

MINUTES
CHARTER REVISION COMMISSION
VILLAGE OF KEY BISCAYNE, FLORIDA

Thursday, February 7th, 2002

COUNCIL CHAMBER
85 WEST MCINTYRE STREET, SECOND FLOOR

The meeting was called to order by the Vice Chairman at 7:05 p.m. Present were Commission Members Stuart D. Ames, Michael Kelly and Vice Chairman Michael Kahn. Commissioner Luis Laredo and Chairman Martha F. Broucek were absent. Also present were Village Manager C. Samuel Kissinger, Village Clerk Conchita H. Alvarez and Village Attorney Richard Weiss.

Commissioner Kelly made a motion to approve the minutes of the January 30, 2002 meeting. Commissioner Ames requested that a scrivener's error on page three (3) of the minutes be corrected as follows: ~~The Attorney~~ Commissioner Ames discussed the possibility of voting for specific seats.

The motion as amended was seconded by Commissioner Ames. The minutes as amended were approved by a 3-0 voice vote. The vote was as follows: Commissioners Ames, Kelly and Vice Chairman Kahn voting Yes.

Commissioner Ames addressed the Commission regarding **Section 2.02. Mayor and Vice Mayor (a) Mayor.** recommending the following language:

Section 2.02. Mayor and Vice Mayor (a) Mayor.

(a) *Mayor.* The Mayor shall preside at meetings of the Council, be a voting member of the Council, and establish and appoint Committees comprised solely of Council Members. The Mayor shall also appoint all members of Village Boards established under Section 4.12, subject to ratification by the Council. Prior to making any appointments to Village Boards, the Mayor shall solicit at a Council Meeting recommendations from each Council Member for appointees, unless the Council votes to waive this requirement in connection with a particular Board. The Mayor's appointments shall be announced by the Mayor at a Council meeting that precedes the meeting at which ratification is considered, unless the Council votes to waive this requirement in connection with a particular Board. Appointments to Village Boards shall become effective upon ratification by the Council.

The remainder of this section shall read as follows:

.....The Mayor shall be recognized as head of Village government for all ceremonial purposes and for purposes of military law, for service of process, execution of duly authorized contracts, deeds and other documents, and as the Village official designated to represent the Village in all dealings with other governmental entities. The Mayor shall annually present a state of the Village message and, after approval of the budget by the Council, an annual message.

Vice Chairman Kahn expressed concern regarding the Mayor appointing one Councilmember to a committee.

Vice Chairman Kahn made a motion to adopt the proposed language by Commissioner Ames with the following amendments: "..... be a voting member of the Council, ~~and establish and appoint Committees comprised solely of Council Members.~~" and "The Mayor shall also appoint all members.....". The motion was seconded by Commissioner Ames and approved by a 3-0 voice vote. The vote was as follows: Commissioners Ames, Kelly and Vice Chairman Kahn voting Yes.

John Festa, 695 Harbor Lane addressed the Commission.

The Attorney suggested to include language which will indicate that the Council will waive the whole procedure. There was no objection to the suggestion.

Section 2.03 was redrafted to read as follows:

Section 2.03. Election and term of office. Each Council Member and the Mayor shall be elected at-large by the electors of the Village in the manner provided in Article V of this Charter. Each Council Member and the Mayor shall be elected for a two (2) year term. ~~Each Council Member shall be elected for a four (4) year term.~~ No person shall serve on the Council, as Mayor, or as any combination of Mayor and Council Member for more than ~~two (2)~~ three (3) consecutive elected terms, ~~and no person may serve on the Council, or as any combination of Mayor and Council Member, for more than eight (8) consecutive years.~~

Commissioner Kelly made a motion to approve Section 2.03 as redrafted. The motion was seconded by Commissioner Ames and approved by a 3-0 voice vote. The vote was as follows: Commissioners Ames, Kelly and Vice Chairman Kahn voting Yes.

John Festa, 695 Harbor Lane addressed the Commission regarding term limits.

It was the consensus of the Commission that at the last revision the Attorney will provide language addressing both alternatives: three consecutive two year terms or four consecutive two year terms.

Adopting the changed embodied in Section 2.03 will necessitate changes in Sections 5.01(d) and (e), which have been redrafted to read:

Section 5.01. Elections.

(d) *Primary election.* The ballot for the primary election shall contain the names of all qualified candidates for Mayor and for ~~the three (3) Councilmembers'~~ six (6) Council positions ~~terms expiring~~, and shall instruct electors to cast one (1) vote for Mayor and no more than ~~three (3)~~ six (6) votes for Council, with a maximum of one (1) vote per candidate. If any candidate for Mayor receives a number of votes greater than fifty percent (50%) of the total number of ballots cast, such candidate shall be the duly elected Mayor, and no regular election for Mayor shall be required. If any

candidate(s) for Council receive(s) a number of votes greater than fifty percent (50%) of the total number of ballots cast, such candidate(s) shall be duly elected to the Council, and the number of positions contested in the regular election shall be decreased accordingly.

