

By the Council for Smarter Government and Representative  
Ball

1                                   A bill to be entitled  
2           An act relating to Brevard County; creating the  
3           City of Port St. John Charter; providing a  
4           short title; providing legislative findings;  
5           providing for incorporation; providing a  
6           council-manager form of government and its  
7           powers and duties; providing for a city council  
8           and its membership, including mayor and vice  
9           mayor, qualifications and terms of office,  
10          powers and duties, compensation and expenses,  
11          and prescribed procedures relating to  
12          vacancies, including forfeiture of office,  
13          suspension, and recall; providing for meetings;  
14          providing for recordkeeping; providing certain  
15          restrictions; providing for charter officers  
16          and their appointment, removal, and  
17          compensation, filling of vacancies,  
18          qualifications, residency requirements, and  
19          powers and duties; establishing a fiscal year;  
20          providing for a budget, appropriations,  
21          amendments, and limitations; providing for  
22          elections and matters relating thereto;  
23          defining boundaries of the city; specifying  
24          general provisions relating to charter review  
25          and amendment, adjustment of districts, and  
26          standards of conduct; providing for  
27          severability; providing for a referendum,  
28          initial election of council members, transition  
29          services and compensation, first-year expenses,  
30          specified transitional matters, and state  
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1 shared and gas tax revenues; providing  
2 effective dates.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Short title.--This act, together with any  
7 future amendments thereto, may be cited as the "City of Port  
8 St. John Charter," hereinafter referred to as "the charter."

9 Section 2. Legislative findings.--The Legislature  
10 finds and declares that:

11 (1) The area in Brevard County known as Port St. John  
12 includes a compact and contiguous urban community amenable to  
13 separate municipal government.

14 (2) It is in the best interests of the public health,  
15 safety, and welfare of the citizens of this community to form  
16 a separate municipality for the Port St. John area with all  
17 powers and authority necessary to provide efficient and  
18 adequate municipal services to its residents.

19 Section 3. Incorporation of municipality.--

20 (1) There is created, effective December 31, 2002, in  
21 Brevard County, Florida, a new municipality to be known as the  
22 City of Port St. John.

23 (2) The corporate boundaries of the City of Port St.  
24 John, hereinafter referred to as "the city," shall be as  
25 described in subsection (1) of section 9.

26 (3) The City of Port St. John shall operate under a  
27 council-manager form of government. The general duties of the  
28 council, as described in section 5, shall be to set policy;  
29 the general duties of the manager, as described in section 6,  
30 shall be to carry out those policies.

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1           Section 4. Municipal powers.--The city shall be a body  
2 corporate and politic and shall have all the powers of a  
3 municipality under the State Constitution and the laws of  
4 Florida, as fully and completely as though such powers were  
5 specifically enumerated in this charter, unless otherwise  
6 prohibited by or contrary to the provisions of this charter.  
7 The city shall have all governmental, corporate, and  
8 proprietary powers necessary to enable it to conduct municipal  
9 government, perform municipal functions, and render municipal  
10 services, and may exercise any power for municipal purposes  
11 unless expressly prohibited by law. The powers of the city  
12 shall be liberally construed in favor of the city.

13           Section 5. City council.--

14           (1) CITY COUNCIL; COMPOSITION, QUALIFICATIONS FOR  
15 OFFICE.--

16           (a) Composition.--

17           1. There shall be a seven-member city council  
18 consisting of a mayor and six council members.

19           2. Each member shall be elected at large to represent  
20 the city at large.

21           3. Each member shall at the time of qualification  
22 reside within the city limits. For the length of his or her  
23 term, each member shall maintain residency within the city  
24 limits.

25           (b) Qualifications for office.--

26           1. Each candidate for office shall be a qualified  
27 elector of the city.

28           2. Each individual seeking to qualify as a candidate  
29 for one of the six seats on the council:

30           a. Shall submit a petition supporting his or her  
31 candidacy to the city clerk containing the signatures of at

1 least 1 percent of the electorate residing within the  
2 district, as identified in the most recent decennial census,  
3 from which he or she seeks to run or shall pay to the city  
4 clerk a qualifying fee of 10 percent of the salary of the  
5 office for which he or she seeks to run.

6 b. Shall reside within the boundaries of the city at  
7 the time of qualification.

8 3. Each individual seeking to qualify as a candidate  
9 for mayor:

10 a. Shall submit a petition supporting his or her  
11 candidacy to the city clerk containing the signatures of at  
12 least 1 percent of the electors residing within the city  
13 limits, as identified in the most recent decennial census, or  
14 shall pay to the city clerk a qualifying fee of 10 percent of  
15 the mayoral salary.

16 b. Shall reside within the city limits at the time of  
17 qualification. For the length of his or her term, the mayor  
18 shall maintain residency within the city limits. In addition,  
19 mayoral candidates, and the elected mayor, shall reside at  
20 least 45 weeks of each year within the city limits.

21 4. For the initial election following the referendum  
22 approving the creation of the city, candidates for office  
23 shall qualify as provided in subsection (3) of section 12.

24 (2) TERMS OF OFFICE.--

25 (a) The term of office for each member shall be 4  
26 years. However, in order to provide for staggering of terms,  
27 the initial term of office for seats one, three, and five  
28 shall be 4 years, and that for seats two, four, and six shall  
29 be 2 years. The initial term of office for the mayor shall be  
30 4 years.

