

City of Coral Gables City Commission Meeting
Agenda Item H-1
November 13, 2007
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

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

City Staff

City Manager, David Brown
City Attorney, Elizabeth Hernandez
City Clerk, Walter J. Foeman
City Clerk Staff, Billy Urquia

Public Speaker(s)

Fausto Gomez, Gomez Barker Associates, Inc.

H-1

Presentation by Fausto Gomez, of Gomez Barker Associates, Inc. regarding Property
Taxes – Results of Special Session and Possible Further Actions.

Presented and Filed

Mayor Slesnick: H-1

City Manager Brown: Yes, Mr. Mayor, this is a presentation by Fausto Gomez of Gomez Barker Associates regarding property taxes and the results of the Special Session; I thought it would be appropriate at this time for Fausto to speak to the Commission and to the viewing audience and give his view as to what has happened to date as we approach January 29th.

Mr. Gomez: Thank you Mr. Manager; Mr. Mayor, Mr. Vice Mayor, Commissioners it's always a pleasure to appear before you. At the invitation of the City Manager particularly to report on what you have a memorandum in front of you that I submitted, which is the results of the property tax session. Let me do something a little bit differently, rather than discussing really what happened in Tallahassee because you already know from the memorandum and press reports; let's talk about where I think we go from here, which I think is probably much more significant than the results of what happened in Tallahassee. As you know essentially, on January 29th, there is a ballot measure on property taxes that will be voted on statewide. That requires approval of sixty percent (60%) of the voters of the State of Florida. Currently, all recent polling shows that the sixty percent (60%) is not

there. As a matter of fact it is polling in the low fifties, and if you do a push poll, in other words, if you bring in issues regarding what are the implications of this property tax measure, the polling results go even further to the high forties. So therefore, there is a huge hurdle in order to get this property tax measure approved on January 29th. Now, where does that leave us; where that leaves us essentially is that the Legislature has said that a) they will not address property tax issue again, particularly the Senate, the Majority Leader of the Senate, Senator Webster, and the Minority Leader of the Senate, Gilbert, have both said, this is it, “no mas”, we are not going to address this issue again. If this issue is going to be readdressed it needs to be readdressed by the Commission, Finance and Tax Commission, which will put issues on the ballot in November 2008. On the House side, you have Speaker Rubio who basically has said that he is willing to address the property tax issue again if the January 29th issue fails or passes, because he is now thinking it went far enough. However, apparently he does not have a partner and the Senate is unwilling to address that issue. So what the Speaker has done, and he has announced this publicly, is that he will either initiate or join a citizen’s petition on property taxes; and to the best of my knowledge, there are two citizens’s petitions floating out there currently. One essentially is sponsored by a local group here in Miami, and that is focused on commercial properties, on non-Homestead/non-“Save Our Homes” properties to have a cap on that. The other is being sponsored by State Representative from Orlando that basically would put on the ballot the Speaker’s original proposal to do away with all property taxes, and replace it with a sales tax. From the indications that we have received, again public comments from the Speaker and others, is that it will be a new property tax measure which will impose a limitation on local government revenue, and that would basically be by petition – by signature. So we know that there are two currently out there; we believe from public comment there is going to be a third. Now, Property Finance and Tax, the Commission, as you know every ten years Florida Constitution requires a Commission be in power to look at taxation, to look at budget, to look at essentially the operations of State Government. They are empowered to put items on the ballot directly in November of 2008, and they will. Now, various proposals are being floated around; there is a proposal by Former Senate President John McKay, who is a member of the Commission, that will eliminate all sales tax exemptions in the State of Florida, except for food and medicine, and would re-enact sales tax exemptions only by – only by an affirmative vote of the Legislative Body; and you would basically bring in those new resources into the State of Florida and use it to reduce property taxes. There is another proposal again, the Speaker’s original proposal on the shift of sales tax per property tax that’s being pushed by one Commissioner, and there are different permutations of proposals. The Commission requires seventeen (17) votes to put items on the November 2008 ballot. I would predict that there is going to be at least a couple of proposals from the Commission that gets seventeen (17) votes, but I don’t think anybody at this moment can tell you what those are, or what are the specific outlines of those proposals that will be on the ballot. So what we may have is we may have some citizen’s petition proposals on property taxes; we will have a Commission, at least one or two Commission proposals on property taxes in the November 2008 ballot. So what it really comes down to, I’ve told you previously, local governments are in for eighteen to twenty-four months of instability on property taxes, where essentially nobody really knows what the implications are or what the final proposals will be. Now, let me throw something

