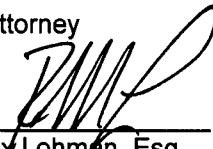
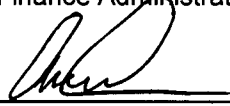
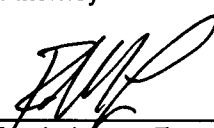
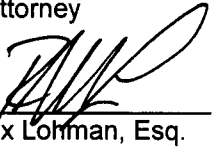



**CITY OF PALM BEACH GARDENS CITY COUNCIL**  
**Agenda Cover Memorandum**

**Meeting Date: July 12, 2012**  
**Ordinance 20, 2012**

**Subject/Agenda Item:** Second Reading and Adoption - Referendum Election Amending the City Charter.

**Recommendation to APPROVE**  
 **Recommendation to DENY**

<p><b>Reviewed by:</b></p> <p>City Attorney    R. Max Lohman, Esq.</p> <p>Finance Administrator    Allan Owens</p>	<p><b>Originating Dept.:</b>  City Attorney</p> <p>  R. Max Lohman, Esq.  City Attorney</p>	<p><b>Costs:</b> \$ <u>NA</u>  (Total)</p> <p>\$ <u>NA</u>  Current FY</p> <p><b>Funding Source:</b></p> <p><input type="checkbox"/> Operating  <input checked="" type="checkbox"/> Other</p>	<p><b>Council Action:</b></p> <p><input type="checkbox"/> Approved  <input type="checkbox"/> Approved w/  Conditions  <input type="checkbox"/> Denied  <input type="checkbox"/> Continued to:</p>
<p><b>Submitted by:</b></p> <p>City Attorney    R. Max Lohman, Esq.</p>	<p><b>Advertised: NA</b></p> <p>Date:</p> <p>Paper:</p> <p><input checked="" type="checkbox"/> Not Required</p>	<p><b>Contract/Agreement:</b></p> <p>Effective Date: NA</p> <p>Expiration Date: NA</p> <p><b>Budget Acct.#:</b> NA</p>	<p><b>Attachments:</b></p> <ul style="list-style-type: none"> <li>• 2012 November General Election Timeline and Estimated Costs</li> <li>• Ordinance 20, 2012</li> </ul>
<p><b>Approved by:</b></p> <p>City Manager    Ronald M. Ferris  FOR RON FERRIS  C/M</p>	<p><b>Affected parties</b></p> <p><input type="checkbox"/> Notified  <input checked="" type="checkbox"/> Not required</p>		

**BACKGROUND:** On November 18, 2010, in accordance with Section 22-1 of the City Charter, the City Council directed the City Attorney to begin conducting a review of the City Charter and to recommend amendments to same, in whole and/or in part. The subject review was completed in late 2011. Subsequently, the City Attorney published a memo to the City Council outlining several recommended amendments which were limited to correcting issues of legal insufficiency. After meeting with each Councilmember individually, the City Attorney was directed by consensus, to draft an entirely new City Charter in order to address the City Charter's deficiencies globally.

In 1973, Chapter 166, *Florida Statutes*, was adopted, more commonly referred to as the "Municipal Home Rule Powers Act" (the Act). Prior to the Act, municipalities only had those powers that were specifically set forth in their respective charters. The Act is required to be so construed as to secure for municipalities the broad exercise of home rule powers granted by the constitution. It was the intent of the Legislature to extend to municipalities the exercise of powers for municipal governmental, corporate, or proprietary purposes not expressly prohibited by the constitution, general or special law, or county charter, and to remove any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those so expressly prohibited. Accordingly, there are very few provisions that are legally required to be in a municipal charter; such as, the form of government, terms of elected officials and manner of election, the distribution of powers among elected officials, and municipal boundaries. The current City Charter contains several provisions that conflict with or are preempted by state law, are internally inconsistent, conflict with the Council-Manager form of government, or address a topic or subject matter not normally found in a municipal charter.

