

**City of Coral Gables City Commission Meeting
Agenda Item I-4
January 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
Planning and Zoning Director, Ramon Trias
Historic Preservation Office, Dona Spain**

Public Speaker(s)

Agenda Item I-4 [2:51:35 p.m.]

Status report on the Charter Review Committee process and request to set a future date for City Commission review of proposals.

Mayor Cason: Alright, let's move to I-4. It's the City Attorney's, a non-time-sensitive, time certain item.

City Attorney Leen: Thank you, Mr. Mayor.

Mayor Cason: That's the Charter Review Committee process.

City Attorney Leen: So, the status report on the Charter Review Committee process and request to set a future date for City Commission review of proposals. So, I'm pleased to report to you that the Charter Review Committee has completed its work and has submitted a number of amendments. One second. I'm not asking you to review this right now. I'm just providing it to you so you can review it going forward for the next meeting. I want to be perfectly clear. I got this finished last night. So, this...

Commissioner Keon: So you have it five days in advance.

City Attorney Leen: Yes. So, this is for -- I'm giving this to you two weeks in advance. Think of it that way. This is the Charter of the City of Coral Gables restated. Vice Mayor.

Vice Mayor Quesada: Yeah.

City Attorney Leen: I'm giving you this two weeks in advance.

Commissioner Slesnick: He wants his on his computer.

City Attorney Leen: I'll email it to him as well. I'll email it to you too. This is the restated Charter of the City of Coral Gables. There are no substantive changes in here. All that's done is that we've taken the compiled Charter, which was approved by the former City Attorney in the 1950's and we've taken a look at it and compiled that Charter and restructured it in a way that makes more sense, and the Charter Review Committee was involved in this, and they were part of the process of revising the Charter. And my office is approving it, but ultimately, it's you that will approve it by ordinance, and of course, with any edits that you think are appropriate. And of course, ultimately, you have the authority not to approve it too. I do recommend you approve it because what it does is it provides a forward. It restructures the Charter so that it starts with the

section that doesn't say that the City government is abolished. That was very important to Mr. Thompson, Parker Thompson. From day one, he said the first sentence of our Charter is not "We, the People." It's "The government of the City of Coral Gables is hereby abolished." And it didn't say a date, as I recall, so it was like, you know, you could look at that and think is there a government in Coral Gables. He was concerned about that. So, from a legal perspective, I thought we were fine, but I thought he was right. That should be moved. So, that's been moved to an historical section. Instead now, it starts with the creation, composition, election, terms, vacancies, qualifications section, which is really the heart of Coral Gables, which is its elected officials and the people's right to elect their candidates. Then there's term limitations, Section 2. And it goes on; I'm not going to go through it all. It's also been made gender neutral, and it's been updated in terms of all of the notes about where everything comes from. It's been fixed.

Vice Mayor Quesada: Is that a redline version of it?

City Attorney Leen: This is not a redline version. If you saw the redline version, it would be all red lines because everything's been moved. I can get you a copy of the original.

Vice Mayor Quesada: Do you have the redline version?

City Attorney Leen: Sure. I'd be happy to get it to you.

Vice Mayor Quesada: Can you send me that version?

City Attorney Leen: Do you want this one too?

Vice Mayor Quesada: Yeah, please.

City Attorney Leen: Okay.

Vice Mayor Quesada: It's just so I know where to jump immediately to see where the changes have been made.

City Attorney Leen: Got it. Definitely, so let me hand this out.

Vice Mayor Quesada: You know, the original drafters started with that line that it was abolished, you know, to catch your attention.

Commissioner Slesnick: I think we're very fortunate to have so many individuals really concerned with the City serving on the Charter Review Board because they worked seven months on this.

Mayor Cason: They did a great job.

Commissioner Keon: Yep.

City Attorney Leen: So the -- just give me one second, forgive me.

Mayor Cason: Is the chairman going to come back next time and give us an overview of the work, or are they basically...

