



VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report
REGULAR MEETING

#Item 13.e

TO: Members of the Biscayne Park Village Commission

FROM: Mayor Truppman

DATE: 01/10/17

TITLE: Discussion Item: Amendments to the Charter Corresponding with Special Election Timelines

Recommendation

The purpose of the agenda item is to:

1. Discuss areas that would benefit the residents by amending the Charter.
2. Review the recommendations made by the Charter Review Committee and discuss recommendations by the current commission.
3. Coordinate the date for the special election for Vice Mayor Coviello's seat to allow sufficient time to submit the proposed changes to the Charter. This will mean choosing a date that adheres to the 45 to 90 day required window for the special election and allow the Village Clerk to obtain the submission timeframe required by the Miami-Dade County Board of County Elections for the referendum items.

Background

Formerly chaired by Commissioner Johnson-Sardella, the Charter Review Advisory Committee made recommendations to amend the Charter which were presented to the Commission on March 26, 2015. Due to the cost of a special referendum, the committee's recommendations were deferred. The summary of their recommendations has been included in the backup materials.

Since the committee's recommendations, several issues with the former Village Administration arose because of a lack of oversight and a lack of checks and balances in the Charter language. The Commission needs to ensure that there are sufficient checks and balances for Village finance and personnel matters. The changes proposed are similar to many of our neighboring municipalities' Charters. (See supporting documents.)

Our Charter does not encourage a collaborative approach between the Commission and Village Administration, nor does it provide sufficient oversight of the Village Manager and the administrative team. I propose one Charter Amendment as follows:

Change the language of the Charter to grant the commissioners to authority to provide oversight in the hiring of five key positions that affect the Village of Biscayne Park finance and public safety. The amendment(s) will require the Commission to ratify the recommendations of the Village Manager of the appointment of: Chief of Police, Village Clerk, Finance Officer/Manger, Publics Work Director, and Parks and Recreation Director.

Resource Impact

With Vice Mayor Coviello's resignation as of the end of March 2017, the Charter requires that a special election be held. Amending the Charter will be revenue neutral. The only additional cost will be the Village Attorney's draft of the proposed language changes for the amendments.

Attachments

1. Charter Review Advisory Board Final Findings 4/7/15
2. Local Municipalities that Require Commission Approval/Ratification for Hiring

Prepared by: Tracy Truppman



Date: April 7, 2015

To: Mayor David Coviello
Vice Mayor Fred Jonas
Commissioner Bob Anderson
Commissioner Roxanna Ross
Commissioner Barbara Watts

From: Jenny Johnson-Sardella
Chair, Charter Review Advisory Board

Re: Charter Review Advisory Board Conclusion of Findings

This memorandum and the attached summary serve to provide the Village Commission with a review of the actions of the Charter Review Advisory Board and its findings.

Summary of meetings:

- December 11, 2014: Chair and Vice Chair selected; schedule of meeting set as the 2nd and 4th Thursday of each month; Board requested that each Commissioner and the Village Manager are invited to the next meeting to present to the Board what areas of the Charter they are looking to review.
- January 8, 2014: Meeting attended individually by Mayor Coviello, Commissioner Anderson, Commissioner Ross and Commissioner Watts and each provided their input on areas of the charter to review. Vice Mayor Jonas provided his input through the Clerk. Manager Heidi Siegel attended and provided her input on areas for review. Residents in attendance were provided an opportunity to comment. Public Services Manager Krishan Manners also in attendance.
- January 22, 2014: The Board began their review of all the points submitted by the Village Commission and Manager. In attendance at the meeting were Manager Siegel and Public Services Manager Manners.



The Village of Biscayne Park

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- February 12, 2014: The Board continued their review of the points submitted by the Village Commission and Manager. In attendance at the meeting were Manager Siegel and Public Services Manager Manners.
- February 24, 2014: No meeting.
- March 12, 2014: The Board concluded their review of the points submitted by the Village Commission and Manager, as well as those brought up by the Board. The Board directed Staff to prepare a summary of the items discussed and the Board's determination for a final review at the March 26th meeting. In attendance at the meeting were Manager Siegel and Public Services Manager Manners.
- March 26, 2014: The Board confirmed the summary of the Board's review and their determination of each as provided by Staff and included as attachment 'A'. A motion was made to formally conclude the meetings and provide the Village Commission with their FINAL FINDINGS that no changes to the Village Charter are required.

On behalf of the Charter Review Advisory Board, it has been a privilege to have served on this Board and to have undertaken this responsibility. We would also like to commend the Staff for their assistance to the Board.

