

JOINT TOWN COUNCIL/CHARTER REVIEW COMMITTEE
WORKSHOP AGENDA
WEDNESDAY, APRIL 21, 2010 AT 7:00 P.M
TOWN HALL BUILDING
4240 HIGHWAY US1, GRANT VALKARIA, FL 32949

The Town Council Workshop Meeting of April 21, 2010 was called to order at 7:00 p.m. by Mayor Yonts, followed by the Pledge of Allegiance led by Charter Review Committee Chairperson Jim Tonti, and roll call to the Council Members and Charter Review Committee Members with the following present:

Town Council

Mayor – Del Yonts
Seat No. 1 – Joe Hackford
Seat No. 2 – Lisette Kolar
Seat No. 3 – Pat Bryan
Seat No. 4 – Jason Mahaney
Seat No. 5 – Dan Faden
Seat No. 6 – Cathy DeMott

Charter Review Committee

Jim Tonti, Chairperson
Denni Burr
Dave Folts
Joe Mullins
Tom Sammon

Staff

Town Administrator Richard Hood
Town Clerk Susanne Krueger
Town Attorney Karl Bohne

Mayor Yonts stated that Joe Mullins, Charter Review Committee Member (CRC), called to inform Council that he would not be able to attend due to work schedule. CRC Chairperson Tonti thanked Council for appointing everyone to the committee, it was a good process and it refreshed his commitment to the town.

AGENDA ITEM

- 1) Charter Review Committee recommendations on charter changes

Mayor Yonts stated that they would start with the high priorities. He also stated that the costs last time were approximately \$1000 for attorney fees and \$1000 for town fees (advertising, ballots, etc.) for 2 charter amendments. CRC Chairperson Tonti stated that they did not consider cost involved in their review process.

Council reviewed each of the CRC recommendations and made comments/actions. Each individual ranking will state the recommendations of the Charter Review Committee followed by Council comments/actions:

HIGH PRIORITY

High Priority Ranking #1

“Section 3.04 Powers and Duties”

The town administrator shall be the chief executive officer of the town, responsible to the town council for the management of all town affairs placed in the town administrator's charge by or under this charter. The town administrator shall:

(a) Hire or fill existing positions, including the town clerk, and when the town administrator deems it necessary for the good of the town, suspend or remove town employees, except as otherwise provided by law or this charter. The town administrator may serve as town clerk.

(b) Direct and supervise the administration of all departments and offices, but not town boards or agencies, except as otherwise directed by the town council or provided by this charter.

(c) Attend all town council meetings. The town administrator shall have the right to take part in discussion but shall not have the right to vote.

(d) Ensure that all laws, provisions of this charter, and acts of the town council, subject to enforcement by the town administrator or by officers subject to the town administrator's direction and supervision, are faithfully executed.

(e) Prepare and submit the annual budget and capital program, as specified in article 5, to the town council and implement the final budget approved by the town council to achieve the goals of the town.

(f) Submit to the town council, and make available to the public, a complete report on the financial and administrative activities of the town as of the end of each fiscal year.

(g) Prepare such other reports as the town council may require concerning the operations of town departments, offices, boards, and agencies.

(h) Keep the town council fully advised as to the financial condition and current and future needs of the town.

(i) Assist the town council in developing long-term goals for the town and strategies to implement these goals.

(j) Make recommendations to the town council concerning the affairs of the town and facilitate the work of the town council in developing policy.

(k) Provide staff support services for the mayor and council members.

(l) Encourage and provide staff support for regional and intergovernmental cooperation.

(m) Promote partnerships among the town council, staff, and citizens in developing public policy and building a sense of community.

(n) Perform all such other duties as are specified in this charter or that may be required by the town council.”

Recommended Charter Change:

Add new paragraph “(o) signs contracts, interlocal agreements and execute documents as approved by Town Council.

Reason:

This was requested by Town Administrator Hood.

Council/CRC/Staff comments:

Attorney Bohne stated that nothing in the Charter describes anyone to sign other than Mayor and considers this a convenience item not a necessity to operate. Mr. Tonti stated that the CRC saw this as a lost opportunity; if the Mayor is not available some of the documents need to be signed

promptly. Council discussed that Section 2.02 needs to be changed to allow the Mayor or his designee sign documents. Mr. Bohne was concerned that the Town Administrator should not be given authority to execute deeds. It was Council consensus to amend Sections 2.01, 2.02 and 3.04 to authorize the Town Administrator, under certain conditions, to sign certain legal documents on behalf of the Town.

