

RESOLUTION NO. 2024-33173

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.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH:

SECTION 1.

In accordance with provisions of the Charter of the City of Miami Beach, Florida and the general laws of the State of Florida, a Special Election is hereby called and directed to be held in the City of Miami Beach, Florida, from 7:00 a.m. to 7:00 p.m. on Tuesday, November 5, 2024, for the purpose of submitting to the electorate the question as set forth hereinafter.

SECTION 2.

That the appropriate and proper Miami-Dade County election officials shall conduct the said Special Election hereby called, with acceptance of the certification of the results of said Special Election to be performed by the City Commission. The official returns for each precinct shall be furnished to the City Clerk of the City of Miami Beach as soon as the ballots from all precincts have been tabulated.

SECTION 3.

That the said voting precincts in the City of said Special Election shall be as established by the proper and appropriate Miami-Dade County Election Officials. All electors shall vote at the polling places and the voting precincts as determined by the Miami-Dade County Election Officials.¹

SECTION 4.

Notice of the adoption of this Resolution and of its provisions calling this Special Election shall be given by publication in the Miami Herald, a newspaper of general circulation in Miami Beach, Miami-Dade County, Florida. Such publication shall be made in accordance with the provisions of Section 100.342, Florida Statutes, and Section 38-3 of the Code of the City of Miami Beach.

SECTION 5.

The Notice of Election shall be substantially in the following form:

THE CITY OF MIAMI BEACH, FLORIDA
NOTICE OF SPECIAL ELECTION

NOTICE IS HEREBY GIVEN THAT A SPECIAL ELECTION HAS BEEN CALLED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AND WILL BE HELD IN SAID CITY FROM 7:00 A.M. UNTIL 7:00 P.M. ON THE 5th DAY OF NOVEMBER, 2024, AT WHICH TIME THERE SHALL BE SUBMITTED TO THE DULY REGISTERED AND QUALIFIED VOTERS OF THE CITY OF MIAMI BEACH THE FOLLOWING QUESTION:

Charter Section 2.07 “Vacancies in City Commission”

Shall Charter Section 2.07 be amended to:

- require election to fill vacancy unless City Commission appoints person to fill 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 super-majority (majority plus 1) vote instead of majority vote;
- clarify election and installation dates regarding vacancies due to resignation?

¹ Pursuant to City Code Section 38-3(b): “...The City Clerk shall further publish, in a newspaper meeting the requirements set forth in Florida Statute § 50.031 and on the City’s website, the polling places for the election twice, once in the third week and once in the first week prior to the week in which the election is to be held.”

Yes _____
No _____

Said Notice shall further set forth pertinent information regarding eligibility of electors to participate in said elections.

SECTION 6.

That the official ballot to be used in the Special Election to be held on November 5, 2024, hereby called, shall be in substantially the following form, to-wit:

“OFFICIAL BALLOT”

Charter Section 2.07 “Vacancies in City Commission”

Shall Charter Section 2.07 be amended to:

- require election to fill vacancy unless City Commission appoints person to fill 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 super-majority (majority plus 1) vote instead of majority vote;
- clarify election and installation dates regarding vacancies due to resignation?

Yes _____
No _____

SECTION 7.

The form of the ballots to be used in this Special Election and their preparation shall be in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.

SECTION 8.

Registration of persons desiring to vote in the Special Election shall be in accordance with the general law of the State of Florida governing voter registration. Qualified persons may obtain registration forms to vote at the Office of the City Clerk, City Hall, 1700 Convention Center Drive, First Floor, Miami Beach, Florida 33139, during normal business hours, and at such other voter registration centers and during such times as may be provided by the Supervisor of Elections of Miami-Dade County. The Miami-Dade County Supervisor of Elections will register voters for this Special Election until

October 7, 2024. All persons eligible to vote at this Special Election must be registered by the date set forth herein or have registered previously, as provided by law. Each person desiring to become a registered voter shall be responsible for properly filling out the registration form and returning it to the Miami-Dade County Elections Department. All questions concerning voter registration should be directed to the Miami-Dade County Elections Department, 2700 N.W. 87th Avenue, Miami, Florida 33172; Telephone: (305) 499-VOTE (8683).

SECTION 9.

That voters participating via a Vote-by-Mail ballot in said Special Election shall be entitled to cast their ballots in accordance with the provisions of the Laws of the State of Florida with respect to such voting. All questions concerning Vote-by-Mail ballots should be directed to the Miami-Dade County Elections Department, 2700 N.W. 87th Avenue, Miami, Florida 33172; Telephone: (305) 499-VOTE (8683).

SECTION 10.

That the City of Miami Beach shall pay all expenses for conducting this Special Election and will pay to Miami-Dade County or directly to all persons or firms, upon receipt of invoice or statement approved by the Supervisor of Elections of Miami-Dade County, Florida.

SECTION 11.

That if the Charter Amendment provided for in Sections 5 and 6 above shall be approved by a majority of the qualified electors of the City voting on the subject Charter Amendment, it shall be considered adopted and effective upon the City Commission's acceptance of certification of final election results.

SECTION 12.

Upon the Charter Amendment's approval by a majority of the qualified electors of the City voting on such measure in the election and the City Commission's acceptance of certification of final election returns, the City Clerk is hereby directed to have the subject Charter amendment incorporated into the City Charter, file such Amendment with the Clerk of the Circuit Court and file the revised Charter with the Department of State.

SECTION 13.

In the event that some, but not all, of the Charter amendments on the City's subject November 5, 2024 Special Election ballot are approved by the electors, conforming amendments shall be deemed to be adopted, and the City Attorney is authorized to reflect and implement such revisions to the Charter, to the extent necessary to assure that all amendments adopted conform to one another and to all remaining Charter provisions. If

conflicting amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

SECTION 14.

