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VILLAGE OF PINECREST
Office of the Village Clerk

May 10, 2024

The Honorable Mayor and
Members of the Village Council
Village of Pinecrest
12645 Pinecrest Parkway
Pinecrest, FL 33156

RE: Charter Revision Commission Final Report

Dear Mayor and Councilmembers,

I am writing to you on behalf of the 2024 Village of Pinecrest Charter Revision Commission (the "Commission"). This letter will serve as the Commission's report as required by Section 6.1(c) of the Village Charter (the "Charter"). The Commission's task was to review and analyze the Charter and determine if there were potential revisions that should be submitted to a vote of the Village electors. The Commission met on five (5) separate occasions, each a publicly advertised meeting.

During our meetings, we reviewed, analyzed, and discussed the Charter and potential revisions to the Charter. After review of the Charter and consideration of public input, the Commission discussed and suggested potential revisions, additions, or deletions to the Charter. To provide the Village Council with some background of our deliberations and considerations, we will provide copies of each of our meeting minutes.

At the Commission's final meeting on May 10, 2024, the Commission convened for the purpose of determining which revisions, if any, should be submitted to a vote of the Village electors. Draft ballot questions of the proposed charter amendments are attached as Exhibit "A"¹ and the corresponding proposed charter amendment text revisions are attached as Exhibit "B." The proposed charter amendments are summarized as follows:

¹ The Charter Revision Commission requested that draft ballot questions be provided for purposes of discussion. Draft ballot questions are subject to change by the Village Attorney and Village Council.



1. Section 2.3 Election and Term of Office.

Currently, Section 2.3 of the Charter provides that no person shall serve as a combination of Mayor and Councilmember for more than eight consecutive years. After reviewing the existing Charter provisions governing the limitations on length of service, the Commission proposed three separate amendments to Section 2.3 of the Charter:

First, the Commission proposed an amendment to provide that no person may serve for more than two consecutive elected terms as Mayor or Councilmember and no more than four consecutive terms as a combination of Mayor and Councilmember. The Commission felt that the limitations on the terms of service for the Office of Councilmember and Mayor should be separate and that a person should be eligible to serve for two terms as Mayor after serving two terms as Councilmember immediately (and vice versa).

Second, the Commission proposed an amendment to provide that service of a partial term of office of less than two years shall not be counted as a term for purposes of calculating term limits. The Commission felt that the existing provisions are ambiguous as to how partial terms of office are counted.

Third, the Commission proposed an amendment to provide that terms of service shall not be considered consecutive if they are separated by a six-month gap in service. The Commission determined that the Charter is silent governing what constitutes a break in service between terms such that they are considered non-consecutive, and they determined that six months is an appropriate interlude.

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

The fourth proposed amendment modifies existing election procedures under Section 2.5 of the Charter when there is a vacancy in the Office of Mayor or Councilmember.

Specifically, Section 2.5(c)(iii) of the Charter currently provides that if there is a vacancy in the Office of the Mayor and more than six months remain in his or her term, the Vice Mayor shall temporarily serve as Mayor and a special election shall be called within 90 days to fill the vacancy. The proposed amendment would instead require a special election to occur at the next available election where Village electors would otherwise vote. (e.g. state legislative election, county-wide special election, presidential primary etc.). The Commission felt that this would eliminate the need to hold a standalone election that would impose additional costs on the Village.

Additionally, Section 2.5(c)(viii) of the Charter currently provides that in the event of death, disability, recall, forfeiture of office and/or resignation of *all* members of the Council (including the Mayor), the Florida Governor shall appoint interim Councilmembers and such

appointees shall call a special election not less than 30 days or more than 60 days after appointment to fill the vacancies in the same manner as the first elections conducted under the Charter. In order to preserve the staggering of terms, the proposed amendment would instead provide that the individuals elected to fill the vacancies on Council would serve for the remainder of the unexpired term corresponding to each elected position.

