

## Charter Review and Revision Board

### Members:

Stephen Zack, Esq.  
Scott Diffenderfer  
Jacqueline Lalonde  
Aaron Perry  
Rick Kendle  
Alex Fernandez  
Richard "Rick" J. Preira

### Appointed by:

Mayor Matti Herrera Bower  
Commissioner Jorge R. Exposito  
Commissioner Michael Góngora  
Commissioner Jerry Libbin  
Commissioner Edward L. Tobin  
Commissioner Deede Weithorn  
Commissioner Jonah Wolfson

### MINUTES

Thursday, April 25, 2013 at 3:30 p.m.  
Commission Chambers, Third Floor, City Hall

#### 1. Swearing-in of Board members.

All members were sworn-in prior to commencement of the meeting.

**Clerk's Note:** The meeting was called to order at 3:39 p.m. All Charter Review and Revision Board members were present.

#### 2. Welcome remarks by City Attorney Jose Smith.

City Attorney Jose Smith introduced himself and welcomed the members of the Charter Review Revision Board on behalf of the Mayor, the City Commission and the City Manager, who is out of town and would otherwise be present, his staff and the City Clerk.

The City's Charter was originally adopted in 1993. Mr. Smith sat on the original Charter Review Committee with Stephen Zack, who was selected as the Chair. In 1993, the City did not have a Charter as we know it today. What the City had was a compilation of about 100 plus pages that were actions that the State Legislature had passed governing the City of Miami Beach. If the Legislature did not give the City the authority to do something, the City would not be able to do it. With the enactment of Home Rule by the Florida Constitution, Cities slowly began to pass their own particular Charter, which provided home rule for the municipalities. The City's first Charter Review Committee took a 100 plus pages of documents that were all over the place, often time people did not know what they meant, or where to find them, and they created a Charter that is about 20 pages or so. It was the first time that a municipality in South Florida, perhaps in the State, created a Citizens' Bill of Rights, which was a very significant achievement, creating a mechanisms for residents to have the ability to be heard, to be told the truth, to get documents and also created a remedy to enforce those provision in the Bill of Rights. If you have had an opportunity to look at the City's current Charter, you have seen that it has eight Articles, in addition to the Citizens' Bill of Rights. It goes from the creation of the City, to the powers of the City Commission, the Power of the City Manager, the powers of the City Clerk, which recently "got its independence" by a referendum that took place last November. There are other sections dealing with budget, elections, initiatives and referendums, and other items that are important, and will become even more important as these discussions occur within the next six months or so.

#### 3. Introduction of Legal Department support team and Board Member Orientation.

Jose Smith, City Attorney, stated that the Office of the City Attorney would be providing staff support to help the Charter Review and Revision Board in discussing all of the various issues

that will come up. Residents have also provided to the Charter Review and Revision Board suggestions on certain section within the Charter that need to be looked at. Gary Held, First Assistant City Attorney, who is his Land Use Expert, who is present, will provide assistance with Land Use issues, as they come up from time to time. Raul Aguila, Chief Deputy City Attorney, will also be providing assistance with regard to any transactional issues or referendum issues, which may come up. Debbie Turner, First Assistant City Attorney, will be present at all the Charter Review and Revision Board meetings. Debbie will be assigned the responsibility to be at every meeting and take notes, and bring back to the City Attorney any issues that need to be researched, discussed, or any amendments that need to be drafted.

- **Debora Turner – First Assistant City Attorney, 305.673.7000 X 6441**

Debbie Turner, First Assistant City Attorney, discussed Sunshine Law and Public Records Law. Ms. Turner provided an overview, as many of the Charter Review and Revision Board members currently serve on City Boards, or have served on City Boards. The basics of the Sunshine Law, which is contained in Chapter 286 of the Florida Statutes, is that all meetings of public boards must be held in the Sunshine, i.e. open to the public; reasonable notice must be given; and minutes must be taken and properly recorded, which will be done by the City Clerk. As to the Sunshine Law, the type of meeting covered is any gathering where two or more of the Charter Review and Revision Board members are meeting to discuss board business. Those meetings must only be held in the Sunshine, and be publicly noticed. Charter Review and Revision Board members may attend social gatherings were two or more attend, but they cannot discuss anything that is before the Charter Review and Revision Board or foreseeably may come before the Charter Review and Revision Board for their decision. Other communications that are also covered by the Sunshine Law are written communications, memos, e-mails, third party communications and liaison communications. The Charter Review and Revision Board members cannot communicate or solicit input from other Charter Review and Revision Board members by any other method that would otherwise circumvent the Sunshine Law. Charter Review and Revision Board members cannot do indirectly what they cannot do directly.

