



**TOWN OF SURFSIDE  
COMMISSION COMMUNICATION MEMORANDUM**

**TO:** Elected Officials

**CC:** Michael P. Crotty, Town Manager  
Sandra Novoa, CMC, Town Clerk

**FROM:** Jean Olin, Special Counsel *JO*  
Linda Miller, Town Attorney *LM*  
Charter Review Board

**DATE:** March 11, 2014

**SUBJECT: FINAL REPORT OF THE CHARTER REVIEW BOARD--  
RECOMMENDING PHASE I AMENDMENTS TO THE TOWN OF SURFSIDE  
CHARTER FOR FUTURE PLACEMENT ON TOWN'S ELECTION BALLOT AND  
SUGGESTED PREPARATION OF VOTERS GUIDE FOR THE PURPOSE OF  
INFORMING THE PUBLIC OF SUCH PROPOSED AMENDMENTS.**

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**I. BACKGROUND:**

On November 6, 2012, the Town of Surfside's voters approved an amendment to the Town's Charter providing for mandatory review of the Town Charter every ten years. Charter Section 128 was thus created, authorizing the Town Commission to appoint a 5 member Charter Review Board to examine the Town's Charter for suggested revisions, further providing that "... upon completion of their work and written recommendations to the Commission, the Town Commission shall consider said recommendations at the next regularly scheduled Commission meeting. ..."

Inasmuch as the Town's appointed board members terms of office are coterminous with terms of the Town Commission members<sup>1</sup>, the Charter Review Board ("CRB") members' terms will expire after this month's General Election. Therefore, the CRB is presenting its Final Report to the Town Commission at today's last regularly-scheduled Commission meeting occurring prior to the Election. Per Charter Section 128, the Town Commission is thus required to "consider" the CRB's recommendations.

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<sup>1</sup> See, Town of Surfside Resolution No. 2007-1792.

## II. CRB MEETINGS/RECOMMENDATIONS:

As a result of the limited three month+ timetable in which to conduct its review<sup>2</sup>, thorough review of the entire Charter was not possible. CRB Chairman Lou Cohen, Vice Chair Marc Imberman, Anthony Blate, Terry Cohen and Marty Oppenheimer thus decided upon a two-Phase process for examination of Charter language, encompassing review of election-related issues during Phase I, with remaining examination of the Charter's provisions for Phase II consideration<sup>3</sup>. Pursuant to this recommended process, CRB was able to examine in detail what it perceived to be the most imminent Charter issues requiring review and revision, all such matters related to the Town's elections. During Phase II, it is envisioned that in addition to select substantive revisions, the Charter be reformatted into concise Article divisions reflecting individual topics, and that obsolete, redundant and/or superfluous Charter language will be deleted inasmuch as such matters will no longer be needed for inclusion within the Town's Charter. By deferring consideration of Phase II until after the voters have spoken regarding Phase I issues, it is believed that a complete vetting of remaining Charter issues will be possible, in order to eventually affect the Town's goal of a comprehensive revised Town Charter.

Given the limited amount of time in which to conduct its Phase I review, CRB has since mid-November, 2013 conducted 9 public meetings which included on February 18, 2014, a televised public meeting held for the purpose of seeking further citizen input regarding the proposed Phase I Charter amendments. At each CRB meeting, its members, along with Vice-Mayor Michael Karukin (serving as Town Commission Liaison to the CRB), engaged in meaningful debate and review of the Phase I Charter issues. Town Attorney Linda Miller and Special Counsel Jean Olin presented for CRB analysis the subject Phase I issues and related proposed amendments to the Charter. Town Manager Michael Crotty and Town Clerk Sandra Novoa provided their input and guidance as well. A special acknowledgement and appreciation goes to Irina Mocanu, the Assistant to the Office of Town Attorney for her support in preparation of the CRB Agenda packets and meeting schedule.

Accordingly, the CRB's recommended Charter amendments are attached, along with proposed ballot language for Town Commission consideration should it decide to place any of the Phase I issues on a future ballot. In this regard, pursuant to Miami-Dade County Charter section 6.04 and policy of the County's Election Department, **the last date by which the Town Commission may adopt a Resolution placing a Charter amendment on the County's August 26, 2014 ballot is May 23, 2014 (i.e., May 13, 2014 Town Commission meeting); alternatively, placement of a Charter amendment on the County's November 4, 2014 ballot**

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<sup>2</sup> Charter Review Board appointment and scheduling issues resulted in the CRB's initial meeting taking place on November 14, 2013.

<sup>3</sup> The CRB recommends that Phase II Charter review include analysis and discussion of Charter Article VIII governing "Initiative and Referendum", during which time CRB will have more time to vet possible policy changes as well as reformat existing language.

will require the Town Commission to adopt its Resolution by July 22, 2014 (i.e., July 8, 2014 Town Commission meeting). Should any of the Phase I issues be presented to the voters, the CRB further recommends that the Town Commission authorize the preparation of a “Voters Guide” in order to further inform the voters, as well as establish public meetings in order to allow for increased opportunity for explanation of proposed Charter changes.

