

RESOLUTION NO. 10-1949

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, PROVIDING FOR AMENDMENT OF THE TOWN CHARTER TO DELETE SECTION 31.1, "PERSONNEL APPEALS BOARD"; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO ELECTORS; PROVIDING FOR COPIES OF THIS 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 SEVERABILITY; PROVIDING FOR INCLUSION IN THE CHARTER; PROVIDING FOR ADOPTION OF ENABLING RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS Section 97.1 of the Town Charter referencing Section 5.03 of Article 5 of the Home Rule Charter for Miami-Dade County (now Section 6.03) provides the manner in which charter amendments shall be proposed; and

WHEREAS, the Mayor and the Town Commission wish to propose the elimination of the Personnel Appeals Board based on the final report and recommendations of the Charter Review Board on March 9, 2010, which suggested that effective and responsive management is impaired by this Board's existence and that many other remedies are now available to employees who believe they are aggrieved;

WHEREAS, the Town Commission wishes to submit these proposed charter amendments for approval or rejection by the electors and pursuant to law, the electors of the Town shall have the power to approve or reject at the polls any proposition submitted by the Town Commission to a vote of the electors.

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

Section 1.     Recitals: The recitals are incorporated herein.

Section 2.     Proposed Amendment:<sup>1</sup>

~~Sec. 31.1. Personnel appeals Board.~~

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<sup>1</sup> The words that are stricken through are intended to be deleted from this section of the City Charter once it is approved. The words that are underscored constitute the proposed amendments to the section once it is approved.

~~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.~~

Section 3. Form of Ballot: The form of ballot of the charter amendments provided for in Section 2 shall be as follows:

The Town Charter currently provides for the existence and operation of a Personnel Appeals Board. It is proposed this Board be eliminated.

Shall the above-described amendment be adopted?

Yes [ ]  
No [ ]

Section 4. Charter Amendment to be Available for Public Inspection, and for the 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 Collins 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. 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 5.     Providing for Inclusion in the Town Charter: It is the intention of the Mayor and Town Commission and it is hereby ordained that the provisions of this resolution shall become and made a part of the Charter of the Town of Surfside, Florida, as to each charter amendment measure approved by a majority of voters on such measure in such election; that the sections of this resolution may be renumbered or relettered to accomplish such intentions; and the word "resolution" shall be changed to "section" or other appropriate word.

Section 6.     Notice of Election. That notice of said election shall be published in accordance with Section 100.342, Fla. Stat., in a newspaper of general circulation within the Town at least 30 days prior to said election, the first publication to be in the fifth week prior to the election, and the second publication to be in the third week prior to the election, and shall be in substantially the following form:

"NOTICE OF ELECTION

PUBLIC NOTICE IS HEREBY GIVEN  
THAT PURSUANT TO RESOLUTION  
NO. \_\_\_\_\_ ADOPTED BY THE TOWN  
OF SURFSIDE, FLORIDA, AN  
ELECTION HAS BEEN CALLED AND  
ORDERED TO BE HELD WITHIN THE  
TOWN ON TUESDAY, THE \_\_\_\_TH  
DAY OF \_\_\_\_, 2010 BETWEEN THE  
HOURS OF 7:00 A.M. AND 7:00 P.M., AT  
WHICH TIME THE FOLLOWING  
CHARTER AMENDMENT PROPOSALS  
SHALL BE SUBMITTED TO THE  
QUALIFIED ELECTORS OF THE TOWN.

Section 7.     Severability: The provisions of this resolution are declared to be severable and if any section, sentence, clause or phrase of this resolution shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this resolution but they shall remain in effect, it being the legislative intent that this resolution shall stand notwithstanding the invalidity of any part.

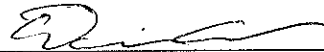
Section 8.     Effective Date: This resolution shall become effective upon adoption. Each of the charter amendment measures provided herein shall be effective only upon approval of a majority of electors voting on the measure, effective upon certification of the election results. If conflicting amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

PASSED AND ADOPTED this 10 day of August, 2010.

Motion by Commissioner Kopelman, second by Commissioner Karukin.

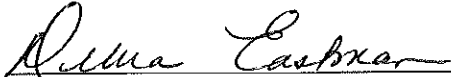
FINAL VOTE ON ADOPTION

Commissioner Michael Karukin	<u>yes</u>
Commissioner Edward Kopelman	<u>yes</u>
Commissioner Marta Olchyk	<u>yes</u>
Vice Mayor Joseph Graubart	<u>yes</u>
Mayor Daniel Dietch	<u>yes</u>



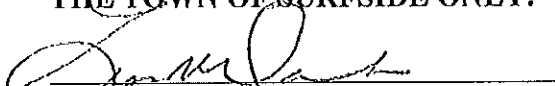
Daniel Dietch, Mayor

ATTEST:



Debra E. Eastman, MMC  
Town Clerk

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



Lynn M. Dannheisser  
Town Attorney