

Town of Lauderdale-By-The-Sea
Charter Review Board Meeting

Agenda

Tuesday, April 1, 2025

6:00 PM



Jarvis Hall 4505 N. Ocean Drive
www.Lauderdalebythesea-fl.gov

LAUDERDALE-BY-THE-SEA TOWN COMMISSION

Charter Review Board Meeting

Tuesday, April 1, 2025, 6:00 PM
Jarvis Hall 4505 N. Ocean Drive, 33308

1. **CALL TO ORDER**
 2. **PLEDGE OF ALLEGIANCE TO THE FLAG**
 3. **APPROVAL OF MINUTES**
 - 3.a. Approval of Minutes for 3-4-25 Charter Review Board meeting.
 4. **PUBLIC COMMENTS**
 5. **NEW BUSINESS**
 - 5.a. Discussion of Article 4 - Initiative and Referendum
 - 5.b. Discussion of Article 5 - Town Officers and Employees
 6. **OLD BUSINESS**
 7. **UPDATES/BOARD MEMBER COMMENTS**
 8. **ADJOURNMENT**
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THE TOWN OF LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AUXILIARY AIDS AND SERVICES NECESSARY TO AFFORD INDIVIDUALS AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE TOWN COMMISSION. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING

SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO (2) DAYS PRIOR TO THE MEETING AT (954) 640-4200 FOR ASSISTANCE.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE TOWN COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO ENSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PROCEDURES FOR PUBLIC COMMENTS:

Public Comments may address issues that are not on this meeting's agenda, but should relate to the business of the Town, and should not contain personal attacks. If your comment requires follow up, the Town Manager will have a staff person respond to your concerns, and will advise us of the outcome.

The Town Clerk will read off the names of those who have signed up to speak. When your name is called, please come to the podium, state your name for the record, and indicate whether you are a Town resident. Do not state your address. You have up to three minutes to make your comments, but there is no requirement to use the entire time. If you wish to address a particular Commissioner or member of Town Administration, please do so by use of their title.

If you wish to approach the Commission dais to hand out a document or for some other reason, please request permission and state your reason for doing so. All documents to be provided to the Commission should be handed to the Town Clerk for distribution.

These procedures have been developed to assure that the Town Commission meeting time is efficiently used, and that meetings are conducted in a polite and respectful manner. More information on the decorum rules for Town Commission meetings is available in Section 2-23 of the Town Code of Ordinances.

INVOCATION:

The Invocation before each Town Commission meeting is a voluntary service of a private citizen, offered to serve the spiritual needs of the members of the Town Commission and solemnize the meeting. It is not intended to be an opportunity to advance or disparage one faith or belief over another. The views expressed in the Invocation have not been previously reviewed by the

Town and do not necessarily represent the beliefs of any Town employee or official. No person is required to be present at or participate in the Invocation, and the decision whether to be present or participate in the Invocation will not affect any person's right to actively participate in the official business of the Town or obtain any benefit from the Town. The Town's written Invocation policy is available on its website, and upon written request to the Town Clerk.all static



Agenda Item No: 3.a.

Agenda Item Report

Meeting Date: April 1, 2025

Submitted By: Katrina Adler, Town Clerk

Submitting Department: Administration

Item Type: Presentation

Agenda Section: APPROVAL OF MINUTES

Subject Title: Approval of Minutes for 3-4-25 Charter Review Board meeting.

Explanation: Draft Minutes available for approval for 3-4-25 meeting.

Recommendation: Approve/Accept

Exhibits:

1. 3-4-25 Charter Review Board Draft Minutes



DRAFT
TOWN OF LAUDERDALE-BY-THE-SEA
CHARTER REVIEW BOARD MEETING
Jarvis Hall
4505 N. Ocean Drive
Tuesday, March 4, 2025
6:00 PM

1. CALL TO ORDER

The Charter Review Board for the Town of Lauderdale-By-The-Sea was called to order at 6:00 p.m. Board members present were Chair Chris Vincent, Vice Chair Brian Kuszmar, Jacquelyn Bonanni-Rubino, Robert Fleishman, Lauren Lenoble, Kym Miranda, and Patrick Ucci. Also present were Town Attorney Susan L. Trevarthen and Board Clerk Megan Small.

Board member Patrick Ucci, who was not present at the February 4, 2025 meeting, was sworn in at this time.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. APPROVAL OF MINUTES

a. Approval of Minutes for 2-4-25 Charter Review Board Meeting.

Ms. Miranda made a motion, seconded by Mr. Fleishman, to approve. In a voice vote, the motion passed 7-0.

4. PUBLIC COMMENTS

At this time Chair Vincent opened public comment, which he closed upon receiving no input.

