



To: Mayor Jerry Demings -AND- County Commissioners

From: Commissioner Emily Bonilla, District 5

Date: Jul 8, 2022

Subject: Commissioner's Report For July 26, 2022 on Charter Amendment to be Placed on Ballot for Supermajority Vote to move Rural Boundary Line

I apologize for this late request. I have been wanting to do it for a while but have been busy with the Rent Stabilization Ordinance. However, here is the research and language completed in 2018 with the help of an attorney who specializes in environmental protection and land use, Thomas Hawkins. His bio can be found at <https://dcp.ufl.edu/faculties/hawkins-william-thomas/>. In addition, this language has been approved by the Supervisor of Elections in 2018 when I was going to get it on the ballot through a Citizens Initiative. Seminole County has a similar Charter Language. Winter Park just passed a similar Charter Language voted on by the board.

Action Requested:

I am asking that the Board of County Commissioners vote to move this forward to add to the General Election for the people to vote on.

Included items in the email with this memo to also be included in the agenda book:

- Draft Charter Amendment with Ballot Language
- Sample Seminole County Charter Amendment when they did theirs.
- Sample Winter Park Amendment - It is the 10th amendment in the document.
- Some research on the history of preserving the Econ Rural Boundary Line.

/s/
Commissioner Emily Bonilla

Cc: Byron W. Brooks, County Administrator
Cheryl Gillespie, Supervisor, Agenda Development
County Attorney's Office

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COMMISSIONER EMILY BONILLA, DISTRICT 5
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Orange County Charter Amendment - Rural Boundary

BALLOT TITLE: REFORMING PLANNING BY REQUIRING GREATER-THAN-MAJORITY VOTE, AND PREEMPTING SOME MUNICIPAL ORDINANCES

BALLOT SUMMARY: Reforming the charter to provide fiscal and land use sustainability standards, allow fourteen days for review, and require a super majority vote for legislative land use decisions; require fiscal neutrality and a unanimity-minus-one vote for legislative land use decisions outside of the Urban Service Area; and preempt municipal planning for lands outside of the Urban Service Area which may be annexed in the future.

TITULO DE LA PAPELETA: REFORMA DE LA PLANIFICACIÓN POR REQUERIMIENTO DE VOTO DE MAYORÍA CALIFICADA Y EXCEPCIÓN A ALGUNAS ORDENANZAS MUNICIPALES

RESUMEN DE LA PAPELETA: Reforma del estatuto municipal para proporcionar normas fiscales y de sostenibilidad del uso de la tierra, permitir catorce días para revisión, y requerir una votación por mayoría calificada para las decisiones legislativas sobre el uso de la tierra; requerir la neutralidad fiscal y una votación por unanimidad menos uno para las decisiones legislativas sobre el uso de la tierra fuera del Área de Servicio Urbano; y eximir la planificación municipal para las tierras fuera del Área de Servicio Urbano que pueden ser anexadas en el futuro.

Full Text of The Proposed Charter Amendment:

Section 1. The title of Article V is amended to read:

ARTICLE V. - PLANNING, ~~AND ZONING, COMMISSION AND BOARD OF ZONING ADJUSTMENT AND~~ ANNEXATION

Section 2. A new section 506 is added to read:

Sec. 506. - Fiscal and land use sustainability

A. Legislative land use decisions are decisions of the board of county commissioners which affect the use or development of land and result in the formulation of a general rule of policy, such that a decision prescribes a requirement with respect to orders to be made in the future. Adoption or amendment of the Orange County Comprehensive Plan is a legislative land use decision.

B. Legislative land use decisions must be consistent with the following policies.

1. The county will facilitate efficient and cost-effective provision of services, ensure adequate public facilities are available concurrently with new development, and be fiscally conservative in planning for growth.
2. The county will ensure sustainable economic growth which meets the needs of the present without compromising the ability of future generations to meet their needs.
3. The county will plan in order to protect natural and manmade resources and maintain, through orderly growth and development, the character, stability, and quality of life for present and future county residents.
4. The county will plan in order to protect rural communities which are an integral part of the metropolitan region and provide a rural lifestyle, productive agriculture, natural landscapes, and environmental services.

C. Engagement and process for legislative land use decision making

1. Legislative land use decisions must be made on a positive or negative vote on a proposal which has been available to the public at least fourteen days prior to a board of county commissioners decision on the proposal. Proposals shall not be changed in the fourteen days prior to the advertised public hearing. This allows residents, the board of county commissioners, and affected parties to fairly evaluate proposals and supporting data and analysis.
2. Vote by board of county commissioners
 - (a) The board of county commissioners may make a legislative land use decision only by an affirmative vote of a majority plus one of the full membership of the board of county commissioners.
 - (b) However, the board of county commissioners may make a legislative land use decision which adds lands to the Urban Service Area, or increases the allowable land use density or intensity on lands lying outside the Urban Service Area, only when such action is fiscally neutral and only by an affirmative vote of a unanimity minus one vote of the full membership of the board of county commissioners. For the purposes of this paragraph, "Urban Service Area" means that area identified as Urban Service Area in the Orange County, Florida 2010-2030 Comprehensive Plan Future Land Use Map Series effective on November 8, 2022.

Section 3. Section 704 is amended to read:

Sec. 704. - Conflict of county ordinances with municipal ordinances; preemption.

A. Except as provided in this section, no county ordinance shall be effective within a municipality if the municipality maintains an ordinance covering the same subject matter, activity or conduct as the county ordinance.

B. County ordinances shall be effective within municipalities and shall prevail over municipal ordinances when:

1. The county sets minimum standards for (a) regulating adult entertainment, and (b) protecting the environment by prohibiting or regulating air or water pollution, and (c) prohibiting or regulating simulated gambling or gambling, but only to the extent that such minimum standards are stricter than the applicable municipal standards.

