



**AGENDA
CHARTER REVIEW COMMITTEE
REGULAR MEETING
FEBRUARY 25, 2020
3:00 PM
CITY COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES**
 - 3.1 The minutes from January 13, 2020, are presented for approval.
- 4. OLD BUSINESS**
 - 4.1 **SURVEY:** Update on the staff survey.
 - 4.2 **CHARTER SECTIONS 10A, 11, 14, 16, 17, 25-29, 31-33, 46, 47 AND 136:** Discussion on these sections of the City Charter.
- 5. NEW BUSINESS**
 - 5.1 **CITIZEN INITIATIVES:** Discussion of citizen initiative language to the City Charter.
 - 5.2 **CHARTER SECTIONS 12, 13, 20, 21 and 39-45:** Discussion of these sections of the City Charter.
- 6. PUBLIC COMMENT**
- 7. NEXT MEETING DATE**
- 8. ADJOURNMENT**

All members of the public are invited to be present and be heard. Persons with disabilities requiring accommodations in order to participate in this program or activity should contact the City Clerk at (904) 310-3115 or TTY/TDD 711 (for the hearing or speech impaired). All interested parties may appear at said meeting and be heard as to the advisability of any action, which may be considered with respect to such matter. For information regarding this matter, please contact the City Attorney.

1. CALL TO ORDER: The Charter Review Committee meeting was called to order at 3:00 pm.
2. ROLL CALL: The following Committee members were present; Chairperson Arlene Filkoff, Vice Chairperson Richard Clark, Committee Members Bradley Bean, Tammi Kosack, Jon Lasserre, Margaret Davis and Benjamin Morrison. Others present were City Attorney Tammi Bach and Recording Secretary Gabriel Stefanko.

3.1 THE MINUTES OF THE 11/26/2019 MEETING WERE PRESENTED FOR APPROVAL: Member Davis wanted to amend Section 5.2, the third paragraph from the bottom of the page, to read "power of petition" rather than "power of process". **A motion was made by Member Bean, seconded by Member Morrison, to approve the minutes as amended. The motion passed unanimously.**

4.1 RECAP JOINT MEETING. COMMITTEE MEMBERS TO PROVIDE FEEDBACK AND DISCUSS ANY ITEMS FROM THE DECEMBER 3, 2019 JOINT MEETING: Member Kosack noted several Commissioners cautioned the Charter Review Committee from making too dramatic changes to the Charter and City Manager Martin noted things seemed to be running smoothly with regard to Commissioners interfacing with advisory boards. Member Kosack acknowledged Vice Mayor Kreger for causing the Charter Review Committee meetings to be live streamed and postproduction close captioned.

Member Davis noted Vice Mayor Kreger stated the opposite of the City Managers opinion related to advisory board interference. Several of the Commissioners were in favor of conducting group elections and eliminating runoff elections. Member Davis expressed concern upon hearing Commissioners say they frequently went to staff which is a violation of the Charter. Member Lasserre commented the Commissioners seemed receptive to the idea of conducting an employee survey and that Charter election provisions should match those of Florida Statute. Member Morrison reflected that the general tone of Commissioners was supportive, Chairperson Filkoff and Vice Chairperson Clark concurred. ***City Attorney Bach will supply the Charter Review Committee members with a previously conducted citizen survey.***

Member Bean volunteered to create an electronic draft survey to be presented at the next Charter Review Committee meeting. **A motion was made by Vice Chairperson Clark, seconded by Member Davis, to accept Member Bean's offer to create a draft survey to be presented for review at the next Charter Review Committee meeting. The motion passed unanimously.**

4.2 DRAFT REVISION. SECTIONS 1-8: Section 1: Member Lasserre recommended "then" or "later" be added to the first sentence in Section 1 between the comma and the word abolished. **A motion was made by Vice Chairperson Clark, seconded by Member Bean, to approve the recommendation. The motion passed unanimously.**

Section 6: City Attorney Bach noted the City is getting away from using the word "shall" and replacing it with "is" or "must" which will be approved by ordinance. Following discussion among Committee members, the subsequent changes were recommended to subsection b: the header "additions" will remain, the second sentence will read "pursuant to Florida law the City is permitted to annex additional properties. The current boundary records are available in the City Clerk's Office and available to review upon request" or some similar variation thereof. Member Davis concurred and added that maintaining a current map be added to the City Clerk's roles and responsibilities. **A motion was made by Member Bean, seconded by Member Lasserre, to approve the recommendations. The motion passed unanimously.**

Section 7(b): City Attorney Bach noted the changes before the Charter Review Committee today are a result of their previous meetings. **A motion was made by Member Kosack, seconded by Member Bean, to approve the rewritten version of Section 7(b). The motion passed unanimously.**

Section 8: Member Lasserre suggested the word "as" in the third line be removed, the word "for" in the prior sentence be removed and to accept the alternative language suggested by City Attorney Bach. Additional discussion ensued related the pros and cons of strong City Manager/strong Mayor form of government. ***The consensus of the Committee was to retain the strong City Manager form of government.*** Member Davis

suggested capitalizing the words “City”, “City Commission”, City Manager”, “City Clerk”, and “City Attorney” be consistent throughout the Charter. Member Lasserre concurred. **A motion was made by Vice Chairperson Clark, seconded by Member Lasserre, to approve the rewritten version of Section 8 and other recommendations. The motion passed unanimously.**

5.1 ROLES AND RESPONSIBILITIES. CITY COMMISSION: SECTIONS 10 & 14 - MAYOR: SECTIONS 16 & 17 CITY MANAGER: SECTIONS 25-29 - CITY ATTORNEY: SECTIONS 31-33 - CITY CLERK: SECTIONS 46 & 47: Member Lasserre suggested City Attorney Bach continue to provide revisions as they are making the review process smoother and more efficient. ***The consensus of the Charter Review Committee was for City Attorney Bach to continue to provide draft language in an effort to maximize productivity.***

Section 10: City Attorney Bach explained Section 10 expresses the powers of the Mayor and Commissioners, and how they interact with City administrators and staff. It talks about investigations or inquiry conducted in accordance with Section 136. Section 10(a) is the referendum for City-owned recreational facilities. City Attorney Bach stated she would have, at the next charter Review Committee meeting, the proposed changes ready review. Section 10(b) is the general power to borrow money and issue bonds that's derived from Florida law directly.

Member Davis stated she has several comments on Section 10 and 10(b). Member Davis asked City Attorney Bach whether Section 10(b) is really needed as it appears to be covered in Section 7(a)(2). City Attorney Bach agreed the language in 10B and 10(b) is redundant and may be removed. Member Davis referred to Section 10(a) at this time and noted the language needs to be clearer with regard to what Commissioners can and cannot do. Section 10(c) language may be creating confusion and could be clarified.

Member Morrison stated the Section 10(d) doesn't really talk about who determines a violation has occurred and how that process takes place. Member Lasserre offered that Section 10(e) states investigations or inquiries shall be conducted pursuant to Section 136 of the Charter.