Sincerely,

Jenny Johnson-Sardella
Chair, Charter Review Advisory Board

Encl: Attachment 'A'

**CHARTER REVIEW ADVISORY BOARD
SUMMARY OF REVIEW ITEMS**

Section	Section Title	For Consideration	Board Determination
1.02	Form of Government	Consider the opportunity to be more explanatory on the relationship, but not necessarily changing the relationship.	Consensus to leave as is with no changes.
2.02	Mayor and Vice-Mayor	Referencing the duties of the Mayor, language appears left over from pre-Manager form of government as it relates to execution of contracts and in regards to service of process.	Consensus to leave as is with no changes.
2.03	Election and term of office.	Candidates to run at large for a specific seat.	Consensus to leave as is with no changes.
2.03	Election and term of office.	On term limits, important to look at, but not necessarily to change, only to consider the size of our Village. Also consider the time out of office. Clean up the language if an elected official, after leaving office, looks to become an employee, or through a contractual basis.	Consensus not to add term limits.
2.05	Vacancies; forfeiture of office; filling of vacancies	To include 'suspension or removal' as it relates to vacancies; to clarify the language as it relates to the attorney's role in the process; and that due process is provided for all reasons of forfeiture of office.	Consensus to add 'suspension' as an additional reason for the vacancy and to include as a change if the Board proceeds with proposing charter amendments. In regards to the section on due process, there is consensus to leave as is with no changes.
2.05	Vacancies; forfeiture of office; filling of vacancies	Consider the expense of a stand alone election if a vacancy were to occur. Consider changing the language from six (6) months to twelve (12) months left in the term before requiring a special election Would allow for proper budgeting as well.	Consensus to leave as is with no changes.
2.05(C)(1)	Vacancies; forfeiture of office; filling of vacancies <i>(C) Filling of vacancies (1) Vacancy of Commission Office</i>	Clean up the language that if appointed, that the candidate requirements are the same. Currently it is silent.	Consensus to make the language in this section as it relates to the qualifications of the person appointed consistent with that of a candidate in section 2.04, and to include as a change if the Board proceeds with proposing charter amendments.
3.01(B)	Village Manager <i>(B) Appointment; removal; compensation of the Manager</i>	Regarding "Village Manager" consider the language in the Model City Charter. Important to include education and experience.	Consensus to leave as is with no changes.

Section	Section Title	For Consideration	Board Determination
3.02	Village Attorney	Where it references "Village Attorney, consider the language in the Model City Charter where it states a legal officer treated as a regular department head. Options: Appointed by City Manager; appointed by City Manager but subject to confirmation by the City Council; or appointed by the City Council only.	Consensus to leave as is with no changes.
4.01	Commission meeting procedure	On Commission meeting procedures, update so that Manager has the ability to call a special meeting, and not just limited to the Mayor or four members of the Commission.	It was confirmed by the attorney the Manager checking with each Commissioner on their availability for a meeting does not violate Sunshine law.
4.01	Commission meeting procedure	Look at facilitating the process for scheduling special meetings or rescheduling a meeting date.	It was confirmed by the attorney the Manager checking with each Commissioner on their availability for a meeting does not violate Sunshine law.
4.03	Action requiring an ordinance	On actions requiring an ordinance, review the actions listed and consider those that can be done through a less expensive action such as a resolution.	Consensus to change the current actions listed requiring an ordinance and consider those that can be done through a less expensive action such as a resolution, and to include as a change if the Board proceeds with proposing charter amendments.
4.05	Annual budget adoption	On annual budget, Model City Charter provides information on how to formalize the budget process to include a capital improvement plan. Also consider the language provided regarding contingencies.	There was consensus to leave as is as it relates to the annual budget and the manner in which contingencies and capital improvement are identified in the budget.
4.09	Tax levy and assessments	In order to enforce code fines, liens or any other type of fines, consider accumulating the fines per year and adding to the property tax bill. Also to deny issuance of any permits or annual renewals until open liens are satisfied.	Consensus to look into changing the Village code as opposed to a charter amendment.
ARTICLE V	ELECTIONS	Consider what the Model City Charter provides.	Consensus to leave as is with no changes.
5.01	Term of Office	Consider term limits.	Consensus not to add term limits.
5.01	Term of Office	How the Mayor is selected.	Consensus to leave as is with no changes.
5.02	Elections	For elections in general, specificity on the number of days, consider requirements of the County Supervisor of Elections and schedule accordingly.	Consensus to leave as is with no changes.
5.03(E)(2)	Initiative, referendum and recall <i>(E) Action on Petitions (2) Submission to Electors</i>	Referencing the scheduling of a special election.	Consensus to leave as is with no changes.

Section	Section Title	For Consideration	Board Determination
6.02	Procedure to amend	On procedure to amend and for charitable donations, consider changing from majority decision to super majority decision (4/5th).	This is a non-issue as it was verified that the current language requires four (4) commissioners (super majority).
7.04	Charitable donations	On procedure to amend and for charitable donations, consider changing from majority decision to super majority decision (4/5th).	This is a non-issue as it was verified that the current language requires four (4) commissioners (super majority).
7.07	No discrimination	On "no discrimination" section, add "age" as a protected category.	Consensus to make this change and to include as a change if the Board proceeds with proposing charter amendments.
7.07	No discrimination	On "no discrimination" section, add "age" and "gender identity" as a protected category.	Consensus to add "age", and to include as a change if the Board proceeds with proposing charter amendments.
		Review language on "clerk's records".	This is a non-issue as there is no current language that refers to "clerk's records".

