

RESOLUTION NO. 17 - 2450

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CALLING FOR A MARCH 20, 2018 TOWN OF SURFSIDE SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE TOWN OF SURFSIDE, FLORIDA, A PROPOSED AMENDMENT TO THE TOWN CHARTER CONCERNING SECTION 5 - "NUMBER; SELECTION; TERM", SECTION 8 -"PRESIDING OFFICERS", AND SECTION 105 - "GENERAL AND SPECIAL ELECTIONS OF COMMISSION MEMBERS", AS PRESENTED IN A BALLOT QUESTION ON AMENDMENTS TO THE TOWN CHARTER "ESTABLISHING FOUR-YEAR STAGGERED TERMS FOR COMMISSIONERS AND RETAINING MAYOR'S TWO-YEAR TERM" COMMENCING WITH TOWN'S GENERAL ELECTION IN 2020; PROVIDING FOR THE TOWN CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS FOR THE SPECIAL ELECTION; PROVIDING FOR CHARTER AMENDMENT ELECTION PROCEDURES AND RELATED DETAILS; PROVIDING FOR SEVERABILITY; 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**, 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, March 20, 2018, 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.

**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 7:00 A.M. UNTIL 7:00 P.M. ON TUESDAY, THE 20TH DAY OF MARCH, 2018, AT WHICH TIME THERE SHALL BE SUBMITTED TO THE DULY REGISTERED AND QUALIFIED VOTERS OF THE TOWN OF SURFSIDE THE FOLLOWING CHARTER AMENDMENT QUESTION:**

**ESTABLISHING FOUR YEAR STAGGERED TERMS FOR COMMISSIONERS COMMENCING 2020 AND RETAINING MAYOR’S TWO YEAR TERM**

The Charter provides for Mayor and Commissioners to be elected to two year terms, with the Commissioner receiving the most votes becoming Vice Mayor. It is proposed that the Charter be amended to retain a two year term for Mayor, while providing for transition to four year, staggered terms for Commissioners beginning in 2020, and for Vice Mayor to be selected by the Commission from among its members.

Shall the Charter amendment be adopted?

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 ( ie: on or before February 20, 2018) shall be eligible to vote. The enabling Resolution, including the ballot question and the full text of the proposed Charter Amendment are available at the Office of the Town Clerk, located at the Surfside Town Hall.

Sandra Novoa, MMC, Town Clerk ”

**Section 3. Form of Ballot.**

- A. That the official ballot to be used in the Special Election to be held on Tuesday, March 20, 2018, as hereby called, shall be in substantially the following form, to-wit:

**“OFFICIAL BALLOT**

**ESTABLISHING FOUR YEAR STAGGERED TERMS FOR COMMISSIONERS COMMENCING 2020 AND RETAINING MAYOR’S TWO YEAR TERM**

The Charter provides for Mayor and Commissioners to be elected to two year terms, with the Commissioner receiving the most votes becoming Vice Mayor. It is proposed that the Charter be amended to retain a two year term for Mayor, while providing for transition to four year, staggered terms for Commissioners beginning in 2020, and for Vice Mayor to be selected by the Commission from among its members.

Shall the Charter amendment be adopted?

YES [ ]

NO [ ] ”

- B. 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. 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 5. 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, Surfside, 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 for this Special Election until 5:00 p.m. on February 20, 2018. 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 6. Absentee Voters.** That the absentee voters participating in said Special Election shall be entitled to cast their ballot in accordance with the provisions of the Laws of the State of Florida with respect to absentee voting.

**Section 7. Election Expenses.** That the Town of Surfside shall pay all expenses for conducting this Special Election and will pay such expenses 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 8. Available for Public Inspection/Town Clerk to Utilize the Services of Miami-Dade County Supervisor of Elections.** Copies of this Resolution providing for this Charter Amendment subject to this referendum approval is on file in the Office of the Town Clerk located at 9293 Harding Avenue, Surfside, Florida and is 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 9. Severability.** If any section, sentence, clause or phrase of the ballot measure or proposed Charter Amendment 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 Amendment text.

**Section 10. 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 codification of the Charter Amendment if adopted and effective as described in Section 4 above.

**Section 11. Effective Date.** Following the passage and adoption of this Resolution, this Resolution shall be effective immediately from and after November 22, 2017, so as to comply with the 120 day time constraint of Section 6.03 of the Miami-Dade County Charter.

PASSED AND ADOPTED this 18<sup>th</sup> day of September, 2017.

