

Charter Review & Revision Board

Members:

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

Appointed by:

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

Staff:

Jose Smith, City Attorney
Debora Turner, First Assistant City Attorney
Donald Papy, Chief Deputy City Attorney
Rafael E. Granado, City Clerk
Liliam Hatfield, OAV, City Clerk's Office

Meeting Agenda

Monday, September 9, 2013 at 4:30 p.m.
City Manager's Large Conference Room, Fourth Floor, City Hall
Email: CharterReview@miamibeachfl.gov

Special Note: In order to ensure adequate consideration, if necessary, the members of the Charter Review & Revision Board may move any agenda item to another meeting date. In addition, the members of the Charter Review & Revision Board may, at their discretion, adjourn the Charter Review & Revision Board meeting without reaching all agenda items.

1. **Accept Minutes Of The August 19, 2013 Charter Review & Revision Board Meeting.**
(See Item 1, Page 7)
2. **Promoting CRB issues in social media** – Nannette Rodriguez to present.
3. **Preservation Of Beaches** – Proponent Rick Preira
 - a. **Section 1.03 – Power of City** – Proponent Rick Kendle
4. **Section 2.02 – Term And Compensation** - Review the amendments to the Compensation Section drafted by the City Attorney's Office at the request of the CRB. Debora Turner to present.
5. **Section 2.07 – Vacancies in City Commission** - Review the amendments to the Section drafted by the City Attorney's Office at the request of the CRB. Debora Turner to present.
6. **Sections 3.01, 4.01 and 4.03 – City Attorney, City Manager and City Clerk** – Review cleanup language to the Sections proposed by the City Attorney's Office. Debora Turner to present.

7. **Discussion of Section 2.02 – Term And Compensation** - Item added to the agenda by acclamation during the August 19, 2013 CRB meeting.
 - a. Discussion of the Term of Office for the Mayor (currently it is two years).
 - b. Discussion of Term Limits

8. **Discussion of Section 6.03 – Qualifying**
 - a. Discussion of residency requirements - Proponent Jacqueline Lalonde
 - b. Discussion regarding adding a resign to run provision for Land Use Board Members who become candidates for elective office – Proponent Alex Fernandez

9. **Discussion of Section 2.07 – Vacancies In City Commission Relating To Succession For The Office Of The Mayor In The Event Of A Vacancy** – Proponent Alex Fernandez

10. **Whistle Blowing Protection for Employees** – Proponent Frank Del Vecchio. Item Withdrawn by Mr. Del Vecchio (See Item 10, Page 23).

11. **Items Requested By CRB Member Fernandez To Be Added To The List Of Discussion Item.** (See Item 11, Page 27).

12. **Schedule additional meeting dates.**

MIAMIBEACH

CHARTER REVIEW AND REVISION BOARD

MEETING NOTICE

NOTICE IS HEREBY given that the Miami Beach Charter Review and Revision Board will meet as follows:

DATE	TIME	LOCATION
Monday, September 9, 2013	4:30 PM	Commission Chambers, 3rd Floor, City Hall

City Hall is located at 1700 Convention Center Drive, Miami Beach, Florida 33139.

Please visit the Charter Review Board's website at <http://www.miamibeachfl.gov/scroll.aspx?id=72572> for the latest meeting information and agendas.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to CharterReview@miamibeachfl.gov, or by mail to Charter Review Board, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Inquiries may also be directed to the City Clerk at 305.673.7411.

One or more members of the Miami Beach City Commission may be in attendance and participate in discussions.

Rafael E. Granado, Esq., City Clerk

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by this Board with respect to any matter considered at this meeting or hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities and/or any accommodation to review any document or participate in any City-sponsored proceeding, please contact us five days in advance at 305.673.7411 (voice) or TTY users may also call the Florida Relay Service at 711.

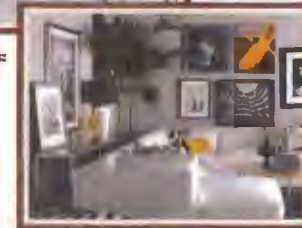
Ad #806

Summer Sale

Designer furniture at 40% off retail!



Design Services Available



Manufacturers:

- Hickory Chair
- Lillian August
- Hickory White
- Christopher Guy
- And many more

Margaux
Interiors

5405 Sunset Drive S. Miami, FL 33143 • 305.663.2551

www.margauxhome.com

"At Temple Judea, we found a safe and nurturing preschool setting for our children focused on learning excellence."

"We treasure the friendships we have made with other young families who share similar values, and are very thankful for the teachers and clergy who care for and instruct our children."

