

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2009-04 (As Amended)

AN ORDINANCE CALLING FOR THE HOLDING OF A SPECIAL MUNICIPAL REFERENDUM ELECTION OF CORAL GABLES, FLORIDA, ON APRIL 14, 2009, IN ACCORDANCE WITH SECTION 6.03 OF THE CODE OF MIAMI-DADE COUNTY, FOR THE SUBMISSION TO THE QUALIFIED ELECTORS OF SAID CITY, NOT LESS THAN SIXTY (60) 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; ELIMINATE THE 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 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.

WHEREAS, it is the intent and desire of the City Commission to provide an opportunity to the electorate to vote on the issue of whether to retain or to remove from the Charter the provision which allows for a special trial board to be impaneled at the written request of any officer or employee who is removed, suspended, laid off or reduced in grade; and

WHEREAS, it is in the best interest of the citizens of the City of Coral Gables that the decision as to whether to retain the trial board provision in the Charter shall be submitted to the electorate; and

WHEREAS, by law, the holding of a special municipal referendum election is to take place not less than sixty (60) nor more than one hundred twenty (120) days after the draft ordinance is submitted; and

WHEREAS, the proposed Charter amendment is set forth in its final form in this Ordinance; and

WHEREAS, the proposed amendment shall be submitted to the electorate at the Special Municipal Referendum Election to be held on April 14, 2009, pursuant to Section 6.03 of the Code of Miami-Dade County for the purpose of submitting the Charter Amendment to the electorate at said election, as called for and provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. That a special election hereby is called and directed to be held in the regular precincts and the regular voting places as established by ordinance of the City of Coral Gables, Florida from 7:00 o'clock A.M. to 7:00 o'clock P.M. on the 14th day of April, 2009 for the purpose of submitting to the qualified electors of the City, a certain proposed amendment to the Charter of the City of Coral Gables, Florida, which Charter amendment is set forth in Section 3.

SECTION 3. The Charter of the City of Coral Gables, Florida, Article III, Sec. 22, is proposed to be deleted, as follows"¹:

"ARTICLE III. CITY MANAGER

~~Sec. 22. Authority over officer and employees; removal, suspension, reduction; requests for cause and hearing; trial board.~~

~~Officers and employees appointed by the City Manager or under his authorization may be removed, suspended, laid off, or reduced in grade by the City Manager, or by the officer by whom appointed, at any time for any cause which will promote the efficiency of service. Such action, if by a department head, shall be subject to the approval of the City Manager. Any such officers or employees, except common laborers and officers and employees in the service of the city for less than six months, or police officers or firemen in the service of the city for less than 12 months, continuously, may within five days after such action file with the City Manager a written request for a written statement of the reasons for such action, which written statement shall be furnished to him by the City Manager within five days after such request; a sworn reply~~

¹ Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

~~to such statement of reasons may be filed with the City Manager by such officer or employee within five days thereafter, accompanied by a demand for a hearing thereon. The failure of any such officer or employee to request such written statement of reasons or to reply thereto, within the period provided therefor, shall constitute a full waiver of any further rights. In the event of such request and reply thereto the matter shall then be referred to the special trial board hereinafter authorized, which trial board shall thereupon investigate and determine the propriety of such action, and, at the conclusion of its investigation shall render a decision or verdict which shall be final. The trial board may, in its discretion, conduct hearings, summon witnesses and hear evidence. In its decision the trial board may determine whether such officer or employee is entitled to any compensation, allowance or adjustment, which decision shall likewise be final. For the purpose of effectuating this section the Commission shall by ordinance provide for the establishment of a special trial board to be composed of five citizens of the City of Coral Gables, none of whom shall be officers or employees of the city; two of whom shall be appointed or elected by the city employees; two of whom shall be appointed or elected by the City Commission and the fifth of whom shall be selected by the four members so chosen, as provided for and prescribed in said ordinance. In the event that the four members shall fail to agree on the fifth member, such member shall be appointed by the County Judge of Dade County, Florida.~~

~~(Compiled Charter § 25; Laws of Fla. ch. 23221(1945), § 1; Laws of Fla. ch. 25738(1949), § 1; Laws of Fla. ch. 27481(1951), § 1; Ord. No. 2133, § 2(E), 1-21-1975, referendum 4-8-1975)."~~

SECTION 4. The manner and form by which the actual balloting shall be conducted shall be in accordance with the General Election laws of the State of Florida, as amended, and the Charter of the City of Coral Gables, Florida.

SECTION 5. The Miami-Dade County Election officials are requested and authorized to place the above questions on the election ballot for the election to be held on the 14th day of April, 2009.

