

THE SUNNY ISLES BEACH REPORTER

sibreporter.com

SUMMER 2010

OUR HEAVY-HANDED
GOVERNMENT

“A GOOD INDIGNATION
BRINGS OUT ALL ONE’S
POWERS”

RALPH WALDO EMERSON

WHO WE ARE

BRIEF BIOS OF THE
CANDIDATES

THE REFERENDUM

By Michael Schnitzer

As some of you may remember, over two years ago Sunny Isles Beach (SIB) residents were shocked to learn that the city planned to build a two-lane commercial bridge linking the small waterway behind Winston Towers 300 and Winston Towers 100 which would extend across the water and connect to the 163rd Street bridge. Many SIB residents, including myself and a core group of supporters who would take on this issue with me, were outraged. Almost 200 angry citizens attended a city commission meeting regarding the bridge. Accustomed to operating without any interference from its citizens, the city was unprepared for this large public uproar. Consequently, city hall quickly relabeled the project a “pedestrian walkway” bridge, but did not change the dimensions. So in reality the same plans for the originally planned bridge continued to go forward. But SIB citizens would not be so easily fooled.

I live in Winston Towers and our community was going to be severely impacted by this unwelcome project. I began to explore ways that residents of

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**MICHAEL SCHNITZER
FOR MAYOR**

**JEANETTE GATTO
CITY COMMISSIONER
SEAT 2**

**JENIFFER VISCARRA
CITY COMMISSIONER
SEAT 4**

A referendum is an essential element of a true democracy.

Winston Towers and ALL of Sunny Isles could be heard by our local government and not be ignored. I believe local government is elected to represent its constituents, not push an agenda that seems to serve city hall at the expense of the rest of us. This idea took me on an educational journey where I learned how the Sunny Isles Beach political system works.

What follows is an explanation of what has happened and what can happen in the next several months that will enable the citizens of Sunny Isles to take back OUR city from the present regime in the upcoming November election.

Sunny Isles has a local city charter which allows citizens to put issues up for vote. This is intended to rein in the ways the mayor and commission do business if they ever overstep their bounds. This process known as a "referendum" or "citizens initiative petition" is legal and done all over America by citizens like us. It is an essential element of a true democracy that is

built into our political system to protect citizens from politicians who are not acting in our best interests.

So what went wrong in SIB? It seems we have a local government catering to developers without considering the will of the people. The overdevelopment of the east side of Collins with its 40-50 story towers has forever changed the character of our city. During the development, citizens expressed their concerns that the new buildings would block the sun and views for the older communities on the west of Collins, and we suggested a more moderate scale of development. The city's response was to tell developers to build tall but thin to avoid creating a wall of buildings along the beach area. Developers did build tall and thin, but they also built across the lots they own and the end result is a wall across Collins anyway. Once again, the "solution" was a word game meant to appease upset citizens while allowing for the city's plans to go forward with little or no change.

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I looked for a way to confront City Hall on important issues that would not result in just word games where citizens ultimately lose. Two years ago I found a municipal attorney to assist me in my attempt to put the power back in the hands of SIB residents. That is how our referendum started. With the help of the community, including Jeanette Gatto and Jeniffer Viscarra, the referendum took off. After two years of hard work we are still not done in spite of our determination and strong community support. This is in no small part due to the city fighting us by trying to delay and impede the referendum every step of the way.

Of the five key issues that make up the referendum, the strongest one gives the citizens the right to decide whether the mayor and commission should have the authority to spend more than \$500,000 on any project without voter approval. Had the referendum succeeded the Mayor and commission would not be able to make multi-million dollar commitments using taxpayer dollars without YOUR approval. In this way, citizens would control city spending instead of leaving those decisions in the hands of a Mayor and four commissioners.

City Attorney Hans Ottinot, on behalf of the Mayor and commissioners, voiced concerns about the constitutionality of the cap on city spending and unbeknownst to us wrote to Bill McCollum, the Florida State Attorney General, asking for his legal opinion. The Mayor and commissioners were copied on this letter, thus all were notified that the Attorney General's opinion had been requested.

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TIRED OF POLITICS AS USUAL? THIS YEAR YOU HAVE A CHANCE FOR A NEW BRAND OF LEADERSHIP BY THE PEOPLE, FOR THE PEOPLE...THE WAY IT WAS INTENDED.



VOTE FOR:

- * **SCHNITZER**
- * **GATTO**
- * **VISCARRA**

**VOTE FOR THE FUTURE NOW. THE CHANGE WE NEED, THE VOICES WE DESERVE
FORECLOSURES, HIGH TAXES, OUTRAGEOUS CITY SPENDINGIT'S TIME FOR A CHANGE.**

The Florida Attorney General responded with an 8 page legal opinion dated April 1, 2009 stating that our referendum was 100 percent constitutional and should be allowed to go forward.

Well fellow residents, our city attorney, whose salary is paid for by our tax dollars and who is supposed to represent our best interests, never notified me or our attorney of this legal opinion. In fact, not only was it kept a secret for over a year, but when records were requested, the legal opinion of Attorney General McCollum was withheld. This was clearly a violation of "The Sunshine Law" which requires the city to turn over any and all documents requested by citizens under the Freedom of Information Act. We only learned of the existence of Attorney General McCollum's legal opinion thanks to one of our many supporters who found it on the internet.

Unbelievably, not only did the city illegally withhold this vital information from us, the city stepped up their fight to thwart our efforts by spending many thousands of your tax dollars outsourcing legal counsel in an attempt to stop the referendum. They continued on with the pretense that a referendum was in violation of the state constitution and the city charter. Our petition committee of 25 citizens who had agreed to help gather signatures for the referendum were sent subpoenas by law firms hired by the city on two separate occasions. They were told they were going to be deposed and even videotaped causing these law-abiding citizens great intimidation and harassment.