Local Municipalities that Require Commission Approval/Ratification for Hiring

Prepared by Mayor Truppmann

Below are examples of seven local municipalities whose Commissions either: (1) require final approval/ratification for hiring and/or removal of all or specified positions, or (2) are completely responsible for hiring and/or removal of specified positions:

1. Sweetwater
2. Golden Beach
3. Palmetto Bay
4. Fort Meyers
5. Florida City
6. North Bay Village
7. South Miami

Sec. 2-112. - Department heads, appointments, reappointments, confirmation and reconfirmations.

- (a) The mayor shall appoint the following department heads or directors, prior to the first regular meeting of the city commission immediately following the mayor's investiture:
- (1) Police chief;
 - (2) Maintenance director;
 - (3) Parks and recreation director;
 - (4) Finance director; and
 - (5) Building, planning, zoning and roads director;

all subject to confirmation by the city commission.

- (b) The city clerk shall be the director of the administration department in charge of clerical services.
- (c) The mayor shall submit to the city commission, at its first regular meeting immediately following the mayor's investiture, the names of the department head or director of each department enumerated in subsection (a) above, appointed or reappointed, for confirmation by majority vote of the city commission.
- (d) If a vacancy occurs after appointment and confirmation by the mayor and city commission, then the mayor shall appoint a new department head, within 45 days of such vacancy, and present such appointment to the city commission at the next special or regular meeting of the city commission, for confirmation whichever comes first.
- (e) If the city commission does not confirm a department head or director of any particular department as required, in subsection (c) or (d) above, then the mayor shall submit another person for confirmation by the city commission for such department at the same meeting or no later than the next special or regular city commission meeting whichever comes first.
- (f) During the period provided in subsection (c), (d) or (e) for the appointment and confirmation of the department heads or directors, the mayor shall appoint an interim department head or director of the applicable department to serve until the particular department head or director is confirmed by the city commission.
- (g) The department heads' terms of office shall run concurrently with the mayor's term of office, or part thereof.

(Code 1976, § 2-2.1; Ord. No. 2519, § 2, 8-4-1997; Ord. No. 2660, § 2, 11-2-1998; Ord. No. 3686, Art. 1, 7-16-2012)

Charter reference— Ratification of appointments, § 3.06.

Sec. 5.01. - Town Manager.

The Council shall upon nomination of the Mayor, by resolution appoint a Manager subject to such terms and conditions of employment as may be deemed necessary and proper in addition to all general employee benefits. The Manager need not be a resident of the Town. The Manager shall have the following powers and duties:

- (a) The Manager shall be responsible for the administration of the government of the Town and all powers shall be subject to the advice and consent of the Mayor.
- (b) The Manager shall recommend to the Mayor the appointment and when necessary for the good of the service the suspension or removal of all Town employees and department heads.
- (c) The Manager shall attend all Council meetings and shall have the right to take part in discussion but may not vote.
- (d) The Manager shall enforce the Charter, Code of Ordinances and resolutions of the Council, prepare and submit the annual budget and capital program, prepare and submit reports as the Council may direct, carry out the orders of the Mayor in all administrative matters, designate a department head to act in the Manager's absence, advise the Council and Mayor as to the fiscal condition and needs of the Town and perform such other duties as may be specified by this Charter, the Code of Ordinances, the Mayor or the Council.

Section 3.3. - Powers and Duties of the Village Manager.

The Manager shall:

- (1) Be responsible for the appointing, hiring, promoting, supervising and removing of all Village employees, except the Village Attorney and the Village Clerk. However, the Village Manager may not appoint any department director without first obtaining majority approval of the Council.
- (2) Direct and supervise the administration of all departments and offices but not Village boards or committees, unless so directed by the Council from time to time;
- (3) Attend Council meetings and have the right to take part in discussion but not the right to vote;
- (4) Ensure that all laws, provisions of this Charter and directives of the Council, subject to enforcement and/or administration by him/her or by employees subject to his/her direction and supervision, are faithfully executed;
- (5) Prepare and submit to the Council a proposed annual budget and capital program;
- (6) Submit to the Council and make available to the public an annual report on the finances and administrative activities of the Village as of the end of each fiscal year;
- (7) Prepare such other reports as the Council may require concerning the operations of Village departments, offices, boards and agencies;
- (8) Keep the Council fully advised as to the financial condition and future needs of the Village and make such recommendations to the Council concerning the affairs of the Village as s/he deems to be in the best interests of the Village;
- (9) Execute contracts and other documents on behalf of the Village as authorized by the Council;
- (10) Perform such other duties as are specified in this Charter or as may be required by the Council;
and
- (11) Pursue the collection of all allowable fees and taxes and maximize financial reserves as is necessary to sustain the Village and the service levels requested by the citizenry. Periodically compare fee structure to similarly sized municipalities to ensure fair and appropriate pricing.

Sec. 107. - Powers and duties of the city manager.