Member Lasserre noted it would make sense to move Section 10(b) to the first paragraph and move Section 10(a) to the second paragraph. Member Lasserre further added the word “indirectly” should be added to Section 10(c) and that Charter Officers should give express written consent for Commissioners to communicate directly with staff.

Member Bean stated Section 10(d) needs to be clearer because the first violation has to be brought up by a Commissioner at a Commission meeting which implies a vote is required and it's not specified if the Commissioner in alleged violation gets to vote and whether it requires more than a simple majority vote.

Member Kosack noted the formatting of Section 10A and 10B is confusing. City Attorney Bach replied legislative history will be included in future Charter Review Committee agenda backup materials.

Member Lasserre suggested the title of Section 10 include the referendum language contained in the title of Section 10A and remove “powers generally” from the title of Section 10.

Vice Chairperson Clark, referring to Section 10(c), asked City Attorney Bach how constituent calls to Commissioners related to issues with streets, curbs, sidewalks, etc. are handled procedurally. City Attorney Bach replied City Manager Martin has given all five of the City Commissioners blanket approval to contact employees of the Maintenance Department directly. However, some Commissioners choose to go through the City Manager and don't really communicate with the departments.

Chairperson Filkoff, based upon her experience while serving as a Commissioner, opined that it is sometimes better for Commissioners to stay away from staff conversations all together, including citizen requests. It's human nature that staff would be inclined to view Commissioner requests or comments as direction. Chairperson Filkoff concurred with other Committee members that Charter Officers should provide express written consent for Commissioners to speak directly with staff.

Chairperson Filkoff spoke to the importance of Commissioners receiving orientation and suggested it be made a part of the Charter so that it becomes a more formal process.

City Attorney Bach recalled an incident where a City employee, working in an enforcement department, reported to her (City Attorney Bach) that a Commissioner called the employee and requested a citation be issued to a specific citizen and that they (Commissioner) were calling as a concerned citizen. City Attorney Bach observed that violations (of the Charter) occur every day.

Member Kosack noted careful consideration should be given to how the Charter delineates between Commissioners requesting information and Commissioners directing employees. ***Member Kosack noted the state law reference in the legislative history of Section 10B regarding tax on cigarettes needs to be removed.***

Member Morrison noted Commissioners who communicate directly with staff may be creating additional work for City staff.

Member Davis wanted to ensure the Committee is not shutting the door on the opportunity for a Commissioner to make an inquiry regarding a constituent issue, because they are also citizens, and have the right to act as a citizen would.

Member Lasserre asked City Attorney Bach whether the misdemeanor language in Section 10(d) should be located in the Code of Ordinances instead of the Charter. City Attorney Bach agreed and further commented she is legally and practically concerned about enforcement provisions, because if somebody, whether it is a citizen, a Commissioner, or City employee thought there was a violation, and they went to the chief of police, nothing would happen.

Member Davis and Member Lasserre suggested a progressive enforcement approach be applied in Section 10(d): 1st offense: recognized by City Commission; 2nd offense: City Commission censorship; 3rd offense: removal from office.

Chairperson Filkoff suggesting Section 10(d) be revisited following receipt of the survey results. **A motion was made by Member Bean, seconded by Vice Chairperson Clark, to remove Section 10(b), remove Section 10B, remove the cigarette reference, expand Section 10(a) to clarify the definition of conservation, and clarify who may report a violation of Section 10(d). The motion passed unanimously.**

Chairperson Filkoff asked whether any members of the public would like to comment on topics discussed thus far.

PROCEDURE CONCERNS: Ms. Sandra Kerry, 1255 Forest Drive, commented Section 10(d) clearly states Commissioner procedures but no employee procedures. There's been a lot of discussion about City Commissioners not dictating to employees, yet the City Manager has given them permission. If someone wants to bring something forward, there needs to be a clear delineation to which Charter Officer. Section 136 is clear about how a hearing is to be conducted. She thinks you really need to get very detailed on those sections because the public is very concerned about transparency. Ms. Kerry suggested a whistleblowing system be considered so employees may report problems without fear of repercussions.

Based upon Ms. Kerry's comments City Attorney Bach asked that the Committee members compare Section 136 with Section 10 as they appear to contain the same information and could be combined and clarified. ***This matter will be placed on the next Charter Review Committee agenda.***

LANGUAGE CONCERNS: Ms. Sandra Kerry, 1255 Forest Drive, commented the language in Code of Ordinances Section 2-86 appears to conflict with Charter Section 10. After additional discussion it was determined the best forward course is for Ms. Kerry to email City Attorney Bach with her concerns.

Section 14: Member Lasserre expressed concern with the qualification language regarding being convicted of a crime. He thought it appropriate to include language that specified misdemeanors related to dishonesty, theft, or a felony, as cause for removal.

Member Davis stated Section 11 and Section 14 cover similar topics and wondered if it would make sense to combine their language to make things read better. **A motion was made by Member Bean, seconded by Vice Chairperson Clark, to direct City Attorney Bach to modernize the language in Section 14, which will include “canvassing board”, insert language related to felony charges being grounds for forfeiture and make pronoun changes. The motion passed unanimously.**

Section 16: Vice Chairperson Clark commented an advantage exists under the Commission/Manager form of government which this Committee supports keeping. A Mayor elected at large can exert more political leadership. When you have a Commission/Manager government, the manager really operates the City on a day-to-day basis but doesn't make political decisions. When a Mayor is elected at large, there is a presumption that he/she is really the administrative head of the City and runs it, when it creates a conflict between the elected Mayor and the City Manager.

Member Davis respectfully disagreed with Vice Chairperson Clark and noted every single one of the peer city charters has an elected Mayor and Commission/Manager governments. Member Davis thinks residents want the person publicly representing them as the head of the City, to be someone they selected. Discussion ensued related to the process of selecting the Mayor.

Commissioner Mike Lednovich, 1586 Canopy Drive, stated he will run for Mayor in 2020. It is his understanding that at some point he must let the City Clerk know he would like his name placed on the ballot for Mayor. City Attorney Bach stated in accordance with Code of Ordinances Section 34-9 the person who receives the most votes gets primary consideration for Mayor and the person who receives the second most votes gets primary consideration for Vice Mayor. If no eligible Commissioner wants to have his/her name placed on the ballot for Mayor, the City Commission, at their Organizational meeting, will choose among themselves who will serve as Mayor and Vice Mayor. **A motion was made by Member Bean, seconded by Vice Chairperson Clark, to direct City Attorney Bach to make changes to Mayor credentials, how the Mayor is selected, strengthen Vice Mayor selection language, incorporate provisions of 34-9 into the Charter, change the word “straw” to something more binding, draft language to enlarge the candidates pool for those who may run for Mayor and add a provision stating the Vice Mayor will serve in the absence of the Mayor. The motion passed unanimously.**

Section 17: Vice Chairperson Clark observed the Charter goes to great lengths to define what the powers and duties of the Charter Officers and the Mayor are, but then in the middle of Section 17, the Charter says “other such duties as may be conferred upon the Mayor by official action of the City Commission”. Vice Chairperson Clark noted a similar phrase appears in Section 47(m); City Clerk “any other duties as required by the City Commission” which he does not care for as it is open to subjectivity.

