

City of Coral Gables City Commission Meeting
Agenda Item F-4
April 12, 2016
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Human Resources Director, Elsa I. Jaramillo-Velez
Finance Director, Diana Gomez

Public Speaker(s)

Raul Valdes-Fauli
Gay Bondurant
Tom Korge
Parker Thomson
Jim Crossland

Agenda Item F-4 [0:00:00 p.m.]

City Commission review of proposed Charter amendments recommended by the Charter Review Committee, including review of any Charter amendments proposed by the City Commission or City Officials, for potential inclusion in voter referendum pursuant to Section 22-3 of the Coral Gables City Code and Section 6.03 of the Miami-Dade County Charter.

City Commission Meeting
April 12, 2016

Agenda Item F-4 – City Commission review of proposed Charter amendments recommended by the Charter Review Committee, including review of any Charter amendments proposed by the City Commission or City Officials, for potential inclusion in voter referendum pursuant to Section 22-3 of the Coral Gables City Code and Section 6.03 of the Miami-Dade County Charter

Mayor Cason: Okay, I think we're ready to -- sorry for the delay, but we went over on our executive session. So, we have a quorum. And Craig, do you want to say anything before we start?

City Attorney Leen: Yes. Thank you. We have ended the second executive session, so we're back on the air and back in session. This is now the Charter Review Committee, which was scheduled for 5:01 pm, to begin after that. It's certainly after 5:01 pm, so we will begin with that now. Mr. Mayor, may I start?

Mayor Cason: Yes.

City Attorney Leen: I would like to first thank several members of the Charter Review Committee who are here. We're very fortunate to have had an excellent Charter review process. I'd like to thank the Chair, former Mayor Valdes-Fauli. I'd like to thank Tom Korge, and I'd like to thank Parker Thomson, all who are in the audience today and ready to talk to you about this. So, there's two issues before the Commission today. One of those issues is divided into seven sub-issues. But the first issue, which you could decide first or after, but it's quicker to describe, the first issue is when to have the election, which will determine all the dates we have going forward. And the options before you are the August primary, the November general election or a mail ballot. Those are the ones that you told me -- told Walter and I, the City Clerk, to look into. The mail ballot, we've been informed by Miami-Dade County they would prefer to have in January, February or March of next year because of the number of things they have going on this year going up to that. So that's the first issue. And then the second issue is, you have seven proposed Charter amendments before you. I have given each of you a memo that includes the legal effect for each of those seven Charter amendments. Now, the Commission's authority here is plenary, it's complete. What that means is that you have the complete authority to recommend some or all of these -- not recommend actually, to place them on the ballot. You have the full authority to place them on the ballot through resolutions. You can modify them

however you'd like. You can decide to put something on the ballot that hasn't gone through the Charter review process. You have complete authority under our Charter, under the Dade County Charter to place whatever you believe is appropriate on the referendum for voter -- basically on the ballot for voter referendum. The -- you know, one other thing I should note, just for the public record, is that this Commission already, based on a recommendation from the Charter Review Committee, has passed a revised/restated -- it's really a restated Charter, which did not make substantive changes to the Charter, but fixed the form, moved some of the sections around, made it gender neutral, included a forward, and made it -- and also updated it based on the municipal Home Rule Powers Act and on current applicable law. So, that has already been done. The Commission has already passed that ordinance. So, with that, we would go to the seven proposals. I know we have them -- the chairperson of the Charter Review Committee here. I'm not sure how you would like to proceed, Mr. Mayor.

Mayor Cason: Why don't we -- there's options, but I mean, it seems to me that why don't we start discussing how we want the vote to take place. You gave three options: August, which is basically the primaries, right? So, let's discuss the pros and cons of that, the general elections or mail-in ballot. It seems to me that the...

City Attorney Leen: Mr. Mayor, the only reason I might recommend to do the substantive ones first is my understanding is Mr. -- are you all going to be able to stay?

(COMMENTS MADE OFF THE RECORD)

Mayor Cason: Okay. Alright, then we'll do it at the end because of timing. So, why don't we start with each of the proposals that came out of the Charter, explain, if you would, Valdes-Fauli, and then we will -- we can vote on each one.

City Attorney Leen: So what I would recommend is let me read in what the proposal will be, and then the Chair will present it to you. The first -- and I won't read the whole new section. I'll

just tell you what it does, basically. The first proposal is for a run-off election. Presently, Commissioners and the Mayor are elected by plurality vote. That means whoever receives the most votes, even if it's not a majority, are elected to that seat. They then take that seat generally three days later. So, they're elected on a Tuesday; they take the seat on a Friday. What this does is it will now require there to be a run-off where there's only a plurality, but not a majority, and the top two vote getters will go to another election two weeks later where there will be a run-off and then everyone will be seated on the Friday -- that Friday. So, it will also increase the gap between when Commissioners are elected and when they are seated. So, with that, I would turn it over to the Chair.

Raul Valdes-Fauli: Thank you very much, Mr. Mayor, Commissioners. I'm very happy to have two of our members here, Tom and Parker Thomson. And before we start, I'd like this box -- to show you this box is full of documents, my documents. I haven't sorted them through so there's no (INAUDIBLE) here. On the transcripts of the discussions, notes, the arguments -- I take very good notes, and I just wanted to tell you that for historic purposes, it's here. If you have questions if we discussed this or that, I have the transcripts here. Each transcripts of each meeting are 150 pages or something, so we did discuss this thoroughly and took our jobs very, very thoroughly. The first item we discussed was run-off or not. The first item we discussed was the date of the election. And that was a significant discussion and we came to the conclusion, unanimously at the end, I think, that we would do better, especially in a year such as this, to have the Coral Gables election separate from the presidential or senatorial or gubernatorial elections because people would focus on Coral Gables issues. And those that are interested in Coral Gables issues would vote, versus just going to the ballot box -- I mean, the ballot booth or whatever and at the end of a huge ballot, marking something in the Coral Gables. This way people could focus on this. Having passed that, our first recommendation was the run-off. And it was unanimous that we should change the present system, first past the post, to have a run-off two weeks later. The reason was that, you know, in order to be a Commissioner, in order to be Mayor, you really should have a majority or the majority of people should vote for you. We talked about cost and the tradeoff between cost and having a majority election, we

discussed. And we thought that it would be better for Coral Gables and for everybody concerned to have a run-off, and that was our first recommendation.

Mayor Cason: Okay. I understand also that this is a fairly common practice in...

Mr. Valdes-Fauli: It is a fairly common...

Mayor Cason: Miami-Dade.

Mr. Valdes-Fauli: Practice. That is the practice in most cities. I reviewed -- and I have it here -- the charters of ten, twelve, South Florida cities; Boca, all the Dade County cities, Palm Beach, Fort Lauderdale, et cetera. There's one, which is Boca, that has a ranking of candidates. You vote for your top candidate, second, third, fourth and the last keeps getting eliminated. Then, you know, those votes go to the top. All the others are run-off, yes.

Mayor Cason: Okay. Discussion.

Vice Mayor Quesada: Well, I'm going to move to put it on the ballot, and I'll tell you why. The last time you came to speak I was -- my thought was a little bit of voter fatigue, but I went back to the transcripts, and man, you guys really hashed it out tremendously on all the items and I'm fully supportive of all the items today just because I think that the caliber of residents that we had on there are really people who've been involved in our community for a long time who really put a lot of thought and effort, so I'm supportive of all of them. This one, I wasn't 100 percent with it until I really went through the transcript again. And I'll be honest with you, I hadn't seen all the details of it. So that's that. So I...

Commissioner Lago: I'm with you on all the issues, and I was a little bit hesitant in regards to the date of the election. But after listening to the Chairman, he swayed me in regards to basically

leaving it the way we have it in regards to having, you know, Coral Gables stand alone. I think it makes a lot of sense.

Mayor Cason: And so there's enough -- at least on this particular item -- we'll vote these one by one as to whether they should go on the ballot or not.

Commissioner Keon: I think so too, you know. And particularly with the date of the election because it would -- you know, and whoever is running in the cycle of the national elections, you know, there would be a significant difference in turnout, you know, in a November where there's a national election and two years later. I mean, in the -- you know, depending on what the candidates were. It really makes it -- it isn't quite the same. It's not quite equal, you know, having a standalone on our own and whatever. It's -- you know, it makes each cycle, you know, the same. So, I agree with you.

Commissioner Lago: My only question...

Commissioner Keon: I certainly do on that. And on the run-off election, I think it's a good idea. I think the only time generally when we have that many people actually run for a seat is when there's an empty seat. You know, it's only when there's an empty seat that you have, you know, five or six people throw in their hat to run. And so, you know, in that instance when you have that many people in a race, it probably is just as well to go back and do a run-off and, you know, choose -- have them know that it is the person with the most votes. So, I really do. I support that, I do.

Mayor Cason: Before we vote on this, though, we had one person that wanted to speak, but I'm not clear whether it was on a particular issues or whether -- it says observing the process. So, I want to give Gay Bondurant a chance to speak now if she would like. It's about the process or is it about one of these seven issues.

Gay Bondurant: (INAUDIBLE) about the process.

Mayor Cason: Okay, come on up, and then we'll vote on this one by one.

Ms. Bondurant: Good afternoon, or should I say evening, ladies and gentlemen of the City Commission. My name is Gay Bondurant. My home is located at 446 Alcazar Avenue. I've lived in Coral Gables some 68 years. I'm here to represent the Gables Good Government Committee. I'm the recording secretary of that group, and I'm here on behalf of President Deborah Swain and the officers and board. And my colleague Susan Davis is here, as well. As our name implies, we're a community-based political action committee of approximately 200 dues paying members. The committee focuses its attention on matters important to the citizens of Coral Gables. We do not endorse political candidates nor participate in their campaigns. We are issue oriented. Additionally, we recognize, on an annual basis, public officials who have dedicated themselves to the principles of good government. This evening we are here to listen and learn to try and better comprehend the suggestions and changes to our City's Charter, which is, in effect, our constitution. We know these changes are the results of several months of labor by a specific and specially appointed board. Once we have enough knowledge to respond intelligently to each suggested Charter amendment, we will do so at your next public hearing. Following your decision as to which issues will be placed on the ballot, we will take public position to help the voters understand their choices. Thank you.

Mayor Cason: Thank you.

Commissioner Lago: Thank you for being here.

Vice Mayor Quesada: Thank you.

Mayor Cason: Alright, let's...

Commissioner Slesnick: I wanted to ask Raul something.

Mayor Cason: You wanted to say something on...

Commissioner Slesnick: Raul, in the November election in the City of Miami for Seat number 2, how many weeks after the election was the run-off election?

Mr. Valdes-Fauli: Two weeks.

Commissioner Slesnick: Two weeks.

Mr. Valdes-Fauli: Two weeks, and we discussed -- excuse me. I'll continue if you...

Commissioner Slesnick: No, I was just wondering because about 50 percent of the Gables now vote by absentee ballots, and so the Elections Department would have to send out the ballots the next day or have them printed to send it out. Is two weeks enough?

Mr. Valdes-Fauli: A candidate in Miami -- excuse me. Miami did it in two weeks. Miami Beach does it in two weeks. Initial -- our initial suggestion was one week until we realized that one week was impossible because you don't know who's going to win until Wednesday and then, you know, in order to advertise or mail ballots, you can't do it in one week. Two weeks is what everybody does it.

Commissioner Slesnick: Okay.

Mr. Valdes-Fauli: Three weeks we thought about, but then that would mean that there would not be a City Commission in a month, month and a half, so there it was too much. The County initially -- the Elections Department said that they needed three weeks, and then the Miami and

Miami Beach elections came by in two weeks. And we said no. I mean, if they do it, why can't we do it. So, they said they could do it...

Commissioner Slesnick: So it can be done?

Mr. Valdes-Fauli: In two weeks.

Commissioner Slesnick: It can be done.

Mr. Valdes-Fauli: It can be done, and they said that they would do it in two weeks.

Mayor Cason: And presumably, there's enough time there as well. I mean, the other aspect was if you want to do a mailer or do some radio ads or something, there's time...

Mr. Valdes-Fauli: There's time.

Mayor Cason: For the two top people to do it, especially for placing a newspaper ad. You need enough time, so you think that's enough...

Mr. Valdes-Fauli: You need to have the ad ready on Wednesday for the Sunday paper, and by Tuesday night, you'll know who's won. I mean, it's -- the election is being processed and...

Commissioner Slesnick: You can hope you're one of the top two.

Mr. Valdes-Fauli: You hope.

Mayor Cason: Yeah.

Mr. Valdes-Fauli: You could pay the ad just in case you're one of the top two.

Mayor Cason: Okay. So any more discussion on this? We had a...

Commissioner Keon: Did I -- I have a question for the Clerk. Walter, when they send out a ballot for a run-off election, you know when you receive your ballot in the mail it's stamped in red. It's stamped "ballot" on it. When they send it out for a run-off election, do they stamp it "run-off election" or do they just stamp it as ballot. Do you know? You don't know?

City Clerk Foeman: I could check.

Commissioner Keon: I mean, I wonder how many people would think I already filled out a ballot, you know.

Mr. Valdes-Fauli: I think whoever voted in the first election will be very much aware of what's happened.

Commissioner Keon: Will pay enough attention to it to -- okay. Well, I'm fine with it. I think it's a good thing.

