

RESOLUTION No. 2009-27-972

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, IMPLEMENTING SECTION 2.1 OF THE CITY'S CHARTER PROHIBITING ANY COUNCIL MEMBER, OTHER THAN THE MAYOR OR THE VICE MAYOR IN THE MAYOR'S ABSENCE, FROM ATTEMPTING TO REPRESENT THE CITY IN ANY DEALINGS OTHER GOVERNMENTAL ENTITIES; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 2.1(A)(4) of the City of Miami Gardens Charter provides as follows:

"The Mayor shall be the official designated to represent the City in all dealings with other governmental entities.", and

WHEREAS, in accordance with this section of the Charter, it is improper for any Council member other than the Mayor, or the Vice Mayor in the Mayor's absence, to attempt to represent the interests of the City in any dealings with other governmental entities,

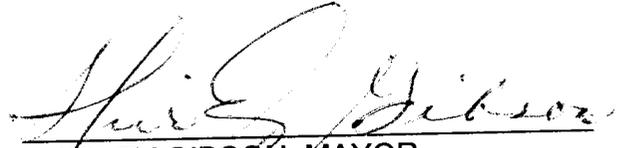
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

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

Section 2. PROHIBITION: In accordance with Section 2.1(A)(4) of the City of Miami Gardens Charter, individual members of the City Council shall be prohibited from representing the City in any dealings with any other governmental entities either verbally or in writing, and shall refrain from attempting to represent the City's interests in this regard.

Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON JANUARY 28, 2009.

  
SHIRLEY GIBSON, MAYOR

ATTEST:

  
RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

SPONSORED BY: VICE MAYOR BARBARA WATSON

MOVED BY: Vice Mayor Watson  
SECONDED BY: Councilman Gilbert

VOTE: 6-1

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

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## City of Miami Gardens Agenda Cover Memo

<b>Council Meeting Date:</b>	January 28, 2009		<b>Item Type:</b>	<b>Resolution</b>	<b>Ordinance</b>	<b>Other</b>	
				X			
<b>Fiscal Impact:</b>	Yes	No	<b>Ordinance Reading:</b>		<b>1<sup>st</sup> Reading</b>		<b>2<sup>nd</sup> Reading</b>
		X	<b>Public Hearing:</b>		<b>Yes</b>	<b>No</b>	<b>Yes</b> <b>No</b>
<b>Funding Source:</b>			<b>Advertising Requirement:</b>	<b>Yes</b>		<b>No</b>	
						X	
<b>Contract/P.O. Required:</b>	Yes	No	<b>RFP/RFQ/Bid #:</b>	N/A			
		X					
<b>Sponsor Name</b>	Barbara Watson, Vice Mayor		<b>Department:</b>	Mayor/Council			

**Short Title:**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, IMPLEMENTING SECTION 2.1 OF THE CITY'S CHARTER PROHIBITING ANY COUNCIL MEMBER, OTHER THAN THE MAYOR OR THE VICE MAYOR IN THE MAYOR'S ABSENCE, FROM ATTEMPTING TO REPRESENT THE CITY IN ANY DEALINGS OTHER GOVERNMENTAL ENTITIES; PROVIDING FOR ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.*

**Staff Summary:**

*In accordance with Articles I, section 1.2 and Article II, section 2.1 of the City Charter, the Mayor is recognized as the official designated to represent the City in all dealings with other governmental entities. In the absence or incapacity of the Mayor, the Vice-Mayor will uphold all powers, authority, duties and responsibilities of the Mayor.*

*The Mayor, or in her absence the Vice Mayor, is held responsible for all actions taken on behalf of the City Council. In an effort to maintain transparency and accountability, strict adherence to section 2.1 of the Charter is mandated. All communication, both verbal and written, should be channeled through the City's designated representatives for action.*

**Recommendation:**

In the best interest of the continued progress of the City and to prevent any potential for liability of the City and individual Council members, please sponsor this Resolution and ask for your support in its passage.

**Attachment:**

Articles I and II of the City Charter.

conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.

(10) *Managers' and Attorneys' Reports.* The City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective areas of concern.

(11) *Budgeting.* In addition to any budget required by state statute, the City Manager at the direction of the Mayor shall prepare a budget showing the cost of each department for each budget year. Prior to the City Council's first public hearing on the proposed budget required by state law, the City Manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefor, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.