SECTION 6. In compliance with Section 100.342, Florida Statutes (2008), the City Clerk is authorized and directed to provide at least thirty days' notice of the Special Municipal Referendum Election 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 Special Municipal Referendum Election is to be held, which notice shall be substantially in the following form:

"NOTICE OF SPECIAL MUNICIPAL REFERENDUM ELECTION
TO AMEND THE CHARTER TO BE HELD ON
TUESDAY, APRIL 14, 2009
IN THE CITY OF CORAL GABLES, FLORIDA
PURSUANT TO ORDINANCE NO. 2008- "

A Special Municipal Referendum Election will be held on Tuesday, April 14, 2009 from 7:00 A.M. until 7:00 P.M. in the City of Coral Gables, Florida, at the polling places in the several election precincts designated by the Board of County Commissioners of Miami-Dade County, Florida, as set forth herein, unless otherwise provided by law, and submitting to the qualified electors of the City of Coral Gables, Florida the following ballot question, to be known as Charter Amendment Ballot Question No. ____:

~~"Shall the Charter of the City of Coral Gables be amended to delete Section 22 which calls for a special trial board to be convened to conduct hearings, investigate, and render a decision as to City Manager's removal, suspension, lay-off or reduction in grade of any officer or employee~~eliminate the Trial Board?"

By order of the Commission of the City of Coral Gables, Florida

City Clerk

SECTION 7. The official ballot to be used at said Special Municipal Referendum Election shall be in full compliance with the laws of the State of Florida with respect to absentee ballots and to the use of the voting machines of the Computer Election System, and shall be in substantially the following form, to wit:

"OFFICIAL BALLOT"
SPECIAL MUNICIPAL REFERENDUM ELECTION
TUESDAY, APRIL 14, 2009
FOR APPROVAL OR DISAPPROVAL OF
THE FOLLOWING QUESTION:

Charter Amendment deleting the Trial Board provision.

 YES
(For the Measure)

"Shall the Charter of the City of Coral Gables be amended to delete Section 22 which calls for a special trial board to be convened to conduct hearings, investigate, and render a decision as to City Manager's removal, suspension, lay-off or reduction in grade of any officer or employee**eliminate the Trial Board?"**

 NO
(Against the Measure)

SECTION 8. Electors desiring to vote in approval of said Question described above, shall be instructed to vote "YES" within the ballot frame containing the statement relating to the Question. Electors desiring to disapprove the Question, shall be instructed to vote "NO" within the ballot frame containing the statement relating to the Question.

SECTION 9. The City Clerk shall cause to be prepared absentee ballots containing the Question set forth in Section 7 above for the use of absentee electors entitled to cast such ballots in said Special Municipal Referendum Election.

SECTION 10. All qualified electors of said City shall be permitted to vote in said Special Municipal Referendum Election and the Supervisor of Elections of Miami-Dade County, Florida is requested, authorized, and directed to furnish, at cost and expense of the City of Coral Gables, Florida, a list of all qualified electors residing in the City of Coral Gables, Florida, as shown by the registration books and records of the Office of said Supervisor of Elections and duly certify the same for delivery to and for use by the election officials designated to serve at the respective polling places in said Special Municipal Referendum Election precincts.

SECTION 11. Walter J. Foeman, the City Clerk of the City of Coral Gables, Florida, or his duly appointed successor, is designated and appointed as the official representative of the Commission of the City of Coral Gables, Florida, in all transactions with the Supervisor of Elections of Miami-Dade County, Florida, in relation to matters pertaining to the use of the registration books and the holding of said Special Municipal Referendum Election.

SECTION 12. The City Clerk shall deliver a certified copy of this Ordinance to the Supervisor of Elections of Miami-Dade County, Florida, not less than sixty days prior to the date of the Special Municipal Referendum Election.

SECTION 13. This ordinance shall become effective ten days from the date of its adoption by the City Commission.

PASSED AND ADOPTED THIS THIRTEENTH DAY OF JANUARY, A.D., 2009.

(Moved: Anderson / Seconded: Withers)

(Yeas: Withers, Anderson, Kerdyk, Slesnick)

(Nays: Cabrera)

(Majority (4-1) Vote)

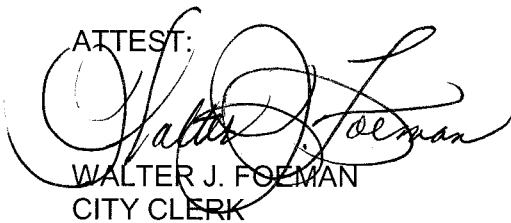
(Agenda Item: E-5)

APPROVED:



DONALD D. SLESNICK II
MAYOR

ATTEST:



WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



ELIZABETH M. HERNANDEZ
CITY ATTORNEY