— Jennifer and Jordan Landsberg

Temple Judea – where spirituality, education, community service and social bonds are nurtured. Let us welcome you into our family and into our home. **With us it's personal.**



305-667-5657
Marsha Botkin, Executive Director
m.botkin@judeagables.org
5500 Granada Blvd., Coral Gables
(US-1 across from UM)

L'Shana Tova to our South Florida Community.



www.bestecexterminators.com

FREE INSPECTION!
Using Infrared Technology
Nationally Recognized & Licensed Experts in Formosan Termites
1 Million \$ Wood Damage Guarantee
Annual & Quarterly Pest Control
Residential & Commercial Service
Ask About Our Tenting Alternative
K-9 Inspections - Tracker The Termites Dog

954-458-1104
1-800-427-7903

TERMITES ARE COMING!!
400 South Dixie Hwy. Suite #7
Hallandale Beach 33009
Green Services Available
100% Natural

HAPPY LABOR DAY
BESTEC INSPECTION SERVICES
FREE CONSULTATION
954-454-5357
1-866-454-5358
Family Owned & Operated

THIS PAGE INTENTIONALLY LEFT BLANK

ITEM 1

THIS PAGE INTENTIONALLY LEFT BLANK

Charter Review & Revision Board

Members:

Stephen Zack, Esq., Chair	-	Present
Aaron Perry, Vice Chair	-	Absent
Scott Diffenderfer	-	Present
Jacqueline Lalonde	-	Present
Rick Kendle	-	Present
Alex Fernandez	-	Present
Richard "Rick" J. Preira	-	Absent

Staff:

Donald Papy, Chief Deputy City Attorney	-	Present
Debora Turner, First Assistant City Attorney	-	Absent
Rafael E. Granado, City Clerk	-	Present
Liliam Hatfield, OAV, City Clerk's Office	-	Present

MINUTES

Monday, August 19, 2013 at 4:30 p.m.
Commission Chambers, Third Floor, City Hall
Email: CharterReview@miamibeachfl.gov

Special Note: In order to ensure adequate consideration, if necessary, the members of the Charter Review & Revision Board may move any agenda item to another meeting date. In addition, the members of the Charter Review & Revision Board may, at their discretion, adjourn the Charter Review & Revision Board meeting without reaching all agenda items.

Meeting called to order at 4:35 p.m. by Chair Zack.

Rafael E. Granado, City Clerk, read into the record that Vice-Chair Perry and Member Preira were absent.

1. Accept Minutes Of The August 5, 2013 Charter Review & Revision Board Meeting.

Motion by Member Fernandez to approve the minutes; seconded by Member Lalonde; Voice-vote: 5-0. Absent: Vice-Chair Perry and Member Preira.

2. Review/Discussion Of Letter To Mayor Bower And City Commissioners Relating To Resolutions 2013~28302 And 2013~28303.

Chair Zack explained that the draft letter had been distributed amongst CRB members by the City Clerk, and asked if there were any suggested changes or revisions. Discussion was held regarding changes suggested by Member Lalonde on Page 2, second paragraph, last sentence.

Revised Language: ...to rise to that level. If there is any opportunity, the CRB requests that these two Resolutions be rescinded and submitted to CRB for review.

Rafael E. Granado, City Clerk, will finalize the letter and submit it for Mr. Zack's signature at the end of the meeting. **Rafael E. Granado to distribute to the Mayor and Commissioners via Letter to Commission. (See LTC 289-2013).**

Mr. Granado stated, for the record, that Maria Ruiz, Community Services Department Director and Lisa Ware, Chairperson for the Homeless Committee are in the audience to present and answer questions regarding the Homeless Bill of Rights.

3. Continuation Of Discussion Of The Citizens' Bill Of Rights

a. Homeless Bill of Rights - Proponent Dr. Morris Sunshine

Chair Zack introduced Dr. Sunshine.

Dr. Morris Sunshine addressed the Board members to advocate for the Homeless Bill of Rights. He introduced Jorge de la Paz, representative of the Miami Coalition of the Homeless and Elizabeth Regalado, Assistant Director of Miami-Dade County Homeless Trust, who will speak on behalf of Hilda Fernandez, former Assistant City Manager. He gave a brief biography of his educational background and explained that he uses his voice for those that cannot speak for themselves. He proposed the CRB to: 1) include "residency status" as a protective class in the Charter, and 2) for the CRB to recommend to the City Commission to pass the Homeless Bill of Rights as an ordinance. He referred to Section 16 of the City Charter, which deals with non-discrimination, and it lists several protected classes, (race, color, national origin, religion, sexual orientation, disability, marital status, familial status, age, etc.). He suggested having a "residency status" added for homelessness.

Chair Zack asked if there is a legal terminology titled "residency status," and added that this is a term without definition. Discussion continued.

Member Fernandez explained that the protected classes are set by the City Code, and not by the Charter. Dr. Sunshine agreed. Discussion held.

Dr. Sunshine referred to the Rhode Island ordinance and stated that he thinks this is an addendum to Judge Atkins' ruling in 1992 in the Pottinger case. That decision protected homeless people from having their property illegally seized. The biggest objection from the Homeless Committee and the Human Rights Committee to this proposal is that if this happens and the Charter is amended to protect homeless people, there will be many lawsuits against the City. He is not aware that with the Pottinger decision there were any lawsuits. He thinks this is a straight policy issue. The proposed ordinance and amendment only impose obligation on City officials. He is trying to uplift the social status of a "despised class."