2. The county ordinances provide that the county's and any municipality's rezonings or comprehensive-plan amendments (or both) that increase residential density are effective only upon approval by the governing boards of all significantly affected local governments when:

(a) The attendance zone for any public school to be affected by the increase in residential density lies only partly inside a municipality; and

(b) The school district cannot certify to the governing boards of all significantly affected local governments that the school, the attendance zone for which straddles a municipal boundary, can accommodate the additional students that will result from the increase in residential density.

The ordinance shall provide that the above-described rezonings and comprehensive-plan amendments take effect only upon approval of each significantly affected local government, whether the county or any municipality therein. The ordinance may include exceptions for de minimis impacts to the affected school(s) and such terms, requirements, limitations, exceptions, and other provisions that may be necessary or useful to protect property rights, comply with applicable law, and carry out the intent and purposes of this subsection.

Should a court of competent jurisdiction hold, after all appeals, that the ordinance does not afford the municipalities the same opportunity as the county to approve or deny the aforementioned comprehensive-plan amendments and rezonings when they are significantly affected local governments, the ordinance shall terminate and be of no further force and effect.

3. The Orange County Comprehensive Plan establishes development densities and intensities for lands lying outside the Urban Service Area except that this preemption does not apply to land that is within a municipality prior to November 8, 2022.

C. The intent of this section is that no person within a municipality shall be governed simultaneously by two sets of ordinances covering the same subject matter, activity or conduct, except in matters of minimum adult-entertainment standards, or pollution regulatory standards, or simulated gambling or gambling prohibitions or standards, or rezoning or comprehensive-plan amendments that affect public schools with attendance zones that straddle any municipal boundary, or comprehensive plan standards for land use density or intensity on lands which are outside the Urban Development Area and annexed into a municipality after November 8, 2022. In absence of an ordinance within a municipality on a subject, the county ordinance on that subject shall govern.

Black text is from Seminole County, Gray is from Sarasota.

ORDINANCE NO. 2018-_____ ORANGE COUNTY, FLORIDA

AN ORDINANCE PROPOSING AMENDMENTS TO THE SEMINOLE ORANGE COUNTY HOME RULE CHARTER; DESCRIBING PURPOSE AND INTENT; PROPOSING TO AMEND ARTICLE I, SECTION 1.4 VII, Section 704 A OF THE HOME RULE CHARTER TO ALLOW CERTAIN COUNTY REGULATIONS TO SUPERSEDE CONFLICTING MUNICIPAL REGULATIONS; PROPOSING TO CREATE ARTICLE V, SECTION 1 . 2 506 OF THE HOME RULE CHARTER TO ESTABLISH A RURAL BOUNDARY AND A RURAL AREA, DEFINE THE TERM RURAL LANDS, ALLOW THE BOARD OF COUNTY COMMISSIONERS TO REMOVE PROPERTY FROM THE RURAL AREA BY ORDINANCE, PROVIDE THAT THE FUTURE LAND USE DESIGNATIONS OF THE SEMINOLE ORANGE COUNTY COMPREHENSIVE PLAN CONTROL THE DENSITY AND INTENSITY OF DEVELOPMENT OF THE RURAL LANDS, REQUIRE COMMISSION APPROVAL OF ALL CHANGES TO THE FUTURE LAND USE DESIGNATIONS OF RURAL LANDS, REGARDLESS OF MUNICIPAL BOUNDARIES, PROVIDE FOR IMPLEMENTING ORDINANCES AND SUPERSEDING CONFLICTING MUNICIPAL ORDINANCES; PROVIDING FOR A REFERENDUM REGARDING THESE CHARTER AMENDMENTS; PROVIDING FOR CODIFICATION AND SEVERABILITY AND CONDITIONING THE EFFECTIVENESS OF THE PROPOSED CHARTER AMENDMENTS UPON VOTER APPROVAL AT A REFERENDUM.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE ORANGE COUNTY, FLORIDA:

Section 1. Legislative Findings and Declaration of Intent.

(a) The Board of County Commissioners of Seminole Orange County (the "Board") recognizes that the eastern portion of Seminole Orange County is largely rural in character, consisting primarily of farms, agricultural uses and a limited number of residences. The Board further recognizes that the residents of the eastern portion of Seminole Orange County have intentionally chosen a rural lifestyle, characterized by the large residential lots, limited traffic flow, few stoplights, little or no commercial development and limited urban amenities, such as water and sewer services. Many residents of this area have expressed to the Board their desire to maintain this rural lifestyle and rural landscape.

(b) It is essential to the preservation of the rural landscape and lifestyle to ensure that land development in this area does not exceed the intensity or density prescribed for

rural development as indicated in Seminole Orange County's existing land use designations.

(c) Overly intense or dense development will adversely impact existing drainage and roadway systems, some of which are already overtaxed. Further, certain properties in the eastern rural area are low lying with high water tables. As such, overly intense development of these properties would likely create adverse impacts and expense to neighboring properties.

(d) To preserve the existing rural lifestyle and rural landscape of eastern Seminole Orange County there is a need to limit the provision of urban services and intensity of development. To accomplish that purpose, the Board has adopted and designated an Urban/Rural Boundary in the Seminole Orange County Comprehensive Plan. Pursuant to the Comprehensive Plan, development on the eastern side of this boundary is subject to land use regulations limiting density and intensity of use and limiting the provision of certain urban services, such as, for example and not as a limitation, central water and sewer systems.

(e) The Board wishes to establish a Rural Boundary as part of the Home Rule Charter and create a "Rural Area" defined, in part, by the Urban/Rural Boundary.

