



# **TOWN OF MELBOURNE BEACH**

## **JOINT WORKSHOP**

### **TOWN COMMISSION & CHARTER REVIEW COMMITTEE**

**MAY 5, 2025**

**6:00 PM**

**AGENDA PACKET**

# Town of Melbourne Beach

## JOINT WORKSHOP

### TOWN COMMISSION & CHARTER REVIEW COMMITTEE

Monday, May 5, 2025 @ 6:00 pm

COMMUNITY CENTER – 509 OCEAN AVENUE

## PUBLIC NOTICE

## AGENDA

#### Commission Members:

Mayor Alison Dennington  
Vice Mayor Dawn Barlow  
Commissioner Robert Baldwin  
Commissioner Anna Butler  
Commissioner Tim Reed

#### Charter Review Committee:

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 Attorney Ryan Knight  
Town Clerk Amber Brown

**1. Call to Order**

**2. Roll Call**

**3. Pledge of Allegiance and Moment of Silence**

**4. Public Comment**

After being acknowledged by the Mayor, members of the public should state their name and address for the record. The Commission encourages citizens to prepare their comments in advance. Each individual will have three (3) minutes to address the Commission on any topic(s) related to Town business, not on the Agenda. Please remember to sign the sign-in sheet provided if you will be speaking at the meeting.

**5. New Business**

A. Presentation and discussion on the report from the Charter Review Committee

**6. Adjournment**

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, THE TOWN HEREBY ADVISES THE PUBLIC THAT: In order to appeal any decision made at this meeting, you will need a verbatim transcript of the proceedings. It will be your responsibility to ensure such a record is made. Such person must provide a method for recording the proceedings verbatim as the Town does not do so. In accordance with the Americans with Disability Act and Section 286.26, Florida Statutes, persons needing special accommodations for this meeting shall, at least 5 days prior to the meeting, contact the Office of the Town Clerk at (321) 724-5860 or Florida Relay System at 711.



**Chair** James Simmons  
**Vice Chair** Bruce Larson  
Kathryn Ivers-Osthus  
Charles Leps Jr.  
Jessica Martinez

## **TOWN OF MELBOURNE BEACH**

### **2025 CHARTER REVIEW COMMITTEE**

### **FINAL REPORT**

**THE FINAL REPORT OF THE TOWN OF MELBOURNE BEACH 2025 CHARTER REVIEW COMMITTEE PROPOSING TO AMEND THE TOWN OF MELBOURNE BEACH CHARTER TO: RECOGNIZE BOTH GENDERS IN THE CHARTER; AMENDING RESIDENCY REQUIREMENTS; PROVIDE TIME TO ASSUMING OFFICE AND TERM LIMITATIONS; AMEND VACANCY APPOINTMENT PERIOD; PROVIDE CANDIDATES RECEIVING LARGEST AMOUNT OF VOTES SHALL BE ELECTED TO THE LONGEST TERMS; CLARIFY REQUIREMENT TO COMMISSION TO VOTE TO ADJOURN; REMOVING AUTHORITY TO APPOINT, SUSPEND, OR REMOVE TOWN CLERK; PROHIBITING COMMISSION MEMBERS FROM INTERFERENCE EXCEPT THROUGH TOWN MANAGER UNLESS AUTHORIZED BY A MAJORITY OF THE TOWN COMMISSION; REMOVING AUTHORITY TO FIX SALARY OF TOWN CLERK; PROVIDING TOWN ATTORNEY'S SALARY/CONTRACT FIXED AND APPROVED BY TOWN COMMISSION; AMENDING CHARTER TO DEFINE UNACCEPTABLE GIFT AND SPECIFYING FLORIDA STATUTES.**

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## **SECTION I – COVER LETTER**



**Chair** James Simmons  
**Vice Chair** Bruce Larson  
Kathryn Ivers-Osthus  
Charles Leps Jr.  
Jessica Martinez

April 28, 2025

Dear Mayor and Commission Members,

On behalf of the Charter Review Committee, we greatly appreciate the honor of serving together for this review. We met, discussed, reviewed, and researched the Town Charter in its current form and our recommendations for amendments to the Town Charter are attached.

The current Town Charter references to only “he” or “his” are made. The Committee believes it is appropriate to update the Town Charter to provide for “she” and “her” in the updated Town Charter. These recommendations are made throughout the Town Charter.

Article II: The Committee is making the recommendation for residency requirements for members of the Town Commission be increased from six (6) months to twelve (12) months, as it believes this would provide candidates with roots firmly established in the Town. The Committee is also recommending updating the forfeiture of office provision for Commission members to include malfeasance and misfeasance.

Further, the Committee is making the recommendation that the term of office and vacancy provisions be amended to clarify the amount of time a Commission member that has served two (2) complete consecutive terms must wait until serving on the Commission again and clarify the time period an appointed Commission member shall serve. The Committee has also recommended language providing that the candidate with the largest number of votes shall be declared elected for the longest term available. Issues related to these items have occurred within the past few years and the Committee believes its recommendations will provide clarity on these issues moving forward.

Article III: The Committee spent a great deal of time discussing the Office of the Town Manager, Office of the Town Clerk, and the Code of Ethics. The Committee believes it is important to revise the non-interference clause to promote the efficient use of staff time and resources, while

providing the Town Commission with a mechanism to obtain information to support inquiries and investigations. Additionally, the Committee is making the recommendation to update the Code of Ethics section to revise the acceptance of gifts in accordance with Florida Statutes and to specify the applicable Florida Statutes for the Code of Ethics for Public Officers and Employees. With respect to the non-interference clause, the Committee believes that if it is adopted by voters, it necessitates education and procedures that should be fully discussed with new Commission members and reviewed by existing Commission members.

We appreciate the opportunity to share these recommendations in the spirit of improving the Town's governance. It has been an honor to serve on this committee and we have taken our responsibilities to review the Town Charter seriously. We are available to discuss these recommendations in greater detail should it be the desire of the Commission and would encourage the Commission to schedule a workshop to discuss the Committee's proposed amendments.

Sincerely,

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James Simmons, Chair

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Kathryn Ivers-Osthus

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Bruce Larson, Vice-Chair

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Charles Leps Jr.

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Jessica Martinez



## **SECTION II – INTRODUCTION**

# **TOWN OF MELBOURNE BEACH 2025 CHARTER REVIEW COMMITTEE**

## **INTRODUCTION**

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Following the establishment of the 2025 Charter Review Committee, pursuant to Resolution 2024-14, the Charter Review Committee held eight (8) public meetings on January 27, February 10, February 18, March 24, March 31, April 14, April 21, and April 23, 2025, to discuss the Town's Charter and make recommendations for the Town Commission's consideration. The Committee members include James Simmons, Bruce Larson, Kathryn Ivers-Osthus, Charles Leps Jr., and Jessica Martinez. James Simmons was elected as chair of the Committee and Bruce Larson was elected vice-chair. All meetings were publicly noticed, public comment was welcomed, and minutes were kept in accordance with Florida's Sunshine and Public Records Laws.

At the first meeting, a presentation was made by the Town Attorney regarding the charter review process, ballot summary requirements, and Florida's Sunshine and Public Records laws. By consensus, the Committee decided to review the entire Charter section by section. At its February 10, 2025, meeting, the Committee reviewed Articles I and II of the Charter and a great deal of discussion occurred regarding the Commission's composition and qualifications and terms of office. On February 18, 2025, the Committee discussed Articles II and III. On March 24, 2025, the Committee continued reviewing the Charter at Section 3.03. At its March 31, 2025, meeting, the Committee completed its review of the Charter. On April 14, 2025, the Committee reviewed its proposed amendments to the Charter, narrowed and revised the proposed amendments, and determined the amendments the Committee considered to be "high" priority and "lower" priority. The high priority amendments are as follows:

- Section 2.03 – Term of Office
- Section 2.04 – Vacancies on the Commission
- Section 2.09 – Commissioners-at-Large
- Section 3.01 – Powers and Duties of the Town Commission
- Section 3.03 – Office of the Town Manager
- Section 3.04 – Office of the Town Clerk

The following amendments were assigned a lower priority as they do not impact Town operations. Additionally, the Committee was also concerned about the amount of ballot proposals. The lower priority amendments are as follows:

- He/She/His/Her Amendments
- Section 2.02 – Composition and Qualifications
- Section 2.12 – Legislative Procedure
- Section 3.05 – Office of the Town Attorney
- Section 3.11 – Code of Ethics

On April 23, 2025, the Committee voted to propose eleven (11) charter amendments to the Town Commission for consideration to be placed on the ballot for the November election. Additionally, the 2025 Charter Review Committee approved this Final Report for the Town Commission's consideration on April 28, 2025.

**SECTION III – AMENDMENTS RECOMMENDED  
BY 2025 CHARTER REVIEW COMMITTEE**

**\*\*\*Lower Priority\*\*\***

**Ballot Title, Summary and Proposed Amendment –  
Recognition of Both Genders**

**A. Introduction.**

This Charter amendment would replace “he” to “he or she” and “his” to “his or her” so as to recognize both genders when describing a Commission member and his or her office and the Town Officials and his or her position.

**B. Ballot Proposal:** The ballot title and question for Question # \_\_\_\_ are as follows:

REPLACING “HE” AND “HIS” AND  
INCLUDING “HE OR SHE” OR “HIS AND HER”

Amending the Charter by removing any references to “he” and “his” and replacing these terms with “he or she” or “his and her” throughout the Charter. This Charter amendment does not create any new rights, duties, obligations, or prohibitions.

