

5. 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, final reading. (AGENDA REVISION)

## **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 ONE (1) REFERENDUM ITEM ON THE BALLOT; PROVIDING THE TEXT OF THE PROPOSED CHARTER AMENDMENT; DIRECTING THE CITY CLERK TO PROVIDE THE SUPERVISOR OF ELECTIONS WITH A COPY OF THE ORDINANCE; PUBLISHING THE REFERENDUM ITEM 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 one (1) Charter amendment 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 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.** One (1) 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 question 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

**SECTION 4.** The City Clerk is hereby directed to instruct the Supervisor of Elections of Brevard County to include the one (1) ballot question 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 5.** 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 6.** 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 7.** 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 8.** 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 9.** The provisions within this ordinance shall take effect on November 5, 2024, if approved by the referendum for which it provides; otherwise, it shall have no force and effect.

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.

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Rob Medina, MAYOR

ATTEST:

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Terese M. Jones, CITY CLERK

Reviewed by CAO: \_\_\_\_\_

cc: (date) Supervisor of Elections