

AGENDA TAB 3

MAYOR'S/VICE-MAYOR AUTHORITY/VACANCIES IN OFFICE

EXISTING CHARTER PROVISIONS:

Sec. 23. - Mayor.

The mayor shall preside over meetings of the council and shall cast his vote on any motion, resolution or ordinance submitted for consideration of the council. He shall be the titular head of the government of the City of North Miami Beach and shall represent the city in any function requiring that the city be represented. He shall perform such other duties as may be provided in this charter. The council shall elect from its membership a vice-mayor who shall act in the absence or disability of the mayor and who shall exercise the powers of the mayor when so acting.

Sec. 19. - Vacancies.

Vacancies in elective offices of the City of North Miami Beach shall be filled by the city council pending the next general election, at which an election to fill the vacancy shall be held for the unexpired term. Provided, however, that should any vacancy occur more than one year prior to the next general election, the council shall have no power to fill the same; it shall be filled by a special election to fill the vacancy for the unexpired term, to be held not less than 35 days nor more than 60 days after such vacancy has occurred. When a vacancy is filled by the city council, it shall be done in such manner as shall be provided by the rules of the council, or as provided by separate ordinance.

**In addition to the committees established in the Charter, the City Council has the authority to establish committees.*

COMMITTEE RECOMMENDATION:

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

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.

ELECTION DATE

EXISTING CHARTER PROVISION:

Sec. 9. - General elections.

Regular elections in the City of North Miami Beach shall be held biennially on the first Tuesday in May, except as otherwise provided herein. Candidates to office under this charter shall be elected by a majority of the votes cast in the election. If no candidate receives a majority of the votes cast for the office to be filled, then the two (2) candidates receiving the highest number of votes for such office shall be voted upon in an election to be held on the second Tuesday in May and the candidate receiving a majority of the votes in such election shall be declared elected. In the event of a tie vote for the purpose of any runoff election or in any runoff election, the candidate or the officer elected, as the case may be, shall be determined by lot in such manner as the city council shall by ordinance provide.

COMMITTEE RECOMMENDATION:

Committee recommended, by a 5-2 vote, to move City elections to November (in conjunction with County elections) in even-numbered years.

QUORUM

EXISTING CHARTER PROVISION:

Sec. 25. - Quorum and attendance of councilmen.

A quorum of the city council at any regular or special meeting shall consist of five members. The required number for a quorum at any regular or special meeting of the council shall be reduced by the number of vacancies on the city council at the time of such meeting. The affirmative vote of a majority of the members present shall be required upon any matter submitted for consideration of the council. Any number less than a quorum may convene any regular or duly called special meeting and compel the attendance of absent members of the council by capias directed to the chief of police and signed by the mayor, or, in his absence, by the other members of the council present, which capias may be executed anywhere in the City of North Miami Beach. If any councilman has failed to attend a meeting of the city council for a period of one hundred and twenty (120) days, the seat of such councilman shall automatically become vacant.

COMMITTEE RECOMMENDATION:

A motion to change the quorum to 4 failed by a 4-3 vote. The Committee recommends retaining the existing provision (5 members constitute a quorum), with the support of 4 members.

RUN-OFF'S

EXISTING CHARTER PROVISION:

Sec. 9. - General elections.

Regular elections in the City of North Miami Beach shall be held biennially on the first Tuesday in May, except as otherwise provided herein. Candidates to office under this charter shall be elected by a majority of the votes cast in the election. If no candidate receives a majority of the votes cast for the office to be filled, then the two (2) candidates receiving the highest number of votes for such office shall be voted upon in an election to be held on the second Tuesday in May and the candidate receiving a majority of the votes in such election shall be declared elected. In the event of a tie vote for the purpose of any runoff election or in any runoff election, the candidate or the officer elected, as the case may be, shall be determined by lot in such manner as the city council shall by ordinance provide.

COMMITTEE RECOMMENDATION:

The Committee recommended, by a 4-3 vote, that the provision be changed so that candidates receiving the highest number of votes from the ballots cast be elected to office.

Candidates must receive the highest number of votes of the ballots cast to be elected to office.

Example:

If 100 votes are cast for Group 2

- Candidate X receives 40 votes
- Candidate Y receives 33 votes
- Candidate Z receives 27 votes

Candidate X wins.