High Priority Ranking #2

“Section 5.06 Purchase, Sale, and Lease of Real Property

All purchases or sales of real property by the town or leases of town-owned property are subject to public notice and hearing before action is taken by the town council. Such action shall require a supermajority vote of the town council. The public notice shall be of the same extent and nature as that required by general law for rezoning.”

Recommended Charter Change:

Change last word in paragraph from “rezoning” to “ordinances”.

Reason:

This change would make it less burdensome; it is more appropriate for the type of process than rezoning requirements and in addition it reduces an unnecessary process.

Council/CRC/Staff comments:

Town Attorney Bohne stated that this needs to be changed because rezoning has different requirements. It was Council consensus to accept this charter change recommendation.

High Priority Ranking #3

“Section 8.02 Charter Review

The charter shall be reviewed no later than 3 years from the date the town was established. After the initial review, the charter shall be reviewed no more than once every 10 years. Each town council member shall appoint one person to a seven-member charter review committee. The charter review committee shall be appointed at least 6 months before the next scheduled election and complete its work and present any recommendations for change no later than 90 days before the election. The town council shall hold a minimum of two public hearings on the proposed changes prior to placement on the regularly scheduled ballot.”

Recommended Charter Change:

Change 4th sentence from “The charter review committee shall be appointed at least 3 months before the next scheduled election and complete its work and present any recommendations for change no later than 90 days before the election” to “The charter review committee shall

be appointed at least 9 months before the next scheduled elections and complete its work and present any recommendations for change no later than 180 days before the election”.

Reason:

This change would make it a more realistic time line; the advertisement requirements need to be completed before the 3 months; it allows a more accurate time line for staff and legal review.

Council/CRC/Staff comments:

It Council consensus not the have this charter change recommendation because these are minimum requirements, and it can be changed by ordinance or documented in town procedures.

High Priority Ranking #4

“Section 9.01 Rural Character of the Town

This section secures the foundation on which this town was formed and maintains the existing rural character of the town. "Rural" includes several key elements that constitute the makeup of the town. These elements include:

- (a) Low development intensity and an abundance of agricultural lands.
- (b) Inherent "green canopy" and natural preserve that currently covers the majority of the town.
- (c) Inherent natural resources including aquifers, watersheds, wetlands, and the waterways of the Indian River Lagoon.
- (d) Predominant and viable wildlife areas and protected species habitat.
- (e) Small, family-owned and family-operated businesses.
- (f) Commercial development as deemed appropriate to the character and emerging needs of the town.”

Recommended Charter Change:

Add “1 unit per 1.25 acres maximum density with the intent being to preserve minimum lot size of 1.25 acres to be applied to those low density areas of the future land identified as RR1-1.25”.

Reason:

The rural character was the original intent of the charter; it reinforces density arrived by the Local Planning Agency and Town Council so that future Town Councils cannot arbitrarily or easily increase density.

Council/CRC/Staff comments:

Vice Mayor Kolar discussed using the St. Pete Beach charter where it stated that any comprehensive land use change that increases density must be by referendum which would protect future Council from changing the rural nature of the Town. It was Council consensus that any comprehensive land use change that increases density must be by referendum; no lots

less than 1.25 can be in low density single family residential land use category as it exists today; it would be by simple majority vote; it would exempt the first comprehensive plan; this is to ensure the protection of the rural nature of the Town.

MEDIUM PRIORITY

Medium Priority Ranking #1

“2.03 Vice Mayor

The vice mayor shall act as mayor in the absence of the mayor. The vice mayor shall be elected from among council members for a term of 1 year or until his or her successor is elected. A council member shall not serve consecutive terms as vice mayor unless no other council member is willing to serve as vice mayor.”

Recommended Charter Change:

Change from “A Council member shall not serve consecutive terms as vice mayor unless no other council member is willing to serve as vice mayor” to read “The vice mayor shall be elected by majority vote of council members for a term of 1 year. Said term shall commence at last meeting in November.”

Reason:

This change is to clarify selection and term limits of the vice mayor.

Council/CRC/Staff comments:

It was Council consensus not to change this section.