Member Kosack asked if this is where we should enumerate emergency duties or any Mayoral exclusive duties. Chairperson Filkoff asked City Attorney Bach where it is stated that the Mayor is the only person legally able to declare a state of emergency. City Attorney Bach responded it can be signed by the Mayor; we have declared states of emergency before and we come back at the next Regular Meeting after the emergency and then we formalize the Resolution as an Ordinance. Member Lasserre thinks it's not a bad idea to have the Mayor have the ability to exercise certain duties and responsibilities. **A motion was made by Vice Chairperson Clark, seconded by Member Kosack, to direct the City Attorney to remove Section 47(m), insert bullet points for Mayor's functions and powers. The motion passed unanimously.**

Section 25: Although not related to Section 25, Vice Chairperson Clark requested the following sentence be added to Section 10: "The Commission is required to conduct annual performance reviews for the City Attorney, City Clerk, and City Manager before December 31st of each year." Also unrelated to Section 25: Chairwoman Filkoff asked whether Charter Officer performance evaluations should be required to be in writing. Following additional discussion, **a motion was made by Vice Chairperson Clark, seconded by Member Bean, to direct the City Attorney to draft language for Section 10 requiring City Commissioners perform Charter Officer performance appraisals each year and same will be made available to the public. The motion passed unanimously.**

Section 25: Member Kosack recommended language be added as to how Charter Officers are selected and enumerate grounds for their removal. Chairperson Filkoff stated City Managers have a professional organization, the International City/County Management Association (ICMA), which has standards, just as the City Attorney has the Florida Bar Association. Chairperson Filkoff wondered if being an ICMA member should be a City Manager requirement. Vice Chairperson Clark commented Commissions are capable of exercising due diligence when considering hiring a City Manager. There should be a requirement that the person must have some experience in managing a large governmental organization. Member Davis mentioned the City Attorney should be a member, in good standing, of the Florida Bar Association. Additional discussion ensued related to previous Commissions' unfavorable City Manager hiring practices. **A motion was made by Member Bean, seconded by Member Davis, to direct the City Attorney to make draft changes to Section 25; City Manager qualifications: professional organization requirements, experience managing a large governmental organization and more than one City Manager candidate for hire must be considered. The motion passed unanimously.**

Section 29: Member Kosack asked that Section 29 be made gender neutral. Member Davis noted Section 29(h) language should be removed. Vice Chairperson Clark requested adding "five-year Capital Improvement Plan" language to Section 29(g). Member Davis noted Section 71 contains budget requirements as well. City Attorney Bach stated she will add Capital Improvement Plan language to both sections. **A motion was made by Member Bean, seconded by Member Morrison, to direct the City Attorney to make draft changes as discussed.**

Section 31: City Attorney Bach recommended no changes be made to Section 31. ***It was the consensus of the Charter Review Committee to make formatting changes consistent with the rest of the Charter and insert gender neutral pronouns.***

Section 33: Member Lasserre observed attorneys should be admitted to all courts in the State of Florida. City Attorney Bach asked if they were thinking about making it mandatory to have the attorneys be able to practice in the federal courts of the middle district of Florida. Member Lasserre responded the City may be sued in federal court, so they should be able to appear. City Attorney Bach told the members, she will put in there that you either have to be certified to practice in those courts or you need to get that certification within six months. Member Lasserre added that Board Certification should be added as "preferred". **A motion was made by Member Bean, seconded by Member Lasserre, to direct the City Attorney to make draft changes to Section 33 as discussed. The motion passed unanimously.**

Section 46 and 47: Vice Chairperson Clark said if you're going to look at ICMA language for the City Manager, there is a similar organization for City Clerks. City Attorney Bach confirmed it is called the Certified Municipal Clerk. City Attorney Bach stated she would add professional organization requirements to the City Clerk's administrative qualifications. Member Davis questioned whether Section 47(j) should be a responsibility of the City Manager and requested language be added to Section 47(e) regarding the Clerk maintaining an official boundary map.

PUBLIC OUTREACH: Charter Review Committee members discussed public outreach. ***The consensus of the Committee was to direct City Attorney Bach to contact ADC Compliance Officer Mary Hamburg who will disseminate future Charter Review Committee meeting dates and times.***

5.2 CITIZEN EMAILS. CONSISTENT APPROACH IN RESPONSE TO THE PUBLIC'S EMAILS: ***The consensus of the Committee was to direct the Legal Department to reply to citizen emails with a formal thank you, a schedule of upcoming meeting date/times and links to the City's website.***

CITY ATTORNEY COMMENTS: City Attorney Bach asked whether additional Sections may be reviewed for wordsmithing: Section 11, 12, 13, and 136. ***The consensus of the Committee was to direct the City Attorney to make changes as discussed and present them at the next Charter Review Committee meeting.***

6. PUBLIC COMMENT: Chairwoman Filkoff invited public comment earlier in the meeting; Ms. Sandra Kerry and Commissioner Mike Lednovich spoke.
7. NEXT CHARTER REVIEW COMMITTEE MEETING DATE: February 10, 2020
8. ADJOURNMENT: There being no further business to come before the Charter Review Committee, the meeting was adjourned at 6:50 pm.

Recording Secretary
Katie Newton

Chairperson
Arlene Filkoff

Charter Review, City Staff Input

The Charter Review Committee is currently working to revise the language of our city's Charter. As employees working with the city, we'd like to ask for your feedback as to what the city does right, and what it can do better.

We want to know specifically about how the workplace is structured.

Submissions will be kept anonymous.

* Required

How long have you been working with the city? *

- ☐ Less than 2 years
- ☐ 2-5 years
- ☐ 5-12 years
- ☐ 13 or more years

Does the Charter affect your job daily?

- ☐ Yes
- ☐ No
- ☐ Maybe

Do you feel the Charter works the way it is intended? *

- ☐ Yes
- ☐ No
- ☐ Not sure

What do you feel that the Charter does correctly? (What do you like about how the city operates)

Your answer

How can the charter be improved?

Your answer

Anything else you would like to let the CRC know?

Your answer

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PROPOSED PREAMBLE TO SURVEY AND SURVEY QUESTIONS
FROM SURVEY SUBCOMMITTEE MEETING FEBRUARY 19, 2020

PREAMBLE:

Every 10 years or so, the Fernandina Beach City Commission reviews the City Charter. A “city charter” is a document that defines our City’s governing system. The City Charter describes the roles and responsibilities of our elected City Commissioners and their interactions with City staff. In an effort to determine whether any changes are needed in the City Charter, we need your help. Please answer the following questions knowing that your response will remain anonymous.

The following questions are proposed for the survey:

1. Has a City Commissioner ever contacted you regarding your job duties or position with the City?

2. If YES, when the City Commissioner contacted you, did that Commissioner direct you to take any action?

DRAFT CHANGES FOR FEBRUARY 25, 2020 CRC MEETING

Sec. 10A. - Referendum required for sale of city-owned recreational facilities and land.