RECUSALS

EXISTING CHARTER PROVISION:

There is no existing language in the Charter addressing recusals. *There is language in the Code (section 24-179) providing Planning and Zoning Board members can only abstain from voting if they have a conflict of interest, as defined by Chapter 112, Florida Statutes.

COMMITTEE RECOMMENDATION:

The Committee recommended, by a 6-1 vote, to include a provision in the Citizens' Bill of Rights providing that council members shall make best efforts to vote unless they cannot vote due to a recusal pursuant to law.

ABSENTEEISM

EXISTING CHARTER PROVISION:

Sec. 25. - Quorum and attendance of councilmen.

A quorum of the city council at any regular or special meeting shall consist of five members. The required number for a quorum at any regular or special meeting of the council shall be reduced by the number of vacancies on the city council at the time of such meeting. The affirmative vote of a majority of the members present shall be required upon any matter submitted for consideration of the council. Any number less than a quorum may convene any regular or duly called special meeting and compel the attendance of absent members of the council by capias directed to the chief of police and signed by the mayor, or, in his absence, by the other members of the council present, which capias may be executed anywhere in the City of North Miami Beach. If any councilman has failed to attend a meeting of the city council for a period of one hundred and twenty (120) days, the seat of such councilman shall automatically become vacant.

COMMITTEE RECOMMENDATION:

The Committee discussed this item at the December 10, 2015, January 27, 2016 and February 11, 2016 meetings – the recommendation, by a 5-1 vote was to keep the existing language about a City Council member failing to attend a meeting for a period of 120 days and adding a due process provision for how the City Council will determine whether there was good cause or if the council member seat should be forfeited.

FLEXIBLE MEETINGS

EXISTING CHARTER PROVISION:

Sec. 24. - Meetings.

Regular meetings of the council shall be held in the city hall of the City of North Miami Beach commencing at 7:30 p.m. on the first and third Tuesdays of each month. If such date falls upon a legal holiday recognized by the City of North Miami Beach, the regular meeting shall be held on the next day following the legal holiday. The legal holidays recognized by the City of North Miami Beach will be those enumerated in the employee contracts with the city or as subsequently provided by ordinance.

Special meetings shall be called by the mayor for the consideration of emergency matters upon the written request of the city manager or upon the request of five members of the council other than the mayor. Notice of such special meetings shall be delivered to members of the council and shall be posted on the front door of the city hall at least twenty-four hours prior to the holding of same. No business shall be transacted at any special meeting other than that for which the meeting was called.

COMMITTEE RECOMMENDATION:

The Committee recommended, by a 6-1 vote, to change language to state that there shall be a minimum of eleven monthly meetings per year, which shall be prescribed by Resolution.

CITY DEPARTMENTS

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.

CHARTER OFFICERS

EXISTING CHARTER PROVISION:

Section 6. - Officers.

The affairs of the City of North Miami Beach shall be conducted by the city council and city manager with the assistance of officers who shall be selected as provided herein and whose powers and duties shall be as prescribed in this charter. The city council shall appoint a full-time city attorney to serve at the pleasure of the council. The city council shall appoint a city clerk and the city manager shall appoint the heads of such departments as are provided for herein, or as shall be created by ordinance pursuant to authority granted in this charter. The salaries of elected officers shall not be reduced during the terms for which they were elected.

Sec. 20. - Removal of officer.

Any council-appointed officer of the City of North Miami Beach may be removed by a majority vote of the city council.

Article VI. - City Manager

Section 31. - Appointment and qualifications.

The city council shall appoint a city manager in the manner and at the time provided in this charter. The city manager shall be graduate of a recognized school of public administration with not less than three years' experience in the administration of municipal affairs, or shall have not less than seven years' experience in the administration of municipal affairs. He shall have such residency qualifications as may be established by the city council. In the event of a vacancy in the office of city manager, the city council may appoint an acting city manager until such time as a qualified manager may be selected, but no acting city manager may be appointed for a period exceeding three months.

Section 32. - Tenure.

The city manager shall be appointed by the city council, which appointment shall be provisional for the first six months thereof. Thereafter, the city manager shall be appointed for a period of one year and may be reappointed for successive periods of one year each, during which time he may be removed by a majority vote of the city council.

Section 33. - Compensation.

The compensation of the city manager shall be fixed by the city council in the annual budget and may not be reduced during the year for which budget [budget] is prepared.

