MIAMIBEACH

Charter Review & Revision Board

Members:	**Appointed by:**
Stephen Zack, Esq., Chair	Mayor Matti Herrera Bower
Aaron Perry, Vice Chair	Commissioner Jerry Libbin
Scott Diffenderfer	Commissioner Jorge R. Exposito
Jacqueline Lalonde	Commissioner Michael Góngora
Rick Kendle	Commissioner Edward L. Tobin
Alex Fernandez	Commissioner Deede Weithorn
Richard "Rick" J. Preira	Commissioner Jonah Wolfson

Staff:

Jose Smith, City Attorney
Debora Turner, First Assistant City Attorney
Donald Papy, Chief Deputy City Attorney
Rafael E. Granado, City Clerk
Liliam Hatfield, OAV, City Clerk's Office

Meeting Agenda
Monday, August 19, 2013 at 4:30 p.m.
Commission Chambers, 3rd Floor, City Hall
Email: CharterReview@miamibeachfl.gov

Special Note: In order to ensure adequate consideration, if necessary, the members of the Charter Review & Revision Board may move any agenda item to another meeting date. In addition, the members of the Charter Review & Revision Board may, at their discretion, adjoum the Charter Review & Revision Board meeting without reaching all agenda items.

1. **Accept Minutes Of The August 5, 2013 Charter Review & Revision Board Meeting**. (See Item 1)

2. **Review/Discussion Of Letter To Mayor Bower And City Commissioners Relating To Resolutions 2013-28302 And 2013-28303**. Version A and Version B, incorporating changes requested by Jacqueline Lalonde (See Item 2)

3. **Continuation Of Discussion Of The Citizens' Bill Of Rights**
   a. Homeless Bill of Rights – Proponent Dr. Morris Sunshine (See Item 3 a)

   b. Preservation Of Beaches – Proponent Rick Preira

   c. Preserving The Historical Value Of Miami Beach - Proponent Terry *(Requested to be Deferred by Mr. Bienstock)* (See Item 3 c)

4. **Electing Officials By Open Seats** – Proponent Scott Diffenderfer (See Item 4)

5. **Report of Items Approved, Pending and Rejected/Withdrawn by the Charter Review and Revision Board during previous meetings. Additionally, the Report includes a Report of Miscellaneous Requests by the Charter Review and Revision Board.** (See Item 4)

6. **Scheduling Future Charter Review & Revision Board Meetings**

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ITEM 1

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MIAMIBEACH

Charter Review & Revision Board

Members:

Stephen Zack, Esq., Chair	-	Present
Aaron Perry, Vice Chair	-	Present
Scott Diffenderfer	-	Present
Jacqueline Lalonde	-	Present
Rick Kendle	-	Present
Alex Fernandez	-	Present
Richard "Rick" J. Preira	-	Absent

Staff:

Donald Papy, Chief Deputy City Attorney	-	Present
Debora Turner, First Assistant City Attorney	-	Present
Rafael E. Granado, City Clerk	-	Present
Liliam Hatfield, OAV, City Clerk's Office	-	Present

PUBLIC
Dr. Morris Sunshine

MINUTES
Monday, August 5, 2013 at 4:40 p.m.
Commission Chambers, Third Floor, City Hall
Email: CharterReview@miamibeachfl.gov

Special Note: In order to ensure adequate consideration, if necessary, the members of the Charter Review & Revision Board may move any agenda item to another meeting date. In addition, the members of the Charter Review & Revision Board may, at their discretion, adjourn the Charter Review & Revision Board meeting without reaching all agenda items.

Meeting called to order at 4:40 p.m., by Chair Zack.

Roll call taken by Rafael E. Granado, City Clerk; Absent: Member Preira.

1. **Accept Minutes Of The July 15, 2013 Charter Review & Revision Board Meeting**.
   Motion by Member Fernandez to approve the minutes as amended; seconded by Vice-Chair Perry; Voice-vote: 6-0. Absent: Member Preira. City Clerk Rafael Granado stated that minor revisions had been made by the City Attorney's Office and distributed on the dais.

   Debora Turner, First Assistant City Attorney clarified that the revisions deal with Commissioner Góngora's proposals; the two amendments to the Bill of Rights, and the one amendment to the Charter, which was the unnumbered Charter amendment provided at the last meeting.

2. **Continuation of Discussion of the Citizens' Bill of Rights**

a) Preservation Of The Resources Of The Beach – Proponent Rick Preira. - Item deferred.

b) Mandate That Employees Should Be Courteous To Citizens - Proponent Stephen Zack.

Chair Zack suggested that the Administration include this mandate as part of the evaluation process, rather than in the Charter.

Member Fernandez suggested incorporating that citizens and taxpayers should have fair access to speak with City officials, as a basic right.

Vice-Chair Perry explained that it is a culture change that is needed; in private companies, an employee being courteous is a priority, and perhaps this Board can suggest to the City Manager to continue working in improving this culture in the City.

3. **Discussion Regarding Neighborhood Association proposed by Terry Bienstock**

Chair Zack asked if there were further discussions held with Mr. Bienstock and Miami Beach United. Debora Turner, First Assistant City Attorney, stated that there were to be discussions with Gary Held, Esq., as to how to define homeowners associations. Mr. Held is out for a few weeks, and it is expected that he and representatives of Miami Beach United will discuss this issue by the end of August.

Chair Zack stated that there is nothing this committee is responsible for voting on at this time. Member Lalonde agreed and suggested that this issue come back when there was additional information.

Member Fernandez explained that the City Manager's Office and City Attorney's Office had concerns with the existing language from Miami Beach United.

Rafael E. Granado, City Clerk, stated that the motion during the July 15, 2013 Charter Review Meeting was by Member Lalonde to send back the item to the City Attorney's Office for them to meet with members of Miami Beach United and draft revised language. The vote on that motion was 5-0. **Gary Held and Joe Jimenez, Assistant City Manager, to handle.**

4. **New Business**

Discussion held regarding meeting schedule and reporting to the City Commission. Chair Zack asked what did the City Commission needed from them as far as a report is concerned. City Clerk Granado explained that at the last meeting, the Board agreed to continue to work and possibly discuss schedule of upcoming elections. For that reason, he distributed the 2014 Election Cycle. He also noted that handouts were distributed, which include all the Resolutions with official ballot questions adopted by the City Commission at its Commission Meeting of July 17, 2013 pertaining to Charter amendments.

Debora Turner, First Assistant City Attorney, explained the ballot questions and read the Resolution titles:

2013-28296
A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A Special Election To Be Held On Tuesday, November 5, 2013, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Now Binding Straw Ballot Question Asking Whether The City Commission Should Adopt A Resolution Urging The Federal Government And The Florida Legislature To Decriminalize And Authorize The Medicinal Use Of Marijuana.

2013-28297
A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A Special Election To Be Held On Tuesday, November 5, 2013, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether City Charter Section 1.03(B) Requiring Majority Voter Approval Before The City's Sale, Lease Exceeding Ten Years, Exchange Or Conveyance Of Convention Center Parking Lots Should Be Changed To Require 60% Voter Approval Instead, And To Include Convention Center Campus" (All City-Owned Property Within Civic And Convention Center District Except Convention Center And Carl Fisher Clubhouse) Within The Category Of City-Owned Properties Subject To 60% Voter Approval Requirement, And Clarifying That This Charter Change Is Inapplicable To The Convention Center Project" Ballot Question (To Be Presented Simultaneously On The November 5, 2013 Ballot).

2013-28298
A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A Special Election To Be Held On Tuesday, November 5, 2013, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether The City Should Enter Into 99 Year Leases With South Beach Arts Culture Entertainment ("Tishman") Providing For Payment To The City Of Fair Market Rent On These City Properties:

- Convention Center Parking Lots;
- Convention Center Drive;
- Portions Of Convention Center, Center's Air Rights And Parking Spaces;
- 17th Street Garage Site's Ground Floor ("Garage");

For Tishman's Development Thereon Of:

- 800 Room Hotel;
- 20,000 Square Feet Retail/Restaurants North Of 17th Street;
- 70,000 Square Feet Retail/Restaurants In The Garage?

2013-28299
A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A November 5, 2013 Special Election, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach, Florida A Question Asking Whether Paragraph A(17) Of The Miami Beach City Charter Citizens' Bill Of Rights Should Be Created Prohibiting Discrimination By The City Of Miami Beach In Its Employment Practices And Benefits Offered Based Upon An Employee Or Applicant's Race, Color, National Origin, Religion, Gender, Sexual Orientation, Gender Identity, Disability, Marital Status, Familial Status, Or Age.

2013-28287
A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A November 5, 2013 Special Election, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach, Florida A Question Asking Whether Section 1.07 Of The Miami Beach City Charter Should Be Created Requiring A Majority Vote In A Citywide Election To Repeal, Diminish, Or Otherwise Negatively Impact A Right Or Duty Established In Miami Beach City Code Chapter 62 ("Human Relations") That Inures To The Benefit Of A Member Of The Classification Categories Of Race, Color, National Origin, Religion, Sex, Gender Identity, Sexual Orientation, Disability, Marital Status, Familial Status, And Age As Defined In Miami Beach City Code Section 62-31.

Chair Zack wants to understand what the effect on the current negotiations on the Convention Center would be, if these two ballot questions relating to the Convention Center pass (2013-28297 and 2013-28298).

Debora Turner, First Assistant City Attorney, informed the Board members that there is current litigation and an action was recently filed by the City on this matter. The City hopes that the Judge will answer the question as to what language will be on the ballot; how it would affect the Tishman group, and if the Let Miami Beach Decide ballot question passes (2013-28297), would the Tishman project be subject to it.

Vice-Chair Perry asked if Let Miami Beach Decide's ballot question (2013-28297) is approved by the voters, would it immediately affect the current Convection Center project, thus requiring 60% voter approval for the Tishman referendum to pass?

Donald Papy, Chief Deputy City Attorney, stated that this question is being litigated and will be sorted out in Court. Discussion continued. The City Attorney's Office has opined that the ballot question proposed by Let Miami Beach Decide (2013-28297) is prospective, and the change is inapplicable to the Convention Center project, but the final decision will be made by the Court.

Member Fernandez suggested that Chair Zack and Don Papy meet and discuss this issue in another forum. Discussion continued.

2013-28302
A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A November 5, 2013 Special Election, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach, Florida A Question Asking Whether Paragraph A(20) Of The Miami Beach City Charter Citizens' Bill Of Rights Should Be Created To Acknowledge The Purpose And Duties Of The City's Administration As Assisting Condominium And Co-Op Owners To Navigate Through The City's Permitting Process; Facilitate Resolution Of Other Condominium-Related Issues With Other Outside Agencies; And Act As A Liaison Between Condominium Or Coop Owners, Management Firms And The City.

2013-28303
A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A November 5, 2013 Special Election, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach, Florida A Question Asking Whether Paragraph A(19) Of The Miami Beach City Charter Citizens' Bill Of

Rights Should Be Created To Set Forth Therein The City Of Miami Beach's Policy To Cooperate With The Miami-Dade County Public Schools, And With Other Appropriate Governmental Agencies, Which Will Strive To Improve The Quality And Quantity Of Public Educational Facilities Available To The Citizenry Of The City Of Miami Beach, Florida.

Chair Zack stated that he is not sure the ballot questions in 2013-28302 and 2013-28303 should be in the Citizens' Bill of Rights. Member Lalonde explained that these Resolutions were adopted at the request of Commissioner Libbin.

Member Kendle stated that they should be mindful of the enforceability clauses that Miami Beach United is now bringing forward, because if such a clause passes, anyone can come forward and have a right of enforcement even with the two new proposals in 2013-28302 and 2013-28303.

City Clerk Granado announced that Rick Kendle, Alex Fernandez and Jacqueline Lalonde were at the Commission Meeting on July 17, 2013 where these proposed Charter amendments were discussed and provided their opinions and information.

Chair Zack asked what "public schools" (2013-28303) has to do with the Citizens' Bill of Rights? In his opinion, this is in the wrong place. He suggested that a letter be drafted to the Commission.

Debora Turner, First Assistant City Attorney, stated that Commissioner Libbin proposed the Resolution and it was adopted by the City Commission.

Discussion held.

Member Fernandez explained that some of these issues do not originate from an elected official, but rather from an advisory committee and it works its way up. He cited Resolution 2013-28287 and 2013-28299 as examples, which had been originally advocated by the Gay, Lesbian, Bisexual and Transgender (GLBT) Committee.

Chair Zack reiterated that this language (2013-28302 and 2013-28303) does not belong in the Citizens' Bill of Rights. Prohibiting discrimination belongs in the Bill of Rights. However, these two issues (2013-28302 and 2013-28303), although they may be appropriate for inclusion in the Charter, he recommends a different placement in the Charter, as the provisions of the Citizens' Bill of Rights are a listing of the fundamental rights of the citizens of Miami Beach and these two Resolutions do not rise to that level.

Discussion held regarding rescinding Resolutions and deadlines for submission to Elections.

Member Fernandez agreed with Member Kendle that during election years, when you have candidates running for office, any Charter changes should go through the Charter Review Board. However, the CRB only meets every ten years, and there may be important business to fix which cannot be delayed. Mr. Fernandez agreed that the Commission should not politicize the Charter.

Member Lalonde stated, for the record, that she asked Commissioner Libbin to bring this forward to the CRB, but her request was denied.

Chair Zack stated that this Board has received a number of questions for discussion, but these two these Resolutions (2013-28302 and 2013-28303) were not sent to this Board. He suggested writing a letter to the Mayor and City Commissioners stating that as the Charter Review Board, they would like to have the opportunity to review those questions, and give their input. It is clear that these ballots (2013-28302 and 2013-28303) may be appropriate for the Charter, but these should not be part in the Citizens' Bill of Rights.

Member Lalonde agreed with Chair Zack, and added that a friendly letter should be sent asking if in fact they were to have a special Commission Meeting prior to their regular September 11, 2013 meeting, would they take this issue up to refer to these two proposed Charter amendments (2013-28302 and 2013-28303) to the CRB. She seconded the motion.

Member Fernandez believes that the City Commission as a body should be able to send Charter Amendments directly to the ballot. This year the CRB is convened and he agrees that the City Commission should submit any proposed Charter amendment to the CRB, but in other years, when the CRB is not in place, the City Commission should be able to act as it deems necessary.

MOTION BY ACCLAMATION
Motion reiterated by Chair Zack, to draft a friendly letter to the Mayor and City Commission, and inform them that they will be please to discuss these items and any other items they might want to bring forth. He added that what is in the Citizens' Bill of Rights is of narrow focus, and these two provisions regarding Public Schools and Condominiums, should be considered in the Charter, not in the Bill of Rights. The Citizens' Bill of Rights is a fundamental right of the citizens of Miami Beach; these Resolutions as adopted are not. He asked that a letter be drafted and circulated for Board member's approval.

Chair Zack asked if there was a need for an extension of jurisdiction, and asked for a list of pending items for discussion. Member Fernandez also asked that the Clerk reference his memorandum from April 30, 2013 with his referrals in the next Agenda. **Rafael E. Granado, City Clerk, will provide a list of all items discussed, but that have not come to conclusion.**

Discussion held regarding additional scheduled meetings. No additional meetings were scheduled.

Request to add items at the August 19, 2013 Agenda
Chair Zack requested to have traffic representatives present at the August 19, 2013 CRB Meeting to discuss the severe traffic issues. He explained that during certain events, it is almost impossible to get to Miami Beach. He suggested that any event that is held on Miami Beach should have a traffic plan.

Member Fernandez stated that at times the event organizers have nothing to do with Miami Beach, as they are private events, such as the Memorial Day Weekend (Urban Beach Weekend).

Member Diffenderfer explained that the Transportation Committee (TPC) has discussed this for years, and the City issues permits and creates venues; the City has been very irresponsible with traffic planning. They are building parking structures everywhere, but they do not deal with traffic situation.

Member Lalonde stated that there does not seem to be a sound solution, because there is not enough information. She suggested having someone from the TPC present to the Board. Discussion continued.

Vice-Chair Perry believes that traffic is a concern and they need to look at it in a more global level; by looking at connectivity with Miami Beach and the cities across the bay, light rail, etc. He is concerned about creating rules; there are many special events going on at one time and perhaps there could be a fee that participants pay to find a cure for this problem, but to have individual event owners have their own traffic plan, he does not think that is going to work.

Member Fernandez added that they could propose recommendations for the traffic situation not to get worse, but the City is building more and approving more clubs, and this is what brings more traffic; it is a growth that is out of scale for the City, and he does not know how to control that growth through the CRB. He feels that they cannot allow the City to keep increasing density until a viable solution for public transportation is found, and for public garages, and that is his frustration with this issue.

Member Lalonde reiterated that this is not in the purview of this Committee, and there is not enough information.

Chair Zack suggested adding language to the Citizens' Bill of Rights stating that the citizens of Miami Beach have the right to reasonable access to its road. This means that when a new project comes up, it has to show that it will not affect the roads and the City should issue permit for every event over 100 people and let the public know how this will affect the traffic. It seems that they are killing the "golden goose." Discussion continued.

