

ORDINANCE No. 2009-33-205

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, PROVIDING FOR AN AMENDMENT TO SECTIONS 2.2 AND 3.3(1), OF THE CHARTER OF THE CITY OF MIAMI GARDENS, TO AUTHORIZE THE CITY COUNCIL TO APPOINT, HIRE, PROMOTE, SUPERVISE AND REMOVE ITS OWN LEGISLATIVE STAFF PERSONS; SUBMITTING THE QUESTION FOR APPROVAL OF THE ELECTORATE OF THE CITY OF MIAMI GARDENS AT THE GENERAL ELECTION TO BE HELD IN AUGUST 2010; PROVIDING FOR THE CALL OF THE ELECTION ON THE ISSUE TO BE PRESENTED ON THE BALLOT; PROVIDING FOR AUTHORITY TO THE CITY ATTORNEY AND CITY CLERK; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

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WHEREAS, in accordance with Sections 6.1 and 6.2 of the City of Miami Gardens Charter, in December 2008, the City Council appointed a Charter Revision Commission ("Commission"), and

WHEREAS, the Charter Revision Commission met and has recommended that the City Council make certain amendments to the City Charter, and

WHEREAS, among other Amendments, the Commission has recommended that the City Council amend Sections 2.2 and 3.3(1) of the Charter to give the City Council the authority to directly appoint, hire, promote, supervise and remove its own legislative staff persons, and

WHEREAS, the City Council agrees with the recommendation made by the Charter Revision Commission and would like to amend the Charter in accordance with the recommendations being made by the Charter Revision Commission, and

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WHEREAS, pursuant to Sections 6.1 and 6.2 of the City Charter and Section 6.03 of the Home Rule Charter of Miami-Dade, as applicable, the City Council is required to submit the Charter Amendments to the electors of the City for approval or rejection,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. APPROVAL: The City Council hereby amends Section 2.2 of the Charter as follows:

There shall be a City Council (the "Council") vested with all legislative powers of the City, including the right to appoint, hire, promote, supervise and remove its own legislative staff persons. The Council shall consist of the Mayor and six Council members ("Council members"). References in this Charter to the Council and/or Council members shall include the Mayor, unless the context dictates otherwise.

SECTION 3. APPROVAL: The City Council hereby amends Section 3.3(1) of the Charter as follows:

The Manager shall:

- (1) 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, and all employees of the Office of the City Clerk, and the Office of the City Council.

SECTION 4. ELECTION CALL: The Mayor and City Council hereby call for an election to be held concurrent with the general election to be held in the month of August 2010, at such time as may be convenient for, and determined in accordance with the procedure of the Supervisor of Elections in and for Miami-Dade County, Florida, the City Clerk and City Attorney are hereby directed and empowered to do such things as may be necessary and proper in accordance with the laws of the City of Miami Gardens and the laws of the State of Florida to provide for such election on the proposition herein contemplated; and there should be presented to the electorate of the City of Miami Gardens, the question of whether or not to amend Sections 2.2 and 3.3(1) of the City Charter to provide that the City Council shall have the authority to appoint, hire, promote, supervise and remove its own legislative staff.

SECTION 5. ELECTORATE APPROVAL NECESSARY: There shall be placed on the ballot of the General Election to be held in the month of August, 2010, in accordance with the call thereof by the City Council, the following proposition of whether to amend Sections 2.2 and 3.3(1) of the City Charter to provide that the City Council shall have the authority to appoint, hire, promote, supervise and remove its own legislative staff; providing that each elector shall indicate such elector's approval for the proposition; providing further, that in the event the elector shall indicate both approval for and against such change, such elector's vote and ballot shall not be counted in determining the question presented on such ballot and in such election. One ballot shall be established and made available to each elector, by electronic or other means for the purpose of expression of such elector's approval or disapproval of the proposition and such proposition shall be summarized as follows:

**AUTHORIZING THE CITY COUNCIL TO APPOINT, HIRE, PROMOTE, SUPERVISE
AND REMOVE LEGISLATIVE STAFF**

Shall Sections 2.2 and 3.3(1) of the City Charter be amended to provide that the City Council shall have the authority to appoint, hire, promote, supervise and remove its own legislative staff and that said staff shall report directly to the City Council?

For _____

Against _____

SECTION 6: AUTHORITY: The City Attorney and City Clerk are hereby authorized to make any such amendments to the ballot title and/or question based upon the rules, regulations and policies of the Miami-Dade Supervisor of Elections, and is hereby authorized to take all steps necessary to fulfill the intent of this Ordinance.

SECTION 7. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 8. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 9. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that in the event the ballot question presented herein is approved

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by the electors of the City that the provisions of this Ordinance shall become and be made a part of the Charter as included in the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed

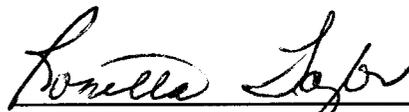
SECTION 10. EFFECTIVE DATE: This Ordinance shall become immediately upon its passage.

