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CITY OF CORAL GABLES
CHARTER REVIEW COMMITTEE
VERBATIM TRANSCRIPT
CORAL GABLES CITY HALL
405 BILTMORE WAY, COMMISSION CHAMBERS
CORAL GABLES, FLORIDA
TUESDAY, SEPTEMBER 8, 2015, COMMENCING AT 7:04 P.M.

Board Members Present:

- Raul Valdes-Fauli, Chairman
- Tom Korge
- Jimmy Morales
- Parker Thompson
- Richard Dewitt, Via Phone
- William Bonn, Via Phone



City Staff and Consultants:

- Craig E. Leen, City Attorney
- Miriam Ramos, Deputy City Attorney
- Yaneris Figueroa, Assistant City Attorney

1 THEREUPON:

2 (The following proceedings were held.)

3 CHAIRMAN VALDES-FAULI: This is the Charter
4 Review meeting of September 8, 2015. It is
5 7:04, and the meeting was scheduled for 7:00.

6 Mr. City Attorney, I take these things very
7 seriously, and I'm sure all of us do, but I
8 would not like to have another meeting where
9 all of us are not present.

10 I mean, the ones that are here make it a
11 point to be here. I mean, there are a lot of
12 other things that are probably more appealing
13 than being here discussing the City Charter.

14 And I'm not going to say disrespectful,
15 because nobody does it on purpose, but I would
16 not like to have another meeting where
17 everybody is not present.

18 All right?

19 MR. LEEN: Yes, Mr. Mayor.

20 Mr. Chair, we had a difficult time
21 scheduling this particular meeting, because of
22 the conflicting meetings. I think, going
23 forward, Mr. Bonn is going to be back from his
24 trip. So we should be able to find a date
25 where everyone can attend.

1 CHAIRMAN VALDES-FAULI: Good. I'm the one
2 who calls the meetings. I'm not going to call
3 any meeting until I'm sure that everybody is
4 present.

5 MR. LEEN: I understand.

6 CHAIRMAN VALDES-FAULI: I mean, the people
7 or we are here representing the Commissioners,
8 the City Manager, and you, who appointed us,
9 and the least we can do is be here and
10 represent your view in this very important
11 commitment, and if we can't be here, you know,
12 we should either -- resign and have somebody
13 else participate.

14 Is that clear?

15 MR. LEEN: Yes.

16 CHAIRMAN VALDES-FAULI: Okay. Thank you
17 very much.

18 MR. THOMPSON: Mr. Chair, we've spent a
19 long time in this room. Is it me or are the
20 acoustic horrible?

21 MR. MORALES: You have to use your
22 microphone.

23 CHAIRMAN VALDES-FAULI: It's both. It's
24 all of us, and the acoustics.

25 MR. THOMPSON: When you were speaking, the

1 sound was bouncing all over the place.

2 CHAIRMAN VALDES-FAULI: Yes, it is. Yes,
3 it does.

4 MR. KORGE: But the Chambers look nice.

5 CHAIRMAN VALDES-FAULI: They look nice,
6 especially with nobody in here except the
7 professor.

8 The first item of business is a recap of
9 the last -- approval of minutes, I'm sorry.

10 Any comments on the 100-page minutes? Any
11 comments?

12 MR. MORALES: Move the minutes.

13 CHAIRMAN VALDES-FAULI: Any second?

14 MR. KORGE: I'll second.

15 CHAIRMAN VALDES-FAULI: All right. Any
16 comments? They're approved.

17 Second is, recap of last meeting by City
18 Attorney.

19 MR. LEEN: Thank you, Mr. Chair. Before I
20 begin, I'd like to check, do we have everyone
21 on the phone?

22 Two minutes? They'll be on the phone in
23 two minutes?

24 Okay. Well, for the recap, I don't think
25 they need to be on the phone. So what happened

1 the last meeting, obviously, was that you went
2 through approximately four sections of the
3 Charter.

4 The primary discussion was Section 8. The
5 Committee did decide not to take any action on
6 anything at the meeting, but four items --
7 pardon me, five items were continued to this
8 meeting, which are in the agenda, but just to
9 briefly recap, what you wanted to come back and
10 discuss again is first, the date of election,
11 the further discussion as to whether or not the
12 election date for the Mayor and Commissioners
13 should be moved from April to November.

14 There's a report that's been provided to
15 you related to that. I also have some
16 additional information I'll provide when we get
17 to the item.

18 There was the question of the runoff,
19 further discussion as to whether or not to
20 maintain the current system of election by
21 plurality or to establish a runoff. There was
22 also the automatic runoff procedure that
23 Professor Fromkin discussed, and I sent you a
24 copy of a report that he had done. So you have
25 that report.

1 There's the provision regarding
2 Commissioner removal in Section 11. I have an
3 interpretation, which I'm going to issue to you
4 today, regarding Section 11, that limits it in
5 a way that I think is enforceable. So I'm
6 going to provide that to you and discuss it at
7 that time, and then you can decide if you want
8 to make any recommendations related to it.

9 There is the residency requirement and
10 election fee. There was a discussion that
11 there's a \$200 election fee that's been there
12 for a while, whether that fee maybe should be
13 made zero or whether it should be increased to
14 reflect the cost. Both issues were raised.

15 There's also the residency requirement of
16 one year, and whether that should be changed.

17 And, then, lastly, the mayoral term of two
18 years or four years, and there's a report
19 regarding that, as well.

20 And then we have New Business. We have
21 four new provisions to discuss.

22 CHAIRMAN VALDES-FAULI: All right. So
23 we'll get going, unless there's any comments?

24 MR. KORGE: A couple of comments. My notes
25 show that we decided against any change in the

1 form of government from a City Manager form to
2 a Strong Mayor form.

3 CHAIRMAN VALDES-FAULI: That's correct.

4 MR. KORGE: We also rejected the idea of
5 district elections.

6 CHAIRMAN VALDES-FAULI: Correct.

7 MR. KORGE: We rejected the idea of
8 changing the Mayor back to a four-year term.

9 CHAIRMAN VALDES-FAULI: We rejected it
10 based on the results of the election in 2003,
11 but we have results of that election, and I
12 would like to bring that up for discussion.

13 MR. KORGE: Yeah, that's great. I'm just
14 pointing out what we had done at that time.

15 And we'd also discussed and rejected
16 changing the residency requirement for a
17 Commission seat from one year to some
18 other residency term.

19 CHAIRMAN VALDES-FAULI: To some other term,
20 yes.

21 CHAIRMAN VALDES-FAULI: And we rejected,
22 also, imposing a higher residency requirement
23 for running for office.

24 MR. KORGE: Yeah, right. Okay. That's
25 what my notes show.

1 CHAIRMAN VALDES-FAULI: That's correct.

2 MR. THOMPSON: What was the last -- after
3 the one year, you said we rejected?

4 MR. KORGE: Oh, the last one we rejected
5 was changing the residency requirement to
6 qualify for Commissioner or Mayor.

7 MR. THOMPSON: Yeah, the one year.

8 MR. KORGE: It's now one year, and we had
9 discussed whether it should be --

10 MR. THOMPSON: No, I agree. I thought you
11 said -- I misunderstood. I thought you were
12 talking about --

13 CHAIRMAN VALDES-FAULI: A Commissioner
14 asked me to bring up -- to discuss the
15 imposition of a higher residency requirement,
16 a longer residency requirement, to run for
17 office than to be a qualified electorate and we
18 rejected that.

19 MR. THOMPSON: Thank you.

20 CHAIRMAN VALDES-FAULI: First item in this
21 agenda, Old Business, date of election, and we
22 put it off. I would like to speak on that and
23 have a discussion as to whether or not the
24 election date for Mayor or Commissioner should
25 be moved from April to November.

1 Having run several times, and those of us
2 who have run, I imagine, may feel the same way.
3 I would be very much opposed to changing the
4 date of election for it to coincide with the
5 presidential or any other election.

6 Participation in 2001, where I ran and
7 lost, was 42 percent, and, then, in 2005, it
8 was 16 percent, and in 2015 it was 25 percent.

9 Participation in presidential elections is
10 60 some percent, but the merit or the benefit
11 of having an election in April is that electors
12 focus on Coral Gables issues. I can imagine
13 having an election and going door to door,
14 which is, you know, together with signs in
15 yards -- but I imagine going door to door and
16 saying, you know, "I'm running for Mayor of
17 Coral Gables," and the first question that's
18 going to be asked is, "Are you a Republican or
19 a Democrat?"

20 And the next question is, "Do you support
21 Romney or President Obama," or "Do you support
22 McCain," or "Do you support Scott versus Crist"
23 or, you know, one senator candidate versus
24 another senator candidate or Congresspeople.

25 I think that there's a great deal of merit

1 in having the election focus on Coral Gables
2 issues, and you do get participation almost up
3 to 50 percent, in 2001, when there was a lot of
4 interest in who was going to be Mayor.

5 I would hate to get the election involved
6 in a presidential or partisan or gubernatorial,
7 et cetera, issues, because that's what's going
8 to happen if we make it coincide with a
9 November election, and I think that's wrong.

10 There was a discussion today at the
11 Commission Meeting, I hear, and the consensus
12 was that we should not change it, because of
13 these reasons, because although you get less
14 participation, those who participate are
15 focused on Coral Gables issues, versus
16 participants focused on electing a Republican
17 or a Democrat or a Third Party candidate.

18 Insofar as the cost, Craig, I don't
19 understand the cost of the elections. In 2001,
20 where 42 percent of the people voted, the cost
21 was \$20,000. And, then, in 2005, it was
22 \$74,000, which I don't understand. And in
23 2013, it was 142,000. And then in 2015, it was
24 118,000, and those numbers just don't make any
25 sense for me.

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1 Twenty-three percent participated in 2013,
2 twenty-five percent participated, and yet the
3 cost was 30,000 more in '15 than in '13. In
4 2001, where 42 percent participated, it was
5 20,000. And in 2005, where 15 percent of the
6 candidates participated, the cost was 74,000,
7 which is almost four times the cost of the
8 prior election, and I just don't understand how
9 that works or what we're being charged.

10 MR. LEEN: Well, I did inquire, with our
11 Election Supervisor, who told me that there had
12 been an increase in personnel costs, and then,
13 also, mailing. The advertising and printing
14 costs. That's what he said. It does seem like
15 a very high increase to me, too.

16 MR. MORALES: An important development, in
17 2004, it was the first election we had early
18 voting. So now you also have --

19 CHAIRMAN VALDES-FAULI: But I don't think
20 we have early voting in Coral Gables. We don't
21 have it in Coral Gables.

22 MR. LEEN: We don't have it in Coral
23 Gables.

24 MR. MORALES: Okay. All right.

25 CHAIRMAN VALDES-FAULI: We don't have early

1 voting in Coral Gables.

2 MR. LEEN: We don't have it in Coral
3 Gables.

4 CHAIRMAN VALDES-FAULI: Unfortunately.

5 And this is an April election, you know, so
6 we should not be charged for everybody voting
7 in a November election.

8 But I would speak very much, from the
9 heart, against moving the date from April to
10 November, because that will -- I hate to use
11 the word contaminate -- but contaminate our
12 election with extraneous issues.

13 MR. LEEN: The one other thing I thought,
14 but I've not been able to confirm is, you know,
15 after the 2000 election, there were some
16 substantial changes made in the County
17 regarding elections and throughout the State of
18 Florida, because of the presidential election.
19 So I thought, maybe, in the time between 2001
20 and 2005 -- because they mentioned personnel
21 and mailing costs, maybe those were part of the
22 costs.

23 We're still looking into it, but I did ask
24 the Clerk, and those were the two reasons he
25 gave me. That's what he said.

1 CHAIRMAN VALDES-FAULI: That doesn't make
2 sense.

3 MR. LEEN: But these are the actual costs.
4 It came up at the Commission today, too, and
5 it's a fair amount of more money for us to do
6 it ourselves than in a November election. That
7 doesn't mean that it's worthwhile -- that's a
8 question for you -- because it is a special
9 election for Coral Gables residents, so you
10 have to decide.

11 Certainly it's not so cost prohibitive that
12 we would have to change it.

13 CHAIRMAN VALDES-FAULI: No, it isn't.

14 MR. LEEN: It is a potential policy
15 decision.

16 CHAIRMAN VALDES-FAULI: Yeah.

17 MR. KORGE: Well, it's not an issue that
18 should be driven by cost.

19 CHAIRMAN VALDES-FAULI: No, it isn't.

20 MR. KORGE: If it were that material of a
21 difference, maybe, but, you know, it's a very
22 persuasive point, and I'd say, on the other
23 side -- I'm not really persuaded, one way or
24 the other, but the other side is, we get more
25 participation and we'd have early elections, as

1 well, at no additional costs.

2 In other words, because the County has
3 the -- I assume it is at no additional cost --
4 if we move the election to November, with the
5 general election for everybody else, would we
6 be able to piggy-back, at no additional cost,
7 the early voting?

8 MR. LEEN: Yes. The cost that we get from
9 the County is for the whole process.

10 MR. KORGE: Got you. Okay. So, I mean,
11 those are the factors. I mean, if the
12 Commission doesn't want to change this,
13 anyways, I wouldn't want to spend a lot of time
14 debating this, but I see that can go either
15 way, in my mind.

16 You know, you make a really persuasive
17 point. I really like the non-partisan nature
18 of elections here, because then we just focus
19 on issues, and, you know, it doesn't matter
20 what your party affiliation is.

21 CHAIRMAN VALDES-FAULI: That's very
22 persuasive for me. The fact that you will not
23 be asked whether you're a Republican or a
24 Democrat or who you're going to vote for, for
25 Governor.

