

City of Coral Gables City Commission Meeting
Agenda Item E-5
January 13, 2009
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Donald D. Slesnick, II
Vice Mayor William H. Kerdyk, Jr.
Commissioner Maria Anderson
Commissioner Rafael “Ralph” Cabrera, Jr.
Commissioner Wayne “Chip” Withers

City Staff

Interim City Manager, Maria Alberro Jimenez
City Attorney, Elizabeth Hernandez
City Clerk, Walter J. Foeman
City Clerk Staff, Billy Urquia

Public Speaker(s)

George Volsky, Coral Gables Resident

E-5 [Start: 10:46:08 a.m.]

An Ordinance of the City Commission of Coral Gables, Florida, calling for the holding of a special municipal referendum election of Coral Gables, Florida, on April 14, 2009, for the submission to the qualified electors of said City, not less than sixty (60) days nor more than one hundred twenty (120) days after the draft is submitted, an Ordinance in connection with the proposed amendment to the Code of the City of Coral Gables, wherein the voters of the City of Coral Gables shall be called upon to vote on the following question, to be known as Charter Amendment Ballot Question No. ____: “Shall the Charter of the City of Coral Gables be amended to delete Sec. 22 entitled, "Authority over officers and employees; removal, suspension, reduction; requests for cause and hearing; trial board."?, which calls for a special trial board to investigate and render a decision as to the propriety of the City Manager's removal, suspension, lay-off or reduction in grade of any officer or employee; stating the form of the question to be voted upon; providing the form of the ballot question to be voted upon; providing the form of the ballot for said election; designating and appointing the City Clerk as the official representative of the City Commission with respect to the use of the voter registration books and records; further directing the City Clerk to cause a certified copy of the herein Ordinance to be delivered to the Supervisor of Elections of Miami-Dade County, Florida, not less than sixty (60) days prior to the date of such special municipal referendum election; directing the City Clerk of the City of Coral Gables to publish notice of such

election pursuant to Section 100.342, Florida Statutes (2008), which notice shall include the full text of the proposed amendment to the Charter of the City of Coral Gables, Florida, providing at least thirty (30) days' notice of the election or referendum by publication in a newspaper of general circulation in the City of Coral Gables, with publication made at least two times, once in the fifth week and once in the third week prior to the week in which the election or referendum is to be held; providing for the severability of the provisions of this Ordinance; repealing all ordinances or parts of ordinances in conflict herewith; providing an effective date for this ordinance. (Passed on first reading December 16, 2008 - Vote 4-1).

Mayor Slesnick: Can I have a motion?

Commissioner Anderson: I'll move it.

Mayor Slesnick: It's been moved by Ms. Anderson seconded by Mr. Withers; we have any further discussion?

Commissioner Anderson: Yes, just a quick question. We were at the time of first reading, I think we all asked in general, I think you in particular wanted to know, what other if we removed the Trial Board, what grievance procedures does employees have that are not protected under contracts negotiated?- and this is documented here; could you briefly kind of outline what...?

City Attorney Hernandez: Commissioner Anderson what we did was in response to the City Commission's request regarding the laws in place, which are available to all public employees including Department Heads, Assistant City Managers, and all excluded and exempt employees, those are generally available to all public employees; in addition to that you requested information of what other cities similar to or in the vicinity of the City of Coral Gables have with regard to their policies, and we provided to you a chart of those cities where basically most cities have Department Heads and above are "at will" employees; there is no contract. In the City of Miami they do have a position where if a Department Head is terminated from their position as a Department Head, and they have prior civil service, they can bump down to a prior position; and then you also requested that we provide the provisions in Section 11 of the rules of the employees, and we did amend it at your request, and its attached hereto. So all the information that you requested is attached for your information.

Commissioner Anderson: I have a quick question on that, and the City Manager would be the final one, and if the employee or the aggrieved person wishes to proceed, it would be through a court?

City Attorney Hernandez: Yes.

Commissioner Anderson: The court outside of the City.

City Attorney Hernandez: Right, either State or Federal.

Commissioner Anderson: State or Federal, OK. Thank you.

Commissioner Withers: So a “yes” vote on this Ballot Question, would be for the elimination of the...

City Attorney Hernandez: The “yes” vote would put it before the citizens, and yes a “yes” vote by the citizens would be to eliminate the Trial Board.