Member Lalonde asked Dr. Sunshine to list the obligations imposed on City officials, for the record.

Chair Zack asked how the ADA affects homeless people.

Chief Deputy City Attorney Donald Papy explained that the ADA applies through public accommodations and various other entities; homelessness would not be included as it is not a disability. If a homeless individual has a disability, then that disability would be covered. Using illegal drugs presently is not considered a disability.

Member Kendle asked if there are homeless children in the City or any homeless families.

Member Fernandez explained that when families are about to become homeless, the City tries to find temporary housing in a hotel in close proximity to schools.

Chair Zack asked Dr. Sunshine, in reference to his statement "that there would be a flood of litigation," by who? By the homeless people?

Dr. Sunshine replied that it would be a flood of litigation by the homeless people. In addition, in answering Member Lalonde's prior question, he stated that obligations imposed on City officials are listed under Section 2c of his draft.

Chair Zack asked Dr. Sunshine if he knows of a City contractor who has refused to hire anyone due to their homelessness, and Dr. Sunshine stated that he did not know of any.

Maria Ruiz, Interim Housing Director, stated that the City funds, in conjunction with the Jewish Community Services, an employment program for homeless people who, after training, end up working in the South Beach Clean Team; the reality is that homeless individuals work in the City. In regards to families, in addition to the emergency funds available for this purpose, the City purchases shelter beds and prioritize placement of families, always. As compared to other cities of this size, in terms of contribution, the City of Miami Beach has a far more proportionately outreach for homeless persons than other cities.

Member Fernandez explained that one of the biggest issues in South Florida is having homeless people with mental illness, as there are no funds for treatment; by creating this Bill of Rights, which he believes is the right thing to do, and creating opportunities for the homelessness, if a potential employer chooses not to hire someone because of a mental illness or criminal background, are they creating standing under the Bill of Rights, for this person to potentially sue this employer?

Mr. Papy explained that Bill of Rights, in Page 77, reads, Section 16. "*Nondiscrimination*. No person shall be deprived of any rights and privileges conferred by law because of race, color, national origin, religion, gender, sexual orientation, disability, marital status, familial status, or age." In order to add homelessness, whatever rights that would impose for being deprived of any rights or privileges because of homelessness, that would be adding something; it is not clear what that may add, but when talking about the person having a mental illness or other disability, that is covered already under the disability clause, as well as the ADA. Discussion continued.

Member Lalonde asked if someone presented themselves as a homeless person and they have not bathed in months, and it is physically intolerable to be in the same space, does that confer a requirement on the employer that they present as such, all those things being equal, how does that affect in regards to employment discrimination?

Mr. Papy stated that the employer can point to the various characteristics for the reasons why they are not being hired, not for being homeless. Discussion continued. Member Kendle stated that there is now a differential treatment based on objective and reasonable justification, it is not viewed as discriminatory. He asked if this would apply if this passes.

Mr. Papy explained that this provision to him is aspirational; it does not add any additional rights. Dr. Sunshine suggested an ordinance be passed by the Commission, and backed by the CRB, as this could add some rights.

Discussion continued. Member Kendle stated that this issues dealing with homelessness, alcoholism and mental illness, could be included in the Bill of Rights by adding aspirational language such as: *"the City shall take measures to prevent and reduce homelessness with the intent of its gradual elimination."*

Maria Ruiz, Interim Housing Director, added that in the City's Key Intended Outcomes, eliminating homelessness is one of their goals, and it has been in place and a priority for many years. The services offered make it clear that not only is the City responsible, but very proactive. She added that they work in collaboration with shelters in Miami and health providers, and they apply the Customer Service Standards to every person that walks through the door.

Member Fernandez added that this is a very specific piece of document and legislation that addresses a problem that the City does not have.

Dr. Sunshine requested that the CRB drop his request and that they propose the passage of Miami Beach Homeless Bill of Rights on the grounds that perhaps the City Attorney's Office might be right that this may not be appropriate before the CRB, but he still urges the Board to amend Section 16 of the Citizens' Bill of Rights to add homelessness as a protective class.

Discussion continued. Chair Zack explained that homeless people have never been designated as a protective class under federal or any other law, but he understands the issue and appreciates his advocacy.

Elizabeth Regalado, Assistant Director of Miami-Dade County Homeless Trust, spoke on behalf of Hilda Fernandez, Executive Director, and at their next meeting on September 27, 2013, this issue will be discussed. Some of the services are already being provided.

Chair Zack clarified that there is no motion on the table by any of the members.

Member Lalonde clarified that in one hand City officials are telling them that they have a phenomenal outreach program that meets all the needs, and on the other hand, Dr. Sunshine who is asking for some form of legislation. Are we providing the services? She is struggling with what they are supposed to do. Discussion continued.

