

**TOWN OF SURFSIDE**  
**Office of the Town Attorney**

MUNICIPAL BUILDING  
9293 HARDING AVENUE  
SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser  
Town Attorney

Telephone: 305 993-1065

**MEMORANDUM**

**TO:** Town Commission

**FROM:** Lynn M. Dannheisser, Town Attorney *[Signature]*

**cc:** Roger Carlton, Town Manager  
Sandra Novoa, Town Clerk

**DATE:** June 12, 2012

**SUBJECT:** Update on Scheduling of Special Election

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**Special Election Date:**

The earliest, acceptable date to hold a special election to fill the Commission seat vacated by Commissioner Lisbon that complies with the Town of Surfside Charter and can be accommodated by the County is August 28, 2012.

**Reasons:**

Reference is made to my earlier memorandum on Commissioner Lisbon's resignation and an analysis of the legal issues arising out of this event. Notwithstanding Commissioner Lisbon's reference in his irrevocable resignation letter to his intent to resign on November 6<sup>th</sup> as allowable by State Statutes, the conclusion by this Office was that Section 15. of the Charter would classify this event as creating a vacancy in office, triggering operation of Section 16. of the Charter which provides a vacancy for an unexpired term of more than six (6) months, must be filled by a special election called within ninety (90) days, or in a regular election if one is scheduled to be held within one hundred twenty (120) days of such vacancy. The qualifying and other processes are to be the same as in a regular election in accordance with Section 101. of the

Charter requiring for any election that a nominating petition with the signatures of twenty-five (25) qualified electors must be filed with the Clerk “not more than fifty-five (55) and not less than thirty-five (35) days prior to the election date.”

In conferring with the Elections department about the variety of election dates that might meet their state statutory requirements as well as our charter requirements, we have come to the conclusion that this must occur in late August. This was confirmed in a conference call with Elections last Thursday in which we agreed the best date for all concerned was August 28<sup>th</sup>. To demonstrate why, at the Mayor’s request, we have constructed the following attached charts that outline all the possibilities that were considered by the Town and the County.

Naturally, our first desire was to piggy-back on the August primary election which would save the Town the cost of a separate special election. The charts show the analysis that was conducted applying County’s legal constraints relating to elections as well as the Town’s charter constraints that brings us to the August date conclusion. The Election Date charts also include the costs involved in each option.

The scheduling of the election date is, of course, contingent upon qualified electors seeking nomination. In the event there are no qualified electors of the Town seeking candidacy, the Commission (after advertised notice) shall appoint, by a majority vote, a qualified elector of the Town to serve as a Commissioner for the unexpired term in accordance with Ordinance No. 12- 1586 adopted March 13, 2012.

I trust this simplifies or clarifies all issues. After you review the attached chart, should you have any further questions relating to this matter, please call me.

**TOWN OF SURFSIDE CHARTER REQUIREMENTS:**

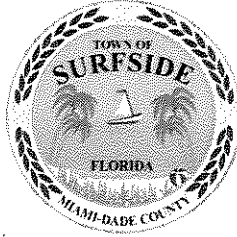
| <b>CHARTER REQUIREMENT</b>  | <b>DEADLINE</b>   |
|---|---|
| Special Election-within 90 days   | Cannot be held after September 9, 2012.   |
| OR<br>Regular Election within 120 days  | Cannot be held after October 10, 2012.  |
| Candidate qualifying dates for an election require <b>not more than 55 days</b> and <b>not less than 35 days</b> to file nominating petition. | <p>If the election date is August 28, 2012 the qualifying dates would be:<br/>7/5/12-7/25/12</p> <p>If the election date is August 14, 2012 the qualifying dates would be:<br/>6/21/12-7/11/12</p> <p>If the election date is November 6, 2012 the qualifying dates would be:<br/>9/13/12-10/3/12</p> |

**MIAMI-DADE COUNTY REQUIREMENTS:**

| <b>MIAMI-DADE/STATE REQUIREMENTS</b>  | <b>DEADLINE</b>   |
|---|---|
| The County requires that with a special election an Ordinance/Resolution is passed no less than 60 days before the special election.  | If the Ordinance/Resolution is passed in the June Commission meeting the election could not be before August 9, 2012. |
| The State mandates a deadline for a municipality to pass the required Ordinance/Resolution for the August 14, 2012 Primary Election.  | The deadline was June 8, 2012.  |
| The State mandates a deadline for a municipality to pass the required Ordinance/Resolution for the November 6, 2012 General Election. | The deadline is August 17, 2012.  |