Pursuant to Section 166.031, *Florida Statutes*, the proposed new City Charter must be approved by referendum in order to become effective. The current City Charter was adopted in 1976 and was subsequently amended in 1983, 1994, and 2004. Each of the previous referendums attempted to amend specific portions of the Charter which has resulted in certain inconsistencies and conflicts over time; such as, references to a City Treasurer, references to the manner in which City Department Heads will address complaints, and references to a "merit system" and a "personnel system" established by the City Council in conflict with the City Manager's specific authority. The proposed new City Charter relies heavily on Chapter 166, *Florida Statutes*, providing for a much more brief, concise, and legally sufficient City Charter.

Ordinance 20, 2012 has been prepared in accordance with Sections 101.161 and 166.031, *Florida Statutes*, providing the proposed ballot language to be presented to the voters on November 6, 2012, and to also present the proposed amendments to the City Charter. At first reading, the City Council directed the City Attorney to move the method of election of City Councilmembers to a separate ballot question. Accordingly, there are now two (2) propositions that are being proposed for the referendum.

Additionally, in response to public comments at first reading, the City Council directed the City Attorney to conduct an informational meeting for the public prior to second reading. Prior to the informational meeting, the City Attorney offered to meet with each person who made public comment regarding Ordinance 20, 2012 at first reading. Only two (2) people accepted individual meetings with the City Attorney. On June 27, 2012, the City Attorney

conducted an informational meeting and "Q & A" session for the public in order to discuss and explain the rationale for the proposed amendments to the City Charter. The meeting was not adjourned until each person in attendance had the opportunity to have all of their questions addressed.

Also in response to City Council's direction, web links to the annotated versions of the current City Charter and the proposed amended City Charter have been posted on the city's website since June 18, 2012.

The deadline for submitting the proposed ballot language to the Supervisor of Elections is Friday, August 10, 2012, at noon. The necessary paperwork has been filed with the Supervisor of Elections for the City to place questions on the ballot for the November 6, 2012, General Election.

The proposed ballot language for the two propositions is as follows:

**CITY OF PALM BEACH GARDENS REFERENDUM PROPOSITION NO. 1**

**"PROPOSITION ONE"**

SHALL THE CITY CHARTER OF THE CITY OF PALM BEACH GARDENS, ADOPTED IN 1976, BE AMENDED AS SET FORTH IN SECTION 1 OF ORDINANCE 20, 2012 OF THE CITY OF PALM BEACH GARDENS?

\_\_\_\_\_ YES – In favor of adopting amendments to the City Charter

\_\_\_\_\_ NO – Not in favor of adopting amendments to the City Charter

**CITY OF PALM BEACH GARDENS REFERENDUM PROPOSITION NO. 2**

**"PROPOSITION TWO"**

SHALL THE SECOND PARAGRAPH OF ARTICLE IV, SECTION 4-1 OF THE CHARTER OF THE CITY OF PALM BEACH GARDENS, FLORIDA BE AMENDED AS SET FORTH IN SECTION 3 OF ORDINANCE 20, 2012 OF THE CITY OF PALM BEACH GARDENS TO PROVIDE THAT THE METHOD OF ELECTION OF CITY COUNCILMEMBERS SHALL BE BY A PLURALITY VOTE RATHER THAN BY A MAJORITY VOTE?

\_\_\_\_\_ YES – In favor of adopting amendment to the City Charter

\_\_\_\_\_ NO – Not in favor of adopting amendment to the City Charter

**CITY COUNCIL:** On June 7, 2012, the City Council approved Ordinance 21, 2012 on first reading by a vote of 4-0.

**STAFF RECOMMENDATION:** Staff recommends approval of Ordinance 20, 2012 as revised.



## MEMORANDUM

TO: Ron Ferris, City Manager  
FROM: Patricia Snider, City Clerk PS  
DATE: May 25, 2012  
SUBJECT: 2012 November General Election

Below is the timeline and costs for the upcoming November 6, 2012, General Election.

### Timeline:

**November 18, 2010** – City Council directed the City Attorney to review and recommend amendments to the City Charter, in whole and/or in part.

**May 7, 2012** – send notification to the Supervisor of Elections of our intentions to be on the November General Election ballot. **Completed**, sent via fax and email. SOE confirmed receipt.

**May 21, 2012** – staff report and 1<sup>st</sup> reading Ordinance with proposed charter changes due to legal for inclusion onto the June 7, 2012, agenda.