Chair Zack suggested that when asked about specific instances where a homeless person is not being allowed to exercise his/her rights, we have not been presented with that information; he believes that if it becomes evident that this is a problem that they need to address, other than the way is presently addressed, the issue can be discussed at that time. In general, he sat on a selection committee for a City Manager years ago for the City, and the first question asked of every applicant for City Manager is how they treat the homeless. The homeless issue has been around for a long time and the City has been extremely sensitive to the issue, much more than other cities. This will remain an open forum. **At this time, there is no motion because until there is a specific issue or problem that they need to address that has not been addressed;** they will proceed with the agenda.

Member Fernandez read Section 16 of the Bill of Rights and discussion continued.

b. Preservation Of Beaches- Proponent Rick Preira
Item deferred.

4. Electing Officials By Open Seats- Proponent Scott Diffenderfer (See Item 4)

Member Diffenderfer stated that there is a question why they have the seats by Groups if they do not represent districts, and he thinks many citizens do not understand why there are Commission seats or what they are for. He believes that traditionally these Commission seats have been used by incumbents to maintain power. He thinks the current system is severely limiting who can participate in government. Currently, for the November 2013 Election there are many people running for one seat, some of whom will be qualifying by vote, relatively less known than the incumbent, and then we have another seat that nobody else is running with an incumbent or another candidate, and this is done strategically for political gain, and they use the system to maximize seniority and popularity versus a more open seating. His choices are limited by who he votes for, because so many people may be running for the same seat. He asked why he can vote for the top three people he likes, and have the top vote getters get in the office. He does not see a valid reason, other than political manipulation, as to why the seats should stay that way.

Chair Zack stated that there is a federal law on incumbent protection, and he presumes there is nothing illegal about having seats, and asked if this applied to Miami Beach.

Donald Papy, Chief Deputy City Attorney, stated that he is not aware of any law against incumbent protection, but he will look into it. He added that the Surfside voting system has been in place for a long time. In discussing the matter with Jose Smith, City Attorney, Mr. Smith mentioned that these systems have been studied in the past and the decision was made to continue with the current system. Citizens seem to have been satisfied with the system; changes can always be considered, but what is the need for changing it if it is working. He added that whatever system that is in place, will always have its pros and cons.

Mr. Diffenderfer asked if there are any compelling reasons why the current system is better than the one that he is proposing; if there are any benefits to voters and to the democracy at large and added that he has heard arguments against the current system, but wants to hear a great argument about why it should stay this way.

Member Lalonde explained that currently there are three candidates running in Group III, and one of them is an incumbent. She has heard that some people like the mix in that race, because they may not like one or the both of the other people running against the incumbent; there are preferences for why people like the system, because there is more freedom to pick and choose which Group they want to be in, if they wish to run against an incumbent, and people are exercising their free will to select whichever Group they want to compete in.

Discussion continued.

Member Fernandez added that his biggest concern with the current system, and what he likes about what Member Diffenderfer is proposing, is that in the current system is easy to make the election about personal attacks against people. In the system that Member Diffenderfer is talking about, there are no specific opponents, makes the issue of personal attacks more difficult and make the candidates focus on the real issues, and this is the merit he sees on what is being proposed. The current system must have its merits and there were

compelling reasons when implementing the system, but they need to get the elections to the point where not about individual or personal attack, but perhaps this is a way where they can make elections about the issues that matter to voters.

Member Kendle asked if this new system would turn us into automatically having Run-offs, but agreed with Member Fernandez's comments. He added that to have it focused on the individual versus the opponent would be a better way to do it.

Member Lalonde respects what has been said, but she does not know if a change would necessarily solve anything. She is not a proponent or against it.

Member Fernandez is concerned about the current form, especially when someone may run and win in one race by gathering fewer votes to his/her favor than someone that lost in another race. Discussion continued.

Chair Zack stated that they need to be clear about what they are debating. 1) The present system where people run for specific seat; this is easy to understand and it has its inherent problems; then 2) a proposed system that would replace that, where there are no longer seats and people would run as a group, not by seats, and the highest vote getters are the people that are elected. If there was a motion to move to this "open seat" system, which has been studied over the year and there are a lot of good government organizations that promote this and it is in existence in other places, is not as simple to understand as the other systems, but this is a better system because you get the better people as opposed to the best person for a particular seat.

Member Diffenderfer clarified that in essence the proposed system would be a much more democratic system, where one is voting for something rather than voting against somebody, as the current system allows.

Member Lalonde asked what the estimated cost to implement the system is. Discussion continued. This would be a massive change.

Member Kendle stated that some cities restrict the people from having a slate and others are restricted to vote for one person. Discussion continued regarding different options of voting.

