

ORDINANCE NO. 2010-03

AN ORDINANCE OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY FLORIDA; CALLING AND SCHEDULING A ELECTION UPON AMENDMENTS TO THE CHARTER OF THE TOWN; PROVIDING FOR THE MANNER IN WHICH SUCH ELECTION SHALL BE CONDUCTED; ESTABLISHING THE FORM OF THE BALLOT FOR SUCH ELECTION; PROVIDING FOR THE AVAILABILITY OF COPIES OF THE PROPOSED AMENDMENTS TO THE TOWN CHARTER; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes, 101.161 provides for the procedures to submit a public measure to a vote of the electors of a municipality; and

WHEREAS, The Town Council has recommend that certain amendments be made to the Town Charter which amendments appear as Exhibit A to this Ordinance; and

WHEREAS, The TOWN Council desires to submit the said amendments to the Charter for ratification by the electors of the Town as six (6) separate ballot questions.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY, FLORIDA, as follows:

Section 1.

A referendum election is hereby called and scheduled to be held concurrent with the general election on the 2nd day of November, 2010, to determine whether the amendments to the Charter appearing in Exhibit A shall be approved by a majority of the votes cast in such election in which the qualified electors residing in the Town shall participate. Such referendum election shall be held and conducted in a manner prescribed by law for all general elections. The place for voting in such referendum election shall be the usual place for voting in the Town in the general election to be held on the 2nd day of November, 2010.

The polls shall be open at such voting place on the day of such referendum election during the hours specified by the general laws of the State of Florida. All duly qualified electors residing within the Town shall be entitled to participate in and vote at such referendum election.

Section 2.

The ballots to be used at such referendum election shall contain a statement of the proposed subject matter of the amendments to the Charter and shall provide facilities for qualified electors to vote for or against such Charter Amendments in six (6) separate ballot questions. Said ballots shall be in substantially the following form:

Ballot
Town of Grant-Valkaria, Florida

Question 1. Authority of the Town Administrator

Shall sections 2.01, 2.02 and 3.04 of the Charter be amended to authorize the Town Administrator, when authorized by the Town Council, to sign certain legal documents on behalf of the Town?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

Question 2. Purchase, Sale and Lease of Real Property

Shall section 5.06 of the Charter be amended to provide that public notice of the purchase, sale and lease of real property by the Town shall be provided in the same manner as required by general law for the adoption of ordinances?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

Question 3. Rural Character of the Town

Shall section 9.01 of the Charter be amended to ensure the protection of the rural nature of the Town?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

Question 4. Vacancies on Town Council

Shall section 2.04 of the Charter be amended to provide for an expanded definition of “Vacancy” in the office of the Town Council?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

Question 5. Term of Town Council

Shall section 2.01 of the Charter be amended to clarify that the term of Town Council members is 4 years?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

Question 6. Term of Mayor

Shall section 2.02 of the Charter be amended to clarify that the term of the Mayor is 4 years?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

Section 3.

The Town Clerk is hereby authorized and directed to instruct the Supervisor of Elections of Brevard County to include the above-described questions on the ballot for the general election to be held on the 2nd day of November, 2010.

Section 4.

Notice of the said referendum election in substantially the form showing in Exhibit B to this Ordinance shall be published two times in a newspaper of general circulation according to the laws of the State of Florida. The first publication shall be during the fifth week prior to the week in which the referendum election is to be held and the second publication shall be during the third week prior to the week in which the referendum election is to be held. A minimum of five copies of this Ordinance shall be kept on file in the office of the Town Clerk for public inspection upon demand during normal business hours.

Section 5.

If the amendments to the Town Charter described in Questions No. 1 through 6 hereinabove are approved by the electors of the Town, such amendments shall take effect with the general election of the Town scheduled in November, 2010.

Section 6.

This Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY, FLORIDA, ON THIS 14th DAY OF JULY, 2010.

(signature on file)

Del Yonts, MAYOR

ATTEST:

(signature on file)

SUSANNE R. KRUEGER,
TOWN CLERK

First Reading: June 23, 2010
Second Reading: July 14, 2010

Approved as to form and content:

(signature on file)

Karl W. Bohne, Jr., Town Attorney

Roll Call Vote:

Del Yonts	<u>AYE</u>
Joe Hackford	<u>AYE</u>
Lisette Kolar	<u>AYE</u>
Pat Bryan	<u>AYE</u>
Jason Mahaney	<u>ABSENT-EXCUSED</u>
Dan Faden	<u>AYE</u>
Cathy DeMott	<u>AYE</u>

EXHIBIT A

Town of Grant-Valkaria Language of Proposed Charter Changes

(In all cases, words crossed out with ~~strike through~~ are to be deleted and words underlined are to be added.)

