

**TOWN OF OCEAN RIDGE, FLORIDA  
CHARTER REVIEW COMMITTEE MEETING  
AGENDA**

**AUGUST 15, 2018  
8:00 A.M.  
TOWN HALL \* MEETING CHAMBERS**

**CALL TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENT**

**APPROVAL OF MINUTES**

1. Approve minutes of July 30, 2018 meeting

**CHARTER REVIEW**

2. Section 3.05 Mayor & Vice Mayor and discussion on “Strong Mayor”
3. Section 5.06 Recall

**REVIEW ALL SECTIONS WITH EDITS**

4. Section 3.02 Qualifications
5. Section 3.03 Election and Terms & Term Limits
6. Section 3.06 Vacancies
7. Section 3.07 Procedures
8. Section 4.02 Town Manager
9. Section 4.03 Acting Town Manager
10. Section 4.04 Powers and Duties of Town Manager
11. Section 5.01 Electors
12. Section 5.04 Form of Ballots
13. Section 5.05 Elections

**ADJOURNMENT**

\*\*Note: The Committee will discuss as many sections as possible at this meeting during the time allotted of 8:00 a.m. to 10:00 a.m. All sections not discussed at this meeting will be deferred to the next meeting on September 5, 2018 at 8:00 a.m.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE CHARTER REVIEW COMMITTEE WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, HE/SHE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. PERSONS WHO NEED AN ACCOMODATION IN ORDER TO ATTEND OR PARTICIPATE IN THIS MEETING SHOULD CONTACT THE TOWN CLERK AT 561-732-2635 AT LEAST 5 DAYS PRIOR TO THE MEETING IN ORDER TO REQUEST SUCH ASSISTANCE. PLEASE TAKE NOTICE THAT ONE OR MORE TOWN COMMISSIONERS MAY BE PRESENT AT ANY BOARD OR COMMISSION MEETING OF THE TOWN OF OCEAN RIDGE.

CHARTER REVIEW COMMITTEE MEETING MINUTES  
JULY 30, 2018

Meeting of the Charter Review Committee of the Town of Ocean Ridge held on Monday, July 30, 2018 in the Town Hall Meeting Chambers.

**CALL TO ORDER**

The meeting was called to order at 8:00 a.m. by Chair Hennigan.

**ROLL CALL**

Town Clerk Stevens led the roll call which was answered by the following:

	<u>Present:</u>	<u>Absent:</u>	<u>Tardy:</u>
Member Terry Brown	x		
Chair Zoanne Hennigan	x		
Member Polly Joa	x		
Member Kenneth Kaleel		x	
Member Geoffrey Pugh	x		

Let the record show that Member Kaleel is absent with notice.

Staff Present: Town Attorney Brian Shutt, and Town Clerk Tracey Stevens.

**PLEDGE OF ALLEGIANCE**

Chair Hennigan led the Pledge of Allegiance.

**PUBLIC COMMENT**

None at this time.

**APPROVAL OF THE MINUTES**

1. Approve minutes of July 3, 2018 meeting

**Member Pugh moved to approve the minutes of the July 3, 2018 meeting as submitted; seconded by Member Joa. Motion carried 4-0.**

**CHARTER REVIEW**

\*\*Note: The discussions on each section are not in the same order as listed on the printed agenda.

**Discussion Regarding Ballot Language**

Member Brown handed out sample wording for ballot language on two items that he believes the voters should have the opportunity to vote on in March. He stated that it is one of the committee's goals to recommend to the Town Commission items that will go before the voters, and one item is to limit the terms of Commissioners to three consecutive three year terms. The second is to require a super majority of four votes on any action that would result in an increase of the current residential housing density restrictions such as comprehensive plan amendments, zoning changes, ordinances and/or resolutions.

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Town Attorney Shutt stated that item two seems wide open and general. He stated the committee needs to discuss certain items before we develop ballot language.

Chair Hennigan stated that discussing the ballot language submission now is putting the cart before the horse and we should go back and discuss all of the items first. She stated that once the committee finishes its recommendations on the Charter amendments, the Town Attorney will develop an ordinance with ballot language to submit to the Town Commission to approve, and then the voters will vote on the amendments at the annual March election. Town Attorney Shutt confirmed the process and noted that the ballot language will need to be submitted to the Supervisor of Elections by the end of the year.

Member Brown stated that it is the Committee's job to recommend ballot language to the Town Commission.

### **Member Brown moved to forward the ballot language concepts to the Town Commission as submitted by Member Brown; seconded by Member Pugh.**

Member Pugh stated that the items need more discussion before any recommendations are made, and the Town Commission is charged with coming up with the ballot language after the Committee submits its recommended charter amendments.

Member Brown asked about the citizen's initiative process, and Town Attorney Shutt responded that the only way that a citizen could make changes to the Charter or Ordinances of the Town if it is not coming from the legislative body would be through the citizen's initiative process in order to get something on the ballot. Member Brown followed up that recommending the ballot language that was submitted today and forwarding it to the Commission is a way to get these things on the ballot through the legislative process. He believes these two items are things that the citizens feel strongly about and that's why he is submitting it in this format.

