

City of Coral Gables City Commission Meeting

Agenda Item E-1

October 23, 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)

James C. Crosland, Esq.

Roxcy Bolton, Coral Gables Resident

George Volsky, Chairman of the Coral Gables Council

Richard Namon, Coral Gables Resident

E-1

Ordinance on Second Reading. An Ordinance calling for the holding of a Special Municipal Referendum Election of Coral Gables, Florida, on January 29, 2008, for the submission to the qualified electors of said City, an Ordinance in connection with the proposed amendment to the Code of the City of Coral Gables, wherein the voters of the City of Coral Gables shall be called upon to vote on the following question, to be known as Charter Amendment Ballot Question No. __: Shall the Charter of the City of Coral Gables be amended to delete Section 22 entitled, “Authority over officers and employees; removal, suspension, reduction; requests for cause and hearing; trial board”, which calls for a special trial board to investigate and render a decision as to the propriety of the City Manager’s removal, suspension, lay-off or reduction in grade of any officer or employee; 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 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 (2007), 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 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. (Passed on First Reading October 9, 2007).

Mayor Slesnick: May I have a motion?

Commissioner Withers: I'll move it.

Commissioner Anderson: Second.

Mayor Slesnick: Moved by Mr. Withers, second by Mrs. Anderson. Any comments before we open it to the public? We have three people.

Vice Mayor Kerdyk: I have a question for the City Manager. The last time that we spoke; the last time we were here, I asked you about the due process for the excluded employees, and I saw today when I arrived that you had sent a memo to the City Commission outlining the process that would be – the bargaining unit excluded employees. Could you go through that, Mr. City Manager?

Commissioner Cabrera: What's the date of that memo, Mr. Kerdyk?

City Manager Brown: Dated yesterday.

Commissioner Cabrera: I haven't seen it yet.

Vice Mayor Kerdyk: I just got it.

Commissioner Cabrera: Do you have an extra copy?

City Manager Brown: Here.

Commissioner Cabrera: I didn't make it to City Hall yesterday.

Mr. Volsky: [Inaudible – off mike]

Mayor Slesnick: Excuse me Mr. Volsky; Mr. Volsky, if you would approach the Clerk if you are looking for copies. Do not – we will adjourn this meeting if we have any other disruptions. Mr. Volsky, if you would please act appropriately. Mr. Brown.

City Manager Brown: Yes. The memo outlines the grievance procedure as it pertains to following a discipline. For all excluded or exempted employees, this memorandum shows the language that would be lifted out of the rules and regulations, and I'll read it into the record. Currently Rule 11.3 is for non bargaining unit excluded employees, and it states currently, "A regular employee not included in a collective bargaining unit may file a grievance to register a complaint, solve a problem, redress an alleged wrong, or modify or erase a disciplinary action. The grievance, if not resolved at a lower level, can be heard by the City Manager". Currently the language goes on to state, "Grievances involving suspension, demotion or termination can be heard under the Trial Board procedures for resolution. The employee may select one of the two available procedures for pursuing such a grievance. The employee is, however, precluded from pursuing the same grievance through both procedures". The proposed language of this ordinance goes before the electorate is approved would remove the last part of the sentence is, pertaining to the Trial Board leaving those excluded exempt employees unable to redress a discipline to go to the City Manager and be heard by the Manager.

Vice Mayor Kerdyk: As I understand now, just a regular employee, not a non-bargaining unit employee, has the opportunity if they are let go to grieve to you.

City Manager Brown: They can.

Vice Mayor Kerdyk: Grieve to you; and then if there is a few hear the grievance and don't rule favorably to them, they can arbitrate, finding arbitration.

City Manager Brown: Under the three collective bargaining units they have the right to go to binding arbitration.

Vice Mayor Kerdyk: Alright; so now if we implement this, I just want to be sure about the situation, so if we implement this, what will happen is you will effectively let go the employee yourself, because you would fire the department or department head, or let go the employee...

City Manager Brown: Correct.

Vice Mayor Kerdyk:...and then they will grieve to you...

City Manager Brown: Correct.

Vice Mayor Kerdyk...but isn't that – is that how it's usually done?- I mean, really there is no binding arbitration or anything like that.

Mayor Slesnick: Well Bill, again what we are doing is...

Vice Mayor Kerdyk: I understand what we're doing.