(f) There are many properties located in the Rural Area which may in the future abut or become contained in municipalities and are therefore may be subject to municipal annexation in the near future. It is the Board's intent to avoid future disputes between and among the County, the various municipalities and property owners regarding annexation and development of such properties. In that regard, the County seeks to clarify and preserve its authority over the density and intensity of development of all properties located in the Rural Area, regardless of whether such properties are within unincorporated Seminole Orange County or a municipality.

(g) The Board recognizes that changing circumstances may require property to be removed from the Rural Area, without need of further charter amendment, by county ordinance.

(h) Pursuant to the Seminole Orange County Home Rule Charter, Article IV VII, Section 701 4.2 (C), the Board, by a majority vote of all members, may propose a Charter amendment for subject to referendum vote of the general electorate by passing an ordinance relating to such amendment by a majority vote of the Board.

Section 2. Amendment to Article I VII of the Seminole Orange County Home Rule Charter. Article I VII Section 1.4 704 A of the Seminole Orange County Home Rule Charter is hereby amended to read as follows:

Section 1.4. Relation to Municipal Ordinances.

Except as otherwise provided by this Charter, municipal ordinances shall prevail over County ordinances to the extent of any conflict.

Except as provided in this section and section Article V, 506, no county ordinance shall be effective within a municipality if the municipality maintains an ordinance covering the same subject matter, activity or conduct as the county ordinance.

Section 3. Amendment to Article V of the Seminole Orange County Home Rule Charter. Article V, Section 4-2 506 is hereby created to read as follows:

Section 4-2 506 Rural Boundary and Rural Area.

a. There is hereby established a Rural Boundary as more delineated on that certain map titled "Rural Boundary Map" and dated MONTH DD, YYYY, and a "Rural Area" as described in that certain legal description titled "Legal Description for Rural Area" and dated MONTH DD, YYYY, both of which are on file in the official records of the Clerk of the Board of County Commissioners. "Rural Lands", for the purpose of this Section, are those contained within the area depicted in the above referenced legal description. After the effective date of this section the Future Land Use Element of the Seminole Orange County Comprehensive Plan shall include a copy of the map and legal description.

b. The Board of County Commissioners may remove property that abuts the Rural Boundary from the "Rural Area" and amend the Rural Boundary accordingly, by ordinance whenever, in the opinion of the Board, such a change is necessary and it shall be fiscally neutral and shall require the unanimous affirmative vote of the full membership of the Board of County Commissioners. Nothing herein shall authorize the County Commission to expand the "Rural Area" beyond the area contained in the above referenced legal description.

c. From and after the effective date of this section the future land use designations contained in the Seminole Orange County Comprehensive Plan shall control the density and intensity, of development, on all Rural Lands, as that term is defined herein. The Board of County Commissioners must approve all changes to the future land use designations of all Rural Lands, regardless of whether some or all of the Rural Lands are located within a municipality. Provided, however, any ordinance amending Sarasota Orange County's Comprehensive Plan which increases allowable land use density or intensity on all of the Rural Lands, shall require an affirmative vote of a majority plus one of the full membership of the Board of County Commissioners. of which shall include an affirmative vote from the Mayor and the District Commissioners of the districts that are contained in the Rural Area.

d. The Board of County Commissioners may enact ordinances to implement this section. Municipal ordinances in conflict with this section or any implementing county ordinances are superseded to the extent of such conflict.

Section 4. Referendum.

(a) The Supervisor of Elections of Seminole Orange County is hereby authorized and directed to place on the ballot for the General Election to be held on MONTH DD, YYYY, the following ballot title and question:

CHARTER AMENDMENT ESTABLISHING RURAL AREA AND PREEMPTING MUNICIPAL COMPREHENSIVE LAND USE AUTHORITY WITHIN RURAL AREA.

Shall the Charter be amended to establish a Rural Boundary and create a "Rural Area" of the County, authorize future changes reducing the size of the "Rural Area" by

County ordinance through unanimous Board vote; provide that the Future Land Use Designations established in the Seminole Orange County Comprehensive Plan shall apply to all lands, incorporated or unincorporated, within said "Rural Area", densities and intensities may be changed with majority plus one Board vote, authorize implementing ordinances, and provide that the Charter and implementing ordinance supersede conflicting municipal ordinances.

Yes _____

No _____

(b) Notice of such referendum shall comply with all requirements of the Seminole Orange County Home Rule Charter, Article IV, Section 4.2(c) VI and Chapter 100, Florida Statutes.

Section 5. Codification. Section 2 and 3 of this Ordinance shall be codified in the Seminole Orange County Home Rule Charter if approved by referendum. No other sections of this Ordinance shall be codified.

Section 6. Severability. If any provision of this Ordinance is for any reason held by a court to be unconstitutional, invalid, or void, it is the intent of the Board that such ruling shall not affect other provisions of this Ordinance which can be given affect without the invalid provision, and to such end, the provisions of this Ordinance are declared severable.

Section 7. Effective Date. Sections 1,4,5,6 and 7 of this Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners. Sections 2 and 3 of this Ordinance shall take effect on November 7, 2018 if approved by a majority of voters at referendum.

ENACTED this _____ day of _____, 2018.

Signatures here

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**Legal Description for
Rural Area**

August 10, 2004

The Rural Area is located in the Eastern portion of Seminole Orange County, Florida. The calls within this description are based on the individual plats and deeds to which the rural boundary line is coincident with and are not part of a uniform basis of bearings throughout,

Being more particularly described as follows:

Begin in Sec 1, Twp 20S.....

