

Miami-Dade County Charter Review Task Force Meeting
Wednesday, June 20, 2012
Stephen P. Clark Center, Commission Chambers
111 N.W. 1st Street, 2nd Floor
5:00 p.m.

- **CRTF Issues of Study**
 - Governance of Jackson Memorial Hospital
 - JMH Governance Proposal by Chair Garcia
 - Governance of County Hospitals Proposal by Mayor Juan Carlos Bermudez
 - South Broward District Hospital Policy – Requested by CRTF
 - Outside Employment
 - Outside Employment Proposal by CRTF
 - Procurement Recommendations
 - Procurement Recommendations / Conflict of Interest Proposal by Terry Murphy
- **Other Business**
 - Items Approved by the CRTF on May 17th
 - Term Limits Proposal by CRTF
 - Urban Boundary Development Proposal by CRTF
 - Items Approved by the CRTF on June 6th
 - Commission Salary Proposal by CRTF
 - Mayoral Vacancy Proposal by Terry Murphy
 - Petition Reforms Proposal by Lawrence Percival
 - Veto of Collective Bargaining Impasse Proposal by Don Slesnick
 - Transfer of Powers and Functions for the Office of the Sheriff Proposal by Terry Murphy
 - Repeal of Ordinances Adopted via Initiative Process Proposal by Mayor Juan Carlos Bermudez
 - Annexation / Franchise Utility Fee Proposal by Vice- Chair Greer
 - Discussion Item - Incorporation Petition Process Proposal by Don Slesnick
 - Feedback received via the website and email
 - Media Clippings
 - Miami Herald Letter to the Editor – June 11, 2012
 - Miami Today Articles – June 14, 2012
- **Approval of Minutes**
 - May 17, 2012 - Charter Review Task Force Meeting
 - May 23, 2012 - Charter Review Task Force Meeting
 - May 30, 2012 - Charter Review Task Force Meeting
 - June 6, 2012 – Charter Review Task Force Meeting

Issues of Study

PROPOSED AMENDMENT TO THE MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-1

BOARD OF COUNTY COMMISSIONERS

* * *

Section 1.01. POWERS.

A. The Board of County Commissioners shall be the legislative and the governing body of the county. The County shall have the power to carry on a central metropolitan government. The Board's powers shall include but shall not be restricted to the powers to:

* * *

7. *Public HealthCare Trust.*

A. **Establishment of the Public HealthCare Trust; Governance.** The County shall, by ordinance, establish a Public HealthCare Trust as the agency responsible for the governance, operation and maintenance of the County hospitals and health care programs.

1. The Trust shall be governed by seven trustees who shall be United States citizens and permanent residents and duly qualified electors of the County, and who shall possess such other requirements as outlined in the ordinance. The Board of County Commissioners shall appoint the initial trustees no later than _____ days after the effective date of this amendment.

2. The terms of office of the trustees shall be staggered. In the event of a vacancy the trustees shall select the person to fill the vacancy from a list of at least three (3) nominees submitted by a nominating council appointed by the trustees. The trustee's appointment shall be subject to confirmation by the Board of County Commissioners.

B. **Accountability, Ethics, Public Records and Public Meetings.** The Trust shall be subject to the jurisdiction of the Miami-Dade Office of Inspector General and the Commission on Ethics and Public Trust and ordinances adopted related to such offices. The trustees shall cause true and accurate minutes and records to be kept of all business transacted by them, and shall keep full, true, and complete books of account and minutes, which minutes, records, and books of account shall at all reasonable times be open and subject to public inspection. The meetings of the trustees shall be subject to Chapter 286, Florida Statutes.

C. **Authority of the Board of County Commissioners and Powers of the Trustees.**

1. The Board shall have sole authority to confirm the appointment of trustees, review the Trust's budget for approval, issue debt on behalf of the Trust, including any ad valorem tax authorized by state law, the Miami-Dade County Charter, or ordinance, and take any action

authorized, or required by state law. The ordinance establishing the governing board the Trust shall establish those actions to be solely determined by the trustees.

2. Except as provided above, the trustees may exercise all of the powers of a corporation organized pursuant to chapter 607, Florida Statutes, shall have power to provide any and all types of health care facilities, equipment, and services and any and all types of facilities, equipment, and services related or incidental thereto, directly or indirectly, employ such personnel as necessary to carry out such powers, and to sue and may be sued,

E. **General.** This amendment shall in cases of conflict supersede all ordinances in effect as of the effective date of this amendment, except as specifically provided herein.

**Charter change regarding governing board of the agency or instrumentality that operates,
maintains or governs county hospitals**

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-1¹

BOARD OF COUNTY COMMISSIONERS

Section 1.01. POWERS.

A. The Board of County Commissioners shall be the legislative and the governing body of the county. The County shall have the power to carry on a central metropolitan government. The Board's powers shall include but shall not be restricted to the powers to:

* * *

6. Provide hospitals and uniform health and welfare programs. >>
The Board of County Commissioners shall establish a governing board for the County agency or instrumentality that operates, maintains or governs any hospital or health and welfare program provided by the Commission hereunder. The governing board shall have a membership of not less than seven (7) but no more than nine (9) members, which membership shall include at least one physician licensed to practice medicine in the State of Florida. Any directive or other action by the Board of County Commissioners which modifies, nullifies, reverses, stays or undoes action of the governing board shall be approved by a two-thirds majority of those Commissioners then in office, provided, however, that the two-thirds requirement shall not limit the Board of County Commissioners' power to approve the budget or establish the mission of any hospital or health and welfare program provided hereunder.<<

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

SOUTH BROWARD HOSPITAL DISTRICT BOARD OF COMMISSIONERS

POLICY STATEMENT

DATE: November 1988

TITLE: Business Ethics and Conflicts of Interest

POLICY: All members of the Hospital District's Board of Commissioners, and all employees of South Broward Hospital District shall comply with the requirements and standards of [Section 112, Fla. Stat.](#), which specifies a code of ethics for public officers and employees. Additionally, no officer, or management or physician employee of the Hospital District shall have an ownership or financial interest in, or permit his spouse, or minor children to have an ownership or financial interest, direct or indirect, in any outside concerns, unless he is willing and able to report the full facts concerning such relations to the Board immediately upon learning of such relations or upon request.

Members of the Board of Commissioners and all Hospital District employees and their spouses and children shall not accept gifts from any person or business organization which provides goods or services to the Hospital District.

This Policy does not prohibit Department meals, which must be modest and unsolicited, once a year for specific Departments, on their professional recognition occasions (such as Nurse's Week). It does not prohibit informational presentations, support for continuing education, or support for educational or professional meetings permitted under guidelines adopted by the Pharmaceutical Research and Manufacturers of America (PhRMA).

RATIONALE: The Hospital District has enjoyed an enviable reputation in the community from inception for its honesty, integrity and community responsibility as an acute health care institution.

The Board of Commissioners recognizes that this has come about largely due to the code of conduct of its Commissioners, officers and employees and the complete confidence of the Hospital District patients and the public.

In order to continue the Hospital District's high esteem and reputation in the community, the Board of Commissioners adopts this policy setting forth the standards of conduct expected by the Hospital District, and requiring all Commissioners, officers, management, and physician employees to adhere rigorously to the highest ethical, moral and legal standards, and to disclose all interests that could result in a possible conflict of interest.

Prohibition on Conflicting Outside Employment Proposal

Concept:

Add Subsection (d) to Section 1.05 to provide that County Commissioners may not take or hold office if they are employed by any entity that does business with the County or any entity or agency controlled by the County. Amend Section 5.03(D) to provide that no entity may bid for or be awarded a County contract if a member of the Commission's immediate family is an owner, director, board member, or consultant of the entity or a subcontractor of the entity or has any financial relationship with the entity or a subcontractor of the entity. Any discovery of such a relationship after contract formation shall render the contract immediately terminated.

Text of Change:

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-1¹

BOARD OF COUNTY COMMISSIONERS

* * *

Section 1.05. FORFEITURE OF OFFICE.

A. Any member of the Board of County Commissioners who ceases to be a qualified voter of the county or removes himself from the county or the district from which he was elected, or who fails to attend meetings without good cause for a period of six months, shall immediately forfeit his office. Any Commissioner who ceases to reside in the district which he represents shall also immediately forfeit his office.

>> B. No County Commissioner may have an ownership interest in, or receive money, gifts, favors, financial benefits or anything of value as a result of being employed by or consulting

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for, any firm who transacts business (i.e., purchasing or selling goods or services) with the County or any department, office, agency or instrumentality of the County, If after reasonable notice and an opportunity to be heard, the [Inspector General/Commission on Ethics] determines that a County Commissioner has violated this Section, such County Commissioner shall immediately forfeit his or her office upon the filing of such determination with the Clerk of the Board. Any County Commissioner who has forfeited his or her office pursuant to this section may file a cause of action in circuit court for reinstatement. The Board shall adopt an ordinance consistent with this Section setting forth the procedures for enforcement of this Section.<<

~~[[B-]]>>~~C.<< Any elected or appointed county official who holds any other elective office, whether federal, state or municipal, shall forfeit his county position, provided that the provisions of this subsection shall not apply to any officials presently holding such other office during the remainder of the present terms.

~~[[C-]]>>~~D.<< Any appointed official or employee of Dade County who qualifies as a candidate for election to any federal, state or municipal office shall immediately take a leave of absence from his or her county position until the date of the election and shall, if elected, immediately forfeit his or her county position. If the candidate is not elected, he or she shall immediately be reinstated to his or her former position.

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ARTICLE 5

ADMINISTRATIVE ORGANIZATION AND PROCEDURE

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SECTION 5.03. - FINANCIAL ADMINISTRATION.

A. The department of finance shall be headed by a finance director appointed by the Mayor and the Clerk of the Circuit and County Courts. The finance director shall have charge of the financial affairs of the county.

B. Between June 1 and July 15, the County Mayor should prepare a proposed budget containing a complete financial plan, including capital and operating budgets, for the ensuing fiscal year. The budget prepared and recommended by the Mayor, shall be presented by the Mayor or his or her designee to the Commission on or before the Board adopts tentative millage rates for the ensuing fiscal year. A summary of the budget shall be published and the Board shall hold hearings on and adopt a budget on or before the dates required by law.

C. No money shall be drawn from the county treasury nor shall any obligation for the expenditure of money be incurred except pursuant to appropriation and except that the Board may establish working capital, revolving, pension, or trust funds and may provide that expenditures from such funds can be made without specific appropriation. The Board, by ordinance, may transfer any unencumbered appropriation balance, or any portion thereof, from one department, fund, or agency to another, subject to the provisions of ordinance. Any portion of the earnings or balance of the several funds, other than sinking funds for obligations not yet retired, may be transferred to the general funds of the county by the Board.

D. Contracts for public improvements and purchases of supplies, materials, and services other than professional shall be made whenever practicable on the basis of specifications and competitive bids. Formal sealed bids shall be secured for all such contracts and purchases when the transaction involves more than the minimum amount established by the Board of County Commissioners by ordinance. The transaction shall be evidenced by written contract submitted and approved by the Board. The Board, upon written recommendation of the Mayor, may by resolution adopted by two-thirds vote of the members present waive competitive bidding when it finds this to be in the best interest of the county. >>No entity may bid, propose or be awarded a County contract if a member of the County Commission's immediate family (i.e. spouse, domestic partner, parents, stepparents, children and stepchildren, spouses of a child or stepchild) is an owner, director, board member, or consultant of the entity or a subcontractor of the entity or has any financial relationship with the entity or a subcontractor of the entity. All County contracts shall provide for, and shall be, immediately terminated in the event that a relationship in violation of this Section is discovered after the execution of the contract.<<

Procurement Recommendations by Clerk of the Circuit Courts (Murphy):

In circumstances where the Mayor has informed the Clerk of the Circuit Court in writing that he or she has a conflict of interest on a procurement, the Clerk assumes responsibility for the procurement process and the final recommendation for award of the contract that is presented to the Board of County Commissioners, including making a recommendation for a bid waiver.

Proposed Charter Amendment:

D. Contracts for public improvements and purchases of supplies, materials, and services other than professional shall be made whenever practicable on the basis of specifications and competitive bids. Formal sealed bids shall be secured for all such contracts and purchases when the transaction involves more than the minimum amount established by the Board of County Commissioners by ordinance. The transaction shall be evidenced by written contract submitted and approved by the Board. The Board, upon written recommendation of the Mayor, may by resolution adopted by two-thirds vote of the members present waive competitive bidding when it finds this to be in the best interest of the county. >>Notwithstanding any other provision of the Charter to the contrary, in circumstances where the Mayor informs the Clerk of the Circuit Court in writing that he or she has a conflict of interest in the solicitation, evaluation, award, or recommendation of award of a contract, the Clerk of the Circuit Court and not the Mayor shall have all authority provided by the Board or this Charter to solicit, evaluate, award or recommend the award of such contract including, but not limited to, the authority to recommend a bid waiver in writing.<<

Other Business

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-3¹

ELECTIONS

Section 3.01 ELECTION AND COMMENCEMENT OF TERMS OF COUNTY COMMISSIONERS.

* * *

>>E. Notwithstanding any other provision of this Charter, effective with the term of Commissioners scheduled to commence in 2012, no person shall be elected as Commissioner for more than two consecutive four-year terms. No term of service as a Commissioner commencing prior to 2012 shall be considered a part of or counted toward the two term limit.<<

¹Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Concept: The County Commission shall only be able to move the Urban Development Boundary upon a 2/3's vote of the County Commission, as is required by current ordinance provisions.

Proposed Amended Charter Language:

ARTICLE-1¹

BOARD OF COUNTY COMMISSIONERS

SECTION 1.01 POWERS

A. The Board of County Commissioners shall be the legislative and the governing body of the county. The County shall have the power to carry on a central metropolitan government. The Board's powers shall include but shall not be restricted to the powers to:

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5. Prepare and enforce comprehensive plans for the development of the county >>: provided however, any decision to include any additional land within the Urban Development Boundary of the County's Comprehensive Development Master Plan shall require a two-thirds vote of the total membership of the Board of County Commissioners then in office<<.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Commission Salary Increase Proposal

Concept:

Amend Section 1.06 to provide that, effective with the commencement of the terms of County Commissioners in 2016, the County Commission salary will be increased from \$6,000 dollars to the median income of Miami-Dade County, computed annually.

Text of Change:

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-1¹

BOARD OF COUNTY COMMISSIONERS

* * *

Section 1.06. SALARY .

>>Prior to November 22, 2016, e<<[[E]]ach County Commissioner shall receive a salary of \$6,000>>, and beginning November 22, 2016, each County Commissioner shall receive a salary equal to the median income within the County, computed annually, per year payable monthly. >>Each County Commissioner<< [[and]] shall be entitled to be reimbursed for such reasonable and necessary expenses as may be approved by the Board.

¹Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Mayoral Vacancy and Vacancy Election Proposal (Murphy)

Concept:

Amend Section 1.07 to increase the time for a vacancy election to 90 days with a 10 day qualifications period and a runoff 30 days thereafter. Add Section 2.03 of the Charter to temporarily transfer, during the period of vacancy, the Mayoral powers as head of the County for emergency management purposes, to hire department directors and to recommend bid waivers to the Chairperson of the Board of County Commissioners, the Vice Chairperson if the Chair declines the powers, and then the Clerk of the Circuit Court if the Chair and Vice Chairperson declines the powers.

Text of Change:

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-1¹

BOARD OF COUNTY COMMISSIONERS

* * *

Section 1.07. VACANCIES.

Any vacancy in the office of Mayor or the members of the Board shall be filled by majority vote of the remaining members of the Board within 30 days, or the Board shall call an election to be held not more than ~~[[45]]~~ >>90<< days thereafter to fill the vacancy. >>The qualification period for such election shall be the first 10 days after the call of the election and any runoff election shall be held within 30 days of the certification of election results requiring a runoff.<< The person chosen to fill the office vacated must at the time of appointment meet the residence requirements for the office to which such person is appointed. A person appointed shall serve only until the next county-wide election. A person elected shall serve for the remainder of the unexpired term of office. If a majority of the members of the Board should become appointed rather than elected to office, then the Board shall call an election to

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be held not more than ~~[[45]]~~ >>90<< days thereafter to permit the registered electors to elect commissioners to succeed the appointed commissioners; appointed commissioners may succeed themselves unless otherwise prohibited by the Charter. >>The qualification period for such election shall be the first 10 days after the call of the election and any runoff election shall be held within 30 days of the certification of election results requiring a runoff.< If a county-wide election is scheduled to be held within 180 days from the date on which the majority of the members of the Board become appointive, the Board may elect to defer the required election until the scheduled county-wide election.

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ARTICLE-2

MAYOR

* * *

>>**Section 2.03. TEMPORARY TRANSFER OF
MAYORAL POWERS AND
RESPONSIBILITIES UPON A VACANCY IN
THE OFFICE OF MAYOR.**

Upon a vacancy in the Office of Mayor and until such time as the vacancy is filled in accordance with Section 1.07 of the Charter, the powers and responsibilities vested by this Charter in the Office of Mayor to head the County for emergency management purposes, to hire department directors and to recommend waivers of competitive bidding shall be temporarily vested in the Office of the Chairperson of the County Commission as supplementary powers and responsibilities of such Office and shall not reside in the Office of Mayor. During such time, if the Chairperson relinquishes such supplemental powers and responsibilities in writing filed with the Clerk of the Board, such supplemental powers shall be vested in the Office of Vice-Chairperson of the County Commission. If the Vice-Chairperson relinquishes such supplemental powers and responsibilities in writing filed with the Clerk of the Board, such supplemental powers shall be vested in the Clerk of the Courts for the Eleventh Judicial Circuit. The temporary removal and transfer of powers and responsibilities

provided for in this Section shall not be construed to fill the vacancy in the Office of Mayor. Immediately upon filling the vacancy in the Office of Mayor the powers and responsibilities vested in the Office of Mayor shall be as provided in this Charter without regard to this Section. If, pursuant to the provisions of Section 1.07 of the Charter, the Board determines to fill the vacancy in the Office of Mayor by election, then the person exercising powers and responsibilities of the Office of Mayor pursuant to this Section at the time of such determination shall not qualify as a candidate for the Office of Mayor for that vacancy election.<<

Reform petition process (Percival)

Concept: Make changes to Article 8 to reform the petition process to eliminate the need to have a notary sign petition forms and provide for a stated cause in a recall petition.

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-8¹

SECTION 8.01. INITIATIVE AND REFERENDUM.

The electors of the county shall have the power to propose to the Board of County Commissioners passage or repeal of ordinances and to vote on the question if the Board refuses action, according to the following procedure:

1. The person proposing the exercise of this power shall submit the proposal, including proposed ballot language to the Clerk of the Circuit Court who shall without delay approve as to form a petition ~~[[for circulation]]~~ in one or several copies as the proposer may desire. A public hearing shall be held on the proposal at the next Board of County Commissioner meeting subsequent to the date the Clerk approves the petition as to form.
2. The person or persons ~~[[circulating]]~~>>initiating<< the petition shall, within 120 days of the approval of the form of the petition, obtain the valid signatures of voters in the county in numbers at least equal to four percent of the registered voters in the county on the day on which the petition is approved, according to the official records of the County Supervisor of Elections. In determining the sufficiency of the petition, no more than 25 percent of the valid signatures required shall come from voters registered in any single county commission district. Each signer of a petition shall place thereon, after his name, the date, and his place of residence or precinct number. ~~[[Each person circulating a copy of the petition shall attach to it a sworn affidavit stating the number of signers and the fact that each signature was made in the presence of the circulator of the petition.]]~~

¹Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

SECTION 8.02. RECALL.

Any member of the Board of County Commissioners, the Mayor, the Property Appraiser, the Sheriff or Constable maybe removed from office by the electors of the county, district, or municipality by which he was chosen. The procedure on a recall petition shall be identical with that for an initiatory or referendary petition, except that:

1. The Clerk of the Circuit Court shall approve the form of the petition>>, which shall state the cause for recall in no more than 25 words<<.

Mayor may not veto resolution of collective bargaining impasse

Concept:

Amend Section 2.02 to provide that the Mayor does not have the authority to veto any item resolving a collective bargaining agreement impasse.

Text of Change:

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-2¹

SECTION 2.02. RESPONSIBILITIES OF THE MAYOR.

The Mayor shall serve as head of the county government with the following specific powers and responsibilities:

* * *

E. The Mayor shall within ten days of final adoption by the Commission, have veto authority over any legislative, quasi-judicial, zoning, master plan or land use decision of the Commission, including the budget or any particular component contained therein which was approved by the Commission; provided, however, that (1) if any revenue item is vetoed, an expenditure item in the same or greater dollar amount must also be vetoed and (2) the Mayor may not veto the selection of the chairperson or vice-chairperson of the commission, the enactment of commission committee rules, the formation of commission committees, ~~[[or]]~~ the appointment of members to commission committees >>or any item resolving a collective bargaining agreement impasse<<. The Commission may at its next regularly scheduled meeting after the veto occurs, override that veto by a two-thirds vote of the Commissioners present.

¹Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Powers and Functions of the abolished Office of Sheriff
to MDPD Director rather than Mayor

Concept:

Amend Section 9.01C to provide that, effective on the second Tuesday next succeeding the date of the general election in November, the powers and functions of the abolished Office of Sheriff are transferred from the Mayor to the Director of the Miami-Dade Police Department (or its successor law enforcement department). The Miami-Dade Police Department Director would continue to be a department director appointed by the Mayor with BCC approval.

Text of Change:

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-9¹

**SECTION 9.01. ABOLITION OF CERTAIN OFFICES AND TRANSFER OF
FUNCTIONS.**

* * *

C. On November 9, 1966, the Office of Sheriff is hereby abolished and the powers and functions of such office are hereby transferred to the Mayor, who shall assume all the duties and functions of this office required under the Constitution and general laws of this state. ~~[[The Mayor may delegate to a suitable person or persons the powers and functions of such office.]]~~
>>Effective on the second Tuesday next succeeding the date of the general election in November, the powers and functions of the Office of Sheriff are transferred from the Mayor to the Director of the Miami-Dade Police Department or its successor law enforcement agency. The powers and functions transferred to the Director of the Miami-Dade Police Department or its successor law enforcement agency pursuant to this paragraph shall not include those which pertain to corrections and the operation of County jails and detention facilities and the custody of prisoners therein.<<

¹Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Time during which ordinances adopted via initiative process
shall not be amended or repealed (Bermudez)

Concept: Extend from one year to three years the time during which an ordinance
adopted via the initiative process shall not be amended or repealed.

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-8¹

SECTION 8.01. INITIATIVE AND REFERENDUM.

The electors of the county shall have the power to propose to the Board of County Commissioners passage or repeal of ordinances and to vote on the question if the Board refuses action, according to the following procedure:

* * *

7. An ordinance adopted by the electorate through initiatory proceedings shall not be amended or repealed by the Board for a period of ~~[[one year]]~~ >>three years<< after the election at which it was adopted, but thereafter it may be amended or repealed like any other ordinance.

¹Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Newly Incorporated and Annexing Cities Retain Municipal Franchise Fee and Utility Tax Revenues, Except for Amounts Needed to Pay Debt Service on Bonds which Pledged These Revenues:

Concept: Section 6.07 of the Home Rule Charter should be amended to require that, upon incorporation or annexation of a portion of the unincorporated area of the County, revenues derived from franchise fees or utility taxes attributable to an area annexed into a municipality or a newly incorporated area shall be used first to pay the annexed or incorporated area's annual pro-rata share of debt service payments secured by such franchise fee and/or utility tax revenues, with the balance to be paid to the municipality to be used for municipal purposes.

Text of Proposed Charter Amendment:

ARTICLE - 6 MUNICIPALITIES

SECTION 6.01. CONTINUANCE OF MUNICIPALITIES.

The municipalities in the county shall remain in existence so long as their electors desire. No municipality in the county shall be abolished without approval of a majority of its electors voting in an election called for that purpose. Notwithstanding any provision of the Charter, the Board of County Commissioners shall have the authority to abolish a municipality by ordinance where such municipality has twenty or fewer electors at the time of adoption of the ordinance abolishing the municipality. The right of self determination in local affairs is reserved and reserved to the municipalities except as otherwise provided in this Charter.

SECTION 6.02. MUNICIPAL POWERS.

Each municipality shall have the authority to exercise all powers relating to its local affairs not inconsistent with this Charter. Each municipality may provide for higher standards of zoning, service, and regulation than those provided by the Board of County Commissioners in order that its individual character and standards may be preserved for its citizens.

SECTION 6.03. MUNICIPAL CHARTERS.

A. Except as provided in Section 5.04, any municipality in the county may adopt, amend, or revoke a charter for its own government or abolish its existence in the following manner. Its governing body shall, within 120 days after adopting a resolution or after the certification of a petition of ten percent of the qualified electors of the municipality, draft or have drafted by a method determined by municipal ordinance a proposed charter amendment, revocation, or abolition which shall be submitted to the electors of the municipalities. Unless an election occurs not less than 60 nor more than 120 days after the draft is submitted, the proposal shall be submitted at a special election within that time. The governing body shall make copies of the proposal available to the electors not less than 30 days before the election. Alternative proposals may be submitted. Each proposal approved by a majority of the electors voting on such proposal shall become effective at the time fixed in the proposal.

B. All municipal charters, amendments thereto, and repeals thereof shall be filed with the Clerk of the Circuit Court.

SECTION 6.04. CHANGES IN MUNICIPAL BOUNDARIES.

A. The planning director shall study municipal boundaries with a view to recommending their orderly adjustment, improvement, and establishment. Proposed boundary changes may be initiated by the Planning Advisory Board, the Board of County Commissioners, the governing body of a municipality, or by a petition of any person or group concerned.

B. The Board of County Commissioners, after obtaining the approval of the municipal governing bodies concerned, after hearing the recommendations of the Planning Advisory Board, and after a public hearing, may by ordinance effect boundary changes, unless the change involves the annexation or separation of an area of which more than 250 residents are electors, in which case an affirmative vote of a majority of those electors voting shall also be required. Upon any such boundary change any conflicting boundaries set forth in the charter of such municipality shall be considered amended.

C. No municipal boundary shall be altered except as provided by this Section.

SECTION 6.05. CREATION OF NEW MUNICIPALITIES.

The Board of County Commissioners and only the Board may authorize the creation of new municipalities in the unincorporated areas of the county after hearing the recommendations of the Planning Advisory Board, after a public hearing, and after an affirmative vote of a majority of the electors voting and residing within the proposed boundaries. The Board of County Commissioners shall appoint a charter commission, consisting of five electors residing within the proposed boundaries, who shall propose a charter to be submitted to the electors in the manner provided in Section 5.03. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by this Charter and the Constitution and general laws of the State of Florida. Notwithstanding any provision of this Charter to the contrary, with regard to any municipality created after September 1, 2000, the pre-agreed conditions between the County and the prospective municipality which are included in the municipal charter can only be changed if approved by an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors.

SECTION 6.06. CONTRACTS WITH OTHER UNITS OF GOVERNMENT.

Every municipality in this county shall have the power to enter into contracts with other governmental units within or outside the boundaries of the municipality or the county for the joint performance or performance by one unit in behalf of the other of any municipal function.

SECTION 6.07. FRANCHISE >>FEES<< AND UTILITY TAXES.

Revenues realized from franchise >>fees<< and utility taxes imposed by municipalities shall belong to municipalities.

>>Upon annexation of a portion of the unincorporated area of the County, franchise fees and utility taxes imposed by the County which are attributable to an area annexed into a municipality shall first be used by the County to pay the annexed area's annual pro-rata share of debt service payments secured by such franchise fee or utility tax revenues at the time of the annexation, with the balance to be paid to the municipality to be used for municipal services. Upon incorporation of a portion of the unincorporated area of the County, franchise fees and utility taxes imposed by the County which are attributable to a newly created municipality shall first be used by the County to pay such municipality's annual pro-rata share of debt service payments secured by such franchise fee or utility tax revenues at the time of the approval of the newly created municipality's charter, with the balance to be paid to the municipality to be used for municipal services.

The annual pro-rata share of debt service payments attributable to the annexed area or the newly created municipality shall be determined by multiplying the total debt service on the outstanding debt in the fiscal year prior to the annexation or creation of the municipality by the annexed area's or the newly created municipality's percentage share of revenues pledged by the County to the repayment of the debt in such fiscal year. Notwithstanding the foregoing sentence, if the bond ordinance in effect at the time of the incorporation or annexation authorizing the issuance of the debt requires the calculation of the annual pro rata share to be made in another manner, then the formula set forth in the bond ordinance shall be used instead.

After the annexation of an area into a municipality or the incorporation of a new municipality, the County shall not secure any debt with revenues derived from franchise fees or utility taxes imposed in the annexed area or the new municipality, unless the debt is for the purpose of refunding debt secured by such revenues and so long as such refunding will realize an interest cost savings and will not extend the original term of the debt being refunded. Nothing herein shall be deemed to preclude or prohibit the County from issuing debt secured by revenues derived from franchise fees or utility taxes imposed in the unincorporated area of the County.

This section shall not affect any interlocal agreement in effect as of November 1, 2012, which provides for the distribution of franchise fees or utility tax revenues to the County and a municipality.

Any municipality created or any municipality that has annexed unincorporated areas of the County during the term of an electric franchise agreement shall have sole authority, upon the expiration of such agreement, to negotiate and enter into a new electric franchise agreement granting the privilege to provide electricity within the boundaries of the municipality as of the expiration of such agreement and construct, maintain or operate in, under, on, over and across the present and future streets, alleys, bridges, easements and other public places throughout the municipality.<<

Incorporation Petition Concept Modification (Slesnick)(as amended on the floor at 6-6-12 meeting):

Concept: Amend Section 6.05 to create 6.05(a) Incorporation by the Board and 6.05(b) Incorporation by Initiatory Petition. The initiatory provision incorporation process will be modeled after initiatory petition for ordinances and Charter Amendments. This modification will expressly recognize that the Clerk of the Circuit Court may disapprove the petition if the Clerk determines that the form of petition does not comply with the requirements of this Charter or inaccurately describes the proposed boundaries. There is a strict ninety (90) day timeframe for County and Council review of the petition, which can be enforced by court action if the timeframe is not met. The County Commission will review the petition, as it may be amended by the incorporators on the Incorporation Committee, and may reject the petition if it does not have contiguous boundaries; will leave an unincorporated enclave area within its boundaries; or is not amenable to separate municipal government, as provided by Florida statute and law. This proposal also requires the required budget analysis to be provided to resident electors in the proposed incorporation area and requires any proposed municipality whose boundaries include any area outside the urban development boundary, as may be described in the County's Comprehensive Development Master Plan, to abide by the permitted uses as set forth in such plan.