- (1) A referendum election ~~shall be~~ is required prior to the sale, lease for a period of more than 40 years, or other transfer of City owned swimming pools, golf course or courses, any and all recreational facilities, or lands which are designated for recreational use in the City's comprehensive plan or any portion thereof, and all buildings, improvements and appurtenances pertaining thereto, whether presently built or hereafter built. The City Commission ~~shall~~ must pass an ordinance by a majority vote to place the matter on the ballot for the voters to decide. The decision of the voters ~~shall be~~ is binding. If approved by the voters, the City Commission ~~shall have~~ has the authority to issue a deed for the property, or to issue such other documents as may be necessary to complete the transaction.
- (2) "Recreational facilities" as used in this section is hereby defined as any real property, including improvements thereon, owned by the City of Fernandina Beach and used or intended for use by the general public primarily for parks, playgrounds, amusements, resorts, pleasure, nature preserves; botanic, zoological or marine conservatories; sporting events, pleasure boating, swimming, fishing or any other recreational activity. Such recreational facilities ~~shall~~ must be designated by a resolution of the City Commission and which resolution ~~shall be~~ is updated from time to time.
- (3) A referendum election is required prior to leasing for a period of more than 40 years or sale, or other transfer of City- owned conservation land which includes land burdened by a conservation easement and/or land that is in a conservation zoning district or has a future land use map designation of conservation. The City Commission must pass an ordinance by super-majority vote to place the matter on the ballot for voters to decide. The decision of the voters is binding on the City Commission. If approved by the voters, the City Commission has the authority to issue a deed for the property, or to issue such other documents as may be necessary to complete the transaction.
- (4) "Conservation Lands" as used in this section is hereby defined as areas owned by the City of Fernandina Beach and designated Conservation in the City's Future Land Use Map series.

(Ord. No. [2016-11](#), § 4, 7-5-16)

Editor's note— Ord. No. [2016-11](#), [§ 4](#), adopted July 5, 2016, election of Nov. 8, 2016, amended [§ 10A](#), in effect repealing and reenacting said section as set out herein. Former [§ 10A](#) pertained to additional powers; conveyance of swimming pools, golf courses, other recreational facilities and derived from Laws of Fla., ch. 59-1278, [§ 4](#); Ord. No. 668, [§ 1](#), adopted Aug. 7, 1984; Ord. No. 793, [§ 1](#), adopted Apr. 5, 1988; and Ord. No. 91-17, [§ 1](#), adopted Sept. 17, 1991.

Sec. 11. - Qualifications of members; holding of more than one office not permitted; interest in profits of city contracts, etc., prohibited; conviction of felony.

(a) The commission is the judge of the election and qualification of its own members, subject to review by the courts. Members of the City Commission ~~shall~~ must be residents of the City and have the qualifications of electors. ~~therein.~~ Officers and employees of the City may not hold more than one office in the City government of the City of Fernandina Beach, and ~~shall~~ must not be interested in the profits or emoluments of any contract work or service for the municipality, and any such contract in which any member is, or may become, interested ~~shall~~ must be declared void by the City Commission.

(b) Any member of the City Commission ceasing to possess the foregoing qualifications or who has been convicted of a felony must forfeit their seat prior to the next meeting of the City Commission. In addition, any member of the City Commission who misses three (3) regular meetings in a calendar year must forfeit their seat prior to the next meeting of the City Commission.

(Laws of Fla., ch. 8949(1921), § 11; Ord. No. 91-17, § 1, 9-17-91)

Const. law reference— Dual office holding prohibited, Fla. Const. [art. 11, § 5\(a\)](#).

State Law reference— Code of ethics, F.S. § 112.311 et seq.

~~Sec. 14. — Judge of election and qualifications of members.~~

~~The commission shall be the judge of the election and qualification of its own members, subject to review by the courts. Any member of the Commission who shall be convicted of [a] crime while in office shall thereby forfeit his office.~~

~~(Laws of Fla., ch. 8949(1921), § 14; Ord. No. 91-17, § 1, 9-17-91)~~

Sec. 16. - Mayor—When selected; procedure; term.

~~(a) In case the members of the Commission are unable to agree on the selection of Mayor, at the time fixed in the Code of Ordinances for the Commission's annual organization meeting, then the Mayor shall be chosen by lot, conducted by the City attorney, who shall certify the result of such lot upon the journal of the Commission.~~

(a) The Mayor of the City will be elected by the voters by placement on the ballot as authorized in subsection (b) below and by receiving the highest number of votes for Mayor with such election to be held in conjunction with the regular election held for the purpose of electing City Commissioners.

(b) Candidates for the mayoral election must consist of incumbent Commissioners who are not subject to reelection to the City Commission. Any eligible candidate wishing to be considered for the position of Mayor must request in writing, no later than the City Commission's deadline for qualifying for running for City Commission in the City general election, to be placed on the ballot.

(c) The mayoral candidate on the ballot with the second highest number of votes in the mayoral election must be appointed to the Vice-Mayor position.

(d) On the occasion that only one incumbent City Commissioner should choose to be on the mayoral ballot, there is no need for the mayoral election, and the one mayoral candidate must be appointed to the position of Mayor at the City Commission's annual organizational meeting. The City Commission may choose any City Commissioner not appointed as the Mayor to be the Vice-Mayor, including newly-elected Commissioners. If no incumbent City Commissioner chooses to be on the mayoral ballot, the City Commission must vote to appoint one of the Commissioners to serve as Mayor and one Commissioner to serve as Vice-Mayor, newly-elected Commissioners may be considered if no incumbent Commissioner chooses to be on the mayoral ballot.

~~(b) (e) The Mayor and Vice Mayor shall each serve a term of two (2) years to coincide with the municipal general election beginning in 2018. unless sooner removed from office by the City Commission as provided below in subsection (c).~~

~~(c)~~

~~The City Commission may, by super majority (4/5) vote and for any reason including but not limited to Florida Sunshine Law violations, remove the Mayor from office and appoint another incumbent Commissioner the Vice-Mayor to serve as Mayor for the remainder of the two (2) year term. The person removed from the office of Mayor shall may continue to serve as Commissioner until the end of their current term as City Commissioner unless otherwise prohibited from serving as City Commissioner by state law.~~

~~(Laws of Fla., ch. 8949(1921), § 16; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2015-13](#), § 3, 8-4-15)~~

(f) On the occasion that all only one eligible candidates ~~but one~~ should ~~withdraw from the straw~~ choose to be on the mayoral ballot, election, there shall ~~will be no straw ballot mayoral election~~ and the one ~~remaining~~ candidate shall ~~must be considered the primary candidate for~~ appointed to the position of Mayor at the organizational meeting. The City Commission may choose any City Commissioner not appointed as the Mayor to be the Vice-Mayor.

(g) The appointees shall ~~will~~ serve as Mayor and Vice Mayor until the organizational meeting following the next regular general election held by the City.

Sec. 17. - ~~Same~~—Functions and powers of the Mayor.