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1       (b) No council member or mayor may serve more than two  
2 successive 4-year terms in the same seat.

3       (c) Each council member shall remain in office until  
4 his or her successor is elected and assumes the duties of the  
5 position at the first meeting of the new council, which shall  
6 be held in accordance with city ordinance.

7       (3) POWERS AND DUTIES OF COUNCIL.--Except as otherwise  
8 prescribed herein or as provided by law, legislative and  
9 police powers of the city shall be vested in the council. The  
10 council shall provide for the exercise of its powers and for  
11 the performance of all duties and obligations imposed on the  
12 city by law.

13       (4) POWERS AND DUTIES OF THE MAYOR.--

14       (a) Powers.--In addition to the regular powers  
15 invested in any other council member, the mayor shall be  
16 recognized by the Governor for purposes of military law; shall  
17 have the power to declare an emergency situation; shall have  
18 the power for service of process and execution of contracts,  
19 deeds, and other documents; and shall have the power to  
20 represent the city in all agreements with other governmental  
21 entities or certifications to other governmental entities that  
22 the council has approved.

23       (b) Duties.--In addition to his or her regular duties,  
24 the mayor shall preside at meetings of the council and be  
25 recognized as the head of city government for all ceremonial  
26 occasions. The mayor shall have no administrative duties other  
27 than those necessary to accomplish these actions, or such  
28 other actions as may be authorized by the city council,  
29 consistent with general or special law.

30       (5) THE VICE MAYOR; ELECTION AND DUTIES.--  
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1       (a) Election.--There shall be a vice mayor elected  
2 annually by the council from among the council members. Such  
3 election shall take place at the first meeting after the  
4 general election or at the organizational meeting during years  
5 when there is no election.

6       (b) Duties.--The vice mayor shall have the same  
7 legislative powers and duties as any other council member,  
8 except that he or she shall serve as acting mayor during the  
9 absence or disability of the mayor and, during such period,  
10 shall have the same duties as provided for in subsection (4).  
11 In the absence of the mayor and vice mayor, the remaining  
12 council members shall select a council member to serve as  
13 acting mayor.

14       (6) COMPENSATION AND EXPENSES.--

15       (a) Compensation.--The council members and mayor shall  
16 receive compensation as established by ordinance. Such  
17 compensation shall not take effect until the date of  
18 commencement of the terms of council members elected at the  
19 next regularly scheduled election that follows the adoption of  
20 said ordinance by at least 6 months.

21       (b) Expenses.--The council may provide for  
22 reimbursement of actual expenses incurred by its members while  
23 performing their official duties.

24       (7) VACANCIES; FORFEITURE OF OFFICE, SUSPENSION,  
25 RECALL, FILLING OF VACANCIES.--

26       (a) Vacancies.--A vacancy in the office of mayor or of  
27 a council seat shall occur upon the death of the incumbent,  
28 removal from office as authorized by law, resignation,  
29 appointment to other public office which creates dual office  
30 holding, judicially determined incompetence, or forfeiture of  
31 office as described in paragraph (b).

1           (b) Forfeiture of office.--The mayor or any other  
2 council member shall forfeit his or her office upon  
3 determination by the council, acting as a body, that he or  
4 she:

5           1. Lacks at any time, or fails to maintain during his  
6 or her term of office, any qualification for the office  
7 prescribed by this charter or as otherwise required by law;

8           2. Is convicted of a felony, or enters a plea of  
9 guilty or nolo contendere to a crime punishable as a felony,  
10 even if adjudication of guilt has been withheld;

11           3. Is convicted of a first degree misdemeanor arising  
12 directly out of his or her official conduct or duties, or  
13 enters a plea of guilty or nolo contendere thereto, even if  
14 adjudication of guilt has been withheld;

15           4. Is found to have violated any standard of conduct  
16 or code of ethics established by law for public officials and  
17 has been suspended from office by the Governor, unless  
18 subsequently reinstated as provided by law; or

19           5. Is absent from three consecutive regular council  
20 meetings without being excused by the council.

21           (c) Suspension from office.--The mayor or any other  
22 council member shall be suspended from office by the council,  
23 acting as a body, upon return of an indictment or issuance of  
24 an information charging the council member or mayor with any  
25 crime which is punishable as a felony or with any crime  
26 arising out of his or her official conduct or duties which is  
27 punishable as a misdemeanor.

28           1. During the period of suspension, the mayor or the  
29 council member shall not perform an official act, duty, or  
30 function, or receive any allowance, emolument, or privilege of  
31 office.

1           2. If the mayor or the council member is subsequently  
2 found not guilty of the charge, or if the charge is otherwise  
3 dismissed or altered so that suspension would no longer be  
4 required as provided herein, the suspension shall be lifted by  
5 the council, and the council member or mayor shall be entitled  
6 to receive full back allowances and such other emoluments as  
7 he or she would have been entitled to had the suspension not  
8 occurred.

9           (d) Recall.--The electors of the city following the  
10 procedures for recall established by general law or ordinance  
11 may remove the mayor or any member of the city council from  
12 office.

13           (e) Filling of vacancies.--

14           1. If, for any reason other than recall, a vacancy  
15 occurs in the office of mayor, the vice mayor shall assume the  
16 position of mayor and, within 30 days following the occurrence  
17 of such vacancy, a special election shall be called as  
18 outlined in paragraph (5)(b) of section 8. The special  
19 election for mayor shall be for the remainder of the unfilled  
20 term.