The city manager shall be the chief administrative officer of the city, responsible to the city council for the administration of all city affairs placed in the city manager's charge by or under this charter. The city manager shall:

- (a) Appoint and, when necessary for the good of the service, suspend or remove all city employees and appointive administrative officers provided for by or under this charter, except for the city attorney and other employees in the office of the city attorney, except as otherwise provided by law, this charter, or personnel rules adopted pursuant to this charter. The city attorney shall be appointed and supervised by and may be suspended or removed by the city council. The employees of the city attorney's office, including both professional and non-professional employees, shall be appointed and supervised by and may be suspended or removed by the city attorney. The city manager may authorize any administrative officer subject to the city manager's direction and supervision to exercise these powers with respect to subordinates in the officer's department, office or agency;
- (b) **Appoint the city clerk, police chief, and fire chief, each subject to confirmation by the city council;**
- (c) Direct and supervise the administration of all departments, offices, and agencies of the city, except for the office of the city attorney, except as otherwise provided by this charter or by law;
- (d) Attend all city council meetings. The city manager shall have the right to take part in discussion but shall not vote;
- (e) See that all laws, provisions of this charter, and acts of the city council, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed;
- (f) Prepare and submit the annual budget and capital program to the city council;
- (g) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year and any other intervals determined by the city council; make such other reports as the city council may require concerning the operations of city departments, offices and agencies subject to the city manager's direction and supervision;
- (h) Keep the city council fully advised as to the financial condition and future needs of the city;
- (i) Make recommendations to the city council concerning the affairs of the city;
- (j) Provide staff support services for the mayor and councilpersons;
- (k) Contract for services where authorized by law and approved by the city council;
- (l) Establish written goals for all city employees and written performance reviews of all city personnel except for the city attorney and personnel in the office of the city attorney; and
- (m) Perform such other duties as are specified in this charter or may be required by the city council.

(Ord. No. 3255, § 5, 1-7-2005; Ord. No. 3679, § 5, 9-3-2013)

Section 3.03. - Chief of Police.

The Mayor shall appoint a Chief of Police, subject to confirmation by the City Commission, and shall have the authority to remove the Chief of Police, subject to confirmation by the City Commission. The Chief of Police shall:

- (a) Be appointed solely on the basis of professional and managerial qualifications, and shall meet all requirements established by the State of Florida for a certified police officer and such additional requirements as the City Commission may establish;
- (b) Be the department head of the Police Department;
- (c) Be responsible for law enforcement as provided for by the Florida Statutes, the Code of Miami-Dade County, the City Charter and the City Code of Ordinances and;
- (d) Be responsible to the Mayor for the efficient administration of the Police Department.

(Election of 1-26-10)

4.01. - Village Manager.

There shall be a Village Manager, who shall be the chief administrative officer of the Village. The manager shall be responsible to the Village Commission for the administration of all Village affairs placed in the manager's charge by this Charter.

- A. *Appointment.* The Commission shall appoint a Village Manager for an indefinite term by a minimum of three (3) affirmative votes of the Commission members. The Village Manager shall serve at the will of the Commission.
- B. *Qualifications.* The manager shall be a graduate of either an accredited school of public administration or its related equivalent in engineering, fiscal management or business administration with no less than three (3) years' experience in the administration of local government or in lieu of the foregoing, he must have not less than five (5) years' experience in the administration of local government.
- C. *Compensation.* The compensation of the Village Manager shall be fixed by the Village Commission in the annual budget and may not be reduced without his consent during the fiscal year for which the budget is prepared.
- D. *Temporary Village Manager.* By written memorandum filed with the Commission, the Village Manager may designate an acting appointee to perform the duties of the Village Manager, during a brief absence or incapacity. During any absence or disability, the Village Commission may revoke an acting appointment at any time and appoint another person to serve until the return of the Village Manager.
- E. *Vacancy.* In the event of a vacancy due to resignation or removal from office of the Village Manager, the Village Commission shall appoint an acting or interim Village Manager until such time as a qualified manager may be selected.
- F. *Removal.* The Village Commission may remove the Village Manager by a minimum of three (3) votes in favor of removal.
- G. *Powers and duties of the Village Manager.* The Village Manager shall be responsible for the proper administration of all the affairs of the Village, except as otherwise provided herein. His powers and duties shall be to:
 - 1. See that all laws, provisions of this Charter and acts of the Commission, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed;
 - 2. Appoint, and when he deems it necessary for the good of the Village, suspend or remove all Village employees (except the Village Attorney, the Village Clerk and all personnel in the Legal Department, including outside counsel representing the Village) and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter.

He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency. **He will submit appointments of new department heads to the Commission for confirmation;**

