

City of Coral Gables City Commission Meeting
Agenda Item I-2
September 8, 2015
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

Public Speaker(s)

Agenda Item I-2 [Start: 2:46:05 p.m.]

Update on the Charter Review Committee

Mayor Cason: Let's move onto first of all I-2 and then we'll do I-1.

City Attorney Leen: I-2 is the update on the Charter Review Committee. So this evening there will be the second meeting of the Charter Review Committee. I circulated to the Commission a draft agenda, well the actual agenda for this evening, as approved by the Chair, Mayor Valdes-Fauli, former Mayor, and what I wanted to tell you was, the first meeting went really well.

Vice Mayor Quesada: You sent us the minutes.

City Attorney Leen: I sent you the minutes...it's a very high level discussion; everyone has read the Charter and read about six other Charters as well, a lot of good things on the agenda. What I wanted to just give you is a preview of this evening. There are four items from the first meeting

that the Charter Review Committee wanted more information on and are probably going to be deciding on a recommendation this evening. And the first is further discussion as to whether or not Election Day for the Mayor and Commissioners should be moved from April to November. They requested a memo on that regarding the cost of election, which the City Clerk helped us prepare and actually got us the information, so that's been provided. That's going to be discussed this evening. The second is the question of a run-off; a further discussion as to whether or not to maintain current system of election by plurality or do we establish a run-off? The issue they are looking at is Professor Fromkin from University of Miami presented a preference voting system whereby you would rank individuals and it would take the place of a run-off. So they could have the initial election based on first choices, second choices, third choices, etc. when they do the calculation, if there are five people running and there is no majority of number ones of top choices, top preference, so remember they go one, two, three, four, five, so if no one gets more than 50 percent of the number one's, which would be their vote, then the fifth person is eliminated and then they look at the number two's and the number one's together, etc., etc. So I'm not giving justice to the system, there is an actual memo on it, which has been distributed to you and also to the Committee. I'm not endorsing, it or not endorsing it, but I just want you to be aware of it. We have looked in-Sarasota does use the system and they want us to look into that and Sarasota has it in their Code. The third issue is provision regarding Commissioner Removal in Section 11. Section 11 of the Charter allows for removal of a Commissioner by a four-fifth vote of the Commission for misconduct or for neglect of duty. Obviously, the removal of an elected person is always a significant issue. So they have asked me to give a legal opinion related to that as to whether that's enforceable and if it is, what are the legal limitations to it? For example, the provision already requires at least one week's notice. This is just for elected officials, anyone else there is not a requirement of one week's notice, but for an elected official there is; and then second, I'm going to be providing to them a definition of what misconduct and neglect of duty is, and part of that is my role to ensure that the will of the people is protected when someone is elected unless one of these very limited circumstances occur, then it's within the Commission's discretion. The next issue that's being discussed is the residency requirement and the election fee. There is an election fee of \$200, that's quite old. There was some discussion about removing the election fee or perhaps increasing it. Also, there was a discussion about the one year residency requirement for Commissioners. Finally, the last issue that's going to be

discussed this evening from the last meeting where they wanted to consider further action is the Mayoral term of two years or four years, and they've asked for a report from me regarding the history of this provision.

Mayor Cason: On that, when they have their discussion they were talking about – they thought that the last time this was discussed was eleven years ago, and in fact it was discussed in 2009 and it was less than one percent difference, was like 50.5 to 49 point something, so it was a very close call. But I provided that information that the Clerk got from the Election Board for their discussion whether they wanted to reopen that because they basically had decided no, it would be two years, but they have this information if they wanted to change their mind.

City Attorney Leen: Thank you. And then this evening – did you want to say something. This evening they are going to be looking at -- Parker Thompson has proposed a whole new Charter, he wants to rewrite the whole Charter, so we are going to discuss that this evening, and I've looked into what that would legally require and there is a way to do it.

Commissioner Lago: Let me just interject if I can one second just to give my colleagues a little bit of background. I met with Mr. Thompson this past week just to get an update in reference to how the first meeting went, and he had some interesting points to make after reviewing the Charter and discussing it with our fellow appointees. And that was at certain portions of the Charter which state go to the following provision in the county, and it doesn't tell you what that provision says. So it's a little bit convoluted for anyone that would just simply like to pick up the Charter and look at certain provision or a certain ordinance. His main idea in reference to revamping the existing Charter is to incorporate those provisions that require you to go to the County into the Charter.

Vice Mayor Quesada: So in other words its readability.

Commissioner Lago: Simplify...

Vice Mayor Quesada: It's a great idea.

Mayor Cason: If it changes at the County level, we have to change...

