

ORDINANCE 2022-77

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, PROVIDING FOR A REFERENDUM ELECTION TO BE HELD ON NOVEMBER 8, 2022, FOR THE PURPOSE OF DETERMINING WHETHER THE CITY CHARTER SHOULD BE AMENDED; PROVIDING FOR THE PLACEMENT OF EIGHT (8) REFERENDUM ITEMS ON THE BALLOT; PROVIDING THE TEXT OF THE PROPOSED CHARTER AMENDMENTS; DIRECTING THE CITY CLERK TO PROVIDE THE SUPERVISOR OF ELECTIONS WITH A COPY OF THE ORDINANCE; PUBLISHING THE REFERENDUM ITEMS IN ACCORDANCE WITH STATE LAW; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in December 2021, the City Council of the City of Palm Bay ("City Council") established the Charter Review Commission composed of ten (10) members, and

WHEREAS, the Charter Review Commission, over a period of several months, reviewed the City Charter and made proposed additions and deletions thereto, and

WHEREAS, the City Council reviewed the recommendations of the Charter Review Commission and desires to submit the following eight (8) Charter amendments to the electors of the City of Palm Bay at a referendum election to be held in conjunction with the regular municipal election to be held on November 8, 2022.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The above recitals are true and correct and are hereby incorporated by reference.

SECTION 2. In the event the Proposed Charter Amendment entitled "Charter Amendment Governing Compensation of the Mayor and City Councilmembers," is

approved by a majority vote at the referendum as called for in this Ordinance, Section 3.03 of the City of Palm Bay Charter, entitled "Compensation," shall be amended as follows:

"Section 3.03 Compensation.

Effective November 9, 2016 >>2022<<, the salary for the office of Mayor shall be at the rate of 20 >>25<< cents per capita, and the salary for the office of Councilmember shall be set at the rate of 10 >>20<< cents per capita. The per capita numbers utilized shall be the population as of the date of approval of this revision as set forth in the most recent population estimate of the Bureau of Economic and Business Research of the University of Florida. The annual salary of the Council shall not be increased by more than the increase in the Consumer Price Index, or the annual increase given to City employees, whichever is lower. The annual salary shall be reviewed during the City's annual budget process. No increase in salary shall become effective until October 1."

SECTION 3. In the event the Proposed Charter Amendment entitled "Charter Amendment Governing the Employment of Current and Former Elected Officials by City," is approved by a majority vote at the referendum as called for in this Ordinance, Subsection 3.053 of the City of Palm Bay Charter, entitled "Holding Other Office," shall be amended as follows:

"Subsection 3.053 *Holding other office.*

(a) No >>current or<< former elected city official, nor any relative of such former elected city official, shall hold any compensated appointive city office or employment until, at least, two (2) years after the expiration of the term for which elected. This provision shall not apply to relatives of any current or former elected city official holding a compensated appointive city office or position of employment prior to November 9, 2016.

(b) For the purposes of this section, "relative" shall mean an individual who is related to the >>current or<< former elected city official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister."

SECTION 4. In the event the Proposed Charter Amendment entitled "Charter Amendment Governing the Process for Filling Vacancies on the City Council," is approved by a majority vote at the referendum as called for in this Ordinance, Subsection 3.062 of the City of Palm Bay Charter, entitled "Filling of Vacancies," shall be amended as follows:

"Subsection 3.062 *Filling of vacancies*.

When a vacancy occurs on council as a result of death, resignation, illness, disability, written court order, forfeiture of office, or other lawful written order or action, such vacancy shall be filled in accordance with the procedures prescribed by ordinance >>by appointment of the majority of the remaining members within sixty (60) days. If the majority of the remaining members of the City Council fail to fill the vacancy through appointment within the sixty-day period, a special election to fill the vacancy shall be called and held in a manner coordinated by the City Clerk with the Supervisor of Elections and adopted by resolution of the City Council. All vacancy elections will run concurrent with the regularly scheduled city elections. Appointments will be to serve until the next general election cycle.<<"

SECTION 5. In the event the Proposed Charter Amendment entitled "Charter Amendment Governing the City Council's Regular Meeting Schedule," is approved by a majority vote at the referendum as called for in this Ordinance, Subsection 3.081 of the City of Palm Bay Charter, entitled "Meetings" shall be amended as follows:

“Subsection 3.081 *Meetings*.

>>Beginning January 2023,<< the council shall have regular council meetings at least twice each month, >>except for June,<< at the city hall or other municipal building, at such times and places as the council may prescribe. Special meetings and workshops may be held at the call of any councilmember and, whenever practicable, upon no less than twenty-four (24) hours verbal and written notice to each member and the public. Such notice shall state the specific purpose or purposes of the meeting. No additional items shall be considered at such special meetings.”

