

City of Coral Gables City Commission Meeting
Agenda Items I-1
May 12, 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
Deputy City Attorney, Miriam Ramos
Interim Police Chief, Ed Hudak

Public Speaker(s)

Agenda Items I-1 [3:35:32 p.m.]

A Resolution creating a Charter Review Committee

Mayor Cason: City Attorney.

City Attorney Leen: Thank you Mr. Mayor. This is item I-1, which is the item creating the Charter Review Committee. Based on the Commission's direction you made at the last meeting, I put together this proposed Charter Review Resolution. It's patterned after the one from ten years ago; it's basically the same with a couple modifications. Let me just go over it briefly. This resolution would create a Charter Review Committee made up of seven (7) members. Each of you and the City Manager would be able to appoint someone who is a City resident. The City Attorney would appoint someone who is a current or former municipal or county attorney. The Mayor's appointment would serve as the Chair; the Committee would set its own schedule. Now according to this resolution, they must come back to you with resolutions by July 1st. However, just based on discussions with individual Commissioners there was a concern that that date did not really provide enough time. So I wanted to come to you with some additional dates and I'll

mention that once I finish talking about the other sections. City Attorney's office will serve as counsel to the Charter Review Committee, which basically means and we surveyed politically, which means that Miriam, Yaneris, and I, any proposed Charter Amendment, we would draft and then we will present to the Charter Review Committee based on whatever they ask us to do, or any individual Charter Review member. The Charter Review Committee would follow the guidance of the City Commission, so the idea is that at the next meeting or at a future meeting, you would provide general guidance to Charter Review as to what actions should be taken, what they should look at, what areas of the Charter are important. Now another issue is that any proposed amendments to the Charter, there would be a legal review, whether they could be done by ordinance. Some issues like for example, hypothetically if the idea was to move the election date to a November election that could be done by ordinance. There are other provisions though that if they were to be amended would have to be done by referendum. So that's something we would talk about as the proceeding went on. Lastly, this also provides an ability for any of the Commissioners or any of the appointed officials to propose Charter Amendments; they all have to be considered by the City Commission. Ultimately, you will make the determination what would go on the ballot or what would be changed by ordinance obviously. The last thing I wanted to say was – Oh, one other thing, it's a temporary advisory board, which means that if you have someone that's already serving on a City Board and you would like them to also serve on the Charter Review Board you can do that, it's not considered a dual board, which would violate our Code. Our Code does provide for temporary boards and allows that to occur. It would also be non-compensated; it would be basically sunset once the mandate that you've given them is completed. One other thing now. I was asked about what elections this could be done on, a referendum election, and I did this in conjunction with the City Clerk who helped me, who is our Election Supervisor for the City and basically we have a lot of options. If you want to use the November 8, 2015 election date, we actually have until September 4, 2015 to provide the ballot language to the County Election Supervisor, that's a month later than typical. We have until September 4, 2015, so you wouldn't necessarily have to choose a July 1st date, you could choose an August 1st date for the Committee to come back to you. Now you have other alternatives, too. You could do what's called a "Mail Ballot" and that could be any date, it just has to be approved by the City Commission and it has to be approved by the County Supervisor of Elections, and then the whole election will be done by mail.

Vice Mayor Quesada: But that would involve a significant cost for us.

Mayor Cason: \$15,000.

City Attorney Leen: That would require an expenditure of funds. Mr. Clerk how much is it for us to do it in the County Election versus the Mail Ballot?-I think that's what the Commission wants to know.

City Clerk Foeman: Well the Mail Ballot is not the same cost as if we do a stand-alone election, you are looking at a similar cost. Mail Ballot involves the postage and it's to and from, to the resident from the Election Center back. So a stand-alone election is roughly \$96,000 plus advertising. So if we did the November 8, 2015, that's a large City election, that's not a countywide, but we are looking at only cost savings as far as it relates to postage and transportation and some seasonal employees. So, it's not a significant difference as far as cost-wise between the Mail Ballot and just the stand-alone.

City Attorney Leen: So the next issue is that you could do it at the Presidential – I checked with the County Attorney's office and also checked with Walter, the City Clerk, and we could conceivably do it March 15th, which is the Presidential Preference Primary, which will require us to have the ballot language in by December 22nd. I was warned that one issue with that particular election is sometimes if a party doesn't have, for President, doesn't have a contested election only members of one of the two parties will come to the Primary, so it may affect the turnout and you should just be aware of that.

Commissioner Keon: But the other issue is, is that also what does that do to independents?

City Attorney Leen: Well it may also reduce – they are allowed to come and vote on this item, but it may reduce obviously their turnout because they are not running for President.

Commissioner Keon: They are not going to be there for either one so they won't be provided an absentee ballot, they wouldn't be provided...