(e) *Regular election.* The ballot for the regular election shall contain the names of the two (2) candidates for Mayor who received the most votes in the primary election. The ballot for the regular election shall also contain the names of the ~~six (6)~~ twelve (12) candidates for Council who received the most votes in the primary election, provided that if any Council positions were filled in the primary election, the number of Council candidates on the ballot shall be a number equal to the remaining number of Council positions to be filled, times two (2). The ballot shall instruct electors to cast one (1) vote for Mayor and to cast a number of votes for the Council not greater than the number of contested Council positions, with a maximum of one (1) vote per candidate. The candidate for Mayor receiving the most votes shall be the duly elected Mayor. The candidates for Council receiving the most votes, respectively, shall be duly elected to the remaining positions to be filled on the Council.

Commissioner Ames made a motion to approve the redrafted language of Section 5.01. The motion was seconded by Commissioner Kelly and approved by a 3-0 voice vote. The vote was as follows: Commissioners Ames, Kelly and Vice Chairman Kahn voting Yes.

Proposed Transition Provisions to facilitate change to two-year terms:

(a) *Transition.* This Section shall apply to all primary and regular elections for Council and Mayor held in 2002, and any conflicting provisions of Sections 2.03 and 5.01 shall not apply to such elections.

(b) *2002 Elections.* Primary and regular elections shall be held in 2002 in the manner described in Section 5.01, except that only three (3) Council Members shall be elected. The tree (3) Council Members shall serve two (2) year terms. Thereafter all primary and regular elections shall be held pursuant to the procedures set forth in Section 2.03 and Section 5.01.

Commissioner Kelly made a motion to approve the proposed Transition Provisions. The motion was seconded by Commissioner Ames and approved by a 3-0 voice vote. The vote was as follows: Commissioners Ames, Kelly and Vice Chairman Kahn voting Yes.

Section 2.07 has been redrafted to read:

Section 2.07. No compensation; reimbursement for expenses.

Council Members (including the Mayor) shall serve without compensation but shall receive reimbursement for authorized travel and per diem expenses incurred in the performance of their official duties in accordance with applicable law, or as may be otherwise provided by ordinance, ~~for authorized travel and per diem expenses incurred in the performance of their official duties.~~

Commissioner Kelly made a motion to approve Section 2.07 as redrafted. The motion was seconded by Commissioner Ames and approved by a 3-0 voice vote. The vote was as follows: Commissioners Ames, Kelly and Vice Chairman Kahn voting Yes.

Section 3.07 has been redrafted to read:

Section 3.07. Expenditure of Village funds.

No funds of the Village shall be expended except pursuant to duly approved appropriations. Where a resolution has been adopted pursuant to Section 5.02 setting an election, and the Council approves an expenditure of funds to inform the public of their position with respect to a particular ballot question via mailings, advertising, web pages, or the like (collectively "Communications"), that Communication shall also inform the public of any minority position of the Council ("Minority Position"). A Council Committee shall be formed for each Minority Position, comprised solely of Council Members who hold that Minority Position. The content of the Communication relating to each Minority Position shall be determined by the Council Committee representing that Minority Position. The resolution authorizing the Communication Expenditure shall specify the type of Communication and the date of the Minority Position statement shall be completed and submitted to the Manager for inclusion in the Communication. All Communications shall present majority and minority positions in identical fashion in terms of size, color, type, length, etc. The Council Committee(s) created by operation of this Section shall sunset upon the date the Communication is effected.

The Attorney addressed the Commission regarding Section 3.07.

Commissioner Ames suggested to insert the following language in the next to the last sentence of Section 3.07 as follows:

All communications shall present majority and minority positions in substantially the same fashion, so that no one position is given prominence over any other position.

John Festa, 695 Harbor Lane; Conchita Suarez, 201 Crandon Boulevard and Pat Weinman, 940 Mariner Drive addressed the Commission.

Vice Chairman Kahn discussed the issue between "majority and minority" among Councilmembers.

Commissioner Kelly made a motion to approve **Section 3.07. Expenditure of Village funds.** with the following amendment: All Communications shall present majority and minority positions in ~~identical~~ substantially the same fashion in terms of size, color, type, length, etc. and other physical characteristics. The motion was seconded by a Commissioner Ames and approved by a 3-0 voice vote. The vote was as follows: Commissioners Ames, Kelly and Vice Chairman Kahn voting Yes.

Vice Chairman Kahn requested a three (3) minute recess. The meeting was reconvened at 8:10 p.m.

Sec. 3.08. Competitive bid requirement. No discussion.

Conchita Suarez, 201 Crandon Boulevard addressed the Commission.

The Manager and Jud Kurlancheek, Director of Building, Zoning and Planning addressed the Commission regarding the bid process.

Sec. 3.09. Removal of Council Appointees. No discussion.

The Attorney addressed the Commission explaining Section 3.09.

Article IV - Legislative

Sec. 4.01. Council meeting procedure. There was extensive discussion from the Commissioners regarding this section.

