as a result of Hurricane Dorian in accordance with the

provisions of State law and any emergency management procedures that may have been adopted by the City, as well as by any State and Federal Disaster Assistance loan procedures.

SECTION 3 This Declaration shall become effective retroactively to August 28, 2019 upon its execution and shall terminate automatically within 90 days unless otherwise terminated or extended.

PASSED AND ADOPTED THIS _____ TH DAY OF SEPTEMBER, 2019.

CITY OF FLAGLER BEACH, FLORIDA
CITY COMMISSION

ATTEST:

Linda Provencher, Mayor

Penny Overstreet, City Clerk

ORDINANCE NO. 2019-15

17a.

AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA, SUBMITTING TO THE ELECTORS OF FLAGLER BEACH PROPOSED AMENDMENTS TO THE CHARTER OF THE CITY OF FLAGLER BEACH; PROVIDING BALLOT TITLES, SUMMARIES AND TEXT FOR THE PROPOSED AMENDMENTS; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE FOR APPROVED AMENDMENTS; PROVIDING FOR AN EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, the City Commission established a Charter Review Committee to review the City Charter and make recommendations for amendments thereto; and

WHEREAS, on September 12, 2019, the Charter Review Committee submitted its final report and recommendations to the City Commission; and

WHEREAS, the City Commission and the Charter Review Committee have, in public meetings, studied and reviewed the Flagler Beach Charter (the "Charter") and received public input regarding the proposed amendments to the Charter; and

WHEREAS, the Charter Review Committee recommended that the Charter be updated in various sections, all as set forth herein; and

WHEREAS, the City Commission has fully considered the report and recommendations of the Charter Review Committee; 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 to all of its charter except that part describing the boundaries of such municipality; and

WHEREAS, the City Commission finds it to be in the best interests of its citizens to submit said proposed charter amendments to the voters at the next general election.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Flagler Beach, Florida, as follows:

Section 1. The City Commission of the City of Flagler Beach, pursuant to Section 166.031, Florida Statutes, hereby proposes and approves amendments to the Charter of the City of Flagler Beach, which proposed amendments and the complete text thereof, as amended, is set forth in Section 2 below. The text of the amendments reflects the proposed changes by showing additions with underlining and deletions with ~~strike-through~~ type. Such election shall be held in conformity with the laws of the State of Florida and the ordinances of the City of Flagler Beach now in force

relating to elections in the City of Flagler Beach. The Supervisor of Elections of Flagler County is hereby requested to coordinate all matters to said referendum election with the City Clerk. The proposed charter amendments shall be submitted to the voters at the March 2019 election.

Section 2. The ballot titles, questions and proposed charter changes are as follows:

City Charter Amendment 1:

Shall Section 2.02 of the Flagler Beach Charter be amended to provide that the compensation to be paid to City Commissioners be established by Resolution of the City Commission and to remove the outdated reference to 2007?

YES FOR APPROVAL

NO FOR REJECTION

Section 2.02. - Compensation; expense.

The Mayor and the Commissioners shall receive an annual salary of ~~seven thousand dollars (\$7,000.00)~~ established by resolution, to be adjusted annually by the cost of living, with the statistical data provided by the U.S. Department of Labor Statistics, but cannot exceed the amount of increase awarded to the non-union employees that year. The salary adjustment shall take effect October 1, ~~2007 of every year and continue every year thereafter~~. Any increase above the amount awarded to non-union employees that year must be approved by a majority of the voters of the City held at the next official election. Members of the Commission may receive their actual and necessary expenses incurred in the performance of their duties of office. Such reimbursement shall be made in accordance with state law.

City Charter Amendment 2:

Shall the Flagler Beach Charter be amended to remove Article X, "Transitional Provisions" which created provisions applicable to the transition of the City to the current Charter and which are no longer necessary?

YES FOR APPROVAL

NO FOR REJECTION

~~ARTICLE X. TRANSITIONAL PROVISIONS~~

~~Section 10.01. Officers and employees.~~

~~Rights and privileges preserved. Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.~~

~~Section 10.02. — Departments, offices and agencies.~~

- ~~(a) — All departments, offices and agencies in existence at the time this Charter is adopted shall remain in full force and effect unless otherwise abolished by the City Commission.~~
- ~~(b) — Property and records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the Commission in accordance with this Charter.~~

~~Section 10.03. — Pending matters.~~

~~All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.~~

~~Section 10.04. — State and municipal laws.~~

~~All City ordinances, resolutions, orders and regulations are in full force and effect when this Charter becomes fully effective. All City ordinances, resolutions, orders and regulations are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the constitution and laws of the State of Florida permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.~~

~~Section 10.05. — Schedule, budget.~~

- ~~(a) — At the time of its adoption, this Charter and any amendments shall become law.~~
- ~~(b) — Existing budgets in effect at the time of adoption of this Charter shall remain in effect until the end of the fiscal year in which this Charter is adopted.~~

~~Expenditures and commitments of funds against budgeted amounts shall be affected in the manner prescribed prior to the adoption of this Charter until the end of the fiscal year in which this Charter is adopted. At that time the procedure as outlined in Article V of this Charter shall apply.~~

~~Budgetary allocations as are necessary to carry out changes provided in this Charter may be made from current contingency accounts or as provided in Section 5.06 herein.~~

City Charter Amendment 3:

Shall Section 2.05(b) of the Flagler Beach Charter be amended to be gender neutral and correct a grammatical error.?

YES FOR APPROVAL

NO FOR REJECTION

Section 2.05. - Prohibitions.

- (a) *Holding other office.* Except where authorized by law, no Commissioner or Mayor shall hold any other City office or City employment during the term for which the Mayor or Commissioner was elected to the Commission and no former Commissioner or Mayor shall hold any compensated appointive City office or City employment until one (1) year after the expiration of the term for which the Mayor or Commissioner was elected to the Commission.
- (b) *Appointments and removals.* Neither the Mayor nor the Commissioners shall in any manner dictate the appointment or removal of any City administrative officer or employee whom the City Manager or any of his or her subordinates are empowered to appoint. ~~by~~ The Commission may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
- (c) *Interference with administration.* Neither the Mayor nor the Commissioners can direct City employees who are subject to the direction of the City Manager. All directives are done solely through the City Manager and neither the Mayor nor the Commissioners shall give orders to any such officer, or employee either publicly or privately. Notwithstanding the above, elected officials are not prohibited from discussing with any City employee any job or responsibility pertaining to their job description.

Section 3. The City Clerk is hereby directed to ensure that all advertising, translation and notice requirements are complied with and to coordinate all activities necessary to conduct the referendum election called for in Section 1 of this Ordinance with the Supervisor of Elections for Flagler County.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereto. Further, the lack of approval by a majority of electors of one or more separate amendments to this Charter, as set forth in Section 2 herein, shall not be deemed to affect the validity of any amendments that may be approved by a majority of the electors.

Section 6. All ordinances and Charter provisions, or parts of ordinances and Charter provisions in conflict herewith are hereby repealed.

Section 7. This Ordinance shall take effect immediately upon its final passage and

adoption. The revised Charter provisions proposed for approval in this Ordinance shall become effective upon their approval at a referendum election of the electors of the City of Flagler Beach in accordance with Section 166.031, Florida Statutes. If the electors reject an amendment, the rejected amendment shall not take effect.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2019.
PASSED AND ADOPTED THIS _____ DAY OF _____, 2019.

CITY OF FLAGLER BEACH, FLORIDA
CITY COMMISSION

Linda Provencher, Mayor

ATTEST:

Penny Overstreet, City Clerk