**ELECTION DATE:**

| <b>ELECTION DATE</b>    | <b>CONFLICTS</b>   | <b>COST</b> |
|-------------------------|--|-------------|
| <b>August 14, 2012</b>  | <ul style="list-style-type: none"> <li>State mandated June 8, 2012 deadline. <b>Cannot meet.</b></li> </ul>            | \$0         |
| <b>August 28, 2012</b>  | <ul style="list-style-type: none"> <li>None – <b>Can do.</b></li> </ul>  | \$14,308.17 |
| <b>November 6, 2012</b> | <ul style="list-style-type: none"> <li>This date conflicts with the Town Charter 120 day- <b>Cannot do.</b></li> </ul> | \$0         |



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**MEMORANDUM**

**TO:** Town Commission

**FROM:** Lynn M. Dannheisser, Town Attorney *LMD*

**cc:** Roger Carlton, Town Manager  
Sandra Novoa, Town Clerk

**DATE:** June 12, 2012

**SUBJECT:** Acceptance of Commissioner Lisbon Resignation

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Attached is an amended resolution clarifying that the effective time of the resignation is at the *conclusion* of the June 12<sup>th</sup> meeting. That may have been implicit in the earlier resolution but because of where the item is placed on the agenda, technically it will be considered and adopted earlier than the actual effective point of resignation. This clarification will allow the Commissioner to participate in the entire meeting and for there to be a full complement representing the Town until the time when our Charter mandates acceptance of the resignation.

RESOLUTION NO. 12-\_\_\_\_\_

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA ACCEPTING COMMISSIONER LISBON'S RESIGNATION FROM OFFICE AND SCHEDULING A SPECIAL ELECTION IN ACCORDANCE WITH THE TOWN CHARTER; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE ANY NECESSARY ACTION AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on May 24, 2012 Commissioner Sheldon Lisbon issued his irrevocable letter of resignation from his office as Commissioner of Surfside which is attached hereto as Exhibit "A" and incorporated herein; and

**WHEREAS**, Section 15 (5) (a) of the Town Charter provides that such a resignation creates a vacancy on the Commission "from the date of the announcement of such resignation at the first regular Commission meeting following its receipt" and

**WHEREAS**, Section 16 of the Town Charter requires that vacancies on the Commission if for an unexpired term of more than six (6) months shall be filled by a special election called within ninety (90) days , or in a regular election if one is scheduled to be held within one hundred and twenty (120) days of such vacancy;

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

**Section 1.**     **Recitals.**     The above recitals are true and correct and incorporated into this Resolution by this reference.

**Section 2.**     **Acceptance of Resignation.**     The Commission hereby accepts Commissioner's Lisbon's irrevocable resignation from the Town Commission at the conclusion of the June 12, 2012 Commission meeting.

**Section 3. Scheduling of a Special Election.** In accordance with Section 16 of the Town Charter, the Commission hereby requests the Town Clerk to schedule a special election on August 28, 2012.

**Section 4. Authorization of Town Officials.** The Town Manager and Town Attorney are hereby authorized to take all steps necessary to complete the execution of the terms of this Resolution.

**Section 4. Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 12<sup>th</sup> day of June, 2012.

Motion by Commissioner \_\_\_\_\_, Second by Commissioner \_\_\_\_\_.

FINAL VOTE ON ADOPTION

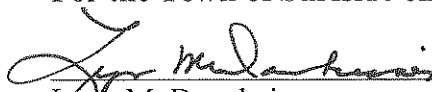
Commissioner Michelle Kligman \_\_\_\_\_  
Commissioner Sheldon Lisbon \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Michael Karukin \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

\_\_\_\_\_  
Daniel Dietch, Mayor

**Attest:**

\_\_\_\_\_  
Sandra Novoa, Town Clerk

**Approved as to form and legal sufficiency  
For the Town of Surfside only:**

  
\_\_\_\_\_  
Lynn M. Dannheisser  
Town Attorney