

# Town of Melbourne Beach

## CHARTER REVIEW COMMITTEE TUESDAY, FEBRUARY 18, 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**

Town Attorney Ryan Knight 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. February 10, 2025 minutes

**Vice Chairman Bruce Larson made a motion to table the minutes; Member Charles Leps Jr seconded; Motion carried 5-0.**

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

None

#### **5. New Business - 1:20**

A. Charter review Articles 2 and 3

Chairman James Simmons confirmed that the Board has reviewed the changes and are satisfied with what has been done so far. Moved onto Section 2.04 and spoke about the language used about recalls and filling the vacancies.

Town Attorney Ryan Knight explained that state law would govern the recall. Said they could reference that Statue, but it is not necessary, so the Board decided they were satisfied with the language currently being used.

Chairman James Simmons spoke about adding how previously in elections, if there are two full terms and one partial term, the third place finisher gets the partial term, but it does not explicitly say this anywhere, so they need to add that language into the Charter.

Town Attorney Ryan Knight said qualification would be assumed in order to be elected or appointed. Wanted to clear up what happens if someone resigns after the qualifying period has occurred which is between the 81st and 85th day preceding the election. The way the current Charter reads, if the resignation happens 30 days before election, is someone appointed for 30 days or would they be appointed up until the election the following year because they are not able to get on the ballot and no one can qualify for that seat. Suggested clearing up the last sentence with something like, once the qualifying period has passed, if someone resigns after that, they would be appointed to the Commission until the election the following year.

**The Board agreed to add the following language to Section 2.04 Vacancies on the Commission, for which the qualifying period has not begun at the time of a vacancy.**

No amendments to Section 2.05 Prohibition Against Employment.

Chairman James Simmons clarified that a person cannot hold two positions, which means a person cannot be a member of the Commission and hold a Board position.

No amendments to Section 2.06 Compensation.

No amendments to Section 2.07 the Mayor. However, the Board would like to get feedback from the Commission on the term being 3 years.

No amendments to Section 2.08 Vice Mayor.

Section 2.09 Commissioner-at-Large. - 22:26

Chairman James Simmons said the first sentence and first clause of the second sentence could be taken out. Spoke about adding language that says, in elections with two terms on the ballot, the 2 candidates receiving the largest and second largest number of votes shall each be elected to 3 year terms. Candidates receiving less than the 2 largest number of votes shall each be elected to the partial term with the higher vote getter getting the longer term.

Town Clerk Amber Brown spoke about why this language matters, giving an example of a time when there were two positions available, one for a 3 year term and one for a 1 year term

because someone vacated. Both of those would be filled at the next election, however depending on how the Town Attorney interpreted it, it was two separate races, each person had to specify if they were running for the 3 year term or the 1 year term.

Town Attorney Ryan Knight spoke about an alternative language saying something like, in elections with partial terms on the ballot, the candidate or candidates receiving the largest number of votes shall each be elected to the higher of the terms that are up for election.

The Board continued to discuss the options for language changes for this Section.

**The Board agreed to have the Town Attorney come up with the language to amend Section 2.09 Commissioner-at-Large and start the section with Commissioner-at-Large Candidate.**

No amendments to Section 2.10 Assignment of Department Responsibilities.

No amendments to Section 2.11 Commission Meeting - 37:00

Member Charles Leps Jr said at the end where it says, shall be open to the public where required, he doesn't know if that is ever specified.

Town Attorney Ryan Knight said it is addressed in the Florida Statutes what to do for a shade meeting.

Member Jessica Martinez asked if meetings are ever set in less than 24 hours, and if so, does the public complain?

Chairman James Simmons says they will call emergency meetings for things like hurricanes at the last minute and no one complains because it is not normal business.

Section 2.12 Legislative Procedure

Member Charles Leps Jr asked what is the purpose of the clause there, but a smaller number may adjourn from day to day.

Town Attorney Ryan Knight explained that in a situation where all 5 members are not present, there might not be 3 votes to adjourn.

**The Board agreed to change the first sentence of Section 2.12 Legislative Procedure to a smaller number may vote to adjourn.**

No amendments to Section 2.13 Ordinances and Resolutions - 46:30

Member Charles Leps Jr asked for clarification about the last part of the first paragraph.

Chairman James Simmons said that it means the Town Attorney does not have to read the whole ordinance for the second reading, he just has to read the preamble.

Town Attorney Ryan Knight said under Florida Statute, the whole ordinance does not have to be read for the first or second reading.

Chairman James Simmons noticed the title is what must be read at the second reading and the preamble can be read at the first.

No amendments to Section 2.14 Ordinances by Referendum Vote

Town Attorney Ryan Knight said this does not conflict with state law or the code section that references it. Said any land development issues would have to go through its own separate procedures.