Commissioner Withers: Liz, I don’t know if this is possible or not, but you know, so many times yes means no, and no means yes on some of these Ballot Questions, and really its even hard for me to understand sometimes. So if someone says well no, I don’t want the Trial Board, they might vote no, thinking a “no” vote is what gets rid of the Trial Board. So I don’t know. Are you allowed to place on ballots, a “yes” vote means this, a “no” vote means this?

City Attorney Hernandez: The summary that is provided, not on the ballot, but the summary that is provided with the ordinance will say, you know, with the ballot questions, voting for yes will result in the elimination of the Trial Board.

Commissioner Withers: But that’s not something that can be placed on the actual ballot?

City Attorney Hernandez: I believe that a short summary is placed on the actual ballot, but the City Clerk would be able to provide that answer for us.

Commissioner Withers: Walter?

City Clerk Foeman: I can’t say to a certainty, but I do know that 6.04 (sic: 6.03) of the Dade County Home Rule Charter requires that the proposal would be on file (in the City Clerk’s office) thirty (30) days prior to the election, so maybe that could be part of the public education process.

Mayor Slesnick: One thing I had asked, Chip, is it possible just to have a simple English language question, or in Spanish too, if it’s in two languages; do you wish to eliminate the Trial Board – “yes” or “no”?

Commissioner Withers: “Yes” or “no” that was it.

Commissioner Anderson: Yes, is that...?

City Attorney Hernandez: [Inaudible – off mike]

Mayor Slesnick: I don’t know.

Commissioner Withers: I read this three times and I realized “yes” means you are voting against the Trial Board, and I just want to be as clear.

Commissioner Anderson: Yes means yes and no means no, simple answer.

City Attorney Hernandez: Correct.

Mayor Slesnick: We'll work on that Liz?

City Attorney Hernandez: Well today you either have to approve or disapprove of the language, and the language we believe is clear, shall...

Commissioner Withers: But what I'm saying, can we add to the Ballot "yes" means you are voting against the Trial Board, and "no" means you are voting?--...you know, I don't know how we would say it, but something as clear as we can.

City Attorney Hernandez: Alright we will look into that, but you will note that the Manager's office has a later item with regard to educational...

Mayor Slesnick: Yes, but that's not the point; the point is when they walk into the Ballot Box...

City Attorney Hernandez: I understand Mr. Mayor, we'll look at it.

Mayor Slesnick: We have time to amend the language of the Ballot.

Commissioner Anderson: Do we?

City Attorney Hernandez: I do not believe so.

Mayor Slesnick: OK, well then can we pass this...

City Attorney Hernandez: Do we have the time Walter, with the time period that we have...for further amendment?

City Clerk Foeman: Yes we do.

City Attorney Hernandez: OK, well then I ask that you defer this.

Mayor Slesnick: No, not defer it...

City Attorney Hernandez: If you adopt it, then I have to come back on first reading so I would ask that you defer it.

Mayor Slesnick: OK well wait a minute...

Commissioner Anderson: Yes, because this is already second.

Mayor Slesnick: At the very beginning we had asked that we do this as clearly in English language as possible and that again means also clearly in Spanish language as possible, it's not a matter of which language, but whatever makes it clear to the voter what they are voting for or

against. So it seems to me that we are ready to move forward here, but the fact is that Chip brings the point up again that we need to make sure its clear. Now can we adopt this with further instructions to the City Attorney as Chip has asked that we add to the Ballot language any clarification which is allowed by the County.

City Attorney Hernandez: You have to direct the approved Ballot language today or defer this to the next meeting.

Mayor Slesnick: OK...

Commissioner Withers: Let's defer.

Mayor Slesnick: OK.

Ms. Bolton: [Inaudible – off mike]...read the ballot please.

Mayor Slesnick: It says, "Shall the Charter of the City of Coral Gables be amended to delete Section 22 entitled, "Authority over officers and employees; removal, suspension, reduction; requests for cause and hearing; Trial Board?" It should probably say, "Shall the City of Coral Gables Charter be amended to delete the Trial Board".

City Attorney Hernandez: Is that what you would like on that?

Mayor Slesnick: To remove the Trial Board, yes.

City Attorney Hernandez: To remove the Trial Board.

Commissioner Withers: Eliminate.