Commissioner Keon: Or you can put it as an Appendix.

Commissioner Lago: As an Appendix, that's one issue; the second issue is it would cost money. Obviously Craig's staff would have to either bring someone outside counsel or someone would have to really work on revamping the process. Now it's a little bit more complex than just reviewing the Charter. Now it's actually revamping the Charter and comparing what's existing in the county, and maybe even at the state level, correct? I think...

City Attorney Leen: The Constitutional Amendment for Dade County gives Dade County the ability to establish a method for amending the Charter, and the County has, so we wouldn't have to go to the state. The second thing Parker had proposed was exactly what you just said, if there is not going to be a complete substantive rewrite of the Charter, which I don't think was his primary proposal, but this sort of editing to make it better written, easier read Charter and removing a lot of these superseded provisions, or provisions that say deleted or things like that. That's something though I think requires a referendum. We can do that through a written Charter with an Appendix that has all the other provisions that really has been superseded. So it can be just an easier read Charter. You've already granted the City Attorney that authority under Section 2-201 of the Code, 2-201(e)(8) and (e)(9), regarding these sort of administrative corrections. So you would just direct me as part of the process as to what you would want to do, and I would see that it would be done, and I may use outside counsel to do that.

Commissioner Lago: In reference to the Commission, what is your appetite in reference to doing what Mr. Thompson is proposing?

Vice Mayor Quesada: I agree with Craig that it doesn't have to be through the Charter Review Committee, that's clearly for the purview of our City Attorney to edit it for readability purposes.

Commissioner Lago: So it's a good idea then?

Vice Mayor Quesada: I think it's a great idea. Everyone should be able to read it and understand it. I mean as an attorney myself when I go look at the Charter when we are doing certain things, if you have to reread something 4-5 times to understand it, it's poorly written.

Mayor Cason: And also so much has been taken out over the years – you take it out it's like a – what's left is...

Commissioner Keon: Doesn't flow.

Mayor Cason: Doesn't flow.

Commissioner Lago: And when you are trying to find a....it says revert back to the County, so then you have to....

City Attorney Leen: What I'd like to do, what I'd really like to do is draft a Charter similar to the County's where we put in a pamphlet. This Commission could do a vote approving it basically, I would propose it to you as rewritten and you could adopt it.

Commissioner Lago: Who would do the leg work?

City Attorney Leen: I would do it in conjunction with – I was looking at actually having a former Deputy City Attorney work on this, because she knows a lot about the Charter and she was a former Assistant County Attorney. She has already given me a legal opinion about the County Charter and how we would do an amendment. So I was thinking of using her. Now if we wanted to use someone like a professor or someone like that, I don't know if we need to, call me and talk to me about me about it, and I could bring you whoever you think is best.

Commissioner Lago: No, no, no. I don't have an opinion that's why I'm asking. You are the one that has to hire somebody; you are the one that has to use resources, in-house resources to do this to accomplish this. I don't want to over-burden you.

City Attorney Leen: I asked the former Deputy City Attorney Bridgette Thornton to give me a very, very low rate for this. I believe it will be – it's certainly lower than the tort rate, which is \$115 an hour. I believe I asked her for \$100 an hour and don't hold me to that because I've got to work with her, but that's what I'm looking at. It would be to basically come back with a much more condensed Charter that would be very readable. I may do a lot of the work myself in-house with Yaneris.

Mayor Cason: After tonight's meeting do they envision another one, or is this it for the Charter Review Committee?

City Attorney Leen: I think they anticipate three or four more.

Mayor Cason: OK.

City Attorney Leen: So just to go over briefly. So there is this issue about the new Charter. There is the section related to passages of ordinances and resolutions, they are going to talk about that. The section related to the duties of the Mayor, Mr. Mayor so you may want to talk to your appointee; the compensation of Mayor and Commissioners; the appointment of City officers by City Commission those are the sections set for this evening.

Mayor Cason: Alright.

Commissioner Slesnick: I wanted to ask a question. Do we pay for elections in August and November normally that the county holds?- we pay every time we have an election?

City Attorney Leen: Yes.

Vice Mayor Quesada: With my conversations with Walter in the past, I think it's about \$11,000...

Commissioner Slesnick: Per election?

Vice Mayor Quesada:...if we did it during a county election.

Commissioner Slesnick: And we pay \$30,000 when we have them in April.

Vice Mayor Quesada: Is that about correct Walter?

City Clerk Foeman: Its about 70 percent reduction if we have it Countywide, it's about a 70 percent reduction.

Commissioner Keon: Yes, but 70 percent of what? I want to know how much.