Section 34. - Duties and powers.

The city manager shall be responsible for the proper administration of all affairs of the city, except as otherwise provided herein, and to that end his powers and duties shall be:

- (1) To see that the laws and ordinances are enforced.
- (2) To appoint all employees of the city, except as otherwise provided herein which appointments shall be made upon merit and fitness to perform the duties involved.

- (3) To remove employees in his discretion, except as otherwise provided in the establishment of a civil service for municipal personnel.
- (4) To exercise control and direct supervision over all divisions and departments of municipal government under this charter and over such others as may be created pursuant to the authority herein granted, including public utilities owned or operated by the City of North Miami Beach. Provided, however, the authority herein granted shall not extend to the legal department or the office of auditor employed or retained by the city council.
- (5) To see that all terms and conditions imposed in favor the City of North Miami Beach or its inhabitants in any public utility franchise are faithfully kept and performed.
- (6) To report any violation of the terms and conditions of any utility franchise to the city council and to the city attorney.
- (7) To attend all meetings of the city council and of its committees, with the right to take part in discussion, but without a vote.
- (8) To recommend to the city council for adoption such measures as he may deem necessary or expedient in the best interests of the City of North Miami Beach.
- (9) To keep the city council fully advised as to the financial condition and needs of the city, and to submit for its consideration an annual budget as herein further provided.
- (10) To act as purchasing agent for the city and have exclusive control over the purchase of all supplies.
- (11) To approve all vouchers for the payment for supplies purchased by him as purchasing agent.
- (12) [Reserved.]
- (13) [Reserved.]
- (14) To do and perform such other duties and acts as may be prescribed in this charter, or by ordinance or resolution of the city council not inconsistent herewith.
- (15) Notwithstanding the provisions of Section 34, subsection (12) hereof, a contract entered into by the city pursuant to competitive bids may be enlarged, changed, or extended; provided that the city manager shall find that the enlargement, change, or extension is in the best interests of the city and the interests of the city will best be served by contracting with the same person for such enlargement, change, or extension; and, provided further, that such enlargement, change, or extension shall not increase the total cost to the city by more than 10% of the original contract let pursuant to competitive bidding, or by fifty thousand dollars (\$50,000), whichever is the lesser. Provided, however, that the enlargement, change, or extension of any contract not in excess of \$2,000 may increase the total cost of the original contract let pursuant to competitive bidding by not more than 20%; and, provided further, that no change amounting to a material departure from the original purpose of the contract shall be authorized hereunder.

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 6-0 vote, the below provisions for City Manager and City Clerk:

Section 3.1. City Manager; Appointment, Removal.

There shall be a City Manager who shall be the chief administrative officer of the City. The City Manager shall be responsible to the City Council for the administration of all City affairs and for

carrying out policies adopted by the City Council. The City Council shall appoint the City Manager to serve at the pleasure of the City Council. The City Manager shall be removed by a majority vote of the City Council at any time. The term, conditions, and compensation of the City Manager shall be established by the City Council.

Section 3.1.2 Powers and Duties of the City Manager.

The City Manager shall:

- A. Be responsible for the appointing, hiring, promoting, supervising and removing of all City employees, except the City Attorney, the City Clerk, and all employees of the Office of the City Attorney.
- B. Direct and supervise the administration of all departments and offices, but not City boards or committees, unless so directed by the City Council;
- C. Attend City Council meetings and have the right to take part in discussion, but not the right to vote;
- D. Ensure that all laws, provisions of this Charter and directives of the City Council, subject to enforcement and/or administration by him/her or by employees subject to his/her direction and supervision, are faithfully executed;
- E. Prepare and submit to the City Council a proposed annual budget and capital improvement program;
- F. Submit to the City Council and make available to the public an annual report on the finances and administrative activities of the City as of the end of each fiscal year;
- G. Prepare such other reports as the City Council may require concerning the operations of City departments, offices, boards and committees;
- H. Keep the City Council advised as to the financial condition and needs of the City and make such recommendations concerning the affairs of the City as she/he deems to be in the best interests of the City;
- I. Execute contracts and other documents on behalf of the City as authorized by the City Council;
- J. Perform such other duties as are specified in this Charter or as required by the City Council.

Section 3.2. Absence or Disability of City Manager.