City Attorney Leen: They will receive a ballot if this item is on the...yes...right, Mr. Clerk.

City Clerk Foeman: Independents can vote on the non-partisan issues, so the referendum issues, yes they'll be allowed to vote.

Commissioner Keon: I know, but are there usually non-partisan issues on the Presidential Preference ballot.

City Clerk Foeman: I've talked with the Elections Department, they do have them.

Commissioner Keon: How often?- is it common?

City Clerk Foeman: I'd have to check.

Commissioner Keon: If it's not common, I don't think we should do it.

City Attorney Leen: I received the impression it was not common because of that concern.

Commissioner Keon: I did too.

City Attorney Leen: But it is legal, it is something you can do. The next one is August 30, 2016 is the Primary, that's the more General Primary, not the Presidential Primary, for other offices in the state; and the November 8, 2016 is the General Election. So those are your alternatives. You have to be thinking about it obviously a little bit, because it does affect how quickly the Charter Review has to act. So that's my report.

Mayor Cason: You think the Charter Review – we said at the next meeting we would make our appointments.

City Attorney Leen: Yes.

Mayor Cason: You think they would have enough time to give them the summer to meet and you've given us the updated Charter. How long do you think it would take them?-of course they don't have the number of meetings they want and the frequency.

City Attorney Leen: I would think they would need a few meetings, certainly more than one, probably three or four. I think July 1st is a very hard date for them to meet. I think its going to be rushed. I do think that – you don't have to pick the date now as long as you are willing to miss the upcoming November election. If you are willing to miss that then you'll decide later what election you want to put it on, that would be fine because you may end up deciding not to put anything on the ballot too. So you don't have to decide that, but if you want it on the November ballot you are going to need to have a pretty quick return date, at least by August 1st, I would say.

Commissioner Lago: I think November is a little rushed, in my opinion. I think that we should move forward in regards to setting this in motion. Let's move forward and set this in motion and then we'll make a decision, maybe we can make the March...

Mayor Cason:...mail to all the residents, it cost the same, you can get any date after that.

City Attorney Leen: So what I would suggest then, it would require a Commissioner to agree, even though its my item, but I would do it at your direction. I would take out the due date then right now for when they have to respond.

Commissioner Keon: OK.

Commissioner Lago: Agreed.

Mayor Cason: Agreed.

City Attorney Leen: The other issue is, in order for time this is set up so that you can make a direct appointment, it doesn't require Commission ratification of your appointment and that's the tradition, that was the way it was done last time.

Mayor Cason: So bring that to the next meeting on the 26th.

City Attorney Leen: Yes.

Commissioner Keon: You want our appointments now?

City Attorney Leen: You can make your appointment at any time once this is passed.

Commissioner Keon: OK.

Mayor Cason: At least by the next meeting.

City Attorney Leen: At least by the next meeting.

Mayor Cason: Alright. So do we have a motion?

Commissioner Lago: I'll make a motion.

Vice Mayor Quesada: Second.

Mayor Cason: Commissioner Lago makes the motion, the Vice Mayor seconds.

City Clerk

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Commissioner Lago: Yes

Mayor Cason: Yes

(Vote: 5-0)

City Attorney Leen: Mr. Mayor, I have two other points to briefly raise.

Mayor Cason: OK.

City Attorney Leen: I just wanted to make you aware and this is consistent with an agreement we previously had with the City of Miami, but they've asked me to serve as, me and Miriam to serves as Conflict Counsel on Thursday in a matter where we just go and we represent staff, it relates to the Marine Stadium. So I want to make you aware of it, but we don't take policy positions or things like that, but we do go and we assist staff because the City Attorney can't represent staff there. The other thing they do for us is they do that for us in code enforcement matters, and they sometimes will help me with different issues. So that's a standing agreement we have with them, but I want to make you aware. The last thing is, Miriam, could you come up? I just wanted to report back to you on the Victim Assistance Program and a couple things that Miriam's been looking into. It's not a final report and we'll try to keep it quick. I see the City Manager looking at me.

