

RESOLUTION NO. 2013-28446

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CREATING AN AD HOC CHARTER REVIEW BOARD FOR A PERIOD OF 120 DAYS COMMENCING AFTER THE EXPIRATION OF THE AD HOC CHARTER REVIEW AND REVISION BOARD; PRESCRIBING ITS DUTIES, AND PROVIDING FOR THE MANNER OF ITS APPOINTMENT AND THE TERMS OF OFFICE FOR THE MEMBERS OF THE NEW AD HOC CHARTER REVIEW BOARD.

WHEREAS, pursuant to Miami Beach City Charter section 8.01, the "Charter shall be reviewed ten (10) years from November 3, 1993 and each tenth year thereafter"; and

WHEREAS, pursuant to Resolution No. 2012-28072, the Mayor and City Commission created an Ad Hoc Charter Review and Revision Board which reviewed the City Charter and presented its recommendations regarding amendments to the City Charter at the December 11, 2013 City Commission meeting; and

WHEREAS, the Ad Hoc Charter Review and Revision Board expires on January 1, 2014; however, the Mayor and City Commission wish to establish a new Ad Hoc Charter Review Board for a period of 120 days to review the City Charter and to make additional recommendations regarding amendments thereto; and

WHEREAS, a new Ad Hoc Charter Review Board ("Board") is hereby established as of January 2, 2014 to be composed of seven (7) members, who shall be direct appointees of the individual City Commissioners with the Mayor appointing Stephen Zack as a member and Chair of the Board. The terms of the Board members shall commence on January 2, 2014 and expire on May 2, 2014 (subject to earlier or later sunset by the City Commission). The Board's power of review shall include submittal of a report to the City Commission by May 2, 2014, which report shall include any recommendations concerning proposed amendments to the City's Charter.

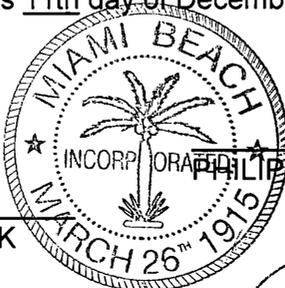
NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that an Ad Hoc Charter Review Board is hereby created for a period of 120 days commencing after the expiration of the Ad Hoc Charter Review and Revision Board for the purpose of reviewing the City's Charter and to make recommendations regarding amendments thereto; the Board shall be composed of seven (7) direct appointees of the Miami Beach City Commission, with the Mayor appointing Stephen Zack as a member and Chair of said Board; and the Board terms shall commence on January 2, 2014 and expire on May 2, 2014 (subject to earlier or later sunset by the City Commission).

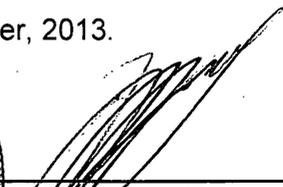
PASSED AND ADOPTED this 11th day of December, 2013.

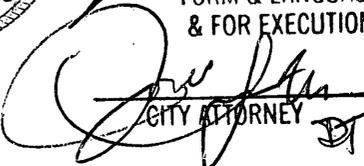
ATTEST:



RAFAEL E. GRANADO, CITY CLERK





PHILIP LEVINE, MAYOR
APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


CITY ATTORNEY
DATE 1/8/14

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission
FROM: Members of the City of Miami Beach Ad Hoc Charter Review and Revision Board

Members:

Appointed by:

Stephen Zack, Esq., Chair	Mayor Matti Herrera Bower
Aaron Perry, Vice Chair	Commissioner Jerry Libbin
Scott Diffenderfer	Commissioner Jorge R. Exposito
Jacqueline Lalonde	Commissioner Michael Góngora
Rick Kendle	Commissioner Edward L. Tobin
Alex Fernandez	Commissioner Deede Weithorn
Richard "Rick" J. Preira	Commissioner Jonah Wolfson

DATE: December 11, 2013

SUBJECT: DISCUSSION OF THE CHARTER REVIEW AND REVISION BOARD'S RECOMMENDATIONS REGARDING AMENDMENTS TO THE CITY CHARTER.

Background:

Pursuant to Section 8.01 of the Miami Beach City Charter, the City Charter "shall be reviewed ten years from November 3, 1993, and each tenth year thereafter."

On November 14, 2012, via City Resolution No 2012-28072, the City Commission created the City of Miami Beach Ad Hoc Charter Review and Revision Board (CRB) for the purpose of reviewing the City's Charter. The CRB is composed of seven direct appointees with the Mayor and each Commissioner making one appointment. The term of the CRB commenced January 1, 2013 and will expire on January 1, 2014, unless sunsetted earlier or later by the City Commission. The Charter was previously reviewed in 1993 and 2003, through Charter Review and Revision Boards chaired by Stephen Zack.

The CRB has held 15 meetings since its inception. The CRB requested the Administration to create a Charter Review webpage and an email address for citizen input to ensure communications between the citizens and the CRB members. The webpage was used to inform the public of agendas, minutes, meetings, public notices regarding meetings, and other relevant information such as access to the City Charter.

