



City Attorney's Communication #2024-564
May 16, 2024

TO: Mayor and City Commission
FROM: Mark E. Berman, City Attorney
RE: Proposed Charter Amendment/Referendum for General Election, November 2024

Ordinance No. 2024-36 recommends approval of three ballot questions to be decided by the voters in the November election as follows:

PROPOSED AMENDMENT #1

**REMOVING EMINENT DOMAIN FROM THE CHARTER
AS A REQUIREMENT FOR PROPERTY TRANSFERS TO
GOVERNMENTAL ENTITIES.**

Shall the power of eminent domain requirement be removed from Section 253 (h) of the Pompano Beach City Charter?

YES _____ NO _____

PROPOSED AMENDMENT #2

**APPROVING CONTRACTS BY RESOLUTION AND FOR
TERMS LONGER THAN FIVE YEARS WITH CITY
COMMISSION APPROVAL.**

Shall the contract provisions of the Pompano Beach City Charter [Section 251 (c)] be amended to allow contracts to be approved by resolution consistent with state law, and shall the term of such contracts be permitted to exceed five (5) years if approved by the City Commission?

YES _____ NO _____

PROPOSED AMENDMENT #3

**APPROVING LEASES BY RESOLUTION AND FOR TERMS
LONGER THAN FIFTY YEARS WITH CITY COMMISSION
APPROVAL.**

Shall the lease provisions of the Pompano Beach City Charter [Section 250 (a) and (b)] be amended to approve leases of City-owned property by resolution consistent with state law, with two (2) public hearings for approval, and shall the term of such leases be allowed to exceed fifty (50) years if approved by the City Commission?

YES _____

NO _____

The City Charter's provisions relating to leases, contracts and transfer of City property to governmental entities are inconsistent with state law and best practices as follows:

- Ordinances are used to make laws. [Sec. 166.041, Fla. Stat.]
- Resolutions are used to handle administrative matters. [Sec. 166.041, Fla. Stat.]
- Leases and contracts are administrative matters that should be approved by resolution.
- The Charter requires that leases and some contracts be approved by ordinance.
- The City should have the flexibility to lease property for terms that make the most sense for the City.
- The City should have the flexibility to approve contracts that make the most sense for the City.
- The City Charter limits leases to 50 years, an arbitrary term that prevents necessary flexibility.

- The City Charter limits contracts to five years, an arbitrary term that prevents necessary flexibility.
- State law has changed to substantially limit the power of eminent domain of governmental entities.
- Requiring the power of eminent domain no longer makes sense as a condition for transfer of City property to other governmental entities.
- The City has a reversionary interest in all CRA property so transfer to the CRA is essentially the same as a transfer to the City.
- The City has always recognized the need to transfer City property to the CRA. [City Code Section 38.04 re City delegation of powers to the CRA.]

In summary, the proposed Charter amendments will make the inconsistent provisions consistent with state law and best practices as follows:

- Approve leases and contracts by resolution
- Allow flexible lease terms
- Allow flexible contract terms
- Remove power of eminent domain as a condition of transfer to governmental entities

MEB/jrm
l:cor/comsn/2024-565

cc: Claudia McKenna, CRA Attorney