

ORDINANCE 2024-31

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, PROVIDING FOR A REFERENDUM ELECTION TO BE HELD ON NOVEMBER 5, 2024, FOR THE PURPOSE OF DETERMINING WHETHER THE CITY CHARTER SHOULD BE AMENDED; PROVIDING FOR THE PLACEMENT OF TWO (2) REFERENDUM ITEMS ON THE BALLOT; PROVIDING THE TEXT OF THE PROPOSED CHARTER AMENDMENTS; DIRECTING THE CITY CLERK TO PROVIDE THE SUPERVISOR OF ELECTIONS WITH A COPY OF THE ORDINANCE; PUBLISHING THE REFERENDUM ITEMS IN ACCORDANCE WITH STATE LAW; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council desires to submit two (2) Charter amendments to the electors of the City of Palm Bay at a referendum election to be held in conjunction with the regular municipal election to be held on November 5, 2024, and

WHEREAS, the City of Palm Bay ("City") is responsible for protecting the health, safety, and welfare of its citizens, and

WHEREAS, the City provides a broad range of public safety programs, services, and activities, including but not limited to the provision of law enforcement, fire rescue, and emergency medical services, and

WHEREAS, Section 6.01(b) of the City Charter ("Charter") prohibits the City from imposing any ad valorem tax at a rate which causes the budgeted revenues therefrom to the City to increase over the budgeted ad valorem revenue for the previous fiscal year by more than three percent (3%), and

WHEREAS, the City has experienced significant growth in population in the last five years, increasing from a 2020 census estimate of 119,760 to a March 2024 population estimate of 139,117, which is a sixteen (16%) increase, and

WHEREAS, the City has issued over 9,500 single family home permits from FY 2019 to present, and has averaged over 2,400 new single family home permits annually in the last three years, and

WHEREAS, the City's growth has resulted in an urgent need to add three (3) new fire stations (Stations 7, 8, and 9), as well as to replace two (2) old fire stations that have met their service life expectancy (Station 2 and Station 5). These service level increases also require significant investments in personnel, operating, vehicles, and equipment, and

WHEREAS, the Florida Department of Law Enforcement provides a state average of 2.31 police officers per 1,000 residents. The City's current ranking is 1.36 police officers per 1,000 residents, the lowest in Brevard County and ranking Palm Bay 239th out of 248 police departments in the State of Florida, and

WHEREAS, to provide a sufficient level of service, the City requires additional revenues to fund public safety programs, services, activities, infrastructure, capital improvements, and equipment, including capital and operating expenses related to the City's provision of law enforcement, fire rescue, and emergency medical services, and

WHEREAS, to provide a sufficient level of service, the City requires additional revenues to fund public safety programs, services, activities, infrastructure, capital improvements, and equipment, including capital, operating, and personnel expenses related to the City's provision of law enforcement, fire rescue, and emergency medical services, and

WHEREAS, the City wishes to call a referendum election for the purpose of determining whether the City Charter shall be amended to authorize the City to levy an ad valorem tax at a rate not to exceed two (2) mills for the purpose of funding public safety

programs, services, and activities, including capital, operating, and personnel expenses associated with fire rescue, law enforcement, and emergency medical services, which shall not be subject to the limitations of Section 6.01(b) of the Charter, and

WHEREAS, nothing herein shall be deemed to permit the City to levy an ad valorem tax at a millage rate that exceeds the maximum rate authorized by general law; rather, the referendum election proposed pursuant to this Ordinance is for the purpose of determining whether the City Charter shall be amended to authorize the City to levy an ad valorem tax, subject to the limitations on use and rate described herein, which shall not be subject to the limitations of Section 6.01(b) of the Charter, and

WHEREAS, the City previously contracted with attorneys to serve as the City Attorney and Assistant City Attorneys. The City now employs a City Attorney and would like to give the City Attorney the same authority to make hiring decisions for assistants or deputies as the City Manager and the City Clerk.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The above recitals are true and correct and are hereby incorporated by reference.

SECTION 2. In the event the Proposed Charter Amendment entitled “Charter Amendment Governing the Employment of Assistant City Attorney(s),” is approved by a majority vote at the referendum as called for in this Ordinance, Section 3.11 of the City of Palm Bay Charter, entitled “City Attorney,” shall be amended as follows:

“Section 3.11 CITY ATTORNEY.

3.111 Appointment or employment. The city council shall appoint or employ a city attorney ~~and such assistant attorney(s)~~ as required to act as legal advisor~~(s)~~ to the council and officials of the city as designated in [subsection] 3.123(b) and serve at the pleasure of the council.

3.112 Qualifications. The city attorney shall be a practicing attorney with at least five (5) years' experience and practice in the courts of the state of Florida.

3.113 Duties.

(a) General. The city attorney, ~~and/or his assistant attorney(s)~~, shall perform such professional duties as may be required by ordinance or resolution of the council, or as prescribed for city attorneys under the general laws of the state of Florida, that are not inconsistent with the specific provisions of this charter.

