

RESOLUTION NO. 2023- 3012

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CALLING FOR A TOWN OF SURFSIDE SPECIAL ELECTION TO BE HELD ON NOVEMBER 7, 2023, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE PROPOSED AMENDMENTS TO THE TOWN CHARTER AT ARTICLE II, SECTION 6 “QUALIFICATIONS” AND SECTION 15 “VACANCIES ON COMMISSION—WHEN DEEMED TO EXIST”, AS PRESENTED IN A BALLOT QUESTION ON AMENDMENTS TO THE TOWN CHARTER CREATING A PROCEDURE FOR DETERMINATION OF REQUIRED QUALIFICATIONS AND/OR PERMANENT RESIDENCY OF COMMISSIONERS; PROVIDING REQUISITE BALLOT LANGUAGE AND CHARTER AMENDMENT TEXT FOR SUBMISSION TO THE ELECTORATE; PROVIDING FOR THE TOWN CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS FOR THE SPECIAL ELECTION; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 97.1 of the Town Charter of the Town of Surfside (“Town”), referencing Section 6.03 of the Home Rule Charter for Miami-Dade County, provides the manner in which charter amendments shall be proposed; and

WHEREAS, pursuant to Section 128 of the Town Charter, the Town Commission appointed a Charter Review Board (“the Board”) to review and provide written recommendations on proposed amendments to the Charter; and

WHEREAS, on August 2, 2023, the Town Commission considered the recommendations of the Board and elected to submit the proposed charter amendment for approval or rejection by the electorate; and

WHEREAS, the Town Commission recognizes the importance of Commissioners possessing and maintaining qualification and residency requirements for the duration of their term in office; and

WHEREAS, the Town Commission wishes to seek the approval of the electors by a ballot question referendum concerning amendments to Town Charter Article II, Section 6 “Qualifications” and Section 15 “Vacancies on commission—When deemed to exist”, to create a public hearing procedure, initiated upon majority vote of the Commission or a minimum of 10% of qualified electors in the Town, for the Commission to determine whether a vacancy on the Commission exists due to a commissioner ceasing to possess and maintain qualifications and/or residency within the Town; and

WHEREAS, in accordance with provisions of the Charter of the Town and the general laws of the State of Florida, a Special Election is hereby called and directed to be held in the Town of Surfside, Florida, from 7:00 a.m. to 7:00 p.m. on Tuesday, November 7, 2023, for the purpose of submitting to the electorate the proposed amendment to the Town Charter which is set forth herein; and

WHEREAS, that the appropriate and proper Miami-Dade County election officials shall conduct the said Special Election hereby called, with acceptance of the certification of the results of said Special Election to be performed by the Town Commission. The official returns shall be furnished to the Town Clerk as soon as the ballots from the precinct have been tabulated and in accordance with Section 26-12 of the Town Code and applicable laws; and

WHEREAS, the voting precinct in the Town for said Special Election which has been established by the proper and appropriate Miami-Dade County Election Officials is located at Surfside Town Hall, 9293 Harding Avenue, Surfside, Florida 33154. All Town electors shall vote at this polling place for this Special Election; and

WHEREAS, not less than thirty (30) days' notice of the adoption of this Resolution and of its provisions calling this Special Election shall be given by publication in the Miami Herald, a newspaper of general circulation in Surfside, Miami-Dade County, Florida. Such publication shall be made once in the fifth week before the election and once in the third week before the election in accordance with the provisions of Section 100.342, Florida Statutes, and the Town Code; and

WHEREAS, the Town Commission finds that this Resolution is in the best interest and welfare of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Special Election Called; Notice of Election. That a special election is hereby called, to be held on Tuesday, November 7, 2023, to present to the qualified electors of the Town of Surfside, the ballot question provided in this Resolution. Notice of said election shall be published in accordance with Section 100.342, Florida Statutes, in the Miami Herald, a newspaper of general circulation in Surfside, Miami-Dade County, Florida, at least thirty (30) days prior to said election, the first publication to be in the fifth week prior to the election (to-wit: during the week commencing Sunday, October 1, 2023), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, October 15, 2023), and shall be in substantially the following form:

“THE TOWN OF SURFSIDE, FLORIDA

**NOTICE OF CHARTER AMENDMENT REFERENDUM SPECIAL
ELECTION**

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO. 2023-3012 ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (“TOWN”), A SPECIAL ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE TOWN ON TUESDAY, NOVEMBER 7, 2023, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT QUESTION SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN:

CREATING A PROCEDURE FOR DETERMINATION OF REQUIRED QUALIFICATIONS AND/OR PERMANENT RESIDENCY OF COMMISSIONERS

Shall the Charter be amended to create a public hearing procedure, initiated upon majority vote of the Commission or a minimum of 10% of qualified electors in the Town, for a determination as to whether a vacancy on the Commission exists due to a commissioner ceasing to possess and maintain required qualifications and/or permanent residency within the Town?

YES []
NO []

The polling place for the Special Election shall be the Surfside Town Hall located at 9293 Harding Avenue, Surfside, Florida 33154. All Town electors who are timely registered shall be eligible to vote. The enabling Resolution, including the charter amendment ballot question are available at the Office of the Town Clerk, located at the Surfside Town Hall.

Sandra McCready, MMC, Town Clerk”

Section 3. Form of Ballot; Ballot Question. That the official ballot to be used in the Special Election to be held on Tuesday, November 7, 2023, as hereby called, shall be in substantially the following form, to-wit:

“OFFICIAL BALLOT

CREATING A PROCEDURE FOR DETERMINATION OF REQUIRED QUALIFICATIONS AND/OR PERMANENT RESIDENCY OF COMMISSIONERS

Shall the Charter be amended to create a public hearing procedure, initiated upon majority vote of the Commission or a minimum of 10% of qualified electors in the Town, for a determination as to whether a vacancy on the Commission exists due to a commissioner ceasing to possess and maintain required qualifications and/or permanent residency within the Town?

YES []

NO [] ”

Section 4. Balloting. That balloting shall be conducted between the hours of 7:00 a.m. until 7:00 p.m. on election day at the regular polling place for Town elections. Vote-by-mail ballots and early voting shall be provided as authorized by law. All qualified Town electors who are timely registered in accordance with law shall be entitled to vote.

Section 5. Charter Amendment Text; Effectiveness. The text of the proposed Charter amendment (the “Charter Amendment”) is set forth in Exhibit “A”, which is attached hereto and incorporated herein. The Charter Amendment shall become effective if the majority of the qualified electors of the Town voting on the Charter Amendment vote for its adoption, and it shall be considered adopted and effective upon the certification of the Special Election results. Following the adoption of the Charter Amendment, the Town Clerk shall file the adopted Charter Amendment with the Clerk of the Circuit Court of Miami- Dade County, Florida.

Section 6. Available for Public Inspection; Town Clerk to Utilize the Services of Miami-Dade County Supervisor of Elections. Copies of this Resolution providing for the special election referendum are on file in the Office of the Town Clerk

located at 9293 Harding Avenue, Surfside, Florida and are available for public inspection during regular business hours. Furthermore, the Town Clerk is authorized to utilize the services of Miami-Dade County Supervisor of Elections for any assistance required in the administration of the election. The Town shall pay all expenses for conducting this Special Election and will pay such expenses to Miami-Dade County upon receipt of invoice or statement approved by the Supervisor of Elections of Miami-Dade County, Florida.

Section 7. Authorization of Town Officials. The Town Manager, Town Attorney and Town Clerk are hereby authorized to take all steps necessary to complete the execution and implementation of the terms and purposes of this Resolution, and the Special Election Referendum if adopted and effective.

Section 8. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this 22nd day of August, 2023.

