

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Clerk Rafael E. Granado
City Attorney Ricardo J. Dopico

DATE: July 24, 2024

TITLE: 1. CHARTER REVIEW - BILL OF RIGHTS

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR A NOVEMBER 5, 2024 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER THE CITY CHARTER'S "CITIZENS' BILL OF RIGHTS" SHOULD BE AMENDED TO EXPAND UPON ITS EXISTING RIGHTS AND TO INCORPORATE MIAMI-DADE COUNTY ETHICS COMMISSION'S POWERS TO ENFORCE AND IMPOSE PENALTIES (IN ADDITION TO EXISTING CIRCUIT COURT ENFORCEMENT).

2. CHARTER REVIEW - BILL OF RIGHTS-FORFEITURE

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR A NOVEMBER 5, 2024 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER THE CITY CHARTER'S "CITIZENS' BILL OF RIGHTS" SHOULD BE AMENDED REGARDING ITS CIRCUIT COURT FORFEITURE REMEDY FOR WILLFUL VIOLATIONS OF BILL OF RIGHTS, TO PROVIDE THAT FORFEITURE IS SUBJECT TO COLLECTIVE BARGAINING AGREEMENTS (PER STATE LAW) AND TO ESTABLISH SUCH FORFEITURE REMEDY AS DISCRETIONARY INSTEAD OF MANDATORY BASED UPON COURT'S DETERMINATION THAT THE VIOLATOR HAS COMMITTED REPEATED VIOLATIONS OF BILL OF RIGHTS.

3. CHARTER REVIEW - CHARTER 1.03(C) SALE/LEASE

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR A NOVEMBER 5, 2024 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER CITY CHARTER SECTION 1.03 SHOULD BE AMENDED TO REQUIRE MAJORITY VOTER APPROVAL FOR ALL RIGHT-OF-WAY VACATIONS, SALES, AND LEASES (10 YEARS OR MORE) OF CITY PROPERTY; AMEND REQUIREMENTS FOR SALES/LEASES/VACATIONS; AND AMEND REQUIREMENTS FOR MANAGEMENT/CONCESSION AGREEMENTS OF 10 YEARS OR MORE.

4. CHARTER REVIEW - CHARTER 2.01 DATE OF ELECTION

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR A NOVEMBER 5, 2024 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER THE CITY CHARTER SHOULD BE AMENDED TO MOVE CITY'S RUNOFF ELECTION DATE FROM 2 WEEKS AFTER CITY'S GENERAL ELECTION TO SECOND TUESDAY IN DECEMBER IMMEDIATELY FOLLOWING CITY'S GENERAL ELECTION, ESTABLISH INSTALLATION/ COMMENCEMENT OF

TERMS DATE AS MONDAY IMMEDIATELY FOLLOWING DATE OF RUNOFF ELECTION, AND IN ORDER TO CONFORM WITH AND ENSURE AN ORDERLY TRANSITION TO THE ABOVE CHARTER AMENDMENTS, PROVIDE THAT EXISTING COMMISSION MEMBERS' TERMS EXPIRING NOVEMBER 2025 AND NOVEMBER 2027 SHALL BE RESPECTIVELY EXTENDED TO THOSE YEARS' DECEMBER INSTALLATION DATE.

5. CHARTER REVIEW - CHARTER 2.05 PUBLIC HEARINGS AND ONLINE NOTICES

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR A NOVEMBER 5, 2024 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER CITY CHARTER SECTION 2.05 SHOULD BE AMENDED TO REQUIRE TWO PUBLIC HEARINGS INSTEAD OF ONE FOR PROPOSED CITY ORDINANCES (SUBJECT TO EXISTING EXCEPTIONS), AND TO AUTHORIZE THE CITY'S ALTERNATIVE OPTIONAL PUBLICATION OF NOTICE OF PROPOSED ORDINANCES ON A PUBLICLY ACCESSIBLE WEBSITE IN ACCORDANCE WITH CHAPTER 50, FLORIDA STATUTES, INSTEAD OF REQUIRING PUBLICATION OF SUCH NOTICES ONLY IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN CITY.