### **III. CRB’S PHASE I PROPOSED CHARTER AMENDMENTS -- SUMMARY ANALYSIS:**

The existing Town of Surfside Charter was adopted by Chapter 27914, Special Laws of Florida, Acts of 1951, and was drafted under the provisions of the State Constitution of 1885, which Constitution provided, in essence, that Florida municipalities had only the powers listed in their own Charters. Consequently, Charters drawn under the 1885 Constitution are very lengthy documents that enumerate in great (and often unnecessary) detail City powers. In 1968 the Florida Constitution was amended to completely change the basis of power for municipalities in Florida by granting “home rule power” to cities/towns, under which power municipalities now have all powers of local self-government, unless otherwise preempted by State law. The result is that a large majority of city charters, including the Town of Surfside’s Charter, have become out of date.

The attached proposed Town Charter amendments have been drafted with the intention of complying with the current Florida Constitution of 1968 and the 1973 Municipal Home Rule Powers Act<sup>4</sup>. Due to such laws, referendum approval is required for all of these proposed Phase I Charter amendments, which proposed changes are briefly summarized as follows:

#### **A. “Qualifications for Office”:**

Section 6 of the Town Charter requires that members of the Town Commission be at least 21 years old and a resident of the Town for at least one year before registering to vote. This proposed Charter amendment deletes the “21” year age requirement, so that qualified electors who are at least 18 years of age will now qualify for election to the Town Commission; also, the one year residency requirement shall now be measured from a person’s qualifying for office instead of from the date that person registered to vote, which amendment is believed by CRB to more accurately reflect the intent behind this durational residency requirement that persons running for office be knowledgeable of Town issues when seeking election.

#### **B. “Induction”:**

Charter Section 19 sets forth the time and date by which newly elected Town Commission members are inducted and sworn into office, and also establishes time commencement of regular meetings of the Town Commission. In order to provide for a simultaneous, uniform induction date for all of the Town’s elected officials, and to ensure that

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<sup>4</sup> Florida Statute section 166.021, requiring voter approval of certain Charter amendments, and repeal/conversion to ordinances of remaining Charter provisions.

the inductions take place upon final election results having been certified by the Miami-Dade County Election's Department, this Charter amendment provides for induction of all of the Town's elected officials at 7pm on the day following the County's issuance of final election returns; further, the "8pm" commencement time for regular Commission meetings is proposed instead to be established by ordinance.

**C. "Vacancy on Commission":**

In reviewing Charter sections 15 and 16 dealing with the issue of vacant seats on the Town Commission and the procedure for filling said vacant seats, the CRB was concerned that said provisions fail to address issues recently faced by the Town. Specifically, and with particular reference to the Town's 2012 General Election in which existing Charter language did not expressly allow for the scheduling of a Special Election to fill vacant seats on the Commission when the vacancy was due to a lack of qualified candidates, the CRB has recommended amending the Charter's definition of "vacancy" to include such situation in which an insufficient number of candidates have qualified for office, so that should this situation reoccur, Town Charter section 16's process for filling such vacancy may be invoked as express authority for the needed Special Election.

Additional related CRB recommendations include providing the Town Commission with power to determine whether "good cause" exists to excuse a Commission member's failure to attend meetings resulting in a possible vacancy on the Commission, as well as expressly setting forth language clarifying the commencement of term for a Commission member elected to fill a vacancy.

**D. "Vacancy in Candidacy":**

Having identified the need to correct the above-referenced problems experienced by the Town during its 2012 General Election, the CRB reviewed existing Charter section 105(8) governing situations in which "... five or more candidates have qualified for the General Commission election..." and the number of qualified candidates are later reduced after the qualifying period ends. After much discussion and analysis, the CRB adopted its proposed amendments to this Charter section in order to provide clear expression as to the practical effects of a reduction in the number of qualified candidates after the qualifying period has ended, including:

- Deleting the existing language regarding situations in which "...five or more candidates..." have qualified, thus providing greater applicability of this Charter section to cover all instances in which a vacancy in candidacy exists;
- Providing for the election by operation of law of candidates when the number of such qualified candidates after the original qualifying period has ended are equal to or less than the number of Commission seats to be filled;
- Setting forth a supplemental qualifying period in those instances in which Commission seats remain unfilled due to either an insufficient number of candidates having qualified

for election and/or due to the death, withdrawal or removal of a qualified candidate after the original qualifying period has ended; and

- Setting forth the effects of the supplemental qualifying period on a candidate's election (i.e., by operation of law or via popular vote on election day), and related provisions concerning commencement of terms.

