



CITY OF NORTH MIAMI BEACH

Workshop

Council Chambers, 2nd Floor

City Hall, 17011 NE 19th Avenue North Miami Beach, FL 33162

Tuesday, November 18, 2014

6:00 PM

Mayor George Vallejo
Vice Mayor Barbara Kramer
Councilman Anthony F. DeFillipo
Councilwoman Marlen Martell
Councilman Frantz Pierre
Councilwoman Phyllis S. Smith
Councilwoman Beth E. Spiegel

City Manager Ana M. Garcia
City Attorney Jose Smith
City Clerk Pamela L. Latimore, CMC

Notice to All Lobbyists

Any person who receives compensation, remuneration or expenses for conducting lobbying activities is required to register as a Lobbyist with the City Clerk prior to engaging in lobbying activities before City Boards, Committees, or the City Council.

AGENDA

- 1. ROLL CALL OF CITY OFFICIALS**
- 2. DISCUSSIONS**
 - 2.1 Review Proposed Charter (City Attorney Jose Smith)**
 - 2.2 Attorney Client Session- City Attorney Jose Smith**

Attorney Client Session 7pm to 7:30pm
- 3. ADJOURNMENT**



City of North Miami Beach Memorandum

CITY ATTORNEY'S OFFICE

Phone: (305) 948-2939

Fax: (305) 787-6004

TO: Mayor and City Council

CC: Ana Garcia, City Manager and Pamela Latimore, City Clerk

FROM: Jose Smith, City Attorney

DATE: October 22, 2014

RE: Proposed New City Charter

At the April 29, 2014 workshop, the City Council expressed consensus for a new, modern, understandable City Charter, much like other recently incorporated cities had approved.

The City Attorney's Office reviewed the charters from nine municipalities (listed in the attached Exhibit "1"). We examined how each of those municipalities deals with the issues raised by the Council at the workshop. We then tried to incorporate the Council's wishes into a workable draft for further discussion and recommendations (see the City of North Miami Beach Draft Charter attached as Exhibit "2").

The Council agreed to retain a Council-Manager form of government with seven at-large seats. Additionally, everyone wanted flexibility in scheduling Council meetings, preferably 11 monthly meetings. There was consensus to schedule elections contemporaneously with Federal, State, and County elections in November (when turnout is greater), reducing costs. There was debate about terms of office, term limits, run-off elections, Charter officers and boards and committees.

By no means will each Council member agree with all provisions in the draft we prepared, particularly with respect to terms of office and term limits. There was disagreement regarding those issues. Some are irreconcilable.

However, the attached draft is consistent with most charters we reviewed and seems to reflect the majority view of the Council. Of course, it is simply a work in progress to begin the process of adopting a new, modern charter.

The existing City Charter was drafted under the provisions of the State Constitution of 1885 which provided that cities only had the powers specifically listed in their charters. Consequently, charters drafted thereafter were very lengthy and enumerated, in great detail, city powers. In 1968, the Florida Constitution was amended to include the Florida Municipal Home Rule Powers' Act which granted Florida cities, all powers of local self-government except those preempted by State law. The result of this law change is that most of the existing provisions are unnecessary and governed by Florida's Municipal Home Rule Powers' Act. Below is a summary of the items retained and changed in the proposed Charter.

The proposed Charter retains;

- the Citizens Bill of Rights;
- the basic "council-manager" structure of City government;
- six Council members and a Mayor;
- three Charter officers (City Manager, City Attorney, and City Clerk);
- City Council compensation;
- Charter Review Committee; and
- staggered four-year terms for the Mayor and Council.

The primary differences between the existing Charter and the proposed Charter are as follows;

- the proposed Charter removes unnecessary provisions now governed by the Florida Municipal Home Rule Powers' Act, Florida Statutes, Chapter 166;
- Council members and Mayor will be limited to two, four-year terms for each office (eligible to serve two, four-years terms as Mayor AND two, four-year terms as a Council member);
- removal of the Finance Department, Personnel Department, Civil Service Board, Recreation Department, Police and Fire Departments, Public Works, and Public Utilities from the Charter into the Code of Ordinances [where appropriate];
- flexibility in scheduling City Council meetings, which shall occur monthly;
- reduction in the quorum requirement from five Council members to four Council members;
- change in the election date from May to November to piggyback on Miami-Dade County elections and to save costs-this change in election date would result in the offices that are set to expire in May 2015 and May 2017 would be extended until November of the same year;
- establishes a procedure for qualifying for elections, filling of vacancies on City Council, and forfeiture of office; and
- amends the budget process to comply with State law.

