

**CITY OF ATLANTIC BEACH
CITY COMMISSION MEETING
COMMISSIONER'S REPORT**

AGENDA ITEM: Recommendation to Submit Charter Amendments to Public Referendum on the General Election Ballot held in November 2018

SUBMITTED BY: John M. Stinson, Commissioner, Seat No. 2

REPORT DATE: 11th of October 2017

BACKGROUND: Historical voter turnout for City of Atlantic Beach registered voters participating in municipal elections since 2002 has ranged from as low as 14% to a peak of 33%.

Comparatively, voter turnout for the City of Atlantic Beach registered voters participating in Gubernatorial and Presidential elections since 2002 has ranged from a low of 49% to a peak of 79%.

Readily available data from the Duval County Supervisor of Elections office is the source for these facts and highlights the disparity of registered voter participation in City of Atlantic Beach municipal elections.

There may be other historical information, not presented in this chronology and not available at the time of the drafting of this report.

JUSTIFICATION: The 4th Amendment to the Constitution of the United States references States forfeiting the State's representation in Congress if the right to vote is denied, but it is the 15th and 19th Amendments that guarantee every citizen of the United States the right to vote.

Title IX Electors and Elections of the Florida Statutes, further protects and defines the eligibility to cast a ballot in an election within the State of Florida.

Section 38 of the Charter of the City of Atlantic Beach defers to the State of Florida statutes related to the right to vote and qualifications of electors.

Data presented in support of Ordinance No. 33-17-22, which passed on its First Reading at the regularly scheduled City Commission meeting of the 9th of October 2017, readily identifies there is some element of the current election cycle that discourages the City of Atlantic Beach from being governed by a majority of its citizens and registered voters. Average voter participation since 2002 is 26% of registered voters casting a ballot in a municipal election. This is in stark contrast to voter participation in Presidential or Gubernatorial elections since 2002 of 69% and 53% respectively.

As stewards of the public trust, elected officials have a duty and an obligation to ensure that no person is discouraged nor prevented from exercising a Constitutionally protected right, and that every effort is made to facilitate voting practices that encourage and enable citizens to select their elected officials.

Ordinance No. 33-17-22 if passed on its Final Reading on the 23rd of October 2017 will move the election cycle for the City Commission of the City of Atlantic Beach to even-numbered years to coincide with all other elections held in Duval County of the State of Florida and will successfully address the undue financial expense incurred by the voters of Atlantic Beach.

Ordinance No. 33-17-23 if passed would change the election process: from a Primary election that essentially determines the successful candidate for office in most City-wide elections and a General election that determines the successful candidate for office in any run-off election; to an election cycle that coincides with any and all even-numbered year General elections held in November of those years and would determine the successful candidate for office by a plurality of votes.

Ordinance No. 33-17-23 will also more correctly align City of Atlantic Beach municipal elections with the requirement to be considered non-partisan elections since Primary elections are generally held to determine party candidates as set forth by the State of Florida. Further, adoption of this Ordinance would ensure that the City of Atlantic Beach and its Charter would in spirit be more closely complying with the stipulations of the United States Constitution and the Florida statutes referenced above.

BUDGET:

Budgetary impact is expected to be minimal.

RECOMMENDATION: Adopt Ordinance No. 33-17-23 as read by title.

ATTACHMENT: Ordinance No. 33-17-23

PRESENTATIONS: None at this time.



APPROVAL:

Approved to form and correctness by:
John M. Stinson, City Commission, Seat No. 2

ORDINANCE NO. 33-17-23

AN ORDINANCE OF THE CITY OF ATLANTIC BEACH, FLORIDA PROPOSING AMENDMENTS TO THE CHARTER OF THE CITY OF ATLANTIC BEACH ARTICLE IX, ELECTIONS, SECTION 39 – NOMINATIONS, SECTION 40 – ELECTIONS: PRIMARY AND SECTION 41 – ELECTIONS: GENERAL AND TO ARTICLE II – THE COMMISSION, SECTION 14 – INDUCTION OF CITY COMMISSION INTO OFFICE - MEETINGS OF THE CITY COMMISSION; SUBMITTING THE AMENDMENTS TO THE CHARTER FOR CONSIDERATION BY THE ELECTORS OF THE CITY FOR APPROVAL OR DISAPPROVAL; PROVIDING FOR THE APPEARANCE OF THE CHARTER AMENDMENTS ON THE BALLOT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Atlantic Beach, Florida, after receiving input from its citizens, finds that the proposed amendments to the City Charter as attached to this Ordinance should be submitted to the qualified electors of the City of Atlantic Beach for consideration; and

WHEREAS, the City Commission of the City of Atlantic Beach, Florida finds that the adoption of this Ordinance is in the best interest of Atlantic Beach, Florida and its citizens.

