

1. Ordinance 2024-31, providing for a referendum election to be held on November 5, 2024, for the purpose of determining whether the City Charter should be amended, first reading.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council
FROM: Suzanne Sherman, City Manager
THRU: City Manager's Office
DATE: July 18, 2024
RE: Charter Referendum - Public Safety Millage and Attorneys

SUMMARY:

For the November 2024 election, two proposed charter amendments are attached for City Council's consideration.

Dedicated Public Safety Millage

Following City Council direction, staff has prepared language amending the City Charter to authorize an ad valorem tax for public safety purposes. The proposed language would establish a millage rate of up to two mills (2.0000) that would not be subject to the limitations of Section 6.01(b) of the Charter. That section prohibits the imposition of ad valorem tax at a rate that causes revenues to increase by more than 3%. The purpose of this funding would be dedicated for capital, operating, and personnel expenses for funding police, fire, and emergency medical services.

If approved by the voters, the rate would be set by City Council each year, up to the 2.0000. The 3% restriction in the Charter directs that the City Council cannot set an ad valorem millage rate that causes the budgeted revenue of the City to increase more than 3% over the prior year's budgeted revenue. The impact of this section is a significant annual decrease in the ad valorem tax rate, and limits funding available to meet the needs of a high-growth City. The FY 2023 tax rate was 7.5995, for FY 2024 it is 7.0171, and for FY 2025, the 3% cap limit is 6.7339. Creating a separate millage rate, dedicated to public safety, provides an additional source of revenue to support the currently unfunded needs of the City, specific to adding additional police officers, building and staffing new fire stations, and meeting the vehicle replacement needs for Police and Fire Departments.

As discussed at the July 11, 2024 Regular Council Meeting, the City's growth has resulted in an urgent need to add multiple new fire stations, to replace older stations that have met their service life expectancy, and to provide staffing as well as new and replacement vehicles and equipment for these facilities. The City also ranks 239th out of 248 police departments in the State of Florida in its

ranking on the Florida Department of Law Enforcement's state average of 2.31 police officers per 1,000 residents. By comparison, the City's current ranking is 1.36 police officers per 1,000 residents.

If approved, setting this millage rate would be effective for the FY 2026 budget. While staff does not at this time recommend adopting a full 2.0000 millage rate, establishing a millage rate up to this amount would provide the ability for City Council to cover future year funding needs as the regular ad valorem millage rate is anticipated to continue to decrease each year under the 3% cap calculation.

The proposed ballot language is:

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)?

Deputy City Attorney Positions

For decades, the City of Palm Bay contracted with law firms to serve as the City Attorney and the Assistant City Attorney to provide legal services to the City. Under Section 3.11 of the Charter the Assistant City Attorneys are appointed by City Council and City Council determines their pay and benefits. In 2006, the City established the City Attorney's Office and directly employed the City Attorney and Deputy City Attorneys. Currently, the City Attorney is the only charter officer is not authorized to hire assistant/deputies to assist with the department's functions. The City Council does not hire the Deputy City Managers or the Deputy City Clerk. If approved by voters, the City Attorney will have the same hiring authority as the City Manager and City Clerk.

The proposed ballot language is:

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?

REQUESTING DEPARTMENTS:

City Manager's Office

Honorable Mayor and Members of the City Council

Legislative Memorandum

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FISCAL IMPACT:

None at this time.

STAFF RECOMMENDATION:

Motion to approve the proposed referendum language changing Section 6.01(b) and Section 3.11 of the City Charter.

ATTACHMENTS:

SCENARIOS	MILLAGE	AD VALOREM W/OUT NEW CONSTRUCTION	AD VALOREM W/ NEW CONSTRUCTION	BCRA AD VALOREM PORTION
FY 24 ADOPTED W/ BCRA	7.0171	47,772,865	51,636,628	1,857,777
FY 24 EST. W/OUT BCRA	6.7544	47,772,614	51,491,728	0
ADDITIONAL DEDICATED PUBLIC SAFETY MILLAGE				
FY 24 EST. PUBLIC SAFETY W/ BCRA	0.2500	1,702,016	1,839,671	66,187
FY 24 EST. PUBLIC SAFETY W/OUT BCRA	0.2500	1,768,203	1,905,859	0
FY 24 EST. PUBLIC SAFETY W/ BCRA	0.5000	3,404,032	3,679,342	132,375
FY 24 EST. PUBLIC SAFETY W/OUT BCRA	0.5000	3,536,407	3,811,717	0
FY 24 EST. PUBLIC SAFETY W/ BCRA	0.7500	5,106,048	5,519,014	198,562
FY 24 EST. PUBLIC SAFETY W/OUT BCRA	0.7500	5,304,610	5,717,576	0
FY 24 EST. PUBLIC SAFETY W/ BCRA	1.0000	6,808,064	7,358,685	264,750
FY 24 EST. PUBLIC SAFETY W/OUT BCRA	1.0000	7,072,814	7,623,435	0
FY 24 EST. PUBLIC SAFETY W/ BCRA	1.2500	8,510,080	9,198,356	330,937
FY 24 EST. PUBLIC SAFETY W/OUT BCRA	1.2500	8,841,017	9,529,294	0
FY 24 EST. PUBLIC SAFETY W/ BCRA	1.5000	10,212,096	11,038,027	397,125
FY 24 EST. PUBLIC SAFETY W/OUT BCRA	1.5000	10,609,221	11,435,152	0
FY 24 EST. PUBLIC SAFETY W/ BCRA	1.7500	11,914,112	12,877,699	463,312
FY 24 EST. PUBLIC SAFETY W/OUT BCRA	1.7500	12,377,424	13,341,011	0
FY 24 EST. PUBLIC SAFETY W/ BCRA	2.0000	13,616,128	14,717,370	529,500
FY 24 EST. PUBLIC SAFETY W/OUT BCRA	2.0000	14,145,628	15,246,870	0
FY 24 EST. PUBLIC SAFETY W/ BCRA	2.2500	15,318,144	16,557,041	595,687
FY 24 EST. PUBLIC SAFETY W/OUT BCRA	2.2500	15,913,831	17,152,728	0
FY 24 EST. PUBLIC SAFETY W/ BCRA	2.5000	17,020,160	18,396,712	661,875
FY 24 EST. PUBLIC SAFETY W/OUT BCRA	2.5000	17,682,035	19,058,587	0
FY 24 EST. PUBLIC SAFETY W/ BCRA	2.7500	18,722,176	20,236,383	728,062
FY 24 EST. PUBLIC SAFETY W/OUT BCRA	2.7500	19,450,238	20,964,446	0
FY 24 EST. PUBLIC SAFETY W/ BCRA	3.0000	20,424,192	22,076,055	794,250
FY 24 EST. PUBLIC SAFETY W/OUT BCRA	3.0000	21,218,441	22,870,305	0

PUBLIC SAFETY TAX BILL MILLAGE RATE IMPACT

HOW DOES THE PUBLIC SAFETY MILLAGE RATE IMPACT YOUR ANNUAL PROPERTY TAX BILL & THE CITY OF PALM BAY?

Property's Assessed Value* x Millage Rate

1,000

Account: 1234567

Owners:

Resident, John A; Resident, Jane B

Mail Address:

1234 Neighborhood St Palm Bay FL 32907

Site Address:

1234 Neighborhood St Palm Bay FL 32907

Parcel ID:

10-34-56-PB-789-10

Taxing District:

10PB - Palm Bay

Exemptions:

HEX1 - Homestead First
HEX2 - Homestead Additional

Property Use:

0110 - Single Family Residence

Total Acres:

0.25

Site Code:

0001 - No Other Code Appl.

Plot Book/Page:

0014/0126

Subdivision Name:

Port Malabar Unit 1

Land Description:

Port Malabar Unit 1 Lot 10 Bk 123

MapView

EagleView

StreetView

Values

Category	2018	2017	2016
Market Value:	\$192,380	\$176,050	\$162,690
Agricultural Land Value:	\$0	\$0	\$0
Assessed Value Non-School:	\$110,080	\$107,820	\$105,610
Assessed Value School:	\$110,080	\$107,820	\$105,610
Homestead Exemption:	\$25,000	\$25,000	\$25,000
Additional Homestead:	\$25,000	\$25,000	\$25,000
Other Exemptions:	\$0	\$0	\$0
Taxable Value Non-School:	\$60,080	\$57,820	\$55,610
Taxable Value School:	\$85,080	\$82,820	\$80,610

* Your home's Taxable Value Non-School amount is the assessed value of the property less exemptions

Per ½ Mill Impact
@ 0.5000

Per Mill Impact
@ 1.0000

Proposed Rate
@ 2.0000

Property Valuation Amounts**	Annual Cost	Annual Cost	Annual Cost
10,000	5.00	10.00	20.00
25,000	12.50	25.00	50.00
50,000	25.00	50.00	100.00
75,000	37.50	75.00	150.00
100,000	50.00	100.00	200.00
125,000	62.50	125.00	250.00
150,000	75.00	150.00	300.00
200,000	100.00	200.00	400.00

Est. Public Safety Revenue Impact	Annual Revenue	Annual Revenue	Annual Revenue
Total Revenue	3,811,717	7,623,435	15,246,870

** Reflecting applicable exemptions including Home Stead and "Save Our Homes"

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