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RURAL BOUNDARY MAP

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Resources

Seminole County Home Rule Charter Amendment Creating Rural Area

http://www.seminolecountyfl.gov/core/fileparse.php/4027/urlt/ordinance_2004-36.pdf

Sarasota County Charter (page 7) <https://www.scgov.net/Home/ShowDocument?id=29706>

Florida Statutes Section 163.3167(8)

Advisory Legal Opinion

<http://www.myfloridalegal.com/ago.nsf/Opinions/F33963ECB646BD268525736E007428A8>

Land Use Planning and Zoning

<http://www.stetson.edu/law/lawreview/media/36-2-land-use-planning-zoning.pdf>

ORDINANCE NO. 2790-09

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, SUBMITTING TO THE ELECTORS OF WINTER PARK PROPOSED AMENDMENTS TO THE CHARTER OF THE CITY OF WINTER PARK AT THE REGULAR CITY ELECTION TO BE HELD MARCH 9, 2010; PROVIDING BALLOT TITLES, SUMMARIES AND TEXT FOR THE PROPOSED CHARTER AMENDMENTS; PROVIDING FOR THE CALL OF A REFERENDUM ELECTION; PROVIDING FOR DIRECTION TO THE CITY CLERK; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, EFFECTIVE DATE OF ORDINANCE AND AN EFFECTIVE DATE FOR THE APPROVED AMENDMENTS.

WHEREAS, the City Commission of Winter Park established a comprehensive public review process of the existing City Charter; and

WHEREAS, the Charter Review Advisory Committee established by the City of Winter Park conducted a comprehensive review and update of the City of Winter Park City Charter and in the course of that review considered the Model City Charter published by the National Civic League; and

WHEREAS, the charter review process was designed to provide an open, objective and deliberative process during which ample opportunity was provided for the public to participate in a comprehensive study of the City Charter; and

WHEREAS, the Charter Review Advisory Committee established by the City of Winter Park consisted of seven Winter Park residents: James Johnston, Dori Madison, Ken Murrah, Gene Randall, John Stevens, Joe Terranova and Mark Van Valkenburgh; and

WHEREAS, the Charter Review Advisory Committee was assigned the task of making a recommendation to the City Commission regarding the changes the Advisory Committee recommended be made to the existing City Charter; and

WHEREAS, the City Commission also appointed several technical advisors consisting of the Assistant City Manager, City Attorney, and Project Coordinator, Marilyn Crotty, Florida Institute of Government at the University of Central Florida, who proffered her expertise and recommendations during the entire charter review process; and

WHEREAS, after conducting public meetings and holding extensive debate regarding the changes that the Committee recommended should be made to the City Charter, and after considering public comment, the Charter Review Advisory Committee did recommend certain revisions to the City Charter in the form of its final report; and

WHEREAS, on November 9, 2009, the City Commission accepted with changes the final report issued by the Charter Review Advisory Committee; and

WHEREAS, as a result of the input, recommendations, and advice received during the charter review process and after careful deliberation and consideration, the City Commission finds that it is in the best interest of the public health, safety, and welfare of the citizens of Winter Park to propose certain revisions to the Winter Park City Charter in accordance with the provisions of the Winter Park Charter permitting revision and amendment, and Section 166.031, Florida Statutes; and

WHEREAS, the City Commission finds that the proposed referendum ballot questions should be submitted to the City electorate for its consideration and final approval or disapproval; and

WHEREAS, the City Commission of the City of Winter Park desires to put to a vote of the citizens the issue of whether the Charter should be changed according to recommendations made by the Charter Review Advisory Committee as amended by the City Commission; and

WHEREAS, Section 166.031, Florida Statutes, provides that the governing body of a municipality may, by ordinance, submit to the electors of said municipality proposed amendments to its charter, which amendments may be to any part or all of the city charter, except that part describing the boundaries of such municipality; and

WHEREAS, the City Commission finds it to be in the best interest of its citizens to submit said proposed charter amendments to the voters at the City election to be held on March 9, 2010.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS

SECTION 1. Referendum Election. The City Commission of the City of Winter Park, pursuant to Section 166.031, Florida Statutes, hereby proposes and approves amendments to the Charter of the City of Winter Park, which proposed amendments and the complete text thereof, as amended, are set forth below. The text of the amendments reflect the proposed changes by showing additions with underlining and deletions with ~~strike-through~~ type. Each question shall be voted on separately and approved or disapproved based on its own merit. Such election shall be held in conformity with the laws of the State of Florida. The Supervisor of Elections of Orange County is hereby requested to coordinate all matters of said referendum election with the City Clerk. The proposed Charter amendments shall be submitted to the voters at an election to be held on March 9, 2010.

SECTION 2. Amendments to City Charter. The ballot titles, questions and proposed Charter changes are set forth as follows:

CITY CHARTER AMENDMENT 1:

AMENDING THE CHARTER TO ADD A PREAMBLE

Shall the Charter be amended to add a Preamble to set forth the authority of the Charter, identify the powers and purposes of the City of Winter Park, and to identify the purposes of the Charter which shall include the continued improvement of Winter Park so that it will be a city of the highest quality that will preserve a superior quality of life for the current residents and future generations?

Yes _____
No _____

PREAMBLE

We the people of the City of Winter Park, Florida, under the authority of the constitution and laws of the State of Florida, adopt this Charter to define the powers and structure of this City and to secure the benefits of home rule. This action also affirms the values of a representative democracy, professional management, strong political leadership, high ethical standards, citizen participation, and regional cooperation. We desire for Winter Park to be the best place to live, work, and play in central Florida by creating an open and responsive government and preserving a superior quality of life for the current residents and future generations.

CITY CHARTER AMENDMENT 2:

SIMPLIFICATION OF THE CHARTER RELATING TO THE LEGAL BOUNDARIES OF THE CITY OF WINTER PARK

Shall Section 1.02 of the Charter be simplified and shortened by removing the lengthy legal description of the corporate boundaries and city limits of the City of Winter Park from the text of the Charter, and, by substituting in place of the unnecessary legal description a simple statement that tells the citizens where they may review and receive the legal description of the corporate boundaries of the City of Winter Park?