(12) *Quarterly Budget Comparisons.* The City Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.

(13) *Representation of Public.* The Mayor shall endeavor to designate one or more individuals to represent the City at all proceedings before County, State and Federal regulatory bodies, significantly affecting the City and its residents.

(B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the City. The orderly, efficient and fair operation of government requires the participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.

(C) All provisions of this Bill of Rights shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this Bill of Rights shall be declared invalid, it shall not affect the validity of the remaining provisions.

## **ARTICLE I. CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWERS**

### **Section 1.1 Corporate Existence.**

A municipal corporation resulting from the election authorized by Resolution R-XXXX-03 adopted on XXXXXXX, 2003 by the Miami-Dade County Board of County Commissioners, which permitted the continuing process of incorporation of the area described in Section 1.3

below, originally known as the City of North Dade, and which shall hereafter be known by the name selected for the City pursuant to the process set forth in Section 8.9 herein below (the "City") is hereby created pursuant to the Constitution of the State of Florida (the "State") and the Home Rule Charter of Miami-Dade County (the "County"). The corporate existence of the City shall commence upon the approval of this Charter by election.

**Section 1.2 Form of Government.**

The City shall have a "Mayor-Council-Manager" form of government.

**Section 1.3 Corporate Boundary.**

The corporate boundaries of the City are generally described as follows and shown on the map on Appendix A. In case of a conflict between the Legal Description and the Map, the Legal Description shall govern.

Northern Boundary:	N.W. 215 <sup>th</sup> Street, Countyline Road.
Eastern Boundary:	N.E. 2 <sup>nd</sup> Avenue, North Miami Ave.
Southern Boundary:	N.W. 151 <sup>st</sup> Street, The City of Opa-locka
Western Boundary:	N.W. 57 <sup>th</sup> Avenue, N.W. 47 <sup>th</sup> Avenue

The Legal Description for the City is as follows: See Appendix B.

**Section 1.4 Powers.**

(A) The City shall have all available governmental, corporate and proprietary powers and may exercise them except when prohibited by law. Through the adoption of this Charter, it is the intent of the electors of the City to grant to the municipal government established by this Charter the broadest exercise of home rule powers permitted under the Constitution and laws of the State of Florida.

(B) The only limitation concerning alienability of City owned property is that there shall be no sale, exchange or lease in excess of five (5) years of any park property while it is being used for public purpose unless such sale, exchange or lease is approved by a majority vote at the next regularly scheduled election of the voters of the City. This provision shall not apply to any valid written contractual obligations entered into prior to the effective incorporation date of this City nor shall it apply to any City owned educational facility, library property or parking facility not located in a park or any utility or access easements or rights-of-way. This provision is intended to restrict sales, exchanges or leases and shall not be applicable to any operating, management or other agreements.

**Section 1.5 Construction.**

This Charter and the powers of the City shall be construed liberally in favor of the City.

## **ARTICLE II. MAYOR, VICE-MAYOR AND CITY COUNCIL**

### **Section 2.1 Mayor and Vice-Mayor.**

(A) *Powers of the Mayor.* The Mayor shall preside at meetings of the Council and be a voting member of the Council. In addition, the Mayor shall have the following specific responsibilities:

- (1) The Mayor shall present a State of the City address annually.
- (2) The Mayor may create and appoint subject to Council approval, committees of the Council, which may include non-Council members. The members of each committee shall select a chair.
- (3) The Mayor shall be recognized as head of the City government for all ceremonial purposes, for purposes of military law, and for service of process.
- (4) The Mayor shall be the official designated to represent the City in all dealings with other governmental entities.
- (5) The Mayor shall execute contracts, deeds and other documents on behalf of the City as authorized by the Council.
- (6) The Mayor shall appoint the City Manager, City Attorney and City Clerk subject to the approval of the majority of the Council.

(B) *Vice-Mayor.* Shall be selected by the City Council at its first duly held meeting, and shall serve a term of no more than 2 years. During the absence or incapacity of the Mayor, the Vice-Mayor shall have all the powers, authority, duties and responsibilities of the Mayor.