Member Kendle explained that if they are talking about an event, that is one thing; if they are talking about the Planning Board, there is some regulation that the Law Department frequently cites that the Planning Board cannot consider traffic as a part of the project's review.

Member Fernandez would like to see in the Charter the powers that the Planning Board has, since this board approves projects with increased density that affect traffic. He requested to see the Charter and powers of the Planning Board having to do with density and what is their clear position. **Richard Lorber to handle.**

Member Diffenderfer stated that the City Commission makes decisions without consulting with the TPC committee. Discussion was held. The TPC suggested obtaining a traffic plan for the Convention Center project.

Member Kendle also requested that the TPC come forward and present to the Board with their recommendations. He also stated that the Planning Board approves plans that will bring more traffic to the City. Discussion held.

Donald Papy, Chief Deputy City Attorney, also suggested inviting the Administration, William Cary and Max Sklar to coordinate efforts in finding a solution to the problem. **Rafael E. Granado to handle.**

Discussion continued.

MOTION TO TABLE THE TRAFFIC ISSUE UNTIL SEPTEMBER
Motion by Member Lalonde; seconded by Member Fernandez to table the item at this time, and invite the Transportation and Parking Committee to make a formal presentation with their recommendations on the traffic issues facing the City at a September CRB meeting. Absent: Member Preira. **Rafael E. Granado to notify Mark Weithorn as suggested by Member Diffenderfer.**

Amendments
Members Fernandez and Kendle made friendly amendments to include the Planning Board, and ask Transit Miami to send some Charter recommendations. **Notify Gary Held, William Cary, Max Sklar.**

Chair Zack asked if anyone objected to adding to the Citizens' Bill of Rights "that citizens of Miami Beach have the right to reasonable access to roads." **Item to be placed in the September Agenda.**

5. Over Scale Development in Residential Areas – Proponent Stephen Zack, Chair
Member Fernandez explained that this item goes hand in hand with what he was talking about the power and authority of the Planning Board, and where the decisions should be made.

6. Preserving the Historical Value of Miami Beach – Proponent Terry Bienstock
Chair Zack requested that Mr. Bienstock be invited at the August 19, 2013 CRB Meeting.

Member Lalonde explained that she is concerned that 99% of the folks in the country rely on their homes to make sure they do not slip into poverty; a person's home is usually their largest asset. The current proposal to have the City involuntarily declare private homes as historic is very concerning to her, as it greatly interferes with property rights. The proposal calls that before a home is demolished it must go through the Design Review Board and the Historic Preservation Board for them to consider if the home is historic. She is concerned that they will rubberstamp every home as "historic," which will be a huge interference with personal property rights. The City has to be mindful that this is a potentially frightening leftist move, and she does not think that anyone should have his or her home involuntarily declared historic. Chair Zack is in agreement with her. Discussion continued.

Member Kendle explained that this should not be in the Charter. He wanted to have an Ordinance requiring deconstruction of homes, so that before a home is demolished, sustainable products are saved and that will also provide a tax incentive from the Federal government. Again, he believes this is better done by Ordinance. Discussion continued.

Member Lalonde stated that there are numerous issues that must be considered before such a Charter amendment is proposed. She wants to understand the issues involved, including architectural issues; she also wants to hear from all the parties involved. Ms. Lalonde explained that this subject is very serious and has a huge impact on homeowners. Discussion held.

Chair Zack suggested that they write a letter to Mr. Bienstock to submit his proposal to the Board. **City Clerk Granado to notify Mr. Bienstock.**

Member Fernandez recognized Dr. Sunshine in the audience, who wanted to speak regarding homeless issues.

Member Lalonde explained that this issue was discussed at the last CRB meeting, but she appreciates Dr. Sunshine's persistence.

Rafael E. Granado, City Clerk, announced that the handout e-mailed by Dr. Sunshine on Saturday, August 3, 2013, and subsequently forwarded to the CRB members via e-mail by Mr. Granado on August 5, 2013 at 10:27 a.m. were also on the dais.

Chair Zack mentioned that several times, they have received information at the dais, and the Board should have a rule that if a document is not received at least five days before the meeting, then the item will be placed at the next meeting.

Discussion held.

Member Lalonde does not want to have people attend meetings thinking that they will have an opportunity to speak when their item is not on the agenda. However, Dr. Sunshine's issue regarding inclusion of a Homeless Bill of Rights in the Citizens' Bill of Rights was discussed at the last meeting, and the Board asked to have more information. She understands Dr. Sunshine's passion for the issue, but the Board decided that they cannot hear the item at this time.

MOTION REGARDING HOMELESS ISSUE
Motion made by Member Lalonde that the issue is out of order; seconded by Member Fernandez; Voice-vote: 6-0; Absent: Member Preira.

Rafael E. Granado, City Clerk, reported that the Homeless Bill of Rights issue has travelled through other committees, such as the Committee on the Homeless and the Miami Beach Human Rights Committee, and the proposal was rejected. However, he stated that the Board may want to reach out to the Committee of the Homeless liaison, for additional information. Member Fernandez requested information from the Committee of the Homeless as to their reasons for rejecting. Item is to be placed at the August 19, 2013 CRB Agenda. **Rafael E. Granado to handle.**

Member Kendle stated that the City of Miami signed an agreement regarding homeless persons, and now the Miami Police is afraid to take any action with homeless individuals in the City of Miami. Mr. Kendle reported that this same agreement was not signed by the City of Miami Beach.

Member Fernandez stated that Miami Beach does a good job with the homeless, and the City goes above and beyond to assist homeless individuals. Including this item in the City Charter might imply that things are being done incorrectly and the homeless' rights are being violated; and this is far from the truth.

Motion made by Member Lalonde to defer and table the item until August 19, 2013 Meeting at a time certain; seconded by Member Fernandez; Voice-vote: 6-0; Absent: Member Preira. **Rafael E. Granado to place item on the agenda.**

7. Electing Officials by Open Seats – Proponent Scott Diffenderfer
He clarified that he was proposing open seats. He is not prepared to present today, but explained that there are different types of open seats; in essence, how this works is that there are three seats open, and the three top vote getters fill the seats.

Member Lalonde expressed her concerns about open seats, and Member Diffenderfer explained that there are different methods, such as instant vote-off running, transferrable votes, differential voting, etc.; and these are legal in Florida.

Member Fernandez stated that he researched the preferential voting and transferrable votes methods, which he wanted to refer to CRB, and reached out to the Elections Department and apparently the i-Votronic machines that the County uses for elections at this time do not support the transferrable votes and the preferential voting. Some cities have adopted the method, pending the County to update the technology. He explained the transferrable votes method, and added that it is a more "democratic" way of holding elections, and the Good Government Institute prefer this as an alternative, as it does not deny anyone a vote. Discussion continued.

Chair Zack explained that there are books and organizations dedicated to changing the way elections are held today; he suggested deferring the item, and for Member Diffenderfer to prepare a document explaining the details of the issue. **Scott Diffenderfer to handle.**

Member Fernandez explained that there are two separate issues; 1) open seats, and 2) the way elections are handled, since the current system can be kept and at the same time use instant runoff, transferrable voting and preferential voting. He added that there are some YouTube videos that explain this issue, and he asked the City Clerk if a link could be sent to the City Clerk for distribution to all Board members. **Member Fernandez to provide the link.**

Discussion continued regarding groups and the perception people have about districts versus groups.

8. Ethics In Government Code of Conduct – Proponent Stephen Zack, Chair

Chair Zack asked if the City has and Ethics Code. Debora Turner, First Assistant City Attorney, explained that "ethics in government" is already codified in the City Code. **Chair Zack withdrew the item.**

9. Interim Report - Chair Zack requested to have an interim report, listing what has been voted on, what has been rejected, and what remains to be done, only for distribution for the Board Members in a few days before the next meeting. **Rafael E. Granado to handle and a list will be provided for the August 19, 2013 Agenda.**

10. Review of Existing Charter Provisions

Chair Zack suggested that each member take responsibility for the discussions of the Charter provisions each wants to review. He feels it is a waste of time to review the Charter generally and no one taking responsibility for suggesting ways to improve them. He asked each Member to look at the Charter by the next meeting, and if there are any provisions that they want to improve, along with suggested improvements. Members to submit to the City Clerk by August 9th. **All Board members to review and submit proposed changes.**

Items To Be Placed At The August 19, 2013 CRB Agenda:
Homeless Issue – proposed by Dr. Morris Sunshine
Preserving the Historical Value of Miami Beach – proposed by Terry Bienstock

Items For the September 2013 Meeting
Traffic Issues – Planning Board staff to present

Motion made to adjourn the meeting by Member Lalonde; seconded by Vice-Chair Perry; Voice-vote: 6-0. Absent: Member Preira. Meeting adjourned at 6:06:04 p.m.

Handouts and Reference Materials:

1. Email from Dr. Morris Sunshine dated August 3, 2013 RE: Protections for homeless people, with the following attachment: Chapter 356 2012 – S 2052 SUBSTITUTE B Enacted 06/20/12 "and An Act Relating to Property – Rhode Island Fair Housing Practices Act."
2. Resolutions 2013-28296, 2013-28297, 2013-28298, 2013-28299, 2013-28302 & 2013-28303
3. Election Calendar for 2014 Dates
4. List of Candidates for the November 5, 2013 City Election, as of August 5, 2013.

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ITEM 2

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MIAMIBEACH

Charter Review & Revision Board

Members:
Stephen Zack, Esq., Chair
Aaron Perry, Vice Chair
Scott Diffenderfer
Jacqueline Lalonde
Rick Kendle
Alex Fernandez
Richard "Rick" J. Preira

August 6, 2013

Mayor Matti Herrera Bower and
Members of the City Commission
Miami Beach City Hall
1700 Convention Center Drive
Miami Beach, Florida 33139

Dear Mayor Bower and City Commissioners:

At the August 5, 2013 Charter Review & Revision Board (CRB) meeting, the CRB was given information as to the Charter questions approved by Resolution by the City Commission at its July Commission meeting that will be on the November 5, 2013 ballot. With respect to the following two Resolutions, calling for a Special Election on November 5, 2013 to amend the Citizens' Bill of Rights, adopted by the City Commission on July 19, 2013:

2013-28302
A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A November 5, 2013 Special Election, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach, Florida A Question Asking Whether Paragraph A(20) Of The Miami Beach City Charter Citizens' Bill Of Rights Should Be Created To Acknowledge The Purpose And Duties Of The City's Administration As Assisting Condominium And Co-Op Owners To Navigate Through The City' S Permitting Process; Facilitate Resolution Of Other Condominium-Related Issues With Other Outside Agencies; And Act As A Liaison Between Condominium Or Co-op Owners, Management Firms And The City.

2013-28303
A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A November 5, 2013 Special Election, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach, Florida A Question Asking Whether Paragraph A(19) Of The Miami Beach City Charter Citizens' Bill Of Rights Should Be Created To Set Forth Therein The City Of Miami Beach's Policy To Cooperate With The Miami-Dade County Public Schools, And With Other Appropriate Governmental Agencies, Which Will Strive To Improve The Quality And Quantity Of Public Educational Facilities Available To The Citizenry Of The City Of Miami Beach, Florida.

the CRB noted that neither of these two resolutions was referred to it prior to consideration by the City Commission on July 19, 2013. After briefly discussing these two Resolutions, it was the CRB's position that, although these suggested additions may be appropriate for inclusion in the Charter, it would have recommended a different placement in the Charter, as the provisions of the Citizens' Bill of Rights are a listing of the fundamental rights of the citizens of Miami Beach and these two resolutions were not deemed to rise to that level.

The CRB respectfully requests that during its term, which presently expires on January 1, 2014, that all future proposed Charter amendments be referred to it for its input prior to consideration by the City Commission. The CRB is working diligently to ensure that the Charter meets the current needs of our City and examining whether any changes should be made to meet the City's needs into the future.

Respectfully,

Stephen Zack, Chair
For Charter Review & Revision Board

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MIAMIBEACH

Charter Review & Revision Board

Members:
Stephen Zack, Esq., Chair
Aaron Perry, Vice Chair
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Rick Kendle
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Richard "Rick" J. Preira

August 6, 2013

Mayor Matti Herrera Bower and
Members of the City Commission
Miami Beach City Hall
1700 Convention Center Drive
Miami Beach, Florida 33139

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At the August 5, 2013 Charter Review & Revision Board (CRB) meeting, the CRB was given information as to the Charter questions approved by Resolution by the City Commission at its July Commission meeting that will be on the November 5, 2013 ballot. With respect to the following two Resolutions, calling for a Special Election on November 5, 2013 to amend the Citizens' Bill of Rights, adopted by the City Commission on July 19, 2013:

2013-28302
A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A November 5, 2013 Special Election, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach, Florida A Question Asking Whether Paragraph A(20) Of The Miami Beach City Charter Citizens' Bill Of Rights Should Be Created To Acknowledge The Purpose And Duties Of The City's Administration As Assisting Condominium And Co-Op Owners To Navigate Through The City' S Permitting Process; Facilitate Resolution Of Other Condominium-Related Issues With Other Outside Agencies; And Act As A Liaison Between Condominium Or Co-op Owners, Management Firms And The City.

2013-28303
A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A November 5, 2013 Special Election, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach, Florida A Question Asking Whether Paragraph A(19) Of The Miami Beach City Charter Citizens' Bill Of Rights Should Be Created To Set Forth Therein The City Of Miami Beach's Policy To Cooperate With The Miami-Dade County Public Schools, And With Other Appropriate Governmental Agencies, Which Will Strive To Improve The Quality And Quantity Of Public Educational Facilities Available To The Citizenry Of The City Of Miami Beach, Florida.

the CRB noted that neither of these two resolutions was referred to it prior to consideration by the City Commission on July 19, 2013. After briefly discussing these two Resolutions, it was the CRB's position that, although these suggested additions may be appropriate for inclusion in the Charter, it would have recommended a different placement in the Charter, as the provisions of the Citizens' Bill of Rights are a listing of the fundamental rights of the citizens of Miami Beach and these two resolutions were not deemed to rise to that level. If possible, the CRB request that these two Resolutions be rescinded and submitted to CRB for review.

The CRB respectfully requests that during its term, which presently expires on January 1, 2014, that all future proposed Charter amendments be referred to it for its input prior to consideration by the City Commission. The CRB is working diligently to ensure that the Charter meets the current needs of our City and examining whether any changes should be made to meet the City's needs into the future.

Respectfully,

Stephen Zack, Chair
For Charter Review & Revision Board

M:\$CMB\CITYCLER_0000 CHARTER 2013\2013 CHARTER REVIEW\Letter To Mayor Bower And City Commission Reg.Docx

Hatfield, Liliam

From: Jacqueline Lalonde <jacquelineplalonde@gmail.com>
Sent: Thursday, August 08, 2013 6:47 PM
To: Granado, Rafael
Cc: Hatfield, Liliam; Granado, Rafael; Turner, Debora
Subject: Re: Letter to Mayor Bower and City Commission reg

I would like to add that if possible we recommend the items be withdrawn and submitted to Charter for review.

Jackie

On Aug 8, 2013, at 6:04 PM, "Granado, Rafael" <RafaelGranado@miamibeachfl.gov> wrote:

> Good afternoon members of the Charter Review Board,
>
> As instructed at the August 5, 2013 Charter Review meeting, we have drafted a letter to the Mayor and Commissioners regarding the two Charter amendment resolutions passed by the City Commission on July 19, 2013 without prior consideration by the Charter Review Board.
>
> Please review the letter and provide your input as soon as possible.
>
> When responding, please make sure you include Debbie Turner DeboraTurner@miamibeachfl.gov and myself rafaelgranado@miamibeachfl.gov in your response.
>
> Regards,

MIAMIBEACH
Rafael E. Granado, Esq., *City Clerk*
CITY CLERK'S OFFICE
1700 Convention Center Drive, Miami Beach, FL 33139
Tel: 305-673-7411 www.miamibeachfl.gov

We are committed to providing excellent public service and safety to all who live, work and play in our vibrant, tropical, historic community.

<Letter to Mayor Bower and City Commission reg.docx>

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ITEM 3 a

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Granado, Rafael

From:	quality of life <qualityoflife@the-beach.net>
Sent:	Saturday, August 03, 2013 3:43 PM
To:	Granado, Rafael
Subject:	Copies for members of the Charter Review Committee
Attachments:	Sunshine.PDF

08.03.13

Dear Mr. City Clerk:

As you know, the Charter Review Board is meeting Monday at 4:30 p.m. At its last meeting, I brought up the topic of installing protections for homeless people in the city charter.

Would you arrange to send the six-page attachment to members of the committee and interested staff so it can be discussed at the meeting?

The first four pages are copies of a recently enacted (2012) Rhode Island law entitled "Homeless Bill of Rights." The last two pages are copies of a municipal ordinance that I drafted and which is modeled on the Rhode Island ordinance. It merits incorporation into the Miami Beach City Charter as part of the Citizens' Bill of Rights.