5. NEW BUSINESS

Chair Vincent requested clarification of how the Board would address specific sections of the Charter going forward. Town Attorney Susan Trevarthen recalled that at the previous meeting, the Board had agreed to proceed on an article-by-article basis, with members bringing forward any proposals as each article is discussed.

a. Discussion of Article 1 – Transition from Abolished Town

Judelande Jeune, an associate of the Town Attorney, explained that this Article typically includes provisions to ensure a smooth legal and administrative transition, including Ordinances that will continue from the previous government to the new government, transition of assets and liabilities, and establishment of the new municipality.

It was asked if all portions of Article 1 continue to be relevant, such as Section 1.4, which addresses officers held over. Town Attorney Trevarthen advised that while this Section's purpose was historical, she would not recommend its repeal, as it establishes that the Town was properly created and assumed all powers from the former municipality.

A question was also asked regarding whether there have been any changes to streets, highways, or public grounds, as referred to in Section 1.6, since the adoption of the Charter. Town Attorney Trevarthen replied that the Town created its current boundaries through various maneuvers, including special acts of the Florida Legislature. She recalled that this required three separate annexations. No new streets have been created.

At this time Chair Vincent opened public comment, which he closed upon receiving no input.

Motion made by Mr. Ucci, seconded by Ms. Lenoble, that the Board recommends no changes to Section 1. In a voice vote, the motion passed 7-0.

b. Discussion of Article 2 – Corporate Powers

Attorney Jeune explained that this part of the Charter outlines the legal powers and authorities granted to a municipal corporation. This Article typically includes provisions such as municipal powers, home rule authority, property and land use powers, and Police and public safety powers. It may also include miscellaneous powers such as the following:

- Provisions for economic development
- Environmental protections
- Zoning and planning authority

Article 2 also establishes the Town's geographic boundaries, defines terms used throughout the Charter, dictates the wording of the Town's seal, and provides for regulatory jurisdiction and ownership of Town property and assets. No changes to this Article were recommended.

Vice Chair Kuszmar requested clarification of the most recent time the Town's boundaries were checked. He also asked if incorrect aspects of the boundaries could create any

future problems for the Town. Town Attorney Trevarthen replied that the Charter was substantially reorganized, rewritten, and simplified in approximately 2004, which immediately followed the annexations. All special acts required precise boundaries and descriptions of the new Town. She was not aware of any reason to doubt the accuracy of the description in the Charter.

Town Attorney Trevarthen continued that verifying the boundaries would require a survey, which could be done; she also noted that there may be an existing survey in the Town's official records.

Chair Vincent clarified that the Board's role is not to approve specific items in the Charter, but to review them and make recommendations to the Town Commission.

A question was also asked regarding how ownership of the Town's beach is divided between the Town, the state of Florida, or the federal government. Town Attorney Trevarthen explained that this is a complex issue that is not governed by the Charter. In the 1960s, the Florida Legislature passed a Statute which stated that any beach which had undergone publicly funded beach renourishment would be considered public. She advised that every part of the Town's beach has received publicly funded renourishment since that time, which means it must be publicly accessible.

Town Attorney Trevarthen continued that there are additional considerations that may come into play for various beach settings, including how the beach is used on a daily basis and how the Broward Sheriff's Office (BSO) has chosen to patrol the beach. She acknowledged that ownership of the beach can be surprisingly complicated, but concluded that it is not a Charter issue.

Vice Chair Kuszmar addressed Section 2.5, Jurisdiction, noting that the Town's jurisdiction extends as far as the high tide watermark, while the state of Florida's ownership extends up to three miles seaward, after which jurisdiction becomes federal. The Town is not permitted to legislate beyond the high tide line; however, Section 2.5 states that the Town has the right to legislate within the waterways. He asked if this should be amended for clarification.

Town Attorney Trevarthen stated that there are several legal concepts involved: for example, while public trust doctrine shows the Town's jurisdiction ending at the high tide line, the aforementioned Florida Statute converts the dry beach into public land. There is also a practical aspect, as it is not feasible for the State Legislature to micromanage Florida's shoreline. The state expects the Town to manage the beach.

Chair Vincent noted that Section 2.4 addresses the Town's seal, and requested clarification of the legal status of the Town's incorporation. While the seal includes a reference to 1947, there is some confusion over whether or not this date should be 1949. Town Attorney Trevarthen replied that she did not know, but suggested that the official Town records could be consulted if that is the Board's wish.

It was clarified that no changes were recommended for Article 2.

Ms. Bonanni-Rubino made a motion, seconded by Ms. Miranda, to accept the Article as presented. In a voice vote, the motion passed 7-0.

c. Discussion of Article 3 – Administration and Legislation

Attorney Jeune explained that Article 3 addresses administration and legislation, which are typically defined within a Charter as the structure, powers, and functions of the municipality's administrative and legislative branch. It may include the roles of elected officials and appointed officers, as well as legislative procedures.