Town Attorney Shutt clarified that the motion is that the Charter Review Committee approve the two items submitted and recommend to the Town Commission that the three year three consecutive terms apply and that the four votes apply to restrict as worded on the document submitted by Member Brown, and Member Brown confirmed.

Member Joa mentioned that the Committee has not discussed these items yet.

Motion Failed 1-3 (Member Joa, Member Pugh, and Chair Hennigan dissenting).

### **Section 3.03 – Section Discussion & Term Limits**

Member Joa mentioned that she reviewed the Charters of the Towns of Manalapan, Gulf Stream, Palm Beach, and South Palm Beach, and no one has term limits. She noted that Ocean Ridge is a small community and the only qualification for Commissioner is to be an elector. She mentioned that we have had cases in the past where someone has filed

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papers who has never been to a Commission meeting. She stated that it has never been an issue in the past and she is not in favor of term limits.

Member Pugh stated he is not in favor of term limits either, but he is in favor of seat voting due to bullet voting. He noted that the first year on the Commission is a learning year, and then you may actually be able to get something done in years two and three. He stated that the voters will vote out someone that they don't want sitting as a Commissioner. He noted that Ocean Ridge is a small town and we only have around 700 people voting.

Chair Hennigan stated that with all due respect, most of our current sitting Commissioners are new. She stated that people are hesitant to go up against an incumbent that has been on the Commission for many years, and if we have term limits it may open it up to people who may want to serve, as they would be running for an open seat. She stated that we have had people in the past who have served too long, and people voted for them because they knew the name, not necessarily because they were doing a good job. She noted that we have experienced retired individuals that may want to run. Member Pugh responded that the historical knowledge of an incumbent is valuable.

Member Joa stated that it is not expensive to run, and if someone doesn't have the passion to challenge someone for a seat, we may not want them as a Commissioner.

Member Brown stated that a small number of people run the town in a small community, and we do have a group that stays active. He noted that some people are apathetic about running, and term limits would give people an opportunity to run. He stated it is a good idea to recycle after nine years, and citizens would be more likely to run and participate if they know an incumbent is not going to run again.

### **Member Brown moved to set term limits to three consecutive terms; seconded by Member Pugh.**

Member Pugh stated that seat voting and the three consecutive term limits go hand in hand and he believes that we should discuss seat voting first. He stated that he may be more in favor of term limits if we had seat voting; however, if we have seat voting we may not need term limits.

Member Brown stated that seat voting may stimulate more citizen participation due to less competition, and it's not a bad concept.

Member Joa asked what we would be fixing with term limits, and mentioned that she has never seen a problem in the past. She stated that it is a big commitment to stay on the Commission.

Member Brown stated that we had one Commissioner who stayed on the Commission for 18 years and that's not what we necessarily want.

Chair Hennigan stated we need new people sometimes, and Member Joa responded that it is the job of the citizens to vote for the new people.

Public comment: Kristine de Haseth, 29 Sabal Island Drive, stated she agrees that seat voting and term limits go together. She mentioned districts instead of seat voting and stated that it may become divisive if there is no guidance.

**Motion on Term Limits Failed 2-2 (Member Joa and Member Pugh dissenting).**

**Section 5.05 – Seat Voting**

Town Attorney Shutt stated that they have seat voting in other towns that he works for such as Highland Beach and it works well. He stated that in a small community, if you want to consider districts, you could be impacting who will run from that district, as well as impacts if you add term limits. He suggested that if we do want to go with districts, we could have the Mayor run at large and then have four districts.

Member Pugh stated that Mayor at large and strong Mayor discussions go hand in hand, or otherwise leave it as is and have five seats. The Town Attorney noted that Mayor at large and strong Mayor are two separate items. He stated that a Strong Mayor would run the town and then the Town Manager becomes a Department Head. Member Pugh stated he disagrees with districts because it may make things more divisive. He noted that someone could sit in the seat for a long time if they are popular within the condo district. He stated that the town is so small that it would be hard to divide it into voting districts. He stated he thinks a lot more people would run if we had seat voting.

Town Attorney Shut stated that we could make the seats work if we determine when it would be effective, and it would be important to keep the way the terms as they are for each seat (three year terms) on the same cycle so it would not affect the current Commission. He noted that during the first year, seats 1 and 2 would be up for election, during the second year seats 3 and 4 would be up for election, and during the third year, seat 5 would be up for election. He stated that the Charter Review Committee needs to decide if they want to do it or not, and staff will develop language to submit to the committee for a vote.

Member Brown stated that if we had a strong mayor it would change the whole structure of the town. He suggests electing a Mayor at large and four seats.

Town Attorney Shutt noted that some towns have term limits for the seats and then they can run for Mayor and extend their term on the Commission out longer.