Ms. Ramos: I hope you are all doing well. I wanted to let you know that the Chief and I have been working on a couple of issues that the Mayor had brought up. As you know, our Police Department and the City Attorney's office has been working for the last few years at combating crimes, specifically in the areas of residential and...and some time ago in furtherance of that effort we created what we call the Justice Advocate Program and that's been very effective helping us to continue to fight those two areas of crime in our City. The Mayor asked us to look at further initiatives to that program and so in that vane, Chief Hudak and I met with the Chief of Staff of Catherine Fernandez Rundell, the attorney on Friday. The idea is to continue to increase witness and victim participation which will in turn lead to more convictions which we hope will then be a deterrent from further crime in our City. Certainly the State Attorney's office has done an exceptional job and we want to help them to continue to do that. So during our meeting with the Chief of Staff, we discussed three initiatives, but the third, if we are going to move forward on it and we are really in the preliminary stages would kind of obviate the need, I think for the first two, but either way I want to brief you on all three. So the first is an expansion of the current Victim Assistance Program, which the Chief implemented several years ago and its an exceptional program, but its typically used for violent crimes, so not at this juncture for burglary victims, and so we'd like to potentially expand that program and have it be a pilot program and see if it makes a difference. The second would be the potential of a City ordinance that deals with serial car burglars. So if you are committing burglaries in two or more cars in one night, because I understand one of the issues has been somebody who goes down one street trying doors and does three or four, that there would be some kind of enhanced penalty, and of course that would have to be charged to the City ordinance and we would have to kind of maneuver through the legalities of that, given that there is a state statute about something similar, but we proposed it as well. And the third, is the idea of having a City Prosecutor, and this would be a joint partnership with the State Attorney's office and there is precedent for this type of thing. The City of Ft. Lauderdale had had a City Prosecutor for some time. The idea is that if the person

would work more closely with our Police Department and with the State Attorney's office, and they would be able to work more closely with our victims and our residents because they could go out there and facilitate the taking of a statement or facilitate some things, sometimes I think our residents find it difficult to go down town and park and take half a day, we have to really here that was able to do that, I think it would help with that and they would also be able to come here present reports to the Commission as to every month or every two weeks, whenever you would like, as to what's been happening. It would really take the Justice Advocate Program to the next level, and as I said, if we did that we may not need one and two. Anyway, it was well received and Chief Hudak actually spoke directly to our State Attorney yesterday afternoon, and he is currently doing a case review to see the types of cases that would be best suited for a City Prosecutor and we will be meeting with the State Attorney's office again after that review to see what the next step could be in this effort. Certainly, we would be meeting with the new Assistant City Manager when he comes on board next week to bring him into the conversation.

Vice Mayor Quesada: I'll tell you as a former ASA (Assistant State Attorney), and my wife being an ASA for a long time, I think it's a great idea to have a City Prosecutor. I would imagine it would come out of our pocket, the costs, obviously or at least a portion of that just because they are funding is so limited at the State Attorney's office, number one. Number two is, I think the way that prosecutors are categorized at the State Attorney's office, they are in different divisions. The domestic violence issue then you have one group of prosecutors focusing on the case, if it's a misdemeanor, another felony, another juvenile, another – I don't see it being feasible, I guess maybe that person would be like the liaison between all different cases, because obviously we are a City, we are going to have different types of crimes that we are dealing with.

Ms. Ramos: So I understand your concern. I also was an ASA, so I know exactly what you are talking about. We did broach that with Mr. Cobolt, which is the Chief of Staff, and we agreed that if this were to go forward we would have to have a list of enumerated crimes, that brings out the domestics even if you have a misdemeanor battery could not fall under this because it has to go to domestic court with domestic prosecution.

Vice Mayor Quesada: Of course.

Ms. Ramos: But if we could come up with a list of crimes that potentially could be handled by the City Prosecutor.

Vice Mayor Quesada: Then what about the funding mechanism?- through us?

City Attorney Leen: I just wanted to talk about that. First of all, this is preliminary, second of all, right now we have an agreement with the State Attorney's office, I have a contract with them, for them to represent us in City ordinance violations, we pay them \$50.00 an hour. We also have our

own basically, Justice Advocate, which is Judge Reyes who does forfeitures and things like that. The thinking was, there are two ways you can do it, one of which is a bigger discussion and it involves the City Manager and Assistant City Manager. The thing I was looking at initially was just – we have someone called the Justice Advocate, instead call him the City Prosecutor, which we already call ourselves, because we prosecute Code Enforcement, but it will allow you to have someone who they wouldn't be an employee of the City, they would be a State Attorney, but some of that money would go through the contract that I already have with them, I already have the authority to do, and the idea would be hopefully we would reduce the amount that we pay to outside counsel, which be for example Judge Reyes. I don't know how happy he would be about that, but that would be the thinking. We would just move it toward that and the person would do the same thing, but they would have more authority and they would also come here and speak to you and they would be able to answer to you, they would be cross-designated. Now the alternative one, which is very preliminary and we said that we have to talk to the new Director of Public Safety, do you want an actual City Prosecutor, but I'm not prepared to discuss that today, because we haven't talked about that. We are just giving an update on our meeting, I was surprised that they were open to it actually.