Donald Papy, Chief Deputy City Attorney, stated that there was a question on the issue about incumbents and how they are affected with the proposed system. One way to look at this is the suggestion that if everyone runs together could actually help the incumbents because of name recognition. He is not sure that it the affect is to help or hurt incumbents. Secondly, the system that is implemented now does in a way set up a sharper focus, because there are each individual race and people talk about issues and a more general debate. Mr. Papy made it clear that the City Attorney's Office is not taking a position against or in favor; he wants to point out the pros and cons of each system. He added that about 20 years ago, when the issue of districting was discussed, there were workshops on the various systems, and there are many experts, and each system has its pros and cons. He suggested having academic experts come to present the different voting options and systems.

Chair Zack explained that Victor Diaz filed a petition with the Federal Court asking that Miami Beach having seats by districts. He was retained as Counsel for the City, and they were successful in showing that districts would be bad for the City as opposed to Groups. He thinks in retrospect, that was the right decision. At that time, they reviewed many different

ways of electing officials and they decided to stay with the existing system. This Board would have to recommend the system, approved by the Commission, and then approved by the citizens.

ACTION:

Member Lalonde suggested having a workshop and to provide estimated costs. Chair Zack suggested asking the City Manager for experts that could assist with a presentation, and agreed that they need to know the fiscal impact to the City. **Donald Papy to handle.**

In answering Member Fernandez's question, Member Diffenderfer explained that in the Town of Surfside all elected officials including the Mayor have two-year terms instead of four-year terms; and when is election time, everyone runs, and the top four vote getters are elected to 1) Mayor, 2) Vice-Mayor and 3) Commissioners. He is not advocating implementing this system at all, but the last time this was discussed it was focused on districts, and this is a different scenario and would have a different outcome.

Discussion continued.

Chair Zack added that he will call Roger Carlton, recent City Manager of Surfside and former City Manager of Miami Beach to give his input. **Chair Zack to invite Mr. Carlton.**

ACTION ON VOTING SYSTEM PROPOSAL:

Motion made by Member Diffenderfer to study the current way of electing Commissioners and the alternatives available to the current way of electing officials; seconded by Member Fernandez and approved by acclamation with the following recommendations:

Recommendations

- Schedule a workshop
- Invite Roger Carlton
- Bring in experts on the voting options available
- Include a financial feasibility study (cost to create, market and educate programs; what outreach would the City need to have and what is the cost)

Discussion continued. Rafael E. Granado, City Clerk, explained that he will provide the estimates for this upcoming election. **Rafael E. Granado to send estimates.**

Discussion continued regarding costs.

5. Report of Items Approved, Pending and Rejected/Withdrawn by the Charter Review and Revision Board during previous meetings. Additionally, the Report includes a Report of Miscellaneous Requests by the Charter Review and Revision Board.

Rafael E. Granado, City Clerk, explained that Pages 84 through 86 of the CRB Agenda contain a list of items discussed, pending and those items withdrawn or considered out of order by the CRB.

Chair Zack asked the status of pending items for discussion and items already discussed, to schedule future meetings.

Mr. Granado stated that he is seeking direction from the Board as to how to proceed. Member Lalonde submitted for discussion Section 2.02.

Chair Zack reviewed the list of pending items.

PENDING ITEMS:

- 1) Preservation of Resources of the Beach – Proponent Rick Preira (**deferred to September**)
- 2) Miami Beach United – **Gary Held to handle.**
- 3) Access to roads – Proponent Chair Zack (**to be discussed in September**)
- 4) Over scale development in residential areas (City Workshop scheduled for September 23, 2013 to review changes to code) **Request item to be referred to CRB by the City Commission. Rafael E. Granado to handle.**

Mr. Granado explained that in regards No. 4 there is a moratorium until November; the item was referred to committee to allow Planning Board to discuss, and he will communicate to the Board. He suggested for the Board to have this item referred back to the CRB, to avoid mistakes made in the past. Chair Zack stated that this was an excellent idea. **Rafael E. Granado to handle.**

MOTION ON OVER SCALE DEVELOPMENT IN RESIDENTIAL AREAS:

Motion made by Member Lalonde that the City Commission sends this matter to the CRB for review and discussion prior to any action by the City Commission. **Rafael E. Granado to notify the Commission via an LTC.**

- 5) Preserving the Historical Value of Miami Beach - withdrawn
- 6) Homeless Bill of Rights- Proponent Dr. Morris Sunshine – Item withdrawn
- 7) Electing Officials by Open Seats – discussed at this meeting
- 8) Planning Powers of Land Use Board Powers – Proponent Alex Fernandez – Chair Zack suggested that this item be renamed to Powers of Land Use Boards – (to be discussed in the future)
- 9) Inspector General Subpoena Power – pending memorandum from Legal Department (**Alek Boksner and Joe Jimenez to handle**). **Rafael E. Granado to follow up on the pending memorandum.**
- 10) Term Limits – **to be discussed at the September agenda.**
Rafael E. Granado, City Clerk, suggested Legal to draft final language. **D. Turner to handle.**

Member Kendle stated that he worked with the League of Cities, and knows that Mayoral candidates like the four-year term, he thinks they need to readdress this issue; he does not think it is productive to have someone run for Mayor so many times (every two years).

