

## **City of Coral Gables City Commission Meeting**

**Agenda Item E-7**

**January 27, 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)**

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E-7 [Start: 10: 26:22 a.m.]

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 and twenty (120) days after the draft is submitted, an ordinance in connection with the proposed amendments to the Charter of the City of Coral Gables, wherein the voters of the City of Coral Gables shall be called upon to vote on the following questions, to be known as Charter Amendment Ballot Question No. \_\_\_\_: “Shall the Charter of the City of Coral Gables be amended to provide for term limits for a total of eight (8) years for the Mayor?”; Ballot Question No. \_\_\_\_: “Shall the Charter of the City of Coral Gables be amended to provide for term limits for a total of twelve (12) years for a City Commissioner, with the incumbent Mayor in Group One (I) and the incumbent Commissioners in Group Four (IV) and Group Five (V) allowed to run for an additional term in the General Biennial Election of 2011?”; and Ballot Question No. \_\_\_\_: “Shall the Charter of the City of Coral Gables be amended to provide that the time served in fulfilling the unexpired term resulting from a vacancy on the City Commission shall not be counted in applying these term limits?”; including, but not limited to, amending certain sections, 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.

[Note for the Record: The City Attorney read the aforementioned Charter Amendment into the record].

Mayor Slesnick: Can I have a motion?

Commissioner Cabrera: So moved.

Vice Mayor Kerdyk: Second.

Mayor Slesnick: Moved by Mr. Cabrera and second by Mr. Kerdyk. Any other discussion?- questions?

Mr. Clerk

Commissioner Withers: Yes

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Mayor Slesnick: Reluctantly Yes

(Vote: 5-0)

Mayor Slesnick: OK. Do we want to go ahead and go to the items I suggested?

Commissioner Anderson: Sure.

Mayor Slesnick: And let's get that order.

Commissioner Anderson: Is that the order of the questions?

Mayor Slesnick: Yes, I think it's the order and the wording...

Commissioner Anderson: OK.

Mayor Slesnick: The whole issue of putting these questions on the ballot.

Commissioner Anderson: Fine with me.

Mayor Slesnick: I think we have some literature coming. Mr. Clerk do you want to explain?

City Clerk Foeman: Yes Mr. Mayor, we are required by Miami-Dade County Elections...

Mayor Slesnick: Walter, Walter, why don't you come up here so we can kind of look at you and talk to you.

Commissioner Cabrera: Well not kind of, so we can look at you. So you don't look like you are peering over your right shoulder now.

City Clerk Foeman: Mr. Mayor and members of the Commission, what I've done is I've taken the ballot language that the City Attorney has proposed and I've included the order in which, or the suggested order in which these items shall appear on the ballot, subject to your approval. I presume that the term limits would be passed, which it just passed, and incorporated that in the order, but the question was, and I had asked the City Attorney was, whether or not the term limits issue, which had three parts should in fact be a separate, each part should represent a separate item, or whether or not it should be just as one question, and I guess that determines the complete order of the ballot, how it should appear. So I need some guidance in respect to that issue.

Mayor Slesnick: Well, we need some guidance from the City Attorney.

City Attorney Hernandez: I'm sorry Mr. Mayor.

Mayor Slesnick: I said we are looking for some guidance from you.

City Attorney Hernandez: Oh Mr. Mayor, as its presently written, the Commission is submitting these questions in a manner that citizens can vote for term limits for the Mayor, and not term limits for Commissioners, or term limits for Commissioners and not term limits for the Mayor. The question is, does the City Commission wish to merge question number four and five into one question as a "yes" or a "no"?- and that is perfectly acceptable, we have checked with the County...

Mayor Slesnick: We have always talked about it as one question; I don't know why we would want to merge something that was never unmerged...

City Attorney Hernandez: Yes, on first reading they were considered as separate ballot questions, so the question is, does the Commission prefer to put them together as one question?

Vice Mayor Kerdyk: I think so.

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes, I'm for putting it together, just under the unlikely circumstance that one would pass and the other would not pass.

