

Memo

DT: For April 10, 2007

TO: Honorable Mayor and Members of the Village Council

FR: David M. Wolpin, Stephen J. Helfman, Village Attorneys

RE: Election on Charter Amendment Presented by Petition of Electors

RECOMMENDATION

It is recommended that the Village Council adopt the enclosed proposed Resolution in order to provide for the proposed Charter Amendment which was presented by petition of electors concerning the creation of a new Charter Section 4.15 to be entitled “ Approval by Vote of Electors Required for Amendments to Land Development Regulations” to be presented to the electors of the Village for approval or rejection, by mail ballot election, to be held on Tuesday, June 12, 2007.

BACKGROUND

Pursuant to Section 6.02(a)(ii) of the Village Charter, the requisite number of the electors of the Village have petitioned (the “Petition”) for an amendment (the “ Charter Amendment”) to the Village Charter concerning the creation of a new Section 4.15, as described above. Pursuant to Section 6.02(b) of the Village Charter, the Village Council is required to submit the Charter Amendment to the Electors of the Village for approval or rejection.

In order to comply with both the Miami-Dade County Home Rule Charter and with Village Charter Section 6.02(b), the Charter Amendment election is required to be held on a date which is no sooner than sixty (60) days after the date of the adoption of the enclosed Council Resolution placing the item on the ballot, and no later than 120 days after the date on which the Petition was certified as sufficient. Accordingly, the date of June 12, 2007, has been selected by the Council in order to meet the above-referenced time constraints.

Please advise if there are any questions on this matter.

cc: Jacqueline R. Menendez, Village Manager
Conchita H. Alvarez, CMC, Village Clerk

RESOLUTION NO. 2007-

RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAVNE, FLORIDA, PROVIDING FOR THE SUBMISSION TO THE VILLAGE ELECTORS A PROPOSED AMENDMENT TO THE VILLAGE CHARTER, AS PROVIDED BY PETITION OF ELECTORS, IN ACCORDANCE WITH SECTION 6.02 OF THE VILLAGE CHARTER; SUBMITTING PROPOSED CHARTER AMENDMENT FOR THE CREATION OF A NEW SECTION 4.15 OF THE CHARTER, TO BE ENTITLED "APPROVAL BY VOTE OF ELECTORS REQUIRED FOR AMENDMENTS TO LAND DEVELOPMENT REGULATIONS"; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO THE ELECTORATE; CALLING A SPECIAL ELECTION ON THE PROPOSED CHARTER AMENDMENT TO BE HELD ON TUESDAY, THE 12TH DAY OF JUNE, 2007, BY MAIL BALLOT PROCEDURE; PROVIDING FOR INCLUSION IN THE CHARTER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 6.02(a)(ii) of the Village Charter, the requisite number of the electors of the Village have petitioned (the "Petition") for an amendment to the Village Charter (the "Charter Amendment") concerning the creation of a new Section 4.15 to be entitled "Approval by Vote of Electors Required for Amendments to Land Development Regulations"; and

WHEREAS, pursuant to Section 6.02(b) of the Village Charter, the Village Council is required to submit the Charter Amendment to the electors of the Village for approval or rejection.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAVNE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Charter Amendment. That, subject to the requirements of Section 8 of this Resolution, pursuant to Section 6.02(a)(ii) of the Village Charter, the Village Charter of the Village

of Key Biscayne, Florida, is hereby amended by creating a new section, Section 4.15, "Approval by Vote of Electors Required for Amendments to Land Development Regulations," to read as follows:¹

Sec. 4.15. Approval by Vote of Electors Required for Amendments to Land Development Regulations.

No text amendment to the zoning code or other land development regulations that would create a new zoning district, or that would amend any definition of a term used in the land development regulations, or that would have the effect of allowing a use not currently permitted, increased residential density, additional hotel or other accommodation units per acre, or increased lot coverage, height, or floor area ratio, shall be effective until approved by a majority vote of the electors voting on the amendment.

Section 3. Election Called. That a special election is hereby called, to be held on Tuesday, the 12th day of June, 2007, to present to the qualified electors of the Village of Key Biscayne, the ballot question provided in Section 4 of this Resolution, by mail ballot election.