Budget Director’s estimated financial impact: \_\_\_\_\_.

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**C. Text Revisions:** The Charter would be amended when there is any reference to “he” and “his” and replaced with “he or she” or “his or her.”

**D. Financial Analysis and Impact:**

Based on information provided by the Budget Director, the cost of the proposed amendment is approximately \_\_\_\_\_, which represents \_\_\_\_\_.

**\*\*\*Lower Priority\*\*\***

**Ballot Title, Summary and Proposed Amendment – Section 2.02**

**A. Introduction.**

This Charter amendment would amend the qualifications of the Commission to provide that any member serving on the Commission be a resident of the Town for at least twelve (12) months and providing that the office of a Commission member shall be forfeited for malfeasance or misfeasance. Additionally, this amendment removes “a crime involving moral turpitude” as a basis for forfeiture of office of a Commission member.

**B. Ballot Proposal:** The ballot title and question for Question # \_\_\_\_ are as follows:

AMEND RESIDENCY REQUIREMENT AND  
PROVIDING FOR FORFEITURE OF OFFICE  
FOR MALFEASANCE OR MISFEASANCE

Amending the Charter by increasing the residency requirement for Commission members and providing for forfeiture of office of a Commission member for malfeasance or misfeasance. This amendment will increase the residency requirement for Commission members from six (6) months to twelve (12) months prior to the date of qualification for office.

Budget Director’s estimated financial impact: \_\_\_\_\_.

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**C. Text Revisions:** Article II, Section 2.02, amending to reflect the increase in residency requirements and provide for malfeasance and misfeasance for forfeiture of office. (Underline text is added to the Charter and ~~striketrough~~ text is removed).

**Article II, Section 2.02**

The Commission shall consist of five (5) members elected by the qualified voters of the Town as hereinafter provided. Members of the Town Commission shall have been residents of the Town for at least ~~six (6)~~ twelve (12) months prior to the date of qualification for office, and shall have the qualifications of a Town Elector. The Commission shall consist of five (5) Commissioners: The Mayor elected as such, and four (4) Commissioners-at-Large.

The office of Commission member shall be forfeited whenever a member is finally convicted of a felony ~~or a crime involving moral turpitude, malfeasance, or misfeasance~~. When a member files for election to or accepts any other elective public office, he ~~or she~~ shall submit his ~~or her~~ resignation. This resignation shall be effective when his ~~or her~~ former office is filled or when he ~~or she~~ accepts an elective office, whichever comes first.

Any qualified elector of the Town who meets the foregoing qualifications may qualify for a Commission seat by presenting to the Town Clerk a petition signed by twenty-five (25) qualified Town electors, and by paying a filing fee, during the qualifying period as established from time to time in the town code of ordinances, and said elector shall submit concurrently therewith a sworn statement of his or her name, address, occupation, and willingness to serve if elected. Until otherwise provided by Town ordinance, the filing fee shall be ten dollars (\$10.00).

The Commission shall be the judge of the qualifications of the candidates for election to the Commission, and for such purpose shall have the powers to subpoena witnesses and require the production of evidence, but the decision of the Commission in any such case shall be subject to review by the courts.

Each person seeking to qualify for election to office as a write-in candidate shall certify under oath to the Town Clerk during the qualifying period as established from time to time in the town code of ordinances the following information:

Name, address, that he or she possessed all of the qualifications required by law for the office, the name of the office he seeks, and that he will accept the office.

Failure to qualify as a write-in candidate shall mean that any write-in votes cast for such person shall not be counted.

At the time of certifying under oath the above information, a write-in candidate shall be considered a candidate except that he or she shall not be entitled to have his name printed on the ballot.

**D. Financial Analysis and Impact:**

Based on information provided by the Budget Director, the cost of the proposed amendment is approximately \_\_\_\_\_, which \_\_\_\_\_ represents \_\_\_\_\_.

**\*\*\*High Priority\*\*\***

**Ballot Title, Summary and Proposed Amendment – Section 2.03**

**A. Introduction.**

This Charter amendment provides that an elected Commissioner shall take office at the beginning of the next regular Town Commission meeting following an election, decreases the time a Commissioner or Mayor is prohibited from serving on the Commission due to term limitations from one (1) year to eleven (11) months, and removes unnecessary language relating to the November 2, 2004 election.

**B. Ballot Proposal:** The ballot title and question for Question # \_\_\_\_ are as follows:

PROVIDE WHEN ELECTED COMMISSIONERS  
SHALL ASSUME OFFICE AND MINIMUM  
TERM LIMITATIONS

Amending the Charter by providing an elected Commissioner shall assume office at the next regularly scheduled Commission meeting following an election and amending the time an elected official may not serve on the Commission due to term limitations from one (1) year to eleven (11) months.

Budget Director's estimated financial impact: \_\_\_\_\_.

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**C. Text Revisions:** Article II, Section 2.03, amending to reflect the increase in residency requirements and provide for malfeasance and misfeasance for forfeiture of office. (Underline text is added to the Charter and ~~striketrough~~ text is removed).

**Article II, Section 2.03**

(a) Elected Commissioners shall take office at the beginning of the next ~~official~~ regular Town Commission meeting following the municipal election at which they were elected. They shall hold office for a term of three (3) years, or until their successors are elected and ~~qualified~~ certified by the Brevard County Supervisor of Elections, unless:

(1) The individual has been appointed or elected to fulfill the term of a Commissioner-at-Large who has been removed from office other than by means of recall, forfeited the office of Commissioner-at-Large, resigned, or the office has become vacant due to the death of a Commissioner-at-Large. In such event, a successor Commissioner-at-Large shall assume office in the manner set forth in Section 2.04. in this Charter.



(2) The individual has been elected to fulfill the term of a Commissioner-at-Large who has been recalled from said office by the electorate. In such event a newly elected Commissioner-at-Large who is replacing a Commissioner-at-Large recalled from office shall serve a term equal in time to what would have otherwise been the time remaining in the term of the recalled Commissioner-at-Large's term; or

(3) The individual is elected to fill a term otherwise consistent with this Charter.

(b) Neither a commission member or the mayor may qualify for or serve more than two (2) complete consecutive terms and the portion of an unexpired term occurring by reason of a vacancy. Notwithstanding the foregoing, an elected city official, such as a commissioner, who has served the maximum time in office as permitted by this paragraph, may qualify for and be elected to serve in a different city elected office, such as mayor. Further, a commissioner or the mayor who has served the maximum amount of time permitted by this sub-section may again serve on the commission subject to the time and term limitations of this sub-section; provided, that the official has not served on the commission for at least ~~one (1) year (three hundred sixty-five (365) days = one (1) year).~~ eleven (11) months. Any city elected official who resigns within one (1) year (three hundred sixty-five (365) days = one (1) year) before the end of the second consecutive term of office shall be prohibited from qualifying as a candidate for a commission seat in the next regular city election. ~~This paragraph shall be applicable to any commission member or the mayor who, subsequent to the election held on November 2, 2004, has served for two (2) complete consecutive terms and which terms have been served in full after November 2, 2004.~~

**D. Financial Analysis and Impact:**

Based on information provided by the Budget Director, the cost of the proposed amendment is approximately \_\_\_\_\_, which \_\_\_\_\_ represents \_\_\_\_\_.

**\*\*\*High Priority\*\*\***

**Ballot Title, Summary and Proposed Amendment – Section 2.04**

**A. Introduction.**

This Charter amendment provides that an appointed Commission member as a result of a vacancy shall serve until the next general election for which the qualifying period has not begun at the time of the vacancy.

**B. Ballot Proposal:** The ballot title and question for Question # \_\_\_\_ are as follows:

PROVIDE THE TIME PERIOD FOR A  
COMMISSIONER TO SERVE AS A RESULT OF  
AN APPOINTMENT DUE TO VACANCY

Amending the Charter by specifying the time period for a Commissioner to serve as a result of an appointment due to vacancy. This amendment specifies that an appointed Commissioner shall serve until the next general municipal election for which the qualifying period has not begun at the time of the vacancy.

Budget Director's estimated financial impact: \_\_\_\_\_.

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**C. Text Revisions:** Article II, Section 2.04, amending to specify the time period an appointed Commissioner shall serve. (Underline text is added to the Charter and ~~striketrough~~ text is removed).

**Article II, Section 2.04**

A vacancy shall occur upon the death, resignation, removal from office (other than by recall) as authorized by law, or forfeiture of office of a Commission member. When such a vacancy occurs, other than that of Mayor, the remaining Commission members may select, by the affirmative vote of not less than a majority of the remaining membership, a person to fill the vacancy. Such an appointed person shall be a qualified elector in the Town, as specified in this Charter, and shall serve until the next general municipal election for which the qualifying period has not begun at the time of the vacancy, at which time a candidate will be elected to serve a term equal in time to what would have otherwise been the time remaining in the term of the Commissioner-at-Large whose office has become vacant.

In the event the office of Mayor is vacated, the Vice-Mayor assumes the position until the next general municipal election, at which time a candidate will be elected to serve for the remainder of the Mayor's unexpired term, and a person is appointed or elected to fill the office of

Commissioner-at-Large held by the Vice-Mayor, all in accordance with the criteria and procedures herein provided. Said individual succeeding to the position of Commissioner-at-Large, formerly held by the Vice-Mayor, shall hold office only until the next general municipal election.

