

**THE CITY OF NEW SMYRNA BEACH – CITY CLERK****ORDINANCE NO. 77-20: CONDUCT THE SECOND  
READING AND PUBLIC HEARING OF AN ORDINANCE,  
WHICH IF ADOPTED, WOULD SET A REFERENDUM ON A  
PROPOSED REVISED CHARTER FOR THE CITY AND  
ADOPT BALLOT LANGUAGE FOR THE ELECTORATE TO  
CONSIDER ON NOVEMBER 3, 2020.****AUGUST 11, 2020**

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**Background**

In December 2018, the City Commission selected Charter Review as a high priority goal of the Commission. The City Commission chose to pursue a review of the City's existing Charter via a Charter Review Committee, with an end goal of having any suggested revisions on the 2020 general election ballot.

Marilyn Crotty of the Florida Institute of Government at the University of Central Florida was selected as the Charter Review Facilitator in 2019. The Charter Review Advisory Committee was then established with the following members:

Kenneth Bohannon (resigned March 2020)

Marie Bushey

Terry Dallas

Marty Danaher (deceased June 2020)

Christine Elnitsky

Sally Gillespie

Kirk Jones

Lisa Martin

Eric Preston

Marvel Richards

Tricia Tudeen

The Advisory Committee held nine meetings between November 7, 2019 and May 14, 2020. All meetings were publicly noticed with opportunities for comments from the public at each meeting.

The Advisory Committee made its final presentation of recommendations to the City Commission at a workshop held on May 28, 2020. The Committee's Final Report is attached. Resolution No. 22-20 sunsetted the Advisory Committee on June 10, 2020. From that date, the City Commission held multiple public meetings during the month of June discussing the Advisory Committee recommendations and making its own final recommendation. The entire text of the Charter showing all changes is set forth in the attached Ordinance. The City Commission made few revisions from the Advisory Committee's final report.

The Advisory Committee's final report included an excellent summary of the changes, including the following statement:

"The recommended revised charter is a refinement of the document that has been amended at various times. Many of the changes that are recommended are for the purpose of clarifying or further defining the intent of the language; removing obsolete language; changing current sections; and adding items not included in the existing charter. There have been no changes to the form of government, the makeup of the City Commission, or the terms of office." The changes recommended by the Advisory Committee are detailed in the attached report.

Changes made by the City Commission since the publication of the Final Advisory Committee Report include:

- moving the annexation section to the end of Article I
- clarifying language in Sec. 2.05 prohibiting dual employment
- moving Forfeiture of Office to Sec. 2.06
- reorganizing the provisions regarding Judge of Qualifications, Election, and Forfeiture (now Sec. 2.07)
- revising Sec. 2.09 to remove the subpoena power
- clarifying that the State of the City address in Sec. 2.13 is a meeting open to the public
- moving the Elections Article up to Article III
- clarifying the appointment and removal process for all Charter Officers in Sec. 4.01 by moving it from former Sec. 3.02(c) where it only applied to City Manager
- revising City Manager powers and duties to remove the requirement that the City Commission approves the appointment and removal of department heads
- clarifying City Attorney duties and qualifications in Sec. 4.03

- adding qualifications to City Clerk in Sec. 4.04
- revising language in Sustainability, now Article VI
- revising language in Sec. 6.04 regarding the sale or lease longer than 10 years of public land lying contiguous to a named body of water to require a unanimous vote of the City Commission
- revising Citizen Initiative and Referendum process to be consistent with state law
- removing obsolete language regarding Utilities Commissioner terms beginning in 1967, 1968, 1969, 1970, and 1971
- revising June to July in Sec. 8.09 to give the UC an additional month to submit its budget to the City
- adding a force majeure clause in Sec. 9.01

The Charter Review Advisory Committee and the City Commission both recommended that a single ballot question be submitted to the electorate in November. Per state statute, the description of the item is limited to 75 words.

The following ballot question is the one that has been selected to be included in the Ordinance:

**CHARTER AMENDMENT  
ADOPTING A REVISED CHARTER FOR THE CITY OF NEW SMYRNA BEACH**

Shall the City of New Smyrna Beach adopt a revised Charter incorporating a preamble, reorganizing existing language, removing obsolete language, revising election procedures, revising qualifications and duties of members of the City Commission and Charter officers, adopting provisions related to sustainability, including limitations on the transfer of ownership or lease of certain lands, establishing requirements for financial management, providing for citizen participation, including an initiative and referendum process, and requiring regular reviews of the Charter?

YES for Approval    \_\_\_

NO against Approval    \_\_\_

[title 13 words and summary 75 words]

A request was made by the Commission for other potential ballot questions. Two alternatives that have been proposed are as follows:

Alternate A. (65 words)

Shall the City of New Smyrna Beach's Charter be amended to replace the current charter with one that is similar, with added terms that clarify the powers, duties, and limitations of the City's Commissioners and Officers, adjust the conduct and procedure of the City's elections, clarify the budget process, prioritizes ordinances that strengthen environmental sustainability, and place limitations on the alienation of certain City properties?

Alternate B. (73 words)

Shall the City's Charter be amended to clarify the powers and limitations of the City, Commission, and Charter Officers are those allowed by and not conflicting with local and state laws; restructures and revised the qualifications and duties of the Commission and Charter Officers; establishes financial management procedures; prioritizes the strengthening of environmental sustainability ordinances; sets terms of conveyance of interest in certain City properties; and amends procedures for the conduct of elections?

The ballot language is due to the Supervisor of Elections by August 18, 2020, for placement on the November 3, 2020 ballot.

If the revised Charter is approved by a majority of the voters, the document will need to be sent to the State for filing and changes will take effect January 1, 2021.

Staff Report Created By: Carrie Avallone, City Attorney