

Town of Melbourne Beach

CHARTER REVIEW COMMITTEE MONDAY, MARCH 24, 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 – Arrived at 6:05 pm
Member Kathy Ivers-Osthus
Member Charles Leps Jr
Member Jessica Martinez

Staff Members Present

Town Attorney Ryan Knight
Deputy Clerk Cyd Cardwell
Town Clerk Amber Brown

3. Approval of minutes

A. February 10, 2025 minutes - 1:45

Member Charles Leps Jr made a motion to approve both sets of minutes; Member Kathy Ivers-Osthus seconded; Motion carried 5-0.

B. February 18, 2025 minutes

February 18, 2025 minutes were approved under Item A.

4. Public Comment

None

5. **New Business**

A. Charter review starting at Section 3.03 Office of the Town Manager – 2:25

Section 3.03 Office of the Town Manager

Chairman James Simmons spoke about how they talked about 3.03A with one change being that the Town Manager's salary shall be set by the Town Commission.

Reviewed a memorandum from the Town Attorney outlining how other similar municipalities make requests of Town Staff.

Town Attorney Ryan Knight said if someone had a question for anyone under supervision of the Town Manager, you would send an email to the Town Manager requesting that information. Prohibits the Commission members from talking to employees.

Vice Chairman Bruce Larson arrived at 6:05 PM.

Chairman James Simmons spoke about the loophole of using an investigation and suggested a time limit for requests made directly to staff; anything over 15 minutes would need to be directed through the Town Manager.

Member Charles Leps Jr went through each municipality listed on the memorandum and described the level of separation between staff and elected officials that each one provides. He and Chairman James Simmons agreed the most intermediary one was Ponce Inlet. - 10:15

Chairman James Simmons suggested a version that does not include the wording except for the purposes of inquiries or investigations. And to add a sentence that says the Town Commission may direct by majority vote the Town Manager or Town Staff to support inquiries or investigations. Pointed out that this would only affect clerical requests such as document printing that are sometimes sent directly to staff.

Member Kathy Ivers-Osthus described the Town Manager being in a position to decide who is the best staff member to execute a request from an elected official, rather than letting the official choose who to ask.

Town Attorney Ryan Knight expanded on her explanation. He then said what you are trying to prevent is individual Commission members from emailing someone like Code Enforcement directly to get information on something.

Chairman James Simmons said there should be some compromise that doesn't totally force all requests to go through the Town Manager only.

Vice Chair Bruce Larson spoke about the importance of the Commission being able to get the information they need. Even if that can be abused, you cannot lock them out. Suggested having the language say the Commission shall not direct or order any staff, investigations should go through the Town Commission, except for inquiries as long as they do not interfere with the duties and responsibilities of the staff.

The Board agreed to the following language for Section 3.03(b):

~~(b) Except for the purpose of inquiries and investigations, the Town Commission or its members shall not give orders or directions to any officer or employee of the Town who is under the direction and supervision of the Town Manager, and shall deal with such officers and employees only through the Town Manager.~~ The Town Commission or its members shall not give directions to or interfere with any officer or employee of the Town who is under the direction and supervision of the Town Manager. The Town Commission may direct by a majority vote the Town Manager or Town Staff to support inquiries and/or investigations.

Vice Chairman Bruce Larson made a motion to approve paragraph 3.03 as revised, Office of the Town Manager; Member Jessica Martinez seconded; Motion carried 5-0.

Section 2.04 Vacancies on the Commission

Chairman James Simmons spoke about Section 2.04 paragraph 3 which says, among the successful candidates, those receiving the largest number of votes shall be declared elected for the longest terms.

The Board discussed having candidates run for specific term lengths or having them run together, and those with the most votes get the longest terms.

Member Charles Leps Jr expressed his concern about voters not knowing or understanding that there would be different length terms that they are running for or that they could possibly have to vote twice.

The Board agreed that rank choice would be easier, where the candidates with the largest number of votes receive the longest term. They discussed language surrounding this topic, wanting to make sure it applies to both general and special elections.

Town Attorney Ryan Knight said the other section this would apply to is 2.09.

Town Clerk Amber Brown said Section 2.04 was discussed and agreed upon at the last meeting. - 55:38

Section 2.09 Commissioner-at-Large

The Board agreed to amend the language in Section 2.09 to Commissioners-at-Large shall qualify and run for open seats. Add the language among the successful candidates those receiving the largest number of votes shall be declared elected for the longest terms.

~~A total of four (4) Commissioners-at-Large shall qualify and run for the four (4) open seats. At the November, 1989 election, the two candidates receiving the largest and second largest number of votes shall each be elected to three (3) year terms, while the two candidates receiving the third and fourth largest number of votes shall each be elected to two (2) year terms.~~

Among the successful candidates those receiving the largest number of votes shall be declared elected for the longest terms.