John Festa, 695 Harbor Lane addressed the Commission regarding the Council Meeting procedure.

No changes were made to Section 4.01.

Sec. 4.02. Prohibitions. (a) *Appointment(s) and removals.* (b) *Interference with administration.* (c) *Holding other office.* No discussion.

Richard Gregorie, Key Biscayne addressed the Commission regarding Section 4.02.

Sec. 4.03. Action requiring an ordinance. There was some discussion regarding this section.

John Festa, 695 Harbor Lane addressed the Commission regarding Section 4.03.

It was the consensus of the Commission to direct the Attorney to look at the words in this section "Village office, department, board or agency" related to an action requiring an ordinance.

No changes were made to Section 4.03.

Sec. 4.04. Emergency ordinances. No discussion.

Sec. 4.05. Annual budget adoption. No discussion.

Sec. 4.06. Fiscal year. No discussion.

Sec. 4.07. Appropriation amendments during the fiscal year. No discussion.

Sec. 4.08. Authentication, recording and disposition of Ordinances, resolutions and charter amendments. No discussion.

Sec. 4.09. Tax levy. No discussion.

Sec. 4.10. Borrowing. There was discussion among the Commissioners regarding this section.

The Attorney and the Manager addressed the Commission regarding Section 4.10.

Richard Gregorie, Key Biscayne and John Festa, 695 Harbor Lane addressed the Commission regarding this Section.

The Clerk read into the record a statement by Pat Weinman, 940 Mariner Drive regarding this section.

No changes were made to Section 4.10.

Sec. 4.11. Revenue Sharing. No discussion.

Sec. 4.12. Village boards and agencies. The Attorney addressed the Commission regarding this section.

Commissioner Ames made a motion to delete **Section 4.12. Village boards and agencies.** The motion was seconded by Vice Chairman Kahn and approved by a 3-0 voice vote. The vote was as follows: Commissioners Ames, Kelly and Vice Chairman Kahn voting Yes.

Sec. 4.13. Village Code, Ordinances and Resolutions. No discussion.

Sec. 4.14. Special Assessments. No discussion.

Article V - Elections

Sec. 5.01. Elections. There was extensive discussion from Commissioners regarding this section.

This Section was revised at the beginning of the meeting.

Sec. 5.02. Initiative and referendum. There was extensive discussion from Commissioners regarding this section.

Conchita Suarez, 201 Crandon Boulevard; Richard Gregorie, Key Biscayne and John Festa, 695 Harbor Lane addressed the Commission.

The Attorney proposed to change the language in Section 5.02 (b) *Commencement of proceedings*. to include language requiring the Attorney to review petitions as to legal sufficiency at the Village's expense.

Vice Chairman Kahn requested a 3 minute recess. The meeting was reconvened at 9:40 p.m.

Commissioner Kelly made a motion to accept the recommendation made by the Attorney regarding Section 5.02 (b) *Commencement of proceedings*. Commissioner Ames amended the motion to include language requiring the Attorney to respond in

a timely manner, as to the legal sufficiency of a petition. Commissioner Kelly accepted the friendly amendment. Commissioner Ames seconded the motion as amended and it was approved by a 3-0 voice vote. The vote was as follows: Commissioners Ames, Kelly and Vice Chairman Kahn voting Yes.

The Attorney suggested draft language to include a 30 day limitation clause, for initiative and referendum for capital improvement projects, from approval of the contract. Notification procedure for residents regarding approval of contracts for capital improvement projects was also suggested.

John Festa, 695 Harbor Lane; Richard Gregorie, Key Biscayne; Conchita Suarez, 201 Crandon Boulevard and Linda Davitian, 720 Myrtlewood Lane addressed the Council.

Vice Mayor Kahn made a motion instructing the Attorney to draft language to reflect the above recommendations. The motion was seconded by Commissioner Kelly and approved by a 3-0 voice vote. The vote was as follows: Commissioners Ames, Kelly and Vice Chairman Kahn voting Yes.

Commissioner Kelly made a motion amending Section 5.02 (c) *Petitions*. ii. *Form and content*. that the petitioners form include a section describing the proposed amendment in plain English. The motion was seconded by Commissioner Ames and approved by a 3-0 voice vote. The vote was as follows: Commissioners Ames, Kelly and Vice Chairman Kahn voting Yes.

John Festa, 695 Harbor Lane addressed the Commission regarding this amendment.

Sec. 5.03. Form of ballots. No discussion.

The next meeting of the Charter Revision Commission will be on Thursday, February 21, 2002 at 7:00 p.m. in the Council Chamber. The discussion will begin with **Article VI. Charter Amendments.**

The meeting was adjourned at 10:20 p.m.

Respectfully submitted:

***Conchita H. Alvarez, CMC
Village Clerk***

***Approved by the Commission
this 21st day of February, 2002:***

***Martha F. Broucek
Chairman***

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE CHARTER REVIEW COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF

***THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY
AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.***