Medium Priority Ranking #2

“Section 6.04 Method of Electing Council Members

The ballot for the general election shall contain the names of all qualified candidates for council members and the number of seats up for election. The ballot shall instruct electors to cast one vote for each open council seat. The candidates who receive the largest number of votes shall be the duly elected council members and shall be designated as holding a specific council seat number. Council seat numbers shall be assigned such that the lowest seat number available is given to the candidate who receives the largest number of votes.”

Recommended Charter Change:

Add “in the event there are less than 3 qualified candidates Council has the right to assign seat number using lowest seat number by earliest qualification date”

Reason:

This change is to clarify assignment of seat numbers when there are not an adequate number of candidates.

Council/CRC/Staff comments:

Council inquired whether this can be defined by ordinance to assign seat numbers for 3 incumbents, 2 incumbents and 1 non-incumbent, or 3 non-incumbents; Town Attorney Bohne responded that it can be done. It was Council consensus to have an ordinance addressing this by clarifying terms of Mayor and Council as 2 independent questions and define vacancy.

LOW PRIORITY

Low Priority Ranking #1

“Section 2.11 Ordinances in General subsection (d)

(a) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall read, "The Town of Grant-Valkaria hereby ordains:". Any ordinance that repeals or amends an existing ordinance or part of the town code shall set out in full the ordinance and the sections or subsections to be repealed or amended and shall indicate matters to be omitted by enclosing brackets or by strikeout type and shall indicate new matters by italics or by underscoring.

(b) Any member of the town council at any regular or special meeting of the town council may introduce an ordinance. Upon introduction of any ordinance, the town clerk shall distribute a copy to each council member and the town administrator, shall file a reasonable number of copies in the office of the town clerk and such other public places as the town council may designate, and shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the town council. The public hearing shall follow the publication by at least 7 calendar days, may be held separately or in connection with a regular or special town council meeting, and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing, the town council may adopt the ordinance with or without amendment or reject it, but if it is amended as to any matter of substance, the town council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced ordinance. As soon as feasible after adoption, the clerk shall have the ordinance and a notice of its adoption published and available at a reasonable price. As used in this section, the term "publish" means to provide in the contemporary means of information sharing, which includes, but is not limited to, one or more newspapers of general circulation in the town and, if available, in a website, the ordinance or a brief summary thereof, the places where copies of it have been filed, and the times when they are available for public inspection and purchase at a reasonable price.

(c) Except as otherwise provided in this charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

(d) To meet a public emergency affecting life, health, property, or the public peace, the town council may adopt one or more emergency ordinances, but such ordinances may not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except as provided in article 5(8). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of four or more members shall be required for adoption. After its adoption, the ordinance shall be published as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except an emergency appropriation as described in article 5(9) shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(e) The town council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that:

1. The requirements of this charter for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance.

2. A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the town clerk pursuant to this charter.

3. Copies of any adopted code of technical regulations shall be made available by the town clerk for distribution or for purchase at a reasonable price, consistent with the current year's budget.

(f) The town clerk shall authenticate by signing and shall record in full in a properly indexed document kept for that purpose all ordinances and resolutions adopted by the town council.

(g) Within 3 years after adoption of this charter and at least every 10 years thereafter, the town council shall provide for the preparation of a general codification of all town ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the town council by ordinance and shall be published, together with this charter and any amendments thereto, pertinent provisions of the constitution and other laws of the state, and such codes of technical regulations and other rules and regulations as the town council may specify. This compilation shall be known and cited officially as the Grant-Valkaria Town Code. Copies of the code shall be furnished to town officers, placed in libraries, public offices, and, if available, on a website for free public reference, and made available for purchase by the public at a reasonable price fixed by the town council.

(h) The town council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be published promptly following its adoption, and the published ordinances, resolutions, and charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the town council. Following publication of

the first Grant-Valkaria Town Code and at all times thereafter, the ordinances, resolutions, and charter amendments shall be published in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The town council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any changes in or additions to the provisions of the Constitution and laws of the State of Florida or the codes of technical regulations and other rules and regulations included in the code.”