Moreover, although existing Charter section 105(8) provides for the General Election to be postponed in order to allow for a supplemental qualifying period, the CRB amendments have obviated the need to postpone the General Election, instead maintaining the scheduled election date, subject to the requirement established by the Miami-Dade County Department of Election ("DOE") that any supplemental qualifying period end by no later than 30 days before the election date.

**E. "Canvassing Board":**

Charter section 108 establishes a Town "Canvassing Board" with election-related duties (as prescribed by Florida statute). In order to streamline the Charter and ensure consistency with Town Code provisions, CRB recommends moving this section from the Charter into the Town Code Chapter 26 governing "Elections", ensuring that administrative matters dealing with Town elections are in one comprehensive Code chapter.

**F. "Qualifying":**

After extended analysis regarding alternative methods of qualifying for elected municipal office, the CRB has recommended retaining existing Charter section 101's method of qualifying by Petition whereby persons seeking to become candidates must pay a \$25 qualifying fee and obtain the signatures of 25 qualified electors of the Town.

The CRB's proposed Charter amendments thus relate primarily to the change in dates for the filing of the Petition from the Charter's existing "55 to 35 days" prior to the election to "55 to 45 days" before said election, which change is made necessary in order for the Town to 1) ensure that persons may obtain additional signatures, if needed, for their Petitions; and 2) allow for supplemental qualifying of additional candidates in the event the Petitions fail to produce a sufficient amount of candidates to fill all vacant seats on the Commission, all of which concerns must be met against the backdrop of the DOE's above-referenced<sup>5</sup> deadline requirements for finalization of candidate lists. In this regard, it is important to note that although the time period for the filing of Petitions is recommended for change, the ability of persons to obtain signatures for the Petitions has not changed and such persons may still obtain signatures well in advance of the Petition's filing date.

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<sup>5</sup> See "D" above re: "Vacancy in Candidacy".

**G. “Staggered Terms/Increase in Terms”:**

This proposed Charter amendment increases the terms of the four Town Commissioners from two years to four years and establishes staggered terms for the entire Commission, to commence as of the 2016 General Election. The proposed increase in terms shall only apply to the four Town Commissioners and not to the Mayor--the Mayor’s existing two year term shall remain the same. This suggested Charter change is thus unlike the Town’s 2007 Charter amendment which proposed increasing the term of all of the Town’s elected officials from two to four years. Inasmuch as the four Town Commissioners will therefore no longer be elected at the same General Election (instead, two Town Commissioners will be elected for four-year terms at each General Election), the current method established by Charter of selecting the Vice-Mayor (via the “highest vote getter”) will no longer be applicable and CRB has thus recommended that the determination of Vice-Mayor be made by the Town Commission.

**H. “RunOff Election”:**

Although the existing Charter provides for a Runoff Election if a tie vote results from the General Election, Charter section 105(5) limits said Runoff Election to ties between candidates “for the fifth Commission seat”. The proposed Charter changes are thus intended to make clear the instances in which a Runoff Election shall be held by expanding upon the requirement for Runoff Election to tie votes for any Commission seat (not just the “fifth” seat) in those instances wherein it cannot be determined which candidates from the General Election have received the “highest” vote for purposes of election to the Town Commission.

**IV. CONCLUDING NOTE:**

Should the Town Commission place any of the above Charter amendments on a Town election ballot and a majority of the Town’s voting residents approve said measure(s), the revised Charter language shall be filed with the Department of State and with the County, and shall become effective. Conversely, those amendments not approved by majority vote shall not go into effect, and the related existing Charter sections shall remain as said provisions existed prior to the election.

**QUALIFICATIONS FOR OFFICE**

Comment [JO1]: RECOMMENDED BY CRB ON 1/6/14.

**SHALL CHARTER SECTION 6 BE AMENDED TO:**

- **DELETE REQUIREMENT THAT MEMBERS OF TOWN COMMISSION BE AT LEAST 21 YEARS OLD, THEREBY REQUIRING MEMBERS TO BE REGISTERED VOTERS AT LEAST 18 YEARS OLD CONSISTENT WITH EXISTING CHARTER REQUIREMENT THAT MEMBERS BE “QUALIFIED ELECTORS”;**
- **REQUIRE THAT COMMISSION MEMBERS BE TOWN RESIDENTS FOR ONE YEAR IMMEDIATELY PRECEDING QUALIFYING FOR ELECTED OFFICE INSTEAD OF ONE YEAR PRIOR TO REGISTERING TO VOTE; AND**
- **DELETE LANGUAGE REGARDING DUAL-OFFICE HOLDING?**

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**RELATED CHARTER SECTION:**

Sec. 6. Qualifications.

