

CORAL GABLES CITIZENS POLITICAL ACTION COMMITTEE

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April 1, 2008

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VIA E-MAIL

Walter Foeman, City Clerk
City of Coral Gables
City Hall
405 Biltmore Way, 1st Floor
Coral Gables, FL 33134

Re: Proposed Amendment to the City Charter of the City of Coral Gables

Dear Mr. Foeman:

On March 26, 2008, I sent to you two (2) proposed Amendments to Article II, Section 8 of the Coral Gables Charter regarding terms of Commissioners. I requested to be on the April 8, 2008 Meeting asking the Commission to adopt one of the two.

I am now informed that in fact this matter will be heard on the Agenda on April 8th. Thank you.

If one of the two Amendments is not adopted by the Commission and proposed to the Electors of the City, we would like to initiate an immediate referendum to accomplish the same. Time is of the essence since we want to get it on the earliest ballot which would be August and missing that then no later than November.

Therefore, I am submitting these two Petitions for Amendment to you for the purpose of obtaining approval of the form. I request that the approval of the form be obtained immediately so that we can begin preparation of the referendum immediately after the Commission Meeting.

I pointed out to you that the Coral Gables Charter and Code of Ordinances contain no provision for Amendment of the Charter by initiative. The only provisions for initiative and referendum are in Section 8.01 of the Charter and have to do with the Electors contesting the adoption of an Ordinance by the Commission and for proposing their own Ordinance. There is no provision for an Amendment of the Charter by initiative and referendum.

I would also point out to you that the only provision in our Charter regarding Charter Amendments is at Section 22-3. It requires that all proposals for Amendment to the City Charter be submitted to the qualified Electors of the City, but it does not provide how it gets to be submitted to the qualified Electors. Therefore, I am proceeding in accordance with State Statute and Miami-Dade Charter to fill the void.

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I am, therefore, proceeding pursuant Florida Statutes 166.031.

Florida Statute Section 166.031 simply provides that upon Petition signed by 10% of the Registered Electors as of the last proceeding General Election, the Municipality shall submit to the Electors the proposed Amendment of the Charter. It also provides that it is to be placed on the ballot at the next General Election.

While I do not believe we have any obligation to follow the provisions of the Coral Gables Code respecting initiative and referendum on Ordinances (since this is a Charter Amendment), it, at least, contains some procedural guidelines.

Coral Gables Charter Section 8.01 does not require Commission action. It requires "Approval", but it does not say approval by whom. I assume it is administrative, that is, the City Clerk. I am, therefore, requesting that this approval be given no later than April 30, 2008.

We will then begin the process of obtaining the required signatures and we will present it to the Commission at the appropriate time. Florida Statute 166.031 does not limit the time for obtaining signatures for a Charter Amendment, and the Coral Gables Charter has no provision for a Charter Amendment Petition. But we propose to obtain the same within 60 days of our agreement on the form. The Charter of Miami-Dade so provides for Charter Initiatives and Home Rule would dictate, we follow that provision. At that time, the Commission will place it on the ballot at the next General Election.

As you are aware, from the case of *City of Miami, Walter V. Foeman, Clerk v. Miami Association of Firefighters Local 587*, 744 So.2d 555 (3rd DCA 1999), and *Shulmister v. Larkins*, 856 So.2d 1149 (4th DCA 2000) the single subject provision does not apply to Amendments to Charters.

I will be pleased to meet with you and the City Attorney to work through this matter.

If you will have any problem complying with these dates, please notify me immediately. There is some leeway in these dates, but not much. If I do not get confirmation from you that this can be accomplished within a satisfactory time period, I reserve the right to proceed without approval of the form or to seek redress in the Circuit Court so that we can be assured of getting on the ballot.

I hope this is not necessary and that I can have the cooperation of the City Clerk, City Manager, the City Attorney and hopefully the City Commission.

Yours very truly,



Vincent E. Damian, Jr.

President of the Coral Gables Citizens Political Action Committee

VED/ley

Enclosures

cc: Mayor Slesnick
Commissioners
City Manager
City Attorney

PETITION FOR AMENDMENT TO THE CHARTER OF THE CITY OF CORAL GABLES

TERM LIMITS

THE PURPOSE OF THIS AMENDMENT IS TO AMEND THE CHARTER SO THAT EACH COMMISSIONER AND THE MAYOR SHALL BE LIMITED TO NO MORE THAN 8 CONSECUTIVE YEARS IN OFFICE, AND REDUCING THE TERM OF OFFICE OF THE MAYOR TO 2 YEARS SO THAT A MAJORITY OF THE COMMISSION WILL BE UP FOR REELECTION, BEFORE THE VOTERS, EVERY 2 YEARS.

Vincent E. Damian, Jr., Roxy Bolton, William J. Harnett, Richard Namon and Patricia O'Rorke being Electors of the City of Coral Gables and being the Committee of Petitioners who are responsible for the circulation and filing of this Petition submit the following Amendment to Article II, Section 8 of the Charter of the City of Coral Gables, so that as amended it will read as follows:

ARTICLE II. CITY COMMISSION AND MAYOR

Sec. 8. Creation, composition, election, terms, vacancies, qualifications.

