

Memorandum

TO: CHARTER REVIEW COMMITTEE

FROM: MIRIAM BENSINGER, ASSISTANT CITY ATTORNEY

DATE: OCTOBER 23, 2008

**RE: CHARTER AMENDMENT RECOMMENDATIONS ADOPTED BY
THE COMMITTEE**

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- 1) Amend the Charter to include a Citizens' Bill of Rights. (See Appendix A)
- 2) Amend Article III (§§9, 10, 16 & 19) to conform to current Miami-Dade County Election practices and deadlines, as follows:

Sec. 9. General elections.

Line 11 – change “second Tuesday in May” to “third Tuesday in May.”

Sec. 10. Qualified electors.

Line 3 – change “clerk of the city” to “Miami-Dade County Supervisor of Elections.”

Sec. 16. Conduct of elections; canvass of returns, and commencement of terms

- (3) Lines 1-17 shall be replaced by the following:

“City council meetings scheduled for the first and third Tuesdays in May during years in which general (and runoff) elections are held may be cancelled. However, there shall be a special meeting at 8:00 pm on the fourth Tuesday of that May at which time the City Council shall receive from the City Clerk the certification of the canvassing committee and shall declare the final results of the election(s). Thereafter, the newly elected or re-elected members of the City Council shall be administered the oath of office by the City Clerk or by a qualified oath administrator of their choice.”

Line 25 – change “third Tuesday of May” to “fourth Tuesday of May.”

Sec. 19. Vacancies

Lines 11-12 – change “not less than 35 days nor more than 60 days” to “not less than 60 days nor more than 120 days.”

3) Amend Article III §11 to require a person to reside in the City for two consecutive years in order to qualify to run for the offices of Mayor or City Council.

4) Delete Article IV Section 21 in its entirety (lengthy enumeration of specific powers) and adopt a single paragraph general grant of powers consistent with State and County laws. (See Appendix B)

5) To amend Article V §22 to provide staggered terms and term limits for Mayor & Council, as follows:

- Starting with the City elections to be held in May 2011, the members of City Council running from groups 1, 3, 5 and 7 shall be elected for four (4) year terms.
- Starting with the City elections to be held in May 2013, the members of City Council running from groups 2, 4, and 6 shall be elected for four (4) year terms.
- Effective with the May 2011 elections for groups 1, 3, 5 and 7 and with the May 2013 elections for groups 2, 4, and 6, no person may serve as Mayor and/or Councilperson for more than two consecutive four (4) years terms, a total of eight consecutive years in office. After being out-of-office for two years, he/she may run again.

6) Amend Article V Section 30 by deleting current language and replacing it with:

“The officers and employees of the City of North Miami Beach shall be governed by the Florida State Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Florida Statutes) and the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (Section 2-11.1 Miami-Dade County Code of Ordinances), as they are amended from time to time and as they pertain and are applicable to municipal officers and employees.”

7) To amend Article XIII §7 (Civil Service Commission) §104 (Planning and Zoning Board) and §111 (Public Utilities Commission) to authorize each of these boards to have up to two alternates, to be appointed in the same manner as board members are appointed.

8) To amend Article X §22 to eliminate the restriction on the number of funds maintained by the City to allow flexibility and convenience in the fiscal operation of the City and to conform to modern practices and requirements.

9) Amend Article X Section 62.1 to read as follows:

Sec. 62.1. Maximum unbudgeted expenditure on single capital improvement; exceptions

No expenditure in excess of ~~seventy-five~~ two hundred thousand dollars (~~\$75,000~~) (\$200,000) for any one capital improvement, as defined in Article XI hereof, shall be made or authorized unless the amount thereof shall have been included in the annual budget or the expenditure had previously been approved at a referendum thereon, (~~Res. No. 64-16 §14, 2-13-64~~)

~~Editor's note Res. No. 64-16, §14 proposed an amendment to Art. X to add §9, codified as §62.1 above. Said amendment was approved at referendum April 14, 1964 with the exception of the following:~~

1) Unbudgeted expenditures made with funds available from new revenues from external unbudgeted sources that must be expended prior to the next budgeted year may be authorized by council after public hearing;

2) Emergency unbudgeted capital expenditures may be authorized by council after public hearing but no such expenditure may exceed one and one-half (1.5%) percent of the General Fund budget for the year.

10) Amend the charter to require the appointment of a Charter Review Committee to conduct a Charter Review no less than every 10 years.

11) Replace Article V City Council Section 26 Compensation, with the following language:

Members of the City Council shall receive such compensation and expense allowances as shall be fixed by the Council by the affirmative vote of five members. Benefits provided to members of City Council shall only be paid for by the City during their actual term of service. After their term of service, councilpersons may be offered the opportunity to remain in the City's insurance plan(s) at their own expense.

This provision shall not affect continuing City Council benefits previously established and already fully vested in active or former

members of City Council through and including the City Council election of May 2009.

- 12) Amend Article XIII Department of Personnel Section 75 Civil Service, as follows:

Sec. 75. Civil service.

The civil service of the City of North Miami Beach shall be divided into the classified and the unclassified service. The unclassified service shall consist of the city manager and one secretary of his choosing, heads of departments herein provided, or as hereafter created by the city council, the city attorney, the city auditor appointed by the city council, all elected officials, members of appointive boards, and employees of the legal department; provided, however, that employees of the legal department, other than the city attorney, may be included in the classified service by and with the consent of the city council. All other employees of the city shall be members of the classified service.

Department heads, other than those persons to be selected by the city council as herein authorized, shall be appointed by the city manager. For the first six (6) months any such appointment shall be provisional only and thereafter department heads shall be appointed for one year and may be reappointed for successive periods of one year each during which time they ~~shall be removable only for cause. Provided, however, a city manager and a department head who has served the City of North Miami Beach as such for a period of five (5) or more years at the time of any reappointment hereunder shall be reappointed for a term of two (2) years during which time he may be removed only for cause, notwithstanding the provisions of section 32 of this Charter may be removed at the will of the city manager at any time.~~ (Res. No. 65-27, §3, 2-23-65)

- 13) Amend Article X The Budget, Section 58 Preparation of the Budget, as follows:

Sec. 58. Preparation of the budget.

The city manager shall, no later than sixty (60) days prior to the end of the fiscal year, submit a budget to the city council containing the estimates for the operation of each department of the government of the City of North Miami Beach, together with his recommendations thereon. In such budget he shall submit a statement of the actual and estimated expenditures for the current fiscal year as prepared by the department of finance, together with

an estimate of receipts from all sources other than ad valorem taxes. He shall estimate the amount of money required to be raised by ad valorem taxes and include such item in the budget.

Additionally, the city manager shall have the discretion to prepare and present supplementary budgets in other forms consistent with the needs of the city and available technology.

Attachments