21           2. If, for any reason other than recall, a vacancy  
22 occurs in the office of any council seat within the first 2  
23 years of a term, the office shall be filled by appointment  
24 within 30 days following the occurrence of such vacancy by a  
25 majority vote of the remaining council members. Such  
26 appointments shall last until the next regularly scheduled  
27 election, at which time the seat shall be declared open and an  
28 election held for the remaining 2 years of the original term,  
29 thus continuing the original staggering of seats.

30           3. If, for any reason other than recall, a vacancy  
31 occurs in the office of any council seat within the last 2

1 years of a term, the office shall be filled by appointment  
2 within 30 days following the occurrence of such vacancy by  
3 majority vote of the remaining council members. Such  
4 appointments shall last until the next regularly scheduled  
5 election, at which time the seat shall be declared open and an  
6 election held for the regular 4-year term.

7 4. If a vacancy occurs as a result of a recall  
8 petition, such vacancy shall be filled by special election as  
9 outlined in paragraph (5)(b) of section 8.

10 5. Any person appointed to fill a vacant seat on the  
11 council is required to meet all the qualifications for office  
12 except the petition requirement.

13 (8) CITY COUNCIL MEETINGS; ORGANIZATIONAL MEETING,  
14 QUORUM, SPECIAL MEETINGS.--The council shall meet regularly at  
15 least once a month, at such times and places as the council  
16 may prescribe by ordinance. Such meetings shall be public  
17 meetings and shall be subject to notice and other requirements  
18 of law applicable to public meetings.

19 (a) Organizational meeting.--The first meeting  
20 following a general city election at which elected or  
21 reelected council members are inducted into office shall be  
22 held in accordance with city ordinance.

23 (b) Quorum.--A majority of the council, including the  
24 mayor, shall constitute a quorum. No action of the council  
25 shall be valid unless adopted by an affirmative vote of the  
26 majority of the council members and mayor in attendance,  
27 unless otherwise provided by law or ordinance or as stated in  
28 this charter. All actions of the city council shall be by  
29 ordinance, resolution, or motion.

30 (c) Special meetings.--Special meetings may be held at  
31 the call of the mayor or, in the absence of the mayor, at the

1 call of the vice mayor. Special meetings may also be called  
2 upon the request of a majority of the council members. The  
3 city clerk shall provide not less than 24 hours' prior notice  
4 of the meeting to the public, unless a declared emergency  
5 situation exists.

6 (9) CITY RECORDS.--The council shall, in a properly  
7 indexed book kept for the purpose, provide for the  
8 authentication and recording in full of all minutes of  
9 meetings, and all ordinances and resolutions adopted by the  
10 council, and the same shall at all times be a public record.  
11 The council shall further maintain a current codification of  
12 all ordinances. Such codification shall be printed and made  
13 available to the public on a continuing basis. All ordinances  
14 or resolutions of the council shall be signed by the mayor or,  
15 in the mayor's absence, by the vice mayor or, in the absence  
16 of both, by the acting mayor, and attested to by the city  
17 clerk.

18 (10) LIMIT OF EMPLOYMENT OF COUNCIL MEMBERS.--Neither  
19 council members nor the mayor shall be in the employment of  
20 the city while in office, nor shall any former council member  
21 or former mayor be employed by the city until after the  
22 expiration of 1 year from the time of leaving office.

23 (11) NONINTERFERENCE BY CITY COUNCIL.--Except for the  
24 purpose of inquiry and information, the council and its  
25 members, including committees thereof, are expressly  
26 prohibited from interfering with the performance of the duties  
27 of any city employee who is under the direct or indirect  
28 supervision of the city manager or city attorney.

29 Section 6. Charter officers.--The designated charter  
30 officers shall be the city manager and the city attorney.

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1       (1) DESIGNATED CHARTER OFFICERS; APPOINTMENT, REMOVAL,  
2 COMPENSATION, FILLING OF VACANCIES, CANDIDATE FOR CITY  
3 OFFICE.--

4       (a) Appointment.--The charter officers shall be  
5 appointed by a majority vote of the full council and shall  
6 serve at the pleasure of the council.

7       (b) Removal.--The charter officers shall be removed  
8 from office only by a majority vote of the full council. If  
9 the vote is less than unanimous, the charter officer may,  
10 within 7 days after the dismissal motion by the council,  
11 submit to the mayor a written request for reconsideration. Any  
12 action taken by the council at the reconsideration hearing  
13 shall be final.

14       (c) Compensation.--The compensation of the charter  
15 officers shall be fixed by the city council.

16       (d) Filling of vacancy.--The city council shall begin  
17 the process to fill a vacancy in the charter office of the  
18 city manager or city attorney within 90 days after the vacancy  
19 occurs. An acting city manager or acting city attorney may be  
20 appointed by the council during a vacancy in office.

21       (e) Candidate for city office.--No charter officer  
22 shall be a candidate for any elected office while holding his  
23 or her charter office position.

24       (2) CITY MANAGER; QUALIFICATIONS, RESIDENCY, POWERS  
25 AND DUTIES.--The city manager shall be the chief  
26 administrative officer of the city.

27       (a) Qualifications.--The city manager shall be  
28 selected on the basis of experience, expertise, and management  
29 ability as it pertains to running municipal government.