Thanks and best wishes,

Morris Sunshine, Ph.D.
Miami Beach

Chapter 356
2012 -- S 2052 SUBSTITUTE B
Enacted 06/20/12

A N A C T
RELATING TO PROPERTY - RHODE ISLAND FAIR HOUSING PRACTICES ACT

Introduced By: Senators Tassoni, Lynch, Jabour, Doyle, and DeVall
Date Introduced: January 11, 2012

It is enacted by the General Assembly as follows:

SECTION 1. Title 34 of the General Laws entitled "Property" is hereby amended by adding thereto the following chapter:

CHAPTER 37.1
HOMELESS BILL OF RIGHTS

34-37.1-1. Short title. – This chapter shall be known and may be cited as the "Homeless Bill of Rights."

34-37.1-2. Legislative intent. – (1) At the present time, many persons have been rendered homeless as a result of economic hardship, a severe shortage of safe, affordable housing, and a shrinking social safety net.

(2) Article 1, Section 2 of the Rhode Island State Constitution states in part, that "All free governments are instituted for the protection, safety, and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied equal protection of the laws."

(3) Concordant with this fundamental belief, no person should suffer unnecessarily or be subject to unfair discrimination based on his or her homeless status. It is the intent of this chapter to ameliorate the adverse effects visited upon individuals and our communities when the state's residents lack a home.

34-37.1-3. Bill of Rights. – No person's rights, privileges, or access to public services may be denied or abridged solely because he or she is homeless. Such a person shall be granted the same rights and privileges as any other resident of this state. A person experiencing homelessness:

(1) Has the right to use and move freely in public spaces, including, but not limited to, public sidewalks, public parks, public transportation and public buildings, in the same manner as any other person, and without discrimination on the basis of his or her housing status;

(2) Has the right to equal treatment by all state and municipal agencies, without discrimination on the basis of housing status;

(3) Has the right not to face discrimination while seeking or maintaining employment due to his or her lack of permanent mailing address, or his or her mailing address being that of a shelter or social service provider;

(4) Has the right to emergency medical care free from discrimination based on his or her housing status;

(5) Has the right to vote, register to vote, and receive documentation necessary to prove identity for voting without discrimination due to his or her housing status;

(6) Has the right to protection from disclosure of his or her records and information provided to homeless shelters and service providers to state, municipal and private entities without appropriate legal authority; and the right to confidentiality of personal records and information in accordance with all limitations on disclosure established by the Federal Homeless

Management Information Systems, the Federal Health Insurance Portability and Accountability Act, and the Federal Violence Against Women Act; and

(7) Has the right to a reasonable expectation of privacy in his or her personal property to the same extent as personal property in a permanent residence.

34-37.1-4. Damages and attorneys' fees. – In any civil action alleging a violation of this chapter, the court may award appropriate injunctive and declaratory relief, actual damages, and reasonable attorneys' fees and costs to a prevailing plaintiff.

34-37.1-5. Definitions. – For purposes of this chapter, "housing status" shall have the same meaning as that contained in section 34-37-3.

SECTION 2. Sections 34-37-1 and 34-37-3 of the General Laws in Chapter 34-37 entitled "Rhode Island Fair Housing Practices Act" are hereby amended to read as follows:

34-37-1. Finding and declaration of policy. -- (a) In the State of Rhode Island and Providence Plantations, hereinafter referred to as the state, many people are denied equal opportunity in obtaining housing accommodations and are forced to live in circumscribed areas because of discriminatory housing practices based upon race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse. These practices tend unjustly to condemn large groups of inhabitants to dwell in segregated districts or under depressed living conditions in crowded, unsanitary, substandard, and unhealthful accommodations. These conditions breed intergroup tension as well as vice, disease, juvenile delinquency, and crime; increase the fire hazard; endanger the public health; jeopardize the public safety, general welfare and good order of the entire state; and impose substantial burdens on the public revenues for the abatement and relief of conditions so created. These discriminatory and segregative housing practices are inimical to and subvert the basic principles upon which the colony of Rhode Island and Providence Plantations was founded and upon which the state and the United States were later established. Discrimination and segregation in housing tend to result in segregation in our public schools and other public facilities, which is contrary to the policy of the state and the constitution of the United States. Further, discrimination and segregation in housing adversely affect urban renewal programs and the growth, progress, and prosperity of the state. In order to aid in the correction of these evils, it is necessary to safeguard the right of all individuals to equal opportunity in obtaining housing accommodations free of discrimination.

(b) It is hereby declared to be the policy of the state to assure to all individuals regardless of race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, or disability, age, familial status, housing status, or those tenants or applicants, or members of a household, who are, or have been, or are threatened with being, the victims of domestic abuse, or those tenants or applicants who have obtained, or sought, or are seeking, relief from any court in the form of a restraining order for protection from domestic abuse, equal opportunity to live in decent, safe, sanitary, and healthful accommodations anywhere within the state in order that the peace, health, safety, and general welfare of all the inhabitants of the state may be protected and insured.

(c) The practice of discrimination in rental housing based on the potential or actual tenancy of a person with a minor child, or on the basis that a tenant or applicant, or a member of the household, is or has been or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse is declared to be against public policy.

(d) This chapter shall be deemed an exercise of the police power of the state for the protection of the public welfare, prosperity, health, and peace of the people of the state.

(e) Nothing in this section shall prevent a landlord from proceeding with eviction action against a tenant who fails to comply with section 34-18-24(7).

34-37-3. Definitions. -- When used in this chapter:

(1) "Age" means anyone over the age of eighteen (18).

(2) "Commission" means the Rhode Island commission for human rights created by section 28-5-8.

(3) "Disability" means a disability as defined in section 42-87-1.

Provided further that the term "disability" does not include current, illegal use of or addiction to a controlled substance, as defined in 21 U.S.C. section 802.

(4) "Discriminate" includes segregate, separate, or otherwise differentiate between or among individuals because of race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability, age, housing status, or familial status or because of the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability, age, housing status, or familial status of any person with whom they are or may wish to be associated.

(5) The term "domestic abuse" for the purposes of this chapter shall have the same meaning as that set forth in section 15-15-1, and include all forms of domestic violence as set forth in section 12-29-2, except that the domestic abuse need not involve a minor or parties with minor children.

(6) (i) "Familial status" means one or more individuals who have not attained the age of eighteen (18) years being domiciled with:

(A) A parent or another person having legal custody of the individual or individuals; or

(B) The designee of the parent or other person having the custody, with the written permission of the parent or other person provided that if the individual is not a relative or legal dependent of the designee, that the individual shall have been domiciled with the designee for at least six (6) months.

(ii) The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(7) The terms, as used regarding persons with disabilities, "auxiliary aids and services," "reasonable accommodation," and "reasonable modifications" have the same meaning as those terms are defined in section 42-87-1.1.

(8) The term "gender identity or expression" includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self image, gender-related appearance, or gender-related expression; whether or not that gender identity, gender-related self image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex at birth.

(9) "Housing accommodation" includes any building or structure or portion of any building or structure, or any parcel of land, developed or undeveloped, which is occupied or is intended, designed, or arranged to be occupied, or to be developed for occupancy, as the home or residence of one or more persons.

(10) "Otherwise qualified" includes any person with a disability who with respect to the rental of property, personally or with assistance arranged by the person with a disability, is capable of performing all the responsibilities of a tenant as contained in section 34-18-24.

(11) "Owner" includes any person having the right to sell, rent, lease, or manage a housing accommodation.

(12) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, labor organizations, mutual companies, joint stock companies, trusts, receivers, legal representatives, trustees, other fiduciaries, or real estate brokers or real estate salespersons as defined in chapter 20.5 of title 5.

(13) "Senior citizen" means a person sixty-two (62) years of age or older.

(14) The term "sexual orientation" means having or being perceived as having an orientation for heterosexuality, bisexuality, or homosexuality. This definition is intended to describe the status of persons and does not render lawful any conduct prohibited by the criminal laws of this state nor impose any duty on a religious organization. This definition does not confer legislative approval of said status, but is intended to assure the basic human rights of persons to hold and convey property and to give and obtain credit, regardless of such status.

(15) The term "victim" means a family or household member and all other persons contained within the definition of those terms as defined in section 12-29-2.

(16) The term "housing status" means the status of having or not baving a fixed or regular residence, including the status of living on the streets or in a homeless shelter or similar temporary residence.

SECTION 3. This act shall take effect upon passage.

LC00059/SUB B

Revised Draft 12/11/12

Chapter ____

Sec. 1.0. Short title. This chapter shall be known as the Miami Beach Homeless Bill of Rights.

Sec. 1.1. Legislative intent. Home foreclosures, stagnant wages, high unemployment and a severe shortage of affordable housing have increased the number of homeless people . This ordinance is designed to ensure that the no homeless person shall be discriminated against or denied due process of law and equal protection of the laws because such persons do not have a home.

Sec. 2.0. No child or adult's rights or privileges may be denied or abridged solely because he or she is homeless. Such a person shall be granted the same rights and privileges as any other resident of this city. These rights shall include but are not limited to:

(a) to freely enter and use public spaces including public buildings, public parks, public beaches, public transportation, public streets and sidewalks;

(b) to enjoy equal access to public services provided by the City;

(c) to receive fair and equal treatment by city agencies and employees;

(d) to enjoy fair and equal access to city job opportunities;

(e) to have access to city-provided emergency medical services;

(f) to enjoy the right to privacy of personal information that others enjoy;

(g) to possess property free from the threat of arbitrary search and seizure:

(h) to have fair and equal access to affordable public housing subsidized by or under the control of the city or any of its agencies;

(i) to have fair and equal access to jobs made available by businesses fulfilling city contracts; and,

(j) to have fair and equal access to goods and services conveyed by any enterprise licensed by the city of Miami Beach.

Sec. 3.0. The City Manager shall ensure that city departments review their policies and programs to take into account the provisions of the Miami Beach Homeless Bill of Rights.

Sec. 3.1. All city ordinances that forbid unequal treatment based on race, color, religion, creed, gender, sexual orientation, gender identity or expression, age, ancestral origin, disability or family status shall be amended to include housing status.

Sec. 3.2. The city shall, within the limits of its resources, aid and assist homeless persons to obtain documentation that is essential to the full enjoyment of the Miami Beach Homeless Bill of Rights.

Sec. 4.0. The City Manager, with the support of the Human Rights and Homeless Committees, shall submit such reports as the city commission may desire, describing the city's success in implementing this ordinance.

Sec. 4.1. The City Manager, with professional advice, shall ensure that the this city collaborates with other local communities and divisions of government whenever necessary to implement the Homeless Bill of Rights.

Sec. 4.2. The City Manager, with the consent of the City Commission, shall explore ways and means to identify financial resources that may be essential to implementing this ordinance. Furthermore, the City Manager is authorized to establish new departments, divisions or bureaus to more efficiently implement provisions of this ordinance.

Sec. 4.3. In the event that the issue of amending this ordinance to weaken its legal protections for the homeless arises, the City Manager shall take effective measures to alert homeless persons as well as private and public bodies that serve their interests and to ensure that they are noticed in a timely manner.

Sec. 4.4. The City Manager shall have 90 days from the date of its adoption to fully implement this ordinance.

Sec. 4.5 Affected parties, deprived of their rights under this ordinance by willful or indifferent city officials, shall have legal standing to seek enforcement of this ordinance in appropriate courts of law.

[INSERT SEVERABILITY CLAUSE.]

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Hatfield, Liliam

From: terry bienstock <tbienstock@tbienstock.com>
Sent: Friday, August 09, 2013 8:44 AM
To: Hatfield, Liliam
Subject: RE: August 19, 2013 Charter Review Board

I have been tied up with the moratorium/code revisions for new construction and incentives for renovation of architecturally significant home. These issues are moving rapidly at the City and may eliminate the need for a Charter amendment on the subject. So I think we should defer the issue for 2 months to see what happens.

From: Hatfield, Liliam [mailto:LiliamHatfield@miamibeachfl.gov]
Sent: Friday, August 09, 2013 8:31 AM
To: 'tbienstock@tbienstock.com'
Subject: August 19, 2013 Charter Review Board

Good morning, Terry,

Can you please send a note by email, per our conversation yesterday, regarding the reason for deferring the item "Preserving the Historical a Value of Miami Beach? This email will be part of the agenda for August 19th.

Regards,

MIAMI**BEACH**
Liliam Hatfield, *Office Associate V*
CITY CLERK'S OFFICE
1700 Convention Center Drive, Miami Beach, FL 33139
Tel: 305-673-7411/ Fax: 305-673-7254 / www.miamibeachfl.gov

We are committed to providing excellent public service and safety to all who live, work and play in our vibrant, tropical, historic community.

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Granado, Rafael

From: Scott Diffenderfer <scott@scottdiff.com>
Sent: Tuesday, August 13, 2013 5:46 PM
To: Granado, Rafael
Cc: Hatfield, Liliam
Subject: Surfside Election Process and Instant Runoff Voting

Per our discussion, please forward to all members of the Charter Review Committee for discussion at our next meeting.

In Surfside, they have a Mayoral group, and a Commission group. The person with the most votes in the Mayoral group becomes Mayor. The person with the most votes in the Commission group becomes Vice-Mayor, and the people with 2nd, 3rd, and 4th most votes in this group become the remaining commissioners. When voting, voters choose 1 choice in the Mayoral group, and 4 choices in the Commission group. There is only a runoff election in the event of a tie among 2 or more people for 4th place on the Commission. They also have 2 year terms, instead of 4 year terms.

For Reference:
http://library.municode.com/index.aspx?clientID=10940&stateID=9&statename=Florida section 8 in Article II and sections 97-109 of Article VI of the surfside charter include relevant information.

I am also including the Wikipedia article on Instant Runoff Voting, as well as a short YouTube video explaining how it could work in an election where multiple people win.

Instant-Runoff is used in several cities in the United States, as well as other places around the world.

http://en.wikipedia.org/wiki/Instant_runoff_voting

https://www.youtube.com/watch?v=INxwMdI8OWw

Thanks, Scott

Scott Diffenderfer
President, Belle Isle Residents Association
Licensed Real Estate Agent, Hahne Real Estate
1680 Michigan Ave., Suite 914
Miami Beach, FL 33139
O: 305.851.2222
C: 305.458.3334
F: 305.359.9256
www.BelleIsleRealtors.com

Sec. 8. Presiding officers.

The mayor shall be elected separately from his/her own group. The four commissioners shall run at-large and the commissioner receiving the highest number of votes in the general election shall, for a term of two years immediately following thereafter, have the title of vice-mayor. The commissioners receiving the second, third and fourth highest number of votes in the general election shall, for a term of two years immediately following thereafter, serve as the remaining commissioners.

(Ord. No. 1493, § 2, 7-8-08)

Editor's note—

The amendment to § 8 proposed by Ord. No. 1493 was approved by the voters at the election held on Nov. 4, 2008.

ARTICLE VI. NOMINATIONS AND ELECTIONS

Sec. 97. Time of holding elections.
Sec. 97.1. Charter amendments.
Sec. 98. Qualifications of electors.
Sec. 99. Rules and regulations, supervision, etc., of elections.
Sec. 100. Electors qualified to vote.
Sec. 101. Nomination of mayor and commission members—Generally.
Sec. 102. Same—Qualifying, fee.
Sec. 103. Ballots.
Sec. 104. Voting machines.
Sec. 105. General and special elections of commission members.
Sec. 106. Watchers at election of commissioners.
Sec. 107. Hours of voting.
Sec. 108. Canvass of returns.
Sec. 109. Commission to judge qualifications, etc., of members.
Sec. 109.1. Reserved.

Sec. 97. Time of holding elections.

The regular election for the choice of members of the commission shall be held on the third Tuesday in March of each even numbered calendar year. The commission shall order special elections on other dates to fill vacancies on the council when such elections are mandatory under sections 16 and 110 of this Charter. Special elections may also be called on thirty days notice at any time to validate general obligation bond issues, to initiate ordinances or secure an expression from the electors on referred ordinances in the manner prescribed in this Charter, or for any or all other lawful purposes. Special elections to replace or amend the Town's Charter shall be held in accordance with the requirements of the Charter of Metropolitan Dade County, Florida, adopted pursuant to the authority of section 11, Article VIII, Constitution of the State of Florida. Not less than fifteen days prior to a special charter amendment election, the town clerk shall mail a copy of the proposed amendment or amendments to each qualified elector of Dade County residing in the Town of Surfside whose name then appears upon the registration books.

(Res. No. 620, § 1uu, 4-14-64; Res. No. 867, Amd. No. 13, 3-20-74)

Sec. 97.1. Charter amendments.

Amendments to this Charter shall be proposed, presented or initiated and implemented in accordance with the requirements of section 5.03 of Article 5 of The Home Rule Charter for Metropolitan Dade County.

(Res. No. 620, § 1vv, 4-14-64)

Sec. 98. Qualifications of electors.

Any person who is at least eighteen years of age, or any person who will attain the age of eighteen prior to the next succeeding special or general election of the town, who is a citizen of the United States and a resident of the State of Florida and Town of Surfside, and who is registered to vote on the registration books of Dade County, Florida, shall be eligible to vote in Surfside elections.

