

**Minutes of the Charter Revision Commission Meeting
February 27, 2012
9705 E. Hibiscus Street, Palmetto Bay, FL**

1. Call to Order: The meeting was called to order at 6:00 p.m.

The following members of the Charter Review Commission were present:

Beverly Gerald
Warren Lovely
Brian Pariser (non-voting member)
Betty Pegram
Tom Ringel
David Zisman

The following staff members were present:

Ron E. Williams, Village Manager
Eve Boutsis, Village Attorney
Meighan Alexander, Village Clerk

2. Approval of Minutes of October 24, 2011: Mr. Zisman moved to approve the Minutes, as submitted. Seconded by Ms. Pegram. All voted in favor.
3. Review of remarks made by public at the January 25, 2012 Town Hall Meeting: Ms. Gerald thanked those who attended the Town Hall Meeting.

The Commission discuss how best to proceed. Attorney Boutsis began with a review of the items mentioned at the Town Hall Meeting.

1. Article X, Miscellaneous: relating to annexation: Attorney Boutsis explained the provision. The Commission concurred.
2. Section 2.3(D): relating to Elections and Term of Office of Elected Officials: The Commission agreed to include the term "of any other Village candidate."
3. Section 2.3(E): relating to Elections and Term of Office of Elected Officials: Attorney Boutsis reviewed the remarks made at the Town Hall meeting.

Ms. Pegram stated that the provision should be worded so that no person shall serve as Mayor, Vice Mayor, or Council person for more than two consecutive terms. No person may serve as a combination of Mayor, Vice Mayor, or Council member for more than three consecutive terms.

Ms. Gerald stated that she was not in favor of abolishing term limits; however, there is a benefit to be had with having experienced representatives.

Mr. Zisman stated that the Vice Mayor and District 2 seat would have to sit out for two years or leave their seat early, if they wished to run for Mayor.

Mr. Lovely concurred with the term limit suggestion made by Ms. Pegram, as he believes that the 2010 election resulted in many "lame duck issues." Mr. Zisman remarked that those issues will occur whenever term limits exist.

Mr. Ringel stated that he believes two terms is sufficient.

Discussion ensued regarding whether the Village Council has the authority to approve or deny the language/ballot questions presented by the Charter Review Commission. Attorney Boutsis opined that the language in the Charter does not state that the Council does not have the authority to revise the Commission's suggestions.

Ms. Pegram moved to include the language suggested for Section 2.3(E). Seconded by Mr. Lovely. The Motion passed (3 to 2, Mr. Ringel and Mr. Zisman being opposed.)

4. Section 4.3(C) – relating to Council Meeting Procedures: Mr. Lovely suggested that the number of years that an Elected Official would be prohibited from holding a compensated position should be increased from one year to two years.

Mr. Zisman remarked that the matter is a "minor" issue and may result in under-voting. Mr. Ringel concurred.

Ms. Gerald stated that she prefers two years; however, she agreed that the ballot may have too many questions. All agreed to table the discussion for later in this meeting.

5. Section 5.1 – relating to elections – defining "non-partisan office. Attorney Boutsis explained the proposed change, adding language concerning a violation would be enforced by the State Attorney.

Vice Mayor Pariser remarked that he is concerned that a candidate would not be able to receive contributions from a party organization. Ms. Gerald, Mr. Ringel, and Mr. Lovely concurred.

Attorney Boutsis stated she would review the political party input as she believes the intent is to have a non-partisan election, not to stop an organization from providing campaign contributions, which may be a violation of first amendment rights.

Vice Mayor Pariser stated that the words to prohibit, "holding office for the election that the violation occurred" should be included. Ms. Gerald agreed, adding that it can be time consuming to remove someone from office.

Discussion ensued. Mr. Ringel moved to approve the language, adding the suggestion mentioned by Vice Mayor Pariser, including that a candidate could be prohibited from qualifying, and that a violation would be a third-degree misdemeanor. Seconded by Ms. Pegram. All voted in favor (5-0.)

6. Section 7.6 – relating to Lobbyists: Attorney Boutsis noted that there was one modification – the word "may" render the decision voidable.

Following brief discussion, the Commission agreed that if there were room on the ballot, it could remain; otherwise, it would be best not to have a lengthy ballot.