The commissioners ~~members~~ shall be qualified electors of Dade County ~~each being at least 18 years of age and a registered voter~~ whose legal residence is in the Town of Surfside who shall be citizens of the United States, ~~at least twenty one years of age~~ and residents of the State of Florida and Town of Surfside for at least one year ~~immediately preceding qualifying for elected office next preceding registration, and who shall have no other public office except notary public, local civilian defense or war emergency appointments, membership in the National Guard, naval or military reserve, or membership or memberships on State of Florida or National Boards providing that the duties of the members of such board shall not interfere with the duties of the town commissioners.~~

**INDUCTION INTO OFFICE**

Comment [JO1]: RECOMMENDED BY CRB on 1/6/14 and 2/24/14..

**SHALL THE CHARTER BE AMENDED TO ESTABLISH DATE AND RELATED PROCESS RELATING TO INDUCTION INTO OFFICE/COMMENCEMENT OF TERMS OF ALL NEWLY-ELECTED COMMISSION MEMBERS FROM 8PM ON DAY FOLLOWING ELECTION TO 7PM ON DAY IMMEDIATELY FOLLOWING COUNTY ELECTION SUPERVISOR'S ISSUANCE OF FINAL ELECTION RETURNS, AND CHANGE TIME OF REGULAR COMMISSION MEETINGS FROM 8PM TO TIME PRESCRIBED BY ORDINANCE?**

RELATED CHARTER SECTIONS:

**Sec. 19. Induction of commission into office; meetings of commission.**

The term of all newly-elected commissioners shall commence at ~~8:00 p.m., on the day following their election~~ 7:00 p.m. on the first business day immediately following the County Supervisor of Election's issuance of Final Election Returns from the General Election, or if a Run-off Election is necessary, the terms of all new officers shall commence at 7:00pm on the first business day immediately following the County Supervisor of Election's issuance of Final Election Returns from the Run-Off Election, at which time they newly-elected commissioners shall be administered the oath of office. Moreover, if a Run-Off Election is necessary, any Commission meetings occurring between the date of the General Election and the induction of newly-elected Commissioners subsequent to the issuance of final election returns from the Run-Off Election, shall occur for the limited purpose of addressing emergency matters. The commission shall meet monthly at ~~8:00 in the evening of a time to be prescribed by ordinance on~~ the second Tuesday of each month, and on such other days or at such other time or times as may be prescribed by the commission, but not less frequently than once each month. All meetings of the town commission shall conform to the "Sunshine Law" of Dade County and of the State of Florida.

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**Sec. 5. Number; selection; term.**

The commission shall have five members elected from the town at large in the manner and for terms provided in Article VI, or until ~~their successors have been elected and take office~~ the induction of said Town's elected officers as provided by this Charter.

Comment [JO2]: Deleted b/c unless Comm'ers elected by Group seats, can't determine a Comm'er's "successor".

**Sec. 7. Salary.**

Commencing with the term of office ~~beginning at 8:00 on the day following the General Election in 1978~~, the mayor and members of commission shall be paid the sum of one dollar (\$1.00) per fiscal year for attendance at monthly council meetings, irrespective of the number of regular or special meetings attended within such fiscal year.

Comment [JO3]: Consistent with CL hold-over, this language makes clear that incumbents holdover until induction of new officers.

**Sec. 105. General and special elections of commission members.**

(1) On the third Tuesday in March in every even numbered calendar year, all members of the Town Commission shall be elected for terms of TWO (2) years, ~~provided, however, that Commission members elected for FOUR (4) year terms at the 1974 Election pursuant to the Charter provisions in existence prior to the adoption of this Amendment, shall remain in office until the expiration of the term to which they were elected under such prior provisions. At the Election to be held in the year 1976, and biennially thereafter, all members of the Town Commission shall be elected for terms of TWO (2) years;~~ terms to

begin at 8 o'clock P.M. on the day following the Election commence as provided in Charter Section 19.

\* \* \*

(7) No general or special election of the Town of Surfside shall be held on a national or state legal holiday. Should the third Tuesday in March in any even numbered calendar year be declared such a legal holiday, then the regular election scheduled for that day shall be postponed to the first day thereafter that is not a legal holiday, and the induction of commissioners into office shall be deferred to the ~~next business day following such postponed election~~ first business day immediately following the County Supervisor of Election's issuance of Final Election Returns consistent with Charter Section 19, but such deferred induction shall not change the expiration dates of the terms of office of the candidates elected.

**VACANCY ON COMMISSION**

Comment [JO1]: RECOMMENDED BY CRB ON 1/6/14, 1/21/14, 2/3/14, 2/24/14 and 3/3/14..

SHALL CHARTER LANGUAGE GOVERNING “VACANCIES ON COMMISSION” BE AMENDED TO:

- CLARIFY WHEN VACANCIES OCCUR AND ESTABLISH PROCESS FOR FILLING VACANCIES;
- CONFORM RELATED ELECTION DATES AND SPECIFY TERM COMMENCEMENT WHEN FILLING VACANCY;
- 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.

RELATED CHARTER SECTIONS:

**Sec. 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.

**Sec. 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.

Comment [JO2]: Section 6 requires Commission member to be: --resident of town; and --qualified elector (resident and registered to vote).