3. Comprehensive Amendment for Consistency with Florida Election Laws.

Finally, the fifth amendment proposes non-substantive amendments to various provisions within the Charter to ensure consistency with Florida Law and other Charter provisions. Specifically, Section 101.151, Florida Statutes, provides that "...the governing authority of a municipality shall not call any special election until notice is given to the supervisor of elections *and his or her consent obtained...*" (emphasis added). Accordingly, the Commission proposes amendments to Sections 2.4, 2.5, 5.1, and 6.1 of the Charter to clarify that the timing of any elections are subject to compliance with Florida Law and the ability of the Supervisor of Elections to accommodate the election timelines provided. The Commission felt that the Charter, as written, does not reflect existing limitations on the timing of elections under Florida Law and should be clarified accordingly.

On behalf of the full Commission, I would like to thank the Village Council for the opportunity to serve on the Commission and look forward to appearing before you should you have any questions or concerns about the report. Finally, consistent with the provisions within this report, we request that the Village Council submit ballot questions in accordance with the deadline set by the Miami-Dade County Supervisor of Elections of Friday, July 26, 2024, for inclusion of the proposed amendments at the November 5, 2024, General Election.

Respectfully,

/s/ Paul Sasso

Paul Sasso, *Chairperson*

Cindie Blanck, *Vice Chairperson*

Marika Lynch

Frank Sioli

Ethan Shapiro

EXHIBIT A
DRAFT BALLOT QUESTIONS

Amendment 1.

SEPARATE CONSECUTIVE TERM LIMITS FOR MAYOR AND COUNCILMEMBER

The Village Charter provides that no person may serve more than two consecutive terms as Mayor or Councilmember or more than eight consecutive years as a combination of both offices. It is proposed that the Village Charter be amended to allow a person to serve consecutively as Mayor and Councilmember for two terms each, for a combination of four consecutive terms.

Shall the above described amendment be adopted?

Yes []

No []

Amendment 2.

PARTIAL TERMS OF OFFICE OF LESS THAN TWO YEARS

The Village Charter does not specify whether service of a partial term of office as Mayor or Councilmember counts towards consecutive term limits. It is proposed that the Village Charter be amended to provide that service of a partial term of less than two years shall not be counted as a term.

Shall the above described amendment be adopted?

Yes []

No []

Amendment No. 3.

CLARIFYING WHAT CONSTITUTES NON-CONSECUTIVE TERMS

The Village Charter does not specify the required length of time between terms in order for them to be considered non-consecutive. It is proposed that the Charter be amended to provide that terms of office shall not be considered consecutive if separated by a period of six months (180 days).

Shall the above described amendment be adopted?

Yes []

No []

Amendment No. 4.

METHOD OF FILLING VACANCIES IN OFFICE

The Village Charter provides for filling a mayoral vacancy by special election within ninety days, and, if the entire council becomes vacant, by special election for coterminous, four-year terms. The proposed Charter Amendment provides for filling a mayoral vacancy by election at the time of the next scheduled election. If the entire council becomes vacant, a special election would be held for each Council position's remaining term.

Shall the above described amendment be adopted?

Yes []

No []

Amendment No. 5.

NON-SUBSTANTIVE TECHNICAL UPDATES TO CHARTER RELATING TO ELECTIONS TIMELINES

The Charter currently contains various provisions relating to election timelines that have become obsolete or superseded by changes in Florida Law. The proposed charter amendment would incorporate non-substantive technical updates that clarify that election timelines must be in compliance with Florida Law and the ability of the Supervisor of Elections to accommodate such election timelines.

Shall the above described amendment be adopted?

Yes []

No []

EXHIBIT B
CHARTER AMENDMENT TEXT²

Amendment Nos. 1, 2, and 3.³

Section 2.3 Election and Term of Office.

* * *

- (c) *Limitations on Lengths of Service.* No person shall serve as Mayor for more than two consecutive elected terms. No person may serve as on the Councilmember for more than two consecutive terms. No person may serve as a combination of Mayor and Councilmember for more than eight four consecutive years terms, with two terms in each position. For purposes of determining the number of terms served:

i. A partial term of less than two years shall not be counted as a term for the purpose of calculating term limits.

ii. Terms shall not be considered consecutive if they are separated by a gap in service of at least 180 days.