30       (b) Residency.--Although the city manager need not be  
31 a resident of the city at the time of appointment, within 6

1 months after such appointment, he or she shall establish and  
2 maintain residency within the corporate limits of the city.  
3 Upon request of the city manager, this 6-month period may be  
4 extended by the city council for an additional 6-month period.  
5 (c) Powers and duties.--The city manager shall:  
6 1. Attend all meetings of the city council.  
7 2. Draw and sign vouchers upon depositories and keep  
8 or cause to be kept a true and accurate account of same. Such  
9 vouchers shall be countersigned by the mayor or by the vice  
10 mayor in the event the office of mayor is vacant. If both the  
11 mayor and vice mayor offices are vacant, the acting mayor  
12 shall countersign such vouchers.  
13 3. Be responsible for signature and issuance of all  
14 licenses issued by the city, issuance of receipts for all  
15 moneys paid to the city, and deposit of said moneys in the  
16 proper depositories on the first banking day after receipt.  
17 4. Provide administrative services as required by the  
18 mayor and the council.  
19 5. Appoint a city clerk to serve at his or her  
20 pleasure.  
21 6. Appoint and suspend or remove any employee of the  
22 city. The city manager may authorize any administrative  
23 officer who is subject to his or her direction and supervision  
24 to exercise these powers with respect to subordinates in that  
25 officer's department, office, or agency within the guidelines  
26 of stated personnel policies and procedures.  
27 7. Direct and supervise the administration of all  
28 departments, offices, and agencies of the city, except as  
29 otherwise provided by this charter or by law.  
30 8. See that all laws, provisions of this charter, and  
31 acts of the council are faithfully executed.

1           9. Prepare and submit to the council annually a  
2 balanced budget, budget message, and capital program.

3           10. Keep the council fully advised as to the financial  
4 condition and future needs of the city and make  
5 recommendations to the council concerning the affairs of the  
6 city.

7           11. Submit to the council and make available to the  
8 public a complete report on finances and administrative  
9 activities of the city as of the end of each fiscal year.

10           12. Sign contracts on behalf of the city to the extent  
11 authorized by the council.

12           13. Perform other such duties as are specified in this  
13 charter or as may be directed by the council.

14           (3) CITY ATTORNEY; QUALIFICATIONS, RESIDENCY, POWERS  
15 AND DUTIES.--The city attorney shall be the chief legal  
16 officer of the city. The city attorney may either be retained  
17 in-house or be retained part time under contract.

18           (a) Qualifications.--The city attorney shall be a  
19 member in good standing of The Florida Bar.

20           (b) Residency.--There shall be no residency  
21 requirement for the city attorney, unless otherwise adopted by  
22 ordinance.

23           (c) Powers and duties.--The city attorney:

24           1. Shall serve as chief legal advisor to the city  
25 commission, the city manager, and all city departments,  
26 offices, city advisory boards, and agencies.

27           2. If in-house, shall appoint, suspend, or remove such  
28 assistant attorneys as may be required. If city attorney  
29 services are contracted, the city manager shall appoint,  
30 suspend, or remove any in-house assistant attorneys as may be  
31 required. The remainder of the staff of the office of the city

1 attorney shall be employees of the city, appointed, suspended,  
2 or removed under the regular personnel policies and procedures  
3 of the city.

4 3. Or his or her designee shall attend all city  
5 council meetings unless excused by the city council, and shall  
6 perform such professional duties as may be required by law or  
7 by the council in furtherance of the law.

8 4. Shall prepare an annual budget for the operation of  
9 the office of the city attorney and shall submit this budget  
10 to the city manager for inclusion in the annual city budget,  
11 in accordance with uniform city procedures.

12 Section 7. Budget and appropriations.--

13 (1) FISCAL YEAR.--The city fiscal year shall begin on  
14 October 1 of each year and end on September 30 of the  
15 succeeding year.

16 (2) BUDGET ADOPTION.--The council shall by resolution  
17 adopt a budget on or before the 30th day of September of each  
18 year. A resolution adopting the annual budget shall constitute  
19 appropriation of the amounts specified therein as expenditures  
20 from funds indicated.

21 (3) APPROPRIATION AMENDMENTS DURING THE FISCAL YEAR;  
22 SUPPLEMENTAL APPROPRIATIONS; REDUCTION OF APPROPRIATIONS;  
23 TRANSFER OF APPROPRIATIONS; LIMITATIONS; EFFECTIVE DATE.--

24 (a) Supplemental appropriations.--If, during the  
25 fiscal year, revenues in excess of those estimated in the  
26 budget are available for appropriation, the council may by  
27 resolution make supplemental appropriations for the year in an  
28 amount not to exceed such excess.

29 (b) Reduction of appropriations.--If, at any time  
30 during the fiscal year, it appears probable to the city  
31 manager that the revenues available will be insufficient to

1 meet the amount appropriated, he or she shall so report to the  
2 council without delay, indicating the estimated amount of the  
3 deficit, any remedial action to be taken, and recommendations  
4 as to any other steps that should be taken. The council shall  
5 then take such further action as it deems necessary to prevent  
6 any deficit and, for that purpose, the council may by  
7 resolution reduce one or more appropriations accordingly.