else into the discussion and go back to what the Legislator just passed. Of significant concern, I think of significant concern, is that the Governor and Legislator hired legal counsel to review "Save Our Homes", and what legal counsel opined is that "Save Our Homes" if it is faced with a court challenge will probably be deemed unconstitutional. Now, the Legislator in order to mitigate that was proposing a twenty-five percent (25%) exemption for all homeowners in the State of Florida, not a twenty-five thousand dollar, but a twenty-five percent exemption, to try to sort of bring a clear realm to the process to somebody who is a new homeowner and moving into the State of Florida, would immediately get a twenty-five percent reduction with regard to someone who has lived here for a while and has "Save Our Homes" protection. Ultimately, as you know, that was not included in the final proposal, and so therefore, if you read the statewide press, and if you hear the comments there has been discussion that there will be some legal challenges to "Save Our Homes". If "Save Our Homes" is challenged the experts that have been contracted by the State of Florida from FSU and the University of Florida have opined, again, they are not judges, they are simply law professors from FSU and the University of Florida that "Save Our Homes" will probably be deemed unconstitutional; it's a violation of the commerce laws of the United States because you are treating people unequally. If that happens, again, the opinion rendered by these attorneys is that the homeowners or the government would be forced to pay back the billions of dollars of "Save Our Homes" savings that have accrued to various homeowners. That is of particular concern to the City of Coral Gables, and I say that because essentially our population basin is a resident, I say our, is fairly stable, and we have significant number of long-time homeowners in our City who have "Save Our Homes" protection; and if "Save Our Homes" is declared unconstitutional that could affect particularly hard the economy of the City, and essentially the welfare of the citizens of the City who are long-time homeowners, because our population base is stable, and our population base is residential. So that's something that I sort of lay out there that is of significant concern. Now going back to the recently finished legislative session, there was an issue that I worked on your behalf, as well as the behalf of others, which is the revenue limitation cap on local governments; and that was not included in the final proposal; that really is a question of local control; it isn't a question of taxes; it's a question basically of who can govern best. Does local government govern best for the citizens?- or should State government basically be mandating to local government essentially what the policies will be or are? So that was not included. On the January 29th issue, on the ballot there is already significant opposition to it, that's why polling which is not good right now, will probably be – you have the League of Cities have not come out against it yesterday; you have the teacher's union would mount a rather rigorous campaign because of the cost that this money would take from education, and you have some rather significant Statewide business groups who basically have come out against it and have said that ten percent cap on commercial and non-"Save Our Homes", the homes that do not have "Save Our Homes" protection is basically meaningless; and so therefore they see no benefits to their members which are the commercial real estate. So you have three groups already out there who will start opposing it. We don't know what League of Cities will do, whether they will spend resources or what form it will take; we do know that the teacher's union said they will spend significant resources, and some of the business groups are already sort of beating the drum to bring in resources against the January 29th proposal. All I can tell you