In addition, Public Records Law applies to any material made or received by the Charter Review and Revision Board or board member in connection with the transaction of official business to perpetuate, or communicate or formalize knowledge of the Charter Review and Revision Board action. These documents are, subject to limited exceptions, public records. What is not a public record are the Charter Review and Revision Board member's own private notes that are made for one's self, which are not shared or shown to anyone else. Charter Review and Revision Board members need to be mindful if they are attending meetings of other boards, and they see another Charter Review and Revision Board member, that they do not discuss, debate, or communicate with that other Charter Review and Revision Board member on any matter that is either before the Charter Review and Revision Board or that may foreseeably come before the Charter Review and Revision Board for discussion. The penalties for violating the Sunshine Law are serious. Violations are considered noncriminal infractions, which carry up to a \$500 fine. However, if anyone knowingly violates the Sunshine Law, that is subject to a second degree misdemeanor charge, which carries penalties of up to 60 days in jail and up to a \$500 fine. The penalties for Public Records law violations are noncriminal infractions up to a \$500 fine. However, if a board member is found to have willfully or knowingly violated Public Records law, it carries up to a \$1000 fine and up to a year in jail.

Ms. Turner added that she would be happy to discuss any Charter Review and Revision Board members' questions regarding the Sunshine Law and the Public Records Law on an individual basis.

#### 4. Introduction of City Clerk support team

- **Rafael E. Granado – City Clerk, 305.673.7000 X 6451**
- **Liliam Hatfield – Office of the City Clerk, 305.673.7000 X 6592**

Rafael E. Granado, City Clerk, introduced himself and Liliam Hatfield. Mr. Granado welcomed the members, and explained that the Office of the City Clerk will be the liaisons to the Charter Review and Revision Board. If they need anything, please contact the Office of the City Clerk. Mr. Granado went over the materials that had been distributed to the Charter Review and Revision Board members. The materials were: The Charter, Copies of the items that have been referred to the Charter Review and Revision Board by the Mayor and Commissioner that are on record; emails from Frank Del Vecchio, dated April 23, 2013, and Nancy Liebman, on behalf of Miami Beach United, dated April 24, 2013; and the resolution that formed the Charter Review and Revision Board.

Mr. Granado announced that a public email address had been created for the public to send any concerns, comments or suggestion to the members of the Charter Review and Revision Board. The email address is [CharterReview@miamibeachfl.gov](mailto:CharterReview@miamibeachfl.gov)

Mr. Granado requested the Charter Review and Revision Board to provide him instructions as to how they wanted him to distribute the e-mails received at said email address.

#### 5. Selection of a chairperson and vice-chairperson.

Aaron Perry nominated Stephen Zack, Esq. as Chair, based on his experience, having worked on the Charter Review and Revision Board for two consecutive terms. Mr. Perry announced that he was wide-open if the Committee was interested in allowing himself (Mr. Perry) to serve as Mr. Zack's Vice Chair. Alex Fernandez seconded the nomination. Voice vote 7-0.

**ACTION: Mr. Stephen Zack, Esq. elected Chair and Aaron Perry elected Vice Chair unanimously.**

Mr. Zack thanked the Charter Review and Revision Board members. He appreciates the opportunity to continue to serve the City.

Jose Smith, City Attorney, stated that he has known Stephen since high school, maybe even earlier. Stephen is a modest individual; he has served as President of the Florida Bar; the American Bar Association; and he is a senior partner at one of the most prestigious law firms in the United States. Stephen has been very helpful to the City with his legal talents and skills in more than one capacity throughout the years.

Mr. Zack responded that Mr. Smith has been a good friend and a great City Attorney.

Mr. Zack stated that the original motion was for both Chair and Vice Chair. However, he would entertain the request to bifurcate the motion. No Charter Review and Revision Board members requested to bifurcate the motion, thereby confirming Mr. Perry's election as Vice Chair.