8 (c) Transfer of appropriations.--At any time during  
9 the fiscal year, the city manager may transfer all or part of  
10 any unencumbered appropriation balance within a department,  
11 office, or agency of the city to other programs within the  
12 same department, office, or agency. Further, upon written  
13 request of the city manager, the council may transfer part or  
14 all of any unencumbered appropriation balance from one  
15 department, office, or agency to another.

16 (d) Limitations; effective date.--No appropriation for  
17 debt service may be reduced or transferred, no appropriation  
18 may be reduced below any amount required by law to be  
19 appropriated, and no appropriation may be reduced by more than  
20 the amount of the unencumbered balance thereof. The  
21 supplemental and emergency appropriations and reduction or  
22 transfer of appropriations authorized by this section may be  
23 made effective immediately upon adoption.

24 Section 8. Elections.--

25 (1) ELECTORS.--Any person who is a resident of the  
26 city, who has qualified as an elector of this state, and who  
27 registers in the manner prescribed by law shall be an elector  
28 of the city.

29 (2) NONPARTISAN ELECTIONS.--All elections for city  
30 elective office shall be conducted on a nonpartisan basis  
31 without any designation of political party affiliation.

1       (3) QUALIFYING FOR OFFICE.--Any person who wishes to  
2 become a candidate for a city elective office shall qualify  
3 with the city clerk no sooner than 45 calendar days nor later  
4 than 35 calendar days prior to the second Tuesday in September  
5 of each odd-numbered year. In addition, candidates shall  
6 qualify as provided in paragraph (1)(b) of section 5.

7       (4) SCHEDULE FOR REGULAR ELECTIONS AND PRIMARIES.--The  
8 regular city election shall be the first Tuesday after the  
9 first Monday in November of each odd-numbered year. Such city  
10 elections shall be general city elections. If there are more  
11 than two candidates who qualify for any office, a primary city  
12 election shall be held on the first Tuesday after the first  
13 Monday in September.

14       (a) An election to fill a vacant council seat, as  
15 outlined in paragraph (7)(e) of section 5, when there is more  
16 than half of the term remaining shall be held during the next  
17 regularly scheduled election. Such election shall be for the  
18 remaining 2 years of the original term.

19       (b) An election to fill a vacant council seat, as  
20 outlined in paragraph (7)(e) of section 5, when there is less  
21 than half of the term remaining shall be filled at the next  
22 regularly scheduled election. Such election shall be for a  
23 4-year term.

24       (5) SCHEDULE FOR SPECIAL ELECTIONS.--

25       (a) A special election for a vacant position of mayor,  
26 as outlined in paragraph (7)(e) of section 5, shall be called  
27 within 30 days, and the city council shall by resolution fix  
28 the time for holding of such election. Such special election  
29 for mayor shall be for the remainder of the vacant term.

30       (b) All other special municipal elections shall be  
31 held in the same manner as regular elections and the city

1 council shall by resolution fix the time for holding of such  
2 elections.

3 (6) DETERMINATION OF ELECTION TO OFFICE.--

4 (a) If only one candidate qualifies for an office,  
5 that candidate shall be deemed to be elected and shall not be  
6 placed on either the general or the primary ballot.

7 (b) If two or more candidates qualify for an office,  
8 the names of those candidates shall be placed on the ballot at  
9 the primary election. If any candidate for such office  
10 receives a majority of the votes cast in the primary election  
11 for the office, he or she shall be deemed to be elected.

12 (c) If no single candidate for an office receives a  
13 majority of the votes cast in the city primary election for  
14 that office, the two candidates for the office receiving the  
15 highest vote in the primary city election shall run again in  
16 the regular city election. Further:

17 1. In any primary election in which there is a tie for  
18 first place, the name of each such candidate shall be placed  
19 on the city's general election ballot.

20 2. In any primary election in which there is a tie for  
21 second place and the candidate placing first did not receive a  
22 majority of the votes cast for such office, the name of the  
23 candidate placing first and the name of each candidate tying  
24 for second shall be placed on the city's general election  
25 ballot.

26 (d) The candidate receiving the highest number of  
27 votes cast for the office in the city's general election shall  
28 be elected to such office. If the vote at the general city  
29 election results in a tie, the outcome shall be determined by  
30 lot as follows:

31

1           1. At the first regularly scheduled council meeting  
2 after the election, the Supervisor of Elections of Brevard  
3 County shall toss a coin. Applying the alphabetic order rule,  
4 each candidate shall call the coin.

5           2. The candidate whose call first matches the coin  
6 toss shall be declared the winner.

7           (7) CITY CANVASSING BOARD.--For purposes of certifying  
8 absentee ballots and election results, the city clerk and a  
9 representative from the city designated by the council shall  
10 be known as the canvassing board. At the close of the polls of  
11 any city election, the canvassing board shall ensure that the  
12 absentee ballots are delivered to the Brevard County  
13 Supervisor of Elections and shall meet at the county election  
14 headquarters and proceed to certify the ballots and open them  
15 in the presence of a representative of the supervisor of  
16 elections' office. In addition, after final election results  
17 are certified by the Brevard County Supervisor of Elections,  
18 the canvassing board shall immediately report the results back  
19 to a meeting of the city council held for the purpose of final  
20 certification and filing with the city clerk as required by  
21 law.

22           Section 9. Land description.--

23           (1) CITY BOUNDARIES.--The initial corporate boundaries  
24 shall be as hereinafter described. At any time after  
25 incorporation, boundaries may be changed in accordance with  
26 general laws regarding annexation without amendments to the  
27 charter.