Mayor Slesnick:...no, but I mean we are considering splitting the workforce into those people who are people with property rights, and who have a right to arbitrate, or have a right to challenge the ruling of the Manager; and those people who would not have that right; and those people would be members of the inner-most team of the Manager; and those are the people that, kind of like the cabinet that work for the President, they are the inner-most team, and they work at the will of the Manager, basically that is it. Now, there is a group that fall between the bargaining and the inner-most team of the Manager, that that could be modified if that was the desire of the Commission, and given one – some kind of appeal right above the Manager, something like the – let's say the Assistant Directors; let's say if we wanted to give the Assistant Directors another cause of action, as opposed to the Directors who are supposedly directly responsible to the Manager, we could do that. But that could be done internally without changing the Charter; that could be done.

Vice Mayor Kerdyk: How could that be done internally?

Mayor Slesnick: He could grieve the system or we could do it by ordinance; all we are going is changing the Charter by relieving it of the Trial Board, that's all we are doing.

Vice Mayor Kerdyk: I just want to take the political – I don't want the political process – first of all let me just answer; I understand exactly what we are trying to accomplish here. I thoroughly understand that; and I'm supportive of that. What I don't want to get into is the fact where, forget the City Manager, I don't want to generalize, and after the City Manager a few Commissioners come in and say, hey, we want this Director out; he fires the Director, there's no recourse for the Director other than – there really is no recourse, there is basically no recourse, they are out; and then it becomes a much more politicized process.

Mayor Slesnick: The only thing I can say to that is that Directors are supposed to be part of a very intimate team of relationship with the Manager; and the Manager is supposed to rise or fall on the performance of his or her Directors; and we should hold the Manager accountable for each and every Director, and his assistants, and if that's the case he needs that authority; and what we've done is we've sort of ham-strung and we have received a good deal of criticism over the issue in the Building and Zoning Department; one of the reasons is the Manager is ham-strung on his ability to handle that situation in a more efficient manner.

Commissioner Cabrera: But let me also add, and maybe I'm wrong in using this example, but the Charter today, how you just mentioned the what-if scenario of two Commissioners or three Commissioners asking the Manager to let someone go; the Charter today provides for a section that allows us to bring before the Manager and the public any given Director, and actually take disciplinary action. So how would that be different?

Mayor Slesnick: Just to explain to the public what Commissioner Cabrera is referring to is that by a vote of a majority of this Commission, we can fire Directors directly over the Manager's head.

Commissioner Cabrera: I think it's Section 2-46; is it 2-46 Mr. Crosland?- 2-46.4 or .5 something like that.

Mr. Crosland: [Inaudible – off mike]

Commissioner Cabrera: Yes, right, it has a 2 and a 4 and a 6; I don't know in what order. But it gives us that ability today.

Vice Mayor Kerdyk: Can I ask Mr. Crosland a question? Mr. Crosland.

City Manager Brown: Mr. Crosland. Approach the podium please.

Vice Mayor Kerdyk: Please, please.

Mr. Crosland: Good morning.

Vice Mayor Kerdyk: How are you doing today? Good morning. From a perspective of other cities, other communities, we've talked to you, and I've talked off the record with regards to the Trial Board and you've told me that that's an antiquated system that basically is not followed with other municipalities throughout the State of Florida, correct?

Mr. Crosland: That is – that is correct, Mr. Kerdyk. Most of your employees of the City are covered under collective bargaining agreements, by statutes there is grievance arbitration procedures. Most municipalities do not afford processes such as the Trial Board for department head level.

Vice Mayor Kerdyk: So how do they redress a firing in their ordinances?

Mr. Crosland: Most municipalities and County governments they are considered at-will employees who could be terminated.

Commissioner Cabrera: At any point in time. Mr. Crosland, this is really important because obviously you've got many, many years of municipal law experience, and labor contracting, can you repeat what you just said about other municipalities, capabilities in terms of senior level employees, and the firing of those; and Mr. Crosland if you'll raise the mike so everyone can hear you.

Mr. Crosland: Is that better?

Commissioner Cabrera: Yes sir.

Mr. Crosland: OK, sorry. The standard in the industry, so to speak, in the public sector is that department head level employees in municipal government and County government, even in State government in Florida are considered at-will employees who can be disciplined or terminated at the will and pleasure of the administration.

Vice Mayor Kerdyk: I appreciate you mentioning that because; believe me that solidifies my thought process on it. I do want to ask one other question, is that for the Director level, is that also go for the Assistant Director level, how does that...?

