

# Town of Melbourne Beach

## CHARTER REVIEW COMMITTEE MONDAY, February 10, 2025, 6:00 P.M. COMMUNITY CENTER – 509 OCEAN AVENUE

### MINUTES

#### **Board Members:**

Chairman James Simmons  
Vice Chairman Bruce Larson  
Member Kathy Ivers-Osthus  
Member Charles Leps Jr  
Member Jessica Martinez

#### **Staff Members:**

Town Manager Elizabeth Mascaro  
Town Clerk Amber Brown  
Town Attorney Ryan Knight

#### **1. Call to Order**

Chairman James Simmons called the meeting to order at 6:00 p.m.

#### **2. Roll Call with Determination of Quorum**

Town Clerk Amber Brown conducted roll call

#### **Board Members Present**

Chairman James Simmons  
Vice Chairman Bruce Larson  
Member Kathy Ivers-Osthus  
Member Charles Leps Jr  
Member Jessica Martinez

#### **Staff Members Present**

Town Attorney Ryan Knight  
Town Clerk Amber Brown

#### **3. Approval of minutes**

A. January 27, 2025 minutes

**Member Jessica Martinez made a motion to approve the January 27, 2025 minutes; Vice Chairman Bruce Larson seconded; Motion carried 5-0.**

#### **4. Public Comment**

None

#### **5. New Business - 1:10**

A. Charter review Articles 1 and 2

Chairman James Simmons requested the Town Attorney to elaborate on the Sunshine Law in reference to being a conduit.

Town Attorney Ryan Knight spoke about what a conduit is and how it would be a violation of the Sunshine Law.

Vice Chairman Bruce Larson spoke about 1.01, asked if making changes would lead to repealing the present Charter.

Town Attorney Ryan Knight said it wouldn't be repealing the entire thing, it would be amending it and you would be able to see what is being removed and added.

Chairman James Simmons spoke about unless there is something within Article 1 then it would not be in the referendum.

Vice Chairman Bruce Larson spoke about Section 1.02.

Town Attorney Ryan Knight spoke about unless something within that section is being changed, then it does not need to be amended.

Vice Chairman Bruce Larson spoke about how Section 1.04 does not include the Mayor and would like to amend that to start with the Mayor, Vice Mayor and Commissioners.

Chairman James Simmons spoke about how that Section is referring to 1973 when they approved the new Charter. Said the Mayor was on the ballot when that Charter was approved.

Town Attorney Ryan Knight spoke about the only reason he can see to amend that section would be if the terms were changing in Article II.

Vice Chairman Bruce Larson clarified that Section 1.04 does not have any effect. Spoke about wanting to amend Section 1.05, Boundaries.

Town Attorney Ryan Knight said from a legal perspective it would not be necessary to do, but it is something that could be included if they wanted to.

Vice Chairman Bruce Larson said that brings up the question of why we are here, do we want to only do things that are necessary to get it cleaned up or hash out how they did things in the past and come up with more changes. - 13:50

Chairman James Simmons said Section 2 is comprehensive, normally when doing document reviews, he will ask if everyone concurs on each issue and then everyone can vote at the end of the Section.

Vice Chairman Bruce Larson received confirmation from the Town Attorney that the Town has home rule authority and that it does not have to be explicitly stated.

Member Jessica Martinez said her concern is making sure the Town has more control of what they govern, clarified if something is against Florida law, that would supersede this.

Member Charles Leps Jr spoke about 2.02 and wants to carefully define how residency is legally determined.

Town Attorney Ryan Knight said residency is where people's primary residence is. As far as requirements for Charter, some cities require somewhere between 6 months and 2 years.

Member Jessica Martinez spoke about how she would like to increase it more than 6 months.

The Board agreed on wanting to increase the residency.

Town Attorney Ryan Knight spoke about one year is safe, but 2 years might get tested in court.

**The Board agreed to change the 6 months to 12 months in Section 2.02.**

Town Attorney Ryan Knight spoke about if it goes to court, they look for utility bills, payments, and the resident has to sign an affidavit swearing to their residency.

Chairman James Simmons said if someone were a 6 months and a day seasonal renter, even if they could vote, they could not be on the Commission.

Town Attorney Ryan Knight said someone who could not regularly attend meetings should not be on the Commission, however, there is nothing preventing them from being on the Commission and flying down once a month for meetings.

Vice Chairman Bruce Larson talked about how people would also have to be registered to vote there. Asked Town Clerk Amber Brown if the Town did their own investigations if people were actually living there.

Town Clerk Amber Brown said they only have information on residents in the current year.

Town Attorney Ryan Knight said it does say the Commission shall be the judge of the qualifications of the candidates for elections. - 28:50

Town Attorney Ryan Knight said it is currently worded as four Commissioners at large, another option would be electing people from districts, but that is usually an option reserved for larger Towns.

The Board did not want to change to districts.

**The Board agreed to change moral turpitude to malfeasance and/or misfeasance.**

Town Attorney Ryan Knight clarified there can be no dual office holding.

Member Charles Leps Jr brought up how changing the gender language throughout the Charter would be done. He confirmed it would only need to be addressed once to change all the instances that language is used as opposed to each time that language is used in each section of the Charter.