**June 7, 2012** – City Council meeting to adopt Ordinance 20, 2012 on 1<sup>st</sup> reading.

**June 27, 2012** – ad published in the PB Post for 2<sup>nd</sup> reading of Ordinance 20, 2012.

**July 12, 2012** – City Council meeting to adopt Ordinance 20, 2012 on 2<sup>nd</sup> reading.

**August 10, 2012** – ballot due to the Supervisor of Elections – 12:00 p.m. deadline.

**September/October** – Public Information Campaign.

**October 5, 2012 (Friday)** – notice of election and ballot published in PB Post and El Latino (as per Section 100.342, Florida Statutes) – 5<sup>th</sup> week prior to election.

**October 12, 2012 (Friday)** – notice of election published in PB Post and El Latino (as per Section 26-11, Code of Ordinances) – 4<sup>th</sup> week prior to election.

**October 19, 2012 (Friday)** – notice of election and ballot published in PB Post and El Latino (as per Section 100.342, Florida Statutes) – 3<sup>rd</sup> week prior to election.

**October 26, 2012 (Friday)** – notice of election published in PB Post and El Latino (as per Section 26-11, Code of Ordinances) 2<sup>nd</sup> week prior to election.

**November 2, 2012 (Friday)** – sample ballot published in PB Post and El Latino (as per Section 26-14 Code of Ordinances) no more than 10 days prior to election.

**November 6, 2012** – General Election.

**Cost (estimate):**

1. **Translation** of the Notice of Election and Sample Ballot – \$350.00
2. **El Latino Newspaper** – \$1,400.00
3. **PB Post** – \$4,000.00
4. **Supervisor of Elections** Municipal Package \$2,338.00 (in accordance with Supervisor of Elections Contract)
5. **Supervisor of Elections** – if the Referendum ballot question produces a separate card (ballot page), the ballot cost is .216 cents per ballot. The cost of the ballots is based on the percentage of ballots ordered for the election. For the General Election, the SOE orders 90% of the registered voters (36,817 = 33,135 @ .216) at a cost of \*\$7,157.16.

There is an additional charge of .50 cents per ballot for Early Voting. Based on the 2010 November election, the turnout for Early Voting was 4,443. Considering the increase of registered voters from 35,803 in November 2010 to 36,817 in May 2012, rounding it up to 5,000 voters, the cost would be \*\*\$2,500.

**Note:** During a Municipal Election, we order 60%.

**Cost:**

1. \$350.00
2. \$1,400.00
3. \$4,000.00
4. \$2,338.00
5. \$9,657.16

Total **estimated** cost = \$17,745.16

\*If the City's ballot language results in creating a second page to the ballot.

\*\*Early voting ballots.

ORDINANCE 20, 2012

1  
2  
3  
4 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM  
5 BEACH GARDENS, FLORIDA ADOPTED IN ACCORDANCE WITH  
6 SECTIONS 101.161 AND 166.031, *FLORIDA STATUTES*, CALLING  
7 FOR A REFERENDUM TO BE HELD ON NOVEMBER 6, 2012,  
8 PROPOSING TO THE ELECTORATE OF THE CITY THAT ALL  
9 PORTIONS OF THE CITY CHARTER BE AMENDED, EXCEPT THAT  
10 PART THEREOF DESCRIBING THE BOUNDARIES OF THE CITY;  
11 PROVIDING FOR CONTINUATION OF THE FORM OF  
12 GOVERNMENT; PROVIDING FOR CITY BOUNDARIES;  
13 PROVIDING FOR MUNICIPAL AUTHORITY; PROVIDING FOR THE  
14 CITY COUNCIL AS THE LEGISLATIVE AND GOVERNING BODY;  
15 PROVIDING FOR CITY ELECTIONS; PROVIDING FOR OFFICERS  
16 AND EMPLOYEES; PROVIDING FOR GENERAL AND  
17 TRANSITIONAL PROVISIONS; PROVIDING FOR EFFECT ON  
18 EXISTING LAWS; PROVIDING THAT THESE AMENDMENTS  
19 SHALL BE SUBMITTED TO THE ELECTORS OF THE CITY IN THE  
20 FORM OF TWO PROPOSITIONS ON THE REFERENDUM BALLOT;  
21 FIRST PROPOSITION BEING, SHALL THE FULL AND COMPLETE  
22 AMENDMENTS TO THE CURRENT CITY CHARTER AS SET  
23 FORTH IN SECTION 1 OF THIS ORDINANCE BE ADOPTED;  
24 SECOND PROPOSITION BEING, SHALL THE METHOD OF  
25 ELECTION OF CITY COUNCILMEMBERS BE CHANGED FROM  
26 REQUIRING A MAJORITY VOTE TO REQUIRING A PLURALITY  
27 VOTE IN ORDER TO BE ELECTED; THAT IN THE EVENT THE  
28 FIRST PROPOSITION SHALL NOT BE ADOPTED BY THE  
29 ELECTORS, THE CURRENT CITY CHARTER SHALL REMAIN IN  
30 FULL FORCE AND EFFECT; THAT IN THE EVENT PROPOSITION  
31 TWO SHALL BE ADOPTED BY THE ELECTORS, THEN AND IN  
32 THAT EVENT, PROPOSITION ONE IF ADOTPED BY THE  
33 ELECTORS SHALL BE AMENDED ACCORDINGLY IN  
34 ACCORDANCE WITH THE ADOPTED PROPOSITION; AND, IF  
35 PROPOSITION ONE SHALL NOT BE ADOPTED, AND  
36 PROPOSITION TWO SHALL BE SO ADOPTED, THEN THE  
37 CURRENT CITY CHARTER SHALL BE SO AMENDED  
38 ACCORDINGLY; SETTING FORTH THE FORM OF THE  
39 QUESTIONS TO BE VOTED UPON AT SUCH ELECTION;  
40 PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE,  
41 AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE;  
42 AND FOR OTHER PURPOSES.