Because of the importance of the City Charter review process, the CRB felt it was necessary to reach the most citizens possible. Given this objective, there were seven meetings that were held in the City Commission Chambers and televised on MBTV. Seeking to reach all citizens, the meetings were advertised in The Miami Herald Miami Beach Neighbors Section and El Nuevo Herald. The meeting dates, times, and topics were also posted on the webpage, and broadcast via the City's social media outlets. At each meeting, whether it was held in the Commission Chamber or in a City conference room, all individuals in attendance had an opportunity to be heard.

Statutory Deadlines:

In order not to politicize its decisions, the CRB waited until after the 2013 City Elections to make its recommendations.

The CRB recommends bringing its recommended Charter amendments to the voters either at the August 26, 2014 Countywide Primary Election or the November 4, 2014 Countywide General Election.

The last day to submit a resolution to the Supervisor of Elections placing Charter amendments on the ballot for the August 26, 2014, Primary Election is Friday, June 6, 2014, and the last day to submit a resolution for the November 4, 2014 Countywide General Election is Tuesday, August 5, 2014.

Recommended Process:

Any of the issues that are approved by the City Commission for placement on a 2014 ballot, shall comply with the following procedures: a motion on each recommendation must be made by the City Commission instructing the City Attorney's Office to draft a resolution calling for a Special Election with the specific ballot language for each question. The City Attorney's Office will prepare the appropriate legislation for consideration by the City Commission.

Charter Review Board Recommendations:

After 15 public meetings, and presentations by City Staff members and City residents, including: Jose Smith, City Attorney, Donald Papy, Chief Deputy City Attorney; Debora Turner, First Assistant City Attorney; Gary Held, First Assistant City Attorney; Aleksander Boksner, Senior Assistant City Attorney; Robert Rosenwald, Jr., Senior Assistant City Attorney; Joe Jimenez, Assistant City Manager; Jorge Gomez, former Assistant City Manager; Maria Ruiz, Community Services Division Director; Nannette Rodriguez, Communications Office Director; Rafael E. Granado, City Clerk; Richard Lorber, Planning Director; Rick Rivera, Pension Office Director; Sylvia Crespo-Tabak, Human Resources Director; Nancy Liebman, Miami Beach United (MBU); Mark Needle, MBU; Terry Bienstock, MBU; Christine Florez, MBU; Frank Del Vecchio, Dr. Morris Sunshine, and others, the following Charter amendments are respectfully being presented to the City Commission for consideration:

I. Proposed Amendments To The Bill Of Rights –

A. CRB's Proposals:

(A)18 *Ethics in Government.* The public's confidence and trust in City of Miami Beach operations and government must meet the most demanding ethical standards and demonstrate the highest level of achievement in adherence to ethics laws. City of Miami Beach officials and employees are agents of the people and hold their position for the benefit of the public – as public servants, they are to observe in their official acts a high standard of conduct and to discharge faithfully the duties of their office regardless of personal considerations and interest, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concerns. No City of Miami Beach elected or appointed official or employee shall use or attempt to use his or her official position to corruptly or unlawfully secure special privileges, benefits, or exemptions for himself, herself, or others. In upholding the values of accountability and responsibility, all city officials employees, shall abide by applicable codes of ethical conduct, and be subject to all penalties provided for in such regulations.

II. Proposed Charter Section Amendments

- A. Section 2.02 – Compensation – Compensation shall include salary and benefits. Benefits are defined as anything of value received by the Mayor or a Commissioner from the City including, but not limited to, expense allowances, vehicle allowances, travel, medical and life insurance, leave days as provided in the Unclassified Employees Leave Ordinance, and pension benefits as provided in the Miami Beach Employees' Retirement Plan. All benefits for the Mayor and City Commissioners shall be approved by the City Commission by ordinance or resolution.

~~The annual compensation salary for the Office of Commissioner shall be six thousand dollars (\$6,000.00) and shall be adjusted retroactively from 1966 to October 1st of each annual fiscal year using the Consumer Price Index – All Urban Consumers (Miami-Fort Lauderdale, FL Area) (CPI) rate (approximately \$43,900.00 as of October 1, 2013). and The compensation annual salary for the Office of Mayor shall be ten thousand dollars (\$10,000.00); and shall be adjusted retroactively from 1966 to October 1st of each annual fiscal year using the CPI rate (approximately \$73,200.00 as of October 1, 2013) any increase in salary for Mayor and/or Commissioner shall require approval of a majority of the electorate voting at a City election.~~

It is also recommended that if this Charter amendment is approved by the City Commission, that a corresponding clarification be made in the City Code to define the benefits that are pensionable.

- B. Section 2.02 – Term (Term Limits) – The term of office of the Mayor shall be two (2) years. The term of office of the City Commissioners shall be four (4) years.