Text of Proposed Charter Amendment:

ARTICLE - 6

MUNICIPALITIES

SECTION 6.01. CONTINUANCE OF MUNICIPALITIES.

The municipalities in the county shall remain in existence so long as their electors desire. No municipality in the county shall be abolished without approval of a majority of its electors voting in an election called for that purpose. Notwithstanding any provision of the Charter, the Board of County Commissioners shall have the authority to abolish a municipality by ordinance where such municipality has twenty or fewer electors at the time of adoption of the ordinance abolishing the municipality. The right of self determination in local affairs is reserved and reserved to the municipalities except as otherwise provided in this Charter.

SECTION 6.02. MUNICIPAL POWERS.

Each municipality shall have the authority to exercise all powers relating to its local affairs not inconsistent with this Charter. Each municipality may provide for higher standards of zoning, service, and regulation than those provided by the Board of County Commissioners in order that its individual character and standards may be preserved for its citizens.

SECTION 6.03. MUNICIPAL CHARTERS.

A. Except as provided in Section 5.04, any municipality in the county may adopt, amend, or revoke a charter for its own government or abolish its existence in the following manner. Its governing body shall, within 120 days after adopting a resolution or after the certification of a petition of ten percent of the qualified electors of the municipality, draft or have drafted by a method determined by municipal ordinance a proposed charter amendment, revocation, or abolition which shall be submitted to the electors of the municipalities. Unless an election occurs not less than 60 nor more than 120 days after the draft is submitted, the proposal shall be submitted at a special election within that time. The governing body shall make copies of the proposal available to the electors not less than 30 days before the election. Alternative proposals may be submitted. Each proposal approved by a majority of the electors voting on such proposal shall become effective at the time fixed in the proposal.

B. All municipal charters, amendments thereto, and repeals thereof shall be filed with the Clerk of the Circuit Court.

SECTION 6.04. CHANGES IN MUNICIPAL BOUNDARIES.

A. The planning director shall study municipal boundaries with a view to recommending their orderly adjustment, improvement, and establishment. Proposed boundary changes may be initiated by the Planning Advisory Board, the Board of County Commissioners, the governing body of a municipality, or by a petition of any person or group concerned.

B. The Board of County Commissioners, after obtaining the approval of the municipal governing bodies concerned, after hearing the recommendations of the Planning Advisory Board, and after a public hearing, may by ordinance effect boundary changes, unless the change involves the annexation or separation of an area of which more than 250 residents are electors, in which case an affirmative vote of a majority of those electors voting shall also be required. Upon any such boundary change any conflicting boundaries set forth in the charter of such municipality shall be considered amended.

C. No municipal boundary shall be altered except as provided by this Section.

SECTION 6.05. CREATION OF NEW MUNICIPALITIES.

(A) The Board of County Commissioners ~~[[and only the Board]]~~ may authorize the creation of new municipalities in the unincorporated areas of the county after hearing the recommendations of the Planning Advisory Board, after a public hearing, and after an affirmative vote of a majority of the electors voting and residing within the proposed boundaries. The Board of County Commissioners shall appoint a charter commission, consisting of five electors residing within the proposed boundaries, who shall propose a charter to be submitted to the electors in the manner provided in Section 5.03. The new municipality shall have all the powers and rights granted to or not withheld from

municipalities by this Charter and the Constitution and general laws of the State of Florida. Notwithstanding any provision of this Charter to the contrary, with regard to any municipality created after September 1, 2000, the pre-agreed conditions between the County and the prospective municipality which are included in the municipal charter can only be changed if approved by an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors.

>>(B) A new municipality may also be created by petition of electors residing in the area to be incorporated in accordance with the following process:

1. An incorporation committee composed of a minimum of five (5) electors from the proposed area of incorporation will initiate the process by filing with the Clerk of the Circuit Court an initiatory petition on a form prescribed by the Clerk for such purpose. The form shall identify the names and addresses of the Incorporation Committee members and describe the proposed incorporation area. Within seven (7) days of receipt of the form, the Clerk will determine if the form is acceptable and if it is acceptable shall approve the form of petition and provide the Incorporation Committee the total number of the electors within the proposed incorporation area and the number of required signatures which shall be equal to ten percent (10%) of the electors in the proposed incorporation area and shall notify the Board of County Commissioners. If the Clerk determines that the form of petition does not comply with the requirements of this Charter, inaccurately describes proposed boundaries, the Clerk may disapprove the form of petition and provide notification to the Incorporation Committee and the Board of County Commissioners of the disapproval.
2. (a) No later than ninety (90) days from the date of approval of the above form, the Board of County Commissioners shall review the appropriateness of the petition for incorporation, recommend any changes to the boundaries of the proposed municipality to the Incorporation Committee and determine, following a public hearing, whether the proposed incorporation complies with the requirements of this Section.

(b) The Board of County Commissioners shall approve the proposed incorporation petition, as presented in the petition or as revised by the Incorporation Committee, or reject the incorporation petition as presented or as revised by the Incorporation Committee, upon its determination that the proposed incorporation will not have contiguous boundaries; will leave an unincorporated enclave area within its boundaries; or is not amenable to separate municipal government, as provided by Florida statute and law.

(c) The County Commission's failure to review the incorporation petition within the time required by this paragraph is subject to mandamus by a court of competent jurisdiction.

3. The Incorporation Committee will have 120 days to obtain signatures equal to ten percent (10%) of the electors in the proposed incorporation area on a petition provided by the Clerk, after the date by which the Board was required to have reviewed the incorporation petition. The petition shall require the name, address and signature of the elector but such signatures shall not have to be notarized.
4. The signed petitions will be submitted to the Clerk, who shall have thirty (30) days to canvass the signatures contained therein.
5. Upon certification of the sufficiency of the signatures on the petition, the Clerk shall present the petition to the Board of County Commissioners at their next regularly scheduled meeting, at which time the Board shall call an election to authorize the creation of a municipality, which election shall occur no sooner than ninety (90) and no greater than one hundred twenty (120) days from the date the Clerk certifies the signatures. The election shall be held, whenever practicable, in conjunction with another election scheduled to occur within the proscribed time period. The election shall be decided by an affirmative vote of a majority of electors voting in the proposed incorporation area.
6. During the sixty (60) days following the certification of the petition, the Board shall complete a budgetary analysis in cooperation with the Incorporation Committee of and on the proposed incorporation area and schedule at least one public hearing prior to the incorporation election. The budgetary analysis shall be provided to the resident electors of the proposed municipality by mail and shall be made available at locations within the proposed municipality. Such budgetary analysis shall at a minimum estimate all of the identifiable revenues generated by the proposed incorporation area prior to incorporation, and present the operating expenses of comparable small, medium and large municipalities providing typical municipal services.
7. Within 30 days after certification of the election, the Board of County Commissioners shall appoint, from a list proposed by the Incorporation Committee, a five member Charter Committee which shall, within ninety (90) days after appointment, create a Charter for the newly incorporated area setting forth at least the form of government and governing body of the newly incorporated area. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by the County Home Rule Charter and the Constitution and general laws of the State of Florida;

provided, however, any proposed municipality whose boundaries include any area outside the urban development boundary, as may be described in the County's Comprehensive Development Master Plan, shall abide by the permitted uses as set forth in such plan. Upon completion, the proposed Charter will be submitted to the electors of the municipality no sooner than 60 days and no later than 120 days after it is completed. Upon an affirmative vote of a majority of those electors within the municipality, the municipal charter shall become effective and the municipality shall be created at the time stated in the municipal charter.<<

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Posted on Monday, 06.11.12

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MIAMI-DADE CHARTER

Miami-Dade charter: What to do with unincorporated areas



GAZTUA

BY LUIS ANDRE GAZTUA
LUIS@GAZTUA.COM

This year's charter review committee has revitalized the push to make Miami-Dade County government smaller. Momentum is building to limit Miami-Dade County's role to that of a regional operator of transportation — air, sea and land — water and sewer, specialized public safety and economic development.

Advocates for this limitation believe that these specific functions would allow our mayor and county commissioners to better focus on regional issues and get them out of the business of local government. These folks feel that only cities should be in the business of providing municipal services. With that said, there are a few ways to get there.

INCORPORATE

Supporters of incorporation argue that the county inefficiently provides services to unincorporated enclaves surrounded by incorporated areas. These residents are jaded by current affairs and embrace a utopian sense of localized self-determination as their solution. They are certain that now is the time to decide whether they wish to live in a new city or stay in the unincorporated area of Miami-Dade County and believe that true local government will provide their solution to better services.

Unfortunately, the incorporation crowd's solution requires a heck of a lot more government in the form of new cities. Imagine, in addition to our 30-plus municipalities Miami-Dade residents will add dozens of new mayors and city managers, labor unions, potentially hundreds more city commissioners, and thousands of more public employees with pensions.

And don't forget to add all the new city departments, hurricane press conferences, lavish state of the city addresses, unique and nonconforming street signs, nonregional trolleys, traffic circles, trade missions, suburbans, hybrid vehicles and gorgeous city halls.

Mind you, each new city must also have a unique name and identity. So during your daily commute you can look forward to driving through: the Town of East Kendall, the Gardens of Center Kendall, the Village West Kendall, the Treetop Ewok Village at the Falls, and my favorite, *El Municipio de la Sawesera*.

Fortunately, residents in the unincorporated areas will need to approve any incorporation measures. Incorporation will be a tough sell once these folks figure that they pay lower taxes than their fellow residents who live in cities and that they'll need to build and buy their new government — personnel, services, and bricks and mortar — from scratch.

ANNEX

Annexation is a good solution when a set number of large local governments annex unincorporated areas in a way that allows the new super cities to sustain and serve the annexed while providing a greater value to the taxpayer.

To accomplish this, the Miami-Dade charter could be amended to allow the mayor, with super-majority override by the Board of County Commissioners, the authority to require the eventual annexation of areas that are completely surrounded by one or more super cities.

However, annexation becomes sloppy when small cities try to poach thriving unincorporated commercial areas with little or no residents. These cities seem to feel an inherent manifest destiny need to "grow" and

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Miami needs to rebrand to attract young entrepreneurs, professionals

increase property tax revenues by annexing the equivalent of ATM machines.

Sloppy annexation is bad news on a couple of fronts: (1) local small businesses are located in those areas and they can't vote on the matter (talk about "taxation without representation"), and (2) when these cities poach these areas for tax revenue those same small businesses will be hit with significantly higher unbudgeted property taxes and most likely will need to lay people off.

CONSOLIDATE

A consolidated city-county is a city and county that have been merged into one unified jurisdiction. As such it is simultaneously a city, and a county, which is an administrative division of a state. It has the powers and responsibilities of both types of entities.

For example, in Jacksonville a consolidation referendum was held in 1967, and voters overwhelmingly voted for a centralized government as a way to cut duplication, increase efficiency and restore confidence.

A consolidation in Miami-Dade would require the abolishment of almost all the cities and the creation of one regional super government. Needless to say, I unfortunately don't see that happening, ever!

There is another option — a hybrid where the large local government annexation model would eventually lead to a form of Municipal Darwinism. Just as stated in the previous section, all unincorporated areas would be annexed by our largest cities. Thereafter, if smaller cities fail to provide the services the taxpayers require and deserve — they then are to be dissolved and absorbed by the super cities. Thereby, creating efficiencies by limited consolidation.

I hope this helps the Charter Review Taskforce start a dialogue on the alternatives to mass incorporation.

Luis Andre Gazitua, a lawyer specializing in government affairs, authored the strong-mayor charter amendment approved by the voters in January 2007.

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YOUNG ENTREPRENEURS

Miami needs to rebrand to attract young entrepreneurs, professionals

I love Miami! I'm a native, left to attend college and grad school and to work, and moved back 31/2 years ago. Since I've been back, I've been heavily involved with various young professionals groups, civic groups and the business community, and one thing has echoed loudly: Miami is missing something.



KENNEDY ASSASSINATION
Castro and Kennedy's death: Connecting the dots?

In 1987, Florentino Aspillaga, the most valuable Cuban intelligence officer ever to defect, provided the CIA with detailed information that Fidel Castro's security forces knew and could have directed Lee Harvey Oswald's plan to assassinate President Kennedy in Dallas. This potentially provocative news was buried among thousands of documents written on the tragic subject.

Castro and Kennedy's death: Connecting the dots?

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Pantin, Les (Office of the Mayor)

From: webmaster@miamidade.gov
Sent: Tuesday, June 05, 2012 7:26 PM
To: Charter - Miami-Dade
Subject: Charter Review Suggestions

Contact Person: **Ty Shlackman**

E-mail: ty@peoplestring.com

Contact Phone Number:

Home Address: **12965 SW 112 AVE**

City: **Miami**

State: **Florida**

Zip Code: **33176**

Suggestions: Instead of making it easier to create new municipalities the charter review task force should make it more difficult to create new municipalities and annex unincorporated communities to protect unincorporated communities from becoming unincorporated against their will. Reducing the petition requirement for incorporation from 25% to 10% makes it too easy to force a vote on incorporation. Also none of the task force proposals on incorporation require that a referendum on incorporation take place during the next scheduled general election. This is because those supporting incorporation know that it is easier to get an incorporation approved when fewer people are aware that a referendum is going to take place and voter turnout is much lower than during a general election. None of your incorporation proposals prohibit the county commissioners from sponsoring their own incorporation proposals. This allows the county commission to bypass the democratic process of collecting petition signatures. It is also undemocratic for the county commission to appoint a committee for drafting a charter for a new municipality. Any such charter committee should be democratically elected by the electors of the new municipality. So I will be voting against all of the task force proposals that force incorporation or annexation or make the process easier than it already is. I will also vote against Terry Murphy's draconian proposals that increase petition requirements for countywide initiatives for ordinances and recall referendums. Petition requirements for countywide initiatives for ordinances need to be reduced not increased and the county commission shouldn't be allowed to alter or repeal ordinances that have been approved by the electors of the county in a referendum regardless of how long the ordinance has been in effect. The only charter proposal I can support is Ms. Greer's proposal to give county commissioners the average median salary in Miami-Dade County. However this needs to be tied to the prohibition of outside employment. County commissioners expense accounts and executive benefits must also be revoked through charter reform.

Pantin, Les (Office of the Mayor)

From: webmaster@miamidade.gov
Sent: Thursday, June 07, 2012 2:13 PM
To: Charter - Miami-Dade
Subject: Charter Review Suggestions

Contact Person: **Jessica Carteris**

E-mail: jc2ruby@yahoo.com

Contact Phone Number:

Home Address: **10130 SW 102nd Avenue**

City: **Miami**

State: **FL**

Zip Code: **33176**

Suggestions: I am totally opposed to decreasing the incorporation requirement of 25% signatures of the electorate. That is needed for the majority of us who don't want incorporations. Almost all of you live in cities. We are quite happy without another layer of politicians to deal with. Listen to the people who are in the majority and not that small vocal minority known as LINC. They do not represent us in any way! Regards, Jessy

Pantin, Les (Office of the Mayor)

From: thomas shaffer <shaffer8794@msn.com>
Sent: Thursday, June 14, 2012 5:25 PM
To: District8
Cc: Charter - Miami-Dade
Subject: The Task Force

You do not appear to be in touch with the majority of voters in your area. We do not want to become part of any city. WE WANT TO REMAIN AS WE ARE. That should be easy to understand. It appears that we must vote out all of those who choose to listen to self serving others rather than the citizens involved. I will dedicate more time to that end rather than have my rights trampled on. We will have change even if it is just to elect new representatives until we get honest representation. NO TAXATION WITHOUT REPRESENTATION was the cry at the original Tea Party. We will raise that cry again.

THE SOLUTION

SINCE,

- ~ The BCC wants to become more "regional" and wishes for ALL the residents of Miami-Dade County to deal with their local issues locally
- ~ The Charter Task Force has been tasked to make this effort "easier" and provide residents with "self Determination" and to provide the residents their "right to vote"

AND BECAUSE,

- ~ The Task Force has ignored resident's pleas for a more informed, even handed process and has Produced a seriously flawed document that is weighted to benefit existing cities wishing to cherry pick More of the tax base from unincorporated tax payers with no oversight from the BCC - our Elected representatives. Therefore;

WE PROPOSE THIS, THE EASIEST AND FAIREST SOLUTION

- ~ Codify the existing ten Community Councils that are ELECTED representatives of the uninc. Resident
- ~ Give them final say over local zoning decisions and allow them to budget their area's funds as their Residents wish for all other local needs, but keep the taxing authority with the BCC.
- ~ In the next election cycle, require that ALL Council members are elected by the residents within the Council's boundaries. It makes no sense to have one member appointed by a Commissioner who will No longer be dealing with any of the local issues this Council will decide. The seventh Council Member can be elected at large.
- ~ Pay the Council members \$10,000. This will cost each unincorporated Dade resident an additional .06 cents a year. You can also provide group insurance subsidized to match what is standard for city Elected officials which are already included in the County's group policy. Another .06 cents?
- ~ Leave all County services as they are. Police, Fire, Waste, Water. Franchise and utility fee contracts Can still be negotiated at the County level for the larger population, leaving the funds in the Unincorporated areas.

THIS WILL ALLOW

- ~ Those people wishing to start their political futures and who wish to control other's destinies will Have an entry point with almost as much stature as any elected city politician.
- ~ The residents of unincorporated Dade County to keep their services uninterrupted and with as little Additional expenses as possible. By keeping the taxing authority with the BCC, the local Councils Will not be able to add charges to their areas' franchise and utility fees, residents won't need to go Before a local adjudicator for any traffic infractions, before going to County Court with the added Expenses, to mention just two items.
- ~ But it WILL allow residents to decide how their tax dollars can be spent. Whether they want fancy Street signs or more police.
- ~ It will allow the County to transfer duties over to this already existing elected body in a measured,

Orderly manner, giving the County time to make the changes to zoning procedures etc. It will save Additional expenses for any voting because these areas are already divided into voting districts So elections and any other local issues can be put on the ballot easily.

~ It allows residents of unincorporated Dade relief from self appointed - NON- ELECTED persons from Continually forcing the majority to revisit efforts to incorporate or annex their areas with the Additional tax expenses, since no time limit was placed on how often those issues can be revisited In the current Task Force proposal.

~ The residents of Dade County to remain as an ethnically and economically diverse community.

~ This will allow smaller cities to merge to larger cities for economies of scale, but will keep our Unincorporated tax base In tact , with less government intrusion. Existing cities should not be Allowed to annex away our tax base. When those cities incorporated, they chose their boundaries, were financially feasible, and determined what their "communities" should look like. There is no Justification for them, especially since being released of any mitigation responsibilities, to try to Cause the rest of the community of Dade County to suffer for their greed.

Thomas E. Shaffer, Registered Voter
12102 SW 108 Court
Miami, FL 33176
E-mail: shaffer8794@msn.com

Pantin, Les (Office of the Mayor)

From: Keith Wylde <keith@miamimicro.com>
Sent: Thursday, June 14, 2012 5:26 PM
To: Charter - Miami-Dade
Subject: Government without representation

Dear Sirs;

Please consider the following proposal concerning incorporation of Miami-Dade's unincorporated areas.

THE SOLUTION

SINCE,

- ~ The BCC wants to become more "regional" and wishes for ALL the residents of Miami-Dade County to deal with their local issues locally
- ~ The Charter Task Force has been tasked to make this effort "easier" and provide residents with "self Determination" and to provide the residents their "right to vote"

AND BECAUSE,

- ~ The Task Force has ignored resident's pleas for a more informed, even handed process and has Produced a seriously flawed document that is weighted to benefit existing cities wishing to cherry pick More of the tax base from unincorporated tax payers with no oversight from the BCC - our Elected representatives. Therefore;

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- ~ Codify the existing ten Community Councils that are ELECTED representatives of the uninc. Resident
- ~ Give them final say over local zoning decisions and allow them to budget their area's funds as their Residents wish for all other local needs, but keep the taxing authority with the BCC.
- ~ In the next election cycle, require that ALL Council members are elected by the residents within the Council's boundaries. It makes no sense to have one member appointed by a Commissioner who will No longer be dealing with any of the local issues this Council will decide. The seventh Council Member can be elected at large.
- ~ Pay the Council members \$10,000. This will cost each unincorporated Dade resident an additional .06 cents a year. You can also provide group insurance subsidized to match what is standard for city Elected officials which are already included in the County's group policy. Another .06 cents?
- ~ Leave all County services as they are. Police, Fire, Waste, Water. Franchise and utility fee contracts Can still be negotiated at the County level for the larger population, leaving the funds in the Unincorporated areas.

THIS WILL ALLOW

- ~ Those people wishing to start their political futures and who wish to control other's destinies will Have an entry point with almost as much stature as any elected city politician.
- ~ The residents of unincorporated Dade County to keep their services uninterrupted and with as little Additional expenses as possible. By keeping the taxing authority with the BCC, the local Councils Will not be able to add charges to their areas' franchise and utility fees, residents won't need to go Before a local adjudicator for any traffic infractions, before going to County Court with the added Expenses, to mention just two items.
- ~ But it WILL allow residents to decide how their tax dollars can be spent. Whether they want fancy Street signs or more police.
- ~ It will allow the County to transfer duties over to this already existing elected body in a measured, Orderly manner, giving the County time to make the changes to zoning procedures etc. It will save Additional expenses for any voting because these areas are already divided into voting districts So elections and any other local issues can be put on the ballot easily.
- ~ It allows residents of unincorporated Dade relief from self appointed - NON- ELECTED persons from Continually forcing the majority to revisit efforts to incorporate or annex their areas with the Additional tax expenses, since no time limit was placed on how often those issues can be revisited In the current Task Force proposal.
- ~ The residents of Dade County to remain as an ethnically and economically diverse community.
- ~ This will allow smaller cities to merge to larger cities for economies of scale, but will keep our Unincorporated tax base In tact , with less government intrusion. Existing cities should not be Allowed to annex away our tax base. When those cities incorporated, they chose their boundaries,

were financially feasible, and determined what their "communities" should look like. There is no Justification for them, especially since being released of any mitigation responsibilities, to try to Cause the rest of the community of Dade County to suffer for their greed.

Thanks

Keith Wylde

Pantin, Les (Office of the Mayor)

From: Denise Stephens <denise_stephens@msn.com>
Sent: Thursday, June 14, 2012 6:07 PM
To: Charter - Miami-Dade
Subject: Re: Charter Task Force

THE SOLUTION

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- ~ Pay the Council members \$10,000. This will cost each unincorporated Dade resident an additional .06 cents a year. You can also provide group insurance subsidized to match what is standard for city Elected officials which are already included in the County's group policy. Another .06 cents?
- ~ Leave all County services as they are. Police, Fire, Waste, Water. Franchise and utility fee contracts Can still be negotiated at the County level for the larger population, leaving the funds in the Unincorporated areas.

THIS WILL ALLOW

- ~ Those people wishing to start their political futures and who wish to control other's destinies will Have an entry point with almost as much stature as any elected city politician.
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- ~ It will allow the County to transfer duties over to this already existing elected body in a measured, Orderly manner, giving the County time to make the changes to zoning procedures etc. It will save

Additional expenses for any voting because these areas are already divided into voting districts
So elections and any other local issues can be put on the ballot easily.

- ~ It allows residents of unincorporated Dade relief from self appointed - NON- ELECTED persons from Continually forcing the majority to revisit efforts to incorporate or annex their areas with the Additional tax expenses, since no time limit was placed on how often those issues can be revisited In the current Task Force proposal.
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All the best,

Denise Stephens
Registered voter in Miami-Dade County

Pantin, Les (Office of the Mayor)

From: Maureen Glabman <writersgroupink@aol.com>
Sent: Thursday, June 14, 2012 6:40 PM
To: Charter - Miami-Dade
Subject: Go Falls Incorporation

Thanks for your efforts toward potential incorporation of the Falls. It is about time!

Maureen D. Griess-Glabman
Reuters Fellow in Medical Journalism
Writers Group InK
9961 SW 143 Street
Miami, Florida 33176
305-233-4337
305-975-5779 (cell)

Pantin, Les (Office of the Mayor)

From: CindyDiver@aol.com
Sent: Friday, June 15, 2012 8:08 AM
To: Charter - Miami-Dade; District1; District2; District3; District4; District5; District6; District7; District8; Moss, Dennis C. (DIST9); District10; District11; Office of the Chair; District12; District 13
Subject: process for incorporation within Miami Dade County

I am concerned about what I have been hearing regarding the recommendations of the task force that has been addressing the process for incorporation within Miami Dade County. I support the recommendations of a group that is attempting to bring some balance and reason into the process:

SINCE,

- ~ The BCC wants to become more "regional" and wishes for ALL the residents of Miami-Dade County to deal with their local issues locally
- ~ The Charter Task Force has been tasked to make this effort "easier" and provide residents with "self Determination" and to provide the residents their "right to vote"

AND BECAUSE,

- ~ The Task Force has ignored resident's pleas for a more informed, even handed process and has Produced a seriously flawed document that is weighted to benefit existing cities wishing to cherry pick More of the tax base from unincorporated tax payers with no oversight from the BCC - our Elected representatives. Therefore;

WE PROPOSE THIS, THE EASIEST AND FAIREST SOLUTION

- ~ Codify the existing ten Community Councils that are ELECTED representatives of the uninc. Resident
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I have great concerns over the fate of the portions of our county that do not significant financial resources if wealthier communities continue to pull out of the County-wide tax base. Ultimately this will affect all residents as deteriorating conditions in these communities can lead to not only poorer living conditions, but higher crime rates that will undoubtedly spill over into all areas of our county.

Sincerely,
Cindy Hewitt
16630 SW 80 Ave.
Miami, FL 33157

Prevent the leading cause of death for dogs and cats -- overpopulation.
Spay and neuter pets and strays, and encourage everyone to do the same!

Pantin, Les (Office of the Mayor)

From: Ty <ty@peoplestring.com>
Sent: Friday, June 15, 2012 2:23 PM
To: Charter - Miami-Dade; District1; District2; District3; District4; District5; District6; District7; District8; Moss, Dennis C. (DIST9); District10; District11; District12; District 13
Subject: Fwd: our proposal for the Charter

----- Original Message -----

Subject:our proposal for the Charter - please send to ALL your email friends in Dade County and ask them to send it on to ALL Commissioners
Date:Thu, 14 Jun 2012 17:04:24 -0400
From:Stop The Falls <stopthefalls@gmail.com>
To:

THE SOLUTION

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Pantin, Les (Office of the Mayor)

From: webmaster@miamidade.gov
Sent: Friday, June 15, 2012 8:33 PM
To: Charter - Miami-Dade
Subject: Charter Review Suggestions

Contact Person: **William F**

E-mail: nelmom67@yahoo.com

Contact Phone Number:

Home Address: **14501 Sw 94 Avenue**

City: **Miami**

State: **FL**

Zip Code: **33176**

Suggestions: **Please be aware of the fact we are all against incorporation in our area. We also object to the fact that the public has so little say in any of the matters up for approval.**

Pantin, Les (Office of the Mayor)

From: Ibby Vores <ibbyv@yahoo.com>
Sent: Saturday, June 16, 2012 7:48 PM
To: District1; District2; District3; District4; District5; District5; District6; District7; District8; Moss, Dennis C. (DIST9); District10; District11; Office of the Chair; District12; District 13
Cc: Charter - Miami-Dade
Subject: Charter Task Force recommendations of deep concern to voters

Dear Public Servants:

You are elected by the people to serve the will of the people.

Please note that the handling of this issue is of concern and has displeased many voters who are property owners with no interest in being incorporated. Serving and protecting property owners is of course a paramount concern for you.

The enclosed proposal was written by a neighborhood activist who is passionate and informed. I hope it will spark ideas for a more deliberate and fair process and influence your vote on this matter. Thank you for considering this.

Best regards,

Ibby Vores
Falls area resident

First, in a nutshell, here is the current process and its perceived impact, in a summary copied from a community email that is making the rounds like a house on fire. Consider whether you wish your vote to be connected with this, or whether you would like to use your vote to demand a fairer process in the interest of your constituents:

The Charter Task Force is writing up their proposal for future incorporations and annexations. It has NO protections for the residents to even vet the process. No time to check financials, bypasses the County Commission completely, and forces a vote without any requirements of informing the residents. It also has no time limits on how often the issue can be brought up again by the same self appointed people who start it. Anyone who hasn't been annexed or incorporated by 2016, they want to force them into it. They will be presenting their final recommendations on Friday June 15, but will have one more Task Force public meeting on June 20th, after they have already decided what to put on November's ballot. So, that is how much this group has taken into account the resident's opinions.

When the Task Force presents it to the County Commission on July 17th, there will be no public comment allowed and the Commission will vote on putting it on the ballot. The Task Force can put it directly on the ballot if they pass this proposal by 2/3 of their committee.

Please consider:

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Pantin, Les (Office of the Mayor)

From: John G. Espinosa CFP <jespocfp@gmail.com>
Sent: Monday, June 18, 2012 12:38 PM
To: Charter - Miami-Dade
Subject: We are in deep trouble

I don't know what else to say to get you all motivated. Here's what's going to happen...

The Charter Task Force is writing up their proposal for future incorporations and annexations. It has NO protections for the residents to even vet the process. No time to check financials, bypasses the County Commission completely, and forces a vote without any requirements of informing the residents. It also has no time limits on how often the issue can be brought up again by the same self appointed people who start it. Anyone who hasn't been annexed or incorporated by 2016, they want to force them into it. They will be presenting their final recommendations on Friday, but will have one more Task Force public meeting on June 20th, after they have already decided what to put on November's ballot. So, that is how much this group has taken into account the resident's opinions.