#### 6. Discussion regarding procedures.

Mr. Zack explained that the original Charter was 192 pages. It was so obsolete that the legal description of the City was incorrect. They had one goal when they first met in 1993, which they thought would be hard to obtain. They wanted to have a Charter that anybody could come to the City the night before they had a matter on the Agenda, pick up the Charter, read it that night and

know what the rules were and what rights they had. The concept of a Citizens' Bill of Right was revolutionary at the time; no other City had it. It turned out to be a very good thing for the citizens of Miami Beach. Mr. Zack commented to the Charter Review and Revision Board members that they would enjoy this opportunity. They will leave a lasting legacy with what they do here. This City deserves a great Charter and great leadership, which can only be achieved through a great Charter.

**3:54 p.m.**

Mr. Zack stated that he served on the State Constitutional Revision Commission, which happens once every 20 years. There were three Commissions: One had everything that they recommended not passed by the Citizens; primarily because it worked based on a majority vote, and you could place anything you wanted there on a majority basis. The second, which was the one he served one, required a supermajority vote, so that it had more gravitas. They only had eight recommendations, which were all adopted in the subsequent election by the voters. Robert's Rules are very clear that a simple majority is all that is necessary. In the past Charter Review Committees, they have had only a simple majority requirement, but most recommendations were adopted unanimously. There were only a few areas that drew some heat in the past, these were the Manager's role and property issues; but for the most part, everything else was approved unanimously. Unless he hears otherwise, the Charter Review and Revision Board will be controlled by Robert's Rule, which is just a majority vote. He suggests a process by which the Charter Review and Revision Board members agree that nothing is in stone until they do a final vote. This is because one discussion on one area may influence the Charter Review and Revision Board members in a different way after they think about it. Mr. Zack is happy to entertain other views on this. However, we should start with the concept that to be fully discussed and debated it is necessary that we have a majority vote, and it is always on a temporary basis until the final vote, which will be a comprehensive final vote. Mr. Zack again asked if anyone had a different opinion on the matter. None was expressed.

Mr. Smith stated that he agreed, and that it was important that whatever message that the Charter Review and Revision Board sends to the City Commission that there be consensus. Because if it comes down to voting on an issue on a 4-3 vote, it is unlikely that the City Commission is going to put that on the ballot simply because there is no consensus. Mr. Smith suggested that Charter Review and Revision Board wait until the issues are thoroughly discussed, and then decide at that point, what they want to do in terms of building consensus.

Mr. Zack stated that as far the rules so far, they would have full debate on various issues that they decide they want to proceed. They will take interim votes. The issue will either be approved or disapproved on an interim basis. It does not mean that something cannot be discussed again, before a final vote. Once people have had an opportunity to reflect, they may feel differently about it. He wants to give everyone in the Charter Review and Revision Board as much opportunity to get all the necessary information, and to come to a decision that they are comfortable with. Mr. Zack explained that everyone has the right to say whatever he or she wants, but just once. When people make a point, especially the audience, we want to hear everyone's point of view, but once. There is no need to repeat what was said by somebody else, because the Charter Review and Revision Board has a very limited time to achieve its objectives. Mr. Zack inquired if his proposed procedures sounded reasonable. No contrary opinions having been presented, Mr. Zack stated that they would proceed accordingly:

**Procedures Adopted:**

- a. The Charter Review and Revision Board will have full debate on the various issues that the majority decides they want to discuss.**
- b. They will take interim votes on issues. The issues will either be approved or disapproved on an interim basis.**

- c. **Everyone has the right to say whatever he or she wants, but just once, as the Charter Review and Revision Board has a very limited time to achieve its objectives.**
- d. **The Charter Review and Revision Board will have a final vote, which will be a comprehensive final vote, on all the issues they wish to move forward to the City Commission.**

3:58:56 p.m.

Alex Fernandez stated that on the issue brought up by the City Attorney regarding the deadline for submitting issues to the City Commission, clearly, there are some issues that are of great importance to this City, and the future of this City that clearly need to be submitted to the City Commission by the deadline to make it on the November ballot. That being said, there might be other issues that are important to the City that may merit some further discussion; others issues that do not need the urgency of this November's ballot, but do merit that we give it the necessary time and discussion to make the right decision.

Mr. Fernandez inquired of City Attorney Jose Smith, if it would be appropriate for the Charter Review and Revision Board to send a two-tier recommendation to the City Commission. One with the recommendations that need to be on this year's ballot; and then a second tier of recommendations of other issues that do not need to be on this year's ballot.