EXHIBIT "1"

SUMMARY OF CITY CHARTER PROVISIONS									
	TERMS	RUN-OFF	CITY CLERK	FLEXIBLE MEETINGS	CREATION/APPOINTMENT OF DEPT. DIRECTORS	BOARDS AND COMMITTEES	COUNCIL – MANAGER	DISTRICTS	
AVENTURA	4 yr terms 2 term limit for all	No	Charter	Yes	Manager	Commission	Yes	Yes	
CORAL GABLES	2 yr term—Mayor 8 yrs total-Mayor 4 yr term-Commission 12 yrs total-Commission	No	Charter	Yes, not in Charter.	Manager controlled and Commission created by a majority vote.	Commission (Commission shall create by ordinance Civil Service Bd)	Yes (Not in Charter)	No	
DORAL	4 yr terms 2 term limit for all	Yes	Charter	Yes	Manager	Council	Yes	No	
FLORIDA CITY	4 yr terms No mention of term limit in charter.	Yes	Mayor w/Commission	No, 2 times a month.	Mayor	Commission	No, Strong Mayor.	No	
MIAMI BEACH	4yr term—Commission 2 term limit-Commission 2 yr term-Mayor 3 term limit-Mayor	Yes	Charter	Yes	Manager w/Commission consent	Commission except Zoning Board	Yes	No	
MIAMI GARDENS	4 yr term 2 term limit *Mayor 2 addtn'l terms	Yes	Charter	Yes	Manager	Council	Yes	Yes	
OPA-LOCKA	4 yrs terms	Yes	Charter	Yes	Manager	Commission (P&Z – Council/Charter Civil Service in Charter)	Yes	Yes	
PALMETTO BAY	4 yr term 2 term limit 3 terms limit for Council & Mayor	Yes	Charter	Yes	Manager	Council	Yes	Yes	
SUNNY ISLES BEACH	4yr term 2 term limit *Mayor, 2 addtn'l terms	Yes	Manager	Yes	Manager	Commission	Yes	Yes	

EXHIBIT "2"

CITY OF NORTH MIAMI BEACH DRAFT CHARTER

PREAMBLE

We, the people of the City of North Miami Beach, in order to secure for ourselves the benefits and responsibilities of home rule and in order to provide for a municipal government to serve our present and future needs, do hereby adopt this charter and as part thereof adopt the following Citizens' Bill of Rights.

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, committees, 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 City 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 City 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 City 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 committee, 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 committee 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 committee, 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 committee, 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 by 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.

ARTICLE I. - CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWERS

Section 1.1. Corporate Existence.

Section 1.2. Form of Government.

Section 1.3. Corporate Boundary.

Section 1.4. Powers.

Section 1.5. Construction.

Section 1.1. Corporate Existence.

There is hereby created a municipality to be known as the City of North Miami Beach, the inhabitants of which shall be and constitute a body corporate and politic, with perpetual existence as a City under the laws of the State of Florida, the territorial limits of which shall be as set forth in Section 1.3 hereof, as may be amended from time to time under the provisions of the constitution and laws of the State of Florida.

Section 1.2. Form of Government.

The form of government of the City of North Miami Beach shall be that of "Council-Manager."

Section 1.3. Corporate Boundary.

The territorial limits of the City of North Miami Beach, until the same is changed as provided in Section 2 hereof, shall be as follows:

*****REMOVED AND PLACED AS ATTACHMENT FOR PURPOSES OF REVIEW*****

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.

Section 1.5. Construction.

This Charter and the powers of the City shall be construed liberally in favor of the City.

ARTICLE II. - MAYOR, VICE-MAYOR AND CITY COUNCIL

Section 2.1. Mayor and Vice-Mayor.

Section 2.2. City Council.

Section 2.3. Election and Term of Office.

Section 2.4. Qualifications.

Section 2.5. Vacancies; Forfeiture of Office; Filling of Vacancies.