When the Task Force presents it to the County Commission on July 17th, there will be no public comment allowed and the Commission will vote on putting it on the ballot. The Task Force can put it directly on the ballot if they pass this proposal by 2/3 of their committee.

We need to make a big impression on the County Commission AND this Task Force. I am sending you a counter proposal that needs to be sent to ALL the County Commissioners and the Task Force members. At the very least, maybe we can get the Commission to ALSO put our proposal on November's ballot. (75 words or less for the ballot language for both - so people won't have a clue unless they read the full document - yeah, like that'll happen). Our proposal keeps our already elected Community Council representatives, gives them more power to make local decisions, BUT doesn't allow them any taxing authority. So we'll still just have only unincorporated UMSA taxes. It's the best I could think of.

I am asking you to send a copy of the proposal to ALL of your email lists - friends and family - especially if they live in other parts of the County, and ask THEM to also send it to the Commissioners and Task Force. We need to blanket these two groups with as many emails as possible to make an impression. Several of us are also going to meetings with the individual Commissioners as well, but if they think only three of us are out there, they will ignore our efforts.

Very few of you bothered to send any comments in when I asked before and I got a mere hand full of petitions against the powerline issue in the past. You don't even have to write anything this time. Just copy and paste to 13 Commissioners and the Task Force link. We need 3,000 sent. Our taxes are the lowest in the County. They won't be for long if we let cities cherry pick the high tax base areas away from us, even if we aren't forced to incorporate. There are only a few of us doing the leg work. We are asking only, that you forward this next email or "something" so the "powers that be" know we are out here. And please, I'm asking you to email me back when you finish doing this because, if you all aren't concerned about this issue, then I won't be either.

John G. Espinosa CFP(r), CLTC, LUTCF
Certified Financial Planner (tm)
9350 South Dixie Highway Penthouse One
Miami, Florida 33156

(305) 448-2020 (305) 403-5840

Fax: (305) 403-5842

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Posted on Monday, 06.11.12

A A

email print comment reprint

MIAMI-DADE CHARTER

Miami-Dade charter: What to do with unincorporated areas



GAZTUA

BY LUIS ANDRE GAZTUA
LUIS@GAZTUA.COM

This year's charter review committee has revitalized the push to make Miami-Dade County government smaller. Momentum is building to limit Miami-Dade County's role to that of a regional operator of transportation — air, sea and land — water and sewer, specialized public safety and economic development.

Advocates for this limitation believe that these specific functions would allow our mayor and county commissioners to better focus on regional issues and get them out of the business of local government. These folks feel that only cities should be in the business of providing municipal services. With that said, there are a few ways to get there.

INCORPORATE

Supporters of incorporation argue that the county inefficiently provides services to unincorporated enclaves surrounded by incorporated areas. These residents are jaded by current affairs and embrace a utopian sense of localized self-determination as their solution. They are certain that now is the time to decide whether they wish to live in a new city or stay in the unincorporated area of Miami-Dade County and believe that true local government will provide their solution to better services.

Unfortunately, the incorporation crowd's solution requires a heck of a lot more government in the form of new cities. Imagine, in addition to our 30-plus municipalities Miami-Dade residents will add dozens of new mayors and city managers, labor unions, potentially hundreds more city commissioners, and thousands of more public employees with pensions.

And don't forget to add all the new city departments, hurricane press conferences, lavish state of the city addresses, unique and nonconforming street signs, nonregional trolleys, traffic circles, trade missions, suburbans, hybrid vehicles and gorgeous city halls.

Mind you, each new city must also have a unique name and identity. So during your daily commute you can look forward to driving through: the Town of East Kendall, the Gardens of Center Kendall, the Village West Kendall, the Treetop Ewok Village at the Falls, and my favorite, *El Municipio de la Sawesera*.

Fortunately, residents in the unincorporated areas will need to approve any incorporation measures. Incorporation will be a tough sell once these folks figure that they pay lower taxes than their fellow residents who live in cities and that they'll need to build and buy their new government — personnel, services, and bricks and mortar — from scratch.

ANNEX

Annexation is a good solution when a set number of large local governments annex unincorporated areas in a way that allows the new super cities to sustain and serve the annexed while providing a greater value to the taxpayer.

To accomplish this, the Miami-Dade charter could be amended to allow the mayor, with super-majority override by the Board of County Commissioners, the authority to require the eventual annexation of areas that are completely surrounded by one or more super cities.

However, annexation becomes sloppy when small cities try to poach thriving unincorporated commercial areas with little or no residents. These cities seem to feel an inherent manifest destiny need to "grow" and

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Miami needs to rebrand to attract young entrepreneurs, professionals

increase property tax revenues by annexing the equivalent of ATM machines.

Sloppy annexation is bad news on a couple of fronts: (1) local small businesses are located in those areas and they can't vote on the matter (talk about "taxation without representation"), and (2) when these cities poach these areas for tax revenue those same small businesses will be hit with significantly higher unbudgeted property taxes and most likely will need to lay people off.

CONSOLIDATE

A consolidated city-county is a city and county that have been merged into one unified jurisdiction. As such it is simultaneously a city, and a county, which is an administrative division of a state. It has the powers and responsibilities of both types of entities.

For example, in Jacksonville a consolidation referendum was held in 1967, and voters overwhelmingly voted for a centralized government as a way to cut duplication, increase efficiency and restore confidence.

A consolidation in Miami-Dade would require the abolishment of almost all the cities and the creation of one regional super government. Needless to say, I unfortunately don't see that happening, ever!

There is another option — a hybrid where the large local government annexation model would eventually lead to a form of Municipal Darwinism. Just as stated in the previous section, all unincorporated areas would be annexed by our largest cities. Thereafter, if smaller cities fail to provide the services the taxpayers require and deserve — they then are to be dissolved and absorbed by the super cities. Thereby, creating efficiencies by limited consolidation.

I hope this helps the Charter Review Taskforce start a dialogue on the alternatives to mass incorporation.

Luis Andre Gazitua, a lawyer specializing in government affairs, authored the strong-mayor charter amendment approved by the voters in January 2007.

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OTHER VIEWS

YOUNG ENTREPRENEURS

Miami needs to rebrand to attract young entrepreneurs, professionals

I love Miami! I'm a native, left to attend college and grad school and to work, and moved back 31/2 years ago. Since I've been back, I've been heavily involved with various young professionals groups, civic groups and the business community, and one thing has echoed loudly: Miami is missing something.



KENNEDY ASSASSINATION

Castro and Kennedy's death: Connecting the dots?

In 1987, Florentino Aspillaga, the most valuable Cuban intelligence officer ever to defect, provided the CIA with detailed information that Fidel Castro's security forces knew and could have directed Lee Harvey Oswald's plan to assassinate President Kennedy in Dallas. This potentially provocative news was buried among thousands of documents written on the tragic subject.

Castro and Kennedy's death: Connecting the dots?

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Before the full commission June 17 or July 3. If approved then, the mayor's office would be charged with establishing the orientation program.

APOLLO BANK: Locally-owned and operated Apollo Bank has opened its newest branch at 1826 Ponce de Leon Blvd. in the Coral Gables business district. Joining existing locations in downtown Miami/Brickell Coral Gables expansion marks the continuation of Apollo's establishing a presence in South Florida's chief business Coral Gables branch opening comes as Apollo marks its

Miami Today
June 14, 2012
Front Page



Photo by Maxine Usdan

Evelio Torres

Staking future on better education of youngest children

The profile is on Page 4

Commission salary hike gets new life at \$46,000

By LOU ORTIZ

The Miami-Dade electorate has rejected salary increases for commissioners countless times, but the streak of nays didn't stop the county's Charter Review Task Force from approving a proposed amendment to give salary hikes one more chance.

"Frankly, I think it's going to lose again," said task force vice chairman Evelyn L. Greer, one of 14 members present at the last meeting, who nonetheless voted for the proposed amendment.

The county commission formed the 20-member task force in March to review the county's Home Rule Charter and propose amendments, which, if the commission agrees, could go to voters in November.

The salary increase and an ethics amendment that could lead to commissioner ousters for a host of violations, also debated, will return for more debate June 20 or 26.

The electorate voted down pay increases for commissioners in 1963, 1976, 1984, 1990, 2006, 2008, 2010 and again in January.

Under the new proposal, commission salaries would be based on the median income in the county and only commis-

■ Mayor calls for a new sheriff in town, pg. 8

■ Team eyes Jackson charter protection, pg. 8

■ Task force aims to ease petition drives, pg. 9

sioners elected in 2016 would be eligible for a raise. Ms. Greer said the current median county income is about \$46,000.

"In times of prosperity it will go up, and during lean times it will go down," said task force member Carlos Trujillo. "It will be fluid with the changes in time."

Task force member Hans Ottinot said drafting the ballot language is critical.

"We all agree that the salary has to be increased, but what is the appropriate number?" he said. "The language has to be simple, clear. I think if you have a reasonable number... it's passable. Some voted for it [raises] last time."

University of Miami Professor H.T. Smith, a task force member who served on the prior group as well, said his colleagues were "in the task force danger zone voting for this proposal."

"Some people [voters] will feel good because it's not happening now," he said about the 2016 date. "I can see some pluses."

[But] we have to make sure they don't get a whole lot of other money under the table."

Meanwhile, under the ethics proposal, commissioners could lose their jobs for moving outside their districts, failing to attend meetings over a period of six months without good cause, engaging in consulting or being employed by a firm doing business with the county, or becoming a candidate for any federal, state or municipal office.

The county's inspector general would investigate complaints and make a determination, with the courts having the final say.

Task force members didn't vote on the ethics proposal. They asked the county attorney's office to clarify the definitions of residency and family, which the committee is expected to include concerning potential nepotism violations.

Different entities named task force members. The commission appointed 13, one by each commissioner. The mayor made an appointment as did each mayor of the four largest cities. The Miami-Dade League of Cities appointed two.

The task force has until July 17 to present recommendations to commissioners.

had been negotiating with the unnamed developer about the land for two years before talks cooled during the recession. "Now," he said, "we're having more negotiations and we need to change the zoning."

Mr. Quintero said the development would be a partnership between the county and the developer that could yield the Aviation Department an additional 3% in revenue from the profits of the commercial establishments.

He said the department is seeking to commercialize non-aviation land in and around the airport to help make debt repayments and "take the burden off airlines paying landing fees."

According to documents filed with the Regional Transportation Committee, "The projected revenue for the Miami-Dade Aviation Department is a combination of the annual fair market value of land rents currently estimated at \$2,885,403 per year plus additional revenue based upon a negotiated percentage of the gross revenue. The negotiated percentage of the gross revenue is expected to be in the 3% range."

The committee unanimously endorsed an ordinance June 11 to permit the developments. The measure is to go to the full commission for action either June 19 or July 3.

AGENDA

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BEACH DECO HOTELS RENOVATING TO BE COMPETITIVE ... 3

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County needs another sheriff in town, not me, Gimenez says

By LOU ORTIZ

Mayor Carlos Gimenez doesn't want to be the county sheriff.

That's what he told the Miami-Dade County Charter Review Task Force last Wednesday, when he made a special appearance at the group's meeting at County Hall.

"If someone decided they wanted to be the mayor and the sheriff, I'd leave town," Mayor Gimenez told task force members.

The sheriff's office was abolished in 1966 and became a position appointed by the county manager, with approval of the county commission. Miami-Dade is the only county in Florida without an elected sheriff.

But, since the county's charter was amended in 2007 to create a strong mayor form of government, the mayor automatically — when elected — inherits the powers and functions of sheriff.

The mayor typically delegates the



Carlos Gimenez

powers and duties to his appointee, the police director of the County Public Safety Department, with the approval of the commission. However, the mayor is not required to hand over policing authority or prohibited from jointly holding both offices.

Charter task force member Terry Murphy introduced a proposed charter amendment that would require any mayor to delegate the policing authority and other duties of public safety effective on the second Tuesday following the general election.

"When people vote for mayor, they are not electing a sheriff," said Mr. Murphy, a doctoral student at Florida International University and president of Public Affairs Concepts in Miami. But any elected mayor "could declare himself sheriff of Miami-Dade County," he said.

Mr. Murphy added that Mayor Gimenez was "surprised to learn that the mayor is also the sheriff."

Some members of the task force were initially reluctant to go along with Mr. Murphy's amendment without getting

the mayor's input, especially when such an amendment — once approved by commissioners and subsequently by voters — would erode some of the mayor's current powers.

But Mayor Gimenez told the task force he agreed with the amendment.

"I think that's fine with me," he said. "You could use the police powers in not a right way. I've always liked the separation."

Mayor Gimenez said he supported the concept raised by the previous charter task force in 2008 that would have continued the mayoral appointment of the police director with the proviso that the mayor "could not give day-to-day direction on operational matters [to the police director], except for budget purposes."

The task force passed the amendment unanimously, 11-0, after the mayor left the meeting.

Meanwhile, in an earlier vote, the 20-member group rejected a proposed amendment to make the sheriff's office an elected position. The proposal, by task force member Don Slesnick, was defeated 3-8.

"We abandoned the sheriff's office,"

Mr. Slesnick said. "Sixty-six of the 67 counties in the state have sheriffs. In some issues we want the people to have a vote, and in others we don't."

The previous task force also discussed the issue and decided to allow the position to remain appointed.

County commissioners approved forming the current task force in March. The task force is charged with reviewing the county's Home Rule Charter and proposing amendments, which, if agreed to by the county board, could appear before voters on the November ballot.

The task force consists of 20 members. The county board appoints 13, one by each commissioner. The mayor also makes an appointment along with one each by the mayors of the four largest cities in the county. The Miami-Dade League of Cities appoints two members.

The task force has until July 17 to present recommendations to commissioners.

A final report on all task force proposed amendments was expected June 13. Public hearings on the recommendations are expected June 20 and June 26, before sending the final report to the commission.

Insulate Jackson's board in county charter, review team told

By LOU ORTIZ

A new Jackson Health System board should be permanently etched into the Miami-Dade County Home Rule Charter and free from political meddling, with seven to nine members who have no conflicts of interest, the chairman of Jackson's Financial Recovery Board told members of the county's Charter Review Task Force.

The blueprint for the future board laid out by Marcos Lapciuc was supported by testimony last Wednesday from Frank Sacco, president and CEO of Broward County's Memorial Healthcare System. But Martha Baker, president of the union representing doctors, nurses and other healthcare professionals at Jackson, testified against adding such a board to the charter.

The 20-member task force was formed by the county commission in March to review the county's Home Rule Charter and propose amendments, which, if the commission agrees, could appear before voters on the November ballot.

Jackson and its financial burdens have been on the task force agenda during the past three meetings. Jackson CEO Carlos Migoya along with Mr. Lapciuc and his temporary board have been working to turn around the cash-strapped hospital for more than a year.

"Jackson must have a permanent board structure," Mr. Lapciuc told task force members, and the "board must have total operational autonomy, not subject to political whims or politics. Contracts are life and death matters."

Task force member J.C. Bermudez agreed. "I think those three things should be considered and put before the voters of Miami-Dade County," he said. "It's critical to our community. It [Jackson] provides the last [health] step for everyone."

But Mr. Lapciuc said "the checks and balances [county commission] need to remain,"



Photo by Maxine Udan.

Protect a new Jackson board from political meddling, Marcos Lapciuc told charter review task force.

he said. "We [also] don't want to deviate from our mission" of helping the less fortunate.

Mr. Lapciuc added that "only permanent board status will allow Jackson to persevere and attract top doctors. They need to feel there is permanence and stability."

He said any permanent board structure should include transparency, not harm tax revenues and not run afoul of Jackson's mission.

"The last board reminded me of the three stooges," Mr. Lapciuc said about the 17-member board that was ousted last year. "They all meant well, but we lost millions in efficiency" and there was almost paralysis in decision-making.

Individual members of a permanent board should be chosen based on knowledge and competency, he said, and those "who would be in a position to make objective decisions. I lean more toward seven [board mem-

bers]. Seven is my number of preference."

But Ms. Baker said the system's board does not belong in the charter. "This is not an issue that would go in charter reform," she told task force members.

She said she was not against a more permanent structure or operational independence, but the changes could be made through the Public Health Trust versus the charter. "When you get a competent CEO, they educate the board," she said. "This is a big issue that needs a lot of discussion and transparency from the public."

Attorney and former county commissioner Jimmy L. Morales also cautioned the task force about including Jackson in charter reform.

"I don't agree with governing by referendum," he said, adding that he supported keeping politics out of any Jackson sys-

tem board and having good people in place. "But I just caution you when you talk about a charter amendment."

Task force vice chairman Evelyn Greer said the Financial Recovery Board is in place because Jackson was going broke. She said the board has stable management and is working, so "the creation of a board similar to the FRP is a governance structure we want to perpetuate."

Others on the task force agreed. "I don't see an issue taking it to the public," said Carlos A. Manrique. "It will make this county a lot healthier."

Mr. Sacco said Jackson would benefit from the kind of structure outlined by Mr. Lapciuc.

Mr. Sacco said that historically the public health governing model in Miami-Dade has been broken.

"Keep politics out of the hos-

pital," said Mr. Sacco, who has been overseeing the Broward County system for nearly 30 years. "If you can accomplish that, you can have a successful county health system."

He also urged the task force to etch the board in the charter and create "a self-perpetuating board."

Task force member Luis Gonzalez said his colleagues should act. "We have the opportunity to tweak the board," he said. "We need to do something about this."

The task force asked the county attorney's office to come with language for a possible amendment based on Mr. Lapciuc's comments. The task force would have two more opportunities to consider a move on the Jackson board, when they meet June 20 and June 26.

In May, Mr. Lapciuc told Miami Today that his board is working to ensure that Jackson breaks even this year despite monetary setbacks, which would signify an \$85 million turnaround. But cash on hand continued to be a concern.

According to Jackson's latest financial report, while admissions have remained below budget, they appear to have improved in recent months.

About 5,224 patients walked through Jackson's doors in March, slightly below the budgeted 5,722. This is up from February, when 4,896 people used Jackson, and down from March 2011, when 5,423 did so.

The members of the county task force were chosen by different entities in Miami-Dade. The county board appointed 13, one by each commissioner. The mayor also made an appointment along with one each by the mayors of the four largest cities in the county. The Miami-Dade League of Cities appointed two members.

The task force has until July 17 to present its recommendations to county commissioners.

Charter team aims to ease petition drives, set vacancy process

BY LOU ORTIZ

Citizens in Miami-Dade County would have an easier time with petition drives for recalls and referendums if a charter review task force amendment proposal is approved by the county commission and put before voters in November.

The move to simplify the petition process — along with establishing a process for filling temporary vacancies in the office of mayor and among commissioners — were two amendments advanced last week by the county's charter review task force.

The task force was established by the commission in March. It is charged with reviewing the county Home Rule Charter and proposing amendments. It is up to the commission whether to ultimately approve the proposed amendments and put them before voters.

The amendment would end the circulation requirement, eliminate the need for notarization of signatures, and allow the petition to appear in English, Spanish or Creole, depending on the location in the county. The signature requirement of 4% would remain the same for recalls and referendums.

Task force Vice Chairman Evelyn Greer agreed to simplifying the process and eliminating the notary rule, saying the county Elections Department should

not have a problem verifying the signatures. The proposal passed on a vote of 8-3.

Before the vote, the task force debated whether to raise the number of signatures required for a recall and referendum to 10%.

"I want to make sure it's simplified... not [made] more difficult," Isis Garcia-Martinez told fellow task force member Terry Murphy, who had initially proposed raising the percentage of signatures to 10%, along with eliminating the circulation and notary requirements.

Mr. Murphy said 10% is fair and makes sense considering the elimination of notarization and circulation requirements, coupled with the previously approved extension of the petition process from 60 to 120 days, which gives petitioners double the time to gather signatures.

He also sought to have organizers state a cause for petitions, and in the case of recalls allow a rebuttal statement of 25 words on the ballot by the person facing the challenge.

But task force member JC Bermudez and others on the panel rebuffed the recommendations.

"Twenty-five words in rebuttal defeats the purpose of the recall," Mr. Bermudez said.

Mr. Bermudez said gathering signatures of 4% of registered voters "is not as easy as people think. This is about opportunity and fairness."

Task force member Lawrence Percival agreed. "This is a citizen's process," said Mr. Percival, who made the motion to accept the proposed amendment without the 10% requirements.

But member Don Slesnick said Mr. Murphy, who withdrew his name from the proposal, raised some valid points. "Why are we lowering the bar?" Mr. Slesnick asked. "This is not one [issue] the people brought to our attention."

Meanwhile, on a vote of 12-0, the task force agreed on a succession process in the event of vacancies among commission members and mayor, including adding a 10-day qualification period for potential candidates and increasing the time for holding a special election from 45 to 90 days.

Under the proposal by Mr. Murphy, the commission could appoint its chairman to discharge certain mayoral duties, unless he or she becomes a candidate for the office, in which case the vice chairman would get the nod.

If the vice chairman also sought the vacancy, the temporary mayoral duties would rest with the clerk of the Circuit Court.

The temporary duties, until an elec-

tion is held, would include the ability to declare a state of emergency in the event of hurricane, appoint department heads and waive the bidding process for making emergency procurements.

"The clerk of the court is a natural," said Mr. Murphy. "The clerk of the court is closely related to county business. He has the authority to conduct audits, jointly participates in appointing the director of the finance department, and makes recommendations on banking institutions for county deposits."

For vacancies among the commission, the board could make temporary appointments by majority vote, and the person appointed could only serve until an election is held.

The task force consists of 20 members. The county commission appoints 13, one by each commissioner. The mayor also makes an appointment along with each of the mayors of the four largest cities in the county. Two members are appointed by the Miami-Dade League of Cities.

The task force has until July 17 to present its recommendations to county commissioners.

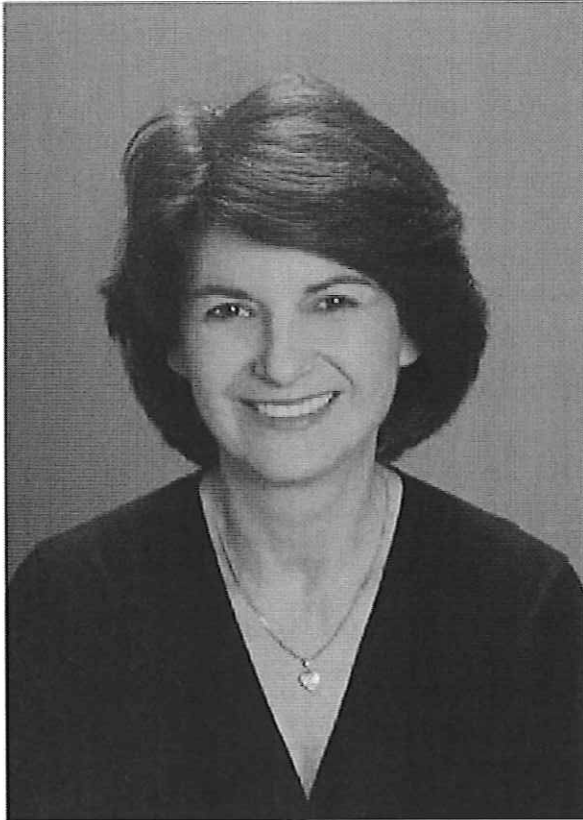
A final report on all task force proposed amendments was expected June 13. Public hearings on the recommendations are expected June 20 and June 26, before the final report goes to the commission.

The Miami Herald

Posted on Mon, Jun. 18, 2012

The case for incorporation in Miami-Dade

BY EVELYN LANGLIEB GREER
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GREER

As a strong advocate of the people's right to vote on whether or not to incorporate their community into a new city, I reject the myths about incorporation: It does not increase the number of government employees, it does not increase taxes and the central government is not entitled to deny the people the right, given in the Miami-Dade County Charter, to vote on the issue because the people "cannot understand" incorporation.

If the people can elect the president of the United States, they can understand the incorporation of their neighborhood and vote it up or down.

Every person in Miami-Dade County lives in a city and all property owners pay city taxes. Your city is either incorporated, like Hialeah, or it is the City of UMSA, also known as unincorporated Miami-Dade County. If you live in unincorporated Miami-Dade, you pay "city" taxes, shown on your tax bill under the strange name "Unincorporated Operating." Your unincorporated area "city" taxes are 10 percent of your property tax bill.

Santa Claus does not provide your local city services. Police, building permits, zoning decisions, parks, road cleaning, recreation, etc. are provided by that model of governmental efficiency — Miami Dade County.

A new city hires employees from the county government or from other cities — it is a shift of employees, not an increase. If Miami-Dade County were out of the unincorporated city services business, county employees would shift to the new cities where their work could be focused on city priorities and residents could give reasonable feedback as to quality.

Incorporation moves unincorporated area services from Miami-Dade County to local control, where voters can attend budget meetings and spend their city tax money as they

see fit. Want a lower tax rate? Elect a city council that agrees and reduces your taxes.

As to having too many council members in Miami-Dade, well, how many layers of people do you have to go through to speak to your current county commissioner or county staff? If county commissioners didn't have to deal with "city" issues, they would need a lot fewer "community relations staff members" who serve the function of elected council members without the accountability.

The Miami-Dade County Commission has major regional issues critical to the vitality of our community. It shouldn't deal with your neighborhood rezoning fight or the barking dog next door. The commission should focus on countywide issues — all of which are now funded by countywide taxes, which are paid by everyone no matter where they live and are separate from city taxes.

The Miami-Dade County Charter — our county's constitution — guarantees residents the right to petition to incorporate and to vote on incorporation. For seven years the Board of County Commissioners has refused to allow elections — it has placed a moratorium on the voter's right to vote.

Not every incorporation election has been successful, as voters do make decisions after studying the issues. Whether one supports or opposes incorporation, the moratorium is a fundamental violation of a resident's right and must be changed. Taking the BCC out of the incorporation process is the only way — based on almost 20 years of working for incorporation — that would "let the process go."

People like diversity in a community — different neighborhoods, different street signs, city names, building codes, attitudes toward enforcement. I don't prefer centralized control at the county or one size fits all governance. Diverse cities allow people to choose the lifestyle, tax rate, and level of city services for which they want to pay. That's what keeps people attached to the community and feeling in control of their own neighborhoods and areas. It is time to allow that process to proceed.

Evelyn Langlieb Greer is a lawyer and member of the Miami-Dade Charter Review Task Force; she served as the first mayor of the Village of Pinecrest from 1996-2004.

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Minutes



FINAL OFFICIAL MEETING MINUTES CHARTER REVIEW TASK FORCE

Board of County Commissioners
Miami-Dade County Main Library
Auditorium
101 West Flagler Street
Miami, Florida 33130

May 17, 2012
As Advertised

Harvey Ruvlin, Clerk
Board of County Commissioners

Christopher Agrippa, Division Chief
Clerk of the Board Division

Flora Real, Commission Reporter
(305) 375-1294



**CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 17, 2012**

The Miami-Dade Charter Review Task Force (the Task Force) convened the public hearing meeting on May 17, 2012, at the Miami-Dade Main Public Library Auditorium, 101 West Flagler Street, Miami, Florida, at 9:00 a.m. There being present Chairman Rene Garcia, Vice Chairwoman Evelyn Langlieb Greer, Ms. Yolanda Aguilar, Mr. Armando Bucelo, Councilwoman Isis Garcia-Martinez, Councilman Luis Gonzalez, Representative John Patrick Julien, Mr. Carlos Manrique, Mr. Terry Murphy, Mr. Hans Ottinot, Mr. Lawrence Percival, Ms. Pamela Perry, Mr. Donald Slesnick, Professor H. T. Smith, and Representative Carlos Trujillo (Mayor Juan Carlos Bermudez was late). (Mr. Joe Arriola, Mr. Victor Diaz, and Reverend Dr. Walter Richardson were absent)

In addition to the members of the Task Force, the following elected officials and staff members were present: Chairman of the Board of County Commissioners Joe Martinez, Assistant County Attorneys Oren Rosenthal, Jeff McCarty, and Cynthia Johnson-Stacks, Ms. Inson Kim, Ms. Lorna Mejia, Mr. Les Pantin, and Deputy Clerk Flora Real.

Chairman Rene Garcia called the meeting to order at approximately 9:15 a.m. and welcomed the Task Force members and all others present.

WELCOME AND INTRODUCTION

Following a formal introduction of each of the Task Force members present at today's meeting, Chairman Garcia proceeded to consider the agenda.

APPROVAL OF MINUTES

- o April 19, 2012 Task Force Meeting
- o May 7, 2012 Public Hearing
- o May 8, 2012 Public Hearing
- o May 9, 2012 Public Hearing
- o May 10, 2012 Public Hearing
- o May 14, 2012 Public Hearing

Mr. Lawrence Percival asked that the Task Force amend the meeting minutes of May 9, 2012, to reflect two comments he had made at that meeting stating:

- "that two persons in the audience, Mr. Miles Moss and Florida State Representative Juan Zapata, had both served in the Municipal Advisory Committee (MAC) in West Kendall, Joe Martinez had allowed the city to move forward, and at one point, actually on three occasions, he informed the group that if they did not follow his instructions and specifically include every area of his

district in the study that he would shut them down and close it. Joe Martinez took his football and headed home. He shut it down and did not allow any further involvement for the study of West Kendall to become a city or anything;" and

- "that he had recently read in the paper that another commissioner recently made a statement that if his area were to be incorporated, he would want the entire area of his district to be one city, and my response to that was that I feel that sort of process that commissioners dictate denies the citizens of the area the right to self-determination."

Mr. Percival noted that neither of those comments was included in the minutes, and he felt the Task Force members should know about those comments and the sentiments expressed by the public inasmuch as the public wished to have the right for self-determination. He advised that he made those comments to reinforce that issue, and the essence of those comments should not be lost.