Mayor Cason: On the first option, the Coral Gables Committee Foundation, we've talked with them and they are willing to partner with the City to put up some funds, because what we are finding, Chief you mentioned this that at least on the property crimes, and particularly the thefts from the vehicles, two-thirds of the cases the people don't show up and so they are released and they are serial, so they are back on the street. But this could help with transportation perhaps hand-holding, maybe remember these people don't want to go because they lose, they have hourly wages and they lose the wages. Something could be crafted that would make it more likely that we would get convictions of these people that all come from outside the Gables.

Chief Hudak: As Miriam and I discussed this morning and this afternoon, the State Attorney's office, the State Attorney herself is committed to doing this. Now there are a lot of other issues that we started to vet this afternoon for residents that officers, if they have what we call a pre-file conference, which is immediately after the arrest, they give a sworn deposition, that's actually done by video from the Police Department to the State Attorney who is downtown, so we call it the video pre-file conference. We are looking at areas of actually offering that to the residents to do, a lot more affidavits with the car-hoppers that Miriam talked about, where if we can get them to come in, fill out an affidavit, sign and swear the affidavit. We believe that the sea-level prosecutor, the new prosecutors that have those cases will continue, this is part of the review that we are doing. As of last night what the State Attorney asked us to do was to present her and Esther with a review of the cases. What she is concerned about and I want to make very clear that this has not been the case, we haven't lost cases because the State Attorney's office didn't want to go forward. Every one of the cases that were....were because of an officer conflict of schedule or the victim just did not want to go forward for no matter what reason. So short of

paying them, which I don't believe we can do for compensation, we are looking at expanding that to some of the travel initiatives if you want from our Victim Advocate.

City Attorney Leen: Although we can give them, I believe, we can give them a per diem, I believe we can give them transportation, but it comes at a cost, and that was what I discussed with the Mayor and its one thing that's going to be considered. But I wanted to say one other thing. The idea of the City Prosecutor came up about a year ago, really two years ago when we talked to the State Attorney's office, I spoke to the State Attorney about, it was the squatters ordinance and about a couple of our other ordinances where we are seeking to basically go against abandoned properties, and right now we generally use a civil lawyer to do that. This Commission passed several ordinances that have criminal provisions and in a sense you can go to jail, and my understanding was from the State Attorney for the squatters ordinance and for some of these other ones they wanted the City to prosecute those types of issues. So right now if one of those issues came to prosecution, I would likely ask Miriam to do it or hire Alex Palenzuela if it came to one of the housing ones, one of the ones involving an abandoned house or we hire Izzy would do it. This issue has been in discussion for a long time because this Commission has been passing ordinances that have criminal components to it and we always have to be prepared to execute on those. It recently came up with the squatters ordinance because I think I told the Commission, I sent you an e-mail, but we have – when we hear about a squatter in the City, we act immediately now, and the police, the City Attorney's office, our outside counsel Izzy Reyes and Manny Guarch, and once we heard about it we had that person out within a day, I think it was, but we were prepared that if they didn't leave voluntarily to arrest them and we were prepared to prosecute the case and we would have acted as City Prosecutor in that instance. So I wanted to make you aware, this is something that will have to be addressed from time to time, even if we don't do...

Mayor Cason: So these three iterations of the next steps to do more on crime, would you be able by the next Commission meeting to come back to us and tell us where you are with these, is that enough time or would it be in June?

Ms. Ramos: Well, I think certainly as to the expansion of the Victim Assistance Program, I've already have a draft, and the Chief and I have met about making it available, forms online available to victims who'd like to avail themselves of a per diem, parking, maybe mileage, that would make it easier for them. So I think that is an early one to bring back. The second one I'm waiting to hear from the state on they think there may be some issues or they have to hash those out that which is the serial car burglaries, and the City Prosecutor I think is a long term project, I don't think that's something we'll have by the end of the month, but we'll certainly have an update.

Chief Hudak: And on behalf of the State Attorney herself, she actually offered last night to address you all as we continue to work through these things, as we talked about it yesterday in our phone conference. So I believe and I agree with Miriam, there is a strategic communications plan that goes along with advertising to our residents through E-NEWS and working with MR (Maria Rosa) and Michelle Cash to put that out and I think, Mayor, we can get that out. Once it's done and through the Manager's office to educate the victims about what avenues they have and so we'll immediately have an impact on that. The longer term cases, I think, you are going to have to let us vet it out, look at the cases to bring back to make sure we have something that everybody can be proud of.

City Attorney Leen: And I just have to say, from a theoretical standpoint, I love the idea of a City Prosecutor, I always have, because it's obviously, I think it's something that the City Attorney's office, particularly with the Director of Public Safety, we can work with them, the person is here, the person can go to the victim's house. I'm not saying we are going to do it, but I think theoretically, if you really want to get into prosecuting these crimes and the State Attorney is open to it, and they want to do it, which my understanding is that she is. I think it's something that's worth exploring.

Mayor Cason: Thank you.

[End: 3:57:50 p.m.]