Member Pugh stated he does not believe there is a problem with the current process of electing a Mayor. He stated there will be more people appointed to that position than if it was an elected position. The Mayor should have some experience on the Commission before they are appointed as Mayor because the Mayor runs the meetings.

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Member Brown stated that the intention of the current charter is to make sure different people serve as Mayor. Member Pugh stated that there have been people appointed as Mayor who have done a great job, but those people may not have been elected as Mayor by the citizens. Member Joa stated that we should not vote separately for the Mayor.

**There was no motion to have the Mayor elected as opposed to appointed by the Commission.**

Member Joa asked how seat voting would be a benefit to Ocean Ridge, and Chair Hennigan stated she is not in favor of it. She stated that when you have four people running for two seats, the one person going for a separate seat may not have been the best candidate and would have been unopposed and elected by default.

Member Brown stated there needs to be some way to spur citizen participation.

Member Pugh stated that when two seats are open, bullet voting has been a factor in the past two elections because there is concentration on getting one person elected, and not so much concern for the second position. He stated that seat voting would spur more people to run.

Chair Hennigan stated that it is arbitrary which seat someone runs for, and we could have two competent people running for one seat, and two not-so-competent people running for the second seat which may be an issue.

Member Brown stated that in the previous example of five seats, the public would know when the Mayor is coming up for election, and they may not want to run against a Mayor. Town Attorney Shutt stated that it wouldn't matter because the Mayor is appointed by the Commission members so they would be running against a Commissioner, not a Mayor.

Public Comment: Kristine de Haseth, 29 Sabal Island Drive, stated that the public perception is you are running against someone who has served as Mayor, and you don't want to take away from the good that person is doing by running against a sitting Mayor that should remain as Mayor.

Member Joa asked how the seat voting would work, and Town Clerk Stevens followed up with a question on whether people could change seats once they already file for a seat, and Town Attorney Shutt responded that the rules would need to be worked out.

Member Brown stated that it could drag down people who may want to run.

**There was no motion to adopt seat voting.**

**Tie Votes**

Member Joa stated she has been reading other Town's Charters and noted that Ocean Ridge does not have a provision for a tie vote. Town Attorney Shutt stated that we can either call for a special election, draw by lots (drawing from names in a hat), or do a coin toss.

**The committee consensus was to add language to draw by lot in the case of a tie.**

**Section 3.06 – Vacancies**

Chair Hennigan stated we need to have language as to when the six month clock begins for a vacancy in reference to the 30 day timeframe that the Commission has to fill the vacancy.

Member Joa stated that it gives the Commission more time to resolve the issue within 30 days if it is effective on the resignation date, and everyone agreed.

**There was consensus of the committee to have the six months begin from the date of resignation, and to clarify the language.**

**Section 3.07 – Procedure/Voting**

Chair Hennigan stated she is not comfortable with the way the section on majority voting was left at the last meeting, and she doesn't think it is clear enough. Town Attorney Shutt stated that he can work on the wording.

**Super Majority**

Member Brown stated he supports super majority on comp plan amendments and zoning changes.

Town Attorney Shutt submitted examples of wording from Bellevue and Oakland Park. Chair Hennigan stated that the town wants to stay a small community and with all of the growth around us, we want to make sure we stay a small tight knit community. The Commission is the group that approves everything, so in order to keep our town the way we want it, a super majority may make sense on those items.

Member Brown stated that developers have a lot of money and generally they get everything they want out of the County Commission. He stated that people will be looking at what's left in Palm Beach County to develop. He stated that zoning changes could help development move forward, and if a super majority is required, that could help slow things down. He stated that the South end of town has older homes and package plants that need to be updated. He stated that the Federal transportation authority designated several South Florida counties including Palm Beach as urbanized areas and there are very few areas that look like Ocean Ridge. He stated that our strip of land along the Atlantic Ocean is protected now, but there will be increasing pressures in the future.

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Town Attorney Shutt stated that we can require super majority, but we need to make it specific that if we adopt ordinances on zoning change, it needs a super majority vote. He stated that we can word it so that if there is a possibility that densities would be raised in any of the zoning districts, that ordinance would require a super majority vote. The Committee agreed. Member Pugh asked how it would affect the zoning districts, and Town Attorney Shutt stated that we would want to address all of the districts in the town. The Committee also agreed to address height, setbacks and zoning.

Member Brown stated he wants to make sure the town has an opportunity to have a say in how their town will look in the future, and give citizens the chance to protect the town.

**Member Brown moved to give the Town Attorney direction to develop language to require a super majority vote on any action that would change density, height, setbacks, and zoning; seconded by Member Pugh.**

Public comment: Kristine de Haseth, 29 Sabal Island Drive, applauds the committee on the discussions they are having, and noted it is long overdue. She stated she has seen in other towns how a Commission can change the character of the town within a couple of months and we want to avoid that here. She suggested that if you want to give the public input on this, you may want to consider a referendum on specific areas.

Town Attorney Shutt stated that he has seen some towns that require a referendum for zoning changes, etc.

Member Pugh stated that we should require super majority in the charter, and the Commission can vote to have a referendum if they so choose.

