



MEMORANDUM
City Manager's Office

TO: Commissioner Phil Stokes
FROM: Todd Miles, Legislative Analyst
SUBJECT: Bond Authorization Charter Amendment – Permissive Referendum
DATE: February 7, 2024

As we have discussed, the following is a discussion of an alternative option for amending Section 1.02 of the City Charter to provide for permissive referendum, in place of the current mandatory referendum, for approval of revenue bond issues by the City to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution. Please note that the proposed amendment language below is based on the analogous provision in the Buffalo, New York City Charter and the specific provisions relating to petitions should be reviewed by the City Clerk and City Attorney and, if appropriate, revised to ensure compliance with Florida state and local law.

Background. The current Charter provision requires a mandatory referendum for the issuance of both general obligation and revenue bonds. General obligation bonds are secured by a pledge of the City's ad valorem taxing power, whereas revenue bonds are not secured by a pledge of the City's taxing power, but rather a pledge of non-ad valorem revenues such as water and sewer revenues, sales surtax tax revenues, or charges paid from the facility constructed with the bond proceeds. Note that Florida Constitution Article VII, Section 12 provides that bonds payable from ad valorem taxation are subject to freeholder approval (federal and state of Florida courts have ruled that all electors have right to vote in a general obligation bond referendum). Thus, the City's Charter mandatory referendum requirement mirrors the Constitution as to general obligation bonds but extends mandatory referendum approval to revenue bonds.

Rationale. The mandatory referendum requirement as applied to revenue bonds constrains City officials in assessing the current capital needs of the community and developing rational debt policies to meet those needs on a priority basis. Under a permissive referendum system, after the governing body adopted a bond resolution, electors would have a set time period within which to file a petition requesting a referendum on the bond issue. The bond resolution would then become effective only when approved by a majority vote at a special election or at the next general election. Detailed notice of proposed bond issues and open meeting requirements could restrain potential borrowing abuses. The political process would serve as a further restraint, as the local media subjects local government action to intense scrutiny, and elected officials seeking reelection must answer regularly to their constituents. A permissive referendum tends to stimulate more critical alertness on the part of the electorate than does the provision for mandatory referenda which frequently receive only perfunctory attention.

Proposed Amendment to Charter Section 1.02 (2nd Paragraph).

"The City of North Port may borrow money, contract loans and issue bonds (general obligation or revenue) from time to time to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution and may pledge the funds, credit, property and taxing power of the municipality for the payment of such debts and bonds. No general obligation **or revenue bonds** shall be issued by the City of North Port unless approved by majority vote of the voters of the City of North Port voting on the issuance of those bonds in a primary, general, or special election.



MEMORANDUM

City Manager's Office

No resolution of the Commission creating a City of North Port debt to be evidenced by the issuance of revenue bonds shall become effective until thirty days after its adoption.

If during that period a petition, signed by registered electors of the City of North Port equal in number to at least ten per centum of the entire registered electors in the City of North Port at the last preceding general election, is filed with the City of North Port clerk for presentation to the Commission, protesting against such resolution and requesting its repeal, such resolution shall be suspended from going into effect, and it shall be the duty of the Commission, upon presentation to it by the City of North Port clerk of said petition with the certificate of the board of elections of Sarasota county referred to in the next paragraph showing that the petition is duly signed and witnessed by the required number of qualified registered electors, to consider its action. If upon reconsideration such resolution is not repealed, the Commission shall order the question of the approval of such resolution to be submitted to the vote of the electors of the City of North Port at a primary, general or special election. The resolution shall not go into effect or become operative unless approved by majority vote of the voters of the City of North Port voting on the issuance of those bonds in a primary, general, or special election.

The petition referred to in the preceding paragraph shall be addressed to the Commission, shall protest against and request the repeal of the resolution, shall set out in full the resolution complained of and specify the date of its enactment by the Commission, and shall declare that the persons whose signatures are appended thereto are electors of the City of North Port.

Separate petitions of like tenor and effect shall be bound together by the City of North Port clerk and shall be deemed to constitute a single petition.

The petition shall be signed by the qualified elector who shall add his place of residence, giving the street and number. Each signer shall also be identified by election district and Commission district. There shall be, appended at the bottom of each sheet a signed statement of a witness who is a notary public, commissioner of deeds of the City of North Port, or a duly qualified elector of the City of North Port or the district, as the case may be. Such a statement shall be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall subject the person signing it to the same penalties as if he had been duly sworn. The form of such statement shall be substantially as follows:

I, _____, (name of witness) state: I am a duly qualified (elector of the City of North Port, notary public or commissioner of deeds as the case may be). I now reside at, _____ (residence address, also post office address if not identical) which is in the, _____ (fill in number) election district of the Commission District in the City of North Port in the County of Sarasota.

Each of the individuals whose names are subscribed to this petition sheet containing _____ (fill in number) signatures subscribed the same in my presence on the dates above indicated and identified himself to be the individual who signed this sheet.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

Date _____

Signature _____



MEMORANDUM

City Manager's Office

Upon presentation of the petition to the City of North Port clerk he shall refer the same to the board of elections, who shall immediately examine the same and the signatures and witness statements attached thereto and check the same with the registration list and who shall return the petition to the city clerk with their certificates showing the total number of signatures attached thereto, the number, if any, who are not qualified registered electors, the number, if any, who did not properly witness execution, the number who appear to be qualified registered electors whose signatures appear to be properly witnessed and what percentage they constitute of the entire registered electors at the last preceding general election."