Recommended Charter Change:

In subsection (d) first sentence add the words “or modify zoning” after “emergency ordinances may not levy taxes”; committee concurred with state recommendation

Reason:

This change was recommended by state review as quoted: “Subsection (d) authorizes the adoption of emergency ordinances by majority vote. It may be appropriate to clarify pursuant to s. 166.041(3) (b), F. S., the emergency ordinances require a two-thirds vote by the commission, and that zoning ordinances cannot be enacted as emergency ordinances.”

Council/CRC/Staff comments:

Town Attorney Bohne stated that modifying zoning cannot be done on an emergency basis and this charter change is unnecessary whereby state law prohibits it. It was Council consensus not to change this section.

Low Priority Ranking #2

“Section 3.01 Appointment; Qualifications; Compensation

The town council, by majority vote, shall appoint a town administrator for an indefinite term and set the town administrator's compensation. The town administrator shall be appointed primarily on the basis of education and experience in the accepted competencies and practices of local government management. The town administrator need not be a resident of the town or state at the time of appointment but may reside outside the town while in office only with the approval of the town council. The town administrator is continuously responsible to the town council, the elected representatives of the people.”

Recommended Charter Change:

Delete portion of last sentence “the elected representatives of the people”

Reason:

This change is because of awkward and redundant wording.

Council/CRC/Staff comments:

It was Council consensus not to change this section.

Low Priority Ranking #3

“Section 4.03 Personnel System subsection (a)

(a) All appointments and promotions of town officers and employees shall be made primarily on the basis of merit or other evidence of competence.

(b) Consistent with all applicable federal and state laws, the town council shall provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the town's departments, offices, and agencies.”

Recommended Charter Change:

Remove the word “primarily” in the first sentence because it implies other methods; committee concurred with state recommendation.

Reason:

This change was recommended by state review as quoted: “subsection a calls for a personnel system under which all personnel appointments and promotions are made “primarily” on the basis of merit and competency. It may be appropriate to either define or delete the qualifier “primarily” in order to avoid misinterpretation.”

Council/CRC/Staff comments:

Town Attorney Bohne stated that he was not concerned with deleting the word “primarily” as a charter change. It was Council consensus not to change this section.

Low Priority Ranking #4

“Section 6.04 Method of Electing Council Members

The ballot for the general election shall contain the names of all qualified candidates for council members and the number of seats up for election. The ballot shall instruct electors to cast one vote for each open council seat. The candidates who receive the largest number of votes shall be the duly elected council members and shall be designated as holding a specific council seat number. Council seat numbers shall be assigned such that the lowest seat number available is given to the candidate who receives the largest number of votes.”

Recommended Charter Change:

Reword to clarify how seats are assigned in case of a vacancy such that the highest number of votes gets the longest term.

Reason:

This change is to provide clarity in who is assigned a certain seat number.

Council/CRC/Staff comments:

It was Council consensus to handle this change by ordinance.

Low Priority Ranking #5

“Section 6.07 Candidate Forums

The town shall sponsor and budget for a minimum of three candidate forums. Each candidate for mayor or council seat shall participate in a minimum of two candidate forums

Recommended Charter Change:

Committee recognized that this is not enforceable and will leave up to Council to decide to remove.

Reason:

This change is recommended because per election law the town cannot force candidates to attend forums.

Council/CRC/Staff comments:

Town Attorney Bohne stated that this section is unenforceable and it is not necessary to change. It was Council consensus not to change this section.

Low Priority Ranking #6

“Section 6.10 Initiative and Referendum Proceedings

(a) Any five electors may commence initiative or referendum proceedings by filing with the town clerk an affidavit stating that they will constitute the petitioners' committee, stating that they will 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 initiative ordinance or the proposed amendment or repeal action relating to an existing ordinance. The town clerk shall promptly file the affidavit with the town administrator so that it can be placed on the agenda for the next town council meeting. If the proposed ordinance is in the correct form and is compatible with the town charter and general and special law, the town council shall promptly consider the proposal on its merits and substance. If deficiencies of form or legality exist, the proposal shall be returned to its sponsors for correction and resubmission. If the town council delays, rejects, changes, or refuses to consider a proposed ordinance or amendment or repeal request for reasons that fail to satisfy its sponsors, the proposed ordinance or amendment or repeal request may be submitted to

referendum by petition. Production of petition forms and validation of signatures shall be the responsibility of the petitioners' committee.