REFERENDUM QUESTION 1.

1. Section 2.01 of the Town Charter is proposed to be amended to add a new subsection (d) as follows:

“2.01 Town Council

• • •

(d) Except as is otherwise provided for in this Charter or by state law, the Town Council may from time to time authorize the Town Administrator to execute contracts, interlocal agreements, leases and other legal documents on behalf of the Town.”

2. Section 2.02 of the Town Charter is proposed to be amended as follows:

“2.02 Mayor

The mayor shall preside at meetings of the town council. The mayor shall be a regular voting member of the town council. The mayor shall be recognized as the head of town government for all ceremonial purposes; for purposes of military law; for service of process and execution of town council authorized contracts, deeds, and other documents; and as the town official designated to represent the town when dealing with other governmental entities on behalf of the town. The Town Council may delegate, from time to time, the authority to execute contracts, interlocal agreements, leases and other legal documents to the Town Administrator.”

3. Section 3.04 of the Town Charter is proposed to be amended to add a new subsection (o) as follows:

“3.04 Powers and Duties

• • •

“(o) Execute contracts, interlocal agreements, leases and other legal documents as authorized by the Town Council on behalf of the Town.”

REFERENDUM QUESTION 2.

1. Section 5.06 of the Town Charter is proposed to be amended as follows:

“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~~ general ordinances.

REFERENDUM QUESTION 3.

1. Section 9.01 of the Town Charter is proposed to be amended to add a new subsection (g) as follows:

“9.01 Rural Character of the Town

(g) Any request for a comprehensive plan amendment, land use change or rezoning which proposes to increase the density of real property in the Town must be submitted to a vote for approval by the electors of the Town at a referendum election. No lot which has an assigned low density land use designation shall be less than one and one-quarter (1 1/4) acre in total area. The provisions for a referendum election shall not apply to the adoption and final approval of the Town’s initial long range comprehensive plan, land use map and zoning ordinance as provided for in section 9.02 of this Charter.”

REFERENDUM QUESTION 4.

1. Section 2.04 of the charter is proposed to be amended as follows:

“2.01 Vacancies

The office of a town council member shall become vacant (i) upon the an incumbent's death, resignation, or removal from office in any manner authorized by law; ~~or~~ (ii) by forfeiture of his or

her office; (iii) or if a vacancy in candidacy caused by death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period or in any instance where the number of qualified candidates for election following the end of the qualifying period is less than the number of seats up for election.

(a) A town council member shall forfeit his or her seat if at any time during his or her term he or she ceases to maintain his or her permanent residence in the town or if he or she otherwise ceases to be a qualified elector of the town.

(b) Any member of the town council shall be subject to forfeiture of his or her office if he or she is absent without good cause from any three consecutive regular meetings of the council or if he or she is absent without good cause from any four regular meetings of the council within any 12-month period.

(c) The town council shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a council member's office, including whether good cause for absence has been or may be established. The burden of establishing good cause shall be on the council member in question; however, any council member may at any time during any duly held meeting move to establish good cause for his or her absence or the absence of any other council member from any past, present, or future meeting or meetings, which motion, if carried, shall be conclusive.

(d) A council member whose qualifications are in question or who is otherwise subject to forfeiture of his or her office shall not vote on any such matters. The council member in question shall be entitled to a public hearing on requests regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the town at least 1 week in advance of the hearing.

(e) Any final determination by the town council that a council member has forfeited his or her office shall be made by resolution. All votes and other acts of the council member in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.”

REFERENDUM QUESTION 5.

1. Should section 2.01 of the Charter be amended as follows:

“2.01 Town Council

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.

(d) Except as is provided for in section 10.04 of the Charter relating to the first election for council members and mayor, the term of each council member shall be four (4) years.”

REFERENDUM QUESTION 6.

1. Should section 2.02 of the Charter be amended as follows:

“2.02 Mayor

The mayor shall preside at meetings of the town council. The mayor shall be a regular voting member of the town council. The mayor shall be recognized as the head of town government for all ceremonial purposes; for purposes of military law; for service of process and execution of town council authorized contracts, deeds, and other documents; and as the town official designated to represent the town when dealing with other governmental entities on behalf of the town. Except as is provided for in section 10.04 of the Charter relating to the first election for council members and mayor, the term of the Mayor shall be four (4) years.”