PASSED ON FIRST READING ON THE 28th DAY OF OCTOBER.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 10th DAY OF NOVEMBER, 2009.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, MMC, CITY CLERK

Prepared by SONJA K. DICKENS, ESQ.
City Attorney

SPONSORED BY: City Council

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MOVED BY: Vice Mayor Gilbert
SECOND BY: Councilman Campbell

VOTE: 5-0

Mayor Shirley Gibson	<u> X </u> (Yes)	___ (No)
Vice Mayor Oliver Gilbert, III	<u> X </u> (Yes)	___ (No)
Councilman Melvin L. Bratton	___ (Yes)	___ (No)(out of town)
Councilwoman Barbara Watson	<u> X </u> (Yes)	___ (No)
Councilman Andre' Williams	<u> X </u> (Yes)	___ (No)
Councilwoman Sharon Pritchett	___ (Yes)	___ (No)(out of town)
Councilman Aaron Campbell	<u> X </u> (Yes)	___ (No)



City of Miami Gardens Agenda Cover Memo

Council Meeting Date:	11/10/2009		Item Type: <i>(Enter X in box)</i>	Resolution		Ordinance		Other	
						X			
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1st Reading		2nd Reading			
	X			Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes	No	
Funding Source:	N/A		Advertising Requirement: <i>(Enter X in box)</i>		Yes		No		
				X					
Contract/P.O. Required: <i>(Enter X in box)</i>	Yes	No	RFP/RFQ/Bid #:						
				NA					
Sponsor Name	City Council		Department:			NA			

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, PROVIDING FOR AN AMENDMENT TO SECTIONS 2.2 AND 3.3(1), OF THE CHARTER OF THE CITY OF MIAMI GARDENS, TO AUTHORIZE THE CITY COUNCIL TO APPOINT, HIRE, PROMOTE, SUPERVISE AND REMOVE ITS OWN LEGISLATIVE STAFF PERSONS; SUBMITTING THE QUESTION FOR APPROVAL OF THE ELECTORATE OF THE CITY OF MIAMI GARDENS AT THE GENERAL ELECTION TO BE HELD IN AUGUST 2010; PROVIDING FOR THE CALL OF THE ELECTION ON THE ISSUE TO BE PRESENTED ON THE BALLOT; PROVIDING FOR AUTHORITY TO THE CITY ATTORNEY AND CITY CLERK; PROVIDING FOR REPRESENTATIONS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

In accordance with Sections 6.1 and 6.2 of the City of Miami Gardens Charter, in December 2008, the City Council appointed a Charter Revision Commission. The Charter Revision Commission met on several occasions and has made recommendations to the City Council for certain amendments to the City Charter. Among other amendments, the Commission has recommended that the City Council amend Sections 2.2 and 3.3(1) of the Charter to give the City Council the authority to directly appoint, hire, promote, supervise and remove its own legislative staff persons. Pursuant to Sections 6.1 and 6.2 of the City Charter and Section 6.03 of the Home Rule Charter of Miami-Dade, as applicable, the City Council is required to submit the Charter Amendments to the electors of the City for approval or rejection.

Proposed Action:

**ITEM I-1) ORDINANCE
SECOND READING
Proposed Charter Amendment
Section 2.2 and 3.3(1)**

Approve an ordinance amending sections 2.2 and 3.3(1), of the Charter of the City of Miami Gardens.

Attachment:

Charter Commission Recommendations.

¹RECOMMENDED CHARTER AMENDMENTS

Section 2.2

There shall be a City Council (the “Council”) vested with all legislative powers of the City, including the right to hire staff persons to assist the City Council in its legislative affairs. The Council shall consist of the Mayor, and six Council members (“Council members”). References in this Charter to the Council and/or Council members shall include the Mayor, unless the context dictates otherwise.

Section 3.3

The Manager shall:

(1) 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, ~~and all employees of the Office of the City Clerk,~~ and employees of the City Council.

Section 5.2(D)

(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 complete a certificate as to its sufficiency (“the Certificate”). 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 signature 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 (“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 complete a Certificate as to the sufficiency of the Petition as amended (“Amended Petition”) 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 Council review under paragraph (2) of this subsection within the time required, the City Clerk shall promptly present his/her certificate to the Council

¹ The Charter Revision Commission considered all sections of the Charter. This list merely contains items where motions were actually made.

and such Certificate shall then be a final determination as to the sufficiency of the Petition. The Clerk shall be required to verify all signatures required by this section with the Miami-Dade County Supervisor of Elections.

Section 6.2(B)

The Commission shall consist of five persons including one from each of the four Residential Areas. One appointment shall be made by the Mayor and each Residential Council member. In addition, the Mayor shall appoint one person to the Commission who is the Vice-Mayor or Council member who is serving a second consecutive term, who shall serve as a non-voting Commission member. In the event a second term Vice-Mayor or Council member is not serving, the Mayor may appoint a sitting Vice Mayor or Council member. The Mayor, City staff, and Council members, other than the nonvoting member referenced above, shall not be eligible for appointment to the Commission. The Commission shall commence its proceedings within 45 calendar days after appointment by the Council.

PROVISIONS THE COMMISSION VOTED NOT TO AMEND

- 1.2 Form of Government – The Commission determined that the form of government is sufficiently clear in the Charter
- 2.1(a)(3) – Amendments to Council Committees – The Commission determined that no amendments were necessary because the City Council has discretion to determine whether to appoint laypersons to Committees of the Council.
- 2.6 Compensation/Reimbursement of Expense (Mayor and Council) – The Commission determined that no changes need to be made at this time to this provision.
- 3.2 City Manager Residency Requirement – The Commission determined that no changes need to be made at this time to this provision.
- 2.3(e)- Clarification on definition of term – The Commission determined that no amendments need to be made to clarify that “term” for purposes of term limits, means a complete term, and does not refer to instances when a person fills an incomplete term.
- 2.3(e) – Amendments to Term Limits- The Commission determined that no amendments needed to be made to this provision.
- 5.1 Election Dates - The Commission determined that since this provision was already amended by Ordinance that no changes are required.