28  
29           Description:  
30  
31

1       A parcel of land lying in Sections 13, 14, 15,  
2       16, 17, 18, 19, 20, 21, 22 ,23, 24, 25, 26, 27,  
3       28, 29, and 30, Township 23, Range 35 east; and  
4       Sections 18, 19, and 30, Township 23, Range 36  
5       east; and a portion of Sections 13, 24, and 25,  
6       Township 23, Range 34 east, Brevard County,  
7       Florida, and being more fully described as  
8       follows:  
9

10       Begin at the northeast corner of Section 14,  
11       Township 23, Range 35 east; thence westerly  
12       along the north line of said Section 14, a  
13       distance of 5,280 feet, more or less, to the  
14       northwest corner of Section 14, Township 23,  
15       Range 35 east; thence westerly along the north  
16       line of said Section 14, a distance of 5,280  
17       feet, more or less, to the northwest corner of  
18       Section 15, Township 23, Range 35 east; thence  
19       westerly, along the north line of said Section  
20       15, a distance of 5,280 feet, more or less, to  
21       the northwest corner of Section 16, Township  
22       23, Range 35 east; thence westerly along the  
23       north line of said Section 16, a distance of  
24       5,280 feet, more or less, to the northwest  
25       corner of Section 17, Township 23, Range 35  
26       east; thence westerly along the north line of  
27       said Section 17, a distance of 5,280 feet, more  
28       or less, to the northwest corner of Section 18,  
29       Township 23, Range 35 east; thence westerly  
30       along the north line of said Section 18, a  
31       distance of 1,848 feet, more or less, to the

1 east shore line of St. John's River ; thence  
2 southerly, along the east shore line of the St.  
3 John's River, a distance of 16,896 feet, more  
4 or less, to the northwest corner of Section 24,  
5 Township 23, Range 34 east; thence southerly,  
6 along the west line of said Section 24, a  
7 distance of 3,168 feet, more or less, to the  
8 northwest corner of Section 25, Township 23,  
9 Range 34 east; thence southerly along the west  
10 line of said Section 25 a distance of 5,280  
11 feet, more or less, to the southwest corner of  
12 Section 25, Township 23, Range 34 east; thence  
13 easterly along the south line of said Section  
14 25, a distance of 5,280 feet, more or less, to  
15 the southeast corner of Section 25, Township  
16 23, Range 34 east; thence southerly along the  
17 east line of said Section 25, a distance of 528  
18 feet, more or less, to the southwest corner of  
19 Section 30, Township 23, Range 35 east; thence  
20 easterly along the south line of said Section  
21 30, a distance of 5,280 feet, more or less, to  
22 the southeast corner of Section 30, Township  
23 23, Range 35 east; thence easterly along the  
24 south line of said Section 30, a distance of  
25 5,280 feet, more or less, to the southeast  
26 corner of Section 29, Township 23, Range 35  
27 east; thence easterly along the south line of  
28 said Section 29, a distance of 5,280 feet, more  
29 or less, to the southeast corner of Section 28,  
30 Township 23, Range 35 east; thence easterly  
31 along the south line of said Section 28, a

1 distance of 5,280 feet, more or less, to the  
2 southeast corner of Section 27, Township 23,  
3 Range 35 east; thence easterly along the south  
4 line of said Section 27, a distance of 5,280  
5 feet, more or less, to the southeast corner of  
6 Section 26, Township 23, Range 35 east; thence  
7 easterly along the south line of said Section  
8 26, a distance of 5,280 feet, more or less, to  
9 the southeast corner of Section 25, Township  
10 23, Range 35 east; thence easterly along the  
11 south line of said Section 25, a distance of  
12 3,300 feet, more or less, to the west shore  
13 line of the Indian River; thence northwesterly  
14 along the west shore line of Indian River to  
15 the northeast corner of Section Section 13,  
16 Township 23, Range 35 east; thence westerly  
17 along the north line of said Section 13, a  
18 distance of 4,224 feet, more or less, to the  
19 Point-of-Beginning, less and except the  
20 following; Tracts 145-160 inclusive, number 2  
21 of series of two maps, Cocoa-Indian River  
22 Properties as recorded in Plat Book 5, Page 7,  
23 Public Records of Brevard County, Florida.

24  
25 Section 10. General provisions.--

26 (1) CHARTER AMENDMENT.--This charter may be amended in  
27 accordance with the provisions of the Municipal Home Rule  
28 Powers Act, chapter 166, Florida Statutes, as the same may be  
29 amended from time to time, or as may otherwise be provided by  
30 general law. The form, content, and certification of any  
31 petition to amend shall be established by ordinance.

1           (2) CHARTER REVIEW; SCHEDULE, CHARTER REVIEW  
2 COMMITTEE.--

3           (a) Schedule.--The charter shall be reviewed no later  
4 than 10 years after the creation of the City of Port St. John  
5 on December 31, 2002, and thereafter it may be reviewed every  
6 10 years.