SECTION 6. In the event the Proposed Charter Amendment entitled “Charter Amendment Governing Process to Adopt or Repeal Ordinances by Citizen’s Petition,” is approved by a majority vote at the referendum as called for in this Ordinance, Subsection 3.092 of the City of Palm Bay Charter, entitled “Petitions,” shall be amended as follows:

“Subsection 3.092 *Petitions*.

(1) Number of signatures. All petitions must be signed by at least ten percent (10%) of the electors of the city. They need not be in affidavit form. The petition to amend the charter must be signed by at least ten percent (10%) of the electors of the city of the registered electors as of the last preceding municipal general election or as provided in section 166.031 Florida Statutes as may be amended from time to time. Petitions to propose or repeal ordinances must be signed by at least ~~five percent (5%)~~ >>ten percent (10%)<< of the registered electors as of the last preceding municipal general election.”

SECTION 7. In the event the Proposed Charter Amendment entitled “Charter Amendment Related to Pronouns Used to Refer to City Manager,” is approved by a majority vote at the referendum as called for in this Ordinance, Subsection 4.01 of the City of Palm Bay Charter, entitled “Appointment,” shall be amended as follows:

“Subsection 4.011 Appointment.

The council shall appoint a manager by a majority vote of all councilmembers. The manager shall be selected solely on the basis of administrative and executive qualifications. At the time of appointment, the manager need not be a resident of the city or state. However, should the manager change residency subsequent to his >>or her<< appointment, the manager shall reside within the city during his >>or her<< tenure.”

SECTION 8. In the event the Proposed Charter Amendment entitled “Charter Amendment Related to Determining Winner of Councilmember Election in the Event of a Tie,” is approved by a majority vote at the referendum as called for in this Ordinance, Subsection 5.041 of the City of Palm Bay Charter, entitled “Councilmembers,” shall be amended as follows:

“Subsection 5.041 Councilmembers.

A councilmember shall be elected to a specific seat on the council. The councilmember shall be elected by receiving the highest vote total of the votes cast in the election for a designated council seat. In the event of a tie vote in a special or regular election in which two (2) or more candidates are seeking the same designated seat on the council, a run-off election will only be held ~~if breaking the tie would~~ >>to<< determine the successful candidate. Each elective officer shall hold such office until a successor is elected and qualified. Absentee voting shall be permitted in all elections as provided by law.”

SECTION 9. In the event the Proposed Charter Amendment entitled “Charter Amendment Related to Limitations on City’s Ability to Increase Ad Valorem Taxes,” is approved by a majority vote at the referendum as called for in this Ordinance, Section 6.01 of the City of Palm Bay Charter, entitled “Taxes,” shall be amended as follows:

“Section 6.01 Taxes.

(a) The council shall have full power and authority to levy taxes as authorized by law.

~~(b) Unless otherwise allowed by this subsection, the City Council shall not impose any ad valorem tax for city purposes at a millage rate which causes the budgeted revenue therefrom to the City to increase over the budgeted ad valorem revenue for the previous fiscal year by more than three percent (3%).~~

~~(c) Notwithstanding paragraph (b) of this subsection, the City Council may impose an ad valorem tax for municipal purposes at a rate which exceeds the limitations in paragraph (b) if a supermajority of the City Council concurs in a finding that such an excess is necessary because of emergency or critical need. The finding shall set forth the ultimate facts upon which it is based and shall be valid for a single budget year.~~

~~(d) In calculating the allowable increase in ad valorem revenues over the ad valorem revenues budgeted for the previous year under paragraph (b) of this subsection, the City Council shall exclude from the anticipated revenues all revenue changes from the following kinds of property not appearing on the previous year's roll: 1) new construction; 2) additions to or demolitions in whole or in part of existing construction; and 3) changes in the value of improvements that have undergone renovation to an extent of not less than 100% increase in assessed value (as measured from the last year of assessment prior to commencement of renovation).~~

~~(e) Nothing in this subsection shall authorize imposition of a millage rate which exceeds the rate prohibited by the constitution or general laws of Florida, or prohibit imposition of a millage rate which is required by the constitution or general laws of Florida or by any final order of a court of competent jurisdiction. Nothing in this subsection shall apply to any millage necessary to the payment of general obligation bonds in accordance with all bond covenants or to any other millage approved by referendum of the electors, whether before or after the effective date of this subsection.”~~

SECTION 10. Eight (8) proposed ballot questions shall be presented to the electorate of the City of Palm Bay at the regular municipal election on November 8, 2022. The wording and title of the ballot questions to appear on the ballot on the date of the November 8, 2022, election, as embodied in this Ordinance, shall be as follows:

**CHARTER AMENDMENT GOVERNING COMPENSATION OF THE
MAYOR AND CITY COUNCILMEMBERS**

Shall section 3.03 of the City of Palm Bay Charter be amended to provide that the salary for the office of Mayor be increased from 20 cents per capita to 25 cents per capita, and the salary for the office of City Councilmember be increased from 10 cents per capita to 20 cents per capita, effective November 9, 2022?

