

ORDINANCE NO. 2010-06

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA RELATING TO THE ELECTION OF MEMBERS OF THE TOWN COMMISSION; AMENDING SECTIONS 2.03, 2.07, and 2.09, TOWN CHARTER; MAKING FINDINGS; PROVIDING FOR A REFERENDUM ELECTION AND BALLOT LANGUAGE; AMENDING THE TOWN CHARTER BY PROVIDING THAT COMMENCING WITH THE NOVEMBER, 2014, TOWN MUNICIPAL GENERAL ELECTION AND THEREAFTER, THE MAYOR AND ALL COMMISSIONERS-AT-LARGE SHALL BE ELECTED TO FOUR (4) YEAR TERMS OF OFFICE, EXCEPT IN CERTAIN INSTANCES OF FILLING A VACANCY OR SUCCEEDING A RECALLED MEMBER OF THE COMMISSION; PROVIDING THAT EXCEPT FOR COMMISSIONERS FILLING A VACANCY, FOR THE NOVEMBER, 2012, TOWN MUNICIPAL GENERAL ELECTION, THE COMMISSIONER-AT-LARGE OFFICES UP FOR ELECTION SHALL BE FILLED BY CANDIDATES FOR TWO (2) YEAR TERMS OF OFFICE; PROVIDING FOR COORDINATION WITH THE SUPERVISOR OF ELECTIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2003 turnout in the Melbourne Beach town election was approximately 48.65%;

WHEREAS, in 2005 turnout in the Melbourne Beach town election was approximately 41.22%;

WHEREAS, in 2007 turnout in the Melbourne Beach town election was approximately 38.57%;

WHEREAS, in 2009 turnout in the Melbourne Beach town election was approximately 24.28%;

WHEREAS, 2003, 2005, 2007, and 2009 were off-year elections in which no Presidential or Gubernatorial election occurred and few positions were on the ballot;

WHEREAS, during the 2003, 2005, 2007, and 2009 off-year elections turnout decreased every year between 2003 and 2009;

WHEREAS, during the 2003, 2005, 2007, and 2009 off-year election period, turnout averaged approximately 38% +/-;

WHEREAS, in 2002 turnout in Melbourne Beach in the general election was approximately 61.32%;

WHEREAS, in 2004 turnout in Melbourne Beach in the general election was approximately 78.39%;

WHEREAS, in 2006 turnout in Melbourne Beach in the general election was approximately 64.31%;

WHEREAS, in 2008 turnout in Melbourne Beach in the general election was approximately 63.01%;

WHEREAS, 2002, 2004, 2006, and 2008 were years in which Presidential or Gubernatorial elections occurred and when many positions were on the ballot;

WHEREAS, during the period 2002 to 2008 during elections in which Presidential or Gubernatorial elections occurred, turnout was never less than 60%;

WHEREAS, during the 2002, 2004, 2006, and 2008 election period, turnout averaged approximately 66.76% +/-;

WHEREAS, on average turnout is over 50% higher in Town elections held coincident with Presidential or Gubernatorial elections than in off-years in which only Town elections are on the ballot;

WHEREAS, the Town Commission believes turnout of Melbourne Beach voters in Town elections would be higher if Town elections occurred only coincident with Presidential or Gubernatorial elections;

WHEREAS, the cost of putting on an election in off years would be saved by holding Town elections only coincident with Presidential or Gubernatorial elections;

WHEREAS, Town elections could be held coincident with Presidential or Gubernatorial elections if Members of the Town Commission were elected for four year terms as opposed to three year terms;

WHEREAS, the Town Commission believes the question of whether Town elections should be held coincident with Presidential or Gubernatorial elections and electing future Members of the Town Commission for four year terms as opposed to three year terms should be presented to the Town electorate during the November, 2010, a year in which voter turnout should be higher to elect both a new Governor and a new U.S. Senator;

WHEREAS, the Town Commission finds 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 2nd day of November, 2010, 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 2, 2010. 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 Sections 2.03, 2.07, and 2.09 of the Town Charter of the Town Melbourne Beach, Florida, shall be amended to read as follows:

**Sec. 2.03. TERM OF OFFICE.**

(a) Elected Commissioners shall take office at the beginning of the next official meeting following the municipal election at which they were elected. They shall hold office for a term of three (3) years, or until their successors are elected and qualified, unless:

(1) The individual has been appointed or elected to fulfill the term of a Commissioner-at-Large who has been removed from office other than by means of recall, forfeited the office of Commissioner-at-Large, resigned, or the office has become vacant due to the death of

a Commissioner-at-Large. In such event, a successor Commissioner-at-Large shall assume office in the manner set forth in Section 2.04. in this Charter.

(2) The individual has been elected to fulfill the term of a Commissioner-at-Large who has been recalled from said office by the electorate. In such event a newly elected Commissioner-at-Large who is replacing a Commissioner-at-Large recalled from office shall serve a term equal in time to what would have otherwise been the time remaining in the term of the recalled Commissioner-at-Large's term; or

(3) The individual is elected to fill a term otherwise consistent with this Charter.

Excepting individuals filling a vacancy pursuant to sub-section (a)(1)-(3) above, for the November, 2012, Town municipal general election, the term of office for the offices of Commissioner-at-Large shall be two (2) years. They shall hold office for a term of two (2) years, or until their successors are elected and qualified.