1 MR. MORALES: Cost is an issue, I mean, a
2 hundred thousand dollars, you know, in the
3 scheme of things, if the public believes one
4 approach is better. You know, the number that
5 stands out to me is literally triple the
6 turnout. I mean, three times as many people.

7 You know, in an election where 7,800 people
8 vote, you know, 3,900 people pick a winner.
9 Whereas, if 22,000 people vote, you know,
10 you're talking about 11,000 or 12,000 people
11 deciding who the Mayor is or who the
12 Commissioner is, and that's a compelling
13 argument.

14 I understand the issue of partisanship.
15 I've been a candidate on a presidential day.
16 I've been a candidate on a non-presidential
17 day. I found that people were still very
18 interested in what my party affiliation was.

19 You know, this is not something I'll hoist
20 myself with tar over, but my inclination would
21 at least be to let the people in Coral Gables
22 decide whether or not they want to have a day
23 where more people come out or not.

24 You know, I'm not sure I want to make that
25 decision for the people. I'd put it on the

1 ballot, just to see what the voters of Coral
2 Gables think.

3 MR. KORGE: If it was put on the ballot, it
4 would be separate from all the other changes or
5 is it one package?

6 MR. MORALES: That's a good question. I
7 don't know.

8 MR. KORGE: Craig, what --

9 MR. LEEN: Say it again. I'm sorry.

10 MR. KORGE: Let's say we have three or four
11 changes we're recommending. The Commission
12 decides, "Yeah, we want to make those changes."
13 Will it be a package to vote on or will each
14 change --

15 MR. LEEN: No. Each one will be voted on
16 separately.

17 MR. KORGE: Okay. You make a good point
18 there.

19 CHAIRMAN VALDES-FAULI: Okay.

20 MR. THOMPSON: Well, I have somewhat
21 different views. In the first place, unless I
22 misunderstand it, if we had a vote in November,
23 it would never be at the time of a presidential
24 vote.

25 CHAIRMAN VALDES-FAULI: It would be.

1 MR. KORGE: Sure. Every --

2 MR. THOMPSON: Well, the presidential vote
3 is in even years, and as I understand, we vote
4 in odd years. The Charter says it started in
5 '85 and '87. I had thought that our elections
6 were in odd years.

7 MR. LEEN: They are, but we can move to
8 either.

9 MR. THOMPSON: Then we will never have a
10 presidential election in an odd year.

11 MR. MORALES: No, I think Parker -- I'm
12 sorry, through the Chair.

13 CHAIRMAN VALDES-FAULI: No, go ahead.

14 MR. MORALES: I think at the last meeting
15 we did say, if you were going to move it to
16 November, it should be on an even numbered
17 year, because to do it in November of an odd
18 numbered year, there's no advantage. It's the
19 same turnout probably, a lower turnout.

20 MR. THOMPSON: Not necessarily. There are
21 elections, other than the presidential
22 election, that are in odd years. I don't have
23 all of the information here, but I'm pretty
24 sure that there are elections in odd years.

25 MR. MORALES: All the Federal and State

1 elections are even years. I think the only odd
2 year ones, like this November, are some of the
3 large cities, Miami, Hialeah, Miami Beach.

4 I don't think there are any County-wide
5 elections or Statewide elections in the odd
6 years. I think they're all either a
7 gubernatorial year or a presidential year. I
8 think that's how -- but I'm not sure.

9 CHAIRMAN VALDES-FAULI: I think you're
10 right on that.

11 MR. BONN: Mr. Chair --

12 MR. THOMPSON: The County elections are all
13 in even years?

14 MR. MORALES: All in even years. That I
15 can speak to.

16 MR. KORGE: Do you know whether the City of
17 Miami or any other cities that are in odd years
18 are always in odd years or do they go between
19 odd and even?

20 MR. MORALES: I mean, Miami Beach, which I
21 know well now, is always in odd years. I think
22 Miami and Hialeah are also always in odd years.

23 MR. KORGE: If we're going to stay in odd
24 years, there's no point in changing.

25 MR. MORALES: I agree with that.

1 MR. KORGE: Yeah.

2 But if we're going to change, we should
3 change to an even year, because the only
4 motivation I have is to get more people voting.

5 MR. THOMPSON: I'm with you. And I find
6 for what is certainly one of the more literate
7 segments of Miami-Dade County, that these votes
8 are pretty poor, and I'm interested in what can
9 be done, and we talked last time around about
10 Saturday elections, and we have now Tuesday
11 elections.

12 I don't have enough knowledge to know what
13 it is that could attract people. I have no
14 doubt over what you just said, that the
15 Commission doesn't want it changed, and if they
16 don't want it changed, whatever we propose,
17 they aren't going to change it.

18 CHAIRMAN VALDES-FAULI: No, but we should
19 propose what we believe is right.

20 MR. THOMPSON: But I think that what I
21 would like to see, was taken out of the Charter
22 and created by ordinance, give it back to the
23 Commission, that if it's going to be changed,
24 that they change it, but if they change it as
25 an ordinance, if we pick April, then April is

1 fixed until there is another Charter Amendment.

2 I'd rather have people that are intelligent
3 enough to know more than I do about how in the
4 world to attract a greater vote, whether it's
5 the day of the week or the month of the year.

6 CHAIRMAN VALDES-FAULI: But what we approve
7 here, and what we recommend, has to be ratified
8 by the Commission. So whatever we say can be
9 amended by them or can be changed by them.

10 MR. THOMPSON: Well, I'll get to this
11 later, but nine-tenths of what has been the
12 Charter has been converted to an ordinance. So
13 my personal view would be to convert this issue
14 of the month and the day of the election to an
15 ordinance, and let the Commission, if they have
16 better knowledge, figure out whether it should
17 be a Tuesday or a Saturday in April or
18 November, whether it should be an odd year or
19 an even year.

20 CHAIRMAN VALDES-FAULI: Craig, can we do
21 that?

22 MR. LEEN: Yes.

23 The State Law says that it can be moved by
24 ordinance, even if it's in the Charter. So it
25 would seem to me that you could ask

1 administratively that it be put in the City
2 Code instead of -- that's what they would
3 draft, that it be moved from the Charter to a
4 Code.

5 CHAIRMAN VALDES-FAULI: But we can have a
6 provision saying that this should be moved to
7 the Code, and the Code will determine or will
8 set what the dates are, versus it being in the
9 Charter.

10 MR. LEEN: Okay.

11 MR. THOMPSON: I have a profound
12 disagreement with the Commission voting an
13 ordinance that is contrary to the Charter. And
14 because State Law permits that, for what the
15 people have voted on to be changed, I think
16 it's wrong. I mean, if it goes to an
17 ordinance, it should because the Charter is
18 amended to pass it to an ordinance and pass it
19 to the Commission to make a decision, and I
20 think that State Law is crazy, along with a lot
21 of other things.

22 MR. KORGE: A lot of other things.

23 MR. LEEN: You know, Mr. Thompson, I
24 believe that, and I will double-check this, but
25 that this provision was part of a Special Act

1 of the legislature. You know, a lot of the
2 Coral Gables Charter, when you look at the
3 history in the Charter I gave you, it refers to
4 the laws of Florida.

5 MR. THOMPSON: I'm not surprised if that
6 would be true, because that, I think, has
7 created the fundamental problem with the
8 Charter that I've asked to address later on.

9 MR. LEEN: Yes.

10 So the Municipal Home Rule Powers Act did
11 give the cities administratively the ability to
12 move things into ordinance, if they fit within
13 a certain category. This may fit within that
14 category. It hasn't been moved to the
15 ordinances, but based on -- if that's what you
16 recommend, my office will look at whether that
17 can be done administratively.

18 If not, then I guess it would have to be
19 amended by referendum. But I have a feeling
20 that this one, particularly since there's a
21 State Statute, which already says it can be
22 amended, and the fact that, you know, it may
23 fall under the provisions that automatically
24 become ordinances under the Home Rule Powers
25 Act, I think -- why don't you recommend that?

1 CHAIRMAN VALDES-FAULI: Can we adopt a
2 provision saying that the elections shall be
3 held at such time as the Commission
4 periodically determines by ordinance?

5 MR. LEEN: Okay. So that's your first
6 proposal.

7 MR. THOMPSON: That is my recommendation,
8 and, then, as we get more information,
9 Mr. Morales may get it for Miami Beach, and
10 then we can use it here in Coral Gables, but we
11 ought to be doing everything we can to up the
12 vote.

13 CHAIRMAN VALDES-FAULI: I agree, but up the
14 meaningful vote, and that's my concern with
15 coinciding elections.

16 MR. THOMPSON: No, I sympathize with your
17 comment, and I did look at most of the other
18 Charters, and a lot of them are in February or
19 March and not in November.

20 MR. BONN: Mr. Chair, this is Bill Bonn.

21 CHAIRMAN VALDES-FAULI: Yes.

22 MR. BONN: If I could please speak to this
23 one issue. First of all, I apologize for not
24 being present in person, but I have called in,
25 and it's Bill Bonn, and I just wanted to say

1 that I've listened to all of the dialog, and
2 I've read the minutes of the last meeting, and
3 I must confess, initially I was favor of the
4 concept of moving the election to November of
5 even years to get a greater voter turnout.

6 However, after listening to all of you
7 dialog and whatnot, I have to agree that I
8 don't think that would be -- although we would
9 probably get more of the people voting, which
10 is always good, I do think that our issues
11 would be swamped by the larger national and/or
12 statewide issues. I mean, political or
13 otherwise.

14 And I really think that personally we
15 should leave the date in April, and I really
16 don't think -- I don't think I would bother to
17 move it to November in an odd year.

18 I just would think that if we're going to
19 do November in even years, that's one thing,
20 but April seems to make more sense, and I agree
21 with the Chair, to keep as untainted as
22 possible our local issues from elections of
23 statewide or nationwide politics. Thank you
24 very much.

25 CHAIRMAN VALDES-FAULI: Thank you.

1 What is the feeling of the Commission
2 (sic)? Shall we put it off until we hear from
3 the other people, too?

4 Anybody else on the phone?

5 MR. LEEN: It's up to you, Mr. Chair, and
6 to the Committee. I would recommend -- you
7 know, with five individuals, I would recommend
8 making a recommendation, so we can keep moving.
9 Ultimately it will be the Commission's
10 decision, anyway.

11 MR. MORALES: Sure. I would like to make a
12 motion --

13 MR. THOMPSON: I'm sorry, Craig. I have
14 trouble hearing you.

15 MR. LEEN: I'm sorry, Mr. Thompson. I
16 would recommend, because we have so many items
17 to discuss, both, today and going forward,
18 because in the Charter, there's a lot of
19 provisions, I would recommend making a
20 recommendation on this.

21 MR. KORGE: Well, Parker recommended that
22 we move it to ordinance, right? So I'll second
23 on your motion, at least for purposes of
24 discussion, and I want to throw something in on
25 that to discuss.

1 Weekend elections instead? Anybody have
2 any, you know, interest in that? If not, then
3 I'll just drop it at that. Otherwise, it would
4 be worth discussing.

5 But, you know, the only issue I have with
6 moving it to an ordinance is that it's sort of
7 a political question, and you're leaving it in
8 the hands of the people who are up for
9 re-election to decide, you know, whether they
10 can move it to a different date.

11 I don't think it's a real problem in our
12 City, but I'd just point that out.

13 CHAIRMAN VALDES-FAULI: For several
14 reasons, I would leave it on a Tuesday. The
15 reasons, we don't have early voting here,
16 although we could have it. We could vote
17 absentee. You're right.

18 The cost, which, again, is probably
19 marginal, but, I mean, whatever it is. If the
20 County has multiplied their cost by eight in
21 five years or six years, God knows what they
22 would charge us for doing it on a Saturday,
23 much less on a Sunday.

24 I would leave it on Tuesday. In this
25 country, everybody has always voted on Tuesday.

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1 In Europe, they vote on Sundays, but we're not
2 in Europe, and the traditional day is Tuesday,
3 and I would favor leaving it on Tuesday.

4 MR. MORALES: You know, I've been a long
5 advocate for the fact that the United States
6 should do like a lot of these other countries,
7 and even have a national holiday or pick a day
8 when people don't have to choose between
9 working and getting their kid to school and
10 voting.

11 So I would have no problem with Saturday or
12 Sunday. The truth is, ever since 2004, with
13 early voting, I've been there as a candidate,
14 and as somebody voting, you get long lines
15 sometimes on Saturdays and Sundays.

16 So I think people have gotten more used to
17 voting on the weekend. The challenge with a
18 Saturday or Sunday, obviously, is, religious
19 holidays, you know. And those questions, I
20 guess -- and, you know, there are some folks
21 who might be offended if you put it on a
22 Saturday, others on a Sunday.

23 I don't know, but I do know that Americans,
24 at least in South Florida and across the State
25 of Florida, vote a lot on Saturdays and

1 Sundays. In fact, choosing to open or not on a
2 Sunday even got to be controversial, and was
3 viewed as being anti-democratic a few years
4 ago. So I think the choice of day -- I like
5 the idea of a day that people don't have
6 something else that they have to do, in terms
7 of either taking a kid to school or working.

8 So I would be supportive of it, but I know
9 there's always a question of which one you pick
10 and who may be offended, you know, if they have
11 to violate their religious principles,
12 otherwise, to come out and vote on that day. I
13 don't know.

