

Charter Review Committee  
City of Palmetto, Florida

Agenda

March 3, 2016—3:00 p.m.

1. Call the Meeting to Order
2. Old Business
  - a. Approval of January 28, 2016 Minutes
3. New Business
  - a. Review of Attorney Barnebey's proposed changes to the City's Charter
4. Adjourn

If any person desires to appeal any decision of the City Commission, CRA Board, or of any other Board of the City, that person will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS §286.0105).

The City of Palmetto does not discriminate on the basis of race, color, national origin, sex, religion, age, marital status or handicapped status in employment or in the provision of services. Handicapped individuals may receive special accommodation in services on forty-eight hours notice (FS §286.26). Anyone requiring reasonable accommodation for this meeting as provided for in the American with Disabilities Act should contact the City Clerk by telephone at 941-723-4570, fax 941-723-4576 or e-mail [jfreeman@palmettofl.org](mailto:jfreeman@palmettofl.org) or [afoley@palmettofl.org](mailto:afoley@palmettofl.org).

**POSTED: March 1, 2016**

DRAFT  
Charter Review Committee  
City of Palmetto, Florida  
January 28, 2016—3:00 p.m.

Committee Members Present:

Alan Zirkelbach, Chair  
Wade Thompson, Vice Chair  
Vicki Moore, Secretary  
Phil Guercio  
Ann Marshall  
Bob Wilson

Committee Members Absent:

Eva Daniels

Staff Present:

Mark Barnebey, City Attorney  
Amber Foley, Assistant City Clerk

Chair Zirkelbach called the meeting to order at 3:08 p.m.

Mr. Zirkelbach opined that the legal resident requirement for wards should not be that the candidate should have to live in that specific ward for a year; the candidate should be a resident of the City for a year. He also stated that in Section 12 it readdresses the requirements for residency; just add a clause in there referring to Section 9 of the Charter.

Mrs. Moore asked that the draft minutes be approved with the word “agenda” being changed to “minutes”.

**Motion: Mr. Guercio moved, Mr. Wilson seconded, and the motion carried 6-0 to approve the January 7, 2016 minutes with the change as requested.**

Review of Attorney Barnebey’s Proposed Charter Changes:

Mrs. Moore addressed Section 26 Charter Review. She asked that the discussion from the December 3<sup>rd</sup> meeting be incorporated into this section that defines the make-up of the Board, specifically the comments of including the allowance of one City employee to be on the Board, a Board member not being a family member of a Commissioner, residency requirements, or current service on another City advisory board.

Discussion ensued regarding vice-mayor duties and role. The Board opined that it should be notated in the Charter the schedule that may be needed for a vice-mayor during their year of service. Attorney Barnebey suggested that language could be added to Section 10 that says commission shall consider the availability of a potential nominee for vice-mayor to attend official meetings on behalf of the City in the place of the mayor if requested by the mayor.

**Motion: Mr. Wilson moved, Ms. Marshall seconded, and the motion carried 6-0 to approve the above language for incorporation into Section 10 for vice-mayor.**

The Board asked for the following changes to be made to Attorney Barnebey’s proposed changes:

- Delete specific ward residency requirement; a candidate needs to be a resident of the City as a whole for at least a year.

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- Section 12: instead of duplicating the language from Section 9, add “refer to Section 9 for requirements”.
- Composition of Charter Review Board:
  - No more than one employee of the City (not mandatory)
  - No immediate family members of sitting commission
  - Not currently serving on another advisory board in the City

Next meeting will be held on March 3, 2016 at 3:00 p.m.

Chair Zirkelbach adjourned the meeting at 3:40 p.m.

Minutes approved:

Vicki Moore  
Secretary

ORDINANCE NO. 2016-04

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING SUBMISSION OF AMENDMENTS TO THE CITY CHARTER TO THE VOTERS AT THE NOVEMBER, 2016 GENERAL ELECTION PROVIDING FOR AMENDMENT TO SECTIONS RELATING TO COMMISSIONER QUALIFICATIONS AND OFFICE HOLDING, TO THE VICE MAYOR, COMMISSIONER VACANCIES AND REPLACEMENT, TO CHARTER REVIEW; CLARIFYING THE EFFECTIVE DATE OF ANY AMENDMENTS TO THE CHARTER; PROVIDING FOR APPROVAL OF A BALLOT QUESTION; PROVIDING FOR APPROVAL OF BALLOT QUESTION TITLE; PROVIDING FOR PUBLICATION; PROVIDING FOR COORDINATION WITH SUPERVISOR OF ELECTIONS; PROVIDING FOR ELECTION DATE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Article VIII, Section 2, Constitution of the State of Florida as revised in 1968, provides for and establishes municipalities and grants to those municipalities certain governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services and to exercise any power for municipal purposes, except as otherwise provided by law; and

**WHEREAS**, Chapter 166, Florida Statutes, "The Municipal Home Rule Powers Act," implements, by general law, the authority and jurisdiction granted to municipalities by the Florida Constitution and establishes home rule for said municipalities; and