(b) Neither a commission member or the mayor may qualify for or serve more than two (2) complete consecutive terms and the portion of an unexpired term occurring by reason of filling a vacancy. Notwithstanding the foregoing, an elected town city official, such as a commissioner, who has served the maximum time in office as permitted by this paragraph, may qualify for and be elected to serve in a different town city elected office, such as mayor. A Further, a commissioner or the mayor who has served the maximum amount of time permitted by this sub-section may again serve on the commission subject to the time and term limitations of this sub-section; provided, that the official has not served in the same office on the commission for at least one (1) year (three hundred sixty-five (365) days = one (1) year). Any town city elected official who resigns within one (1) year (three hundred sixty-five (365) days = one (1) year) before the end of the second consecutive term of office

shall be prohibited from qualifying as a candidate for a commission seat in the next regular city election. This paragraph shall be applicable to any commission member or the mayor who, subsequent to the election held on November 2, 2004, has served for two (2) complete consecutive terms and which terms have been served in full after November 2, 2004.

(c) Commencing with the November, 2014, municipal election and for all elections thereafter, elected Commissioners shall take office at the beginning of the next official meeting following the municipal election at which they were elected. They shall hold office for a term of four (4) years, or until their successors are elected and qualified, unless:

(1) The individual has been appointed or elected to fulfill the term of a Commissioner- at-Large who has been removed from office other than by means of recall, forfeited the office of Commissioner-at-Large, resigned, or the office has become vacant due to the death of a Commissioner-at-Large. In such event, a successor Commissioner-at-Large shall assume office in the manner set forth in Section 2.04. in this Charter.

(2) The individual has been elected to fulfill the term of a Commissioner-at-Large who has been recalled from said office by the electorate. In such event a newly elected Commissioner-at-Large who is replacing a Commissioner-at-Large recalled from office shall serve a term equal in time to what would have otherwise been the time remaining in the term of the recalled Commissioner-at-Large's term; or

(3) The individual is elected to fill a term otherwise consistent with this Charter.

**Sec. 2.07. MAYOR.**

Candidates seeking the office of ~~The~~ Mayor shall qualify and run for office for a term of three (3) years as hereinafter provided. Commencing with the municipal general election

in November, 2014, candidates seeking the office of Mayor shall qualify and run for office for a term of four (4) years as hereinafter provided. The Mayor He shall be a voting member of the Commission, the presiding officer of the Commission, and the titular head of the Town government for ceremonial purposes, and for the purpose of civil process. The Mayor He shall be responsible for civil defense and military law. The Mayor He shall execute all instruments to which the Town is a party as the Commission shall direct, unless otherwise provided by this Charter or by law.

**Sec. 2.09. COMMISSIONER-AT-LARGE.**

(a) A total of four (4) Commissioners-at-Large shall qualify and run for the four (4) seats. Excepting individuals filling a vacancy pursuant to section 2.03(a)(1)-(3), at the November, 2012, municipal election, candidates for the office of Commissioner-at-Large to be placed on the ballot shall qualify and run for a two (2) year terms ending in November, 2014. Commencing with the November, 2014, municipal election candidates for the office of Commissioner-at-Large to be placed on the ballot shall qualify and run for four a (4) year terms ending in November, 2018. At the November, 1989 election, the two candidates receiving the largest and second largest number of votes shall each be elected to three (3) year terms, while the two candidates receiving the third and fourth largest number of votes shall each be elected to two (2) year terms. When one position for Commissioner- at-Large is on the ballot, the candidate receiving the highest number of votes shall be deemed to have been elected. When two or more positions for Commissioner-at-Large are on the ballot, the number of candidates equal to the number of ballot positions receiving the highest number of votes shall be deemed to have been elected.

SECTION 3. Ballot Question. Concurrent with the Town General Election scheduled for November 2, 2010, the following question shall be placed on the ballot following the placement on the ballot of

candidates for the offices of Town Commissioner-at-Large, if any.  
The issue shall be worded substantially as follows:

**No. 1**

**MELBOURNE BEACH TOWN CHARTER AMENDMENT**

**SECTIONS 2.03, 2.07, and 2.09, TOWN CHARTER**

The Mayor and Commissioners are currently elected to office for three year terms. For the November, 2012 Town election, candidates for the office of Commissioner-at-Large shall be elected to two year terms ending in November, 2014. Commencing with the November, 2014 election, except for individuals filling a vacancy or succeeding a recalled official, the Mayor and Town Commissioners shall be elected for four year terms.

YES (for approval) \_\_\_\_\_

NO (for rejection) \_\_\_\_\_

SECTION 4. Coordination with Supervisor of Elections. The Town Clerk is hereby authorized and directed to 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 2, 2010.

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 2, 2010 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 19th day of May, 2010, and ADOPTED by the Town Commission of the Town of Melbourne Beach, Florida on final reading on the 16th day of June, 2010.

TOWN OF MELBOURNE BEACH,  
FLORIDA

By: \_\_\_\_\_  
Rita A. Karpie,  
Mayor

(TOWN SEAL)

ATTEST: \_\_\_\_\_  
Rhonda Danielle, Interim  
Town Clerk