basically is what I have told you in the past; there is significant instability, there's no time – you know, I don't envy you all sitting in the Commission and certainly the Manager crafting budgets, really not knowing what the outlines of your resource base is going to be for your future with regards to issues on the ballot or legislative proposals. Changing subjects a little bit about the State Budget – this Wednesday, tomorrow, the Revenue Estimating Conference is going to be meeting in Tallahassee, and as you know we just went through a cut session that cut a billion dollars out of the current State Budget. It was hoped that there would not be additional cuts necessary. The Revenue Estimating Conference essentially we understand is going to say that there is another two billion dollar hole in the State Budget, and the two billion dollar hole would basically come into play for next fiscal year; the rainy-day fund of the State of Florida currently is one point eight billion dollars (\$1.8B). It is not anticipated that they will go back to Tallahassee to cut the current budget further. What is anticipated is that we are going to start the next Legislative Session, which begins in March, with two billion dollars (\$2B) less than was anticipated, with a one point eight billion dollar reserve fund, and that reserve fund obviously needs to be maintained. So that really means is we are going into a period of State budgeting of very limited resources, and I think that it is very important for us to sort of lay that out there and recognize that and that obviously reduce sales tax collections, and that's obviously the real estate market, as well as frankly a lack of confidence in the economy and consumer spending, you know, as significantly being reduced. So I'm sorry to be the bearer of bad news on the budget, but at the same time I wanted you to have a full outline of what the panorama is in Tallahassee with regards to budget, but even more significantly with regards to taxation and property taxes. Mr. Mayor, Commissioners, any questions.

Commissioner Anderson: I wanted to thank you first of all; your staff sends those news articles in outline form. I found it really helpful to kind of follow the whole issue of the property tax, the Legislative Session. Thank you for your good work and I hope you continue sending those.

Mr. Gomez: Thank you. We will.

Vice Mayor Kerdyk: I have a question for you. You talk about the January 29th initiative and the groups that are stacking up against the proposal. Is the State spending money to push their agendas as far as that goes, or where is the money coming on the other side of the situation?

Mr. Gomez: Some other business groups have basically realtor groups and some business groups that have come out in favor of it. The business community appears to be split with some of the significant groups in Tallahassee saying, it doesn't go far enough, we'd rather it be defeated, and they take another shot at it, and some of the other business groups are saying, well this is better than nothing, and so we'll support it, particularly on the portability issue.

Vice Mayor Kerdyk: Yes, the portability issue is a big issue. Thank you.

Commissioner Withers: The sales tax on services is coupled with a cap on commercial values, did you say, or no?

Mr. Gomez: No. One of the proposals in front of the Commission in the Taxation/Budget Commission is being advanced by Former Senate President John McKay, and his proposal, which he has advanced since he was Senate President, essentially is you eliminate all sales tax exemptions out of the budget, you sort of re-enact food, medicine, health care....

Commissioner Withers: Attorneys, and attorneys.

Mr. Gomez:...sort of the primary issues, and then every other sales tax exemption has to be affirmily voted upon by the Legislator to be re-enacted, and the savings, because obviously not all of them are going to be re-enacted, I'll probably say a significant amount will not be re-enacted, the savings or rather the increased revenues that comes into State coffers from the limited sales tax exemptions would then be used to lower property taxes.

Commissioner Withers: Lower property taxes residentially or lower property taxes commercially?

Mr. Gomez: I think it's probably across the board.

Commissioner Withers: So that's where the real liability will line up as to whose service taxes, or whose services get taxed and whose services don't get taxed. What about a State income tax, was that discussed at all?

Vice Mayor Kerdyk: That has no chance.

LAUGHTER

Commissioner Withers: I mean, was that ever....

Mr. Gomez: I knew what you said but I answered just precisely that.

Commissioner Withers: So that was floated in corporate income....

Mr. Gomez: I don't think it floated. That's the third rail for Florida politics.

Vice Mayor Kerdyk: Can I just ask one other question?- All these proposals – the proposal on January 29th any tax initiative would be brought back to 2007 year – the 2007. For instance, the commercial proposal where they have the ten percent (10%) cap; the ten percent cap would go on what assessed value – the 2008 assessed value, the 2009 assessed value, the 2006 assessed value, what would that be?

Mr. Gomez: I can't answer that question. I'll find out and get back to you.

Vice Mayor Kerdyk: Please.

Mr. Gomez: I'll get back to you today, whether its 2007 or 2008.

Vice Mayor Kerdyk: I think its 2007; I think it spins back to 2007, even though you are voting in 2008, but I'd like to get that as current. Thank you.

