

RESOLUTION NO. 14 - 2238

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA CALLING FOR A NOVEMBER 4, 2014 TOWN OF SURFSIDE SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE TOWN OF SURFSIDE, FLORIDA AMENDMENTS TO TOWN CHARTER LANGUAGE GOVERNING "VACANCIES ON COMMISSION"; PROVIDING FOR COPIES OF THE CHARTER AMENDMENT TO BE AVAILABLE FOR PUBLIC INSPECTION; PROVIDING FOR THE TOWN CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 97.1 of the Town Charter of the Town of Surfside ("Town") referencing Section 6.03 of Article 6 of the Home Rule Charter for Miami-Dade County provides the manner in which charter amendments shall be proposed; and

WHEREAS, in accordance with provisions of the Charter of the Town of Surfside, Florida 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 4, 2014, for the purpose of submitting to the electorate the question as set forth hereinafter; 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 of the Town of Surfside as soon as the ballots from the precinct has been tabulated; and

WHEREAS, the voting precinct in the Town of 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, Florida 33154. All Town electors shall vote at this polling place for this Special Election, and

WHEREAS, not less than thirty 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 in accordance with the provisions of Section 100.342, Florida Statutes, and the Code of the Town of Surfside.

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

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

Section 2. Notice of Election

The Notice of Election shall be substantially in the following form:

THE TOWN OF SURFSIDE, FLORIDA

NOTICE OF SPECIAL ELECTION

NOTICE IS HEREBY GIVEN THAT A SPECIAL ELECTION HAS BEEN CALLED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AND WILL BE HELD IN SAID TOWN FROM 7:00A.M. UNTIL 7:00P.M. ON THE 4TH DAY OF NOVEMBER, 2014, AT WHICH TIME THERE SHALL BE SUBMITTED TO THE DULY REGISTERED AND QUALIFIED VOTERS OF THE TOWN OF SURFSIDE THE FOLLOWING QUESTION:

Vacancies on Commission

Shall Charter language governing “Vacancies on Commission” be amended to:

- Clarify when vacancies occur and establish process for filling vacancies;
- Conform related election dates;
- Expand definition of “vacancy” to include when Commission seats remain unfilled after qualifying ends; and
- Grant Commission “good cause” power excusing Commission member’s failure to attend meetings resulting in possible vacancy.

_____ Yes

_____ No

Said Notice shall further set forth that Surfside Town Hall is the applicable polling place as set forth above, and shall further set forth pertinent information regarding eligibility of electors to participate in said election.

Section 3. Form of Ballot.

- A. That the official ballot to be used in the Special Election to be held on November 4, 2014, hereby called, shall be in substantially the following form, to-wit:

“OFFICIAL BALLOT”

Vacancies on Commission

Shall Charter language governing “Vacancies on Commission” be amended to:

- Clarify when vacancies occur and establish process for filling vacancies;
- Conform related election dates;
- Expand definition of “vacancy” to include when Commission seats remain unfilled

- **after qualifying ends; and**
- **Grant Commission “good cause” power excusing Commission member’s failure to attend meetings resulting in possible vacancy.**

_____ Yes

_____ No

B. The form of the ballots to be used in this Special Election and their preparation shall be in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.

Section 4. Registration to vote. Registration of persons desiring to vote in the Special Election shall be in accordance with the general law of the State of Florida governing voter registration. Qualified persons may obtain registration forms to vote at the Office of the Town Clerk, Town Hall, 9293 Harding Avenue, Florida 33154, during normal business hours, and at such other voter registration centers and during such times as may be provided by the Supervisor of Elections of Miami-Dade County. The Miami-Dade County Supervisor of Elections will register voters until 5:00 p.m. on Monday, October 6, 2014. All persons eligible to vote at this Special Election must be registered before the time and date set forth herein or have registered previously, as provided by law. Each person desiring to become a registered voter shall be responsible for properly filling out the registration form and returning it to the Miami-Dade County Elections Office. All questions concerning voter registration should be directed to the Miami-Dade County Elections Office, 2700 N.W. 8th Avenue, Doral, Florida 33172; Telephone: (305) 499-VOTE (8683).

Section 5. Absentee Voters. That the absentee voters participating in said Special Election shall be entitled to cast their ballots in accordance with the provisions of the Laws of the State of Florida with respect to absentee voting.

Section 6. Election Expenses. That the Town of Surfside shall pay all expenses for conducting this Special Election and will pay to Miami-Dade County or directly to all persons or firms, upon receipt of invoice or statement approved by the Supervisor of Elections of Miami-Dade County, Florida.

Section 7. Available for Public Inspection/Town Clerk to Utilize the Services of Miami-Dade County Supervisor of Elections. The place, information and the full text of the proposed Charter amendments are available at the Office of the Town Clerk located at 9293 Harding Avenue, Surfside, Florida. Copies of this Resolution providing for this Charter amendment subject to this referendum approval is on file in the Office of the Town Clerk and 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.

Section 8. Severability. If any section, sentence, clause or phrase of the ballot measure or proposed Charter text is held to be invalid or unconstitutional by any court of competent

jurisdiction, then said holding shall in no way affect the validity of the remaining portions of said ballot measure or Charter text.

Section 9. Authorization of Town Officials. The Town Manager, Town Attorney and Town Clerk are hereby authorized to take all steps necessary to complete the execution of the terms of this Resolution.


Section 10. Effective Date. This Resolution shall be effective immediately upon its passage.

PASSED AND ADOPTED this 8th day of July, 2014.
Motion by ~~Commissioner~~ Vice Mayor Tourgeman, second by Commissioner Karukin.