The city shall be governed by a commission consisting of five members elected from the city, at large, in groups or seats numbered one through five. One of the said Commissioners shall be the Mayor and shall be elected by the people from the group to be numbered one, and all persons desiring to qualify as a candidate for Mayor shall file in Group One. The Mayor shall have the powers set in the Charter of the City of Coral Gables, Dade County, Florida. All persons desiring to qualify for commissioner shall file in Groups Two through Five. Commissioners in Groups Two and Three shall be elected at the general election to be held the second Tuesday in April, 1985, and at each general election each four years thereafter. Commissioners in Groups Four and Five shall be those Commissioners whose terms presently expire in 1987, and Commissioners who elect to run in Groups Four and Five shall be elected the second Tuesday in April, 1987 and each general election each four years thereafter. The Mayor shall be elected at the general election beginning the second Tuesday in April 2009, and each general election each two years thereafter, and shall hold office for a term of two years. The Mayor and Commissioners shall take office at noon on the third day after their election. The Mayor and all other members of the Commission shall be subject to recall, as provided by the Charter.

No person who has served terms totaling eight consecutive years as Commissioner shall be qualified for further service in that office until he or she has a break in service in that office of at least two years.

The disqualifications imposed by this section shall not prevent a person who is disqualified from serving as mayor from serving as Commissioner or a

person is disqualified from serving as a Commissioner from serving as mayor. However, any person who has served terms totaling sixteen consecutive years in offices of mayor and Commissioner shall be disqualified from further service in either office until he or she has a break in service from both offices of at least two years.

As used in this section, a person shall be considered to have served a "term" of office if such person has served one-half of a full term of office plus one day.

The candidate receiving the greatest number of votes in each group shall be considered elected upon and after the canvas of the vote and the declaration of the result of the elections as hereinafter provided.

Any Commissioner whose term of office does not expire at noon on the third day after the election, desiring to run for the office of Mayor shall present an irrevocable resignation of his office of City Commissioner to the City Commission not less than 60 days prior to the date of election, and said resignation shall become effective at noon on the third day after the election. Upon receipt of said resignation, the Commission shall make public announcement, by resolution, accepting the resignation and instructing the Clerk to accept qualified candidates to run for election for the unexpired term of the Commissioner resigning for the purpose of running for Mayor.

Within 30 days after a vacancy occurs on the Commission, the remaining Commissioners shall elect a Commissioner to fill the vacancy until the next general biennial election, at which time, if the term of office vacated extends beyond such election, a Commissioner shall be elected to fill the balance of the unoccupied term, except as provided by section 22 regarding recall. Members of the Commission shall not hold any other public office except that of Notary Public or member of the State Militia. A member of the Commission ceasing to possess any of the qualifications specified in the Charter or, if convicted of a felony while in office, shall immediately and automatically forfeit his office.

We the undersigned, Registered Voters of the City of Coral Gables, do petition the City to place the foregoing Amendment to the Charter of City of Coral Gables on the ballot for consideration by the voters of the City of Coral Gables.

Date: _____
Signature _____ Print Name _____

Address _____

Date: _____
Signature _____ Print Name _____

Address _____

Date: _____
Signature _____ Print Name _____

Address _____

Date: _____
Signature _____ Print Name _____

Address _____

Date: _____
Signature _____ Print Name _____

Address _____

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

_____, being duly sworn, deposes and says that he and he only, personally circulated the foregoing paper, that all the signatures appended thereto were made in his presence and are the genuine signatures of the persons whose names they purport to be.

Subscribed and sworn to before me this ____ day of _____, 2008.

My Commission Expires:

Name: _____
Notary Public, State of Florida at Large
(SEAL)

PETITION FOR AMENDMENT TO THE CHARTER OF THE CITY OF CORAL GABLES

TERM LIMITS

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No person who has served terms totaling eight consecutive years as Commissioner shall be qualified for further service in that office until he or she has a break in service in that office of at least two years.

The disqualifications imposed by this section shall not prevent a person who is disqualified from serving as mayor from serving as Commissioner or a person is disqualified from serving as a Commissioner from serving as mayor. However, any person who has served terms totaling sixteen consecutive years in offices of mayor and Commissioner shall be disqualified from further service in either office until he or she has a break in service from both offices of at least two years.

As used in this section, a person shall be considered to have served a "term" of office if such person has served one-half of a full term of office plus one day.

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Address _____

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

_____, being duly sworn, deposes and says that he and he only, personally circulated the foregoing paper, that all the signatures appended thereto were made in his presence and are the genuine signatures of the persons whose names they purport to be.

Subscribed and sworn to before me this ____ day of _____, 2008.

My Commission Expires:

Name: _____
Notary Public, State of Florida at Large
(SEAL)