Yes _____
No _____

Section 1.02. Corporate boundaries.

The corporate boundaries of the City of Winter Park shall remain as they exist on the date this amended Charter takes effect, provided that the City shall have the power to change its boundaries in the manner prescribed by law. A description of the corporate boundaries is on file in the City Clerk's office and available to the public.

CITY CHARTER AMENDMENT 3:

CREATION OF CITIZENS' CHARTER REVIEW ADVISORY COMMITTEE

Shall the Charter be amended to add a provision to Section 1.03, requiring the appointment of a Citizens' Charter Review Advisory Committee at least every ten years for the purpose of reviewing the Charter and recommending changes, if any, that should be submitted to the voters for approval?

Yes _____
No _____

Section 1.03. Charter amendments.

(c) Charter Review. The City Commission shall appoint a Citizens' Charter Review Advisory Committee to review this charter a minimum of every ten (10) years to make recommendations, if any, to the City Commission for possible submission to the voters.

CITY CHARTER AMENDMENT 4:

TERM OF OFFICE AND TERM LIMITS

Shall Section 2.04 of the Charter be amended to clarify that the time served by a person appointed or elected to fill a vacancy on the Commission shall not constitute a full term, but the time served by a Commissioner/Mayor vacating office shall constitute a full term in office regardless of the time served, for determining the term limits of the Commissioner/Mayor, which shall be a limit of four (4) consecutive full terms?

Yes _____
No _____

Section 2.04. Term of office.

(a) **Term.** The term of office of any person or persons elected commissioner or mayor at any general election held in the city shall be three (3) years and shall commence and begin on the date of the first city commission meeting following certificate of the election results. ~~No member of the city commission shall serve more than four (4) consecutive terms in office, either as mayor or commissioner or any combination thereof.~~

(b) **Term limits. Consecutive terms of any Member of the City Commission and the Mayor shall be limited to four (4) consecutive full terms in office, either as Mayor or Commissioner or any combination thereof. The time served by a person appointed, or elected to fill a vacancy on the City Commission shall not constitute a full term of office. The time served by a City Commissioner or Mayor who resigns**

or otherwise vacates office shall constitute a full term in office regardless of the time served.

CITY CHARTER AMENDMENT 5:

DETERMINATION OF COMPENSATION FOR THE MAYOR AND COMMISSIONERS

Shall the Charter be amended to provide that the City Commission may determine the annual salary of the Mayor and Commissioners by ordinance, but no increase in salary shall become effective until March 10, 2011 or thereafter, and providing that the Mayor and Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office?

Yes _____
No _____

Section 2.05. Compensation.

~~The annual salary of the city commissioners shall be \$2,400, and the annual salary of the mayor shall be \$3,000. The salary of the city commissioners and the mayor shall be paid in equal monthly installments.~~ **The Commission may determine the annual salary of the Mayor and Commissioners by ordinance, but no ordinance increasing the salary shall have an effective date prior to March 10, 2011. The Mayor and Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office.**

CITY CHARTER AMENDMENT 6:

SIMPLIFICATION OF THE PROCEDURE BY WHICH VACANCIES IN OFFICE SHALL BE FILLED

Shall Section 2.07 of the Charter be amended to simplify the procedure for filling a vacancy in office by providing if a vacancy occurs in the Commission, the remaining members shall appoint a qualified person to fill the vacancy until the next general election; and, if there is deadlock, then the remaining Commissioners excluding the Mayor shall submit names of proposed successors and the Mayor shall appoint the successor from the submittals?

Yes _____
No _____

Section 2.07. Vacancies; forfeiture of office; filling of vacancies.

(No change to (a), (b) or (d), but (c) is amended as follows:)

(c) *Filling vacancies.* ~~A vacancy on the commission shall be filled in one of the following ways: (i) if there are less than six (6) months before the next general city election, the commission by a majority vote of the remaining members shall choose a successor to serve until said election, at which time the vacancy shall be filled for the balance of any unexpired term. In the event the remaining members are deadlocked and unable to choose a successor by a majority vote, then the remaining commissioners, excluding the mayor, shall each submit the name of a proposed successor, and the mayor shall appoint the successor from those names submitted; (ii) if no general city election is scheduled within six (6) months, the commission shall fill the vacancy on an interim basis as provided for in (i), and shall schedule a special election to be held not sooner than sixty (60) days, nor more than ninety (90) days following the occurrence of the vacancy and if a primary election is necessary, it shall be scheduled two (2) weeks prior to the special election. Notwithstanding any quorum requirements established herein, if at any time the membership of the commission is reduced to less than a quorum, the remaining members of the commission may by majority vote, appoint additional members under either (i) or (ii) above.~~ **If a vacancy occurs in the seat of a Commissioner, the remaining Members of the Commission shall appoint, by majority vote, a qualified person to fill the vacancy until the next general election at which time a successor will be elected to serve the remainder of the unexpired term. In the event the remaining Members are deadlocked and unable to choose a successor by a majority vote, then the remaining Commissioners, excluding the Mayor, shall each submit the name of a proposed successor, and the Mayor shall appoint the successor from those names submitted. Notwithstanding any quorum requirements established herein, if at any time the membership of the Commission is reduced to less than a quorum, the remaining Members of the Commission may by majority vote, appoint additional Members.**

CITY CHARTER AMENDMENT 7:

PROCEDURE FOR VOTING ON ORDINANCES/RESOLUTIONS TO REQUIRE MAJORITY VOTE BY COMMISSIONERS WHO ARE PHYSICALLY PRESENT

Shall Section 2.08 of the Charter be amended to require that ordinances and resolutions may only be adopted by a majority vote of members of the Commission who are physically present?