_____Yes
_____No

**CHARTER AMENDMENT GOVERNING THE EMPLOYMENT OF
CURRENT AND FORMER ELECTED OFFICIALS BY CITY**

Shall section 3.053 of the City of Palm Bay Charter be amended to provide that neither current nor former elected city officials, nor their familial relatives, may hold compensated appointed city office or employment for two (2) years after the expiration of the term for which they were elected?

_____Yes
_____No

**CHARTER AMENDMENT GOVERNING THE PROCESS FOR FILLING
VACANCIES ON THE CITY COUNCIL**

Shall section 3.062 of the City of Palm Bay Charter be amended to provide that in the event of a vacancy on the City Council, a majority of the remaining City Councilmembers shall appoint a person to fill such vacancy until the next general election, and that if the City Council fails to make an appointment within 60 days, a special election shall be called for the purpose of filling the vacancy?

_____Yes
_____No

**CHARTER AMENDMENT GOVERNING THE CITY COUNCIL'S
REGULAR MEETING SECHEDULE**

Shall section 3.081 of the City of Palm Bay Charter be amended to provide that beginning January 2023, the City Council shall hold regular City Council meetings at least twice each month, except for in the month of June?

_____ Yes
_____ No

**CHARTER AMENDMENT GOVERNING PROCESS TO ADOPT OR
REPEAL ORDINANCES BY CITIZEN'S PETITION**

Shall section 3.092 of the City of Palm Bay charter be amended to increase the required number of electors who must sign a petition to propose or repeal City ordinances from five percent (5%) to ten percent (10%)?

_____ Yes
_____ No

**CHARTER AMENDMENT RELATED TO PRONOUNS USED TO REFER
TO CITY MANAGER**

Section 4.011 of the City of Palm Bay Charter currently uses only masculine pronouns to refer to the City Manager. Shall section 4.011 of the Charter be amended to include both feminine and masculine pronouns in reference to the City Manager?

_____ Yes
_____ No

**CHARTER AMENDMENT RELATED TO DETERMINING WINNER OF
COUNCILMEMBER ELECTION IN THE EVENT OF A TIE**

Shall section 5.041 of the City of Palm Bay Charter be amended to state that in the event of a tie vote in a regular or special election for the office of City Councilmember, a runoff election will be held to determine the successful candidate?

_____ Yes
_____ No

**CHARTER AMENDMENT RELATED TO LIMITATIONS ON CITY'S
ABILITY TO INCREASE AD VALOREM TAXES**

Shall section 6.01 of the City of Palm Bay Charter be amended to delete provisions which currently prohibit the City Council from levying ad valorem taxes in a given year at a millage rate which causes the budgeted revenues therefrom to increase over the budgeted ad valorem revenue for the previous fiscal year by more than three percent (3%) unless a supermajority of the City Council finds that an emergency or critical need exists?

☐ **Yes**

☐ **No**

SECTION 11. The City Clerk is hereby directed to instruct the Supervisor of Elections of Brevard County to include each of the eight (8) ballot questions described in Section 10 of this Ordinance on the ballot for the regular municipal election to be held on November 8, 2022, throughout the City of Palm Bay. All duly qualified electors residing within the City of Palm Bay shall be entitled to participate in and vote at such election.

SECTION 12. As required by Section 100.342, Florida Statutes, at least 30 days' notice of the forthcoming referendum, including its purpose and eligibility requirements for voting, shall be published by the City Council in a newspaper of general circulation in the City, at least twice, once in the fifth week and once in the third week prior to the week in which the election is to be held. Such notice shall contain the text of the proposed ballot questions.

SECTION 13. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 14. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City Charter of the City of Palm Bay, if approved by a majority of the electors voting in the November 8, 2022, election.

SECTION 15. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 16. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2022-20, held on July 21, 2022; and read in title only and duly enacted at Meeting 2022-21, held on August 4, 2022.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

cc: 08-05-22 Supervisor of Elections