14 MR. KORGE: I suppose the Commission could
15 spend the extra money.

16 MR. BONN: Mr. Chair, I would agree with
17 the comments just stated.

18 CHAIRMAN VALDES-FAULI: I'm sorry, we can't
19 hear you.

20 MR. BONN: We can move it to, as to
21 Saturday or Sunday, that would be my vote.

22 CHAIRMAN VALDES-FAULI: I'm sorry, what?
23 We couldn't hear you.

24 MR. BONN: I'm very sorry. It's Bill Bonn.
25 I would vote in favor of moving it to a

1 Saturday or a Sunday, just because I think
2 we'll get a greater turnout. I really do. And
3 that would be a good thing for everybody.

4 Thank you.

5 CHAIRMAN VALDES-FAULI: Thank you.

6 MR. KORGE: I was going to add, another way
7 that it could be handled is, for a little extra
8 money, they could open up a few precincts for
9 early voting on a Saturday and a Sunday, and
10 the Commission could just do that.

11 MR. THOMPSON: My view is -- and I repeat,
12 I don't know enough to say what's best, and I
13 certainly don't know enough about what will be
14 discovered, and, therefore, what will be best.

15 I do know that there is concern all over
16 the country for it, about the issue of voting,
17 low registration, that people in other states
18 have experimented with mail registration, all
19 sorts of things, and I think those experiments
20 are good.

21 My personal experience is what you just
22 said, that Saturday and Sundays, there are long
23 lines for absentee voting, which tends to make
24 me think that a weekend vote would draw more
25 people, but I don't know that. That's my

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1 driving by the library and seeing how many
2 people are there. That is hardly a scientific
3 evaluation.

4 I think that the Commission ought to
5 seriously look at ways of doing it. I don't
6 know enough to really speak to what's best, and
7 that's why I recommended that it go to -- that
8 the people be asked to certainly make it clear,
9 and come up with the best decision.

10 MR. MORALES: Mr. Chair and Mr. Attorney,
11 can we make a recommendation like such as,
12 leave it on a Tuesday in April, but recommend
13 to the Commission that they add early voting
14 maybe on the weekend prior, to enable folks who
15 may not be able to come? Can we recommend
16 that?

17 MR. LEEN: Certainly. We have to see if
18 the County would be able to do that or we can
19 do it ourselves.

20 Yeah, they run our elections by contract.
21 We don't have to use the County, but we
22 generally use the County.

23 MR. MORALES: I think it's an easier way of
24 maybe moving the date to increase the turnout.

25 MR. LEEN: Saturday and Sunday.

1 CHAIRMAN VALDES-FAULI: Early voting on
2 Saturday or Sunday and keep the date on
3 Tuesday.

4 MR. LEEN: So maybe have early voting
5 Saturday and Sunday, before the Tuesday, is
6 what you're saying?

7 CHAIRMAN VALDES-FAULI: Yes.

8 MR. LEEN: And maybe Monday.

9 CHAIRMAN VALDES-FAULI: Yes, Monday.

10 MR. LEEN: Okay. That would be a proper
11 proposal.

12 MR. KORGE: Is that part of this motion?

13 MR. MORALES: I guess there's a pending
14 motion. There's a pending motion.

15 MR. LEEN: To move it to the City Code.

16 MR. KORGE: And I guess you just add it on,
17 if the mover agrees.

18 MR. THOMPSON: Sure.

19 MR. LEEN: You know, the early voting
20 aspect doesn't necessarily have to be done by
21 ordinance. It could be done in our contract,
22 if we decide to establish early voting.

23 We have an Election Code. We might want to
24 put it in there. So they're not mutually
25 exclusive. But I would make two separate

1 recommendations. One, that it would be moved
2 to the Code, and, Two, even if that fails, you
3 can recommend early voting for four days, three
4 days before.

5 MR. KORGE: You want to vote on Parker's
6 first?

7 CHAIRMAN VALDES-FAULI: Parker's is?

8 MR. KORGE: To move it to Code.

9 CHAIRMAN VALDES-FAULI: All right. All
10 those in favor, say, "Aye."

11 MR. KORGE: Aye.

12 MR. MORALES: Aye.

13 CHAIRMAN VALDES-FAULI: Aye.

14 MR. LEEN: Was there a second?

15 MR. KORGE: Yeah, I second it.

16 MR. MORALES: Was that your motion, Parker?

17 MR. THOMPSON: My motion was to --

18 MR. MORALES: Move it into the Code.

19 MR. THOMPSON: -- move it into the Code,
20 and I expressed the desire to -- the whole
21 thing is to increase turnout, and I am -- I
22 think we ought to be explaining what we're
23 doing and why.

24 MR. MORALES: Then if I can be recognized
25 for a motion then to recommend to the City

1 Commission that they add at least the weekend
2 before of early voting as an effort to
3 enhance -- put that in the Code, to enhance
4 voter turnout.

5 MR. KORGE: I'll second that, too.

6 CHAIRMAN VALDES-FAULI: All right. All in
7 favor, say "aye."

8 MR. MORALES: Aye.

9 MR. KORGE: Aye.

10 MR. PARKER: Aye.

11 CHAIRMAN VALDES-FAULI: Aye.

12 Okay. Craig?

13 MR. LEEN: Yes. I have both motions.

14 Mr. Bonn, did you vote, yes, on both of them?

15 MR. BONN: Yes, I did.

16 MR. LEEN: Okay. So we have five votes for
17 both. That should be recorded.

18 One other thing, I just wanted to let you
19 know, I did confirm that the Charter was
20 adopted of Special Act of the Legislature in
21 Chapter 13-972, Special Acts, 1929, and Chapter
22 21-160, Special Acts, 1941, as well as
23 subsequent Charter Amendments and revisions.

24 So some of it has gone to the people, but
25 the bulk of it comes from the Legislature.

1 CHAIRMAN VALDES-FAULI: All right. Great.
2 Next is the question of a runoff.

3 Mr. City Attorney.

4 MR. THOMPSON: I would like to move that we
5 require a majority vote. We have two proposals
6 of how to get there in front of us. One's a
7 runoff, and one's the Professor's suggestion,
8 which is in the Sarasota Code.

9 I looked at the Sarasota Code, as well,
10 and, personally, it may work, but I think it's
11 more likely to confuse than to -- to do it, but
12 I would recommend that we first express
13 ourselves that a majority vote should be
14 required.

15 CHAIRMAN VALDES-FAULI: Make a motion.

16 MR. THOMPSON: And that is my motion.

17 CHAIRMAN VALDES-FAULI: Second?

18 MR. KORGE: Yeah, I'll second that.

19 CHAIRMAN VALDES-FAULI: Okay. Mr. Bonn?

20 MR. BONN: I'm not sure I agree. I think
21 it's a great concept. I am concerned about the
22 extra cost of runoffs, of running an election
23 farther, but what interested me was some of the
24 commentary about --

25 CHAIRMAN VALDES-FAULI: I'm sorry, but I

1 can't understand what you're saying.

2 MR. LEEN: Mr. Bonn, we can't hear you.

3 CHAIRMAN VALDES-FAULI: We can't hear you.

4 MR. BONN: Okay. I apologize. I must
5 confess that I am not sure I'm in favor of the
6 majority vote requirement. I think maybe
7 plurality might be best for our community, for
8 a couple of reasons.

9 CHAIRMAN VALDES-FAULI: Richard, can you
10 get closer to the phone?

11 MR. LEEN: Would you ask him to e-mail his
12 comments?

13 CHAIRMAN VALDES-FAULI: What you're saying
14 is that you're opposed to majority, right?

15 MR. BONN: Yes, I'm opposed to the vote on
16 majority, yes. I am in favor of plurality.

17 CHAIRMAN VALDES-FAULI: Okay.

18 MR. DEWITT: Mr. Chairman --

19 MR. LEEN: We heard you, Mr. Bonn. We have
20 it. We have it.

21 MR. DEWITT: This is Richard Dewitt.

22 Richard Dewitt is on the phone.

23 MR. LEEN: Mr. Dewitt, what was your view?

24 MR. DEWITT: I just joined the call.

25 When it's my turn, I'll be glad to voice my

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1 opinion.

2 MR. LEEN: Mr. Chair, the phone doesn't
3 seem to work very well. So maybe we won't do
4 it in the future unless --

5 CHAIRMAN VALDES-FAULI: No. Let's not do
6 it in the future. I'm opposed to it.

7 MR. LEEN: I understand. There should be
8 like a conference call that we can put the mike
9 to. I don't know why it's being done this way,
10 and I'm sorry.

11 Okay.

12 CHAIRMAN VALDES-FAULI: Mr. Dewitt, what do
13 you opine in this? What is your opinion on
14 majority versus plurality?

15 No? Richard? We can't hear him.

16 MR. LEEN: Okay. What I suggest,
17 Mr. Chair, is that everyone on the phone, we
18 can't hear you, and, really, we want the people
19 at home to be able to hear you, too. So just
20 listen. You can always e-mail me your
21 comments. I can put them in the record at a
22 later time.

23 We won't do this again, unless it
24 absolutely works, Mr. Chair, and we'll test it
25 in advance.

1 CHAIRMAN VALDES-FAULI: No, we won't do it
2 again, even if it works.

3 MR. LEEN: Are you sure? Even if it works?
4 Okay.

5 So no more participation by phone.

6 CHAIRMAN VALDES-FAULI: All Right.

7 MR. DEWITT: Craig, can you hear me at all?

8 MR. LEEN: Yes.

9 MR. DEWITT: Okay. I vote for a majority
10 election. That's what I'm saying.

11 CHAIRMAN VALDES-FAULI: This is Richard?

12 MR. LEEN: Yes, that's Richard Dewitt.

13 MR. DEWITT: Yes, Dewitt.

14 CHAIRMAN VALDES-FAULI: Okay. So
15 Richard --

16 MR. DEWITT: I'm for runoffs, yeah.

17 CHAIRMAN VALDES-FAULI: Richard Dewitt for
18 a majority.

19 We have a motion on the floor that we
20 require a majority. It was made by
21 Mr. Thompson and second by Mr. Korge. All
22 those in favor of the motion signify by saying,
23 "aye."

24 MR. MORALES: Aye.

25 MR. KORGE: Aye.

1 CHAIRMAN VALDES-FAULI: Aye.

2 MR. THOMPSON: Aye.

3 MR. DEWITT: Aye.

4 CHAIRMAN VALDES-FAULI: What? Somebody
5 voted "aye" on the other side?

6 MR. LEEN: Everyone voted, aye.

7 Any nays, Mr. Chair?

8 CHAIRMAN VALDES-FAULI: Any nays?

9 MR. BONN: Nay for Mr. Bonn, please.

10 CHAIRMAN VALDES-FAULI: Okay. So it was
11 five ayes and one nay.

12 All right.

13 MR. LEEN: Mr. Chair, in terms of
14 implementing that, do you have a recommendation
15 for the Commission as to how you would do that?

16 CHAIRMAN VALDES-FAULI: That's the next
17 question and we have the runoff versus the
18 qualified voting suggested by Professor
19 Froomkin.

20 Discussion?

21 Parker, you opined that it was too complicated.

22 MR. THOMPSON: I was just saying that I am
23 in favor of a runoff. This may be a very, very
24 good program. I don't really understand it
25 very well. I read the Sarasota Charter, and I

1 still don't understand it very well, and,
2 therefore, I would opt for a runoff.

3 CHAIRMAN VALDES-FAULI: Jimmy.

4 MR. MORALES: I would agree. Number One,
5 I've not seen it in practice, and so I'm
6 probably just a little uncomfortable
7 recommending something I've never seen.

8 Number Two, to make the transition from
9 having only pluralities to then this special
10 runoff system is two steps, may be too fast,
11 when people here are going to now have to get
12 used to a runoff, and rethinking the second
13 vote or something.

14 So that might be something to consider down
15 the line. I just think, to make the transition
16 from plurality to majority, I would prefer, you
17 know, again, before people get used to a more
18 complicated system, let them get used to the
19 notion of having runoffs.

20 And whether it's a week later or two weeks
21 later, a lot of cities do it. Miami does it.
22 I mean, a lot of cities do it, so it's doable.
23 Even larger cities.

24 And I like the runoff idea, because I think
25 the second election will give folks an

1 opportunity to then study the candidates they
2 didn't vote for, who made it into the runoff,
3 if their candidate didn't make it, and it gives
4 those candidates an opportunity to sort of get
5 their message out that may not have been heard
6 before.

7 MR. KORGE: I don't disagree with what
8 Jimmy says. The big issue for me becomes, when
9 will the runoff be, and I'd like to see it real
10 short. That will be a separate --

11 CHAIRMAN VALDES-FAULI: That's a separate
12 issue.

13 MR. KORGE: I know, but I want to point
14 that out, because that makes a difference to
15 me. If you drag it on too long, now you've got
16 another election cycle effectively superimposed
17 on maybe a one candidate race, you know.

18 CHAIRMAN VALDES-FAULI: I am for the
19 runoff, although I think the ranking of the
20 vote is a very interesting proposal, but I
21 think it would be very confusing, frankly, in
22 this context, to ask the people to rank the
23 candidates.

24 I think it would be very confusing. I
25 think it's complicated, although it works. I

1 imagine it works. In Sarasota, they have it,
2 so it must work, but because of the things I
3 said and the date of the election, I am more
4 inclined to vote for the runoff, because in the
5 runoff, you will really focus on the issues,
6 you will really concentrate on what people
7 stand for, and they'll have their platforms and
8 you'll agree with one or not agree, and the
9 runoff will bring that out, versus the ranking
10 of the candidates.