Notwithstanding the foregoing, elected officials who are removed by recall or forfeiture of office prior to the end of their terms shall be deemed to have served a full term.

Amendment No. 4.

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

* * *

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

* * *

- iii) If the Mayor's position becomes vacant, the Vice-Mayor shall complete the term of Mayor if less than six (6) months remain in the unexpired term. The vacancy thus created on the Council shall be filled in the manner that the vacancy of a Councilmember is generally filled under this Charter. The Council shall then appoint a new Vice-Mayor. If the elected Mayor shall be returned to office, s/he shall automatically resume the duties of the office for the balance of the term for which

² Additions to the text are shown in highlighted underline and deletions are shown in highlighted ~~striketrough~~.

³ This Charter Amendment text assumes that all proposed amendments to Section 2.3(c) of the Charter are adopted.

elected and the appointment to the office, filled in accordance with this section shall be rescinded, and the Vice-Mayor shall be returned to complete the balance of his/her term. Nevertheless, if six (6) months or more remain in the unexpired term, a special election shall be held for the election of a new Mayor ~~within ninety (90) days~~ at the next available election in which the electors of the Village would vote following the occurrence of the vacancy.

* * *

- viii) In the event that all members of the Council are removed by death, disability, recall, forfeiture of office and/or resignation, the Governor shall appoint interim Councilmembers who shall call a special election for the remainder of each term within not less than 30 days or more than 60 days after such appointment. ~~Such election shall be held in the same manner as the first elections under this Charter;~~ provided, however, that if there are less than six months remaining in any of the unexpired terms, such interim Council appointee(s) by the Governor shall serve out the unexpired terms. Appointees must meet all requirements for candidates provided for in Article 2.

* * *

Amendment No. 5.

Section 2.4 Qualifications.

(a) Candidates for Councilmember or Mayor shall qualify for election by the filing of a written notice of candidacy with the Clerk of the Village at such time and in such manner as may be prescribed by ordinance and payment to the Village Clerk of the sum of one hundred dollars (\$100.00) as a qualifying fee. A person may not be a candidate for Council and Mayor in the same election. Only electors of the Village who have resided continuously in the Village for at least one year preceding the date of such filing (and in the respective Residential Area from which the candidate may seek to qualify for election) shall be eligible to hold the Office of Councilmember, ~~including or~~ Mayor.

(b) A vacancy in a candidacy for the office of Councilmember shall occur upon the death, withdrawal or removal of a candidate. If any qualified candidate dies, withdraws or is removed from the ballot following the end of the qualifying period, and in the event such action leaves fewer than two (2) candidates for that office, then the qualifying period for that particular office shall commence at noon on the day following the day that the vacancy in candidacy occurred, and additional qualification papers shall be available for that particular office in the office of the Village Clerk until noon, fourteen (14) days subsequent to the death, withdrawal or removal from the ballot of the original candidate. A candidate who was a qualifying candidate at the beginning of the supplemental qualified period shall not be required to re-qualify during such

period. The Village Council shall hold a special meeting within seven (7) days of such additional qualifying period for the purpose of announcing a vacancy in the candidacy, announcing the additional qualifying period, and taking any action that may be necessary to reschedule the election for that particular office. If the closing date of the additional qualifying period is less than twenty (20) days before the date of the scheduled election, the Village Council shall schedule a special election for that particular office, which election shall be held at least twenty (20) days, but no more than thirty-five (35) days subsequent to the last day of the additional qualifying period, subject to compliance with Florida Law and the ability of the Supervisor of Elections to accommodate the timelines provided herein. This procedure shall apply only in the event of the death, withdrawal or removal from the ballot of any candidate who qualified during the original qualifying period for such office and any subsequent deaths, withdrawals or removal from the ballot of a candidate's name, which provides for fewer than two (2) candidates for an office, shall result in the remaining candidate being duly elected pursuant to Section 5.1(h).