43  
44  
45 **WHEREAS**, the City Council of the City of Palm Beach Gardens directed the City  
46 Attorney to review the City Charter and propose recommended changes to the City

1 Charter; and

2 **WHEREAS**, the City Council has reviewed the recommendations of the City  
3 Attorney, and the City Council has determined that it would be in the best interests of  
4 the City of Palm Beach Gardens to accept such recommendations; and

5  
6 **WHEREAS**, the City Council has concluded that repealing in its entirety the City  
7 Charter and calling for a referendum election in accordance with the provisions of  
8 Section 166.031, *Florida Statutes*, for the electorate of the City of Palm Beach Gardens  
9 to consider a new Charter is in the best interests of the City of Palm Beach Gardens;  
10 and

11  
12 **WHEREAS**, the City Council deems approval of this Ordinance to be in the best  
13 interests of the health, safety, and welfare of the residents and citizens of the City of  
14 Palm Beach Gardens and the public at large.

15  
16  
17 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY**  
18 **OF PALM BEACH GARDENS, FLORIDA** that:

19  
20 **SECTION 1.** The proposed amendment to the City’s Charter is as follows:

21  
22 The proposed new City Charter is attached hereto and incorporated herein as  
23 Exhibit “A”.

24  
25 **SECTION 2.** The Charter amendment proposed in Section 1 of this Ordinance  
26 shall be submitted to the electors of the City of Palm Beach Gardens, Florida at the  
27 general election to be held on the 6<sup>th</sup> day of November, 2012, and shall be deemed  
28 adopted effective at 12:01 a.m. November 7, 2012, upon receiving an affirmative vote of  
29 a majority of the electors voting at that time upon the following proposition:

30  
31 **CITY OF PALM BEACH GARDENS REFERENDUM PROPOSITION NO. 1**

32  
33 **“PROPOSITION ONE”**

34  
35 SHALL THE CITY CHARTER OF THE CITY OF PALM BEACH  
36 GARDENS, ADOPTED IN 1976, BE AMENDED AS SET FORTH IN  
37 SECTION 1 OF ORDINANCE 20, 2012 OF THE CITY OF PALM BEACH  
38 GARDENS?