Yes _____
No _____

Section 2.08. Procedure.

(No change to (a) or (b), but (c) and (d) are amended as follows:)

(c) *Voting.* Voting on ordinances and resolutions shall be by roll call vote of the Commissioners and the Mayor present and shall be recorded in the journal. The affirmative vote of three (3) members of the City Commission who are physically present at the meeting shall be necessary to adopt any ordinance or resolution. No other action of the commission except as provided in Sections 2.07 and in 2.08(d) shall be valid or binding unless adopted by the affirmative vote of a majority of a quorum present.

(d) *Quorum.* A majority of the commission must be physically present to ~~shall~~ constitute a quorum; but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the commission.

CITY CHARTER AMENDMENT 8:

PROHIBITIONS

Shall Section 2.10(a) of the Charter be amended to clarify that no individual member of the City Commission shall give orders to officers or employees of the City, and, to provide that the Commission by majority vote may direct the Manager or Civil Service Board to implement specific recommendations for improvement in City operations?

Yes _____
No _____

Section 2.10. Prohibitions.

(No change to (b), but (a) is amended as follows:)

(a) *Interference with administration.* No individual member of the city commission shall in any manner dictate the employment or removal of an employee, but the commission and any of its members may express its views and fully and freely discuss among themselves or with the city manager or, in the case of civil service employees with the civil service board, anything pertaining to the appointment or removal of such officers and employees. No individual member of the city commission shall give orders to any officer or employee of the city. Nothing in the foregoing is to be construed to prohibited individual members from closely scrutinizing officers and employees of the city by questions and personal observations, nor to prohibit individual members of the commission from closely scrutinizing by questions and personal observation all aspects of city government operations so as to obtain independent information to assist the members in the formulation of sound policies to be considered by the commission. Recommendations for improvements in the city government operations shall come through the city manager, or through the civil service board, ~~but each member of the commission,~~ by majority vote, is

free to direct the city manager or the civil service board to implement specific recommendations for improvement in city government operations.

CITY CHARTER AMENDMENT 9:

ORDINANCES IN GENERAL

Shall Section 2.11(a) of the Charter be amended to provide that an ordinance shall only be adopted by the affirmative vote of a majority of the City Commission members who are physically present at two or more regular or special meetings of the Commission?

Yes _____
No _____

Section 2.11. Ordinances in general.

(a) *Procedures for adoption.* Ordinances shall be adopted in accordance with the procedures and notice requirements provided by general law, provided further that a proposed ordinance shall be adopted when it has been read, by title or in full, and has received the affirmative vote of a majority of the city commission **physically present** on at least two (2) separate days at either regular or special meetings of the commission. If there is a change in substance in the text, then the reading at the time of change will be deemed the first reading.

CITY CHARTER AMENDMENT 10.

SUPER MAJORITY VOTE TO CHANGE TEXT OF FUTURE LAND USE ELEMENT OF COMPREHENSIVE PLAN

Shall Section 2.11(b) of the Charter be amended to add a subsection 10 which will provide that any change to the objectives, goals or policies in the Future Land Use Element of the Comprehensive Plan may be made only by an affirmative vote in support of such change by a minimum of four votes of Commission Members who are physically present at the meeting when the vote is taken?

Yes _____
No _____

Section 2.11. Ordinances in general.

(b) *Action requiring an ordinance.* In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city commission shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish or abolish any city department or agency;

- (2) Establish a rule or regulation the violation of which carries a penalty;
- (3) Levy taxes authorized by general law;
- (4) Grant, renew or extend a franchise;
- (5) Set service or user charge for municipal services or grant administrative authority for such charges;
- (6) Authorize the borrowing of money not inconsistent with the limitations in the Constitution, the general laws of the state, and the provisions of this charter;
- (7) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the city;
- (8) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article V;
- (9) Establish zoning;
- (10) **Amend the Comprehensive Plan. However, notwithstanding the general requirement that ordinances are adopted by the majority vote of Members who are physically present at the meeting, any ordinance that amends or changes any objectives, goals or policies in any part of the Future Land Use Element of the Comprehensive Plan shall be adopted by a minimum of four votes of the Commission Members who are physically present at the meeting at which such vote is taken.**

CITY CHARTER AMENDMENT 11.

DELETION OF THE PUBLIC SAFETY DIRECTOR POSITION FROM THE CHARTER

Shall the Charter be amended to delete Section 4.08 which allows for the office of a Public Safety Director as this position is not in effect and is unnecessary to be included within the Charter?

Yes _____
 No _____

~~Section 4.08. Public safety director.~~

~~The city commission is authorized to create the office of public safety director who shall, notwithstanding any provisions of this Charter or the Code of Ordinances to the contrary, be in command of the police and fire departments and to whom the police and fire chiefs shall be answerable. The public safety director shall be appointed by the city manager and confirmed by a majority vote of the city commission. The public safety director shall come within the provisions of the Civil Service Act and of the Civil Service Code as they may be from time to time amended, and shall be responsible to the civil service board for the performance of his duties.~~

CITY CHARTER AMENDMENT 12.

ETHICS

Shall the Charter be amended to provide for the adoption and maintenance of a local code of ethics?

Yes _____
No _____

Section _____ . Local code of ethics:

Local Code of Ethics. The city commission shall adopt by ordinance and maintain a local code of ethics.

SECTION 3. The City Clerk is hereby directed to insure that all advertising, translation and notice requirements are complied with and to coordinate all activities necessary to conduct the referendum election called for in Section 1 of this Ordinance with the Supervisor of Elections for Orange County, and to place the above-described questions on the ballot for a referendum election to be held on March 9, 2010, or as otherwise worded in an enabling resolution of the City Commission as may be needed to conform to the requirements of the Florida Election Code or to better state the proposals submitted to the electors of the City of Winter Park.