11 So I would vote for the runoff, you know,
12 in my opinion.

13 MR. LEEN: May I bring up an issue?

14 CHAIRMAN VALDES-FAULI: Yeah.

15 MR. LEEN: The Charter, the way it's
16 currently set, it says, "The Mayor and
17 Commissioners shall take office at noon on the
18 third day after their election," and it says
19 that the candidate receiving the greatest
20 number of votes in each group shall be
21 considered elected upon and after the canvass
22 of the vote.

23 The issue will be, if you have a runoff,
24 that seat will be unfilled. Either the person
25 who sits in that seat will have to continue --

1 CHAIRMAN VALDES-FAULI: Well, that's not a
2 problem, though, because that person continues
3 for one more week, as opposed to three days,
4 and the transfer is, instead of the Friday
5 after the election, two Fridays after the
6 election, and we have the runoff the Tuesday
7 after the Tuesday election.

8 MR. LEEN: But what I'm asking is, so let's
9 say there's three people running, and two of
10 them get elected by a majority and one of them
11 does not. Do the two become Commissioners on
12 that Friday, and then the one continues?

13 CHAIRMAN VALDES-FAULI: No, they would be
14 elected and they would become Commissioners
15 when everybody becomes a Commissioner or Mayor,
16 and, you know, they would be entitled to it,
17 but we would not have the election take office
18 and have an empty seat or a vacant seat at that
19 point.

20 We would just put the taking of office,
21 postpone it by a week, and have a runoff the
22 Tuesday after the election.

23 MR. LEEN: I understand. Would you always
24 have it a week and a half or only when there's
25 a runoff?

1 MR. KORGE: I think the answer to your
2 question is that the installation would take
3 place not the Friday following the election,
4 the original election, but the Friday after
5 that, always.

6 MR. LEEN: So always?

7 MR. KORGE: For everybody.

8 MR. LEEN: Whether there's a runoff or not?
9 I understand.

10 MR. KORGE: Just like Congress.

11 MR. MORALES: The County Commission is the
12 same way. They all get installed at the same
13 time.

14 CHAIRMAN VALDES-FAULI: There would not be
15 a Commission meeting in those seven days, and
16 there usually isn't, anyway.

17 MR. LEEN: Understood. So that's the
18 recommendation.

19 CHAIRMAN VALDES-FAULI: All right.

20 MR. LEEN: I understand. I have it.

21 MR. DEWITT: Craig, can you hear me? I was
22 wondering, how do other cities, like the City
23 of Miami, do it?

24 MR. LEEN: How does the City of Miami do
25 it?

1 MR. DEWITT: Yeah, how do other cities do
2 it? You know, what's the norm? When is
3 everybody else having their --

4 MR. LEEN: We were just talking that the
5 County does it the way that's being proposed.

6 MR. MORALES: And so does the City of Miami
7 Beach.

8 MR. LEEN: And so does the City of Beach.

9 MR. MORALES: So does the City of Doral.

10 MR. LEEN: And Doral. I don't know about
11 the City of Miami. We can find out, although
12 this has already been passed.

13 You can either do another motion adopting
14 this or you can just, you know, direct me that
15 it's incorporated into your prior motion.

16 CHAIRMAN VALDES-FAULI: Would you make a
17 motion?

18 MR. MORALES: Yeah. I'll move that we have
19 a runoff. I guess it's a week after --

20 CHAIRMAN VALDES-FAULI: The Tuesday after.

21 MR. MORALES: The Tuesday after the Tuesday
22 election, so one week later, and that all of
23 those elected in that election will be
24 installed, not the Friday, but the second
25 Friday following the election.

1 MR. KORGE: Following the first election.

2 MR. MORALES: Right.

3 MR. BONN: I'll second it.

4 CHAIRMAN VALDES-FAULI: All right. Next
5 item --

6 MR. LEEN: We do need a vote, because there
7 was one person who voted against it the last
8 time.

9 MR. BONN: Yes. Mr. Bonn. I still am in
10 favor of plurality, so I do vote, no.

11 MR. LEEN: So it will be five-one again,
12 sir.

13 CHAIRMAN VALDES-FAULI: Five to one, yes.

14 MR. LEEN: Okay.

15 CHAIRMAN VALDES-FAULI: All right. The
16 next concern is Commissioner Removal under
17 Section 11.

18 Craig?

19 MR. LEEN: Yes. Do you have the
20 memorandum? Is it in the packet, memorandum on
21 Section 11?

22 Each of you should have a memorandum that's
23 been provided to you. At this point, it's not
24 being incorporated into a formal City Attorney
25 opinion, because I wanted to get your feedback.

1 Take a moment to look at it.

2 What it basically does is, it says -- there
3 are some Attorney General opinions. Mr.
4 Morales brought it up with me. And I was aware
5 of this, as well, that indicates that, you
6 know, when someone is elected to a position,
7 the law disfavors --

8 MR. THOMPSON: I'm sorry, I don't have a
9 copy of your --

10 CHAIRMAN VALDES-FAULI: I don't, either.

11 MR. LEEN: It's the last sheet.

12 The law disfavors Commissions being able to
13 remove their own members. There's a process in
14 State Law for suspension of Commissioners.

15 Now, it's my view that because this was a
16 part of the Special Act of the Legislature and
17 part of our Charter, I think there's a good
18 argument it is enforceable, although it's so
19 broad it could probably be challenged.

20 You're looking at me --

21 MR. KORGE: Go ahead.

22 MR. LEEN: I'm just giving you my opinion.

23 MR. KORGE: I don't agree. Go ahead.

24 MR. LEEN: But there's two terms that are
25 two terms that are used in there, which are

1 sort of terms of art, although these are
2 usually in subsequent statutes.

3 Like, for example, Misconduct in Office,
4 the section refers to, just so everyone at home
5 knows, it says, "The Commission may determine
6 its own rules or procedure, may punish its own
7 members for misconduct, and may compel the
8 attendance of members, and on a four-fifth
9 vote, may expel a member for misconduct in
10 office or for neglect of duty."

11 So it also provides a one week period of
12 time that a member shall be informed, so that
13 he can then come and defend himself against the
14 charges and he has a right to be heard in his
15 own defense.

16 So what this opinion, which I worked on
17 with the Deputy City Attorney, does, is that it
18 looks at how is misconduct and neglect defined
19 in State Law, and what I propose to do is to
20 adopt a formal City Attorney opinion, because
21 under Section 2-201E8 of the City Code, the
22 City Attorney can interpret the City Charter on
23 behalf of the Commission, and what I would say
24 is that misconduct in office is not whatever
25 the Commission says is misconduct, but is

1 actually defined by certain principles, which
2 the Commission would have to find.

3 For example, misconduct in office includes,
4 "One, conduct demonstrating a conscious
5 disregard of the City's interest and found to
6 be a deliberate violation or disregard to the
7 reasonable standards of behavior, which the
8 City expects of its elected officials. Such
9 conduct may include but it's not limited to
10 willful damage to City property or theft of
11 City property." That's taken from the statute.

12 "Two, carelessness or negligence to a
13 degree or recurrence that manifest culpability
14 or wrongful intent or shows an intentional and
15 substantial disregard of the City's interest or
16 the elected official's duties and obligations
17 to his or her employer."

18 "Three, chronic absenteeism or tardiness
19 from City Commission meetings."

20 Neglect of duty is defined as "Neglect or,
21 failure on the part of a public officer to do
22 and perform some duty or duties laid on him, as
23 such, by virtue of his office or which is
24 required by him or her by law," which is more
25 general.

1 So my view is that the Commission would be
2 given this standard, and then they would have
3 to make a determination of whether these
4 standards are met. If so, if they give the
5 person one week, and the Commissioner or Mayor
6 is able to have an opportunity to defend him or
7 herself and hear, you know, what's presented,
8 then the Commission could act by a four-fifth
9 vote to remove the person.

10 It's in our Charter. It hasn't been
11 removed by the Municipal Home Rule Powers Act.
12 It comes from a State Act, Special Act of the
13 Legislature. So, in my view, it's enforceable.

14 Now, you could always ask that it be
15 changed.

16 MR. KORGE: Well, I took the time to look
17 at Constitution and the statutes and some of
18 the cases. I didn't do as thorough a job as
19 you. In fact, I called you, because I wanted
20 to ask you about that, but we never connected.

21 First of all, neglect of duty, yeah, that's
22 very broad, but the Constitution -- here is
23 what the Constitution says about the suspension
24 of, among other, any county officers.

25 Malfeasance, misfeasance, neglect of duty,

1 drunkenness, incompetence," whatever that
2 means, "permanent inability to perform official
3 duties or commission of a felony."

4 Now, for municipal officers, the
5 Constitution's Article 4, Section 7-C, for
6 municipal officers, I'll read it in full, since
7 that really relates to us, "By order of the
8 Governor, any elected municipal officer
9 indicted for a crime may be suspended from
10 office until acquitted and the office filled by
11 appointment for the period of suspension not to
12 extend beyond the term, unless these powers are
13 vested elsewhere by law or the Municipal
14 Charter." Not very helpful.

15 Then there's a statute that deals with
16 municipal officer's suspension and removal, and
17 it's Section 112.51, Paragraph 1, by executive
18 order, stating the grounds for the suspension
19 and filed with the Secretary of State. The
20 Governor may suspend from office any elected or
21 appointed municipal official for misfeasance,
22 malfeasance, neglect of duty, habitual
23 drunkenness -- not just drunkenness, but it's
24 got to be habitual, whatever that means --
25 incompetence or permanent inability to perform

1 official duties.

2 It gets worse. Then it says, in Paragraph
3 2, whenever an elected or appointed municipal
4 official is arrested for a felony or for a
5 misdemeanor related to the duties of office or
6 is indicted and informed against for commission
7 of a felony or a misdemeanor or state felony or
8 misdemeanor -- Federal or State felony or
9 misdemeanor, the Governor has the power to
10 suspend the municipal officer or official from
11 office.

12 And then it goes on to explain that it's
13 temporary, until the official is acquitted or
14 convicted.

15 Noticeably there's nothing that discusses
16 what happens if they're suspended because of
17 habitual drunkenness or incompetence.

18 I think what precipitated this whole
19 discussion was, it came from Jim Cason, who was
20 concerned, because of what's happened in the
21 Town of Miami Lakes, and, in particular, the
22 Pizzi case.

23 So I looked at the Pizzi case, which is not
24 helpful. It is in some respects. The Third
25 District basically said that temporary

1 suspension means temporary, and that if the
2 official is acquitted, then the official is
3 reinstated.

4 Then, inexplicably -- well, not
5 inexplicably, but then the Third District went
6 on to reconcile the ordinance with the statute,
7 and, then, in a footnote, which is clearly
8 dictum and with which I'm not sure I agree --
9 not that, that matters -- the Court went on to
10 say that the Statute and Constitution preempt
11 the Charter, bearing in mind that the
12 Constitution itself references Municipal
13 Charters as a basis for exercising those
14 powers.

15 That's what I got out of my reading so far.

16 I don't think it's to our advantage to jump
17 into this wholeheartedly and try to clarify it,
18 because I think we're just going to make
19 matters worse.

20 MR. LEEN: But, I mean, you could remove
21 it. That's the way to clarify it. Or you can
22 retain it.

23 MR. KORGE: I have a problem removing it,
24 because now we're delegating to the Governor
25 the sole authority to do that.

1 MR. LEEN: But so, then, otherwise, it
2 won't be clear unless it's tested.

3 What I'm saying is that I think that we
4 need to put some standards in place that make
5 it more enforceable. And then my other view is
6 that I do feel a provision like that could be
7 useful in a situation like the Pizzi case.
8 It's much more direct than the one that Miami
9 Lakes was relying on. It actually allows the
10 Commission to remove the member directly.

11 MR. KORGE: Well, I think we would have to
12 make it very clear that this would be in
13 addition to any statutory or Constitutional
14 authority granted to the State, you know, the
15 Governor, whoever, but my real point -- I kind
16 of blabbered on, didn't I?

17 My real point is that, you know, neglect of
18 duty is ambiguous, but it's in the Constitution
19 and Statute, and they're ambiguous.

20 So you've got all of the judicial overlay,
21 if there is any. You cited a case there, I
22 noticed, in your memo. I mean, why would we
23 want to elaborate on or narrow down the case or
24 the cases as they may evolve over time by
25 imposing our own standard? Do you see what I'm

1 saying?

2 CHAIRMAN VALDES-FAULI: I see what you're
3 saying, and this would be such an extreme
4 measure. You know, it would need unanimity on
5 the Commission, that I would not gild the lily.
6 In other words, I would leave it as it is.
7 Given this discussion, the Constitutional and
8 statutory provisions, I would just leave it
9 like it is, because I think it is very
10 important for the Commission to have the
11 authority to remove a Commissioner that shows
12 up at the Commission Chambers drunk every time
13 or one of those things. I would leave it as it
14 is.

15 MR. MORALES: Yeah. I raised it at the
16 last meeting. You know, I forwarded to the
17 City Attorney an Attorney General Opinion that
18 I thought was fairly on point, which actually
19 found -- I think in that case it was a County
20 removing a County Commissioner -- a County
21 Commission voting to remove a County
22 Commissioner, I think it was for absenteeism,
23 and the Attorney General opined that they were
24 preempted -- that the Constitution really only
25 allows the Governor to engage in those removal

1 activities.

2 So my sense is, this provision probably
3 would be -- reach a similar conclusion. Again,
4 that was an Attorney General Opinion, not a
5 case law, but as I thought about it more, I
6 think I concur, this is unlikely to ever occur.
7 If and when it does occurs, I'm sure the person
8 who is being removed will hire an attorney and
9 the courts can decide what this means.