When I presented the 8 page legal opinion of the Florida Attorney General to Vice Mayor Lew Thaler he stated he did not recall ever seeing it. He admitted that he should have received it from the city attorney and that, had he been aware

**A NEW VOICE, A NEW VISION, A
FRESH START - A NEW TIME HAS
COME**

**ELECT MICHAEL SCHNITZER FOR
MAYOR**

**ELECT JEANETTE GATTO FOR CITY
COMMISSIONER SEAT 2**

**ELECT JENIFFER VISCARRA FOR
CITY COMMISSIONER SEAT 4**

of the legal opinion, he would have agreed to let the referendum process begin. Vice Mayor Thaler advised me that he would look into it and get back to me. I have not heard from his since. So, either the Vice Mayor has a bad memory, truly was not notified, or was not being honest about not remembering. No matter what the truth is, something is very wrong with this situation.

As citizens we need to know the truth and we demand answers. We need to know WHY our local government unlawfully withheld Florida Attorney General McCollum's legal opinion from us and why they decided to not disclose the information.

The bottom line is that had the legal opinion been produced in April 2009, as it should have been, we may have been able to stop the spending of hundreds of millions of our tax dollars on land purchases made over the last year and a half for garages and bridges and aquariums that the majority of Sunny Isles residents neither need or want.

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ELEMENTS OF THE REFERENDUM

- 1) No capital expenditures over \$500,000 without the vote of the citizens of Sunny Isles Beach. This will be waived, however, by a unanimous vote of the city commission in the event there is an emergency, such as a hurricane.
- 2) Minimum of 3 bids on city purchases.
- 3) Limitation on health and life insurance for the mayor and city commission funded by the citizens of Sunny Isles Beach beyond their term of office.
- 4) Unanimous vote of city council required for any land use plan, land use plan amendments, zoning district boundary changes and land development regulations/orders
- 5) Prohibition of adult entertainment facilities in the town center zoning district.

The 5 elements encompassing the referendum are listed here. They will have to be put up for vote in a special election, and if voters approve, the restrictions created will become part of the law that our commission and mayor must live by. When we succeed, we will effectively take power away from a handful of individuals and put it back in the hands of the people. We will decide what goes on in our city, how much money is spent and on what projects to spend our tax dollars. Citizens will no longer have to feel powerless in the face of local government. We will fix this problem not only by continuing our fight for the referendum, but by replacing those individuals who have underhandedly obstructed a perfectly legitimate process.

This is why in the upcoming elections I, Michael Schnitzer have decided to run for Mayor, along with my associates, Jeanette Gatto and Jeniffer Viscarra, who will run for commissioner of their respective districts. We will continue to fight. Local government should work for the people, not the other way around.

I know that with your support – we, my team, and all of us working together – can take back

Go to sibreporter.com for candidate information, videos and more.



**Our "Heavy-Handed" Local Government
By Jeanette Gatto**

Never in a million years would I have thought that obtaining signatures for a petition in support of a political issue I strongly believed in, my right as an American, would result in getting served two subpoenas to appear for depositions. But that's exactly what happened to me in Sunny Isles Beach.

Here's what occurred: I decided to join a petition committee to support the referendum which, simply put, gives the residents of Sunny Isles Beach the right to vote for very important decisions currently being made by five individuals -- the Mayor and city commissioners. Bear in mind that the key phrase here is "right to vote". That means that if you don't want an aquarium but do want a 500-vehicle parking garage, you have the right to make that choice by voting for or against them, rather than being *told* you're getting them.β

The petition committee consisted of 25 citizens who volunteered to solicit the required number of signatures needed to make the referendum eligible for the ballot this November. However, we were prevented from doing so. The City tried to stall us by various means and eventually hired two law firms to subpoena the committee and conduct depositions on all 25 of us. The city claimed that what we were doing was unconstitutional.

Assuming by now you've read this newsletter's lead story about the referendum, you know that City Attorney Hans Ottinot withheld from the petition committee written information by the Florida State Attorney General Bill McCollum stating that our actions were, in fact, constitutional. But that didn't seem to matter. There I was a year after the Attorney General issued his approval being grilled by an attorney hired by the city because the city continued to insist that what I was doing was not within my legal right, when the exact opposite was true *and they knew it*. Worse yet, they decided not to share that information as they were required to do!

I personally was interrogated for two hours. I was required to answer questions about each of the petition members, *name by name*, was repeatedly asked why I was doing this (again, *just signatures*) and was asked a lot of personal questions that had nothing to do with the referendum. So much for my constitutional rights to start a petition!

By now there should be at least three things bothering you about all of this. First, the City withheld crucial information from the State Attorney General's office that firmly decided in writing in favor of the citizens, and continued to insist that what we were doing was not legal. Next, the City hired two separate law firms to subpoena all 25 members of the petition committee to appear for depositions *twice*. Lastly the city used your taxpayer dollars to fight against those very tax-paying citizens trying to exercise their lawful and Constitutional rights.

From my perspective a disproportionate amount of time, energy and taxpayer money was being wasted trying to suppress 25 individuals who merely wanted to give their fellow citizens the right to vote for important local issues. Something tells me that the City Attorney did not act on his own, but rather took orders from someone above him who had some major input in orchestrating the chain of events.

My firsthand experience with our local government's tactics was a real eye opener. I felt that our elected officials had let me down, and I was angry. The city's attempt to intimidate and harass me is what motivated me to run for a City Commissioner seat. If elected I will do everything in my power to ensure that this does not happen to any other citizen who feels he/she has the right to express themselves through our democratic system.