**WHEREAS**, the City of Palmetto is a municipality with a charter form of government;  
and

**WHEREAS**, a City Charter is an important government document to any municipality;  
and

**WHEREAS**, the City Charter was last reviewed and amended in 2010; and

**WHEREAS**, pursuant to Section 26 of the City Charter, the City Commission determined that at least five years had passed since the prior review and, therefore, it was

appropriate for a Charter Review Committee to review the City Charter and recommend amendments of the Charter to the City Commission; and

**WHEREAS**, the Mayor and City Commission appointed the charter review committee; and

**WHEREAS**, the Charter Review Commission held public meetings to review and make recommendations to the City Commission; and

**WHEREAS**, after considering the recommendations of the Charter Review Committee, the City Commission of the City of Palmetto finds that it is in the best interests of the people of the City that the City Charter be amended to amend certain requirements related to qualifications for office, to provide additional considerations regarding appointment of Vice Mayor, and to amend the requirements related to the duties and composition of the Charter Review Commission; and

**WHEREAS**, the City Commission has determined to submit the proposed Charter amendments for approval or disapproval by the electors of the City.

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Palmetto:

**Section 1. Submission of Proposed Charter.** Attached hereto and incorporated herein is **Exhibit “A.”** Exhibit “A” contains the proposed amendments to Sections 9, 10, 12, 26 and 27 of the Charter of the City of Palmetto to be submitted for consideration by the electors of the City.

**Section 2. Approval of the Ballot Question.** The following statement is hereby approved as the referendum question to be placed upon the ballot; as required by Section 101.161, Florida Statutes:

**Shall the City of Palmetto Charter be amended and restated as described in Ordinance 2016-04, amending the qualifications to serve in the office of Commissioner, providing additional guidance to the appointment of a Vice Mayor, and amending the role of and the appointment to the Charter Review Commission and amendments of the Charter, clarifying the effective date of amendments and providing for the operation of City government?**

Yes \_\_\_\_\_

No \_\_\_\_\_

**Section 3. Ballot Title.** The following is hereby approved as the ballot title as required by Section 101.161, Florida Statutes:

**Amendments to the City of Palmetto Charter.**

**Section 4. Coordination.** The Mayor and City staff are hereby authorized to coordinate with the office of the Supervisor of Elections in order to do those things necessary to have this referendum placed on the ballot for the general election scheduled for November 8, 2016.

**Section 5. Publication.** The proposed amendments to the Charter shall be available for review at the Clerk's Office located in City Hall through the date of the election. The Mayor and City staff shall publish the text of the amended Charter, and a Summary of the major amendments for review by the electorate by a variety of means, which may include the City's posting at City Hall and on the website, placing such information in newspapers, flyers, mailers, and other such means as appropriate. The City shall make every reasonable effort to fully inform the electorate prior to the election.

**Section 6. Repeal of Ordinance.** This Ordinance hereby repeals all ordinances and parts of ordinances in conflict herewith to the extent of such conflict.

**Section 7. Severability.** Should any portion of this Ordinance be found by a court of competent jurisdiction to be illegal or unconstitutional, then such portion shall be severed and the remaining portions of the Ordinance shall be unaffected thereby.

**Section 8. Effective Date.** This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor, or if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes of the City Commission. The Charter Amendments provided herein shall be effective only upon approval of a majority of electors voting on the measure, effective upon certification of election results.

**APPROVED AND ADOPTED,** by the City Commission, in open session, with a quorum present and voting, this \_\_\_ day of \_\_\_\_\_, 2016.

First Reading: April 4, 2016  
Publication: \_\_\_\_\_, 2016  
Second Reading and  
Public Hearing: April 18, 2016

CITY OF PALMETTO, FLORIDA, BY  
AND THROUGH THE CITY  
COMMISSION OF THE CITY OF  
PALMETTO

By: \_\_\_\_\_  
SHIRLEY GROOVER BRYANT, MAYOR

ATTEST: James R. Freeman  
City Clerk

By: \_\_\_\_\_  
City Clerk/Deputy Clerk.

EXHIBIT "A"

Proposed Changes/Amendments to City of Palmetto Charter

1. Section 9 of the Charter of the City of Palmetto is hereby amended to read in its entirety as follows:

**Section 9. - Commissioner Qualifications; Assuming Office.**

~~The three (3) ward~~A candidate to serve as Commissioners must each be an *Elector*. Additionally, ~~the three (3) ward candidates to serve as a City~~ Commissioners shall each have been a *Legal Resident* of the City for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the last day of qualifying for election to the office being sought ~~and have been a Legal Resident of the ward from which they are to be elected for a minimum of one hundred and eighty (180) consecutive days immediately prior to the last day of qualifying for election to the office sought.~~ The two at-large Commissioners must each be an *Elector* and have been a *Legal Resident* of the City for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the last day of qualifying for election to the office sought. Commissioners shall assume office on the date of the first Commission meeting following their election and shall continue to be a *Legal Resident* and *Elector* of the City during their term of office.