39  
40 \_\_\_\_\_YES – In favor of adopting amendments to the City Charter

41  
42 \_\_\_\_\_NO – Not in favor of adopting amendments to the City  
43 Charter

1           **SECTION 3.** The second paragraph of Article IV, Section 4-1 of the current City  
2 Charter shall be amended to read as follows:

3  
4           Whenever a general or special election is held to fill any city council seat,  
5 the candidate receiving the highest number of votes, even if it is not a  
6 majority of the votes cast by all electors casting ballots for that seat, shall  
7 be declared to be elected; provided, however, notwithstanding the  
8 foregoing provision, should two (2) or more candidates tie for the highest  
9 number of votes from all electors casting ballots for that seat, then the  
10 candidates receiving the highest number of votes shall be declared  
11 candidates for the runoff election. Such runoff election shall be held as  
12 soon as practicable. In the runoff election, the council seat shall be filled  
13 by the candidate receiving the highest number of votes, even if it is not a  
14 majority of the votes cast by all electors casting ballots for that seat. In the  
15 event a candidate withdraws or dies before any election, leaving only one  
16 (1) candidate for the seat to be filled, then that election shall not be held  
17 for that seat. The remaining candidate shall be deemed to have voted for  
18 him or herself and/or elected by acclamation.  
19

20 Said Amendment shall be submitted to the electors of the City for approval or  
21 disapproval in a referendum election at the same time, form and manner as set forth in  
22 Section 2 of this Ordinance and shall be placed on the ballot in the form of the following  
23 proposition:  
24

25           **CITY OF PALM BEACH GARDENS REFERENDUM PROPOSITION NO. 2**

26   **“PROPOSITION TWO”**

27  
28  
29           SHALL THE SECOND PARAGRAPH OF ARTICLE IV, SECTION 4-1 OF  
30 THE CHARTER OF THE CITY OF PALM BEACH GARDENS, FLORIDA,  
31 BE AMENDED AS SET FORTH IN SECTION 3 OF ORDINANCE 20,  
32 2012, OF THE CITY OF PALM BEACH GARDENS, TO PROVIDE THAT  
33 THE METHOD OF ELECTION OF CITY COUNCILMEMBERS SHALL BE  
34 BY A PLURALITY VOTE RATHER THAN BY A MAJORITY VOTE?  
35

36                   \_\_\_\_\_ YES – In favor of adopting amendment to the City Charter

37  
38                   \_\_\_\_\_ NO – Not in favor of adopting amendment to the City  
39 Charter  
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1 **SECTION 4.** The City Clerk shall cause a notice of this election called for the  
2 purpose of presenting the subject Charter revision to a vote of the electorate to be  
3 published in accordance with the provisions of Section 100.342, *Florida Statutes*, at  
4 least twice; once in the fifth week and once in the third week prior to the week in which  
5 the referendum is to be held; provided that the first publication shall take place at least  
6 thirty (30) days before the date fixed for the referendum and shall be published in a  
7 newspaper of general circulation within the City.

8  
9 **SECTION 5.** In accordance with Section 26-11 (a) of the City Code of Ordinances,  
10 the City Clerk shall cause a notice of election to be published in a newspaper of general  
11 circulation within the City at one time during the fourth week and at one time in the second  
12 week preceding the week in which the election is held.

13  
14 **SECTION 6.** In accordance with Section 26-14 (d) of the City Code of Ordinances,  
15 the City Clerk shall publish a sample ballot in a newspaper of general circulation prior to  
16 the day of the election, but no more than ten (10) days prior to the election. Such  
17 publication shall be conspicuous and not be included within the legal notices and  
18 advertisements being published per Chapter 50, *Florida Statutes*.

19  
20 **SECTION 7.** All ordinances or parts of ordinances in conflict be and the same are  
21 hereby repealed.

22 **SECTION 8.** Should any section or provision of this Ordinance or any portion  
23 thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction  
24 to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

25  
26 **SECTION 9.** Specific authority is hereby given to codify this Ordinance.

27  
28 **SECTION 10.** This Ordinance shall become effective immediately upon  
29 adoption. The new revised Charter as set forth in Section 1 hereinabove shall become  
30 effective as of 12:01 a.m. on November 7, 2012, if the question to be voted upon  
31 provided hereinabove receives an affirmative vote of the majority of the votes cast at the  
32 election held on November 6, 2012.

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35 (The remainder of this page intentionally left blank)

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46

PASSED this 7<sup>th</sup> day of JUNE, 2012, upon first reading.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012, upon second and final reading.