The powers and duties of the Mayor shall ~~be as are~~ set forth in this Charter: ~~and below: and such other duties as may be conferred upon the Mayor by official action of the City Commission.~~

- (a) The Mayor shall ~~have~~ has a voice and a vote in the proceedings of the Commission but no veto power;
- (b) The Mayor shall does not exercise any administrative power, unless specifically set forth in this Charter;
- (c) The Mayor shall ~~presides~~ at all meetings of the Commission and ~~performs~~ such other duties consistent with the office, and may use the title of Mayor in the execution of legal instruments or when required by the general or special laws of the state; and
- (d) The Mayor shall ~~be recognized as~~ is the official head of the City ~~by the courts~~ for the purpose of serving civil processes and for all ceremonial purposes.

(Laws of Fla., ch. 8949(1921), § 17; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 7, 7-5-16)

Editor's note— Ord. No. [2016-11](#), [§ 7](#), adopted July 5, 2016, election of Nov. 8, 2016, amended [§ 17](#) and in so doing changed the title of said section from "Same—Functions and powers" to "Functions and powers of the Mayor," as set out herein.

CITY MANAGER

Sec. 25. - Appointment; tenure of office; qualifications; manager pro tem.

The City Commission shall must appoint a City Manager who shall ~~be~~ is the administrative head of the municipal government under the direction and supervision of the City Commission and shall ~~holds~~ office at the pleasure of the City Commission. The City Manager shall must be chosen solely on the basis of executive and administrative qualifications without regard to political belief, and need not be a resident of the City or state at the time of appointment; however, not later than 30 days after executing the Oath of Office, the City Manager shall must become a resident of the City. The City Commission may will establish an appropriate contract for the City Manager, which shall ~~contains~~ the employment conditions, compensation, benefits and such other terms as may be appropriate. The City Manager may also be deemed to be a regular employee of the City, and the employment conditions, compensation, benefits and other terms may be set by the City Commission through ordinance, resolution or policy. During For the purpose of serving during the absence or disability of the City Manager, a City Manager pro tem must be periodically proposed for approval by the City Commission. ~~the City Commission shall designate some properly qualified person to temporarily execute the function of the City Manager.~~

(Laws of Fla., ch. 8949(1921), § 25; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 98-4, § 1, 2-17-98; Ord. No. 2005-40, § 3, 1-17-06)

Sec. 26. - Reserved.

Editor's note— Ord. No. 2016-11 , § 10, adopted July 5, 2016, election of Nov. 8, 2016, repealed § 26, which pertained to Compensation fixed by City Commission and derived from Laws of Fla., ch. 8949(1921), § 26; Laws of Fla., ch. 15203(1931), § 1; Laws of Fla., ch. 24511(1947), § 1; Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 27. - Reserved.

Editor's note— Ord. No. 2016-11 , § 11, adopted July 5, 2016, election of Nov. 8, 2016, repealed § 27, which pertained to bonds and derived from Laws of Fla., ch. 8949(1921), § 27 and Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 28. - Reserved.

Editor's note— Ord. No. 2016-11 , § 11, adopted July 5, 2016, election of Nov. 8, 2016, repealed § 28, which pertained to suspension; removal; hearing required and derived from Laws of Fla., ch. 8949(1921), § 28 and Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 29. - Powers and duties enumerated.

The City Manager ~~shall be~~ is responsible to the City Commission for the proper administration of all affairs of the City, and to that end his/her powers are ~~and they shall be~~:

(a) To see that the laws and ordinances are enforced.

(b) Except as hereinafter specifically provided, to appoint and remove all subordinate officers and employees of the City; all appointments to be made upon merit and fitness alone.

(c) To exercise control and direct supervision over all departments and divisions of the municipal government under this Charter, or which may hereafter be created by the City Commission, including public utilities owned by said City.

(d) To see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the City attorney, whose duty it is hereby made to take such legal steps as may be necessary to enforce the same.

(e) To attend all meetings of the City Commission, and of its committees, with right to take part in the discussions, but without having a vote.

(f) To recommend to the Commission for adoption such measures as he/she may deem necessary or expedient in the interests of the City.

(g) To keep the City Commission fully advised as to the financial condition and needs of the City and to submit for its consideration an annual budget.

(h) To perform such other duties as may be prescribed under this Charter or as may be required of him/her by ordinance or resolution of the City Commission.

(i) He/she ~~shall be~~ is purchasing agent for the City, by whom all purchases of supplies ~~shall be~~ are made and he/she ~~shall~~ approves all vouchers for the payment of same. In the capacity of purchasing agent h/shee ~~shall also~~ conduct all sales of personal property which the Commission may authorize to be sold as having become unnecessary or unfit for the City's use. All purchases and sales ~~shall~~ must conform to such regulations as the City Commission may from time to time prescribe.

(j) He/she must periodically designate a City Manager pro tem to be approved by the City Commission to serve in case of absence or disability of the City Manager.

(Laws of Fla., ch. 8949(1921), § 29; Ord. No. 91-17, § 1, 9-17-91)

CITY ATTORNEY

Sec. 31. - City Attorney appointment and duties.

a) Appointment; tenure of office; qualifications; and attorney pro tem. The City Commission ~~shall~~must appoint a City attorney, who ~~shall~~ acts as the legal advisor to and attorney and counselor for the municipality and all of its officers in matters relating to their official duties. The City Attorney ~~shall~~serves under the direction and supervision of the City Commission and ~~shall~~ holds office at the pleasure of the City Commission. The City Attorney ~~shall~~ must be chosen on the basis of legal and administrative qualifications. The City Commission ~~shall~~must establish an appropriate contract for the City Attorney, which ~~shall~~ contains the employment conditions, compensation, benefits and such other terms as may be appropriate. During the absence or disability of the City Attorney, the City Commission ~~shall~~must designate a properly qualified person to temporarily execute the functions of the office.

b) Powers and duties enumerated. The City Attorney ~~shall~~be is responsible to the City Commission for the proper administration of all affairs of the City assigned to the office of the City Attorney and to that end, the City Attorney's duties and powers ~~shall~~be are the following:

1) Prepare all contracts, bonds and other instruments in writing in which the municipality is concerned, and ~~shall~~ endorses on each the City Attorney's approval;

2) The City Attorney ~~shall~~be is authorized to take such action required to avoid default judgment against the City in any litigation and ~~shall~~ must obtain authorization by resolution to prosecute and defend all causes of action, lawsuits and claims in which the City is a party. The City Attorney ~~shall~~ must review with the City Commission at the next regular meeting when any action to avoid default has been taken by the City Attorney;

3) The City Attorney ~~shall~~provides opinions of law relating to the activities of the City, the City Commission, the City Manager and City Clerk, upon request; and the direct employees of the City Attorney in the office of the City Attorney ~~shall~~ report to the City Attorney. The City Attorney ~~shall~~have has the authority to hire, direct, promote and terminate the employees in the City Attorney's Office, notwithstanding Section 29(b) herein.

(Laws of Fla., ch. 8949(1921), § 31; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 2008-04, § 2, 3-4-08)

Sec. 32. - Additional duties, attorney pro tem.

In addition to the duties specifically imposed under the preceding section, he/she [the City attorney] ~~shall~~ performs such other professional duties as may be required of him/her by ordinance or resolution of the City Commission or as are prescribed for City attorneys under the general law of the state which are not inconsistent with this Charter and with any ordinance or resolution which may be passed by the City Commission. For the purpose of serving during the absence or disability of the City Attorney, a City Attorney pro tem must be periodically proposed for approval by the City Commission.