NOW THEREFORE, BE IT ENACTED by the City Commission on behalf of the people of the City of Atlantic Beach, Florida:

SECTION 1. Proposed Amendments to Charter. The City Commission of the City of Atlantic Beach, Florida hereby proposes the following amendments to the City Charter:

Article II – The Commission

Section 14 – Induction of City Commission into Office – Meetings of City Commission, to delete the reference to primary elections; and

Article IX – Elections

Section 39 – Nominations, to change references from “primary” elections to “general”,

Section 40 – Elections: Primary, to eliminate the requirement to hold primary elections, and

Section 41 – Elections: General, to provide that general elections for all City Commission seats be determined by a plurality of votes cast,

all as set forth in Exhibit A attached hereto and incorporated herein by reference, which, if approved by the qualified electors of the City, would replace the former provisions of Sections 14, 39, 40 and 41 of the City Charter.

SECTION 2. Submission of Charter Amendments to Public Referendum. The amendments to the Charter of the City of Atlantic Beach, Florida set forth in the attached Exhibit A shall be submitted to public referendum at the next general election held in the City of Atlantic Beach, Florida for approval or disapproval by the qualified electors of the City.

SECTION 3. Appearance of Charter Amendments on Ballot.

- a. The ballot title to be used in said election shall be as follows:

PROPOSED AMENDMENTS TO THE ATLANTIC BEACH CITY
CHARTER TO MODIFY CITY COMMISSION ELECTION
PROCEDURES

- b. The ballot summary shall be as follows:

Shall the City Commission election procedures set forth in Sections 40 and 41 of the Atlantic Beach City Charter be modified to delete the requirement to hold primary elections for all Commission seats and to provide instead that general elections for all Commission seats shall be determined by a plurality of votes cast and further, that references to “primary” elections in Sections 14 and 39 of the Charter be changed to “general” elections, be adopted?

Below the summary shall appear the following:

YES _____

NO _____

SECTION 4. Effective Date. The proposed amendments to the Charter of the City of Atlantic Beach shall become effective upon approval by the electors of the City and shall be filed with the Florida Department of State as required by law.

PASSED by the City Commission on first reading, this ____ day of _____, 2017.

PASSED by the City Commission on second and final reading, this ____ day of _____, 2017.

CITY OF ATLANTIC BEACH

Mitchell E. Reeves, Mayor

ATTEST:

Donna L. Bartle, City Clerk

Approved as to form and correctness:

Brenna M. Durden, City Attorney

EXHIBIT A

PROPOSED AMENDMENTS TO SECTIONS 39, 40 AND 41 OF ARTICLE IX AND SECTION 14 OF ARTICLE II OF THE CITY CHARTER

Sec. 40. - Elections: Primary.

There are no primary elections for any seat on the City Commission of the City of Atlantic Beach. ~~A primary election for the nomination of candidates for the office of city commissioner of the city shall be held every even-numbered year on the same day as Florida's Primary Election for that year, for each seat on the city commission which shall become vacant on the second Monday in November of the same year, or when the newly elected city commissioners assume the duties of office in accordance with Sec. 14 of this Charter. The two candidates for each seat to be filled receiving the greatest number of votes in said primary shall be certified as candidates or nominees at the general election, provided, however, that should any candidate receive at such primary election a majority of all votes cast, he or she shall be declared regularly elected and shall not be required to enter the general election as hereinafter provided. However, should only one candidate be nominated for a particular seat, an election for that seat will not be required and the unopposed candidate shall be declared elected to the office of city commissioner.~~

Sec. 41. - Elections: General.

