



City Clerk's Office

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**CITY CHARTER REVIEW BOARD
Minutes of February 2, 2004 Meeting**

Board Members in attendance:

Chairman Steve Zack
Vice-Chair Jonathan Beloff
Board Member Ricky Arriola (Absent)
Board Member Victor Diaz
Board Member Larry Herrup
Board Member Abraham Laeser
Board Member Seymour Gelber

Board Liaison Personnel

Jean Olin, Deputy City Attorney
Robert Parcher, City Clerk
Liliam R. Hatfield, Secretary to City Clerk

Meeting called to order at 5:13 p.m.

Roll call: All members present except Member Arriola.

I. APPROVAL OF MINUTES OF DECEMBER 8, 2003

ACTION: Motion made by Member Diaz; seconded by Vice Chair Beloff; to approve the minutes of December 8, 2003. Vote: 6-0. Absent: Member Arriola.

NEW ITEMS

VOTER'S GUIDE

Member Diaz gave a brief overview of the presentation made on behalf of the Charter Review Board at the January 14, 2004 City Commission Meeting; he explained the actions taken by the City Commission and the recommendation made by Mayor Dermer to publish an objective Voter Election Guide for the public to understand the issues related to the Charter questions, with the participation and input from the CRB.

The sentiment of the Board is to improve the existing Voter's guide, changing the legal terminology to laymen's terms, and to include different colors, graphics and headlines to make it appealing to the voters.

Ramiro Inguanzo, Chief of Staff, informed the Board that all suggestions will be taken into consideration.

Jean Olin, Deputy City Attorney, explained that the City Commission has a resolution on the February 4, 2004 Commission Agenda, authorizing the Administration to spend up to \$50,000 for purposes of printing the Voter's Guide to educate voters.

Motion made by Member Diaz, seconded by Vice-Chair Beloff, for the City Commission to advocate the six Charter ballot questions recommended by the Board. Vote: 5-2. Absent: Members Arriola and Laeser.

REFERRAL FROM COMMISSIONER RICHARD STEINBERG – GOOD GOVERNMENT ISSUES

Member Diaz stated that at the January 14, 2004 City Commission Meeting, the existence of the CRB was extended for six months and some of the issues not addressed included good government reform issues, and since then, Commissioner Steinberg, in a follow up memo, strongly urges the CRB to take up those issues in priority matter. Discussion held.

Chairman Zack questioned the jurisdiction of the Board to take up these issues of election/campaign

reform and what the process of supermajority votes would be for discussion.

Member Diaz stated that the process continues to be 4 votes to place an item for discussion and 5 votes to recommend to the City Commission.

Jean Olin, Deputy City Attorney, stated that the process can continue as in the past. At the present time, the City Code deals with issues pertaining to campaign finance reform and ethics under Chapter 2. She added that it is her recommendation to keep them within the City Code, not the Charter. If there are issues on the Miami-Dade County Code of Ethics that are in conflict with Miami Beach City Code, the Legal Department has to present amendments to the City Commission via ordinance. If the Board is requested to review matters of ethics and campaign reforms, the Board can propose an amendment to the enabling legislation that created the CRB, present it to the City Commission in the form of an amendment seeking further jurisdictional power to include not only the Charter and the Related Special Acts, but also the City Code Chapter sections regarding campaign finance reform. Discussion continued.

Motion made by Member Diaz, seconded by Member Laeser, to discuss good government matters. Vote: 5-1. Oppose: Member Herrup; Absent: Member Arriola.

Vice-Chair Beloff requested copies of pertinent portions of the City Code and Miami-Dade County.

II. ISSUES FOR DELIBERATION:

1. City Manager/Administrative Changes

a) Personnel Board (RSA Art. IV) Sec. 12

Mayra Diaz-Buttacavoli, Human Resources Director, made a presentation of the Election of Remedies Options, Special Master/Hearing Officer (based on Miami-Dade County), Grievance, Arbitration procedure and arbitration fees. She explained that the Administration has entered into contract to replace the Personnel Board Appeals Authority with a similar Hearing Officer. There is a tentative agreement with the Police and Fire, who have agreed to look at alternatives to the appeal process. The two pending bargaining units for negotiations are CWA and AFSCME.

The Administration has requested that **Section 11 and Section 12** (see RSA Sec 11-12 below) be removed from the Related Acts and to remove the functions of appeals from the RSA, (d) and (e), as well as to remove the function of approving the budget, since that is the function of the City Commission, and remove the function of appointing and terminating the Human Resources Director.

Sec. 11. Director of Human Resources.

