

City of Coral Gables City Commission Meeting
Agenda Item E-4
February 9, 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

Public Speaker(s)

Agenda Item E-4 [10:33:36 a.m.]

An Ordinance of the City Commission of Coral Gables adopting the Restated Charter as the official Charter of the City of Coral Gables, and providing for a repealer provision a severability clause, codification, and providing for an effective date. (This proposal does not substantively amend the Charter. Instead, this proposal improves its readability and format; corrects the footnotes and legal history, complies with the Municipal Home Rule Powers Act and includes a forward).

Mayor Cason: E-4, Ordinance on Second Reading, Charter Review.

City Attorney Leen: Thank you Mr. Mayor. Mr. Mayor, Item E-4 is An Ordinance of the City Commission of Coral Gables adopting the Restated Charter as the official Charter of the City of Coral Gables, and providing for a repealer provision a severability clause, codification, and providing for an effective date. Please note this proposal does not substantively amend the Charter. Instead, this proposal improves its readability and format; corrects the footnotes and legal history, complies with the Municipal Home Rule Powers Act and includes a forward. There

has been a few form changes and I gave you the most updated version, nothing substantive from the last time you looked at it. We did have some Commissioners raise a couple of issues about some terminology like “therefore” and “thereafter,” trying to make that more readable. We had a couple of comments regarding gender neutrality just to make sure that we tried to change everything to a gender neutral tense, but I think there were a couple comments where they had found where we still had a gender non-neutral word. We corrected that. One other change that just occurred and why I’m providing this to you now the updated one is because, if you go to Section 33 and 34, what we’ve done is the general powers provision in Section 33...

Vice Mayor Quesada: Page 21?

City Attorney Leen: That’s on page 21. That is the key provision for the City. This is where you receive all of the authority that the State Legislature has, it’s basically Home Rule, except of course where there is a state statute that preempts or the County Charter preempts or a City Charter limits, but this general power provision is extremely important to the City. So we had included some language about the additional powers, which are in Section 34, but I thought that we should take all that out and just keep Section 33 itself, it’s such an important provision to the City, and I wouldn’t want anyone to say, and certainly it’s not the intent of the Commission to limit that in any way, so it’s just a form change, but now that’s all in Section 34, these additional powers that came from the compiled Charter, which I thought were useful to keep because these come from special acts in other – you’d have to look at the notes, but basically these come from special acts of the Legislature going back a long time, decades and pre-date the Municipal Home Rule Powers Act. So it’s useful to have these general provisions as well because sometimes you can find additional power in them. Like for example, 34(g) “Investigative Power” that’s a useful power for the Commission to have, the ability to summon witnesses, administer oaths, interrogate witnesses. It’s not something that we’ve used, that this City has used, but it’s not necessarily something you want to use in the appropriate circumstance; and the benefit of having provisions like that is, yes you could adopt an ordinance under General Powers to give yourself that authority, but you already have that authority in the Charter. That’s the idea so you don’t have to do that. So just to speak more generally, this is the restated Charter, it comes from the Charter Review Committee. It was worked on by my office and also Special Counsel. One of the best things about it is the Forward, I think, that it explains the history and how we got to this point. It also talks about the importance of 6.02 of the Miami-Dade County Charter, which is what really protects the City vis a vis the County. We have a very good relationship with the County. We’ve obviously had a few issues come up of late though where Section 6.02 is very important to us and what Section 6.02 does is it says that, that cities retain the authority over zoning, regulation and services and can have a higher standard than the County and that, that can be enforceable. The County can’t preempt our Zoning Code for example. We can have a higher level of zoning. So for a City like Coral Gables that’s extraordinarily important and we made

sure that that was mentioned a couple of times in the Charter, so that we could always rely on that authority as well. So with that what I would ask is, of course if you have any comments or questions, please let me know. Assuming it's passed on Second Reading, we are going to do one more line-by-line read through. Under the Code you've already granted my office the ability to fix typos and things like that, so we'll do one more read through. If you see anything that's a typo or anything like that let me know. We are then going to be sending this through the City Clerk's office to Municode. They will fix the Charter or update the Charter on Municode. We will then put this into pamphlets which can be distributed so each of you can have one and can be distributed to the members of the public who are interested; and then you are going to be going through the amendment process, the Charter Review amendment process which of course is completely within the Commission's discretion what you decide to put on the ballot, if you decide to put anything on the ballot, but you have I believe seven or eight substantive amendments that have been proposed to you by the Charter Review Committee, you will decide how that process will go forward after addressing the restated Charter and everyone will know exactly the language being amended because we will have a clear Charter that this Commission has agreed on.