Member Charles Leps Jr said Section 2.02 lists the specifics, says there are 5 members, the Mayor and 4 Commissioners-at-Large so there is no need to specify that there are 4 Commissioners anywhere else.

Section 3.04 Office of the Town Clerk - 1:01:42

Town Clerk Amber Brown spoke about some potential problems with the language about the Town Clerk salary and the sole purpose of the role being to serve the Commission since the Town Clerk reports to the Town Manager now. - 1:07:45

The Board agreed to strike to serve the Commission and the salary of the Town Clerk shall be fixed by the Commission.

This office shall be headed by a Town Clerk hired by the Town Manager ~~to serve the Commission. The salary of the Town Clerk shall be fixed by the Commission...~~

Section 3.05 Office of the Town Attorney

Member Charles Leps Jr pointed out that it says the Town Attorney's salary is fixed by the Commission which is not true. - 1:02:50

Town Attorney Ryan Knight said that would cover the situation of an in-house attorney and suggested saying the salary or contract.

Chairman James Simmons said there are no Town courts anymore and confirmed with the Town Attorney that it should be removed.

Town Attorney Ryan Knight confirmed he is comfortable with the language in this section about the federal district court.

The Board agreed to amend Section 3.05 to amend the second sentence to the salary and/or contract of the Town Attorney shall be fixed and approved by the Commission. Remove the prosecutor in the Town court.

This office shall be held by an attorney, appointed by the Commission. The salary and/or contract of the Town Attorney shall be fixed and approved by the Commission. The Town Attorney shall be legal advisor and attorney to the officers of the Town in matters affecting the Town or relating to their official duties; prosecute and defend in behalf of the Town all civil actions in which the Town is a party; prepare and endorse written instruments in which the Town is concerned; ~~be prosecutor in the Town court~~; and perform other duties as the Commission may require or as may be prescribed by general state law, consistent with this Charter and with ordinances or resolutions of the Commission...

Section 3.06 Police Department – No Changes

Section 3.06A Law Enforcement and Police Protection – No Changes

Town Attorney Ryan Knight spoke about referendums being required and that having to do with the language regarding any arrangement entered into that would materially change. Does not believe the wording here needs to be changed.

Section 3.10 Independent Audits – No Changes

Chairman James Simmons clarified that the Town hires auditors by contract and said it goes out for bid. Said the audits are available to the public.

Section 3.11 Code of Ethics - 1:18:06

The Board discussed receiving gifts, tangible and intangible, and the Town Attorney said it cannot surpass a \$100 value. They spoke about adding language about staff or elected officials having a conflict of interest and disclosing it.

Town Attorney Ryan Knight spoke about how you cannot prohibit anyone from using their right to sue the Town.

Chairman James Simmons spoke about not prohibiting anything, but adding it as an ethical violation to open up the grounds of a recall.

Town Attorney Ryan Knight spoke about how the State Statute only provides 7 grounds for recall. - 1:32:52

3.11(d) and (e) for the next meeting, the Town Attorney will provide information on Conflicts of Interest and Code of Ethics and Malfeasance and Misfeasance.

Section 3.12 Advisory Boards - 1:37:45

Member Charles Leps Jr said electors are mentioned 6 times and registered is only used once.

The Board agreed to amend 3.12 Advisory Board by removing the word registered.

The Commission may establish advisory boards to make recommendations concerning economic development, recreation, parks, playgrounds, and their facilities and activities as well as planning and zoning and such other municipal functions as the Commission deems advisable. Such boards shall be composed of a representative membership of ~~registered~~ electors of the Town.

Section 5.01 Electors - No Changes

Section 5.02 Election Ordinances - No Changes

Section 5.03 Time and Manner of Elections

Town Attorney Ryan Knight mentioned where it says regular Town elections, usually the words used would be general and special so regular is inconsistent.

The Board agreed to remove the first word regular from Section 5.03.

~~Regular~~ Town elections shall be held on the first Tuesday after the first Monday in November each year. The candidate receiving the highest number of votes on the votes cast in the election shall be declared elected. When more than one vacancy for a Commission seat at large exists, that number of candidates receiving the most votes shall be elected.

Section 5.04 Disclosure of Expenses - No Changes

Member Jessica Martinez spoke about scheduling conflicts in May, and the Board settled on meeting every Monday.

Section 2.03 Term of Office

Vice Chairman Bruce Larson spoke about Section 2.03 Term of Office and cleaning up the language. Proposed adding language where you can only be in office for 7 out of 10 years.

B. Discussion on adding additional meeting dates

Next meeting will be on March 31st at 6:00 or 7:00 pm depending on if there is a Special Town Commission Meeting at 6:00 pm.

6. Adjournment


Member Kathy Ivers-Osthus made a motion to adjourn; Member Jessica Martinez seconded; Motion carried 5-0.

Meeting adjourned at 7:51 pm.

ATTEST:



James Simmons
Chairman



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