If the Commission shall fail to fill a vacancy on the Commission within thirty (30) days after it occurs, or whenever two (2) or more vacancies shall occur at the same time, the Mayor shall immediately call a special election to fill the vacancy or vacancies. Those elected at the special election will serve a term equal in time to what would have otherwise been the time remaining in the term of the Commissioner-at-Large whose office has become vacant. Among the successful candidates those receiving the largest number of votes shall be declared elected for the longest terms.

In no event shall the Commission consist of more than two (2) commissioners serving on an appointive basis.

**D. Financial Analysis and Impact:**

Based on information provided by the Budget Director, the cost of the proposed amendment is approximately \_\_\_\_\_, which \_\_\_\_\_ represents \_\_\_\_\_.

**\*\*\*High Priority\*\*\***

**Ballot Title, Summary and Proposed Amendment – Section 2.09**

**A. Introduction.**

This Charter amendment removes language pertaining to the 1989 election and provides that the candidates receiving the largest number of votes shall be declared elected for the longest terms.

**B. Ballot Proposal:** The ballot title and question for Question # \_\_\_\_ are as follows:

PROVIDE THAT CANDIDATES RECEIVING  
LARGEST NUMBER OF VOTES ELECTED TO  
THE LONGEST TERMS

Amending the Charter by providing that the candidates for Commissioners-at-Large that receive the largest number of votes shall be declared elected for the longest terms to be filled.

Budget Director's estimated financial impact: \_\_\_\_\_.

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**C. Text Revisions:** Article II, Section 2.09, amending to specify the time period an appointed Commissioner shall serve. (Underline text is added to the Charter and ~~striketrough~~ text is removed).

**Article II, Section 2.09**

~~A total of four (4) Candidates for 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.

**D. Financial Analysis and Impact:**

Based on information provided by the Budget Director, the cost of the proposed amendment is approximately \_\_\_\_\_, which \_\_\_\_\_ represents \_\_\_\_\_.

**\*\*\*Lower Priority\*\*\***

**Ballot Title, Summary and Proposed Amendment – Section 2.12**

**A. Introduction.**

This Charter amendment would clarify the requirement for the Commission to vote to adjourn.

**B. Ballot Proposal:** The ballot title and question for Question # \_\_\_\_ are as follows:

CLARIFY THE REQUIREMENT FOR  
COMMISSION TO VOTE TO ADJOURN

Amending the Charter by providing that less than three (3) Commission members may vote to adjourn Commission meetings.

Budget Director's estimated financial impact: \_\_\_\_\_.

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**C. Text Revisions:** Article II, Section 2.12. (Underline text is added to the Charter and ~~striketrough~~ text is removed).

**Article II, Section 2.12**

Three (3) members of the Commission shall constitute a quorum, but a smaller number may vote to adjourn from day to day. No action of the Commission, except raising a quorum, shall be valid or binding unless adopted by the affirmative vote of at least three (3) members of the Commission. The Commission shall determine its own rules and order of business and shall provide for the keeping of a journal of its proceedings. The journal shall be a public record and shall be open to public inspection. The Commission may prescribe for expulsion of disorderly persons from its meetings.

**D. Financial Analysis and Impact:**

Based on information provided by the Budget Director, the cost of the proposed amendment is approximately \_\_\_\_\_, which \_\_\_\_\_ represents \_\_\_\_\_.

**\*\*\*High Priority\*\*\***

**Ballot Title, Summary and Proposed Amendment – Section 3.01**

**A. Introduction.**

This Charter amendment would remove the Town Commission's authority to appoint, suspend, or remove the Town Clerk. This amendment is required in order to be consistent with the Charter amendments adopted on November 7, 2017, which moved supervision of the Town Clerk from the Town Commission to the Town Manager.

**B. Ballot Proposal:** The ballot title and question for Question # \_\_\_\_ are as follows:

REMOVING THE TOWN COMMISSION'S  
AUTHORITY TO APPOINT, SUSPEND, OR  
REMOVE TOWN CLERK

Amending the Charter by removing the Town Commission's authority to appoint, suspend, or remove the Town Clerk.

Budget Director's estimated financial impact: \_\_\_\_\_.

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**C. Text Revisions:** Article III, Section 3.01. (Underline text is added to the Charter and ~~strikethrough~~ text is removed).

**Article III, Section 3.01**

All powers of the Town shall be vested in an elected Commission, except as otherwise provided by this Charter or by law. The Town Commission shall be responsible to the citizens of Melbourne Beach for the proper functioning of all Town affairs and to that end, subject to the provisions of this Charter, shall have power and are required to:

- (a) Appoint, and when necessary for the good of the Town, suspend or remove, the Town Manager, ~~Town Clerk~~ or Town Attorney, or members of any board, commission or agency, who are appointed by the Town Commission.
- (b) Approve any additions or deletions of staff positions upon the recommendation of the Town Manager. Such recommendations of the Town Manager shall be made in conjunction with the proposed budget for the upcoming year, or may be made at any other time if deemed necessary.

- (c) Provide policy direction to, and exercise control over, the Town Manager as may be required in his role as administrative head of the Town.
- (d) Approve an annual Town budget and any amendments to the budget, together with such other fiscal reports and programs as may be required, and periodically review the financial status of the Town relative to the current budget.
- (e) Provide Town representation on intragovernmental groups when such groups are composed principally of elected officials or when such representation is deemed advisable by the Commission.
- (f) Perform such other duties as may be prescribed by ordinance or resolution consistent with the concept of management of the Town expressed in this Charter.

**D. Financial Analysis and Impact:**

Based on information provided by the Budget Director, the cost of the proposed amendment is approximately \_\_\_\_\_, which represents \_\_\_\_\_.

**\*\*\*High Priority\*\*\***

**Ballot Title, Summary and Proposed Amendment – Section 3.03**

**A. Introduction.**

This Charter amendment requires the Town Commission to set the salary and benefits of the Town Manager and amends the prohibition on members of the Town Commission from interfering with the administration of the Town except through the Town Manager. Many cities operating under the commission-manager form of government have a charter provision prohibiting members of the town commission from interfering with the operations of the Town except through the Town Manager.

**B. Ballot Proposal:** The ballot title and question for Question # \_\_\_\_ are as follows:

PROHIBITING TOWN COMMISSION  
MEMBERS FROM INTERFERING WITH  
OPERATIONS EXCEPT THROUGH TOWN  
MANAGER

Amending the prohibition on Town Commission members interfering with Town operations except through the Town Manager. This amendment also provides that the Town Commission shall set the salary and benefits of the Town Manager.

Budget Director's estimated financial impact: \_\_\_\_\_.

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**C. Text Revisions:** Article III, Section 3.03, amending to specify the time period an appointed Commissioner shall serve. (Underline text is added to the Charter and ~~strickethrough~~ text is removed).

**Article III, Section 3.03**

(a) This office shall be headed by a Town Manager, who shall be appointed by the Town Commission on the basis of his or her executive and administrative qualifications. The Town Commission shall set the salary and benefits of the Town Manager. The Town Manager shall be the Chief Administrative Officer of the Town, and shall be directly responsible to the Commission for all Town affairs placed in his or her charge by this Charter or by ordinance or resolution. The Town Manager when necessary shall appoint, suspend, demote or dismiss any Town employee under his or her jurisdiction in accordance with the law and the personnel rules, and may authorize any Department Head to exercise these powers with respect to subordinates in that department. The Town Manager shall direct and supervise the administration of all departments of the Town



except the Office of Town Attorney, and shall attend all Commission meetings unless excused by the Commission, and shall have the right to take part in discussions, but not vote. He or she shall see that all laws, Charter provisions, ordinances, resolutions, and other acts of the Commission subject to enforcement by him or her are faithfully executed. The Town Manager shall also prepare and submit the annual budget, budget message, and capital program to the commission, and shall keep the Commission fully advised as to the financial condition and future needs of the Town, and shall be responsible for adhering to the approved budget. The Town Manager shall make such recommendations to the Commission concerning the affairs of the Town as he or she deems advisable. The Town Manager shall endorse all instruments in writing in which the Town is interested, sign Town checks as authorized by the Town Commission, and execute contracts on behalf of the Town, unless the Commission shall otherwise provide. The Town Manager shall by letter designate an Acting Town Manager to exercise his or her powers and perform his or her duties during temporary absences or disability of the Town Manager. The Commission may revoke such designation at any time and appoint another eligible person to serve as Acting Town Manager.

~~(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.

**D. Financial Analysis and Impact:**

Based on information provided by the Budget Director, the cost of the proposed amendment is approximately \_\_\_\_\_, which \_\_\_\_\_ represents \_\_\_\_\_.

**\*\*\*High Priority\*\*\***

**Ballot Title, Summary and Proposed Amendment – Section 3.04**

**A. Introduction.**

This Charter amendment would remove the Town Commission’s authority to fix the salary of the Town Clerk. Additionally, the amendment removes the provision that the Town Clerk is to “serve the Commission.” This amendment is required in order to be consistent with the Charter amendments adopted on November 7, 2017, which moved supervision of the Town Clerk from the Town Commission to the Town Manager.

**B. Ballot Proposal:** The ballot title and question for Question # \_\_\_\_ are as follows:

REMOVING THE TOWN COMMISSION’S  
AUTHORITY TO FIX SALARY OF TOWN  
CLERK

Amending the Charter by removing the Town Commission’s authority to fix the salary of the Town Clerk.

Budget Director’s estimated financial impact: \_\_\_\_\_.

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**C. Text Revisions:** Article III, Section 3.04. (Underline text is added to the Charter and ~~strike through~~ text is removed).