Section 2.6. Compensation.

Section 2.1. Mayor and Vice-Mayor.

- A. Powers of the Mayor. The Mayor shall preside at meetings of the City Council and be a voting member of the City Council. In addition, the Mayor shall have the following responsibilities:
1. The Mayor shall present a State of the City address annually.
 2. The Mayor may create and appoint, subject to City Council approval, committees of the City Council, which may include non-Council members. The members of each committee shall select a chair.
 3. The Mayor shall be recognized as head of the City government for all ceremonial purposes, for purposes of military law, and for service of process.
 4. The Mayor shall be the official designated to represent the City in all dealings with other governmental entities.
 5. The Mayor shall execute contracts, deeds and other documents on behalf of the City as authorized by the City Council.
- B. Vice-Mayor. During the absence or incapacity of the Mayor, the Vice-Mayor shall have all the powers, authority, duties and responsibilities of the Mayor. At such times as established by resolution, the City Council shall elect one of its members as Vice-Mayor.

Section 2.2. City Council.

There shall be a City Council vested with all legislative powers of the City. The City Council shall consist of the Mayor and six Council members. References in this Charter to the City Council and/or Council members shall include the Mayor unless the context dictates otherwise.

Section 2.3. Election and Term of Office.

- A. *Election and Term of Office.* 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 for four (4) year terms. The member in Group One shall be the Mayor. Members of the City Council shall serve until their successors are elected and qualified.
- B. *Limitation on Service.* No person may serve as Mayor for more than two elected terms. No person shall serve as a City Council member for more than two elected terms. A "term" shall be deemed commenced upon election, whether or not it is actually completed, except that a vacancy being filled for less than two years remaining in the filling of that term shall not be counted as a "term."

Section 2.4. Qualifications.

Candidates for Mayor or City Council member shall qualify for election by the filing of a written notice of candidacy with the City Clerk at such time and in such manner as may be prescribed by ordinance ("Qualifying Date") and paying to the City Clerk a qualifying fee of \$100.00, in addition to any fees required by Florida Statutes. A person may not be a candidate for more than one office in the same election. Only electors of the City, as defined in Section 5.1 who have resided continuously in the City for at least one year preceding their Qualifying Date shall be eligible to hold the Office of Mayor or City Council member. If at the conclusion of the qualifying period no elector has filed or qualified for an group, then the qualifying period for that group shall be reopened for a period of five business days and any qualified elector who has resided continuously in the City for at least one year may file a written notice of candidacy for the open group in accordance with the provision of this Section.

Section 2.5. Vacancies; Forfeiture of Office; Filling of Vacancies.

- A. *Vacancies.* The office of a City Council member shall become vacant upon his/her death, resignation, disability, incapacitation, suspension or removal from office in any manner authorized by law, or by forfeiture of his/her office.
- B. *Forfeiture of Office.* The Mayor or City Council member, shall forfeit his/her office if at any time during his/her term she/he:
1. ceases to maintain permanent residence in the City.
 2. ceases to be a qualified elector of the City.
 3. is convicted of a felony.
 4. willfully violates any express prohibition of this Charter.
 5. lacks, at any time during the term of office for which elected, any qualification for the office prescribed by this Charter or by law.