Mr. Crosland: That does vary; some places all employees are at-will, even lower ranks, most places are not and the vast major of your employees here are covered under collective bargaining unit.

Vice Mayor Kerdyk: Alright.

Mr. Crosland: So that's not an issue for them.

Commissioner Anderson: And Mr. Crosland...

Vice Mayor Kerdyk: And when you say, I'm sorry, just one last question.

Commissioner Anderson: Go ahead, finish your thought process.

Vice Mayor Kerdyk: Just one last question. And when you say other places, just to reclarify you are talking about municipal governments, correct?

Mr. Crosland: Absolutely.

Commissioner Anderson: And this is presupposing obviously that the department director or the at-will employees have been progressively disciplined and documented in their employee files.

Mr. Crosland: No ma'am. The concept of progressive discipline in fact has nothing to do with...

Commissioner Anderson: No, not at all.

Mr. Crosland:...whether an employee is an at-will employee, or has some sort of property right in their position. Property right – the concept of a property right is not a federal constitutional right, it is simply a creation of the State; when I say the State I don't mean the State of Florida, I mean quote state, a governmental entity, a County, a School Board, a municipality. There is no federal constitutional obligation to give property rights to employees.

Commissioner Withers: What is an employee's remedy if the Trial Board is removed, if they feel unjustly fired?

Mr. Crosland: Well, there are in your existing personnel rules...

Commissioner Withers: I mean, I mean....

Mr. Crosland: ...That is a remedy; they can go to the City Manager, and after that they can avail themselves of various legal theories if the facts fit those legal theories; Federal, it could be race, sex, national origin, religion, age, disability; those are Federal rights that have nothing to do – statutory rights that have nothing to do with property rights.

Commissioner Withers: OK.

Mr. Crosland: There are several State Laws that track Federal Laws as well.

Commissioner Withers: So they have both State and Federal?

Mr. Crosland: Have numerous both State and Federal protections, but those are absolutely divorced from the concept of a Trial Board, or property right in their employment.

Vice Mayor Kerdyk: Thank you Mr. Crosland.

Mayor Slesnick: Here's a question, and it doesn't really need to be answered today, but its interesting, Mr. Cabrera and I were talking about it, if in fact three Commissioners voted, three members of the Commission voted to fire a Director under the current Charter, does that Director have access to the Trial Board? Well, I said, I'm not trying to stump you, I just – I don't think anybody has ever verbalized that.

Mr. Crosland: And as one of you correctly pointed out, I've done a lot of municipal labor work for years and have represented the City for years, that's never to my knowledge been tested here, but if I were a plaintiff's attorney I would argue that in fact they do have the right to go to the Trial Board, notwithstanding the fact that the majority of the Commission voted their termination, and if this ordinance is approved and the referendum that would eliminate that hurdle to the City having employees at that level that they feel meet their standards.

Vice Mayor Kerdyk: On last question. A fired employee that appeals to a court, that wins a court decision who pays for that – their legal counsel?

Mr. Crosland: It depends on the statute. In many cases both parties pay their own attorneys' fees; there are a couple of statutes which dictate the payment of attorneys' fees generally at the discretion of the judge; the most prominent example is the Fair Labor Standards Act when there is alleged overtime violations, the statutes provides for fees for the plaintiff in that case. In a similar vain under Title 7, Equal Employment Opportunity

Commission Statute, the prevailing party may be awarded fees by the judge, but the standards for awarding the fees are different; its an easier standard for the plaintiff to receive attorneys' fees than it is for a prevailing defendant employer.

Vice Mayor Kerdyk: Thank you.

Mayor Slesnick: Thank you very much; thank you Mr. Crosland. We have three speakers; Ms. Roxcy Bolton, 124 Cadima Avenue.

Mrs. Bolton: Good morning again gentle persons. I'm not here to discuss the merits of the Trial Board and taking it to the ballot; I'm here to ask, what is the cost for this election, please?

City Manager Brown: There is an item H-3 coming up, Mrs. Bolton, which cost – the estimated cost to do the election is, for the education is twenty one thousand dollars (\$21,000); the actual election itself, I believe, is seventy-five hundred dollars (\$7,500).

Mrs. Bolton: Set to bring the force out from the County and all of that, you have to pay them.

City Clerk Foeman: Seventy-five hundred (\$7,500).

Mayor Slesnick: No ma'am, we're not bringing them out from the County, it's an election date that's already set; we are tailing into an election that's already...