**Article III, Section 3.04**

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.~~ The Town Manager shall have exclusive supervisory authority over the Town Clerk as a Town employee, including the authority to manage, discipline, and terminate consistent with the Town’s employment policies, without consent of the Town Commission. The Clerk shall be: Clerk of the Commission and shall keep the Commission journal; custodian of ordinances, resolutions, and such other official records as the Commission may prescribe; attester to contracts, bonds, and other instruments as may be prescribed by law; chief registration and elections officer of the Town; and responsible for other duties so prescribed by the Town Commission or Town Manager.

**D. Financial Analysis and Impact:**

Based on information provided by the Budget Director, the cost of the proposed amendment is approximately \_\_\_\_\_, which represents \_\_\_\_\_.

**\*\*\*Lower Priority\*\*\***

**Ballot Title, Summary and Proposed Amendment – Section 3.05**

**A. Introduction.**

This Charter amendment would clarify that the Town Commission shall fix and approve the salary and/or contract of the Town Attorney. It further removes the requirement that the Town Attorney be the prosecutor in the Town court.

**B. Ballot Proposal:** The ballot title and question for Question # \_\_\_\_ are as follows:

PROVIDING TOWN ATTORNEY'S  
SALARY/CONTRACT FIXED AND APPROVED  
BY COMMISSION

Amending the Charter by providing the Town Attorney's salary and/or contract shall be fixed and approved by the Town Commission. This amendment also removes the requirement that the Town Attorney be the prosecutor in the Town court.

Budget Director's estimated financial impact: \_\_\_\_\_.

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**C. Text Revisions:** Article III, Section 3.05. (Underline text is added to the Charter and ~~striketrough~~ text is removed).

**Article III, Section 3.05**

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. One or more assistants may perform any duties of the Town Attorney. The Town Attorney and his or her assistants shall be lawyers admitted to and having authority to practice in all courts of the state, as well as the Federal District Court.

**D. Financial Analysis and Impact:**

Based on information provided by the Budget Director, the cost of the proposed amendment is approximately \_\_\_\_\_, which represents \_\_\_\_\_.

**\*\*\*Lower Priority\*\*\***

**Ballot Title, Summary and Proposed Amendment – Section 3.11**

**A. Introduction.**

This Charter amendment amends the prohibition on officers and employees of the Town to accept gifts as defined in Section 112.313(2) and 112.313(4), Florida Statutes, and specifies the statute sections applicable to the Code of Ethics for Public Officers and Employees.

**B. Ballot Proposal:** The ballot title and question for Question # \_\_\_\_ are as follows:

AMENDING THE CHARTER TO DEFINE  
UNACCEPTABLE GIFT AND SPECIFYING  
APPLICABLE FLORIDA STATUTES

Amending the Charter by providing incorporating the definition of “unacceptable gift” as defined in Sections 112.313(2) and 112.313(4), Florida Statutes, and specifying the applicable statutory sections for the Code of Ethics for Public Officers and Employees.

Budget Director’s estimated financial impact: \_\_\_\_\_.

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**C. Text Revisions:** Article III, Section 3.11, amending to specify the time period an appointed Commissioner shall serve. (Underline text is added to the Charter and ~~striketrough~~ text is removed).

**Article III, Section 3.11**

The following code of ethics shall apply to all officers and employees of the municipality, whether elected or appointed, paid or unpaid. By majority vote of the Commissioners, the Commission may vote to censure a member for violating this code. No officer or employee of the Town shall knowingly:

(a) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties;

(b) Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his or her official duties, or would tend to impair his or her independence of judgment or action in the performance of his or her official duties;

(c) Disclose confidential information concerning the property, government, or affairs of the governmental body by which he or she is employed, without proper legal authorization, or use such information to advance the financial or other private interest of himself or herself or others;

(d) Accept any ~~valuable~~ unacceptable gift as defined in Sections 112.313(2) and 112.313(4), Florida Statutes, whether in the form of service, loan, ~~thing~~ item, ~~whether tangible or intangible~~, or promise, from any person, firm, or corporation which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the governmental body by which he or she is employed; provided, however, that any such officer or employee who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

(e) Represent private interests in any action or proceeding against the governmental body by which he or she is employed;

(f) Vote or otherwise participate in the negotiation or the making of any contract involving the Town with any business or entity in which he or she has a financial interest;

(g) Have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the Town, [and if so] shall disclose such private interest on the records of the Commission, and shall disqualify himself or herself from participating in any decision or vote relating thereto;

(h) Use property owned by such governmental body for personal benefit, convenience, or profit except in accordance with policies of the Commission; or

(i) Violate the Code of Ethics for Public Officers and Employees as provided for in Sections 112.311 through 112.3261, Florida Statutes, as may be amended or the Florida Election Code, as set forth in Florida Statutes, and implementing rules thereof, and if a Town officer or employee has been found to have violated the Code of Ethics for Public Officers and Employees by the Florida Commission on Ethics or the Florida Election Code by the Florida Elections Commission, or implementing rules thereof, he or she may be censured by the Town Commission.

**D. Financial Analysis and Impact:**

Based on information provided by the Budget Director, the cost of the proposed amendment is approximately \_\_\_\_\_, which \_\_\_\_\_ represents \_\_\_\_\_.

### **SECTION III – SPANISH TRANSLATIONS OF BALLOT TITLES AND SUMMARIES**

(To be supplied following Town Commission adoption)



## **SECTION IV – EXHIBITS**

A.Minutes of CRC Meetings

B.Matrix of Proposed Charter Amendments

## **EXHIBIT A - MINUTES**

# 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





# 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.

ATTEST:

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James Simmons  
Chairman

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

# 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.

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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

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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 Pembroke (Apr 8, 2025 10:11 EDT)

Rachel Pembroke  
Transcriptionist



# 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 31<sup>st</sup> 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



# Town of Melbourne Beach

## CHARTER REVIEW COMMITTEE MONDAY, MARCH 31, 2025, 7:00 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 7:14 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. March 24, 2025 minutes

March 24, 2025 minutes were tabled until the next meeting.

#### 4. Public Comment

None

#### 5. New Business

##### A. Charter review starting at Article VI Initiative, Referendum, Recall

### Section 3.11 Code of Ethics

Chairman James Simmons spoke about a couple of outstanding items which are changing the hes and hims throughout the document and Section 3.11(d) on page 17.

Town Attorney Ryan Knight said he was still working on changing some he's and him's. Recommends getting rid of the word valuable because it is open to interpretation. Said you would not need to reference the Florida Statute because it is encompassed in Subsection I.

**The Board agreed to amend Section 3.11 Code of Ethics (d) to replace the word valuable with unacceptable, and replace the word thing with item whether tangible or intangible.**

**(d) Accept any ~~valuable~~ unacceptable gift as defined in Sections 112.313(2) and 112.313(4), Florida Statutes, whether in the form of service, loan, ~~thing~~ item, whether tangible or intangible, or promise, from any person, firm, or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the governmental body by which he is employed; provided, however, that any such officer or employee who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;**

Article VI Initiative, Referendum, Recall Section 6.01, 6.02, 6.03, 6.04, 6.05 – No changes

Section 6.06 Rezoning Approval – No changes

Chairman James Simmons asked if the State preempted Section 6.06 Rezoning Approval. - 9:50

Town Attorney Ryan Knight said that in 2023 DeSantis signed Senate Bill 718 which inserted a provision saying you cannot do that. Said you can keep that section in there, but it is prohibited by Florida Law.

The Board agreed to leave it as is.

Section 6.07 Height Limits - No changes

Article 7 Bonds – No changes

Article 8 Section 8.01 Fiscal Year and 8.02 Preparation of Budget – No changes

Section 8.03 Public Hearing on the Budget and 8.04 Adoption of the Budget – No changes

Vice Chairman Bruce Larson asked if there was any history on Section 8.03 Public Hearings, to which no one had any information.

Section 8.05 Effect of Final Budget and Effective Date – No changes

Vice Chairman Bruce Larson asked about Section 8.05 and the specific timeline for the budget.

Chairman James Simmons said they have to establish the proposed millage, send it in and then do a final millage vote at the final budget.

Town Clerk Amber Brown said the timeline is set by the state.

#### Section 8.06 Tax Authority and 8.07 Tax Assessment and Collection – No changes

Member Charles Leps Jr asked about Section 8.06 and the term privileges.

Town Attorney Ryan Knight said it could refer to the privilege to do business in Town.

#### Section 8.08 Special Assessments – No changes

Vice Chairman Bruce Larson spoke about Section 8.08 Special Assessments and asked if it was part of the budget process.

Town Attorney Ryan Knight gave an example where an area has septic tanks that residents have to connect to, they allocate \$2,500 as a cost for that. The special assessment would be \$2,500 for each property.

Member Jessica Martinez asked about Section 8.08. What happens if someone concretes their whole property without a permit, and now all the water is displaced on the neighbors, and what can be done? - 20:30

Chairman James Simmons spoke about how any concrete, pavers, pool, or buildings need a permit, so it would be handled during the permitting process. If they do not get a permit, prior to the work being completed, contact the Building Department.

Town Attorney Ryan Knight spoke about building without a permit could go through the Code Enforcement process and Special Magistrate.

#### Section 8.09 Public Monies – No changes

#### Section 8.10 Franchises – No changes

#### Section 9.01 Actions Against the Town - No changes

Chairman James Simmons asked about Section 9.01 Actions Against the Town, what the courts decide and about giving the Town written notice.

Town Attorney Ryan Knight said this clarified that you cannot just sue the Town for no reason.