- C. *Procedures.* The City Council shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a City Council member's office. A City Council member whose qualifications are in question, or, who is otherwise subject to forfeiture of his/her office, shall not vote on any such matters. The City Council member in question shall be entitled to a public hearing upon request regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Any final determination by the City Council that a City Council member has forfeited his/her office shall be made by a majority of the City Council by resolution. All votes and other acts of the City Council member in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.
- D. *Filling of vacancies.* A vacancy on the City Council shall be filled as follows:
1. If the Mayor's position becomes vacant, and no more than 6 months remain in the unexpired term of the Mayor, the Vice-Mayor shall complete the term of Mayor. If more than six months remain in the unexpired term of the Mayor, the vacancy shall be filled by a special election to be held not sooner than 45 days and not more than 90 days following the occurrence of the vacancy, unless there is a City, County, State, or national election scheduled to be held not sooner than 45 days and not more than 90 days following the occurrence of the vacancy, in which case the vacancy shall be filled by the scheduled election. The Vice-Mayor shall serve the term of the Mayor until the special election or scheduled election. A new Vice-Mayor shall serve until the election or scheduled election, unless reappointed to continue to serve after the election. The vacancy created on the City Council shall be filled as provided for below.
 2. If less than six months remain in the unexpired term, the vacancy shall be filled by a nomination of the Mayor made within 30 calendar days following the occurrence of the vacancy, subject to confirmation by the City Council.
 3. If six months or more remain in the unexpired term, the vacancy shall be filled by a nomination of the Mayor made within 30 calendar days following the occurrence of the vacancy, subject to confirmation by the City Council. The nominee shall fill the vacancy until the next regularly scheduled Miami-Dade County-wide election at which time an election shall be held to fill the vacancy for the balance of the term. However, if the City Council is unable to confirm a nominee, a special election to fill that vacancy shall be held no later than 90 calendar days following the occurrence of the vacancy.
 4. A vacancy in group seat 2, 3, 4, 5, 6, or 7 shall be filled by a qualified elector residing in the City.
 5. Persons filling vacancies shall meet the qualifications specified in this Article.
 6. If no candidate for a vacancy meets the qualifications under this Article for that

vacancy, the City Council shall appoint a person qualified under this Article to fill the vacancy.

7. Notwithstanding any quorum requirements established in this Charter, if at any time the full membership of the City Council is reduced to less than a quorum, the remaining members may, by majority vote, confirm additional members to the extent otherwise permitted or required herein.

Section 2.6. Compensation.

Members of the City Council shall receive such compensation as shall be fixed by resolution of the City Council. The compensation of members of the City Council may be increased or decreased by the affirmative vote of five members of the City Council. The compensation shall be payable as other expenses of the City are paid. Insurance benefits provided to members of City Council shall only be paid for by the City during their actual term of service. After their term of service, Councilpersons may be offered the opportunity to remain in the City's insurance plan(s) at their own expense.

ARTICLE III. ADMINISTRATIVE

Section 3.1. City Manager; Appointment, Removal.

Section 3.1.2. Powers and Duties of the City Manager.

Section 3.2. Absence or disability of City Manager.

Section 3.3 Bond of City Manager.

Section 3.4. City Clerk.

Section 3.4.1 Powers and Duties of the City Clerk.

Section 3.5. City Attorney.

Section 3.5.1 Powers and Duties of the City Attorney.

Section 3.6. City Boards, Agencies and Committees.

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; and
- 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.

Section 3.5. City Attorney.

There shall be a City Attorney who shall be the head of the Office of City Attorney. The City Council shall appoint the City Attorney to serve at the pleasure of the City Council. The City Attorney shall be removed by a majority vote of the City Council at any time.

The term, conditions, and compensation of the City Attorney shall be established by the City Council.

Section 3.5.1 Powers and Duties of the City Attorney.

The City Attorney 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 or by this Charter.
- H. Appoint and remove all unclassified personnel in the Legal Department, including outside counsel representing the City.

Section 3.6. City Boards, Agencies and Committees.

The City Council shall establish or abolish such boards, agencies and committees as it may deem desirable. Such boards, agencies and committees shall report to the City Council.

ARTICLE IV. LEGISLATIVE

Section 4.1. Council Meeting Procedure.

Section 4.2. Prohibitions.

Section 4.3. Emergency Ordinances.

Section 4.4. Budget and Finance.

Section 4.5. Fiscal Year.

Section 4.6. Authentication, Recording and Disposition of Ordinances; Resolutions and Charter Amendments.

Section 4.7. Tax Levy, Assessments and Fees.

Section 4.8. Borrowing.

Section 4.1. Council Meeting Procedure.

- A. *Meetings.* The City Council shall hold at least 11 regular monthly meetings in each calendar year, at such times and places as the City Council may prescribe by Resolution. Special meetings may be held upon the call of the Mayor or four City Council members with no less than 48 hours notice to the public or such shorter time as a majority of the City Council deems necessary in case of an emergency affecting life, health, property or the public peace.
- B. *Rules and Minutes.* The City Council shall determine its own rules of procedure and order of business and shall keep minutes open for public inspection.
- C. *Quorum and Voting.* A majority of the City Council shall constitute a quorum. Voting on ordinances shall be by roll call. Voting on all other matters shall be by voice vote unless a City Council member or the City Clerk request otherwise. If four or more City Council members are unavailable to vote on a particular matter due to a recusal pursuant to law, the remaining members of the City Council may vote on such matter by unanimous vote.