3. Direct and supervise the administration of all departments, offices and agencies of the Village, except as otherwise provided by this Charter or by law; provided, however, the authority herein granted shall not extend to the office of the independent auditor employed or retained by the Commission, or to the Village Attorney or any outside counsel employed or retained by the Commission;
4. Attend all Commission meetings. He shall have the right to take part in discussion, but may not vote;
5. Recommend to the Commission, for adoption, such measures as he may deem necessary or expedient in the best interest of the Village;
6. Prepare and submit the annual budget, budget message and capital program to the Commission in a form provided by ordinance;
7. Supervise and be responsible for the disbursement of all monies and have control over all expenditures to ensure that budget appropriations are not exceeded;
8. Maintain a general accounting system for the Village government and each of its offices, departments and agencies and exercise financial budgetary control over same;
9. Submit to the Commission and make available to the public a complete report on the finances and administrative activities of the Village as of the end of each fiscal year;
10. Make such other reports as the Commission may require concerning the operations of Village departments, offices and agencies, subject to his direction and supervision;
11. Keep the Commission fully advised as to the financial condition and future needs of the Village and make such recommendations to the Commission concerning the affairs of the Village;
12. Sign contracts on behalf of the Village, when such contracts have been approved pursuant to law and this Charter.
13. Ensure that all terms and conditions of any public utility franchise are faithfully kept and performed and to report any violations of the terms and conditions of any utility franchise to the Village Commission and to the Village attorney;
14. Obtain competitive bids as prescribed by this Charter;
15. Advertise and conduct the sale of any property no longer needed for municipal purposes as prescribed by this Charter;
16. Act as purchasing agent for the Village and have exclusive control over the purchase of all supplies and approve all vouchers for the payment for supplies;
- 17.

Supervise the issuance of Village licenses and collect all special assessments, license fees and other revenues of the Village and receive all monies due the Village from county, state and federal governments. Also, to pursue and obtain those monies made available to the Village from state and federal grants and similar sources;

18. Perform such other duties as may be prescribed by this Charter or as required of him by the Commission, not inconsistent with this Charter.

H. Outside employment by the Village Manager shall be approved by the Village Commission prior to commencement.

(Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2004-20, § 1, 4-14-04, Election of 11-2-04; Res. No. 2006-45, Pt. F, 8-28-06, Election of 11-7-06; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

Sec. 2-2.1. - Rules of procedure of city commission.

The following rules of procedure shall govern all meetings of the city commission, namely:

- (A) **REGULAR MEETING.** The city commission shall hold regular meetings at 7:00 p.m. on the first and third Tuesdays of each month. When the day set for any regular meeting falls on a day designated by law as a legal, public national or religious holiday, such meeting shall be held on a date determined in advance by a majority of the commission. Regular meetings may be otherwise postponed, cancelled, or reset by resolution adopted at a regular meeting by a majority of the entire membership of the commission. All regular meetings shall be held in the commission chambers located in the city hall.

No meeting of the city commission shall extend later than 11:00 p.m., except upon super-majority vote (4/5 vote) of members present at the meeting and such meeting extensions shall not exceed midnight. Any and all items not considered by this limitation time period will be deferred to the next regular scheduled commission meeting.

- (B) **SPECIAL MEETING; WORKSHOP MEETING.** A special meeting or a workshop meeting of the city commission may be called by the mayor whenever in his opinion the public business may require it, or whenever three (3) or more members of the city commission request a special or workshop meeting. Whenever a special or workshop meeting shall be called by the mayor, a notice in writing signed by the mayor shall be served on the city clerk, and whenever a special or workshop meeting shall be called by three (3) or more members of the city commission, notice in writing signed by such commission members shall be served in writing upon the city clerk. The clerk shall forthwith serve either verbal or written notice upon each member of the city commission, the mayor, the city manager and the city attorney, stating the date and hour of the meeting, and the purpose for which such meeting is called, and no other business shall be transacted at that meeting other than that for which the meeting was called. The twenty-four-hour time limit may be waived in time of public emergency affecting life, health, property or safety. The clerk, in the notice of a special meeting, shall allow not less than twenty-four (24) hours to elapse between the call of the meeting and the date and hour of the meeting. A copy of said notice is to be posted in a prominent and conspicuous place in the city hall not less than twenty-four (24) hours prior to such meeting. The minutes of each special meeting shall show the manner and method by which notice of such special meeting was given, or shall show a waiver of notice. All special meetings shall be open to the public and shall be held in the city hall. For the purposes of this paragraph, the leaving of a copy of notice at the residence of the mayor or any commissioner shall constitute service on such mayor and commissioner.

- (C) **AGENDA.** There shall be an official agenda for every meeting of the commission which shall determine the order of business conducted at the meeting. The commission shall not take action upon any item, matter or business (city business) which is not listed upon the official agenda without approval of at least three (3) commission members present at such regular meeting to add

such city business to the official agenda. The official agenda shall be prepared by the clerk in appropriate form approved by the commission. City business may be placed on the agenda by the mayor, the city manager, any commissioner, and the city attorney. A copy of the agenda shall be delivered to each commissioner, the mayor, the city manager, and the city attorney at least seventy-two (72) hours prior to any regularly scheduled meeting, and twenty-four (24) hours prior to any special or workshop meeting.

Except for emergencies, no item will be placed on the agenda of a regular meeting of the commission which has not been delivered to the city clerk by noon on the Wednesday preceding such regular meeting, excepting as provided in this subsection 2-2.1(C).