To perform his/her duties during his/her temporary absence or disability, the City Manager may designate by letter filed with the City Clerk, a qualified administrative officer of the City. In the event of failure of the City Manager to make such designation, the City Council may by resolution appoint an officer of the City to perform the duties of the City Manager until she/he shall return or his/her disability shall cease.

Section 3.4. City Clerk.

The City Council shall appoint the City Clerk to serve at the pleasure of the City Council. The City Clerk shall be removed by a majority vote of the City Council at any time. The term, conditions, and compensation of the City Clerk shall be established by the City Council.

Section 3.4.1 Powers and Duties of the City Clerk.

The City Clerk shall give notice of all City Council meetings to its members and the public, and shall keep minutes of the City Council's proceedings. The City Clerk shall perform such other duties as the City Council may prescribe. The City Clerk shall maintain the seal of the City and attest the Mayor's or City Manager's signature on all documents, if needed.

The Committee recommended, by a 5-1 vote, the below provision for City Attorney.

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 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.
- D. 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.
- E. Attend all meetings of the City Council.
- F. Recommend to the City Council for adoption, such measures as he/she may deem necessary or expedient.
- G. Render opinions and/or reports on legal matters affecting the City.
- H. Perform such other professional duties as may be required by ordinance or resolution of the City Council by this Charter.
- I. Appoint and remove all unclassified personnel in the Legal Department, including outside
- J. Counsel representing the City.

POWERS OF THE CITY

EXISTING CHARTER PROVISION:

Section 21. - Enumerated powers.

The City of North Miami Beach shall have all the powers granted municipal corporations by the Constitution and General Laws of Florida, and such powers as are incidental to the exercise of the powers granted herein and by general law, and in addition thereto shall have the following specific powers, as well as powers otherwise set forth in this charter:

- (1) To sue, and be sued in the manner provided by law and the provisions of this charter.
- (2) To exercise [exercise] the police power for the benefit of the health, convenience, safety, comfort and general welfare of the inhabitants of the City of North Miami Beach.
- (3) To acquire property, real and personal, for municipal purposes, and to dispose of property not needed for such purposes.
- (4) To define, prevent and abate nuisances.
- (5) To restrain and punish gambling or other disorderly conduct.
- (6) To prevent the running at large of cattle, horses, hogs, sheep, goats and other livestock as well as dogs or fowl and other animals or birds, on the streets of the city or within the city limits, and to impound the same and provide for their disposition.
- (7) To regulate the speed at which vehicles of any kind or description may be operated on the streets of the city.
- (8) To assess and collect taxes for municipal purposes.
- (9) To publicize and advertise the advantages of the City of North Miami Beach as a municipal purpose and to levy a tax for such purpose not exceeding 2 mills of the assessed valuation of the real and personal property subject to taxation.
- (10) To prohibit the sale of intoxicating liquors, wines and beers within the city.
- (11) To inspect gas, electric and water meters.
- (12) To enact ordinances in the exercise of the powers granted herein and provide punishment for the violation of same, not exceeding imprisonment in the city jail for a period of sixty (60) days or fine of five hundred dollars (\$500.00) or both.
- (13) To prevent and punish disturbances of the peace.
- (14) To establish rules and regulations respecting the poor, indigent, infirm [infirm] and insane; to provide for the support and care of such persons; and to fix the conditions upon which such person coming into the city shall be allowed to remain.
- (15) To inspect and regulate the sale of milk, meats, fish, produce, bread and other items offered for human consumption.
- (16) To provide for sanitary sewers and the compulsory use thereof by property owners.
- (17) To prohibit and suppress bawdy houses, disorderly houses and any exhibition, show, circus, parade or amusement contrary to good morals.
- (18) To prohibit and suppress the sale or distribution of obscene pictures and literature.