Commissioner Anderson: County election date already.

Mayor Slesnick: It's already an election date.

Mrs. Bolton: What I think would be more desirable would be to hold this here, determined to do this; take it out of the Charter. I want to remind you before I go on that Mr. Crosland is a distinguished company lawyer; he's very good at what he does, very good, that's why municipalities hire him, including Coral Gables, and he presents the company position. He does not present the best interest of the employee, that's not his job. There is no criticism of him as a lawyer, because he has a specialized field, and you being a labor lawyer, I don't know how you can disagree with me on this one, Mister Crosland, you smile, you give me encouragement, you see...

Mayor Slesnick: You always make me happy.

Mrs. Bolton: The feeling is mutual.

LAUGHTER

Commissioner Withers: Well, it's a real love-fest.

Mrs. Bolton: What was Chip's wisdom? You said something.

Commissioner Withers: I don't know, you mean just now, I said it's a real love-fest going on here.

Mrs. Bolton: Don't tell anyone.

Commissioner Cabrera: May I say something though? When I brought Mr. Crosland up here, he gave me a factual answer, it wasn't a company answer, it was a factual answer based on his years of experience in municipal law and labor.

Mrs. Bolton: You're right. It is always in the best interest of his clients.

Commissioner Cabrera: No ma'am, I didn't say that; I said that I was asking the man a factual question, he wasn't in his response, I literally asked him, given his years of experience, do other municipalities have the same type of framework and/or structure where most of their directors are at-will employees, and his response, if you recall, was yes, that's the majority. The point that I was trying to make to the public and to you was that what we are doing here is not something that is either perceived as illegal or...

Mrs. Bolton: I never said that it was.

Commissioner Cabrera: I know, but some people say things like that, or that we politicize it. You know, we had a speaker here once that talked about at the change of every election you could fire people at the whim of the politicians, and so, what I'm trying to get at is, I as an elected official get frustrated, and I'll be very candid with you, I get frustrated by the inability of certain people to perform their duties; and I recognized based upon my discussions with the City Manager how difficult it is for him to go through progressive discipline and termination. I've been a company guy as you said for most of my life; now I'm an entrepreneur, but the point that I'm trying to make is, it becomes very frustrating for me when I'm trying to get things done and I'm trying to get the very best out of people, including the Manager, including his direct reports, because while they don't report to me, to my office, I have dialogue with him about his direct reports practically on a weekly basis their performance, and I give him feedback based upon that performance. So I just know, Mrs. Bolton, that based upon the current system, it's a very expensive and long-winded process in order to achieve the results we are looking to achieve. Mr. Slesnick gave us the best example he could, the Building and Zoning Department.

Mrs. Bolton: But the Trial Board has been in recess for eighteen (18) or twenty (20) years. Mr. Cabrera, not to challenge you, you know I wouldn't do a thing like that.

Commissioner Cabrera: You can.

Mrs. Bolton: Thank you. I served on the Trial Board...

Commissioner Cabrera: I know.

Mrs. Bolton:...and I was a very good Trial Board member, I dished out justice.

Commissioner Cabrera: I bet.

Mrs. Bolton: And Mr. Slesnick brought the brothers before the Trial Board, and I dispensed justice, big time baby, big time. I am not here to criticize Mr. Crosland; I'm here to ask you to postpone this election until November when we have an election, a big election.

Commissioner Cabrera: You mean the Presidential Election?

Mrs. Bolton: Yes. You are going to get a lot more people out. You know David, you fired a black woman that was just on the verge of retirement up in the Building and Zoning Department.

City Manager Brown: That's incorrect.

Mrs. Bolton: I beg your pardon.

City Manager Brown: That's incorrect.

Mrs. Bolton: State your position.

City Manager Brown: She retired.

Mrs. Bolton: After you "horse-swoggled" her, David you "horse-swoggled" her.

City Manager Brown: Mrs. Bolton, that's just plain not true, Mrs. Bolton, that's just plain not true, so don't let that get out. She retired, I did not fire her.

Mrs. Bolton: You know what happened, I know what happened, you know what you did, and I'm not going to allow you to tell me she willingly retired. She was a few weeks away.

City Manager Brown: You are incorrect.

Mayor Slesnick: Mrs. Bolton, you don't need to fight with the Manager.

Mrs. Bolton: No, I would never do that.

Mayor Slesnick: But you are here to talk to us.

