

RESOLUTION NO. 14 - 2239

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 "VACANCY IN CANDIDACY"; 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:

Vacancy in Candidacy

Per Charter Section 105(8), if more than five candidates qualify but said number is reduced before election date, election is postponed and supplemental qualifying occurs. Shall the Charter be amended to delete this Section and establish a revised supplemental qualifying process for vacancy in candidacy due to death, withdrawal or removal from ballot of candidates, said process including term commencement and Vice Mayor selection, and establish conditions for candidate(s) election by operation of law?

_____ 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”

Vacancy in Candidacy

Per Charter Section 105(8), if more than five candidates qualify but said number is reduced before election date, election is postponed and supplemental qualifying occurs. Shall the Charter be amended to delete this Section and establish a revised supplemental qualifying process for vacancy in candidacy due to death, withdrawal or removal from ballot of candidates, said process including term commencement and Vice Mayor selection, and establish conditions for candidate(s) election by operation of law?

_____ 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 - burgeman, 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:
“VACANCY IN CANDIDACY”

I. BALLOT QUESTION:

Vacancy in Candidacy

Per Charter Section 105(8), if more than five candidates qualify but said number is reduced before election date, election is postponed and supplemental qualifying occurs.

Shall the Charter be amended to delete this Section and establish a revised supplemental qualifying process for vacancy in candidacy due to death, withdrawal or removal from ballot of candidates, said process including term commencement and Vice Mayor selection, and establish conditions for candidate(s) election by operation of law?

II. PROPOSED AMENDED TOWN CHARTER TEXT:

RELATED CHARTER SECTIONS:

Section 105 “General and special elections of commission members”

* * *

~~(8) If more than five (5) candidates qualify for the general Commission election, and if after the last date for qualifying and before the date of the election the number of candidates is reduced for any lawful reason to five (5) or less, the election shall be postponed by the Commission to a date not less than twenty eight (28) days nor more than thirty five (35) days from the scheduled date. Qualifying of candidates shall be reopened until fourteen (14) days before the new election date. The terms of all incumbent Commissioners shall be extended until their successors are duly elected.~~

A. If not more than one candidate has qualified for Mayor and/or the number of qualified candidates for Town Commissioner are equal to or less than the number of seats to be filled, then said candidates shall be elected by operation of law and no election for said Office(s) shall be conducted. Any remaining unfilled seats on the commission shall be filled in accordance with the supplemental qualifying process set forth in subsection B below, as applicable.

B. If more than one candidate has qualified for Mayor and/or the number of qualified candidates for Town Commissioner are greater than the number of seats to be filled, then the election shall be held for purposes of electing said officials. If however, following the qualifying period a qualified candidate withdraws, dies, or is removed from the ballot, leaving fewer than two qualified candidates for Mayor and/or a number of qualified candidates for Town Commissioner which are equal to or less than the number of seats to be filled, then a vacancy in candidacy shall have occurred, and there shall be one supplemental qualifying period of five (5) business days beginning on the first business day immediately following the vacancy. The Town shall by ordinance establish the number of days (no less in number than as advised by the Miami-Dade County Elections Department) prior to the election date by which no further supplemental qualifying period shall occur.

(a) If after the end of all applicable qualifying periods there are two or more

qualified candidates for Mayor and/or the number of qualified candidates for Town Commissioner are greater than the number of seats to be filled, then the election shall be held for purposes of electing said officials.

(b) If after the end of all applicable qualifying periods there is only one qualified candidate for Mayor and/or the number of qualified candidates for Town Commissioner are equal in number or less than the number of seats to be filled, then said candidates shall be deemed elected by operation of law and no election for said Office(s) shall be conducted.

(c) Any unfilled Commission seats remaining after the end of all applicable qualifying periods for the General Election as a result of no candidates having qualified to fill such seats shall be deemed a vacancy on the commission, which shall be filled in accordance with the procedure set forth in section 16 of the Town Charter.

C. The terms of all newly-elected commissioners from the General/RunOff Election shall commence in accordance with Charter section 19 except in the event the election has not been held due to all said commission members having been elected by operation of law as set forth hereinabove, in which case all such officials' terms shall commence on the first business day immediately following the subject scheduled election date, whereupon they shall be administered the oath of office. Moreover, in the event at least one of the Town Commissioners has been elected by operation of law, the selection of Vice Mayor shall be made by the new Town Commission.

Section 8 "Presiding officers"

The ~~m~~Mayor shall be elected separately from his/her own group. The four ~~e~~Commissioners shall run at-large and the ~~e~~Commissioner receiving the highest number of votes in the ~~g~~General ~~e~~Election shall, for a term of two years immediately following thereafter, have the title of ~~v~~Vice-~~m~~Mayor, subject to the limited exception provided for in Charter section 105(8)C. The ~~e~~Commissioners receiving the second, third and fourth highest number of votes in the ~~g~~General ~~e~~Election shall, for a term of two years immediately following thereafter, serve as the remaining ~~e~~Commissioners.