- (1) *Add-ons*: No business shall be conducted at a regular meeting that is not reflected in the official agenda unless the official agenda is amended or supplemented to reflect additional business ("add-on items") to be conducted at said meeting ("add-on agenda") and unless the add-on agenda is posted and delivered to the city commission. The add-on agenda items must be delivered to the city clerk no later than 4:00 p.m. on the day of the meeting and must be posted on the city's website no later than 5:00 p.m., and, at substantially the same time, it shall be forwarded to the members of the city commission before the commencement of the relevant meeting electronically or by any comparable means. The city clerk is further directed to make said add-on item(s) available to the public at the entrance to the commission chambers during every commission meeting. The city clerk shall at the end of the consent agenda, read into the record the title of any proposed add-on item(s) sought to be placed on that agenda. Nothing herein shall affect the requirement that any add-on item can only be placed on the agenda by the approval of the majority vote of the city commission.
- (2) *Workshops and special meeting*: No city business may be conducted at a special or workshop meeting other than that for which this meeting was called.
- (3) *Removal of business*: Any agenda item that has been tabled without a time certain shall automatically be removed from the agenda if not acted upon during the three (3) succeeding regular commission meetings following the date of said tabling. If a proposed ordinance has been automatically removed for lack of action, it may only be re-introduced as a first reading of the ordinance.

(C.1) **APPOINTMENTS**. The mayor shall notify each commissioner in writing of appointments made by him not less than seven (7) days prior to the meeting at which it is proposed the appointments be approved and confirmed by the commission.

(D) **CALL TO ORDER**. The mayor, or in his absence the vice-mayor, shall take the chair precisely at the hour appointed for the meeting, and shall immediately call the commission to order. In his absence or the absence of the vice-mayor, the city clerk shall call the commission to order, whereupon a temporary chairman shall be elected by the members of the commission present. Upon the arrival of the mayor or vice-mayor, the temporary chairman shall immediately relinquish the chair upon the conclusion of the business immediately before the commission.

- (E) ROLL CALL AND QUORUM. Before proceeding with the business of the commission, the city clerk or his deputy shall call the roll of the members, and the names of those present shall be entered in the minutes. Four members of the commission shall constitute a quorum. Upon affidavit by the city manager, filed with the city clerk, that an emergency exists which will affect the health, safety or welfare of the citizens of the city, three (3) members shall constitute a quorum for such emergency matters only. The minutes of such meeting shall reflect the filing of the affidavit.
- (F) READING OF MINUTES. Unless a reading of the minutes of a commission meeting is requested by a member of the commission, such minutes may be approved without reading if the clerk has previously furnished each member with a synopsis thereof.
- (G) RULES OF DEBATE; QUESTION UNDER CONSIDERATION.
- (1) *Priority of motions.* When a motion is presented and seconded, it is under consideration and no other motion shall be received thereafter, except to adjourn, to lay on the table, to postpone, or to amend until the question is decided. These motions shall have preference in the order in which they are mentioned and shall be decided without debate. Final action upon a pending motion may be deferred until the next regular meeting by a majority of the members present.
 - (2) *Getting the floor; improper references to be avoided.* Every member desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine himself to the question under debate, avoiding all personalities and indecorous language. The mayor and chair of board or committee shall have the right to participate in the debate of all motions and issues without relinquishing his or her right to preside over the meeting as chairperson.
 - (3) *Interruptions.* A member, once recognized, shall not be interrupted when speaking unless it be to call him to order, or as herein otherwise provided.

If a member, while speaking, be called to order, he shall cease speaking until the question of order be determined, and, if in order, he shall be permitted to proceed.
 - (4) *Privilege of closing debate.* The commissioner moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.
 - (5) *Motion to reconsider.* A motion to reconsider any action taken by the commission may be made only on the day such action was taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by one of the prevailing side, but may be seconded by any member; it shall be debatable.
 - (6) *Remarks of commissioner; when entered in minutes.* A commissioner may request, through the presiding officer, the privilege of having an abstract of his statement of any subject under consideration by the commission entered in the minutes. If the commission consents thereto, such statement shall be entered in the minutes.
 - (7)

Synopsis of debate; when entered in the minutes. The clerk may be directed by the presiding officer, with consent of the commission, to enter in the minutes a synopsis of the discussion on any question coming regularly before the commission.

- (H) ADDRESSING THE COMMISSION. Any person desiring to address the commission shall first secure the permission of the presiding officer so to do; provided, however, that under the following hearings of business, unless the presiding officer rules otherwise, any qualified persons may address the commission without securing such prior permission.
- (1) *Written communications.* Interested parties or their authorized representatives may address the commission by written communications in regard to matters then under discussion.
 - (2) *Oral communications.* Taxpayers or residents of the city, or their authorized legal representatives, may address the commission by oral communications on any matter concerning the city's business, or any matter over which the commission has control; provided, however that preference shall be given to those persons who may have notified the city clerk in advance of their desire to speak in order that the same may appear on the agenda of the commission.
 - (3) *Reading of protests, etc.* Interested persons or their authorized representatives may address the commission by reading of protests, petitions, or communications relating to zoning, sewer and street proceedings, hearings on protests, appeals and petitions, or similar matters, in regard to matters then under consideration.
- (I) ADDRESSING THE COMMISSION AFTER MOTION MADE. After a motion is made by the commission, no person shall address the commission without first securing the permission of the commission so to do.
- (J) MANNER OF ADDRESSING COMMISSION; TIME LIMIT. No person shall address the commission from the audience. Each person, before addressing the commission, shall first legibly print their full name and their residential address and sign in the space provided on the speaker list, step up to the podium, speak into the microphone, state the person's name and city of residence and, if not a resident of the City of South Miami, state whether the person has a business interest in the city and its address. The person shall speak in an audible tone of voice for the public record, and unless further time is granted by the commission, shall limit his or her address to five (5) minutes or until statements appear to be repetitive or obstructive as determined by the presiding officer. All remarks shall be addressed to the commission as a body and not to any member. No person addressing the commission shall be permitted to ask questions of or to enter into any discussion with any member of the commission, or any city officer while they are seated on or beside the dais while a commission meeting is in progress, either directly or through a member of the commission, without the permission of the presiding officer.
- (K) DECORUM.
- (1)

