RESOLUTION NO. 2012-53

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING SECTIONS 2.3, 2.5, 3.3, 4.2, 5.1, 6.2, AND CREATING SECTIONS 10.2 AND 10.3, OF THE VILLAGE OF PALMETTO BAY'S CHARTER; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO ELECTORS OF THE PROPOSED AMENDMENTS TO THE VILLAGE CHARTER; PROVIDING FOR COPIES OF THE CHARTER AMENDMENTS BE AVAILABLE FOR PUBLIC INSPECTION; PROVIDING FOR THE VILLAGE CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS TO PLACE THE CHARTER AMENDMENTS ON THE BALLOT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay appointed a Charter Revision Commission to review the Village charter and to provide recommendations to the Village council; and,

WHEREAS, the Charter Revision Commission met since March 21, 2012 for 14 months, held one public workshop, obtained public input, and provided several recommendations for amendment of the Village Charter to the Village Council; and,

WHEREAS, based upon the foregoing, the Mayor and Village Council would like to amend several sections of the charter of the Village of Palmetto Bay; and,

WHEREAS, the Village Council may, by resolution, propose amendments to the Charter subject to approval by the electorate at the next general election or at a special election called for such purpose; and,

WHEREAS, the Village Council has determined to submit certain proposed charter amendments for approval or disapproval by the electors; and,

WHEREAS, the Mayor and Village Council desire to amend several sections of the Charter of the Village of Palmetto Bay to provide requisite ballot language for submission to electors, providing for copies of this charter amendment be available for public inspection and providing for the Village Clerk to utilize the services of Miami-Dade County Supervisor of Elections.

BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. *Whereas clauses.* The above whereas clauses are incorporated by reference into this Resolution.

Section 2. *Proposed Revisions or Amendments to the Village Charter.* The Charter Revision Commission proposes certain amendments to the Village Charter, and shall be voted upon by the Village electorate. Those proposed amendments are commonly referred to by the following ballot titles:

1. Neighborhood Protection. [Section 10.2]
2. Non-Partisan Elections - Defined. [Section 5.1(B)].
3. Enforcement of Non-Partisan Provision of Charter by the State Attorney[Section 5.1(B)].
4. Changing Term Limits [Section 2.3(E)].
5. Interaction with Administration - Village Council to Contact Staff Directly without Penalty [Section 4.2(B)(1) and (2)].
6. Department Head Selection to Be Affirmed by Village Council [Section 3.3(1)].
7. Two year Prohibition on Village Employment After Leaving Office [Section 4.2(C)]..
8. Requiring Candidates to Run Independently [Section 2.3(D)].
9. Filling of Vacancies by Remaining Council When there is a Quorum, or Less than a Quorum [Section 2.5(C)(7)].
10. Annexation Process [Section 10.3].
11. Composition of Charter Revision Commission [Section 6.2(B)].
12. Technical and Stylistic Amendments.

Section 3. *Form of Ballot.* The form of ballot of the Charter amendments provided for in this Ordinance shall be as follows:

* * *

1. NEIGHBORHOOD PROTECTION [Section 10.2].

Creating a provision called Neighborhood Protection whereby: 1) single-family-residential zoned properties shall be protected from the negative impacts of adjacent or nearby non-single-family-residential uses and 2) four affirmative votes of the Council shall be required to approve a zoning change conditional use, or special exception in any single-family-residential district. Excluded are BO Future Land Use, all commercial, business, and multi-family residential districts.

Shall the amendment be adopted?

YES [ ]
NO [ ]

2. NONPARTISAN ELECTIONS - DEFINED. [Section 5.1(B)].

The Charter currently requires that elections be nonpartisan. The Charter Revision Commission suggests an amendment to the Charter to define nonpartisan consistent with state law. A judicial finding of guilt would preclude campaigning or qualifying for election or retention in office.

Shall the above described amendment be adopted?

YES [ ]
NO [ ]

3 NONPARTISAN ELECTIONS - ENFORCEMENT. [Section 5.1(B)].

The Charter Revision Commission suggests an amendment of the Charter to provide enforcement of Section 5.1(B) of the Charter, relating to nonpartisan elections, through the office of the State Attorney. A judicial determination of a willful violation of Section 5.1(B) shall be grounds for removal from elected office and subject the individual to a fine up to $1,000, per violation, but not to exceed a total of $10,000.

Shall the above described amendment be adopted?

YES [ ]
NO [ ]

4. CHANGING TERM LIMITS. [Section 2.3(E)].

The Village Charter currently limits the length of service of the Mayor, Vice-Mayor, and Council Persons to no more than two consecutive terms. The Charter Revision Commission suggests an amendment to the Charter to limit the length of service of the Mayor, Vice-Mayor, and Council Persons to two terms in any one position, with no more than a total of three consecutive terms regardless of position.

Shall the above described amendment be adopted?

YES [ ]
NO [ ]

5. INTERACTION WITH ADMINISTRATION. [Section 4.2(B)(1) and (2)].

The Charter currently reflects that the Village Council is to enact a resolution in order to investigate or inquiry on a topic directly with staff. A finding of interference with administration could be a basis for removal from office. The Charter Revision Commission suggests an amendment to the Charter to remove the penalty, and authorizes the Village Council to make direct inquiries of staff, and to change the title of the provision from "Interference" to "Interaction" with Administration.