### **Section 2.2 City Council.**

There shall be a City Council (the "Council") vested with all legislative powers of the City. 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 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, the Mayor and each Council member shall be elected for a four year term by the electors of the City in the manner provided in Article V of this Charter. The Mayor and two Council members shall be elected at-large and four Council members shall be elected by Residential Area. The term of office shall end upon the swearing in of his/her successor.

(B) *Seats.* Four Council members shall serve in seats numbered 1-4 described below, and two Council members shall serve at-large in seats numbered 5 and 6, collectively "Seats." Individually each is a "Seat." One Council member shall be elected to each Seat.

(C) *Residential Areas. Seats 1-4.* The City shall be divided into four residential areas. Individually each is a "Residential Area" collectively "Residential Areas." One Council member shall be elected to a Seat from each Residential Area. Council members from Residential Areas are collectively the "Residential Area Council members." Individually each is a "Residential Area Council member." The Residential Areas corresponding to each Seat are formally set forth below:

- |        |                    |  |
|--------|--------------------|--|
| Seat 1 | Northern Boundary: | N.W. 215 <sup>th</sup> Street  |
|        | Eastern Boundary:  | N.W. 27 <sup>th</sup> Avenue, N.W. 20 <sup>th</sup> Avenue   |
|        | Southern Boundary: | N.W. 199 <sup>th</sup> Street, west to N.W. 37 <sup>th</sup> Avenue, south to N.W. 191 <sup>st</sup> Street, west to N.W. 42 <sup>nd</sup> Avenue, south to SR 826, west to 47 <sup>th</sup> Avenue. |
|        | Western Boundary:  | N.W. 47 <sup>th</sup> Avenue   |
| Seat 2 | Northern Boundary: | N.W. 215 <sup>th</sup> Street  |
|        | Eastern Boundary:  | N.E. 2 <sup>nd</sup> Avenue, south to N.W. 199 <sup>th</sup> Street, west to North Miami Avenue, south to N.W. 183 <sup>rd</sup> Street  |
|        | Southern Boundary: | N.W. 183 Street  |
|        | Western Boundary:  | Florida Turnpike, north to N.W 199th Street, west to N.W. 27 <sup>th</sup> Avenue, north to N.W. 215 <sup>th</sup> Street  |
| Seat 3 | Northern Boundary: | N.W. 199 <sup>th</sup> Street, south along Florida Turnpike, to N.W. 183 <sup>rd</sup> Street, east along N.W. 183 <sup>rd</sup> Street to North Miami Avenue.                                       |
|        | Eastern Boundary:  | North Miami Avenue, South to SR 9, southwest on SR 9 to N.W. 151 <sup>st</sup> Street  |
|        | Southern Boundary: | N.W. 151 <sup>st</sup> Street to N.W. 27 <sup>th</sup> Avenue.   |
|        | Western Boundary:  | N.W. 27 <sup>th</sup> Avenue   |

Seat 4	Northern Boundary:	N.W. 199 <sup>th</sup> Street, west to N.W. 37 <sup>th</sup> Avenue, south to N. W. 191 <sup>st</sup> Street, west to N.W. 42 <sup>nd</sup> Avenue, south to SR826, west to 57 <sup>th</sup> Avenue.
	Eastern Boundary:	N.W. 27 <sup>th</sup> Avenue.
	Southern Boundary:	N.W. 151 <sup>st</sup> Street to N.W. 57 <sup>th</sup> Avenue.
	Western Boundary:	N.W. 57 <sup>th</sup> Avenue, north to SR 826, east to N.W. 47 <sup>th</sup> Avenue, north to N.W. 191 <sup>st</sup> Street, east to 37 <sup>th</sup> Avenue, north to N.W. 199 <sup>th</sup> Street, east to N.W. 27 <sup>th</sup> Avenue.

(D) *Affiliations.* Each person running for elected office shall run independently.

(E) *Limitations on Lengths of Service.* No person shall serve as Mayor for more than two consecutive terms. No person may serve on the Council for more than two consecutive terms. No person may serve as a combination of Mayor and Council member for more than four consecutive terms. After two consecutive terms, a person can sit out one term and run for election.