By commission members. While the commission is in session, the members must preserve order and decorum, and a member shall neither by conversation or otherwise delay or interrupt the proceedings or the peace of the commission nor disturb any member while speaking or refuse to obey the orders of the commission or its presiding officer, except as otherwise provided. Commission members shall turn off all communication devices other than those used to view commission agenda items and those devices shall have their external communication either disconnected or deactivated during the time between the start of a commission meeting and the time that such meeting is adjourned for the day. Members may not make any electronic communication or take pictures from the dais and members must exit the chamber to answer incoming mobile phone calls unless permitted by the chairman.

- (2) *By persons.* Any person who makes slanderous or intentionally rude, uncivil or otherwise impertinent remarks, and who refuses or fails to desist from making such remarks after being instructed to do so, or who shall become boisterous in the commission chamber and who refuses or fails to desist from such conduct after being instructed to do so may be forthwith removed from the podium and from City Hall for the duration of that meeting at the direction of the presiding officer, unless overruled by a majority vote of the commission. No clapping, applauding, heckling, or verbal outbursts shall be permitted for any reason, including for the purpose of supporting or opposing any matter, any speaker or a speaker's remarks. No signs or placards shall be allowed to be displayed in any manner other than when used from the podium to express an opinion or display facts. Signs to be used at the podium must be brought into the commission chambers in a manner so as not to unnecessarily display their content until the sign is brought to the podium immediately before the sign is displayed from the podium in the commission chamber. Persons exiting the commission chamber shall do so quietly. The use of acoustic mobile communication device, such as phones, in the commission chamber is not permitted while the commission is in session. Phone ringers and other devices that emit sound must be set to silent mode to avoid disruption of proceedings. Individuals must exit the chamber to answer incoming calls. No camera flash options shall be used by the public during any portion of the meeting except during recognition and award ceremonies.
- (L) MEMBERS MAY FILE PROTEST AGAINST COMMISSION ACTION. Any member shall have the right to have the reasons for his dissent from, or protest against, any action of the commission entered on the minutes.
- (M) ORDINANCES, RESOLUTIONS, MOTIONS AND CONTRACT.
- (1) *Preparation and presentation of ordinances and resolutions.*
- (a) The city attorney shall draft and/or approve all ordinances and resolutions.
- (b) Ordinances and resolutions may be sponsored by an individual member of the commission, the city manager or the city attorney.
- (c)

Ordinances and resolutions are deemed introduced after placement on the agenda by the city clerk and distribution thereof to each member of the city commission, city manager and city attorney at least seventy-two (72) hours prior to a regular meeting and twenty-four (24) hours prior to a special meeting of the city commission.

- (d) After the placement on the agenda of any ordinances or resolutions, the city clerk shall prepare a reasonable number of copies and file same in the office of the city clerk and such other public places as the city commission may designate together with a notice designating time and place of the meeting of the commission for their consideration.
- (e) When ordinances or resolutions are presented as agenda items, the ordinances and the resolutions shall be read by their titles only. After said reading, a motion, duly seconded, shall be required before any further consideration may be had on the proposed ordinances or resolutions. Proposed ordinances and resolutions may be introduced at a regular meeting of the commission and a formal vote thereon may be taken. Proposed ordinances acted upon favorably shall be automatically placed for second reading on the agenda of the next regular meeting. Proposed resolutions acted upon favorably by a majority of the commission present shall become effective immediately.
- (f) The sponsor of ordinances or resolutions shall have the opportunity to present the merits of his proposals prior to the motion being voted upon.
- (g) After discussion is closed, a formal vote shall be taken on said motion.
- (h) If a motion is passed after first reading, proposed ordinances shall be automatically placed for second reading and public hearing at the next meeting of the commission, or at a date certain as stated in the motion and resolutions shall be considered adopted without further action.
- (i) The city clerk shall place a legal notice of such public hearing on any resolution requiring a public hearing and on proposed ordinances passed at first reading in a newspaper of general circulation in the city. Such publication shall be at least ten (10) days prior to the date of the public hearing.
- (j) After a second reading of proposed ordinances which passed at first reading, the presiding officer shall open the hearing to the public. Then all interested persons shall have the opportunity to be heard at said public hearing. After the public has had the opportunity to be heard, the presiding officer shall close the public hearing. Then the proposed ordinances shall be considered by the commission and a formal vote shall be taken.
- (k) Where state law required one or more public hearings be held prior to any action being taken by the commission on any ordinances or resolutions, then in that event, the notice requirements shall be met prior to the first reading and all persons interested in such ordinances or resolutions shall have an opportunity to be heard prior to any action being taken thereon by the commission at such public hearing. Each ordinance shall be read by only the title at both first and second readings and shall be considered at no less than two

(2) meetings of the commission unless declared emergency. If an ordinance is materially amended upon the final reading an additional shall be required at a subsequent meeting of the commission.