City Attorney Leen: So, Mr. Mayor, for the Commission, this vote that you're about to do, you're instructing me by this vote to prepare the ballot language with the City Clerk, who is our Elections Supervisor. It will come back before you in the form of a resolution...

Mayor Cason: Right.

City Attorney Leen: Where you would then vote again, and that would place it on the Charter ballot. So you're basically instructing me to proceed if you vote in favor.

Mayor Cason: To put this on...

Vice Mayor Quesada: I move to place it on the ballot consistent with your statements.

Mayor Cason: And we have Commissioner Lago...

Commissioner Lago: And I'll second the motion. But if I could just add one caveat. If I could have the City Clerk provide us -- and I remember that Raul, a few moments ago, mentioned the issue that cost was discussed and that the cost implications weren't that significant. Can you give me an idea of what the cost associated with having the election...

Mr. Valdes-Fauli: We looked at this -- I'm sorry, go ahead.

Commissioner Lago: It doesn't have to be right now. It can be in...

Mr. Valdes-Fauli: No, we looked at this and the cost of an election...

Commissioner Lago: Was pretty insignificant.

Mr. Valdes-Fauli: To my dismay, it used to be \$10,000, \$12,000, and then suddenly it went up to \$100,000.

Commissioner Lago: Yes.

City Clerk Foeman: The billing for the last election was \$92,000 -- a little over \$92,000.

Mayor Cason: But of course, we don't really know. There could be somebody gets 51 percent and we don't have a run-off. So it's -- there'll be a cost, but...

Mr. Valdes-Fauli: And we discussed this, but we thought it was worth it.

Commissioner Lago: The reason why I mentioned this is because I want to be clear because I've had some residents come to me and say why don't you do it on a normal cycle. You're just incurring costs for the City. And I -- and it's -- my argument is -- or my discussion points are always the same. You know, this is beneficial to have it just about Coral Gables issues. And I want to be able to make sure that I disseminate the right information because people have told me it was 10, 15. Now we're finding out it's in a range of \$100,000. Okay.

Mr. Valdes-Fauli: Which is something that I asked to be looked at, but we working so hard on this...

Commissioner Lago: No, no, great job.

Mr. Valdes-Fauli: Why from 10 to 92?

City Attorney Leen: And Mr. Mayor, the reason I'm saying it's instructing is because once we actually place it on the ballot by a vote, there are certain legal requirements. It has to be done within a certain amount of days. So it is going to come back to you, and that's when you will place it on the ballot. But this, you're instructing me to proceed.

Commissioner Lago: And my request is for the Clerk to just maybe call the Elections Department and just get a final inquiry in regards to why was there such a dramatic increase.

Mayor Cason: So basically we're voting here to put the first one, run-off elections, on the ballot. You will come up with some language. We'll have a chance to look at it. We'll know the cost, and we'll be able to vote on that at a later date.

City Attorney Leen: This is not your final decision, though. This is asking me to put into writing, and then you're going to approve the ballot language. That's your final decision. That triggers all the deadlines.

Commissioner Keon: But it's also the explanation as well as the ballot language.

City Attorney Leen: Yes, everything will be presented to you.

Commissioner Keon: So, it's the ballot language and the explanation, you know, with the number of words that are allowed under...

City Attorney Leen: Yes.

Commissioner Keon: Everything. Okay, so it's two things.

City Attorney Leen: If you approve this, we will do that...

Commissioner Keon: Okay.

City Attorney Leen: With proposal number 1 and bring it back forthwith.

Commissioner Keon: Okay.

Commissioner Lago: Mayor, do we have a motion on the floor?

Mayor Cason: Yeah. So, let's have the City Clerk -- we had the Vice Mayor made the motion.

Commissioner Lago seconded on the section to the run-off elections. City Clerk.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Vice Mayor Quesada: Yes.

Commissioner Slesnick: Yes.

Mayor Cason: Yes.

(Vote: 5-0)

Vice Mayor Quesada: I just -- I need -- want to expand on one item real quick on this, and I think it's more administrative in nature and you guys touched upon this in one of your transcripts, if I recall correctly. The seating of Commissioners if there's one run-off and there's three seats up.

Mayor Cason: You have a quorum.

Vice Mayor Quesada: No, I understand that. But what's going to happen if let's say the three of us are up for reelection, two of us get in, one of us has to go to a run-off or one loses, one wins and the other one's in a run-off? It creates a wacky situation. We're not going to swear in some of the Commissioners.

Mr. Valdes-Fauli: No.

Commissioner Keon: No.

Vice Mayor Quesada: We're going to hold off until after -- hold off until the second Friday...

Mayor Cason: The swearing in of a new...

City Attorney Leen: In fact...

Vice Mayor Quesada: I just wanted to put that in the record. I know you guys discussed it.

City Commission Meeting

April 12, 2016

Agenda Item F-4 – City Commission review of proposed Charter amendments recommended by the Charter Review Committee, including review of any Charter amendments proposed by the City Commission or City Officials, for potential inclusion in voter referendum pursuant to Section 22-3 of the Coral Gables City Code and Section 6.03 of the Miami-Dade County Charter

Page 14

City Attorney Leen: Mr. Vice Mayor, be aware. Any if none of you have a run-off, you will now be seated two and a half weeks later.

Mayor Cason: Yeah.

Vice Mayor Quesada: Okay. But that's also the concern of potentially having a Commission meeting in between in sort of this purgatory state.

Mr. Valdes-Fauli: And that's why we didn't do it three weeks but two weeks.

Commissioner Slesnick: Mr. City Attorney, we are only voting now on things that are going on the ballot. So the question about when to hold the elections, since we're not changing them, we don't have to vote on that?

Vice Mayor Quesada: Correct.

City Attorney Leen: That will be -- which ballot to put this on, you'll decide after you...

Commissioner Keon: No, no, no.

Commissioner Slesnick: The day of the election.

City Attorney Leen: Oh, the day of the election? No, you're not voting on that.

Commissioner Slesnick: The day of election. We don't have to discuss it at all because it's not a recommendation.

City Attorney Leen: Well, but that's not required to be done by Charter amendment. That can be done by ordinance under Florida Statute, so you can change the date.

Vice Mayor Quesada: But it's not an issue here today.

Mayor Cason: Not today.

City Attorney Leen: No.

Mayor Cason: We're looking at these seven items. Alright, the second one is -- you want to explain that?

City Attorney Leen: So, yes. Mr. Mayor, proposal 2 modifies procedures regarding expulsion of members of the Commission. What this basically does is three things. Currently, the Commission may vote to expel its members. This is not a common power for commissions. I know Mr. Korge looked at this extensively and it was some concern on the Charter Review Committee for having this authority at all.

Mr. Valdes-Fauli: And Mr. Thomson too.

City Attorney Leen: And Mr. Thomson as well. The -- what ended up happening was -- and a lot of this came from Mr. Korge's rewrite that he proposed and which the full committee supported was to try to tie this to the Governor's power to suspend under Florida law. So, what this will do is it retains the Commission's authority by unanimous vote, other than the member being expelled, to remove that member for any ground now upon which the Governor could take action against that member. In addition, it indicates that if the Governor -- if the statutory process for suspension by the Governor, potential expulsion, is presently going forward, then the Commission would stay its action pending the completion of that process out of respect for state

law. And then finally, it does provide a 15-day period now for the Commissioner to prepare to respond to the attempted expulsion whereas presently I believe it's seven days.

Mayor Cason: And the Commissioner can -- or the person involved could come with counsel no problem, obviously?

City Attorney Leen: Say again.

Mayor Cason: They can come...

City Attorney Leen: Well, yes, with counsel.

Mayor Cason: Not just the person alone. They can get...

City Attorney Leen: Yes.

Mayor Cason: Right.

Vice Mayor Quesada: I move to place it on the ballot.

Mr. Valdes-Fauli: We were...

Vice Mayor Quesada: I'm sorry.

Mr. Valdes-Fauli: No, no. We were very, very concerned with the power of the Commission to remove a Commissioner that has been elected by the people. And you know, Mr. Thomson and Mr. Korge were very involved in this and very concerned. We require a unanimous vote. The grounds -- we discussed the grounds, moral turpitude, whatever it is. And we provided the grounds be grounds provided by general law for the Governor's suspension or removal, so it's

general law. It's there anyway in spite -- I mean, whatever we say. And notified 15 days before any action is taken, and the member is given the opportunity to be heard in his or her own defense. If the Governor suspends the member, then the member is suspended and we don't do anything. If the member comes back, however -- and we were thinking of a case north of us, you know, where there was this very big controversy -- if the member comes back after the restoration of the member to office of Commission, in its discretion may proceed to remove the member upon notice and hearing as provided therein.

Commissioner Slesnick: Was this unanimous in your committee?

Mr. Valdes-Fauli: Yes. Yes, it was.

Vice Mayor Quesada: No, I like it because I feel like there's a due process element to it and I think it's well thought out.

Mayor Cason: Yeah.

Commissioner Keon: I guess my only question about it is if whatever the behavior is or whatever the action is that you are going to...

Mr. Valdes-Fauli: I think that Mr. Thomson voted against it.

Mayor Cason: Okay.

Commissioner Keon: Okay, yeah. I have a concern too, that if the individual that we are -- is to be removed is already subject -- if we're subject to general law for the Governor's suspension or removal of a public official, why would we do it too? Why -- what was your thinking? I mean, why would...

Mr. Valdes-Fauli: We were thinking of the Pizzi case...

Commissioner Keon: Right.

Mayor Cason: Miami Lakes.

Commissioner Keon: Yeah.

Mr. Valdes-Fauli: And we were thinking that the Governor process, the political process is very -- depends how many other things...

Commissioner Keon: Yeah.

Mr. Valdes-Fauli: And maybe we don't want among our members in the leadership of Coral Gables somebody who doesn't deserve to be among us.

Mayor Cason: Tom.

Tom Korge: I was going to say the same thing that -- you know, the Governor's most likely to act -- excuse my voice. I have a little cold. The Governor's most likely to act if there's an indictment charging a member of the Commission with a crime, a felony. Otherwise, there are other grounds under the Constitution and the general law for removal of a Commissioner, and it's much less likely the Governor would act, but the Commission might decide as a whole that they need to act unanimously, except for the person who would be removed.

Mayor Cason: As an example could be...

Commissioner Keon: But what would that be?

Mayor Cason: Somebody could decide to get elected and not show up for four months at any Commission meeting.

Mr. Korge: That's...

Mayor Cason: It hasn't happened, I mean, but this is going to last for 20 or 30 years. You never know. But I think that's one of the areas that it was designed to...

Commissioner Keon: But do we have...

Mr. Korge: Or it could be disruptive in Commission meetings and...

Mayor Cason: Neglect of duties.

Mr. Valdes-Fauli: You know, bring a bottle of bourbon and drink it or whatever. I mean, there are many, many grounds.

Commissioner Keon: But do we have -- don't we have a provision for recall?

Commissioner Slesnick: No.

Commissioner Keon: We have no provision for recall?

City Attorney Leen: That's governed by state law.

Commissioner Keon: But it's governed by state law, and there is a provision for recall if somebody doesn't show up for four months or if somebody brings their bottle to the meeting or whatever. I mean, we have...

Mayor Cason: But that takes thousands of signatures to do that.

Commissioner Keon: No, it doesn't.

Mr. Valdes-Fauli: But the recall requires many, many signatures and adds an electoral process, and it's extremely expensive for a recall.

Commissioner Keon: But you know what, I have a concern that someone who is elected by the people that has not committed an offense that is, you know, significant -- of such significance that the Governor would remove them that we would remove them. I mean, I really -- I have a little -- I'm not so comfortable with that.

Mr. Korge: Well, you expressed Parker's exact concerns. I will point out that the current Charter allows the Commission to remove on grounds of misconduct, whatever that means.

Commissioner Keon: What does that mean?

Commissioner Lago: It's kind of ambiguous.

Mayor Cason: Kind of vague.

Commissioner Keon: Right, so I don't like that either.

Mr. Korge: And so what we tried to do here in part was to incorporate the constitutional provisions and the general law in a way that assures that if you ever do act, which we hope never occurs, that, you know, we have a basis for interpreting it and, you know, litigating it. Because if you remove somebody, I could -- I'd be willing to bet that that'll end up being litigated no matter what -- how good the grounds may be. So, the concept was when we were looking at this, number one, dealing with the Pizzi situation, where there was a situation where a person was

charged and then acquitted and, you know -- and then there was a fight over whether that person could return, so we clarified that for our Charter. And then we got into the question of what constitutes misconduct. And rather than try to define something, I suggested and the majority of the Commission agreed, and I think even on this point Parker would agree, though he disagrees with the principle of removal, that if we're going to remove somebody, we should do it based on the state law instead of having our own...

Commissioner Keon: Right.

Mr. Korge: Separate standard.

Mayor Cason: Yeah.

Commissioner Keon: Right.

Mr. Korge: So, the disagreement is really a political one that is should the Commission ever have the authority to remove somebody. But if we're going to -- if you're going to do that, if you're going to have that authority -- and you have it right now under the Charter as it exists -- so in the absence of a repeal of that provision, you still have that power...

Mayor Cason: It's still there.

Mr. Korge: Then we want it to be at least under a standard that we think is likely to be sustained if the Commission ever took that action.