10 I have my own doubts about its
11 enforceability, but, as a result, I don't want
12 to spend a lot of time trying to fix it or get
13 in that battle. At some point, if this ever
14 was invoked, I'm sure the Courts of Law would
15 deal with it, one way or another, and provide
16 whatever guidance we need.

17 I commend the City Attorney. I think he's
18 given an opinion that at least gives me some
19 comfort about the terms of, you know,
20 misconduct and negligence of duty, and that
21 opinion could provide some guidance in the
22 future, but I do believe, at this point,
23 there's a lot more important issues to deal
24 with than trying to salvage a provision that
25 some of us may have problems with or not.

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1 It's never been invoked, as far as we know.
2 It may never get invoked. So leave it, and if
3 it ever does happen, let a Court of Law address
4 those issues, with law clerks doing a ream of
5 research.

6 CHAIRMAN VALDES-FAULI: Are there any
7 objections to us going on -- leaving it as it
8 is and then going on?

9 MR. KORGE: Do what Parker says.

10 MR. THOMPSON: I object, yes.

11 CHAIRMAN VALDES-FAULI: Okay.

12 MR. THOMPSON: I think this thing -- I'll
13 blame it on the Special Act of the Legislature,
14 and, my guess, that's where they came from. I
15 find it incredible that four members of a
16 Commission, all elected, can remove one member
17 of the Commission, also elected.

18 The only provision I could find in here --
19 I may have missed one -- is one I understand.
20 It's Section 23, where it's the relationship
21 between the Manager and the Commission, that
22 deals with the overall concept of a Manager's
23 and a Commission's relationship, and it says,
24 "If any member of the Commission tries to tell
25 employees under the Manager what to do, any

1 violation of the provisions of this section by
2 a member of the Commission shall be a
3 forfeiture of the office of such member."

4 I understand that.

5 I can't believe this one, Section 11.

6 I've looked through other Charters, and
7 actually there are only three that I've seen --
8 three reasons, and all of them are objective.
9 One is this, if you usurp the role of the
10 Manager. And the second is, if you commit a
11 crime or do something -- I love these words --
12 moral turpitude. And third is, if you miss
13 more than a certain number of meetings without
14 excuse. That's objected and you have, in
15 effect, abandoned your position on the
16 Commission.

17 Short of that -- it seems to me that's
18 pretty comprehensive. I think this should be
19 removed. Beyond that, it's totally confusing.
20 It talks about a quorum of -- three is a
21 quorum, but it takes a four-fifth vote to kick
22 out a member.

23 MR. LEEN: Well, see, that's an interesting
24 point you made about forfeiture of office,
25 because I think that's in the County Charter,

1 too.

2 I don't know, how would you execute that
3 provision, unless there was an ability for the
4 Commission to remove a member by a four-fifth
5 vote, because no one's automatically going to
6 leave the Commission. And it may not be
7 something that the Governor would remove
8 someone for. For example, usurping the
9 position of the Manager, which you're right, it
10 says in our Charter that's a forfeiture of
11 office.

12 I've never heard of that actually
13 happening, where someone has forfeited an
14 office automatically, and I would think the way
15 for the Commission to enforce that would be
16 through this provision, arguably.

17 MR. KORGE: That's the real issue. If the
18 Governor is not going to act on something
19 that's happening locally, and the Commission
20 doesn't have the power to do so, then, I guess,
21 it doesn't get done.

22 And the only time I think the Governor is
23 really going to step in, practically speaking,
24 is if someone is charged with a felony, you
25 know.

1 CHAIRMAN VALDES-FAULI: Yeah.

2 MR. THOMPSON: And the Governor does that
3 automatically.

4 MR. KORGE: Right. They just do it
5 automatically.

6 CHAIRMAN VALDES-FAULI: But if somebody is
7 not charged with a felony and --

8 MR. LEEN: I mean, the alternative would
9 be, Mr. Chair, the Commission could direct the
10 City Attorney to bring some sort of injunction
11 action -- some action to have someone removed,
12 based on those sorts of provisions, like a
13 forfeiture of office provision, but, again,
14 I've never heard of that happening.

15 MR. MORALES: I think we're all struggling.
16 If I may, through the Chair, we're all
17 struggling with: Number One, taking it out
18 sends the wrong message.

19 CHAIRMAN VALDES-FAULI: Yeah.

20 MR. MORALES: You don't want to say it's
21 okay to engage in this kind of activity.

22 And I hear you, Parker, struggling, and I'm
23 struggling, the idea that four elected
24 officials could turn on a fifth, and with
25 broad, you know, language in here, say, "We're

1 removing him, because he or she has engaged in
2 neglect of duty, because they did" who knows
3 what, and while there's a process, that process
4 is entirely contained within this room.
5 There's no appeal. There's nothing.

6 So I think we're struggling with not
7 wanting to send the wrong message, but, on the
8 other hand, a provision that we suspect may
9 either not be enforceable or if it is, boy,
10 it's a powerful political tool, potentially.

11 CHAIRMAN VALDES-FAULI: It is a powerful
12 political tool.

13 MR. MORALES: But I'm not sure how to fix
14 it. That's what I'm struggling with.

15 MR. KORGE: I don't know how to fix it, but
16 I don't want to be misunderstood. I do think
17 that you're correct, there are standards in the
18 cases, and it just can't be for whatever you
19 want, you know.

20 And so what would happen is, it would be
21 litigated, you know. If four Commissioners
22 say, "You're gone, because you missed three
23 meetings," it would be litigated, you know, and
24 that's the way it is.

25 And there would be specific charges brought

1 in a motion.

2 MR. LEEN: But, understand, you know, it's
3 possible to be litigated and a Court might find
4 that it's not enforceable, but if the Court
5 finds its enforceable, my feeling is that the
6 Court would defer to the legislative body,
7 which makes its findings that, that constitutes
8 misconduct, because that's what they do in
9 cases of impeachment. That's what they do in
10 any case where its a legislative act. It's not
11 being treated as a quasi-judicial one.

12 MR. KORGE: Politically.

13 MR. LEEN: So I would think that the Court
14 would say it's a political question, if it's
15 enforceable.

16 MR. KORGE: Now, if you want to change it,
17 I would just adopt the language in the
18 Constitution and the statute. "Malfeasance,
19 misfeasance," et cetera, et cetera. Put all of
20 that in there, and then it's very clear. It's
21 the same basis on which the Governor could act.

22 Then, you know, it still doesn't answer the
23 question, but it makes it clear that the City,
24 as a whole, is following State Law.

25 Then the only issue left is whether State

1 Law preempts it, such that the Commission
2 doesn't have the authority even to do that.
3 That would be one way to bring some clarity.

4 CHAIRMAN VALDES-FAULI: That would be one
5 way to do it, and I think that's a good
6 suggestion. I think it's a very good
7 suggestion, because I do believe that an
8 article such as this is needed in there. I
9 mean, the Commission has to be able to defend
10 itself against moral turpitude or gross
11 misfeasance or something like that, and I think
12 it should be here.

13 MR. LEEN: I mean, another thing you could
14 do is, you could recommend to the Commission a
15 resolution or an ordinance interpreting this
16 provision or adopting, you know, standards for
17 its enforcement. As long as it's consistent
18 with the Charter provision, you could do that.
19 It could just be a City Attorney opinion,
20 adopted by the Commission, if you want that
21 read into this.

22 I mean, it's up to you, but I don't know
23 how you would even write that as a ballot
24 question, because you have some words in there
25 already and now we're changing the words, but

1 arguably it's the same thing, but just more
2 specific.

3 I'm not sure how you would put that in a
4 seventy-five word --

5 CHAIRMAN VALDES-FAULI: What about
6 incorporating the statutory language, as
7 Mr. Korge has said?

8 MR. LEEN: Well, you could do a motion.
9 You could recommend that.

10 MR. KORGE: Well, I mean, I'm happy to do
11 that if you all think it's a good idea.

12 MR. THOMPSON: If you all think what's a
13 good idea?

14 MR. KORGE: In other words, changing, I
15 forget what, misconduct in office, instead of
16 using that as the basis for the Commission's
17 ability to remove somebody, specifying the
18 bases set forth in the Constitution or the
19 statute for the removal of an officer by the
20 Governor, which the standards on municipal
21 officers in the statute are malfeasance,
22 misfeasance, neglect of duty, habitual
23 drunkenness, incompetence or permanent
24 inability to perform official duties.

25 The effect of that is to say that the

1 same -- that the Commission would have the
2 authority to remove a Commissioner by
3 essentially a unanimous vote, meaning
4 four-fifth, if an official is going to be
5 removed on the basis on which, by Executive
6 Order, the Governor could remove that person.

7 MR. THOMPSON: I could support a
8 substitution for this that specified objective
9 standards for removing a person. One is in
10 there, and that person cuts across the
11 Commission, Manager, former government, and
12 attempts to usurp the role of the Manager.

13 He's the Manager. You fire the Manager.
14 You don't go and work for the people who work
15 for the Manager and for the City.

16 The second is, some form of crime, maybe
17 what you suggest.

18 And, third, that the person doesn't attend
19 the meetings. I'm not in favor of the right of
20 four Commissioners to remove one, other than
21 for a violation of objective standards.

22 CHAIRMAN VALDES-FAULI: How would you feel
23 about adopting the statutory language?

24 MR. THOMPSON: Well, I guess I feel as good
25 about that as I feel about the text of this

1 document. I don't have a great love for the
2 draft of the statute.

3 CHAIRMAN VALDES-FAULI: I think we need to
4 do something there.

5 MR. THOMPSON: You know, a crime -- maybe
6 you want to make it a felony or a Third Degree
7 misdemeanor. And if it is, it is. Then it
8 leaves it up to the Legislature to define,
9 redefine. You don't adopt the language. You
10 just say, any felony or a certain degree of
11 misdemeanor.

12 CHAIRMAN VALDES-FAULI: I would go farther
13 than that. I really would. In order to take
14 care of, you know, the situations you have,
15 willful damage to City property, carelessness
16 or negligence to a degree of recurrence that
17 manifests culpability or wrongful intent,
18 intentional and substantial disregard of the
19 City's interest.

20 MR. LEEN: One example --

21 CHAIRMAN VALDES-FAULI: Neglect of official
22 duties and obligations.

23 MR. THOMPSON: Most of those are crimes of
24 some sort or another.

25 MR. LEEN: Like an example would be, and

1 I've never had this experience here with this
2 Commission, but every time we do an Executive
3 Session, like on labor negotiations, I'll read
4 something at the beginning, saying, you know,
5 this shouldn't go out of the room. This would
6 be a misuse of the information, if it was given
7 outside of the room, but what if,
8 hypothetically, you had a Commissioner that
9 habitually would just go out and tell the
10 Union, for example, everything that was stated
11 in the room.

12 They have a right to be in the room. So
13 you can't exclude them, but I can see a
14 Commission at some point wanting to say, "Look,
15 in order to protect the City," because they're
16 acting as the City's interest, "We may, you
17 know, need to remove that person."

18 The struggle I have, as the legal advisor,
19 is, this provision strengthens the Commission,
20 but it weakens the Commissioners a lot, and
21 there is a danger of abuse.

22 So, you know, that's all the advice I can
23 give on it, except that if it is ever used, I'd
24 like it to be defensible.

25 So, you know, my thought was, we could put

1 all of this into -- you could just ask my
2 office to prepare, maybe more specific than
3 this, because here we're just interpreting very
4 broad language, and the Commission could then
5 take that interpretation or whatever you
6 recommend and adopt it as an interpretive
7 resolution, because they're really just
8 limiting their own authority at that point.
9 They're not adding to their authority, in
10 violation of the Charter.

11 They're basically setting the standards for
12 how they will apply it, which I believe they
13 can do.

14 MR. THOMPSON: I could accept a knowing
15 violation of a City ordinance, and that would
16 probably take care of your labor thing. The
17 City adopts an ordinance that confirms -- I
18 don't think they need to, but that confirms
19 that the Sunshine Law doesn't apply.

20 MR. LEEN: That's a good example.

21 MR. THOMPSON: But then it would be up to
22 the Commission, as a whole, to adopt. If a
23 person that willfully violates the ordinance
24 sits on the Commission, that would probably be
25 grounds, because it's objective.

1 I didn't mean to limit it to three. I
2 mean, it's got to be an objective standard.

3 MR. MORALES: Mr. Chair, if I -- Craig,
4 what I hear you sort of saying is, you have
5 some level of discomfort that, as written, it
6 might not be in the strongest form to withstand
7 challenge.

8 I don't know, Mr. Chair, if it would be an
9 appropriate motion to ask you to come back,
10 perhaps, with a proposed revised Section 11,
11 that captures the spirit that we're talking
12 about, wanting to give the Commission the
13 ability to enforce some fair rules, but that
14 perhaps has some level of greater definition,
15 standards that would give you comfort
16 that you'd have a better day in court, as you
17 stood there in front of the Judge.

18 MR. LEEN: But do you want an actual
19 amended section or do you want a resolution
20 interpreting it? Which one do you prefer?

21 MR. MORALES: No, my thought would be,
22 let's have a Section 11 that as drafted would
23 have a much better chance of standing up in
24 court.

