



MIAMI-DADE COUNTY FINAL OFFICIAL MINUTES Charter Review Task Force

Board of County Commissioners
Stephen P. Clark Government Center
111 NW 1st Street
Conference Rooms 18-3 & 18-4

Thursday, January 17, 2008
As Advertised

Harvey Ruvlin, Clerk
Board of County Commissioners

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Clerk of the Board Division

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**CLERKS SUMMARY AND OFFICIAL MINUTES
CHARTER REVIEW TASK FORCE MEETING
JANUARY 17, 2008**

The Charter Review Task Force convened in a meeting on January 17, 2008, at 10:00 a.m. in the Stephen P. Clark Government Center, Conference Rooms 18-3 & 18-4, 111 NW 1st Street. The following members were present: Chairman Victor M. Diaz, Jr. and members Mr. Miguel De Grandy; David Dermer, former Mayor of the City of Miami Beach; Carlos Diaz-Padron, former Mayor of the City of West Miami; Maurice Ferre, former Mayor of the City of Miami; City of Miami Gardens Mayor Shirley Gibson; Mr. Robert A. Ginsburg; Mr. Murray Greenberg; Mr. Larry Handfield; Mr. John Hogan; Mr. Robert Holland; Mr. Richard Kuper; Mr. Jorge Luis Lopez; and Mr. H. T. Smith; (Ms. Lynn Dannheiser; Commissioner Carlos Gimenez; Ms. Elizabeth Hernandez; Mr. Francois Illas; Raul L. Martinez, former Mayor of the City of Hialeah; Ms. Yvonne Soler-McKinley and Mr. Ignacio Vazquez were absent).

Also present were Miami-Dade County Commissioner Natacha Seijas and Mr. Terry Murphy, Aide to Commissioner Seijas.

1. Call to Order

Chairman Diaz called the meeting to order at 10:17 a.m.

2. Roll Call

The following staff members were present: County Manager George Burgess; Assistant County Manager Susanne M. Torriente; Assistant County Attorneys Wifredo Ferrer and Monica Rizo; Assistant to the County Manager Maggie Fernandez; Office of Strategic Business Management Director Jennifer Glazer-Moon; and Deputy Clerks Doris Dickens and Judy Marsh.

3. Approval of Minutes

A. Approval of January 9, 2008 Meeting Minutes

It was moved by Mayor Gibson that the minutes of the January 9, 2008 Charter Review Task Force meeting be approved. This motion was seconded by Mr. Handfield.

Following a brief discussion regarding the intent of Mayor Ferre's motion relating to zoning authority, Chairman Diaz asked that the foregoing minutes be amended to reflect that the Task Force recommend to the County Commission that zoning applications, including variances and setbacks be heard by Community Councils with appeals to hearing officers (to be appointed by the County Commission) charged with making final determinations on zoning applications; with the exception of appeals on an abuse of discretion standard.

Mr. Lopez asked that the minutes be amended to reflect him as voting "yes" on his proposed amendment to Mayor Dermer's original motion (See paragraph 1, page 10).

In response to Mayor Ferre's inquiry regarding the motion on page 10 of the minutes relating to the Urban Development Boundary (UDB), Chairman Diaz noted he felt the motion was clear that the Task Force recommended raising the threshold for moving the UDB on a project basis by 75% of the County Commission, in addition to adding the periodic five-year review of the line in a comprehensive fashion.

Upon motion duly made, seconded and carried, the Task Force unanimously approved the January 9, 2008 Charter Review Task Force minutes, as amended.

Chairman Diaz emphasized the importance of the Task Force forwarding a report to the County Commission by January 29, 2008. He recommended Task Force members consider Agenda Item 5 A (Review of Preliminary Recommendations (since October 31, 2007 Initial Report) as the first item in order to clarify and adopt final recommendations.

With regard to the proposal that future district boundaries be drawn by retired federal judges, Chairman Diaz indicated he would provide a report on January 23, 2008 and Task Force members could decide whether to make a recommendation at that time.