Parker Thomson: Oh, no, Tom has accurately stated my views. My views were that there is no problem to my mind in if he doesn't come to meetings or things like that of a censure. I have no objection to a censure. But I do object to four Commissioners deciding that a person that the people elected should be removed from the Commission. I think that the people are the ultimate

sovereign. They spoke. You censure, I can pretty well guarantee that person will not be reelected and maybe somebody will start a recall. By the way, you know, the City Attorney advised us that recall is done under the County's recall provision, not state law, so that would be the method of recall that somebody could institute. But I frankly just think that it's wrong that somebody be -- that is elected by the people of Coral Gables should be removed by the Commission. My view is censure him and move on.

Mayor Cason: So, basically if we were to approve this, we'll leave it up to the voters to decide which...

City Attorney Leen: One other thing I forgot to mention, the current -- and Parker alluded to this -- section talks about how the Commission may punish its own members. That was changed to censure because that was what we thought was meant by punish, although -- and that's the more common way that a legislative body acts against one of its members. And what a censure is is basically a written document via vote -- a written document censuring, in a sense, condemning whatever action occurred that was being censured, and that would be a written statement. That doesn't mean that you would be removed. That's a separate proceeding.

Mayor Cason: And this refers to misconduct in office, not just misconduct out in public.

Mr. Korge: Correct.

Mr. Valdes-Fauli: Right.

Mayor Cason: And neglect of duty, which we have not had that in the past, but we've had some occasions where people were absent because they didn't want to vote, but...

Mr. Valdes-Fauli: We haven't had it, but we think or we thought it was important as a body. We thought it was important for the Commission to preserve the ability to ensure that it functions

the way it should without any obstreperous Commission or without anyone who behaves in a manner inappropriate to being a Commissioner in the City of Coral Gables.

Mayor Cason: Okay.

Mr. Valdes-Fauli: And we preserved the opportunity to be heard. We preserved due process. We preserved 15 days. We preserved, you know, a full hearing as a safeguard.

Mayor Cason: Alright, so the issue right now is do we want to put this on the ballot. You were - - looked like you were going to make a motion. Do you want to put it on the ballot?

Commissioner Keon: You know, I'm very comfortable in...

Commissioner Slesnick: I'm not supporting it so...

Commissioner Keon: Censuring someone. I am not comfortable in removing someone that was elected by the people. I mean, only because I -- you know, you look at the current campaigns that are going on now, you know, nationally and it's -- you know, we are only a community of what, 17,000 voters? How many voters do we have?

Mayor Cason: Twenty-nine thousand -- thirty --

Commissioner Slesnick: Thirty thousand.

Commissioner Keon: Is it 30,000 voters?

Mr. Valdes-Fauli: Correct.

Commissioner Keon: Okay, of 30,000 voters.

Commissioner Slesnick: But only...

Mayor Cason: Seven thousand voted.

Commissioner Slesnick: Eight thousand or less vote in Coral Gables.

Commissioner Keon: Yeah, only so many people vote, but you know, if there is a block or a significant number of people that happen to live in your community and pay taxes and participate in communal life, and you know, they may feel very strongly about some -- having some particular representation, you know, on a Commission. I sort of don't -- it may not be in agreement with everybody else.

Mr. Valdes-Fauli: Commissioner Keon, what we're talking about...

Commissioner Keon: I mean, I really want to know that it's -- that there is -- I'm not comfortable that there would -- that it would -- that we would know for as long as this provision exists that it would be very objective and not subjective.

Mr. Valdes-Fauli: But we're talking about -- we're not talking about a capricious removal. We're talking about removing a member on grounds provided by general law for the Governor's suspension or removal of an officer. Those are set standards.

Commissioner Keon: Right. So -- but wouldn't the Governor -- but you're saying that there could be -- it could be based on general law.

Mr. Korge: Well, let's...

Commissioner Keon: But the Governor wouldn't necessarily remove you or suspend you for it.

Mr. Korge: Right. Let's step back first.

Commissioner Keon: Is that right?

Mr. Korge: Let's step back. Let's look at what we have right now. What we have right now provides that the Commission has the authority to remove somebody for misconduct in office.

Commissioner Keon: Okay, no, I don't like what we have right now. But so if we're going to change it, I'm very comfortable to change it.

Mr. Korge: Right.

Commissioner Keon: I just want to know if I'm going to change it that we're going to change it to what I think is appropriate and reflects the will of the people and doesn't -- and is respectful of the voters of the City. That's all. You know what, yes, I do agree with you that it does need to change. It does need to be changed, yes.

Mr. Korge: Right. So then...

Commissioner Keon: So what's the change? That's the discussion, what's the change?

Mr. Korge: Okay, so you went through the same thought process we went through...

Commissioner Keon: Yes.

Mr. Korge: But in a much shorter of time.

Commissioner Keon: Yes.

Mr. Korge: So, when we came out -- and I think on this one point, Parker and I agreed if we're going to change the standard, the best standard to look to is the standard provided by general law, not to try to create our own separate standard, write in our own...

Commissioner Keon: Okay.

Mr. Korge: Definition of when we would remove somebody or be able to remove somebody.

Commissioner Keon: Okay.

Mr. Korge: And that's where I came out because I looked at it...

Commissioner Keon: Okay.

Mr. Korge: As, you know, that's the -- all those general laws you derive from the constitution verbatim is almost exactly the same in the general laws of the Constitution, and I figured that's the best -- the most likelihood of anything -- action being taken by Commission that would be sustained if you're complying with the general law. And in addition, if and to the extent the general law is, you know, explained in the future by other cases that might occur in the future or other acts or Attorney General opinions, then, you know, your attorney could rely on that to see whether this complies. Otherwise, I mean, if we left this the way it is now, which, you know, it's a possibility -- and in fact, if this is approved and rejected by the electorate, it will stay under the current provision...

Commissioner Keon: Okay, but -- alright.

Mayor Cason: How common...

Mr. Korge: We don't know what it really means.

Mayor Cason: How many other municipalities that you looked at had this as a feature, that their Commission could remove its own members for misconduct? Is that...

Mr. Valdes-Fauli: I think most do.

Mayor Cason: So, it's not an unusual...

Mr. Valdes-Fauli: No. But the way we have it today is...

Commissioner Keon: I think it's...

Mayor Cason: It's vague.

Commissioner Keon: The City Attorney thinks it's atypical.

City Attorney Leen: I thought it was atypical. You -- Tom, didn't you look at it and...

Mr. Korge: I didn't survey all the other charters.

City Attorney Leen: We didn't find any case law at all, first of all, addressing...

Mr. Valdes-Fauli: We didn't find case law, but I think many have this.

City Attorney Leen: You think many have sort of an...

Mr. Valdes-Fauli: But look at the current, the current Commission. The Commission may determine its own rules of procedure, may punish its members for misconduct -- misconduct is not defined.

Commissioner Keon: Right, no.

Mr. Valdes-Fauli: And may compel attend -- well, compel attendance is...

Commissioner Keon: Right.

Mr. Valdes-Fauli: And by four-fifths vote, may expel a member for misconduct in office or neglect of duty.

Commissioner Keon: Yeah.

Mr. Valdes-Fauli: I think we're making it fair and we're making it much more difficult to expel a member...

Commissioner Keon: Right.

Mr. Valdes-Fauli: Because we're refining the process and we're defining the standards as those provided by law.

Mayor Cason: Because right now...

Commissioner Keon: I agree with you that what is there now is not good, and what's there now should be replaced. I only want to make sure that what we replace it with...

Mr. Thomson: Just to clarify, I think unanimously the committee viewed what's there now should go.

Commissioner Keon: Yes.

Mr. Thomson: The spirit was solely with the respect to the power of the Commission to remove. If this Commission decided it should go and permit the Commission or the unanimous other members of the Commission to remove then what Tom proposed, and it's in here, is an improvement of a standard for removal. I agree entirely with that. I just say the Commission should not have the power to remove. Just censure them and leave it to the people.

Mayor Cason: How do you -- how would you see us implementing "may compel the attendance of members?" So, they don't show up, so how do we compel them, except saying we're going to...

Mr. Thomson: As a practical matter, there ain't no way. You can't...

Mayor Cason: That's what I mean. So, right now...

Mr. Valdes-Fauli: There ain't no way unless you...

Mayor Cason: There's no way unless you say what we can do is if you continue not to show up...

City Attorney Leen: No, actually, you can. You can definitely summon people. What you do is you ask me to issue to a subpoena, which we, by Code, just allowed, and I would subpoena them. And if they didn't come, then we'd go to court and they could be brought here.

Mr. Thomson: As a practical matter, that...

City Attorney Leen: I don't think that would ever happen, but it's certainly possible.

Commissioner Lago: I think we're getting in the weeds here.

Mr. Thomson: So, I'm just answering -- Mayor, I was answering practically.

Mayor Cason: Yeah, I understand.

Mr. Thomson: There's no way.

Mayor Cason: There's no way.

Vice Mayor Quesada: I'm thinking about the potential for abuse of this.

Commissioner Keon: I am too.

Vice Mayor Quesada: So, I agree with it, I like it, and specifically, you guys have read it -- it was the reason why I liked it -- the specific phrase "the Commission may remove a member on any of the grounds provided by general law for the Governor's suspension or removal of a municipal officer." I'm just trying to think of the potential abuses that could be in place. Let's say Commissioner Lago votes on something I disagree with. Me merely putting it on the agenda that it's coming up to go to a vote...

Mr. Valdes-Fauli: That has nothing at all to do with general law that would require the Governor to suspend anybody.

Mayor Cason: What are those sorts of things that the -- right now the Governor -- it would be...

Mr. Valdes-Fauli: Embezzlement.

Mayor Cason: Embezzlement, murder.

Mr. Valdes-Fauli: Murder.

Commissioner Lago: Capital crime.

Mr. Korge: My personal favorite is habitual drunkenness.

Mayor Cason: Right, but only in office, only at the dais.

Commissioner Keon: Individual drunkenness? What happened to Pepe Diaz?

Commissioner Lago: Habitual.

Mr. Korge: He's not on this Commission.

Commissioner Keon: Well...

Mayor Cason: Well, for me, the question is this: Do we -- is this something that we ever -- just differences on this. Is this something we should allow the voters to decide?

Vice Mayor Quesada: Yeah, I agree with you.

Mayor Cason: The voters should -- we should leave it to the voters.

Vice Mayor Quesada: I move to approve it, to put it on the ballot.

Mayor Cason: Alright, do we have a second?

Commissioner Keon: Can I ask you a question legally for just the wording, for the verbiage? When you say general law for the Governor's suspension, so what you're talking about is the general law that is related to the Governor's...

City Attorney Leen: Yes.

Commissioner Keon: Suspension only. It's not...

City Attorney Leen: Yes.

Commissioner Keon: Any other law, it's not any other general law. It is that law whatever.

City Attorney Leen: Yes.

Commissioner Keon: What happens if someone is accused...

City Attorney Leen: But wait, wait, wait, wait, wait. I'm sorry. I don't mean to interrupt. But the -- there is a motion. We need to know if there's a second, just as a matter of procedural order.

Vice Mayor Quesada: As a matter of procedure...

Commissioner Keon: Okay, I'll second it for discussion.

Mayor Cason: Okay.

Commissioner Keon: Okay. I'll second it for discussion. Okay, so it's -- so it refers to the Governor's...

City Attorney Leen: Yes. The powers by which the Governor can suspend are the same as the powers by which the Commission could remove.

Commissioner Keon: Okay, so what happens if someone is accused or indicted for some crime and they go to court and they're found not guilty? What do you do then? What happens?

Mr. Valdes-Fauli: It depends on what happens. If that person is found not guilty because the witnesses have all been eliminated, then I think we should reserve the right to get rid of that person in the Commission. It depends on what, you know -- and things like that are not as extreme as I'm saying, but it's happened in certain cities in Miami-Dade County.

Mr. Korge: There's a real world example.

Commissioner Keon: Michael Pizzi.

Commissioner Lago: (INAUDIBLE) Vice Mayor.

Commissioner Keon: Michael Pizzi.

Mr. Korge: The defense to the charge is entrapment, meaning that, yeah, I took the bribe, but they kind of made me do it and they set me up and they made me do it. And that is a valid defense against a felony, and if the defense prevails, then, first of all, while the indictment is charged and presumably the government has suspended -- Governor has suspended that person, the Commission can't do anything, can't hear it, can't do anything, okay. Then he's -- the individual is acquitted on the grounds of -- on a defense of entrapment, then the Commission could come back and revisit it and decide, well, he admitted he took the bribe. You know, he

had a defense that prevented him from being convicted, but we're so offended by this that we unanimously want to remove that person and we're going to do so. By the way, you do that and you'll still be litigated. I mean, I don't have any doubt that whenever a person is removed, even validly, it will be litigated. So, my personal thought was -- and I think the committee agreed on this, including Parker -- if we're going to have that sort of situation, if you want to have the -- continue to retain the power to remove somebody, then let's do it under the standards that we know are most likely to be sustained by a court.

Commissioner Keon: Okay.

Mayor Cason: I got it.

Mr. Korge: But that doesn't answer the question you want to keep retaining that power. And if you don't want to retain that power, then I would suggest you need to repeal the other provision, the existing one.

Mayor Cason: Well, I think if we send it to the voters and they say they don't want it, then we can revisit it.

Commissioner Lago: The purpose of this ordinance is just to clarify...

Commissioner Keon: Well, it's to make it better.

Commissioner Lago: But no, no, no. You have an ordinance that...