City Attorney Hernandez: Then what we would do is we would revisit E-7, and the question would be, Shall the Charter of the City of Coral Gables be amended to provide term limits for a total of eight (8) years for the Mayor; and shall the Charter of the City of Coral Gables be amended to provide for term limits for a total of twelve (12) years for a City Commissioner with the incumbent Mayor in Group One (1), and incumbent Commissioners in Group Four (IV) and Group Five (V), allowed to run for additional term in the General Biennial Election of 2011, and shall the Charter of the City of Coral Gables be amended to provide the time served in fulfilling the unexpired term resulting from a vacancy in the City Commission shall not be counted in applying these terms. It would be one question submitted to the electors.

Commissioner Withers: What is the thought why the Mayor would not have a twelve year term limit?

City Attorney Hernandez: Because that was the direction you all gave us.

Commissioner Withers: So if the residents vote for a four year Mayor that means the Mayor can only be elected for two terms, whereas a Commissioner can be elected for three terms.

City Attorney Hernandez: Correct.

Vice Mayor Kerdyk:...[Off mike]...four year – two year term limits; with the four year it could be four terms...

Commissioner Withers: No, I understand, or it could be two terms. I'm just curious to know how each of you feel over eight (8) versus twelve (12) for the Mayor.

Vice Mayor Kerdyk: I'm OK with it.

Commissioner Withers: OK obviously. Why are you opposed to twelve?- I'm just trying to be fair across the board here.

Vice Mayor Kerdyk: We've been talking about eight the whole discussion with regards to this. I don't think anybody is in love with this in general, we are just letting the citizens make a decision, and we've talked about eight and I'm OK with eight and twelve. I don't know if there is any rationale to it.

Commissioner Withers: I'm just trying not to be confusing to the electorate out there, that's all. I mean, no offense to the Mayor, but the Mayor's seat is the celebratory head of the City, runs the meetings, sets the agenda, its not like it's a strong Mayor position where there do much more than normal everyday Commissioners do, no offense to you on that Don, I know you do a lot more as far as meeting the public and visiting...

Commissioner Cabrera: When you say sets the agenda, you mean kind of like moves the agenda along.

Commissioner Withers: Yes, yes, runs the meetings.

Commissioner Cabrera: Adjusts the agenda as needed, yes, OK.

Commissioner Withers: Doesn't let people speak when they want to speak and stuff like that.

Commissioner Cabrera: Or lets them speak to often.

Commissioner Withers: Or lets them speak too much, exactly. Anyway, I just don't know how you all feel on that.

Commissioner Cabrera: I'm just curious, I'm really not trying to be combative on this one, but Vice Mayor Kerdyk brings a good point; we've been probably talking about this for three or four meetings, why is it an issue now?

Commissioner Withers: Well, I was always thinking of terms before, and the last meeting we took terms and put it into years; we put a number of years down because we weren't sure whether it was going to be a two year term or a four year term. So we said the Commissioners could be reelected for three terms, that's automatically twelve years; we said the Mayor could be elected two terms or three terms or four terms, we didn't know whether it was going to be two years or four years. My point is if I'm a voter out there and we are tying them together...well you know what I think it's a good idea that the Mayor should run for twelve years, am I going to vote for this or am I not vote for this.

Commissioner Cabrera: The reason that I support it is because of the responsibility that the Mayor's office has in terms of the things you've outlined already; the leadership responsibilities the office holds, and secondly, I go back to my analysis I performed for all of you a couple of meetings ago, where I showed you that we had twenty-four (24) Mayors in our City, and with the exception of the last three Mayors, and I'm sorry I don't have those statistics in front of me, but what I recall from my analysis was that the majority of the Mayors served less than three years.

Commissioners Withers: Three years?

Commissioner Cabrera: Yes, that was their total three point...I averaged the twenty-four...

Commissioner Withers: Oh average.

Commissioner Cabrera: Yes, when I average the twenty-four people that served and if I had taken the last three who had served an eight year term, was it a six, no it couldn't have been, yes six it was six, and then ten; ten, eight, and six, if I had taken those three out the average term in office for Mayor was like two point two five years (2.25). But you know, I'm not against it; I understand how you don't want to confuse people, you're not even for term limits to begin with, kind of an odd argument that you are making.

Commissioner Withers: No, no, because that's why anything I can do to extend the terms out, is what I'm trying to do.

Commissioner Cabrera: OK.

Commissioner Withers: People are either going to vote for the term limits or they are not going to vote for the term limit.

Commissioner Cabrera: Right.

