



V I L L A G E O F K E Y B I S C A Y N E

Village Council

Franklin H. Caplan, *Mayor*
Michael E. Kelly, *Vice Mayor*
Michael W. Davey
Enrique Garcia
Robert Gusman
Mayra P. Lindsay
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March 30, 2012

The Honorable Mayor and
Members of the Village Council
Village of Key Biscayne
88 W. McIntyre Street
Key Biscayne, FL 33149

RE: Charter Revision Commission Final Report

Dear Mayor and Councilmembers,

I am writing to you as Chairman and on the behalf of the 2012 Village of Key Biscayne Charter Revision Commission (the "Commission"). This letter will serve as the Commission's report as required by Section 7.06 of the Village Charter (the "Charter"). The Commission's task was to review and analyze the Charter and to determine if there were potential revisions that should be submitted to a vote of the Village electors. The Commission met on six (6) separate occasions, each a publicly advertised meeting.

During our meetings, we sequentially reviewed, analyzed, and discussed each and every section of the Charter. After each section was reviewed and public input was considered, the Commission discussed and suggested potential revisions, additions, or deletions to that particular section. To provide the Village Council with some of the background of our deliberations and considerations, we have enclosed copies of each of our six (6) agendas as well as minutes from our meetings.

At the Commission's final meeting on March 26, 2012, the Commission convened for the purpose of determining which revisions, if any, should be submitted to a vote of the Village electors. The proposed revisions are attached as an exhibit to this report and are summarized as follows:

1. **Section 3.07. - Expenditure of Village funds.**

The first amendment modifies the term Capital Project to include “leases” for land or public buildings/facilities. Given the importance and potential costs of such leases, the Commission felt it was appropriate to define them as a Capital Project. This change will require the Village legislation to contain a description of the lease, the cost, and label the resolution/ordinance approving the lease as a Capital Authorizing Resolution or Ordinance. In addition, if the lease is in excess of \$500,000, it would need to be approved in accordance with Section 4.03 of the Village Charter, which will require special notice requirements and adoption by Ordinance.

2. **Section 4.01. - Council meeting procedure.**

The second amendment removes the requirement that resolutions shall be by a roll call vote. This change will allow the Village to approve resolutions by voice vote, which is a common practice for local governments.

3. **Section 4.14. - Special Assessments.**

The third amendment relates to the notice provisions and procedures for a special assessment election. After review of the current Village Charter provisions, the Commission felt that the Charter did not adequately describe such provisions and procedures. As such, the proposed amendment clarifies that a special assessment election shall be by mail-in ballot, which is consistent with the Village’s previous practice. In addition, the amendment requires the Village Council to adopt, by ordinance, notice provisions and procedures for conducting such elections.

4. **Section 5.02. - Initiative and referendum.**

The fourth amendment modifies when initiative petitions and referendum questions would be voted upon by the Village electorate. The Commission felt that the current Village Charter requirements could potentially cause an election to occur on initiative petitions and referendum questions during the summer months, which could likely lead to a poor turnout of the Village electors. Therefore, in order to try to alleviate the potential for a summer election, the Commission has proposed that an initiative or referendum election be held the earlier of: (a) the next regularly scheduled Mayoral or Council Member position election, which is not a primary election; or (b) the next regularly scheduled countywide election, which is not a primary election.

5. **Section 6.02. - Procedure to amend.**

The fifth amendment proposed by the Commission is identical to the fourth amendment discussed above, but instead relates to amendments to the Village Charter. Therefore, it is proposed that amendments to the Village Charter be held at an election the earlier of: (a) the next regularly scheduled Mayoral or Council Member position election, which is not a primary election; or (b) the next regularly scheduled countywide election, which is not a primary election.

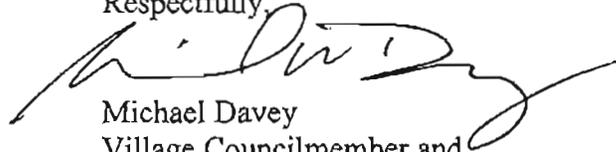
The Commission's rationale for this amendment was the same as the fourth amendment discussed above.

6. Section 7.06. - Charter revision.

Lastly, the sixth amendment modifies the Charter Revision Commission's meeting requirements within the Village Charter. Currently, a Charter Revision Commission is required to meet every five (5) years. The Commission felt that it is no longer necessary to meet on such a frequent basis given that the Village has been incorporated for over 20 years and the Village Charter is in good working form. As such, the Commission has proposed increasing the Charter Revision Commission's meeting requirement from every five years to every ten (10) years.

On behalf of the full Commission, I would like to thank the Village Council for the opportunity to serve on the Commission and look forward to appearing before you should you have any questions or concerns about the report. Finally, consistent with the provisions within this report, we request that an election on the proposed amendments be held the earlier of: (a) the next regularly scheduled Mayoral or Council Member position election, which is not a primary election; or (b) the next regularly scheduled countywide election, which is not a primary election.

Respectfully,



Michael Davey
Village Councilmember and
Chair of the Charter Review Commission

CHARTER REVISION COMMISSION AMENDMENTS

1. Section 3.07. - Expenditure of Village funds.

(a) *Generally.* No funds of the Village shall be expended except pursuant to duly approved appropriations.

(b) *Capital Projects.* The Council may authorize expenditures for: (i) the acquisition, lease, construction, renovation, or improvement of public buildings or facilities; (ii) purchase or lease of land; or (iii) the purchase of equipment. Each of the categories i, ii and iii, irrespective of cost, is a "Capital Project". A resolution or ordinance, as required, approving a Capital Project shall contain at a minimum a description and the projected cost of the Capital Project and be specifically labeled "Capital Project Authorizing Resolution or Ordinance" ("Capital Project Legislation").