Common provisions in this Article include:

- Forms of government
- Size of the governing body
- Terms of the governing body
- Qualifications for service on the governing body

Article 3 of the Town's Charter states that the Town has elected to adopt a Commission/Manager base form of government. It also specifies a five-member Town Commission which is elected at large by majority vote. A candidate for Commissioner must be at least 18 years old and must live in the Town for at least six months immediately prior to running for office. Commissioners must reside within one of the Town's two electoral districts and must remain residents of that district during their terms.

The Charter also allows the Commission to establish ethical standards, vests the legislative powers of the Commission, and empowers the Commission to determine how the Town's power may be exercised by Resolution or Ordinance.

Attorney Jeune concluded that Article 3 is legally sufficient; however, the Board may wish to consider whether or not to revisit any policies.

At this time Chair Vincent opened public comment, which he closed upon receiving no input.

Town Attorney Trevarthen recalled that in an earlier time, Town Commissioners were elected not only to serve on the Commission but to run the Town's specific Departments at the same time. This has been replaced by a more modern practice, which ensures that the Commission operates primarily as a legislative body and employs a Town Manager with the authority to administer and follow the direction given by the Commission.

Vice Chair Kuszmar asked if other municipalities of similar size to Lauderdale-By-The-Sea have made improvements to their Charters that the Town may wish to consider. Town Attorney Trevarthen replied that some research has been done on Charters of similarly situated Broward County municipalities, which showed that it is typical to have a five-member Commission, a residency requirement of six months to one year, and a qualifying age of 18 to 21 years.

Chair Vincent addressed Section 3.6, Non-Interference with Town Administration, pointing out that authority over personnel decisions is granted to the Town Manager by the Commission. He requested clarification of the "Strong Mayor" form of government and what that would involve.

Town Attorney Trevarthen replied that there are multiple examples of this form of government throughout South Florida, typically occurring in larger communities. The meaning of a Strong Mayor government is dictated by how it is written in the municipality's Charter; for example, the Mayor of Sea Ranch Lakes cannot vote, but is involved in the city's day-to-day operation. In the City of Plantation, the Mayor hires a City Manager who is accountable solely to the Mayor.

Town Attorney Trevarthen emphasized that every municipality with a Strong Mayor government will define the Mayor's powers differently. In Lauderdale-By-The-Sea, the Mayor is elected separately from the members of the Commission, which can be considered a minor step toward having a stronger Mayor. In other examples, such as the Broward County Board of County Commissioners, all Commissioners are elected and then select the individual who will serve as Mayor.

Ms. Miranda suggested that the Board consider recommending an increase to the Town's domicile requirement from six months to 12 months. She felt the Town's unique nature can make six months' residency somewhat premature for an elected official.

Chair Vincent asked if six months' residency is considered standard for most local municipalities. Town Attorney Trevarthen replied that both six and 12 months' residency is common in South Florida.

A question was also asked regarding the definition of "domicile," such as whether a resident could live elsewhere for some time while their homesteaded property is undergoing renovation. Town Attorney Trevarthen replied that this requirement is governed largely by intent, recalling that there have been situations in other municipalities when an elected official moved elsewhere during renovations but maintained their address and voter registration, returning to their domicile once renovations were complete.

In a voice vote, the Board indicated consensus to recommend the Commission consider increasing the residency requirement from six to 12 months.

Town Attorney Trevarthen advised that the Articles to be presented at subsequent meetings will cover more lengthy topics, including administration and elections.

6. OLD BUSINESS

None.

7. UPDATES / BOARD MEMBER COMMENTS

Chair Vincent emphasized the importance of the Charter to the Town, and encouraged interested residents to attend future meetings and/or provide feedback.

Vice Chair Kuszmar advised that he would like to make some proposals in advance of those Articles' appearance on Board Agendas. This could provide members with some early knowledge of proposed changes. The Vice Chair explained that this would prevent members from being caught by surprise when certain issues are raised, and would provide additional time to consider them.

Town Attorney Trevarthen stated that one option would be for the Board members to discuss these types of proposals at the meetings themselves. Another option would be for Vice Chair Kuszmar to communicate his proposals in writing to Staff, who would then attach these to the Agendas at which the appropriate Articles will be discussed. She cautioned that if the second option is selected, members may not respond to those attachments, but would need to wait until the Board meets to discuss them.

It was determined that the Board's Agendas would be provided to the members on the Thursday preceding their meeting, which would mean any members with specific proposals must send them to Staff in advance of that day. Vice Chair Kuszmar indicated that he would be willing to provide some information on upcoming proposals during Board Member Comments at the end of each meeting. He emphasized that these would be informal comments that would allow the members to consider those issues further before the next meeting.

It was clarified that the Board would review Article 4 and possibly Article 5 at the next meeting. Article 4 includes Initiative and Referenda, while Article 5 addresses Town Officers and Employees.

Vice Chair Kuszmar stated that one issue he has heard from other residents is the suggestion that the Town remove its Commission Districts. He wished to discuss the need for those districts. Town Attorney Trevarthen clarified that this is part of Article 6.