25 MR. LEEN: Understood. I could do that.

1 MR. MORALES: That would be my motion, to
2 direct you to come back to our next meeting.

3 MR. KORGE: I'll second that. I think
4 that's a good idea.

5 CHAIRMAN VALDES-FAULI: All right. All
6 those in favor?

7 MR. THOMPSON: Sure.

8 MR. MORALES: Aye.

9 CHAIRMAN VALDES-FAULI: Aye.

10 MR. KORGE: Aye.

11 MR. BONN: Aye.

12 CHAIRMAN VALDES-FAULI: Great. Next is
13 mayoral term, two or four years.

14 MR. MORALES: I thought we decided that we
15 were sticking with two.

16 CHAIRMAN VALDES-FAULI: Yeah, but we
17 decided, because of an election eleven years
18 ago, which adopted term limits --

19 MR. DEWITT: What did we just vote on?

20 CHAIRMAN VALDES-FAULI: -- which adopted
21 term limits by a sixty-some to thirty-some
22 vote, adopted the two-year versus four-year by
23 50.01 to 49.09. Does that make a difference?

24 MR. LEEN: Mr. Chair, we did look at the
25 history. You're correct. And the Mayor

1 actually wanted me to say that today, as well,
2 that it was a very close vote the second time.

3 Mayor Slesnick served from 2001 to 2003,
4 2003 to 2005, 2005 to 2007, three two-year
5 terms. He served one four-year term. So
6 that's been one four-year term served, 2007 to
7 2011. The two elections were in 2005 and 2009.

8 So you had wanted the history, and we did
9 confirm that.

10 CHAIRMAN VALDES-FAULI: Well, he served one
11 four-year term and then it was voted down by
12 0.01 or 0.0 some percent.

13 Is there any thinking on the part of this
14 Commission to review the two versus four-year
15 term?

16 MR. DEWITT: I thought we dealt with this
17 last time.

18 MR. THOMPSON: I guess I am where I was the
19 last meeting, which is that I would think that
20 if a Commissioner serves four years, the Mayor
21 should serve four years, but we did go to the
22 people and a vote is a vote.

23 What if it was a narrow vote? Well, it was
24 a vote. Votes are votes, and the people have
25 spoken, and my view is, we should just leave it

1 alone, for that reason, not because I agree
2 with it.

3 MR. MORALES: It was only six years ago,
4 right, 2009?

5 MR. LEEN: 2009.

6 MR. MORALES: Yeah. I mean, I would hate
7 to keep going back every five or six years. I
8 know it was close, but you've got to respect
9 it, no matter how close.

10 CHAIRMAN VALDES-FAULI: Tom.

11 MR. KORGE: I'm good with that. I know
12 that Mayor Cason thinks that changing it, even
13 though he's not running, he says, for
14 reelection, but he thinks running every two
15 years is just too burdensome for what is
16 essentially a volunteer job to begin with.

17 You were Mayor. Were they all four-year
18 terms or were they --

19 CHAIRMAN VALDES-FAULI: No. No. No. They
20 were all two-year terms. There was only one
21 time in the City's history where there was a
22 four-year term, and that was Don Slesnick, '07
23 to '11.

24 MR. KORGE: I don't see any point in
25 changing it, then.

1 CHAIRMAN VALDES-FAULI: And I ran four
2 times for two years, and I think it works
3 perfectly well. Yes, it is burdensome, but
4 then you take the burden on yourself, and if
5 you want to do it or if it's too much of a
6 burden, then don't do it.

7 I think there was a vote.

8 MR. KORGE: There was.

9 CHAIRMAN VALDES-FAULI: And, you know, the
10 majority voted for a two-year term, and there
11 is a Mayor, in two-year terms, that the
12 Commission can be swept, and I would speak for
13 a two-year term, especially since the people
14 voted on it.

15 All right?

16 MR. MORALES: All right.

17 CHAIRMAN VALDES-FAULI: Next. New
18 Business. Proposal to draft New Charter,
19 sponsored by Mr. Thompson.

20 I think that we all agreed to that, right?

21 MR. THOMPSON: Well, I will say, I've read
22 now a bunch of charters and I hate to say it,
23 but the City of Miami and City of Coral Gables
24 Charter's by far the worst.

25 Any charter that starts off, Section 1,

1 "That the present municipal government existing
2 under the name of the City of Coral Gables, in
3 Dade County, Florida, be and the same is hereby
4 abolished," is not exactly what I would like to
5 show a resident of Coral Gables.

6 But just to experiment whether I was crazy,
7 since our last meeting, I have run this by five
8 or six people, and I will tell you that there
9 was a hundred percent accurate -- I mean, they
10 all had the same reaction, total laughter.

11 I don't think that's the way we ought to
12 start.

13 CHAIRMAN VALDES-FAULI: Right.

14 MR. THOMPSON: And I did a count. That
15 Charter shows 41 sections repealed. In most
16 cases, it doesn't say what they even covered
17 before they were repealed, but they're
18 repealed, whatever they were.

19 And, then, another 16 are called reserved.
20 I don't know what reserved means, but it
21 appears to mean repealed. 57 provisions of
22 this Charter are reserved or repealed.

23 Now, I'm laughing, because I think it's
24 ridiculous.

25 MR. LEEN: Mr. Thompson, if I could add to

1 that. The Charter goes from Section 111 to
2 Section 201. It does, because we have this
3 related laws portion, but there used to be over
4 200 provisions in our Charter, most of which
5 have disappeared.

6 MR. THOMPSON: I think a Charter should say
7 what it is, not what it isn't.

8 And several cities have gone through
9 problems like this, St. Augustine, Boca, wrote
10 a beginning explanation of the Special Acts and
11 how it came about, that was actually
12 informative.

13 And my recommendation is that the
14 Commission ask the City Attorney to draft a new
15 ordinance -- I mean, a new Charter, that is
16 readable.

17 The best Charter ever written is the United
18 States Constitution. It's short, and people
19 understand it, and that's what I think our
20 residents are entitled to do, is understand it.

21 If my decision to vote or not vote was
22 based on reading the Charter, I don't mean
23 here, but just vote, I would never vote.

24 CHAIRMAN VALDES-FAULI: Yeah. All right.
25 Mr. City Attorney, you got --

1 MR. KORGE: Well, before you jump to that,
2 I just have one observation. I agree with you
3 completely. It would be nice if it were
4 written clean, concise, understandable.

5 The real issue is, then, we have to present
6 an amended and restated Charter, in its
7 entirety, for a vote. I'm guessing. Is that
8 correct to state?

9 MR. LEEN: No. This would just be
10 editorial. So we would keep the same
11 provisions, but some of them, like the ones
12 that you're talking about, would be moved to an
13 appendix. We would take the central provisions
14 and put them at the beginning.

15 MR. KORGE: Well, for example, Section 1,
16 he's saying -- I think what you're saying is,
17 instead of abolishing the City, you're stating
18 that the City Charter originally was adopted by
19 Special Act of the Legislature, and that
20 Charter has been repealed, in favor of the Home
21 Rule Charter that we have now, right?

22 MR. THOMPSON: I'm not sure of this, but my
23 guess is, the City went bankrupt in 1937,
24 and --

25 MR. KORGE: You think that's it?

1 MR. THOMPSON: -- and that as an
2 acknowledgement of that, the Legislature was
3 asked to do a Special Act and abolish the
4 former City, created a new. That's a guess.

5 MR. KORGE: Well, just getting back to the
6 more general point, I'm good with it. I just
7 wonder whether we have to present a rewritten
8 Charter, in its entirety, to the electorate.
9 And if we do, then it will be a little bit of a
10 task explaining to them what's really changed.

11 MR. LEEN: No, in my opinion, we would only
12 need to do that if there's substantive changes
13 to the Charter. If we're simply re-numbering,
14 if we're putting in an editorial comment at the
15 beginning, like a forward, explaining what this
16 is, and we're clear where the Charter
17 provisions begin, and we -- like I said, we
18 could re-structure this and still have the same
19 provisions, and some of them will be -- like
20 right now they have these related law
21 provisions.

22 We could have an appendix with other
23 provisions. A number of the provisions were
24 removed, because they were viewed to be void
25 under the Municipal Home Rule Powers Act, and

1 that was, you know, a decision of the City
2 Attorney, and sometimes the Commission, through
3 an ordinance.

4 At least, looking at the history, that's my
5 understanding of it.

6 So I do think we have a fair amount of
7 flexibility. Now, if we were to change the
8 mayoral term or the duties of the Mayor or
9 something like that, then, yes, it would have
10 to go for referendum, but I think the public
11 will appreciate a pamphlet.

12 MR. THOMPSON: I would add to the motion --
13 the motion would be, a New Charter, that had
14 the same overall substantive meaning as that
15 which has been approved by the Committee here
16 today.

17 MR. KORGE: You mean, existing plus the
18 changes we're recommending?

19 MR. THOMPSON: Yes. Right. And it would
20 confirm that -- I mean, it would have to still
21 be a Manager, Commission government, that -- et
22 cetera.

23 MR. MORALES: But I don't know if that's
24 where you were going, Tom, or Craig is. Are we
25 going to put that Charter, then, as a package

1 on the ballot or will you do these, the nice,
2 neat new, you know, 2.0, once the voters have
3 adopted any changes they might have adopted?

4 MR. LEEN: Well, based on what the
5 Commission said today at the meeting, and
6 what's being said here, if you want me to do
7 this, I was going to start working on it right
8 away. I've asked the Former Deputy City
9 Attorney, at a very reasonable rate, to go
10 through and take out all of the provisions that
11 say, "Repealed," don't start with Section 1,
12 Abolition of Existing Government, put that in
13 the appendix.

14 Probably start with something like, General
15 Powers, or with the structure of the
16 government, City Commission and City Manager.
17 And at the very least, to do that now. It
18 shouldn't take that long. It's not that long a
19 document.

20 And put it into some sort of document that
21 you could look at in the next couple of
22 meetings to see what you think about it, and
23 then we could put that into a pamphlet. I feel
24 comfortable doing that. It's not going to
25 change the substance of the Charter.

1 CHAIRMAN VALDES-FAULI: Okay.

2 MR. DEWITT: I think that's a great idea.
3 This is Richard Dewitt. I agree with that.

4 CHAIRMAN VALDES-FAULI: All right. The
5 next section to be discussed is Passage of
6 Ordinances and Resolutions, and I don't think
7 there's anything controversial in that. Two
8 votes --

9 MR. MORALES: I just have a legal question,
10 Craig.

11 MR. LEEN: Sure.

12 MR. MORALES: There's a section here that
13 says, "No ordinance shall be passed until it
14 has been read on two separate days or the
15 requirement of reading it on two separate days
16 has been dispensed with by a four-fifth vote of
17 the members of the Commission."

18 Now, under State Law, at least, a Zoning
19 Ordinance don't they have to have two readings?
20 Can the Commission dispense of that?

21 MR. LEEN: Yes.

22 MR. MORALES: Aren't there certain
23 requirements --

24 CHAIRMAN VALDES-FAULI: There are certain
25 emergency ordinances that, you know, dispense

1 with that.

2 MR. MORALES: No, this says for all
3 ordinances.

4 MR. LEEN: It does say, "All ordinances."
5 I've never had that question. We've always
6 applied State Law as to Zoning ordinances, and
7 we've never had an emergency one, where we
8 tried to use our Home Rule Charter power to
9 enforce.

10 I would be extremely reluctant to do that,
11 and I would probably say, no, because, as
12 Mr. Morales mentioned, in the State Law, it
13 does have very specific provisions about
14 changes in uses or certain Zoning provisions
15 where that needs to happen.

16 Now, it's actually not exactly reflective
17 of State Law, either. I think State Law says
18 it's a two-third or three-fourth vote, but, to
19 me, it ends up meaning four out of five
20 Commissioners, no matter what, to do an
21 emergency ordinance.

22 So, you know, that provision, I think, is
23 fine. And what an emergency ordinance is, is
24 that we don't go through the two reading
25 process and there's not an advertisement put in

1 the paper. We're waiving those requirements.

2 CHAIRMAN VALDES-FAULI: In my experience,
3 they're used for true emergencies.

4 MR. MORALES: No, I understand all of that.
5 My only concern is, that sentence, as written,
6 is not in conformance with State Law, because
7 you would not have an effective new Zoning
8 ordinance, for example, if you waived a second
9 reading.

10 MR. LEEN: That's true.

11 Well, what's interesting is that there is a
12 provision in the Home Rule Powers Act, which
13 says that this is not the exclusive way to
14 adopt ordinances. And my understanding of
15 State Law is, you can rely on these older
16 Charter provisions. However, when you're
17 talking about land use and zoning, there's
18 property rights, and I never want it to be said
19 we denied due process, and the State Law
20 provides process; whereas this provision is
21 very general.

22 So the position I've taken with the City is
23 always that we go -- we don't do emergency
24 ordinances. If you want to clarify that, and
25 amend this provision, we can. It's up to you.

1 And then that can never be done, no matter who
2 the City Attorney is.

3 CHAIRMAN VALDES-FAULI: I would leave it as
4 it is.

5 MR. MORALES: That's fine. As long as
6 you're comfortable with that, as long as the
7 City is following the statutory process and
8 you're viewing that as trumping this.

9 MR. LEEN: You could ask for an opinion to
10 that effect. You might do that.

11 MR. MORALES: Yeah. It would be helpful to
12 have that even just for the City, that, in
13 fact, you're complying with State Law, and
14 that, that sort of trumps this provision, in
15 terms of the legality of whether it's budget
16 ordinances or land use ordinances, because I
17 know there's a whole panoply of different items
18 that are addressed by statute now.

19 MR. LEEN: Yes.

20 MR. MORALES: Okay.

21 MR. LEEN: The benefit of a provision like
22 this is, if there ever was a true emergency,
23 and we had to adopt something that wasn't
24 strictly compliant with State Law, we would
25 have an argument, based on the Charter power,

1 that we could do it. Whereas, if we didn't
2 have this provision, we couldn't do it. There
3 would be no colorable legal argument.