**Motion carried 4-0.**

### **Section 5.01 & 3.02 – Electors/Qualifications**

Chair Hennigan suggested changing the wording in section 5.01 Electors to include the words “and the Town” in the sentence “Any person who is a resident of the Town who has qualified as an elector of this state and the Town...” There was a discussion as to whether the State, County or Town determines whether someone is an Elector, and Town Clerk Stevens noted that the County register’s voters and gives the Town a voting list for the municipal election. Town Attorney Shutt stated that he would look at the wording.

### **Section 3.02**

Chair Hennigan suggested that we delete “qualifications of its members” in the second line “The Commission shall be the judge of the Election and qualifications of its members”, as we deleted it in another section and she wants to be consistent. Town Attorney Shutt stated that the heading for the section is qualifications so if we want to remove that, we would need to change the heading. He stated he would look into the wording for that section.

**Section 4.02 – Town Manager Appointment**

Chair Hennigan suggested that we change the language in (c) regarding compensation of the Manager, to “by majority vote of all the Commission members”, and there was **consensus to do so.**

Chair Hennigan stated that the Town Manager should not be required to be a resident or property owner of the Town, and she would like to add that wording. She would also like to add the wording that the Town Manager shall be chosen on the basis of executive and administrative qualifications. Town Attorney Shutt stated that he would look at the wording and bring something forward at the next meeting.

**Section 4.03 – Acting Town Manager**

Chair Hennigan stated that the Committee had previously talked about the letter on file designating an Acting Town Manager, and she asked if we should require that a permanent letter be on file appointing an Acting Town Manager so that if the Town Manager becomes incapacitated in an emergency situation, we are covered, or should the Town Commission appoint the interim. Town Attorney Shutt stated that in a situation where the Town Manager becomes incapacitated, the Town Commission would need to appoint an Interim Town Manager. He stated he would clarify the language.

**Section 4.04 – Powers of the Town Manager**

Chair Hennigan stated she thinks the Commission should be involved when the Town Manager terminates an employee. She handed out some examples from other town charters in the area.

Member Brown stated that currently, the Town Manager has authority to fire employees but the Town Commission can overturn that in the appeal process. Town Attorney Shutt noted that we need to change our current language because it is unclear regarding the appeal process. Member Brown mentioned that Highland Beach’s charter provides that the Town Manager can hire and fire all employees except the Town Clerk and Police Chief, and he believes that should be the same here. The Town Manager should have that authority without the Commission second guessing the decision.

Chair Hennigan stated that if the Town Manager fires a direct report, it should be appealable to the Commission.

Member Pugh stated that he disagrees, and the Town Manager should have the authority to hire and fire all employees. He stated he disagrees with the appeal process.

Chair Hennigan stated that she does not agree with the Commission approving hires, but believes that a fired employee should be able to appeal to the Commission.

Member Pugh stated that the hiring and firing authority should be with the Town Manager, as that is what we pay him to do. He stated that if the Town has a weak Manager, then the Commission fires the Manager. Member Brown stated that he agrees

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with Member Pugh. Member Pugh followed up that he wants the Town Manager to be the person that runs the town.

Member Joa stated that if the Town Manager has problems with a department head and he does not have the authority to fire that employee, he could become a weak Manager.

Member Pugh stated that the Commission does not have all of the information in order to make a decision for an appeal when an employee is fired.

Chief Hutchins stated that the Commission decided years ago that they wanted to give the Town Manager more authority to hire and fire, and noted that there was clear direction to move in that direction if you look at the employment contracts.

Member Brown questioned if the Commission has any authority on employment contracts, and stated he does not agree with contracts. All employees should be at will.

Chair Hennigan asked who determines the salaries of the employees, and Town Clerk Stevens responded that the Town Commission approves the annual salary caps in the annual budget.

Town Attorney Shutt stated that if the Commission decides not to uphold the decision of the Manager, and supports the employee in an appeal, there could be friction and conflict between the Commission and Manager.

Member Brown stated that the Manager is going to be careful in their decisions and he believes the Manager should have the authority for hiring or firing. Appealing to the Commission is not the right way to do it.

Member Pugh stated that the hiring confirmation process is a good community function, and Town Attorney Shutt responded that since the Commission is not looking at all of the resumes and attending the interviews, it is more difficult to confirm the hiring. He noted that if the person we want to hire already has a good job, and their name is printed on a public meeting agenda, and then the Commission decides not to confirm the appointment, it could cause problems for the prospective employee. Town Clerk Stevens suggested that the newly hired employee could be introduced at the next Town Commission meeting in order to maintain the community feel, but confirming a hire is different. Chief Hutchins stated he agrees, and noted that the confirmation process delays the hiring by 30-60 days and the Commission may not want to be the deciding factor without all of the paperwork available.

Public comment: Kristine de Haseth, 29 Sabal Island Drive, stated that the community has been divisive in the past about the firing of the Police Chief, and she suggests that the Town Commission be the authority in firing the position of Police Chief. Member Brown stated that the reason it became divisive in the past was because it came to the Commission, and Member Pugh agreed.

