

## **AGENDA TAB 3**

### **TERM OF OFFICE/TERM LIMITS**

#### **EXISTING CHARTER PROVISIONS:**

##### **Sec. 22. - Election and term of councilman.**

The members of the city council shall be elected from groups numbered One through Seven. The groups shall be elected citywide by the qualified electors of the City of North Miami Beach. The member in Group One shall be the mayor. Commencing with the year 1981, the mayor and all members of the city council shall be elected for terms of two years.

Commencing with the city elections to be held in May 2011, and at each general election each four (4) years thereafter, the members of city council running from groups 1, 3, 5, and 7 shall be elected for four (4) year terms.

Commencing with the city elections to be held in May 2013, and at each general election each four (4) years thereafter, the members of city council running from groups 2, 4, and 6 shall be elected for four (4) year terms.

Commencing 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 councilperson or mayor or any combination thereof for more than eight (8) consecutive years in office, not including time served as a member of the Council as a result of having filled a vacancy in the council pursuant to Section 19 of the North Miami Beach City Charter. After being out-of-office for two (2) years, he/she may run again.

Members of the council shall serve until their successors are elected and qualified. A candidate for the office of city councilman shall at the time of qualifying for the election and at the time of election be a qualified elector of the City of North Miami Beach, and shall not, within five years next preceding the date of his qualification, have been convicted in this or any other state of any offense involving moral turpitude.

#### **COMMITTEE RECOMMENDATION:**

**Committee recommended, by a 7-0 vote, to retain existing language.**

#### **TERM LIMIT OPTIONS:**

- No person shall be able to serve more than two terms as Mayor or Councilmember. *This allows an individual to serve as Mayor for two terms and Councilmember for two terms.*
- No person shall be able to serve more than two consecutive terms as Mayor or Councilmember. *This would only place limits on consecutive service, an individual could serve more than two terms in any office so long as it was not consecutive.*
- No term limits.

## **AGENDA TAB 4**

### **CHARTER OFFICERS**

#### **EXISTING CHARTER PROVISION:**

#### **Article VIII. - The Legal Department**

##### **Section 42. - City attorney.**

The legal department of the City of North Miami Beach shall be under the supervision of a full time city attorney appointed by the city council to serve at the pleasure of the council. **The city attorney shall be a member of the Florida Bar with at least five years' experience in the practice of law in Florida,** and shall not during his tenure of office engage in any private practice of law.

##### **Section 43. - Compensation.**

The compensation of the city attorney and all other personnel of the legal department shall be fixed by the council in the annual budget. It shall be paid by the city in the same manner as salaries of other city employees are paid.

##### **Section 44. - Assistants.**

The city attorney shall have such clerical, stenographic and legal assistance as shall be approved by the council. Employees of the legal department, other than the city attorney, may be placed under civil service at the option of the city council.

##### **Section 45. - Duties.**

It shall be the duty of the city attorney to act as legal advisor to the city council, the city manager, and department heads in the City of North Miami Beach. He shall prepare all ordinances, resolutions or regulations submitted for consideration of the council. He shall examine and approve as to legal sufficiency all contracts, franchises, deeds or other undertakings of the City of North Miami Beach. He shall represent the city in bond validations, condemnations under eminent domain, and other legal proceedings in which the City of North Miami Beach is a party. **Provided, however, the city council may, in its discretion, associate other counsel in any matter in which the City of North Miami Beach has an interest, and pay the compensation of such associate counsel.** The city attorney or a duly appointed assistant shall prosecute cases in the county or circuit court.

##### **Section 46. - Tort claims.**

No claims against the City of North Miami Beach, sounding in tort, shall be paid, and no action may be maintained thereon, unless notice of the circumstances under which the claim arose shall have been served on the mayor by certified mail with a copy to the city attorney. Notice shall be served within the time prescribed under the then current state statute as it exists on the date of the alleged claim.

##### **Section 47. - Council meetings.**

The city attorney shall attend meetings of the city council and shall perform such other duties as the council may by resolution or ordinance provide.