(Ord. No. 398, § 1(j), 2-26-57; Res. No. 500, § 1(j), 12-17-58; Res. No. 504, 4-8-59, Rec. in Bk. 1360, p. 619, Pub. Recs. of Dade County; Res. No. 867, Amd. No. 14, 3-20-74)

Editor's note—

The provisions of § 98 are superseded by F.S. §§ 166.042, 97.041.

Sec. 99. Rules and regulations, supervision, etc., of elections.

The commission shall by ordinance establish such rules and regulations as it considers needful or desirable, not inconsistent with this Charter, governing the conduct of municipal elections, for the prevention of fraud in such elections, and for the recount of ballots in case of doubt or fraud. Municipal elections shall be supervised by the town clerk and conducted by an election board consisting of an election clerk and four or more qualified electors appointed by the mayor who shall act as inspectors of the election.

Sec. 100. Electors qualified to vote.

Qualified electors of Dade County, Florida, residing in the Town of Surfside, shall constitute the electors qualified to vote in Surfside elections; provided, however, that any person qualifying as an elector less than thirty days prior to the date of a Surfside election shall not be qualified to vote in such election.

(Res. No. 620, § 1ww, 4-14-64; Res. No. 744, § 1(p), 1-15-70; Res. No. 867, Am'd. No. 15, 3-20-74)

Editor's note—

The provisions of § 100 are superseded by F.S. §§ 166.042, 97.041.

Sec. 101. Nomination of mayor and commission members—Generally.

Any citizen who can qualify for the office of mayor or commissioner of the town, as provided in section 6 of this Charter, may nominate himself or herself or may be nominated for the commission by a petition for this purpose signed by not less than twenty-five qualified electors and filed with the town clerk not more than fifty-five days and not less than thirty-five days prior to the election date. No elector shall sign nominating petitions for more than one person for each office or group, and should an elector do so, his or her signature shall be void except as to the petition or petitions first filed.

The signatures on the nominating petition need not all be subscribed to one paper, but to each separate paper there shall be attached a signed statement of the circulator thereof, stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature, including the signature of the circulator, shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify it. The form of the nominating petition shall be substantially as follows:

We, the undersigned electors of the Town of Surfside, hereby nominate _____ for the office of commissioner.

Name _____
Street and Address _____
Date of signing _____

_____
(spaces for signatures and required data)

Statement of Circulator

The undersigned is the circulator of the foregoing paper containing _____ signatures. Each signature appended thereto was made in my presence and is the genuine signature of the person whose name it purports to be.

	Signature of Circulator _____
	Address _____

Within five days after the filing of a nominating petition the town clerk shall notify through the United States mail the candidate and the person who filed the petition whether or not it is found to be signed by the required number of qualified electors. If a petition is found insufficient, the town clerk shall return it immediately to the person who filed it with a statement certifying wherein the petition is found insufficient. Such a petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate, not less than twenty-five days before election. Such petitions shall be preserved by the town clerk for two years from the date such petitions are filed.

(Res. No. 620, § 1jjj, 4-14-64; Res. No. 1389, § 2, 6-14-94)

Sec. 102. Same—Qualifying, fee.

The name of each nominee for commission, who has complied with all the requirements hereinbefore prescribed, shall be printed on the ballot as a candidate for the office of commissioner of the Town of Surfside upon such nominee paying to the Town of Surfside simultaneously with the filing of his nominating petition the sum of twenty-five dollars as a qualifying fee, and upon submitting concurrently therewith a sworn statement of his or her name, address, occupation and willingness to serve if elected. No refund shall be made of the qualifying fee.

(Res. No. 620, § 1kkk, 4-14-64)

Sec. 103. Ballots.

All ballots used in any general or special election of commissioners held under authority of this Charter shall be without party mark or designation and without any insignia or mark of any association or organization thereon and shall be substantially in the same form as the election ballot used in all general state elections. The following additional provisions with respect to ballots used in any general or special election of commissioners shall also apply:

(a) The full names of all candidates nominated for the commission as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots. If two candidates with the same surname, or with names so similar as to be likely to cause confusion, are nominated, the addresses of their places of residences may be placed with their names on the ballot.

(b) The names of the candidates shall be arranged in the alphabetical order of their surnames.

(c) Where voting machines are not used, commissioners shall be voted for on ballots separate and distinct from ballots used for any other office or question and the ballot boxes used for the election of commissioners shall be separate and distinct from ballot boxes used for any other office or question.

(d) Absentee voting shall be as provided under the authority of F.S. § 101.70.

(Res. No. 620, § 1xx, 4-14-64)

Sec. 104. Voting machines.

When voting machines are used the laws of the State of Florida shall be applicable and the council may modify the form of the ballot, the method of expressing choices and the arrangements for conducting the election and the count, but no change shall be made which will alter or impair the principles of the voting or of the counting.

Sec. 105. General and special elections of commission members.

(1) On the third Tuesday in March in every even numbered calendar year, all members of the Town Commission shall be elected for terms of TWO (2) years, provided, however, that Commission members elected for FOUR (4) year terms at the 1974 Election pursuant to the Charter provisions in existence prior to the adoption of this Amendment, shall remain in office until the expiration of the term to which they were elected under such prior provisions. At the Election to be held in the year 1976, and biennially thereafter, all members of the Town Commission shall be elected for terms of TWO (2) years; terms to begin at 8 o'clock P.M. on the day following the Election.

(2) Should a vacancy on the commission be filled at a general municipal election, pursuant to Article II, section 13, [codified as section 16], the term of such vacancy shall be considered to have expired and the candidate elected to fill such vacancy shall be elected for a two year term. The commission may implement the provisions of this section or other provisions of this Charter governing the filling of vacancies, by ordinance, not inconsistent with the provisions of this Charter.

(3) If two or more vacancies occur at approximately the same time they shall be filled separately in the order in which they occur. If all the places on the commission, or a majority of the places on the commission shall become vacant at once, the town manager shall within sixty days call a special election of members to serve for the remainder of the unexpired terms; the candidates receiving the highest number of votes shall be elected for the longest unexpired terms and the candidates receiving the next highest number of votes shall be elected for the shortest unexpired terms. Should the town manager fail or refuse to order an election as herein provided within the time required, such election may be ordered by any court of competent jurisdiction.

(4) All elections held on the third Tuesday of March in even numbered calendar years, or any postponements thereof, for the election of commissioners shall be known as general municipal elections. All other elections shall be known as special municipal elections.

(5) At the election held in 2010, except for the mayor who shall run in a separate group, all other Commissioners shall be elected in accordance with Section 8 hereinabove. A tie between two or more candidates for the fifth Commission seat shall be decided in a

run-off election to be held the first Tuesday of April following the general election. The runoff election shall be held in the same manner and form as the general municipal election.

(6) All elections shall be conducted by secret ballot, with or without the use of voting machines as the commission by ordinance may direct, and under rules to be fixed by ordinance not inconsistent herewith.

(7) No general or special election of the Town of Surfside shall be held on a national or state legal holiday. Should the third Tuesday in March in any even numbered calendar year be declared such a legal holiday, then the regular election scheduled for that day shall be postponed to the first day thereafter that is not a legal holiday, and the induction of commissioners into office shall be deferred to the next business day following such postponed election, but such deferred induction shall not change the expiration dates of the terms of office of the candidates elected.

(8) If more than five (5) candidates qualify for the general Commission election, and if after the last date for qualifying and before the date of the election the number of candidates is reduced for any lawful reason to five (5) or less, the election shall be postponed by the Commission to a date not less than twenty-eight (28) days nor more than thirty-five (35) days from the scheduled date. Qualifying of candidates shall be reopened until fourteen (14) days before the new election date. The terms of all incumbent Commissioners shall be extended until their successors are duly elected.

(Res. No. 620, § 1yy, 4-14-64; Res. No. 930, § 1, 9-9-75; Res. No. 942, § 1, 1-13-76; Ord. No. 1172, § 1, 6-14-88; Ord. No. 1249, § 1, 2-12-91; Res. No. 1389, § 3A, 6-14-94; Ord. No. 1493, § 2, 7-8-08)

Editor's note—

An amendment to subsection 105(5) proposed by Ord. No. 1493 was approved by the voters at an election held on Nov. 4, 2008.

Sec. 106. Watchers at election of commissioners.

At each election of the commission any regularly nominated candidate shall be entitled upon written application to the town clerk at least five days before the election to appoint one person and one alternate to represent him as watcher and challenger at each polling place. Any person appointed shall have all the rights and privileges prescribed by law for other watchers and challengers at any election in the same place, but no watcher and his alternate shall have the right both to remain within the voting place at the same time.

Sec. 107. Hours of voting.

The polls shall open at seven o'clock a.m. and close at seven o'clock p.m., by whatever time is officially used by the town.

Sec. 108. Canvass of returns.

The result of the voting, when ascertained, shall be certified by returns in duplicate, signed by the Clerks and a majority of the inspectors of the election, one copy being retained by the Town Clerk and the other being delivered to the Canvassing Board. The Canvassing Board shall consist of the Town Manager, Town Clerk and one Commissioner, who shall be selected by the Town Commission at the time the election is called. If any of the foregoing are unable or unwilling to serve on the Canvassing Board, the Town Attorney shall serve as an alternate. However, two members of the Canvassing Board shall constitute a quorum for all purposes hereunder. The Canvassing Board shall meet after the polls close. At such meeting, the Canvassing Board shall canvass the returns

and shall declare the results of the election as shown by the returns made by the clerk and inspectors of said election.

(Ord. No. 1088, § 1, 5-8-84; Ord. No. 1283, § 1, 7-14-92)

Sec. 109. Commission to judge qualifications, etc., of members.

The commission shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the commission in any such case shall be subject to review by the courts.

Sec. 109.1. Reserved.

Editor's note—

Res. No. 867, Amd. No. 16, dated March 20, 1974, repealed former § 109.1, derived from Res. No. 620, § 1zz, dated April 14, 1964.

Instant-runoff voting

From Wikipedia, the free encyclopedia
(Redirected from Instant runoff voting)

Instant-runoff voting (IRV), alternative vote (AV), transferable vote, ranked choice voting, or **preferential voting** is an electoral system used to elect a single winner from a field of more than two candidates. It is a preferential voting system in which voters rank the candidates in order of preference rather than voting for a single candidate.

Example instant runoff voting ballot

Ballots are initially distributed based on each elector's first preference. If a candidate secures more than half of votes cast, that candidate wins. Otherwise, the candidate with the fewest votes is eliminated. Ballots assigned to eliminated candidates are recounted and assigned to one of the remaining candidates based on the next preference on each ballot. This process continues until one candidate wins by obtaining more than half the votes.

IRV has the effect of avoiding split votes and the need for electors to vote "strategically" for candidates who are not their first choice. For example, suppose here are two conservative candidates A & B, and a liberal candidate C, with raw popularity of 35%, 25% and 40% respectively. In a Plurality voting system, candidate C may win with 40% of the votes even though most electors prefer A or B. Alternatively, a conservative elector who likes B may decide to vote for A instead in order to prevent C from being elected. With IRV, the elector can allocate their preferences B, A, C and then A will win despite the split vote in first choices.

Instant runoff voting is used to elect members of the Australian House of Representatives and most Australian State Governments,[1] the President of India, members of legislative councils in India, the President of Ireland,[2] and parliaments in Papua New Guinea and Fiji.[3] It is also used in Northern Ireland by-elections and for electing hereditary peers for the British House of Lords.[4]

IRV is employed by several jurisdictions in the United States, including Portland, Maine; San Francisco [5] and Oakland in California;[6] Minneapolis and Saint Paul in Minnesota.[5]

It is used to elect the leaders of the Labour Party and the Liberal Democrats in the United Kingdom and was used in elections in 2013 for the leader of the Liberal Party of Canada[7] and in Canada's New Democratic Party leadership election, 2012. IRV is used to elect the mayor in cities such as London in the United Kingdom (in the variant known as supplementary vote)[8] and Dunedin and Wellington in New Zealand.[9]

Many private associations also use IRV,[10] including the Hugo Awards for science fiction[11] and the Academy of Motion Picture Arts and Sciences in selection of the Oscar for best picture.[12]

Contents

- 1 Terminology
- 2 History
- 3 Election procedure
  - 3.1 Process
  - 3.2 Ballots
  - 3.3 Candidate order on the ballot paper
  - 3.4 Party strategies
  - 3.5 Counting logistics
- 4 Examples
  - 4.1 Five voters, three candidates
  - 4.2 Tennessee capital election
  - 4.3 2006 Burlington mayoral election
  - 4.4 1990 Irish presidential election
- 5 Voting system criteria
  - 5.1 Majority criterion
  - 5.2 Mutual majority criterion
  - 5.3 Later-no-harm criterion
  - 5.4 Resolvability criterion
  - 5.5 Condorcet winner criterion
  - 5.6 Condorcet loser criterion
  - 5.7 Consistency criterion
  - 5.8 Monotonicity criterion
  - 5.9 Participation criterion
  - 5.10 Reversal symmetry criterion
  - 5.11 Independence of irrelevant alternatives criterion
  - 5.12 Independence of clones criterion
- 6 Comparison to other voting systems
  - 6.1 Comparison of mechanics
- 7 Resistance to tactical voting
  - 7.1 Spoiler effect
- 8 Proportionality
- 9 Costs
- 10 Negative campaigning
- 11 Plural voting
- 12 Invalid ballots and exhausted ballots
- 13 Robert's Rules of Order
- 14 Global use
  - 14.1 Australia
  - 14.2 Canada
  - 14.3 Fiji
  - 14.4 India
  - 14.5 Ireland
  - 14.6 New Zealand
  - 14.7 Papua New Guinea
  - 14.8 United Kingdom
  - 14.9 United States
- 15 Similar systems
  - 15.1 Runoff voting

- 15.2 Exhaustive ballot
- 15.3 Two-round systems
- 15.4 Contingent vote
- 15.5 Larger runoff process
- 16 See also
- 17 References
- 18 External links
  - 18.1 Practice
  - 18.2 Demos and simulations
  - 18.3 Advocacy groups and positions
  - 18.4 Opposition groups and positions

Terminology

Instant runoff voting derives its name from how ballot-count simulates a series of Two-round system runoffs except that voter preference do not change between rounds.[13]

Australians, who use IRV for most single winner elections, and Canadians call IRV "preferential voting," as does Robert's Rules of Order. The British call IRV "the alternative vote." Americans in San Francisco, California and Minneapolis, Minnesota call IRV "ranked choice voting." IRV occasionally is referred to as Ware's method after its inventor, American William Robert Ware.

North Carolina law uses "instant runoff" to describe the contingent vote or "batch elimination" form of IRV in one-seat elections. A single second round of counting produces the top two candidates for a runoff election. [14] Election officials in Hendersonville, North Carolina use "instant runoff" to describe a multi-seat election system that simulates in a single round of voting their previous system of multi-seat runoffs.[15] State law in South Carolina[16] and Arkansas[17] use "instant runoff" to describe the practice of having certain categories of absentee voters cast ranked choice ballots before the first round of a runoff and counting those ballots in any subsequent runoff elections.

When the single transferable vote (STV) system is applied to a single-winner election it becomes IRV. Some Irish observers mistakenly call IRV "proportional representation" based on the fact that the same ballot form is used to elect its president by IRV and parliamentary seats by STV, but IRV is a winner-take-all election method.

History

Main article: History and use of instant-runoff voting

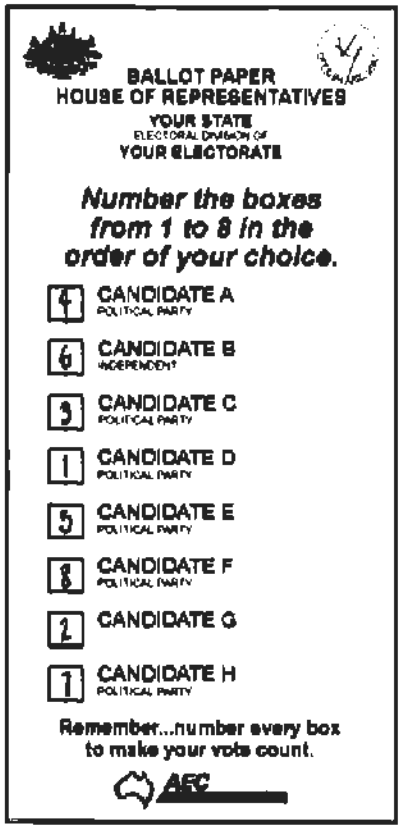
Instant runoff voting was devised in 1871 by American architect William Robert Ware,[18] although it is, in effect, a special case of the single transferable vote system, which emerged independently in the 1850s. Unlike the single transferable vote in multi-seat elections, however, the only ballot transfers are from backers of candidates who have been eliminated.