Motion by Commissioner Karukin, second by Commissioner Gielchinsky.

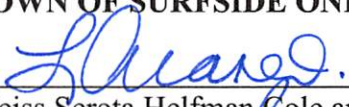
**FINAL VOTE ON ADOPTION**

Commissioner Daniel Gielchinsky  
Commissioner Michael Karukin  
Commissioner Tina Paul  
Vice Mayor Barry Cohen  
Mayor Daniel Dietch

yes  
yes  
yes  
yes  
yes

  
\_\_\_\_\_  
Daniel Dietch, Mayor

**ATTEST:**  
  
\_\_\_\_\_  
Sandra Novoa, MMC, Town Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
TOWN OF SURFSIDE ONLY:**  
  
\_\_\_\_\_  
Weiss Serota Helfman Cole and Bierman, P.A.  
Town Attorney

## EXHIBIT "A"

### TEXT OF PROPOSED CHARTER AMENDMENT OF THE TOWN OF SURFSIDE

The Town of Surfside Charter Section 5 - "Number; Selection; Term", Section 8 - "Presiding Officers", and Section 105 - "General and Special Elections of Commission Members", are 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. 5. - Number; selection; term.**

The commission shall have five members elected from the town at large in the manner and for terms provided in section 8(B) or Article VI (as applicable), or until their successors have been elected and take office.

- **Sec. 8. - Presiding officers.**

A. Except as otherwise provided in paragraph (B), below, and subject ~~Subject~~ to Charter Section 105, when applicable, 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, 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.

B. However, while retaining the two-year term for the office of Mayor, commencing with the General Election of March, 2020, a transition shall be made to provide for a four-year term of office for four Commissioners, in lieu of a two-year term of office for Commissioners. This transition shall be made in accordance with the following implementation schedule, which is designed to provide for a smooth transition to staggered, four-year terms of office for Commissioners, to wit:

(i) At the March, 2020 General Election, the two Commission candidates who are elected with the highest and second highest number of votes shall be elected for a four-year term of office, and the two Commission candidates who are elected with the third and fourth highest number of votes shall be elected for a two-year term of office. Further, in the event that at said election, candidates are elected as Commissioner by operation of law rather than by vote of the electorate, the determination as to which of said candidates so elected by operation of law received the higher number of votes, for the purpose of determining which of said candidates receives the four- year term of office and the two- year term of office, will be made by the drawing of lots in the presence of and under the supervision and direction of the Town Clerk. Following the commencement of terms resulting from the March, 2020 General Election, the Town Commission shall select the Vice Mayor from among the four Commissioners. The Vice Mayor designation shall be made each two years thereafter, in the same manner, following each General Election.

(ii) At the March, 2022 General Election, the two Commission places which received the two-year terms of office described in subparagraph (i) above, shall be presented for election for a four-year term of office. Accordingly, the two Commission candidates who are elected with the highest and second highest number of votes at the March, 2022 General Election shall be elected for a four-year term of office.

(iii) As a result of completion of the implementation schedule described above in this paragraph (B), commencing with the March, 2022 General Election and for the General Election held every two years thereafter, each General Election will present three elective offices for a vote of the electors of the



Town, consisting of the Mayor and two Commissioners. The Mayoral office will remain as a two-year term of office. Candidates receiving the highest number of votes shall be elected to the office sought.

(iv) The Town Commission may, by ordinance, provide further procedures for the implementation of this paragraph (B), if desired.

**-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.

(2)

Should a vacancy on the commission be filled at a general municipal election, pursuant to Charter [Section 16](#), the term of such vacancy shall be considered to have expired and the candidate elected 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 become vacant, 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.

(4)

All elections held on the third Tuesday of March in even numbered calendar years, or any postponements thereof, for the election of commissioners shall be known as general municipal elections. All other elections shall be known as special municipal elections.

(5)

All members of the Commission receiving the highest number of votes shall be elected in accordance with Charter [Section 8](#). A run-off election 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 among four or more candidates for Town Commissioner after one Town Commissioner seat is filled;

—

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.

(6)

All elections shall be conducted by secret ballot, with or without the use of voting machines as the commission by ordinance may direct, and under rules to be fixed by ordinance not inconsistent herewith.

(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, but such deferred induction shall not change the expiration dates of the terms of office of the candidates elected.

(8)

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.

D. The provisions of Charter Section 8(B) shall supersede and prevail over any provisions of this Charter Section 105 which are in conflict with section 8(B).