It was asked whether or not the Board members would see presentations on the upcoming Articles at the meetings at which they are discussed, or if they would immediately begin discussion of those Articles. Town Attorney Trevarthen observed that as the Board addresses parts of the Charter which directly affect the day-to-day administration of the Town, it may be more likely that recommendations are made; the three Articles reviewed at today's meeting, however, are more straightforward. She added that the Vice Chair's suggestion would mean members may indicate their intent to offer ideas or request more discussion of certain items.

Town Attorney Trevarthen suggested that the Board adopt a standard practice of mentioning upcoming issues of interest during Board Member Comments. It was further clarified that the Board would not deliberate on these issues during Comments, but would provide advance notice of their wish to discuss them in the future.

Town Attorney Trevarthen also noted that meetings may increase in length as more weighty issues are discussed, and members of the public may attend to share their comments as well.

8. ADJOURNMENT

The meeting was adjourned at 6:58 p.m.

Lauderdale-By-The-Sea
Charter Review Board
March 4, 2025

Chairperson Chris Vincent

Megan Small, Clerk

Date Signed



Agenda Item Report

Meeting Date: April 1, 2025

Submitted By: Judelande Jeune, Town Attorney

Submitting Department: Legal

Item Type: Action Item

Agenda Section: NEW BUSINESS

Subject Title: Discussion of Article 4 - Initiative and Referendum

Explanation:

ARTICLE IV. - INITIATIVE AND REFERENDUM

- **Introduction:** This article typically outlines the procedures by which citizens can directly participate in the legislative process through initiative and referendum. The initiative process allows residents to propose new laws or amend existing ones, bypassing the local governing body and placing proposed measures directly on the ballot for voter approval. The referendum process gives citizens the right to challenge ordinances passed by the governing body, allowing voters to approve or reject these laws. This article usually includes specific requirements for petition signatures (as mandated by state law), timelines for submission, and detailed procedures for ensuring the integrity and transparency of the process.
- **Assessment** – Article IV of the Town Charter for Lauderdale-By-The-Sea provides the framework for how the registered voters of the Town can directly influence local laws through the processes of initiative and referendum. The key provisions include:
 1. **Power to Initiate and Reconsider Ordinances (Sec. 4.1)**
 - Town voters have the right to propose new ordinances or require the reconsideration of existing ones by the Town Commission.
 - If the Commission fails to adopt a proposed ordinance or reconsider an existing one as requested, it can be put to a referendum vote by the Town voters.
 2. **Commencement of Initiative (Sec. 4.2)**
 - The process begins with filing an affidavit with the Town Clerk, signed by at least ten Town voters. They form a petitioners' committee and take on the responsibility of circulating the proposed petition for signature of Town voters.
 - Within 14 days, the Town Attorney must review the petition and proposed ordinance for legal form and may not review the substance of the proposal. The petition may proceed if it is in proper legal form; if not, the Town Attorney must advise the petitioners' committee what changes are

needed to the petition and proposed ordinance, and assist as needed, but may not offer legal counsel or opinions to the committee or its representative.

3. Execution of Petitions; Requirements (Sec. 4.3)

- Petitions must be signed, in ink, with the signer's name and address, by at least 10% of registered voters in the Town from the last general municipal election.
- Each page of a petition must have an affidavit of the circulator attesting to their personal circulation of the papers and witnessing of the signatures.
- The petitions must be filed within 60 days of commencement.

4. Filing Procedure (Sec. 4.4)

- After filing, the Town Clerk reviews and certifies the petition's sufficiency in meeting the requirements of Section 4.3 (within 20 days for initiatives or within 5 days for referenda). If insufficient, the Clerk must say what the defects are.
- If it lacks the required number of valid signatures, the petitioners can amend once to supplement the signatures if they provide notice to the Clerk 2 days after receiving the certificate of sufficiency and file the supplementary petition within 14 days after the certificate.
- The Clerk has 5 business days to certify the supplementary petition. Petitions are presented to the Commission by the Clerk for the final determination of sufficiency.
- Petitioners may seek Commission review of the Clerk's determination of insufficiency.

5. Action on Petitions (Sec. 4.5)

- The Town Commission must promptly act on a sufficient petition by taking the ordinance to both first and second reading in accordance with law, even if the Commission fails to approve the ordinance.
- The Commission action on the proposed ordinance must be complete within 45 calendar days for new ordinances or 30 calendar days for repeals/amendments.
- If the Commission fails to adopt the proposed ordinance without change within these timeframes, then the Commission must place the ordinance on the ballot for a referendum vote within 90 to 120 days. The Commission's failure to act is deemed a failure to adopt on the last day that it could act.
- The vote on the proposed ordinance must be between 90 and 120 days following the date of the Commission's action. The committee may withdraw the ordinance in writing signed by at least 80% of its members prior to 15 days before the election.