Vice Mayor Quesada: It's between \$11,000 if we piggyback on county election, about \$30,000 if we do it on our own.

Commissioner Keon: \$30,000.

City Attorney Leen: I actually have two charts that Walter sent to me which I forwarded, but they were attached to a larger memo. What I'm going to do is I'm going to take those two documents and forward them to you again. What it shows you is the turnout for the November Election versus the April Election and it also shows you the cost for the City...

Commissioner Slesnick: Right now to make it clear we pay \$30,000 for an election in April and if we did have a runoff we pay another \$30,000 for having a separate election, if we didn't use the professor's plan?

City Attorney Leen: I would like to refer that to the Clerk. I don't think that's the exact figure.

Commissioner Slesnick: Well around \$30,000?

City Clerk Foeman: You are talking about if we have our own stand-alone election...in April?

Commissioner Slesnick: Yes.

City Clerk Foeman: It's roughly about \$94,000.

Commissioner Slesnick: \$94,000?

City Attorney Leen: Yes.

Commissioner Slesnick: Versus only \$11,000?

City Attorney Leen: And it is \$30,000, I think if it's a County Election, is that true? So its \$94,000, but I needed to look.

Commissioner Slesnick: So we pay \$94,000 to hold an election in April.

City Attorney Leen: And \$30,000 for the November.

Mayor Cason: You could also opine that we could do a different kind of election. You could actually mail every registered voter or some other way to do it?

City Attorney Leen: That was for like a Charter Amendment or for a referendum. It wasn't for an election of an individual.

Commissioner Slesnick: But if we had the election in August when they have the Primaries, where you have the judicial races are held and the School Board in August, before the November election. So we have the Primaries in August and the main election in November, so if we did it every four years because we don't have a Presidential or do we have County elections every two years?

Commissioner Keon: We have County elections.

Commissioner Slesnick: But if we tie it in with the County Election its \$30,000?

City Attorney Leen: Yes. If you do the August election or you do the November election or you do the Presidential Primary Election those are all less expensive, but we do our own standalone election – standalone election, there is a chart we have and it was a little bit under \$100,000. We have it for the last ten elections, so you can see the cost for every one of them.

Commissioner Slesnick: And the Presidential Preference Primary is held every four years, but in March.

City Attorney Leen: Yes.

Commissioner Slesnick: So we could have it in March and then have it the next year in August, but we should be consistent.

City Attorney Leen: The one issue with the Presidential Primary Election, the Elections Department told me that it was sometimes only one Party will have a large turnout.

Commissioner Slesnick: But that's not fair.

Commissioner Keon: Because you may only have one candidate.

Mayor Cason: And in August, I guess, the term, the committee will look at it, but what we heard today in August, I'm on vacation, another round. So there are some pros and cons to all these dates.

City Attorney Leen: That's an issue that can be done by ordinance; you can determine that by ordinance.

Commissioner Keon: Walter when you look at, they are going to look at turnout, is that right in the...?

City Attorney Leen: I have charts for turnout from Walter; Walter helped with this, we have charts for turnout and for the cost, and I'm going to send you right after the meeting.

Commissioner Keon: OK. You know what I want to look at more than, in addition to turnout, I want to know – what I have a concern about is just because the turnout is higher in a November election, which is the Presidential Election and are bigger elections that whatever, doesn't necessarily mean that people will vote on local issues or local candidates.

Mayor Cason: We are looking into that. One of the questions that came up, to what percent of the drop off as you got farther down the ballot.

City Attorney Leen: I don't have that information yet, but that information is to be provided by the time we get to the Commission.

Commissioner Keon: Thank you.

Commissioner Slesnick: And one other thing to note. I've been asked to push Saturday elections. I do know on the last election almost 50 percent of the people voted by absentee, so more and more people are voting by absentee. So the really serious voters who have their ballots come to them automatically for every election and who probably care more about our local community will be voting anyway. But when you have the August and the November elections you have early voting, so people can vote.

City Attorney Leen: That's true.

Commissioner Slesnick:...Thursday, Friday, Saturday, and then the following...

City Attorney Leen: That's absolutely true. We do not use early voting for our April elections.

Commissioner Slesnick: So early voting would allow people to vote on Saturdays when they are not working.

City Attorney Leen: That's true.

Mayor Cason: OK. One thing we forgot to vote on H-4, this was providing health benefits, I think it was E-4.

Vice Mayor Quesada: So moved.

Mayor Cason: Commissioner Quesada makes the motion, Commissioner Keon seconds on H-4.
City Clerk.

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Commissioner Lago: Yes

Mayor Cason: Yes

(Vote: 5-0)

[End: 3:01:05 p.m.]