6. CHARTER REVIEW - CHARTER 2.07 VACANCIES

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR A NOVEMBER 5, 2024 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER CITY CHARTER SECTION 2.07, "VACANCIES IN CITY COMMISSION," SHOULD BE AMENDED TO REQUIRE AN ELECTION TO FILL A VACANCY UNLESS THE CITY COMMISSION MAKES AN APPOINTMENT TO FILL THE VACANCY WITHIN 30 DAYS, PROVIDE THAT COMMISSION'S POWER TO APPOINT SHALL COMMENCE UPON VACANCY OR SUBMITTAL OF RESIGNATION (IF FILED) INSTEAD OF 30 DAYS LATER, REQUIRE APPOINTMENTS BY REMAINING COMMISSION MEMBERS BE APPROVED ON A SUPER-MAJORITY (MAJORITY PLUS 1) VOTE INSTEAD OF MAJORITY VOTE, AND CLARIFY ELECTION AND INSTALLATION DATES REGARDING VACANCIES DUE TO RESIGNATION.

7. CHARTER REVIEW – CONFORMING

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR A NOVEMBER 5, 2024 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER THE CITY CHARTER SHOULD BE AMENDED TO CLARIFY THE ONE-YEAR RESIDENCY REQUIREMENT TO QUALIFY FOR OFFICE AS "IMMEDIATELY" PRIOR TO QUALIFYING, CLARIFY FILING REQUIREMENTS FOR QUALIFYING BY PETITION (CHARTER SECTION 6.03); CLARIFY AND CONFORM TO FLORIDA LAW THE RESTRICTION ON QUALIFYING FOR MORE THAN 1 CITY OFFICE, REPLACE CERTAIN OBSOLETE REFERENCE TO "COMMISSIONER" WITH "COMMISSION MEMBER" (CHARTER SECTION 2.01); AND CONFORM CHARTER SECTION 1.07 TO INCLUDE ALL NONDISCRIMINATION CLASSIFICATION CATEGORIES IN CHAPTER 62 OF THE CITY CODE.

RECOMMENDATION

BACKGROUND/HISTORY

In accordance with Section 8.01 of the Miami Beach City Charter, the Ad Hoc Advisory Charter Review and Revision Board (the “Charter Review Board” or “Board”) has reviewed and transmitted recommendations for proposed Charter Amendments intended to enhance governance, transparency, and citizen engagement in Miami Beach. The recommendations presented represent the Board’s best efforts to address key themes identified during its review process:

1. Enhanced Bill of Rights with improved mechanisms to protect residents' rights.
2. Enhanced protections for public land.
3. Enhanced transparency, ethics, electoral process, and compensation adjustment.
4. Enhanced opportunities for public input and engagement.
5. Clarifications and "clean up".

The Mayor and each member of the City Commission directly appointed the Members of the Charter Review Board. The term of the Board commenced on February 6, 2023, and expired on June 30, 2024. The Board’s members included:

- Jorge M. Gonzalez, Chair;
- Ronald Starkman, Vice Chair;
- Michael Band, Esquire;
- Julie Basner;
- Elizabeth Latone; and
- Samuel Rabin, Esquire.

Note: Brian Goldberg, who was originally appointed in 2023, served on the Board until November 16, 2023.

The Board held eighteen public meetings between February 6, 2023 and April 16, 2024. The Board ensured transparency and public participation by holding evening meetings, live-streaming sessions, and engaging with various stakeholders, including City officials, neighborhood-based organizations, and residents.

The Charter Review Board’s recommendations were meticulously crafted and unanimously approved by the Board. The Board’s Final Report and Recommendations were transmitted to the City Commission on May 3, 2024, via LTC 170-2024. At its meetings on May 15, 2024, and June 26, 2024, the City Commission held two Committee of the Whole discussions to discuss the Charter Review Board’s recommendations and provide direction to the City Attorney and City Clerk on the proposed Amendments (including which Amendments to proceed with).

ANALYSIS

PROPOSED CITY CHARTER AMENDMENTS^[1]

Pursuant to the Mayor and Commissioners’ analysis and discussions of the Charter Review Board’s Report setting forth its recommended City Charter amendments, the attached Resolutions have been prepared calling for a City of Miami Beach Special Election to be held on November 5, 2024 ^[2] for the purpose of submitting to the City’s voters the following seven (7) proposed Charter amendments, briefly summarized as follows.