Jose Smith, City Attorney, stated that they could bifurcate issues. The Charter Review and Revision Board has until January 1, 2014 within which to do their work. If the Charter Review and Revision Board believes an issue is urgent and needs to get on the November 2013 ballot, you can certainly say, "These issues are ripe for your consideration, and should be submitted sooner rather than later." There may other issues that the Charter Review and Revision Board wants to keep studying and working on, which may not be time sensitive, and extend debate on those issues, and maybe they will get in the next ballot. Next year [in 2014], there are County elections, and we can piggyback on their election.

4:02 p.m.

Mr. Zack inquired as to what the Referrals that were attached to the agenda actually meant; and could those be preliminary reviewed today.

Thereafter discussion was had regarding the April 17, 2013 referrals.

*Referred to the Charter Review Board to discuss term limits:*

1. *A Resolution Calling For A \_\_\_\_\_, 2013 City Of Miami Beach Special Election, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether Miami Beach City Charter Section 2.02 Should Be Amended To Provide That Commencing With The City's General Election In November 2013 Term Limits Set Forth Therein Are Subject To A Lifetime Ban On Further Election To The City Commission For Individuals Who Have Served 14 Consecutive Years As Members Of The City Commission, Retaining Remaining Provisions In Charter Section 2.02 Including Retroactive Applicability Of Term Limits.*
2. *A Resolution Calling For A \_\_\_\_\_, 2013 City Of Miami Beach Special Election, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether Miami Beach City Charter Section 2.02 Should Be Amended To Provide That Commencing With The City's General Election In November 2013 The "Consecutive" Term Limit Language Shall Be Deleted, Providing Instead For Term Limits Of Six Years (Three Terms) For Mayor And Eight Years (Two Terms) For Commissioner, Retaining Remaining Provisions In Charter Section 2.02 Including Retroactive Applicability Of Term Limits.*

Jose Smith, City Attorney, stated that in the referral of April 17, 2013, items 1 and 2 deal with the same topic of term limits. That item was referred by the City Commission at its last meeting. Mr. Smith stated that there was sentiment that this one was time sensitive, and should be on the November 2013 ballot. **Rafael E. Granado to add to the May 6, 2013 Agenda.**

There are others that are either moot by subsequent action of the Commission or do not belong in the Charter. Jose Smith thinks that those can be taken at the Charter Review and Revision Board's next meeting, or whenever they feel it appropriate.

Jose Smith requested that the Charter Review and Revision Board inform him how they want to tackle the Charter. Do they want to go Article by Article? Do you want to assign certain Article to different folks? How best do you believe the review of the Charter should be accomplished?

Mr. Zack stated that it was a wonderful idea if everybody on the Committee ought to raise their hand if there is a particular Charter article that they are interested in. However, everyone should take one or more Articles that they are the expert on, and review it. Mr. Zack added that every person in the Committee should review every Article.

Jacqueline Lalonde inquired of Mr. Zack as to how the review of the Articles was accomplished at the last Charter Review. Mr. Zack stated that his recollection was that as they had more time last time, articles were not assigned. The first time in 1993, they Committee's duties were extended. Mr. Zack added that the Charter is only twenty pages; they are all expected to read twenty-pages. Since it is only twenty pages, then maybe nobody gets any particular Charter provision that they are responsible for. However, he still thinks that one person should be the person who begins the discussion on each Charter provision, and thereafter each member of the Charter Review and Revision Board can fully participate. However, he leaves that decision up to the Charter Review and Revision Board.

4:05 p.m.

Alex Fernandez inquired if the Related Special Acts were going to be discussed. Mr. Zack responded that it all depends on the time.

Mr. Zack, in reference to the term limits, asked for clarification regarding a 14 consecutive term year limit, and the six or eight-year term limits.

Mr. Smith explained that the City Charter currently allows someone who has served two terms as Commissioner and three terms as Mayor to come back as a Commissioner without interrupted service; the first option states that once you have served 14 years, regardless of how they are served, Mayor and Commissioner later, you are maxed out and you are term-limited and unable to run again. The second option is somewhat different; if you serve 14 years, you can take a two-year hiatus and come back. The sponsor of this measure, Commissioner Tobin, prefers Option 1. He added that rather than getting into the merits of other issues, he would rather the Board complete the discussions today as this is an organizational meeting, dealing with procedural issues, dates, and how often meetings will be. He will raise ten or 12 questions for their consideration, in addition to these referrals, of areas in the Charter that are ambiguous, and there are differences of opinions on certain things that they should deal with, but not today.