No amendments to Section 2.15 Emergency Ordinances - 53:00

Member Jessica Martinez asked for an example of that.

Chairman James Simmons said an example would be a curfew during a hurricane.

No amendments to Section 2.16 Public Notice

No amendments to Section 2.17 Commission Attendance at Meetings

Chairman James Simmons said 2.17 was repealed and said he did not have the history on it.

Town Attorney Ryan Knight said sometimes in other city Charters, it will state something to the effect of, if a Commissioner misses a certain number of consecutive meetings, the Commission can vote to say they are absent and remove them and there would be a vacancy.

Section 3.01 Powers and Duties of the Town Commission

Member Charles Leps Jr asked what suspend is referring to in subparagraph a where it says suspend or remove.

Chairman James Simmons said you can suspend with or without pay in most jobs and this gives that authority.

Town Clerk Amber Brown asked if that section needs to be amended to remove Town Clerk.

Chairman James Simmons said the Town Clerk is now under the Town Manager instead of the Mayor/Commission, so it should be removed. Spoke about some of the positives of it being set up this way.

Vice Chairman Bruce Larson made an argument that it is stronger to tie the role of Town Clerk to the Commission. Also, spoke about the Town Clerk's engagement with elections, that they would need to have the ability to suspend from the Commission.

Town Attorney Ryan Knight said there would be a separate mechanism if the Town Clerk was not doing her job as far as elections go, it would fall on the Town Manager to take action and if that did not happen the Commission would suspend or get rid of the Town Manager.

**The Board agreed to change Section 3.01(a) by removing the Town Clerk.**

Vice Chairman Bruce Larson said there is value in the Town Clerk, who supports the Commission, being able to be hired and fired by them. Asked the Town Clerk for her opinion.

Town Clerk Amber Brown said she has not had any issues the way it is now. She said other municipalities have voiced issues with there being multiple bosses because the Commission cannot discuss things unless they are in a meeting, so day to day items can take longer. - 1:11:36

No amendments to Section 3.02 Administrative Units of Town Government

Vice Chairman Bruce Larson received confirmation that this referred to the Building Department and Public Works, it essentially is the same as departments.

Member Charles Leps Jr brought up Section 3.03 Office of the Town Manager, noticed missing from this there is no equivalent statement that says the salary of the Town Manager shall be fixed by the Commission (like it says with the Town Clerk.)

The Board discussed several small language and punctuation changes to this section.

**The Board agreed to change Section 3.03 Office of the Town Manager to include the salary of the Town Manager shall be fixed by the Commission.**

**The Board agreed to change Section 3.03 to remove Office of the Town Clerk in (a).**

Chairman James Simmons said for (b) for purposes of inquiries and investigations, have had past Commissioners that used that phrase to harass Town Staff and asked the Town Attorney if that language could be tightened up to avoid that.

Town Attorney Ryan Knight said this is common in Town Charters, but said he could revamp the whole clause. He pulled up an example from another city and said to create a separate section that defines investigations.

The Board discussed different language options they could use for this section.

Chairman James Simmons suggested saying the Town Commission by majority vote may direct Town Manager or Town Staff to support inquiries and investigations. - 1:42:15

Town Attorney Ryan Knight said another way of saying that would be, the Town Commission or its members shall not interfere with the performance of the duties of any officer or employee.

Chairman James Simmons said to take off the first clause, add a sentence, the Town Commission may direct by majority vote the Town Manager or Town Staff to support inquiries and/or investigations.

Vice Chairman Bruce Larson said there are two topics covered in this paragraph to which Chairman James Simmons disagreed, saying it is all dealing with interfering with Town Staff.

The Board discussed the delicate balance between trying not to take a Commissioners ability to act independently and do their own research away, but still putting wording in place that stops them from abusing that power.

Member Kathy Ivers-Osthus said the Town Clerk can always refuse a request. -1:56:08

Vice Chair Bruce Larson said it would technically be breaking the rule just by asking a request which he believes is too strict.

Town Attorney Ryan Knight spoke about putting together interference clauses from other Charters for the next meeting and could email them to the Board members in advance.


**The Board agreed to have the Town Attorney provide language to amend Section 3.03 (b).**

Chairman James Simmons said they will pick up at the Office of the Town Manager at the next meeting on March 10th.


## 6. Adjournment

**Member Kathy Ivers-Osthus made a motion to adjourn; Vice Chairman Bruce Larson seconded; Motion carried 5-0.**

Meeting adjourned at 8:02 pm.

  
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James Simmons  
Chairman

ATTEST:

  
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Rachel Pembroke (Apr 8, 2025 10:12 EDT)  
Rachel Pembroke  
Transcriptionist