(b) Referendum and initiative petitions must be signed by electors of the town, as certified by the Brevard County Supervisor of Elections, equal in number to at least 20 percent of the total number of electors voting at the last regular election.

(c) All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Referendum and initiative petitions shall contain or shall have attached to them throughout their circulation the full text of the proposed ordinance, amendment, or repeal request.

(d) Each paper of a petition shall have attached to it, when filed, an affidavit executed by its circulator stating that the circulator personally circulated the paper, giving the number of signatures on the paper, and stating that all the signatures were affixed in the circulator's presence, that the circulator 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 proposed ordinance, amendment, or repeal request.

(e) Referendum petitions must be filed within 30 days after adoption by the town council of the ordinance sought to be reconsidered.

(f) Within 20 days after the petition is filed, the town clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars in which it is defective, and shall within 2 working days send a copy of the certificate to the petitioners' committee by registered mail. Verification of electors shall be as certified by the Brevard County Supervisor of Elections. 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 town clerk within 5 days after receiving the copy of the certificate and if the petitioners' committee files a supplementary petition upon additional papers within 10 days after receiving the copy of the certificate. Such supplementary petition shall comply with the requirements of paragraphs (c) and (d). Within 20 days after a supplementary petition is filed, the town 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. 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 to request town council review under paragraph (g) within the time required, the town clerk shall promptly present the certificate to the town council, and the certificate shall then be a final determination as to the sufficiency of the petition.

(g) If a petition has been certified insufficient for reasons other than the required number of elector signatures and the petitioners' committee does not file notice of intention to amend it, or if an amended petition has been certified insufficient for reasons other than the required number of elector signatures, the committee may, within 5 days after receiving the copy of such certificate, file a request that the petition be reviewed by the town council. The town council shall review the petition and its accompanying certificate at its next meeting following the filing of such request and shall approve or disapprove it. The town council's determination shall then be a final determination as to the sufficiency of the petition.

(h) A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

(i) The cost of checking the names on a petition against the list of electors shall be borne by the petitioners' committee.

(j) When a referendum petition is filed with the town clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

1. There is a final determination of insufficiency of the petition;
2. The petitioners' committee withdraws the petition;
3. The town council repeals the ordinance; or
4. Thirty days have elapsed after a vote of the electors of the town on the ordinance.

(k) When an initiative or referendum petition has been finally determined sufficient, the town council shall promptly consider adoption of the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal. If, within 60 days after the petition is determined sufficient, the town council fails to adopt a proposed initiative ordinance without any change in substance or fails to repeal the referred ordinance, it shall submit the proposed or referred ordinance to the electors of the town.

(l) The election on a proposed or referred ordinance shall be held not fewer than 30 days and not later than 1 year from the date that the petition was determined sufficient. If no regular town election is to be held within such period, the town council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the town council may in its discretion provide for a special election at an earlier date within such period. Copies of the proposed or referred ordinance shall be made available at the polls.

(m) An initiative or referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote of the town by filing with the town clerk or other official designated by the town council a request for withdrawal signed by at least four 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.”

Recommended Charter Change:

Remove time constraint for a referendum; Insert this section into 6.09 and renumber.

Reason:

This change is superseded by Florida State Statute as per Town Attorney Bohne.

Council/CRC/Staff comments:

Town Attorney Bohne explained that before an ordinance is effective there is nothing to challenge, there would be no standing; however, this probably could benefit to be rewritten. Council and Committee Members were concerned about people not losing their right to referendum. It was Council consensus to have Town Attorney Bohne review the recommended change, bring back to Council and determine if this is something they want to go forward on.

Low Priority Ranking #7

“Section 6.11 Results Initiative or Referendum

(a) If a majority of the electors voting in a referendum on a proposed initiative ordinance votes in favor of it, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances adopted by the town council.

(b) If a majority of the electors voting in a referendum on a request to repeal an existing ordinance votes in favor of repeal, the ordinance shall be considered repealed upon certification of the election results.”

Recommended Charter Change:

Insert this section into 6.09 and renumber.

Reason:

This change is for editorial clarification.

Council/CRC/Staff comments:

It was Council consensus not to change this section.

Low Priority Ranking #8

“Section 8.01 Procedure to Amend the Charter

(a) The town council may, by ordinance, propose amendments to this charter. Upon approval of the initiating ordinance by majority of the town council, the proposed amendment shall be placed on the ballot at the next regularly scheduled election, unless the amendment calls for placement on the ballot at a special election.