6. Results of Election (Sec. 4.6)

- If voters approve an initiated ordinance, it takes effect upon certification of the election results.
- If conflicting ordinances are both approved, the one with the largest number of votes prevails.
- If the voters approved a repeal or amendment of an existing ordinance, it takes effect upon certification.

7. Ordinances Affecting Initiated Ordinances; Procedure for Adoption (Sec.

4.7)

- Any ordinance passed as a result of a vote of the Town voters can only be repealed or amended through another vote of the Town voters at any regular or special election. The Town Commission may by resolution submit the voted ordinance to voters for consideration of repeal or amendment. Notice of such a proposal must be published between 90 and 120 days prior to the election, in the same manner as originally provided.
 - The Town Commission can propose amendments to such ordinances, but these can only be enacted through a similar referendum process.
- Analysis:
 1. The Town obtained voter approval of an ordinance providing for home occupations in the wake of the 2006 Town Charter amendments. That is the last time this process was used.
 2. Article IV includes many details as to the timing of submittals and reviews, and number of persons involved, that could potentially be handled in a different fashion. Some of the timeframes are quite tight. The general approach is similar to what is seen in many South Florida communities.
 3. All provisions of the Charter, including those in Article IV, are subject to general law so, to the extent that the law around scheduling elections may change in the future, it is important to understand that the process must comply with all current laws at the time it is implemented.

Recommendation:

1. We are currently coordinating with the Supervisor of Elections (SOE) regarding the timeframes and are awaiting their feedback. Once received, the Administration recommends incorporating any relevant suggestions they provide regarding the timeframes into the Charter revisions, ensuring alignment with both legal requirements and practical considerations for implementation.
2. There are cross-references in Article IV to sections in the Florida Statutes that have subsequently been amended, and these changes will need to be reflected in our Charter. The Administration recommends updating the language to reflect any statutory changes.

Exhibits:

1. ARTICLE IV. - INITIATIVE AND REFERENDUM

ARTICLE IV. INITIATIVE AND REFERENDUM

Sec. 4.1. Power to initiate and reconsider ordinances.

- (1) *Initiated ordinances.* The registered voters of the Town shall have power to propose ordinances to the Commission and, if the Commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it by a referendum vote at a Town election.
- (2) *Repeal and amendment of adopted ordinances.* The registered voters of the Town shall have power to require reconsideration by the Commission of any adopted ordinance and, if the Commission fails to repeal or amend as proposed in the initiative petition an ordinance so reconsidered, to amend or repeal it by a referendum vote at a Town election.

Sec. 4.2. Commencement of initiative.

- (1) *Filing with Town Clerk.* A minimum of ten registered electors (voters) of the Town may commence initiative, repeal or amendment proceedings by filing with the Town Clerk an affidavit stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses, specifying the address to which all notices to the petitioners' committee are to be sent, and setting out in full the proposed initiated ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of a petitioners' committee is filed, the Town Clerk may, at the committee's request and at their expense, issue the appropriate petition blanks to the petitioners' committee.
- (2) *Review by the Town Attorney.* Prior to circulation, a petition and the proposed ordinance, if any, shall be reviewed as to legal form by the Town Attorney. The Town Attorney's review of a petition package shall not extend to review of the substance of a proposed ordinance, or an ordinance proposed for repeal or amendment, but shall be strictly limited to a review as to legal form. No later than fourteen (14) calendar days from filing date of a petition with the Town Clerk, the Town Attorney shall, by hand delivery or registered mail, inform the petitioners' committee and Town Clerk either that the petition and ordinance, if any, are in proper legal form or, if not, then specifically what measures are required to render them in proper form. Upon request by the petitioners' committee, the Town Attorney will assist the committee to render documents in proper legal form for consideration by the Town Commission, but will not offer legal counsel or opinions to the petitioners' committee or its representative. Failure by the Town Attorney to inform the petitioners' committee and Town Clerk of his or her determination as to form within fourteen (14) calendar days after the petitioner files a petition and proposed ordinance, or petition for reconsideration of an ordinance, with the Town Clerk shall be deemed a determination that the document(s) is/are in proper legal form.

Sec. 4.3. Execution of petitions; requirements.

- (1) *Number of signatures.* Initiative and referendum petitions must be signed by registered voters of the Town equal in number to at least ten (10) percent of the total number of those registered to vote in the Town at the last general municipal election.
- (2) *Form and content.* All papers of a petition shall be assembled as one instrument of filing. Each signature shall be executed in ink and shall be followed by the printed name and address of the person signing. Petitions

shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or required to be reconsidered.

- (3) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or required to be reconsidered.
- (4) *Filing deadline.* All initiative and referendum petitions must be filed with 60 days of the date on which proceedings with respect to such initiatives are commenced.

Sec. 4.4. Filing procedure.