#### Section 9.02 Extension of Territorial Limits – No changes

Town Attorney Ryan Knight spoke about how there is Florida Statute that governs annexation, and the specific procedures to do that.

#### Section 9.03 Planning and Zoning Board – No changes

#### Section 9.04 Board of Adjustment – No changes

Chairman James Simmons clarified that the decisions made by the Board of Adjustment are final, they do not have to go to the Town Commission.

#### Section 9.05 Charter Amendments and Revisions – No changes

#### Section 9.06 Conflicting Laws – No changes

Town Attorney Ryan Knight explained that this is a catch all statement saying if there is a conflict in an ordinance, then the Charter would govern and the ordinance would be appealed.

#### Section 9.07 Severability – No changes

#### Section 9.08 Effective Date – No changes

Chairman James Simmons asked if anyone had any sections they would like to revisit. - 31:30

#### Section 3.11 Code of Ethics

Member Jessica Martinez spoke about Section 3.11 Code of Ethics (e) is there a way to add malfeasance and misfeasance. Wants to make it more clear.

Town Attorney Ryan Knight spoke about the Code of Ethics Section is typically broad in order to cover all code of ethics violations. Just because malfeasance and misfeasance is not in this particular section does not mean it does not apply.

Member Charles Leps Jr said that this section does not necessarily have any teeth such as removal from office.

Town Attorney Ryan Knight spoke about Section (i) Code of Ethics for Public Officers, if you violated this section, it could lead to an investigation being opened.

Member Jessica Martinez asked what the Board thinks about adding State Statute 112.313(6) verbiage to the Charter. Residents lose faith and trust in the Town Government when someone is part of the Commission and is also suing the Town.

Chairman James Simmons proposed adding a subparagraph to 3.11 Code of Ethics (e) use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with

104.31. Then add another subparagraph for nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

Vice Chairman Bruce Larson spoke about the Code of Ethics is already included in the Charter.

Member Charles Leps Jr said this has stood for 50 years and would not want to modify it based on a current situation. - 45:42

Member Jessica Martinez spoke about how people are not going to go to the Florida Statute to read it, but if it is referenced in the Charter, it will be easy to find. Could the Statutes be cited?

Town Attorney Ryan Knight spoke about referencing Chapter 12 Part 3 of the Florida Statute.

Chairman James Simmons spoke about changing language to say, against the Town of Melbourne Beach and stop there, which brought up the issue of people recusing themselves.

Town Attorney Ryan Knight said you cannot prohibit someone from suing the Town.

Member Jessica Martinez verified there is no way to stop someone from running for office who is suing the town.

Chairman James Simmons spoke about adding a reference in the Charter to the State Statute.

Town Attorney Ryan Knight spoke about adding references to the applicable State Statutes.

**The Board agreed to add the applicable State Statutes to the Code of Ethics section of the Charter.**

(i) Violate the Code of Ethics for Public Officers and Employees as provided for in Sections 112.311 through 112.3261, as may be amended or the Florida Election Code , as set forth in Florida Statutes, and implementing rules thereof, and if a Town officer or employee has been found to have violated the Code of Ethics for Public Officers and Employees by the Florida Commission on Ethics or the Florida Election Code by the Florida Elections Commission, or implementing rules thereof, he or she may be censured by the Town Commission.

Chairman James Simmons asked if anyone had anything else for the Town Attorney. - 58:22

Town Attorney Ryan Knight said at the next meeting he would go through all of the changes again and rank them, then do a rough draft report.

Member Charles Leps Jr asked if it would be beneficial to get the red lines over to the Town Commission first.

Town Attorney Ryan Knight spoke about how the report goes to the Town Commission when it is complete and will include the language for the ballot.

The Board will meet next week to go over the proposed changes and narrow it down.

Member Charles Leps Jr asked about how many questions typically go on the ballot.

Town Attorney Ryan Knight said typically there are 4-5.


Member Charles Leps Jr verified that you cannot combine different sections together.

#### 6. Adjournment

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

Meeting adjourned at 8:20 pm.

ATTEST:

  
\_\_\_\_\_  
James Simmons  
Chairman

  
\_\_\_\_\_  
Rachel Pembroke (Apr 25, 2025 18:45 EDT)  
Rachel Pembroke  
Transcriptionist





# Town of Melbourne Beach

## CHARTER REVIEW COMMITTEE MONDAY, APRIL 14, 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

#### **Staff Members Present**

Town Attorney Ryan Knight  
Town Clerk Amber Brown

#### **Board Members Absent**

Member Jessica Martinez

#### 3. Approval of minutes

A. March 24, 2025 minutes

B. March 31, 2025 minutes

Vice Chairman Bruce Larson made a motion to table both minutes; Member Charles Leps Jr seconded; Motion carried 4-0.

#### 4. Public Comment

None

**5. New Business**

**A. Review and rank the proposed changes to the Charter. - 2:15**

Member Charles Leps Jr said the end of Section 2.02 still shows he and his.

Chairman James Simmons spoke about 4 items that were discussed, but do not have ballot summaries. In 2.12, did not change the quorum to adjourn. 3.01 and 3.04 had changes about the clerk reporting to the Commission. In 3.05, there was a change regarding the Town Attorney.

Town Attorney Ryan Knight spoke about 2 additional items, 3.12 and 5.03, and how there needs to be the removal of a few words. Said those will be included in the next meeting.

Sections 1.01, 1.02, 1.03, 1.04, 1.05, 1.06 - No changes

Sections 2.01 - No changes

Section 2.02 Compositions and Qualifications

Member Charles Leps Jr addressed the he/his issue in Section 2.02.

Sections 2.03, 2.04, 2.05, 2.06 - No changes

Section 2.07 Mayor and Section 2.08 Vice-Mayor

Member Charles Leps Jr said there were 3 he's in Section 2.07 and 1 in 2.08.

Sections 2.09, 2.10, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, 2.17 - No changes

Sections 3.01, 3.02 - No changes

Section 3.03 Office of the Town Manager

Member Charles Leps Jr said the problem is not in 3.03, it is in the ballot language. Said it should be except the office of Town Clerk and Town Attorney. Office is new text, it's replacing offices.

Town Attorney Ryan Knight said the strikethrough is in the current Charter, so it should not be there, which is why it was not included in the ballot language.

Section 3.04 Office of the Town Clerk

Member Charles Leps Jr said Section 3.04 has no ballot language associated with it. Could we combine it with 3.03?

Town Attorney Ryan Knight said that because it is a separate section, it would need a separate ballot question.

#### Section 3.05 Office of the Town Attorney

Member Charles Leps Jr said the last sentence in Section 3.05 has a his.

#### Section 3.06 – No changes

#### Sections 3.07, 3.08, 3.09 – Are blank

#### Section 3.10 - No changes

#### Section 3.11 Code of Ethics

Member Charles Leps Jr said there are a lot of he's and hims in Section 3.11.

#### Section 3.12 Advisory Boards

Member Charles Leps Jr spoke about this being his recommendation and does not feel this needs to proceed as there are many other important ones.

#### Sections 5.01, 5.02- No changes

#### Section 5.03 Time and Manner of Elections

Member Charles Leps Jr spoke about wanting to leave the word regular, which would mean Section 5.03 would not need to be changed.

#### Section 5.04 – No changes

#### Sections 6.01, 6.02, 6.03, 6.04, 6.05, 6.06 – No changes

#### Section 7.01 – No changes

#### Sections 8.01, 8.02, 8.03, 8.04, 8.05, 8.06, 8.07, 8.08, 8.09, 8.10 - No changes

#### Sections 9.01, 9.02, 9.03, 9.04, 9.05, 9.06, 9.07, 9.08 - No changes

Chairman James Simmons says there are 2 changes that talk about registered electors and regular elections. - 15:42

Town Attorney Ryan Knight spoke about how the Board can recommend as many as they want, and then the Commission can decide how many to proceed with.

The Board discussed that there are 11 proposed amendments.

Chairman James Simmons suggested ranking them based on the items that have caused the Town problems.

Vice Chairman Bruce Larson suggested creating two categories, one for priorities and one that are less of a priority.

**The Board agreed to the following high priorities and low priorities.**

**High Priority**

Section 2.03 Term of Office

Section 2.04 Vacancies on the Commission

Section 2.09 Commissioner-at-Large

Section 3.01 Powers and Duties of the Town Commission

Section 3.03 Office of the Town Manager

Section 3.04 Office of the Town Clerk

**Low Priority**

He or She and His or Her

Section 2.02 Composition and Qualifications

Section 2.12 Legislative Procedure

Section 3.05 Office of the Town Attorney

Section 3.11 Code of Ethics

Town Attorney Ryan Knight spoke about adding the word candidate at the beginning of Section 2.09. - 25:15

**The Board agreed to add "candidates for" at the beginning of Section 2.09 Commissioner-at-Large.**

Sec. 2.09. COMMISSIONER-AT-LARGE.

Candidates for 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.

Town Attorney Ryan Knight spoke about how if the Commission decides not to do he/she throughout, another option is in each Section that is being updated to include he/she.

Vice Chair Bruce Larson said while the he/she item is low priority, it should still be included in the language of any section we are changing because that's not an additional ballot item.

The Board discussed the prior meeting's minutes.

Town Attorney Ryan Knight showed an example for the City of Mount Dora, and said at the next meeting, they will have a report similar to that. It will include a table of contents, the

minutes, the amendments recommended by the committee, and some exhibits. It is presented at a Regular Meeting or they can call a Special Meeting to discuss it. - 36:35

Member Charles Leps Jr confirmed that for the next meeting, if everyone has reviewed it before the meeting, any changes could be fixed in real time, and they can sign with the understanding they will be fixed.