Member Diffenderfer suggested combining the Terms for Mayor and Term Limits with the Election items and there was consensus among Board members. – **Terms for Mayor/Term Limits (consecutive and non-consecutive)/Elections. Rafael E. Granado to place items on the Agenda and Debora Turner to draft final language.**

Discussion continued.

- 11) Sections 3.01, 4.01, 4.03 – Compensation and Salary of City Attorney, City Manager and City Clerk –Mr. Granado explained that no action was ever taken by the CRB. Discussion held.

Rafael E. Granado, City Clerk, in answering Chair Zack's question, stated that compensation is included. Ms. Lalonde requested that this be brought for at the next meeting, and there was a motion by Chair Zack that all compensation should be included, and that benefits should be determined by ordinance. He clarified that the word "salary" and "compensation" is used throughout, and the City Attorney's Office was asking for a clean-up language for uniformity and use the same word. **Rafael E. Granado and Debora Turner to handle. Item will be placed on the September agenda.**

Discussion continued.

- 12) Section 1.03 – Powers of City – Member Kendle explained that this might want to be addressed with the Preservation of Resources, as it deals with lease of parks and he had suggested amendments regarding blocking waterfront view of City property. There was consensus to add this item under Preservation of Resources at the **next September meeting**. Rafael E. Granado to combine Preservation of Resources, and Section 1.03 - Powers of City.

- 13) Items Requested to be discussed on May 6, 2013 by Member Fernandez – Exhibit A of the agenda, Page 88.

Member Fernandez explained that they should discuss adding a non-interference clause into the Charter

- 14) Section 6.03 – Qualifying – **Rafael E. Granado to add to the September Agenda.**

Motion made by Member Lalonde to adopt a three-year residency requirement. No second offered.

Chair Zack asked the City Clerk if this item was advertised for discussion. Mr. Granado stated it had not been advertised. Item is to be placed on the **September Agenda.**

- 15) Whistle Blowing Protection for Employees – Proponent Frank Del Vecchio
Rafael E. Granado to contact Mr. Del Vecchio to see if he has a specific proposal and invite him to the next meeting.

Member Fernandez explained that Mr. Papy brought an expert to the Finance and Citywide Projects Committee, who has looked as to what the Federal, County And City have in terms of a whistle blower, and suggested having an expert present to the CRB.

Mr. Papy explained that at committee there was a discussion of the False Claims Act ordinance and attempts to strengthening it; this is not directed at City employees, it is a State Law, but the one Mr. Fernandez is referring to has to do with contractors, not for employees of the City.

Member Fernandez requested addressing in the Charter a whistle blower protection for employees and even for residents to prevent them from any sort of retaliation. **Don Papy to handle.**

Mr. Papy added that the issue of contractors defrauding the City is being addressed in the Finance committee and there is an ordinance in place. They are looking now at strengthening it. Member Fernandez requested Mr. Papy to send a copy of what the

State currently has to the City Clerk for distribution to the CRB. **Mr. Papy to handle. Rafael E. Granado to circulate.**

- 16) Citizens and Taxpayers should have access to speak with City officials, as a basic right – proponent Alex Fernandez. – **Item withdrawn**

Member Fernandez believes that residents should be treated with courtesy and all taxpayers should have reasonable access to City officials, to the people they elected.

Chair Zack stated that this is a very slippery slope and is not sure how to proceed with this issue. He suggested for the City Manager to tell us what his review process is, and if in his review process, responsiveness and courtesy are part of the reviews.

Member Lalonde explained that this is part of the process, as confirmed by Human Resources Director. Mr. Granado stated that this item had previously been withdrawn.

6. Scheduling Future Charter Review & Revision Board Meetings

The next meeting will take place September 9, 2013 at 4:30 p.m. in the Commission Chambers.

NEW BUSINESS:

Special Counsel

Member Kendle wants to discuss the need for a Special Counsel, and whether or not the City Commissioners have the right to hire Special Counsel when there are no experts in the City Attorney's Office or General Attorney's Office.

City Attorney Archives

Member Kendle stated that many cities include in their Charter that City Attorneys shall transmit archives to their successor. Discussion held.

Chair Zack stated that based on Sunshine Law all documents are public record except for notes.

Mr. Papy explained that under the State's Public Record Act, any document that is designed for public purpose is owned and will always be owned by the government entity. As to the power to hire attorneys, that is under the City Attorney under the Charter, which includes outside counsel. Discussion continued.

NON-INTERFERENCE CLAUSE:

Member Fernandez explained that the City has a City Manager form of government; the Manager receives direction from the Commission, and in turn he transmits that direction to his departments and staff; therefore, the interaction between the Commission and staff should not be one to provide direction, and he suggested for the CRB to add some sort of non-interference clause.