(Laws of Fla., ch. 8949(1921), § 32; Ord. No. 91-17, § 1, 9-17-91)

Sec. 33. - Qualifications.

The City Attorney ~~shall~~ must be a lawyer admitted to and having authority to practice in all courts of the state, including circuit and district appellate courts of Florida. The City Attorney must also be admitted to practice in the federal Middle District of Florida court and the 11th Circuit Appeals court.

(Laws of Fla., ch. 8949(1921), § 33; Laws of Fla., ch. 15203(1931), § 2; Ord. No. 91-17, § 1, 9-17-91)

CITY CLERK

Sec. 46. - Appointment; ~~tenure of office~~; qualifications; and clerk pro tem.

The City Commission ~~shall~~ must appoint a City Clerk, who ~~shall~~ serves under the direction and supervision of the City Commission and ~~shall~~ holds office at the pleasure of the City Commission. The City Clerk ~~shall~~ must be chosen on the basis of administrative qualifications. The City Commission ~~shall~~ must establish an appropriate contract for the City Clerk, which ~~shall~~ contains the employment conditions, compensation, benefits and such other terms as may be appropriate. During the absence or disability of the City Clerk, the City Commission ~~shall~~ must designate a properly qualified person to temporarily execute the functions of the office.

(Laws of Fla., ch. 8949(1921), § 57; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 98-5, § 1, 2-17-98; Ord. No. 2008-04, § 3, 3-4-08)

Sec. 47. – City Clerk powers and duties enumerated.

The City Clerk ~~shall be~~ is responsible to the City Commission for proper administration of all affairs of the City assigned to the office of the City Clerk and to that end, the City Clerk's duties and powers ~~shall be~~ are the following:

- a) Attend all meetings of the City Commission and keep a journal of its proceedings, the correctness of which proceedings as entered in such journal ~~shall~~ must be certified to after each meeting by the signature of the City Clerk and by the signature of the presiding officer of the City Commission. Additionally, a journal ~~shall~~ must be maintained of the proceedings of all boards and committees required by the City Commission;
- b) The City Clerk ~~shall be~~ is the custodian of the seal of the City;
- c) Conduct municipal elections exercising authority not reserved to county constitutional officers; however all such authority and responsibility to conduct municipal elections, either special or general municipal elections, may be contracted out to the Nassau County Supervisor of Elections, as determined by the City Commission from time to time;
- d) Countersign all checks and review outgoing checks to determine compliance with the City's established Purchasing Policy and Procedures;
- e) Serve as legal custodian of all City records including but not limited to, all contracts, deeds, abstracts, title insurance policies and other official documents; ~~and perform such other duties as may be required by ordinance or resolution of the City Commission, as well as such as may be required by City Clerks by the general law of the state, applicable to municipalities and not inconsistent with this charter or with any ordinance or resolution passed by the City Commission;~~
- f) Authenticate all ordinances, resolutions and transcripts of legislative functions;
- g) Publish all public notices required by the City Commission or by law;
- h) Prepare all awards, proclamations, certificates and other formal Documentation by the City Commission;
- i) Notify the City Commission of all vacancies on boards or committees established by the City Commission;
- j) File all liens, satisfactions and releases as authorized by the City Manager;
- k) Serve as notary public on behalf of the City and attest all City documents as required;
- l) The direct employees of the City Clerk in the office of the City Clerk ~~shall~~ report to the City Clerk. The City Clerk ~~shall have~~ has the authority to hire, direct, promote and terminate the employees in the City Clerk's office, notwithstanding Section 29(b) herein; and
- m) ~~Any other duties as required by the City Commission.~~ Maintains City records of annexations and the official City boundaries, as they may be amended from time to time.
- (n) For the purpose of serving during the absence or disability of the City Clerk, a City Clerk pro tem must be periodically proposed for approval by the City Commission.

(Ord. No. 91-17, § 1, 9-17-91; Ord. No. 98-6, § 1, 2-17-98; Ord. No. 2008-04, § 4, 3-4-08; Ord. No. 2010-23, § 2, 8-17-10)

Sec. 136. - Administrative investigations.

The City Commission ~~shall~~ must authorize investigations by resolution. The City Commission, Charter Officers and members of City Commission appointed boards, ~~shall~~ have the power at any time to cause the affairs of any department or the conduct of any officer or employee to be investigated; and for such purpose ~~shall have~~ has the power to compel the attendance of witnesses and the production of books, papers, and other evidence; and for that purpose may issue subpoenas or attachments which ~~shall~~ must be signed by the Mayor or the City Manager and ~~shall~~ must be served by any officer authorized by law to serve such process. The authority making such investigation ~~shall have~~ has the power to cause the testimony to be given under oath, such oath to be administered by some officer having authority under the law of the state to administer oaths; and ~~shall also have~~ has power to punish as for contempt any person refusing to testify to any fact within his knowledge, or produce any book or papers under his control relating to the matter under investigation. Nothing in this section should be construed to limit the charter officers' ability to inquire into matters under their respective areas of responsibility.

- **ARTICLE VIII. - INITIATIVE; REFERENDUM; RECALL**

- **Section 8.01. - Initiative.**

The qualified voters of the city shall have power to propose ordinances to the council provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, setting of utility rate structures, levy of taxes or salaries of city officers or employees. If the council fails to adopt the proposed ordinance or an agreeable modification thereof, the voters shall have power to adopt or reject it at a city election.

- **Section 8.02. - Referendum.**

The qualified voters of the city shall have the power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to the appropriation of money, setting of utility rate structures, levy of taxes or salaries of city officers or employees.

- **Section 8.03. - Recall.**

The qualified voters of the city shall have the power to remove from office elected officials of the city in accordance with General Law.

State Law reference— Recall of municipal officials, F.S. § 100.361.

- **Section 8.04. - Initiative and referendum proceedings.**

Any five (5) qualified voters may commence initiative or referendum proceedings by filing an affidavit with the city clerk, stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed ordinance to be voted upon. Promptly after the affidavit of the petitioners' committee is filed, the clerk may, at the committee's request, issue the appropriate petition blanks to the petitioners' committee.

(a)

Petitions.

(1)

Number of signatures. Initiative or referendum petitions must be signed by qualified voters of the city equal in number to at least twenty (20) per cent of the total number of qualified voters registered to vote at the last regular city election.

(2)

Form and content . All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil

and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation, the full text of the ordinance proposed or sought to be reconsidered.

(3)

Affidavit of circulation . Each paper of a petition shall have attached to it when filed, an affidavit executed by the circulation thereof stating that he/she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his/her presence, that he believes them to be the signatures of the persons whose names they purport to be and that each signer had an opportunity to read the full text of the ordinance proposed or sought to be reconsidered.

(4)

Time for filing referendum petitions . Referendum petitions must be filed within sixty (60) days after adoption by the council of the ordinance sought to be reconsidered.

(b)

Procedure after filing.