Town Attorney Ryan Knight said he could fix any changes at the next meeting, then there would be a vote to approve the report as written or with amendments/revisions.

The Board said they would meet next Monday, April 21st.

Town Attorney Ryan Knight said the Town Commissioners will have it in their hands a week before the Regular Town Commission Meeting on May 21st.


Town Clerk Amber Brown said whatever is being presented has to be ready by May 9th. Reminded the board members of Sunshine Laws and becoming a conduit if Commission members reach out to them.


#### 6. Adjournment

**Member Charles Leps Jr made a motion to adjourn; Vice Chair Bruce Larson seconded; Motion carried 4-0.**

Meeting adjourned at 6:48 pm.

ATTEST:

  
\_\_\_\_\_  
**James Simmons**  
Chairman

  
\_\_\_\_\_  
Rachel Pembrook (Apr 25, 2025 18:44 EDT)  
**Rachel Pembrook**  
Transcriptionist



# Town of Melbourne Beach

## CHARTER REVIEW COMMITTEE WEDNESDAY, APRIL 23, 2025, 7:00 P.M. COMMUNITY CENTER – 509 OCEAN AVENUE

### DRAFT 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 7:00 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 - Late  
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. March 24, 2025 minutes
- B. March 31, 2025 minutes
- C. April 14, 2025 minutes

**Member Jessica Martinez made a motion to approve the three sets of minutes; Member Charles Leps Jr seconded; Motion carried 4-0.**

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

None

#### **5. New Business**

A. Review the report that will be presented to the Town Commission

Town Attorney Ryan Knight sent the Board the draft of the final report. Said this is their report, this is language he put in there, but they are welcome to change it. There were some changes to the ballot proposal, those were made because it had to be less than 15 words. Changes can be made tonight. Said there is a separate ballot proposal for the he/she language, if it is not being applied to the document as a whole, would the Board want it included in the individual sections?

Chairman James Simmons said they decided last week that if they are making changes to a section anyway, update the language for he/him.

First Page: Town of Melbourne Beach 2025 Charter Review Committee Draft Final Report

Chairman James Simmons said he would like to change his name from Jim to James. Also said that where it reads prohibiting Commission members from interference except through the Town Manager, would like to add words that say unless authorized by a majority of the Commission.

Member Kathy Ivers-Osthus said she would like to change Kathy to Kathryn.

Vice Chairman Bruce Larson came in at 7:05 pm.

Table of Contents - 6:50

Member Charles Leps Jr said on Amendment 1, change hers to her.

Cover Letter -7:16

Chairman James Simmons said to change Jim to James and Kathy to Kathryn.

Vice Chairman Bruce Larson said for the cover letter add the amendment number for the paragraph describing the amendment.

Chairman James Simmons and Member Kathy Ivers-Osthus said they did not think that was necessary.

Vice Chairman Bruce Laron spoke about moving on.

Chairman James Simmons said to change the names in the signature blocks on page 1, and Member Charles Leps Jr pointed it out on page 2 as well.

Chairman James Simmons said the Cover Letter does not include Sections 3.03, 3.04, 3.05.

Town Attorney Ryan Knight spoke about how the Cover Letter is an overview and does not need to include everything, to which the Board agreed. Section II lays out the high and low priority amendments.

Chairman James Simmons said to change the type of meeting from a special meeting to a workshop.

Introduction page - 14:55

Member Charles Leps Jr said to change Jim to James and Kathy to Kathryn.

Chairman James Simmons suggested adding an explanation why some items are considered a low priority, and Member Jessica Martinez agreed.

Member Charles Leps Jr spoke about using language that if there are too many ballot items.

Town Clerk Amber Brown said there would be a cost depending on how many pages it is.

Chairman James Simmons gave some examples for explaining why the items are lower priority, such as the Code of Ethics (covered by State law). Asked if they could group the high-priority items together and the low-priority items together, rather than have them in numerical order.

The Board agreed to group the high-priority items together and low-priority items separately.

Town Attorney Ryan Knight asked what language the Board would like to add to the Cover Letter to explain why the items were listed as low-priority.

The Board agreed to add the language – The following amendments were assigned a lower priority as they do not impact Town operations, and the concern about the amount of ballot proposals.

Recommended Amendments Section III - 24:28

Proposed Amendment 1 – Recognition of Both Genders

Member Jessica Martinez asked about the financial analysis and impact section.

Town Attorney Ryan Knight said for most of these, there will be no budgetary impact.

Chairman James Simmons asked about the table of contents being updated with the first high-priority number and adding the amendment number to the proposed amendment page.

Member Charles Leps Jr spoke about how right now the amendment order is very clearly laid out by the first one being global, and then by number, and the amendment number might change when it goes to the Commission anyway. Proposed keeping the order, but at the top of each page, add high-priority or low-priority.

The Board agreed to keep the order the same, but add high-priority or low-priority to the top of each page.



Section 2.02, Section 2.03, Section 2.04, Section 2.09, Section 2.12, Section 3.01, Section 3.03, Section 3.04, Section 3.05, and Section 3.11 – No changes

Matrix - 30:56

Vice Chairman Bruce Larson spoke about adding a column for high-priority or low-priority.

General Questions/Info - 31:45

Member Jessica Martinez asked if there is a financial impact, when will that be addressed?

Town Attorney Ryan Knight spoke about how prior to writing the ordinance, it would be presented to the Commission.

Chairman James Simmons asked if the cost impact needs to be on the ballot.

Town Attorney Ryan Knight said it would be included, but he does not believe there will be a financial impact. Said he would verify that with finance to be 100% sure. Suggested to the Board that he could make the changes, send them out, and then have one last meeting.

Chairman James Simmons said they could each review the changes online and give feedback to him so he would not have to make a trip.

Town Attorney Ryan Knight said they could pick a day he would already be in Town, and the Board could have a quick 20-minute meeting to discuss the revisions. Any members not present can email him their changes/suggestions, and he can go over those at the meeting.

The Board tentatively scheduled a meeting for 4/30/2025 at 6:00 pm to approve the report.

Chairman James Simmons asked about setting up a workshop with the Commission.

Town Clerk Amber Brown said she would reach out to the Commission to see if/when they would be interested in setting up a workshop.

## 6. Adjournment

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

Meeting adjourned at 7:39 pm.

ATTEST:

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James Simmons  
Chairman

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Rachel Pembroke  
Transcriptionist

# Town of Melbourne Beach

## CHARTER REVIEW COMMITTEE MONDAY, APRIL 28, 2025, 6:00 P.M. COMMUNITY CENTER – 509 OCEAN AVENUE

### DRAFT MINUTES

#### **Board Members Present:**

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 6:13 p.m.

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

Town Clerk Amber Brown conducted roll call

#### **Board Members Present**

Chairman James Simmons  
Member Charles Leps Jr  
Member Jessica Martinez

#### **Staff Members Present**

Town Attorney Ryan Knight – Via Zoom  
Town Clerk Amber Brown

#### **Board Members Absent**

Vice Chairman Bruce Larson  
Member Kathy Ivers-Osthus

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

A. April 23, 2025 minutes

Tabled

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

None

#### 5. **New Business**

- A. Review the revised report that will be presented to the Town Commission on Monday May 5<sup>th</sup>

Chairman James Simmons went through the revisions made since the last meeting. Under Introduction, where it says the following amendments were assigned a lower priority as they do not impact Town operations, and concern about the amount of ballot proposals. Suggested adding the words due to before concern about the amount of ballot proposals.

Member Charles Leps Jr suggested starting a new sentence after operations. To add additionally, the committee was also concerned about the amount of ballot proposals. The Board agreed.

Chairman James Simmons suggested making a page break, so the whole last paragraph in the introduction goes to the last page.

Chairman James Simmons said in Section 3.01, says this charter amendment will remove the Town Commission's authority to appoint, suspend, or remove the Town Clerk. Suggests adding, this amendment is required in order to be consistent with charter amendments adopted on 11/17/2017, which moved the Town Clerk organizationally from the Town Commission to the Town Manager. This is just to make it clear that this change is to be consistent.

Chairman James Simmons said for 3.05, suggests a page breakdown before D, financial analysis, because the text is on the next page. For 3.04, spoke about adding the same sentence he added for 3.01 about the Town Clerk. The Board agreed.

Town Attorney Ryan Knight spoke about increasing the font size for the matrix, but it might stop it from fitting on one page. The Board said they were fine with the font size the way it is.

Town Attorney Ryan Knight suggested that before the workshop, there could be a brief meeting to approve the minutes. Suggested one language change to the first page, where it says draft final report, to remove the word draft.

The Board agreed to meet 5 minutes before the workshop to approve the minutes.

**Member Charles Leps Jr made a motion to approve the report as revised; Member Jessica Martinez seconded; Motion carried 3-0.**

## 6. Adjournment

**Member Jessica Martinez made a motion to adjourn; Member Charles Leps Jr seconded; Motion carried 3-0.**

Meeting adjourned at 6:28 pm.

