

MEMORANDUM

TO: Honorable Mayor and City Council Members

FROM: Debbie Renner, City Clerk and William E. Reischmann, City Attorney

DATE: October 14, 2008

SUBJECT: Ordinance No. 360

PURPOSE

To adopt Ordinance No. 360 which provides for a mail-in ballot election on proposed amendments to the City Charter.

BACKGROUND

Ordinance No. 360 was previously presented to you for discussion on August 26, 2008. Consistent with your direction at that meeting, the City Attorney and City Clerk met with the Mayor and a representative from the Charter Review Committee to make recommendations for further changes and clarifications. Ordinance No. 360 incorporates the revised ballot language resulting from that meeting.

RECOMMENDATION

It is recommended that Ordinance No. 360 be adopted if it is your desire to proceed with an election date of January 27, 2009.

MEMORANDUM

Item No. 7-B

To: Honorable Harley Strickland, Mayor and City Council Members
From: Deborah J. Renner, CMC, City Clerk and William E. Reischmann, Jr., Esquire, City Attorney
Subject: Ordinance No. 360 – Charter Referendum.
Issue: Revisions to Charter Referendum Ordinance.
Date: August 19, 2008

PURPOSE:

Revisions to prior draft Ordinance previously provided to Council, inclusive of comments and direction from the City Council.

BACKGROUND:

Attached is the prior City Council Agenda No. 7-A Memorandum, which precipitated discussion at the City Council meeting, July 22, 2008. Also attached is proposed Ordinance No. 360 with revisions and clarifications made to the titles and summaries added. Please note that the actual Charter language, as proposed to be amended, contained in the prior draft has been removed.

RECOMMENDATION

Your City Clerk and City Attorney request your input for preparation of a final draft to be considered at a future Council meeting, in a timely manner, consistent with that correspondence provided to the City of Orange City from the Elections Supervisor, attached hereto.

ORDINANCE NO. 360

AN ORDINANCE OF THE CITY OF ORANGE CITY, FLORIDA, SUBMITTING TO THE ELECTORS OF ORANGE CITY PROPOSED AMENDMENTS TO THE CHARTER OF THE CITY OF ORANGE CITY WHICH SHALL BE CONSIDERED BY MAIL-IN BALLOT; PROVIDING BALLOT TITLES AND SUMMARIES FOR THE PROPOSED CHARTER AMENDMENTS; PROVIDING FOR DIRECTION TO THE CITY CLERK; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE FOR THE ORDINANCE AND FOR THE APPROVED AMENDMENTS.

WHEREAS, pursuant to Resolution 468-08, the City Council of Orange City established a comprehensive public review process of the existing City Charter; and

WHEREAS, the Charter review process was also designed to provide an open, objective, and deliberative process during which ample opportunity was provided for the public to participate in a comprehensive study of any and all phases of City government; and

WHEREAS, the City Council convened this comprehensive study of the City Charter to avoid piecemeal changes to the City's organic law, an option which the City Council found as essential to the proper and orderly function of government; and

WHEREAS, as part of the review process, the City Council appointed a Charter Review Advisory Committee consisting of seven City of Orange City residents or property owners: Paul Rasch, Chairman, Gary Blair, John Crowther, Evelyn Robinson, Bill DeVane, Hugh Strickland and Joelle DeVane; and

WHEREAS, the Charter Review Advisory Committee was assigned the task of making a recommendation to the City Council as to whether the existing City Charter should be revised; and

WHEREAS, after conducting numerous public meetings, at which the pros and cons of the existing City Charter were debated and various Charter amendment proposals from citizens, committee members, and advisors were considered, the Charter Review Advisory Committee recommended a revised City Charter to the City Council; and

WHEREAS, the City Council then conducted numerous public meetings, at which the City Council considered the input, recommendations, and advice of the Charter Review Advisory Committee, and the citizens of Orange City and considered the pros and cons of the existing City Charter; and

WHEREAS, as a result of the input, recommendations, and advice received during the Charter Review Process and after careful deliberation and consideration, the

City Council finds that it is in the best interests of the public health, safety, and welfare of the citizens of Orange City to propose a comprehensive revision of the Orange City City Charter in accordance with Article IX, Section 9.02 of the Orange City City Charter and Section 166.031, Florida Statutes; and

WHEREAS, the City Council finds that the proposed ballot questions and summaries should be submitted to the City electorate for its consideration and final approval or disapproval; and

WHEREAS, the City Council of the City of Orange City desires to put to a vote of the citizens the issue of whether the Charter should be changed according to recommendations made by the Charter Review Advisory Committee, and as adopted or amended by the City Council; and

WHEREAS, Section 166.031, Florida Statutes, provides that the governing body of a municipality may, by ordinance, submit to the electors of said municipality proposed amendments to its Charter, which amendments may be to any part or all of its Charter except that part describing the boundaries of such municipality; and

WHEREAS, Article IX, Section 9.02 of the City Charter provides that amendments to the Charter may be submitted to the electors by a majority vote of the Council members, and if the proposed amendments are approved by a majority of the electors, the amendments shall become law; and

WHEREAS, the City Council finds it to be in the best interests of its citizens to submit said proposed Charter amendments to the voters by mail-in ballot to be coordinated by the City of Orange City City Clerk and the Volusia County Supervisor of Elections.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, AS FOLLOWS:

SECTION 1. Referendum Election. The City Council of the City of Orange City, pursuant to Sections 166.031 Florida Statutes, hereby proposes and approves amendments to the Charter of the City of Orange City, which proposed amendments are set forth below. Each question shall be voted on separately and approved or disapproved based on its own merit. Such election shall be held in conformity with the laws of the State of Florida. The Supervisor of Elections of Volusia County is hereby requested to coordinate all matters of said mail-in ballot election with the City Clerk.