~~(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 cause<sup>1</sup> 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.~~

### **Sec. 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).

Consistent with Charter section 19, the term of a commissioner elected to fill a vacancy shall commence on the first business day immediately following the County Supervisor of Election's issuance of Final Election Returns from the subject Election, at which time the newly-elected commissioner shall be administered the oath of office. However, 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 commission 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.

The qualifying of candidates for a special election to fill a vacancy shall be the same as provided for regular elections in Article VI of this Charter, and any run-off election, if needed, shall be held two weeks from the special election date.

### **Sec. 105. General and special elections of commission members.**

\* \* \* \*

(2) Should a vacancy on the commission be filled at a general municipal election, pursuant to ~~Article~~

**Comment [JO3]:** Since qualifying period for General Election will have passed as of vacancy per Charter section 15(6), the election to fill such vacancy must be within the 90 days provision.

**Comment [JO4]:** This language added to clarify commencement of terms for commissioners elected to fill vacancies.

**Comment [JO5]:** Language added to clarify term commencement for official elected by operation of law (no election held).

**Comment [JO6]:** Consistent with existing Charter section 105(8) provision for Run-Off after General Election. Clerk confirmed with DOE that 2 week Run Off period still works.

<sup>1</sup> See, Town Code section 109 "Commission to judge qualifications, etc., of members".

~~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 manager shall within sixty days call a special 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 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. \* \*

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**Comment [JO7]:**

This merely reflects that persons elected at General Election will serve for the current 2 year term (subject to change if “Staggered Term” language is approved.

VACANCY IN CANDIDACY

Comment [JO1]: RECOMMENDED BY CRB ON 1/21/14, 2/3/14 and 2/24/14.

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.

RELATED CHARTER SECTIONS:

Sec. 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.

Comment [JO2]: Per CRB, "postponed election" deleted.

Comment [JO3]: Language deleted due to deletion of "postponed election".

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.

Comment [JO4]: Includes situation in which either 1 or 0 candidates qualify for Mayor--if 0 candidates qualify then SQ will occur for that seat.

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. No further supplemental qualifying period shall thereafter be established at all if a vacancy occurs within 30 days prior to the date of the election.

Comment [JO5]: This process will resolve the problem that occurred in the Town's 2012 qualifying process.

(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.

Comment [JO6]: DOE has recommended "30" days as this deadline.

(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.

**Sec. 8. Presiding officers.**

The mayor shall be elected separately from his/her own group. The four commissioners shall run at-large and the commissioner receiving the highest number of votes in the general election shall, for a term of two years immediately following thereafter, have the title of vice-mayor, subject to the limited exception provided for in Charter section 105(8)C. The commissioners receiving the second, third and fourth highest number of votes in the general election shall, for a term of two years immediately following thereafter, serve as the remaining commissioners.

**Comment [JO7]:** This way, no interference with 2 year term of incumbent.  
No election b/c elected by operation of law, therefore there will be no certification of election results to wait for b/4 induction into office.

**Comment [JO8]:** Required b/c no way to determine which Commissioner received the 'highest' amount of votes per Charter section 8.  
(This language is different from the proposed Charter amendments re: "Staggered Terms"--  
Which version of text is adopted depends upon whether voters approve of this and of staggered term change--if voters approve of both then "staggered term" language shall be used.

**Comment [JO9]:** NOTE: THE FINAL CHARTER TEXT WILL BE DEPENDENT UPON WHICH OF THE PROPOSED CHARTER AMENDMENTS ARE APPROVED BY VOTERS.

**CANVASSING BOARD**

**Comment [JO1]: RECOMMENDED BY CRB ON 1/6/14.**

**SHALL CHARTER SECTION 108 GOVERNING CANVASSING OF ELECTION RETURNS BY THE TOWN'S CANVASSING BOARD BE DELETED FROM THE TOWN CHARTER AND INCORPORATED INTO TOWN CODE CHAPTER 26 GOVERNING "ELECTIONS"?**

RELATED CHARTER SECTION:

**Sec. 108. Canvass of returns.**

The result of the voting, when ascertained, shall be certified by returns in duplicate, signed by the Clerks and a majority of the inspectors of the election, one copy being retained by the Town Clerk and the other being delivered to the Canvassing Board. The Canvassing Board shall consist of the Town Manager, Town Clerk and one Commissioner, who shall be selected by the Town Commission at the time the election is called. If any of the foregoing are unable or unwilling to serve on the Canvassing Board, the Town Attorney shall serve as an alternate. However, two members of the Canvassing Board shall constitute a quorum for all purposes hereunder. The Canvassing Board shall meet after the polls close. At such meeting, the Canvassing Board shall canvass the returns and shall declare the results of the election as shown by the returns made by the clerk and inspectors of said election.