Discussion was held between Mr. Zack and Mr. Smith regarding question about term limits requested by the City Commission.

Ms. Lalonde explained that the consensus on the City Commission was 4-3; they did not wish to proceed with this issue of term limits, and there was no absolute consensus. Discussion continued and Mr. Fernandez stated that the item was referred to Charter Review and Revision Board. Ms. Lalonde stated that this is considered a highly contentious issue.

Rafael E. Granado, City Clerk, stated that the County will hold two elections, August 12 and November 14. Mr. Smith stated that they can work and still get it on the ballot next year. Mr. Granado explained that the General Election is November 5, 2013; for next year, the City can piggyback from the County on August 12, 2014 and November 4, 2014. Mr. Zack stated that their terms would have to be extended and Mr. Smith agreed.

Mr. Smith, in answering Ms. Lalonde's questions, stated that terms can be extended from January to August, depending on the issues that need be referred.

*Referred to the Charter Review Board – Administrative Determinations:*

Mr. Smith asked Mr. Held to explain the issue having to do with Administrative Determinations by the Planning Director and the proposal made by Commissioner Wolfson that those administrations be published and public be made aware of them, and whether this should or should not be part of the Charter.

Gary Held, First Assistant City Attorney, explained that the Planning Director is responsible for interpreting and enforcing the land development regulation, part B of the City Code. As part of the process, where a Code provision is not clear, he will issue an Administrative Determination to clarify how the Code would apply. There is no organized process for those administrative determinations to be published; discussions have been held for doing that so that they are widely disseminated to interested persons. The Planning Director's ability to issue Administrative Determinations is provided in the City Code, and perhaps should be there, but certainly could be part of the Bill of Rights provision. The first question is to ask whether this is worthwhile; discuss the merits or not, and discuss whether it is appropriate for inclusion in the Charter.

Mr. Zack asked what constitutes an Administrative Determination. He requested that information at the next meeting.

Mr. Held added that the Planning Director can be invited to make a presentation. He also clarified that a Planning Director makes a dozen or dozens of decisions per week on various kinds of matters that may involve some ambiguity; and he does not think the intent is that every single one is published, but find those types that reach the level of requiring publication or dissemination. Mr. Zack, on behalf of the Board extended an invitation to the Planning Director, to come with examples so they have a clear understanding and the definition in the Charter or by Ordinance that constitute an Administrative Administration. **Mr. Granado to invite Richard Lorber.**

Ms. Lalonde also asked to reach out to Commissioner Wolfson to explain his intent. **Mr. Granado to invite Vice-Mayor Wolfson.**

*Referred to the Charter Review Board to discuss Repeal of Laws:*

Jose Smith, City Attorney, explained that Commissioner Wolfson believes there are too many existing laws, and the City should look at repealing laws. At the last Commission he had a discussion item to repeal certain laws affecting peddling, walking, customers on Ocean Drive and Lincoln Road, operators, general laws that inhibit businesses that make it more difficult and expensive for them to operate; and look at repealing certain laws. It would be good to have him here to articulate.

Mr. Zack stated that if it is an Ordinance provision, is there an established rule that City and government bodies go by? Is it not subject to repeal?

Mr. Smith stated that the City has repealed many ordinances; there are many laws that had to be repealed because the City is pre-empted by the State. Mr. Held has repealed some unconstitutional laws, but these are not Charter issues.

Mr. Zack stated that this was out of order, and suggested that as courtesy to Commissioner Wolfson, to let him know and give him an opportunity to withdraw the item, as not appropriate for the Charter Review. **Jose Smith, City Attorney, to handle.**

## **7. Timeframe:**

3:53 p.m.

In response to a question from Mr. Zack as to the timeframe, Mr. Smith reported that after talking to the County Attorney's Office and the County's Election Supervisor, it has been determined that the City has until September 6, 2013 to put something on the ballot. Technically, if the Commission decides to have a Special Meeting to put items on the ballot, it can be any time prior to September 6, 2013. Mr. Smith would say that the period is a little longer than June 1. Mr. Zack responded that the additional time was very helpful.

4:01 p.m.

Mr. Zack, Chair, inquired how many readings by the City Commission were necessary to adopt the Charter Review and Revision Board's recommendations. Additionally, when does the City Commission take its summer recess?