Beginning with the year 2019:

A regular or general election of candidates or nominees to the office of city commissioner shall be held every even-numbered year on the same day as Florida's General Election for that year for each seat on the city commission which shall become vacant on the second Monday in November of the same year, or when the newly elected city commissioners assume the duties of office in accordance with Sec. 14 of this Charter. ~~unless all vacancies have been determined by the primary election in accordance with Section 40 of this Charter.~~ The candidate or nominee receiving the plurality ~~majority~~ of votes cast for each seat at such general election shall be declared elected. In the event of a tie between two candidates in the general election the candidates shall draw lots in accordance with Florida Statutes to determine the winner.

Sec. 39 – Nominations.

Any elector of the city having the additional qualifications and limitations as set forth in Article II, Section 6, may be nominated for a seat in the city commission. Such nomination shall be only by petition. A petition for this purpose shall be signed by not less than twenty-five (25) qualified electors of the city. The signatures on the nominating petition need not all be subscribed on one paper. Each separate paper shall have affixed a signed statement of the circulator thereof stating the number of signers of such paper and that each signature appended thereto was made in the presence of the circulator and is the genuine signature of the person whose name it purports to be. Each signer, including the circulator, shall provide his/her place of residence, including the street and number. The form of the nomination petition shall be substantially as follows:

"We, the undersigned electors of the City of Atlantic Beach hereby nominate _____ whose residence is _____ for the office of Commissioner, Seat No. _____ to be voted for at the election to be held on the ____ day of _____, _____, A.D., and we individually certify that our names appear on the rolls of registered voters, and that we qualified to vote for a candidate for the city commission.

Name, street, and number address from which last date of registered (if different) signing.

(Spaces for signatures and required date)

STATEMENT OF CIRCULATOR

The undersigned is the circulator of the foregoing paper containing _____ signatures. Each signature appended thereto was made in my presence and is the genuine signature of the person whose name it purports to be.

SIGNATURE OF CIRCULATOR _____

ADDRESS: _____"

Any signature made earlier than forty (40) days prior to the first day of qualifying shall be void. All petitions must be filed with the city clerk no later than 10 days prior to the qualifying period. The qualifying period will begin no later than noon on the 71st day (Monday) prior to the general primary-election and will end at noon on the 67th day (Friday) prior the general primary election. All other qualifying papers shall be filed as one instrument with the city clerk during the qualifying period. The city clerk shall make a record of the exact time at which each petition is filed, and shall take and preserve the name and address of the person by whom it is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination in substantially the following form:

"ACCEPTANCE OF NOMINATION

I hereby accept the nomination for Seat No. _____ on the city commission and agree to serve if elected.

SIGNATURE OF CANDIDATE _____"

Within two days after the filing of a nominating petition, the city clerk shall notify the candidate and the person who filed the petition whether or not it is found to be signed by the required number of qualified electors. If a petition is found insufficient, the city clerk shall return it immediately to the person who filed it with a statement certifying wherein the petition is found insufficient. Within the regular time for filing petitions, such a petition may be amended and filed again as a new petition, in which case the time of the first filing shall be disregarded in determining the validity of signatures thereon, or a different petition may be filed for the same candidate. The petition for each person nominated to be a member of the city commission shall be preserved by the city clerk until the expiration of the term of office for which the candidate has been nominated.

Sec. 14 – Induction of city commission into office; meetings of the city commission.

After each ~~primary election or general election (if needed)~~, the newly elected city commissioners shall assume the duties of office at the regularly scheduled meeting of the city commission held on the second Monday in November provided that the Supervisor of Elections has certified the election results. If the election results for any contested city commission seat cannot be certified prior to the meeting to be held on the second Monday in November, then any newly elected city commissioners shall assume the duties of office at the next regularly scheduled meeting of the city commission following receipt of the certified election results from the Supervisor of Elections. Until the newly elected city commissioners assume the duties of office, the previous sitting city commissioners shall remain in office. All other regular meetings of the city commission shall be fixed by ordinance, but there shall not be less than one regular meeting each month. Except as provided by Florida's Government-in-the-Sunshine Law (F.S. 286.011), all meetings of the city commission shall be open to the public.

Words ~~stricken~~ are deletions; words underlined are additions.