City Attorney Leen: No, no. They're still very much involved. It's ultimately the decision of the Commission, but I do believe they would like to continue to be involved. And I'm just trying to -- we've had so many items today, I just want to get the appropriate one. Forgive me. Just give me one moment. Here it is. So, I want to briefly go over for you what I propose to be the process, and then the Commission can decide what you think the process should be. This ultimately is something completely within your discretion. So, first, since we are doing a restated Charter and that's been recommended by the Charter Review Committee and it's been approved by them and also by me, what I recommend is that you take that up first so everyone

knows what charter we're working from instead of having two charters, the revised charter and the old charter and that could be confusing if you're recommending amendments because some of the section numbers have changed as well. So, I recommend that starting in the next meeting, through an ordinance, that you take up the Charter of the City of Coral Gables, the restated charter. That can be done by ordinance. In fact, before, as you'll read in the forward, it was simply done by approval of the City Attorney, who compiled different special acts and different provisions and put them together into a charter, so you certainly could do that by ordinance. If anything, it would be more elevated than the prior approval of the Charter. Any substantive change to the Charter, however, based on the Miami-Dade County Charter, which contains provisions related to amendments of municipal charters, would need to be done by a referendum, and it would be up to you to determine what issues you want to provide to the public for that referendum. That's done by resolution. So, I'm going to briefly go over -- I'm not going to go into the substance of them. I'm just going to tell you the titles of the different proposals that -- proposed amendments, substantive amendments that were approved by the Charter Review Committee. These would come to you after you approve the updated version of the Charter. And then you would determine one by one whether you believe these should be sent -- or you could do them all together, it's up to you, but whether this should be sent to the voters for a referendum, and that would be done by resolution of the Commission. At that point, I'm going to briefly go over -- I guess we'll go over it now. If you do decide to send anything to the voters, you have a couple of choices about how you would -- how they would vote. Our Code allows for a mail ballot and I have the provision. It's Section 22-8 of the City Code. I'm going to hand it out to each of you. There's two pages here. What it tells you is first the mail ballot, the first page, Section 22-8, and the second page is the 2016 ballot issues deadlines for Miami-Dade County if you decide you want to put it on a countywide election. And we've already missed the presidential preference primary. That had to be in to the County by December 22, but there's still time to -- if you wanted to put this on a -- if you wanted to do this during a countywide election, you could qualify for either the primary election or the general election. The primary election, we have to have the information into them by June 10; and the general election, it has to be August 9. The primary election, just for your information, is August 30. The general election

is November 8, so it's approximately, July, August -- two and a half months in advance that we have to have the information to them. So, that's what I'm proposing to you. Just -- before I turn it over to the Commission, the actual substantive amendments that are being recommended, although ultimately it's completely within your discretion whether to proceed with these, is Section 2, run-off elections. That's not in the present version. These are all additions. So, there's one on run-off elections. There's a proposal regarding removal of Commissioners, which currently exists in the Code. They're trying to make it more consistent -- I'm not saying it's inconsistent with state law, but they're trying to incorporate state law into the Charter and reference it regarding removal of Commissioners. There is a provision regarding suspension of Commissioners for incapacity. There is a provision regarding the Vice Mayor and adding the Vice Mayor into the Charter, and what happens if the Vice Mayor's not available, who picks -- who will fill in for the Mayor where the Vice Mayor's not available. There's a amendment to the -- pardon me, authority over officers and employees, removal of suspension reduction. There is a change to the Trial Board, a removal of the Trial Board. There's a change to the lines of authority between the Manager and the Commission, removing the Commission's authority to hire, fire or suspend/reduce in grade. And then lastly, there's the addition of an external auditor in the Charter. You already have authority to hire one, but you know, by -- in fact, as was mentioned at the Charter review, the Commission does actually have an external auditor that the City Manager and the Budget and Advisory supervise, but that also they can report directly to the Commission so you supervise. This requires that in the Charter and sets some requirements related to it. So, in addition, there were two changes that were done by City Attorney opinion because there were two provisions in clear violation of the Municipal Home Rule Powers Act, and also in violation of the collective bargaining laws, and those related to the pension plan. There was a provision that hasn't been enforced for years, which was discussed at the Charter Review Committee, which said that any change to the pension plan had to go to referendum, and that said that the pension trustees had to approve any changes to the plan. That's clearly a violation of collective bargaining. That has to be done through the collective bargaining process and is decided by the Commission and there's an impasse procedure if there can't be an agreement. It also violates the Home Rule Powers Act. Likewise, there was a provision related

to the Biltmore Hotel that -- and it's clear that the City can have the Biltmore Hotel. There was a special act that granted us authority, the City authority to have that. But there was a provision regarding a referendum, and that referendum occurred and the City was given authority to have the Biltmore Hotel. That referendum provision, though, is otherwise void. So, the Commission has the authority over the Biltmore Hotel going forward and because that provision violates the Municipal Home Rule Powers Act. And just so you know, what the Municipal Home Rule Powers Act did was it said -- there were these old provisions in charters which said that everything had to go to the voters and it greatly limited the authority of the Commission to do anything. And so, the Home Rule Powers Act, which was a state legislative act, removed all of those referendum requirements that limited the authority of the Commission to act, and that was done by the Legislature and it made them void so they could be removed. And in fact, one of the reasons why we have so many gaps in our Charter is that a lot of these provisions were removed a number of years ago. These, for whatever reason, were not and they should have been, but -- those sections I just mentioned to you, it should have been removed. And in fact, the Biltmore one was not even in the Charter itself. It was in what was called related laws. Suffice it to say, you still have the full authority over the Biltmore hotel. It doesn't change anything substantively. It really relates to things several decades ago, but I just wanted to, you know -- because of transparency, I just wanted you to know that.