It was moved by Mr. Armando Bucelo that the Miami-Dade Charter Review Task Force approve the minutes of April 19, 2012, May 7, 2012, May 8, 2012, May 10, 2012, and May 14, 2012, and that the minutes of May 9, 2012 be approved as amended to include the comments made by Mr. Percival. This motion was seconded by Mr. Donald Slesnick; and upon being put to a vote, the motion passed by a vote of 15-0. (Mr. Arriola, Mr. Diaz, Mayor Bermudez, and Dr. Richardson were absent)

CHAIRMAN'S ITEMS

- Next Meeting Dates – Proposed May 23, May 30, and June 6
- Proposed Timeline for the Charter Review Task Force

Chairman Rene Garcia considered the Next Meeting Dates and the Proposed Timeline for the Charter Review Task Force simultaneously, and he asked Ms. Inson Kim to present the proposed meeting dates and timeline.

Ms. Kim advised that the proposed meeting dates were May 23rd, May 30th, and June 6th based on the feedback provided by the Task Force members. She noted the Task Force's final report had to be submitted at the Board of County Commissioners' meeting of July 17, 2012, before the summer recess. She advised that it was hoped the Task Force's preliminary report was finalized at the Task Force's June 6th meeting, and it would be distributed by June 30th. She advised the final public hearing to gather feedback from the public on the Task Force's proposed recommendations should be scheduled for June 20th or 21st, and the Task Force needed to consider scheduling another meeting on or about June 29th to provide several days for anyone to submit a dissenting opinion.

Following a discussion on the availability and possible dates of the Task Force members to schedule the final public hearing, the Task Force members determine the final public hearing would be scheduled for June 20th at 5:30 p.m. at the County Commission Chambers if available.

Pursuant to Mr. Donald Slesnick's recommendation to change the final Task Force meeting date, the Task Force members determine that the final meeting of the Task Force would be scheduled for June 26th.

Mr. Lawrence Percival recommended that the Task Force members meet until 3:00 p.m. or until all discussions and/or work was completed in order to reduce the number of meetings.

In response to Mr. Percival's request that the Task Force members be asked to stay at the meetings until all discussions were completed, Chairman Garcia stated that meetings would be prolonged as necessary inasmuch as the people of Miami-Dade County expected this Task Force to remain focused until the work was completed; but Task Force members would be allowed to take breaks as necessary and determine if they wished to return to the meeting.

In response to Ms. Greer's question regarding the attendance of Mr. Joe Arriola and Mayor "JC" Bermudez, Councilman Gonzalez advised Mayor Bermudez had an emergency meeting at the City of Doral and would arrive late.

Upon concluding the foregoing discussion regarding the proposed meeting dates and the timeline, Ms. Kim noted the Task Force members had selected the following meeting dates:

1. May 23, 2012, Task Force meeting at 9:00 a.m.
2. May 30, 2012, Task Force meeting at 9:00 a.m.
3. June 6, 2012, Task Force meeting at 9:00 a.m.

Ms. Kim noted she would do her best to keep the meetings in the Downtown area if space was available, and she would inform the Task Force members on the dates, times, and locations as soon as the locations were confirmed.

Ms. Kim advised the following additional proposed meetings were added to the schedule:

1. June 20, 2012, final public hearing at 5:30 p.m., tentatively in the County Commission Chambers;
2. June 26, 2012, Task Force meeting at 9:00 a.m., tentatively in the Downtown areas/Main Library; and
3. July 17, 2012, Board of County Commissioners' meeting to submit Task Force's final report.

Chairman Garcia asked that all Task Force members be present at the July 17, 2012, Board of County Commissioners' meeting.

o Prohibido Callarse Show Invitation (WQBA)

Chairman Rene Garcia advised radio show broadcasters of Prohibido Callarse Show airing in WQBA extended an invitation to the Task Force members to co-host a show to promote the work

of this Task Force in the Hispanic market. He noted he was working on the proposed show dates for those Task Force members interested in participating. He advised it was considered a public hearing; and it would be properly advertised as such. He advised Task Force members would be notified of the date and time as soon as it was confirmed.

Chairman Garcia asked that Task Force members begin to contact County Commissioners to request sponsorship for the proposed recommendations forthcoming.

Mr. Donald Slesnick noted he would like to have a public radio announcement regarding community outreach meetings, and he would like to have considered the suggestion made at previous meetings by Ms. Yolanda Aguilar. He noted Ms. Aguilar and he were still interested in holding public meetings in the West Miami, Coral Gables, South Miami, and Flagami areas with the approval and support of this Task Force; and he invited Task Force members to join them in these public hearings. He further noted he and Ms. Aguilar would assume the responsibility to identify a meeting place and set the time.

Assistant County Attorney Oren Rosenthal noted the meeting had to be properly noticed to the public. He further noted the only intent of the public hearing was to hear the community's comments and suggestions, and no official action could be taken at those public hearings.

Chairman Garcia asked Mr. Slesnick that he be notified on the meetings dates, times, and locations as soon as those meetings were coordinated to incorporate those meetings in the Task Force's calendar.

Councilwoman Isis Garcia-Martinez suggested an additional air show be broadcasted in an English speaking radio station to have the Anglo and other members of the community included.

Chairman Garcia agreed with the suggestion made by Councilwoman Garcia-Martinez, but the Spanish radio show was the result of an invitation received from the radio station.

Councilwoman Garcia-Martinez commented the public radio forum should be opened to other ethnic communities if the invitation to participate in the Spanish speaking radio show was accepted.

Chairman Garcia noted he appreciated her suggestion; but any Task Force member was welcome to partake in a radio show if the Jewish, Anglo, or Creole speaking communities wished to invite any Task Force member to participate in a radio public forum.

- o Other business

Mr. Rowan Taylor, President of the Metro-Dade Fire Fighters, IAFF Local 1403, presented a proposed recommendation to change Article 1, Section 1.05, subsection C of the Miami-Dade Charter, requiring that any County employee running for a public elected office take a leave of absence from the County position until the date of election; and if elected, immediately forfeit

County employment. He recommended that requirement be eliminated to allow County employees to hold a public elected office outside of Miami-Dade County.

Mr. Lawrence Percival advised he had recently met with Mr. Taylor on this issue, and he was surprised the way it was presented today. He voiced his support for changing the language to allow employees to continue their County employment while holding public office outside of Miami-Dade County, and he recommended the language contained in the Charter be reviewed and changed as proposed by the Metro-Dade Fire Fighters. He noted he believed the current requirements were too strict as it related to the fire fighters positions, and employees should be allowed to take leave occasionally if performing their jobs satisfactorily instead of having to resign their County position.

Mr. Taylor commented municipalities within the County allowed their employees to hold public office outside of the municipalities, and Miami-Dade County Charter was the only County restricting its employees in that manner. He noted County employees were restricted from performing their civic duties; and it was important to them, as fire fighters, and to all public employees that those restrictions be eliminated.

Ms. Yolanda Aguilar advised that a Florida Statute addressed the issue of public office, and she believed it would have to be changed at the statutory level before the Task Force could discuss that recommendation.

In response to Ms. Aguilar's question regarding changing the statutes to address the recommendation made by the fire fighters, Chairman Garcia advised he did not believe it pertained to County employees themselves; and he believed the statute pertained to holding office in multiple positions. He noted he would check the mandates of that statute.

Representative John Julien expressed his agreement with Mr. Percival's recommendations inasmuch as he believed most of these public offices were part-time positions and paid very little. He expressed his agreement with the recommendation proposed by the fire fighters, and he suggested the language be changed to say that an employee may remain a County employee and hold elected office at the same time.

Professor H.T. Smith reiterated the proposal was to allow continuance of County employment and hold public office at the same time.

Mr. Taylor clarified that the language stated "for any office outside of Miami-Dade County," and it referred to an employee's position with Miami-Dade County, which forced the employee to forfeit County employment.

Chairman Garcia suggested the fire fighters' recommendation could be referred to the County Attorney's Office for review and brought back with the County Attorney's recommendations for language if Task Force members wished to consider it.

Representative Julien commented he would like to have the fire fighters' recommendation reviewed.

Mr. Donald Slesnick suggested that the Task Force members request a legal opinion from the County Attorneys, and he recommended that Ms. Greer or a member of another governmental institution be asked about their experience with this issue. He stated federal and state public elected offices were not part-time jobs and required that those officials absent themselves frequently for months at a time. He expressed his concerns for this issue and asked that Task Force members review the fire fighters' recommendation very carefully.

Mr. Hans Ottinot asked that this Task Force review the state statute provisions, especially as it related to appointed officials.

Assistant County Attorney Oren Rosenthal explained the provisions of state statutes relating to holding a public elected position and running for an elected office, noting the state statute as it related to public office holding had two major prohibitions. He advised the statute prohibited an elected official from holding two offices at the same time, and it disqualified an individual to hold an elected office if that individual already was an elected official. He further explained the provisions of the County legislation in comparison to the state's legislation.

Mr. Carlos Manrique reminded the Task Force members that the Chair's instructions were to have a limited amount of petitions placed on the ballot. He suggested that the fire fighters' proposal not be placed on the ballot as a question, and it be reviewed as part of the clean up language if the County Attorneys advised it could be addressed in that manner.

Chairman Garcia noted the County Attorney's report addressed the clean up recommendations, and any other recommendations be discussed as part of that report.

COUNTY ATTORNEY'S REPORTS

- o Recommended Technical Amendments to Charter

Assistant County Attorney Rosenthal noted he was asked to review the Charter and identify technical amendments/errors that referenced issues that no longer existed. He referenced page 15, Article 1 entitled "Board of County Commissioners," noting Section 1.05 pertained to the forfeiture of office section, which applied not only to the Board of County Commissioners, but in Section B, to the Mayor, the Property Appraiser and all community council members; and Section C related to appointed County officials. He noted this section was mislabeled and should be re-labeled, "Forfeiture of Office for County Commissioners, elected County officials, and all County employees." Section 1.07 relating to vacancies, dealt with the vacancy of the Mayor, and a section about the Board of County Commissioners, Mr. Rosenthal noted. He noted Article 3, page 22, Section 3.01 entitled "Election and Commencement of Terms of County Commissioners," which dealt with the term limits of the County Commission and Mayor, should be changed to add the Mayor in the title for clarity.

In response to Mr. Rosenthal's offer to prepare a document red lining the changes he noted, members of the Task Force accepted.

Mr. Percival noted he recalled a discussion by the County Commission regarding the fact that the Charter did not contain language to state who would handle the Mayor's delegated authority in the event of his/her death.

Assistant County Attorney Rosenthal stated this was a policy issue that must be addressed by this body. He also noted he did believe the language contained in Article 3, Section 3.01 D, and page 22, needed to be changed because it dealt with historical references.

In response to Mr. Percival's questions regarding whether the proposal that the president of the Fire Union proffered was language that needed to be cleaned up, Mr. Rosenthal said that it was sub language.

Assistant County Attorney Rosenthal noted a prime example of sub language was on page 30, Section 5.08, Subsection C entitled "Boards," stating: "for the purpose of cooperating with the Miami-Dade Water and Sewer Authority," and that Authority was dissolved some years ago.

Assistant County Attorney Rosenthal noted another technical change on page 26, under the Municipal Charter section that said: "it should be provided in 5.04," should say: "it should be provided in Section 6.04... and Section 6.05 should cross reference 6.03 instead of 5.03."

Assistant County Attorney Rosenthal referred to the language contained in Section 8.02, entitled "Recall," and suggested the language "Sheriff or Constable" should be removed from that section.

It was moved by Terry Murphy that the task force adopt the technical amendments recommended by the County Attorney's Office. The motion was seconded by Mr. Percival; and upon being put to a vote, the motion passed unanimously by those members present. (Ms. Aguilar, Mr. Arriola, Mr. Diaz, Ms. Garcia-Martinez, Reverend Dr. Richardson, and Mr. Trujillo were absent.)

- o Term Limits Discussion

Regarding Term limits, Assistant County Attorney Rosenthal noted two questions arose out of the discussions about term limits--- one had to do with whether retroactive term limits would be legal. He noted the Florida Courts had defined term limits as disqualifications and qualifications of office. He noted a recent Supreme Court case reaffirmed that term limits were qualifications of office and changed the law by saying all chartered counties statewide could enact term limits, and there was no definitive case law that defined terms already served as being illegal. Therefore, a charter amendment which would say whether or not term already served was illegal when viewing qualifications for an individual running for office. Some people consider this a retroactive term limit, but it is not truly retroactive but just looking back at what qualifications would be involved. He noted term limits for these types of offices were not very common due to prior case law, and not much case law existed to support it. He stated he did not believe it was

legally sufficient. Mr. Rosenthal noted the term of a current office holder or elected official could not be truncated, which was an important issue to discuss. He noted all of these questions would have to go on the ballot in November, and term limits could not be placed on the November 2012 ballot that would disrupt the outcome of the August 2012 election. Essentially, Mr. Rosenthal noted terms limits could not be properly placed on the ballot until 2014.

Mr. Julien questioned why the Task Force would propose language that would expose the County Commission to potential lawsuits since the proposed language did not have any case law to corroborate it.

Assistant County Attorney Rosenthal noted Mr. Julien's question involved a policy matter which must be addressed by Task Force members.

Mr. Julien noted he supported the proposal to limit the terms of office prospectively, but not retroactively.

Mr. Percival pointed out that, during the public hearings, some individuals proposed to limit the terms of office to one additional four-year term for commissioners who had already served eight years; and he questioned the reasonableness of this proposal.

Mr. Julien said he did not believe it was reasonable to allow commissioners who had already completed eight years to serve another term.

Mr. Smith explained that a question regarding term limits was already on the ballot for the November 2012 election. He suggested that members of this Task Force address the question as to whether or not term limits should be retroactive or prospective.

Chairman Garcia questioned the process if members of this Task Force proposed a ballot question involving term limits that was worded differently than the one already on the ballot.

Assistant County Attorney Rosenthal advised that, in the event a similar question was placed on the ballot by this Task Force, it would result in competing ballot questions; and it would require a determination by the court as to whether one, both, or neither question would be placed on the ballot. If both questions were placed on the ballot and approved by the voters, the court could rule that the question receiving the most affirmative votes would take precedence, Mr. Rosenthal noted.

Mr. Manrique pointed out that, if commissioners who had already served eight years were allowed to serve one more term, those elected in August 2012 would serve until 2020.

Mr. Slesnick suggested Task Force members not consider term limits since a question was already on the ballot.

Mr. Ottinot expressed concern that the existing question on the ballot only limited commissioners to two consecutive terms as opposed to a lifetime limit of two terms.

Mr. Percival noted he believed that questions involving commissioners' term limits, salaries, and outside employment should be placed on the ballot as separate questions.

Mr. Bermudez questioned whether it was feasible for the County Commission to revise the language involving term limits as contained within the ballot question for November 2012. He suggested the Task Force prepare an alternate ballot question for consideration by the Commission.

Assistant County Attorney Rosenthal advised the County Commission had the authority to remove questions from the ballot including those recommended by this Task Force before election.

Mr. Gonzalez noted the residents from his community supported retroactive term limits.

Ms. Perry stressed the importance of maintaining institutional knowledge on the County Commission to avoid the potential for greater influence by lobbyists and ensure County government remained efficient.

Mr. Bermudez said he believed it was unreasonable to have two, one-year term limits for the Mayor and no term limits for commissioners. He also noted he questioned Ms. Perry's suggestion that limiting commissioners' terms of office would result in the loss of institutional knowledge, noting such knowledge would be valued only if applied the right way; and Task Force members should not assume that this was a priority to the voters. With regard to lobbyists, Mr. Bermudez noted lobbyists already had significant influence on County government.

Mr. Murphy pointed out that the average term of office for commissioners was eight years, noting single-member districts were enacted in 1993 and a total of 32 commissioners had served since that time.

Mr. Smith noted he would support a proposal by this Task Force to limit commissioners' terms of office, even if it was worded similarly as the existing question on the November 2012 ballot.

Mr. Manrique pointed out that commissioners' terms of office were limited, noting the voters had the right to remove commissioners from office every four years; however, commissioners were re-elected repeatedly. He explained that the deadline for placing questions on the November 2012 ballot were the same for this Task Force as it was for the County Commission; and that the findings/recommendations of this group must be placed on the July 17, 2012 County Commission agenda, as this would be the last opportunity for this group to meet that deadline. Mr. Bermudez noted his comments were not intended to be critical of the County Commission, and he was conveying the sentiment of the residents of his community when he said County government was ineffective. He emphasized the importance for Task Force members to state their position, even if it was consistent with the County Commission's.

Mr. Ottinot suggested the question involving term limits be re-worded to read: "Should the County Commission be subject to the same eight-year term limit as the County Mayor."

Chairman Garcia proposed that the County Commission's question remain on the ballot; however, the questions should be reworded differently. He noted the Task Force's proposal involving term limits would offer the public a second question to consider.

Assistant County Attorney Rosenthal advised that the previous Task Force recommended a question be placed on the ballot to make the Property Appraiser an elected office, and that the County Commission put that question on the ballot before the Task Force finished its report.

Ms. Garcia-Martinez concurred with Mr. Bermudez that the Task Force should recommend a ballot question involving term limits, even if it was the same as the County Commission's. She pointed out, however, that her community supported retroactive term limits. She suggested the Task Force recommend the terms of office for commissioners be limited to a twelve-year, retroactive term limit to avoid potential lawsuits.

Assistant County Attorney Rosenthal advised that some commissioners had already served more than 12 years, and setting term limits to 12 years would not eliminate the potential for lawsuits.

Ms. Garcia-Martinez noted she had the same position as the residents of her community, who favored retroactive term limits.

Mr. Slesnick suggested that Task Force members take a straw vote on the proposal for retroactive term limits.

Mr. Manrique noted the Task Force had three alternatives regarding term limits:

1. The retroactive approach: prohibit incumbent commissioners from running in the next election;
2. the prospective approach: two full terms from the date of this election, which would allow some commissioners up to 10 more years; and
3. the flexible approach: allow incumbent commissioners one more term regardless of their years in service.

Chairman Garcia noted the flexible approach would be a disservice to commissioners elected during a special election because it would limit their terms of office to six years.

Mr. Smith clarified that the Task Force should first determine whether it supported retroactive term limit, and if so, what form of retroactivity.

Chairman Garcia noted he would conduct a straw vote on the question of term limits being retroactive to allow incumbent commissioners one more term beyond their existing term.

Mr. Ottinot questioned how "term" would be defined. He suggested that commissioners who had served more than two years be considered to have already served one term.

Mayor Bermudez explained that he would support a recommendation from the Task Force for retroactive term limits because it would allow incumbent commissioners to serve a second term, which they were entitled to; and it would also include a recommendation to place a question on the November ballot that posed the exact same question as the one placed on by the County Commission. He stressed the importance for Task Force members to ensure that this question remained on the ballot in the event the County Commission revised or removed it.

Hearing no other questions or comments, the Task Force considered a straw vote on its recommendation that if the Charter was amended to impose term limits on county commissioners those term limits be applied retroactively to allow incumbent commissioners one more term beyond their existing term; and upon being put to a vote, the motion failed by a unanimous vote of those members present.

Chairman Garcia questioned whether the Task Force members would support a recommendation to place a proposal limiting term limits for commissioners worded identically to the one placed on the November 2012 ballot by the County Commission.

Mr. Murphy noted he was opposed to term limits in any form.

Ms. Perry noted she concurred with Mr. Murphy in that she did not support term limits.

Mr. Smith noted he supported Bermudez' suggestion that this Task Force recommended that a question be placed on the ballot asking the voters whether the commissioners' terms of office should be retroactive term limits to allow incumbent commissioners suggestion that this Task force recommend a proposal for retroactive term limits because the voters would vote for the term limits recommendation if the Task Force's supported term limits. He further stated that people would probably vote against this recommendation if supported by the County Commission.

Ms. Perry noted she did not support term limits.

It was moved by Mayor Bermudez that the Task Force recommend retroactive two-term limits for a total of eight years and not consecutive terms. This motion was seconded by Mr. Smith, and the floor was opened for discussion.

Mr. Ottinot explained that Mr. Bermudez or the question was the County would be subject to eight-year terms meaning two-term limits (two consecutive four-year terms). Therefore, he stated that the County Commission would be have the same term limits as the County Mayor, or the Task Force could propose language that Commissioner Moss sponsored regarding consecutive term limits.

Assistant County Attorney Rosenthal clarified the recommendation for the amendment to the Charter would read as follows: "notwithstanding of any other provision of this Charter, effective with the term of commissioners scheduled to commence 2012, no person shall be elected as commissioner for more than two consecutive four-year terms. No term of service as a commissioner commence prior to 2012, shall be considered a part of the County Board for two-term limits." He stated that the ballot question would read "Shall the Charter be amended to provide that a County Commissioner shall not serve no more than two consecutive four-year terms in office excluding terms of service prior to 2012?"

Mr. Ottinot expressed his concern with a commissioner elected in November 2012 could then serve 12 years.

Mr. Bermudez stated that any term of service that starts after January 1, 2012, which would be the November term of service, would be included in the two consecutive terms.

Discussion ensued regarding a comparison between the proposed terms of service for County Commissioners and the state and federal elected officials, and how county commissioners elected in a special election would be impacted.

Mayor Bermudez clarified that those commissioners under this term limit amendment and elected in November 2012 would be able to serve two terms, and those commissioners elected in November 2014 would have two terms.

Mr. Ottinot recommended that the word "consecutive" be removed from the proposed Charter amendment.

Ms. Perry stated that there was a difference if people liked someone they should have the ability to come back after being in the private sector; and if the Task Force was concerned about a rubber stamp, the proposal could have language to ensure this proposed Charter amendment regarding term limits be placed on the ballot. She expressed her concern with consecutive terms because the voters should have the right to bring someone back.

Assistant County Attorney Rosenthal explained the difference. He stated the first would be qualification of office so that at the time the person qualified, if you are serving two consecutive terms, you would not be eligible to be a commissioner for the next term. Mr. Rosenthal provided an example, "if they served for four years of four-year terms 20 years ago, and then re-elected and served another four-year term eight years ago, then they will still never be able to run for the office of County Commissioner." He stated that the prior eight years would be the way it worked.

Mr. Ottinot stated that in looking at the executive summary from the previous Task Force, the recommendation was two, four-terms with no consecutive terms passed by a vote 14-0. He stressed that the two, four-year terms was strongly recommended and supported by the previous Task Force. Therefore, he expressed he strongly supported this Charter amendment.

Chairman Garcia noted that there was a motion on the table.

Mayor Bermudez questioned how close this language proposed by the Board of County Commissioners does mirror the language that was placed on the ballot when the County Mayor two consecutive four-year terms were defined.

In response to Mr. Bermudez' question, Assistant County Attorney Rosenthal stated that he would have to conduct research because the Office of the Mayor commenced in 1996.

Mr. Percival stated could someone be County Mayor for eight years with break for four years, and then come back and run for office again.

The motion by Mayor Bermudez for two, consecutive four-year terms, passed by a vote of 9-2 (Mr. Murphy and Ms. Perry voted no). (Mr. Arriola, Mr. Bucelo, Mr. Diaz, Ms. Greer, Mr. Julien, Dr. Richardson, and Mr. Trujillo were absent)

Following approval of this motion, a brief discussion ensued between Mr. Percival and Mr. Slesnick regarding the status of the proposed Charter amendment based on the vote taken because that was not a majority of the Task Force members.

Assistant County Attorney Rosenthal stated that only a majority of those members present was required for the motion to pass. Therefore, he stated that the recommendation of this Task Force that the county commissioner terms of office be limited to two, consecutive four-year terms.

A discussion ensued among the Task Force members regarding the resolution adopted by the County Commission (Resolution No. R-253-12), specifically Sections 7 creating the Task Force, and the ability to reconsider any recommendations by a motion at a subsequent meeting.

Chairman Garcia stated that the Task Force has addressed today term limits, incorporation, and reviewed the technical amendments; and Assistant County Attorney Rosenthal would present his findings for those amendments at the next meeting. He stated now the Task Force would proceed to discuss any issue of interest that each and every member may have at this time.

STAFF REPORTS/PRESENTATIONS

- Procurement Presentation

Mr. Amos Roundtree, Director, Purchasing Division of Procurement Management, Internal Services Division, explained the County's internal procurement processes to include the Request for Qualifications (RFQ), Request For Proposals (RFP), Selection Committee process, responsive bids, and award recommendations.

In response to Representative Carlos Trujillo's inquiry, Mr. Roundtree advised he did not have available the exact number of bid protests filed; but approximately one percent (1%) of all award recommendations were protested annually with a lower percentage over turned.

Chairman Rene Garcia inquired about the relationship between the County Commission and the Selection Committee, the County's selection process, and the level of transparency and influence the County Commission possessed over the procurement process.

Mr. Roundtree explained that the Mayor had the authority to award contracts not exceeding \$1 million based on the contract value and terms. He provided a brief overview of the legislative contract award process to include the committee process prior to being considered by the Board of County Commissioners.

In response to Representative Trujillo's inquiry, Mr. Roundtree advised members of the County Commission were restricted from participating in the Selection Committee and in the selection process of contracts. He noted County Commissioners only participated after the selection process was completed by the department and the contract was recommended for award. He noted the only participation the Board had was at the approval of the award recommendation of contracts.

In response to Representative Trujillo's inquiry regarding the percentage of contract award recommendations approved by the Board and the valid reason for rejecting an award recommendation, Mr. Roundtree advised approximately 99.99% of the contract award recommendations were approved by the Board. He noted in rare instances the department was directed to rebid or renegotiate if the process failed to yield the correct outcome.

Discussion ensued regarding the procurement process and the percentage of contract award recommendations approved.

In response to Mr. Lawrence Percival's inquiry regarding the Mayor's authority to approve contracts not exceeding \$1 million, Mr. Roundtree affirmed the Mayor was allowed to approve contracts not exceeding that amount.

In response to Mr. Percival's question regarding if County Commissioners' staff were allowed to participate in the Selection Committee's and/or with the procurement staff's work during the procurement process, Mr. Roundtree explained County Commissioners' staff were not allowed to be involved in the selection process nor in the work of procurement staff.

Upon concluding the foregoing presentation, Chairman Garcia proceeded to consider the Incorporation/Annexation Presentation

- Incorporation/Annexation Presentation

Ms. Jennifer Moon, Budget Director, Office of Budget and Management, presented an overview of the incorporation/annexation processes, noting the presentation prepared for the past Charter Review Task Force was distributed to the Task Force's members with some changes made. She commented the incorporation/annexation processes had experienced hardly any changes. She referenced page 17, first bullet point of the presentation; and she stated the County had concerns

over the unincorporated areas because it was comprised of small areas of very low valued properties. She corrected the first bullet to read: "in addition to a higher service class it could mean to lower service class depending on decisions made about service delivery in your municipal incorporate area."

Ms. Moon advised the purpose of this presentation was to provide accurate information regarding the incorporation/annexation processes, the next steps to follow regarding what would happen with the community, and how citizens would determine what type of government representation they wished to establish to include the service level and the rate level for those services.

Ms. Moon explained the current incorporation/annexation processes. She noted the Miami-Dade County Municipal Code (the Code) clearly incorporated many steps into the process to ensure it was difficult to incorporate. She noted the Code also provided the Board of County Commissioners with a certain role in the development of municipal boundaries. She advised it had been pointed out to the County Commission on numerous occasions that the electorate desired to have implemented an easier incorporation/annexation process; subsequently, the Code had to be changed to incorporate policy changes allowing an easier process.

Chairman Rene Garcia advised the Task Force members had already expressed an interest to have this initiative reviewed.

Mr. Hans Ottinot commented on the financial analysis prepared by the County for incorporations, how incorporations benefited all parties affected, and his experience with the incorporation process.

Ms. Moon agreed with Mr. Ottinot's views, and she advised that the Office of Budget and Management was currently working on a holistic financial analysis of the impact an incorporation had on the community as a whole because it had several positive aspects to the extent property values and tax rolls were increased. She suggested the per capita cost of government in general should be discussed as opposed to just studying surrounding area of the proposed municipality because incorporation could have a very positive impact to neighboring jurisdictions in the community. She stated the process should not be adversarial, and the constituents' right of self-determination should be supported.

Ms. Evelyn Greer commented on the County's cherry picking practice in connection with the approval of incorporations, noting the growing City of Miami Gardens had been the most benefited from incorporation. She explained the tax revenues breakdown generated by a municipality, noting the School Board received 40%, the County received 40%, the Fire District received 10%, and the municipality received 10%. She commented incorporation enabled the municipality to qualify for grants at the state and federal levels for which the area was previously unable to access due to limitations established to access that type of funding that only allowed municipal service area to access the funds, and the property tax base had increased substantially.

Ms. Greer reviewed the incorporation process of the Pinecrest area and the budget analysis prepared for that area. She commented that the tax revenues had substantially increased after the area was incorporated, and the area currently generated three times more tax revenues.

In response to Representative Carlos Trujillo's question regarding whether the increase in tax revenues was due to an increase in the millage rate and/or property values, Ms. Greer advised that the increase in tax revenues for the Miami Gardens and the Pinecrest areas were almost 100% driven by a substantial increase in the value of property in those cities.

Discussion ensued regarding the millage rate in the Pinecrest area.

In response to Representative Trujillo's inquiry regarding whether the incorporation was driven by the desire to improve service delivery and the cost of those services, Ms. Greer responded that incorporations resulted from the dissatisfaction with the quality and cost of services.

Following a discussion regarding the municipal service and millage rates of the Pinecrest area, Councilman Gonzalez noted the impacted community realizes an increase in tax revenues, direct services, and property values as a direct result of incorporations.

Councilman Gonzalez suggested the Task Force should select a subcommittee to study the issue of self-determination.

Ms. Greer advised she would present a proposal, in consultation with the County Attorney's Office, on the incorporation/annexation processes for this Task Force's consideration.

Ms. Moon advised certain financial obligations regarding revenues directly associated to bonds intended to be used within unincorporated areas and franchise fees had to be addressed and incorporated in the discussions.