SECTION 4. The proposed amendments, the ballot titles and the wording of the substance of the proposed amendments to the Charter, as contained in this Ordinance, shall appear on the ballot in the form of questions as set forth in Section 2 of this Ordinance.

SECTION 5. Conflicts. All ordinances and Charter provisions or parts of ordinances and Charter provisions in conflict herewith are hereby repealed.

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof or hereto. Further, the lack of approval by a majority of electors of one or more separate amendments to this Charter, as set forth in Section 2 hereinabove, shall not be deemed to affect the validity of any amendments that may be approved by a majority of the electors.

SECTION 7. Codification. It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of this Ordinance approved by the electors shall become and be made a part of the Code of Ordinances of the City of Winter Park, Florida; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; that the word "ordinance" may be changed to "section", "article", or other appropriate word.

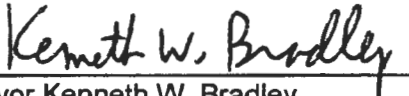
SECTION 8. Effective Date of Ordinance. This Ordinance shall take effect immediately upon its final passage and adoption.

SECTION 9. Effective Date of Charter Amendments. The revised charter provisions proposed for approval in this Ordinance shall become effective upon their approval at a referendum election of the electors of the City of Winter Park, Florida in accordance with Section 166.031, Florida Statutes and Section 1.03 of the City Charter providing for Charter amendments. If the electors reject an amendment, the rejected amendment shall not take effect. The City Clerk is hereby directed, upon adoption of the revised Charter, to renumber the Charter to logically organize all Charter amendments, and to promptly file the revised Charter with the State of Florida, Department of State, as required by Section 166.031, Florida Statutes.

FIRST READING this 23rd day of November, 2009.

SECOND READING this 14th day of December, 2009.

PASSED AND ADOPTED this 14th day of December, 2009, by the City Commission of the City of Winter Park, Florida.



Mayor Kenneth W. Bradley

Attest: 

City Clerk Cynthia Bonham

Quote:

"Recognizing issues of urban sprawl and environmental protection, the County has generally accepted the position of keeping urban development west of the Econlockhatchee River. A policy statement to this effect was made by former Orange County Chairman Linda Chapin and echoed by the East Orange County Task Force appointed by the Board in 1998."

From document: <https://www.dropbox.com/s/j9epaacis8mfxr5/2004%20-%20Sunflower%20Trail%20Small%20Area%20Study.pdf?dl=0>

Quote page 6:

"In 1998, former Orange County Chairman Linda Chapin made a policy statement recommending that urban development should not take place east of the Econlockhatchee River. This was to highlight concern for the protection of ecologically-sensitive areas and prevention of urban sprawl in rural areas of the county. This policy underwent review by a local committee comprised of residents, business interests, environmentalists, and other interested parties. This committee, the East Orange County Task Force, prepared a report on several aspects of development in the area (see Appendix B). Based upon the findings of this task force, the Board of County Commissioners voted to extend utility capacity to Bithlo, Christmas, and Wedgefield (see Appendix C for minutes relating to this vote."

Quote page 26:

"In east Orange County, the assessment performed as part of the East Orange County Task Force (Appendix B) found a desire on the part of some residents in Bithlo and Wedgefield to receive central services due to the condition of wells and septic tanks. The various concerns highlighted in the East Orange County Task Force Report led to a vote by the Board of County Commissioners (Board) to fund excess capacity for utility lines being extended to East Orange County by the private sector to serve the Cypress Lakes Planned Development (Appendix C). The motion voted upon by the Board states that excess capacity is intended to serve existing and vested development in Bithlo, with no new development allowed to connect to utility lines without an approved sector plan. The vote also affirmed that extended utility lines shall not be a justification or basis for approving new development.

***Side note: Oversizing water and/or sewer lines will encourage development, impact the sensitive environment, which extends beyond the banks of the Econ[lockhatchee River], detract from the present rural culture, and raise property taxes for those who can least afford them!
William Pons, East Orange County Task Force Residents of Wedgefield support continued growth east of the Econ in a planned, responsible manner.
Virginia Cebula East Orange County Task Force Public or approved private central wastewater service shall not be permitted for development within the Rural Service Area... unless the Orange County Board of County Commissioners determines that a public health hazard exists requiring central wastewater service. Central wastewater facilities which already exist and serve Rural Settlements shall not be expanded. Such existing capacity shall not be used as justification for increased intensity in Rural Settlements.
Wastewater Element
Policy 1.4.3
***end side note

An Orlando Sentinel article, "A Whole New World Way Out East", highlighted the issues surrounding water and sewer line expansion to east Orange County. As noted in this article, supporters of extension of lines link the debate to property rights, the quality and/or number of services the county provides rural residents, health concerns from quality of well water, and the existence of regulations to protect environmental quality. Those who oppose extension of utility lines say the rural lifestyle preferred by many residents will be affected through rapid growth spurred by utility availability. Opponents also make the argument that there is enough available land already within urban areas, that stormwater management will be expensive and difficult, and that environmental quality may be affected by development."