Mr. Valdes-Fauli: We tried to make it an ascertainable standard and afford the opportunity of due process.

Commissioner Lago: And you just will use the Governor's standards. That's it.

Mayor Cason: Yeah.

Commissioner Lago: I mean, it's as simple as it gets.

Vice Mayor Quesada: So, in other words, if I'm understanding you correctly, it's improving upon the current language that we have because it's more specific as to these wrongdoing standards.

Commissioner Lago: Yes.

Mr. Korge: We think so, yes.

Mr. Valdes-Fauli: Yes.

Mayor Cason: And if the voters, for example, say -- if we vote for this and the voters say, no, they don't want this power, then we can go back later on and take that out of the Charter.

Mr. Korge: If you decide to or if you leave it in, yes.

Mayor Cason: Without even having to go to the voters. We'll just take it out then.

Vice Mayor Quesada: I just want to -- I want to say this one more way just to make sure I fully understand it and for those watching at home that maybe haven't been following so intently. So, currently under our Charter, if someone's found to be doing something that is wrongful -- and that vague of a term, whatever that may be -- we have the power to remove that Commissioner?

Mr. Valdes-Fauli: Misconduct, yes.

City Attorney Leen: Misconduct.

Mayor Cason: In office.

Vice Mayor Quesada: And that vague term of misconduct, whatever that may be. I spilled a glass of water; it's misconduct. I know I'm exaggerating, but sometimes the extreme...

City Attorney Leen: And typically they will defer to the Commission's determination of what misconduct is. Although there is a definition under Florida law of misconduct, which (INAUDIBLE)...

Vice Mayor Quesada: So, this is, obviously, just giving more specificity and tying it to an identifiable standard.

Mr. Korge: More to the point, we're tying it to what I think is the Constitution's standard.

Mayor Cason: Got it.

Vice Mayor Quesada: And I agree with you and that's why I made the motion.

Mayor Cason: Okay, alright. So, we have a motion, seconded by Commissioner Keon. City Clerk.

Commissioner Lago: Yes.

Vice Mayor Quesada: Yes.

Commissioner Slesnick: No.

Commissioner Keon: No.

Mayor Cason: Yes.

(Vote: 3-2)

Mayor Cason: In other words, we're going to allow the voters to decide this one.

Mr. Valdes-Fauli: Perfect.

City Attorney Leen: Okay, proposal number 3, the suspension of members of the Commission for incapacity. It's a new section in the Charter. It actually came about based on the suggestion of the Chair Valdes-Fauli. The -- what this would do is it's different than the removal provision. This is a situation where someone's incapacitated and unable to perform the duties of office with reasonable accommodations, taking in account of the ADA, of course. This is not intended just for someone who has a disability or something like that. But if they literally cannot perform the office, the can't vote, they're not here, or it might be a ground for suspension under the Governor's powers for certain things. But this gives the Commission the ability not to remove the person, but to suspend them and to appoint a replacement. And then once that individual is ready to resume office, that person could and the replacement is no longer on the Commission. With that, I would turn it over to the Chair.

Mr. Valdes-Fauli: That was exactly the thought. A stroke, a person is incapacitated for six months, for eight months, for nine months, as opposed to having just four Commissioners, the Commission would name a replacement during the time the person is incapacitated. After the person can resume his or her function, then the person will come back.

Mayor Cason: Let me ask a question about who decides incapacitation. Originally, we talked about maybe getting two doctors chosen by the City or maybe the person can say, I'm incapacitated. Please, I've got a...

Commissioner Lago: Voluntary.

Mayor Cason: My back or whatever.

Mr. Valdes-Fauli: We didn't go into the medical, you know, who chooses the doctor and what -- we thought, you know, if you can't come for six meetings in a row within a three-, four-month period, then depending on the reason, unless you're on vacation somewhere, you're incapacitated.

Commissioner Lago: (INAUDIBLE)...

City Attorney Leen: We were concerned...

Mr. Valdes-Fauli: And the person could always come back.

Mayor Cason: Always come back, exactly.

Commissioner Lago: Understanding this is a new section, like you mentioned in the heading here, but my question is, in the Charter, is there no provisions made for if an individual is incapacitated in any form? There's no provisions at all, nothing?

Mayor Cason: There's nothing.

Mr. Valdes-Fauli: No, there's nothing.

Commissioner Lago: There isn't even mentioned of that in there.

Mayor Cason: And I raised it originally when we were discussing this because I think this is much more likely to happen than the previous one.

Mr. Valdes-Fauli: Yes.

Mayor Cason: I mean, people, they can get strokes. They can have auto accidents. Anything could happen, and we would end up for a long period with just four members up here and a lot of votes require, you know -- I mean, it could affect...

Commissioner Keon: Right.

Vice Mayor Quesada: I move to place it on the agenda.

Commissioner Slesnick: Second.

Vice Mayor Quesada: I mean, on the ballot.

Commissioner Slesnick: Second.

Mayor Cason: Okay.

Commissioner Keon: Can I ask you about who you would replace? I remember there being discussions previously about when you replace a sitting Commissioner. There was an agreement that they weren't going to run. There was a variety of different things that they asked of that individual. Did -- is -- was that considered in any way?

City Attorney Leen: That's not in here. You certainly -- the Commission, when they appoint the replacement, could ask them those things and then replace them once they've made those commitments.

Commissioner Keon: Then the Commission would decide. Okay, never mind.

City Attorney Leen: But they might not (INAUDIBLE)...

Mr. Valdes-Fauli: But historically, we have a case where somebody was appointed with a commitment that that person wouldn't run...

Commissioner Keon: And they ran anyway.

Mr. Valdes-Fauli: And they did.

Commissioner Keon: And they didn't win.

Vice Mayor Quesada: And they lost.

Mayor Cason: (INAUDIBLE) ordinance or a resolution.

Commissioner Keon: I know. No, okay. I think it's okay.

City Attorney Leen: If you wanted to add that requirement...

Commissioner Keon: No.

Mayor Cason: No, no.

City Attorney Leen: You could put it in here.

Commissioner Keon: No. You can have the discussion among the people that are making the decision to -- who're they're going to appoint, no.

Mayor Cason: Alright, on proposal number 3, we've had -- the Vice Mayor made the motion.
Commissioner Slesnick...

Commissioner Keon: I'll second it.

Mayor Cason: Seconded.

Commissioner Keon: Oh, I'll third it.

Mayor Cason: City Clerk.

Vice Mayor Quesada: Yes.

Commissioner Slesnick: Yes.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Mayor Cason: Yes.

(Vote: 5-0)

City Attorney Leen: Mr. Mayor, proposal number 4 is the appointment of the Vice Mayor and presiding officer. What this does, it amends the current section in the Code. Presently, the current section doesn't directly refer to the Vice Mayor. It just refers to the fact that another member can be appointed when the Mayor is absent. Now -- and it says by the Commission. What has happened is the Commission, my understanding from the City Clerk, is that there was a resolution which the Commission passed and there's a traditional whereby the Mayor can appoint the Vice Mayor. The -- what this does is it places it into the Charter. So, now it will say that the Mayor can appoint the Vice Mayor. And also, if the Vice Mayor is unable to undertake the Mayor's duties, the Mayor can appoint another Commissioner to undertake the Mayor's duties.

Mayor Cason: Is this something that, just for discussion, could be decided by us rather than send it to the voters, or is this something to be in effect needs to go to the voters? I'm just wondering how many of these items...

City Attorney Leen: Yes. This could be -- this has been decided by you already by resolution. The issue is that the Vice Mayor position is not recognized in the Charter.

Commissioner Lago: This is more of a housekeeping matter than anything.

Mayor Cason: Yeah, so is it...

Commissioner Keon: Oh, okay.

Mayor Cason: Something that you all think needs to go to the voters or can we take care of it with an ordinance or some other way not to overwhelm...

Commissioner Lago: Again, we have a very respectful Commission, very collegial, but sometimes it may not be this collegial.

Mayor Cason: Yeah. It could be 20 years from now so...

Commissioner Lago: It's happened in the past before, so...

Commissioner Keon: Right.

Commissioner Lago: We all love Frank and the fact that he's the Vice Mayor, but you know, maybe Commissioner Slesnick or Commissioner Keon wants to be the Vice Mayor.

Mayor Cason: And he's a mayor with no vices, so -- I mean, a vice mayor with no vices.

Commissioner Slesnick: Well...

Commissioner Keon: Well...

Commissioner Lago: Can I be the Vice Mayor for five minutes?

Vice Mayor Quesada: Nah.

(LAUGHTER)

Mayor Cason: Alright.

City Attorney Leen: But you have to ask the Mayor according to this Charter amendment.

Commissioner Lago: So moved, so moved.

Mayor Cason: So who wants to put this on the ballot?

Commissioner Lago: So moved.

Mayor Cason: Alright. Commissioner made...

Commissioner Keon: I'll second it.

Mayor Cason: Commissioner Lago made the motion. Commissioner Keon seconded. City Clerk.

Commissioner Slesnick: Yes.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Vice Mayor Quesada: Yes.

Mayor Cason: Yes.

(Vote: 5-0).

Mayor Cason: Proposal number 5.

City Attorney Leen: Mr. Mayor, proposal number 5 is elimination of the Trial Board, and it's amending a present section in the Code. As you can see, if you look at the two sections, the new provision, the proposed provision is much shorter. What it eliminates is currently -- and this -- I want to be clear from the beginning. This does not affect members of the bargaining unit, so employees that are union employees, this doesn't affect because they've elected an arbitration procedure. The Trial Board presently applies to excluded employees under the purview of the Manager. And you know, my office and the City Clerk's Office, it's never been determined whether they would also -- it would also apply to us because it says the City Manager, but -- because it's just never happened. But that's something you may want to give guidance to as well. The -- what this would do, though, this particular provision eliminates the Trial Board procedure, and that's -- there's two parts to that. First, there's the part -- once the City Manager takes an action, which is basically removed, suspended, laid off or reduced in grade an excluded employee, that employee has a right to request a written statement basically for the basis of the removal. And then that individual can give their own statement and then this all goes before a Trial Board, which makes a determination based on the efficiency of service, and it's actually a trial that occurs. We have Jim Crossland here who is able to speak to you a little bit about that process if you have any questions. I know also the Human Resources director had some thoughts as well. Now, the -- so that entire process of writing somebody back and forth is eliminated. In addition, the Trial Board itself is eliminated. So what this does essentially is it grants the City Manager full authority over excluded employees. Now, one point that was raised to me was that it does retain a standard that says that the City Manager can do this to promote the efficiency of the City. So there was a concern that was expressed from Human Resources, actually, which I agree with that it's something that can be a concern is that by putting "promote the efficiency of the city" that that legal standard -- there's no longer an administrative authority

to address that, so that could go to court. So, if you are going to do this, the other thing you may want to do -- it doesn't mean it will go to court. I'm sure a lot of discretion will be given to the Manager in making that decision, but another thing you may want to do is say basically that employees serve at the pleasure of the City Manager or at will. That could be another change that you make to this. With that, I would turn it over to Mr. Crossland.

Jim Crossland: Mr. Mayor, members of the Commission, I think Craig has asked me to come here because, one, I've been here forever, a long time, and secondly, I've handled quite a few of the Trial Board proceedings in year's past. Let me address first the issue that Craig just addressed, and that's the second line from the bottom, "at any time for any cause which will promote the efficiency of the City." He's right. That's not an at-will standard. It is -- gives considerable leeway to the Manager, but a pure at-will standard requires no cause, no reason, as long as it's not discriminatory under state or federal law, you know, race, sex, religion, that type thing. So, if you want a pure at-will standard, you'll need to tweak this somewhat. Also, as Craig said, for many years all the unionized employees here had an option, a first option, either go to the grievance arbitration procedure under the collective bargaining agreement or go to the Trial Board. You had one bite at the apple. If you went to one of them and lost, you couldn't try the other one. And I would say probably in the '80s, early '80s, we negotiated with the three unions and got them to agree to strike their option to go to the Trial Board. And of course, grievance arbitration procedures are the lifeblood of union agreements or most union lawyers would say that anyway, especially one that I know very well. So, I think -- I was just asking her -- the HR director, there's roughly 830 employees here, and there's about 140 that are...

Human Resources Director Jaramillo-Velez: Oh, in terms of the -- yes, a hundred and thirty something.

Mr. Crossland: A hundred and thirty-five or a hundred and forty people only that this would affect. It doesn't affect the bargaining unit folks at all. No one's asking my opinion. I will tell you that now there's a total plethora of local, state and federal statutes that govern every aspect

of employment scenario, ADA, FMLA, FLSA, Fair Credit Reporting Act, Title VII 1983, 1981. All the protections, the substandard protections for employees are covered in all of those statutes, and I'm sure I'm leaving a bunch of them out too. So, from the standpoint of would this take away avenues of redress of your people not covered under union agreements, the answer is no.

Commissioner Lago: May I ask you a quick question? How often has the Trial Board convened would you say, let's say in the last five years, ten years?

Mr. Crossland: In the last five years, I can't remember one.

Mayor Cason: I don't think there's been one, has there?

Commissioner Lago: Raul, how did the committee vote? How was the breakdown of the vote?

Mr. Valdes-Fauli: I think it was unanimous. We heard testimony -- number one, it's very important that this does not cover police, firefighters or general employees, very important.

Commissioner Lago: But 130 employees.