ATTEST:

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James Simmons  
Chairman

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Rachel Pembroke  
Transcriptionist

## **EXHIBIT B - MATRIX**

Charter Section	Title and Ballot Question	Purpose	Proposed Language
General			
***Low Priority***  He/She/His/Her	<p>REPLACING "HE" AND "HIS" AND INCLUDING "HE OR SHE" OR "HIS AND HER"</p> <p>Amending the Charter by removing any references to "he" and "his" and replacing these terms with "he or she" or "his and her" throughout the Charter. The Charter amendment does not create any new rights, duties, obligations, or prohibitions.</p>	<p>This Charter amendment would replace "he" to "he or she" and "his" to "his or her" so as to recognize both genders when describing a Commission member and his or her office and the Town Officials and his or her position.</p>	
Article II Town Commission			
***Low Priority***  Section 2.02. Composition and Qualifications.	<p>AMEND RESIDENCY REQUIREMENT AND PROVIDING FOR FORFEITURE OF OFFICE FOR MALFEASANCE OR MISFEASANCE</p> <p>Amending the Charter by increasing the residency requirement for Commission members and providing for forfeiture of office of a Commission members for mealfesance or misfeasance. This amendment will increase the residency requirement for Commission members fro six (6) months to twelve (12) months prior to the date of qualification for office.</p>	<p>This Charter amendment would amend the qualifications of the Commission to provide that any member serving on the Commission be a resident of the Town for at least twelve (12) months and providing that the office of a Commission member shall be forfeited for malfeasance or misfeasance. Additionally, this amendment removes "a crime involving moral turpitude" as a basis for forfeiture of office of a Commission member.</p>	<p>The Commission shall consist of five (5) members elected by the qualified voters of the Town as hereinafter provided. Members of the Town Commission shall have been residents of the Town for at least <del>six (6)</del> <u>twelve (12)</u> months prior to the date of qualification for office, and shall have the qualifications of a Town Elector. The Commission shall consist of five (5) Commissioners: The Mayor elected as such, and four (4) Commissioners-at-Large.</p> <p>The office of Commission member shall be forfeited whenever a member is finally convicted of a felony <del>or a crime involving moral turpitude, malfeasance, or misfeasance</del>. When a member files for election to or accepts any other elective public office, he <del>or she</del> shall submit his or her resignation. This resignation shall be effective when his <del>or her</del> former office is filled or when he <del>or she</del> accepts an elective office, whichever comes first.</p> <p>Any qualified elector of the Town who meets the foregoing qualifications may qualify for a Commission seat by presenting to the Town Clerk a petition signed by twenty-five (25) qualified Town electors, and by paying a filing fee, during the qualifying period as established from time to time in the town code of ordinances, and said elector shall submit concurrently therewith a sworn statement of his or her name, address, occupation, and willingness to serve if elected. Until otherwise provided by Town ordinance, the filing fee shall be ten dollars (\$10.00).</p> <p>The Commission shall be the judge of the qualifications of the candidates for election to the Commission, and for such purpose shall have the powers to subpoena witnesses and require the production of evidence, but the decision of the Commission in any such case shall be subject to review by the courts.</p> <p>Each person seeking to qualify for election to office as a write-in candidate shall certify under oath to the Town Clerk during the qualifying period as established from time to time in the town code of ordinances the following information:</p> <p>Name, address, that he possessed all of the qualifications required by law for the office, the name of the office he seeks, and that he will accept the office.</p> <p>Failure to qualify as a write-in candidate shall mean that any write-in votes cast for such person shall not be counted.</p> <p>At the time of certifying under oath the above information, a write-in candidate shall be considered a candidate except that he shall not be entitled to have his name printed on the ballot.</p>
***High Priority***  Section 2.03. Term of Office.	<p>PROVIDE WHEN ELECTED COMMISSIONERS SHALL ASSUME OFFICE AND MINIMUM TERM LIMITATIONS</p> <p>Amending the Charter by providing an elected Commissioner shall assume office at the next regularly scheduled Commission meeting following an election and amending the time an elected official may not serve on the Commission due to term limitations from one (1) year to eleven (11) months).</p>	<p>This Charter amendment provides that an elected Commissioner shall take office at the beginning of the next regular Town Commission meeting following an election, decreases the time a Commissioner or Mayor is prohibited from serving on the Commission due to term limitations from one (1) year to eleven (11) months, and removes unnecessary language relating to the November 2, 2004 election.</p>	<p>(a) Elected Commissioners shall take office at the beginning of the next <del>official</del> <u>regular Town Commission</u> meeting following the municipal election at which they were elected. They shall hold office for a term of three (3) years, or until their successors are elected and <u>qualified certified by the Brevard County Supervisor of Elections</u>, unless:</p> <p>(1) The individual has been appointed or elected to fulfill the term of a Commissioner-at-Large who has been removed from office other than by means of recall, forfeited the office of Commissioner-at-Large, resigned, or the office has become vacant due to the death of a Commissioner-at-Large. In such event, a successor Commissioner-at-Large shall assume office in the manner set forth in Section 2.04. in this Charter.</p> <p>(2) The individual has been elected to fulfill the term of a Commissioner-at-Large who has been recalled from said office by the electorate. In such event a newly elected Commissioner-at-Large who is replacing a Commissioner-at-Large recalled from office shall serve a term equal in time to what would have otherwise been the time remaining in the term of the recalled Commissioner-at-Large's term; or</p> <p>(3) The individual is elected to fill a term otherwise consistent with this Charter.</p> <p>(b) Neither a commission member or the mayor may qualify for or serve more than two (2) complete consecutive terms and the portion of an unexpired term occurring by reason of a vacancy. Notwithstanding the foregoing, an elected city official, such as a commissioner, who has served the maximum time in office as permitted by this paragraph, may qualify for and be elected to serve in a different city elected office, such as mayor. Further, a commissioner or the mayor who has served the maximum amount of time permitted by this sub- section may again serve on the commission subject to the time and term limitations of this sub-section; provided, that the official has not served on the commission for at least <del>one (1) year (three hundred sixty-five (365) days = one (1) year); eleven (11) months</del>. Any city elected official who resigns within one (1) year (three hundred sixty-five (365) days = one (1) year) before the end of the second consecutive term of office shall be prohibited from qualifying as a candidate for a commission seat in the next regular city election. <del>This paragraph shall be applicable to any commission member or the mayor who, subsequent to the election held on November 2, 2004, has served for two (2) complete consecutive terms and which terms have been served in full after November 2, 2004.</del></p>

<p>***High Priority***</p> <p>Section 2.04. Vacancies on the Commission.</p>	<p>PROVIDE THE TIME PERIOD FOR A COMMISSIONER TO SERVE AS A RESULT OF AN APPOINTMENT DUE TO VACANCY</p> <p>Amending the Charter by specifying the time period for a Commissioner to serve as a result of an appointment due to vacancy. This amendment specifies that an appointed Commissioner shall serve until the next general municipal election for which the qualifying period has not begun at the time of the vacancy.</p>	<p>This Charter amendment provides that an appointed Commission member as a result of a vacancy shall serve until the next general election for which the qualifying period has not begun at the time of the vacancy.</p>	<p>A vacancy shall occur upon the death, resignation, removal from office (other than by recall) as authorized by law, or forfeiture of office of a Commission member. When such a vacancy occurs, other than that of Mayor, the remaining Commission members may select, by the affirmative vote of not less than a majority of the remaining membership, a person to fill the vacancy. Such an appointed person shall be a qualified elector in the Town, as specified in this Charter, and shall serve until the next general municipal election <u>for which the qualifying period has not begun at the time of the vacancy</u>, at which time a candidate will be elected to serve a term equal in time to what would have otherwise been the time remaining in the term of the Commissioner-at-Large whose office has become vacant.</p> <p>In the event the office of Mayor is vacated, the Vice-Mayor assumes the position until the next general municipal election, at which time a candidate will be elected to serve for the remainder of the Mayor's unexpired term, and a person is appointed or elected to fill the office of Commissioner-at-Large held by the Vice-Mayor, all in accordance with the criteria and procedures herein provided. Said individual succeeding to the position of Commissioner-at-Large, formerly held by the Vice-Mayor, shall hold office only until the next general municipal election.</p> <p>If the Commission shall fail to fill a vacancy on the Commission within thirty (30) days after it occurs, or whenever two (2) or more vacancies shall occur at the same time, the Mayor shall immediately call a special election to fill the vacancy or vacancies. Those elected at the special election will serve a term equal in time to what would have otherwise been the time remaining in the term of the Commissioner-at-Large whose office has become vacant. Among the successful candidates those receiving the largest number of votes shall be declared elected for the longest terms.</p> <p>In no event shall the Commission consist of more than two (2) commissioners serving on an appointive basis.</p>
<p>***High Priority***</p> <p>Section 2.09. Commissioner-at-Large.</p>	<p>PROVIDE THAT CANDIDATES RECEIVING LARGEST NUMBER OF VOTES ELECTED TO THE LONGEST TERMS</p> <p>Amending the Charter by providing that the candidates for Commissioners-at-Large that receive the largest number of votes shall be declared elected for the longest terms to be filled.</p>	<p>This Charter amendment removes language pertaining to the 1989 election and provides that the candidates receiving the largest number of votes shall be declared elected for the longest terms.</p>	<p><del>A total of four (4) Candidates for 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.</del></p> <p><u>Among the successful candidates those receiving the largest number of votes shall be declared elected for the longest terms.</u></p>
<p>***Low Priority***</p> <p>Section 2.12. Legislative Procedure.</p>	<p>CLARIFY THE REQUIREMENT FOR COMMISSION TO VOTE TO ADJOURN</p> <p>Amending the Charter by providing that less than three (3) Commission members may vote to adjourn Commission meetings.</p>	<p>This Charter amendment would clarify the requirement for the Commission to vote to adjourn.</p>	<p>Three (3) members of the Commission shall constitute a quorum, but a smaller number may vote to adjourn from day to day. No action of the Commission, except raising a quorum, shall be valid or binding unless adopted by the affirmative vote of at least three (3) members of the Commission. The Commission shall determine its own rules and order of business and shall provide for the keeping of a journal of its proceedings. The journal shall be a public record and shall be open to public inspection. The Commission may prescribe for expulsion of disorderly persons from its meetings.</p>
<p>Article III General Town Administration</p>			
<p>***High Priority***</p> <p>Section 3.01. Powers and Duties of the Town Commission.</p>	<p>REMOVING THE TOWN COMMISSION'S AUTHORITY TO APPOINT, SUSPEND, OR REMOVE TOWN CLERK</p> <p>Amending the Charter by removing the Town Commission's authority to appoint, suspend, or remove the Town Clerk.</p>	<p>This Charter amendment would remove the Town Commission's authority to appoint, suspend, or remove the Town Clerk.</p>	<p>All powers of the Town shall be vested in an elected Commission, except as otherwise provided by this Charter or by law. The Town Commission shall be responsible to the citizens of Melbourne Beach for the proper functioning of all Town affairs and to that end, subject to the provisions of this Charter, shall have power and are required to:</p> <p>(a) Appoint, and when necessary for the good of the Town, suspend or remove, the Town Manager, <del>Town Clerk</del> or Town Attorney, or members of any board, commission or agency, who are appointed by the Town Commission.</p> <p>(b) Approve any additions or deletions of staff positions upon the recommendation of the Town Manager. Such recommendations of the Town Manager shall be made in conjunction with the proposed budget for the upcoming year, or may be made at any other time if deemed necessary.</p> <p>(c) Provide policy direction to, and exercise control over, the Town Manager as may be required in his role as administrative head of the Town.</p> <p>(d) Approve an annual Town budget and any amendments to the budget, together with such other fiscal reports and programs as may be required, and periodically review the financial status of the Town relative to the current budget.</p> <p>(e) Provide Town representation on intragovernmental groups when such groups are composed principally of elected officials or when such representation is deemed advisable by the Commission.</p> <p>(f) Perform such other duties as may be prescribed by ordinance or resolution consistent with the concept of management of the Town expressed in this Charter.</p>