(b) The electors of the town may propose amendments to this charter by petition signed by 20 percent of the registered electors as of the last general election. Once the petition is verified, the proposed amendment shall be placed on the ballot at the next regularly scheduled ballot, unless the amendment calls for placement on the ballot at a special ballot. The proposed charter amendment will be published twice in the local paper not fewer than 30 days or more than 60 days before the scheduled election.”

Recommended Charter Change:

Add “per state statute” at the end of paragraph (b); change “special ballot” to “special election”.

Reason:

This change is for editorial clarification.

Council/CRC/Staff comments:

It was Council consensus not to change this section.

SUGGESTION #1

“Section 2.01 Town Council subsection (b)

The term "council" means the Grant-Valkaria Town Council and includes the mayor.

(a) The town council shall consist of six council members and one mayor, for a total of seven members, all of whom shall be elected at large and in accordance with article 6. The council members shall occupy seats numbered 1 through 6.

(b) Four or more members of the town council shall constitute a majority, and five or more members of the town council shall constitute a supermajority. A majority of the town council shall constitute a quorum, but a smaller number may adjourn as required and may compel the attendance of absent members in the manner and subject to any penalties prescribed by rules adopted by the town council.

(c) All powers of the town shall be vested in the elected town council, except as otherwise provided by law or by this charter.”

Refer to Council that they need to draft ordinance to clarify “compel”, prescribe penalties and rules that compel presence of Town Council Members, and if tele-presence would be qualified as being present.

Council/CRC/Staff comments:

Town Attorney Bohne stated this can be addressed by Council procedures and Council Members can appear by telephone but cannot vote. It was Council consensus to address this by policy or ordinance.

SUGGESTION #2

“Section 7.01 Conduct of Officials in Office subsection (b)

(a) All town council members, town officials, and town employees shall be subject to the code of ethics for public officers and employees set forth in part III of chapter 112, Florida Statutes, as required by law.

(b) The use of public office for private gain is prohibited. The town council shall implement this prohibition by ordinance, the terms of which shall address, but not be limited to:

1. Acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public.
2. The acceptance of gifts and other things of value.
3. Acting in a private capacity on matters dealt with as a public official.
4. The use of confidential information.
5. Appearances by public officials before other town departments, offices, or agencies on behalf of private interests.”

Noted that this section should stay the same. Section 7.01 (b) mandates council to implement by ordinance the prohibition on private gain.

Council/CRC/Staff comments:

It was Council consensus to address this by ordinance.

SUGGESTION #3

“Section 7.05 Campaign Finance

(a) The town council shall adopt ordinances to protect the ability of citizens to be informed of financing used in campaigns for local office. The ordinances shall provide for convenient public disclosure. Insofar as is permissible under state law, such regulations may also provide for fines and imprisonment for violations.

(b) The town council may adopt ordinances that limit contributions, time limits on fundraising, and public financing.”

Noted that the town may want to adopt an ordinance concerning campaign finance and disclosure.

Council/CRC/Staff comments:

It was Council consensus to address this by ordinance.

SUGGESTION #4

“Article X Transition

10.01 Creation and Establishment of the Town

(a) For the purpose of compliance with general law relating to the assessment and collection of ad valorem taxes, the town is hereby created and established effective when approved by the electors at the August 1, 2006, special election and filed with the Secretary of State in the manner prescribed by law.

(b) The town name used in this charter is "Town of Grant-Valkaria." As a first act of home rule and to ensure community participation, residents will have the opportunity to select their town name. The elected town council shall set the procedures for the residents' selection of the town name within 6 months after the first town council meeting.

10.02 Temporal Nature of Transition Sections of Charter

The following sections of this Article are inserted solely for the purpose of effecting the incorporation of the town and the transition from an unincorporated area of Brevard County to a new incorporated municipality. Each of the following subsections of this Article shall

automatically, and without further vote or act of the electors of the town, become ineffective and no longer a part of this charter at such time as the implementation of such subsection has been accomplished.

10.03 First Transition Period; Charter Acceptance to First Election

(a) Since upon approval of the charter a governmental unit equivalent to the town does not exist to provide people with positions accredited to effect a transition, an interim council committed to the charter and the transition to town government shall be identified and authorized.