Shall the above described amendment be adopted?

YES [ ]
NO [ ]

6. DEPARTMENT HEAD SELECTION TO BE AFFIRMED BY VILLAGE COUNCIL [Section 3.3(1)].

The Village Manager currently hires all department heads. The Charter Revision Commission suggests an amendment to the Charter to reflect the Village Manager may not appoint any department director without first obtaining approval of a majority of the Village Council.

Shall the above described amendment be adopted?

YES [ ]
NO [ ]

7. TWO YEAR PROHIBITION ON VILLAGE EMPLOYMENT AFTER LEAVING OFFICE [Section 4.2(c)].

The Charter currently provides a one year prohibition after leaving office from being hired by the Village. The Charter Revision Commission suggests an amendment to the Charter to increase the prohibition to two years.

Shall the above described amendment be adopted?

YES [ ]
NO [ ]

8. REQUIRING CANDIDATES TO RUN INDEPENDENTLY [Section 2.3(D)].

The Charter Revision Commission suggests an amendment to the Charter to require each person running for elected office to run independently of any other Village candidate.

Shall the above described amendment be adopted?

YES [ ]
NO [ ]

9. FILLING OF VACANCIES BY REMAINING COUNCIL WITH OR WITHOUT A QUORUM [Section 2.5(C)(7)].

The Charter currently provides that if there is less than a quorum remaining in office, the remaining elected officials may appoint the interim vacant seats. The Charter is silent as to appointments when Mayor and Vice Mayor seats are vacant, and there is a quorum. The Charter Revision Commission suggests an amendment to the Charter to allow the remaining elected officials, with, or without a quorum to appoint members, and then for the full Council to select an interim Mayor and Vice Mayor.

Shall the above described amendment be adopted?

YES [ ]
NO [ ]

10. ANNEXATION PROCESS. [Section 10.3].

The Charter Revision Commission suggests an amendment to the Charter to include a detailed annexation process: requiring a supermajority vote of the Village Council to proceed with annexation process; thereafter, requiring a vote of the Village residents on whether to entertain annexation; and then, adherence to County annexation vote process.

Shall the above described amendment be adopted?

YES [ ]
NO [ ]

11. COMPOSITION OF CHARTER REVISION COMMISSION. [Section 6.2(b)].

The Charter currently provides for the appointment of Commission members by the Village Council. The Charter Revision Commission suggests an amendment to the Charter to clarify the Charter Commission membership appointment process, to require each District Council Person to appoint a person from his/her district, and for the Mayor and Vice-Mayor, to appoint, at large.

Shall the above described amendment be adopted?

YES [ ]
NO [ ]

12. TECHNICAL AND STYLISTIC AMENDMENTS.

The Charter Revision Commission suggests an amendment to the Charter to reflect non-substantive stylistic and technical changes made for clarity, including: titles, typographical, grammatical errors, and renumbering of sections.

Shall the above described amendment be adopted?

YES [ ]
NO [ ]

* * *

Section 4. The Full text of the proposed amendments to the Village Charter are attached hereto as exhibit 1, and are incorporated by reference into this resolution. The proposed amendments to the Village Charter are reflected by underlying in the text, and strikethroughs reflect items to be deleted from the charter.

Section 5. *Charter Amendment to be Available for Public Inspection, and for the Village Clerk to Utilize the Services of Miami-Dade County Supervisor of Elections.* The place, information and the full text of the proposed Village Charter amendments are available at the office of the Village Clerk located at 9705 East Hibiscus Street, Palmetto Bay, Florida 33157. Copies of this resolution providing the charter amendments subject to this referendum approval is on file in the office of the Village Clerk and available for public inspection during regular business hours. The Village Clerk is authorized to utilize the services of Miami-Dade County Supervisor of Elections for any assistance required in the administration of the election.

Section 6. *Providing for Inclusion in the Charter.* It is the intention of the Village Council and it is hereby ordained that the provisions of this resolution shall become and made a part of the charter of the Village of Palmetto Bay, Florida, as to each charter amendment measure approved by a majority of voters on such measure in such election; that the sections of this resolution may be renumbered or relettered to accomplish such intentions; and the word "resolution" shall be changed to "section" or other appropriate word.

Section 7. *Providing for Adoption of Enabling Resolution.* The Village Council shall enable the submittal of the proposed amendments to the electorate pursuant to section 6.03 of the Miami-Dade County Charter.

Section 8. *Effective Date.* This resolution shall become effective upon adoption, and each of the charter amendment measures provided herein shall be effective only upon approval of a majority of electors voting on the measure, effective 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 9. If any section, clause, sentence, or phrase of this resolution is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this resolution.

Section 10. This resolution shall take effect immediately upon enactment.

PASSED AND RESOLVED this 9th day of July, 2012.

Attest:

Meighan Alexander
Village Clerk

Shelley Stanczyk
Mayor

APPROVED AS TO FORM:

Eve A. Boutsis
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore	NO
Council Member Howard Tendrich	NO
Council Member Joan Lindsay	YES
Vice-Mayor Brian W. Pariser	YES
Mayor Shelley Stanczyk	YES

Additions shown by underlining and deletions shown by ~~overstriking~~.