**Consensus to leave the wording as it has been presented by the town attorney.**

Chair Hennigan suggested that we enhance the wording on page 7, section (i) to say “negotiate and sign contracts, documents, instruments and papers on behalf of the town”.

Member Brown stated that the Town Manager should have the authority, and it would delay the action if it needs to go to the Commission.

**There was consensus of the committee to add the wording as mentioned by Chair Hennigan.**

**Section 3.05 – Section Discussion & Strong Mayor**

Not discussed at this meeting.

**Section 5.06 – Recall**

Added to the agenda, but not discussed at this meeting.

Chair Hennigan noted that the next meetings are scheduled for August 15<sup>th</sup> and September 5<sup>th</sup>.

All sections listed on the agenda that were not discussed today will be deferred to the next meeting on August 15<sup>th</sup> at 8:00 a.m.

ADJOURNMENT

Meeting Adjourned at 10:15 a.m.

Minutes adopted by the Charter Review Committee at its meeting on August 15, 2018.

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Chair Zoanne Hennigan

Attest:

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Tracey L. Stevens, CMC, Town Clerk

PART I - CHARTER

ARTICLE I. - CREATION AND POWERS

Section 1.01. - Creation and powers.

The Town of Ocean Ridge is created, which shall have all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.

ARTICLE II. - CORPORATE LIMITS

Section 2.01. - Description of corporate limits.

The following area shall constitute the corporate limits of the Town of Ocean Ridge:

Beginning at a point where the waters of the Atlantic Ocean intersect the south line of Lot 20, Block A, Palm Beach Shore Acres, according to the plat thereof recorded in Plat Book 7, page 15, public records of Palm Beach County, Florida, said subdivision being located in Government lot 1, Section 34, Township 45 South, Range 43 East, said south line of Lot 20, Block A, being also the south line of Blue Ocean Subdivision (an unrecorded plat); thence westerly along the said south line of Lot 20, Block A, and south line of Blue Ocean Subdivision, to a point in the westerly right of way line of State Road No. A1A, according to the plat thereof recorded in Road Plat Book 1, page 58, public records of Palm Beach County, Florida; thence northerly along the westerly right of way line of said State Road A1A to a point in the easterly extension of the center line of Cherokee Avenue, according to the Plat of Briny Breezes Addition No. 2 recorded in Plat Book 14, page 62, public records of Palm Beach County, Florida; thence westerly along the center line of said Cherokee Avenue to a point in the center line of the right of way of the Intracoastal Waterway, according to the plat thereof recorded in Plat Book 17, page 13A; thence northerly along the center line of the right of way of the Intracoastal Waterway to the open waters of Lake Worth; thence along the center line of right of way of the Intracoastal Waterway, in the open waters of Lake Worth, to a point of intersection with the south right of way line of the South Lake Worth Inlet; thence easterly along said north right of way line of the South Lake Worth Inlet to the waters of the Atlantic Ocean; thence southerly along the waters of the Atlantic Ocean to the point of beginning.

ARTICLE III. - LEGISLATIVE

Section 3.01. - Town Commission; powers, composition.

There shall be a Town Commission with all legislative powers of the Town vested therein, consisting of five (5) members who shall be electors of the Town, elected at large by the electors of the Town in the manner hereinafter provided.

Section 3.02. - Qualifications.

Any elector of the Town shall be eligible to hold the office of Town Commissioner. The qualifications, time, manner, and costs of qualifying as a candidate for Mayor or Commissioner shall be regulated by Article V of Chapter 2 of the Code of Ordinances of the Town. ~~The Commission shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the Town at least one (1) week in advance of the hearing.~~

Section 3.03. - Election and terms.

The Commissioners shall hold office for a term of three (3) years beginning immediately after official certification of the results of the election ~~at noon on the third day after their election~~ and shall continue in office until their term expires and until their successors are elected and qualified. There shall be an annual election of a Commissioner or Commissioners in the manner prescribed in Article V of this Charter, on the second Tuesday in ~~February~~ March of each year (unless this date is required to be changed, by law, to a date concurrent with any countywide or statewide election or other date), to fill the vacancy or vacancies occasioned by the expiration or early termination (voluntary or involuntary) of the terms of the office of Commissioners.

Section 3.04. - Compensation and expenses.

The Commission may determine the annual salary of Commissioners by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Commissioners elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months. Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office as provided by law.

Section 3.05. - Mayor and Vice-Mayor.

The Commission shall select from among its members, by a majority vote, a Mayor and Vice-Mayor. Selection of the Mayor and Vice-Mayor shall be made at the first regular Commission meeting after the Town election or at such time as the occurrence of a vacancy in the office of Mayor or Vice-Mayor.

The Mayor shall preside at meetings of the Commission, shall be recognized as head of Town government for all ceremonial purposes, by the Governor for purposes of military law, for services of process, execution of contracts, deeds and other documents. The Mayor shall have no administrative duties except as required to carry out the responsibilities herein.