5. New Business

A. Review of Preliminary Recommendations (since October 31, 2007 Initial Report)

With regard to the Task Force's preliminary recommendation regarding countywide incorporation, it was moved by Mr. De Grandy that the Task Force recommend to the County Commission that the Commission appoint an independent Task Force to prepare and submit a comprehensive plan in 2009 for countywide incorporation, accomplished through annexation and/or incorporation, subject to amendments or changes by two-thirds vote of the County Commission, and that such plan be placed on the ballot for all citizens to vote on at a general election in 2010. This motion was seconded by Mr. Lopez.

Discussion ensued among Task Force members regarding the foregoing motion.

Mr. Ginsburg expressed concern regarding the foregoing motion, noting the Task Force was recommending that the County as a whole vote on whether or not to have further incorporations, even if every single voter in the Unincorporated Municipal Service Area (UMSA) voted against it. He noted he felt the Task Force should not be involved in anything that would dilute the interest of residents living in (UMSA) and expressed concern that the Task Force's credibility was on the line. Mr. Ginsburg indicated people should have the burden and the power to decide whether they wished to incorporate.

Chairman Diaz acknowledged the presence of Commissioner Seijas.

Mr. De Grandy explained why he made the motion. He noted the people of UMSA should have a say because they were impacted by decisions to incorporate. Mr. De Grandy said to the extent that a smaller tax base remained in the UMSA after each incorporation, issues involving the quality of fire rescue and police and the ability of the UMSA to continue providing funding were real issues. He noted he felt the best way to address this issue was holistically where everyone would have an opportunity to vote on a master plan.

Mayor Ferre spoke in support of the foregoing motion. He referred to Jacksonville and Duval County as an example of a regional system that was functional, noting the idea was that Metropolitan Dade County should be dealing with regional issues and not be involved in many of the municipal issues. Mayor Ferre also pointed out that before the incorporation of Miami Gardens, the general thinking was that incorporation could only work in affluent communities and that with good public policy and practices, you could have a municipal government whose tax base was not that immense, but that could survive and render proper services. He noted he felt it was time for the County to begin the process toward regional government.

Mr. Lopez spoke in support of the motion. He noted there was an erosion of services and some cities were walking away from arrangements they had with the County.

Mayor Gibson noted she previously voted against the foregoing motion because she felt most of the residents did not understand how incorporations impacts them negatively or positively; and that the incorporation of Miami Gardens would never have been approved by a countywide vote. She noted she did not believe it would work and that cities would still remain a part of UMSA and would have a difficult time getting the level of services needed. Mayor Gibson said she felt this motion was a bad policy and comprehensive direction was needed from the County Commission to say that areas could incorporate and to establish the boundaries.

Chairman Diaz noted the preliminary recommendation did not affect the current incorporation process and was motivated by uniform feedback from various public hearings expressing frustration with the current process, by careful consideration of staff's role, and by the County Commission's concern regarding the effect of piecemeal incorporation. He expressed appreciation to Mr. Lopez for pointing out that the vote was intertwined in good faith with the final recommendation made by the Task Force regarding single member districts.

Mr. Holland noted he would be supportive of a comprehensive plan that divided the UMSA into three major cities, which would allow residents within those areas to vote. He noted he was opposed to a countywide vote on incorporation, but would not be supportive of the proliferation of the small piecemeal approach that had occurred.

Mayor Dermer spoke in support of the foregoing motion. He noted the Task Force's consensus was to see the County's jurisdiction be one that emphasizes a regional approach and if this was not done, the issue of single member districts might have to be revisited.