Mr. Valdes-Fauli: A hundred and thirty employees, and we're not taking any rights away from them. The Trial Board has not convened in years.

City Clerk Foeman: Since 2008 was the last time.

Mr. Valdes-Fauli: In eight years. And the last time we convened it, it was very, very expensive and it didn't reach a solution. It was -- the arbitrator settled whatever it was. We thought it was just verbiage in there. And in order to clean up the Charter, we took it away.

Mr. Crossland: In that case, it had been so long since the Trial Board had convened that their terms had expired and it took eight or nine months, as I remember, to even get a board appointed. And then in that case, the City and the department head settled the case and it never went to a hearing on the merits.

City Attorney Leen: You know, one issue I think needs to fairly be brought up too and I would like to acknowledge the City Manager took no position on this particular one. She came to the Charter Review and is leaving it up to the Commission. The one thing that you need to -- that I think is important to realize about the Trial Board is, one, it doesn't -- it's not presently constituted. So, if you have a Trial Board, you probably should have people appointed to it. The reason why is that -- and this is in my opinion -- it does limit the City Manager's ability to act to some extent because if you -- if the City Manager were to remove someone who was an excluded employee, let's just say a hypothetical City Manager, right now what would have to happen is if that person wishes to challenge through the Trial Board process, we would have to actually appoint a Trial Board, advise a Trial Board, get it constituted and ready to go, give them all the sunshine law, all that sort of training that we do for boards, and then they would have to go forward and act. And that's a long period of time. So, if the Commission decides to retain a Trial Board, at some point the Commission may want to look at actually appointing the Trial Board.

Mr. Crossland: And in my past experience, the Trial Board itself retained counsel to advise it, just as Craig is your counsel.

Mayor Cason: So, if the City Manager wanted to remove -- these would basically be higher level people that he or she had appointed -- for whatever, they weren't performing well and they went to Trial Board and won, that person would get to stay even though the manager who that person works for had somebody else in mind for the efficiency of the operation?

Mr. Crossland: That is, at least from a labor lawyer's perspective, the weakness of the current provision is that the Manager is deprived of having senior executives that you've got to have a lot of trust in working at the City. That's probably the biggest problem with this.

Mayor Cason: I mean, I've worked for a lot of organizations that had hundreds of hundreds of people and, you know, you want to have people that work for you that you have trust that they're doing a good job. You make the decision. Ultimately, you're the one that's responsible for the performance of the City and to have a Trial Board over -- say that you can't get rid of this person, you can't suspend, layoff, reduce the grade for whatever reason -- it could be finances, budget or remove them, it takes away authority of the City Manager.

Mr. Crossland: I agree with you.

Mayor Cason: And we remove the City Manager if we don't like the decisions that person's made.

Mr. Valdes-Fauli: As you will see it in a further provision, we tried to streamline the operations in the City and the relationship with the City Manager, and this is one of those provisions. And the last time Mr. Crossland did anything having to do with the City -- I mean, with the Trial Board was 1952, and he did a very good job.

(LAUGHTER)

City Attorney Leen: Well, the other concern I would raise, if the Commission is to address the Trial Board proceeding, is, you know, it is a board of -- it's not the Commission.

Commissioner Keon: No.

City Attorney Leen: It's a separate board, and the board does have the authority, according to the current provision, in its discretion to conduct hearings, summon witnesses and hear evidence. And in its decision, the Trial Board -- and this is the part I'm concerned about -- may determine whether such officer or employee is entitled to any compensation, allowance or adjustment which decision shall likewise be final. The concern here is what is a compensation, allowance or adjustment? It seems to me very clear they could award money. Whether -- I don't know whether they could reinstate the person or not. It's an interesting question. But also, whatever decision they make is final, so I -- Mr. Crossland, did -- was the City ever able to take an appeal or was that viewed to basically be waiving any right for the City to take an appeal?

Mr. Crossland: Well, I never had to face that last issue you're talking about. But as I read the...

Human Resources Director Jaramillo-Velez: I'm sorry. Because I did review that from the documents that the City Clerk provided. And in 1975, there was a referendum which provided the words final because before it used to be an appeal to the City Commission.

City Attorney Leen: Well, but my concern is that whatever the reason they put that in, a court may view that as denying the City's ability to go to court.

Mr. Crossland: Yeah, it may cut off the appeal. The other problem with the current language is that it could be read as unlimited ability to award financial recourse in damages.

Mayor Cason: They could give them a million dollars.

Mr. Crossland: Yes.

Mayor Cason: And we have no say in it, right?

City Attorney Leen: Yes, that is a concern.

Mr. Crossland: Even under state statutes, there's caps for public entities on damages in employment cases.

City Attorney Leen: So, my recommend -- and I do have a recommendation here, not on the merits of what to do with the Trial Board, but if you do retain the Trial Board, I do believe the Commission should have more discretion over the Trial Board in some way, at least so that the decision is not final.

City Manager Swanson-Rivenbark: And excuse me, Mr. Mayor. The selection of the Trial Board, only two are selected by the City Commission. Two are selected by the employees, although they cannot be employees, and then together the four will pick the fifth one. So, I don't want you to have the feeling that each one of you would have one appointment. The way that it's written today, you only have two.

City Attorney Leen: Thank you. That's a very good point.

Mr. Valdes-Fauli: Our very strong recommendation was to get rid of the Trial Board for many reasons.

Mayor Cason: Okay.

Commissioner Slesnick: I move to do away with the Trial Board.

Mayor Cason: Okay.

Commissioner Keon: I'll second it.

Mayor Cason: Commissioner Slesnick makes the motion.

Commissioner Keon: But I'd like to -- second it.

Mayor Cason: And Commissioner Keon seconds it.

Commissioner Keon: I have a question. Did -- who made the suggestion or commented on the words "which will promote the efficiency of the City"?

City Attorney Leen: I think some of us commented on it. I think the concern was -- I know Jim spoke about this, and I did too -- was that although it provides a standard, which in some senses is good, is useful, it is certainly not the at-will standard, which if it was the at-will standard, it would end at the word cause.

Commissioner Keon: Well, is -- yeah.

City Attorney Leen: So, it would say at any time for any cause.

Commissioner Keon: Well, is that what your intent was, for any time at any cause?

Mr. Valdes-Fauli: No, in order to promote the efficiency of the City, this person has all the rights in the world, as Jim just mentioned, under many, many different statutes. And if the City Manager feels that she, in this case, can't work with the employee, then she deserves the right to get an employee that -- you know, for the betterment of the City.

Commissioner Keon: So, if you left it at any cause, would that be enough?

Mr. Valdes-Fauli: That is (INAUDIBLE) by the Commission, though. I mean, if she arbitrarily removes anyone, that person can...

Commissioner Keon: Right. No, I'm just asking about this phrase, "which will promote the efficiency of the City." Do you have a concern with that language?

City Attorney Leen: Well, I just wanted to raise to you there's positives and negatives related to this language. The positive related to the language is it does provide a standard, which perhaps the Commission and the City Manager would like a standard. The concern is by removing the Trial Board, you remove the administrative body that would apply that standard, so it would only be applied by a court. Now, maybe the court will defer to the City Manager as to what is the efficiency of service, but there could still be a lawsuit. So, either you may want to remove that and just leave it at cause, or you may want to have the Commission have -- be the appellate body. But you know, that's a decision left to your sound discretion.

Mr. Valdes-Fauli: We tried by including that to provide a standard. And you know, that's what we did. For cause, what is cause? You know, arbitrarily, I don't know -- cause that had to do with the running of the City.

Mr. Crossland: You know, there's a million arbitration -- labor arbitration...

Commissioner Keon: Yeah.

Mr. Crossland: Cases that interpret the word cause and everybody has their own...

Commissioner Keon: Right, so it's...

Mr. Crossland: It's built in litigation is really what that word means.

Commissioner Keon: Right. But if you say any cause, is that -- is there litigation? Does that...

Mr. Crossland: Well, it's still somewhat of a standard. I mean, you could just say -- another option would be at any time which in the Manager's determination will promote the efficiency of the City.

Mayor Cason: Something like that, yeah. My question is this, this...

Mr. Crossland: I don't know whether you...

Mayor Cason: The motion and the second, is this to eliminate it and not go to the voters or to recommend that the voters eliminate it?

Commissioner Keon: Well, I think we're talking about...

Mayor Cason: What are we doing? Are we taking this to the voters?

Commissioner Slesnick: It's on the books now, so we have to...

Commissioner Keon: Yeah. You would be eliminating the Trial Board and so...

Mayor Cason: Without going to the voters? We're just going to eliminate it?

Commissioner Keon: No. It will go on the...

Commissioner Lago: It would have to go to the voters.

Commissioner Keon: It's in the Charter.

Mr. Crossland: Mayor, just for your information. We gave an opinion to the City years ago that you had to have a referendum on this one.

Mayor Cason: Okay.

Commissioner Keon: Yes.

City Attorney Leen: What you would say -- if you wanted to make it, you know, without cause, what I would recommend is taking off the whole last part and saying that the City Manager -- or where it says officers and employees appointed by the City Manager under his or her authorization may be removed, suspended, laid off or reduced in grade at the will of the City Manager.

Mr. Valdes-Fauli: Which is less of a standard than...

City Attorney Leen: Which is no -- which is -- you could do it for no reason. You just can't do it for an illegal reason.

Mayor Cason: Right. Okay, so we have a motion by Commissioner Slesnick and Commissioner Keon second.

Commissioner Keon: Right. And the language, though?

Mayor Cason: The language will be working -- you will come up with the one that goes on the ballots, right?

Commissioner Keon: Well, but there's a different -- the language that -- as the language as amended by Craig. Is that -- that's what I...

City Attorney Leen: Do you want this to be at will?

Commissioner Slesnick: Amend the motion.

Commissioner Lago: Which is at the will of the City Manager.

Commissioner Keon: Yeah, it's at the will of the City Manager.

Mayor Cason: Will of the City Manager, okay. And a second as of the will of the City Manager.

Commissioner Keon: Yeah.

Mayor Cason: Alright, City Clerk.

Commissioner Keon: And then it goes.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Vice Mayor Quesada: Yes.

Commissioner Slesnick: Yes.

Mayor Cason: Yes.

(Vote: 5-0)

Mr. Crossland: Thank you, folks.

Mayor Cason: Thank you.

Mr. Crossland: Nice to see you again.

Mayor Cason: Good to see you. Proposal number six.

City Attorney Leen: Proposal number 6, removal of certain authority of the Commission to direct or require hiring, discharge or reduction in grade, modification of forfeiture provision (amending section). So, what this provision does is presently the City Commission has the authority by resolution duly adopted to direct or requirement appointment, suspensions or discharges of City officers or employees by the City Manager. So, the first thing this does is it removes that authority of the Commission. The second thing it does is provides more specificity regarding what the Commission can do to inquire. What it says is the Commission may conduct inquiry to obtain information. It also makes it clear that the Commission may direct staff at a public meeting. It retains the provision that an individual Commissioner cannot direct staff under the Manager, which has always been interpreted to mean that the City Manager can certainly delegate responsibility to an assistant city manager or to a director to answer to a Commissioner in a specific case, but that's ultimately the decision of the City Manager. The last thing -- and that's based on delegated authority theory. The last thing I would say is that it does provide more specificity regarding forfeiture of office. Presently it says, the provision, that any violation -- and that typically is a direction issue. So, if a Commissioner were to direct staff in violation of the provision, it works a forfeiture of office automatically. So, how do you determine whether that occurred or not? So, now what it says is any willful violation, so not inadvertent, but if there's a willful violation of this provision, as determined by the Commission, that shall result in a forfeiture of the officer of such member. Now, one other thing to think about is presently you're recommending to put on the ballot and the present Charter says that it's a four-fifths vote. The way I would read this provision is it's a three-fifths vote making a finding. You may want to make it a four-fifths vote. You may want to keep it at three-fifths vote. And with that, I would turn it over to the Chair.

Mayor Cason: Let me ask a question about shall result in the forfeiture. Somebody has to do something. What is the something that -- is it -- do we have to...

City Attorney Leen: You have to direct...

Mayor Cason: We would have to have a meeting -- we have to say by four -- all of us, or a four-fifths or three-fifths.

Mr. Valdes-Fauli: It is proved...

City Attorney Leen: Yes.

Mr. Valdes-Fauli: That Commissioner XYZ directed...

Mayor Cason: Willfully.

Mr. Valdes-Fauli: Such and such a person, the head of, you know, whatever it was to issue a permit or to grant or recommend a zoning variance or to employ his or her son-in-law, that type of thing.

Mayor Cason: Yeah.

Mr. Valdes-Fauli: We're talking about that.

Mayor Cason: So...

Mr. Valdes-Fauli: Or trying to dismiss a person -- a Commissioner trying to dismiss a person.

Mayor Cason: So, did you have a recommendation as to whether it should be three-fifths or four-fifths in terms of the "shall result in a forfeiture"?

Mr. Valdes-Fauli: We have here three-fifths.

Mayor Cason: You had three-fifths.

Mr. Valdes-Fauli: That's our recommendation.

Mayor Cason: Anybody have any thoughts on three-fifths versus four-fifths.

Mr. Valdes-Fauli: And we're looking at the history of the city.

Mayor Cason: Alright.

Commissioner Lago: How was the vote? How was the outcome from the committee?

Mr. Valdes-Fauli: Unanimous.

Commissioner Lago: Unanimous.