Mr. Lawrence Percival expressed his disagreement regarding language saying several large incorporation areas and where efforts had been discontinued due to lack of community support, specifically mentioning the East Kendall MAC, West Kendall MAC, and the Northwest MAC. He stated he was unable to recommend the Northwest MAC due to his unfamiliarity with that area, but the East and West Kendall MACs had a tremendous community support even though there was large competition, and some communities had taken the position that lack of community support was the reason it was discontinued.

Mr. Percival advised that in the last few days he had saved articles from the newspaper, and he commented on the issues discussed in these articles. He asked that this Task Force embrace the concept that Miami-Dade County needed to become a regional government to improve its infrastructure, and incorporations should be driven by self-determination. He submitted a copy of the newspaper articles for the Task Force's staff to distribute for the Task Force members' review and consideration.

Following a brief discussion regarding this Task Force's goals, Chairman Garcia noted incorporations was one of the goals envisioned; and he asked that the County Attorney's Office begin to draft language in this endeavor.

Mr. Percival noted it was not just the issue of incorporation it was also the governance of County government as it related to becoming a regional government.

Chairman Garcia noted that would be the area this Task Force would focus its review.

Mr. Terry Murphy expressed his disagreement with Ms. Greer's proposal to eliminate the Board of County Commissioners' involvement in the incorporation/annexation process. He noted that was the responsibility of the governing body of Miami-Dade County, and he expressed his disagreement with the language contained in the Code. He commented on specific sections of the Charter, noting the current incorporation process was cumbersome and difficult. He stated the Code was the problem, noting it was anti-incorporation/annexation and prevented the incorporation process from moving forward.

Mr. Murphy stated that Planning Advisory Board's (PAB) authority could be increased to require a two-thirds (2/3) vote to allow the County Commission to take an alternative view once the PAB had made a final recommendation on these incorporation/annexation related issues.

Mr. Murphy referenced number 7 of Article 8 relating to the petition process and ordinances. He recommended the Task Force consider extending the time referendum ordinances or repeals were allowed to remain on the books from one (1) year to five (5) years.

Councilman Gonzalez noted Mayor Juan Carlos Bermudez had indicated he wished to comment on this issue, and he had asked that the Task Force members wait for his arrival before concluding its discussion.

In regards to Mr. Slesnick inquiry relating to whether a mechanism existed to change existing boundaries between municipalities and for exchange of land masses, Ms. Moon advised the Board of County Commissioners was entrusted with those powers.

Following a discussion regarding the mechanism to repeal ordinances, Mr. Slesnick expressed his agreement with the issue of self-determination; and he noted the incorporation process needed to be streamlined.

Mr. Slesnick expressed his disagreement with the proposal to eliminate the Board of County Commissioners' involvement from the incorporation process.

Professor H. T. Smith noted the Task Force needed to determine what would be the best process. He stated the existing process represented a problem because it was unfair, but County officials should be allowed to adjudicate. He recommended that the Task Force should make it difficult for the County Commission to prevent an area from incorporating, and he expressed his support

for reaching a compromise because the County Commission should have a level of involvement in the incorporation/annexation process through prerequisites.

Chairman Garcia concurred with Professor Smith's comments, stating the County Commission should have a level of involvement without being allowed to make the incorporation/annexation process difficult or impossible to move forward.

Mr. Ottinot commented on the existing incorporation process.

Mayor Juan Bermudez joined the meeting.

Ms. Greer pointed out that the only reason the City of Miami Lakes was allowed to incorporate was because former Commissioner Seijas retracted her position on incorporations, which helped to facilitate that incorporation. In twenty years, the BCC had never voluntarily allowed the normal incorporation process to move forward, Ms. Greer maintained. She said before 1997, the ordinance was not amended, all incorporation applications had to be approved through the allowable incorporation process, and for the past 20 years, the County Commission had been opposed to incorporation. She noted she would propose a process for this Task Force to consider by first, establishing an Incorporation Committee Ordinance. The Committee would consist of five members who would obtain a petition from the Clerk of Courts in a form set by the Supervisor of Elections.

Concerning Councilwoman Garcia-Martinez' question regarding the 25% signature requirement, Ms. Greer pointed out that the Committee must file the form with the Clerk of the Courts, and it must include a legal description of the area the Committee wished to incorporate and the applicants must provide their names, address, and signature on the form for approval by the Clerk. The form would be forwarded to the Supervisor of Elections to produce a list of valid registered voters from the area described on the petition. The Incorporation Committee would then be given a six month opportunity to collect signatures from valid registered voters of the area who support incorporating. If not supported by at least 10% of the valid registered voters from the described area, the petition should die. Upon certification of the petition by the Clerk that 10% of the valid electors of the described area support incorporation, the Clerk would present the petition to the County Commissioners at the next scheduled regular BCC meeting. At which time, the Commission would set an election date no sooner than 90 days and no later than 120 days. If another election is already scheduled within the same timeframe, the BCC would be authorized to set this election at the same time. Also, during the same timeframe, the Budget Office would complete a financial analysis of the described area. If the citizens vote to approve incorporating, a post election process would be implemented to create a Charter Committee that would create and recommend a Charter which would go before the electors for approval. She noted this is essentially the process followed by all incorporations that were approved. She noted there was vigorous debate and opposition to all the municipalities that incorporated, but the process was a magnificent exercise of the democratic process.

Chairman Diaz noted he was aware that Broward completed a similar process. He asked Ms. Moon to explain whether this process was successful in Broward County and the rules and procedures imposed on areas that incorporated in Broward County.

Ms. Jennifer Moon, Office of Management and Budget, explained that in the early 1990s, Broward County was largely comprised of annexed areas and that Broward, unlike Miami-Dade County, did not have a Home Rule Charter nor an incorporated area that acted as municipality. It was comprised of a number of annexed areas and had no remaining commercial area to provide revenue to service the unincorporated area. Consequently, Broward County officials petitioned the State of Florida, and the State enacted legislation prohibiting piece meal annexations. The State concluded that the entire unincorporated area would be annexed by 2010. Essentially, Broward County adopted annexation policies and worked with the municipalities to ensure that the entire unincorporated area was annexed. Today or by May 2012, a small piece of unincorporated area remained in Broward County, which was supported with countywide revenues.

Ms. Aguilar noted some areas had completed the incorporation process successfully because the citizens were well-educated on the process; however, other areas lacked knowledge on annexations. She stated that her concern was that, if this process became convoluted, some people would make decisions that were not in their best interest due to their lack of knowledge. The County could provide data and information to help educate the general public on the annexation process, and some areas or municipalities, such as the City of West Miami, could provide services at less cost than the County, Ms. Aguilar noted. She noted Task Force members needed to discuss these issues considering the time constraints.

Ms. Aguilar suggested the Task Force recommend that a question be placed on the ballot as to whether or not Miami-Dade County should provide regional services only. She noted the creation of the Task Force stemmed from a general consensus among the residents of the community that they were dissatisfied with their district commissioner.

Mr. H.T. Smith pointed out that Ms. Greer's proposal would eliminate the County Commission from the process. He asked Ms. Greer what would be the purpose for going before the County Commission, and when would the budget review be completed, and the financial data available to the public.

Ms. Greer noted that the County Commission would set an election once the petition was submitted. She also noted that, once the Incorporation Committee had met its 10% signature requirement and obligations for placing the item on a ballot, the Budget Office would prepare a financial analysis that would be distributed to the public for debate at a public hearing before an election was called.

In response to Mr. Smith's question regarding whether the Budget Office would be given a certain timeframe to complete the financial analysis, Ms. Geer noted that during the 60 days following the Clerk's certification of the petitions, a budgetary analysis on the proposed

incorporation shall be completed and the Board of County Commissions shall schedule at least one public hearing prior to calling an election.

Chairman Diaz noted the Task Force needed to discuss a plan for incorporation and annexation and make recommendations for a process as it related to the Charter and the Code.

Mayor Bermudez noted he agreed with Ms. Aquilar's suggestion that a question be placed before the voters on whether or not Miami-Dade County should provide regional services only. He said he believed a process was needed to give areas the right to self govern without any interference from the County Commission. He spoke about the issues of mitigation when the Cities of Doral, Palmetto Bay and Miami Lakes incorporated, and the fact that mitigation was imposed on them and not other cities such as Pinecrest and Aventura. He noted Commissioner Seijas was a member of the Committee created by the Board of County Commissioners to hear issues on mitigation, and the Committee concluded that mitigation was unfair because those three cities would pay taxes in perpetuity to exist. He noted, subsequently, the State's Governor signed a bill repealing mitigation for the three cities; however, the cost to litigate was around \$46 million. He noted the rules were applied differently and subjectively to those cities by the Commission of that time, which was not good government. He said he believed the incorporation process should be very clear, and not governed by the County Commission.

Mayor Bermudez noted annexations were just as important, noting an unincorporated area in the middle of the City of Hialeah 100 yards away from a municipal fire station, should be part of the City of Hialeah. He noted he concurred that the public needed clear data on incorporation and annexation and that the residents should have the right to petition their government to incorporate. He noted the Task Force should consider the most effective way for the County to deliver services, and he also noted the Charter needed to be amended to change the process for incorporating.

Mayor Bermudez stated he would consider an incorporation process along the lines of Ms. Greer's proposal to place the question before the voters and remove the politics out of it.

Ms. Greer noted in reality, the past budget analysis always showed that the proposed city was not financially fit to incorporate. She gave the examples of the Cities of Pinecrest and Miami Gardens, which showed a \$20 million deficit at the time they applied for incorporation. She noted the County's analysis and budget statement was comprised of various opinions and many pros and cons. She noted the Incorporation Committee would be obligated to refute the document and argue that the information was inaccurate.

Ms. Perry asked what would be the criteria for self-determination if the budget analysis showed that it was not financially feasible for the area to incorporate, or would a referendum be placed on the ballot anyway.

Ms. Greer noted the purpose of the financial analysis would be to have the citizens discuss it at a subsequent public hearing. She pointed out that the financial analysis for all past incorporations showed the proposed cities were not feasible financially and could go bankrupt, but what was

missing was a post election process for citizens to determine their budget and government size, based on available revenues, and how to provide services with less money.

Mr. Terry Murphy noted he believed that mitigation would not be considered again or imposed on future municipalities based on past experiences. He appreciated the fact that there had been a different strategic approach about the benefits of the School Board tax base versus the countywide tax base that occurred with new incorporations. He noted this issue had never been discussed by the County Commission, in terms of what the cities had done to improve the countywide tax base, Fire District and Libraries District, but the BCC always focused on the Unincorporated Municipal Service Area (UMSA). He said he felt this was excellent new info that could be brought forth for consideration by the PAB or the CC, that the BCC should have a role in this process, either to accept it or must have a two-thirds vote to override. He noted there was a possibility to open this up with no stop gap, and many areas had incorporated when it was historically shown that it would fail.

Mr. Murphy noted the issues were complex and the ability to cherry picking was an issue. He stated that, if the Downtown Kendall High Rises decided to incorporate Dadeland, they would be able to vote regardless of the impact on the residents of Kendall; and the incorporation would be able to establish that community, which was bordered by US 1, the Palmetto Expressway and SW 80th Street (Kendall Drive). He said he felt there was a role for some broader government oversight, and agreed with the County Commissioners regarding incorporations over the last twenty years the areas, when they said that all properties identified as commercial and industrial businesses that were viable for the County could not be included. He noted its been said that the current Code for incorporation was offensive and created more hurdles than necessary, but the Task Force needed to find ways to allow the Charter to provide a government body that would ultimately control the process and to improve the Code to make the process easier.

Ms. Greer pointed out that members of the Planning Advisory Board (PAB) were direct appointees of the Board of County Commissioners, and she believed they could be removed from the PAB if they went against the opinion of their appointee. Regarding industrial/commercial properties, she pointed out that the owners of the buildings in Dadeland did not live in the area, and she did not believe the citizens would organize a referendum to incorporate Dadeland because the residents were opposed to the commercial buildings and owners of the buildings would fight the referendum. Ms. Greer noted the Task Force needed to find a solution for repealing the existing incorporation and annexation ordinances that were approved by the County Commission but disapproved by the citizens for years. She noted the Task Force should consider the process used by Broward County, which decided to get out of the municipality business and concentrate on regional issues like infrastructure airport development and social services at a countywide level. She said she believed that placing a separate Charter amendment question on the ballot before the voters on whether or not Miami-Dade County should provide regional services only and incorporate all of UMSA might be a great way to test the sentiment of the voters.

Mr. Murphy noted that under the petition process, if someone wanted to repeal the existing ordinances under the Code, they could enact a countywide petition to repeal the entire section of

the Code that would stand for five years instead of one year. He noted that ordinance petitions were presented to the County Commission for acceptance or rejection and would go through the petition process.

Chairman Garcia noted the consensus of the Task Force was to streamline the process to make it easier for communities to incorporate; and the County Mayor expected this group to come up with recommendations to streamline the Charter incorporation process so that the County Attorneys could begin crafting the questions for review next week.

Mr. Slesnick noted he supported Mayor Bermudez' comments that the existing process complicated rather than facilitated the incorporation process; and the mitigation process and self-determination were unclear. He agreed that County government should play a role in speaking for all local residents regarding the future of the County; although in the past, the Commission had impeded what might have been the best course of action.

Mr. Ottinot noted the process needed to be easier and include checks and balances. He noted the Chair had said that the consensus of this Task Force was that the County should have a plan in place for incorporations and annexations. He questioned how Task Force members wished to proceed with this issue.

Mr. Percival noted the first step would be to prepare a question asking the voters whether the County Commission should be a regional body since at least three members had suggested this. If the voters approved this question, the next step would be to develop the process for incorporation and annexation.

Mr. Slesnick clarified that the charge of this Task Force was to recommend amendments and/or revisions to the Charter.

Mr. Percival noted the goal of the County should be to become a leaner, more efficient government that serviced regional areas; and municipal areas would require a paradigm shift through a self-determination process. The question to the voters should be whether the County Commission (or Miami-Dade County) should be a regional government that dealt with regional issues and whether that municipalities should be allowed to annex or incorporate without creating donut holes.

Chairman Garcia asked the Assistant County Attorney to explain the process for placing questions on the ballot.

Assistant County Attorney Oren Rosenthal clarified that the Charter was amended by placing a question on the ballot that was approved by the County Commission through a resolution. He provided an example of a ballot question, noting it could not exceed 75 words and must adequately summarize the proposed change. He explained that this Task Force was responsible for reporting to the County Commission how the Charter should be amended and how. He also explained that, once this process was complete, the County Attorneys would draft a ballot

question to be placed on the ballot; and the Task Forces' recommendations should be specific and was not limited to 75 words as the ballot question.

Ms. Greer noted Mr. Lawrence suggested the Task Force recommend that a question be placed on the ballot calling for countywide incorporation; however, it should be a citizen's initiative petition process rather than imposing countywide incorporations because residents should not be forced to incorporate against their will. Ms. Greer suggested the Task Force create a discussion item as to whether the County Commission's participation in this process should be limited; and Mr. Percival, Mr. Murphy, and she would work with the County Attorneys to draft appropriate recommendations for the Task Force's review at its next meeting.

The foregoing recommendation was accepted by a unanimous consensus of those members present.

Mr. Percival suggested that Mayor Bermudez and Ms. Aguilar should also work with the County Attorneys to craft the language.

Chairman Garcia commented two or more proposals would be before them for review by the time this group reconvenes, noting the final recommendation could be a hybrid although he agreed with some of each suggestion. However, they all agreed that a concrete incorporation process must be established.

Mayor Bermudez asked how he would communicate his input on language.

Assistant County Attorney Rosenthal clarified that Government in the Sunshine prohibited Task Force members from discussing these issues via email or any other median other than a publicly noticed meeting. However, they could schedule a meeting in the Sunshine to discuss these proposals.

Mr. Percival noted that Councilman Gonzalez's input was equally important and should be included in fashioning the language.

Ms. Greer suggested that the Task Force could meet on the Monday before its Wednesday meeting for a short session to discuss the language.

Mr. Manrique noted he was appointed by Senator Souto, whose Commission District was one of two that did not have a single city. He noted he tended to support some of every proposed suggestion; however, he believed that this body needed to consider the impact if the entire County became a regional government. He recommended that Task Force members keep in mind that, even though the County was moving toward a regional government, flexibility was needed.

Chairman Garcia noted this debate would be continued at the next meeting, and he proceeded to consider the issue of term limits.

- 2011 Adopted Millage Rates

(SEE REPORT FOR RELATED AGENDA ITEM INCORPORATION/ANNEXATION PRESENTATION.)

- Areas of Interest Tally

Chairman Rene Garcia noted the oral feedback given by the members of the public at the public hearing meetings were issues relating to county commissioners' salaries, incorporations/annexations, financial administration of personnel, governance of Jackson Memorial Hospital (JMH), and abolishment of certain policies and functions of the County administration. He asked that Task Force members begin to consider which of those issues should be reviewed.

- Blog Update

Mr. Michael Sarasti, Customer Service Advocate, Miami-Dade Community Information and Outreach, explained that a solution was developed at the request of the Task Force to help solicit additional feedback from the community outside of the Task Force's web page; therefore, a web blog link and website page was established. He noted the Task Force's website had a contact page link to submit comments on the record and include information such as email address and name. He noted a blog link was also included to allow the public to submit informal comments unanimously, and standard notification disclaimers were posted to notify users that privacy rights were not applicable when browsing through the website. He also noted several other solutions were available and many required a fee.

Mr. Sarasti reviewed the contents of the forms and how the comments could be submitted.

In response to Mr. Percival's inquiry, Mr. Sarasti clarified that the blog was not intended for the members of the Task Force to respond to the comments made by the public; and it was just a form to allow the public to have access to the Task Force. He noted it was designed to have the public submit recommendations and comments.

In response to Councilman Gonzalez, Chairman Garcia advised blog link was designed to allow Task Force members to log on and view all of the comments made by the public and to post questions to gather additional input.

Mr. Sarasti noted the web site address was charterreview2012.blogspot.com, and the Task Force's web site also had a link to the blog.

In response to Mr. Percival's inquiry regarding whether the public hearing meeting minutes should be linked to the blog to stimulate thinking, Chairman Garcia advised the minutes were linked to the website.

In response to Mr. Percival's and Councilwoman Garcia-Martinez's inquiries regarding how to access the blog link, Mr. Sarasti explained the blog could be accessed from the outside by logging in to charterreview2012.blogspot.com directly or by typing miamidade.gov/charter.

Mr. Sarasti advised that the blog form could be modified to accommodate the wishes of the members of the Task Force to include viewpoints to solicit input from the public.

Discussion ensued regarding how to access the blog page.

Assistant County Attorney Oren Rosenthal advised that Task Force members should not use this blog page as an opportunity to communicate with others or the public due to the Sunshine Law. He asked that Task Force members refrain from initiating or entertaining a discussion outside of the public process regarding blog responses.

In response to Mr. Murphy's question regarding whether Task Force members should participate in the blog, Chairman Garcia asked that Task Force members refrain from submitting anonymous blog comments on any issues.

Mr. Murphy commented that, even though comments were anonymous, blog comments were traceable, and he noted it represented a discussion form outside of the public process.

Ms. Inson Kim stated the blog link was established as a response to a request made at the Task Force's meeting of May 7, 2012, in order to gather the public's sentiment on issues. She stated the Task Force discussed the issue of individuals who wished to comment on issues without providing their names; and as a result, a mechanism was developed to allow for comments off the record and in an informal manner. She also noted the Task Force needed to determine the party responsible for monitoring the blog link.

Professor H. T. Smith noted the blog link substantially sufficed the intent of the Task Force members provided that several intricate points could be included to monitor the public's sentiment; but the Task Force would not participate as a consequence of the Sunshine Law.

In response to Mr. Percival's inquiry regarding whether Task Force members could confess orations at the official parliamentary, Professor Smith advised he was not sure.

- o Follow-up CRTF requests and other business (Translations, Independent Review Panel, Commissioner Moss Item, etc.)

Chairman Garcia stated at the next Task Force meeting he would like to discuss the issue of governance at Jackson Health System, and would like to have a presentation on what was going on around the country as it related to public hospitals and their governance. He noted this issue was critically important for this County.

A consensus was reached among a majority of the Task Force members present to discuss salaries for county commissioners.

Mr. Bermudez noted he would be absent from the May 23, 2012, meeting, and he would like to be present for the discussion on ethics and the Office of Inspector General. He noted he intended to proffer some ideas on these two issues.

Ms. Perry stated that she would like to discuss the two-thirds votes for changes to the Urban Development Boundary (UDB) by the County Commission. She noted this issue was an ex-Mayoral issue.

Chairman Garcia stated that issue would be discussed at the next meeting.

Ms. Perry commented on the two-thirds (2/3) required vote of the County Commission for changes to UDB, noting the two-thirds vote was required by the Miami-Dade County Code rather than the Charter meaning the County Commission could roll it back to 50%. She proposed that the two-thirds (2/3) vote requirement be considered by the Task Force with the possibility of having the two-thirds vote requirement placed in the Charter to prevent a roll back.

Mr. Murphy expressed his concern with the Task Force consideration of the two-thirds (2/3) vote requirement for changes to the UDB, and how it would fit in the Charter. He stated that a section would have to be created in the Charter to address this issue along with defining this section. He expressed it was more of a legislative issue inasmuch as many factors were associated with it.

Ms. Perry asked Assistant County Attorney Rosenthal to review this issue.

Assistant County Attorney Rosenthal explained the UDB was not in any way defined in the existing Charter. He further explained any recommendation of this Task Force, if supported by the County Commission, would be placed as a Charter amendment ballot question for the voters.

Mr. Manrique stated that Ms. Perry only stipulated half of what the former Task Force recommended on the UDB issue. He noted that the issue was highly opposed by the Latin Builder Association and the Florida Builders Association. He stated that he still did not understand the rationale for the opposition. Mr. Manrique stated that the Builder Association contended that allowing staff to drive the UDB was better than including it in the Charter. He stated that the Task Force should listen to the builder associations who argued that the UDB was not a line that was set, and it was a moving line through time. Mr. Manrique reminded the Task Force members that our predecessor asked the County Commission to place before the voters on a ballot question that a Charter Review Task Force or a similar body meet every five years to determine whether that UDB line should be moved or not. He noted that according to the builder associations a builder would have to invest approximately \$200,000 to initiate petition to move the UDB line. He suggested the UDB legislation be inserted in the Charter. Therefore, there would be no changes to the UDB until the Task Force met and made its recommendations to move the UDB line. Mr. Manrique stated that the builders did not support this idea.

Mr. Percival stated everyone knew he was the Mayor's appointee, and the Mayor had not dictated that he followed his suggestion, but his suggestion was in his State of the County

Address that UDB issue be codified and have 10 votes on the issue. He expressed that he supported a simple majority vote on the UDB issue as it stand now with nine votes and did not have a problem with it be codified in the Miami-Dade County Code. Mr. Percival stated would it hurt to codify this issue if the Task Force as suggested by Ms. Perry at a two-third (2/3) vote requirement.

Mr. Murphy stated he would consider placing it in the Charter.

It was moved by Ms. Aguilar that the Task Force recommend inserting language in the Charter regarding the UDB. This motion was seconded by Councilwoman Garcia-Martinez, and the floor was opened for discussion.

Mr. Ottinot questioned the time frame for how frequently the UDB issue would be reviewed.

Ms. Perry restated her motion that the current requirement that it took a two-thirds (2/3) vote of the County Commission to move the UDB be placed in the Charter.

Mr. Ottinot stated he believed that zoning matters should always be in the Code, and the Charter should be very limited.

A brief discussion ensued among the Task Force members regarding the UDB line.

It was moved by Ms. Perry that the Task Force recommend the insertion of language into the Charter pertaining to the two-thirds (2/3) vote requirement for the UDB line. This motion was seconded by Ms. Aguilar; and upon putting the motion to a vote, the motion passed by a vote of 11-0. (Mr. Arriola, Mr. Bucelo, Mr. Diaz, Ms. Greer, Mr. Julien, Dr. Richardson, and Mr. Trujillo were absent)

Mr. Donald Slesnick announced that he would not be present at the next Task Force meeting scheduled for May 23, 2012; and he would like for the Task Force to discuss the Government Supervisor Association and the Police Benevolent Association (PBA) letter regarding the mayoral veto on the union impasse items.

Chairman Bermudez stated that the May 23, 2012, meeting would address the ethics and the Office of the Inspector General.

Mr. Murphy suggested that the Task Force discuss the vacancy of the current Mayor's office before the County conducts a special election or a run-off election. He asked that the Task Force consider using the concept of an instant-runoff ballot method if there was a special election that needs to fill a vacancy in the office of the Mayor or a county commissioner seat. He informed the Task Force members that this method had been used in certain communities like Minneapolis as well as other areas.

Chairman Garcia stated that the suggestion made by Mr. Murphy could be placed on the May 23, 2012, meeting agenda.

Mr. Murphy asked that the appropriate department be prepared to make a presentation on his suggestion at that meeting.

Mr. Ottinot asked that the current benefit package for each county commissioner be provided to the Task Force in order to discuss the issue of salary for county commissioners.

In response to Mr. Ottinot's request, Chairman Garcia stated that information would be provided and available for the next meeting.

Mr. Murphy requested that staff prepare for the Task Force's review his proposal relating to county commissioners' salary and his formula consisting of the value of the property tax base divided by the population. He asked if the proposed formula be done for five-year increments between the census dates and the five-year estimate. He further stated when you divide the tax base of the entire County it was approximate \$192 million by the population of 2.5 million people it comes up to approximately \$76,000. Mr. Murphy suggested that the Task Force adopt a local formula to be developed instead of the State formula. He asked that staff prepare this information requested and present it to the Task Force.

Mr. Manrique reminded the Task Force of the current petition gathering process for incorporations be presented at the next meeting.

Mr. Percival made closing remarks, noting that the Task Force still have the task of reviewing the former Task Force's recommendations. He believed despite what was said in the beginning, if we have to proceed with making recommendations and forward those recommendations for consideration by the County Commission.

ADJOURNMENT

There being no further business to come before the Miami-Dade County Charter Review Task Force, the meeting adjourned at 1:08 p.m.

Chairman Rene Garcia
Miami-Dade County Charter Review Task Force



Board of County Commissioners
Charter Review Task Force
May 17, 2012

Prepared by: Jovel Shaw

EXHIBITS LIST

NO.	DATE	ITEM #	DESCRIPTION
1	5/17/2012		2012 Charter Review Task Force First Meeting Sign-in Sheet
2	5/17/2012		Cmr. Barreiro's memo re New Appointment to the Charter Review Task Force
3	5/17/2012		Outline of Incorporation Charter Amendment Proposal
4	5/17/2012		Copy of Miami Herald's newspaper entitled, "Baby, you can't drive my car"
5	5/17/2012		Copy of Miami Herald's newspaper entitled, "Miami-Dade leady pipes: More than 47 million gallons of wast spilled in past two years"
6	5/17/2012		Copy of presentation dated May 17, 2012, entitled, "Charter Review Task Force Incorporation in Miami-Dade County"
7	5/17/2012		Copy of presentation entitled, "The Procurement Process Miami-Dade County" by Internal Services Department
8	5/17/2012		Metro-Dade Firefighters Proposed Changes to the Miami-Dade County Charter

2012 Charter Review Task Force

Meeting

Miami-Dade County Main Library, Auditorium

May 17, 2012 at 9:00 a.m.

Name	Email	Telephone	Address
Margie Rogers	amodame miamidadegov	375-3128	111 NW 1st 1220 Miami, FL 33128
Dorothy Taylor	Roman 5037 @BellSouth.net	(305) 543-6100	8000 NW 21st St Miami 33122
Alex Dominguez	acdo MIAMI-DE-QU	(305) 375-5000	111 NW 1st Street
Alina Gonzalez	alvago MIAMI-DE-QU	375-5000	11
BOBBY HIDE	VOSMUS @ yaho0-com	786-326-0351	POB 403545 MB FL 33140 ADD: 444 NE 31st #6 Miami FL 33137
Belkis Nora Bosch	Belkis.ASIRA- Bosch@illimed.org	305-375-2454	9248 COLLINS AVE #102 Suite 102 11 NW 1st St #23 FL
Alex Ariano	alexariano@ comcast.net	305-558-5270	8465 Menteigh Ter. Miami, FL 33142



MEMORANDUM
BRUNO A. BARREIRO
Miami-Dade County Commissioner
District 5

TO: Christopher Agrippa
Clerk of the Board

FROM: Bruno A. Barreiro *Bruno Barreiro #5*

SUBJECT: New Appointment to the Charter Review Task Force

DATE: May 17, 2012

Please accept Mr. Louis Martinez as my new appointment to serve on the Charter Review Task Force.

You may contact Mr. Martinez at:

Mr. Louis Martinez
2333 Brickell Ave.
Suite A-1
Miami, FL 33129
Phone: (305) 764-3834
Fax: (305) 764-3814
E-mail: louis@lvmllegal.com

If you have any questions please do not hesitate to contact my Chief of Staff, Loreta Sanchez, at (305) 643-8525.

c: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners
Honorable Carlos A. Gimenez, Mayor
Honorable Harvey Ruvin, Clerk of the Courts
R.A. Cuevas, Jr., County Attorney

Outline of Incorporation Charter Amendment Proposal

Concept:

Amend Section 6.05 to create 6.05(a) Incorporation by the Board and 6.05(b) Incorporation by Initiatory Petition. The initiatory provision incorporation process will be modeled after initiatory petition for ordinances and Charter Amendments.

Process:

I. Creation of Committee and Approval of Form of Petition

An incorporation committee organized by electors with a minimum of 5 electors from the proposed area of incorporation will initiate the process by filing with the Clerk of the Circuit Court an initiatory petition on a form prescribed by the Clerk for such purpose. The form shall at a minimum identify the names and addresses of the committee persons and the area to be incorporated. The Supervisor of Elections will compute the total number of electors within the proposed incorporation area at the time of the submission of the form for approval. Within seven (7) days of receipt of the form, the Clerk shall approve the form of petition and provide the incorporation committee the number of required signatures which shall be equal to ten percent (10%) of the electors in the proposed incorporation area.