Chair Zack stated that the Commission is elected to represent their constituency; the Manager runs the City; if the Commissioner believes something is done by the Manager that affects their electorate, is it interference or fulfilling their obligations? Discussion held. The question is should all communication go through the City Manager.

Member Fernandez explained the current protocol.

Rafael E. Granado, City Clerk, suggested on this item when Member Fernandez has met with the Legal Department and finalized this one, it will be placed on the September agenda.

HOLDING DUAL OFFICE - Withdrawn

Member Fernandez spoke on the recent incident with Mayor Pizzi of Miami Lakes, and the issue of dual office holding. Pizzi was Mayor of Miami Lakes and Town Manager of Medley. He asked if this Board wants to limit Charter positions from holding other positions in other municipalities. Discussion held.

Item withdrawn by Member Fernandez at this time.

VACANCIES – OFFICE OF THE MAYOR

Member Fernandez stated that he sees some vagueness in the protocol in the Charter of how the City handles succession in the Office of the Mayor, should it unexpectedly happen.

Discussion held. There was consensus to discuss this item.

COMMISSION ON ETHICS & PUBLIC TRUST – ENFORCEMENT AUTHORITY OVER CITIZENS' BILL OF RIGHTS

Member Fernandez referred to Page 92-93 of the Agenda and suggested for the Miami-Dade County Commission on Ethics and Public Trust to be an enforcement authority for the City, since at times, the rights of those violated, are from the people who can afforded the least, and the Commission on Ethics can do it pro bono.

He asked for an update from Legal regarding making stricter regulations for Political Action Committees (PAC). **City Attorney's Office to reach out to the State.** There was consensus to discuss in the future.

Chair Zack explained that a PAC cannot contribute to any race in Miami Beach unless is duly registered and its officers and directors are disclosed. Discussion held.

Rafael E. Granado, City Clerk, explained recent changes to the Election Laws affecting monthly reporting for PAC's and ECO's. Review changes to Election Laws to be presented at the Charter Review Meeting in September.

RECOMMENDATION:

Chair Zack recommended presenting to the City Commission the issues accomplished, as well as presenting those issues that are pending, and suggest an extension of the December 31 end of jurisdiction. Further, he requested to know if the Commission will rank the order of items to be discussed first, and will they extend their jurisdiction.

Mr. Granado suggested placing the item in the December Commission Agenda. **Rafael E. Granado to handle.**

LAND USE BOARDS

Member Fernandez asked whether they should have a decide to run apply to people that sit on power boards, so they do not use their position and public service on these boards as a fundraising arm for candidacy.

Chair Zack explained that this would be a person who is determined to qualify for office must resign from any City board. They agreed this was an excellent suggestion. **To be added to a future agenda.**

RECOMMENDATIONS FOR MARKETING ISSUES FOR DISCUSSION BY THE CRB

Chair Zack recognized the work performed by the City Clerk in listing and tracking these items, but he added that there has not been a lot of media attention on these issues. He suggested that a City representative meet with the Board to find ways to bring awareness to the citizens on what this board has accomplished to date and future issues to be discussed.

LTC APPROVED BY CRB REGARDING LIST OF ITEMS:

Mr. Granado explained that the meetings are advertised in The Miami Herald Neighbor's Section and in El Nuevo Herald. He suggested drafting an LTC approved by the Legal Department, listing the items discussed and those pending for discussion. This was approved by acclamation. **Rafael E. Granado to draft LTC.**

Chair Zack suggested using social media or other type of media, and added that they need to figure out a way to provide adequate notice to give the public an opportunity to be heard on all the issues.

Member Lalonde explained that the City tweets and uses Facebook, and asked what the procedure for using these methods is. Mr. Granado suggested notifying the Communications Department to assist in the promotion aspect.

COMMUNICATIONS DEPARTMENT TO PRESENT AT THE SEPTEMBER MEETING

Chair Zack requested that the Communications Department be invited at the September meeting to discuss this issue. **Rafael E. Granado to notify the Communications Department Director to present at the September 9, 2013 CRB meeting, if available.**

Member Fernandez shared his frustration with the lack of media attention paid to the issues discussed by the CRB, which happen only every ten years; and even though they are unable to control what the media does on the outside, they can control what the media does within the City. Discussion continued.

ADD THE MIAMI HERALD REPORTER TO EMAIL DISTRIBUTION LIST

Rafael E. Granado, City Clerk, suggested adding The Miami Herald reporter to the Agenda Distribution List and approval was given by acclamation. **Rafael E. Granado to handle.**

SECTION 2.02 – TERM AND COMPENSATION PROPOSED BALLOT LANGUAGE

Member Lalonde referred to Page 78 of the CRB Agenda and asked Mr. Papy, in Ms. Turner's absence, if Item 2, Section 2.02 – Term and Compensation when they can expect Legal to get back to the CRB members with the ballot language draft.