The Vice-Mayor shall act as mayor during absence or disability of the Mayor and, if a vacancy of the Mayor occurs, shall become interim Mayor until a Mayor is selected by a majority vote of the Commission.

In the event the Vice-Mayor becomes an interim Mayor, the Commission shall select a new Vice-Mayor for that period of time until a Mayor is selected.

Section 3.06. - Vacancies; forfeitures of office; filling of vacancies.

- ~~(a) *Vacancies.* The office of a Commissioner shall become vacant upon his death, resignation, removal from office in any manner authorized by law or forfeiture of his office, such forfeiture to be declared by the remaining members of the Commission.~~
- ~~(b) *Forfeiture of office.* A Commissioner shall forfeit his office if he (1) lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law, or (2) violates any standard of conduct or code of ethics established by law for public officials, such violation to be determined by remaining members of the Commission.~~
- ~~(c) *Filling of vacancies.* A vacancy on the Commission shall be filled by a majority vote of the remaining members of the Commission for the period of time until the next election, when a Commissioner shall be elected for the remainder of the term vacated.~~
- ~~(d) *Extraordinary vacancies.* In the event that all members of the Commission are removed by death, disability or forfeiture of office, the Governor shall appoint an interim Commission that shall call a special election.~~

(a) Vacancies. – A vacancy in the office of a Commissioner, Mayor or Vice Mayor shall occur upon the incumbent’s death, inability to fulfill the duties of the office, resignation, appointment to another public office, judicially determined incompetence, or removal or forfeiture of office as described in this section.

(b) Forfeiture of office. –

1. A member of the Commission may forfeit the office if the member:

a. Lacks at any time during the term of office any qualification for the office prescribed by this charter or by law;

b. Violates any express prohibition of this charter;

c. Is convicted of a felony or criminal misdemeanor, which felony or criminal misdemeanor involves the office of Town Commission;

d. Is convicted of a felony, unless the person’s civil rights have been restored;

de. Is found to have violated any standard of conduct or code of ethics established by law for public officials, as determined by the remaining members of the Commission, or has been suspended from office by the Governor, unless subsequently reinstated as provided by law; or

ef. Misses three consecutive regularly scheduled council Commission meetings, unless excused by the Commission. The burden of establishing good cause for absences shall be on the Commission member in question; however, any Commission member may, at any time during a duly held meeting, move to establish good cause for his or her absence. A Commission member whose qualifications are in question or who is otherwise subject to forfeiture of his or her office shall not vote on such matters.

If any of these events should occur, a hearing shall automatically be conducted at the next regularly scheduled Commission meeting, and the member may be declared to have forfeited office by majority vote of the Commission.

2. The Commission shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Commission member's office, including whether good cause for absence has been or may be established. In order to exercise these powers, the Commission shall have power to subpoena witnesses, administer oaths, and require the production of evidence.

(c) Filling of vacancies. –

1. A vacancy on the Commission shall be filled by a majority vote of the remaining members of the Commission for the period of time until the next election, when a Commission member shall be elected for the remainder of the term vacated. If there are more than 6 months remaining in the unexpired term, from the date of resignation, and until the next regular election, and a majority of the remaining Commission members cannot reach a decision within 30 days after a vacancy occurs, then the vacancy shall be filled by a special election.

2. In the event that three or more of the Commission members are removed by death, disability, recall, forfeiture of office, or resignation, the Governor shall appoint interim Commission members who shall call a special election at least 30 days, but no more than 60 days, after such appointment. Such election shall be held in the same manner as the initial elections under this charter. However, if there are fewer than 6 months remaining in any unexpired terms, the interim Commission appointed by the Governor shall serve until the next election. Appointees must meet all requirements for candidates as provided in this charter.

Section 3.07. - Procedure.

(a) *Meetings.* The Commission shall meet regularly at least once in every month, at such times and places as the Commission may prescribe by rule. Special meetings

may be held on the call of the Mayor or of a majority of the members and, whenever practicable, upon no less than ~~twelve (12)~~ twenty-four (24) hours' notice to each member and the public unless there is an immediate threat to the public health, safety or welfare. All meetings shall be public.

- (b) *Rules and journal.* The Commission shall determine its own rules and order of business. In the event the Commission does not adopt rules, it shall be governed by Robert's Rules of Order, revised edition, in conducting its meetings.
- (c) *Voting.* Voting, on ordinances and resolutions, shall be by majority vote, or if requested by a Commissioner, by a roll call, and shall be recorded ~~in the journal~~. A majority of the Commission shall constitute a quorum; ~~but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Commission. No action of the Commission except as otherwise provided in the preceding sentence and in Section 3.07 shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present~~ three members.
- (d) *Annual audit.* At the end of each fiscal year the Commission shall select and employ competent independent auditors to analyze the Town's financial activities and transactions for the year ended and to certify their opinion of the fiscal conditions they report.