II. Circulation of Petition

The incorporation committee will have six (6) months to obtain signatures on a form provided by the Clerk equal to ten percent (10%) of the electors in the proposed incorporation area. The signatures shall include the name, address and signature of the elector but will not have to be notarized.

III. Canvass of Petitions

The signed petitions will be submitted to the Clerk who shall have thirty (30) days to canvass the signatures contained therein.

IV. Setting of Election and Study Process

Upon certification of the sufficiency of the signatures on the petition the Clerk shall present the petition to the Board of County Commissioners at their next regularly scheduled meeting at which time the Board shall call an election to authorize the creation of a municipality which shall occur no sooner than ninety (90) and no greater than one hundred twenty (120) days from the date the Clerk certifies the signatures. The election shall be held, whenever practicable, in conjunction with another election scheduled to occur within the proscribed time period. The election shall be determined by an affirmative vote of a majority of electors voting in the proposed new municipality. During the sixty (60) days following the certification of the petitions, the Board shall complete a budgetary analysis in cooperation with the incorporation committee of and on the proposed incorporation and schedule at least one public hearing prior to the incorporation election.

V. Post Election - Charter Creation

The Miami Herald

Posted on Tue, May. 15, 2012

Baby, you can't drive my car

BY MICHAEL PUTNEY
mputney@justnews.com

I'm pretty sure the job description for the Miami-Dade Commission sergeant at arms doesn't include chauffeur duties, but there he was — a Miami-Dade police officer (in business attire) — pulling into the VIP parking lot behind the Miami-Dade Government Center recently in a big county-owned SUV with just one passenger: Commissioner Barbara Jordan.

She wasn't pleased to see a TV camera or my Channel 10 colleague Jeff Weinsier who asked Jordan why she wasn't driving her own car, the one for which taxpayers give her \$800 a month. Somewhat indignantly, the commissioner told Jeff that she needed the services of the sergeant at arms because she had "work to do in the car," including several phone calls. "And I wanted to make sure I was safe coming in not having to deal with traffic." Hey, don't we all?

But very few hereabouts — just 13 Miami-Dade Commissioners, in fact — can order a cop to take the wheel of a taxpayer-provided Lincoln Navigator or Town Car to ease the pain of commuting. It's a perk our worthy county commissioners have given themselves under the guise of a "security escort." If there's a credible threat against a commissioner, by all means provide a police escort. But Jordan's trip to the office the other day, and on many days, isn't about security, it's about convenience. And a disturbing sense of entitlement.

She's not alone. At least 10 county commissioners have availed themselves of the sergeant at arms for chauffeur duty. Only Commissioners Xavier Suarez and Steve Bovo, according to the lead sergeant at arms, have never asked the sergeant at arms to squire them around. Let's give them a round of applause.

As for the others, a question: What makes you think you're entitled to being chauffeured around the county for your ordinary commission duties by an on-duty cop? And where do you get off doing so in a county-owned vehicle when you're given \$800 a month to lease a car of your own?

There's no log kept of which commissioner gets the most rides with the sergeants at arms (there are three) but I'm told Jordan is number one. She clearly feels entitled to this perk, and there's the rub. All commissioners have their own staff, one of whom could certainly serve as a driver in a pinch. Yet, commissioners prefer to use the police officer assigned to protect them, maybe because he's got a gun, a badge and a blue light in his car.

My guess is that commissioners think they're owed the chauffeur service because they're paid so little and work hard at their jobs. But there are plenty of benefits, too. Their total compensation package is in the vicinity of \$50,000.

If we did a survey of commissioners about their use of the sergeant at arms I suspect most would say, what's the big deal? In a county with a \$6.1 billion annual budget, does a car allowance of \$800 per month X 13 (\$124,800 a year) make any difference? Financially, no. Ethically, perhaps. But in terms of abusing the public trust, absolutely. Ordinary folks can't conceive of spending \$800 a month on a car. And to have been given that much for one and still use an on-duty cop to drive you around? It's offensive.

I wonder why commissioners can't see it. Mayor Gimenez did and eliminated his own and the car

allowances of everyone who reports to him. Good. He's also open to letting commissioners take their pick of one of the 100 or so county cars and trucks sitting idle in a garage at the Earlington Heights Metrorail station. Why not?

Miami-Dade Commissioners put in long hours and earn just \$6,000 in salary — an amount set in 1957 and which voters have refused to increase since because commissioners have always attached unacceptable riders to the ballot question. There's an election in August for Miami-Dade mayor and seven commission seats, plus a general election in November.

The salary for commissioners should be placed on one of those ballots as a stand-alone question. Let's say about \$92,000 a year, the state formula. I'd vote yes as long as being a commissioner is their full-time job and cops stop chauffeuring them. And they lose that entitlement attitude.

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The Miami Herald

Posted on Mon, May. 14, 2012

Miami-Dade's leaky pipes: More than 47 million gallons of waste spilled in past two years

By CHARLES RABIN AND CURTIS MORGAN
crabin@MiamiHerald.com



MARICE COHN BAND / MIAMI HERALD STAFF

The central district Wastewater Treatment Plant, on Key Biscayne, Monday.

Miami-Dade County's antiquated sewer system has ruptured at least 65 times over the past two years, spewing more than 47 million gallons of untreated human waste into waterways and streets from rural South Miami-Dade to the ritzy condos of Brickell Avenue to the Broward County border.

The breaks and blowouts — topping out at nine in a single stinky month last October — were documented in nine warning letters that state environmental regulators sent to the county's Water and Sewer Department between June 2010 and April.

The letters, warning that the county could be on the hook for "damages and restoration" and civil penalties of up to \$10,000 a day, were the catalyst for ongoing negotiations with the U.S. Environmental Protection Agency, U.S. Department of Justice and Florida Department of Environmental Protection. The talks are expected to end with a legal settlement committing the county to a multibillion-dollar plumbing repair plan — and probable customer rate hikes.

The letters lay out more dirty details of "unauthorized discharges" not included in a 78-page draft consent decree released last week that declares the county in violation of federal water quality laws, in large part because some of the foul spills drained into canals and Biscayne Bay.

Many of the leaks from the county's 7,500 miles of lines were relatively minor, posing minimal traffic disruptions and public health concerns. But at least eight topped 100,000 gallons. Six more released more than 1 million gallons of raw sewage from rusted valves or cracked concrete-and-steel pipes that county engineers acknowledge had long out-lived their intended life span.

The worst problem by far, according to the DEP letters, is the county's aging Central District Wastewater Plant on Virginia Key, which is designed to discharge partially treated sewage out a pipe more than a mile off shore. State records show that between October and December 2011 four separate failures sent a total of more than 19 million gallons spilling from the plant.

The largest at Virginia Key, on Oct. 9, spilled 17 million gallons of raw sewage.

Doug Yoder, the Water and Sewer Department's deputy director, blamed it on a broken pin holding a filter screen used to divert "chunks of stuff" from the liquid flow. Once the pin failed, the thick solids built up, triggering a massive back-up that forced workers to shut down that plant and divert incoming sewage to another site, causing even more of an overflow.

The public never heard about that failure, Yoder said, because "nothing actually left the plant site. The overflow went into the storm drains, then back to the plant."

But three weeks later, on Oct. 31, another million gallons of partially-treated sewage spilled out a relief valve into surrounding bay waters, forcing Miami-Dade to issue no-swimming advisories. That was triggered by a power outage that shut down a pump as operators shifted from a generator to the power grid.

Yoder conceded operators have a difficult task at Virginia Key, the oldest and most decaying of the county's three plants. It handles some 25 million gallons of raw sewage a day from Surfside, Bal Harbour and Miami Beach. The county has mulled replacing it, which would cost \$500 million — money Yoder said the department doesn't have. He also acknowledged the department has resisted pouring a lot of repair money into a plant it hopes to replace.

"We want to avoid spending a lot to keep it running if we're going to take it out of service," he said.

The federal enforcement action isn't the county's first. In 1996, Miami-Dade paid a \$2 million fine — at the time the largest ever for a U.S. Clean Water Act violation — and agreed to expand the capacity of a system that was constantly pouring raw sewage into the Miami River and Biscayne Bay.

Since then, the department estimates it has spent some \$2 billion on upgrades but hasn't come close to covering needed fixes for a system in which many pipelines are approach a half-century in age or even older.

Blanca Mesa, an activist with the Sierra Club who has raised concerns about the county's plans to replace only one segment of an aging and fragile sewer pipe under Government Cut, said the failures point to a long history of ignoring problems and putting off proper maintenance. She said today's problems echo failures detailed in a 1991 grand jury report documenting sewage spills into the Miami River.

"Somebody has to understand we have to set the right priorities in this county, and we haven't been doing that for a very long time," she said.

Miami-Dade Commission Chairman Joe Martinez agrees the county has to find a way to pay for the repair work. One option might be to issue bonds, Martinez said, but he would insist that property tax bills don't rise for residents as a result. Martinez said it's possible that any increase in bond debt would be offset by a decrease in the property tax rate, if home values rise this year, as he expects.

"We're going to have to wait until the tax rolls come out," he said. "We definitely need to fix the infrastructure, but we must gain people's confidence that [the money] will be used for that."

Mayor Carlos Gimenez said he is waiting to learn how much money the county would need to spend before committing to a financing plan. First he would look to reduce water department costs, he said, then possibly enter some type of private-public partnership.

"The last thing we want to do is put any kind of burden on the public," he said.

Past political decisions have compounded the sewer department's problems, by cutting into reserve funds that could have helped finance the system upgrades.

Historically, county leaders tapped water department funds for other departments struggling to make ends meet. Though that practice stopped in 2007, last year the Water and Sewer Department still "loaned" \$25 million to the county's general fund to help balance the books. Payback is scheduled to begin in 2014, at \$5 million a year.

Right now, the department has three reserve accounts. One is required to maintain a 60-day reserve, or \$55.7 million. Another is expected to have about \$30 million by the end of this budget year in September. A third is empty.

Another type of reserve account intended for unexpected repairs maintains between \$50 million and \$60 million each year — a fraction of the repair bill that county engineers estimate could run into the billions.

Adding to the problem, county commissioners and mayors have repeatedly resisted raising what rank as some of the lowest water and sewer fees in the state — though they did boost it 4.7 percent last year. The average homeowner pays about \$135 quarterly, according to the county.

Miami-Dade certainly isn't alone in struggling to mend its leaky and aging sewage system. Most major cities in the United States have similar problems. The EPA estimates there are 240,000 water and sewer main breaks across the country each year, and puts the price tag at hundreds of billions of dollars.

In Broward County, for instance, state regulators say sewer failures have sometimes drawn scrutiny but not a similar sweeping state-federal enforcement case. Waste there is handled by 28 different utilities with much smaller and generally newer systems. Miami-Dade's system is the largest, and among the oldest, in the state with huge pipelines carrying large volumes over long distances.

Alan Garcia, director of Broward's wastewater and water services, said less than 3 percent of the county's 7 million feet of pipes is older than 50 years. About 40 percent of the county's breaks are construction related, he said.

"We do an aggressive job of monitoring our pipes," he said.

Jennifer Diaz, a Florida DEP spokeswoman, said Miami-Dade hasn't tried to cover up its problems, acknowledging in an April 2011 "self assessment" sent to the EPA that numerous breaks were putting the county in violation of the U.S. Clean Water Act.

The DEP opened its own enforcement case against Miami-Dade in 2009. But the following year, after consulting with the EPA and Miami-Dade, all the parties agreed to draw up a joint state-federal consent decree that acknowledges "improper" management and maintenance practices.

In a written statement, Diaz said the spills "are mitigated by Miami-Dade to the greatest extent possible."

Still, the potential failure of some key pipelines could have disastrous consequences. Earlier this year a consultant warned that the sewer main running under Government Cut to Virginia Key was so brittle it could rupture at any time. It was constructed from pipe made by a now-defunct company named Interpace, whose notoriously defective products have been linked to a number of major failures.

Though county engineers maintain the pipeline remains safe for daily use, department director John Renfrow acknowledged an unexpected failure would be "catastrophic," spewing tens of millions of gallons of raw sewage into Biscayne Bay.

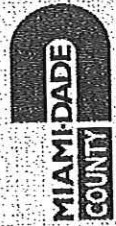
His warning echoes one issued exactly two decades ago about potential sewer line breaks by a Miami-Dade grand jury appalled by environmental and other conditions in the Miami River.

"The Miami River and Biscayne Bay would experience the worst environmental catastrophes in modern history," the 1991 report warned. "The detrimental impact of a spill of this type and the cleanup and mitigation costs are incalculable. If we are seriously concerned about the bay, we must address this known environmental hazard now."

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Charter Review Task Force
Incorporation in Miami-Dade County

May 17, 2012



History

- In 1957, with adoption of the Miami-Dade County Home Rule Amendment and Charter, incorporation and annexation authority shifted from the State legislature to the Board of County Commissioners (BCC). Article 6 of the Charter provides incorporation and annexation guidelines.



Charter Requirements

- Section 6.04 - Changes In Municipal Boundaries
 - BCC may effect a boundary change after obtaining the approval of the municipal governing bodies concerned and after hearing the Planning Advisory Board (PAB) recommendation; if there are over 250 resident electors in the area being considered an affirmative vote is required.

Charter Requirements

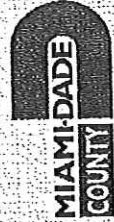
- Section 6.05 - Creation of New Municipalities
 - Only the BCC may authorize the creation of a new municipality in the unincorporated areas of the County after hearing the recommendations of the PAB, after a public hearing, and after a majority vote of the electors residing within the proposed boundaries.

Code Requirements

- Chapter 20 of the Code of Miami-Dade County governs the Annexation and Incorporation process.
- Petitions for incorporation must include consent from 25 percent of the electors in the proposed area.
- Once the petition is deemed complete, the BCC may form a Municipal Advisory Committee (MAC) to study the desirability and feasibility of creating a municipality.

Incorporated Area v. UMSA

- At the time of Charter adoption, twenty-six municipalities were in existence. Approximately 35% of the County's population lived in the unincorporated municipal service area (UMSA).
- Prior to the incorporation of Miami Lakes, thirty municipalities were in existence and 53 % of the population lived in UMSA.
- Today there are 34 municipalities and about 44% of the population lives in UMSA.



Incorporation in the 1990s

- The incorporation of Key Biscayne in 1991 led to new interest in the creation of municipalities throughout the County.
- Three additional municipalities were created in the 1990s:
 - Aventura, 1995
 - Pinecrest, 1996
 - Sunny Isles Beach, 1997



Incorporation in the 1990s

- As a result of these incorporations, concern grew regarding the equitable distribution of resources and possible detrimental effects on the entire community.
- In December 1997, the BCC adopted a one-year moratorium on incorporation, directing the County Manager to study the impact the loss of revenue had on the remainder of UMSA.

BCC-adopted Policies

- After the moratorium, the BCC adopted policies addressing the concerns of equity and self-determination.

02-26	Requires new municipalities to remain in the fire and library districts and contract with MDPD for local patrol services
02-130	Requires MAC boundaries to be within a commission district or seek approval from neighboring commissioner
04-201	Provides for the BCC approval of any municipal charter changes prior to an election
05-73	Requires new municipalities to pay 100% mitigation on Commercial, Business, and Industrial (CBI) Areas
05-97	Codifies requirement for new annexing municipalities to be responsible for bond indebtedness
05-98	Allows UMSA bond funds to be used in new municipalities
05-112	Requires annexation applications to provide information related to terminals
05-140	Requires approval of 25% of resident electors for incorporation or to create a MAC
05-141	Codifies areas of countywide significance
05-142	Codifies mitigation for annexing municipalities
R-130-05	Requires independent budget analysis of proposed municipalities

Incorporation 2000 – Today

- Five new municipalities have incorporated since the moratorium was lifted:
 - Miami Lakes, 2000
 - Palmetto Bay, 2002
 - Doral, 2003
 - Miami Gardens, 2003
 - Cutler Bay, 2005



Recent BCC Actions

- On September 8, 2005, the BCC adopted Resolution 1051-05 requesting a report detailing the impacts of incorporation and annexation since 2000.
- On November 13, 2005, the BCC adopted Ordinance 05-192 directing that incorporations and annexations neither be considered nor processed until this report was presented and accepted by the BCC on May 8, 2007.
- On September 4, 2007, the BCC adopted Ordinance 07-120 suspending consideration of proposed incorporations until receipt of the County Manager's report on annexations.
- On April 3, 2012, the BCC adopted Ordinance 12-24 lifting the incorporation moratorium.

Non-Revenue Neutral Municipalities

- Three out of the five municipalities that have incorporated since 2000 were non-revenue neutral areas at the time the Board set an election among the registered voters seeking incorporation:

- Miami Lakes
- Palmetto Bay
- Doral

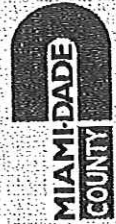


Non-Revenue Neutral Municipalities

- As a condition of incorporation, these municipalities agreed to pay a portion of their ad valorem revenues to offset the revenue loss to the unincorporated area as a result of their incorporation.
- The amount charged to the municipalities was based on a portion of difference between the revenues and expenses attributable to that area, the figures were based on an analysis done approximately two years prior to the time of incorporation.

Mitigation

- The County has phased out the mitigation payments from all of the municipalities at this time. The municipalities paid into the MSTF for a total of seven years.



Prior Miami-Dade County Incorporation Attempts

- In November 1997, the BCC considered an intent resolution to incorporate or annex the remaining unincorporated area by December of 2007 – no action was taken.
- In April 2002, another intent resolution was considered by the BCC to incorporate or annex the unincorporated area by January 2018 – this resolution failed by a 5-6 vote.



Miami-Dade County

- Incorporation and annexation efforts must be methodical.
- Each incorporation/annexation proposal is unique, and consideration must be given to the advantages and disadvantages associated with each.



Miami-Dade County

- Miami-Dade County has an obligation to the well being of the community, uncontrolled incorporation and annexation can lead to higher service costs to the taxpayer and general confusion regarding service area boundaries.
- The cost of municipal type services to the unincorporated residents has remained relatively low compared to municipalities in the County.
- Several large incorporation efforts within the unincorporated area have discontinued their efforts for lack of community support. (East Kendall MAC, West Kendall MAC, Northwest MAC)



Regional Type Services

- Fire Rescue Services
- Local Patrol Services
- Specialized Police Services



2007 Charter Review Task Force

The Charter Review Task Force issued its recommendations to the BCC on January 29, 2008. Issue 5 was the Study of Municipalities and Unincorporated Municipal Service Area (UMSA) Services (Creating and Abolishing Municipalities, Separation of Powers or Responsibilities between the County and Municipalities, and Annexation or Incorporation in Effort to Eliminate UMSA). The Task Force recommended that the County Commission appoint an independent task force to prepare and submit a comprehensive plan 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. This recommendation was not accepted by the Board.

The Procurement Process Miami-Dade County

Internal Services Department

Lester Sola, Director

Miriam Singer, Assistant Director

Amos Roundtree, Division Director
Procurement Management Services



Active Contracts

■ Over 1100 active contracts

- Uniforms (police, transit, fire, solid waste, etc)
- Food (elderly, zoo, corrections, etc)
- Vehicles (cars, trucks, buses, mowers, trains)
- Services (janitorial, landscaping, accounting)
- Technology (software, hardware, consulting)

2

Procurement Methods

- Invitation To Bid -
- Request for Proposals
- Request for Qualifications
 - Prequalified Pools

3

Procurement Process

- Specification Development
 - Valid requirements
- Advertisement
 - Cone of Silence Starts
- Evaluation
 - ITB process
 - RFP process
- Award Recommendation

4

Rights and Access

- The right to protest a recommendation
- The right to view existing contracts including prices
- The right to view previous proposals - scores and rankings
- The right to view all letters, memos, and other documents

5

Monthly Workshops

Tuesdays...10:00 a.m...18th Floor

- 2nd - "Invitation to Bid (ITB) Process"
- 3rd - "Request for Proposals (RFP) Process"
- 4th - "Architectural/Engineering (A&E) Selection Process"

6

May 17, 2012

**Metro-Dade Firefighters Proposed Changes to the
Miami-Dade County Charter**

Article 1 SECTION 1.05.

FORFEITURE OF OFFICE.

C. Any appointed official or employee of Miami-Dade County who qualifies as a candidate for election to any ~~federal, state or~~ municipal office within Miami-Dade County shall immediately take a leave of absence from his or her county position until the date of the election and shall, if elected, immediately forfeit his or her county position. If the candidate is not elected, he or she shall immediately be reinstated to his or her former position.



FINAL OFFICIAL MEETING MINUTES CHARTER REVIEW TASK FORCE

Board of County Commissioners
Stephen P. Clark Center
Conference Rooms 18-3 and 4
111 N.W. 1 Street
Miami, Florida 33128

May 23, 2012
As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

Christopher Agrippa, Division Chief
Clerk of the Board Division

Flora Real, Commission Reporter
(305) 375-1294



**CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 23, 2012**

The Miami-Dade County Charter Review Task Force (the Task Force) convened the public hearing meeting on May 23, 2012, at 9:00 a.m., at the Stephen P. Clark Center, Conference Rooms 18-3 and 18-4, 111 N. W. First Street, Miami, Florida. There being present Chairman Rene Garcia, Vice-Chairwoman Evelyn Langlieb Greer, Ms. Yolanda Aguilar, Mr. Armando Bucelo, City of Hialeah Councilman Luis Gonzalez, Mr. Carlos Manrique, Mr. Louis Martinez, Mr. Terry Murphy, Mr. Lawrence Percival, Ms. Pamela Perry, and Reverend Dr. Walter Richardson (Mr. Joe Arriola and City of Hialeah Councilwoman Isis Garcia-Martinez were late; City of Doral Mayor Juan Carlos Bermudez, Mr. Hans Ottinot, Representative John Patrick Julien, Mr. Donald Slesnick, Professor H. T. Smith, and Representative Carlos Trujillo were absent).

In addition to the members of the Task Force, the following staff members were present: Assistant County Attorneys Oren Rosenthal, Cynthia Johnson-Stacks, Eugene Shy and Jeff McCarty; Ms. Inson Kim, Ms. Lorna Mejia, Mr. Les Pantin, Mr. Jevé Clayton, and Deputy Clerk Flora Real.

Chairman Rene Garcia called the meeting to order at approximately 9:26 a.m. and welcomed the Task Force members and all others present.

APPROVAL OF MINUTES

- May 17, 2012 – Charter Review Task Force Meeting

The Clerk's Summary and Official Minutes for the May 17, 2012, Charter Review Task Force meeting were not considered due to a lack of a quorum.

CHAIRMAN'S ITEMS

Pursuant to Ms. Evelyn Greer's request, Chairman Rene Garcia asked that Ms. Inson Kim contact Task Force members absent at today's meeting to ask them to provide advance notification of their absence for future Task Force meetings; and that those members be asked if they wished to continue participating in future Task Force meetings in order to ensure a quorum at future meetings.

Chairman Garcia noted Mr. Percival had asked that the issue of a combination of single and at-large County Commission Districts be reviewed.

COUNTY ATTORNEY'S REPORTS

- Recommended Technical Amendments to Charter – Not presented

CRTF ISSUES OF STUDY

- Incorporation/Annexation – Not presented
- Governance of Jackson Memorial Hospital

**CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 23, 2012**

Assistant County Attorney Eugene Shy explained the history of Jackson Memorial Hospital (JMH), noting in 1949 the City of Miami conveyed the governance of JMH to Miami-Dade County. In 1973, the Board of County Commissioners (BCC) created the Public Health Trust (PHT), with a 17 member Board of Trustees, as the governing body of JMH. He further explained that in 2011, in the midst of financial crisis, the Board of County Commissioner's replaced the PHT Board of Trustees with the Financial Recovery Board (FRB) consisting of 7 members.

Assistant County Attorney Shy noted, as a result of a scathing Grand Jury report, the BCC created the Miami-Dade County Hospital Governance Task Force (HGT) in 2011, which was part of the package being considered by this task force. He noted the purpose of the HGT was to consider various governing structures to operate JMH, and Jackson Health System (JHS) operated its own health plan, which comprised JMH, Jackson North, and Jackson South. The governance of JHS included all of the various components previously mentioned, including nursing homes and inmate health care, Mr. Shy explained. He said the HGT members had their first meeting on March 28, 2011, and they submitted a report with 18 recommendations to the BCC on May 12, 2011.

Assistant County Attorney Shy noted the primary recommendation was to create a not-for-profit corporation, which would be charged with operating JHS. The governing body of the proposed not-for-profit corporation would be comprised of nine members: Five appointed by the Mayor and four by the BCC. He noted once the members' terms of office expired, the governing body would appoint its members without involvement from the Mayor or BCC, which would result in the creation of an independent, self-sustaining, non-profit organization. He also noted that among the 18 recommendations submitted by the HGT, they proposed a heightened sense of conflict of interest, whereby vendors, stakeholders, and any person, company, or entity that had contracts with Jackson or the Jackson system, could not serve as a member of the recommended board.

Pursuant to an inquiry by Chairman Garcia regarding whether or not any of the 18 recommendations were implemented, Assistant County Attorney Shy noted the only action taken by the BCC was to create the FRB in response to the fiscal crisis faced by JMH.

At this time, Chairman Garcia opened the floor for discussion.

Vice Chairwoman Greer asked Assistant County Attorney Shy to explain the interaction between the Charter and Jackson and the regulatory framework.

Mr. Shy responded that the BCC was concerned with the operation of Jackson pursuant to the Charter, which charged Jackson with providing hospitals and other health care programs to the citizens of this County and pursuant to Chapter 25A of the Code, which charged the PHT with the operation, maintenance, and governance of the Jackson Health System.

In response to an inquiry by Mr. Percival regarding the ramifications if Task Force members supporting the recommendation to transfer the governance of JMH to a not-for-profit entity, Mr. Shy explained that the Florida Statutes relating to surtax specifically states that those funds must

**CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 23, 2012**

go to the County General Hospital and that funding could possibly be jeopardized if Jackson was operated as a not-for-profit entity. He also indicated that HGT members discussed whether sovereign immunity would flow to the new not-for-profit entity. In conclusion, Assistant County Attorney Shy explained that the ramifications were uncertain and should this Task Force support the HGT's recommendation, further review would be necessary.

Chairman Garcia asked for clarification on the relationship between the BCC, Jackson, and the oversight board.

Assistant County Attorney Shy explained that the FRB was the new governing body and, under Chapter 25A, the BCC retains the power and jurisdiction over labor contracts, buying or selling real estate, and ground leases. He also noted the BCC had the authority to issue directives to the PHT.

With regards to Jackson labor contracts, Assistant County Attorney Shy explained that those matters were first approved by the FRB then presented to the Public Safety and Healthcare Administration Committee for review and recommendation to the BCC.

Ms. Aguilar questioned the impact of transferring the governance of Jackson to a not-for-profit entity on the powers and authority of the County Commission, Assistant County Attorney Shy said all powers and authority delegated in the County Commission would be transferred to the not-for-profit entity, with the exception of property ownership and bond issuance.

Ms. Aguilar questioned whether any models existed to suggest that JMH would function better under the oversight of a not-for-profit entity and its impact on funding for JMH.

Assistant County Attorney Shy said he was unaware of any such models. He noted questions/concerns regarding the Surtax funds should be directed to the County Administration.

Following a discussion among Task Force members regarding the creation of the HGT in response to the Grand Jury report, Mr. Manrique noted the Grand Jury report referenced several counties in Florida that had systems similar or identical to Miami-Dade County's. He questioned how those systems were managing.

Assistant County Attorney Shy stated he would review the Grand Jury report and report back to the Task Force. He noted Broward County's healthcare system was funded through special taxing districts.

Mr. Percival questioned whether the CRTF could seek additional information needed to make an informed decision as to whether or not to support the proposal to transfer the governance of JMH to a not-for-profit entity.

Chairman Garcia stressed the importance for this group to address the issues responsibly. He asked Assistant County Attorney Shy to research to determine whether or not any other public hospitals in the nation had transferred governance to a not-for-profit entity and report back the Task Force.

**CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 23, 2012**

Mr. Murphy noted the HGT report did not contain any recommendation to revise the Charter as it pertains to the operations at Jackson. He suggested Task Force members be mindful of any notion to change the Charter to transfer the governance of Jackson away from the County and/or including any provisions in the Charter that would deny the citizens of the this community the benefit of a public hospital.

Chairman Garcia commented that giving more autonomy to the governance of Jackson and removing the politics would prove instrumental in making JMH a viable institution.

Ms. Perry stressed the importance for this group to gather additional information before proposing any revisions to the County Charter as it pertains to the governance of Jackson.

Ms. Greer spoke about her experience with the creation of Our Kids, a private/public not-for-profit organization that handled all foster care responsibilities in Miami-Dade County. She noted an oversight board was created and the not-for-profit organization channeled both state and local public funding to service organizations. In addition, she pointed out that all business was conducted pursuant to Government in the Sunshine; that all meetings were public, and all documents were available to the public. Vice Chairwoman Greer suggested the CRTF look at that model when gathering information.

Ms. Martha Baker, RN, Jackson Memorial Hospital, noted in her capacity as president of SEIU Local 1991, she sent a letter to the Grand Jury requesting an investigation at JMH due to the looming financial crisis and operational deficit. She expressed concern that the sustainability of JMH was in jeopardy due to incompetence at the higher levels. She suggested the ability of a hospital to operate efficiently was largely dependent on the competencies of the Chief Executive Officer and other top executives, and not the structure of the hospital.

Ms. Baker emphasized the importance for Task Force members to demonstrate due diligence in determining whether or not to maintain sovereign immunity and to ensure that JMH continues to operate in the Sunshine should any structural changes occur. She also expressed concern that JMH never sought CMS funding due to the lack of strategic planning and that those types of funding sources for public hospitals would be lost if the hospital was privatized.