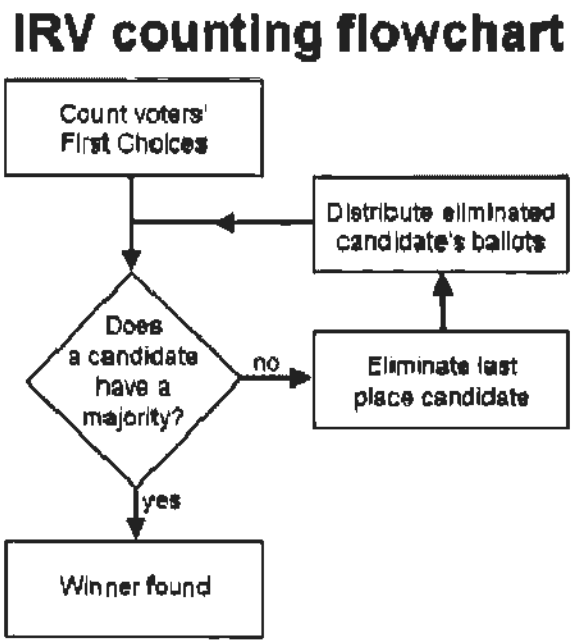
The first known use of an IRV-like system in a governmental election was in 1893 in an election for the colonial government of Queensland, in Australia.[19] The variant used for this election was a "contingent vote". IRV in its true form was first used in 1908 in a State election in Western Australia.

IRV was introduced nationally in Australia in 1918 after the Swan by-election, in response to the rise of the conservative Country Party, representing small farmers. The Country Party split the anti-Labor vote in conservative country areas, allowing Labor candidates to win on a minority vote. The conservative government of Billy Hughes introduced preferential voting as a means of allowing competition between the two conservative parties without putting seats at risk. It was first used at the Corangamite by-election on 14 December 1918.[20] Thomas Hare and Andrew Inglis Clark had previously introduced it in the Tasmanian House of Assembly.

Election procedure

Process

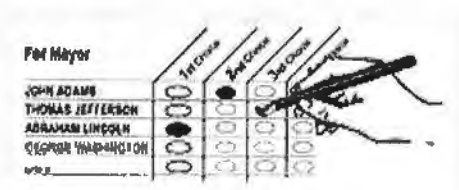




Flowchart for counting IRV votes

In instant runoff voting, as with other ranked election methods, each voter ranks the list of candidates in order of preference. Under a common ballot layout, the voter marks a '1' beside the most preferred candidate, a '2' beside the second-most preferred, and so forth, in ascending order. This is shown in the example Australian ballot above.

The mechanics of the process are the same regardless of how many candidates the voter ranks, and how many are left unranked. In some implementations, the voter ranks as many or as few choices as they wish, while in other implementations the voter is *required* to rank either all candidates, or a prescribed number of them.



Optical scan IRV ballot

In the initial count, the first preference of each voter is counted and used to order the candidates. Each first preference counts as one vote for the appropriate candidate. Once all the first preferences are counted, if one candidate holds a majority, that candidate wins. Otherwise the candidate who holds the fewest first preferences is eliminated. If there is an exact tie for last place in numbers of votes, tie-breaking rules determine which candidate to eliminate. Some jurisdictions eliminate all low-ranking candidates simultaneously whose combined number of votes is fewer than the number of votes received by the lowest remaining candidates.

Ballots assigned to eliminated candidates are recounted and assigned to one of the remaining candidates based on the next preference on each ballot. The process repeats until one candidate achieves a majority of votes cast for continuing candidates. Ballots that 'exhaust' all their preferences (all its ranked candidates are eliminated) are set aside.

In Australian elections the allocation of preferences is performed efficiently at the polling booth by having the returning officer pre-declare the two likely winners. (In the event that the returning officer is wrong the votes need to be recounted.)

Ballots

As seen above, voters in an IRV election rank candidates on a preferential ballot. IRV systems in use in different countries vary both as to ballot design and as to whether or not voters are obliged to provide a full list of preferences. In elections such as those for the President of Ireland and the New South Wales Legislative Assembly, voters are permitted to rank as many (or as few) candidates as they wish. This is known in Australia as **optional preferential voting**.

Under optional preferential voting, voters may make only a first choice, known as "bullet voting". Allowing voters to rank only as many candidates as they wish may better reflect their preferences, but may result in ballot exhaustion (where all the voters preferences are eliminated before a candidate is elected).

One IRV variant requires voters to express an order of preference for every candidate and thus they consider ballots that do not contain a complete ordering of all candidates to be spoilt. In Australia this variant is known as 'full preferential voting'.[21] This can become burdensome in elections with many candidates and can lead to 'donkey voting' in which the voter simply chooses candidates at random or in top-to-bottom order. [This variant is used in some Australian federal elections and some state elections].

Candidate order on the ballot paper

The common way to list candidates on a ballot paper is alphabetically or by random lot. In some cases candidates may also be grouped by political party. Alternatively, Robson Rotation involves randomly changing candidate order for each print run.

Party strategies

Where preferential voting is used for the election of an assembly or council, parties and candidates often advise their supporters on their lower preferences, especially in Australia where a voter must rank all candidates to cast a valid ballot. This can lead to "preference deals", a form of pre-election bargaining, in which smaller parties agree to direct their voters in return for support from the winning party on issues critical to the small party.[citation needed] However, this relies on the assumption that supporters of a minor party will mark preferences for another party based on the advice that they have been given.

Counting logistics

Most IRV elections historically have been tallied by hand, including in elections to Australia's House of Representatives and most state governments. In the modern era, voting equipment can be used to administer the count either partially or fully.

In Australia, the returning officer now usually declares the two candidates that are most likely to win each seat. The votes are always counted by hand at the polling booth monitored by scrutineers from each candidate. The first part of the count is to record the first choice for all candidates. Votes for candidates other than the two likely winners are then allocated to them in a second pass. The whole process of counting the votes by hand and allocating preferences is typically completed within a two hours on election night at a cost of $7.68 per elector in 2010 to run the entire election.[22]

(The declaration by the returning officer is simply to optimize the counting process. In the unlikely event that the returning officer is wrong and a third candidate wins then the votes would simply have to be counted a third time.)[23]

Ireland in its presidential elections has several dozen counting centers around the nation. Each center reports its totals and receives instructions from the central office about which candidate or candidates to eliminate in the next round of counting based on which candidate is in last place. The count typically is completed the day after the election, as in 1997.[24]

In the United States, California cities such as Oakland and San Francisco administer IRV elections on voting machines, with optical scanning machines recording preferences and software tallying the IRV algorithm.[25] Cary, North Carolina's pilot program in 2007 tallied first choices on optical scan equipment at the polls and then used a central hand-count for the IRV tally.[26] Portland, Maine in 2011 was due to use its usual voting machines to tally first choice at the polls, then a central scan with different equipment if an IRV tally was necessary.[27]

Examples

Some examples of IRV elections are given below. The first two are fictional and depicts the principle of IRV. The others are the results of real elections.

Five voters, three candidates

A simple example is provided in the accompanying table: Voter "a" preferred Bob over Bill and Bill over Sue. Two voters selected Bob first, 2 selected Sue and only 1 selected Bill first. Bill is eliminated after the first round, and his vote is passed to the second choice of voter "c", who wanted Bill first. This gives Sue 3 votes, which is a majority of the 5 voting.

	voter					Number of first choices	
Candidate	a	b	c	d	e	round 1	round 2
Bob	1	2	3	1	2	2	2
Sue	3	1	2	3	1	2	3
Bill	2	3	1	2	3	1	x

Tennessee capital election

Most instant runoff voting elections are won by the candidate who leads in first choice rankings. Some IRV elections are won by a candidate who is second in the first round. Every now and then a candidate wins who starts off in third, but gains majority support in the final round. Here's an example of such an election.

Imagine that Tennessee is having an election to choose the location of the state capital. The candidates for the capital are, in alphabetical order:

- Chattanooga
- Knoxville
- Memphis
- Nashville

There are 10,000 eligible voters and, in an amazing fit of public spiritedness, voter turnout is 100%.

If there were only two cities as candidates, one would get a majority of the votes cast (unless the result were a tie). Here, there are four cities, so it is theoretically possible that each candidate might receive no more than a quarter of the vote.

Sure enough, when all of the votes are tabulated in the first round, we find that no candidate has received a majority :

Votes in round/ City Choice	1st
Nashville	3200 votes
Memphis	2700 votes
Knoxville	2600 votes
Chattanooga	1500 votes

If one of the candidates had achieved a majority vote (more than half) consisting of at least 5,001 votes on the first tabulation, the contest would end there. Likewise, in First Past the Post voting, the contest would be over, with Nashville winning with the largest number of votes. But IRV does not allow a candidate to win on the first round without having an absolute majority of the vote. With 32% of the electorate voting *for* Nashville – 68% of the electorate voted *against* Nashville in this first round.

So we move to the second round of tabulation to determine which of the front-running cities had broader support. Chattanooga received the fewest number of votes in the first round, so it is eliminated. The ballots that listed Chattanooga as "first-choice" are added to the totals of the second-choice selection on each ballot. Everything else stays the same.

Chattanooga's 1500 votes are added to second choices as follows, according to the will of the voters for whom that city was first-choice:

Votes in round/ City Choice	1st	2nd
Memphis	2700	3390
Knoxville	2600	3310
Nashville	3200	3300
Chattanooga	1500	

In the first round, Nashville was first, Memphis was second and Knoxville was third. With Chattanooga eliminated and its votes redistributed, the second round finds Memphis now in first place, followed by Knoxville in second and Nashville has moved down to third place. No city yet has secured a majority of 5001 votes, so we move to the third round with the elimination of Nashville, and it becomes a contest between Memphis and Knoxville.

As in the second round with Chattanooga, all of the ballots currently counting for Nashville are added to the totals of Memphis or Knoxville based on which city is ranked next on that ballot.

The third round of tabulation yields the following result:

Votes in round/ City Choice	1st	2nd	3rd
Knoxville	2600	3310	5050
Memphis	2700	3390	4950
Nashville	3200	3300	
Chattanooga	1500		

Knoxville, which was running third in the first tabulation, has moved up from behind to take first place in the third and final round, with a majority of votes cast—of all the voters, a majority preferred Knoxville to Memphis. Knoxville is, thus, the winner.

2006 Burlington mayoral election

See also: Instant-runoff voting in the United States#2006 Burlington results

In 2006 the U.S. city of Burlington, Vermont, held a mayoral election using instant runoff voting. Progressive Bob Kiss won in two rounds with 48.6% of the first round ballots, defeating Democrat Hinda Miller who achieved 40.7%. 10.6% (1,031) of the ballots were exhausted before the final round, because those voters (largely backers of Republican candidate Kevin Curley) offered no preference between the final two candidates, Miller and Kiss.[28]

Candidate	Round 1		Round 2	
Bob Kiss	3,809	*(38.9%)*	4,761	*(48.6%)*
Hinda Miller	3,106	*(31.7%)*	3,986	*(40.7%)*
Kevin Curley	2,609	*(26.7%)*	—	
Other	254	*(2.6%)*	—	
Exhausted ballots	10	*(0.1%)*	1,041	*(10.5%)*
Total	9,778	*(100%)*	9,778	*(100%)*

After the first round, all but two candidates were eliminated, as their combined vote total (2,863) was less than Miller's, so that none could pull ahead of Miller, even by receiving every vote from the other minor candidates. The votes for these candidates were recounted and redistributed between Kiss and Miller. After the second round count, Kiss was declared the winner as he had obtained a majority (54.4%) of the remaining unexhausted ballots.

1990 Irish presidential election

See also: Irish presidential election, 1990

The result of the 1990 Irish presidential election provides an example of how instant runoff voting can produce a different result than first-past-the-post voting. The three candidates were Brian Lenihan of the traditionally dominant Fianna Fáil party, Austin Currie of Fine Gael, and Mary Robinson, nominated by the Labour Party and the Worker's Party. After the first round, Lenihan had the largest share of the first choice rankings (and hence would have won a first-past-the-post vote), but no candidate attained the necessary majority. Currie was eliminated and his votes reassigned to the next choice ranked on each ballot; in this process, Robinson received 82% of Currie's votes, thereby overtaking Lenihan.

Irish presidential election, 1990[29]				
Candidate	**Round 1**		**Round 2**	
Mary Robinson	612,265	*(38.9%)*	817,830	*(51.6%)*
Brian Lenihan	694,484	*(43.8%)*	731,273	*(46.2%)*
Austin Currie	267,902	*(16.9%)*	—	
Exhausted ballots	9,444	*(0.6%)*	34,992	*(2.2%)*
Total	1,584,095	*(100%)*	1,584,095	*(100%)*

Voting system criteria

Main article: Comparison of instant runoff voting to other voting systems#Voting system criteria

Scholars rate voting systems using mathematically derived voting system criteria, which describe desirable features of a system. No ranked preference method can meet all of the criteria, because some of them are mutually exclusive, as shown by statements such as Arrow's impossibility theorem and the Gibbard-Satterthwaite theorem.[citation needed]

Many of the mathematical criteria by which voting systems are compared were formulated for voters with ordinal preferences. If voters vote according to the same ordinal preferences in both rounds, criteria can be applied to two-round systems of runoffs, and in that case, each of the criteria failed by IRV is also failed by the two-round system as they relate to automatic elimination of trailing candidates. Partial results exist for other models of voter behavior in the two-round system: see the two-round system article's criterion compliance section for more information.

The criteria that IRV meets, and those that it does not, are listed below.

Majority criterion

✓ The **majority** criterion states that "if one candidate is preferred by an absolute majority of voters, then that candidate must win". IRV meets this criterion.

Mutual majority criterion

✓ The **mutual majority** criterion states that "if an absolute majority of voters prefer every member of a group of candidates to every candidate not in that group, then one of the preferred group must win". IRV meets this criterion.

Later-no-harm criterion

✓ The **later-no-harm** criterion states that "if a voter alters the order of candidates lower in his/her preference (e.g. swapping the second and third preferences), then that does not affect the chances of the most preferred candidate being elected". IRV meets this criterion.

Resolvability criterion

✓ The **resolvability** criterion states that "the probability of an exact tie must diminish as more votes are cast". IRV meets this criterion.

Condorcet winner criterion

✗ The **Condorcet winner** criterion states that "if a candidate would win a head-to-head competition against every other candidate, then that candidate must win the overall election". It is incompatible with the later-no-harm criterion, so IRV does not meet this criterion.

IRV is more likely to elect the Condorcet winner than plurality voting and traditional runoff elections. The California cities of Oakland, San Francisco and San Leandro in 2010 provide an example; there were a total of four elections in which the plurality voting leader in first choice rankings was defeated, and in each case the IRV winner was the Condorcet winner, including a San Francisco election in which the IRV winner was in third place in first choice rankings.[30]

Condorcet loser criterion

✓ The **Condorcet loser** criterion states that "if a candidate would lose a head-to-head competition against every other candidate, then that candidate must not win the overall election". IRV meets this criterion.

Consistency criterion

✗ The **consistency** criterion states that if dividing the electorate into two groups and running the same election separately with each group returns the same result for both groups, then the election over the whole electorate should return this result. IRV, like all preferential voting systems which are not positional, does not meet this criterion.

Monotonicity criterion

Further information: Monotonicity criterion#Instant-runoff voting and the Two-round system are not monotonic

✗ The **monotonicity** criterion states that "a voter can't harm a candidate's chances of winning by voting that candidate higher, or help a candidate by voting that candidate lower, while keeping the relative order of all the other candidates equal." IRV does not meet this criterion. Allard[31] claims failure is unlikely, at a less than 0.03% chance per election. Some critics[32] argue in turn that Allard's calculations are wrong and the probability of monotonicity failure is much greater, at 14.5% under the impartial culture election model in the three-candidate case, or 7-10% in the case of a left-right spectrum. Lepelly *et al.*[33] find a 2%-5% probability of monotonicity failure under the same election model as Allard.

Participation criterion

✗ The **participation** criterion states that "the best way to help a candidate win must not be to abstain".[34] IRV does not meet this criterion: in some cases, the voter's preferred candidate can be best helped if the voter does not vote at all.[35] Depankar Ray[36] finds a 50% probability that, when IRV elects a different candidate than Plurality, some voters would have been better off not showing up. In a large scale election, the issue is academic since the behaviors required of the electors to achieve it do not scale.[*citation needed*]

Reversal symmetry criterion

✗ The **reversal symmetry** criterion states that "if candidate A is the unique winner, and each voter's individual preferences are inverted, then A must not be elected". IRV does not meet this criterion: it is possible to construct an election where reversing the order of every ballot paper does not alter the final winner.[35] However, this is essentially an academic exercise.

Independence of irrelevant alternatives criterion

✗ The **independence of irrelevant alternatives** criterion states that "the election outcome remains the same even if a candidate who cannot win decides to run." IRV does not meet this criterion; in the general case, instant-runoff voting can be susceptible to strategic nomination: whether or not a candidate decides to run at all can affect the result even if the new candidate cannot themselves win.[37]

Independence of clones criterion

✓ The **independence of clones criterion** states that "the election outcome remains the same even if an identical candidate who is equally preferred decides to run." IRV meets this criterion.[38]

Comparison to other voting systems

Main article: Comparison of instant runoff voting to other voting systems

Comparison of mechanics

The elimination of the candidate with the most last-place rankings, rather than the one with the fewest first-place rankings, is called Coombs' method.