Motion By: Vice Mayor Rose
Second By: Mayor Danzinger

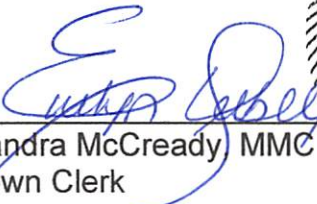
FINAL VOTE ON ADOPTION:

Commissioner Fred Landsman	<u>Yes</u>
Commissioner Marianne Meisheid	<u>No</u>
Commissioner Nelly Velasquez	<u>No</u>
Vice Mayor Jeffrey Rose	<u>Yes</u>
Mayor Shlomo Danzinger	<u>Yes</u>



Shlomo Danzinger, Mayor

ATTEST:



Sandra McCready MMC
Town Clerk



**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**



Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney

EXHIBIT "A"

TEXT OF PROPOSED CHARTER AMENDMENT OF THE TOWN OF SURFSIDE¹

TOWN OF SURFSIDE CHARTER

* * *

ARTICLE II. – TOWN COMMISSION

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Sec. 6. - Qualifications.

The commissioners shall be qualified electors of Dade County whose legal residence is in the Town of Surfside who shall be citizens of the United States, at least twenty-one years of age and residents of the State of Florida and Town of Surfside for at least one year next preceding registration, and who shall have no other public office except notary public, local civilian defense or war emergency appointments, membership in the National Guard, naval or military reserve, or membership or memberships on State of Florida or National Boards providing that the duties of the members of such board shall not interfere with the duties of the town commissioners. Once elected, the commissioners shall maintain permanent residency in the Town.

* * *

Sec. 15. - Vacancies on commission—When deemed to exist.

Vacancies on the commission shall be created and deemed to exist upon any one of the following circumstances:

- (1) By death or resignation of a member.
- (2) By recall or other removal from office in any manner authorized by law.
- (3) By a member ceasing to possess and maintain the qualification of qualified elector for the office prescribed in section 6 of this Charter and/or by ceasing to be a permanent resident of the Town for the duration of the term of office. The Commission shall be the sole judge of the qualifications of its members and shall hear all questions relating to qualifications of its members, including whether the member ceases to maintain his/her permanent residence in the Town, at a hearing to be publicly noticed in a newspaper of general circulation in the Town at least one week prior thereto. The commissioner in question shall have the burden of establishing qualifications and/or residency and shall be afforded the opportunity to present his/her position thereon but shall otherwise abstain from

¹ Proposed additions to existing Town Charter text are indicated by underlining; proposed deletions from existing Town Charter text are indicated by ~~strikethrough~~.

Commission vote and/or related deliberation by the Commission on the final determination of qualifications and/or residency. The final determination by the Commission that a commissioner has forfeited his/her office by virtue of this subsection shall be by Resolution. All votes and other acts of the commissioner in question prior to the effective date of such Resolution shall be valid and otherwise unaffected by the subject Resolution. This public hearing procedure may be initiated by majority vote of the Commission or after certification of a petition by a minimum of 10% of qualified electors of the Town in the manner prescribed for initiatives in this charter or applicable law. Notwithstanding the foregoing, a public hearing to determine the issue of qualifications and/or residency may not be initiated by petition of the qualified electors more frequently than once every six months.

- (4) By a member being convicted of a felony or crime involving moral turpitude.
- (5) By legal declaration of mental incompetence of a member.
- (6) When there are unfilled Commission seats as a result of no candidate(s) having qualified to fill such seats after the end of applicable qualifying periods for the General Election.
- (7) Subject to determination by the Town Commission, a vacancy on the Commission shall be deemed to exist on the date a commissioner has been absent without good cause from three consecutive regular monthly meetings of the commission, or has been absent without good cause from five regular monthly meetings of the commission within a calendar year. The Commission shall determine the issue of good cause at a hearing to be publicly noticed in a newspaper of general circulation in the Town at least one week prior thereto, at which hearing the Commissioner in question shall have the burden of establishing good cause and shall be afforded the opportunity to present his position thereon but shall otherwise abstain from Commission vote and/or related deliberation by the Commission on the final determination of good cause. The final determination by the Commission that a Commissioner has forfeited his office by virtue of this subsection shall be by Resolution, and all votes and other acts of the Commissioner in question prior to the effective date of such Resolution shall be valid and otherwise unaffected by the subject Resolution.

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