(1)

Certificate of clerk; amendment . Within twenty (20) days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. The only grounds for insufficiency are failure to comply with subsection (a) [of this section]. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk or other official designated by the council within two (2) days after receiving the copy of his certificate and files a supplementary petition with additional signatures within twenty (20) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (2) and (3) of subsection (a) and within five (5) days after it is filed the clerk or other official designated by the council shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review within the time required, the clerk or other official designated by the council shall promptly present his certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition. The city clerk shall be paid by the petitioners' committee the amount set by the county supervisor of elections for verification of the names on the petition.

(2)

Council review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it, or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition.

(Ord. No. 2004-06, § 1, 6-1-04/11-2-04)

- **Section 8.05. - Referendum petition; suspension of effect of ordinance.**

When a sufficient petition is filed with the city clerk or other official designated by the council, the ordinance sought to be reconsidered shall be temporarily suspended from enforcement. Such suspension shall terminate when:

(a)

There is a final determination of insufficiency of the petition.

(b)

The petitioners' committee withdraws the petition.

(c)

The council repeals the ordinance.

(d)

After a vote of the electorate on the ordinance has been certified.

- **Section 8.06. - Action of petition.**

(a)

Action by council . When an initiative or referendum petition has been finally determined sufficient, the council shall promptly reconsider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was determined sufficient it shall submit the proposed or referred ordinance to the voters of the city.

(b)

Submission to voters. The election of a proposed or referred ordinance shall be held not less than ninety (90) days and not later than one hundred twenty (120) days from the date that the petition was determined sufficient. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

(c)

Withdrawal of petitions . An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the city by filing with the city clerk or other official designated by the council a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon filing of such request, the petition shall have no further force or effect and all proceeding thereon shall be terminated.

(Ord. No. 2004-07, § 1, 6-1-04/11-2-04)

- **Section 8.07. - Results of election.**

(a)

Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(b)

Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

PROPOSED NEW LANGUAGE

Section ?? - Initiative.

The qualified voters of the City have the power to propose ordinances or to amend existing ordinances to the City Commission provided that such power does not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees. If the City Commission fails to adopt the proposed ordinance or an agreeable modification thereof, the voters have the power to adopt or reject it at a city election.

Section ?? - Referendum.

The qualified voters of the City have the power to require reconsideration by the City Commission of any adopted ordinance and, if the City Commission fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, provided that such power does not extend to the budget or capital program or any emergency ordinance or ordinance relating to the appropriation of money, levy of taxes or salaries of city officers or employees.

Section ?? - Initiative and referendum proceedings.

Any five (5) qualified voters may commence initiative or referendum proceedings by filing an affidavit with the city clerk, stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed ordinance to be voted upon. Promptly after the affidavit of the petitioners' committee is filed, the clerk may, at the committee's request, issue the appropriate petition blanks to the petitioners' committee.

(a) *Petitions.*

- (1) *Number of signatures.* Initiative or referendum petitions must be signed by qualified voters of the city equal in number to at least ten (10) percent of the total number of qualified voters registered to vote at the last regular city election.
- (2) *Form and content.* All papers of a petition must be uniform in size and style and assembled as one instrument for filing. Each signature must be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions must contain or have attached thereto throughout their circulation, the full text of the ordinance proposed or sought to be reconsidered.
- (3) *Affidavit of circulation.* When filed, each paper of a petition must include have an attached affidavit executed by the circulation thereof stating that he/she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his/her presence, that he believes them to be the signatures of the persons whose names they purport to be and that each signer had an opportunity to read the full text of the ordinance proposed or sought to be reconsidered.
- (4) *Time for filing referendum petitions.* Referendum petitions must be filed within sixty (60) days after adoption by the council of the ordinance sought to be reconsidered.

(b) *Procedure after filing.*

- (1) *Certificate of clerk; amendment.* Within twenty (20) days after the petition is filed, the city clerk will complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and promptly send a copy of the certificate to the petitioners' committee by registered mail. The only grounds for insufficiency are failure to comply with subsection (a) [of this section]. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files

a notice of intention to amend it with the clerk or other official designated by the City Commission within two (2) days after receiving the copy of his certificate and files a supplementary petition with additional signatures within twenty (20) days after receiving the copy of such certificate. Such supplementary petition must comply with the requirements of subsections (2) and (3) of subsection (a) and within five (5) days after it is filed the clerk or other official designated by the City Commission will complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request City Commission review within the time required, the clerk or other official designated by the City Commission will promptly present his certificate to the City Commission and the certificate will then be a final determination as to the sufficiency of the petition. The city clerk will be paid by the petitioners' committee the amount set by the county supervisor of elections for verification of the names on the petition.

- (2) *Commission review.* If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it, or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the City Commission. The City Commission will review the certificate at its next available meeting following the filing of such request and approve or disapprove it, and the City Commission's determination is the final determination as to the sufficiency of the petition.

Section ?? - Referendum petition; suspension of effect of ordinance.

When a sufficient petition is filed with the city clerk or other official designated by the City Commission, the ordinance sought to be reconsidered will be temporarily suspended from enforcement. Such suspension will terminate when:

- (a) There is a final determination of insufficiency of the petition.
- (b) The petitioners' committee withdraws the petition.
- (c) The City Commission repeals the ordinance.
- (d) After a vote of the electorate on the ordinance has been certified.

Section ?? - Action of petition.

- (a) *Action by commission.* When an initiative or referendum petition has been finally determined sufficient, the City Commission will promptly reconsider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal. If the City Commission fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was determined sufficient it will submit the proposed or referred ordinance to the voters of the city.
- (b) *Submission to voters.* The election of a proposed or referred ordinance will be held not less than ninety (90) days and not later than one hundred twenty (120) days from the date that the petition was determined sufficient. If no regular city election is to be held within the period prescribed in this subsection, the City Commission will provide for a special election; otherwise, the vote will be held at the same time as such regular election, except at an earlier date within the prescribed period. Copies of the proposed or referred ordinance will be made available at the polls.
- (c) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the city by filing with the city clerk or other official designated by the City Commission a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon filing of such request, the petition shall have no further force or effect and all proceeding thereon shall be terminated.

Section ?? - Results of election.

- (a) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it is considered adopted upon certification of the election results and will be treated in all respects in the manner as ordinances of the same kind adopted by the City Commission. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- (b) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, it is considered repealed upon certification of the election results.

Sec. 12. - Salary of members.

The Mayor and City Commissioners ~~shall~~ receive a salary in the amount as established by appropriate City ordinance.

(Laws of Fla., ch. 8949(1921), § 12; Laws of Fla., ch. 59-1278, § 3; Ord. No. 612, § 1, 9-30-81; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 2004-09, § 2, 6-15-04; Ord. No. 2011-21, §§ 1, 2, 11-1-11, eff. 10-1-11; Ord. No. [2016-11](#), § 6, 7-5-16)

Sec. 13. - Limitation on successive terms in office.

The City Commissioners ~~shall be~~ are limited to two (2) successive terms in office. No person ~~shall~~ be is qualified for election or appointment to a vacancy upon the City Commission of the City of Fernandina Beach, Florida, unless at least three (3) years have elapsed since such person last held such office, if at that time such person completed two (2) successive and full terms.