Upon being put to a vote, the foregoing motion passed by a vote of 9-5, (Mr. De Grandy, Mayor Dermer, Mayor Diaz-Padron, Mayor Ferre, Mr. Greenberg, Mr. Hogan, Mr. Kuper, Mr. Lopez and Chairman Diaz voted "yes;" Mayor Gibson, Mr. Ginsburg, Mr. Handfield, Mr. Holland and Mr. Smith voted "no;" Ms. Dannheiser, Commissioner Gimenez, Ms. Hernandez, Mr. Illas, Mayor Martinez, Ms. Soler-McKinley and Mr. Vazquez were absent).

With regard to the Task Force's preliminary recommendation regarding the ability of future Charter Review Task Forces to place proposed Charter amendments directly on the ballot, it was moved by Mr. Greenberg that the Task Force recommend to the County Commission that the Home Rule Charter be amended to empower future Charter Review Task Forces to place proposed Charter amendments directly on the ballot if supported by a two-thirds vote of the Task Force members present; and to provide that the appointment process for future Task Force members be the same as contained in Sections 1 and 2 of the resolution creating the current Charter Review Task Force, with the exception of that portion that allowed a Commissioner to appoint him or herself to the Task Force, which was deleted. This motion was seconded by Mr. Lopez.

Mayor Ferre offered a friendly amendment to provide that any recommendations supported by a two-thirds vote of the Task Force, could be placed directly on the ballot, subject to a two-thirds super majority veto of the County Commission. This amendment was not accepted by Mr. Greenberg.

Mr. Holland offered a friendly amendment to empower future Charter Review Task Forces to place proposed Charter amendments directly on the ballot if supported by a two-thirds vote of

the appointed members; and to limit the number of issues that could be placed on the ballot. This amendment was not accepted by Mr. Greenberg.

Following discussion and upon being put to a vote, the motion as moved by Mr. Greenberg and seconded by Mr. Lopez, passed by a vote of 9-5, (Mayor Dermer, Mayor Gibson, Mr. Greenberg, Mr. Handfield, Mr. Hogan, Mr. Kuper, Mr. Lopez, Mr. Smith and Chairman Diaz voted “yes;” Mr. De Grandy, Mayor Diaz-Padron, Mayor Ferre, Mr. Ginsburg and Mr. Holland voted “no;” Ms. Dannheiser, Commissioner Gimenez, Ms. Hernandez, Mr. Illas, Mayor Martinez, Ms. Soler-McKinley and Mr. Vazquez were absent).

With regard to the Task Force’s preliminary recommendation regarding the time period in the Charter to collect signatures for proposed Charter amendments and citizens’ initiatives, it was moved by Mayor Ferre that the Task Force recommend to the County Commission that the time period in the Charter to collect signatures for proposed Charter amendments and citizens’ initiatives be expanded to 120 days and that Charter amendments must be placed on the ballot during a general election. This motion was seconded by Mr. Ginsburg, and upon being put to a vote, passed by a unanimous vote of those members present.

With regard to the Task Force’s preliminary recommendation regarding Charter changes, it was moved by Mr. Ginsburg that the Task Force recommend to the County Commission that with regard to Charter changes, a public hearing be held on the day the County Commission was asked to place the matter on the ballot. This motion was seconded by Mr. Handfield, and upon being put to a vote, passed by a unanimous vote of those members present.

With regard to the Task Force’s preliminary recommendation regarding citizen initiative petitions, it was moved by Mr. Ginsburg that the Task Force recommend to the County Commission that with respect to citizen initiative petitions, at the time the petition is presented to the Board for possible adoption of an ordinance, a public hearing be held. This motion was seconded by Mr. Handfield, and upon being put to a vote, passed by a unanimous vote of those members present.

With regard to the Task Force’s preliminary recommendation regarding the petition process, it was moved by Mayor Ferre that the Task Force recommend to the County Commission that the Home Rule Charter be amended to provide that the Board of County Commissioners shall adopt no resolutions or ordinances regulating the petition process as defined in the Home Rule Charter. This motion was seconded by Mayor Dermer, and upon being put to a vote, passed by a unanimous vote of those members present.