Jose Smith, City Attorney, stated that there is a City Commission meeting in July 2013. Rafael E. Granado, City Clerk, added that there are regularly scheduled City Commission meetings scheduled for June 5, July 17, and September 11. Obviously, Mr. Granado added, that the September 11 meeting was too late, as it is past the September 6, 2013 deadline.

Mr. Smith added that there is a sentiment that the City Commission will be holding a special meeting before September 6, 2013, to deal with Convention Center issues. Therefore, if there is a meeting in early September, before September 6, the City Commission could consider any Charter amendments at that time.

Mr. Zack commented that for the Charter Review and Revision Board's purposes, it would seem that July 17 is a date they shoot for, in part because when they present it to the City on July 17; they may have some things that they want the Charter Review and Revision Board to take back and consider. He would assume they should try to get their work done by July 17. Mr. Zack inquired if that was agreeable to the members of the Charter Review and Revision Board and the City Clerk. No contrary opinions having been presented, Mr. Zack stated that they would proceed accordingly:

**Deadline Adopted: Charter Review and Revision Board to try to get its work completed for presentation to the City Commission by July 17, 2014.**

## **8. Establish future meeting dates and times.**

4:24:52 p.m.

Chair Zack asked Liliam Hatfield to send a calendar requesting to know when everyone is available. Mr. Zack asked how everyone felt about having the meeting at the end of the day, and working on the weekend. He asked which times will be better 5 p.m. to 7 p.m., or 4 p.m. to 6 p.m. Mr. Zack inquired of the Committee what they prefer. He stated that since we have City employees involved, they need to be respectful of their time also.

Alex Fernandez requested that since this is an important proceeding that will dictate the future of this City, it would be appropriate if the Charter Review and Revision Board agrees to avoid the dates where other committees such as the Finance, Land Use and the Neighborhood Committees meet to make it accessible for anybody wanting to participate. This will make these meetings open to the public without any conflicts.

Jacqueline Lalonde stated that she would be happy with 4:30 p.m. to 6:30 p.m. She inquired of staff if it was known which day of the week that does not interfere with the other committees? Ms. Lalonde added that the Budget Advisory Committee meets on Tuesdays, so she is not available on Tuesdays.

Jacqueline Lalonde stated that they should meet every two weeks, at the least, and depending upon the final deadline it may have to be changed to weekly meetings. She added that bifurcating some of the issues, as Alex Fernandez suggested, will be a good idea, and during the summer months some members will probably be taking vacation.

Jacqueline Lalonde suggested Monday, May 6, 2013.

Mr. Zack suggested sending the calendar because they could not all agree at the moment. He explained that the time will be 4:30 p.m. to 6:30 p.m., and to "X" out the dates that they are not available.

Discussion held as to the possibility of the meeting on Monday, May 6, 2013.

Discussion opposing to having meetings on Saturdays and Sundays was held. Ms. Lalonde noted her opposition for weekend meetings.

Alex Fernandez stated that it is important to remember that this is a community of different cultures, and when advertising these meetings it will be good to reach out to the Spanish community by advertising on the Spanish newspapers and that a cross section of the community and cross section of the demographic are invited to participate.

Discussion continued as to potential conflicts and absences on May 6, 2013.

Jacqueline Lalonde emphasized that it is important to have the meeting on Monday, May 6, because there will always be somebody absent and they can telephone in for the meetings.

Chair Zack stated that it is important to have "call in" because of the different schedules of the members. He added that at some point in time there may be a need to have a Saturday meeting. This is will specially needed if they want public participation.

Jacqueline Lalonde stated that there has been weekday meetings well attended by the public and her preference is late afternoon.

Chair Zack stated that Lillian will send out the calendar and that they need the technology for members to attend by telephone. **Rafael E. Granado and Lilliam Hatfield to handle.**

**TO DO:** Consensus for the meeting on Monday, May 6, 2013 at 4:30 p.m. was reached. **Rafael E. Granado and Lilliam Hatfield to handle.**

Chair Zack stated that The Citizens' Bill of Rights, Article 15, is extremely important to everyone's wellbeing, and he hopes that this is reviewed. This Article refers to conserving the natural resources and scenic beauty, which includes the abatement of water pollution and excessive and unnecessary noise. He stated that he wants to add traffic as another issue that needs controlling. The issue of

traffic is absolutely strangling our City. He wanted to point this out ahead of time to make sure it is discussed. **Rafael E. Granado to handle.**

Jose Smith, City Attorney, gave credit to Dr. Morris Sunshine whose effort lead to enactment of this particular provision on the last Charter Review ten years ago. This resident fought alone in the effort to fight noise pollution, environmental quality of life, etc. He should be commended for that.