The Director of Human Resources shall be the secretary to the personnel board, and shall perform the functions prescribed in section 2 [10] of this Act, except as otherwise specifically provided in section 4 [12] hereof. The Director of Human Resources shall occupy a full-time position and be the head of the Human Resources department. He shall hold office until the next ensuing city election, and until his successor is duly appointed and qualified. Until August 1, 1951, the Director of Human Resources shall be elected by the City Commission and serve at their pleasure, but thereafter the Director of Human Resources shall be appointed by the city manager by and with the consent of the personnel board. If the appointee of the city manager shall be confirmed by the personnel board, he shall then qualify as such Director of Human Resources and enter upon the discharge of his duties. In the event that such appointment is rejected by the personnel board, the city

manager shall be notified of such rejection by the personnel board within forty-eight hours, and thereafter the city manager shall be authorized and empowered to certify another appointee to the personnel board within five days thereafter. If the personnel board rejects such subsequent appointment, or in the event the city manager shall fail or refuse to appoint the Director of Human Resources, as aforesaid, then the personnel board shall proceed to elect such Director of Human Resources.

The personnel board shall have the rights, by resolution adopted by the favorable vote of at least four voting members, to remove the Director of Human Resources. (Laws of Fla., 1937, ch. 18696, § 3; Laws of Fla., 1951, ch. 27735, § 2; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 12. Personnel board.

Until August 1, 1955, the personnel board shall consist of nine members, being five voting members and four nonvoting members. The five voting members shall be citizens of Miami Beach not in the employ of the city, each having a different vocation, the term "vocation" as used herein meaning the principal means of livelihood of the member. They shall be appointed by the votes of five-sevenths of the City Commission and shall serve for a term of five years. The four nonvoting members of the personnel board shall consist of the Director of Human Resources and three regular employees of the City of Miami Beach to be elected by the probationary and regular employees of the city. One such nonvoting member shall be elected from the employees of regular status in each of the following groups by the employees of probationary and regular status in the respective groups. Group 1 shall consist of the employees of the police department, fire department and beach patrol department. Group 2 shall consist of employees who are in clerical and executive positions; Group 3 shall consist of all other employees. At the first election held by the employees at as early a date as is practicable after June 1, 1951, the three nonvoting employee members shall be elected for terms commencing August 1, 1951. The term of the member representing Group 1 shall be for three years, the term of the member representing Group 2 shall be for two years, and the term of the member representing Group 3 shall be for one year. Thereafter an election shall be conducted for the group in which a term expires, and the term of such member so elected shall be for three years. The city clerk shall conduct and supervise the election of the nonvoting members of the personnel board.

From and after August 1, 1955 the personnel board shall consist of ten members, of whom six shall be citizens of Miami Beach not in the employ of the city, each having a different vocation, the term "vocation" as used herein meaning the principal means of livelihood of the member. At least one citizen must work in the field of human resources. They shall be appointed by the votes of five-sevenths of the City Commission and shall be voting members. The five voting members who are in office on August 1, 1955 shall continue in office as voting members until August 1st of the last calendar year in the term for which such member was appointed, and until his successor is appointed. The vacancy caused by the increase in membership on August 1, 1955 shall be filled by an appointment for a term of two years commencing August 1, 1955. Thereafter, at the expiration of the terms of such members, the vacancy so caused shall be filled by appointment for a term of five years commencing August 1st of the year in which the vacancy as a result of such expiration of term occurs. The other four members of the personnel board shall be the Director of Human Resources, who shall not be a voting member of the board, and three regular employees of the City of Miami Beach, to be elected by the probationary and regular employees of the city in the same manner and from the same group as was in effect immediately prior to August 1, 1955. The employee members of the personnel board who are in office on August 1, 1955 and whose terms have not expired shall continue in office as employee members for their respective unexpired terms. An election shall be conducted for the employee group in which a term expires, and the term of such member so elected shall be for three years. The three employee members shall be entitled to a total of one vote, voting as an employee member unit, in the determination of all matters before the personnel board. A majority of the employee members present shall control the one unit vote of the employee membership; if only two employee members are present and cannot agree, then the unit vote of the employee membership shall be a nullity; if only one employee member is present, then he shall be entitled to cast the one unit vote of the employee membership.

Any nonemployee member of the personnel board, except the Director of Human Resources, may be removed by the City Commission if at least five-sevenths of the members of the City Commission vote for such removal. Vacancies occurring in the membership of the personnel board shall be filled within thirty days in the same manner in which the vacant membership was originally selected. The member so selected shall serve for the unexpired term of his predecessor on the board. Any employee member of the personnel board may be removed if at least twenty-five percent of the total employee members of his group shall sign a petition for an election to determine whether or not such employee member should be removed and the petition is presented to the city clerk, who shall thereupon conduct and supervise such election, and a majority of the members of the group voting at such election shall vote to remove such employee member.