- (2) *Prior approval by administrative staff.* All ordinances, resolutions, and contract documents shall, before presentation to the commission, have the approval as to form and legality by the city attorney or his authorized representative, and shall have been examined and approved for administration by the city manager or his authorized representative, where there are substantive matters of administration involved. Provided, however, that if approval is not given, then the city manager shall so advise the commission and give the reasons advanced by the city manager for withholding approval.
- (3) *Introducing for passage or approval.* Ordinances, resolutions, and other matters or subjects requiring action by the commission must be introduced and sponsored by a member of the commission, except that the city manager or city attorney may present ordinances, resolutions and other matters or subjects to the commission, and any commissioner may assume sponsorship thereof by moving that such ordinances, resolutions, matters or subjects be adopted; otherwise, they shall not be considered.
- (N) PARLIAMENTARIAN. The presiding officer of the council or his appointee shall act as parliamentarian.
- (O) EX PARTE COMMUNICATIONS WITH LOCAL PUBLIC OFFICIAL. Communications with local public officials regarding quasi-judicial matters, including the adjudication of the rights of persons and the application of a general rule or policy to a specific individual, property, interest or activity shall be governed by the following procedure:
- A. Any person who fully and faithfully follows each and every one of the requirements of this subsection, as set forth below, and who is not otherwise prohibited by statute, charter provision or ordinance may discuss with any local public official the merits of any matter on which action may be taken by any board or commission on which the local public official is a member. As used in this subsection, the term "local public official" means any elected or appointed public official holding a municipal office who recommends or who takes quasi-judicial action as a member of a board or commission. If any quasi-judicial action is contemplated at the time of any verbal communication, and if the following procedures are followed, the presumption of prejudice arising from ex parte communications with local public officials shall be removed pursuant to F.S. § 286.0115(1):
1. The substance of any ex parte communication with a local public official which relates to quasi-judicial action pending before the official is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed in writing, as soon as practicable after the communication takes place, with city clerk and is disclosed and made a part of the record at the hearing before final action on the matter.

2. A local public official may read a written communication from any person. Any written communication that relates to quasi-judicial action pending before a local public official, shall not be presumed prejudicial to the action, provided such written communication is disclosed and made a part of the record before final action on the matter.
3. A local public official may conduct investigations, make site visits and receive expert opinions regarding quasi-judicial action pending or impending before him or her provided that such activities and the existence of such investigations, site visits or expert opinions is made a part of the record before final action is taken on the matter.
4. Disclosure made pursuant to paragraphs 1, 2 and 3 above must be made before or during the public meeting at which a vote is taken on such matters so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication.
5. A person who appears before the decision-making body who is not a party or party-intervenor may be allowed to testify before the decision-making body, subject to control by the decision-making body, and may be requested to respond to questions from the decision-making body. The decision-making body shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasi-judicial proceeding on local government land use matters, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate.
6. All decisions of the decision-making body in a quasi-judicial proceeding shall be supported by substantial, competent evidence in the record pertinent to the proceeding.

(Ord. No. 463, § 1, 11-7-61; Ord. No. 500, § 1, 4-13-64; Ord. No. 524, 9-20-65; Ord. No. 558, § 1, 4-1-67; Ord. No. 565, § 1, 6-6-67; Ord. No. 614, § 1, 6-11-68; Ord. No. 632, § 1, 12-17-68; Ord. No. 637, § 1, 2-4-69; Ord. No. 649, § 1, 6-10-69; Ord. No. 650, § 1, 6-10-69; Ord. No. 676, § 1, 12-16-69; Ord. No. 1032, § 1, 5-15-79; Ord. No. 1152, § 1, 8-3-82; Ord. No. 1301, § 1, 5-5-88; Ord. No. 1302, § 1, 6-7-88; Ord. No. 1420, § 1, 4-4-89; Ord. No. 1627, § 2, 3-18-97; Ord. No. 1644, § 1, 10-21-97; Ord. No. 1787, § 1, 2-18-03; Ord. No. 1970, § 1, 9-16-08; Ord. No. 1974, § 1, 9-16-08; Ord. No. 2121, § 1, 4-17-12; Ord. No. 2123, § 1, 5-15-12; Ord. No. 2071, § 1, 12-7-10; Ord. No. 2146, § 1, 12-18-12; Ord. No. 2155, § 1, 3-5-13; Ord. No. 2190, § 1, 5-20-14; Ord. No. 2204, § 1, 11-6-14; Ord. No. 2227, § 1, 9-1-15)