Commissioner Withers: So we are the ones that are saying eight or twelve years, it's not the voters that are going to be voting eight or twelve years for the Mayor, it's us up here.

Commissioner Cabrera: Right.

Commissioner Withers: At the end of the day. So my feeling is if we really want the electorate to be truly responsive to this ballot question, we need to be as vanilla as possible, but we are kind of tinkering with the eight year and twelve year.

Commissioner Cabrera: You know what?- you bring up a really good point, and I think that you hit the nail on the head, and you know we should not differentiate, because at the end of the day, and again this is not in any disrespect to present company, but the position is a Commissioner, the position held is a Commissioner with additional responsibilities to set leadership initiatives and things like that, so I would not be opposed to it.

Commissioner Withers: And again Ralph, my whole point is that if we separated them, I would have no problem with eight and twelve years, but if we are putting them together...

Commissioner Cabrera: Or you can do, hey, I'll give you a better one, you can go eight and eight, you don't have to go twelve and twelve, you can go eight and eight, but then that would go against your argument.

Commissioner Withers: That doesn't even solicit a response.

Commissioner Cabrera: Or you can go sixteen and sixteen if you want, you know; oh heck, let's just forget the whole thing, let's forget the whole thing Walter.

Commissioner Withers: That's my biggest concern, if we are putting together...

Commissioner Cabrera: Well, I told you how I feel, and I can go either way; I can go either way on this issue.

Mayor Slesnick: Do we have a motion?

City Attorney Hernandez: Well, I need a motion to revisit E-7 and to direct us to make the changes that whatever it is you all want.

**Mayor Slesnick:** No, I asked if we had a motion on the order of the ballot is presented to us with the combination of issues four, five and six, which is meaning that we will put term limits on as one issue; do I have that motion?

**Vice Mayor Kerdyk:** So moved.

**Commissioner Anderson:** Second.

**Mayor Slesnick:** Been moved by Mr. Kerdyk second by Ms. Anderson; any further discussion?

**Mr. Clerk**

**Commissioner Withers:** OK, we are just voting for the five questions on the ballot, putting the two together?

**Mayor Slesnick:** We are voting for issues one, two, three, and four, and that would combine issues four, five and six into one term limit.

**City Attorney Hernandez:** I will need for purposes of the record two separate motions; first if you want to you can consider the resolution that was submitted by the City Clerk as amended by the City Commission; and then I need a motion to revisit E-7 directing us to make the changes as discussed in this particular resolution.

**Mayor Slesnick:** OK, we have first before us, if the maker of the motion and the seconder will accept this, a resolution where we are accepting the proposed order of the ballot and the questions on the ballot as looked at...there is no number on it yet, but Resolution 2009-(blank), which is before us and presented to us by the City Clerk. So we are voting to put these issues on the ballot in this order, and then we will vote to confirm that we are amending this order to combine four, five and six as one question. So Mr. Clerk would you call the roll, please?

**Mr. Clerk**

**Commissioner Withers:** Yes

**Commissioner Anderson:** Yes

**Commissioner Cabrera:** Yes

**Vice Mayor Kerdyk:** Yes

**Mayor Slesnick:** Yes

**(Vote: 5-0)**

**Mayor Slesnick:** Now, can I have a motion that we instruct, well to amend the suggested order to combine four, five and six into one term limit question as inconsistent with the term limit questions that we voted on before.

**Vice Mayor Kerdyk:** So moved.

**Mayor Slesnick:** Been moved by Mr. Kerdyk.

**Commissioner Anderson:** I'll second it.

**Mayor Slesnick:** Seconded by Ms. Anderson. So that we are combining and the citizens will be presented with one omnibus term limit question, which will include the ones that we've already approved as the proposed term limits.

**Commissioner Withers:** And that's the twelve and eight?

**Vice Mayor Kerdyk:** Eight and twelve.

**Mayor Slesnick:** Yes.

**Mr. Clerk**

**Commissioner Anderson:** Yes

**Commissioner Cabrera:** Yes

**Vice Mayor Kerdyk:** Yes

**Commissioner Withers:** No

**Mayor Slesnick:** Yes

**(Vote: 4-1)**

**Mayor Slesnick:** Reluctantly yes.

[End: 10:42:32 a.m.]