## COMMITTEE RECOMMENDATION:

The Committee recommended, by a 5-1 vote, the below provision for City Attorney-*The City Attorney's Office is recommending adding the underlined provisions to the Committee recommendation to avoid a separate ballot question.*

### Section 3.5. City Attorney.

There shall be a City Attorney or law firm who shall be the head of the Office of City Attorney. **The City Attorney or law firm shall be a member of the Florida Bar with at least five years' experience in the practice of law in Florida.** The City Council shall appoint the City Attorney or law firm to serve at the pleasure of the City Council. The City Attorney or law firm shall be removed by a majority vote of the City Council at any time. The term, conditions, and compensation of the City Attorney or law firm shall be established by the City Council.

#### Section 3.5.1 Powers and Duties of the City Attorney or Law Firm.

The City Attorney or law firm shall:

- A. Act as the legal advisor for the City and all of its officers in all matters relating to their official powers and duties.
- B. Prepare or review all ordinances, resolutions, contracts, bonds and other documents in which the City is concerned, and shall endorse on each his/her approval of the form, language, and execution.
- C. Prosecute or defend, for and in behalf of the City, all complaints, suits and controversies in which the City is a party, before any court, or other legally constituted tribunal.
- D. Attend all meetings of the City Council.
- E. Recommend to the City Council for adoption, such measures as he/she may deem necessary or expedient.
- F. Render opinions and/or reports on legal matters affecting the City.
- G. Perform such other professional duties as may be required by ordinance or resolution of the City Council by this Charter.
- H. Appoint and remove all unclassified personnel in the Legal Department.
- I. **The city council may, in its discretion, associate other counsel in any matter in which the City of North Miami Beach has an interest, and pay the compensation of such associate counsel.**

## **AGENDA TAB 5**

### **EXISTING CHARTER PROVISION:**

The Existing Charter provides for Finance (Article XII *Finance Department*), Personnel (Article XIII *Department of Personnel*), Recreation (Article XIV *Department of Recreation*), Police and Fire Departments (Article XV *Police and Fire Departments*), and Public Works (Article XVII *Public Works*).

### **COMMITTEE RECOMMENDATION:**

The Committee recommended, by a 6-1 vote, that the existing language should be changed to state that the City Manager shall direct and supervise the administration (including creation and elimination) of City Departments, excluding the City Attorney and City Clerk's departments.

### **REVISED RECOMMENDATION:**

The existing language should be changed to state that the City Manager shall direct and supervise the administration (~~including creation and elimination~~) of City Departments, excluding the City Attorney and City Clerk's departments.

### **Charter Review Committee Meeting Minutes December 10, 2015**

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#### **Item #3 - City Departments**

**Existing Provision:** Provides for Finance, Personnel, Recreation, Police, and Fire Departments.

**Proposed Provision Option "A":** The City Manager shall direct and supervise the administration (including creation and elimination) of City Departments, excluding the City Attorney and City Clerk's departments.

**Proposed Provision Option "B":** Retain in whole or in part, the existing language, except for references to the Fire Department.

City Attorney Smith explained the existing provision and the options available for proposed provisions. City Manager Garcia discussed her experiences in other cities, relating to organizational structure and the naming of specific departments. Outside Counsel Jean Olin stated that this provision could be deleted and removed from the City Charter and moved to the City Code. Assistant City Attorney Johnston explained that the removal of a City department in the City Code would require City Council approval. City Clerk Latimore explained the differences in making changes to items that are in the City Charter and the City Code. City Attorney Smith made a suggestion to the Committee to leave the Police Department in the City Charter. The Committee discussed whether having the Police Department remain in the Charter could affect union negotiations.

**Motion to approve** to keep the Police Department in the City Charter made by Mr. Fleurimond, seconded by Mr. Dean.

**Motion Failed** 3-4 Thompson, Cook, Edwards, Lamberto opposed (?)

**Motion to approve** to adopt Option “A” made by Mr. Edwards, seconded by Mr. Cook.

**Motion Passed 6-1** with Mr. Dean opposed.