

ORDINANCE NO. 2009-05

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA RELATING TO PUBLIC MONIES; AMENDING SECTION 8.09, TOWN CHARTER; MAKING FINDINGS; PROVIDING FOR A REFERENDUM ELECTION AND BALLOT LANGUAGE; AMENDING THE TOWN CHARTER BY PERMITTING PUBLIC MONIES TO BE PLACED IN FUNDS, INVESTMENTS, AND ACCOUNTS AS DIRECTED BY THE TOWN COMMISSION; PERMITTING MONIES TO BE DISBURSED BY OTHER THAN CHECK PROVIDED RECORDS ARE KEPT, ACCOUNTING REGULATIONS FOLLOWED AND MONEY DISBURSED PURSUANT TO A WRITING SIGNED BY THE TOWN MANAGER OR HIS DESIGNEE; PROVIDING FOR COORDINATION WITH THE SUPERVISOR OF ELECTIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 8.09 of the Town Charter currently allows Town monies to be placed only in a bank;

WHEREAS, Section 218.415, Florida Statutes, upon adoption of required investment policies now permits public monies of the Town to be invested in the Local government Surplus Trust Fund; certain intergovernmental investment pools; Securities and Exchange Commission registered money market funds; interest-bearing time deposits in qualified public depositories as defined by and approved pursuant to Chapter 280, Florida Statutes direct obligations of the U.S. Treasury, Federal agencies and instrumentalities, rated or unrated bonds and notes of the government of Israel, securities of any open-end management-type investment company or investment trust registered under the Investment Company Act of 1940; and other investments authorized by Town ordinance;

WHEREAS, pursuant to Section 8.09 of the Town Charter public monies may only be disbursed by check;

WHEREAS, Section 8.09 of the Town Charter could be viewed as implicitly prohibiting the use of petty cash, money orders,

wire-transfers, or other generally accepted means of the disbursal of monies;

WHEREAS, Section 8.09 of the Town Charter could be viewed as implicitly prohibiting the investment of public monies under the control of the Town Commission and pension funds in other than a bank; notwithstanding that pension funds are subject to the control of the Board of Trustees of the Melbourne Beach Police Officers Retirement System;

WHEREAS, the Town Commission has determined that the aforesaid Town Charter provision should be submitted to the Town electors for revision to be consistent with modern means of accounting, investment, and disbursement of monies;

WHEREAS, the Town Commission has determined that adoption of this Ordinance will promote the public interest, health, safety, economic order, and welfare of the community; and

WHEREAS, pursuant to its home rule power in Article VIII, Section 2, Florida Constitution of 1968; Chapter 166, Florida Statutes; Section 166.031, Florida Statutes, and the Town's Charter, the Town Commission hereby adopts this Ordinance.

BE IT ENACTED BY THE TOWN OF MELBOURNE BEACH, FLORIDA:

SECTION 1. Referendum Election. A referendum election is hereby called and scheduled to be held concurrent with the general Town election on the 3rd day of November, 2009, to determine whether the amendment to the Charter of the Town of Melbourne Beach, Florida, appearing in Section 2. hereof shall be approved by a majority of

the votes cast in such election in which the qualified electors residing in the Town shall participate. Such referendum election shall be held and conducted in the manner prescribed by law for all elections. The places for voting in such referendum election shall be such locations as shall be otherwise established for the general election to elect Town Commissioners on November 3, 2009. All duly qualified electors of the Town of Melbourne Beach shall be entitled to participate in said election.

SECTION 2. Amendment to Charter. In interpreting the amendment in this Section, language that is underlined is an addition to the existing text of the Town Charter. Language that is ~~stricken through~~ is a deletion from the existing text of the Town Charter. It is proposed that Section 8.09 of the Town Charter of the Town Melbourne Beach, Florida, shall be amended to read as follows:

Sec. 8.09. Public monies.

All public monies, excepting pension funds, shall be deposited in the name of the Town of Melbourne Beach in such qualified public depositories as defined by and designated pursuant to Chapter 280, Florida Statutes, funds, investments, or accounts as a bank or banks designated by the Town Commission; provided, that all public monies shall be deposited or invested in a manner not inconsistent with Florida law. All public monies shall be

disbursed in such a manner so that a written record shall be created and maintained pursuant to standards adopted by the State of Florida Auditor General (or said Auditor's designated successor as provided by law), and if no standards shall have been adopted by the Auditor General, then said written records of disbursement shall be created and maintained pursuant to generally accepted accounting standards as recommended by the Town's auditors and adopted by the Town. ~~only by check, to be signed by at least one(1) authorized Town Commissioner and another Town officer as designated from time to time by ordinance of the Town.~~

Any person performing any duties in which he collects, receives, or handles any public monies must qualify under a blanket bond.

SECTION 3. Ballot Question. Concurrent with the Town General Election scheduled for November 3, 2009, the following question shall be placed on the ballot following the placement on the ballot of candidates for the offices of Mayor and Town Commissioners, if any. The issue shall be worded substantially as follows:

No. 1

MELBOURNE BEACH TOWN CHARTER AMENDMENT

SECTION 8.09, TOWN CHARTER

Currently monies can only be placed in a bank and disbursed by check. The amendment will allow monies, except pension funds, to be placed or invested as approved by the Town Commission; provided, Florida law is also complied with. Money will be permitted to be disbursed by check, wire transfer, and by other means provided records are kept and directives of the Auditor General and generally accepted accounting rules are followed.

YES (for approval) _____

NO (for rejection) _____

SECTION 4. Coordination with Supervisor of Elections. The Town Clerk is hereby authorized and directed to instruct and coordinate with the Supervisor of Elections of Brevard County to include the above-described question on the ballot concurrent with the general election to be held on November 3, 2009.

SECTION 5. Severability Clause. In the event that any term, provision, clause, sentence or section of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

SECTION 6. Effective Date. Section 2. of this Ordinance shall become effective only if a majority of the registered electors of the Town of Melbourne Beach, Florida, casting votes at the municipal election on November 3, 2009 on Town Charter Question No. 1 approve the amendment set forth in Section 2. of this Ordinance. If the amendment is approved by the registered electors, the Charter amendment embodied herein shall be immediately effective and shall be incorporated into the Town Charter. The Town Clerk is directed upon adoption to promptly file the Charter with said amendment incorporated therein with the State of Florida, Secretary of State, as required by Section 166.031, Florida Statutes. Sections 1., 3., 4., 5., and 6. of this Ordinance shall become effective upon adoption of this Ordinance by the Town Council.

PASSED by the Town Commission of the Town of Melbourne Beach on first reading on the ____ day of _____, 2009, and ADOPTED by the Town Commission of the Town of Melbourne Beach, Florida on final reading on the ____ day of _____, 2009.

TOWN OF Melbourne Beach, FLORIDA

By: _____
Rita A. Karpie,
Mayor

ATTEST: _____
Christina Hoffkins, CMC
Town Clerk