7           (b) Charter review committee.--A five-member charter  
8 review committee shall be appointed. Each council member shall  
9 appoint one member at large and the mayor shall appoint one  
10 member at large. The Port St. John City Council shall fund  
11 this committee. The charter review committee shall be  
12 appointed at least 1 year before the next scheduled general  
13 election and complete its work and present any recommendations  
14 for change no later than 60 days before the general election.  
15 The Port St. John City Council shall hold a minimum of two  
16 public hearings on the proposed changes to the charter prior  
17 to placing the proposed changes on the scheduled general  
18 election ballot.

19           (3) INITIATIVE AND REFERENDUM.--A minimum of at least  
20 10 percent of the qualified electorate of the city shall be  
21 required in order to constitute sufficient participation among  
22 the electorate to have the power to petition the council to  
23 propose an ordinance or to require reconsideration of an  
24 adopted ordinance or to propose an amendment to this charter.  
25 If the council fails to adopt such ordinance or amendment so  
26 proposed or to repeal such adopted ordinance, without any  
27 change in substance, then the council shall place the proposed  
28 ordinance or amendment or the repeal of the adopted ordinance  
29 on the ballot at the next general election. Ordinances  
30 establishing taxes or fees authorized by general law or the  
31

1 State Constitution shall be exempt from any initiative and  
2 referendum.

3 (4) STANDARDS OF CONDUCT.--All elected officials and  
4 employees of the city shall be subject to the standards of  
5 conduct for public officers and employees set by general law.  
6 In addition, the city council may by ordinance establish a  
7 code of ethics for officials and employees of the city, which  
8 may be supplemental to general law, but in no case may such an  
9 ordinance diminish the provisions of general law.

10 Section 11. Severability.--If any provision of this  
11 act, or the application thereof to any person or circumstance,  
12 is held invalid, the invalidity shall not affect other  
13 provisions or applications of this act which can be given  
14 effect without the invalid provision or application, and to  
15 this end the provisions of this act are declared severable.

16 Section 12. Transition schedule.--

17 (1) REFERENDUM.--The referendum election called for by  
18 this act shall be held on Tuesday, November 5, 2002, at which  
19 time the following question shall be placed upon the ballot:

20  
21 SHALL CHAPTER 2002-\_\_\_\_\_, LAWS OF FLORIDA,  
22 CREATING THE CITY OF PORT ST. JOHN AND  
23 PROVIDING ITS CHARTER BE APPROVED?

24  
25 In the event this question is answered affirmatively by a  
26 majority of voters voting in the referendum, the provisions of  
27 this charter shall take effect as provided herein.

28 (2) CREATION AND ESTABLISHMENT OF CITY.--For the  
29 purpose of compliance with Florida Statutes relating to  
30 assessment and collection of ad valorem taxes, and for the  
31

1 purpose of subsection (2) of section 10, the city is hereby  
2 created and established effective December 31, 2002.

3 (3) INITIAL ELECTION OF COUNCIL MEMBERS; DATES,  
4 QUALIFYING PERIOD, CERTIFICATION OF ELECTION RESULTS,  
5 INDUCTION INTO OFFICE.--

6 (a) Dates.--Following the adoption of this charter in  
7 accordance with subsection (1), the Brevard County Commission  
8 shall call a special election for the election of the six city  
9 council members and the mayor to be held on February 4, 2003.  
10 Any necessary primary election shall be held on January 15,  
11 2003.

12 (b) Qualifying period.--Between 8:30 a.m. on December  
13 2, 2002, and 2 p.m. on December 6, 2002, any individual who  
14 wishes to run for one of the six initial seats on the council  
15 or for the office of mayor shall qualify as a candidate with  
16 the Brevard County Supervisor of Elections in accordance with  
17 the provisions of general law and paragraph (1)(b) of section  
18 5 of this charter, except that for this initial election, the  
19 following provisions supersede paragraph (1)(b) of section 5:

20 1. For any of the six council seats, the number of  
21 qualifying signatures required on a qualifying petition shall  
22 be 1 percent of the qualified electors, or, if the candidate  
23 wishes to qualify by fee, that fee shall be \$120.

24 2. For the seat of mayor, the number of qualifying  
25 signatures required on a qualifying petition shall be 300, or,  
26 if the candidate wishes to qualify by fee, that fee shall be  
27 \$180.

28 (c) Certification of election results.--For the  
29 initial election, the Brevard County Commission shall appoint  
30 a canvassing board which shall certify the results of the  
31 election.

1       (d) Induction into office.--Those candidates who are  
2 elected on February 4, 2003, or at the primary election on  
3 January 15, 2003, following the same manner as outlined in  
4 subsection (6) of section 8, shall take office at the initial  
5 city council meeting, which shall be held at 7 p.m. on  
6 February 5, 2003, at the Port St. John Community Center, 6650  
7 Corto Road, Port St. John, Florida.

8       (4) TRANSITION SERVICES AND COMPENSATION.--

9       (a) It is the intent of this section that the county  
10 shall provide and be compensated for the provision of services  
11 to the City of Port St. John as budgeted for in the fiscal  
12 year 2002-2003 Brevard County Budget for the remainder of the  
13 budget year. The level of services to be provided will be  
14 consistent with the level upon which the fiscal year 2002-2003  
15 expense budget was predicated and in accordance with adopted  
16 revenues.

17       (b) It is also the intent of this section that, if the  
18 referendum of November 2002 passes, the county shall make no  
19 changes to the fiscal year 2002-2003 draft budget which would  
20 affect the future City of Port St. John, either positively or  
21 negatively, unless a special budget hearing is held for the  
22 citizens of the future City of Port St. John to discuss such  
23 changes.

