

**MEMORANDUM**

TO: Mayor Schneier and Town Commissioners  
CC: Howard Tipton, Town Manager  
FROM: Maggie Mooney, Town Attorney  
REPORT DATE: October 25, 2024  
MEETING DATE: November 4, 2024  
SUBJECT: Ordinance 2024-12 - Charter Amendment Referenda Ordinance for Placement on March 11, 2025, Ballot

At the Town Commission’s September 9, 2024, regular meeting, the Town Commission directed the Town Staff and Town Attorney to prepare an Ordinance that places a charter amendment referendum question before the Town’s voters at the March 11, 2025, General Election that would allow the Town Commission to cancel its July regular meeting date.

As presently written, the language in Article II, Section 13, of the Town’s Charter contemplates that the Commission will conduct regular monthly meetings and workshops but allows the Town Commission to cancel the July and August workshops and the August regular meeting. For the past few years, the Town Commission has rescheduled its July regular meeting date to a late June date. The Town Commission indicated a desire to pursue a charter amendment during the March 2025 election cycle because there are other general election ballot items before the Town’s voters and including a charter referendum amendment question would not substantially increase the Town’s election costs. To make the March 2025 ballot deadlines, the Sarasota and Manatee County Supervisors of Elections have advised that they would need to receive an adopted Town ordinance no later than December 4, 2024.

A charter referendum amendment ordinance relating to the Charter Meeting provision found in Article II, Section 13, of the Town Charter was previously presented to the Town Commission at the November 7, 2022, Regular Meeting. Ordinance 2022-26 was considered by the Town Commission at that time (November 2022), but the Town Commission elected to defer consideration to a future date when there would be other municipal election items for cost and efficiency purposes.

Ordinance 2024-12 (Option A) is a single referendum question and is an updated version of the same ordinance language previously presented and considered by the Town Commission in November 2022 (as Ordinance 2022-26). The Town Attorney materials from that November 2022 meeting remain applicable and are included in the agenda materials so that the Town Commission can refamiliarize itself with the rationale behind the proposed Charter amendment text changes to Article II, Section 13, of the

Town Charter. Embedded within Ordinance 2024-12 (Option A) are two (2) text amendment options for the Town Commission's consideration. The two (2) alternate text versions of Article II, Section 13, vary slightly in how much flexibility and specificity the Town Commission desires within the Charter regarding the number of required regular Commission meetings.

- Option 1 provides the most flexibility allowing the Town Commission to cancel and reschedule the July regular voting meeting in the same manner that the Town Commission may cancel the August regular voting meeting.
- Option 2 contains an additional condition for the cancellation of the July regular meeting by requiring that the July meeting be rescheduled to an alternate June meeting date. Option 2 is the preferred text by Town Staff to ensure that there is always a late June regular meeting for preliminary budget and mileage rate adoption.

Ultimately, the issue is whether the Town Commission wants maximum flexibility in the Charter for the cancellation and rescheduling of the July meeting date (Option 1) or wants to include a detailed condition in the Charter that only authorizes the cancellation of the July meeting date if a June alternative meeting date is scheduled (Option 2). How much meeting flexibility the Town Commission wants to be embedded in the Town Charter is a policy decision for the Town Commission.

Ordinance 2024-12 (Option B), which is also included in the agenda materials, builds upon the single referendum charter amendment question in Option A and includes a second charter amendment referendum question relating to the appointment of an Acting Town Manager.

The second referendum question in Option B addresses a potential conflict between the language in Article III, Section 3, of the Town Charter (relating to the appointment of an Acting Town Manager), and the dual office prohibition in the Florida Constitution. The existing Charter language contemplates the appointment of a qualified "town administrative officer" to serve as Acting Town Manager in the Town Manager's absence or unavailability, but the appointment of Town "officers" in many instances would violate the dual office prohibition in the Florida Constitution.

A proposed charter amendment to address the Constitutional prohibition and conflict is proposed in Option B for consideration. This second Charter amendment is being advanced at this time for election efficiencies and cost consideration. A Memorandum from the Town Attorney's Office on this subject is included in the agenda materials.

### **Next Steps**

The Town Commission must decide if one (1) referendum or two (2) charter amendment referenda questions will be advanced and placed before the voters at the

March 11, 2025, election. If the Commission wants only one (1) charter amendment to be considered by the Town's voters, then Ordinance 2024-12, Option A, should be adopted.

If the Town Commission, wants two (2) questions advanced, then Ordinance 2024-12, Option B, should be adopted. In either Option A or B version of Ordinance 2024-12, the Town Commission will also need to determine how much flexibility it desires with respect to its meetings and advise if it wants the authority to just cancel its July regular meeting (Option 1) or if it wants the ability to cancel the July regular meeting only if that meeting is rescheduled for a late June meeting (Option 2).

**Attachments (Available in the Town Clerk's Office)**

1. Town Attorney Memorandum relating to Ordinance 2024-12 (Option B) – dated October 24, 2024
2. Ordinance 2024-12 – Option A (single referendum question)
3. Ordinance 2024-12 – Option B (double referenda questions)
4. November 1, 2022: Agenda Material relating to Charter Amendment to Art. II, Section 13

**End of Agenda Item**