~~Commencing with the General Election in November 1997~~ 2015 (excluding individuals holding City of Miami Beach elective office prior thereto for their unexpired terms), the term limit for Miami Beach Commissioners shall be two terms (eight consecutive years) and their term limit for Beach Mayor shall be three terms (six consecutive years) respectively, measured retroactively from their first elections said terms not including time served as a member of the City of Miami Beach Commission as a result of having filled a vacancy in the Commission pursuant to Section 2.07 of the city of Miami Beach Charter.

- C. Section 2.07 – Vacancies in the City Commission – Any If a vacancy occurring in the City Commission, the vacancy shall be filled by the vote of the majority of the remaining members of said City Commission with the appointee serving the remainder of the unexpired term until the next succeeded general City election and with any further remainder of said unexpired term to be filled by a Commissioner member elected at said general election;

~~if~~ if the remaining members of the City Commission shall fail or refused to fill a the vacancy within 30 days after ~~it~~ the vacancy occurs and if no general City election will be held within 90 days after the expiration of said 30 days, then a special election shall be called and held within 90 days to elect a Commissioner member to fill such vacancy for the remainder of the unexpired term.

In the event of a future vacancy due to an irrevocable written resignation, if a City general election or a countywide election is scheduled to be held on or within 30 days after the effective date of the irrevocable written resignation, then the future vacancy shall be filled by the election of a Commission member for the remainder of the

unexpired term in the City general election or countywide election. If a City general election or countywide election is not scheduled to be held on or within 30 days after the effective date of an irrevocable written resignation, and if the remaining members of the Commission shall fail or refuse to fill a future vacancy within 30 days after the effective date of the written irrevocable resignation, then a special election shall be called and held within 120 days after the effective date of the written irrevocable resignation.

The qualifying period for special elections provided for in this section shall be the first 10 days after the call of the special election and any run-off election shall be held within 20 days of the certification of election results requiring the run-off.

- D. Sections 3.01, 4.01, 4.03 Referring To *Compensation and Salary of the City Attorney, City Manager and City Clerk.*

Among other things, these three Sections provide for "compensation" for the City Attorney, City Manager and City Clerk. The term compensation should be further defined to make it clear that compensation includes benefits in addition to "salary" and should be consistent with the terminology used in Section 2.02 relative to the Mayor and City Commissioners

Adopted Charter Amendments:

It is noted that the CRB considered and recommended two Charter amendments that were approved by the voters on the November 5, 2013 Special Election ballot:

1. *Prohibition of Discrimination by City of Miami Beach in Employment Practices and Benefits Offered* – Creating paragraph A(17) of the Miami Beach City Charter Citizens' Bill of Rights banning discrimination in employment practices and benefits offered by the City of Miami Beach based upon an employee or applicant's race, color, national origin, religion, gender, sexual orientation, gender identity, disability, marital status, familial status, or age.
2. *Citywide Referendum Required to Repeal or Reduce Protections in City Code Chapter 62 ("Human Relations")* – Creating Section 1.07 of the Miami Beach Charter to require a majority vote in a Citywide election to repeal, diminish, or otherwise negatively impact a right or duty established in City Code Chapter 62 ("Human Relations") that inures to the benefit of a member of the classification categories of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital status, familial status, and age as defined in City Code Section 62-31.

Remaining Charter Issues To Be Discussed:

- A. Miami Beach United's Proposals: The CRB adopted a motion approving the aspirations proposed by Miami Beach United regarding Truth in Government; Right to Be Heard; Right to Notice; Right to Public Hearing; Neighborhood Association Rights, Right of Fair Enforcement; Representation Rights; Ethics in Government and Remedies For Violations of The Bill of Rights, and recommended continuing the debate with the CRB or at a Public Workshop, as designated by the City Commission.
- B. Extending the term of office for the Mayor (currently it is two years);
- C. Preservation of the resources of the beach;
- D. Traffic - Citizens of Miami Beach have the right to reasonable access to their roads;

- E. Over scale development in residential areas;
- F. Planning Board powers;
- G. Inspector General/subpoena power;
- H. Electing officials by open seats;
- I. Commission on Ethics & Public trust – enforcement authority over Citizens' Bill of Rights;
- J. Requiring the inclusion of the City's check registry on the City's website; and
- K. Defining pensionable benefits for elected officials.

Sunset of CRB

Pursuant to Resolution No. 2012-28072, the CRB will sunset on January 1, 2014. However, pursuant to Section 2-22(5)(a) of the City Code, the terms of four of the current CRB members shall automatically expire by December 31, 2013 due to the fact that their four appointing City Commission members have left office. Thus, if the CRB is to continue in existence, a resolution extending the CRB's term is required and the new City Commission members would need to appoint individuals to fill the four vacancies on the CRB.

The members of the CRB respectfully request that the City Commission extend the term of the CRB for an additional 4 months (i.e., through April 30, 2014) to allow the CRB to discuss the above remaining issues and any further issues as needed. In the alternative, if the CRB sunsets, the CRB recommends the holding of public workshops, or referral to the Neighborhood/Community Affairs Committee, for the discussion of Charter issues that the City Commission may wish to place on the August or November 2014 ballots.

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