Section 4. Form of Ballot. That the form of ballot for the Charter Amendment provided for in Section 2 of this Resolution, shall be substantially, as follows:

“Approval by Vote of Electors Required for Amendments to Land Development Regulations.

A Charter amendment is proposed that the Village Council may not make any text amendment to the land development regulations creating new zoning districts, amending definitions of terms, allowing uses not currently permitted, increasing residential density, allowing additional hotel or other accommodation units per acre, or increasing lot coverage, height, or floor area ratio, unless approved by majority vote of Village electors voting on the text amendment?

Shall the above-described Charter amendment be adopted?

[] Yes

[] No”

¹ Proposed additions to existing Village Charter text are indicated by underlining.

Section 5. Balloting. That mail ballots, as prescribed by Section 101.6101-101.6107, Fla. Stat., shall be used in this special election. All qualified Village electors who are timely registered in accordance with law, shall be entitled to vote. The Village Clerk is authorized to obtain any necessary election administration services from the Miami-Dade County Supervisor of Elections. The County registration books shall remain open at the office of the Miami-Dade County Supervisor of Elections until May 14, 2007, at which date the registration books shall close in accordance with the provisions of the general election laws. The Village Clerk and the Miami-Dade County Supervisor of Elections are hereby authorized to take all appropriate action necessary to carry into effect and accomplish the provisions of this Resolution. This special election shall be canvassed by the Village Clerk pursuant to Village Code Section 2-102, unless otherwise provided by law.

Section 6. Notice of Election. That notice of said election shall be published in accordance with Section 100.342, Fla. Stat., in a newspaper of general circulation within the Village at least 30 days prior to said election, the first publication to be in the fifth week prior to the election (to-wit: during the week commencing Sunday, May 6, 2007), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, May 20, 2007), and shall be in substantially the following form:

“NOTICE OF SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO 2007-_____ ADOPTED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA (THE “VILLAGE”), A SPECIAL ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE VILLAGE ON TUESDAY, THE 12TH DAY OF JUNE, 2007, BY MAIL BALLOT, AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT PROPOSAL SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE VILLAGE.

Approval by Vote of Electors Required for Amendments to Land Development Regulations.

A Charter amendment is proposed that the Village Council may not make any text amendment to the land development regulations creating new zoning districts, amending definitions of terms, allowing uses not currently permitted, increasing residential density, allowing additional hotel or other accommodation units per acre, or increasing lot coverage, height, or floor area ratio, unless approved by majority vote of Village electors voting on the text amendment?

Shall the above-described Charter amendment be adopted?

[] Yes

[] No

The full text of the proposed Village Charter Amendment is available at the office of the Village Clerk located at 88 West McIntyre Street, Key Biscayne, Florida 33149.

Village Clerk”

The Village Clerk is hereby authorized to combine the above Notice of Special Election with the Notice of Special Election used for other Charter amendments at the same election, and may revise the Notice of Special Election in order to do so.

Section 7. Copies. That copies of this Resolution concerning the Charter Amendment is on file at the office of the Village Clerk, located at 88 West McIntyre Street, Key Biscayne, Florida 33149, and is available for public inspection, during regular business hours.

Section 8. Effectiveness. That the Charter Amendment provided for in Section 2 above shall become effective only if the majority of the qualified electors voting on the Charter Amendment vote for its adoption, and it shall be considered adopted and effective upon certification of the election results. Following adoption of the Charter Amendment, the Village Clerk shall file

the adopted Charter Amendment with the Clerk of the Circuit Court of Miami-Dade County, Florida.

Section 9. Inclusion in the Charter. That subject to the requirements of Section 8 above, it is the intention of the Village Council and it is hereby provided that the Charter Amendment shall become and be made a part of the Charter of the Village of Key Biscayne, Florida; that the Sections of this Resolution may be renumbered or relettered to accomplish such intention.

Section 10. Effective Date of Resolution. That this Resolution shall become effective immediately upon adoption hereof.

PASSED AND ADOPTED this 10th day of April, 2007.

MAYOR ROBERT L. VERNON

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

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