With regard to the Task Force’s preliminary recommendation regarding the certification and petition gathering provisions, it was moved by Mayor Ferre that the Task Force recommend to the County Commission that Section 9.07 of the Home Rule Charter be amended to reflect that

the certification and petition gathering provisions of the Charter shall also govern citizen initiative petitions to amend the Charter. This motion was seconded by Mayor Dermer, and upon being put to a vote, passed by a unanimous vote of those members present.

With regard to the Task Force's preliminary recommendation regarding citizen initiative petition, it was moved by Mr. Ginsburg that the Task Force recommend to the County Commission that the Home Rule Charter be amended to provide that the Clerk of the Court, rather than the County Commission, shall approve as to form any citizen initiative petition. This motion was seconded by Mr. Handfield, and upon being put to a vote, passed by a unanimous vote of those members present.

With regard to the Task Force's preliminary recommendation regarding bid protests, it was moved by Mr. Ginsburg that the Task Force recommend to the County Commission that to the extent allowable by law, the Home Rule Charter be amended to provide that the final decision-maker of bid protests shall be a hearing officer process used by the State of Florida (as provided for in the State of Florida Administrative Procedure Act). This motion was seconded by Mayor Gibson.

Following discussion, it was then moved by Mayor Ferre that the Task Force recommend to the County Commission that to the extent allowable by law, the Home Rule Charter be amended to provide that the final arbiter of bid protests shall be hearing officers charged with making final determinations on those bid protests, with an appeal to the County Commission on an abuse of discretion standard only. This motion was seconded by Mr. Lopez.

Mr. De Grandy offered a friendly amendment to Mayor Ferre's motion to provide that the hearing officers be governed by the procedures set forth in the State of Florida Administrative Procedure Act. This amendment was accepted by Mayor Ferre.

Chairman Diaz read the amended motion as moved by Mayor Ferre, and seconded by Mr. De Grandy as follows: That the Task Force recommend to the County Commission that to the extent allowable by law, the Home Rule Charter be amended to provide that the final arbiter of bid protests shall be hearing officers charged with making final determinations based on findings of facts and determination of law; that those hearing officers and the process be governed by the procedures set forth in the State of Florida Administrative Procedure Act; and that appeals of the hearing officers' decisions be heard by the County Commission on an abuse of discretion standard solely.

Following discussion, Chairman Diaz advised the language "final arbiter" was no longer included in the motion.

Mr. De Grandy then presented a motion to provide that the Home Rule Charter be amended to provide that bid protests shall be governed by the State of Florida Administrative Procedure Act. This motion was seconded by Mr. Holland.

Chairman Diaz noted Mr. De Grandy's motion was not appropriate as a pending motion was on the table.

Following further discussion, upon being put to a vote, the motion made by Mayor Ferre that the Task Force recommend to the County Commission that the Home Rule Charter be amended to provide that bid protests shall be heard by hearing officers charged with making final determinations based on findings of facts and conclusions of law; that the appeal process be governed by the Administrative Procedure Act; and that the findings of the hearing officer would be final, subject to appeal to the County Commission on an abuse of discretion standard, passed by a vote of 8-6, (Mayor Dermer, Mayor Ferre, Mayor Gibson, Mr. Ginsburg, Mr. Greenberg, Mr. Hogan, Mr. Kuper and Chairman Diaz voted "yes;" Mayor Diaz-Padron, Mr. Handfield, Mr. Holland, Mr. Lopez, Mr. Smith and Mr. De Grandy voted "no;" Commissioner Gimenez, Ms. Hernandez, Mr. Illas, Mayor Martinez, Ms. Soler-McKinley, Mr. Vazquez and Ms. Dannheiser were absent).