Mr. Manrique noted, since the property ownership and bond issuance authority would remain with the County Commission in the event that governance was transferred to a not-for-profit entity, and the relationship between JMH and the Miami-Dade County would be public/private. He pointed out that a proposal to privatize JMH had not been presented.

Mr. Percival noted, for the record, the former HGT Chairman requested this Task Force support their recommendation that JMH be a not-for-profit/public entity. He stressed the importance for the County Attorneys to provide the information requested by Task Force member in a timely manner so that they can review it before making any recommendations.

**CLERK'S SUMMARY AND OFFICIAL MINUTES
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Mr. Manrique commented that Ms. Baker had legitimate concerns that should be addressed and based on the information provided thus far Task Force members should refrain from making any recommendation at this point.

Ms. Perry expressed concern with the lack of accountability, noting Task Force members did not have adequate information to make such decisions.

Chairman Garcia noted he concurred with Ms. Perry. He stressed the importance of reviewing all issues before making any recommendations, and asked Assistant County Attorney Shy to report back to the CRTF on his findings.

A discussion ensued regarding the ineffectiveness of previous administrators at JMH during which it was noted that JMH would possibly be bankrupt today if Ms. Baker, on behalf of the SEIU Local 1991, had not initiated the Grand Jury investigation. It was also noted the system of appointing administrators under the previous governance structure was largely unsuccessful thus far and many people believed the appointment process for the CEO had become highly political.

Ms. Baker expressed concern that none of the current board members had any medical expertise.

Chairman Garcia commented on the politics involved in the appointment of the CEO at Jackson and the need to remove the politics.

Mr. Murphy noted the Public Health Trust was delegated the authority to appoint its CEO in 1973, pursuant to the Miami-Dade County Code.

Chairman Garcia expressed concern regarding the County Commission's involvement in the appointment of the CEO, and stressed the importance of ensuring that they were not involved this process in the future.

Upon inquiry by Councilman Gonzalez regarding the PHT membership, Assistant County Attorney Shy noted the FRB, which was previously the PHT, was comprised of seven members: One of whom was appointed by the labor union, one by the Dade Delegation, one by the County Mayor, and four by the County Commission.

Vice Chairwoman Greer urged each Task Force member to carefully review the HGT and Grand Jury reports.

Ms. Baker thanked the CRTF for the opportunity to present her concerns. She noted a representative(s) from JMH was not included in the membership of the HGT and thus, the HGT recommendations did not benefit from information from anyone who worked at JMH or associated with it. Ms. Baker asked Task Force members to review the HGT recommendations carefully, and maintained that operational changes were needed at JMH.

Vice Chairwoman Greer asked Ms. Baker to submit the SEIU Local 1991 Union's recommendations for changes to the governance/structure of JMH for review by the Task Force.

**CLERK'S SUMMARY AND OFFICIAL MINUTES
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Mr. Manrique asked Assistant County Attorney Eugene Shy to determine whether or not sovereign immunity and CMS funds or other types of grants would be permissible under a public/private partnership.

Chairman Garcia noted, for the record, JMH contributed approximately 60% to 70% of the Intergovernmental Transfers (IGT's) to Tallahassee that in turn went to Washington, and then came back to Miami-Dade County to fund the public healthcare system in this community.

o Salaries/Outside Employment (Executive Benefits Presentation)

Chairman Rene Garcia introduced Ms. Mary Lou Rizzo, noting she would present the executive benefits package for County Commissioners.

Ms. Mary Lou Rizzo, Assistant Director, Miami-Dade County Internal Services Department, presented a report on the Summary of Compensation and Benefits for Miami-Dade County Commissioners. She advised that the members of the County Commission were the recipients of the following compensation and executive benefits:

- an annual salary of \$6,000 as established by the Home Ruled Charter;
- an annual Executive Group 1 Allowance in the amount of \$10,000 as part of the Miami-Dade County Executive Benefits Program, which could be used for post-tax purposes or taken as taxable expenditures;
- an annual Basic Life Insurance policy for \$100,000;
- an annual maximum car allowance in the amount of up to \$9,600;
- an annual expense allowance in the amount of \$24,000 for any expenses incurred in the course of performing the elected office duties;
- an annual 401(a) Retirement contribution in the amount of \$11,500 to supplement the Florida Retirement System (FRS) benefit for the \$6,000;
- an annual County paid physical examination as part of the Comprehensive Executive Benefits Program, with services provided through the contractual arrangement between the Public Health Trust (PHT) and Miami-Dade County;
- a County paid Retiree Health Insurance Coverage established in 1992 as part of the Elected Officials Retirement Health Insurance Program for County
- the continuation of healthcare insurance up to a maximum of 15 years or until age 65, whichever occurred first for commissioners who served at least five years;
- an Elected Officials Retirement Health Insurance Program for elected officials who served 16 years or more and were eligible to receive County provided coverage under a program offered to supplement Medicare at the time the elected office became Medicare eligible as established in October 1992;
- eligible to participate in additional optional benefits at the elected officials' expense such as purchasing optional life insurance coverage of \$100,000 and basic life insurance coverage in the amount of \$100,000 if at least one four-year term had been completed;
- eligible to purchase executive long-term disability insurance in the amount of \$7,000 per month while serving his/her term; and

CLERK'S SUMMARY AND OFFICIAL MINUTES
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MAY 23, 2012

- a newly elected County Commissioner would be eligible to participate in a Tax Return Pickup Plan within six month of assuming office to allow the elected official to permanently elect to designate 3%, 6%, or 10% of gross salary.

Pursuant to Chairman Garcia's inquiry, Ms. Rizzo noted the Executive Benefits Program was a Countywide program established in the early 1980s for executives under the mayoral and non-mayoral purview; but the program was eliminated for executives under Mayor's purview effective May 28, 2012. However, this program remains in place for commissioners and other departmental executives not under the Mayor's purview, such as the Inspector General.

Mr. Percival requested that Ms. Mary Lou Rizzo provide him with a summary report outlining the total annual cost for all executive physical examinations performed and for all other executive benefits.

In response to Mr. Percival's inquiry, Ms. Rizzo clarified that the \$7,000 a month benefit for the Executive Long-Term Disability Insurance had a cost of approximately \$45 a month and a cost of \$17 per month for \$100,000 coverage in life insurance for elected officials.

Ms. Rizzo clarified that the County's health insurance program was available to all employees including the commissioners for the cost of single coverage, with the exception of the point of service plan, which includes a monthly charge. She noted the County contributed towards the healthcare insurance policy; and if single coverage was selected under the point of service plan, the commissioner would also pay the premium. If family coverage was selected, the commissioner would pay the same contribution as any other County employee.

Mr. Terry Murphy asked that the focus of this presentation remain on the Home Rule Charter, and noted his intent to present a proposal on commissioners' salaries later. He asked that the Task Force members consider the formula he had developed to establish the County Commissioners' salary, which he noted was a local formula that divided the value of the Countywide property tax base by the total population as published by the United States Census Bureau (the Census Bureau), effective November 2016; the salary would be calculated every five years, and projected an annual salary of \$76,000. The projected salary would be \$72,000 for 2015 based on the population projections, which were published by the Census Bureau every five years as well as the actual population figures, which were published every ten years, Mr. Murphy noted. He said he used the proposed formula to calculate that commissioners' salaries would have been \$2,900 or around \$6,000 in 1957. Mr. Murphy said he believed that a salary in the \$70,000 range would be reasonable for commissioners based on the calculations, and he was hopeful that his proposal would be presented to the voters.

In response to Chairman Garcia's question, Mr. Murphy advised that the Office of Budget and Management had reviewed the formula and verified the calculations; and his formula represented a local application of two simple variables, which would place the salary recommendation below the state formula. He advised that it was a salary recommendation put forth in the past as a step down from that proposed in the State formula, and the salary increase would be available for individuals elected in 2014 and 2016. Mr. Murphy clarified that incumbent office holders would not receive a salary increase.

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In response to Mr. Percival's inquiry regarding parliamentary procedure, Chairman Garcia noted the proposal was introduced for discussion only.

Mr. Percival noted pursuant to the parliamentary procedure, all motions must be made and seconded and the floor must be opened for discussion.

Mr. Murphy clarified that the proposed formula was presented as an idea for discussion, and a motion was not on the floor at this time.

In response to Dr. Richardson's question, Mr. Murphy clarified that his proposal only addressed base salary because he did not wish to further limit compensation since many of these executive benefits such as car allowance were justifiable. Therefore, the question on executive benefits would remain under the purview of the County Commission and the Mayor, and should be addressed as a budgetary issue.

Mr. Murphy noted he agreed with Dr. Richardson that commissioners' salaries and benefits could be over \$100,000 annually, based on his proposal.

In response to Ms. Pamela Perry's inquiry, Mr. Murphy advised that the formula would not be affected by any action of the County Commission since the calculations were based on the Property Appraiser's assessments of property in Miami-Dade County. He stated that the County Commission determined the millage rate based on the cumulative value of all properties, which was currently \$192 billion, and the Commission could not influence the result of the formula.

In response to Ms. Perry's inquiry regarding a significant increase in the property values, Mr. Murphy noted the other variable was population.

Discussion ensued regarding the formula proposed by Mr. Murphy.

In response to Ms. Yolanda Aguilar's inquiry as to whether the proposal was linked to full-time employment, Mr. Murphy clarified that his proposal did not address that issue and noted he believed full-time employment was a separate discussion. However, he noted the County's Conflict of Interest provisions should be included in the Charter, and the powers and authority of the Ethics Commission should be strengthened to provide its members with the tools to address the perception of impropriety resulting from the outside employment of elected officials. Mr. Murphy pointed out that outside employment would only become an issue when elected officials were actually employed by a company doing business with the County.

Chairman Garcia asked that the record reflect that Mr. Joe Arriola was present.

Discussion ensued regarding the appropriate salary compensation for County Commissioners.

Mr. Percival suggested that commissioners should receive a full-time salary if they performed the work of a full-time commissioner. He indicated that the established salary be performance driven, noting a certain percentage of the salary should be deducted whenever a County

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Commissioner failed to perform a County-related function associated with the office, which would be a trade-off in the event a commissioner received a higher compensation from outside employment.

In response to Mr. Percival's question as to whether the County Attorney's Office had an opportunity to research the Task Force's ability to establish commissioners' salaries, Assistant County Attorney Oren Rosenthal advised that the Task Force members could choose to propose a salary for commissioners at their discretion.

Mr. Percival stated that he wished to hear the Task Force members' sentiment on this issue.

Chairman Garcia noted the residents from communities he represented, which were the areas of Northwest Dade and the City of Hialeah, opposed outside employment. He noted the proposed salary formula was fair; but in his opinion, the annual salary range from \$73,000 to \$76,000 was too high for this community because the income level was much lower. He asked that the Task Force members carefully review the issues on outside employment and executive benefits.

Councilman Luis Gonzalez noted he was comfortable with supporting outside employment under normal circumstances; but he believed that the voters would support commissioners' compensation only if outside employment was prohibited. He said he agreed with Mr. Murphy's the proposed formula, but he believed that the projected salary was too high.

Mr. Joe Arriola expressed concern that annual salary of under \$72,000 and a prohibition on outside employment may be unattractive to professionals, and noted it would be difficult to define outside employment.

Following a discussion regarding whether outside employment should be prohibited, Ms. Perry noted a prohibition on outside employment would limit the pool of candidates.

Ms. Aguilar noted there was a general consensus in the community that some of the commissioners were not performing well. She stated that the proposed formula was an excellent idea to arrive at a salary that corresponds to the type of work commissioners performed. She stated that some communities had a high voter turn-out, and the voters had clearly sent a message that they did not want commissioners to earn substantial salaries.

Ms. Aguilar recommended that the current salary be incrementally increased every two years, effective on the election date. She also recommended the Task Force propose a modest professional salary package with no prohibition on outside employment.

Ms. Aguilar advised that even though she liked the proposed formula, it would be punitive to incumbent commissioners if the salary increase was implemented in 2014 and 2016. She noted she would like to have the Task Force's recommendations embraced by the County Commission and the community. She noted commissioners spent a substantial amount of time carrying out the duties and functions of the County Commissioners; however, the public was not necessarily aware of this. Therefore, she suggested a mid-range salary of \$40,000 to \$50,000 would be fair to the commissioners and acceptable to the public.

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Mr. Murphy noted like the Strong Mayor form of government, which was approved by the voters but did not become effective until a later date, he was proposing that the voters be allowed to vote on the proposed commissioners' compensation and that the actual salary increases become effective in November 2016. He noted every time the voters were asked whether commissioners should receive a salary, the newspaper editorials reported that this would represent a raise for commissioners. Mr. Murphy explained that he was suggesting that commissioners' compensation become effective after the November 2016 Election so that it would not be perceived as a raise for any commissioner. He stated that the new salary provision would establish a higher compensation for elected offices beginning in November 2016.

Chairman Garcia asked that the record reflect that Councilwoman Isis Garcia-Martinez was present.

In response to Mr. Percival's question as to whether the public would be more likely to support salary increases for commissioners if they were attendance-driven, Mr. Arriola recommended that the Task Force members determine a modest salary amount with a later effective date.

Councilman Gonzalez recommended the Task Force propose prohibitions on outside employment and company associations as well as salary increases for commissioners.

Chairman Garcia noted he concurred with Mr. Murphy that the County's Conflict of Interest provisions should be included in the Charter and that the powers and authority of the Ethics Commission should be strengthened.

Mr. Murphy suggested that the Task Force recommend prohibitions on outside employment and that commissioners be prohibited from owning a company doing direct business the County be proposed.

Mr. Percival noted 14 members of the Task Force were present at today's meeting which meant this recommendation could be approved on a two-thirds vote.

Chairman Garcia noted Task Force members had not reached a consensus on the formula and a salary recommendation(s). He clarified that only 13 Task Force members were present today.

Mr. Martinez concurred with the Chair that the Task Force had not yet reached a consensus on the formula.

Ms. Greer advised that a salary proposal based on a formula would be a complicated question for the voters because most voters did not understand the concept of property tax base. She commented that the salary increase proposal was likely to be unsuccessful due to the anger felt towards the members of the Board; however, she pointed out that the voters of the City of Hialeah had approved a salary increase for their council members because the voters in that area liked them. Ms. Greer recommended a salary level be proposed which represented the median income in the County.

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Mr. Carlos Manrique proposed a salary range between \$40,000 to \$50,000 or the State formula minus fifty percent (50%).

In response to Mr. Manrique's inquiry, Mr. Murphy clarified that his proposal should also be effective in November 2016.

Mr. Percival suggested that the issues of the salary increase and outside employment be presented to the voters as separate ballot questions in order to increase the chances of approval.

Ms. Perry expressed support for presenting to the voters both issues on only one ballot question, because the issues were linked as a commissioner who only had his job for the County should earn more than a commissioner who was allowed to have another job.

Mr. Martinez expressed support for presenting to the voters a specific salary amount in order to make simplify the question.

Mr. Arriola expressed support for Ms. Greer's recommendation to propose to the voters a specific salary amount reflecting the median income in Miami-Dade County, and he recommended the ballot question language be kept simple.

Councilwoman Garcia-Martinez suggested that the ballot question language should be clear and simple, and she also suggested that the issues of executive benefits and salaries be presented to the voters as two separate ballot questions.

Mr. Armando Bucelo suggested that a separate ballot question be proposed for each issue, and he also suggested that a salary range from \$40,000 to \$45,000 be proposed with no prohibition on outside employment. He noted the executive benefits package should remain within the purview of the County Commission, and the Task Force's recommendation should focus on the salary level.

Mr. Murphy recommended that the salary not be established as a specific amount because it would remain unchanged for decades as in the past. He asked that the Task Force identify a formula that would establish a salary appropriate for the governing body of Miami-Dade County, which was responsible for a \$7 or \$8 billion budget. He commented that County Commissioners should be compensated with a fair salary that would allow them to make a living; and hopefully, it would increase the probability that expense accounts would be eliminated by the County Commission because the expense account was created due to the voters' refusal to increase salaries.

Chairman Garcia observed that there was consensus among Task Force members for Mr. Murphy's proposal, but the concern was whether the voters would approve his proposal as well.

Mr. Arriola commented that the Task Force needed to determine what would be acceptable to the voters and had a likelihood of passing. He commented that simple questions had a higher chance of receiving the voters' approval and that a salary formula had less likelihood of being passed by the voters.

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Ms. Greer expressed the belief that the voters would not approve a salary formula.

Upon conclusion of the foregoing discussion it was moved by Ms. Evelyn Greer that the Task Force direct the County Attorney to draft a proposed amendment to the Charter to increase the Board of County Commissioners' annual salary from \$6,000 to the median income in Miami-Dade County effective November 2016, and to request that the County Attorney also draft a proposed Charter amendment providing: "that anyone elected to the Board of County Commissioners could not be an employee, owner, consultant, or receive compensation from any firm doing business with the County or any subdivision, department, or other entity managed by the County." This motion was seconded by Councilwoman Isis Garcia-Martinez.

Chairman Garcia opened the floor for discussion.

Ms. Perry suggested that the motion be linked to the Code of Ethics.

In response to Ms. Aguilar's inquiry, Mr. Murphy advised that the expense account was a budget line item, and it could be changed by the County Commission.

Mr. Percival advised that the Kendall Federation of Homeowner Associations (KFHA) had submitted specific proposals at the South Dade public hearing for the Task Force's consideration regarding a formula for incremental salary increases. He suggested that the Task Force pay attention to their recommendations since that association served a population representing 25% of the voters in Miami-Dade County.

Mr. Murphy recommended that the salaries of County Commissioners be increased higher than the median income in Miami-Dade County, and that the Task Force consider a formula to compensate County Commissioners with a fair salary. He noted the recommendation to increase the salary was a reasonable question for the voters. He asked that his proposed formula be considered in order to have the County Commissioners' salary increased to the mid \$70,000.

Dr. Richardson recommended that Mr. Arriola's suggestion to increase the salary to \$58,000 be considered since the City of Miami had already increased its commissioners' salaries to an equal amount.

Dr. Richardson amended the motion to increase County Commissioners' salary to at least \$58,000. He commented that the \$48,000 salary recommendation was a disservice, but the \$76,000 salary recommendation would not be successful with the voters.

Ms. Aguilar inquired if the City of Miami Commissioners had the same executive benefits package as the County Commissioners.

Mr. Arriola advised that the City Commissioners had expense accounts, but the fringe benefits package was not as extensive. He noted the expense account was a budget item and had to come before the citizens of Miami every year. He noted the City of Miami voters were only asked to approve the \$58,000 salary question.

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Dr. Richardson reiterated that his amendment was to set the salaries at \$58,000 like the City of Miami Commissioners currently receive.

Discussion ensued regarding the median income in Miami-Dade County.

Upon putting Dr. Richardson's amendment to a vote, it failed by a vote of 2-11 (Ms. Aguilar, Mr. Arriola, Mr. Bucelo, Councilwoman Garcia-Martinez, Councilman Gonzalez, Mr. Manrique, Mr. Martinez, Mr. Murphy, Mr. Percival, Ms. Perry, and Vice Chairwoman Greer voted no); (Mayor Juan Carlos Bermudez, Mr. Ottinot, Representative Julien, Mr. Slesnick, Professor Smith, and Representative Trujillo were absent).

Ms. Perry proposed a friendly amendment to include language addressing conflicting employment.

Ms. Greer did not accept the friendly amendment because it would not be approved by the voters.

Ms. Yolanda Aguilar proposed a friendly amendment to the motion to have the County Commissioners' salary calculated based on the annual Consumer Price Index (CPI) published by the Department of Labor.

Mr. Percival expressed his support for the amendment.

Ms. Greer expressed her disagreement with the friendly amendment, noting it would not be approved by the voters.

Mr. Arriola commented on the poll taken by the City of Miami for the City Commissioners' cost of living salary increase, noting the voters rejected the proposal.

Following a discussion on the friendly amendment, Ms. Aguilar withdrew her amendment.

Assistant County Attorney Oren Rosenthal stated that the Task Force members were making two separate recommendations, one recommendation on the salary increase and the second recommendation on the outside employment restrictions, which were both contained in one motion.

Assistant County Attorney Oren Rosenthal advised that the second issue was the manner in which the motion was phrased directing the County Attorneys to draft language for that recommendation. He stated that all the Task Force members needed to do was to direct that this recommendation be included in the final report; then, the County Attorney's Office would provide assistance in drafting the language for that specific recommendation to ensure the motion was encompassed.

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Ms. Greer advised that the enabling ordinance allowed this body to transmit to the Board of County Commissioners a fully drafted proposed amendment; therefore, she wished to present the recommendation to the Board in the form of a motion.

Upon conclusion of the foregoing discussion, it was moved by Ms. Evelyn Greer that the Task Force direct the County Attorney to prepare a Charter amendment to increase the salaries of the members of the Board of County Commissioners from \$6,000 to the median income of Miami-Dade County, which was currently \$36,000, effective November 2016; and that the County Attorney also draft an additional independent Charter amendment providing: "that an elected person taking office as a County Commissioner could not be employed by a firm doing business with the County or any subdivision, department, or entity managed by the County, to include in the definition of employment consultants and ownership." This motion was seconded by Councilwoman Isis Garcia-Martinez; and upon being put to a vote, passed by a vote of 12-1 (Mr. Percival voted no); (Mayor Bermudez, Representative Julien, Mr. Ottinot, Mr. Slesnick, Professor Smith, and Representative Trujillo were absent.)

Mr. Percival explained that he voted no because he was not given the opportunity to add anything to the proposal.

- Requested Information – Not presented
- Petition Process – Not Presented
- Mayoral Vacancy – Instant Run-Off Elections

Mr. Terry Murphy stated that currently there was no provision in the Charter addressing a vacancy in the Mayor's Office, and the Charter was essentially silent as to who assumed the powers of the Mayor during a vacancy created by his absence. He noted there was a need to decide who should be vested with the necessary limited powers to address a state of emergency during a vacancy period. He also noted the Charter currently provided either that an appointment be made or a special election be held within 45 days of the vacancy; however, that timeframe failed to meet the State law requirements in terms of absentee balloting overseas, he added. Therefore, the required timeframe to call for a special election needed to be extended to a 75-day period.

Mr. Murphy introduced Ms. Christina White, Deputy Supervisor of Elections, Miami-Dade County Elections Department. He stated that he had asked Ms. White to study the feasibility of using an instant run-off ballot election whereby voters stated their candidate preferences in the same ballot if their first candidate was not elected to calculate the final votes. He also stated that he believed the issue of instant run-off ballots was beyond the scope of this Task Force, and he withdrew the instant run-off ballot recommendation.

Mr. Murphy stated that the County needed to consider who should be designated to carry out the responsibilities of the Mayor in a state of emergency or if the vacancy occurred between June 1st and July 15th when the budget needed to be presented to the County Commission. He stated the mayoral powers should be vested during that period of time until the special election was held; Mr. Murphy stated that the Task Force needed to consider who should be designated to carry out the responsibilities of the Mayor in a state of emergency or if the vacancy occurred between June

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1st and July 15th when the budget needed to be presented to the County Commission. He stated the mayoral powers should be vested during that period of time until the special election was held, and he recommended the Clerk of Courts, who was the only Countywide elected official with fiduciary affiliation with the County. He noted the Clerk of Courts also had the audit and treasury responsibilities of the County.

Mr. Lawrence Percival commented that the Mayor had five deputy mayors under his purview, and he believed a senior deputy mayor would be the most appropriate person to assume those responsibilities because that individual had significant institutional knowledge to act as interim mayor in the absence of the Mayor.

Mr. Joe Arriola recommended the Mayor's powers be transferred to the Chairman of the Board of County Commissioners since those powers should be transferred to an elected official.

Councilwoman Isis Garcia-Martinez concurred with Mr. Arriola.

Mr. Louis Martinez also concurred with Mr. Arriola's suggestion to delegate the Mayor's powers to the Chairman of the Board.

Mr. Arriola suggested that the Chairman of the Board should fill the vacancy with the requirement that the Chair not be a candidate for the Office of Mayor. He noted the power and fundraising advantage that individual would have for the timeframe of the vacancy would give him an unfair advantage. He also suggested that, in the event the Chairman of the Board was a candidate, the Vice-Chairperson should assume the mayoral powers.

Ms. Yolanda Aguilar concurred with Mr. Arriola's recommendation, noting he or she should perform the Mayor's duties until the next regular election. She also suggested that the Chair should be allowed to return to his or her County Commission seat to complete his or her unexpired term.

In response to Chairman Rene Garcia's question, Ms. Aguilar clarified that the maximum time the person performing the Mayor's duties could serve was two years.

Discussion ensued regarding the timeframe required to call a special election in the City of Hialeah.

Assistant County Attorney Oren Rosenthal asked if the Task Force members expected the Chairman of the Board to hold his or her current powers while exercising the powers of the Mayor. He also asked if the Chair would only exercise the powers of the Mayor and not the powers of a County Commissioner; and if so, would the vacancy created in the County Commission seat be filled through an election or appointment.

Ms. Aguilar suggested that the vacancy in the County Commission seat be filled through an appointment.

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In response to Ms. Greer's inquiry on the process to fill a County Commission seat vacancy, Assistant County Attorney Oren Rosenthal advised that Article 1.07 of the Charter, relating to procedures, provided the Board of County Commissioners with the alternative to make an appointment or call a special election in no later than 45 days. He advised that the vacancy created in the Mayor's Office was traded for the vacancy of the County Commission seat, and one of the issues which needed to be considered was the dual office holder prohibition. He suggested that less than the full powers of the Mayor be temporarily transferred to another office while bearing in mind the prohibition of creating a super office power. He noted the Task Force members were essentially recommending that the Chairman of the Board become the Mayor temporarily; and the vacant office of the Chairman of the Board would be filled by a similar process.

In response to Mr. Martinez' inquiry as to whether the Chairman of the Board had to resign as County Commissioner if he or she agreed to fill the Mayor's vacancy, Assistant County Attorney Oren Rosenthal advised that statutory and constitutional prohibitions existed in that respect. He advised that the Task Force members could create a system whereby a person would no longer be a County Commissioner, and the office would either be vacated for one year or would be filled. He stated that the individual filling the Mayor's vacancy would perform those duties for one year; and at the end of that year, the Charter would provide that the person be automatically reappointed to his or her County Commission seat.

Assistant County Attorney Oren Rosenthal noted the key concept the Task Force members needed to be mindful of was that holding dual offices was prohibited; however, an individual was allowed to exercise limited powers such as head for emergency management purposes until such time as the office of Mayor was filled. He stressed that the individual assuming limited powers could not become the Mayor.

Mr. Martinez suggested that specific powers be transferred for state of emergency situations.

Ms. Greer suggested the powers be transferred for 90 days.

Mr. Martinez suggested that the transfer of the Mayor's powers for state of emergency situations should be included in the Charter and those powers should be transferred to the Chairman of the Board for the period of the state of emergency to satisfy the constitutional prohibition of holding dual offices. He recommended that the special election be held within 90 or 120 days.

Mr. Percival suggested that the League of Cities should have a voice as to who should assume the Mayor's duties for states of emergency.

Mr. Martinez expressed his lack of support for Mr. Percival's recommendation.

Councilman Luis Gonzalez suggested that an internal process be established as opposed to going externally.

Mr. Murphy requested that the Task Force members consider his recommendation to transfer limited mayoral powers to the Clerk of Courts because under the State of Florida Constitution

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the Clerk had a fiduciary responsibility to the County's budget and had audit powers over the County's budget. Therefore, the Clerk, as a Countywide elected official, should be considered to assume those responsibilities. He also pointed out that the Clerk knew the political environment of the County Commission, and that the Chairman of the Board was not a Countywide elected official.

Ms. Greer pointed out that the United States Constitution provided that the Vice-President and then the Speaker of the House would fill the presidential office in case of an unexpected vacancy. Ms. Greer noted the Speaker of the House was a Congressman elected by 300,000 people; and the fact that the Clerk was elected Countywide was significant.

Mr. Murphy noted most County Commissioners were probable candidates for the Office of Mayor and the Chairman of the Board was a likely candidate. He reiterated his wish to have his recommendation considered by the Task Force members; and he expressed his disagreement with the recommendation to transfer those powers automatically to the Chairman of the Board.

In response to Chairman Garcia's inquiry regarding whether the Clerk of Courts would hold two offices, Mr. Murphy advised that the Clerk's Office would be restructured for the limited powers that would be vested during the interim period.

In response to Chairman Garcia's question, Mr. Murphy clarified that the proposal was to transfer only limited powers to the Clerk of Courts as explained by Assistant County Attorney Oren Rosenthal.

Pursuant to Mr. Percival's question as to whether the Clerk's senior deputy clerk would be delegated the responsibilities of the Clerk, Mr. Murphy stated that the Clerk would continue to perform his responsibilities.

Responding to Mr. Garcia's inquiry, Mr. Murphy clarified that his recommendation only intended to transfer those powers needed to address state of emergency situations; but the County Attorney could recommend other powers that could be bestowed upon the designated person.

In response to Mr. Percival's question regarding whether the Clerk of Courts would be performing two roles or whether another individual would be delegated with the Clerk's responsibilities during the interim period, Mr. Murphy reiterated that the Clerk of Courts would continue to perform his duties as the Clerk's functions were operational. He clarified that the Clerk of Courts was only being asked to assume additional duties during a limited period of time while a special election was being held to elect a new strong mayor for Miami-Dade County.

Pursuant to Ms. Aguilar's question, Mr. Murphy clarified that if the Clerk of Courts believed it was too strenuous to carry out all of the mayoral duties during this interim period, he could assign additional duties to one of his deputy clerks.

In response to Ms. Pamela Perry's question whether the Clerk would have the ability to vote if the Mayor's powers were transferred to him, Mr. Murphy advised that his proposal intended to

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transfer only those mayoral powers not associated with voting issues. He asked Mr. Rosenthal to explain the Mayor's powers under consideration.