If any section, sentence, clause or phrase of this Resolution or of the ballot measure or Charter Amendment set forth in Exhibit A and incorporated herein is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution, ballot measure or Charter Amendment.

SECTION 15.

This Resolution shall be effective immediately upon its passage.

PASSED and ADOPTED this 24 day of July, 2024.

ATTEST:

Rafael E. Granado

JUL 25 2024

RAFAEL E. GRANADO
CITY CLERK
NK

Steven Meiner
STEVEN MEINER
MAYOR



(Sponsored by the Mayor and City Commission)

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

[Signature] 7/18/2024
City Attorney NK Date

EXHIBIT "A"

**CITY CHARTER AMENDMENT RE:
CHARTER SECTION 2.07 "VACANCIES IN CITY COMMISSION"**

**BALLOT QUESTION AND PROPOSED AMENDED CITY CHARTER TEXT
NOVEMBER 5, 2024 SPECIAL ELECTION**

Ballot Question:

Charter Section 2.07 "Vacancies in City Commission"

Shall Charter Section 2.07 be amended to:

- require election to fill vacancy unless City Commission appoints person to fill 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 super-majority (majority plus 1) vote instead of majority vote;
- clarify election and installation dates regarding vacancies due to resignation?

Proposed Amended Charter Text:

Charter Section 2.07. - Vacancies in City Commission.

Any vacancy occurring in the City Commission shall be filled as follows by the scheduling of an election, unless the City Commission appoints a person to fill said vacancy, pursuant to the following process:

- Vacancy for reasons other than resignation.* The City Commission shall, have within 30 days after the vacancy occurs, the power decide whether to fill said vacancy by City election or by Commission appointment. Should the Commission choose to appoint, said action shall be taken by vote of the super-majority vote (majority plus 1) of the remaining Commission members (thus not including the Commission member who created the vacancy) of the City Commission within 30 days after the expiration of the above subject initial 30-day period, with the appointee serving the remainder of the unexpired term until the next succeeding ~~G~~general City ~~E~~election and with any further remainder of said unexpired term to be filled by a Commission member elected at said ~~G~~general ~~E~~election. If the remaining members of the City Commission shall choose instead to fill such vacancy by election not so appoint, then a ~~S~~special ~~E~~election shall be called to be held within 90 days after the expiration of the subject 30-day period to elect a Commission member to fill such vacancy for the remainder of the unexpired term.
- Vacancy due to resignation.* Resignations from office shall be filed with the City Clerk and shall be irrevocable upon such filing, thus creating a vacancy in office per the effective date of the resignation. The Commission shall have, within 30 days from submittal of a resignation to the City Clerk, the power decide whether

to fill said vacancy by ~~City election or by Commission appointment.~~ 1.

~~Should the Commission choose to appoint, said action shall be taken by vote of the super-majority vote (majority plus 1) of the remaining Commission members (thus not including the Commission member who has resigned), of the Commission within 30 days after expiration of the subject 30-day period (referenced in (b) above), with the appointee serving the remainder of the unexpired term from the date the resigning official would take office, if elected (assuming the resignation was filed pursuant to Section 99.012, Florida Statutes) until the next succeeding General City Election, and with any further remainder of the unexpired term to be filled by a Commission member elected at said General Election. However, if the resignation was not filed pursuant to Section 99.012, Florida Statutes, then the appointee shall serve the remainder of the unexpired term from either the resignation's effective date or from the date the appointee is appointed, whichever occurs later, and shall serve until the next succeeding General City Election, and with any further remainder of the unexpired term to be filled by a Commission member elected at said General Election.~~

2. ~~If the remaining members of the City Commission shall choose instead to fill such vacancy by election, not make an appointment, then a Special Election shall be called to be held within 120 days after expiration of the subject initial 30-day period (referenced directly above in subsection (b) above) to elect a Commission member to fill such vacancy for the remainder of the unexpired term; but if a City or County-wide election is otherwise scheduled to be held during the intervening period from expiration of the subject initial 30-day period through and including the resignation's effective date, or (if vacancy due to resignation filed pursuant to Section 99.012, Florida Statutes) the date the resigning official would take office, if elected, then the Special Election to fill the vacancy for the unexpired term as provided above may occur at any such City or County-wide election.~~

~~Any person who has been elected to fill a vacancy due to resignation filed pursuant to Section 99.012, Florida Statutes, shall be installed and take office following on whichever of the following occurs later: the date the resigning official would take office, if elected, or upon the City Commission's acceptance of final election returns from the City's special election to fill vacancy (if no City runoff election is required) or runoff election (if required), but if the subject election to fill vacancy is held at time of the City's biennial general election cycle, such person shall be installed and take office on the date the resigning official would take office if elected or the date Commission members elected at said general election cycle are installed, whichever occurs later. ; a~~Any person who has been elected to fill a vacancy due to resignation not filed pursuant to Section 99.012, Florida Statutes, shall be installed and take office following on whichever of the following occurs later: the effective date set forth in said resignation, or upon the City Commission's acceptance of final election returns from the City's special election to fill the vacancy (if no City runoff election is required) or runoff election (if required), but if the subject election to fill vacancy is held at time of the City's biennial general election cycle, such person shall be installed and take

office on the effective date set forth in said resignation or date Commission members elected at said general election cycle are installed, whichever occurs later.

- (c) *Resolution calling ~~S~~special ~~E~~election.* Provisions related to a ~~S~~special ~~E~~election called pursuant to this section, including the qualifying period and ~~R~~unoff ~~E~~election (if required), shall be established in the City Resolution calling the ~~S~~special ~~E~~election.