(b) Based on prior commitment to and involvement in the incorporation process, the Grant-Valkaria Preservation Committee-Steering Committee (GVPC-SC) is recognized as the appropriate body to select an interim council. The interim council shall transition from charter development and community organization by providing an interim town government during the time period between the approval of the charter and the dissolution of the interim council. Upon the certification of acceptance of the charter by the electors of the town, as reported by the Brevard County Supervisor of Elections, the GVPC-SC shall convene forthwith and identify five electors to act as interim town council members.

(c) Dissolution of the interim council shall occur at the beginning of the term of the first elected town council.

(d) The positions of interim council members shall be voluntary positions. Interim council members shall receive no compensation.

(e) Powers of the interim council shall be in accordance with this charter and shall include:

1. Preparing and adopting temporary regulations that are applicable only to the first town council election and designed to ensure its proper conduct, to prevent fraud, and to provide for recount of ballots in cases of doubt or fraud.
2. Providing a method for certification of candidates for the first town council election.
3. Scheduling the three community candidate forums as described in article 6 in preparation for the first town council election.
4. Coordinating with the Brevard County Supervisor of Elections with regard to the first town council election and to effect the timely receipt by the interim council of the official certification results for the town council election.
5. Scheduling the first town council meeting.
6. Enacting emergency ordinances as may be warranted to protect public safety.
7. Identifying and managing funds.
8. Filing applicable forms and requests for revenue sharing and other funding sources.
9. Disbursing funds for the purpose of conducting town business to include the funding of the first election of the town council. The moneys available for this purpose shall be those identified within the Proposed Town of Grant-Valkaria Municipal Incorporation Feasibility Study and shall accrue from the municipal ad valorem millage rate of 4.369 mills as applied to the total taxable value of the properties contained within the proposed boundaries of the Town of Grant-Valkaria as they accrue to the town general fund and from those funds accruing from all applicable state and county revenue-sharing programs as calculated effective from the first day of the month following the charter referendum, being the first day of legal status of the Town of

Grant-Valkaria as a newly incorporated municipality within the state.

(f) Until otherwise modified or replaced by this charter or the council, all codes, ordinances, and resolutions of Brevard County in effect on the day of adoption of this charter shall, to the extent applicable to the town, remain in force and effect as municipal codes, ordinances, and resolutions of the town. Until otherwise determined by the council, said codes, ordinances, and resolutions shall be applied, interpreted, and implemented by the town in a manner consistent with established policies of Brevard County on the date of the adoption of this charter.

10.04 First Election; Terms of Council Members and Mayor

(a) The first election for council members and mayor shall be held on November 7, 2006. For the first election, only electors who have resided within the proposed town boundaries, as described in article 1(5), for the 2 years preceding the date of the first election shall be eligible to hold the office of council member or mayor.

(b) At the first election under this charter, all six council members and the mayor shall be elected. The three council candidates receiving the greatest number of votes shall be duly elected council members and shall be designated as holding seats 1, 3, and 5, respectively. The three council candidates receiving the next greatest number of votes shall be duly elected council members and shall be designated as holding seats 2, 4, and 6, respectively. The candidate for mayor receiving the greatest number of votes shall be the duly elected mayor. Notwithstanding the date of the first election, the terms of the mayor and council members holding seats 1, 3, and 5 shall end 2 weeks after the general election in 2010, and the terms of council members holding seats 2, 4, and 6 shall end 2 weeks after the general election in 2008. Division of council seats into 4-year and 2-year terms is required in order to allow staggered terms of office.

10.05 Initial Expenses

The initial expenses of the town council, including the expense of recruiting a town administrator, shall be paid by the town on vouchers signed by the mayor. The town council, in order to provide moneys for the expenses and support of the town, shall have the power to borrow money, if necessary, for the operation of town government until such time as a budget is adopted and revenues accrue in accordance with the provisions of this charter. Notwithstanding the provisions of paragraph (3)(e), the amount borrowed shall be in accordance with and shall not exceed the projected revenues of the incorporation feasibility study for the town for fiscal year 2006-2007.

10.06 Transitional Ordinances and Resolutions

The town council shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within 60 days after the first regular council meeting may be passed as emergency ordinances.