Universal assignment of numerical values to the ranks is used in the Borda count method. Individual assignment of numerical values to the ranks is used in range voting. Approval voting is range voting with only two available values.

The use of single transferable vote, a.k.a. Hare-Clark, in a single-member district is equivalent to IRV.

Resistance to tactical voting

Main article: Comparison of instant runoff voting to other voting systems#Tactical voting

The Gibbard–Satterthwaite theorem demonstrates that no voting system using only the preference rankings of the voters can be entirely immune from tactical voting unless it is dictatorial (there is only one person who is able to choose the winner) or incorporates an element of chance. This implies that IRV is susceptible to tactical voting in some circumstances.

Nonetheless, IRV is considered one of the less-manipulable voting systems, with theorist Nicolaus Tideman noting that, "alternative vote is quite resistant to strategy"[39] and Australian political analyst Antony Green dismissing suggestions of tactical voting.[40] James Green-Armytage finds the alternative vote to be second most resistant to tactical voting among the methods tested, only beaten by a class of AV-Condorcet hybrids, although the alternative vote resists strategic withdrawal by candidates less well.[41]

By not meeting the monotonicity, Condorcet winner, and participation criteria, IRV permits forms of tactical voting when voters have sufficient information about other voters' preferences, such as from accurate pre-election polling.[42] FairVote mentions that monotonicity failure can lead to situations

where "Having more voters rank [a] candidate first, can cause [them] to switch from being a winner to being a loser."[43] That assessment is accurate, although it only happens in particular situations. The change in lower candidates is important: whether votes are shifted to the leading candidate, shifted to a fringe candidate, or discarded altogether is of no importance.

Tactical voting in IRV seeks to alter the order of eliminations in early rounds, to ensure that the original winner is challenged by a stronger opponent in the final round. For example, in a three-party election where voters for both the left and right prefer the centrist candidate to stop the "enemy" candidate winning, those voters who care more about defeating the "enemy" than electing their own candidate may cast a tactical first preference vote for the centrist candidate.

The 2009 mayoral election in Burlington, Vermont provides an example in which strategy theoretically could have worked but would have been unlikely in practice. In that election, most supporters of the candidate who came in second (a Republican who led in first choices) preferred the Condorcet winner, a Democrat, to the IRV winner, the Progressive Party nominee. If about 20% of the backers of the Republican candidate had insincerely raised the Democrat from their second choice to their first, the Republican would have dropped from first to third in first choices, and the Democrat would then have won the instant runoff.[42] But given that the Republican was a strong candidate who nearly won in the instant runoff, few of his backers would have risked giving up on his candidacy based on a chance, unknown before the fact, to elect the compromise Condorcet winner.

Spoiler effect

Main article: Spoiler effect

The spoiler effect is where two or more politically similar candidates divide the vote for the more popular end of the political spectrum. That is, each receives fewer votes than a single opponent on the unpopular end of the spectrum who is disliked by the majority of voters but who wins from the advantage that, on that unpopular side, he or she is unopposed.

Proponents of IRV note that by reducing the spoiler effect, IRV makes it safe to vote honestly for marginal parties, and so discourages tactical voting: under a plurality system, voters who sympathize most strongly with a marginal candidate are strongly encouraged to instead vote for a more popular candidate who shares some of the same principles, since that candidate has a much greater chance of being elected and a vote for the fringe candidate is largely wasted.

An IRV system reduces this problem, since the voter can rank the marginal candidate first and the mainstream candidate second; in the likely event that the fringe candidate is eliminated, the vote is not wasted but is transferred to the second preference. However, in the event that the fringe candidate is not eliminated immediately, there is an increased chance for the mainstream candidate to lose, especially when multiple fringe candidates are running. If that happens, the opposing mainstream candidate has a much easier path to victory. As a result, voting honestly for a fringe candidate is unlikely to benefit the voter, and may backfire.

In Australia's national elections in 2007, the average number of candidates in a district was seven, and at least four candidates ran in every district; notwithstanding the fact that Australia only has two major political parties. Every seat was won with a majority of the vote, including several where results would have been different under plurality voting.[44] While IRV reduces the severity of the spoiler effect compared to plurality voting, the problem still persists.

Proportionality

Main article: Comparison of instant runoff voting to other voting systems#Voting system results

IRV is not a proportional voting system. Like all winner-take-all voting systems, IRV tends to exaggerate the number of seats won by the largest parties; small parties without majority support in any given constituency are unlikely to earn seats in a legislature, although their supporters will be more likely to be part of the final choice between the two strongest candidates.[45] A simulation of IRV in the 2010 UK general election by the Electoral Reform Society concluded that the election would have altered the balance of seats between the three main parties, but the number of seats won by minor parties would have remained unchanged.[46]

Australia, a nation with a long record of using IRV for election of legislative bodies, has had representation in its parliament broadly similar to that expected by plurality systems. Medium-sized parties, such as the National Party of Australia, can co-exist with coalition partners such as the Liberal Party of Australia, and can compete against it without fear of losing seats to other parties due to vote splitting.[47] IRV is more likely to result in legislatures where no single party has an absolute majority of seats (a hung parliament),[citation needed] but does not generally produce as fragmented a legislature as a fully proportional system, such as is used for the House of Representatives of the Netherlands or the New Zealand House of Representatives, where coalitions of numerous small parties are needed for a majority.

Costs

Main article: Comparison of instant runoff voting to other voting systems#Cost

The costs of printing and counting ballot papers for an IRV election are no different from those of any other system using the same technology. However, the more-complicated counting system may encourage officials to introduce more advanced technology such as software counters or electronic voting machines. Pierce County, Washington election officials outlined one-time costs of $857,000 to implement IRV for its elections in 2008, covering software and equipment, voter education and testing.[48] In 2009 the auditor of Washington counties reported that the ongoing costs of the system were not necessarily balanced by the costs of eliminating runoffs for most county offices, because those elections may be needed for other offices not elected by IRV.[49] Other jurisdictions have reported immediate cost savings.[50]

Australian elections are counted by hand. The 2010 federal election cost a total of $7.68 per elector of which only a small proportion is the actual counting of votes.[22] Counting is now normally performed in a single pass at the polling center as described above.

The perceived costs or cost savings of adopting an IRV system are commonly used by both supporters and critics. In the 2011 referendum on the Alternative Vote in the UK, the NOtoAV campaign launched with a claim that adopting the system would cost £250 million; commentators argued that this headline figure had been inflated by including £82 million for the cost of the referendum itself, and a further £130 million on the assumption that the UK would need to introduce electronic voting systems, when ministers had confirmed that there was no intention of implementing such technology, whatever the outcome of the election.[51] Automated vote counting is seen by some to have a greater potential for election fraud;[52] IRV supporters counter these claims with recommended audit procedures,[53] or note that automated counting is not required for the system at all.

Because it does not require two separate votes, IRV is accepted to cost less than two-round primary/general or general/runoff election systems.[54]

Negative campaigning

Main article: Comparison of instant runoff voting to other voting systems#Political parties

John Russo, Oakland City Attorney, argued in the Oakland Tribune on 24 July 2006 that "Instant runoff voting is an antidote to the disease of negative campaigning.[*citation needed*] IRV led to San Francisco candidates campaigning more cooperatively. Under the system, their candidates were less likely to engage in negative campaigning because such tactics would risk alienating the voters who support 'attacked' candidates", reducing the chance that they would support the attacker as a second or third choice.[55][56]

No formal studies have been conducted in the United States. Internationally, Benjamin Reilly suggests instant runoff voting eases ethnic conflict in divided societies.[57] This feature was a leading argument for why Papua New Guinea adopted instant runoff voting.[58]

Critics allege there is a lack of evidence that such an effect occurs as often as suggested.[59] Indeed, Lord Alexander's objections to the conclusions of the British Independent Commission on the Voting System's report (http://www.archive.official-documents.co.uk/document/cm40/4090/chap-9.htm) cites the example of Australia saying "their politicians tend to be, if anything, more blunt and outspoken than our own."

Plural voting

Main article: Comparison of instant runoff voting to other voting systems#Voter power

In Ann Arbor, Michigan arguments over IRV in letters to newspapers included the belief that IRV "gives minority candidate voters two votes," because some voters' ballots may count for their first choice in the first round and a lesser choice in a later round.[60] The argument that IRV represents plural voting is sometimes used in arguments over the 'fairness' of the system, and has led to several legal challenges in the United States. The argument was addressed and rejected by a Michigan court in 1975; in *Stephenson v. the Ann Arbor Board of City Canvassers*, the court held "majority preferential voting" (as IRV was then known) to be in compliance with the Michigan and United States constitutions, writing:

> Under the 'M.P.V. System', however, no one person or voter has more than one effective vote for one office. No voter's vote can be counted more than once for the same candidate. In the final analysis, no voter is given greater weight in his or her vote over the vote of another voter, although to understand this does require a conceptual understanding of how the effect of a 'M.P.V. System' is like that of a run-off election. The form of majority preferential voting employed in the City of Ann Arbor's election of its Mayor does not violate the one-man, one-vote mandate nor does it deprive anyone of equal protection rights under the Michigan or United States Constitutions.
> —[61]

Invalid ballots and exhausted ballots

Main article: Comparison of instant runoff voting to other voting systems#Ballot issues

Because the ballot marking is more complex, there can be an increase in spoiled ballots. In Australia, voters are required to write a number beside every candidate, and error rates can be five times higher than plurality voting elections[62] Since Australia has compulsory voting, however, it is difficult to tell how many ballots are deliberately spoiled.[63] Most jurisdictions with IRV do not require complete rankings and may use columns to indicate preference instead of numbers. In American elections with IRV, more than 99% of voters typically cast a valid ballot.[64]

Robert's Rules of Order

Main article: Comparison of instant runoff voting to other voting systems#Rules of Order

The sequential elimination method used by IRV is described in *Robert's Rules of Order Newly Revised, 10th edition.*[65] as an example of "preferential voting", a term covering "any of a number of voting methods by which, on a single ballot when there are more than two possible choices, the second or less-preferred choices of voters can be taken into account if no candidate or proposition attains a majority. While it is more complicated than other methods of voting in common use and is not a substitute for the normal procedure of repeated balloting until a majority is obtained, preferential voting is especially useful and fair in an election by mail if it is impractical to take more than one ballot. In such cases it makes possible a more representative result than under a rule that a plurality shall elect...."Preferential voting has many variations. One method is described ... by way of illustration."[66] And then the instant runoff voting method is detailed.[67]

Robert's Rules continues: "The system of preferential voting just described should not be used in cases where it is possible to follow the normal procedure of repeated balloting until one candidate or proposition attains a majority. Although this type of preferential ballot is preferable to an election by plurality, it affords less freedom of choice than repeated balloting, because it denies voters the opportunity of basing their second or lesser choices on the results of earlier ballots, and because the candidate or proposition in last place is automatically eliminated and may thus be prevented from becoming a compromise choice."[68] Two other books on parliamentary procedure take a similar stance, disapproving of plurality voting and describing preferential voting as an option, if authorized in the bylaws, when repeated balloting is impractical: The Standard Code of Parliamentary Procedure[69] and Riddick's Rules of Procedure.[70]

Global use

Main article: History and use of instant-runoff voting

See also: Table of voting systems by country

Australia

See also: Australian electoral system and Electoral systems of the Australian states and territories

Instant-runoff voting is used for national elections in Australia to elect members of the Australian House of Representatives. The Australian Senate uses a modified form, combining it with a proportional representation system (the Single transferable vote); candidates are eliminated until the remaining parties can be said to have a sufficient proportion of the vote to earn a seat.[1] Most state and council elections also use the system.

Canada

IRV is used to elect the leaders of two largest federal political parties in Canada, the Liberal Party of Canada[71] and the Conservative Party of Canada. The New Democratic Party of Canada uses a multi-round system, with the option for advance voters of using a preferential ballot that operates for them as an IRV ballot. Canadian Prime Minister Stephen Harper won an IRV election to become party leader in the 2004 leadership election. In 2013, the Liberal Party picked Justin Trudeau with IRV in a national primary.[72]

Fiji

Instant-runoff voting is used for national elections to elect members of the House of Representatives of Fiji.[3] In Fiji, each voter casts ballots in two elections: one for the minority of seats that are elected by universal suffrage and the remaining in one of the communal constituencies reserved to different ethnic groups.

India

IRV is used in numerous electoral college environments, including the election of the President of India by the members of the Parliament of India and of the Vidhan Sabhas – the state legislatures.[73]

Ireland

While most elections in the Republic of Ireland uses the single transferable vote (STV),[74] in single-winner contests this reduces to IRV.[75] This is the case in all Presidential elections[75] and Seanad panel by-elections,[76] and most Dáil by-elections[75] In the rare event of multiple simultaneous vacancies in a single Dáil constituency, a single STV by-election may be held;[77] for Seanad panels, multiple IRV by-elections are held.[76]

New Zealand

IRV is used in the elections of mayors and councillors in single-member wards in some New Zealand cities such as Dunedin and Wellington. Multi-member wards in these cities use STV.[9]

IRV, under the name Alternative Vote, was one of the four alternative systems available (alongside MMP, STV and SM) in the 1992 referendum on the voting method to elect MP's to the New Zealand House of Representatives. It came third of the alternative systems (ahead of SM) with 6.6% of the vote. IRV, under the name Preferential Vote, was one of the four alternative systems choices presented in the 2011 voting method referendum, but the referendum resulted in New Zealanders choosing to keep their proportional system of representation instead, while IRV came last with 8.34%.

Papua New Guinea

Since 2003 the national parliament of Papua New Guinea has been elected using an IRV variant called Limited Preferential Voting, where voters are limited to ranking three candidates.[78][79]

United Kingdom

In the United Kingdom the system is commonly known as the alternative vote. It is used to elect the leaders of the Labour Party and the Liberal Democrats. (The leader of the Conservative Party is elected under a similar system, a variant of the exhaustive ballot.) It is also used for by-elections to the British House of Lords, in which hereditary peers are selected for that body.[80] AV is also used by members of parliament to elect the chairmen of select committees and the Speaker of the House of Lords. The Speaker of the House of Commons is elected by the exhaustive ballot.

In 2010, the Conservative—Liberal Democrat coalition government agreed to hold a national referendum on the alternative vote,[81] held on 5 May 2011.[82] The proposal would have affected the way in which Members of Parliament are elected to the British House of Commons at Westminster. The result of the referendum was a vote against adoption of the alternative vote by a margin of 67.9 percent to 32.1 percent.[83]

United States

Main article: Instant-runoff voting in the United States

IRV is used by several jurisdictions in the United States, including San Francisco[5] and Oakland, California,[6] and Minneapolis and Saint Paul, Minnesota.[5] United States private associations that use IRV[10] include the Hugo Awards for science fiction,[11] the Academy of Motion Picture Arts and Sciences in selection of the Oscar for Best Picture,[12] and more than fifty colleges and universities for student elections.[84]

Similar systems

Runoff voting

The term *instant runoff voting* is derived from the name of a class of voting systems called runoff voting. In runoff voting voters do not rank candidates in order of preference on a single ballot. Instead a similar effect is achieved by using multiple rounds of voting. All multi-round runoff voting systems allow voters to change their preferences in each round, incorporating the results of the prior round to influence their decision. This is not possible in IRV, as participants vote only once, and this prohibits certain forms of tactical voting that can be prevalent in 'standard' runoff voting.

Exhaustive ballot

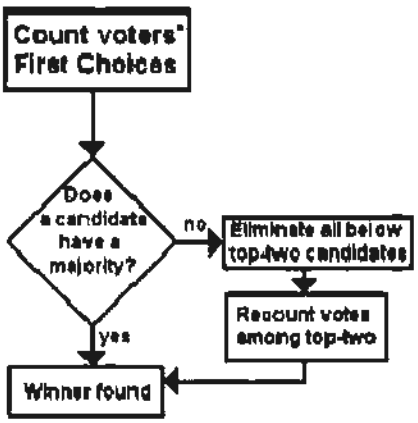
A system closer to IRV is the exhaustive ballot. In this system—one familiar to fans of the television show American Idol—one candidate is eliminated after each round, and many rounds of voting are used, rather than just two.[85] Because holding many rounds of voting on separate days is generally expensive, the exhaustive ballot is not used for large scale, public elections.

Two-round systems

The simplest form of runoff voting is the two-round system, which typically excludes all but two candidates after the first round, rather than gradually eliminating candidates over a series of rounds. Eliminations can occur with or without allowing and applying preference votes to choose the final two candidates. A second round of voting or counting is only necessary if no candidate receives an overall majority of votes. This system is used in France and the Finnish presidential election.

Contingent vote

The contingent vote, also known as **Top-two IRV**, or *batch-style*, is the same as IRV except that if no candidate achieves a majority in the first round of counting, all but the two candidates with the most votes are eliminated, and the second preferences for those ballots are counted. As in IRV, there is only one round of voting.