4 But my opinion is, we should follow State
5 Law, except for where there's no provision
6 requiring notice and two readings. And then we
7 can use the emergency ordinance provision.

8 And State Law does recognize the ability to
9 do emergency ordinances, as well.

10 MR. MORALES: Sure.

11 CHAIRMAN VALDES-FAULI: The next section
12 is, Section 15, Duties of Mayor.

13 There are two issues here. One, and, I
14 think, the simplest one, the Commission has
15 always recognized the Mayor appointing the Vice
16 Mayor, although it's not here, and I would
17 suggest that --

18 MR. LEEN: Mr. Chair, I don't mean to
19 interrupt, but there was one other provision I
20 wanted to raise, with Passage of Ordinances and
21 Resolutions.

22 CHAIRMAN VALDES-FAULI: What?

23 MR. LEEN: One other issue that has come
24 up, sir, is that it says that it has to be a
25 majority of the whole to pass any final

1 resolution or ordinance, whereas our Code says
2 that action can be taken by the Commission by a
3 majority of a quorum.

4 So I have always taken the position that
5 the Charter provision, which says, I think, a
6 majority of the members of the Commission,
7 takes precedence, but that issue is out there,
8 because our Code says something different.

9 And so what I've always said is, for
10 parliamentary motions, it could be two. It
11 really comes up if there's three Commissioners
12 present, and there's a two-one vote. What
13 happens?

14 If it's parliamentary, I've always said
15 that it passes. If it's a final decision, I
16 say it fails, because they don't have a
17 majority of the whole, but I was curious for
18 your guidance on that. And, then, also,
19 whether you think that should be changed or
20 whether it's better to be a majority of the
21 whole.

22 MR. KORGE: Can it be changed by ordinance?

23 MR. LEEN: No. That probably would require
24 a Charter amendment.

25 MR. MORALES: My experience has been that

1 in most places it's the majority of those
2 present, except there are certain instances
3 where you'll require a vote of all of the
4 membership for certain items.

5 But, generally speaking, it's a majority of
6 those present, because then you allow
7 conceivably two members, by not showing up, to
8 block a potential to get to three.

9 I haven't seen that, as a general rule.
10 I've seen it for certain instances, you create
11 super majorities, but not necessarily as a
12 whole.

13 MR. LEEN: The other issue that comes up
14 is, every matter that's voted on here, that
15 isn't purely parliamentary or a direction, we
16 reduce to a written resolution, even if it
17 would be a motion at the County. We treat it
18 as a written resolution, and we draft one,
19 because it says that the Commission can only
20 act by ordinance or a written resolution, and
21 then it requires the three votes.

22 It is sort of a unique issue for Coral
23 Gables. So I've always wanted to have a body
24 to raise that with, and I was curious what you
25 think, because it's come up two or three times

1 since I've been here.

2 CHAIRMAN VALDES-FAULI: It has?

3 MR. LEEN: Yes.

4 MR. MORALES: I don't know if you looked at
5 the history. Was that provision in the Special
6 Act or was it later? You know, as a policy
7 matter, the people of the City might have said,
8 "We always want at least three Commissioners
9 voting for something."

10 I can see the policy behind that.

11 MR. LEEN: It says it was done in Ordinance
12 Number 2133, but my understanding -- that's one
13 of the things we're going to be doing when we
14 re-write the Charter, is, some of these
15 provisions don't even provide a history. My
16 understanding, the Commission passed an
17 ordinance, at one time, which said that this
18 Charter originated in two Special Acts.

19 So, I mean, I have an old Charter, which
20 has these provisions in it, including that one,
21 and all of those, I believe, come from Special
22 Acts.

23 But that's what I'll be doing when I
24 re-write the Charter based on your direction.
25 We'll have to research those things.

1 MR. THOMPSON: Mr. Chair, I doubt that the
2 average citizen knows the difference between an
3 ordinance and a resolution, and I noted that
4 some of these charters do specify what kinds of
5 matters are considered by ordinance and what
6 matters should be considered by resolution.

7 This is a general authority to do either,
8 without any clear telling people which is
9 which.

10 CHAIRMAN VALDES-FAULI: Craig?

11 MR. LEEN: State Law defines the difference
12 between an ordinance and a resolution.

13 Ordinances are things that are supposed to be
14 broad policy statements or changes to the Code
15 or things that people can be punished for.

16 Obviously, the pension ordinance, Zoning
17 ordinances.

18 Resolutions are administrative in nature.
19 They tend to be approvals of things, like
20 contracts, appointments, et cetera.

21 MR. THOMPSON: I'm just suggesting that
22 maybe in the re-write you might put in a
23 sentence or two that says those things.

24 MR. LEEN: Well, one thing I could do is,
25 for example, put a footnote -- I can make it

1 clear it's not part of the Charter, but that
2 State Law has defined a resolution as follows
3 and an ordinance as follows.

4 MR. THOMPSON: Sometimes it's better to put
5 it in English.

6 CHAIRMAN VALDES-FAULI: Do we leave the
7 majority vote --

8 MR. LEEN: I could do that, too.

9 CHAIRMAN VALDES-FAULI: -- of all of the
10 members for final passage or do we change it to
11 those present?

12 MR. LEEN: It's up to you.

13 MR. DEWITT: This is Richard Dewitt. I
14 think we should have a majority of the whole.

15 CHAIRMAN VALDES-FAULI: What?

16 MR. LEEN: He said, "A majority of the
17 whole," Richard Dewitt.

18 MR. BONN: Bill Bonn. I agree with Richard
19 Dewitt.

20 MR. KORGE: Leave it the way it is.

21 CHAIRMAN VALDES-FAULI: Fine. Leave it the
22 way it is.

23 MR. MORALES: Yeah. As I think about it,
24 even though in other places you often have
25 larger bodies, seven, ten, thirteen, and I can

1 see the people of Coral Gables saying, you
2 know, "If there's a going to be an ordinance
3 adopted, there should be at least three
4 affirmative votes."

5 MR. KORGE: There's only five
6 Commissioners. How hard can it be to get three
7 votes?

8 MR. MORALES: Right. Right.

9 MR. LEEN: Thank you.

10 CHAIRMAN VALDES-FAULI: Duties of Mayor.
11 As I was saying, two issues. The first is the
12 appointment of the Vice Mayor, and I would put
13 in here that the Mayor appoints the Vice Mayor,
14 which has been the practice forever.

15 MR. THOMPSON: I agree with that.

16 MR. MORALES: Is there any reference to a
17 Vice Mayor in the Charter, even?

18 MR. LEEN: No. It's in the Code. There's
19 a couple of references. And there's a
20 resolution.

21 MR. MORALES: I would support that.

22 CHAIRMAN VALDES-FAULI: Okay. So put it in
23 there.

24 And the second one is, "In time of public
25 danger or emergency, he may, with the consent

1 of the Commissioners, take command of the
2 police and maintain order and enforce the
3 laws."

4 I am for that being there. The Mayor is
5 elected by the people, and on emergencies, he
6 should, you know, have the authority to --

7 MR. DEWITT: Mr. Chair, can you repeat
8 that? I couldn't understand it.

9 CHAIRMAN VALDES-FAULI: What?

10 MR. DEWITT: Could you repeat what you just
11 said?

12 CHAIRMAN VALDES-FAULI: Yes. "At a time of
13 public danger or emergency, he may, with the
14 consent of the Commissioners, take command of
15 the police and maintain order and enforce the
16 law."

17 As long as we leave there that it is with
18 the consent of the Commissioners, I am very
19 much for this provision. The Mayor was elected
20 as Mayor by the people, and in terms of
21 emergencies, he should have the ability, with
22 the consent of the Commission, to take command
23 of the police and maintain order.

24 MR. KORGE: You know, I talked to the City
25 Manager about that very issue, and she agrees

1 that if the Commission appoints the Mayor --
2 you know, gives that emergency power to the
3 Mayor, that's good. Otherwise, it's not good.

4 CHAIRMAN VALDES-FAULI: Okay.

5 MR. KORGE: So it's good.

6 CHAIRMAN VALDES-FAULI: All right.

7 MR. KORGE: The Manager doesn't have a
8 problem with that.

9 CHAIRMAN VALDES-FAULI: Okay. The next
10 is --

11 MR. MORALES: Two things. One, on the Vice
12 Mayor thing, we should probably also then add a
13 sentence, you know, that the role of the Vice
14 Mayor is to -- you know, whatever -- because
15 it's completely silent in here about the role
16 of the Vice Mayor.

17 CHAIRMAN VALDES-FAULI: What I would
18 suggest is, during his absence or disability,
19 his the duties shall be performed by the Vice
20 Mayor, who shall be appointed by the Mayor.

21 MR. MORALES: Yeah, that's good.

22 MR. LEEN: One other issue I just want to
23 raise. One other thing that this does, the
24 Duties of Mayor -- it's an interesting
25 provision, because it does say that the

1 Mayor -- when it talks about the Mayor's
2 duties, it says that he can do other duties
3 consistent with his office and this Charter, as
4 may be imposed by Commission.

5 So, historically, that has meant that the
6 Mayor has signed some things, as opposed to the
7 City Manager. Usually it's like bond documents
8 or things like that.

9 The other way that this has been used,
10 though, is that the Mayor has generally been
11 the person who has negotiated with the
12 appointed officials on behalf of the
13 Commission.

14 CHAIRMAN VALDES-FAULI: That makes sense.

15 MR. LEEN: And there may be some other
16 things, but that is a potentially broad grant
17 of authority to the Mayor.

18 CHAIRMAN VALDES-FAULI: With the consent of
19 the Commission.

20 MR. LEEN: With the consent of the
21 Commission.

22 CHAIRMAN VALDES-FAULI: All right. The
23 next is compensation. I would leave this as it
24 is. Compensation of Mayor and Commissioners,
25 by ordinance, which requires a four-fifth vote.

1 MR. KORGE: Right. I have one issue, and
2 it's a real simple issue. Apparently,
3 recently, the prior Manager, had simply kept it
4 out of the budget, effectively denied the CPI
5 adjustment that was automatic. I have a
6 problem with that. I have a problem with a
7 mandatory adjustment being ignored by a
8 Manager.

9 CHAIRMAN VALDES-FAULI: I would have a
10 problem with a Manager ignoring anything that
11 is mandatory.

12 MR. KORGE: Yeah. So I don't know how you
13 would address that.

14 MR. LEEN: I've raised that issue in the
15 past. My view is that -- well, what happened
16 was, one year there was an ordinance, that the
17 Former City Manager, Pat Salerno, had -- I'm
18 not sure if it was from him or how it got to
19 the Commission, but there was an actual
20 ordinance passed waiving the raise.

21 And as I can recall, and I want to
22 double-check this, I can refer back to it at
23 the next meeting, but, as I recall, I believe
24 it applied to the elected and appointed
25 officials, because all of the elected and

1 appointed officials have the CPI.

2 Then, for whatever reason, several years
3 passed where there was no ordinance waiving it,
4 and it wasn't granted. And then I basically
5 told the Finance Department at one point, "You
6 need to start giving this," and they did last
7 year.

8 This year, there was not a CPI. It was
9 negative. So there was none this year.

10 I've raised the issue of having them go
11 back and fix what they didn't provide. The
12 issue is -- and I need to say -- I need to be
13 totally open about this, it applies to me, too,
14 because my raise was waived, as well.

15 So I have an interest in this, so I want to
16 be -- I'll actually turn it over to Miriam, if
17 she wants to talk about it, but just in the
18 full spirit of disclosure, the reason it came
19 up was, it says that it has to be ratified in
20 the budget.

21 So it hasn't been ratified in the budget,
22 because it hasn't been put into the budget for
23 several years in a row. But, you know, my
24 concern was -- and under State Law, I am
25 allowed to speak, even if it affects me. I

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1 want to be clear. There's a statute that says
2 that.

3 My concern was that it affects the
4 Commission, and the Commissioners have much
5 lower salaries than the appointed officials,
6 and it seems to me they should be getting their
7 CPI increase, because the whole purpose of an
8 ordinance like that is so that it doesn't have
9 to be a political issue?

10 And with that, I'll turn that over to
11 Miriam. Do you have any thoughts on that,
12 Miriam, because it does affect me?

13 Are you aware of the issue.

14 MS. RAMOS: Yes, but I haven't done the
15 research.

16 MR. LEEN: So I've raised it, but -- I
17 basically raised it with the administration,
18 and said, "I'm not going to have anything more
19 to do with it, because it affects me."

20 MR. KORGE: So what you said indicates to
21 me that it doesn't expose the City to a claim
22 for back increases?

23 MR. LEEN: Exactly.

24 CHAIRMAN VALDES-FAULI: It doesn't?

25 MR. LEEN: I don't believe it does, but I

1 do think that -- part of me is concerned. Even
2 if, for example, they didn't give it to the
3 appointed officials, I would be fine with that,
4 but I do think that they should give it to the
5 elected officials. I think, even
6 retroactively.

7 It should be put into the budget, because
8 they never waived it for themselves, and
9 there's an ordinance that says it's supposed to
10 be put into the budget, and that concerns me.

11 CHAIRMAN VALDES-FAULI: We should follow
12 that ordinance and certainly it is
13 objectionable for the Former City Manager to
14 have done something counter to an ordinance.

15 Okay. The next is, and let's take this one
16 as the last, Section 17, Appointment of City
17 Officers, Regular Proceedings. "The Commission
18 shall keep a record of proceedings," et cetera.
19 "The Commission shall appoint a City Manager, a
20 City Clerk and City Attorney," and I was asked
21 by a City Commissioner to consider the
22 possibility of having the Chief of Police as an
23 appointed official.