Section 4.2. Prohibitions.

- A. *Appointment and Removals.* Neither the City Council nor any of its members shall in any manner direct the appointment or removal of any City employees, whom the City Manager or any of his/her subordinates are empowered to appoint.
- B. *Interference With Administration.*
 - 1. Except for the purpose of inquiries and investigations made in good faith and in accordance with a resolution adopted by the City Council, the City Council and any of its individual members shall interact with City employees who are subject to the direction and supervision of the City Manager or City Attorney solely through the City Manager or City Attorney, and neither the City Council nor its members shall give orders to any such employee, except the City Manager and

the City Attorney, either publicly or privately. It is the express intent of this Charter that recommendations for improvement in City government operations by individual City Council members are made solely through the City Manager. City Council members may discuss with the City Manager any matter of City business; however, no individual City Council member shall give orders to the City Manager.

2. Any willful violation of this Section by the Mayor or any City Council member shall be grounds for his/her removal from office.
- C. *Holding Other Office.* No elected City Official shall hold any appointed City Office or, City employment while in office, or any other county, state or federal elected office. No former elected City official shall hold any compensated City employment until two years after the expiration of his/her term.

Section 4.3. Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt, in the manner provided in this Section, one or more emergency ordinances, but emergency ordinances may not: levy taxes, grant, renew or extend any municipal franchise; set service or user charges for any municipal services; or authorize the borrowing of money except as provided under the emergency appropriations provision of this Charter if applicable.

- A. *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.
- B. *Procedure.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced and shall be enacted by no less than four members of the City Council. After its adoption, the ordinance shall be published and printed as prescribed for other ordinances.
- C. *Effective Date.* An emergency ordinance shall become effective upon adoption or at such other date as may be specified in the ordinance.

Section 4.4. Budget and Finance.

- A. *General Power.* The City of North Miami Beach shall have the power to borrow money, contract loans, and issue bonds, notes, and other obligations or evidences of indebtedness in accordance with Florida law.
- B. *Budget.* In accordance with Florida law, the City Council shall adopt an annual budget.

Section 4.5. Fiscal Year.

The fiscal year of the City government shall begin on the first day of October and shall end on the last day of September of the following calendar year. Such fiscal year shall also constitute the annual budget and accounting year.

Section 4.6. Authentication, Recording and Disposition of Ordinances; Resolutions and Charter Amendments.

- A. *Authentication.* The Mayor and the City Clerk shall authenticate by their signature all ordinances and resolutions adopted by the City Council. In addition, when Charter amendments have been approved by the electors, the Mayor and the City Clerk shall authenticate by their signatures the Charter amendment, such authentication to reflect the approval of the Charter amendment by the electorate.
- B. *Recording.* The City Clerk shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the Council. Ordinances shall, at the direction of the Council, be periodically codified. The City Clerk shall also maintain the Charter in current form including all Charter Amendments.
- C. *Availability of Enactments.* The City Council shall establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this Charter available for public inspection and available for purchase at a reasonable price.

Section 4.7. Tax Levy, Assessments and Fees.

The City, by majority of the City Council, shall have the right to levy, assess and collect all such taxes, assessments and fees as are permitted by law, including without limitation, fines, ad valorem taxes, special assessments and fees, excise, franchise or privilege taxes and taxes on services and utilities.

Section 4.8. Borrowing.

The City shall incur no debt unless such debt is approved by a majority of the City Council.

ARTICLE V. - ELECTIONS

Section 5.1. Elections.

Section 5.2. Initiative and Referendum.

Section 5.3. Recall.

Section 5.1. Elections.