Mayor Slesnick: I had had the chance to ask Fausto that in the course of the coming months what we really need is an education on – and probably the proper thing is to wait until after January 29th because it has an impact. We right now don't have, I shouldn't speak for you all, I don't have an adequate understanding of what happened last year and how that will affect next year because remember what we were considering this year and the statutory changes that were made have a ballooning effect over the next couple of years, and there are more prohibitions and limitations that are set for us moving forward from where we are at this moment.

Commissioner Withers: You mean as far as percentages increase – the amount of percentage increase.

Mayor Slesnick: And the amount of demanded decrease. So we may again face next year the same debate of having to go certain ways back and then come forward, and how do we get forward; how do we not get forward, so we are going to need a complete – and then of course if January 29th passes it would throw more unto the fire and it would – we just need a full education; and so Fausto agreed that some time, at the appropriate time to maybe he and a maybe staff person from the....

Commissioner Withers: I'm sorry Don, how is California defended itself constitutionally against Proposition 14 or 18, or 13?

Mr. Gomez: Proposition 13 – that was a while ago. I can't answer that question for you, but I will...

Commissioner Withers: I'm sure there were constitutional challenges to that.

Mr. Gomez: I'll never get that answer, I know about Florida; I don't know about California, but I'll try to get that answer for you.

Commissioner Withers: I think it would be the same.

Mayor Slesnick: Fausto...

Commissioner Anderson: I'm sorry – when we do whatever education we do with the Commission, if it's in this particular room or somewhere, I'll love for it to be aired to the public, because I think people are confused and concerned, so I'd like to share that knowledge with the rest of the population.

Mr. Gomez: What I recommend is that we do that after January 29th, so that there is no interpretation, and no allegation that the City is trying to influence the vote one way or the other.

Commissioner Anderson: Absolutely.

Mr. Gomez: And then I will invite some Legislative staffers from Tallahassee, some experts in this field and try to do an education.

Commissioner Anderson: Yes, it will be based on fact not fiction.

Mayor Slesnick: You weren't here, I don't believe, when we discussed one thing that we think that is important for the Legislature this year, so when we get to creating your job scope for the coming year, if you continue to represent us, we were discouraged that the Legislature had not made the change to allow us to buy back FRS time at three percent (3%) credit for special risk Fire and Police, because in fact our unions and ourselves are going to consider that as a way in which to save our pension aspects of the future, its obviously not something that the unions would accept, and its not something that this Commission would ask that they accept, that if we had to buy it back at less than three percent (3%) a year; that's the only way that the door is open for us to consider doing that, is that all credit for special risk employees be at three percent (3%).

Mr. Gomez: Actually this is a very appropriate time; the Senate just came out with a report...

Mayor Slesnick: You sent that to us.

Mr. Gomez: Right – I believe I forwarded that to you that Interim Report on Municipal Pensions; that interim report results on legislation, so it's a very appropriate time that we include a measure of that nature into the legislation that basically becomes a Committee Bill.

Mayor Slesnick: You see, I think what they are not considering; they can look at local pension plans and see what problems they have, and what challenges they have, and then they can look at FRS, but what they are not concerned is if they think FRS is strong enough to hold local employees for say seemingly, they thought so for up until now, the discouragement, or the impossibility of adding Police and Fire past service at a rate lower than three percent (3%).

Mr. Gomez: I will get together with your staff, Mayor and Commissioners, and will craft the appropriate language and will get the sponsors and try to move it along.

Mayor Slesnick: And I think Don Nelson told us last time who the Senator was and we actually got their address of the Representative, who was it that told us there was one person that seemingly had been opposed to the three percent (3%) buy back, but his mind was changing, I remember this discussion, but I forget who was it that told us this, but

whoever it was his mind may change and we need to get to him – Posey or what was it? He wasn't the person that told us that, well I don't know who was standing here, but whoever it was – and we just got an e-mail with that address about a week ago.

Mr. Gomez: I'll get with your staff on it.

Mayor Slesnick: OK.

Mr. Gomez: Thank you Mr. Mayor.

Mayor Slesnick: Thank you.

Commissioner Anderson: Thank you very much.