



MEMORANDUM

To: Honorable Mayor and Council, Miami Shores Village (the “Village”)

From: Sarah Johnston and Chanae Wood, Village Attorneys

Date: January 26, 2022

RE: Proposed 2022-2023 Charter Review Committee (“CRC” or “Committee”) Final Recommendations

We are writing to you on the behalf of the CRC. Pursuant to Resolution No. 2022-31, the Village Council tasked members of the CRC to review and analyze the Village Charter and determine if there were potential revisions that should be submitted to a vote of the Village electors. The Committee met on five separate occasions,¹ each a publicly advertised meeting.

During the meetings, the Committee reviewed, analyzed, and discussed the Ad-Hoc Charter Advisory Committee report, various sample municipal Charters, and each section of the Village Charter. After the CRC reviewed each section and considered public input, it discussed and suggested potential revisions, additions, or deletions to that particular section. To provide the Village Council with background of the CRC’s deliberations and considerations, copies of the agendas and minutes from each of the CRC meetings is attached as Exhibit A.

A. Proposed Charter Amendments

At the CRC’s final meeting on January 9, 2023, the Committee convened for the purpose of determining and finalizing which revisions, if any, should be submitted to a vote of the Village electors. The proposed Resolution, including the amendments and ballot questions, are attached as Exhibit B to this report and are summarized as follows.

1. Technical and Stylistic Amendments:

This proposed amendment to the Charter reflects non-substantive stylistic and technical changes made for clarity, including re-naming and numbering of sections and providing for gender neutrality.

2. Bill of Rights:

Currently, the Charter does not include a Bill of Rights. The Committee proposed amending the Charter to include a Citizen’s Bill of Rights that encourages citizen participation within Village government. This recommendation was submitted by the Ad Hoc Charter Advisory Committee to the CRC and the Committee agreed and approved of the proposed recommendation. Note, we advised the CRC that the Miami Dade County Bill of Rights is applicable to municipalities; however, some municipalities choose to include it in their Charters.

¹ The Committee met on November 28, 2022; December 5, 2022; December 12, 2022; December 19, 2022; January 5, 2023; and January 9, 2023.

3. Run-Off Elections:

The lack of a formalized process for a run-off election was of concern to the Committee. The Charter currently states that a run-off election will be held if necessary. The committee voted to amend the Charter to specify that a run-off election shall be held, in the same manner and form as the general municipal election, for candidates who receive a tie vote.

4. Election Affiliations:

During public comment, it was suggested that the Committee review Election Affiliations. The Committee reviewed sample language and recommended that the Charter be amended to require Village candidates to run independently from any other Village candidate and refrain from issuing joint campaign literature. We advised the Committee that there may be legal implications as a result of the prohibition on issuing joint campaign literature.

5. Non-Partisan Elections.

During public comment, it was also suggested that the Committee review the topic of non-partisan elections. Currently, the Charter does not specify that Council elections must be conducted on a nonpartisan basis. The Committee recommended a Charter amendment to specify that all Council elections shall be conducted on a nonpartisan basis. Note, we advised the CRC that this is statutory requirement as well.

6. Residency Requirement.

The CRC discussed the different residency requirements between elected officials and board members in the Village. After reviewing sample charter provisions, the Committee voted to recommend that the Charter be amended to change the six-month residency requirement for elected officials to a minimum of two years. Our office advised the CRC that if it moves forward with two-year requirement, the Village may be exposed to a legal challenge, as there are some opinions that raise concerns such qualification requirement.

7. Sale and Lease of Municipal Property.

The Committee discussed and recommended amending the Charter to require approval by majority vote of electors in a Village wide referendum for the sale, exchange, conveyance, or lease of Village owned real property. Our office advised the Committee that this provision would not be applicable to any current leases that the Village may have previously entered into.

8. Charter Review Amendments.

The Committee noticed that the Village Charter does not specify a time-frame for when the Charter must be reviewed by a Charter Review Committee. Therefore, it recommended that the Village Council appoint a Charter Review Committee as necessary, but not to exceed ten (10) years commencing from the effective date of the Charter amendment.

9. Conflicting Charter Amendments.

The Committee noticed that most municipal Charters included a process for when conflicting proposed amendments are voted upon by the Village electorate. Thus, the CRC recommended that the Village Charter be amended to require that if conflicting amendments be adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

10. Prohibition on Interference.

After reviewing sample municipal Charters, the CRC discussed prohibitions on the Council's interference with the Village Manager's appointment, removal or management of Village employees. The CRC solicited input from the Village Manager and voted to recommend approval to amend the Charter to include that

neither the Council nor any of its individual members shall dictate the appointment, removal or management of any Village employees whom the Village Manager is empowered to appoint. However, the Council and its members may direct Village Manager Staff, if the task does not lead to an expenditure of substantial time. The CRC proposed that the current Ballot question be amended. Our office will advise Council accordingly at the January 17th meeting as to the options for revised language.

11. Growth Management.

The Committee expressed an interest in growth management measures that could be implemented in the Charter. The CRC requested staff present information, outlining the current and proposed land use and zoning regulations in the Village. After a thorough discussion, the CRC recommended that the Charter be amended to require all future growth, development, and redevelopment in the Village be compatible with and preserve the Village's character as a single-family home community, and minimize the intrusion of incompatible development or land uses onto single-family residential areas.

12. Height Limitation.

In line with the Growth Management discussion materials, the CRC recommended that the Charter include a height restriction of 40 feet for all building or structures constructed in the Village. Our office advised the Committee that the inclusion of land use/zoning regulations in municipal Charters could potentially expose the Village to litigation.

Additionally, the Committee discussed the following topics, but chose not to move forward with any recommendations regarding them:

- Village Council
 - General Powers and Duties
 - Terms, And Composition
 - Mayor
 - Powers, Duties, Election
 - Compensation; Expenses
- Village Administration

January 17th Council Meeting

At the January 17th Council meeting, the Village Council heard the Committee's recommendations and had preliminary discussions prior to voting to defer the item to the next council meeting. However, the Council decided to allow further public input prior to the final vote by directing staff to host a workshop on February 1st.

The followings topics are to be further discussed during the workshop:

- Bill of Rights
- Height Limitation
- Election Affiliation
- Election Cycle Year (New)

- Growth Management Provision (New)

B. Recommendation

Per Section 2-33 of the Village Code, the Council may approve, amend or reject the recommendations of the CRC, and by resolution adopt a final draft of the proposed charter, amendment, revocation or abolition, which shall be submitted to the electors of the village. The CRC recommends that the Village Council approve the proposed Resolution, amending the Charter, as attached.

If the Village moves forward with the proposed resolution as is or amended, the Resolution must be submitted to Miami Dade County Election department by February 10th in order to meet the County deadline for the April 11, 2023 election.