

**RESOLUTION NO. 13-1054**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF PROPOSED AMENDMENTS TO THE TOWN CHARTER; SUBMITTING PROPOSED CHARTER AMENDMENTS TO ARTICLE II OF THE TOWN CHARTER, ALLOWING AT-LARGE ELECTIONS INSTEAD OF RESIDENTIAL DISTRICT ELECTIONS; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO THE ELECTORATE; CALLING A SPECIAL ELECTION ON THE PROPOSED AMENDMENTS TO THE TOWN CHARTER TO BE HELD ON JUNE 25, 2013; PROVIDING FOR MAIL BALLOT ELECTION; PROVIDING FOR NOTICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR RELATED MATTERS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** pursuant to Ordinance 06-82 of the Town of Miami Lakes Charter, the Town Council has determined that an amendment to the Town Charter is needed and has proposed amendments to allow At-Large Elections instead of “Residential District Elections”; and

**WHEREAS,** the Town Council desires to place the proposed amendments provided for in this Resolution on the ballot for a Special Election; and

**WHEREAS,** the Town Council desires to call the Special Election to approve the Charter Amendments contained herein and further desires to do so by a mail-in ballot; and

**WHEREAS,** pursuant Ordinance 06-82 of the Town Charter, the Town Council submits the following Charter Amendments to the electors of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**Section 2. Charter Amendments.** The Town Charter of the Town of Miami Lakes

is hereby amended as follows.

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Article II, Section 2.1 "Town Council" of the Town of Miami Lakes Charter shall be amended to read as follows:

Section 2.1. - Town Council.

There shall be a Town Council (the "Council") vested with all legislative powers of the Town. The Council shall consist of the Mayor and ~~six members, four Residential Councilmembers and two At-large Councilmembers~~ Six At-Large Councilmembers as described below ("Councilmembers"). References in this Charter to the Council and/or Councilmembers shall include the Mayor unless the context dictates otherwise.

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Article II, Section 2.3 "Election and Term of Office" of the Town of Miami Lakes Charter shall be amended to read as follows:

Section 2.3. - Election and Term of Office.

- (a) *Election and Term of Office.* Except for the initial election and terms of office specified in Article VIII, each Councilmember and the Mayor shall be elected at-large for four-year terms by the electors of the Town in the manner provided in Article V of this Charter.
- (b) *Seats.* Councilmembers shall serve in seats numbered 1-6 ~~described below~~, collectively "Seats." Individually each is a "Seat." One Councilmember shall be elected to each Seat.
- (c) *Residential At Large Areas.* ~~Seats 1-4 1-6 The Town shall be divided into four six residential At Large areas. Individually each is a "Residential Area," collectively ""Residential Area." One Councilmember shall be elected to a Seat from each "Residential Area. Councilmembers from "Residential Area are collectively the "Residential Area Councilmembers." Individually each is a "Residential Area Councilmember." The Residential Area corresponding to each~~

Seat are formally set forth in the document entitled "Town of Miami Lakes, Residential Sub Areas 1 Legal Description dated September 22, 2000"; "Town of Miami Lakes Residential Sub Areas 2 Legal Description dated September 25, 2000"; "Town of Miami Lakes, Residential Sub Areas 3 Legal Description dated September 25, 2000"; "Town of Miami Lakes, Residential Sub Areas 4 Legal Description dated September 27, 2000"; which shall be on file in the Office of the Town Clerk and are generally described below. In case of conflict between the Residential Area Description and this Charter, the Residential Description shall govern.

Seat 1:	Northern Boundary:	NW 170 Street
	Eastern Boundary:	NW 77 Court
	Southern Boundary:	Miami Lakes Drive (NW 154 Street)
	Western Boundary:	Interstate 75
Seat 2:	Northern Boundary:	Miami Lakes Drive (NW 154 Street)
	Eastern Boundary:	Palmetto Frontage Road
	Southern Boundary:	The City of Hialeah
	Western Boundary:	Interstate 75
Seat 3:	Northern Boundary:	Miami Lakes Drive between NW 77 Avenue and Fairway Drive; Fairway Drive between Miami Lakes Drive and Miami Lakeway North; Miami Lakeway North between Fairway Drive and Main Street; Main Street between Miami Lakeway North and NW 67 Avenue; NW 67 Avenue between Main Street and Miami Lakes Drive; Miami Lakes Drive East between NW 67 Avenue and NW 57 Avenue
	Eastern Boundary:	NW 57 Avenue (Red Road)
	Southern Boundary:	The City of Hialeah
	Western Boundary:	NW 77 Avenue
Seat 4:	Northern Boundary:	State Road 826 (Palmetto Road)
	Eastern Boundary:	NW 57 Avenue (Red Road)