#### **Section 2.4 Qualifications.**

Candidates for Mayor or Council member shall qualify for election by the filing of a written notice of candidacy with the City Clerk at such time and in such manner as may be prescribed by ordinance ("Qualifying Date") and paying to the City Clerk a qualifying fee of \$200.00, in addition to any fees required by Florida Statutes. A person may not be a candidate for more than one office in the same election. Only electors of the City, as defined by Section 5.1(a), who have resided continuously in the City for at least one year preceding their Qualifying Date shall be eligible to hold the Office of Mayor or Council member. In addition, a person may not be a candidate for an open Residential Council member 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 City for at least one year may file a written notice of candidacy for the Open Seat in accordance with the provisions of this Section.

#### **Section 2.5 Vacancies; Forfeiture of Office; Filling of Vacancies.**

(A) *Vacancies.* The office of a Council member 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.*

(1) *Forfeiture by disqualification.* The Mayor or Council member, shall forfeit his/her office if at any time during his/her term s/he:

- (1) ceases to maintain his/her permanent residence in the City.
- (2) in the case of a Residential Area Council member, upon his/her ceasing to reside in his/her respective Residential Area; a Residential Area Council member 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 City for a period of no more than 90 calendar days.
- (3) otherwise ceases to be a qualified elector of the City.
- (4) is convicted of a felony.
- (5) violates any express prohibition of this Charter.
- (6) lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law.

(2) *Forfeiture by absence.* The Mayor or Council member shall be subject to forfeiture of his/her office, in the discretion of the remaining Council members, 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.

(3) *Procedures.* The Council shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Council member'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 Council member in question; provided, however, that any Council member 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 Council member, from any past, present or future meeting(s), which motion, if carried, shall be conclusive. A Council member whose qualifications are in question, or, who is otherwise subject to forfeiture of his/her office, shall not vote on any such matters. The Council member in question shall be entitled to a public hearing upon 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 City at least one week in advance of the hearing. Any final determination by the Council that a Council member has forfeited his/her office shall be made by a majority of the Council by resolution. All votes and

other acts of the Council member 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

(1) 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.

(2) 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 Miami-Dade County-wide election at which time an election shall be held to fill the vacancy for the balance of the term. 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.

(3) If the Mayor's position becomes vacant, the Vice-Mayor shall complete the term of Mayor, even if said complete term shall cause the Vice-Mayor to exceed the term limits as specified in Section 2.3 (E). The vacancy of Vice-Mayor thus created shall be filled in the manner that the vacancy of a Council member is generally filled under this Article. 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.

(4) A vacancy in Residential Seats 1-4 shall be filled by a qualified elector residing in the respective Residential Area. A vacancy in the At-large Seats shall be filled by a qualified elector residing in the City.

(5) Persons filling vacancies shall meet the qualifications specified in this Article.

(6) 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.

(7) 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).

(8) In the event that all members of the Council are removed by death, disability, recall, forfeiture of office and/or resignation, the Governor of the State of Florida shall appoint interim Council members 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.

#### **Section 2.6 Compensation; Reimbursement for Expenses.**

Council members shall receive compensation in the amount of \$1,000.00 per month and the Mayor shall receive compensation in the amount of \$3,500.00 per month. These payments shall be increased, but not decreased, by amendment of this Charter. Furthermore elected officials and authorized employees of the City shall receive reimbursement in accordance with applicable law, or as may be otherwise provided by ordinance, for authorized expenses incurred in the performance of their official duties limited to no more than \$1,200 per month.

#### **Section 2.7 Recall.**

The electors of the City shall have the power to recall and to remove from office any elected official of the City to the extent permitted by the Constitution and the laws of the State of Florida. The minimum number of electors of the City which shall be required to initiate a recall petition shall be ten (10) percent of the total number of electors registered to vote at the last regular City election.

### **ARTICLE III. ADMINISTRATIVE**

#### **Section 3.1 City Manager.**

There shall be a City Manager (the "City Manager") who shall be the chief administrative officer of the City. The City Manager shall be responsible to the Council for the administration of all City affairs and for carrying out policies adopted by the Council. The term, conditions and compensation of the City Manager shall be established by the Council.

#### **Section 3.2 City Manager; Appointment, Removal.**

The City Manager shall be appointed by the Mayor. A majority of the Council must approve the appointment of the City Manager. The City Manager shall be removed by a majority vote of the Council. The City Manager shall reside within the boundaries of the municipality or relocate within the boundaries within 180 days of accepting the appointment.