Quote page 94:

"Action

Upon a motion by Commissioner Edwards, seconded by Commissioner Butler, and carried with Commissioners Freeman, Staley, Edwards, and Butler voting AYE by voice vote; County Chairman Chapin and Commissioners Hoenstine and Johnson voting NO by voice vote; the Board approved a water and wastewater pipeline crossing of Econ River and extension of water and wastewater services to C.R. 419 and S.R. 50 as recommended by the East Orange County Task Force, subject to the following conditions:

1. In the event that the developer of Cypress Lakes Investments, Limited, at its own cost, extends a 20-inch diameter water main and 12-inch diameter wastewater force main across the Econ River "to the intersection of S.R. 50 and C.R. 419, then, the County will, by paying the incremental cost, oversize the water main from a 20-inch diameter to a 24-inch diameter from Sunflower Trail to the intersection of S.R. 50 and C.R. 419 and oversize the wastewater force main from a 12-inch diameter to a 24-inch diameter from Sunflower Trail to just east of the Econ River.
2. This action is an affirmative finding by the Board of County Commissioners that the extension is intended to remediate health and safety concerns in the Bithlo Rural Settlement.
3. The extended utility lines shall be utilized from only vested development within the Rural Settlement.
4. The extended utility lines shall not be a justification or basis for approving new development.
5. The utility lines shall not be used for any new nonvested development beyond one (1) unit per acre in the Rural Settlements.
6. Nonvested development shall not be allowed to connect to the extended utility lines unless and until the Urban Service Area boundary is extended to include such nonvested development or a sector plan is approved.
7. These conditions shall be incorporated into the Comprehensive Policy Plan as part of the Evaluation and Appraisal Report (EAR) Based Amendments in 1999.

Action Upon a motion by Commissioner Freeman, seconded by County Chairman Chapin, and carried with all members present and voting AYE by voice vote, the Board approved amending Condition 5 as follows:

- Nonvested development shall not be allowed to connect to the extended utility lines until a sector plan is approved.

Action A motion by County Chairman Chapin, seconded by Commissioner Johnson; with County Chairman Chapin and Commissioners Hoenstine and Johnson voting AYE by voice vote; Commissioners Freeman, Staley, Edwards, and Butler voting NO by voice vote, to approve deleting the words "and oversize the wastewater force main from a 12-inch diameter to a 24-inch diameter from Sunflower Trail to just east of the Econ River" to read, "and allow the crossing of the Econ only with water lines" in Paragraph 1 failed.

From document: <https://www.dropbox.com/s/j4hmr5usitl13h/Rural%20Settlement%20Study%20with%20Appendices.pdf?dl=0>

Quote page 299 from

CLUP: <https://www.dropbox.com/s/p10qo79bco01w5x/Comprehensive%20Plan%20GOPS%202030.pdf?dl=0>

OBJ PW1.5 In the interest of maintaining adequate potable water quality for Rural Settlements, the new construction or extension of central water systems

servicing Rural Settlements shall be approved by the Board of County Commissioners on a case by case basis consistent with the CP. (Added 12/00, Ord. 00-25)

POLICIES

PW1.5.1 Existing potable water facilities serving Rural Settlements shall not be used as a reason to increase allowable densities in the Rural Settlements. (Added 12/00, Ord. 00-25)

PW1.5.2 When the provision of central water facilities for a Rural Settlement(s) is proposed, the Board of County Commissioners shall approve such a proposal(s) only when the Board makes two findings. First, the Board shall make a finding of need of central water facilities for the particular Rural Settlement. Second, the Board shall make a finding of consistency with the Comprehensive Plan, including the policies of the Potable Water and Future Land Use Elements. (Added 12/00, Ord. 00-25)

PW1.5.3 The Board of County Commissioners has made an affirmative finding that the extension of potable water facilities is required to remediate health and safety concerns in the Bithlo Rural Settlement. In order to address the concern for public health in this area, the following conditions apply to the potable water system expansion to the Bithlo Rural Settlement:

- A. The extended utility lines shall be used only by vested development within the Bithlo Rural Settlement.
- B. The extended utility lines shall not be a justification or basis for approving new development.
- C. The utility lines shall not be used for any new non-vested development beyond one unit per acre in the Bithlo Rural Settlement.
- D. Non-vested development shall not be allowed to connect to the extended utility lines

until a sector plan is approved. (Added 12/00, Ord. 00-25)

What is "sector plan"? Screenshot below explaining a "sector plan" from document http://www.orangecountyfl.net/Portals/0/Library/Development-Planning/docs/HW_Retro_Report_April_6_2012.pdf

[Screenshot 2015-06-09 12.40.50.png](#)



Florida's Sectors Plans

"Sector plan" means the process... in which one or more local governments engage in long-term planning for a large area and address regional development-of-regional-impact issues through adoption of detailed specific area plans within the planning area as a means of fostering innovative planning and development strategies, ... reducing overlapping data and analysis requirements, protecting regionally significant resources and facilities, and addressing extrajurisdictional impacts.

(Chapter 2011 139, F. S.)

The original sector plan legislation created a two tier planning process: a conceptual plan that would determine the long-term build-out of the area, and a more detailed specific area plan (SAP). Furthermore, this legislation also authorized the former Florida Department of Community Affairs (now part of the Department of Economic Opportunity) to enter into agreements with local governments to prepare plans that—once approved—allowed development to occur without being subject to the Development of Regional Impact (DRI) review process. A sector plan melds the DRI and comprehensive planning process by capturing what is addressed in a DRI process, but avoiding duplication of data and analysis requirements as the project moves through the entitlement process. Furthermore, the sector plan is adopted as a comprehensive plan amendment and involves a public comment and consensus-building exercise. Finally, this process also includes intergovernmental coordination procedures and guidelines and principles that address urban form. As of today, the State of Florida has approved the six sector plans listed below. It should be noted that Clay County terminated its agreement in 2008.

Florida's Approved Sector Plans			
Name	Location	Year of Agreement	Acres
Horizon West	Orange County	1995	38,000*
Brannan Field Plan	Clay County	1998	23,000
West Bay Area Vision	Bay County	2002	73,000
Clear Springs	City of Bartow	2008	14,000
Escambia County Sector Plan	Escambia County	2011	16,000
East Nassau Community Planning Area	Nassau County	2011	24,000

**Original amount of land approved*

~ Emily