- Charter’s “Citizens’ Bill of Rights”-Amending Existing Rights, etc.: Expand existing rights to public records, to no unreasonable postponements, to notice and be heard on City matters; incorporate all City Code Chapter 62 classification categories into “Nondiscrimination” rights; incorporate enforcement powers of Miami-Dade County Ethics Commission.
- Charter’s “Citizens’ Bill of Rights”—Amending Circuit Court Forfeiture Remedy: Provide that the “forfeiture of office or employment” judicial remedy for willful violations of the Bill of Rights is subject to terms of collective bargaining agreements (per State law); establish such forfeiture remedy is discretionary with the Court instead of mandatory, based upon the Court’s determination that the violator has committed repeated violations of the Bill of Rights.
- Charter Section 1.03 “Sale/Lease of City Property, etc.”: Amend existing requirements for the sale/lease/disposition of City property to require majority voter approval for the sale/lease (10 years or more) of City property and right-of-way vacations (includes changing approval for Convention Center Campus/Parking Lots from 60% to majority); as well as advisory Planning Board review, planning analysis, appraisal, competitive bidding (for sales/leases), and a public hearing. For management/concession agreements (10 years or more), require a 6/7ths vote of the City Commission, public hearing, and advisory review by the Planning Board. This measure would apply to any sale, lease (10 years or more), vacation, or agreement awarded pursuant to a competitive bidding process (if applicable) or waiver of such process approved by the City Commission after November 5, 2024.
- Charter Section 2.01 “City Commission Elections”: (Per request of the Miami-Dade County Elections Supervisor that the City’s 2-week gap between its General and Runoff Election be increased to at least 4 weeks) Change the date of City’s Runoff Election from 2 weeks after City’s November General Election to the second Tuesday in December immediately following said General Election; establish installation/commencement of terms as the Monday immediately following the date of Runoff Election; to conform to above, provide that existing Commission members’ terms expiring November 2025 and November 2027 are extended to those years’ respective December installation date.
- Charter Section 2.05 “Public hearings and Public Notice”: Require two public hearings instead of one for proposed City ordinances; authorize City’s alternative optional publication of notice of proposed ordinances on a publicly accessible website per Chapter 50, Florida Statutes, instead of requiring notice only in newspapers of general circulation within the City.
- Charter Section 2.07 “Vacancies in City Commission”: Require election to fill vacancy unless City Commission timely appoints a person to fill the vacancy; provide when Commission’s power to appoint commences; require appointments by remaining Commission members be super-majority (majority plus 1) vote instead of majority vote; clarify election and installation dates regarding vacancies due to resignation.
- Clarify/Conform to Applicable Laws and/or Current Usage (“housekeeping” ballot measure): Clarify that the one-year residency requirement to qualify as a candidate applies to the year “immediately” prior to qualifying, clarify filing requirements for qualifying by petition (Charter 6.03); clarify and conform to Florida law restriction against qualifying for more than 1 City office, replace certain obsolete reference to “Commissioner” with “Commission member” (Charter 2.01); amend Charter 1.07 to include therein all nondiscrimination classification categories in Code Chapter 62.

The City Commission should note that per the election schedule of the Miami-Dade County Elections Supervisor, July 24, 2024 is the last regularly scheduled meeting of the City Commission

at which a Resolution may be adopted placing a City ballot question on the November 5, 2024 ballot.

^[1] The seven (7) Resolutions setting forth each of the proposed Charter amendments are attached to this Memorandum.

^[2] The City Commission should note that any Charter questions adopted pursuant to the Charter Review Board's recommendations would be in addition to the ballot question approved by the prior City Commission on July 26, 2023, pursuant to Resolution No. 2023-32719, asking whether the City should impose a 1% tax on food and beverage sales to address homelessness/domestic violence. This question was submitted to the County Elections Department for placement on the November 5, 2024 ballot pursuant to the Commission's prior Resolution.

FISCAL IMPACT STATEMENT

See attached Exhibit – November 5, 2024 MDC Cost Estimate.

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on .
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

CONCLUSION

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

No

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

City Attorney

Sponsor(s)

Mayor and City Commission

Co-sponsor(s)

Condensed Title

Referendum Ballot Questions - Charter Review. CA/CC