Mayor Cason: In terms of getting voter support for whatever we have to send to them in terms of a referendum, it seems to me that sending them by mail allows you to do more explanation of each of the items than if you put them at the end of a ballot. It's very hard to explain some of these things. If we mailed these, would they go to -- would it be all registered voters or the property owners or renters? How would...

City Attorney Leen: What it says is a referendum election wherein qualified voters of the City of Coral Gables are the only electors eligible to vote, may be conducted by mail ballot when authorized by a majority vote of the City Commission and by the Supervisor of Elections for Miami-Dade County -- which my understanding is I don't believe that will be difficult to get.

The Secretary of State must approve a written plan for the conduct of the election, which shall include a written timetable for the conduct of the election when submitted by the Supervisor of Elections. And then there are certain elections which cannot be conducted that way, neither of them involve this.

Mayor Cason: So, we could -- we don't necessarily have to tie it to a general election. We could do a separate -- if we wanted to mail it out to all the registered voters with each of the items that we think should go to them with an explanation of what it is and then yes or no, I suppose, for each one of the items.

City Attorney Leen: Yes.

Commissioner Keon: But even if it were placed on the ballot, the ballot language has to be approved. I mean, and there is...

City Attorney Leen: Yes.

Commissioner Keon: I mean, so the ballot language...

City Attorney Leen: We're still going to have to comply with state law and there's some limitation...

Commissioner Keon: But it does provide an explanation...

City Attorney Leen: Yes.

Commissioner Keon: Of...

Mayor Cason: Because the ballot -- isn't there a limit on the number of words.

City Attorney Leen: Words.

Mayor Cason: You couldn't -- with 183 words or whatever it is you...

Commissioner Keon: Right.

Mayor Cason: Can put in, I don't know. Mr. Clerk, how many -- Walter, how many words are you allowed to put on the ballot?

City Clerk Foeman: I believe it's 75.

Mayor Cason: So, it would be very hard...

Commissioner Slesnick: Per item.

Mayor Cason: To get people to understand what you're talking about unless you did a mail.

City Attorney Leen: There are limitations about what you can do that would be considered advertisements related to referendums and Charter amendments. You can give an informational campaign. That's permitted, as long as it's not one way or the other and just provides information. The other thing that could be done is you could provide them -- when you discuss these, you're obviously going to debate the pros and cons. You can -- you know, we can always make that available to people and let them know that they can watch the tapes and we can let people know that in eNews. That's not really advertising. That's just letting them know of a public debate that occurred.

Mayor Cason: Okay, so what else -- do you need anything from us at this stage?

Commissioner Lago: Schedule a date/

City Attorney Leen: Well, I would like...

Commissioner Keon: Do you need direction to prepare an ordinance?

City Attorney Leen: I'd like to prepare an ordinance on the restated Charter. If you see any edits, please let my office know, and then I would like to, after that, schedule -- you probably -- it's up to you again, but you may want to schedule a special meeting for the actual consideration of the amendments. I know that the Chair, former Mayor Valdes-Fauli wanted to present, and I know that some of the other members wanted to speak, and I believe one of you had mentioned maybe having some workshop or meeting and that's ultimately up to you.

Commissioner Keon: Yeah, I had asked about possibly having a meeting with the Charter Review Committee because if there, you know, is an item that they're recommending be placed on the -- an amendment, you know, I'd like their thinking on why because there's some that I've seen in red that I understand and can follow and some I'd like their thoughts on why they did that.

Mayor Cason: I would think a special meeting would be...

Commissioner Keon: Shouldn't be too long, but we could do it in the evening.

Mayor Cason: Yeah, because otherwise some of these -- I mean, we're in now in our regular meeting and try to pick up -- it could be three, four or five hours so...

Commissioner Keon: Right, so we ought to do a special meeting.

