

RESOLUTION NO. 2020-2703

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 3, 2020 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE A PROPOSED AMENDMENT TO THE TOWN CHARTER SECTION 4 - "GENERAL POWERS OF TOWN; POWERS NOT DEEMED EXCLUSIVE", AS PRESENTED IN A BALLOT QUESTION ON AN AMENDMENT TO THE TOWN CHARTER "ESTABLISHING LIMITATIONS ON THE SALE, LEASE OR EXCHANGE OF TOWN-OWNED REAL PROPERTY"; PROVIDING FOR NOTICE OF ELECTION; 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 SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside ("Town") Commission recognizes the importance of preserving real property owned by the Town for public purposes and to ensure the continued use and enjoyment of such lands by Town residents and future generations; and

WHEREAS, the Town Commission wishes to seek the approval of the electors by a ballot question referendum concerning an amendment to Section 4 of the Charter "General Powers of the Town; Powers not Deemed Exclusive" to restrict the sale, lease for a term in excess of three (3) years or exchange of any real property owned by the Town unless such is determined to be in the best interest of the Town by at least four (4) members of the Town Commission and is approved by a minimum of 60% of the Town electors voting in favor of such sale, lease or exchange of any real property at a referendum; and

WHEREAS, Section 97.1 of the Town Charter 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 Town Charter 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 3, 2020, for the purpose of submitting to the electorate the proposed referendum ballot language concerning an amendment

to Section 4 of the Charter “General Powers of the Town; Powers not Deemed Exclusive” to restrict the sale, lease or exchange of any real property owned by the Town; 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.

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

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

Section 2. Special Election Called; Notice of Election. That a special election is hereby called, to be held on Tuesday, November 3, 2020, in conjunction with a County-wide election, 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, September 27, 2020), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, October 11, 2020), and shall be in substantially the following form:

“THE TOWN OF SURFSIDE, FLORIDA

NOTICE OF CHARTER AMENDMENT SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO. _____ 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 3, 2020, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING BALLOT QUESTION REFERENDUM SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN:

ESTABLISHING RESTRICTIONS ON THE SALE, LEASE OR EXCHANGE OF TOWN-OWNED REAL PROPERTY

The Charter provides for the unrestricted sale or lease of Town-owned real property. Shall the Charter be amended to restrict the sale, lease for a term in excess of three years or exchange of Town-owned real property unless approved by at least four members of the Town Commission and a minimum of 60% of Town electors voting at a referendum for any such sale, lease or exchange of Town-owned real property?

YES []

NO []

The polling place for the Special Election shall be the Surfside Town Hall located at 9293 Harding Avenue, Surfside, Florida 33154 and any other polling places provided for the Town election. All Town electors who are timely registered shall be eligible to vote. The enabling Resolution, including the 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.** The form of ballot for the charter amendment special election provided for in Section 2 of this Resolution shall be substantially as follows:

“ESTABLISHING RESTRICTIONS ON THE SALE, LEASE OR EXCHANGE OF TOWN-OWNED REAL PROPERTY

The Charter provides for the unrestricted sale or lease of Town-owned real property. Shall the Charter be amended to restrict the sale, lease for a term in excess of three years or exchange of any Town-owned real property unless approved by at least four members of the Town Commission and a minimum of 60% of Town electors voting at a referendum for any such sale, lease or exchange of said Town-owned real property?

YES []

NO [] “

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

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 places 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 charter amendment Special Election if adopted and effective.

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

PASSED AND ADOPTED this 14th day of July, 2020.

Moved By: Commissioner Velasquez

Second By: Commissioner Salzhauer

FINAL VOTE ON ADOPTION

Commissioner Charles Kesl Yes

Commissioner Eliana R. Salzhauer Yes

Commissioner Nelly Velasquez Yes

Vice Mayor Tina Paul Yes

Mayor Charles W. Burkett Yes



Charles W. Burkett, Mayor

ATTEST:



Sandra McCready, MMC, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE TOWN OF SURFSIDE ONLY:**



Town Attorney

EXHIBIT "A"

TEXT OF PROPOSED CHARTER AMENDMENT OF THE TOWN OF SURFSIDE

ESTABLISHING RESTRICTIONS ON THE SALE, LEASE OR EXCHANGE OF TOWN-OWNED REAL PROPERTY

The Town of Surfside Charter Section 4 - "General powers of town; Powers not deemed exclusive" is hereby amended to read as indicated below, with additions to existing Charter text being shown in underline; and deletions from existing Charter text being shown in ~~strikethrough~~.

Sec. 4. – General powers of town; Powers not deemed excusive.

The town shall have all the powers granted to municipal corporations and to towns by the constitution and general laws of the state, together with all the implied powers necessary to carry into execution all the powers granted. The town may acquire property within or without its corporate limits for any town purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise or lease., ~~and may sell, lease, mortgage, hold, manage and control such property as its interests may require.~~ The Town shall not sell, lease for a term in excess of three years or exchange any Town-owned real property, unless such sale, lease or exchange is approved by at least four (4) members of the Town Commission and a minimum of 60% of the Town electors voting at a regularly scheduled general election or special election of the voters of the Town on such proposed sale, lease or exchange of Town-owned real property. This restriction shall not apply to existing leases entered into prior to the effective date of this provision, nor shall it apply to any utility, easements or rights-of-way. Except as prohibited by the constitution of this state or restricted in this Charter, the town shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the town shall have and may exercise all powers which, under the constitution of this state, it would be competent for this Charter specifically to enumerate.

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