10.07 Revenue Source Transition

Until otherwise modified by the council, all municipal taxes and fees, including communications

services taxes, imposed within the town boundaries by the county as the municipal government for unincorporated Brevard County, which taxes and fees are in effect on the date of adoption of this charter, shall continue at the same rate and under the same conditions as if those taxes and fees had been adopted and assessed by the town.

10.08 Transition Continuity of Services

To ensure that there is no discontinuity in the provision, level, or quality of municipal service delivery to the proposed town, and until such time as the town may enter into interlocal agreements with Brevard County regarding the provision of municipal services, all municipal services currently provided by Brevard County shall continue to be provided by Brevard County at the service levels existing at the time of municipal incorporation. All federal, state, grant, and other funding sources existing prior to the time the town is incorporated shall continue to be applied in the manner and at the level anticipated and projected by the Brevard County budget prior to the incorporation of the town. The future cost and level of municipal service delivery provided to the town by Brevard County beyond fiscal year 2006-2007 shall be negotiated and determined through an interlocal agreement between the town and appropriate representatives of Brevard County.

10.09 State-Shared Revenues

The town shall be entitled to participate in all shared revenue programs of the state, effective immediately on December 1, 2006. The provisions of section 218.23, Florida Statutes, shall be waived for the purpose of eligibility to receive revenue-sharing funds from December 1, 2006, through the end of state fiscal year 2008-2009. The provisions of section 218.26(3), Florida Statutes, shall be waived through state fiscal year 2008-2009, and the apportionment factors for the municipalities and counties shall be recalculated pursuant to section 218.245, Florida Statutes. The initial population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research as of the effective date of this charter. Should the bureau be unable to provide an appropriate population estimate, the initial population for calculating eligibility for shared revenues shall be established at the level of 3,907 as projected in the incorporation feasibility study.

10.10 Gas Tax Revenues

Notwithstanding the requirements of section 336.025, Florida Statutes, to the contrary, the town shall be entitled to receive local option gas tax revenues beginning the first day of the month following the charter referendum. These revenues shall be distributed to the town as a fully eligible incorporated municipality of Brevard County in accordance with the distribution formula initially established and adopted on October 18, 1988, as part of the "Brevard County Local Option Gasoline Tax Revenue Distribution, Interlocal Agreement" and as amended by the Board of County Commissioners of Brevard County through Ordinance No. 99-40 as ratified on October 12, 1999, extending the Local Option Gas Tax Interlocal Agreement through August 31, 2021.

10.11 Shared Revenues

Beginning December 1, 2006, through December 31, 2007, Brevard County shall distribute to the town, from taxes, franchise fees, and ad valorem taxes, which include communication services taxes, revenues collected within the municipal boundaries of the town. This calculation shall be based upon a population projection of 3,907 residents for the town as estimated for the feasibility study in anticipation of the year 2008 census.”

It was noted that if this section is left in the charter then the review committee recommends there be no changes; however, if council chooses to remove this section, then changes need to be made to several other sections of the charter to cover items still in force, or which established a baseline for actions or procedures.

Council/CRC/Staff comments:

Attorney Karl Bohne recommended that this section not be removed because of historical value. It was Council consensus to keep this section as is. It was Council consensus that Section 10.04 terms need to go into the charter.

Council thanked the Charter Review Committee members for all the great work they did on reviewing the Charter and all their recommendations.

It was Council consensus to identify 6 charter revisions as follows:

- 1) Amend Sections 2.01, 2.02 and 3.04 to authorize the Town Administrator, under certain conditions, to sign certain legal documents on behalf of the Town
- 2) Amend Section 5.06 to change the extent and nature for public notice of the purchase, sale and lease of real property by the Town
- 3) Amend Section 9.01 to ensure the protection of the rural nature of the Town
- 4) Amend Section 2.04 to provide for an expanded definition of “vacancy” in the office of the Town Council
- 5) Amend Section 2.01 to clarify that the term of the Council members is 4 years
- 6) Amend Section 2.02 to clarify that the terms of the Mayor is 4 years

ADJOURN

Motions by Council Member Hackford, second by Council Member Mahaney, and vote unanimous to adjourn the meeting at 9:02 p.m.

(signature on file)

Del Yonts, Mayor

ATTEST:
(signature on file)

Susanne R. Krueger, Town Clerk