- A. *Electors.* Any person who is a resident of the City, has qualified as an elector of the State, and registers to vote in the manner prescribed by law shall be an elector of the City.
- B. *Nonpartisan Elections.* All elections for the City Council and Mayor shall be conducted on a nonpartisan basis. The ballot shall not show the party designation of any candidate.
- C. *Election Dates.* A general election shall be held in each odd-numbered year, on the first Tuesday following the first Monday in November. Accordingly, the term of office for the candidates elected in May 2015 and May 2017 shall be extended as necessary to accomplish this election date revision. The Groups 1, 3, 5, and 7 elected in May 2015 that would otherwise expire in May 2019 shall instead expire in November 2019, and Groups 2, 4, and 6 elected in May 2017 that would otherwise expire in May 2021 shall instead expire in November 2021.

A runoff election, if necessary, shall be held within three weeks of the general election. The City Council shall hold no meetings between the general election and the swearing in of those newly elected or re-elected City Council members except in the case of an emergency affecting life, health, property or the public peace.

- D. *General Election.* The ballot for the general election shall contain the names of all qualified candidates for Mayor, if the Mayor's term is expiring, and for each of the City Council seats which are to be filled as a result of members' terms expiring. The ballot shall instruct electors to cast one vote for Mayor and one vote for each City Council seat, with a maximum of one vote per candidate. If any candidate for Mayor receives a number of votes greater than 50% of the total number of ballots cast, such candidate shall be the duly elected Mayor and no runoff election for Mayor shall be required. If any candidate for a City Council seat receives a number of votes greater than 50% of the total number of ballots cast, such candidate(s) shall be duly elected to the City Council and no runoff election for that Council seat (s) shall be required.
- E. *Runoff Election.* If necessary, the ballot for the runoff election shall contain the names of the two candidates for Mayor and the names of the two candidates for each City Council seat, who received the most votes in the general election. The ballot shall instruct electors to cast one vote for Mayor and one vote for each City

Council seat, with a maximum of one vote per candidate. The candidate for Mayor receiving the most votes shall be duly elected Mayor. The candidate for each City Council seat receiving the most votes shall be duly elected to that City Council seat.

- F. *Special Elections.* Special elections, when required, shall be scheduled by the City Council at such times and in such a manner as shall be consistent with this Charter and State law.
- G. *Single Candidates.* No election for Mayor or any City Council seat shall be required in any election if there is only one duly qualified candidate for Mayor or for any City Council seat. That candidate shall be considered elected by operation of law.
- H. *Commencement of Terms.* The term of office of all elected officials will commence at the next regularly scheduled City Council meeting following the day of the runoff election or, if there is no runoff election for Mayor or City Council Seat, at the next regularly scheduled City Council meeting after the general election.

Section 5.2. Initiative and Referendum.

A. Power to Initiate and Reconsider Ordinances.

- 1. *Initiative.* The electors of the City shall have the power to propose ordinances to the City Council and, if the City Council fails to adopt an ordinance so proposed without any change in substance, to adopt it at a City election, provided that the required signatures as provided for herein have been met and provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of City officers or employees.
- 2. *Referendum.* The electors of the City shall have power to require reconsideration by the City Council of any adopted ordinance and, if the City Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of City officers or employees.

- B. *Commencement of Proceedings.* A minimum of ten electors may commence initiative or referendum proceedings by filing with the City Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the committee is filed, the City Clerk shall at the committee's request, issue the appropriate petition blanks to the committee at the committee's expense. Petitioners' proposed ordinance shall be approved as to legal sufficiency by the City Attorney prior to circulation.

C. Petitions.

1. *Number of Signatures.* Initiative and referendum petitions must be signed by at least ten (10) percent of the total number of electors registered to vote at the last regular City election.
2. *Form and Content.* All pages of a Petition shall be assembled as one instrument of filing. Each signature shall be executed in ink and shall be followed by a printed name and address of the person signing. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
3. *Affidavit of Circulator.* Each page of a Petition shall have attached to it when filed an affidavit executed by the circulator stating that she/he personally circulated the page, the number of signatures contained, that all the signatures were affixed in his/her presence that she/he believes then to be genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
4. *Filing Deadline.* All Petitions must be filed within 60 calendar days of the date a proper Affidavit is filed pursuant to subsection (B) of this section.