Top-two IRV

Under a variant of contingent voting used in Sri Lanka, and the elections for Mayor of London in the United Kingdom, voters rank a specified maximum number of candidates. In London, the Supplementary Vote allows voters to express first and second preferences only. Sri Lankan voters rank up to three candidates for the President of Sri Lanka.

While similar to "sequential-elimination" IRV, top-two can produce different results. Excluding more than one candidate after the first count might eliminate a candidate who would have won under sequential elimination IRV. Restricting voters to a maximum

number of preferences is more likely to exhaust ballots if voters do not anticipate which candidates will finish in the top two. This can encourage voters to vote more tactically, by ranking at least one candidate they think is likely to win.

Conversely, a practical benefit of 'contingent voting' is expediency and confidence in the result with only two rounds. Particularly in elections with few (e.g., fewer than 100) voters, numerous ties can destroy confidence. Heavy use of tie-breaking rules leaves uncomfortable doubts over whether the winner might have changed if a recount had been performed.

Larger runoff process

IRV may also be part of a larger runoff process:

- Some jurisdictions that hold runoff elections allow absentee (only) voters to submit IRV ballots, because the interval between votes is too short for a second round of absentee voting. IRV ballots enable absentee votes to count in the second (general) election round if their first choice does not make the runoff. Arkansas, South Carolina and Springfield, Illinois adopt this approach.[86] Louisiana uses it only for members of the United States Service or who reside overseas.[87]
- IRV can quickly eliminate weak candidates in early rounds of an exhaustive ballot runoff, using rules to leave the desired number of candidates for further balloting.
- IRV allows an arbitrary victory threshold in a single round of voting, e.g., 60%. In such cases a second vote may be held to confirm the winner.[88]
- IRV elections that require a majority of cast ballots but not that voters rank all candidates may require more than a single IRV ballot due to exhausted ballots.
- Robert's Rules recommends preferential voting for elections by mail and requiring a majority of cast votes to elect a winner, giving IRV as their example. For in-person elections, they recommend repeated balloting until one candidate receives an absolute majority of all votes cast. Repeated voting allows voters to turn to a candidate as a compromise who polled poorly in the initial election.[65]

The common feature of these IRV variations is the one vote is counted per ballot per round, with rules that eliminate the weakest candidate(s) in successive rounds. Most IRV implementations drop the "majority of cast ballots" requirement.[89]

See also

- Alternative Vote Plus (AV+) or Alternative Vote Top-up proposed by the Jenkins Commission (UK)
- Outline of democracy
- None of the above (NOTA) or Re-Open Nominations (RON)
- First-past-the-post voting

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89. ^ Vermont S.22 1(c)3 (http://www.leg.state.vt.us/docs/2004/bills/intro/S-022.HTM) Sec. 7. (6) ... if neither of the last two remaining candidates in an election ... received a majority, the report and the tabulations performed by the instant runoff count committee shall be forwarded to the Washington superior court, which shall issue a certificate of election to whichever of the two remaining candidates received the greatest number of votes at the conclusion of the instant runoff tabulation, and send a certified copy of the tabulation and results to the secretary of state.

External links

- 2010 articles from the Constitution Society (http://www.re-constitution.org.uk/news/articles/37/) and Electoral Reform Society (http://www.electoral-reform.org.uk/article.php?id=55) summarizing the proposed change in the United Kingdom to IRV/Alternative Vote

Practice

- Advantages and disadvantages of AV (http://aceproject.org/ace-en/topics/es/esd/esd01/esd01d/esd01d01) from the ACE Project (http://www.aceproject.org/) Electoral Design Reference Materials
- A Handbook of Electoral System Design (http://www.idea.int/publications/esd/index.cfm) from International IDEA (http://www.idea.int/)
- Australian Electoral Commission Web Site (http://www.aec.gov.au/)
- Preferential Voting in Australia (http://www.australianpolitics.com/elections/features/preferential.shtml) from Australian Politics.com
- San Francisco Department of Elections, California (http://www.sfgov2.org/index.aspx?page=599)
- Alameda County Registrar of Voters, California (http://www.acgov.org/rov/rcv/)
- City of Minneapolis, Minnesota (http://www.ci.minneapolis.mn.us/elections/rcv.asp)
- State of North Carolina (http://www.ncsbe.gov/sampleballots/2010General/0GDURH04.pdf)

Demos and simulations

- AmericanQuorum.com (http://www.americanquorum.com) A ranked choice ballot tool from the Indaba Application Network, including the animated display of an instant runoff.
- BBC: Would the alternative vote have changed history?, illustration of how the results of the last six general elections might have looked had the 'alternative vote' system been in place. (http://news.bbc.co.uk/1/hi/uk_politics/8506306.stm)
- OpenSTV – Open source software for computing IRV and STV (http://www.openstv.org/)
- *Favourite Futurama Character Poll* (http://www.demochoice.org/dcballot.php?poll=Futurama1)
- Voting System Visualizations (http://zesty.ca/voting/sim/) – 2-dimensional plots of results of various systems, with assumptions of sincere voting behavior.
- Simulation Of Various Voting Models for Close Elections (http://bolson.org/voting/essay.html) Opposition article by Brian Olson.

Advocacy groups and positions

- Yes to Fairer Votes (http://www.yestofairervotes.org/) campaign site for the Yes side of the 2011 UK electoral reform referendum
- Washington Post (http://www.washingtonpost.com/opinions/district-should-adopt-instant-runoff-elections/2013/04/24/71c581e2-ad19-11e2-b6fd-ba6f5f26d70e_story.html)
- Instant Runoff Voting (http://www.fairvote.org/instant-runoff-voting) at FairVote
- League of Women Voters of Vermont (http://www.lwvofvt.org/files/position_on_voter_rights_and_government.pdf)
- InstantRunoff.com (http://instantrunoff.com/)
- Ranked Ballot Initiative of Toronto, Canada (http://www.123toronto.ca/main.htm)
- Roosevelt Institution (http://www.rooseveltcampusnetwork.org/policy/instant-runoff-voting-national-elections)
- Citizens for Voter Choice :: Massachusetts (http://www.voterchoicema.org/)
- FairVote Minnesota (http://www.fairvotemn.org/)
- Common Cause Massachusetts (http://www.commoncause.org/site/pp.asp?c=dkLNK1MQIwG&b=4849119)
- Brookings Institution's "Empowering Moderate Voters" paper (http://www.brookings.edu/papers/2007/0228electionreform_Opp08.aspx/)
- Does the Alternative Vote Bring Tyranny to Australia? - Antony Green ABC (http://blogs.abc.net.au/antonygreen/2011/02/does-the-alternative-vote-bring-tyranny-to-australia.html)

Opposition groups and positions

- AV 2011 (http://www.av2011.co.uk/) Anti-AV Referendum Site for the 2011 UK electoral reform referendum
- No to AV (http://www.no2av.org/) campaign site for the No side of the 2011 UK electoral reform referendum
- Fair Vote Canada paper (http://www.fairvote.ca/files/AV-backgrounder-august2009_1.pdf) on the Alternative Vote
- IRV page (http://www.rangevoting.org/rangeVirv.html) at the Center for Range Voting
- Instant Runoff Voting Report (http://www.ncvoter.net/downloads/Instant_Runoff_Voting_Value_and_Risks_Report.pdf) Values and Risks Report by the N.C. Coalition for Verified Voting

Retrieved from "http://en.wikipedia.org/w/index.php?title=Instant-runoff_voting&oldid=565946587"
Categories: Instant-runoff voting | Non-monotonic electoral systems | Preferential electoral systems | Single winner electoral systems

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ITEM 5

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APPROVED

1. Nondiscrimination

Motion made by Member Lalonde to add A(16) and A(17) to the Bill of Rights and the unnumbered proposed Charter amendment regarding changes to Chapter 62 requiring referendum, as amended; seconded by Member Fernandez; Voice-vote: 4-1; Opposed: Member Kendle.

A(16) *Nondiscrimination* – No person shall be deprived of any rights and privileges conferred by law because of race, color, national origin, religion, gender, sexual orientation, gender identity, disability, marital status, familial status, or age.

A(17) ~~Neither~~ ~~t~~The City of Miami Beach ~~nor any person, or organization contracting with the City of Miami Beach~~ shall not discriminate in employment practices and benefits offered based upon an employee or applicant's gender identity, race, color, national origin, religion, gender, sexual orientation, disability, marital status, familial status, or age.

Unnumbered Provision – Any revision to Section 62 of the Code of the City of Miami Beach, entitled Human Relations, that repeals, diminishes, or otherwise negatively impacts a right or duty established in that section that inures to the benefit of a member of the classification categories as defined by section 62-31 must be approved by a majority of the voters in a citywide election.

(Item discussed on July 1, 2013 and July 15, 2013.)

Note: The following two resolutions were approved by the City Commission on July 17, 2013 to the be placed on the November 5, 2013 Special Election:

a. A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A Special Election To Be Held On Tuesday, November 5, 2013, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether City Charter Section 1.03(B) Requiring Majority Voter Approval Before The City's Sale, Lease Exceeding Ten Years, Exchange Or Conveyance Of Convention Center Parking Lots Should Be Changed To Require 60% Voter Approval Instead, And To Include Convention Center Campus" (All City-Owned Property Within Civic And Convention Center District Except Convention Center And Carl Fisher Clubhouse) Within The Category Of City-Owned Properties Subject To 60% Voter Approval Requirement, And Clarifying That This Charter Change Is Inapplicable To The Convention Center Project" Ballot Question (To Be Presented Simultaneously On The November 5, 2013 Ballot).

b. A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida Calling For A November 5, 2013 Special Election, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach, Florida A Question Asking Whether Paragraph A(17) Of The Miami Beach City Charter Citizens' Bill Of Rights Should Be Created Prohibiting Discrimination By The City Of Miami Beach In Its Employment Practices And Benefits Offered Based Upon An

Employee Or Applicant's Race, Color, National Origin, Religion, Gender, Sexual Orientation, Gender Identity, Disability, Marital Status, Familial Status, Or Age.

2. **Section 2.02 -Term And Compensation**

   a. Motion by Member Lalonde to direct Legal Department to draft a proposed ballot to include current recommendation for compensation, which will bring salary from 1966 at $6,000 to current level of $_____ for Commissioners, and $10,000 to current level of $_____ for Mayor, and include adjustments and calculations going forward; Legal to bring back to the Board for review; seconded by Member Fernandez. Voice-vote: 7-0. **Debora Turner, First Assistant City Attorney, to prepare and bring back to the Charter Review Board Meeting. Including CPI calculations.**

   b. Motion by Chair Zack to add a sentence to the section as follows:
      - Compensation shall include all benefits (Planning Days, vacations, etc.)
      - Benefits shall be determined by ordinance
      - All benefits shall be documented and disclosed pursuant to ordinance.

      Motion seconded by Vice-Chair Perry. Voice-vote: 7-0

      Chair Zack requested a draft [resolution] ordinance amending Section 2.02 to present to the City Commission for their consideration. Such ordinance will include everything the Charter Review Board thinks should be in the City Charter, and the Board can recommend what should be considered in the ordinance to effectuate the Charter changes. **City Attorney's Office to handle.**

      (Item discussed on May 6, 2013, June 3, 2013 and June 24, 2013, July 1, 2013.)

3. **Section 2.07 – Vacancies In City Commission/Election Versus Appointment When Commission Vacancies Occur**

   Member Lalonde made a motion to incorporate language in the City's Charter as follows:
   - Vacancy to occur by appointment
   - Appointee can serve until the next Election cycle (County, State or City)
   - Extend period of time if failed to appoint to 60 days instead of 30 days
   - After 60 days, if failed to appoint, then a Special Election will be held
   - There will be no prohibition on that person running

   Motion seconded by Member Kendle. Voice-vote: 5-0; Absent: Chair Zack and Member Diffenderfer. Ms. Turner to bring back proposed language to Section 2.07, per Member Fernandez's request, regarding a Resign to Run situation being effective no later than the night before the election, so that the vacancy can be filled at the same election taking place the following day. **Debora Turner to draft proposal and bring back**

   Motion by Mr. Fernandez that in the event of a resignation in the City Commission, the vacancy is immediate upon tendering the resignation, and the person who may be appointed will stand for election at the next regularly scheduled election. Seconded by Mr. Kendle. Voice Vote: Approved 6-0 (Mr. Diffenderfer absent.) (Item discussed on June 10, 2013)

   (Item discussed on May 6, 2013, June 3, 2013, June 10, 2013 and July 1, 2013.)

4. **Sec. 2.04. - Induction And Meetings**

The last paragraph of Section 2.04 reads "No member of the City Commission shall, during the time for which he/she was elected, be appointed or elected to any City office that has been created or the emoluments thereof shall have been increased during such time."

Motion by Member Lalonde to remove the last paragraph in its entirety, pending language review by Legal; seconded by Member Fernandez; Voice-vote: 4-1; Opposed: Member Preira. (July 1, 2013)

Donald Papy to look at this paragraph to see what the intention of the language was used for and bring back.

(Item discussed on June 10, 2013 and July 1, 2013.)

PENDING

1. **Preservation Of The Resources Of The Beach** – Proponent Rick Preira.

   Item deferred on July 1, 2013 and August 5, 2013.

2. **Miami-Beach United – Proposed Charter Amendment to the Miami Beach Citizen's Bill of Rights (including definition of HOA).**

   Motion made by Member Lalonde to send back the item to the City Attorney's Office for them to meet with members of Miami Beach United and draft revised language; seconded by Member Kendle; Voice-vote: 5-0.

   (Item discussed on May 6, 2013, June 3, 2013, June 24, 2013, July 1, 2013, July 15, 2013 and August 5, 2013.)

3. **Reasonable Access To Its Roads** – Proponent Stephen Zack, Chair.

   Chair Zack has proposed inclusion in the Citizens' Bill of Rights a provision that states that "the citizens of Miami Beach have the right to reasonable access to its road."

   Motion by Member Lalonde; seconded by Member Fernandez to table the item and invite the Transportation and Parking Committee to make a formal presentation with their recommendations on the traffic issues facing the City at a September CRB meeting. Absent: Member Preira.

   Members Fernandez and Kendle made friendly amendments to include the Planning Board, and ask Transit Miami to send some Charter recommendations.

   (Item discussed on May 6, 2013 and August 5, 2013.)

4. **Over Scale Development In Residential Areas** – Proponent Stephen Zack, Chair

   (Item Discussed on August 5, 2013)

5. **Preserving The Historical Value Of Miami Beach** – Proponent Terry Bienstock

   Chair Zack suggested that they write a letter to Mr. Bienstock to submit his proposal to the Board.

   In an e-mail dated August 19, 2013, Mr. Bienstock requested that the item be tabled for two months.

   (Item discussed on August 5, 2013.)

6. **Inclusion Of A Homeless Bill Of Rights In The Citizens' Bill Of Rights** – Proponent Dr. Morris Sunshine.

   Motion made by Member Lalonde to defer and table the item until August 19, 2013 Meeting at a time certain; seconded by Member Fernandez; Voice-vote: 6-0; Absent: Member Preira.

(Item Discussed on August 5, 2013)

7. **Electing Officials By Open Seats** – Proponent Scott Diffenderfer

Item to be discussed at the August 19, 2013 Meeting.

(Item Discussed on August 5, 2013)

8. **Planning Board Powers** – Proponent Alex Fernandez

Member Fernandez would like to see in the Charter the powers that the Planning Board has, since this Board approves projects with increased density that affect traffic. He requested to see the Charter and powers of the Planning Board having to do with density and what is their clear position.

(Item Discussed on August 5, 2013)

9. **Inspector General/Subpoena Power** – Proponents Rick Kendle/Alex Fernandez

Joe Jimenez, Assistant City Manager, on behalf of Jimmy L. Morales, City Manager, informed the Board that since there is no Inspector General in the City, he was asked to take over the ethics and internal compliance if any issues arise. They discussed the idea, and perhaps, in the future, bring it to the City Commission for the creation of a department. He agrees with the necessity due to the City's history, but he suggested not solidifying it in the Charter, but rather in the City Code.

Member Fernandez requested a Memorandum of recommendation from the City Attorney and the City Manager's Office with both suggestions; and to bring it back to this Board for review

Joe Jimenez, Assistant City Manager, reiterated that they do not recommend including it in the Charter, but rather try baby steps and do it by Code, via the City Manager.

Member Lalonde requested a report as to how they are going to reorganize the division, including a whistle blower telephone line, online, and by telephone, visible to the public, so that they can incorporate the entire plan.

Mr. Jimenez stated that some of this action requires Commission approval, due to budget funding issues. Discussion continued regarding resources and funding.

Member Fernandez requested to bring back for Board's review the planning of the creation of the department, as well as the fiscal impact.

(Item discussed on May 6, 2013, June 3, 2013, June 10, 2013, June 24, 2013 and July 1, 2013)

10. **Term Limits**

On June 24, 2013, motion made by Member Diffenderfer; seconded by Member Lalonde, to strike the word "consecutive" so the combined lifetime total service cannot exceed 14 years. Voice-vote: 7-0.

On July 1, 2013, Debora Turner, First Assistant City Attorney, introduced the item regarding term limits, and removing the word "consecutive." There was consensus to defer item.