SECTION 2. Amendments to City Charter. The form of the ballot for the Charter Amendments proposed in this Ordinance shall be as follows:

City Charter Amendment 1:

TITLE:

CHARTER AMENDMENTS TO PROVIDE FOR THE ELECTION OF CITY COUNCIL MEMBERS BY DISTRICTS.

SUMMARY:

These Amendments provide for the election of five Council members from districts in which each resides and for the election of a Council member and the Mayor at large. These amendments facilitate a transition from the present City Council, elected at large, and for the Council to establish and thereafter to adjust the districts by ordinance, using the census, according to general law.

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

City Charter Amendment 2:

TITLE:

CHARTER AMENDMENT TO PROVIDE THAT EVERY CITY COUNCIL RESOLUTION BE INDEXED AND PUBLISHED.

SUMMARY:

This Amendment provides that Council resolutions, in addition to ordinances, shall be indexed and published for review by the public.

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

City Charter Amendment 3:

TITLE:

CHARTER AMENDMENT TO PROVIDE FOR CITIZEN INPUT ON SPENDING.

SUMMARY:

This Amendment requires at least one public meeting prior to June 1st of each year to allow citizens to give input on City spending priorities in the next City fiscal year.

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

City Charter Amendment 4:

TITLE:

CHARTER AMENDMENT CLARIFYING COUNCIL'S ADMINISTRATIVE DUTIES; SWEARING IN, VACANCIES, APPOINTMENTS, ELECTION CERTIFICATION, AND AUDIT PROCESS.

SUMMARY:

This Amendment establishes that newly elected Council members shall be sworn in at the first meeting in November, that notice of a Council vacancy shall be filled in 45 days; provides for the same Council voting process for appointment of Charter officers; clarifies the requirement of City Manager attendance at Council meetings; that the Canvassing Board may meet in special session; and for audit process guidelines and steps for financial review.

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

City Charter Amendment 5:

TITLE:

CHARTER AMENDMENT CORRECTING THE SELECTION PROCESS OF VICE MAYOR.

SUMMARY:

This Amendment sets the election of the Vice-Mayor by the City Council on the first Council meeting in November of each year. This Amendment corrects an ambiguity in the current Charter language.

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

City Charter Amendment 6:

TITLE:

CHARTER AMENDMENTS CORRECTING PROCESS FOR INITIATIVE AND REFERENDUM.

SUMMARY:

This Amendment requires the names and addresses be given by committee members commencing initiative or referendum proceedings.

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

City Charter Amendment 7:

TITLE:

CHARTER AMENDMENT LIMITING LEGISLATION OF SALARY CHANGE.

SUMMARY:

This Amendment prohibits the Council from changing its members' salaries when there is less than ninety (90) days before the next election.

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

City Charter Amendment 8:

TITLE:

CHARTER AMENDMENT PROVIDING FOR GENERAL & RUNOFF ELECTIONS.

SUMMARY:

This Amendment provides for Council and Mayor general non-partisan elections in September of odd-numbered years; and for run-off elections in November, if needed; all pursuant to Volusia County Uniform Election Act, Chapter 95-462, as amended by Chapter 98-506.

Shall the above-described Charter Amendment be adopted?

For _____

Against _____

SECTION 3. The proposed amendments, the ballot titles and summaries of the proposed amendments to the Charter, as contained in this Ordinance, shall appear on the written mail-in ballot in the form of questions as set forth in Section 2 of this Ordinance.

SECTION 4. Conflicts. All Ordinances and Charter provisions or parts of Ordinances and Charter provisions in conflict herewith are hereby repealed.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereto. Further, the lack of approval by a majority of electors of one or more separate amendments to this Charter, as set forth in Section 2 herein, shall not be deemed to affect the validity of any amendments that may be approved by a majority of the electors.

SECTION 6. Effective Date of Ordinance. This Ordinance shall take effect immediately upon its final passage and adoption.

SECTION 7. Effective Date of Charter Amendments. The revised Charter provisions proposed for approval in this Ordinance shall become effective upon their approval following the mail-in ballot election of the electors of the City of Orange City in accordance with Section 166.031, Florida Statutes, and Section 9.02 of the City Charter. If the electors reject an amendment, the rejected amendment shall not take effect. The City Clerk is hereby directed, upon adoption of the revised Charter, to renumber the Charter to logically organize all Charter amendments, and to promptly file the revised Charter with the State of Florida, Department of State, as required by Section 166.031, Florida Statutes.

ROLL CALL VOTE AS FOLLOWS:

First Reading this _____ day of _____, 2008.

Jim Mahoney	_____	Tom Abraham	_____
Donald Sandford	_____	Donald C. Sherrill	_____
Tom Laputka	_____	Jeff H. Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

ROLL CALL VOTE AS FOLLOWS:

Second Reading this _____ day of _____, 2008.

Jim Mahoney	_____	Tom Abraham	_____
Donald Sandford	_____	Donald C. Sherrill	_____
Tom Laputka	_____	Jeff H. Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

PASSED and ADOPTED this _____ day of _____, 2008.

ATTEST:

AUTHENTICATED:

Deborah J. Renner, CMC, City Clerk

Harley Strickland, Mayor

Approved as to form and legal sufficiency:

William E. Reischmann, Jr., City Attorney

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