<b>CITY OF PALM BEACH GARDENS</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSENT</b>
-----------------------------------	------------	----------------	---------------

BY: _____	_____	_____	_____
David Levy, Mayor			
_____	_____	_____	_____
Robert G. Premuroso, Vice Mayor			
_____	_____	_____	_____
Marcie Tinsley, Councilmember			
_____	_____	_____	_____
Joseph R. Russo, Councilmember			
_____	_____	_____	_____
Eric Jablin, Councilmember			

**ATTEST:**

BY: \_\_\_\_\_  
Patricia Snider, CMC, City Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

BY: \_\_\_\_\_  
R. Max Lohman, City Attorney



## **Exhibit "A"**

### **ARTICLE I: TRANSITION SCHEDULE**

#### **Section 1-1. Ordinances preserved.**

All ordinances in effect upon adoption of this Charter, to the extent not inconsistent with it, shall remain in full force and effect until repealed or changed as provided herein.

#### **Section 1-2. Rights of officers and employees.**

Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are city officers or employees at the time of adoption. Elected officials shall continue to hold their offices and discharge the duties thereof until their successors are duly elected.

#### **Section 1-3. Pending matters.**

All rights, claims, actions, orders, contracts, and legal or administrative proceedings involving the city shall continue, except as modified pursuant to the provisions of this Charter.

### **ARTICLE II: BOUNDARIES**

#### **Section 2-1. Boundaries.**

(This section shall remain in full force and effect as previously enacted.)

### **ARTICLE III: FORM OF GOVERNMENT**

#### **Section 3-1. Form of government.**

The form of government of the City of Palm Beach Gardens shall be that known as the "Council-Manager" form of government, as more particularly set forth herein below.

### **ARTICLE IV: LEGISLATIVE**

#### **Section 4-1. Authority under state law.**

The said City of Palm Beach Gardens, Florida shall be and constitute a body politic and corporate and as such shall have perpetual existence and may sue, be sued, defend, plead, and be impleaded in all courts and places and shall exercise all the powers, privileges, and functions of municipalities prescribed, authorized, and provided in the Florida Constitution and the general laws of the State of Florida fully and completely.

#### **Section 4-2. City Council; powers, composition, and method of election.**

There shall be a city council with all legislative powers of the city vested therein consisting of five (5) members who shall be electors of the city, who shall be elected by the electors of the city. The selection of members of the city council shall be by groups to be known as Groups 1, 2, 3, 4, and 5. The council members in Groups 2 and 4 shall, in the year 1977, be elected for a term of three (3) years and for three- (3) year terms thereafter; council members in Groups 1, 3, and 5 shall, in the year 1978, be elected for a term of three (3) years and for three- (3) year terms thereafter. The term of office of council members shall commence on the first regularly scheduled meeting of the city council following the date of their election and shall continue for three (3) years thereafter and/or until their successors are elected and qualified. General elections shall be held on the second Tuesday of March or as may be established by ordinance. Any candidate seeking election as a council member shall file with the city clerk a written notice to such effect at such time and in such manner as established by ordinance and shall pay such filing fee or otherwise qualify as shall be established by ordinance. Such notice shall state the number of the group to which he or she seeks to be elected, and any additional information as may be required by ordinance. All candidates and council members shall be electors of the city.

Whenever a general or special election is held to fill any elective office in the City of Palm Beach Gardens, the candidate receiving a majority of the votes cast at such election to fill such office shall be declared to be duly elected; provided that in the event no candidate for a particular elective office shall receive a majority of the votes cast for such election to fill such office, then a run-off election shall be held as soon thereafter as is practicable; provided further, that in such event only the names of the two (2) candidates having received the greatest number of votes in the general or special election for such office shall be submitted to the voters, and the one of these two (2) receiving the majority number of votes in such run-off election shall be declared to be duly elected to such office; provided further, that should two (2) or more candidates receive an equal number of votes to any such office, so that it cannot be determined which two (2) had received the greatest and the next greatest number of votes, then the names of all such candidates shall be submitted at the run-off election, and the candidate receiving the greatest number of votes at such election shall be declared elected to such office, regardless of whether such candidate received a majority of the votes cast to fill such office at such run-off election. In the event a candidate withdraws or dies before any election, leaving only one (1) candidate for the seat to be filled, then that election shall not be held for that seat. The remaining candidate shall be deemed to have voted for him or herself and/or elected by acclamation.