	Boundary:	
	Southern Boundary:	Miami Lakes Dr between NW 77 Avenue and Fairway Drive; Fairway Drive between Miami Lakes Drive and Miami Lakeway North; Miami Lakeway North between Fairway Drive and Main Street; Main Street between Miami Lakeway North and NW 67 Avenue; NW 67 Avenue between Main Street and Miami Lakes Drive; Miami Lakes Drive East between NW 67 Avenue and NW 57 Avenue
	Western Boundary:	NW 77 Avenue

(d) (c) Council to be Elected At-Large

*Councilmembers At Large. Seats 5 and 1-6. Two additional* All Councilmembers shall be elected at-large and shall occupy Seats ~~5 and 1-6. collectively,~~ the "Councilmembers." Individually each is an "Councilmember."

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Article II, Section 2.4 "Qualifications" of the Town of Miami Lakes Charter shall be amended to read as follows:

Section 2.4. - Qualifications.

Candidates for Councilmember or Mayor shall qualify for election by the filing of a written notice of candidacy with the Town Clerk at such time and in such manner as may be prescribed by ordinance ("Qualifying Date") and paying to the Town Clerk a qualifying fee of \$100.00, in addition to any fees required by Florida Statutes. A person may not be a candidate for Council and Mayor in the same election. Only electors of the Town who have resided continuously in the Town for at least two years preceding their Qualifying Date shall be eligible to hold the Office of Councilmember or Mayor. ~~In addition, a person may not be a candidate for an open Residential Councilmember Seat ("Open Seat") unless that person has resided in the Residential Area s/he seeks to represent continuously for a period of one year preceding his/her Qualifying Date. If at the conclusion of the qualifying period no elector has filed or qualified for an Open Seat, then the qualifying period for that Open Seat shall be reopened for a period of five business days and any qualified elector who resides in the relevant Residential Area and has resided continuously in the Town for at least two years may file a written notice of candidacy for the Open Seat in accordance with the provisions of this Section.~~

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Article II, Section 2.5 “Vacancies; Forfeiture of Office; Filling of Vacancies” of the Town of Miami Lakes Charter shall be amended to read as follows:

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

(A)

*Vacancies.* The office of a Councilmember shall become vacant upon his/her death, resignation, disability, suspension or removal from office in any manner authorized by law, or by forfeiture of his/her office.

(B)

*Forfeiture of Office.*

i) Forfeiture by disqualification. A Councilmember shall forfeit his/her office if at any time during his/her term s/he:

(a) ceases to maintain his/her permanent residence in the Town.

~~(b) in the case of a Residential Area Councilmember, upon his/her ceasing to reside in his/her respective Residential At Large Area; a Residential Area Councilmember shall not forfeit his/her office under this paragraph if, in the process of relocating within a Residential Area, s/he lives outside of his/her Residential Area but within the Town for a period of no more than 90 calendar days~~

~~(c)~~ (b) otherwise ceases to be a qualified elector of the Town

ii) *Forfeiture by absence.* A Councilmember shall be subject to forfeiture of his/her office, in the discretion of the remaining Councilmembers, if s/he is absent without good cause from any three regular meetings of the Council during any calendar year or if s/he is absent without good cause from any three consecutive regular meetings of the Council, whether or not during the same calendar year.

iii) *Procedures.* The Council shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Councilmember's office, including whether or not good cause for absence has been or may be established. The burden of establishing good cause shall be on the Councilmember in question; provided, however, that any Councilmember may at any time during any duly held meeting move to establish good cause for the absence of him/herself or the absence of any other Councilmember, from any past, present or future meeting(s), which

motion, if carried, shall be conclusive. A Councilmember whose qualifications are in question, or, who is otherwise subject to forfeiture of his/her office, shall not vote on any such matters. The Councilmember in question shall be entitled to a public hearing(s) on 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 Town at least one week in advance of the hearing. Any final determination by the Council that a Councilmember has forfeited his/her office shall be made by a majority of the Council by resolution. All votes and other acts of the Councilmember in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