**Comment [JO2]: THIS IS AN ADMINISTRATIVE MATTER WHICH IS MORE APPROPRIATE FOR PLACEMNET IN THE TOWN CODE CHAPTER DEALING WITH 'ELECTIONS'.**  
--Helps to streamline Charter.  
--Provisions of Fla. Stat. sec.102.141(1) re: conditional qualifications of CB members apply.  
If/when this section is moved to Code Chapter 26, outdated language should be deleted, including deletion of "Town Attorney" as alternate member, with "qualified elector chosen by Town Commission" substituted.

**QUALIFYING FOR ELECTED OFFICE**

Comment [JO1]: APPROVED BY CRB ON 2/3/14, 2/18/14 and 2/24/14.

SHALL CHARTER LANGUAGE GOVERNING “QUALIFYING” (i.e., BECOMING A CANDIDATE) FOR ELECTED OFFICE BE AMENDED TO CHANGE TIME PERIOD FOR FILING A QUALIFYING PETITION FROM 55-35 DAYS BEFORE ELECTION TO 55-45 DAYS BEFORE ELECTION WHILE RETAINING CITIZEN’S RIGHTS TO OBTAIN SIGNATURES ON PETITION PRIOR TO SAID TIME PERIOD, CLARIFY RELATED FILING REQUIREMENTS, AND CLARIFY PROCEDURE RELATED TO DETERMINATION OF PETITION’S SUFFICIENCY?

**Sec. 101. ~~Nomination of mayor and commission members~~ Generally. Qualifying for Elected Office.**

Any citizen who ~~can qualify~~ has the qualifications for the office of mayor or commissioner of the town, as provided in section 6 of this Charter, may ~~nominate himself or herself or may be nominated for the commission~~ seek to qualify for office by paying twenty five dollars as a qualifying fee simultaneously with the filing of all qualifying documents including a petition for this purpose signed by not less than twenty-five qualified electors and filed with the Town eClerk not more than fifty-five days and not less than ~~thirty five~~ forty-five days prior to the election date, unless said forty-fifth day falls on a legal holiday, Saturday or Sunday, in which event the qualifying period shall be extended to the immediately following business day terminating at 12:00 noon. The format of the petition shall be prescribed by the Town and made available in the Town Clerk’s Office. Signatures may not be obtained until said Petitioner has filed the appointment of campaign treasurer and designation of campaign depository pursuant to state law, and are valid only for the qualifying period immediately following such filings. However, if a special election is held and a candidate decides not to participate in the special election, any petition signatures obtained prior to the special election qualifying period will remain valid for the regularly scheduled general election.

Comment [JO2]: See, Fla. Stat. 99.095(2)(a).

Comment [JO3]: Per State of Florida “Candidates’ Handbook”.

Comment [JO4]: Suggested deletion per 1A rights of citizens.

~~No elector shall sign nominating petitions for more than one person for each office or group, and should an elector do so, his or her signature shall be void except as to the petition or petitions first filed.~~

~~The signatures on the nominating petition need not all be subscribed to one paper, but to each separate paper there shall be attached a signed statement of the circulator thereof, stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature, including the signature of the circulator, shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify it.~~

The form of the nominating petition shall be substantially as follows:

We, the undersigned electors of the Town of Surfside, hereby nominate \_\_\_\_\_ for the office of commissioner.

Name \_\_\_\_\_  
Street and Address \_\_\_\_\_  
Date of signing \_\_\_\_\_  
\_\_\_\_\_ (spaces for signatures and required data)

Statement of Circulator

The undersigned is the circulator of the foregoing paper containing \_\_\_\_\_ signatures. Each

signature appended thereto was made in my presence and is the genuine signature of the person whose name it purports to be.

|  |                               |
|--|-------------------------------|
|  | Signature of Circulator _____ |
|  | Address _____                 |

Within ~~five~~ one business days after the filing of a ~~nominating~~ petition, the ~~Town~~ eClerk shall ~~notify~~ through the United States mail the candidate and the person who filed the petition whether or not it is found to be signed by the required number of qualified electors deliver the petition to the Miami Dade County Department of Elections for purposes of determining the number of valid signatures on the petition. Upon the Clerk's receipt of the Miami Dade County Elections Department's certificate as to the petition's sufficiency, the Town Clerk shall then promptly forward the certificate on to the candidate, along with the petition if it has been found to be If a petition is found insufficient ~~the town clerk shall return it immediately to the person who filed it with a statement certifying wherein the petition is found insufficient.~~ Such a petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate, not less than ~~twenty-five~~ forty days before the election. ~~Such~~ petitions shall be preserved by the town clerk for two years from the date such petitions are filed. The name of each person who has filed a sufficient petition as prescribed above and satisfied qualifying requirements shall be printed on the ballot as a candidate for the office he/she has qualified for.

No candidate may qualify for the Office of Mayor and Town Commissioner in the same election.