#### ARTICLE IV. - ADMINISTRATIVE

##### Section 4.01. - Town Manager.

There shall be a Town Manager who shall be the chief administrative officer of the Town. He shall be responsible to the Commission for the administration of all town affairs placed in his charge by or under this Charter. The Town Manager shall not be required to be a resident or property owner of the Town and shall be chosen by the Commission based on executive and administrative qualifications.

##### Section 4.02. - Appointment; removal; compensation.

- (a) *Appointment.* The Commission shall appoint a Town Manager for an indefinite term by a majority vote of all the Commission members.
- (b) *Removal.* The Commission may remove the Manager by a majority vote of all the Commission members.
- (c) *Compensation.* The compensation of the Manager shall be fixed by a majority vote of all the Commission members.

##### Section 4.03. - Acting Town Manager.

By letter filed with the Commission, the Manager shall designate, subject to approval of the Commission, a qualified town administrative officer to exercise the powers and perform the duties of manager during his temporary absence or disability.

During such absence or disability, the Commission may revoke such designation at any time and appoint another officer of the Town to serve until the Manager shall return or his disability shall cease. If the Manager fails to file such letter, the Commission shall appoint, by a majority vote of all its members, an Acting Town Manager.

Section 4.04. - Powers and duties of the Town Manager.

The Town Manager shall:

- (a) Appoint, ~~subject to confirmation by the Commission,~~ and when he deems it necessary for the good of the Town, suspend or remove, ~~subject to review by the Commission,~~ any or all Town employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, ~~this Charter or personnel rules adopted pursuant to this Charter.~~ The Town Manager shall authorize and delegate any administrative department head to exercise these powers with respect to subordinates in that department head's department. The department heads shall be responsible to the Town Manager for the discipline and efficiency of their departments.
- (b) Direct and supervise the administration of all departments, offices and agencies of the Town, except as otherwise provided by this Charter of [or] by law.

~~The Chief of Police shall be responsible to the Town Manager for the recommendation to hire, or discharge all employees within the Police Department.~~

~~The Chief of Police may peremptorily suspend, with pay, any subordinate for misconduct or failure to perform the duties of office, and shall report same, in writing, to the Town Manager within twenty four (24) hours, together with a recommendation concerning any further proposed disciplinary action.~~

~~Within seventy two (72) hours of a suspension, the Town Manager shall conduct a hearing concerning the suspension, and any recommendation made by the Chief of Police concerning other disciplinary action. The Chief of Police and the affected employee may present and confront witnesses, and other evidence. For this purpose, the Town Manager may compel the attendance and sworn testimony of employees. The conduct of this hearing shall be informal and shall not require conformance to the Rules of Evidence or Rules of Civil or Criminal Procedure, as approved by the Florida Supreme Court. However, fundamental due process shall be observed. Within twenty-four (24) hours of the hearing, the Town Manager shall render a written decision upholding, reversing or modifying the recommendation of the Chief of Police, and citing the reasons therefor. The Town Manager shall have the authority and shall be responsible to discharge or otherwise discipline employees affected herein. Said written decision shall be filed with the Town Clerk and shall be sent by Certified Mail to the affected employee. This decision shall be appealable to the Town Commission, by the filing of a written request therefor within ten (10) days of the filing of a decision with the Town Clerk.~~

~~The Town Commission shall hear the appeal of the affected employee at its next regular Commission meeting or at a special meeting called for that purpose, prior to the next regular Commission meeting. The decision of the Town Commission shall be final.~~

- (c) Attend all Commission meetings and shall have the right to take part in discussion but may not vote.
- (d) See that all laws, provisions of this Charter and acts of the Commission, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.
- (e) Prepare and submit the annual budget, together with the budget message, and capital program to the Commission in a form provided by ordinance.
- (f) Submit to the Commission and make available to the public a complete report on the finances and administrative activities of the Town as of the end of each fiscal year.
- (g) Make such other reports as the Commission may require concerning the operations of Town departments, officers and agencies subject to his direction and supervision.
- (h) Keep the Commission fully advised as to the financial condition and future needs of the Town and make such recommendations to the Commission concerning the affairs of the Town as he deems desirable.
- (i) Negotiate and sign contracts, documents, instruments and papers on behalf of the Town pursuant to the provisions of appropriations ordinances, as may be specifically directed by the Town Commission.
- (j) Perform such other duties as are specified in this Charter or may be required by the Commission.

## ARTICLE V. - NOMINATIONS AND ELECTIONS

### Section 5.01. - Electors.

Any person who is a resident of the Town who has qualified as an elector of this state and the Town, and who registers in the manner prescribed by general law, shall be an elector of the Town.

### Section 5.02. - Nonpartisan elections.

All nominations and elections for the office of Town Commissioner shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee on any nomination petition or ballot.

### Section 5.03. - Nominations.

Candidates for the office of Town Commissioner shall be nominated for such office(s) by the filing of a written notice of candidacy in the manner prescribed by law.