- (19) To regulate, restrain or prevent the carrying on of dangerous manufactures tending to increase or produce fires.
- (20) To license the sale of firearms.
- (21) To regulate the storage of gunpowder, tar, pith, rosin, salt-peter, coal oil, kerosene, gasoline, or other combustible, explosive or inflammable material.
- (22) To regulate the use of lights, candles, lamps and steam pipes in all places of business.
- (23) To regulate and suppress the sale of firecrackers and other fireworks, toy pistols, air guns and sling shots.
- (24) To inspect and regulate the sanitary conditions of dairies, butcher pens and slaughter houses.
- (25) To establish, maintain and regulate markets.
- (26) To prohibit vagrancy.
- (27) To regulate the use of sidewalks and other public ways.
- (28) To enclose, improve, or regulate public grounds of the city within or without its corporate limits.
- (29) To provide for the working of lawful prisoners of the City of North Miami Beach on the public streets, grounds and other property thereof, and for credits against fines and penalties for work performed.
- (30) To regulate, suppress or prohibit hawking or peddling upon the streets, sidewalks or other public places of the city.
- (31) To protect and preserve peace and order upon all property owned, leased, managed or controlled by the City of North Miami Beach outside its corporate limits.
- (32) To construct or purchase a telephone system.
- (33) To erect or purchase a city hall, hospitals for the care or detention of the sick, jails, market houses or other buildings for municipal purposes, and to equip and furnish the same.
- (34) To construct or purchase any street or local railway for the transportation of passengers or freight.
- (35) To have the general power of eminent domain and in addition thereto to have the power to condemn any water, ice, gas, power or light plant, telephone system, street or local railway, ship channel, canal basin, waterway, wharf, dock, warehouse, lands, submerged lands, riparian rights or buildings, or any part thereof, together with any and all franchises, rights and easements thereunto belonging or appertaining.
- (36) To destroy surface privies and cesspools or other forms of receptacles for sewage, other than sanitary service sewers.
- (37) To issue bonds for municipal improvements.
- (38) To zone property in the City of North Miami Beach in the manner provided in this charter, or as provided by state law.

- (39) To establish and operate gas and waterworks as herein provided and issue revenue certificates therefor.
- (40) To establish a civil service system for employees of the city as herein provided.
- (41) To designate a depository for municipal funds.
- (42) To license privileges, businesses, occupations and professions carried on or engaged in within the city, and fix the amounts of same.
- (43) To license the erection of signboards, placards and advertising signs, the fee for which shall not exceed five hundred dollars (\$500.00).
- (44) To establish quarantine and health regulations.
- (45) To establish a police department and a fire department for the protection of the city.
- (46) To construct, repair, grade, improve or vacate streets, alleys, avenues, lanes, wharves, landings, bridges, trenches, ditches, curverts, canals, streams, water courses, dock lines, sidewalks, curbs, viaducts and any and all thoroughfares.
- (47) To bulkhead waterways.
- (48) To establish storm sewers.
- (49) To require that utility lines, pipes or other service media be laid underground.
- (50) To construct tunnels under any waterway or railroad.
- (51) To establish and construct ship channels, canals, basins, waterways and harbors in Biscayne Bay within the city limits and to contract with the United States Government for such work.
- (52) To contract with Dade County or with any person, firm or corporation, for the payment of a portion of the costs of municipal improvements.
- (53) To levy assessments for special benefits and have and enforce a lien therefor.
- (54) To preserve the public peace and punish disturbances thereof.
- (55) To establish city dumps, incinerators or other methods of waste disposal.
- (56) To collect garbage and other waste and dispose of same or to grant franchises for such collection and disposal.
- (57) To establish and operate sewer treatment plants.
- (58) To prescribe and enforce standards of weights and measures in connection with any sale of commodities and inspect for compliance.
- (59) To establish and maintain a public library and provide for the support of same through taxation, gifts, grants, donations or other means.
- (60) To assess and collect reasonable fees for inspections or other services authorized or required by this charter.
- (61)(a) To enter upon improved or unimproved properties in the city and clean up the same of weeds, trees, debris, trash, or other unsightly or unsanitary matter, or to fill in excavations or depressions wherein water may accumulate, and other like matter

whenever the owner or occupant of such property has neglected to do these things and has been given fifteen (15) days registered notice in which to do so and has failed.

- (b) To impose penalties for the non-payment of charges and fees incurred by it in cleaning up improved or unimproved property in the City of weeds, trees, debris, trash, or other unsightly or unsanitary matter, or to fill excavations or depressions wherein water may accumulate, and other like matter whenever the owner or occupant thereof has neglected to do such and has been given fifteen (15) days registered notice in which to do so and has failed.
- (c) To declare such unpaid charges and fees to be a lien against the property served.
- (d) To provide methods for collection of such fees and charges.
- (e) To have the right to declare such unpaid fees and charges a lien against the real and personal property of the owner and occupant of such property, collectible in the same manner as unpaid liens for special assessments are collectible.
- (f) To provide and declare that the powers granted in this subsection are cumulative in addition to any other powers which the City of North Miami Beach now has or may hereafter have.