Mayor Cason: Okay. And you -- and with three-fifths rather than four-fifths? Any -- what's the argument?

Mr. Valdes-Fauli: I think so, if I...

City Attorney Leen: Yeah, there was debate. I was just -- I wasn't sure why this would be three-fifths and the other things would be four-fifths. I just -- but I think it was -- and maybe Mr. Thomson...

Mr. Thomson: Well, the reason it was three-fifths is because, obviously, the person who is charged to being at fault is going to vote against it. So, that's calling for unanimity of the other people.

Mayor Cason: Yeah, you couldn't do unanimity.

Commissioner Lago: It's tough.

Mr. Thomson: And that's the reason why we thought a majority governed, like it would on any other vote.

Mayor Cason: In other words, if somebody decided not to be -- to be absent that day, so you had four people and then that one person is not going to vote against themselves, it could still be...

Mr. Thomson: It still could be, yes.

Mayor Cason: It could be done.

Vice Mayor Quesada: It could still pass.

Mayor Cason: So, you could manipulate the...

Mr. Thomason: Which would mean somebody has to defer it to the next meeting when everybody's here.

Mayor Cason: Okay.

Vice Mayor Quesada: I move to place it on the ballot.

Mayor Cason: Okay.

Commissioner Keon: Well, you know...

City Attorney Leen: Well, first see if there's a second.

Commissioner Keon: Okay.

Mayor Cason: Do we have a second?

Commissioner Keon: I'll second it.

Mayor Cason: Commissioner Keon seconds. Alright.

Commissioner Keon: You know, I don't think that the Commission should direct or request the appointment of any person. You know, I fully agree with that. But this -- the issue of removal -- I think the issue of removal has been a long-standing part of our Charter, you know, and I don't think that it was -- I think it was probably intentional in the writing of our Charter because it gave some strength and power to the Commission that you don't see in many City Manager forms of government. And I wouldn't even care if it had to be, you know, a unanimous vote of the Commission...

Mr. Valdes-Fauli: Commissioner, we're talking about...

Commissioner Keon: Dealing with the issue of removal.

Mr. Valdes-Fauli: Removal -- if we're talking about a Commissioner, an individual Commissioner requesting the removal of a person...

City Attorney Leen: No, we're talk...

Commissioner Keon: Right.

City Attorney Leen: This is the Commission. So we're talking about...

Mr. Valdes-Fauli: Oh, the Commission.

Vice Mayor Quesada: Yeah.

Commissioner Keon: The Commission as a whole.

City Attorney Leen: We're talking about the Commission's authority by resolution...

Commissioner Keon: Right.

City Attorney Leen: To direct the hiring, firing or, I believe, suspension. Is that what it was?

Commissioner Keon: Yes.

City Attorney Leen: Yes.

Commissioner Lago: And like you said before, this is an item that we've discussed before...

Commissioner Keon: Right.

Commissioner Lago: On this Commission, and I think that we're one of the few commissions that has that provision in the Charter which gives us just that added bit of discretion, which I don't think has been ever exercised, but I think it's something that, in my opinion, I'm not ready to remove.

Mr. Valdes-Fauli: Commissioner, let me give you some history which is -- I don't think I even shared it with the committee, but when I was Mayor, we had a case where we had a chief of police that was extremely popular, wasn't doing his job and the City Manager, for whatever

reason, didn't want to remove this chief of police. And I -- we, in the Commission -- the Commission had expressed enough dissatisfaction with this person's conduct that I went to the City Manager and said, we, the Commission, have the power to remove this person, and he was removed. I think that's very important for the Commission to preserve its authority and its rights.

Commissioner Keon: I would like to see the Commission preserve the right to remove. I don't need the right to appoint. I don't think the Commission should appoint whatever. But the right to remove -- and I don't even care if it's by, you know, four-fifths vote. The right to remove is a provision that I would like to see the Commission preserve. I, you know -- so much of what happens in a city is dependent on the City Manager that you hire, you know. This particular City Manager I would never foresee us ever exercising that authority ever. But I think that there are times when there could be, in the course of a city, a City Manager that you would want to preserve that authority. And so because I don't...

Commissioner Lago: We've found ourselves in that position on previous occasions.

Commissioner Keon: Yes. And because, you know, I don't want to, you know, create law based on this particular manager, but on the possibility of what could happen and what has happened in the past. And as a right, I would certainly preserve that right.

Mayor Cason: I agree with the premise that we should not ever direct the appointment of somebody.

Commissioner Keon: Right.

Mayor Cason: Because that's where you get into...

Commissioner Keon: Right. No, I don't think so. I don't either.

Mayor Cason: All kinds of difficulties. I would like to see this to maintain the right to...

Commissioner Keon: Remove.

Mayor Cason: Remove, but with four-fifths.

Commissioner Keon: Okay.

Mayor Cason: In other words, if we don't...

Commissioner Lago: Hopefully, with four-fifths, it's ensuring that we don't step into the Manager's role with the ability to appoint, but that's...

Mayor Cason: Yeah.

Commissioner Keon: No, not to appoint.

Commissioner Lago: But let's continue to have the removal powers.

Mayor Cason: I mean, we have the choice to do the four-fifths or unanimous. I mean...

Commissioner Keon: Well, even four-fifths is, you know, I think is significant. I would want it more than, you know, three.

Mr. Valdes-Fauli: But this also plays with the City Manager and his or her authority and if something like as violent as this happens, the solution is to remove the City Manager.

Commissioner Keon: But your experience told you that you didn't necessarily have to remove the Manager, but you did need...

Mr. Valdes-Fauli: Because the Manager acquiesced to...

Commissioner Keon: Right.

Mr. Valdes-Fauli: Our request.

Commissioner Keon: And I would rather have that authority. I -- you know, yes. Could you say, yeah, I'm going to remove the Manager? Removing the Manager is a, you know, much...

Mayor Cason: Dramatic.

Commissioner Keon: It's very dramatic, and it is -- has far greater effect on the overall administration of your city than, you know, if you really have the support of -- you know, there's four Commissioners that really believe that you have an individual that, as a department head, for whatever reason is not serving you well or appropriately and you feel so strongly about it that you should have them removed. I think that's -- I would think that that is -- it is a power that I wouldn't want to remove.

Mayor Cason: Well, the Vice Mayor made the motion. Do you...

Vice Mayor Quesada: I will amend it to four-fifths.

Mayor Cason: Okay, in terms of your...

Commissioner Lago: Hold on, but we...

Commissioner Keon: Okay, it's four-fifths, but it is -- the only thing that we are...

Commissioner Lago: We're striking.

Commissioner Keon: We're striking the require -- the appointment, but we will preserve the right to fire by a four-fifths vote.

Mayor Cason: By four-fifths vote.

Commissioner Keon: Do you -- is that clear?

City Attorney Leen: I understand. So, it would say something like the Commission, by resolution, duly adopted by a four-fifths vote, may direct or require discharges of City officers or employees by the City Manager.

Vice Mayor Quesada: Yes.

Commissioner Lago: Remove appointments and suspensions.

Commissioner Keon: Yeah.

Mayor Cason: And presumably, there would be a lot of discussion...

Commissioner Keon: Not -- yeah.

Mayor Cason: Individually with Commissioners with the Manager over the reasoning...

Commissioner Keon: Yes.

Mayor Cason: And if we still didn't believe with it...

Vice Mayor Quesada: I'm okay with that.

Mayor Cason: Okay.

Commissioner Keon: Okay.

Vice Mayor Quesada: So, my motion...

Mayor Cason: Alright.

Vice Mayor Quesada: Is amended to reflect that conversation.

Mayor Cason: And we have a second from Commissioner Keon.

Commissioner Keon: I second it. I did.

Mayor Cason: City Clerk.

Commissioner Lago: Yes.

Vice Mayor Quesada: Yes.

Commissioner Keon: Yes.

Mayor Cason: Yes.

(Vote: 4-0)

Mayor Cason: And the final, external auditor, before we get to the method of voting.

City Attorney Leen: Procedure number -- proposal number 7, annual auditor. What this would do is it would -- the City presently has an external auditor appointed by the Commission to perform an annual budget and provide a report. The proposed amendment would make this a Charter requirement and it would require the auditor to be changed every six years. With that, I turn it over to the Chair.

Commissioner Lago: How did you derive...

Mayor Cason: Six years.

Commissioner Lago: A timeframe of six years for the auditor?

Mayor Cason: Where did that come from?

Mr. Valdes-Fauli: It was recommended by -- that it be six years. We thought that anything more frequent than that would be inefficient in the start-up time. And the biggest thing here is for this independent CPA firm to report directly to the Commission and not to the financial director or any other -- to the Audit Committee or -- so it was -- I thought it was a healthy provision.

Mayor Cason: The only thing -- I mean, right now we have -- the auditor comes to us before he even starts the audit, discusses anything you see, any problems and so on. Then they send us a report. So I'm not quite sure what's different, I mean, really with this. They -- it's presented to the Commission...

Mr. Valdes-Fauli: I think that there was...

Mayor Cason: Presented to the...

Commissioner Lago: Well, listen, this position would answer directly to the Commission.

Commissioner Keon: Well, I think the discussion -- and I listened to the charter amendment -- the meeting of your committee the night that this was discussed was -- and I read the transcript from it also. And I think the discussion started out along the lines of a Commission auditor of some sort, which was not actually more -- you know, or an external auditor but -- or it could be an internal auditor. It's any auditor, but they're reporting directly to the Commission I think was more than just financial audits. I mean, the audited finances of the City are much based on the information that is provided to the auditor by the City Commission staff, so it's -- you know, and if there was a finding, you know, there's a finding. That's in writing. It comes to us. We are well aware of it. I don't -- I think that, you know, the way it works now where, you know, they meet with the Finance director and she provides them with the information and whatever, they do the audit, they go through -- you know, they give us a report, you know. It's reviewed with the auditors by the Finance director and the Manager, and then, you know, is -- once it's written and signed off on, you know, it comes to the Commission also. I don't have any issue with that and don't have a need to have them report to us instead of the Manager. The position that I do think could be of value to the Commission is an internal auditor. It is the person that is actually -- I mean, we do have an internal audit position. I think that they -- the Audit Committee is rewriting or looking at that. Could you speak to that, Cathy?

City Manager Swanson-Rivenbark: And I absolutely can address that. The Budget Advisory Board -- Budget and Audit Advisory Board appointed by you, five members, no appointment by me, we brought to them a consultant because we had an issue of we either needed to more -- increase the resources of the internal auditor because there's a total employee of one, or we needed to look at the possibility of an external internal auditor. We brought that issue to the Budget Advisory Board. The Budget Advisory Board is working with the consultant, a consultant who is conflicted out, so they will not be able to compete for it, and they are working on a scope of services for competition for an internal auditor that is handled by a firm, so that we have several resources and different expertise, rather than one City employee. And we are solidifying that relationship directly to the Budget Advisory Board, and then to the Commission

in part because of the good discussion that happened at the Charter Review Committee for fear that, not that it would happen, but that we might compromise the findings of an internal auditor. So, you do have that reporting today for the external auditor, and we are building a relationship with the Budget and Audit Advisory Board for the internal auditor, but that business model is still evolving.

Commissioner Keon: Okay, and the model will be they would report to -- that's what's evolving is who they would report to.

City Manager Swanson-Rivenbark: We're going to have the Budget Advisory Board sit as representatives on the evaluation committee. We're going to bring those recommendations to the City Commission.

Commissioner Keon: Okay.

City Manager Swanson-Rivenbark: But the presentation today with your external auditor, the Commission hires that external auditor. The presentations, just like you had maybe four weeks ago, the firm presented to you their findings. If there's any suggestion in language change from our standpoint -- and Diana can better answer this -- is that the qualifications for an external auditor is not just an individual. It is for a city our size of a, you know, AAA rated city, we need a duly qualified...

Commissioner Keon: Yes.

City Manager Swanson-Rivenbark: External auditor in that selection process.

Commissioner Keon: And it's a financial audit. I mean, and what I'm talking about or what I'm more interested in looking at is not just financial audits but the operational audits.

Mr. Valdes-Fauli: We didn't get into that, but -- and we didn't -- we also didn't get into the internal auditor or a function of who performs that. We discussed and rejected having the Commission appoint an outside seat auditor full-time working for us, reporting to the Commission.

Commissioner Keon: Right, right.

Mr. Valdes-Fauli: We rejected that as not being big enough. I mean...

Commissioner Keon: No. We're not big enough to do that.

Mr. Valdes-Fauli: Miami-Dade County and such has it.

Commissioner Keon: No.

Mr. Valdes-Fauli: Jimmy Morales, who sat in our board...

Commissioner Keon: Right.

Mr. Valdes-Fauli: The City Manager of Miami Beach said, you know, we're not big enough for that and we all concurred. We're talking about the -- putting in the Charter the need to have an independent CPA firm audit our books every year and report to the Commission, not to the Budget Advisory Board, not to the Finance director, to the Commission, and I think that's healthy.

Mayor Cason: The second line in this...

Commissioner Keon: We do currently, though.

Mayor Cason: Says the auditor will report directly to the City Commission or to the Budget and Audit Advisory Board. Is that the current language or is that the proposed new language?

Commissioner Keon: This is the proposed.