The personnel board shall select its own chairman and vice-chairman from its nonemployee voting members. There shall be regular meetings of the board held once a month, and such additional special meetings as may be required. Special meetings may be called by the chairman, and upon demand by any three or more board members, but only after reasonable notice has been given to all members and the city manager. At least three nonemployee voting members and at least one employee member shall constitute a quorum, but an affirmative vote of not less than three members shall be required for determination of all matters before it, except that in cases of adjournment or recess only a majority vote of those members present shall be required. All regular and special meetings of the board shall be open to the public, but this shall not be construed to prevent private conferences at which no formal action is taken.

The personnel board shall:

(A) Have authority to require performance of all personnel procedure and operations specified or contemplated by this Act or the personnel rules. The board shall approve the budget request for the Department of Human Resources.

(B) Approve or disapprove or amend, in accordance with section 6 [14] of this Act, the personnel rules and amendments thereto.

(C) Approve or disapprove or amend the classification plan, class specification and requirements to be met by applicants for competitive examinations as provided in section 2 D [10 D.] of this Act.

(D) Hear appeals in case any officer or employee in the classified service is suspended, reduced or removed in accordance with the procedure in section 9 [17] of this Act and the rules made thereunder.

(E) Hear appeals, make investigations and review administrative interpretations of the personnel rules, and direct administrative action consistent with its findings.

(Laws of Fla., 1937, ch. 18696, § 4; Laws of Fla., 1951, ch. 27735, § 3; Laws of Fla., 1955, ch. 30987, § 1; Ord. No. 93-2868, § 1, 9-22-93; Ord. No. 97-3086, § 4, 7-2-97)

Editors Note: The provisions regarding the personnel board are contained in Code section 78-1. The provisions in Code section 78-1 which are not required to be amended by referendum are controlling in regard to the personnel board. Those provisions which are required by F.S. § 166.021 to be amended by referendum are identical in this section and Code section 78-1.

APPOINTING AND TERMINATING THE HUMAN RESOURCES DIRECTOR

Motion made by Vice-Chair Beloff, seconded by Member Diaz to amend the Charter to recommend to the City Commission that they put to the voters an amendment in the Related Acts that would provide the appointing and terminating of the Human Resources Director under the City Manager; delete the authority of the Personnel Board, confirm the appointment of the Director of Human Resources, and delete the reference to their authority to elect the Human Resources Director, if the City Manager fails to appoint one. Vote: 6-0. Absent: Member Arriola.

Richard McKinnon, CWA Union President, expressed his objection.

Chairman Zack explained, for the record, that Pamela Terranova, Esq., had been notified via email of the meeting, per request.

BUDGET

Motion made by Vice-Chair Beloff, seconded by Member Diaz, to delete the reference to any role by the Personnel Board and the approval of the Office of the Budget, so that the budget be proposed by the City Manager and approved by the City Commission. Vote: 6-0. Absent: Member Arriola.

ITEM DEFERRED

ABOLISHING PERSONNEL BOARD/GRIEVANCE PROCESS

Discussion held. Motion made by Member Diaz, seconded by Member Herrup to defer this item for three months, to allow the Administration to complete collective bargaining negotiations with Unions and to allow the City groups reclassifications completion. Vote: 6-0. Absent: Member Arriola.

David Robinson, Esq, representing the CWA urged the Board not to adopt the proposal.

Jorge Gonzalez, City Manager, spoke.

POWERS OF PERSONNEL BOARD TO APPROVE, DISAPPROVE OR AMEND CITY RULES

Motion made by Member Diaz, seconded by Vice-Chair Beloff, to recommend to the City Commission to put before the voters by referendum to delete from the Related Special Acts the powers of the Personnel Board to approve, disapprove or amend City rules. Vote: 6-0. Absent: Member Arriola.

Richard McKinnon, CWA President, expressed his objection.

Jean Olin, Deputy City Attorney, explained that the City Commission can pass a resolution in mid July for the remaining Charter ballot questions to be placed on the August 31, 2004 Election ballot.

IV. ADJOURNMENT

Meeting adjourned at 6:47 p.m.

The next meeting is to be scheduled in March 2004. The City Clerk's Office Secretary will coordinate a final schedule date.

PUBLIC COMMENTS:

There was a good and welfare where the public was provided an opportunity to speak.

ITEMS NOT REACHED

- b) Certain Officers & Employees Constituted Civil Service Employees (RSA Art. IV) Sec 9
- c) Health Plan for City Officers and Employees (RSA Art V)
- d) Department Directors Not Confirmed by Commission (Ch. §4.02)

REP:JO/lh
Attachment: Sign-In Sheet