With regard to the Task Force's preliminary recommendation regarding moving the Urban Development Boundary (UDB) line, it was moved by Mayor Ferre that the Task Force recommend to the County Commission that the Charter be amended to provide that any proposal to move the Urban Development Boundary (UDB) line on a project basis, must be approved by 75% of the total constituted County Commission; that every five years an independent body shall be constituted to conduct a comprehensive and holistic study as to where the UDB line should be drawn; and that if approved by a simple majority vote of the County Commission, the recommendations of the independent body be submitted for approval by the electorate in the form of a referendum. This motion was seconded by Mayor Gibson.

Following discussion, and upon being put to a vote, the foregoing motion passed by a vote of 9-5, (Mayor Ferre, Mr. Greenberg, Mr. Handfield, Mr. Hogan, Mr. Kuper, Mr. Lopez, Mr. Smith, Mayor Dermer and Chairman Diaz voted "yes;" Mayor Diaz-Padron, Mayor Gibson, Mr. Ginsburg, Mr. Holland and Mr. De Grandy voted "no;" Commissioner Gimenez, Ms. Hernandez, Mr. Illas, Mayor Martinez, Ms. Soler-McKinley, Mr. Vazquez and Ms. Dannheiser were absent).

With regard to the Task Force's preliminary recommendation regarding zoning applications, it was moved by Mr. Ginsburg that the Task Force recommend to the County Commission that all zoning applications, including variances and setbacks be heard first by the Community Councils with appeals to hearing officers charged with making final determinations based on findings and facts and conclusions of law which may be appealed to the County Commission solely on an abuse of discretion standard. This motion was seconded by Mayor Ferre, and upon being put to

a vote, passed by a vote of 14-0, (Commissioner Gimenez, Ms. Hernandez, Mr. Illas, Mayor Martinez, Ms. Soler-McKinley, Mr. Vazquez and Ms. Dannheiser were absent).

Upon conclusion of the foregoing, discussion ensued among Task Force members regarding comments made relating to the single-member district issue at the public hearing held on January 16, 2008 and the concerns raised by Mr. De Grandy.

Mayor Ferre said he would second Mr. Lopez' motion that the Task Force reconsider its previous motion involving single member district.

Following a discussion regarding Mr. Lopez' motion and whether it should be ruled out of order as suggested by Mr. Smith, Chairman Diaz noted the motion was out of order because the Task Force had already taken affirmative action, diametrically opposed to that motion and transmitted a report to the County Commission, indicating that was a final recommendation.

4. Old Business

A. Discussion of Issue 7 – Study of Balance of Power between Mayor & Board

- **Review Functions of Mayor vs. County Manager**
- **Review Powers of Commission Auditor & Legislative Analysis**

Chairman Diaz indicated Mayor Alvarez' proposal regarding citizens' initiatory petitions, the functions of the Mayor versus the County Manager, and the powers of the Commission Auditor and Legislative analyst would be considered by the Task Force on January 23, 2008.

- **Review of Budget Process**

Mr. Ginsburg noted he wished to offer a motion at the January 23rd meeting to place the Office of Strategic Business Management (Budget Department) under the Board of County Commissioners.

B. Discussion of Proposed Amendments of Section 8.07

5. New Business

A. Review of Preliminary Recommendations

Considered earlier in the meeting.

6. **Chairman's Reports**

A. **Report on January 16, 2008 Workshop and Public Hearing**

Chairman Diaz indicated that the voters were being polled on the Task Force's Website and that by a 2-1 margin, the Task Force's recommendation regarding converting the position of the County Commission into a full-time job and prohibiting outside employment and imposing term limits were being approved by voters. Regarding single member districts, the majority (57% to 42%) of the voters supported the recommendation to retain the existing 13 single member district plan and by the same margin, voters supported the Task Force's recommendation regarding the Tax Collector. Chairman Diaz noted the voters by a 2-1 margin, were also in favor of the Task Force's preliminary recommendations regarding countywide incorporation posted on the Website.

7. **Adjournment**

There being no further business to come before the Task Force, the Charter Review meeting was adjourned at 1:40 p.m.



Victor M. Diaz, Jr., Chairman
Charter Review Task Force