COMMITTEE RECOMMENDATION:

The Committee recommended, by a 6-0 vote, the proposed provision below.

Section 1.4. Powers.

The City shall have all available governmental, corporate and proprietary powers and may exercise them except when prohibited by law. Through the adoption of this Charter, it is the intent of the electors of the City to grant to the municipal government established by this Charter the broadest exercise of home rule powers permitted under the Constitution and laws of the State of Florida.

QUALIFYING LANGUAGE

EXISTING CHARTER PROVISION:

Section. 11. - Qualification of councilman.

Candidates for the office of mayor and councilman of the City of North Miami Beach shall qualify with the clerk of the city not prior to the forty-third (43rd) day preceding the election provided for in Section 9 hereof not later than 12:00 noon, local time, on the thirty-eighth (38th) day preceding the election. A candidate shall qualify by taking and subscribing to an oath that he is qualified under the charter of the City of North Miami Beach to hold the office of councilman and mayor and by paying to said clerk a qualifying fee in the amount of four (4%) percent of the annual salary of the office, which fee shall be deposited in the general fund of the city. Candidates for the office of city councilman shall designate the group from which they desire to be elected. Each candidate, at the time of qualifying with the clerk, shall designate a campaign treasurer and a depository of campaign funds.

Each candidate, at the time of qualifying with the clerk, must have continuously resided in the City of North Miami Beach for at least one (1) full year.

COMMITTEE RECOMMENDATION:

The Committee recommended, by a 7-0 vote, the below proposed provision.

City of North Miami Beach, Charter Sec. 11. - Qualification of councilman.

Candidates for the office of mayor and councilman of the City of North Miami Beach shall qualify with the clerk of the city not prior to the ~~forty-third (43rd)~~ seventy-eighth day preceding the election provided for in Section 9 hereof not later than 12:00 noon, ~~local time,~~ on the ~~thirty-eighth (38th)~~ seventy-third (73) day preceding the election. A candidate shall qualify by taking and subscribing to an oath that he is qualified under the charter of the City of North Miami Beach to hold the office of councilman and mayor and by paying to said clerk a qualifying fee in the amount of four (4%) percent of the annual salary of the office, which fee shall be deposited in the general fund of the city. Candidates for the office of city councilman shall designate the group from which they desire to be elected. Each candidate, at the time of qualifying with the clerk, shall designate a campaign treasurer and a depository of campaign funds.

Each candidate, at the time of qualifying with the clerk, must have continuously resided in the City of North Miami Beach for at least one (1) full year.

GROUPS/DISTRICTS

EXISTING CHARTER PROVISION:

Section. 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:

The Committee recommended, by a 6-1 vote, to retain the existing language.

RECORDING OF MEETINGS/BILL OF RIGHTS

EXISTING CHARTER PROVISION:

Sec. 36. - Citizens' bill of rights.

(A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:

1. Convenient access. Every person has the right to transact business with the city with a minimum of personal inconvenience. It shall be the duty of the city manager and the city council to provide, within the city's budget limitations, reasonable convenient times and places for required inspections, and for transacting business with the city.
2. Truth in government. No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.
3. Public records. All audits, reports, minutes, documents and other public records of the city and its boards, agencies, departments and authorities shall be open for inspection at reasonable time and places convenient to the public.
4. Minutes and ordinance register. The city clerk shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances (Ordinance means an official legislative action of the North Miami Beach Council, which action is a regulation of a general and permanent nature and enforceable as a local law), and resolutions (Resolution means an expression of the North Miami Beach Council concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the North Miami Beach Council) listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than thirty (30) days after the conclusion of the meeting,
5. Right to be heard. So far as the orderly conduct of public business permits, any interested person has the right to appear before the city council or any city agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the city. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit the city or any agency thereof from imposing reasonable time limits for the presentation of a matter.
6. Right to Notice. Persons entitled to notice of a city hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