- (1) *Certificate of Clerk; amendment.* Within 20 days after an initiative petition is filed or within five days after a petition for repeal or amendment of an ordinance is filed, the Clerk shall complete a certificate as to its sufficiency (the "Certificate"). Grounds for insufficiency are only those specified in Sec. 4.3 of this Article. If insufficient, the Certificate shall specify the particulars of the deficiency. A copy of the Certificate shall be promptly sent to the petitioners' committee by hand delivery or registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within two business days after receiving the copy of the Certificate and files a supplementary petition upon additional papers within fourteen (14) calendar days after receiving the copy of the Certificate. Such supplementary petition shall comply with the requirements of Sec. 4.3 of this Article. Within five business days after a supplementary petition is filed, the Clerk shall complete a Certificate as to the sufficiency of the petition, as amended, and shall promptly send a copy of such Certificate to the petitioners' committee by registered mail or hand delivery as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Commission review under subsection (2) of this Section 4.4 within the time required, the Clerk shall promptly present the Certificate to the Commission and such Certificate shall then be a final determination as to the sufficiency of the petition.
- (2) *Commission review as to sufficiency.* If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two business days after receiving the copy of such Certificate, file a request that it be reviewed by the Commission. The Commission shall then review the Certificate at its next meeting following the filing of such request and approve or disapprove it, and the Commission's determination shall then be a final determination as to the sufficiency of the petition.

Sec. 4.5. Action on petitions.

- (1) *Action by Town Commission.* When an initiative petition or a petition for the repeal or amendment of an existing ordinance has been finally determined to be sufficient, the Town Commission shall promptly consider or reconsider the ordinance. Whether or not the Commission approves at first reading an initiated ordinance, or the repeal or amendment, as proposed, of a referred ordinance, the Commission shall proceed to a second reading at its next scheduled meeting, and shall otherwise comply with all requirements under Sec. 166.041 F. S. for public notice and public hearings prior to the adoption of an ordinance. If the Commission fails to adopt a proposed initiative ordinance without any change in substance within forty-five (45) calendar days, or fails to repeal or amend a referred ordinance in accordance with the initiative petition within thirty (30) calendar days, it shall submit the proposed or referred ordinance to the registered voters of the Town by referendum vote at an election. The referendum vote by registered Town voters shall constitute an "additional requirement for the enactment of ordinances" as specified in paragraph (6) of Section 166.041

F.S., in lieu of and as a greater, increased requirement than the affirmative majority vote of the governing body referred to in paragraph (4) of Sec. 166.041 F. S. If the Commission fails to act on a proposed initiative ordinance or a referred ordinance within the time period specified in this paragraph, the Commission shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal or amend the referred ordinance on the last day that the Commission was authorized to act on such matter. In that event, the Commission shall nevertheless comply with the public notice and public hearing requirements of Sec. 166.04 F.S. relative to the ordinance in question.

- (2) *Submission to voters.* The vote of the Town on a proposed referred ordinance shall be held not less than ninety (90) days nor more than one hundred twenty (120) days from the date of Commission acted or was deemed to have acted pursuant to paragraph (1) of this section. If no regular election is to be held within the period described in this paragraph, the Commission shall provide for a special election, except that the Commission may, in its discretion provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (3) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the Town by filing with the Town Clerk a request for withdrawal signed by at least eight-tenths of the members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Sec. 4.6. Results of election.

- (1) *Initiative.* If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greater or greatest number of affirmative votes shall prevail to the extent of such conflict.
- (2) *Repeal and amendment of referred ordinances.* If a majority of the registered voters voting on a referred ordinance vote for repeal or for amendment, it shall be considered repealed or amended, as appropriate, upon certification of the election results.

Sec. 4.7. Ordinances affecting initiated ordinances; procedure for adoption.

An ordinance passed as a result of a vote of the registered voters of the Town, whether prior or subsequent to the effective date of this Article, may be repealed or amended only by a similar vote of the registered voters of the Town. The Town Commission may, by resolution, submit to the registered voters of the Town at any regular or special election for a referendum vote, a proposed ordinance to repeal or amend any such ordinance. Notice of the Town Commission's intention to submit such a proposed ordinance to the registered voters shall be published by the Town Commission no less than ninety (90) days nor more than one hundred twenty (120) days prior to such election, in the manner required for the publication of initiated ordinances. If an amendment is so proposed, such notice shall contain the proposed amendment in full. The Town Commission's submittal of such an ordinance shall be in the same manner, and the vote shall have the same effect as in cases of ordinances submitted to a vote of the registered voters of the Town by popular petition.