2. Section 10 of the Charter of the City of Palmetto is hereby amended to read in its entirety as follows:

**Section 10. - Vice-Mayor.**

At each Organizational Meeting of the Commission, the Commission shall elect, by Majority Vote of the Commission, one Commissioner to serve as Vice-Mayor, who shall serve a term of one (1) year. The Commission shall consider the availability of the Vice-Mayor to attend official meetings on behalf of the City, if required by the Mayor. The Commission may elect a new Commissioner to serve as Vice-Mayor at any time upon an affirmative vote of four members of the Commission. If the Vice-Mayor seat becomes vacant, as defined in Section 12 below, a substitute shall be elected by Majority Vote of the Commission, who shall serve the remainder of that term. The Vice-Mayor shall perform the duties of and have the powers of Mayor during the temporary absence or temporary disability of the Mayor with the exception of the veto power pursuant to Section 14 below. While performing the temporary duties of acting Mayor, the Vice-Mayor shall retain the right to vote as a Commissioner.

3. Section 12 of the Charter of the City of Palmetto is hereby amended to read in its entirety as follows:

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**Section 12. - Commission Members; Vacancies; Replacement.**

The office of a Commissioner shall become vacant upon the Commissioner's death, permanent incapacity, resignation, permanent entry upon the office of Mayor, removal from office in any manner authorized by law, or forfeiture of the office. A vacancy shall also occur in the event no candidate seeks election for office. Forfeiture of office shall occur upon declaration by *Majority Vote of the Commission*, if a Commissioner: (a) lacks at any time, during the Commissioner's term of office, any qualification for the office as prescribed in this Charter or by law; or (b) shall be absent for more than six (6) consecutive regular Commission meetings without the Mayor having been notified. In the absence of such notification, the Commission shall inquire into the absence of the Commissioner prior to considering any motion on forfeiture of office.

As soon as practicable upon the occurrence of a vacancy, the Commission, by *Majority Vote of the Commission*, shall choose a successor to serve the remainder of such vacant term, or until the first Commission meeting following the next General Election, which ever shall first occur. If the vacant term extends beyond the next General Election, the remainder of such term shall be filled by a person elected in such election, provided, if the vacancy occurs thirty (30) days or fewer before the first date of qualifying for such election, the appointed successor's term shall continue to its end.

In the event no candidate seeks election to fill the vacancy, such Commission seat shall be filled by appointment by a *Majority Vote of the Commission* in the manner set forth above.

If a vacancy occurs in the office of a Commissioner of a ward, the City Commission shall appoint as successor a person who ~~is an *Elector* and who has been a *Legal Resident of the City* for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the date the vacancy occurred and who has been a *Legal Resident of the ward* from which they are to be appointed for a minimum of one hundred and eighty (180) consecutive days immediately prior to the date the vacancy occurred.~~ If a vacancy occurs in the office of an at large Commissioner, the Commission shall appoint as successor a person who is an *Elector* and who has been a *Legal Resident of the City* for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the date the vacancy occurred meets the qualifications for the office as set forth in Section 9 of this Charter.

**4. Section 26 of the Charter of the City of Palmetto is hereby amended to read in its entirety as follows:**

**Section 26. - Charter Review.**

This Charter shall be referred to a Charter Review Committee for review upon the occurrence of one of the following:

- Passage of ~~five (5)~~ten (10) years from the date of the most recent amendment to this Charter; or
- Resolution of the City Commission; ~~or~~
- ~~Referendum pursuant to Section 23 of this Charter.~~The receipt of a valid petition to amend the Charter pursuant to Section 23 of this Charter.

The Charter Review Committee shall be made up of a maximum of seven (7) *Electors* of the City, with two (2) members being appointed by the Mayor and one (1) member being appointed by each City Commissioner. A maximum of one City employee may serve on the Charter Review Committee. Members of the Charter Review Committee shall not serve on any other City advisory board while serving on the Charter Review Committee. No relative of a Commissioner may serve on the Charter Review Committee. "Relative" for the purpose of this Section 26 shall mean an individual who is related to Committee Member as father, mother, sister, brother, son, daughter, husband, wife, stepfather, stepmother, stepson, stepdaughter, stepsister or stepbrother. Each appointee shall be confirmed by a *Majority Vote*.

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The Charter Review Committee shall make recommendations as to possible changes to the Charter to the Commission and, in the case of receipt of a petition to amend the Charter, it shall make a recommendation, on behalf of the citizens of the City of Palmetto, regarding the proposed amendment as submitted.

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As to amendments initiated by the Charter Review Committee, the City Commission shall make the final decision as to whether the proposed amendments are (i) returned to the Charter Review Committee for further review, (ii) revised and approved by ordinance, and included on a ballot, (iii) approved by ordinance and included on a ballot without change, or (iv) subject to other action. Any such amendment may be included on the ballot as a single question, individual questions or any combination of either submitted to the *Electors* of the City as proposed amendment to its Charter.

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**5. Section 27 of the Charter of the City of Palmetto is hereby amended to read in its entirety as follows:**

**Section 27. - Effective date.**

This Charter ~~or any amendments hereto~~ shall take effect only upon approval of a majority of ~~electors~~*Electors* voting on the Charter and the certification of the election results.

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