(Ord. No. 92-7, § 2, 3-3-92/4-14-92)

Sec. 15. - Vacancies, how filled.

Any vacancy in the City Commission, including the Mayor and Vice Mayor, ~~shall~~ must be filled until the next regular municipal election by vote of the remaining members of the City Commission; provided, that if such vacancy is not filled within thirty (30) days after it ~~shall have~~ has occurred, appointment to fill the existing vacancy ~~shall~~ must be made by the Governor. Vacancies resulting from a recall election ~~shall be~~ are filled as required by state law.

(Laws of Fla., ch. 8949(1921), § 15; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 2010-05, § 2, 2-2-10)
State Law reference— Filling of vacancy after a recall election, F.S. § 100.361.

Sec. 18. - Reserved.

Editor's note— Ord. No. [2015-13](#), [§ 4](#), adopted Aug 4, 2015, repealed [§ 18](#), which pertained to meetings—regular; time, place, frequency and derived from Laws of Fla., ch. 8949(1921), [§ 18](#); Ord. No. 91-17, [§ 1](#), 9-17-91.

Sec. 19. - Reserved.

Editor's note— Ord. No. [2016-11](#), [§ 8](#), adopted July 5, 2016, election of Nov. 8, 2016, repealed [§ 19](#), which pertained to Mayor—Special, how called and derived from Laws of Fla., ch. 8949(1921), [§ 19](#) and Ord. No. 91-17, [§ 1](#), adopted Sept. 17, 1991.

Sec. 20. – Reserved. Same—Vacating seat of member for unexcused absence of specified duration.

~~Absence from four consecutive regular meetings of the Commission, shall operate to vacate the seat of a member unless such absence is excused by the commission by resolution setting forth the fact of such excuse duly entered upon the journal.~~ **See Section 11(b) above**

(Laws of Fla., ch. 8949(1921), § 20; Ord. No. 91-17, § 1, 9-17-91)

Sec. 21. - Adoption and enactment of municipal ordinances and resolutions; quorum for city commission.

(1) The adoption of ordinances and resolutions must be in compliance with Section 166.041, Florida Statutes, or such other section in Florida Statutes pertaining to the adoption of municipal ordinances or resolutions, as the same may be amended from time to time.

(2) A majority of the members of the City Commission ~~shall constitute~~ a quorum. An affirmative vote of at least three City Commissioners ~~shall be~~ is necessary to enact any ordinance or resolution; except that two-thirds of the City Commission is required to enact an emergency ordinance. An affirmative vote of a majority of a quorum present is necessary to adopt any resolution. On final passage, the vote of each member of the City Commission voting ~~shall~~ must be entered on the official record of the meeting. All ordinances or resolutions passed by the City Commission ~~shall become~~ effective ten (10) days after passage or as otherwise provided therein.

(3) Every ordinance or resolution shall, upon its final passage, be recorded in a book kept for that purpose and ~~shall~~ must be signed by the presiding officer and the City Clerk of the city commission.

(Laws of Fla., ch. 8949(1921), § 1; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 94-32, § 1, 12-6-94/4-11-95; Ord. No. 2000-01, § 1, 2-15-00/4-11-00; Ord. No. [2016-11](#), § 9, 7-5-16)

Secs. 22—24. - Reserved.

Secs. 34—38. - Reserved.

DEPARTMENT OF PUBLIC SAFETY AND WELFARE AND PUBLIC WORKS

Sec. 39. - Reserved.

Editor's note— Ord. No. 2011-19, [§ 6](#), adopted Oct. 4, 2011, election of Nov. 8, 2011, repealed [§ 39](#), which pertained to duties and responsibilities of city manager and derived from Laws of Fla., ch. 8949(1921), [§ 39](#); Ord. No. 91-17, [§ 1](#), adopted Sept. 17, 1991.

Sec. 40. - Reserved.

Editor's note— Ord. No. 2010-5, [§ 3](#), adopted February 2, 2010, amended the Code by repealing former [§ 40](#) in its entirety. Former [§ 40](#) pertained to the public health officer, and derived from the Laws of Fla., ch. 8949(1921), [§ 40](#); and Ord. No. 91-17, adopted September 17, 1991.

Sec. 41. - Police force—Composition; authority of chief.

The police force of the City of Fernandina [Beach] ~~shall consists~~ of a chief of police and as many subordinate officers, policemen/policewomen and employees as the City Commission ~~shall by resolution determines~~ by ordinance. The chief of police ~~shall have~~ has exclusive control of the stationing and transfer of all ~~patrolmen and other~~ officers and employees constituting the police force, subject to the approval of the City Manager and under such rules and regulations as the City Commission may prescribe or as may be prescribed by the ordinances of the City.

(Laws of Fla., ch. 8949(1921), § 41; Ord. No. 91-17, § 1, 9-17-91)

Sec. 42. - Reserved.

Editor's note— Ord. No. 2010-5, [§ 5](#), adopted February 2, 2010, amended the Code by repealing former [§ 42](#) in its entirety. Former [§ 42](#) pertained to extra patrolmen appointed by city manager, and derived from the Laws of Fla., ch. 8949(1921), [§ 42](#); Ord. No. 91-17, adopted September 17, 1991.

Sec. 43. - Reserved.

Editor's note— Ord. No. 2010-5, [§ 6](#), adopted February 2, 2010, amended the Code by repealing former [§ 43](#) in its entirety. Former [§ 43](#) pertained to the chief attending commission meetings and execution of commands, and derived from the Laws of Fla., ch. 8949(1921), [§ 42](#); Ord. No. 91-17, adopted September 17, 1991.

Sec. 44. - Fire force; composition; authority of chief.

The fire force of the City ~~shall consists~~ of a chief, who ~~shall be~~ is fire warden, and as many subordinate officers, firefighter/rescue personnel and employees as the City Commission, ~~shall, by ordinance, determines~~. The fire chief ~~shall have~~ has exclusive control of the stationing and transfer of all firefighter/rescue personnel and other officers and employees of the fire force subject to such rules and regulations as may be prescribed by the City Manager or by ordinance of the City; he/she ~~shall have~~ has exclusive management and control of such officers and employees as may be employed in the administration of the affairs of his/her force. In case of riot, conflagration or like emergency, the City Manager may appoint additional firefighter/rescue personnel for temporary service.

(Laws of Fla., ch. 8949(1921), § 44; Ord. No. 91-17, § 1, 9-17-91)

Sec. 45. - Public utilities.

The City of Fernandina Beach ~~shall have~~ has the power to own and operate all utilities, both within its boundaries, and outside its boundaries, in order to serve the public health, safety and

welfare. The City ~~shall have~~ has the power to do all things necessary for the operation of the utilities, and the protection of the public health and safety and welfare.

(Laws of Fla., ch. 8949(1921), § 45; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 12, 7-5-16)

Editor's note— Ord. No. [2016-11](#), [§ 12](#), adopted July 5, 2016, election of Nov. 8, 2016, amended [§ 45](#) and in so doing changed the title of said section from "City owned utilities, public works and welfare under management and control of city manager" to "Public utilities," as set out herein.