### Section 5.04. - Form of ballots.

The ~~Commission by ordinance shall prescribe the form of the ballot, including the method of listing candidates for Town Commission election, and any other Town election shall conform to the form of ballots prescribed by Florida law, however, the ballot shall contain no mark or other designation of affiliation of any candidate with any political party or other association or organization.~~ A Charter amendment to be voted on by the Town shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the word "~~For~~Yes" and also the word "Against~~No~~" with a sufficient blank space thereafter for the placing of the symbol "X" to indicate the voter's choice.

#### Section 5.05. - Elections.

Annual Town elections shall be held on the second Tuesday in ~~February~~ March (unless this date is required to be changed, by law, to a date concurrent with any countywide or statewide election or other date). The election of candidates for the office of Commissioners shall be determined solely on the basis of a plurality of votes cast at the annual election and not be a run-off system of voting. In the case of a tie vote, the winner shall be declared by the drawing of lots.

Procedures to be followed in voting for candidates running for the office of commissioner will depend upon the following: (1) Commission seats vacated by the expiration of the three (3) year term of office; and (2) the early termination or vacancy of a three (3) year term of office caused either voluntarily or involuntarily. Thus, if only one (1) commission seat has expired and is available at the time of an annual election, the candidate receiving the largest number of votes cast shall be declared elected to that commission seat. However, if, for example, two (2) commission seats have expired and are available and one (1) commission seat has been terminated early or vacated, either voluntarily or involuntarily, and is available at the time of annual election, then the two candidates receiving the largest and next to largest number of votes cast shall be declared to be elected for the two (2) commission seats that have expired in an ordinary manner while the candidate receiving the next largest number or third largest number of votes cast, shall be declared elected for the commission seat terminated early or vacated, and said elected candidate shall serve for the remaining time in this unexpired term of office.

If, for any reason, an elected candidate refused to acknowledge or accept the campaign seat or term of office which he has been elected to, then that commission seat and term of office shall be awarded to the candidate who received the next largest number of votes cast at the annual election, ~~whether the campaign seat or term of office be for Town Commissioner or for Town Mayor.~~

#### ARTICLE VI. - TRANSITION SCHEDULE

#### Section 6.01. - Continuation of former Charter provisions.

All provisions of Chapter 15088, Laws of Florida, Special Acts of 1931, as amended by the former Charter, which are not embraced herein and which are not inconsistent with this Charter shall become ordinances of the Town subject to modification or repeal in the same manner as other ordinances of the Town.

Section 6.02. - Ordinances preserved.

All ordinances in effect upon the adoption of this Charter, to the extent not inconsistent with it, shall remain in force until repealed or changed as provided herein.

Section 6.03. - Rights of officers and employees.

Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are Town officers or employees at the time of adoption. Elected officers shall continue to hold their offices and discharge the duties thereof until their successors are elected.

Section 6.04. - Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the Town shall continue except as modified pursuant to the provisions of this Charter.

## ARTICLE VII. - FINANCE AND TAXATION

Section 7.01. - Accounting funds established.

All cash and fixed assets of the Town shall be maintained in one of the following accounting funds, as applicable:

- (a) Debt Service Funds (more than one may be established);
- (b) Capital Projects Fund;
- (c) General Fixed Asset Fund;
- (d) General Fund.

Section 7.02. - Fund transfers; fund equity.

The Town Commission, subject to other provisions of law, may transfer equity from one fund to another fund by Resolution. All undesignated fund equity from the prior fiscal year shall be appropriated in one of the funds established herein. Said appropriations shall be made at least annually, by Resolution, at the time of adoption of the general ~~milage~~ [millage] as established by law.

(i) The affirmative vote of four (4) city commissioners shall be required to adopt the following:

- (1) A resolution authorizing the transmittal of a comprehensive plan amendment described in paragraph (j) below to the department of community affairs and to other governmental agencies in accordance with Section 163.3184(3), Florida Statutes (2006), or a successor statute requiring or allowing such transmittal.
  - (2) An ordinance adopting a comprehensive plan amendment described in paragraph (j) below in accordance with Section 163.3184(7), Florida Statutes, or a successor statute providing for the adoption of amendments to a local comprehensive plan.
- (j) The "super majority" vote requirement of paragraph (i) above shall be required to adopt transmittal resolutions for the following types of comprehensive plan amendments and to adopt ordinances enacting the following types of comprehensive plan amendments:
- (1) An amendment to the adopted future land use plan map (Illustration LU-6 of the Future Land Use Map Series) that changes the future land use classification of any parcel of real property depicted on the map whether the change is characterized as a "small scale" or a "large scale" plan amendment. Amendments to assign a future land use classification to a parcel of real property newly annexed into the city which has not previously been classified on the future land use map shall be exempted from the super majority vote requirement for transmittal and adoption and may be transmitted or adopted by simple majority vote of the city commission.
  - (2) An amendment to increase the maximum allowable dwelling unit density, height or floor area ratio within any future land use classification listed in the future land use plan.
  - (3) An amendment to add any new future land use classification to the future land use plan.