Member Kendle explained that there is no rush to discuss this item, and if they were to do it now, it could look political, and everyone is excluded, because people in office are excluded. He suggested deferring it in order not to make it look "political."

Vice-Chair Perry stated that they had taken the "politics" out, by not having this apply to any current City officials.

Ms. Turner stated the proposed draft language would commence with the General Election of 2015.

Member Kendle stated that there was discussion regarding term limits for the Mayor, and they try to keep that separate, because once it is put on the ballot, it may not look right; he suggested putting all items regarding commission salary and term limits all together.

Member Fernandez agreed that this Board should be above any politics and above individuals, they are looking at policies and government documents for the next ten years and perhaps surpass the services of individuals that are being spoken about. He does not see why this should be on this ballot. He thinks it may look as it if "politically" induced, when it is not the nature or the spirit of this Board to put items like this before the voters as a "political" operative or agenda.

(Item discussed on May 6, 2013, June 24, 2013 and July 1, 2013)

11. Sections 3.01, 4.01, 4.03 Referring To Compensation And Salary Of The City Attorney, City Manager And City Clerk.

Among other things, these three Sections provide for "compensation" for the City Attorney, City Manager, and City Clerk. The term compensation should be further defined to make it clear that compensation includes benefits in addition to "salary" and should be consistent with the terminology used in Section 2.02 relative to the Mayor andCity Commissioners

(Item discussed on June 3, 2013.)

12. Section 1.03-Powers Of City

Ms. Turner explained that the Board might want to review the last sentence of the paragraph. Discussion held regarding management agreement and referendum requirements.

Subsection (b), entitled "Alienability of property," requires referendum approval for the "sale, exchange, conveyance or lease of ten years or longer" of certain City-owned properties. Should other City-owned properties be subject to this referendum requirement?

(Item discussed on June 3, 2013)

13. Items Requested To Be Discussed On May 6, 2013 By Alex Fernandez

(See Paragraphs 3 Through 18 of Mr. Fernandez's Memorandum of April 30, 2013 and Mr. Fernandez's Memorandum of May 7, 2013; Attached as Composite Exhibit "A".)

(Item not reached.)

14. Section 6.03 – Qualifying.

Currently a person must live at least one year in the City prior to qualifying, and the City Attorney's Office recommends for consideration the issue of a different qualifying time for residence in the City. Ms. Turner explained that for example, to qualify for a County commission seat, one must be a resident for six months in the district and 3 years in the County, and for the office of County Mayor, one must be a resident of the County for three years.

(Item discussed on June 3, 2013.)

15. Whistle Blowing Protection For Employees - Proponent Frank Del Vecchio

(Item Proposed on May 6, 2013.)

16. Citizens And Taxpayers Should Have Fair Access To Speak With City Officials, As A Basic Right – Proponent Alex Fernandez

(Item proposed on August 5, 2013.)

REJECTED/WITHDRAWN

1. **Ethics In Government Code Of Conduct –** Proponent Stephen Zack, Chair

   Chair Zack asked if the City has an Ethics Code. Debora Turner, First Assistant City Attorney, explained that "ethics in government" is already codified in the City Code. **Chair Zack withdrew the item.**

   (Item Discussed on May 6, 2013 and August 5, 2013)

2. **Mandate That Employees Should Be Courteous To Citizens** - Proponent Stephen Zack.

   Chair Zack suggested that the Administration include this mandate as part of the evaluation process, rather than in the Charter.

   Vice-Chair Perry explained that it is a culture change that is needed; in private companies, an employee being courteous is a priority, and perhaps this Board can suggest to the City Manager to continue working in improving this culture in the City.

3. **Nondiscrimination**

   A(18) The City of Miami Beach shall make reasonable efforts to recruit applicants for employment or contracts with the City from all those qualified, including, but not limited to, people of color, women, lesbian, gay, bisexual, or transgender persons, and the disabled.

   Proposal rejected on July 15 ,2013.

   (Item discussed on July 15, 2013)

4. **Section 4.02 – City Manager – Functions And Powers** – *Appointment of Assistant City Manager, subject to the Consent of the City Commission.*

   Motion by Rick Kendle that the CRB does not think that the City Commission should have power of appointment over Assistant City Managers. Seconded by Ms. Lalonde. Voice Vote: Approved 6-0 (Mr. Diffenderfer absent.)

   (Item discussed on June 3, 2013 and June 10, 2013.)

5. **Sale, Exchange, Conveyance Or Lease Of Ten Years Or Longer Of Convention Center District Property** – Proponent Frank Del Vecchio

   Frank Del Vecchio explained that he is requesting for the Board to consider and forward to the Commission for consideration a Charter amendment that will conform the official representations made by the City Commission and City Administration to the Charter.

   Member Fernandez made a motion that the MBCC referendum issue is out of order for consideration by the CRB, but nothing that is being done by the Charter Review and Revision Board goes to the merit of Mr. Del Vecchio's proposal, and Mr. Del Vecchio

should seek another avenue to address this issue; seconded by Member Lalonde; 5-1; Opposed: Member Kendle; Absent: Member Preira.

Chair Zack made a friendly amendment, to add that nothing that is being done goes to the merit of this proposal and to allow Mr. Del Vecchio another avenue to which he can address this issue.

(Item discussed May 6, 2013)

6. **Administrative Determinations Proposed And Published By The Planning Director** – Proponent Commissioner Jonah Wolfson.

Motion by Member Lalonde that this issue is out of order for consideration to the CRB, but encourage the Department to continue making the Determinations available publicly; 6-0; Absent: Member Preira.

(Item discussed on May 6, 2013)

MISCELLANEOUS ITEMS

1. **Mandate That Employees Should Be Courteous To Citizens** - Proponent Stephen Zack.

   Chair Zack suggested that the Administration include this mandate as part of the evaluation process, rather than in the Charter.

   (Item discussed on May 6, 2013 and August 5, 2013.)

2. **Stipends Received By Elected Official Need To Have Appropriate Documentation To Indicate How It Is Being Spent**

   Motion by Rick Kendle that as a principle the Board agrees that stipends received by Elected Official need to have appropriate documentation to indicate how it is being spent. At a subsequent time, the Board can determine if this is an item that should be included in the Charter. Seconded by Mr. Fernandez. Voice Vote: Approved 6-0 (Mr. Diffenderfer absent.) Mr. Smith suggested that this may be accomplished by the Commission via resolution, and does not have to be via Ordinance, as they both have the same force of law.

3. **Commission Travel Policy**

   Chair Zack inquired if there is a policy as to how the Commission travels, i.e. business or coach; how is that determined? Mr. Smith replied that the standard is that used in the County and approved by the Miami-Dade County Ethics Commission. It is coach, and there are guidelines as to mileage and how much you can spend per day. **City Attorney's Office to obtained Guidelines.**

COMPOSITE EXHIBIT "A"

MIAMIBEACH

2013 APR 30 PM 4:33
CITY CLERK'S OFFICE

CHARTER REVIEW AND REVISION BOARD MEMORANDUM

TO: Mr. Rafael Granado, City Clerk

FROM: Alex Fernandez, Charter Review Board Member

DATE: April 30, 2013

SUBJECT: Items for Discussion

At the our first meeting of the Charter Review Board I sponsored a motion requiring that, in the spirit of transparency, a three day rule be implemented making agenda items and referrals for discussion available to the public for their timely review prior to meetings of the CRB. As such, please accept this memorandum containing items which I believe merit the consideration of the CRB and which should be added to the referral tracking document.

Referrals

1. Motion requesting that the City Clerk advertise meeting notices, agendas, and CRB website address on Spanish publications.

2. Motion bifurcating recommended Charter amendments to the City Commission by two tiers:

   a) Recommended Charter amendments of a time sensitive nature which should be included on the November, 2013 ballot and which shall be presented to the City Commission for their consideration, adoption, and submittal to the Miami-Dade County Elections Department no later than the ballot deadline of September 6, 2013; and,

   b) Items that may not be time sensitive and which may merit extended debate. Such items may be presented to the City Commission upon sunset of the Charter Review Board for the City Commission's consideration, adoption, and inclusion on the Miami-Dade County Primary Election scheduled for August 12, 2014.

3. Motion requesting that the City Commission consider amending City of Miami Beach resolution number 2012-28072 creating the Miami Beach Ad Hoc Charter Review

and Revision Board so as to enlarge its powers of review to include the City's Related Special Acts portion of the City Code.

4. Motion establishing that the Charter Review Board will give adequate consideration to all recommendations submitted by members of the public to the Charter Review Board.
5. Motion requesting that the City Manager direct the Management Team and Department Directors to submit to the Charter Review Committee any areas or items that pertains to their department which they would like for the Charter Review Board to review or discuss.

6. Amend the *Citizen's Bill of Rights, (c) Remedies for Violations* to include language to empower the Miami-Dade County Commission on Ethics and Public Trust with investigation and enforcement of the Citizen's Bill of Rights and empowering the Commission on Ethics and Public Trust to impose any penalty allowed by law.

7. Amend the *Citizen's Bill of Rights, Item 6 Right to Notice* to add new language providing that the agenda for land use boards and quasi-judicial proceedings be made available no later than fifteen (15) business day prior to the meeting or proceeding and that staff reports be made available no later than three (3) business days prior to the meeting or proceeding.

8. Amend the *Citizen's Bill of Rights, Item 12 Quarterly Budget Comparison* to add new language providing that in keeping with the City's commitment to transparency, reliability, and accountability to residents, the City shall make public on its homepage an online check registry.

9. Review of the *Citizen's Bill of Rights* to discuss adding new language establishing property owners' rights which shall establish that a property owner is entitled to the designation (or lack thereof) and the zoning of a property as was established at the time of purchase with the exception of reasonable zoning changes. Discuss inclusion of language that would require that:

    a) any new historic designation of property be applicable only on prospective ownership unless the property owner provides consent for the designation; and,

    b) the down zoning of a property beyond what is reasonable shall only be applicable on prospective ownership unless the property owner provides consent for the down zoning.

    The City Commission shall establish the definition of ownership and reasonable as it would relate to this clause.

10. Review of *Article I – Corporate Existence, Form of Government, Boundary and Power, Section 1.03 – Powers of the City, (b) Alienability of Property* to discuss including new

language pertaining to the conveyance of air and underground easements for the construction of above ground or underground permanent structures (bridges, parking garages, basements, etc.) for uses other than utility (electric, water, gas, sewer, etc.) and to conclude whether conditions for such conveyance shall:

a) be addressed in the City Charter;

b) require a five seventh (5/7) vote of the City Commission and a majority vote of the Planning Board; and,

c) the City Commission shall establish the value appraising method for above ground and underground easements being considered for conveyance.

11. Review of *Article I – Corporate Existence, Form of Government, Boundary and Power, Section 1.03 – Powers of the City, (b) Alienability of Property* to consider if in addition to the provisions set forth in the City Code (*Chapter 82 – Public Property, Article II Sale or Lease of Public Property, Section 82-37 Committee Review and Public Hearing*) shall public notice be served by mail (United States Postal Service) to every property owner within 375 feet from City-owned property which is being considered for conveyance when:

    a) the City-owned property falls within or adjacent to a residential neighborhood; and,

    b) the proposed main use of the City-owned property is different from its existing use.

12. Review of *Article II – City Commission, Section 2.03 – Powers of the City Commission* regarding new language establishing a non-interference clause which shall establish that with the exception for the purposes of inquiry and information, members of the City Commission are expressly prohibited from interfering with the performance of the duties of any employee who is under the direct or indirect supervision of the City Manager.

13. Review of *Subpart B - Related Special Acts, Article V. Health Plan for City Officers and Employees* to consider new language addressing the tax inequity of employees who elect to include their domestic partner in the City's health plan and establish that the City Commission shall enact policy to correct the inequality in taxation imposed by the Federal Government in keeping with the City's commitment to be free of all forms of discrimination and inequality.

14. Discussion pertaining to the adoption of a Whistleblower Protection Act through which the City Commission shall establish protections for all City employees and appointees who report violations of any local, state, or federal law, regulation,

policy, or procedure with respect to an alleged abuse of authority, misuse of public funds, or the existence of a danger to the public health, safety, or welfare. The Commission shall establish a prohibition on any retaliatory conduct against anyone who acts as a whistleblower and reports a violation. Procedures shall be set by the City Commission.

15. Discussion pertaining to the adoption of language to require that any member of a land use board or of any board that engages in quasi-judicial hearings shall be required to resign from their appointed seat upon qualifying for elected office in the City of Miami Beach.

16. Discussion pertaining to the constitutionality of adopting recommendations regarding pension reform submitted to the City Commission by the Budget Advisory Committee.

17. Discussion pertaining to the recommendations submitted by Miami Beach United regarding the Citizen's Bill of Rights.

18. Discussion pertaining to Mr. Frank Del Vecchio's communication regarding "voter referendum approval for the sale or lease of any and all city-owned property in the 52-acre convention center redevelopment district."

I trust that the Chairman Zack will schedule the hearing of the above referral items timely and appropriately. Please ensure that the motions contained in items one (1) through five (5) are included on the May 6, 2013 agenda of the Charter Review Board. Other items will follow under separate cover to be included for future meetings. Please do not hesitate to direct any questions and/or concerns directly to me.

Thank you,

Alex J. Fernández

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CHARTER REVIEW AND REVISION BOARD

MEMORANDUM

TO: Mr. Rafael Granado, City Clerk

FROM: Alex Fernandez, Charter Review Board Member

DATE: May 7, 2013

SUBJECT: Supplemental Memo:
Investigative and Enforcement Authority of the Miami-Dade County Commission on Ethics and Public Trust pertaining to alleged violations of Citizens Bill of Rights, Sunshine, Public Records, and Campaign Finance Laws.

City Clerk and Chairman Zack:

Please accept this memo in reference to the item for consideration which I proposed during yesterday's meeting of the Charter Review Board. Last year Miami-Dade County voters approved a charter amendment which empowered the Miami-Dade County Commission on Ethics and Public Trust to investigate, enforce, and levy penalties upon issues regarding the County's Citizen's Bill of Rights (CBR). While the County's CBR does apply to the City of Miami Beach and its residents, the Commission on Ethics and Public Trust currently does not have enforcement authority over the Miami Beach CBR. As a result, residents who feel that their citizen's rights may have been violated may only remedy the violation by litigating the issue in court if the same right is not contained within the Miami-Dade County CBR.

In communicating with Mr. Joe Centorino of the Miami-Dade County Commission on Ethics and Public Trust he expressed his agreement to my belief that it is indeed futile to have such rights on the Charter without an effective enforcement mechanism. Not including a provision within the Miami Beach CBR providing citizens with an accessible means for addressing violations of rights which are unique to our CBR could easily create the perception that certain rights contained within our CBR apply solely to those who can afford to retain an attorney for representation in court.

In recognizing the great financial disparity of this community, it is indeed proper to consider such alliance with the Miami-Dade County Commission on Ethics and Public Trust as we seek to protect the rights of all Miami Beach citizens regardless of their ability to retain counsel. Mr. Centorino assures me that his agency can assume this charge. Therefore, as

stated in item six of my memo from April 30th, 2013, I would like for this Charter Review Board to consider including the Miami-Dade County Commission on Ethics and Public Trust as an option for those seeking remedies to violations of their citizen rights.

Expand Authority of Ethics Commission

Furthermore, from time to time the Miami-Dade Commission on Ethics and Public Trust is approached to investigate alleged violations of laws pertaining to the State's sunshine provision, public records, and campaign law. Though the Commission on Ethics and Public Trust does look into these matters, they are eventually referred to law enforcement and/or state agencies for enforcement. Given the work load of law enforcement agencies, these violations become of low priority for law enforcement and are often neglected. Through my communications with Mr. Centorino he has shared his belief that it may be at times more practical to allow the Commission on Ethics and Public Trust to enforce such issues.

As such, I would like for this Charter Review Board to consider and discuss as to whether the Miami-Dade County Commission on Ethics and Public Trust should be engaged to investigate and enforce issues relating to sunshine, public record, and campaign laws.

Finally, during yesterday's meeting one of colleagues brought forth concerns pertaining to "bad experiences" which of some our elected officials may have had with the Miami-Dade Commission on Ethics and Public Trust. The board member mentioned that it was his opinion that the will of the City Commission will be not to adopt such proposal as a result of those negative experiences and that as such this Charter Review Board should not consider the issue. While the board member's statement may or may not reflect the position of all members of the City Commission, I believe that while conducting our business this Charter Review Board should attempt to insulate itself as much as possible from the political will and sentiments of the moment. It is not our task to consider what the will of the City Commission will be on any of the issues we will be discussing. Rather, the Commission has entrusted us with the review of the provision contained within our Charter to propose amendments which make it a better governing document for our City and it is the duty of the City Commission to determine if it is indeed their will to submit those proposals to the voters for adoption. Therefore, I respectfully request that this item to be given adequate consideration by this Charter Review Board on its merits of protecting our citizen's and their rights established within the Citizen's Bill of Rights.

Please direct any questions and/or concerns directly to me.

Thank you,

Alex Fernandez