(C)

*Filling of vacancies.* A vacancy on the Council shall be filled as follows:

- iv) 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 Council.
- v) 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 Council. The nominee shall fill the vacancy until the next regularly scheduled election in Miami-Dade County at which time an election shall be held to fill the vacancy. However, if the 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.
- iii) If the Mayor's position becomes vacant, and less than six months remain in the unexpired term, the Vice-Mayor shall complete the term of Mayor. The vacancy thus created on the Council shall be filled in the manner that the vacancy of a Councilmember is generally filled under this Article. The Council shall then appoint a new Vice-Mayor. If the elected Mayor shall be returned to office, s/he shall automatically resume the duties of the office for the remainder of the term for which elected, and the Vice-Mayor shall be returned to complete the balance of his/her term. The appointment of the person to complete the term of the Vice-Mayor shall be automatically rescinded.

- iv) If the Mayor's position becomes vacant and six months or more remain in the unexpired term, a special election shall be held for the election of a new Mayor within 90 calendar days following the occurrence of the vacancy. Pending the election, the office of Mayor shall be filled by the Vice-Mayor. The Council shall then appoint a new Vice-Mayor. No temporary Council appointment shall be made.
- v) A vacancy in Seats 1-4 shall be filled by a qualified elector residing in the respective Residential At Large Area. A vacancy in Seats 5 or 1-6 shall be filled by any qualified elector of the Town.
- vi) Persons filling vacancies shall meet the qualifications specified in this Article.
- vii) If no candidate for a vacancy meets the qualifications under this Article for that vacancy, the Council shall appoint a person qualified under this Article to fill the vacancy.
- viii) Notwithstanding any quorum requirements established in this Charter, if at any time the full membership of the 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 under this subsection (C).
- ix) In the event that all members of the Council are removed by death, disability, recall, forfeiture of office and/or resignation, the Governor shall appoint interim Councilmembers who shall call a special election within not less than 30 calendar days or more than 60 calendar days after such appointment. Such election shall be held in the same manner as the first elections under this Charter; provided, however, that if there are less than six months remaining in any of the unexpired terms, such interim Council appointee(s) by the Governor shall serve out the unexpired terms. Appointees must meet all requirements for candidates provided for in this Article.

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**Section 3. Election Called.**

A. That a special election is hereby called, to be held on the 25<sup>th</sup> day of June, 2013, to present to the qualified electors of the Town of Miami Lakes, the ballot questions provided in Section 4 of this Resolution.

B. That the Town Council may by Resolution alter the date of the special election in the event that the Council finds that unforeseen circumstances require it to do so.

**Section 4. Form of Ballot.**

That the form of ballot for the Charter Amendments provided for in Section 2 of this Resolution shall be substantially, as follows:

1. ALLOWING AT-LARGE ELECTIONS INSTEAD OF RESIDENTIAL DISTRICT ELECTIONS

It has been proposed that that the Charter be amended to allow At-large Elections instead of Residential District Elections, so that all councilmembers will be elected At-large..

Shall the above Charter amendment be adopted?

Yes [ ]

No [ ]

**Section 5. Balloting.** That mail ballots, as prescribed by Sections 101.6101-101.6107, Florida Statutes, shall be used in this Special Election. All qualified Town electors who are timely registered in accordance with State law shall be entitled to vote. The Town Clerk is authorized to obtain any necessary election administration services from the Miami-Dade County Supervisor of Elections. The County registration books shall remain open at the Office of the County Supervisor of Elections until the date at which the registration books shall close in accordance with the provisions of the general election laws. The Town Clerk, with necessary assistance from the Miami-Dade County Supervisor of Elections, is hereby authorized to take all



appropriate actions necessary to carry into effect and accomplish the electoral provisions of this Resolution. This Special Election shall be canvassed by the Town Clerk in accordance with any applicable provisions of the general election laws of the State or County. The Town Clerk is hereby authorized to take any action which is necessary or expedient to implement this section or to comply with any applicable law.