City Attorney Leen: Also, as your attorney, I should just notify you, you have, under the resolution you adopted, just as a matter of discretion, you have the right to also propose your own amendments, whatever you would like, so does the City Manager, the City Clerk and the City Attorney, according to the resolution you passed. So, this would be the time to do it, and you could decide whether you would want to just consider those directly, or whether you would want to send them to the Charter Review Committee, et cetera.

Mayor Cason: Okay.

Commissioner Keon: Okay. So, do you need a vote to direct you to prepare an ordinance on the restated Charter?

City Attorney Leen: I would -- it would be helpful to have a vote that supports the process as I stated.

Mayor Cason: Okay.

Commissioner Keon: Okay.

City Attorney Leen: I need you to think -- I would like you, respectfully, I would ask you to think about how you want to do the election and also whether you'd want to do a special meeting or a workshop for the next meeting because we could set it then, so just think about those things. And I know the Manager can think about -- maybe we could talk about it in your individual briefings.

Commissioner Keon: But you want this ordinance now, no?

City Attorney Leen: Yes. I would like to bring that up because that's going to take...

Commissioner Keon: Okay.

City Attorney Leen: Two readings.

Commissioner Keon: Okay.

City Attorney Leen: So that will delay this process. And if, by chance, you want to get this on the primary ballot, we need to have it done by June...

Commissioner Keon: Okay.

City Attorney Leen: So I wanted to get moving.

Commissioner Keon: I'd like to make a motion to direct the City Attorney to prepare an ordinance on the restated Charter for consideration.

Mayor Cason: Second?

Commissioner Lago: Second the motion.

Mayor Cason: Commissioner Lago seconds. City Clerk.

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Mayor Cason: Yes

(Vote: 5-0)

Commissioner Slesnick: Are you suggesting that we have a workshop with all of us in the evening to take input before we bring that up to a meeting -- to that meeting? Well...

City Attorney Leen: In terms of the changes or the restated?

Commissioner Keon: No, not the restatement. The restatement is fine. It's just a reorder. What I wondered about were the amendments themselves, once we have a copy of what the amendments are. If you read through them, you know, you may want to -- I'm not sure if we -- if you want input from the people on the Charter Review Committee as to, you know, why they -- you know, that was a particular, you know, and why they made the recommendations that they did. I mean, I watched a number of them so I know -- I don't know.

Mayor Cason: I think (INAUDIBLE) because the public could watch and...

Commissioner Keon: Yeah.

Mayor Cason: And they could explain why they decided like...

Commissioner Keon: Right.

Mayor Cason: The run-off, for example, and why they wanted to do the incapacitation. It'll be good for people to understand and...

Commissioner Keon: Right.

City Attorney Leen: One thing...

Mayor Cason: Part of the education preparation for eventual referendum.

City Attorney Leen: One thing I could do if it would help you is we could take each proposal and we could put the transcript portions that relate to that so you could have -- I guess there are seven of them, so you'd have seven little packets that'll be given to you next time. They could also be made available to the public, if you'd like, on the web, and anything else you think we should do. And in light of that, that takes a lot of work, I should thank my office, in particular, Miriam, the Deputy City Attorney, Yaneris, who's right here, the Assistant City Attorney. They did a tremendous amount of work on this, and Yaneris is here all day now taking down notes to make sure we accomplish all your goals. Also, the Charter Review Committee was amazing. It was a great group. It was such a privilege to be able to be on the group with them. I think you're going to really enjoy the transcripts, very, very high level discussion. You had some really brilliant people on that committee.

Mayor Cason: Okay, so we'll set a date and have a workshop and I think it's a good idea to break it down into each amendment with a transcript, put it on the web so people can see it.

City Attorney Leen: Definitely.

Mayor Cason: Part of the education, and then we'll have the discussion.

City Attorney Leen: Oh, and I'd like to mention the former Deputy City Attorney, Bridgette Thornton, she worked on the restated Charter. I thought she did a really good job.

Mayor Cason: Alright, well, that...

Commissioner Keon: I would be hesitant to place this or to concern myself with placing any of the amendments on a Primary because not everybody votes at a Primary. If you're independent, you don't vote at a Primary, so it's only if you are registered to a party so we would have voters that wouldn't have the opportunity to vote on those period. So, I would rather either do mail or wait until the General Election.

Mayor Cason: And I think you'd probably get more people in a mail because they could sit down, look at it carefully and mail it in and read through all the background too.

Commissioner Keon: Yeah, so I would either do mail or...

Mayor Cason: Yeah.

Commissioner Keon: Whichever we -- those will be the two I would prefer to consider.

[End: 3:10:50 p.m.]