City Attorney Leen: Well, it's being amended, and maybe we have the -- I think there was an amended language. Okay, so let me read it into the record. I guess there was a little bit of confusion as to the actual language. So what it would say now -- and this is the proposal that was finally approved -- is instead of external auditor, it will say annual auditor. And please forgive me for this. I just received this. The City -- what it will say is the City Commission shall appoint an auditor who reports directly to the City Commission and the Budget and Audit Advisory Board.

Mayor Cason: And to the -- okay.

City Attorney Leen: Or any other similar committee established by the Commission for said purpose. In addition, at the end where it says furthermore, all reports generated by the auditor -- and now it says just the auditor -- are to be discussed and presently annually to the City Commission at a regular City Commission meeting.

Mr. Thomson: To my mind, that is a misstatement of what the committee recommended. The committee recommended, to my memory, that it was a report to the Commission, or if this Commission appoints a committee of itself, like three members.

Mr. Valdes-Fauli: That's correct.

Mr. Thomson: Not some outside group. It's looking at the private practice, where there is an audit committee of the board. Well, if there is an audit...

City Attorney Leen: But this...

Mr. Valdes-Fauli: Not the Budget Advisory Board.

City Attorney Leen: Because it said or.

Mr. Thomson: That is what my understanding is of what we agreed. And the reason --

City Attorney Leen: I understand.

Mr. Thomson: By the way, the six years, Commissioner Lago, is fairly standard in the private...

Commissioner Keon: That's the standard in the accounting, yeah.

Mr. Thomson: That it's long enough so you don't lose on efficiency, but it should change so it doesn't get too locked in and sort of -- so it's truly independent.

Mayor Cason: Enough time to understand the city, but not enough time to be just sort of complacent.

Commissioner Lago: Get comfortable.

Mr. Thomson: Get too comfortable.

Mayor Cason: One of the things that I would like somehow -- we don't see it now, the internal auditor's results. They go to the board -- they go to the Audit Board, but I never see them. Have they discovered any -- when we had this a number years ago when we found out that the -- all the gasoline being bought was premium and not...

Commissioner Lago: Yeah.

Mayor Cason: And remember -- I don't know whether the Commission at that time knew about it.

Commissioner Keon: Those are operational audits.

Mayor Cason: Right.

Commissioner Keon: And that's what I'm talking about.

Mayor Cason: I'd like to see...

Commissioner Keon: I'd rather see -- but that's the Audit Committee. The Budget Advisory Board is working on that internal audit position, which I think is operational and not financial.

City Manager Swanson-Rivenbark: And those operational audits...

Mayor Cason: Well, Biltmore was -- they did the Biltmore, as an example.

Commissioner Keon: Yes, yes.

City Manager Swanson-Rivenbark: Those operational audits are brought to the Budget Advisory Board, so you see them in the form of minutes, not in actual presentations.

Mayor Cason: But I think it's important...

Commissioner Keon: I would like to see...

Mayor Cason: That the minutes be very -- because the only way we would ever know about shenanigans or stuff would be that if somebody said here's what we found. Some of this is (INAUDIBLE) and we could say go after it, you know. Right now we don't see that because if it's not in the minutes -- and the minutes -- actually, up until recently, the Budget Advisory Board was just so we had a meeting of the budget.

City Manager Swanson-Rivenbark: Well, I think you'll see now that the minutes are verbatim. They are full, true minutes that you're receiving now in your packets.

Mayor Cason: Good. That's what we need in order to know about the operational discoveries.

Commissioner Keon: But that's why -- I'd rather see -- you know, rather than the external auditor reporting to the Commission, I'd rather see the internal auditor report to the Commission.

Mayor Cason: Or inform the Commission.

Mr. Thomson: Just for clarification, in the private sector, and I would think it should be for this as well is the external auditors give a management letter which are comments on management to which management replies, and that's part of the auditor.

City Manager Swanson-Rivenbark: Right, that's true. And we do that...

Mr. Thomson: You would see the negative comments about management.

Mr. Valdes-Fauli: But that letter is presented to the Commission, to the Board of Directors, et cetera.

Commissioner Keon: Right, we see that.

Mayor Cason: Yeah. We just want visibility and what's going on...

City Manager Swanson-Rivenbark: I understand.

Mayor Cason: In the bowels of the larger organization other than the financial, which we get any rate, but what else is...

City Manager Swanson-Rivenbark: Can -- Mr. Mayor and Mr. Chair, can we ask our Finance director to come forward? The management letter that is issued is not an operational. It is on the finances...

Commissioner Keon: That's not -- it's the finance.

City Manager Swanson-Rivenbark: Of the City.

Commissioner Keon: Yeah.

City Manager Swanson-Rivenbark: As it is today.

Finance Director Gomez: That is correct. And I guess I'm concerned or I'm confused as to the new language because, for instance, there is an annual financial statement audit that is required by Florida Statute, so that's what I thought we were talking about with this, which the concern was why did it need to be in the Charter. The external auditor already does report to the City Commission. And there's other things, like the mandatory rotation that could limit the authority of the Commission, as well as limit who can provide the services to us. So those are my concerns with that. If it's just an audit -- so it's not clear to me the way it's -- the way you read.

City Attorney Leen: Well, there was a change at the end, and I guess there was some confusion over what the final language was. There's two points. I mean, just to clarify this. And Mr.

Chair, if you could assist. My recollection was that the board, the committee, required it to go to the Commission and the Budget and Audit Advisory Board. It couldn't just go to the Budget and Audit Advisory Board. That's correct, right?

Mr. Valdes-Fauli: Right, that's correct.

City Attorney Leen: Okay, so that's the end. And then I -- at the end, my recollection was you called the person the auditor -- and I'm sorry for the confusion here, but...

Mr. Valdes-Fauli: It should not be the auditor. It should be...

City Attorney Leen: You want it to continue to be an independent certified public accountant.

Mr. Valdes-Fauli: Right.

City Attorney Leen: Okay, so the way it will read now -- and I'm sorry for the confusion -- is it will be the City Commission shall appoint an independent certified public accountant to conduct an annual audit of the City's books of account. This auditor will -- reports directly to the City Commission and the Budget and Audit Advisory Board.

Mr. Valdes-Fauli: Yeah, the independent certified public accountant will report directly to the City Commission or the Budget...

City Attorney Leen: And.

Mayor Cason: So you're taking "or" out and putting "and."

Finance Director Gomez: And that is the external auditor.

Mayor Cason: Yeah.

Commissioner Keon: Yes, your external auditor.

Finance Director Gomez: Right, that does the audit.

Mr. Valdes-Fauli: We thought it was important to have this reporting to the Commission.

City Attorney Leen: But there's a required report to the Commission...

Mr. Valdes-Fauli: Right, required.

City Attorney Leen: As well as the Budget and Audit Advisory Board.

Commissioner Lago: I just think -- I think we're duplicating a little bit of the efforts there.

Commissioner Keon: Yeah, I think we already do that.

Commissioner Lago: Yeah. I think we're...

Commissioner Keon: I don't think it needs to go in the Charter. And I also think that as the issue of the internal...

Commissioner Lago: Internal versus the external.

Commissioner Keon: Auditor evolves and we get a job description and duties and responsibilities of an internal auditor and how that's constructed, then we can make a decision as to who that person reports to. But you can't -- you know, we can't decide that because we don't

have it. We haven't seen it; it hasn't been done, so you know, that needs to wait until you do it. And what we do currently with the external audit is, you know...

Mr. Valdes-Fauli: We thought it was important enough for this CPA firm, independent certified public accountant report to be in the Charter.

Commissioner Keon: Yeah, I...

Commissioner Lago: I'll be honest with you.

Commissioner Keon: It's by state law.

Finance Director Gomez: State law has...

Commissioner Keon: It's required by state law.

Commissioner Lago: That maybe about three years ago, four years ago when I got into public office, that would have been like one of my first things that I would have voted yes on. But I have a lot of different feeling. I have more faith in Coral Gables, in government now, so I don't have -- to me, it's -- I think we're duplicating our efforts if we proceed in this manner. Now, the internal auditor is a completely different task in itself that I want to pursue, but that's a discussion for another day. We could probably be here another hour discussing that.

Mayor Cason: The thing about this, though, is that we're looking -- this is going to be 20, 30 years probably before we change the Charter again.

Commissioner Keon: Right, but...

Mayor Cson: Things could change.

Commissioner Keon: State law requires that we conduct that audit and...

Mr. Valdes-Fauli: It should be required.

Mayor Cason: Is there any reason not -- I mean, can you imagine the voters saying no to this? Of course they're going to say yes.

Commissioner Lago: What would be the cost implications?

Commissioner Keon: But it's like what for? Why bother?

Mr. Valdes-Fauli: We have it already. We have it already, but we just wanted to...

Commissioner Lago: Have it certified directly through the Commission.

Mr. Valdes-Fauli: Yeah, directly to the Commission. We wanted to -- it's very healthy and we wanted to put it in there.

Finance Director Gomez: And as it is now, the external auditor does not report to the Finance director, nor to the City Manager. They report directly to the City Commission.

Mayor Cason: Right.

Finance Director Gomez: They do.

Commissioner Keon: But they do.

Finance Director Gomez: They do.

City Commission Meeting

April 12, 2016

Agenda Item F-4 – City Commission review of proposed Charter amendments recommended by the Charter Review Committee, including review of any Charter amendments proposed by the City Commission or City Officials, for potential inclusion in voter referendum pursuant to Section 22-3 of the Coral Gables City Code and Section 6.03 of the Miami-Dade County Charter

Commissioner Keon: Yeah.

Finance Director Gomez: There's -- all communication is to the City Commission. They do not report to me. Day to day, during the audit, they do have to interact with my staff, but...

Mayor Cason: So, is this fixing something in the current Charter that's vague?

Finance Director Gomez: I don't think it's in the current Charter at all.

Commissioner Keon: It's not even in the current Charter.

Mayor Cason: No, we could put it in.

Mr. Valdes-Fauli: It's not in the current Charter.

City Attorney Leen: It used to be in the Charter. It was replaced by the general powers provision because the Commission obviously has the ability to do this.

Mayor Cason: So, what do we lose by putting it in? The voters are going to support it, I'm sure.

City Attorney Leen: The one thing it does is it limits -- it requires you to change the auditor every six years.

Finance Director Gomez: Right, which that can limit the amount...

City Attorney Leen: That's practically what it does.

Commissioner Keon: But that's a policy...

Finance Director Gomez: That could be just a policy decision, as opposed to a Charter decision because it does also limit the -- there's not that many national firms that do this type of work anymore. So, you would be limiting -- I'm only aware of three.

Commissioner Keon: Right, the Big 8 is now how many?

Finance Director Gomez: Yeah, exactly. They're not really doing this type of work as evidenced by they haven't big on local jobs in the past couple years.

Commissioner Keon: Right, they're not doing it anymore.

Finance Director Gomez: And as a matter of fact, I only know of two municipalities or counties that have a policy on mandatory rotations, it being City of West Palm Beach and Broward County. And Broward County has had to waive -- because of issues that they've had the past...

Mayor Cason: So lack of supply.

Finance Director Gomez: At least twice in the past. So, it's like you're limiting the six-year mandatory rotation that it may be very difficult to satisfy that.

Commissioner Keon: Don't the -- most audit firms have their internal policy is that...

Finance Director Gomez: Absolutely.

Commissioner Keon: You can't -- and if that's part of their best practices and...

Finance Director Gomez: They mandatory rotate their partners within five -- every five years, is my understanding.

Commissioner Keon: Right, so it's every five years the partner on the account...

Finance Director Gomez: The partner, yes.

Commissioner Keon: Has to rotate off..

Finance Director Gomez: And the staff, yes.

Commissioner Keon: That account so that you don't have that issue.

Finance Director Gomez: That's correct.

Mayor Cason: Alright.

Commissioner Keon: So, I don't think it's...

Mr. Valdes-Fauli: Parker mentioned that this does not require a national firm. This is an independent certified public accountant.

Commissioner Keon: Right, no.

Finance Director Gomez: But we're saying that we would -- you know, we prefer to have a national firm do the work because we're a city that's a AAA rated city that...

Commissioner Keon: But I think the way that it is now, they do report to the Commission.

Finance Director Gomez: Yes.

Mayor Cason: Yes.

Commissioner Keon: So, it is not in the Charter.

Mayor Cason: It's not in the Charter.

Mr. Valdes-Fauli: But, it's not in the Charter.

Mayor Cason: So we'll put it in the Charter for future...

Commissioner Lago: This is basically correcting like a scrivener's error of some sort.

Mayor Cason: Yeah.

Commissioner Keon: But should it be in the Charter?

Mayor Cason: Alright.

Commissioner Keon: I don't know that it does need to be in the Charter.

Mayor Cason: Make a motion if you want it in the Charter.

Commissioner Keon: Oh, I don't care. That's not important to me that it be in the Charter.

Mayor Cason: Do you want to make...

Commissioner Keon: It's a practice and a policy of the City that I think already happens and it doesn't need to be in the Charter.

Mr. Valdes-Fauli: It was our strong feeling that it should be in the Charter.

Vice Mayor Quesada: I move to include it on the ballot.

Commissioner Keon: Go ahead. I mean, it's neither here nor there for me.

Vice Mayor Quesada: I move to include it on the ballot with the removal of the changing every six years is what I'm hearing is the will of the Commission here.

Mayor Cason: Okay. Do we have a second?

Vice Mayor Quesada: Am I understanding that correctly?