2. Section 4.01. - Council meeting procedure.

(c) *Quorum and voting.* Any four (4) members of the Council shall constitute a quorum but a smaller number may adjourn from time to time and may compel the attendance of absent members in a manner and subject to the penalties prescribed by the rules of the Council. Voting on ordinances ~~and resolutions~~ shall be by roll call on final action and shall be recorded in the minutes. Except as otherwise specially provided in this Charter, no action of the Council shall be valid or binding unless adopted by the affirmative votes of at least four (4) Council Members. In the event that four (4) or more members of the Council are ineligible to vote on a particular matter due to required abstention pursuant to Florida law, then the remaining members of the Council may vote and approve such matter by unanimous vote.

3. Section 4.14. - Special Assessments.

Properties may be specially assessed according to law; however, no properties shall be specially assessed by the Village, unless:

(a) A majority of the owners of the properties to be specially assessed petition the Village for a special assessment, or

(b) An election of the property owners to be specially assessed is held to approve the special assessment and a majority of the property owners voting, one (1) vote per property, on a proposed special assessment vote in its favor. The Village Council shall adopt, by ordinance, notice provisions and procedures for conducting such elections. The Village shall utilize mail-in ballots for elections held pursuant to this section.

4. **Section 5.02. - Initiative and referendum.**

(e) *Action on petitions.*

(i) *Action by Council.* When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal, all in the manner provided in Article IV. The repeal of an ordinance relating to the levy of ad valorem taxes shall be by resolution. If the Council fails to adopt a proposed initiative ordinance without any change in substance within forty-five (45) days or fails to repeal the referred ordinance within thirty (30) days (or, in the case of a referendum authorized pursuant to paragraph (ii)(B) of subsection (a) of this Section, within five (5) days after the date on which the petition is determined to be sufficient), it shall submit the proposed or referred ordinance to the electors of the Village. If the Council fails to act on a proposed initiative ordinance or a referred ordinance within the time period contained in paragraph (i) of subsection (e) of this Section, the Council shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal the referred ordinance on the last day that the Council was authorized to act on such matter.

(ii) *Submission to electors.* The vote of the Village on a proposed or referred ordinance shall be held the earlier of: (a) the next regularly scheduled Mayoral or Council Member position election, which is not a primary election; or (b) the next regularly scheduled countywide election, which is not a primary election. ~~not less than thirty (30) or more than sixty (60) days from the date the Council acted or was deemed to have acted pursuant to paragraph (i) of subsection (e) of this Section that the petition was determined sufficient. If no election is to be held within the period described in this paragraph, the Council shall provide for a special election, except that the Council may, in its discretion, provide for a special election at an earlier date within the described period.~~ Copies of the proposed or referred ordinance shall be made available at the polls.

5. **Section 6.02. - Procedure to amend.**

(a) *Initiation.* This Charter may be amended in two (2) ways:

(i) *By ordinance.* The Council may, by ordinance, propose amendments to this Charter and upon passage of the initiating ordinance shall submit the proposed amendment to a vote of the electors at the next general election held within the Village or at a special election called for such purpose.

(ii) *By petition.* The electors of the Village may propose amendments to this Charter by petition. Each petition proposing amendments to this Charter shall be commenced, in the

form, filed, certified as to its sufficiency and/or withdrawn in the same manner as an ordinance proposed by initiative pursuant to Section 5.02

(b) *Submission to electors.* Upon certification of the sufficiency of a petition, the Council shall submit the proposed amendment to a vote of the electors ~~at to be held the earlier of:~~ (a) the next regularly scheduled Mayoral or Council Member position election, which is not a primary election; or (b) the next regularly scheduled countywide general election, which is not a primary election ~~the next election if such election is scheduled to be held not less than sixty (60) days or more than one hundred twenty (120) days from the date on which the petition was certified or at a special election called for such purpose. A special election, if necessary, shall be held not less than sixty (60) days or more than one hundred twenty (120) days from the date on which the petition was certified.~~

(c) *Results of election.* If a majority of the qualified electors voting on a proposed amendment vote for its adoption, it shall be considered adopted upon certification of the election results. If conflicting amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

6. **Section 7.06. - Charter revision.**

At its first regular meeting in December of every ~~tenth~~ fifth (~~510th~~) year ~~after the adoption of this Charter,~~ commencing ~~in~~ with December ~~2021~~ 1996, the Council shall appoint a Charter revision commission (the "Charter Revision Commission") consisting of five (5) persons, one (1) of whom shall be a member of the Council serving a second consecutive term as Council Member and four (4) of whom shall be electors of the Village. If there are no Council Members serving a second consecutive term, the Council shall appoint to the revision commission one (1) Council Member. The Mayor shall not be eligible for appointment to the Charter Revision Commission. The Charter Revision Commission shall commence its proceedings within forty-five (45) days after appointment by the Council. If the Charter Revision Commission determines that a revision is needed, it shall draft such amendments to this Charter as it deems appropriate and submit the same to the Council not later than April 1 of the year following appointment. The report of the Charter Revision Commission may grant to the Council the option of placing the proposed amendments on the ballot for the next scheduled Village Mayoral or Council, countywide, statewide, or federal election. Otherwise, the Council shall, not less than thirty (30) days or more than sixty (60) days after submission of the proposed amendments to the Council, submit them to the electors of the Village in accordance with the provisions of Section 6.02, except that the provisions of subsections (a) and (b) of such Section shall not apply.