Before entering upon the discharge of the duties of the office, each person appointed or elected as a member of the city council shall take and subscribe the oath, as set forth in the Constitution of the State of Florida for all state and county officers, before some officer authorized to administer oaths under the law of the State of Florida.

**Section 4-3. Quorum, meetings, organization, and election of mayor and vice-mayor.**

No less than three (3) members of the city council must be present in order to constitute a quorum for the conduct of council business. The city council shall meet no less frequently than once per month and at such time and place as the council may prescribe. Special meetings may be held at the call of the mayor or by a majority of the members present. The members of the city council elected pursuant to this article shall meet for organization at the next regularly scheduled meeting of the city council following the date of their election or as may be established by a majority vote of the council's total membership. At said meeting, the city council shall appoint one (1) member a mayor and another member a vice mayor of the city, each of whom shall hold such office for a term of one (1) year or until his/her successor shall be appointed and qualified, whichever occurs later. The city council may also appoint a third member vice mayor pro tempore, who shall have the same term as the mayor and vice mayor, if a majority of the council present deems such appointment appropriate and prudent.

**Section 4-4. Vacancies.**

The office of a councilmember shall become vacant in the event of death, resignation, or removal from office of any member of the city council. The method of filling any such vacancy shall be as follows:

(a) Filling of vacancies. The city council or so much of it as shall remain, shall have the power by a majority vote of the remaining members to fill a vacancy on the council by the appointment of a qualified elector to hold such office until the next general municipal election when a successor shall be elected and take office. Should the council decline to fill a vacancy, the vacant seat shall be filled by a successor at the next available election held in Palm Beach County, Florida. The successor so elected shall then serve the remaining portion of the three- (3) year term for the council seat in which the vacancy occurred.

(b) Extraordinary vacancies. In the event that all members of the council are removed from office such that each council seat is vacant, the governor shall appoint an interim city council, comprised of five (5) qualified electors, who shall call a special election, which shall be held in the same manner as the first election under this Charter. (See Section 4-2.) However, if a national, countywide, or general municipal election is scheduled to be held within one hundred eighty (180) days of the interim city council taking office, then no such special election shall be required.

**Section 4-5. Compensation for mayor and councilmembers.**

The salaries of the mayor and council members shall be fixed by ordinance; provided, however, that the council shall not raise the salaries of the city council or the mayor during any fiscal year in which the ordinance raising salaries is adopted, but it may raise or lower salaries of all members of future councils, to take effect during the fiscal year following the adoption of an ordinance to that effect.

#### **Section 4-6. Powers and duties of the mayor.**

The mayor shall preside as chairman at meetings of the city council; shall be recognized as head of city government for all ceremonial purposes; by the governor for purposes of military law; for service of process; execution of contracts, deeds, and other documents; and as the city official designated to represent the city in all other governmental meetings, but shall have no administrative duties except as required to carry out the responsibilities herein. The mayor shall have a voice and vote in the proceedings of the city council.

The vice mayor shall assume the duties of the mayor during the absence or disability of the mayor.

In the absence or disability of both the mayor and vice mayor, the city council may appoint a vice mayor pro tem to fulfill the duties and functions of said office, if one has not been previously appointed.

#### **Section 4-7. Prohibitions.**

(a) Appointment and removals. Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the manager or any of his/her subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.

(b) Interference with administration. Except for the purpose of inquiries, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the city manager, and neither the council nor its members shall give orders to any such officer or employee either publicly or privately. Recommendations for improvement in city government operations by individual council members shall be made to and through the city manager, so that the manager may coordinate efforts of all city departments to achieve the greatest possible savings through the most efficient and sound means available.

#### **Section 4-8. Turnover of documents.**

It shall be the duty of every officer of the city within ten (10) days after the expiration of his/her term of office or his/her removal therefrom to deliver to his/her successor in office or to such other person as the council may designate, all books, records, papers, vouchers, and property of every kind in his/her possession or control belonging to the municipality.

#### **Section 4-9. Council-appointed advisors, consultants, and officials.**

The city council shall have the power and authority to employ and retain engineers, auditors, and attorneys and other professional advisors and consultants. The city council shall have the power to create and abolish all offices and fix and determine the authority, duties, and compensation of all appointed officers.