7. No unreasonable postponements. No matter once having been placed on a formal agenda by the city shall be postponed to another day except for good cause shown in the opinion of the city council, or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.
8. Right to public hearing. Upon a timely request of any interested party a public hearing shall be held by any city agency, board, department or authority upon any significant policy decision to be issued by it, which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the law department of the city or to anybody whose duties and responsibilities are solely advisory. At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.
9. Notice of action and reasons. Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied b[y] a statement of the grounds for denial.
10. Manager's and attorneys' reports. The city manager and city attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions.
11. Budgeting. In addition to any budget required by state statute, the city manager shall prepare a budget showing the cost of each department for each budget year. Prior to the city council's first public hearing on the proposed budget required by state law, the city manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefor, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.
12. Quarterly budget comparisons. The city manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one-quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.
13. Adequate audits. An annual audit of the city shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. The independent city auditor shall be appointed by the city council; both appointment and removal of the independent city auditor shall be made by the city council. A summary of the results of the independent city auditor's annual audit, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy. Duties, method of selection, and method of compensation of the independent city auditor shall be established by ordinance.

14. Representation of public. The city council shall endeavor to provide representation at all proceedings significantly affecting the city and its residents before state and federal regulatory bodies.
 15. Natural resources and scenic beauty. It shall be the policy of the City of North Miami Beach to conserve and protect its natural resources and scenic beauty.
- (B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City of North Miami Beach. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the City. The orderly, efficient and fair operation of government requires the knowledgeable participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.
- (C) Remedies for violations. In any suit by a citizen alleging a violation of this Bill of Rights filed in the Miami-Dade County circuit court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the court. Any public official or employee who is found by the court to have willfully violated this article shall forthwith forfeit his office or employment.
- (D) Construction. All provisions of this article shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this article shall be declared invalid, it shall not affect the validity of the remaining provisions.

COMMITTEE RECOMMENDATION:

The Committee did not recommend adding any provision regarding recording meetings.

****See Recusals for recommendation of language to the Citizens Bill of Rights.***

CIVIL SERVICE BOARD:

BELOW IS THE PROVISION CONSIDERED AT THE APRIL 4, 2016 MEETING:

PROPOSED PROVISION -

Article XIII. - Department of Personnel

~~Sec. 73. — Director.~~

~~The city council shall establish a department of personnel, the director of which may be the city manager, or the city manager may appoint a qualified person as such director.~~

~~Sec. 74. — Duties.~~

~~The department of personnel shall maintain records relating to the employees of the City of North Miami Beach, including qualifications, employment classification, salary, leave and attendance and such other information as the city manager or the city council may require. It shall provide for the giving of examinations or other determination of qualifications as herein provided, and shall make periodic reports as may be required by the city manager, the city council or the civil service board. The department shall administer the provisions of the civil service system of the City of North Miami Beach.~~

~~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.~~

~~Sec. 76. — Classified service.~~

~~The classified service shall be divided into a competitive class, a noncompetitive class and a labor class. The competitive class shall include all positions and employment for which it is practicable to determine the relative fitness of applicants by competitive examination. The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational nature~~

~~as determined by the rules of the civil service board. The labor class shall consist of ordinary unskilled labor. Any person promoted from classified service to the position of department head shall maintain all of his rights under civil service and retain the highest rating achieved by him prior to such promotion, and shall be entitled to reemployment at such rating upon ceasing to be a department head, unless removed for cause authorizing removal under civil service.~~

Sec. 77. - Civil service board-created.

There shall be a civil service board composed of seven (7) members selected as herein provided. The board shall make and adopt reasonable rules and regulations governing the administration of civil service of the City of North Miami Beach, including but not limited to, provision for appointments to the classified service, suspension, removal, leave, merit rating, promotion, demotion, appeals and other such matters as the board may deem necessary to the operation of the civil service. ~~The board shall provide for the giving of examinations and for promotions based on records or merit, ability, efficiency, character, conduct and seniority.~~ Rules and regulations adopted by the board shall be submitted for approval by the city council. If approved, the rules and regulations shall become effective immediately or as otherwise provided therein. Should the city council object to any rule or regulation, such objection shall be stated in writing and the rule or regulation shall be returned to the board together with the objections of the city council for further consideration of the board. The board shall revise such rules or regulations and resubmit same for approval of the city council. Should the city council again refuse to approve same, it shall not become effective. All rules and regulations must receive final approval by the city council before becoming effective. The board shall provide a method of selection of personnel to the noncompetitive classified service based on qualifications relating to education, experience, character and such other factors as the board may by regulation determine.