Mrs. Bolton: If you represented that woman you know she is a very faithful, dutiful woman and she paid a dear price for repeating what was happening in Building and

Zoning. Going to the City Manager is not always like going to good Lord, trust me, trust me. I'm asking you to consider postponing this election until November.

Mayor Slesnick: And we will.

Mrs. Bolton: You will, you will vote for that?

Mayor Slesnick: No, I said we will consider it.

Mrs. Bolton: I thank you.

Mayor Slesnick: Thank you Mrs. Bolton. Mr. George Volsky, 1008 Alhambra.

Mr. Volsky: Good morning. I take it that you are considering E-1 in conjunction with H-3, are you?

City Manager Brown: Yes

Mr. Volsky: Now, I would like to have an explanation, who is going to do the explaining?

Mrs. Bolton: Who is going to do what?

Mr. Volsky: The explaining; who is going to do the twenty-one thousand dollars (\$21,000)?

City Manager Brown: We'll be sending – we'll be using all of our media outlets as well as a letter to every resident, as we did in our last Charter Review, educating as to the Charter change.

Mr. Volsky: So it's going to be done in-house?

City Manager Brown: It will be done in-house, just as it was four years ago.

Mr. Volsky: Why are the employees who are going to do it already have been paid; why should we be spending twenty-one thousand dollars (\$21,000)? Speaking of in-house information, I received an e-mail not so long ago from a very prominent resident of Coral Gables, and she says, it's a woman, ...from today's E-News it makes me furious; in essence what she says that e-mail which is done by your employees states that the millage 5.25 millage which was presented by Vice Mayor Kerdyk was your idea, which is totally untrue. I don't listen to this...

Mayor Slesnick: Mr. Volsky...

Mr. Volsky:....to what they say, so the question is...

Mayor Slesnick: Mr. Volsky, can we stick to the...

Mr. Volsky: Excuse me, Mr. Mayor let me speak...

Mayor Slesnick: Can we stick to the issue...

Mr. Volsky: Yes, well the issue is my concern about the capacity of the personnel of Mr. Brown, recently, recently put out a proposal twenty-three (\$23,000) or twenty-two (\$22,000) thousand dollars something which is totally wrong and you should – the Commission should apologize to the residents for having spent this on something that is totally wrong; incidentally, I think there is also citizens of this community also should be given an excuse, an apology for the – in light of this process, first process, which we know is not really good, you know that, Mr. Mayor you know that; was presented, it was withdrawn because it was done illegally, you know that as well as I do. Now my question, I come here...

Mayor Slesnick: Mr. Volsky, Mr. Volsky, can you conclude please.

Mr. Volsky: Pardon.

Mayor Slesnick: Can you conclude please.

Mr. Volsky: I will not conclude until I have my say, excuse me...

Mayor Slesnick: Now you have four minutes, I've allowed you...

Mr. Volsky: I still have more than two minutes left, and because I don't count Mr. Brown's price, anyhow I don't trust – I don't trust the information from the City which is skewed, which is in favor of this, Mr. Brown, I want to be persuaded, but I need somebody impartial to have the pros and the cons, and I don't trust that office, which is totally useless and we have an example of this with the Report of 2005-2006 Fiscal Year, which I'm sure you have seen, and it is totally wrong, and it's a disgrace and a blemish to the City, as initially as this process has been done. As you know, this is the most important document – most important document in our governance, and it was done initially in a cavalier fashion, and makes the whole process cavalier. I'm not speaking in favor of or against it; I need an impartial person who will inform us, and spending twenty-one thousand dollars (\$21,000) for people who have already been paid; I think this is a disgrace. Thank you.

Mayor Slesnick: Mr. Richard Namon, 5555 Oakland Lane – Oakwood Lane.

Mr. Namon: Thank you for the opportunity to speak to you on this important matter. Some ways I'm a little bit confused because if employees are somehow mysteriously given some property rights by Section 22, if they were employed with that in fact in effect, I don't think that removing it now would actually remove the rights of the employees who were employed under that. I don't see how you can construe by removing it; I can understand that it will affect future employees, but I don't see how in retrospect

you can go backwards and say well, we removed it now, and therefore you don't have that right.