Discussion began concerning prohibition on lobbying. Mr. Zisman moved to change the prohibition from four years to one year. Seconded by Mr. Ringel. The motion failed (2 to 3, Ms. Gerald, Ms. Pegram, and Mr. Lovely voting in opposition.)

Mr. Ringel moved to change the prohibition from four years to two years. Seconded by Mr. Zisman. The motion failed (2 to 3, Ms. Gerald, Ms. Pegram, and Mr. Lovely voting in opposition.) The Commission decided that there would be no change to the four year prohibition.

Attorney Boutsis then reviewed comments made by the public at the Town Hall meeting:

- Mr. Peter England suggested that Private School Expansion language be removed (Article X.) The Commission concurred that this matter was voted upon following referendum and should remain.

- Ms. Leanne Tellam suggested language to be included under Article X, Section 10.2 entitled "Neighborhood Protection and Compatibility."

Attorney Boutsis stated that she believes this suggested language has so many undefined terms that it would bring a Bert J. Harris Act. She explained that owners have property rights and the Village has a comprehensive plan. She stated that to mandate this charter provision may be considered a "taking".

Mr. Ringel stated that this language should not be part of the Charter. Mr. Zisman added that the language seems inappropriate.

Ms. Gerald stated that some residents feel that certain elected officials may not protect their interests.

Attorney Boutsis noted that she understood the intention; however, the language is problematic. She explained that the comprehensive plan allows certain areas of growth and the language is subjective.

Ms. Gerald remarked that nothing in the language prevents individuals from seeking zoning changes. Mr. Ringel disagreed, stating that the language prevents the Council from taking action. Discussion ensued.

Vice Mayor Pariser, referring to Mr. Anthony Gorman's suggestion regarding Requirements for Adoption, asked if a unanimous vote or 4/5 vote can be included in the Charter. Attorney Boutsis stated that it could be included.

Mr. Lovely asked if the intent could be included so that the language would be defensible. He asked Attorney Boutsis if 4/5 majority would be defensible. Ms. Pegram stated that the public would vote for this, if they felt their neighborhood was being protected.

Attorney Boutsis stated that 4/5 majority could be defended.

Mr. Zisman suggested that ordinances be drafted to protect the neighborhood, rather than including language in the Charter.

Mr. Ringel remarked that a perceived problem with any particular Council member should not dictate a Charter provision.

Mr. Lovely stated that the concept should be included in the Charter and an ordinance could be drafted that would be guided by the Charter.

Mr. Ringel moved to leave as is. Seconded by Mr. Zisman. Following discussion, Mr. Ringel withdrew his motion. Attorney Boutsis advised that she will return with her opinion. The Commission agreed to hold this matter until the next meeting.

- Attorney Boutsis stated that she was unaware of a “State quiet enjoyment law” that was mentioned by Ms. Brenda Storch and she would review same.
- Attorney Boutsis began discussion of Mr. Chuck Latshaw’s suggestion regarding the Manager’s Powers and Duties. Manager Williams noted that the language seems to mirror the provisions recently included in South Miami’s Charter. Mr. Lovely remarked that the Manager is accountable – the Village has a Council/Manager form of government.

Mr. Zisman stated that the language stops “cronism” by allowing for Council review.

Manager Williams stated that this type of hybrid structure would have to be managed by managers in the future, as it seems contrary to the Council/Manager form of government. He suggested that the current process prevents an elected official from sending their candidates forward.

Mr. Ringel concurred with Mr. Lovely.

Ms. Gerald stated that the intent is not to “handcuff” the Manager, rather to insure that the person being appointed is the most appropriate for the job.

Clerk Alexander interjected that she does not work for nor report to the Manager, but believes that any Manager that would hire unqualified Department Heads would be creating difficulty and additional work for himself. She stated that the Manager, Clerk, and Attorney are employees of the Council and can be terminated by three Councilmembers for such inappropriate action.

Attorney Boutsis stated that she would be cautious concerning the language, as written, due to the Manager's employment agreement.

Mr. Zisman moved to include the intent, directing Attorney Boutsis to work on appropriate language. Ms. Pegram seconded the motion. The motion carried (3 to 2, Mr. Ringel and Mr. Lovely opposed.)