Rick J. Preira asked if it would be appropriate, during the deliberations, to consider preservation of the resources of the beach. He added that our beach, our principal asset in terms of tourism, could use a lot more attention that it actually receives. **Rafael E. Granado to handle.**

Chair Zack stated that absolutely, and added that on first job as a Legislative Aide to Senator Claude Pepper, his first assignment was to review the 10 miles of beach in Miami Beach. At that time, the beach was left to the hotels and there was total beach erosion. The Senator made it part of a resolution that made it part of our national interest, as the boundary lines of the United States, and the \$60 million turned out to be \$600 million. He agreed to add it as our resources.

Jacqueline Lalonde asked if this Committee has the jurisdiction to do this, or was the beach the exclusive jurisdiction of the State or Federal government?

Chair Zack stated that this is a legal issue that they need to deal with, as part of what they can or cannot do. He added that there are rights that developers have, and there are infrastructure rights that the citizens have, which may require a Court determination sometimes. It is very appropriate to discuss.

Discussion continued.

Jose Smith, City Attorney, stated that the City has a management agreement with the State of Florida to manage the beaches, and the State has been very lenient in allowing the City authority discretion as to what is needed to preserve that asset. We should do a better job. He stated that adding this to the Charter would be appropriate.

Rick Kendle requested deciding what will be discussed at the next meeting, since these issues need to be on the ballot.

**TO DO:** Chair Zack stated that the issue of election (term limits) and the Convention Center would be discussed right away. **Rafael E. Granado to place on the May 6, 2013 agenda.**

Jose Smith, City Attorney, stated that he would identify the Charter provisions that have created problems in the past, either ambiguities, inefficiencies, additional cost to the City, and it is important for this Committee to consider those. He will identify those areas that the Committee needs to focus in before the next meeting of May 6, 2013. **City Attorney's Office to handle.**

Chair Zack stated that there are buildings in the City that are totally out of character with the City, and he does not know if something should be added to the Charter to keep that from happening in the future.

Jose Smith, City Attorney, stated that Jorge Gomez, Assistant City Manager and former Planning Department Director, lived through much of the overdevelopment in the late 1980s early and 1990s. Mr. Smith stated that provisions were added to the Charter in 1997 and after, which limit the amount of development intensity, F.A.R., etc.

Rick Kendle stated that for him the issues are term limits, Convention Center and the need for an Inspector General. He feels the Mayor's term should be 4 years and not 2 years. He feels all these issues should be on the ballot in November. **Rafael E. Granado to handle.**

Chair Zack stated that he accepted this as motion and asked if anybody else wished to bring items.

Scott Diffenderfer brought up the issue of electing official by districts, and not by seats as it is currently done.

Chair Zack stated that he tried that case and has strong feelings on the subject and the Charter Review and Revision Board should look at that. **Rafael E. Granado to handle.**

Discussion continued.

Jacqueline Lalonde stated that she would reserve her comments for the next meeting.

### **Public Input:**

Terry Beinstock, President of the Sunset Island III and IV Homeowners Association and founding Director of Miami Beach United, stated that this group was formed to advance the rights of citizens in the City and for the City. Their first discussion was about amending the City Charter and amending the Citizen's Bill of Rights. He added that they have submitted to this Committee the proposed amendments. Miami Beach United surveyed many cities and counties' Bill of Rights to see what other communities are doing.

He requested this on the next agenda, since they spent many hours researching, analyzing and writing a good working draft for this Committee's review and obtain public comment. They will like these items to be on the ballot in November.

Mr. Beinstock also suggested preserving the City's historic character through the Charter.

Frank Del Vecchio, retired Massachusetts Attorney, thanked the members of the Committee for accepting the task. In reference to reform, and somebody mentioned the Inspector General, he stated that he thinks there is investigative authority in the Charter. He spoke about incorporating "whistle blower" protection for employees into the Bill of Rights.

Mr. Del Vecchio will look into extending the Bill of Rights to cover employees. He submitted a background, analysis and proposed language for Charter amendment for the sale, exchange or lease of City owned property for ten or more years in the Convention Center District. This is time sensitive, and there is an expectation from the public that any property sold, exchanged or lease in the Convention Center District should be subject to a referendum.