Agenda Item Report

Meeting Date: April 1, 2025

Submitted By:

Submitting Department: Legal

Item Type: Action Item

Agenda Section: NEW BUSINESS

Subject Title: Discussion of Article 5 - Town Officers and Employees

Explanation:

ARTICLE V. - TOWN OFFICERS AND EMPLOYEES

- **Introduction:** Article V generally outlines the organization and operation of a municipality's administrative structure, defining the roles and responsibilities of municipal officers and employees. Typical provisions in this article include:
 1. **Roles and Responsibilities:** Defines the duties of elected officials (e.g., Mayor, Town Commission members) and appointed officers (e.g., Town Manager, Clerk, department heads).
 2. **Selection and Appointment:** Outlines the methods of selecting or appointing municipal officials, including the processes for elections or appointments.
 3. **Terms of Office:** Specifies the length of terms for elected officials and the conditions for re-election or reappointment.
 4. **Powers and Duties:** Describes the authority and functions of each office, including executive, legislative, and administrative powers.
 5. **Personnel Management:** Addresses the hiring, compensation, and management of town employees.
 6. **Organizational Structure:** Provides a framework for how various departments or divisions of the town government interact and operate to implement policies and serve the public effectively.
- **Assessment:** Article V - Town Officers and Employees of the Town Charter for Lauderdale-By-The-Sea outlines the responsibilities, qualifications, and duties of the Town's key officers and employees. This article includes:
 1. **Vesting of Administrative and Executive Powers (Sec. 5.1)**
 - Assigns any executive and administrative power of the Town that is not otherwise provided for in the Charter to the elected Mayor-Commissioner, the appointed Town Manager, and the appointed Town Attorney.
 - The Town Commission may by ordinance create, change or abolish offices, departments or agencies of the Town other than those established by the Charter.

2. Functions and Duties of Mayor-Commissioner (Sec. 5.2)

- The Mayor-Commissioner presides over Town Commission meetings, has a vote (no veto power), votes last in roll call votes, and represents the Town ceremonially and legally. He or she is recognized as the official head of the Town by the courts, the government, and the public. The Town Commission may bestow additional powers and duties upon the Mayor-Commissioner.
- In emergencies or times of grave public danger, he or she may govern the Town by proclamation under Town Commission direction. The Town Commission determines the existence of the emergency justifying such powers. In the Mayor-Commissioner's absence, the Vice Mayor or Mayor Pro Tem performs these duties.

3. Town Manager: Appointment, Qualifications, and Compensation (Sec. 5.3)

- The Town Commission appoints a Town Manager to serve as the administrative head of the Town, under the direction and supervision of the Town Commission, at the pleasure of the Commission.
 - The Town Manager is hired based on their education and experience in local public management, including an appropriate graduate degree and level of experience as an assistant/deputy city or county manager (or equivalent education and experience in local public management).
 - The Town Manager's compensation is determined by the Town Commission through a resolution, and an employment contract is required.

4. Town Manager: Absence or Disability; Removal (Sec. 5.4)

- If the Town Manager is absent or disabled, the Town Commission can appoint an Acting Town Manager by resolution to temporarily fulfill the Town Manager's duties.
 - The Acting Town Manager holds the same powers and responsibilities as the regular Town Manager during their absence.
 - The Town Commission has the authority to remove the Town Manager or Acting Town Manager at any time.

5. Town Manager: Powers and Duties (Sec. 5.5)

- The Town Manager is responsible for enforcing laws, appointing/removing employees, overseeing departments, enforcing utility franchises, attending all Commission meetings with a voice but not a vote, recommending actions in the interest of the Town, providing financial advice and preparing budgets, ensuring financial audits, advising/consulting with all officers and heads of Town departments and making appropriate recommendations to the Commission, signing all instruments issued by and agreements entered into by the Town, performing such other duties as may be required by the Town Commission,. The Manager also assists the Town Commission to develop long-term goals for the Town and strategies to implement these goals, with regional and intergovernmental cooperation, and to promote partnerships among the Town officials and employees and with citizens in developing public policy and building a sense of community.

- Analysis:

1. This overall structure is similar to the structure which is provided in many South Florida communities.
2. Having the Mayor-Commissioner vote last in roll call votes is not universal, but it is of limited impact given the Town's voting system. Also, many communities assign emergency powers to the manager, as governed by the Commission, rather than the Mayor-Commissioner.
3. In assigning the Manager the duty to provide for the Town audit, subsection 5.5(10) requires submission of the audit within six months of the end of the fiscal year (which is on September 30). This deadline is much earlier than that set by state law, and is difficult to meet (Section 218.32(1)(d) establishes a 9-month deadline).

Recommendation: The Administration recommends that the Town consider a charter amendment to remove the deadline set in Subsection 5.5(10), and allow the statute to control the timing going forward.

Exhibits:

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Sec. 5.1. Vesting of administrative and executive powers.

The executive and administrative powers of the Town, not herein otherwise provided for, shall be vested in and exercised by the following officers:

- (1) Mayor-Commissioner;
- (2) Town Manager;
- (3) Town Attorney;

The Town Manager and Town Attorney shall be appointed by the Town Commission. The Town Commission may by ordinance create, change and abolish offices, department or agencies other than the offices, departments or agencies established by this Charter.