(b) Legal advisor. The city attorney, ~~and/or assistant attorney(s)~~, shall provide required legal advice to the council and to the city manager. Officially constituted boards, committees, and commissions of the city, relating to their official duties, may obtain legal advice upon the approval of the council.

3.114 Remuneration. The council shall determine the remuneration to be paid the city attorney ~~and/or assistant attorney(s).~~”

SECTION 3. In the event the Proposed Charter Amendment entitled “Charter Amendment Authorizing Ad Valorem Tax for Public Safety Purposes,” described in Section 3 hereof, is approved by a majority vote at the referendum as called for in this Ordinance, Section 6.01 of the City of Palm Bay Charter, entitled “Taxes,” shall be amended as follows:

“Section 6.01 TAXES.

(a) The council shall have full power and authority to levy taxes as authorized by law.

(b) Unless otherwise allowed by this subsection, the City Council shall not impose any ad valorem tax for city purposes at a millage rate which causes the budgeted revenue therefrom to the City to increase over the budgeted ad valorem revenue for the previous fiscal year by more than three percent (3%).

(c) Notwithstanding paragraph (b) of this subsection, the City Council may impose an ad valorem tax for municipal purposes at a rate which exceeds the limitations in paragraph (b) if a supermajority of the City Council concurs in a finding that such an excess is necessary because of emergency or critical need. The finding shall set forth the ultimate facts upon which it is based and shall be valid for a single budget year.

(d) In calculating the allowable increase in ad valorem revenues over the ad valorem revenues budgeted for the previous year under paragraph (b) of this subsection, the City Council shall exclude from the anticipated revenues all revenue changes from the following kinds of property not appearing on the previous year's roll: 1) new construction; 2) additions to or demolitions in whole or in part of existing construction; and 3) changes in the value of improvements that have undergone renovation to an extent of not less than 100% increase in assessed value (as measured from the last year of assessment prior to commencement of renovation).

(e) Nothing in this subsection shall authorize imposition of a millage rate which exceeds the rate prohibited by the constitution or general laws of Florida, or prohibit imposition of a millage rate which is required by the constitution or general laws of Florida or by any final order of a court of competent jurisdiction. Nothing in this subsection shall apply to any millage necessary to the payment of general obligation bonds in accordance with all bond covenants or to any other millage approved by referendum of the electors, whether before or after the effective date of this subsection.

>>(f) The City Council may annually levy an ad valorem tax at a rate not to exceed two (2) mills which shall be exempt from and not subject to the limitations of Section 6.01(b) hereof for the purpose of funding public safety programs, services, and activities, including but not limited to capital, operating, and personnel expenses associated with the City's provision of fire rescue, law enforcement, and emergency medical services.<<"

SECTION 4. Two (2) proposed ballot questions shall be presented to the electorate of the City of Palm Bay at the regular municipal election on November 5, 2024. The wording and title of the ballot questions to appear on the ballot on the date of the November 5, 2024, election, as embodied in this Ordinance, shall be as follows:

**CHARTER AMENDMENT GOVERNING THE EMPLOYMENT OF
ASSISTANT CITY ATTORNEY(S)**

Shall Subsections 3.111, 3.113, and 3.114 of the City Charter be amended to provide for the hiring of assistant city attorney(s) by the City Attorney instead of the City Council to be consistent with the other City Charter officers -- the City Manager and City Clerk who hire their own assistants and staff?

Yes

No

**CHARTER AMENDMENT AUTHORIZING AD VALOREM TAX FOR PUBLIC
SAFETY PURPOSES**

Shall the City Charter be amended to authorize the City to annually levy an ad valorem tax at a millage rate not to exceed two mills for funding police, fire, and emergency medical services (including capital, operating, and personnel expenses) which shall not be subject to Section 6.01(b) of the Charter (prohibiting charging an ad valorem tax that increases budgeted ad valorem revenues by more than 3% over prior year)?

Yes

No

SECTION 5. The City Clerk is hereby directed to instruct the Supervisor of Elections of Brevard County to include each of the two (2) ballot questions described in Section 5 of this Ordinance on the ballot for the regular municipal election to be held on November 5, 2024, throughout the City of Palm Bay. All duly qualified electors residing within the City of Palm Bay shall be entitled to participate in and vote at such election.

SECTION 6. As required by Section 100.342, Florida Statutes, at least 30 days' notice of the forthcoming referendum, including its purpose and eligibility requirements for voting, shall be published by the City Council in a newspaper of general circulation in

the City, at least twice, once in the fifth week and once in the third week prior to the week in which the election is to be held. Such notice shall contain the text of the proposed ballot questions.

SECTION 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 8. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City Charter of the City of Palm Bay, if approved by a majority of the electors voting in the November 5, 2024, election.

SECTION 9. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 10. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2024-XX, held on _____, 2024; and read in title only and duly enacted at Meeting 2024-XX, held on _____, 2024.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

cc: (date) Supervisor of Elections