Mayor Slesnick: Eliminate, that's it.

City Attorney Hernandez: To eliminate the Trial Board.

Mayor Slesnick: Shall the Charter of the City of Coral Gables Charter be amended to eliminate the Trial Board, how's that?

City Attorney Hernandez: Perfect. Is that a motion?

Mayor Slesnick: Do you move that?

Commissioner Withers: Yes, I move that; I think that is as straight forward as we can get it.

Mayor Slesnick: Is there a second to that?

Vice Mayor Kerdyk: Yes, I'll second it.

Mayor Slesnick: OK. This is a vote on the amendment; all those in favor say aye.

All: Aye.

Mr. Volsky: [Inaudible – off mike]

Mayor Slesnick: Just a second, we are just voting to amend the main motion and you can speak to the main motion. OK, the main motion has been amended now, “Shall the Charter of the City of Coral Gables be amended to eliminate the Trial Board”, that will be the words on the Ballot.

City Attorney Hernandez: Yes sir.

Mayor Slesnick: We have one speaker, Mr. Volsky, you spoke to this once.

Mr. Volsky: I forgot to mention when I spoke to you about this amendment, its an anomaly because we have a Trial Board which is in power for almost three years, so how does this work? Supposing that people vote for it, the other amendment, the hundred thousand wording is also very obscure when you read it again; Ms. Jimenez said she is in agreement with it, but I simply don’t understand; I read it and it just simply to me, and to a lot of people it seems like a carte blanche for one hundred thousand dollar spending on anything; that be so on the Trial Board – where’s the Trial Board?- in fact I think the Trial Board is going to meet; there is a meeting set up for when...?

City Clerk Foeman: February 25th through the 27th.

Mr. Volsky: Right, I know it will come to pass because I understand there are discussions between the two parties; they will come to the open forum, but that Trial Board does exist for another almost two years; how does it square?- I don’t know. You haven’t asked; what does it mean?

Mayor Slesnick: It means that’s eliminated; it may be eliminated as of April 11th or 13th (14th).

Mr. Volsky: Supposing people who vote for it...I recall I had a long discussion with the late father of Vice Mayor, and he said people don’t go for it because it’s been there, its innocuous, nothing happened, last one was when?- twenty-five years ago, we voted when you were a member, and people go to arbitration; there was one arbitration when the City lost, and that’s it; but the fact is that there is a Trial Board active now, and I say again, I’m going to repeat it...

Mayor Slesnick: I’m sure that by resolution of this Commission the current trial that is continuing on hopefully would be finished by then, but it could be continued under resolution of this Commission.

Mr. Volsky: It could continue for as long as it’s been...

Mayor Slesnick: No, it would be gone if they vote it, there will be no Trial Board, because the resolution of this Commission could continue until the end of that trial, certainly to provide fairness to the participants of that trial.

Mr. Volsky: I don't think its legally sustainable Mr. Mayor, because it eliminates the Trial Board from the books, but there is one already there; it has to be something to the effect that Trial Board proceedings will be ending. How can you allow the Trial Board proceedings to go on when you eliminate this? You should say, after the present Trial Board finishing its current session.

Mayor Slesnick: Thank you, thank you. Ms. Hernandez?

City Attorney Hernandez: Yes sir.

Mayor Slesnick: In the provisions of this, can we apply that the Trial Board will cease to exist when current deliberations are ended.

City Attorney Hernandez: The Trial Board will be eliminated if this passes on April 14th in the April election by operation of law; however, the existing proceedings will continue and then the Board will cease to exist when those proceedings are over.

Mayor Slesnick: I know, what I'm saying, do we need to make that clear?

City Attorney Hernandez: I do not believe you do Mr. Mayor, I think its perfectly clear by operation of law.

Mayor Slesnick: OK. Thank you. Mr. Clerk this is on the main motion, do we have a motion on the main motion?- I think we did, OK.

City Clerk Foeman: Yes we did.

Mr. Clerk
Commissioner Withers

Commissioner Withers: This is voting on the amended language?

City Attorney Hernandez: Yes.

Commissioner Withers: Yes
Commissioner Anderson: Yes
Commissioner Cabrera: No
Vice Mayor Kerdyk: Yes
Mayor Slesnick: Yes
(Vote 4-1)

[End: 10:59:11 a.m.]