Mayor Cason: On Section 26, the thing I mentioned before is just for the record, we left in; this is on page 19 that Boards compose of such number of City residents...

City Attorney Leen; Mr. Mayor you are right. One second.

Mayor Cason: I would like to say something...

City Attorney Leen: What do you want it to say? I'm sorry sir.

Mayor Cason: I want to make it clear that somebody ten years from now doesn't come back saying you can't appoint this person with a four-fifths vote who lives outside the Gables because it says in the Charter he is not a City resident.

City Attorney Leen: Do you want me to address that by putting language in Section 26?- or do you want it in the note? Like for example we could note that the Commission can waive – if you waive or through ordinance determine how many residents are deemed expedient, anyone else doesn't have to be a resident, either through waiver or through the ordinance. Do you want us to say that expressly in Section 26?- or do you want that in the notes.

Mayor Cason: What do you suggest?

Commissioner Lago: I think it's a good idea.

City Attorney Leen: OK.

Mayor Cason: Yes, maybe a note or something.

Commissioner Lago: Just to clarify to make sure there are no issues in the near future.

City Attorney Leen: So what I would do is, after it says, the Commission may appoint boards or commissions composed of such numbers, City residents as the Commission may deem expedient or non-residents through an established process, which can either be by ordinance – it will be something to that effect.

Mayor Cason: Whatever clarifies it.

City Attorney Leen: That doesn't substantively change this because that has been the practice of the City for years and there is a waiver provision in our City Code. Is that OK with the Commission if I just add a phrase that recognizes that authority?

Mayor Cason: That's fine with me.

City Attorney Leen: So there is unanimous consent for that. So when you approve this you are also approving a few words to be put into Section 26, which of course do not substantively change the practice or the Charter recognize your authority to have non-residents when you deem it appropriate pursuant to applicable law, which is our Code.

Mayor Cason: Any other discussion?

Vice Mayor Quesada: Yes. I made a number of citation changes, corrections.

City Attorney Leen: OK. Do you have it?

Vice Mayor Quesada: And grammatical issues. You know, I've been marking it up, but I've got quite a few. It doesn't change the substance of it, just for clarity on citation purposes.

Mayor Cason: Move it under the scrivener's error...

City Attorney Leen: Of course, we will sit down with you and go over them. The one thing I will is that it has been amended by others too, so sometimes we have to reconcile the proposed...

Vice Mayor Quesada: I think mine are pretty clear.

City Attorney Leen: Yours are pretty clear?- OK.

Mayor Cason: So with grammatical and clarity.

Vice Mayor Quesada: And clarity, it has zero substantive issues, like spacing, the way you cite certain laws, the actual form of citation, because its inconsistent with the way you cite it one way and you cite it another way. I just want to make sure the document is consistent.

City Attorney Leen: You are absolutely right. So what I would ask is that the Commission just authorizes me to go through one final time myself with any Commissioner who would like individually, and make sure it's reconciled and ready to go. This has been worked on by a number of different people, which is maybe why that occurred and I'm sorry that that's there, but we will definitely – I think there needs to be one person who goes through it before it goes to Municode to make sure everything is consistent. So, I will sit down with the Vice Mayor and make sure it's consistent.

Mayor Cason: OK. That said, do we have a motion then on...

Commissioner Keon: I'll move it.

Mayor Cason: Commissioner Keon makes the motion, second?

Commissioner Lago: Second.

Mayor Cason: Commissioner Lago. City Clerk.

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Mayor Cason: Yes

(Vote: 5-0)

Mayor Cason: E-5 – and by the way on that last one we did not have any public notice, so we close the public hearing.

City Attorney Leen: So what I will do Mr. Mayor and we had a public hearing, but there is no one here to speak on it, just for the purpose of the record, is that true Mr. Clerk?

City Clerk Foeman: That's true.

City Attorney Leen: OK. What I will do is I'm going to circulate you the final version of the Charter before it goes to Municode. I will use the authority you've given me in 2-201 to adopt it as the final form, based on your vote today, and then I'll give you maybe three or four days to take a final look at it, after incorporating your suggestions.

Vice Mayor Quesada: I'm going to see you today.

City Attorney Leen: OK. Maybe two or three days to take a final look. I'll send it to the Charter Review Committee too, and then at that point I will issue it to Municode and then we will go forward with the rest of the Charter Review, is that OK?- That's what I will do.

[End: 10:43:50 a.m.]