Sec. 5.2. Functions and duties of Mayor-Commissioner.

The Mayor-Commissioner or, in his/her absence or disqualification, the Vice Mayor or Mayor Pro Tem shall perform the following functions:

- (1) The Mayor-Commissioner shall preside at all meetings of the Town Commission and perform all duties consistent with his/her office, and shall have a voice and vote in the proceedings of the Town Commission, but no veto power. The Mayor-Commissioner shall vote last upon the roll call of Commissioners.
- (2) The Mayor-Commissioner shall use the title of Mayor in any case in which the execution of legal instruments, writings, or other papers so require; but this shall not be considered as conferring upon the Mayor-Commissioner any of the administrative or judicial functions of a Mayor under the general laws of the state, except as herein provided.
- (3) The Mayor-Commissioner shall be recognized as the official head of the Town by the courts for the purposes of serving civil processes; by the government in the exercise of military law; and by the public in general for all ceremonial purposes.
- (4) The Mayor-Commissioner may govern the Town by proclamation, under the direction of the Town Commission, during times of grave public danger or emergency, and the Town Commission shall be judge of what constitutes such public danger or emergency.
- (5) The Mayor-Commissioner shall exercise all the powers and duties of the Mayor-Commissioner as provided in the Charter, as well as all those powers and duties that may be conferred upon the Mayor-Commissioner by the Town Commission in pursuance of the provisions of this Charter.

Sec. 5.3. Town Manager—Appointment, qualifications and compensation.

The Town Commission shall appoint a Town Manager who shall be the administrative head of the municipal government under the direction and supervision of the Town Commission. The Town Manager shall hold office at the pleasure of the Town Commission. The Town Manager shall receive such compensation as determined by the Town Commission through the adoption of an appropriate resolution. The Town Manager shall be appointed by resolution approving an employment contract between the Town and the Town Manager. The Town Manager shall

be appointed solely on the basis of education and experience in the accepted competencies and practices of local public management including, a graduate degree with a concentration in public administration, public affairs, public policy, or public finance and two (2) years' experience as an appointed city manager or county manager, or four (4) years' experience as an assistant or deputy city manager or assistant or deputy county manager. Alternatively, the Town Manager shall be appointed on the basis of education and experience in the accepted competencies and practices of local public management that is determined by the Town Commission to be commensurate to those listed in the prior sentence.

(Ord. No. 2013-13, § 2, 10-22-2013)

Sec. 5.4. Town Manager—Absence or disability; removal.

During the absence or disability of the Town Manager, the Town Commission may by resolution designate some properly qualified person to temporarily execute the functions of the Town Manager. The person thus designated shall have the same powers and duties as the Town Manager, and shall be known while so serving as "Acting Town Manager." The Town Manager or Acting Town Manager may be removed by the Town Commission at any time.

Sec. 5.5. Town Manager—Powers and duties.

The Town Manager shall be responsible to the Town Commission for the proper administration of all affairs of the Town coming under the Town Manager's jurisdiction, and the Town Manager's powers are and they shall be:

- (1) To see that the laws and ordinances of the Town are enforced.
- (2) To appoint or remove all subordinate officers and employees.
- (3) To exercise, control and direct supervision over all departments and divisions of the municipal government under the classified service, except where otherwise provided.
- (4) To see that all terms and conditions imposed in favor of the Town or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the Town Attorney, whose duty it is hereby made to take such legal steps as may be necessary to enforce the same.
- (5) To attend all meetings of the Town Commission, with right to take part in the discussions, but without having a vote.
- (6) To recommend to the Town Commission for adoption such measures as the Town Manager may deem necessary or expedient in the interest of the Town.
- (7) To keep the Town Commission fully advised as to the financial conditions and needs of the Town and at the proper time to submit to the Town Commission for its consideration an annual budget.
- (8) To advise and consult with all officers and official heads of the several departments of the Town relative to the affairs of such department, and to make recommendations to the Town Commission respecting such departments as the Town Manager may see fit.
- (9) To perform such other duties as may be prescribed under this Charter, or may be required of the Town Manager by motion, direction, ordinance or resolution of the Town Commission.
- (10) To prepare and submit to the Town Commission an annual financial audit of its accounts and records, completed no later than six (6) months after the end of its fiscal year by an independent certified public accountant retained by the Town Commission and paid from its public funds.
- (11) To sign all checks, warrants, bonds and agreements issued by the Town of Lauderdale-By-The-Sea.

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- (12) To assist the Town Commission to develop long-term goals for the Town and strategies to implement these goals.
 - (13) To encourage and provide staff support for regional and intergovernmental cooperation.
 - (14) To promote partnerships among the Town Commission, staff, and citizens in developing public policy and building a sense of community.