

RESOLUTION NO. 2023- 3015

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 A PROPOSED AMENDMENTS TO THE TOWN CHARTER AT ARTICLE II, SECTION 31.1 "PERSONNEL APPEALS BOARD", AS PRESENTED IN A BALLOT QUESTION ON AMENDMENTS TO THE TOWN CHARTER ALLOWING THE TOWN CLERK TO FILE AN APPEAL WITH THE PERSONNEL APPEALS BOARD; 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 Article 6 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, Section 31.1 "Personnel Appeals Board" of the Town Charter allows certain employees to file an appeal with the Personnel Appeals Board if they claim to have been discharged or reduced in pay or rank without cause, and provides that all employees who have been continuously employed by the Town for at least two years may

appeal to the Board, except for the town manager, town clerk, town prosecutor, and town attorneys and town judges; and

WHEREAS, the proposed Charter amendment to Section 31.1. would allow the Town Clerk, as an employee of the Town, to file an appeal with the Personnel Appeal Board in connection with a claimed discharge or reduction in pay or rank without cause and request a hearing; 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.

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, 2022), 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. 2023-3015 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:

ALLOWING THE TOWN CLERK TO FILE AN APPEAL WITH THE PERSONNEL APPEALS BOARD

The Charter currently provides that certain employees may file an appeal with the Personnel Appeals Board if they claim to have been discharged or reduced in pay or rank without cause, but excludes the Town Clerk. Shall the Charter be amended to allow the Town Clerk to file an appeal with the Personnel Appeal Board for a claimed discharge or reduction in pay or rank without cause and request a hearing?

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

ALLOWING THE TOWN CLERK TO FILE AN APPEAL WITH THE PERSONNEL APPEALS BOARD

The Charter currently provides that certain employees may file an appeal with the Personnel Appeals Board if they claim to have been discharged or reduced in pay or rank without cause, but excludes the Town Clerk. Shall the Charter be amended to allow the Town Clerk to file an appeal with the Personnel Appeal Board for a claimed discharge or reduction in pay or rank without cause and request a hearing?

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: Commissioner Meisheid
Second By: Vice Mayor Rose

FINAL VOTE ON ADOPTION:

Commissioner Fred Landsman	<u>Yes</u>
Commissioner Marianne Meisheid	<u>Yes</u>
Commissioner Nelly Velasquez	<u>Yes</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

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ARTICLE II. – TOWN COMMISSION

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Sec. 31.1. Personnel appeals board.

The town commission shall appoint a Personnel Appeals Board consisting of five qualified electors of Dade County, Florida, whose legal residence is in the Town of Surfside, to serve without compensation for two-year terms, and to fill vacancies thereon for unexpired terms. Any employee of the town, except the town manager, ~~town clerk,~~ town prosecutor, town attorneys and town judges, who immediately prior thereto have been continuously employed by the Town of Surfside for at least two years, if he claims to have been discharged or reduced in pay or rank without cause, may file within twenty days from his discharge or reduction in pay or rank, with the Personnel Appeals Board, a statement of appeal which must allege that he has been continuously employed by the Town of Surfside for at least two years next preceding the filing of the statement of appeal set forth the facts regarding the discharge or reduction in pay or rank and request a hearing. Within fourteen days after the filing of such appeal, the Personnel Appeals Board shall notify the employee of the date for formal hearing, which shall be no later than thirty days after the date of the filing of the statement of appeal.

The decision of the Personnel Appeals Board, if concurred in by four members of said Board, shall be binding upon the town and the employee. Such decision may either order a new hearing, or dismiss the appeal on the merits, or order the reinstatement of the employee absolutely or on terms and conditions, or may require such other action as may be just.

The town commission shall make such rules of procedure for the Personnel Appeals Board, by ordinance, from time to time as it may deem necessary.

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