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

* * *

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

- ii) If six (6) months or more remain in the unexpired term, the vacancy shall be filled by a nominee of the Mayor within thirty (30) days following the occurrence of the vacancy, subject to confirmation by the Council. The nominee shall fill the vacancy until the next regularly scheduled election in Miami-Dade County, unless the Council is unable to confirm a nominee, in which case a special election to fill that vacancy shall be held no later than ninety (90) days following the occurrence of the vacancy, subject to compliance with Florida Law and the ability of the Supervisor of Elections to accommodate the timeline provided herein.
- iii) If the Mayor's position becomes vacant, the Vice-Mayor shall complete the term of Mayor if less than six (6) months remain in the unexpired term. The vacancy thus created on the Council shall be filled in the manner that the vacancy of a Councilmember is generally filled under this Charter. The Council shall then appoint a new Vice-Mayor. If the elected Mayor shall be returned to office, s/he shall automatically resume the duties of the office for the balance of the term for which elected and the appointment to the office, filled in accordance with this section shall be rescinded, and the Vice-Mayor shall be returned to complete the balance of his/her term. Nevertheless, if six (6) months or more remain in the unexpired term, a special election shall be held for the election of a new Mayor within ninety (90) days following the occurrence of the vacancy, subject to compliance with Florida Law and the ability of the Supervisor of Elections to accommodate the timeline provided herein.

- viii) In the event that all members of the Council are removed by death, disability, recall, forfeiture of office and/or resignation, the Governor shall appoint interim Councilmembers who shall call a special election within not less than 30 days or more than 60 days after such appointment, subject to compliance with Florida Law and the ability of the Supervisor of Elections to accommodate the timeline provided herein. Such election shall be held in the same manner as the first elections under this Charter; provided, however, that if there are less than six months remaining in any of the unexpired terms, such interim Council appointee(s) by the Governor shall serve out the unexpired terms. Appointees must meet all requirements for candidates provided for in Article 2.

Section 5.1 Elections.

- (c) *Election Dates.* A general election shall be held in November of each even-numbered year, on the day U.S. Congressional elections are held, or if none is held in any such year, on the first Tuesday following the first Monday in November. A runoff election, if necessary, shall be held on the third Tuesday in November, subject to compliance with Florida Law and the ability of the Supervisor of Elections to accommodate the timeline provided herein.
- (d) *General Election.* The ballot for the general election shall contain the names of all qualified candidates for Mayor, if the Mayor's term is expiring, and for each of the two (2) Councilmember positions which is are to be filled as a result of two (2) a Council members' terms expiring, and shall instruct electors to cast one (1) vote for Mayor, if applicable, and one vote for each Council seat, with a maximum of one (1) vote per candidate. If any candidate for Mayor receives a number of votes greater than fifty percent (50%) of the total number of ballots cast, such candidate shall be the duly elected mayor. If any candidate(s) for Council receive(s) a number of votes greater than fifty percent (50%) of the total number of ballots cast, such candidate(s) shall be duly elected to the Council.

- (g) *Special Elections.* Special elections, when required, shall be scheduled by the Council at such times and in such manner as shall be consistent with this Charter and Florida Law.

Section 6.1 Procedure to Amend.

The Charter may be amended in accordance with these provisions:

- (b) *Initiation by Petition.* The electors of the Village may propose amendments to this Charter by petition. Each petition proposing amendments to this Charter shall be commenced, in the form, filed, certified as to its sufficiency and/or withdrawn in the same manner as an ordinance proposed by initiative pursuant to Section 5.2. Upon certification of the sufficiency of the petition, the Council shall submit the proposed amendment to a vote of the electors at the next general election if such election is scheduled to be held not less than sixty (60) days or more than one hundred and twenty (120) days from the date on which the petition was certified or at a special election called for that purpose. A special election, if necessary, shall be held not less than sixty (60) days or more than one hundred and twenty (120) days from the date on which the petition was certified, subject to compliance with Florida Law and the ability of the Supervisor of Elections to accommodate the timelines provided herein.