FINAL VOTE ON ADOPTION

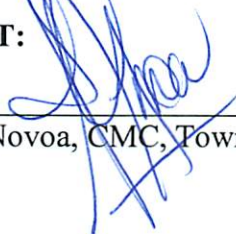
Commissioner Barry Cohen
Commissioner Michael Karukin
Commissioner Marta Olchyk
Vice Mayor Eli Tourgeman
Mayor Daniel Dietch

yes
yes
yes
yes
yes



Daniel Dietch, Mayor

ATTEST:



Sandra Novoa, CMC, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



Linda Miller, Town Attorney

TOWN OF SURFSIDE
NOVEMBER 4, 2014 SPECIAL ELECTION:
BALLOT QUESTION AND PROPOSED AMENDED TOWN CHARTER TEXT RE:
“VACANCIES ON COMMISSION”

I. BALLOT QUESTION:

Vacancies on Commission

Shall Charter language governing “Vacancies on Commission” be amended to:

- Clarify when vacancies occur and establish process for filling vacancies;
- Conform related election dates;
- Expand definition of “vacancy” to include when Commission seats remain unfilled after qualifying ends; and
- Grant Commission “good cause” power excusing Commission member’s failure to attend meetings resulting in possible vacancy.

II. PROPOSED AMENDED TOWN CHARTER TEXT:

RELATED CHARTER SECTIONS:

Section 10 “Duties of the ~~v~~Vice ~~m~~Mayor”

The ~~v~~Vice ~~m~~Mayor shall act as ~~m~~Mayor during the absence or disability of the ~~m~~Mayor, and, if a vacancy occurs in the office of ~~m~~Mayor, shall succeed to that office for the remainder of the unexpired term. ~~Council~~ The Commission shall then elect from among its members, as soon thereafter as practicable, ~~an assistant~~ a Vice ~~m~~Mayor to fill the vacancy thereby created in that office.

Section 15 “Vacancies on commission—When deemed to exist”

Vacancies on the commission ~~may~~ shall be created and deemed to exist ~~by reason of~~ 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 the qualification of qualified elector for the office prescribed in section 6 of this Charter, ~~or by disqualification as provided in clause (e) of this section~~ and/or by ceasing to be a resident of the Town.
- (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.

~~(a) A vacancy on the commission shall be deemed to exist from the date of death of a member, or, in the event of the oral or written resignation of a member, from the date of the announcement of such resignation at the first regular commission meeting following its receipt unless it has previously been withdrawn.~~

~~(b) A vacancy on the commission shall be deemed to exist on the date a commissioner is recalled under the provisions of Article VII of this Charter.~~

~~(c) A vacancy on the commission shall be deemed to exist on the date a commissioner has maintained and resided in, a regular place of abode outside the corporate limits of the Town of Surfside for a longer period of time than thirty days; or a vacancy shall exist on the commission on the date a member ceases to be a qualified elector as defined in section 6 of this Charter; or a vacancy on the commission shall be deemed to exist on the date a commissioner ceases to be a resident of the Town of Surfside; or~~

(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 cause¹ 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.

~~(d) A vacancy on the commission shall be deemed to exist on the date a commissioner is convicted of a felony or a crime involving moral turpitude, or on the date he is declared mentally incompetent by a court of proper jurisdiction.~~

Section 16 “Same—Procedure in filling”

Vacancies on the commission shall be filled for the remainder of the subject unexpired term as follows, unless otherwise specifically provided in the Charter:

Vacancies on the commission shall be filled within twenty (20) days by the remaining members of the commission if for an unexpired term of six (6) months or less. If a majority of the remaining members of the commission are unable to agree within the said twenty-day period on a commissioner to fill such vacancy, then an election to fill the vacancy shall be held within ~~thirty (30)~~ sixty (60) days thereafter.

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 for vacancies other than as set forth in Charter section 15(6) shall be filled in a regular election if one is scheduled to be held within one hundred twenty (120) days of such vacancy, subject to Charter section 105(2).

In the event the election has not been held due to said Commission member having been elected by operation of law pursuant to this Charter, such Official’s term shall commence thereafter upon the earlier of, the immediately following Commission meeting or the immediately following third business day, whereupon said Official shall be administered the oath of office.

Should the eCommission fail or refuse to order an election as herein provided within the

¹ See, Town Code section 109 “Commission to judge qualifications, etc., of members”.

time required, such election may be ordered by any court of competent jurisdiction.

The qualifying of candidates for a ~~s~~Special ~~e~~Election to fill a vacancy shall be the same as provided for regular elections in Article VI of this Charter, and any RunOff Election, if needed, shall be held two weeks from the Special Election date.

Section 105 “General and special elections of commission members”

* * * *

(2) Should a vacancy on the commission be filled at a ~~g~~General municipal election, pursuant to ~~Article II, section 13, {codified as Charter section 16}~~, the term of such vacancy shall be considered to have expired and the candidate elected ~~to fill such vacancy~~ shall be elected for a two year term. The commission may implement the provisions of this section or other provisions of this Charter governing the filling of vacancies, by ordinance, not inconsistent with the provisions of this Charter.

(3) If two or more vacancies occur at approximately the same time they shall be filled separately in the order in which they occur. If all the places on the commission shall become vacant at once, or should a majority of the places on the commission ~~shall~~ become vacant ~~at once~~, the ~~€~~Town ~~m~~Manager shall within sixty days call a ~~s~~Special ~~e~~Election of members to serve for the remainder of the unexpired terms; the candidates receiving the highest number of votes shall be elected for the longest unexpired terms and the candidates receiving the next highest number of votes shall be elected for the shortest unexpired terms. Should the ~~€~~Town ~~m~~Manager fail or refuse to order an election as herein provided within the time required, such election may be ordered by any court of competent jurisdiction. * * *