Commissioner Lago: Yeah.

Mayor Cason: Okay.

Commissioner Lago: Second.

Mayor Cason: Commissioner Lago seconds. Alright, City Clerk.

Commissioner Keon: Well, I -- you know, I would feel more strongly about the rotation of it on a regular basis than that it be in the Charter. I mean, I would more care that...

Mayor Cason: But that can be done...

Commissioner Keon: That firm, you know, does...

Mayor Cason: By a resolution or something else.

Commissioner Keon: You know, that you don't have the same firm doing the audit for the City for 20 years. I think it's -- you know, that would be a much bigger concern to me is...

Commissioner Lago: We're not taking that language out.

Mayor Cason: But that gives us more flexibility to do it by a resolution or something than put it in the Charter.

Commissioner Keon: He is just saying -- Frank was just taking out...

Commissioner Lago: Why are you striking that language?

Commissioner Keon: The six years.

Commissioner Lago: No.

Vice Mayor Quesada: It didn't bother me either way. I was doing it because of the conversation that I heard up here. I was trying to...

Commissioner Lago: Well, Mr. Thomson basically clarified it for me in reference to...

Vice Mayor Quesada: It is done in private industry.

Commissioner Lago: Standard protocol in the private sector.

Commissioner Keon: I mean, that is usually the -- right, in most accounting firms, it is five years.

Commissioner Lago: I strike, I strike. I'm no longer joining the Vice Mayor.

Commissioner Keon: That a partner has to rotate off.

Vice Mayor Quesada: Alright, so I withdraw my motion with its amendment, and I will renew a motion identical to what has been proposed to us by the Charter Committee.

Commissioner Lago: So moved.

Mayor Cason: Alright.

Commissioner Keon: Okay, do we want it it reports directly to the City Commission or to the Budget and Audit Advisory Board, or and?

City Attorney Leen: It's and.

Commissioner Lago: Take out the "or" and put "and," directly.

City Attorney Leen: It's and, it's and.

Commissioner Keon: Okay, so, it should be and, okay, alright. I think it's here or there. I don't care.

Mayor Cason: City Clerk.

Vice Mayor Quesada: Yes.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Mayor Cason: Yes.

City Commission Meeting

April 12, 2016

Agenda Item F-4 – City Commission review of proposed Charter amendments recommended by the Charter Review Committee, including review of any Charter amendments proposed by the City Commission or City Officials, for potential inclusion in voter referendum pursuant to Section 22-3 of the Coral Gables City Code and Section 6.03 of the Miami-Dade County Charter

(Vote: 4-0)

Commissioner Keon: It's like here or there.

Mayor Cason: Now, the last part is how are we going to -- are we going to do this by mail, August, or November?

City Attorney Leen: Mayor Cason, if I may say, so what I'm going to do first is I'm going to take these proposals that have been passed and I'm going to put them into ballot language, ballot title, ballot language. It'll come back to you. The public hearing's already been held, so it will come back to you. You don't have to hold another public hearing unless you wish. At that point, you can vote on them, and then they will go on the ballot and all the deadlines are established. So, with that, the second issue for you is when do you want this on the ballot because that will determine to some extent when you will do the next vote.

Mayor Cason: Right.

City Attorney Leen: Do you want these to be -- and again, the three choices -- and I would also defer in part to the Elections Supervisor for the City, the City Clerk, who has done a memo on this issue. But the three options for you, and obviously, there could be other options later, but the three that we've discussed are August, the primary election, November, the general election, or a mail ballot. Obviously, you would also have the authority to wait until next April or to another date in the future, or you could call a special election at any time. But the three main ones that we looked at and discussed with the Elections Department with the County is the August, the November, and the mail ballot. Now, one other thing you should know is the August and the November ballots are less expensive. They told us in the mail ballot -- I don't agree with them, but you know, they're the County and they're telling us that the mail ballot is very expensive, something like \$100,000.

Commissioner Keon: No, it's \$120,000.

City Attorney Leen: A hundred and twenty thousand dollars.

City Clerk Foeman: A hundred twenty-one.

City Attorney Leen: I'm not sure. It's hard to -- now, remember, a mail ballot doesn't involve any precincts, so...

City Clerk Foeman: No, but I think the driving cost factor is the postage. The postage to send out and return.

City Attorney Leen: Let me -- the other thing they said, sir, was that they would need to do it in January, February or March. They did say, in answer to your question, that we could slip in some information, as long as it's neutral, about the specific issues in the mail ballot.

Mayor Cason: Okay, the reason that I like the mail ballot is, first of all, people can sit and look at it and digest it, listen to the public, go to meetings and decide leisurely. But if you're going to go in August, which is primary elections, right?

Commissioner Keon: No, I don't think you can do primary.

Mayor Cason: And in November, it's going to be the end of a long list of things. How many people are going to go through all seven of these and...

Commissioner Lago: It's important to have it -- to have the ballot be freestanding Coral Gables issues.

Mayor Cason: Right.

Commissioner Lago: Where the people have the time to really read. And I want to simplify the language. I don't want to have like previous elections where you read these amendments...

Mayor Cason: Gobbledygook.

Commissioner Lago: And they're just beyond complicated and the verbiage just -- you know, it's negative and a positive, you know, it's really difficult to decipher what is the actual purpose.

Mayor Cason: And I think you'll get a much better turnout, more people validating this if you have it in the mail because you're not going to miss a day because your kids are sick or something. You could sit down. You have probably weeks, if not -- and you mail it in by a certain date and you've had a chance to really think it through. You'll do very good, obviously, with the language and it won't be complicated and convoluted.

Commissioner Lago: So simple, non-convoluted.

Mayor Cason: And so, this is something for 20 years, so if it costs us \$100,000, I'd rather have legitimacy through a large number of people voting on it, taking their time. Because I think in November, a lot of people are not going to go through those last questions. Who knows what else is going to be on there, and they won't vote on it.

Vice Mayor Quesada: Did you -- did the Charter Committee, did you guys discuss this at all? Do you have any recommendations as far as the date and the mail ballot?

Mr. Valdes-Fauli: No. We didn't discuss it. That's, you know, for you to decide.

Vice Mayor Quesada: I'm curious since you guys have been so involved, what are your personal opinions?

Mr. Valdes-Fauli: My personal opinion is that it should be by mail, people would concentrate on it, and you get a greater response than if it's cut up in the presidential election or August election, which nobody looks at anyway.

Vice Mayor Quesada: Okay.

Mayor Cason: Okay. Do we have a motion on it?

Commissioner Keon: You know what, I feel strongly it should be on the November 8 ballot only because you will have a very high voter turnout, considering that election. The cost is, you know, here and there. I mean, it's -- I do think that 120,000 opposed to 40,000 is significant. But I do think that it -- on the ballot, you know, at least the local papers, the Miami Herald and El Nuevo Herald, you know, go through the ballot, the discuss each of the items. They, you know, write about the items and they make recommendations, you know, based on...

Mayor Cason: With deference to our Miami Herald reporter, I don't know how many people are going to be reading -- how many people read those these days. I don't know.

Commissioner Keon: I have, you know. To our Miami Herald reporter, I read the first page of the Miami Herald every single morning, every morning.

Vice Mayor Quesada: Do you want to be able to quote yourself in your own article?

Commissioner Keon: So, you know, I do think it is -- everybody knows it's an election, you know. You know it's an election. You know going in there that, you know, when you start looking at the ballot, especially when you have as many people that vote absentee in this city as do. They have plenty of time to sit with that ballot and go through the ballot and look at the ballot and find information about, you know, the issues at hand. And I think it's -- you know,

it's all done at one time. You know, if we wait, we have to wait until January, February or March apparently to do this. I don't...

Mayor Cason: People's minds will be clear then. They'll know who the president is and...

Commissioner Keon: Well, I mean, I don't care. At that point, you can do it...

City Attorney Leen: Well, the Elections Department...

Commissioner Lago: I just asked Craig if it was possible that we can finalize this decision at the next Commission meeting. That'll give us a little bit of time to think about this. It's already almost 7:35. We've been here since 9 in the morning. I think that maybe this final decision, you know...

Commissioner Keon: Okay.

Commissioner Lago: Take a few moments to really think about it and digest it. The financial implications are pretty significant. I don't know what they would be in November, but the mail-in ballot, you're talking about \$120,000. I think the mail-in ballot's a great idea, but I'm also now inclined to maybe go with the November ballot. The only issue that I have with November is that people are going to be exhausted when they get to the end in this ballot.

Mayor Cason: Did the City Clerk...

Commissioner Keon: Well, I don't know what else is on the ballot.

Commissioner Lago: No, there's a lot...

Mayor Cason: I don't know.

Commissioner Keon: I don't know what all is on the ballot.

Mayor Cason: We can ask the City Clerk to look in -- if we're going to delay this, I'd like to know if there is a way to find out...

Commissioner Lago: Next Commission meeting.

Mayor Cason: Well, it's delayed. But I mean, if we're looking at previous ballots like this, how many people stopped voting on the last -- is there a way to find out the bottom of your ballot, how many people just said I'm not going -- that's too complicated. I've got to get out of here.

Vice Mayor Quesada: Or they just leave it blank.

Mayor Cason: They leave it blank.

Commissioner Keon: Yeah, they leave it blank.

Mayor Cason: That's the risk...

Commissioner Keon: Yeah.

Mayor Cason: Of putting it November because we don't know what else is going to be there. We know there's going to be representatives, senators, all kinds of local things.

Commissioner Lago: Other amendments.

Mayor Cason: Other amendments and...

City Attorney Leen: Mr. Mayor.

Commissioner Keon: I don't know what else is -- what other amendments are...

City Attorney Leen: If I could -- just to provide some additional information from the Elections Supervisor -- and she was very helpful. I believe it's the Deputy Elections Supervisor. She talked to Walter and I, extremely helpful. She -- we had thought that the mail ballot would be less expensive, which is why I expressed a little bit of surprise. We may be able to go back to her to see if there's any way it could be lowered. But assuming it can't be, what she told us was they'd rather not do a mail ballot in the next few months because it's difficult. Although, if you ask, they might. The other thing that she said was she recommended, to the extent they recommend anything, which they try not to do, but to consider the August ballot she said because she said it's shorter, and so there's more -- it's more prominent in the ballot.

Mayor Cason: But even fewer people show up because it's...

City Attorney Leen: But, it's less people showing up, and then...

Commissioner Keon: And if you're not registered as a republican or a democrat...

Mayor Cason: You don't get to...

Commissioner Keon: You don't, you know, you don't whatever. So you -- anybody that's independent or...

Mayor Cason: I think August was the worst.

Commissioner Keon: Anybody that's whatever. I don't think August is a good time.

Mayor Cason: This is the worst.

Commissioner Keon: That's why I thought, you know, November is the -- we also need to -- at some point, we have to direct the Clerk to contact Elections to place an item on the ballot. We can't just wait until the end to do it. He has to be directed to talk with -- you know, to place the ballot. So, we do need to decide in a relatively short period of time when we're going to do it because he has to tell them and it has to be no less than 60, no more than 120 when it's...

City Clerk Foeman: No more than 120 days after you take action on the final amendments.

Commissioner Keon: Right, so there are timeframes with regard to when, you know, the action that the Clerk has to take.

Mayor Cason: Vice Mayor, your views?

Vice Mayor Quesada: You know, I'm between the mail ballot and November. I would like to have a better idea of how many items are going to be on the ballot, but I tend to agree with you that there may be so many items that people just don't get to it.

Commissioner Keon: Well, I think in a lot of elections, I mean...

Vice Mayor Quesada: I'm not certain. I'm really not certain right now.

Commissioner Keon: I think you can look at any, you know, national election. I mean, even if you look here in the City of Coral Gables, you can pull up the things on the whatever, and you can see how many people go and they vote for president and they don't vote for anything else. The only person they vote for is president. In our local elections, people are going to vote for Mayor and don't vote for anything else.

Mayor Cason: Okay, well...

Commissioner Keon: So, you know...

Mayor Cason: The only thing we would gain by not voting on that now is we get some data on if we can get it on how many people sort of stop after -- on national elections, stop after the first few issues.

City Attorney Leen: Sure, we'll find out. It's not so much of an emergency because it doesn't sound like you're going to do the August ballot, which is the upcoming deadline.

Commissioner Keon: We're not.

Mayor Cason: No, no.

City Attorney Leen: So, we have a little bit more time.

Vice Mayor Quesada: I think there's an agreement there.

Mayor Cason: Alright, let's put it on the next meeting. Do some research, come back and decide it then.

Commissioner Keon: Yeah.

Vice Mayor Quesada: To the Charter Committee, thank you so much again.

Mayor Cason: Thank you so much. You guys did a wonderful job.

Vice Mayor Quesada: A tremendous job.

Mayor Cason: Thank you so much, and tell the rest of the members how much we appreciate what they've done.

Mr. Valdes-Fauli: Thank you.

Commissioner Lago: Parker, thank you so much. I really appreciate you being my appointment. Thank you for all your leadership and your hard work.

Mayor Cason: Raul, thank you.

Commissioner Lago: Thank you.

Mayor Cason: Meeting adjourned.

Commissioner Lago: Thank you, Raul.

Commissioner Keon: Thank you.

Commissioner Lago: And thank you to Mr. Korge, who was -- who left a little early. Obviously, he had a commitment, so thank you for all your work.

Commissioner Keon: Thank you. You did a great job.