24       (c) In addition, services which the county shall  
25 provide under the terms of this agreement shall include all  
26 services now provided to the Port St. John area as adopted by  
27 the Brevard County Commission prior to the City of Port St.  
28 John becoming operational on December 31, 2002. Compensation  
29 to Brevard County for services provided shall include all  
30 revenues which, although accruing to the city, would have  
31

1 accrued to the county as budgeted for provision of services  
2 prior to the incorporation of the city.

3 (d) It is the responsibility of the city to adopt  
4 appropriate ordinances, resolutions, or agreements as required  
5 to ensure the continued collection of budgeted revenues with  
6 which to fund services beginning February 28, 2003.

7 (e) Any revenues adopted or received by the City of  
8 Port St. John upon which delivery of services was not  
9 predicated within the Brevard County Commission's fiscal year  
10 2002-2003 adopted budget shall accrue to the City of Port St.  
11 John.

12 (5) FIRST-YEAR EXPENSES.--The city council, in order  
13 to provide additional moneys needed for the expenses and  
14 support of the city, shall have the power to borrow money  
15 necessary for the operation of city government until such time  
16 as a budget is adopted and revenues are raised in accordance  
17 with the provisions of this charter.

18 (6) TRANSITIONAL ORDINANCES AND RESOLUTIONS.--The city  
19 council shall adopt ordinances and resolutions required to  
20 effect the transition. Ordinances adopted within 60 days after  
21 the first council meeting shall be passed as emergency  
22 ordinances. These transitional ordinances shall be effective  
23 for no longer than 90 days after adoption and thereafter may  
24 be readopted, renewed, or otherwise continued only in the  
25 manner normally prescribed for ordinances.

26 (7) TRANSITIONAL COMPREHENSIVE PLAN AND LAND  
27 DEVELOPMENT REGULATION.--

28 (a) Until such time as the city shall adopt a  
29 comprehensive plan, the applicable provisions of the  
30 Comprehensive Plan for Brevard County, Florida, as the same  
31 exists on the day the city commences corporate existence,

1 shall remain in effect as the city's transitional  
2 comprehensive plan. All planning functions, duties, and  
3 authority shall thereafter be vested in the City Council of  
4 Port St. John, which shall be deemed the local planning agency  
5 until the council establishes a separate local planning  
6 agency.

7 (b) All powers and duties of the Brevard County  
8 Planning and Land Development Regulations Council, any boards  
9 of adjustment and appeals created pursuant to statutory trade  
10 codes, the Port St. John Special District Governing Board, and  
11 the Brevard County Commission, as set forth in these  
12 transitional zoning and land use regulations, shall be vested  
13 in the City Council of Port St. John until such time as the  
14 city council delegates all or a portion thereof to another  
15 entity. General law prohibits the adoption of zoning  
16 ordinances as emergency ordinances.

17 (c) Subsequent to the commencement of the city's  
18 corporate existence, no amendment of the comprehensive plan or  
19 land development regulations enacted by the Brevard County  
20 Commission shall be deemed an amendment to the city's  
21 transitional comprehensive plan or land development  
22 regulations or shall take effect within the city's corporate  
23 limits unless approved by the council.

24 (8) SHARED REVENUES.--The City of Port St. John shall  
25 be entitled to participate in all shared revenue programs of  
26 the state effective on the first day of the month occurring  
27 after the first meeting of the council. The provisions of  
28 section 218.23(1), Florida Statutes, shall be waived for the  
29 purpose of eligibility to receive revenue sharing funds from  
30 the date of incorporation through the state fiscal year  
31 2004-2005. The provisions of section 218.26(3), Florida

1 Statutes, shall be waived for fiscal year 2002-2003 and  
2 apportionment factors for the municipalities and counties  
3 shall be recalculated pursuant to section 218.245, Florida  
4 Statutes, upon the date of incorporation. Initial population  
5 and future population estimates for calculating eligibility  
6 for shared revenues shall be determined by the University of  
7 Central Florida Bureau of Economic and Business Research.  
8 Should the bureau be unable to provide an appropriate  
9 population estimate, the Brevard County Planning Department  
10 shall provide an appropriate estimate.

11 (9) LOCAL OPTION GAS TAX REVENUES.--Notwithstanding  
12 the requirements of section 336.025, Florida Statutes, to the  
13 contrary, the City of Port St. John shall be entitled to  
14 receive local option gas tax revenues beginning January 1,  
15 2003, until the beginning of the city's first full fiscal year  
16 on October 1, 2003. Distributions to the city prior to  
17 September 30, 2003, shall be in accord with section  
18 336.025(4)(b)1., Florida Statutes, or in accord with an  
19 interlocal agreement executed prior to July 31, 2003, for the  
20 period beginning with the date of execution of the interlocal  
21 agreement and ending on September 30, 2003.

22 Section 13. This act shall take effect as provided  
23 herein only upon its approval by a majority vote of those  
24 qualified electors residing within the proposed corporate  
25 limits of the proposed City of Port St. John, as described in  
26 subsection (1) of section 9, voting in a referendum election  
27 to be called by the Brevard County Commission and to be held  
28 in accordance with subsection (1) of section 12 and the  
29 provisions of general law relating to elections currently in  
30 force, except this section shall take effect upon becoming a  
31 law.