Mr. Papy explained that Ms. Turner has the draft. Member Lalonde requested the draft to be distributed at the September meeting. **D. Turner to provide at the September Meeting.**

Meeting adjourned at 6:32 p.m.

Handout or Reference Materials:

1. LTC 289-2013 RE: Transmittal Letter From Members of the City of Miami Beach Charter Review Board

2. Letter to Mayor Matti Herrera Bower and Members of the City Commission, dated August 6, 2013, from Charter Review & Revision Board, RE: Resolutions 2013-28302 and 2013-28303.
3. Email from qualifyoflife@the-beach.net dated August 15, 2013 RE: Homeless Bill of Rights.
4. Email from qualifyoflife@the-beach.net dated August 16, 2013 RE: Homeless Bill of Rights.
5. Email from MDeLaRosa@smggilaw.com dated August 19, 2013 RE: Richard J. Preira's Attendance at the 8/19/2013 Meeting.
6. Email from Rafael Granado dated August 20, 2013 RE: LTC 289-2013 Transmittal Letter from Members of the Charter Review Board
7. Sign-In Sheet

THIS PAGE INTENTIONALLY LEFT BLANK

ITEM 10

THIS PAGE INTENTIONALLY LEFT BLANK

Granado, Rafael

From: Frank Del Vecchio <fdelvecchio@atlanticbb.net>
Sent: Thursday, September 05, 2013 9:27 AM
To: Granado, Rafael
Cc: Hatfield, Liliam
Subject: Re: Charter Review

Thank you for your recollection and this notice. I appreciate your thoroughness. No, I will not be formulating and submitting proposed Whistle Blower Charter protections as I had initially intended.

Sincerely,

Frank Del Vecchio

At 08:42 AM 9/5/2013, Granado, Rafael wrote:

Good morning Mr. Del Vecchio,

I am in the process of developing the Agenda for Monday's Charter Review Meeting.

At the commencement of the Charter Review process, you proposed "Whistle Blowing Protection for Employees". Are you available to present this item on September 9, 2013 at 4:30 p.m.?

If not available on that day, I will be happy to provide you with an alternative date as soon as the Charter Review sets its future meeting dates.

Please let me know by 3:00 p.m. today, if at all possible, as that is when I will be sending the agenda out via e-mail.

Regards,

MIAMIBEACH
Rafael E. Granado, Esq., *City Clerk*
CITY CLERK'S OFFICE
1700 Convention Center Drive, Miami Beach, FL 33139
Tel: 305-673-7411 www.miamibeachfl.gov

We are committed to providing excellent public service and safety to all who live, work and play in our vibrant, tropical, historic community.

THIS PAGE INTENTIONALLY LEFT BLANK

ITEM 11

THIS PAGE INTENTIONALLY LEFT BLANK




RECEIVED

2013 AUG 26 AM 11:38

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM
CITY CLERK'S OFFICE

TO: Mr. Stephen Zach, Esq., Chairman
Mr. Ralf Granado, City Clerk

FROM: Alex J. Fernandez, CRB Member 

DATE: August 26, 2013

SUBJECT: Referral to Charter Review and Revisions Board

Gentlemen:

During the August 19th, 2013 meeting of the Charter Review and Revisions Board and I referred multiple items for discussion to which I would like to add the following:

1. Section 2.03 Powers of the City Commission

Amend the Powers of the City Commission to require that all increases to the pension benefits require a 5/7 vote of the City Commission until unfunded pension liability is retired or reduced to a less than nominal amount.

2. Section 3.01 City Attorney; Duties Generally; Appointment of Personnel

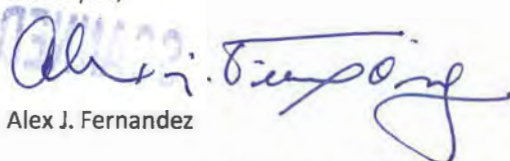
Discuss the possibility, benefits and drawbacks, of amending Section 3.01(h) to require input and/or consent of the City Commission prior to the City Attorney's expenditure of funds on outside legal counsel representing the City.

As a reminder, I referred the following items for discussion during last Monday's meeting:

- Adding a non-interference clause to the City Charter for the day to day operations of the City.
- Clarify Section 2.07, Vacancies in the City Commission, to detail succession for the Office of the Mayor in the event of a vacancy.
- Providing the Commission on Ethics and Public Trust with enforcement authority over the Miami Beach Citizens Bill of Rights to provide a free alternative to residents who cannot afford counsel for litigation.
- Require stricter reporting requirements for political organizations that engage in local Miami Beach elections.
- Expanding upon the State's resign to run law to require members of the City's Land Use Boards to resign from their current office prior to qualifying as a candidate for the office of City Commissioner or Mayor.

Should you have any questions and/or concerns, please do not hesitate to contact me at extension 6528.

Thank you,


Alex J. Fernandez