Mr. Del Vecchio also spoke about term limits. He explained that some Commissioners felt that term limits should be placed on the soonest possible ballot. The City Attorney gave a judgment that even if it was on the November 5 ballot, it may not take effect, as qualifying is September 6. So in matters like that, when you have an agenda, he would look for three things: If an item is recommended for consideration by the Charter Review and Revision Board, if at all possible, the proponent of the item should write it down, express the reasons for it, and this should be done in advance to make it available to everyone including the public. Mr. Del Vecchio explained how the meeting should be held and the items presented.

Mr. Del Vecchio also spoke about voting districts versus elections at large. He recalls that in the 2003 Charter Review and Revision Board, the City Attorney had significant questions about it. Mr. Del Vecchio did review the matter with the former City Clerk. He believes that it is worth looking at.

He has not seen any strong interest in it, since then; and no strong sentiment coming from the City Commission. However, if a member of the Charter Review and Revision Board feels strongly enough that it should be discussed further, then that member should give the reasons for that.

Jose Smith, City Attorney responded that he was a proposer of districts the first time the Charter Review Committee met in 1993. The reason that he was in favor of districts at that time was that there were no Hispanics in the City Commission. He felt that by creating districts there will be at least one Hispanic elected from the north end. Since then, he has been convinced that the City is too small and it causes people to concentrate and limit their view to specific areas of the City, rather than the whole City. He added that there should nevertheless be discussion on this issue. **Rafael E. Granado to handle.**

Chair Zack stated that there was a lawsuit brought by Victor Diaz and Matti Bower against the City, he tried it on behalf of the City and it was determined that there was no violation of the Voting Rights Act by not having districts. It costs the City a lot of money to litigate.

Discussion continued.

Chair Zack mentioned that there was an issue during the last Charter Review in 2003, as to whether to include a mandate that employees should be courteous to citizens in the Bill of Rights. Mr. Zack stated that how citizens are treated should be added to the Bill of Rights. Mr. Zack requested that this be added to the Agenda. **Rafael E. Granado to handle.**

José Smith, City Attorney, stated that on the issue of the Inspector General, in the context of the authority of the City Commission, he discussed this issue with several Commissioners and they feel there needs to be some way for them to independently investigate wrongdoing in other areas of the City. The only reference in the Charter for an independent party is an auditor and not an Inspector General. It was felt that this was not good enough, and the idea of an Inspector General under the supervision of the Mayor and Commissioners will be helpful to Commission since they no longer have subpoena powers. Chair Zack stated that this has already been requested to be placed on the agenda, and it will be discussed. **Rafael E. Granado to handle.**

Discussion continued.

Alex Fernandez stated that he would like to discuss subpoena power, especially after what has occurred in this government in the last year, it merits discussing allowing this government to investigate the acts and conducts of its officials and former officials.

Rick Kendle asked if he has an item, should he send it to Liliam and she will send it to everyone else for the next meeting. **Rafael E. Granado to handle.**

Jose Smith, City Attorney, stated that it is a good idea.

### **Motion – Three-Day Rule**

Alex Fernandez stated that he agrees with what Frank Del Vecchio suggested, and that the proposals should be available ahead of time, and he moved to enact a three-day rule for the public to have access to this information. Seconded by Rick Kendle; Motion approved unanimously. **Rafael E. Granado to handle.**

Rafael E. Granado stated that he needs to receive the items before the three days. The items need to be provided before the agenda is prepared before the three days. He needs to draft the agenda May 1, because of the weekend, and he needs the items before May 1.

Chair Zack stated that in reference to Item 18 "Ethics in Government" the best that could be done back then was to state that it was backed by applicable codes of conduct. There needs to be discussion of what that is. The Ethics Code needs to be more specific.

Jose Smith, City Attorney, stated that the Ethics Guidelines are in Chapter 2 of the City Code. They are very strict and the citizens passed a Charter Amendment, which provides that no Commission can water down ethics legislation. They can be stricter but not weaker. He stated that it could be added to the Charter and just saying that those sections of Chapter 2 of the City Code are added to the City Charter. Mr. Zack asked that this be added to the Agenda. **Rafael E. Granado to handle.**

#### **10. Adjourn meeting.**

Meeting adjourned at 5:06:59 p.m.

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