**Section 6.**     **Notice of Election.** That notice of said election shall be published in accordance with Section 100.342, Florida Statutes, in a newspaper of general circulation within the Town at least 30 days prior to said election, the first publication to be in the fifth week prior to the election (to-wit: during the week commencing May 19, 2013), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, June 2, 2013), and shall be in substantially the following form:

“NOTICE OF ELECTION.”

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO.13-1054 DULY ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, (THE “TOWN”), A SPECIAL ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE TOWN ON JUNE 25, 2013, BY MAIL BALLOT, AT WHICH TIME THE FOLLOWING CHARTER AMENDMENTS PROPOSED SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN.

1. ALLOWING AT-LARGE ELECTIONS INSTEAD OF RESIDENTIAL DISTRICT ELECTIONS

It has been proposed that that the Charter be amended to allow At-Large Elections instead of Residential District Elections, so that all councilmembers will be elected At-large.

Shall the above Charter amendment be adopted?

Yes [ ]

No [ ]

Polling place information and the full text of the proposed Charter Amendments is available at the Office of the Town Clerk located at 15700 NW 67 Avenue, 3<sup>rd</sup> Floor, Miami Lakes, FL 33014.

*Marjorie Tejeda*

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**TOWN CLERK**

**Section 7. Copies.** That copies of this Resolution proposing the Charter Amendments are on file at the offices of the Town Clerk located at Town of Miami Lakes 15700 NW 67 Avenue, 3<sup>rd</sup> Floor, Miami Lakes, FL 33014, and are available for public inspection during regular business hours.

**Section 8. Effectiveness of Charter Amendment.**

A. That the Charter Amendments which are provided for in Section 2 above shall become effective only if the majority of the qualified electors voting on the Charter Amendment vote for its adoption, and it shall be considered adopted and effective upon certification of election results.

B. That the Town Attorney is authorized to revise the Charter to the extent necessary to assure that any amendments adopted are properly included in the publication of the revised Town Charter.

C. That following the adoption of the Charter Amendments, the Town Clerk shall file the adopted Charter Amendments with the Clerk of the Circuit Court of Miami-Dade County, Florida.

**Section 9. Inclusion In The Charter.** Subject to the requirements of Section 8 above, it is the intention of the Town Council and it is hereby provided that the Charter Amendments shall become and be made a part of the Charter of the Town of Miami Lakes; that the Sections of this Resolution may be renumbered or re-lettered to accomplish such intention.

**Section 10.** **Severability.** That the provisions of this Resolution are declared to be severable, and if any section, sentence, clause or phrase of this Resolution shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but they shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

**Section 11.** **Conflict and Repealer.** Any Section of the Town Charter that conflicts with this Amendment, if adopted, shall be considered amended or repealed as necessary.

INTENTIONALLY LEFT BLANK

**Section 12. Effective date.** That this Resolution shall become effective immediately upon adoption hereof.

**PASSED AND ADOPTED** this 12 day of February, 2013.

Motion to adopt by Michael Pizzi, second by Tony Lama.

**FINAL VOTE AT ADOPTION**

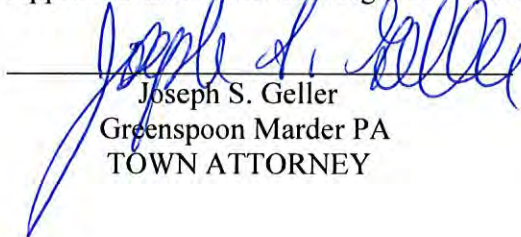
Mayor Michael Pizzi	<u>Yes</u>
Vice Mayor Ceasar Mestre	<u>Yes</u>
Councilmember Manny Cid	<u>Yes</u>
Councilmember Tim Daubert	<u>no</u>
Councilmember Nelson Hernandez	<u>Yes</u>
Councilmember Tony Lama	<u>Yes</u>
Councilmember Nelson Rodriguez	<u>Yes</u>

  
\_\_\_\_\_  
Michael Pizzi  
MAYOR

Attest:

  
\_\_\_\_\_  
Marjorie Tejeda  
TOWN CLERK

Approved as to Form and Legal Sufficiency

  
\_\_\_\_\_  
Joseph S. Geller  
Greenspoon Marder PA  
TOWN ATTORNEY

ATTEST:

  
\_\_\_\_\_  
TOWN CLERK