Mayor Slesnick: Actually Mr. Namon, you raise a very good issue, and I'm sure that if – hear me out – and I'm sure if I were the attorney for one of those directors who are fired, I might take that position; however, there has been case law in other jurisdictions where the quote, due process right that is given to employees at this time, the due process procedure, which we are going through with the public election has been termed by the courts to be the due process procedure to remove those property rights, because it has given everyone a chance to publicly air, publicly view, and publicly debate the issue and been voted out. But even if that's the case, certainly an attorney for one of those directors who are currently employed, if they were dismissed should certainly raise that issue of the removal of their property rights. My only point is at some point in time, at some procedural juncture we need to make the move to change or you'll never do it, because even if you're right, if we don't change today, we won't change next month, we won't change next year, and so therefore the time has come to consider this, and it will be the public to consider.

Mr. Namon: I would agree with the fact that there needs to be certain changes; the other issue that I would bring forward is that in private industry to create the same effect, and it has been done also in public sectors; this is through the contract that is written with the person that is employed and that far better defines whether or not there is a property right, and whether or not the employees' at-will, or whether they have any redress, by a good contract you can avoid the major problem that you foresee on Section 22; you could leave Section 22 in and still by contract avoid the whole issue and not have to go through the election, and....

Mayor Slesnick: But Mr. Namon, let me suggest to you also, you've raised another issue that is problematic; you cannot waive your Constitutional rights by contract, and I'm not sure if you can waive your Charter rights by contract, I mean, that's another litigable issue.

Mr. Namon: This is the reason why I was suggesting that this issue be tabled for further consolidation. I really think that if Section 22 is being removed, simultaneously it should either be modified or some substitute be put in place before such an election takes place, so that the employees who fall in this grey area, which are a hundred and some odd by last numbers that I've heard, that these employees will have some form of better redress than going to the man, I'm not thinking about the man that fired him, but obviously if I'm a supervisor working for Mr. Brown, and I fire an employee, Mr. Brown turns around and tells me no, you shouldn't have fired him, I'm not going to be a happy employee. I imagine that any good man, City Manager, is going to support the decision of his workers. So I guess what bothers me most is that group of people – I'm not really concerned about the department heads and their assistants, because I think that they are paid sufficient salaries, that they should be able to accept the fact that they are working at-risk; they don't do their jobs they are gone, good-bye, I agree with that; it's that group of people who don't belong to the union, who don't particularly want to unionize that are

going to left without a better form of redress, and I think that should be addressed; it's not just something to be thought of in the future at that time. I appreciate the opportunity to speak.

Mayor Slesnick: Good point, good point.

Commissioner Withers: How do you resolve that?

Mayor Slesnick: Well, by – I was saying the Manager could bring to us a system, which he proposes for people either below assistant directors, or including assistant directors, but he can bring to us a system which he can implement; we can either approve it by ordinance, it will be up to the City Attorney to determine whether or not it needs to be a City rule implemented by the administration, or by an ordinance, and we can do that.

Commissioner Withers: Like the City Manager review before finality or something like that.

Mayor Slesnick: And access to an arbitrator if that's what – absolutely!

City Manager Brown: That's what happens right now.

Commissioner Withers: I know, but it's not in concrete.

Mayor Slesnick: No, I think David, that's – go ahead.

Commissioner Cabrera: I'm just going to go out on a limb at the risk of having employees despise me, you know, if you are a director in this City, and you are in a position where you are non-performing member of the City staff, and this Manager wishes to terminate you, and /or this Commission takes upon their rights under the Charter to bring you up and then terminate you, why in the world would you want to continue to work here? Why in the world would you want to fight the system? You know, you think about it, I guess you want to do it, because this is America and you get the chance to be innocent until proven guilty...

Mayor Slesnick: Well, for compensation.

Commissioner Cabrera:...and the Manager just showed me though the dollars, that's what its about, and here we got people defending the situation, I find it so surprising, and it's the same kind of people that run for office sometimes and talk about how we should be more like the private sector; I just don't get it.

Commissioner Withers: I just like the suggestion of maybe just the transparency between the City Manager and the department heads, so the City Manager knows what's going on, that's my...

City Manager Brown: Recall Commissioner, that anybody who gets suspended for over five days, or is recommended for a demotion, or termination comes through me. The most that a director can impose on an employee is five days of suspension without the City Manager's Office knowing, and I usually see the carbon copy of that going through, but as far as anything over that, that decision comes out of our Office.

Mayor Slesnick: Any other comments.

Mr. Clerk.

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Commissioner Anderson: Yes

Mayor Slesnick: Yes

(Vote 5-0)