24 The purpose of this City is, the public
25 safety of the residents, and the Chief of

1 Police is very, very much a function of this.
2 I mean, he or she is the one who provides for
3 this.

4 And what is your feeling in having the
5 Chief of Police be an appointed official?

6 Tom, I see --

7 MR. KORGE: I don't know. It starts
8 getting political. I don't like police that
9 are involved in politics.

10 MR. DEWITT: Yeah, this is Richard. I
11 would object to that. I think that's a
12 mistake.

13 CHAIRMAN VALDES-FAULI: What?

14 MR. DEWITT: I think it's a mistake. Very
15 serious mistake.

16 MR. BONN: This is Bill Bonn. I would be
17 in favor of us at least having a more detailed
18 discussion on this topic, because I think it's
19 very, very important, obviously not only
20 because of recent history in the City, but
21 I've also have had experience in another
22 community where I lived where the City
23 Manager -- the Chief of Police reported to the
24 City Manager, and the City Manager was a former
25 Chief of Police, and there were some very

1 serious issues, and they're both now gone,
2 after some heartrending stories and some money,
3 but I really think it's something that we
4 should think about, because I agree, there's
5 always concerns it's going to become political,
6 but, on the other hand, it's the City
7 Commissioners that will be getting the phone
8 calls from -- and the Mayor, from the public,
9 on certain issues about public safety and
10 whatnot.

11 And if there's no -- I do worry about the
12 indirect line of authority. I'll just throw
13 that out there.

14 CHAIRMAN VALDES-FAULI: Bill? Why don't we
15 bring this up as the first item for the next
16 meeting?

17 MR. DEWITT: Yeah, let's bring this up next
18 time. I would like to participate in that
19 discussion more closely.

20 MR. BONN: Yeah, it's really important.

21 MR. MORALES: One question about the
22 proposal. The proposal would be that the
23 Commission appoints the Chief. Who does the
24 Chief report to?

25 MR. KORGE: The Commission.

1 MR. DEWITT: That's the big issue right
2 there.

3 MR. KORGE: That's a mistake.

4 MR. MORALES: Yes, let's have that
5 discussion --

6 MR. THOMPSON: I don't think there's any
7 doubt, if the Commission appoints him, he
8 reports to the Commission. The City Attorney
9 is appointed by the Commission. He reports to
10 the Commission. He doesn't report to the
11 Manager.

12 CHAIRMAN VALDES-FAULI: Okay. I was asked
13 to bring this up for discussion, and I've
14 brought it up, and let's discuss it at the next
15 meeting of this Board.

16 MR. THOMPSON: Mr. Chair, thank you for
17 making it the last, but I request, before the
18 next meeting, 17 1/2 uniquely, in number, is
19 the Pension Plan.

20 I am very concerned -- well, first place, I
21 don't like the fact that it says a referendum
22 is required, and the Charter doesn't tell you
23 whether a referendum was held or not.

24 So, on its face, I don't know if the
25 Pension Plan provision is even in effect.

1 Assuming it is, I would think it would be
2 very helpful to find out if the Retirement
3 Board, which, has, I believe, a separate
4 attorney --

5 MR. LEEN: Yes, the Retirement Board has
6 a --

7 MR. THOMPSON: -- has any suggestion,
8 because as I read this, it permits only
9 procedural amendments, and since the Pension
10 Plan is one of the huge financial issues here,
11 I would like to know what those that know
12 something about this feel is necessary for
13 appropriately dealing with a horrible economic
14 issue.

15 MR. LEEN: One second. Section 20?

16 MR. THOMPSON: 17 1/2.

17 CHAIRMAN VALDES-FAULI: 17 1/2.

18 MR. LEEN: Oh, sorry. It used to be
19 Section 20. It had a better number. But it
20 was moved to 17 1/2.

21 I'm just reading -- by the way, I wanted to
22 report back to you --

23 MR. THOMPSON: Craig, you ought to say this
24 is only half a provision.

25 MR. LEEN: Yes, I know.

1 I want to report back to you that the
2 section related to ordinances and the section
3 related to the Commissioner removal were both
4 adopted in 1929 by Special Act.

5 I found a very old copy of the Charter,
6 which says that in the notes.

7 One moment.

8 MR. DEWITT: Craig, how were the people
9 removed in 1929 under that Act?

10 MR. LEEN: Okay. I'm reading what you're
11 saying. I'll take a look at that and I'll
12 reach out to the Pension Board counsel, but let
13 me just get your instructions then, before the
14 meeting ends, for next time.

15 So as to the proposed draft new Charter,
16 you're recommending that we go forward and do
17 that, and I'll put together a resolution for
18 the Chair. The Chair will be signing the
19 resolutions for the Board. So I'll prepare a
20 resolution. So that's one.

21 The second one is Section 13, Passage of
22 Ordinances and Resolutions, you're recommending
23 no action.

24 Section 15, Duties of Mayor, you're
25 recommending that the Vice Mayor provision be

1 added, unanimously, including that the Vice
2 Mayor would fill the role of the Mayor, that,
3 that would be the duties of the Vice Mayor.

4 For Compensation of Mayor and
5 Commissioners, you're not going to take any
6 action, but you think going forward the
7 ordinance should be, obviously, enforced and
8 followed.

9 Is there anything you're directing as to
10 past that you want me to convey to the
11 Commission?

12 CHAIRMAN VALDES-FAULI: I think that it
13 should be -- if we have violated an ordinance
14 by not giving it, I think we should give it.

15 MR. LEEN: Well, remember, it's a
16 complicated ordinance. It wasn't put in by the
17 administration. So it wasn't ratified by the
18 Commission.

19 So what they would have to do is put it in
20 and then it would have to be ratified and
21 that's ultimately up to the discretion of the
22 Commission.

23 MR. MORALES: I'm not sure that's within
24 the purview of us as a Charter Committee then.

25 MR. LEEN: It may not be done. So what I

1 will do -- but it's been brought up on the
2 record, so what I will do is, I will inform the
3 Finance Department of the issue. They can
4 address that with the Commission. And I'll
5 have my Deputy City Attorney do that.

6 Then the last thing is, Appointment of City
7 Officers by City Commission. You're
8 considering the addition of the Chief of Police
9 as an appointed Charter officer.

10 Do you want my office to do any work on
11 that or do just you want to consider it? Do
12 you want me to research anything involving it?

13 CHAIRMAN VALDES-FAULI: Yeah, we want to
14 consider it.

15 MR. MORALES: Could you identify where,
16 what cities, maybe, just in South Florida --
17 you know, similar size, how many have police,
18 the Chief, reporting to Managers, and others to
19 the Commission and/or Mayor, depending on the
20 situation?

21 MR. LEEN: Okay. And then as to the Old
22 Business, you took a five-one vote regarding a
23 runoff. You believe there should be a runoff.
24 And you want the date to be moved, basically,
25 for the Commissioners to assume office, to a

1 week and a half after the election, with the
2 runoff a Tuesday and a Tuesday --

3 CHAIRMAN VALDES-FAULI: Right.

4 MR. LEEN: And then you also want there to
5 be early voting considered, including Saturday,
6 Sunday and Monday before the election.

7 I believe those were the only actions you
8 took. Were there any others?

9 Oh, moving to City Code, the issue whether
10 the election date should be in November or not,
11 and, then, also, the early voting issue.

12 MR. KORGE: I have other issues for
13 consideration later.

14 CHAIRMAN VALDES-FAULI: And, also, the
15 Mayor two-year term ratified.

16 MR. LEEN: I'm sorry, I may have missed
17 that.

18 CHAIRMAN VALDES-FAULI: Yeah, no change.

19 MR. LEEN: No change to that, but what I'm
20 going to do is put together resolutions
21 reflecting the changes that you've recommended,
22 for the next time, and then I'm going to start
23 working on the Charter, with Special Counsel
24 and with my staff, and I will inform all of the
25 different parties you asked me to.

1 MR. KORGE: Yeah, I have other agenda items
2 for the future, whenever we get to them.

3 Board of Architects, consider having the
4 Commission appoint the Board of Architects,
5 instead of the Manager. Revisit the Trial
6 Board. I have some ideas for that.

7 CHAIRMAN VALDES-FAULI: Residency
8 requirements for Boards.

9 MR. KORGE: For the Travel Board, you mean?

10 CHAIRMAN VALDES-FAULI: No, for Boards.

11 MR. KORGE: I didn't raise that, but if you
12 want --

13 CHAIRMAN VALDES-FAULI: I will raise it.

14 MR. KORGE: Okay. Upping the procurement
15 amount for Public Works bids from 25,000 to
16 50,000. We really need to discuss the
17 appointment of an external auditor. I don't
18 know what the practice is now. I talked about
19 that with Craig before, and I don't know where
20 we are on that, but I think we really need to
21 talk about --

22 CHAIRMAN VALDES-FAULI: In my time, we had
23 an external auditor, and we changed it every
24 three years, I think it was. We changed firms.

25 MR. KORGE: But I'd like to discuss that,

1 because I don't think we have one now, do we?

2 MR. LEEN: We do have an audit firm that
3 reports to the Finance Department. I mean,
4 technically, they're the auditors for the City.

5 So the Commission could direct that they
6 come and speak.

7 MR. KORGE: Well, I wasn't clear. Instead
8 of reporting to the Finance, should report to
9 Commission. That's the issue to discuss.

10 MR. LEEN: I understand. There was an old
11 provision in Section 8 of the Charter that
12 actually provided for the Commission to have an
13 auditor.

14 One thing I was going to bring up at a
15 future meeting is, Section 8 of the Old Charter
16 included many provisions, which, you know,
17 disappeared from the Charter. Some of them
18 gave affirmative power to the Commission and
19 really should probably have become ordinances.

20 So now that I'm doing a Charter Re-write, I
21 was going to look at that and see if any of
22 those provisions maybe should be put back in,
23 and, of course, I'd raise it with you.

24 MR. KORGE: And then one other issue. In
25 terms of the hiring of staff people, I think

1 that the City Attorney and the City Clerk
2 should be solely responsible for hiring their
3 own staff, subject to whatever budget is set
4 for that, and the same for the Commission.

5 I know the Commission has a very small
6 staff. That shouldn't be the Manager picking
7 them. Again, subject to budget, which is
8 adopted by the Commission.

9 So I'd like to see that set forth. I don't
10 know if in the Charter or by an ordinance, you
11 know, if it's not a Charter provision.

12 MR. LEEN: It could be. I've given an
13 opinion that the section related to the City
14 Manager basically says that the Manager has
15 authority for those placed in their charge, and
16 it was very similar to the County ordinance,
17 the County Charter.

18 So my opinion has always been that the
19 Manager has the full authority over those, but
20 that the City Attorney has full authority over
21 the City Attorney's Office, the City Clerk over
22 the City Clerk's Office, and I've given an
23 opinion that the Commission can also have their
24 own staff, as long as they're not acting in an
25 administrative role, like the Manager.

1 It's all about functions.

2 CHAIRMAN VALDES-FAULI: When I became Mayor
3 in '93, I had a big confrontation with the then
4 City Manager, because I insisted in writing my
5 own letters, and the City Manager said, "No,
6 you cannot write your own letters," and I told
7 him to go, you know --

8 MR. LEEN: It's been an issue, though,
9 that's come up. Not with the present City
10 Manager, but it has been an issue that's come
11 up in the past.

12 MR. KORGE: Is it something that should be
13 codified in some manner?

14 MR. LEEN: I always think that structure is
15 useful. I think that setting a checks and
16 balances is useful. I think it's helpful to be
17 clear.

18 MR. KORGE: Well, I didn't want to
19 precipitate a long discussion right now. I
20 just want that on the agenda, as well.

21 CHAIRMAN VALDES-FAULI: All right. Date of
22 next meeting. Two weeks, and will you suggest
23 a date where all of us can be here?

24 MR. LEEN: Two weeks from now? Two weeks
25 from now, I'll find a date where everyone can

1 come. Now, do I have a little discretion then
2 to go to the third week if I need to?

3 CHAIRMAN VALDES-FAULI: Yeah, of course.
4 It doesn't have to be on a Tuesday. And I
5 would much rather start at 5:00 than at 7:00.

6 MR. LEEN: Yes, sir. I was told that some
7 people have trouble getting here at 5:00. So
8 is 6:00 okay?

9 CHAIRMAN VALDES-FAULI: 6:00.

10 MR. KORGE: I got here at 6:00 today. I
11 didn't realize it was at 7:00.

12 MR. MORALES: Keep in mind, two weeks from
13 today, you have the Yom Kippur holiday on the
14 22nd and 23rd.

15 MR. LEEN: So it will not be two weeks from
16 today.

17 CHAIRMAN VALDES-FAULI: Well, three weeks
18 from today.

19 MR. LEEN: It may be two and a half.

20 CHAIRMAN VALDES-FAULI: Whatever.

21 MR. MORALES: We'll work around it.

22 MR. LEEN: Thank you.

23 CHAIRMAN VALDES-FAULI: Thank you very
24 much, everybody.

25 (Thereupon, the meeting was adjourned at 8:55 p.m.)

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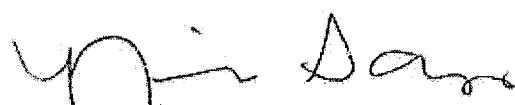
STATE OF FLORIDA:

SS.

COUNTY OF MIAMI-DADE:

I, NIEVES SANCHEZ, Court Reporter, and a Notary Public for the State of Florida at Large, do hereby certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 17th day of September, 2015.



NIEVES SANCHEZ