**Section 4-10. Mayor, any councilmember, or any elected official may be recalled.**

The mayor, any councilmember, or any other elected official may be recalled and removed from his or her respective office as provided under the general statutes of Florida.

**ARTICLE V: ADMINISTRATION AS COUNCIL-MANAGER GOVERNMENT**

**Section 5-1. City manager.**

(a) The city council, by a majority vote of its total membership, shall appoint a city manager who shall serve at the pleasure of the city council. The city manager shall be appointed on the basis of executive and administrative qualifications as established by the council. The compensation and benefits of the city manager shall be as determined by the city council. The city council may annually review the manager's performance at a time and in a manner determined by the city council.

(b) The city manager shall be the chief administrative officer of the municipal government under the laws and Charter of the city, responsible to the city council for the administration of all city affairs and employees placed in the manager's charge by or under this Charter and/or city ordinances. To that end, the city manager's powers and duties include, but are not limited to:

- (1) See that the laws and ordinances are enforced.
- (2) Prepare and submit an annual budget to the city council for its consideration.
- (3) Attend all meetings of the city council with a right to take part in the discussion but without having a vote.
- (4) Recommend to the council for adoption such measures as he/she may deem necessary or expedient in the interest of the city. To keep the city council fully advised as to the financial condition and needs of the city and to prepare and submit for its consideration an annual budget.
- (5) Appoint all department heads, to employ and remove all other employees of the city.
- (6) Make such reports as the city council may require concerning the operations of the city departments.
- (7) Perform such other duties as may be specified in this Charter, by law, or as the city council may prescribe.
- (8) Retain such specialized professional services as may be necessary to effectively and efficiently conduct the city's affairs in accordance with state and local laws.

(c) No member of the city council shall dictate the appointment of any person to office or employment by the city manager or in any manner interfere with the city manager or prevent him/her from exercising his/her own judgment in the appointment of officers and employees in the administrative service. The council and its members shall deal with city employees solely through the city manager.

(d) The city council may remove or suspend the city manager by a majority vote of the total membership of the city council. The city manager shall hold office and serve at the pleasure of the city council. The city manager shall continue to receive full salary and benefits until the effective date of such removal.

(e) By letter or memorandum filed with the city clerk, the city manager shall designate a city officer or employee to exercise the powers and perform the duties of city manager during the city manager's absence or disability. The city council may revoke such designation at any time and appoint another officer or employee of the city to serve until the city manager returns.

## **Section 5-2. City attorney.**

(a) The city council, by a majority vote of its total membership, shall appoint a city attorney, who may be removed in the same manner. The compensation and benefits of the city attorney shall be as determined by the city council. The city may appoint a firm or an individual to serve as the city attorney.

(b) The city attorney shall be the chief legal officer of the city responsible for all legal affairs of the city, and shall serve as chief legal advisor to the city council, the city manager, the city's departments, and such boards or committees as are placed in the city attorney's charge by the city council or the city manager. The city attorney's powers and duties shall include:

- (1) Preparing or reviewing as to form and legal sufficiency all contracts, resolutions, ordinances, or other documents of the city.
- (2) Appointing such assistant city attorneys to perform the duties of his/her office as may be approved by the city manager.
- (3) Prosecuting and defending all legal or administrative law actions wherein the city is a party.
- (4) Performing such other legal services as may be requested by the city council or the city manager.
- (5) Performing such other duties as may be required by state law, this Charter, or ordinance.

(c) The city council or the city manager may also appoint one or more special counsel to serve as legal advisors to the city council, the city manager, and city departments, officers, and agencies with respect to specific legal proceedings or matters to conduct city affairs in an efficient manner in accordance with state law, this Charter, or ordinance of the city.

## **ARTICLE VI: ELECTIONS**

### **Section 6-1. Regulation by ordinance.**

The city council shall provide by ordinance for the conduct of elections in accordance with state law and this Charter.



## **ARTICLE VII: INITIATIVE AND REFERENDUM**

### **Section 7-1. Passage or repeal of ordinance; petition; procedure.**

The qualified electors of the city shall have the power to institute initiative and referendum procedures as provided by general law of the State of Florida and/or by ordinance. However, such power shall not extend to the budget or capital program or to any ordinance or resolution relating to appropriation of money, levy of taxes, or salaries of city officers, employees, or agents, professional or otherwise.