~~Sec. 102. Same — Qualifying, fee.~~ The name of each nominee for commission, who has complied with all the requirements hereinbefore prescribed, shall be printed on the ballot as a candidate for the office of commissioner of the Town of Surfside upon such nominee paying to the Town of Surfside simultaneously with the filing of his nominating petition the sum of twenty five dollars as a qualifying fee, and upon submitting concurrently therewith a sworn statement of his or her name, address, occupation and willingness to serve if elected. No refund shall be made of the qualifying fee.

**ESTABLISHING ELECTED OFFICIALS' STAGGERED TERMS AND INCREASING TOWN COMMISSIONERS' TERMS FROM TWO TO FOUR YEARS**

THE CHARTER CURRENTLY PROVIDES FOR TWO YEAR, UNSTAGGERED TERMS FOR THE MAYOR AND TOWN COMMISSIONERS.

SHALL THE CHARTER BE AMENDED TO INCREASE THE TERM OF OFFICE OF TOWN COMMISSIONER FROM TWO YEARS TO FOUR YEARS WHILE RETAINING MAYOR'S TWO YEAR TERM, ESTABLISH STAGGERED TERMS OF ALL COMMISSION MEMBERS, PROVIDE FOR SELECTION OF VICE MAYOR BY COMMISSION, AND CONFORM PROVISIONS REGARDING RUN-OFF ELECTION WITH RELATED PROCESS FOR DETERMINATION OF RUNOFF ELECTION OUTCOME?

**RELATED CHARTER SECTIONS:**

**Sec. 8. Presiding officers.**

Subject to Charter section 105, candidates receiving the highest number of votes shall be elected as follows: The mMayor shall be elected separately from his/her own group. The four Town eCommissioners shall run at-large and the commissioner receiving the highest number of votes in the general election shall, for a term of two years immediately following thereafter, have the title of vice-mayor. The commissioners receiving the second, third and fourth highest number of votes in the general election shall, for a term of two years immediately following thereafter, serve as the remaining ecommissioners. The Town Commission shall at its first meeting after each general election (or after runoff election, if held) elect from its membership a Vice-Mayor who during the absence or disability of the Mayor shall perform the duties of Mayor.

**Sec. 10. Duties of the vVice mMayor.**

The Town Commissioner serving as vVice mMayor shall act as mMayor during the absence or disability of the mMayor, and, if a vacancy occurs in the office of mMayor, shall succeed to that office for the remainder of the unexpired term until the next succeeding general election, at which time said Town Commissioner shall serve for any unexpired remainder of his term that exists as of said general election date. Council The Commission shall then elect from among its members, as soon thereafter as practicable, an assistant a Vice mMayor to fill the vacancy thereby created in that office.

Should the Vice Mayor succeed to the office of Mayor per above, the resulting vacancy in the office of Town Commissioner shall be filled by a person serving for that limited portion of the remainder of the subject Town Commissioner's unexpired term until the next succeeding general election.

**Sec. 105. General and special elections of commission members.**

(1) On the third Tuesday in March in every even numbered calendar year, all members of the Town Commission shall be elected election of the Mayor and Town Commissioners shall be conducted as follows in order to provide for their four year staggered terms: Commencing with the general election in 2016, the Mayor shall be elected for a term of two years therein and at each general election each two years thereafter, the two Town Commissioners receiving the highest number of votes shall each be elected for a term of four years therein and at each general election each four years thereafter, and the remaining two Town Commissioners receiving the third and fourth highest number of votes shall each

**Comment [JO1]:**  
APPROVED BY CRB ON 2/3/14, 2/24/14 and 3/3/14.  
THIS VERSION PROVIDES FOR INCREASE IN ONLY COMM'S TERM.  
--If increase for all, then majority of Commission (Mayor and 2 Comm's) will be elected every 4 years--might affect election candidacies...  
--If Mayor retains 2 year terms and only Comm's have 4 year terms, then above concern will not occur b/c every general election will be for Mayor and 2 Comm's. (i.e., CMB, Key Biscayne).  
NOTE: VM selection ev 2 years for the 2 Commission candidates elected.

**Comment [JO2]: FYI: SS Election of 11/6/07,** voters disapproved of these ballot questions:  
-- The Charter currently provides for two year, unstaggered terms for the Mayor and Commission Members. It is proposed that all two (2) year terms be changed to four (4) year terms with a transition being made so that the terms are staggered. Shall the above-described amendment be adopted?  
-- The Charter currently does not provide for term limits. It is proposed that the Mayor and Commissioners be limited to eight (8) consecutive years provided that any Commissioner after having served eight (8) consecutive years may thereafter serve one (1) additional term, as Mayor, if elected. Shall the above-described amendment be adopted?

be elected for a term of two years until the 2018 general election at which time said two Town Commissioner seats shall each be elected for a term of four years therein and at each general election each four years thereafter, for terms of TWO (2) years, provided, however, that Commission members elected for FOUR (4) year terms at the 1974 Election pursuant to the Charter provisions in existence prior to the adoption of this Amendment, shall remain in office until the expiration of the term to which they were elected under such prior provisions. At the Election to be held in the year 1976, and biennially thereafter, all members of the Town Commission shall be elected for terms of TWO (2) years; terms to begin at 8 o'clock P.M. on the day following the Election commence as provided in Charter Section 19. In the event any one or more of the four Town Commissioners are deemed elected by method other than popular vote at the general election in 2016, the determination of two or four year terms for each of the four Town Commissioners shall be determined by lot immediately prior to the induction of officers.