- Attorney Boutsis stated that Mr. Gary Pastorella raised another point regarding the Manager, his/her appointment, suggesting that the Mayor would nominate the Manager.

Mr. Ringel remarked that the Village is not a strong mayor form of government. Mr. Zisman stated that it would be difficult to appoint the Manager, if no one agrees on the Council.

Mr. Lovely stated that it would force the Manager to be beholding to the Mayor, as the Mayor would be the one who recommended the individual.

Mr. Zisman moved to leave the current Charter language as is. Seconded by Mr. Lovely. The motion carried (3 to 2, Ms. Gerald and Ms. Pegram opposed.)

- Attorney Boutsis began the discussion regarding vacancies and the Citizen's Bill of Rights. Ms. Gerald suggested that this discussion should wait depending on the size of ballot and number of questions. Ms. Pegram noted that with regard to the Bill of Rights' concern, the person running the meeting controls the Council meeting.
- Attorney Boutsis discussed Ms. Marsha Matson's suggestion regarding communication with Department Heads by the Village Council. Ms. Gerald stated that she believes that it is not appropriate to prohibit Council from asking questions of Department Heads.

Manager Williams and Vice Mayor Pariser noted that questions of official/formal inquiry are prohibited.

Mr. Zisman moved to accept the language and remove the existing subsections 4.2(B) (1) and (2). Seconded by Ms. Pegram.

Vice Mayor Pariser stated that the term “closely scrutinizing” could be troublesome, as he would not wish for staff to be abused by a Councilmember. Ms. Gerald suggested that the intent is not to allow any Council person to direct staff, rather to allow an elected official to be able to receive information.

Mr. Lovely stated that there is no reason to change the language. The Commission voted. The motion carried (4 to 1, Mr. Lovely being opposed.)

- Discussion began concerning former Councilmember Ed Feller’s suggestion to include a supermajority vote if the Council wishes to use the emergency funds.

Vice Mayor Pariser asked if the reserve funds are the emergency funds. Manager Williams explained that they were the same, approximately \$4.6 million.

Following discussion, the unanimous consensus was to leave the language as is.

- Discussion concerning adding a Section 6.2(b) suggested by Mr. Jerry Templer that mandated the Charter Revision Commission be appointed from residents of the respective Council’s districts.

Mr. Zisman moved to approve the language. Seconded by Mr. Lovely. The motion carried (4 to 1, Mr. Ringel opposed.)

4. Timetable for the Commission/schedule for future meetings

Clerk Alexander advised that the Miami-Dade County Elections Department would like the ballot questions as soon as possible, due to the large number of races to be held in 2012 and the printing of the ballot. The Commission decided to meet on March 13 and March 27 at 6 pm.

5. Public Comments

Mr. Henry Clifford explained his vacancy provision. Vice Mayor Pariser explained that in corporate law, remaining members would vote on the vacancy. Mr. Zisman stated it could be problematic, if all voted for themselves.

Mr. Clifford stated that the previous administration had a formal rule to not engage the audience.

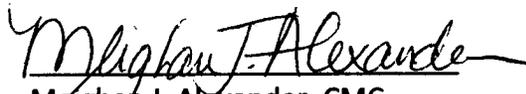
Vice Mayor Pariser stated that the Council moved public comments from the back of the agenda to the front to hear the public; however, remarking on each person's comment would be time-consuming and may result in deferring Village business due to lack of time.

Mayor Stanczyk (from the audience) stated that exchange with the public makes it difficult to keep the meeting in line for fear that a debate could be endless.

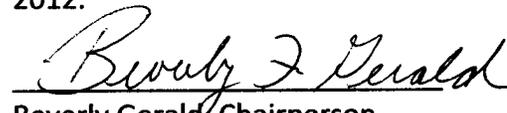
Ms. Gerald stated that the statement that staff would meet with the person may be sufficient. Discussion ensued. Mr. Chuck Latshaw stated that issues without an immediate answer could be handled by advising the person to meet with their respective council representative.

6. Adjourn: The meeting adjourned at 8:30 pm.

Respectfully submitted:


Meighan J. Alexander, CMC
Village Clerk

Approved by the Charter Revision
Commission this 27th day of March,
2012.


Beverly Gerald, Chairperson