Town Attorney Ryan Knight said it would be one ballot question, for example, should we change the Charter from saying he to he/she. He does recommend having a revised copy attached to the Ordinance that has that language changed.

Vice Chairman Bruce Larson received confirmation that a copy with the changes could be released before the vote on the Town website.

**The Board agreed to change any gender reference to gender-neutral language throughout.**  
46:46

The Board went through the remaining sections which addressed signature requirements and write-in candidates, and ultimately decided to leave them as is.

Chairman James Simmons went over the changes for 2.02 which were to change the requirement to 12 months to be a resident, changing crime involving moral turpitude to malfeasance/misfeasance, and to change any gender reference to gender neutral language.

**Vice Chairman Bruce Larson made a motion to approve 2.02 as amended; Member Charles Leps Jr seconded; Motion carried 5-0. - 57:30**

The Board agreed to come back to section 2.03(a) after getting feedback from the Commission on even year election vs odd year election.

Member Charles Leps Jr spoke about 2.03(a) and how that should refer to the next Regular Town Commission Meeting. Also spoke about not liking the use of the word qualified.

**The Board agreed to change 2.03(a) next official meeting to the next Regular Town Commission Meeting. Also, change qualified to certified by the Supervisor of Elections.**

Town Attorney Ryan Knight clarified that 2.03(a)1 is saying if you are an elected Commissioner you shall hold office for 3 years unless you were appointed or elected to fulfill the term of a Commissioner at large who has been removed from office.

Town Attorney Ryan Knight went over what happens if a Commissioner is recalled versus if they quit/die in office, but said they could be combined.

Member Jessica Martinez mentioned getting rid of appointments altogether and just holding a special election if someone has to leave office for whatever reason.

Town Clerk Amber Brown said they would be able to call a special election, but would have to allow the full amount of time and qualify the candidates, etc, so in the meantime the Commission would be down a member until that special election took place. - 1:12:45

Member Jessica Martinez asked if someone is appointed, does that count as a full term.

Town Clerk Amber Brown said if they appoint, it is for one year until the next general election. If they do a special election, then they could fulfill that remaining time. Said it does stipulate two full terms plus a partial.

The Board discussed the language to use to combine what happens for any of the reasons someone would leave office.

Member Charles Leps Jr said resignation, death, forfeit or recall would be the four reasons and believes that each should be stated.

Member Jessica Martinez spoke about how if someone left office, would not want to spend money on an election but does not like that the Commission can just appoint someone, and discussed requiring getting signatures from residents to support the Commissioners appointee.

Town Clerk Amber Brown read State Statute 100.361 Section 6 is for filling of vacancies. Shall be voted upon at the same election, is that why we cannot do an appointment?

Town Attorney Ryan Knight said if something is not in the Charter the State Statute governs.

The Board decided to leave the wording about what happens when a Commissioner leaves office as is.

Member Charles Leps Jr spoke about striking the last sentence of section 2.03(b). - 1:27:00

Chairman James Simmons spoke about how it says 365 days and each year there is less than 365 days between elections. Change it to 363 days.

Town Attorney Ryan Knight spoke about it could be changed to 11 months.

The Board discussed if there would be any negatives changing from 365 days to 11 months.

**The Board agreed to change 2.03(b) from 1 year 365 days to 11 months.**

**The Board agreed to remove the last sentence of Section 2.03(b).**

Chairman James Simmons said the changes the Board agreed upon for Section 2.03 were to say the next Regular Town Commission Meeting, and say certified by the Supervisor of Elections in 203(a), and for 2.03(b) to change 365 days to 11 months. Also said in Section 203(a) they will come back to the part about 3 years at a later date.

**Member Charles Leps Jr made a motion to approve Section 2.03 as amended; Member Jessica Martinez seconded; Motion carried 5-0. - 1:44:40**

Vice Chairman Bruce Larson mentioned at a Regular Town Commission meeting months ago, the Town Attorney mentioned there were several points that could be cleaned up and asked if he could highlight some of those points.

Town Attorney Ryan Knight spoke about how when someone resigns six months before an election, there's not enough time to get qualified to be on the ballot, so they might want to make a distinction between if there is more or less than 6 months less in their term. Also said to clarify that the next upcoming election can refer to the next general or special election.

Chairman James Simmons spoke about the cost of elections and how the more elections that are had, the more the budget is burdened and that could be at the expense of a lifeguard.

Town Attorney Ryan Knight said it says in the Charter, if the Commission does not appoint someone within 30 days, the Mayor must call a special election.

Vice Chair Bruce Larson would be in favor of language that allows the Commission to utilize appointments. Sometimes the time remaining for the term does not justify the cost of a special election.

The Board discussed recommending an Ordinance update to add a process for appointing a Commissioner.

Chairman James Simmons spoke about being ready to discuss the remainder of Section 2 and also Section 3.

Town Attorney Ryan Knight said he is going to make the changes to review at the next meeting.

## **6. Adjournment**

**Member Charles Leps Jr made a motion to adjourn; Member Kathy Ivers-Osthus seconded; Motion passed 5-0.**

Meeting adjourned at 8.01 pm.



**James Simmons**  
Chairman

**ATTEST:**

  
Rachel Pembrook (Apr 25, 2025 18:46 EDT)

**Rachel Pembrook**  
Transcriptionist