<p>***High Priority***</p> <p>Section 3.03. Office of the Town Manager.</p>	<p><b>PROHIBITING TOWN COMMISSION MEMBERS FROM INTERFERING WITH OPERATIONS EXCEPT THROUGH TOWN MANAGER</b></p> <p>Amending the prohibition on Town Commission members interfering with Town operations except through the Town Manager. This amendment also provides that the Town Commission shall set the salary and benefits of the Town Manager.</p>	<p>This Charter amendment requires the Town Commission to set the salary and benefits of the Town Manager and amends the prohibition on members of the Town Commission from interfering with the administration of the Town except through the Town Manager. Many cities operating under the commission-manager form of government have a charter provision prohibiting members of the town commission from interfering with the operations of the Town except through the Town Manager.</p>	<p>(a) This office shall be headed by a Town Manager, who shall be appointed by the Town Commission on the basis of his or her executive and administrative qualifications. The Town Commission shall set the salary and benefits of the Town Manager. The Town Manager shall be the Chief Administrative Officer of the Town, and shall be directly responsible to the Commission for all Town affairs placed in his or her charge by this Charter or by ordinance or resolution. The Town Manager when necessary shall appoint, suspend, demote or dismiss any Town employee under his or her jurisdiction in accordance with the law and the personnel rules, and may authorize any Department Head to exercise these powers with respect to subordinates in that department. The Town Manager shall direct and supervise the administration of all departments of the Town except the Office of Town Attorney, and shall attend all Commission meetings unless excused by the Commission, and shall have the right to take part in discussions, but not vote. He or she shall see that all laws, Charter provisions, ordinances, resolutions, and other acts of the Commission subject to enforcement by him or her are faithfully executed. The Town Manager shall also prepare and submit the annual budget, budget message, and capital program to the commission, and shall keep the Commission fully advised as to the financial condition and future needs of the Town, and shall be responsible for adhering to the approved budget. The Town Manager shall make such recommendations to the Commission concerning the affairs of the Town as he or she deems advisable. The Town Manager shall endorse all instruments in writing in which the Town is interested, sign Town checks as authorized by the Town Commission, and execute contracts on behalf of the Town, unless the Commission shall otherwise provide. The Town Manager shall by letter designate an Acting Town Manager to exercise his or her powers and perform his or her duties during temporary absences or disability of the Town Manager. The Commission may revoke such designation at any time and appoint another eligible person to serve as Acting Town Manager.</p> <p><del>(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.</del></p> <p><u>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.</u></p>
<p>***High Priority***</p> <p>Section 3.04. Office of the Town Clerk.</p>	<p><b>REMOVING THE TOWN COMMISSION'S AUTHORITY TO FIX SALARY OF TOWN CLERK</b></p> <p>Amending the Charter by removing the Town Commission's authority to fix the salary of the Town Clerk.</p>	<p>This Charter amendment would remove the Town Commission's authority to fix the salary of the Town Clerk. Additionally, the amendment removes the provision that the Town Clerk is to "serve the Commission."</p>	<p>This office shall be headed by a Town Clerk hired by the Town Manager. <del>to serve the Commission. The salary of the Town Clerk shall be fixed by the Commission.</del> The Town Manager shall have exclusive supervisory authority over the Town Clerk as a Town employee, including the authority to manage, discipline, and terminate consistent with the Town's employment policies, without consent of the Town Commission. The Clerk shall be: Clerk of the Commission and shall keep the Commission journal; custodian of ordinances, resolutions, and such other official records as the Commission may prescribe; attester to contracts, bonds, and other instruments as may be prescribed by law; chief registration and elections officer of the Town; and responsible for other duties so prescribed by the Town Commission or Town Manager.</p>
<p>***Low Priority***</p> <p>Section 3.05. Office of the Town Attorney.</p>	<p><b>PROVIDING TOWN ATTORNEY'S SALARY/CONTRACT FIXED AND APPROVED BY COMMISSION</b></p> <p>Amending the Charter by providing the Town Attorney's salary and/or contract shall be fixed and approved by the Town Commission. This amendment also removes the requirement that the Town Attorney be the prosecutor in the Town court.</p>	<p>This Charter amendment would clarify that the Town Commission shall fix and approve the salary and/or contract of the Town Attorney. It further removes the requirement that the Town Attorney be the prosecutor in the Town court.</p>	<p>This office shall be held by an attorney, appointed by the Commission. The salary <del>and/or contract</del> of the Town Attorney shall be fixed <del>and approved</del> 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; <del>be prosecutor in the Town court</del>; 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. One or more assistants may perform any duties of the Town Attorney. The Town Attorney and his <del>or her</del> assistants shall be lawyers admitted to and having authority to practice in all courts of the state, as well as the Federal District Court.</p>

<p>***Low Priority***</p> <p>Section 3.11. Code of Ethics</p>	<p>AMENDING THE CHARTER TO DEFINE UNACCEPTABLE GIFT AND SPECIFYING APPLICABLE FLORIDA STATUTES</p> <p>Amending the Charter by providing incorporating the definition of "unacceptable gift" as defined in Sections 112.313(2) and 112.313(4), Florida Statutes, and specifying the applicable statutory sections for the Code of Ethics for Public Officers and Employees.</p>	<p>This Charter amendment amends the prohibition on officers and employees of the Town to accept gifts as defined in Section 112.313(2) and 112.313(4), Florida Statutes, and specifies the statute sections applicable to the Code of Ethics for Public Officers and Employees.</p>	<p>The following code of ethics shall apply to all officers and employees of the municipality, whether elected or appointed, paid or unpaid. By majority vote of the Commissioners, the Commission may vote to censure a member for violating this code. No officer or employee of the Town shall knowingly:</p> <ul style="list-style-type: none"> <li>(a) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties;</li> <li>(b) Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his official duties, or would tend to impair his independence of judgment or action in the performance of his official duties;</li> <li>(c) Disclose confidential information concerning the property, government, or affairs of the governmental body by which he is employed, without proper legal authorization, or use such information to advance the financial or other private interest of himself or others;</li> <li>(d) Accept any <del>valuable unacceptable gift as defined in Sections 112.313(2) and 112.313(4), Florida Statutes,</del> whether in the form of service, loan, <del>thing item, whether tangible or intangible,</del> or promise, from any person, firm, or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the governmental body by which he is employed; provided, however, that any such officer or employee who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;</li> <li>(e) Represent private interests in any action or proceeding against the governmental body by which he is employed;</li> <li>(f) Vote or otherwise participate in the negotiation or the making of any contract involving the Town with any business or entity in which he has a financial interest;</li> <li>(g) Have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the Town, [and if so] shall disclose such private interest on the records of the Commission, and shall disqualify himself from participating in any decision or vote relating thereto;</li> <li>(h) Use property owned by such governmental body for personal benefit, convenience, or profit except in accordance with policies of the Commission; or</li> <li>(i) Violate the Code of Ethics for Public Officers and Employees <u>as provided for in Sections 112.311 through 112.3261, Florida Statutes, as may be amended</u> or the Florida Election Code, as set forth in Florida Statutes, and implementing rules thereof, and if a Town officer or employee has been found to have violated the Code of Ethics for Public Officers and Employees by the Florida Commission on Ethics or the Florida Election Code by the Florida Elections Commission, or implementing rules thereof, he or she may be censured by the Town Commission.</li> </ul>
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