D. Procedure for Filing.

1. *Certificate of Clerk; Amendment.* Within 20 calendar days after an initiative petition is filed or within five business days after a referendum petition is filed, the City Clerk shall verify all signatures required for initiatives or referendums with the Miami-Dade Supervisor of Election, and complete a certificate as to its sufficiency. If insufficient the certificate shall specify the particulars of the deficiency. A copy of the certificate shall be promptly sent to the committee by registered mail. Grounds for insufficiency are only those specified in subsection (C) of this Section. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the committee files a notice of intention to amend it with the City Clerk within two calendar days after receiving the copy of the certificate and files a supplementary petition with the City Clerk with additional valid signatures within ten calendar days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection (C) of this Section. Within five business days after a supplementary petition is filed the City Clerk shall, after verifying signatures with Miami-Dade County Supervisor of Elections complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the committee by registered mail. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the committee does not elect to amend or request City Council review under paragraph (2) of this subsection within the time required, the City Clerk shall

promptly present his/her certificate to the City Council and such certificate shall then be a final determination as to the sufficiency of the petition.

2. *Council Review.* If a petition has been certified insufficient and the committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two calendar days after receiving the copy of such certificate, file a request with the City Clerk that it be reviewed by the City Council. The City Council shall review the certificate at its next regularly scheduled meeting following the filing of such request and approve or disapprove it. The City Council's determination shall then be a final determination as to the sufficiency of the petition.

E. *Action on Petitions.*

1. *Action by Council.* When an initiative or referendum petition has been finally determined sufficient, the City Council shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal. If the City Council fails to adopt a proposed initiative ordinance without any change in substance within 45 calendar days or fails to repeal the referred ordinance within 30 calendar days, it shall submit the proposed or referred ordinance to the electors of the City. If the City Council fails to act on a proposed initiative ordinance or a referred ordinance within the time period contained in this paragraph, the City Council shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal the referred ordinance on the last day that the City Council was authorized to act on such matter.
2. *Submission to Electors.* The vote of the City on a proposed or referred ordinance shall be held not less than 30 calendar days or more than 60 calendar days from the date the City Council acted or was deemed to have acted pursuant to paragraph (1) of this subsection. If no regular election is to be held within the period described in this paragraph, the City Council shall provide for a special election, except that the City Council may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.
3. *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote for repeal, the repealed ordinance shall be considered repealed upon certification of the election results.

F. *Results of Election.*

1. *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. If the proposed initiative ordinance fails, it or any ordinance that

is substantially similar may not be submitted in accordance with this Article for at least one year from the date of the election.

2. *Referendum*. If a majority of the qualified electors voting on a referred ordinance vote for repeal, the repealed ordinance shall be considered repealed upon certification of the election results.

Section 5.3. Recall.

The electors of the City shall have the power to recall and to remove from office any elected official of the City to the extent permitted by the Constitution and the laws of the State of Florida. The minimum number of electors of the City which shall be required to initiate a recall petition shall be ten (10) percent of the total number of electors registered to vote at the last regular City election.

ARTICLE VI. - CHARTER AMENDMENTS

Section 6.1. Procedure to Amend

Section 6.2. Charter Revision.

Section 6.3. Charter Review.

Section 6.1. Procedure to Amend.

This Charter may be amended in accordance with the provisions of this Article.

Section 6.2. Charter Revision.

A. *Initiation.* This Charter may be amended in two ways:

1. *By City Council.* The City Council may propose amendments to this Charter which shall be adopted by an affirmative vote of a majority of the City Council. Upon passage of the initiating ordinance or resolution, the City Council shall submit the proposed amendment to a vote of the electors at the next general election held within the City or at a special election called for such purpose.
2. *By Electors.* The electors of the City may propose amendments to this Charter by petition. Each petition proposing amendments to this Charter shall be commenced, in the form, filed, certified as to its sufficiency and/or withdrawn in the same manner and with the same number of petitioning electors as an ordinance proposed by initiative.

B. *Submission to Electors.* Upon certification of the sufficiency of a petition, the City Council shall submit the proposed amendment to a vote of the electors at a general election or special election to be held not less than 60 days or more than 120 days from the date on which the petition was certified or at a special election called for such purpose.

C. *Results of Election.* If a majority of the qualified electors voting on a proposed amendment vote for its adoption, it shall be considered adopted upon certification of the election results. 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 6.3. Charter Review.