(2) Should a vacancy on the commission be filled at a general municipal election, pursuant to Article H, 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 any remainder of the subject unexpired term as of said general election shall be filled by the candidate elected to fill such vacancy. 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.

**Comment [JO3]:** Need to delete b/c there may not be 2 years remaining on the subject term as of the General election date (i.e., vacancy could occur when Comm'er has served for 3 years of 4 year term).

\* \* \*

(5) At the election held in 2010, except for the mayor who shall run in a separate group, all other members of the Commissioners receiving the highest number of votes shall be elected in accordance with Charter Section 8 hereinabove. A tie between two or more candidates for the fifth Commission seat shall be decided in a run-off election to shall be held the first Tuesday of April following the general election for those candidates receiving the following tie votes:

--tie vote among all candidates for Mayor and/or among all candidates for Town Commissioner;

--tie vote between two or more candidates for Town Commissioner after one Town Commissioner seat is filled.

A seat shall be considered "filled" as referenced hereinabove when a candidate receives the highest number of votes cast, in accordance with Charter section 8.

Should the highest votes in the run-off election result in a tie result, the outcome shall be determined by lot. The runoff election shall be held in the same manner and form as the general municipal election.

**Comment [JO4]:** This language is different from the proposed Charter amendments re: "RunOff", due to staggering of terms. Which version of text is adopted depends upon whether voters approve of this staggered term change--if voters approve of both "runoff" and "staggered terms" this language is used.

\* \* \*

RUNOFF ELECTION

Comment [JO1]: APPROVED BY CRB ON 2/3/14.

CHARTER SECTION 105(5) REQUIRES A RUNOFF ELECTION IF GENERAL ELECTION RESULTS IN A TIE VOTE BETWEEN CANDIDATES FOR TOWN'S FIFTH COMMISSION SEAT. SHALL THE CHARTER BE AMENDED TO CLARIFY REQUIREMENT FOR RUNOFF ELECTION WHEN A TIE VOTE OCCURS FOR ANY COMMISSION SEAT (NOT ONLY THE FIFTH COMMISSION SEAT) WHEREIN CANDIDATES RECEIVING TIE VOTES HAVE NOT RECEIVED HIGHEST NUMBER OF VOTES FOR PURPOSES OF ELECTION, AND ESTABLISH PROCESS FOR DETERMINATION OF RUNOFF ELECTION OUTCOME?

RELATED CHARTER SECTIONS:

Sec. 105. General and special elections of commission members.

\* \*

(5) ~~At the election held in 2010, except for the mayor who shall run in a separate group, a~~All other members of the Commissioners receiving the highest number of votes shall be elected in accordance with Charter Section 8 hereinabove. ~~A tie between two or more candidates for the fifth Commission seat shall be decided in a~~ A run-off election ~~to~~ shall be held the first Tuesday of April following the general election for those candidates receiving the following tie votes:

Comment [JO2]: Tie could be another seat besides fifth seat, therefore need to amend, as underlined.

--tie vote among all candidates for Mayor and/or among all candidates for Town Commissioner;

--tie vote among four or more candidates for Town Commissioner after one Town Commissioner seat is filled;

Comment [JO3]: If staggered terms proposed on same ballot, language of text will be changed to reflect only 2 commission seats for each gen election--see proposed text.

--tie vote among three or more candidates for Town Commissioner after two Town Commissioner seats are filled;

--tie vote between two or more candidates for Town Commissioner after three Town Commissioner seats are filled.

A seat shall be considered "filled" as referenced hereinabove when a candidate receives the highest number of votes cast, in accordance with Charter section 8.

Should the highest votes in the run-off election result in a tie result, the outcome shall be determined by lot. The runoff election shall be held in the same manner and form as the general municipal election.

Sec. 8. Presiding officers.

Subject to Charter section 105, candidates receiving the highest number of votes shall be elected as follows: The mayor shall be elected separately from his/her own group. The four commissioners shall run at-large and the commissioner receiving the highest number of votes in the general election shall, for a term of two years immediately following thereafter, have the title of vice-mayor. The commissioners receiving the second, third and fourth highest number of votes in the general election shall, for a term of two years immediately following thereafter, serve as the remaining commissioners.