EXHIBIT B
NOTICE OF REFERENDUM ELECTION
TOWN OF GRANT-VALKARIA, FLORIDA

Public notice is hereby given that on November 2nd, 2010; the issue of whether the Town of GRANT-VALKARIA shall adopt amendments to the Town Charter will be submitted to the qualified electors of the Town of GRANT-VALKARIA and will appear on the same election ballot as a referendum on that date as six (6) separate ballot question.

The Town Council of the Town of GRANT-VALKARIA has adopted an ordinance calling the said election on the following question:

AS TO QUESTION 1.

The Charter provides for the powers and duties of the Council, Mayor and Town Administrator in sections 2.01, 2.02, and 3.04, respectively. The power to sign legal documents is reserved unto the Mayor which power is not currently delegable to any other Town officer. There may be times when it becomes necessary that the power to execute certain legal documents should be delegated to the Town Administrator. Therefore, shall section 2.01, 2.02 and 3.04 (c) of the Charter be amended to authorize the Town Administrator, under certain conditions, to sign certain legal documents on behalf of the Town?

AS TO QUESTION 2.

The Charter requires public notice of the purchase, sale and lease of real property to be of the same extent and nature as that required by general law for rezoning. However, current law provides a number of different requirements for public notice for rezoning depending on the type of rezoning requested which creates confusion for the Town as to which notice is required. The notice requirement for the adoption of general ordinances pursuant state law is uniform. Therefore, shall section 5.06 of the Charter be amended to change the extent and nature for public notice of the purchase, sale and lease of real property by the Town?

AS TO QUESTION 3.

The Charter currently contains a policy statement that the rural nature of the Town is to be preserved. To fulfill this policy the Town council believes it is necessary to provide in the Charter that increases in land density should be submitted to the electors of the Town for approval. Furthermore, the Town Council believes that any lot with a low density land use designation must be at least 1 ¼ acre in size. Therefore shall section 9.01 of the charter be amended to preserve the rural character of the Town?

AS TO QUESTION 4.

The Charter currently provides a procedure to fill vacancies on council. However, the Charter does not apply to a vacancy in candidacy caused by death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period or in any instance where the number of qualified candidates for election following the end of the qualifying period is less than the number of seats up for election. Therefore, should section 2.04 of the Charter be amended to provide for an expanded definition of "Vacancy" in the office of the Town Council?

AS TO QUESTION 5.

The Charter, as currently written, does not *explicitly* define the current terms of council Members. It appears to be the intent of the Charter that the current terms of the Council Members is 4 years. Therefore, should section 2.01 of the Charter be amended to clarify that the term of Town Council members is 4 years?

AS TO QUESTION 6.

The Charter, as currently written, does not *explicitly* define the current terms of the Mayor. It appears to be the intent of the Charter that the current term of the Mayor is 4 years. Therefore, should section 2.02 of the Charter be amended to clarify that the term of the Mayor is 4 years?

The places of voting shall be the usual places of voting in the Town of GRANT-VALKARIA during the general election scheduled on November 2nd, 2010 and the polls shall be open from 7:00 a.m. to 7:00 p.m. on the said date. All duly qualified electors residing within the Town of GRANT-VALKARIA shall be entitled to participate and vote in said referendum election.

The ballot containing the questions to be so submitted to the electors shall be in substantially the following form:

Ballot
Town of Grant-Valkaria, Florida

Question 1. Authority of the Town Administrator

Shall sections 2.01, 2.02 and 3.04 of the Charter be amended to authorize the Town Administrator, when authorized by the Town Council, to sign certain legal documents on behalf of the Town?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

Question 2. Purchase, Sale and Lease of Real Property

Shall section 5.06 of the Charter be amended to provide that public notice of the purchase, sale and lease of real property by the Town shall be provided in the same manner as required by general law for the adoption of ordinances?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

Question 3. Rural Character of the Town

Shall section 9.01 of the Charter be amended to ensure the protection of the rural nature of the Town?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

Question 4. Vacancies on Town Council

Shall section 2.04 of the Charter be amended to provide for an expanded definition of “Vacancy” in the office of the Town Council?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

Question 5. Term of Town Council

Shall section 2.01 of the Charter be amended to clarify that the term of Town Council members is 4 years?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

Question 6. Term of Mayor

Shall section 2.02 of the Charter be amended to clarify that the term of the Mayor is 4 years?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

For further information regarding this referendum election, contact the Town Clerk of the Town of GRANT-VALKARIA. A minimum of five copies of this Ordinance are on file at the office of the said Town Clerk at Town Hall, 4240 Highway US1, GRANT VALKARIA, Florida, 32949, and are available for inspection upon request during normal business hours.