The City Council shall appoint a Charter Review Committee composed of residents of the City of North Miami Beach to review this Charter and make recommendations to the City Council regarding necessary or desired amendments no less than once every ten (10) years.

ARTICLE VII. - GENERAL PROVISIONS

Section 7.1. Severability.

Section 7.2. Conflicts of Interest; Ethical Standards.

Section 7.3. City Personnel System.

Section 7.4. Variation of Pronouns.

Section 7.5. No Discrimination.

Section 7.6. Lobbyists.

Section 7.7. Precedence over Related Laws.

Section 7.8 Officers, Employees, and Agents.

Section 7.9 Existing Rights, Obligations, Duties, and Relationships.

Section 7.1. Severability.

If any article, section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter or the context in which such article, section or part of section so held invalid may appear, except to the extent that an entire article, section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Section 7.2. Conflicts of Interest; Ethical Standards.

All City Council members, officials and employees of the City shall be subject to the standards of conduct for public officers and employees set by Federal, State, County or other applicable law. The City Council may adopt additional standards of conduct and code of ethics requirements that are stricter and not inconsistent with Federal, State, County or other applicable law.

Section 7.3. City Personnel System.

All new employments, appointments and promotions of City officers and employees shall be made pursuant to personnel procedures to be established by the City Manager, with the exception of the employees of the City Attorney.

Section 7.4. Variation of Pronouns.

All pronouns and any variation thereof used in this Charter shall be deemed to refer to masculine, feminine, neutral, singular or plural as the identity of the person or persons shall require and are not intended to describe, interpret, define or limit the scope, extent, or intent of this Charter.

Section 7.5. No Discrimination.

The City shall not adopt any ordinance, resolution or policy that discriminates against any person due to race, religion, national origin, disability, age, sexual preference or gender.

Section 7.7. Precedence over Related Laws.

In case of a conflict between the provisions of this Charter and the provisions of the Code to be adopted pursuant thereto, the Charter terms shall control. Moreover, nothing in this Charter shall be construed to alter, abolish, affect or amend the general laws of this State, now in force, or which hereinafter may be enacted relative to or affecting the City.

Section 7.9 Existing Rights, Obligations, Duties, and Relationships.

All rights, contracts, obligations, duties and relationships now existing by law or agreement between the City of North Miami Beach and other governmental units shall be unaffected and shall remain in full force and effect.



City of North Miami Beach
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MEMORANDUM

 **Print**

TO: Mayor and City Council
FROM: City Attorney Jose Smith
VIA:
DATE: Tuesday, November 18, 2014

RE: Attorney Client Session- City Attorney Jose Smith

BACKGROUND ANALYSIS: Darcee Siegel v. City of North Miami Beach
RECOMMENDATION:
FISCAL/BUDGETARY IMPACT:

ATTACHMENTS:

▣ [Notice of Attorney Client Session](#)



City of North Miami Beach Memorandum

CITY ATTORNEY'S OFFICE

Phone: (305) 948-2939

Fax: (305) 787-6004

TO: Honorable Mayor George Vallejo
Members of the City Council

CC: Ana Garcia, City Manager
Pamela Latimore, City Clerk

FROM: Jose Smith, City Attorney

DATE: November 5, 2014

RE: Attorney-Client Session –November 18, 2014
Darcee Siegel v. City of North Miami Beach

Pursuant to §286.011, Florida Statutes, the City Attorney hereby advises the Mayor and City Council that he desires advice concerning the following pending litigation matter:

Darcee Siegel v. City of North Miami Beach
Case No. 14-019426 CA -01 (25)
11th Judicial Circuit Court

Therefore, a private closed Attorney-Client Session will be held during the recess of the City Council Workshop meeting at 7:00 p.m. on November 18, 2014, in the City Manager's Large Conference Room, Fourth Floor, City Hall to discuss settlement negotiations and/or strategy related to litigation expenditures with regard to the above-referenced litigation matters.

The following individuals will be in attendance: Mayor George Vallejo, Councilman Atanthony F. DeFillipo, Councilwoman Phyllis Smith, Councilwoman Beth Spiegel, Councilman Frantz Pierre, Councilwoman Barbara Kramer, and Councilwoman Marlen Martell; City Manager Ana Garcia, City Attorney Jose Smith and Deputy City Attorney Dotie Joseph.