Sec. 78. - Composition of board.

(a) Five (5) members of the civil service board shall be appointed by the city council, and shall be qualified electors of the City of North Miami Beach. They shall not, during the term for which they are appointed, be employed in any manner by the City of North Miami Beach. Two (2) employees of the classified service in the City of North Miami Beach shall be elected in the manner provided by regulations of the board to serve as members of the board. A quorum of the board for any purpose shall consist of four (4) members, at least three (3) of whom shall be members appointed by the city council. Members shall be appointed for staggered terms of two (2) years each. Appointments to fill vacancies shall be for the unexpired term only. Members shall serve until their successors are appointed and qualified.

(b) The employee members shall each be elected from different departments under the government of the city and shall serve for terms of two (2) years, and until their successors are elected and qualified. Any vacancy in employee membership shall be filled by special election in the manner provided by regulations of the board, if such vacancy shall occur more than three (3) months prior to the end of the term. Terms of appointed and elected members shall commence on June 1st of the year in which appointed or elected and end May 31st of the year in which such terms are scheduled to expire. The personnel aide to the director of personnel or employee serving in that capacity or function, shall also be the secretary for the civil service commission or board ~~and may act as examiner or chief examiner but only upon the recorded request of the commission.~~

~~(c) The chief examiner shall be chosen by the members of the civil service board from among the members of the board, excluding the employee representatives. The term of the chief examiner shall be one year commencing on May 1 of each year. Should a vacancy occur in the chief examiner's position prior to the expiration of a term, the board shall make an appointment for the balance of that term. Should an appointment be made for a period of less than nine months, the chief examiner shall be eligible for reappointment for the succeeding one-year term. If the chief examiner serves for a period of nine months or more, he or she shall not be eligible for reappointment as chief examiner for a succeeding term.~~

Sec. 79. - Appeals.

Pursuant to regulations of the board, the city manager may suspend, demote or otherwise discipline any employee in the classified service, except employees in the legal department, who may be disciplined by the city attorney. Such action shall be for cause only as specified in writing and delivered to the employee. Within thirty (30) days of such action, the employee may appeal the action of the city manager or the city attorney to the civil service board and a hearing shall be afforded by the board within fifteen (15) days from the taking of the appeal, unless further time be requested by the employee and allowed by the board. The board shall review the causes for such action and if the charges, in the opinion of the board, be sustained as sufficient and established, action shall be affirmed. If the charges shall be deemed insufficient or unfounded, the employee shall be reinstated with no loss of pay or other rights. The board shall have the power to ~~issue subpoenas to witnesses,~~ require the production of books and other records and administer oaths to persons testifying in any proceedings hereunder. The provisions of this section shall apply to matters of demotion, salary decrease or any other matter concerning which an employee may feel himself aggrieved. The board shall have the power to modify any decision of the city manager or city attorney and impose such punishment for violation of its rules as may be in such ruler provided. ~~The board shall have the power to punish for contempt committed in its presence, which power may be enforced in the county court as for a violation of a city ordinance.~~

Sec. 80. ~~Political activity.~~

~~No person in the classified service, or seeking admission thereto, shall be appointed, promoted, demoted, removed, or in any way favored or discriminated against because of political opinion or affiliation. No officer or employee of the city shall directly or indirectly solicit or receive any assessment, subscription or contribution for any candidate for political office in the City of North Miami Beach. No person holding a position in the classified service shall take part in any political campaign for election to office in the City of North Miami Beach in any manner whatsoever, other than to cast his vote or express privately his opinion. Provided, however, the provisions of this section shall not apply to elected officials of the City of North Miami Beach.~~

Sec. 81. ~~Pensions.~~

~~The city council shall by ordinance provide for a pension and retirement system for employees of the city in the classified service. The fund established for such purpose may receive gifts, devises, bequests or other donations for the benefit of the fund. The city council may provide for the administration of the fund and the rate of contribution thereto by~~

~~employees, and may make such contribution from public money of the city as it may deem necessary or appropriate. The city council shall have the power to make contracts of insurance with any insurance company, authorized to do business in the State of Florida, insuring the employees of the city, or any class or classes thereof, under a policy or policies of group insurance covering life, health, accident, and annuity insurance, or any of them. Premiums on any such contract shall be deemed paid for a municipal purpose.~~