Assistant County Attorney Oren Rosenthal explained the general powers provided to the Mayor by the Charter. He stated that the Mayor was the head of County government for administrative purposes; the main contact for emergency management purposes; had the sole authority to hire and fire department directors during that period of time; had the ability to veto legislation; presented a proposed budget to the Board of County Commissioners at a certain interval of time; and was the only person with the ability to recommend that the Board of County Commissioners make purchases out of the competitive process known as a bid waiver. He noted the Task Force members could consider whether to transfer some of these powers to another office.

Ms. Perry recommended that Chief Judge Brown or Mr. Harvey Ruvin be asked to testify before the Task Force members as the Clerk of Courts played a particularly neutral role in the court system, and the Task Force should not ask him to do anything inconsistent with his role. If the emergency involved law enforcement and/or massive bond hearings, as happened approximately 30 years ago, the Task Force should consider whether the Clerk of Courts would have sufficient time to take on this additional responsibility, she added.

In response to Chairman Garcia's question regarding what would be an appropriate timeframe to call for an election, Mr. Murphy recommended 90 days.

Chairman Garcia recommended that the Clerk of Courts be invited to attend the Task Force's next meeting to express his sentiments in this regard.

Mr. Murphy clarified that he did not intend to allow the officer assuming the mayoral duties to have the ability to veto legislation or appoint department directors; rather, he intended to allow the officer to declare a state of emergency and confront an emergency. He noted he believed the Charter allowed the Mayor, in consultation with School Board officials, to close schools and address several issues relating to state of emergency events.

In response to Chairman Garcia's inquiry on the rationale for not transferring those powers to the Chairman of the Board, Mr. Murphy advised that he did not strongly object to that, but he preferred the Clerk of Courts due to the likelihood of County Commissioners becoming candidates for the office of the Mayor and to avoid co-elections for County Commission seats. The process would be cleaner and simpler, he observed.

Chairman Garcia reiterated that the Clerk of Courts be invited to attend the Task Force's next meeting or send information to provide feedback on this recommendation. He also recommended that the Task Force obtain information regarding how other communities handled unexpected mayoral vacancies.

Mr. Martinez questioned whether the Clerk of Courts was included in the bureaucratic process and the briefings during a state of emergency, and if the Clerk of Courts would have the ability to address a state of emergency event and respond immediately.

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In response to Ms. Aguilar's inquiry whether the Chair would have to vacate his or her County Commission seat to assume the temporary role or be allowed to assume additional responsibilities until the election was held, Mr. Rosenthal advised that the Chair would be able to assume additional duties such as the Mayor's duties, but he would not be able to become the Mayor.

Mr. Carlos Manrique recommended the Task Force invite the Chairman of the Board to its next meeting to provide feedback on this recommendation. He commented that whoever assumed the responsibilities would be performing dual roles. He noted he preferred delegating the Mayor's powers to the legislative body, but if the legislative body was not deemed appropriate, the Clerk of Courts was a good alternative.

Mr. Murphy commented that the Task Force members could propose a succession chain such as the Chair, Vice-Chair, and the Clerk in the event everyone became a candidate for the Office of Mayor.

Mr. Manrique recommended that the Chairman of the Board be prohibited from running for the Office of Mayor if he or she accepted to perform the Mayor's duties. He clarified if the Chairman of the Board wished to run for the Office of Mayor, then the Chair would return to his or her County Commissioner seat, and the Board of County Commissioners would select another Chair who could fill in for the Mayor.

Mr. Martinez suggested that the Task Force develop streamlined and clear immediate succession procedures for unforeseen and state of emergency situations. He also suggested that the individual performing the duties in a state of emergency be allowed to determine afterwards if he or she wished to run for the office, and, if so, he or she would be unable to continue filling in for the Mayor.

Ms. Greer asked that Assistant County Attorney Oren Rosenthal prepare language reflecting Mr. Murphy's recommendation for the Task Force's consideration at its next meeting.

Mr. Murphy pointed out that the Clerk of Courts was a possible office in the succession chain that the Task Force members might wish to deliberate on.

Chairman Garcia commented that the Task Force needed to present before the electorate a resolution concerning who should fill a mayoral vacancy in an emergency, whether it was deemed to be Clerk of Courts or the Chairman of the Board.

Chairman Garcia instructed Ms. Inson Kim and Assistant County Attorney Oren Rosenthal to prepare a report for the Task Force's next meeting on how other communities similar in size and governance to Miami-Dade County filled a mayoral vacancy in an emergency – the timeframe for special elections, and the succession plan.

Chairman Garcia asked that the Clerk's Office and the Chairman of the Board be invited to attend the Task Force's next meeting (5/30) to communicate their thoughts on the transfer of the mayoral powers.

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Mr. Murphy noted he would also like to discuss, under the powers of the Mayor, the powers for intergovernmental representation for Miami-Dade County at the next Task Force meeting. He suggested that the Mayor of the County be designated as the individual to represent the County on state and federal intergovernmental issues.

Mr. Murphy also pointed out that according to the Charter, the individual elected as Mayor was also elected as Miami-Dade County's Sheriff, and then the Mayor delegated his sheriff's responsibilities to another individual. He suggested that the Charter be modified to provide that the Director of Miami-Dade Police Department was the Sheriff of Miami-Dade County.

OTHER BUSINESS

- Feedback received via the website and email – Not presented

NON-AGENDA ITEMS

Chairman Garcia asked that all CRTF members be contacted and reminded of the next meeting.

Vice-Chairwoman Greer asked that previously discussed issues be circulated early to provide each Task Force member adequate review time.

Ms. Aguilar noted she would not be able to attend the CRTF meetings of May 30, 2012, and June 6, 2012.

ADJOURNMENT

There being no further business to come before the Miami-Dade County Charter Review Task Force, the meeting adjourned at 12:25 p.m.

Chairman Rene Garcia
Miami-Dade County Charter Review Task Force



Board of County Commissioners
Charter Review Task Force – Public Hearing
May 23, 2012

Prepared by: Jovel Shaw

EXHIBITS LIST

NO.	DATE	ITEM #	DESCRIPTION
1	5/23/2012		2012 Charter Review Task Force First Meeting Sign-in Sheet
2	5/23/2012		Metro-Dade Firefighter Proposed Changes to the Miami-Dade County Charter dated May 17, 2012
3	5/23/2012		Outline of Incorporation Charter Amendment Proposal
4	5/23/2012		Resolution R-30-11
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2012 Charter Review Task Force

Meeting

Conference Rooms 18-3 & 18-4

May 23, 2012 at 9 a.m.

Name	Email	Telephone	Address
W. T. Richardson	OR	OR	OR (on Negro)
H. Daiss	hdaiss@unc.edu		111 New St, A-2340
Matthew Land	matthewland@unc.edu		
Mary Lou Rizzo		1589	
Gene Shy		5351313	CFO
Christine White		355-409-8418	Elections
Andrea Perry	ANDREA.HARVEY@UNC-EDU		
Martha Baker	MarthaBaker@unc.edu		
Vivian Suarez	VivianS@unc.edu	5128	
Daniel Rassi	danielrassi@unc.edu	780-234-4464	10085 SW 143 Rd, Mir, FL 33186
Rigoberto Chirino			"

[illegible]

May 17, 2012

**Metro-Dade Firefighters Proposed Changes to the
Miami-Dade County Charter**

Article 1 SECTION 1.05.

FORFEITURE OF OFFICE.

C. Any appointed official or employee of Miami-Dade County who qualifies as a candidate for election to any ~~federal, state or~~ municipal office within Miami-Dade County shall immediately take a leave of absence from his or her county position until the date of the election and shall, if elected, immediately forfeit his or her county position. If the candidate is not elected, he or she shall immediately be reinstated to his or her former position.

Outline of Incorporation Charter Amendment Proposal

Concept:

Amend Section 6.05 to create 6.05(a) Incorporation by the Board and 6.05(b) Incorporation by Initiatory Petition. The initiatory provision incorporation process will be modeled after initiatory petition for ordinances and Charter Amendments.

Process:

I. Creation of Committee and Approval of Form of Petition

An incorporation committee organized by electors with a minimum of 5 electors from the proposed area of incorporation will initiate the process by filing with the Clerk of the Circuit Court an Initiatory petition on a form prescribed by the Clerk for such purpose. The form shall at a minimum identify the names and addresses of the committee persons and the area to be incorporated. The Supervisor of Elections will compute the total number of electors within the proposed incorporation area at the time of the submission of the form for approval. Within seven (7) days of receipt of the form, the Clerk shall approve the form of petition and provide the incorporation committee the number of required signatures which shall be equal to ten percent (10%) of the electors in the proposed incorporation area.

II. Circulation of Petition

The incorporation committee will have six (6) months to obtain signatures on a form provided by the Clerk equal to ten percent (10%) of the electors in the proposed incorporation area. The signatures shall include the name, address and signature of the elector but will not have to be notarized.

III. Canvass of Petitions

The signed petitions will be submitted to the Clerk who shall have thirty (30) days to canvass the signatures contained therein.

IV. Setting of Election and Study Process

Upon certification of the sufficiency of the signatures on the petition the Clerk shall present the petition to the Board of County Commissioners at their next regularly scheduled meeting at which time the Board shall call an election to authorize the creation of a municipality which shall occur no sooner than ninety (90) and no greater than one hundred twenty (120) days from the date the Clerk certifies the signatures. The election shall be held, whenever practicable, in conjunction with another election scheduled to occur within the proscribed time period. The election shall be determined by an affirmative vote of a majority of electors voting in the proposed new municipality. During the sixty (60) days following the certification of the petitions, the Board shall complete a budgetary analysis in cooperation with the incorporation committee of and on the proposed incorporation and schedule at least one public hearing prior to the incorporation election.

V. Post Election -- Charter Creation

Within 30 days after certification of the election, the Board of County Commissioners shall appoint from a list proposed by the incorporation committee a five member Charter Committee which shall, within ninety (90) days after appointment, create a Charter for the newly incorporated area setting forth the form of government and governing body of the newly incorporated area. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by the County Home Rule Charter and the Constitution and general laws of the State of Florida. Upon completion, the proposed Charter will be submitted to the electors of the newly incorporated area no sooner than 60 days and no later than 120 days after it is completed. Upon an affirmative vote of a majority of those electors within the proposed municipality, the municipal charter shall become effective and the municipality shall be created at the time stated in the municipal charter.

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Appendix A

MEMORANDUM

Amended
Agenda Item No. 11(A)(4)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners


DATE: January 20, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution establishing the
Miami-Dade County Hospital
Governance Taskforce to study
and report on alternative models
for operating the Public Health
Trust to ensure it has the
governing and financial
structure necessary to fulfill
its crucial mission

Resolution No. R-30-11

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

RAC/jls

Appendix A



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: January 20, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Amended
Agenda Item No. 11 (A) (4)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Appendix A

Approved	_____ Mayor	Amended
Veto	_____	Agenda Item No. 11(A)(4)
Override	_____	1-20-11

RESOLUTION NO. R-30-11

RESOLUTION ESTABLISHING THE MIAMI-DADE COUNTY HOSPITAL GOVERNANCE TASKFORCE TO STUDY AND REPORT ON ALTERNATIVE MODELS FOR OPERATING THE PUBLIC HEALTH TRUST TO ENSURE IT HAS THE GOVERNING AND FINANCIAL STRUCTURE NECESSARY TO FULFILL ITS CRUCIAL MISSION.

WHEREAS, the Public Health Trust is in the midst of an economic crisis that appears to be due in large part to its governing structure; and

WHEREAS, the Miami-Dade County Grand Jury in its report dated August 5th, 2010 specifically determined that the Public Health Trust's "governance must be changed," explaining "the path to survival requires a change in the governance model for JHS. Without that level of change, we are asking for this financial disaster to repeat itself, over and over again;" and

WHEREAS, other communities have changed the governing and financial structure of their public general hospitals from a government board to a private, not-for-profit 501(3) organization with a board of doctors, community leaders, and health care professionals, as was done, for example, with Tampa General Hospital; and

WHEREAS, still other communities have changed the governing and financial structure of their public general hospital from a county board to an independent tax district, as was done for the North and South Broward Hospital districts; and

WHEREAS, it will benefit members of the Board of County Commissioners and the people and communities of Miami-Dade County to understand the feasibility and benefits of

Appendix A

Amended
Agenda Item No. 11(A)(4)
Page No. 2

these and other models of governance as the Board and the community continue to address the economic crisis at the Public Health Trust; and

WHEREAS, the private hospitals in Miami-Dade County have an immense stake in the continued financial and economic success of the Public Health Trust because, if the Public Health Trust is forced to cutback on the number of indigent patients that it treats, a greater number of indigents will appear at the emergency rooms of the private hospitals and the private hospitals will be forced to provide more care to indigents from their own resources,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Miami-Dade County Hospital Governance Taskforce is hereby created:

Section 1. The Taskforce shall study possible models for the governance of the Public Health Trust, including but not limited to (a) operation of the Public Health Trust by a private, not-for-profit 501(c)(3) organization with a board of doctors, nurses, community leaders, and health care professionals, as was done, for example, with Tampa General Hospital; (b) operation of the Public Health Trust by an independent tax district, as was done for the North and South Broward Hospital districts; (c) other models, perhaps blending these models, as the Taskforce may decide; (d) and other recommendations regarding the governance and financing of the Public Health Trust, as the Taskforce may decide. In its deliberations and recommendations, the Taskforce shall at all times keep in mind the importance of protecting the interests of the taxpayers of our community. The Taskforce will complete its work and file an executive summary of its recommendations with the Clerk of the Board no later than 60 days from the first meeting of the Taskforce and will file a final report no later than 90 days from the

Appendix A

Amended
Agenda Item No. 11(A)(4)
Page No. 3

first meeting of the Taskforce. The Taskforce will cease to exist 100 days from the first meeting of the Taskforce.

Section 2. Staff for the Taskforce will be provided by the Commission Auditor and additional staff will be provided by the Mayor or Mayor's designee. In addition, the Mayor or Mayor's designee is requested and directed to provide the Taskforce any information or analysis it may request, including from sources such as the County Manager's Office and the Finance Department. The Mayor or Mayor's designee is directed to provide the Taskforce with meeting facilities and appropriate physical and technical support, including equipment necessary to comply with the Sunshine laws.

Section 3. The County Attorney's Office will provide legal advice and guidance to the Taskforce.

Section 4. The Taskforce shall consist of twenty (20) members as follows:

- (1) The chief executive officer of Baptist Healthcare Systems, Inc. or a member of its executive management team chosen by the chief executive officer;
- (2) The chief executive officer of Miami-Children's Hospital or a member of its executive management team chosen by the chief executive officer;
- (3) The chief executive officer of HCA Kendall Regional Medical Center or a member of its executive management team chosen by the chief executive officer;
- (4) A chief executive officer of either Hialeah, Northshore Medical Center and Palmetto General Hospital, or a member of their executive management teams chosen by the chief executive officer of Tenet Healthsystems Medical, Inc.;
- (5) The chief executive officer of Mt. Sinai Medical Center or a member of its executive management team chosen by the chief executive officer;

Appendix A

Amended
Agenda Item No. 11(A)(4)
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- (6) The chief executive officer of Mercy Hospital (or its successor hospital or a member of its executive management team chosen by the chief executive officer;
- (7) The Administrator, or appointee, of the Florida Department of Health-Miami-Dade County Health Department;
- (8) The State Attorney of Miami-Dade County, or designee;
- (9) One person appointed by the Mayor;
- (10) Five persons chosen by the Board of County Commissioners, including four persons with backgrounds in health care, finance, law, or procurement, including one person who is a current or former chief financial officer of a successful local hospital or hospital system; and a fifth person who is an academic or expert in the area of healthcare;
- (11) One representative of the unions at the Public Health Trust chosen by the Board of County Commissioners;
- (12) A physician who is a member of the medical executive committee of Jackson Memorial Hospital, chosen by the other members of the Taskforce;
- (13) A representative, or designee, from the National Association of Public Hospitals and Health Systems ("NAPH") based in Washington, D.C., chosen by the NAPH;
- (14) A representative of the Florida Nursing Association, chosen by the Florida Nursing Association;
- (15) The chief executive officer of Health Foundation of South Florida or a member of its executive management team chosen by the chief executive officer; and
- (16) The chief executive officer of South Florida Hospital & Healthcare Association or a member of its executive management team chosen by the chief executive officer.

Because of the vital importance of this project, the chief executive officers of the hospitals, foundations, and associations named above are strongly encouraged to serve personally on the committee. In the event that chief executive officers cannot serve personally,



MIAMI-DADE COUNTY FINAL OFFICIAL MINUTES CHARTER REVIEW TASK FORCE

Board of County Commissioners
Miami-Dade County Miami Art Museum
101 West Flagler Street
Miami, Florida 33130

May 30, 2012
As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

Christopher Agrippa, Division Chief
Clerk of the Board Division

Flora Real, Commission Reporter
(305) 375-1294



CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 30, 2012

The Miami-Dade Charter Review Task Force (the Task Force) convened on May 30, 2012, at the Miami-Dade County Miami Art Museum, 101 West Flagler Street, Miami, Florida, at 9:00 a.m. There being present Vice Chairwoman Evelyn Langlieb Greer, Ms. Yolanda Aguilar, Mr. Joe Arriola, Mayor Juan Carlos Bermudez, Mr. Carlos Manrique, Mr. Louis Martinez, Mr. Terry Murphy, Mr. Hans Ottinot, Mr. Lawrence Percival, Reverend Dr. Walter Richardson, Mr. Donald Slesnick, and Professor H. T. Smith (Chairman Rene Garcia and Ms. Pamela Perry were late). (Mr. Armando Bucelo, Mr. Victor Diaz, Councilwoman Isis Garcia-Martinez, Councilman Luis Gonzalez, Representative John Patrick Julien, and Representative Carlos Trujillo were absent)

In addition to the members of the Task Force, the following staff members were present: Assistant County Attorneys Oren Rosenthal, Jess McCarty, and Cynthia Johnson-Stacks, Ms. Inson Kim, Ms. Lorna Mejia, Mr. Les Pantin, Mr. Jev Clayton, and Deputy Clerk Flora Real.

In the absence of Chairman Garcia, Vice Chairwoman Greer called the meeting to order at approximately 9:24 a.m. and welcomed the Task Force members and all others present.

CHAIRMAN'S ITEMS – No items were presented

COUNTY ATTORNEY'S REPORTS

- **Recommended Technical Amendments to Charter** – No items were presented

CRTF ISSUES OF STUDY

- **Salaries/Outside Employment**
 - **Requested Draft Language – Commission Salary Increase Proposal**
 - **Requested Draft Language – Prohibition on Conflicting Outside Employment Proposal**

(SEE REPORT FOR THE OFFICE OF THE INSPECTOR GENERAL)

- **Incorporation/Annexation Presentation**

Vice Chairwoman Greer noted she had revised her proposed Charter amendment regarding the incorporation process to reflect the Task Force's discussion at the May 23 meeting. She explained the County Attorney had advised that the full Charter amendment could not be included in the ballot question because ballot questions were limited to 75 words. She pointed out page two of her revised proposal had the specific Charter amendment that would track the incorporation process, and she explained this proposed process would prevent the County Commission from stopping the incorporation after the Incorporation Committee had reviewed each step of the process.

Mr. Richardson requested clarification regarding the language "no less than 10 percent."

Assistant County Attorney Oren Rosenthal advised the "no less than 10 percent" applied to verifying the petition signatures.

CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 30, 2012

Mayor Bermudez noted he supported this proposed process because it would give the electorate the opportunity to vote.

Chairman Garcia questioned how the County should handle the small pockets of unincorporated areas.

Vice Chairwoman Greer noted she had a proposed amendment regarding annexation that would eliminate penalties to municipalities for annexing unincorporated areas.

Mr. Slesnick expressed concern that this incorporation proposal would completely remove the County Commission. He pointed out the Commission was the elected body to govern the County. He noted the County Commission should provide reasons for blocking incorporations or annexations.

Mr. Percival noted page two of the proposal prepared by Assistant County Attorney Rosenthal addressed the concept of a strictly regional government. He explained that this proposal allowed the County Commission to provide for those areas to incorporate or be annexed if after two years unincorporated areas still existed. He clarified this would eliminate the small pockets of unincorporated areas.

Mayor Bermudez noted the incorporation process needed to take into account whether an area was a donor community, and he questioned when Mr. Slesnick's proposal would implement full incorporation of the County.

Mr. Slesnick noted the timeframe was open for discussion.

Mr. Percival suggested 2016 as the date for complete incorporation.

In response to Dr. Richardson's request for clarification regarding Vice Chairwoman Greer and Mr. Percival's proposals, Assistant County Attorney Rosenthal advised that they were two different proposals, that Mr. Percival's proposal was a process to completely incorporate the County, and that Vice Chairwoman Greer's proposal would allow the incorporation process to go forward without County Commission involvement.

Mr. Percival clarified his proposal would only be implemented if unincorporated areas did not decide to incorporate or be annexed.

Following Mr. Ottinot's comments regarding incorporation, Chairman Garcia noted the Task Force needed to develop a process for non-donor communities and how they would be annexed, if the County would be completely incorporated.

Vice Chairwoman Greer noted she did not support a mandate to incorporate the entire County. She explained that citizens were capable of handling the issues regarding incorporation. She requested her proposal not be combined with Mr. Percival's proposal.

CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 30, 2012

Mr. Slesnick expressed concern that Vice Chairwoman Greer's proposed amended language for Section 6.05.(B)1 stating: "the Clerk shall approve the form of petition." He clarified that this language did not allow the Clerk to disapprove the petition. He stressed the importance of not completely removing the elected officials from the incorporation and annexation processes. Mr. Arriola noted several communities in the County had bad experiences with the County Commission when trying to incorporate or annex land. He explained the current process had failed.

Ms. Aguilar noted that she supported Vice Chairwoman Greer's proposal, however, she thought an annexation component should be added. She pointed out residents in unincorporated areas did not want to pay higher taxes by being in a municipality. She expressed concern that small isolated unincorporated areas will have difficulty receiving services from the County.

Mr. Murphy noted the petition process should be consistent in the Charter. He clarified that if notarizing a petition was required as part of the incorporation process, then notarizing petitions should be required for other processes. He pointed out the timeframe to circulate a petition should also be consistent.

Mr. Murphy explained incorporation and annexation were different issues with incorporation starting through a petition process by residents and annexation starting through an application filed by a municipality. He suggested the Charter be amended to include an appeal process available to petitioners if they felt the County Commission unjustly stopped the incorporation process. He stressed the governing body should have a role in incorporation.

Mr. Percival noted his proposal for creating a regional government could be amended. He explained that his proposal tried to protect disenfranchised areas, minority areas, and areas that were not self sustaining, if a regional government was created. He noted municipalities needed to be in control to provide every area a fair opportunity to succeed. He clarified the County would struggle to provide services to Unincorporated Municipal Services Areas (UMSA) as the funding for this area would be reduced as other areas incorporated.

Mr. Ottinot noted the County Commission did not have to be involved in the incorporation process. He suggested a compromise to allow the County to look at the compactness of the proposed incorporation. He explained disagreements or conflicts with proposed incorporations or annexations could be settled in court as opposed to the County Commission.

Mayor Bermudez noted the following issues should be considered regarding incorporation and annexation: 1) the viability of other areas, 2) the most effective way to provide services to residents, and 3) the process should not be stalled. He explained he supported the courts being used to resolve conflicts in the process. He stressed the importance of the Task Force making a recommendation on the incorporation process.

In response to Mr. Smith's question regarding who would govern concurrent processes to annex and incorporate at the same area, Vice Chairwoman Greer pointed out every incorporation petition had boundary disputes; and the people involved should resolve the disputes. She noted

CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 30, 2012

the petition that was completed first would go before the voter if the boundary disputes could not be worked out.

It was moved by Vice Chairwoman Greer that the Task Force members approve including in its Final Report a proposed Charter amendment to Article 6 as amended to change "six (6) months" to "one hundred twenty (120) days" in Section 6.05.(B)2, and that the County Attorney prepare the appropriate ballot question. This motion was seconded by Mr. Arriola.

Mr. Manrique suggested the motion be amended to rescind the vote of the people to give the County 30 year access to funds that belong in the municipalities.

Vice Chairwoman Greer noted she concurred with Mr. Manrique, however, his proposed amendment was outside the scope of incorporations.

Upon conclusion of the foregoing discussion, the motion was put to a vote, and passed by a vote of 12-2 (Mr. Slesnick and Mr. Murphy voted "No").

Mr. Percival questioned whether the Task Force could reconsider this motion.

Chairman Garcia noted the Task Force had voted to allow all votes to be reconsidered.

Mr. Slesnick asked Assistant County Attorney Rosenthal to prepare a proposed amendment to Vice Chairwoman Greer's proposal that would address his concerns. He invited Mr. Murphy to make a similar request.

Mr. Percival expressed concern that the Task Force struggled to make quorum at every meeting. He noted, for the record, an effort to undermine the Task Force might exist to try to prevent the Task Force from reaching a super majority consensus on issues.

Mr. Manrique questioned whether the Task Force could make a different motion to reach a 14-0 vote on this issue.

Mr. Murphy explained the County Commission should be involved in the incorporation process. He suggested a two-thirds majority vote by the Commission be required to overturn an approval for incorporation by the Planning Advisory Board, or requiring that the County Commission act on an incorporation petition within a timeframe. He expressed concern that the Task Force would propose a process that excluded the County's governing board for insignificant reasons.

Mayor Bermudez noted the timeframe should be short. He questioned whether the County Commission could stop this recommendation from going on the ballot.

Assistant County Attorney Cynthia Johnson-Stacks advised the County Commission expressed its intent in the resolution creating this Task Force to place any question recommended by a two-thirds majority of the Task Force directly on the ballot. She further advised the Commission reserved the right to amend any item.

**CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 30, 2012**

Mr. Slesnick noted the State Legislature would not relinquish its right to create new counties. He clarified the process should not remove the government of an area when that process would recreate the government for that area.

Mr. Smith explained that he voted "Yes" since the Task Force had time to address the concerns that existed, and that he would have voted "No" if this was the final opportunity to vote on this issue.

Issue of Franchise and Utility Taxes Relating to Annexations:

It was moved by Vice Chairwoman Greer that the Task Force members approve including in its Final Report a proposed Charter amendment to Section 6.07. FRANCHISE AND UTILITY TAXES to the County Commission as amended to include new incorporations, the People's Transportation Plan surtax, and any other taxes collected by the County for an annexed or incorporated area. This motion was seconded by Mayor Bermudez; and upon being put to a vote, the motion passed by a vote of 14-0.

- **Governance of Jackson Memorial Hospital**
 - **Follow Up by County Attorney**
 - **Sovereign Immunity**
 - **Half Penny Surtax**
 - **Sunshine Law**
 - **Requested Information**
 - **2010 Grand Jury Report**
 - **2011 Hospital Governance Task Force Report**
 - **Information Provided by SEIU Local 1991**
 - **Response to 2010 Grand Jury Report**

Chairman Garcia noted the item on the Governance of Jackson Memorial Hospital (JMH) would not be considered today inasmuch as the representatives of SEIU Local 1991 and Jackson Health System had requested it be deferred to the Task Force's next meeting.

At a later time during the meeting, Mr. Duane Fitch, Owner, Fitch Healthcare and Healthcare Consulting Practice, Chicago, Illinois, appeared before the Task Force. He noted JHS was not a typical not-for-profit or tax exempt entity. He pointed out that JHS had world class facilities and served as the safety net for the community. He explained that not-for-profit hospitals were reducing their exposure to charity care patients. He stated JHS would operate differently if it were a traditional not-for-profit hospital.

Mr. Fitch noted JHS's governance needed to include the taxpayer owners and the non-taxpayer users who were both stakeholders at JHS. He pointed out a governance change was not the way to fix the current financial reality facing JHS, and it had no strategic plan or long-term financial forecast. He stated JHS was stuck in the 1970s as a primarily inpatient facility.

CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 30, 2012

Chairman Garcia questioned whether conflicts existed in the JHS governance structure, defined as the relationship between the County Commission, the Public Health Trust, and the executive leaders. He also questioned what had happened across the country regarding the governance of public hospitals and the direction they had gone.

Mr. Fitch noted he had advocated for a smaller governing board with more healthcare experts than the old PHT board. He pointed out the Financial Recovery Board was smaller, however, the members were not healthcare experts.

Vice Chairwoman Greer noted the Grand Jury report indicated JHS was not managed to the best interest of the public. She clarified the Task Force was looking for efficient non-political, business, and constituent oriented governance at JHS. She questioned how to remove JHS from politics.

Mr. Fitch suggested the Task Force evaluate other contemporary models that would monitor accountability. He noted the items on page 12 and 13 of his April 14, 2011, Hospital Governance Task Force Presentation were specific, tangible, non-political initiatives that would help JHS. He clarified that the accountability in the governance was to evaluate whether the items on page 12 and 13 were happening.

Chairman Garcia questioned the source of the recommendation to have JHS provide healthcare services to County inmates.

Mr. Fitch noted it was his understanding that the practice began when JHS had excess funds and the County identified a way to access those excess funds by having JHS provide healthcare services to inmates.

Chairman Garcia pointed out the half-penny surtax for JHS was supposed to be used for indigent care, however, a portion of it was used to cover the costs to provide healthcare to inmates, which was the responsibility of the County.

Mr. Fitch noted that the most prevalent model used nationally was a healthcare board filled with healthcare experts who were uniquely charged with operating the hospital, and that the commissioners agreed to not be involved in the day-to-day affairs. He pointed out that the healthcare board would be held accountable to the commissioners through reports and adherence to the strategic plan.

Mr. Percival questioned whether that was happening at JHS.

Mr. Fitch noted JHS laid off over 1,000 employees without the Financial Recovery Board being able to question how the layoffs would impact the hospital. He explained that this lack of questions did not represent a check and balance structure.

○ **Petition Process – No presentation was made**

**CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 30, 2012**

- **Mayor Vacancy**
 - **Mayor**
 - **Chairman of the Board – No presentation was made**
 - **Clerk of Courts**

Chairman Rene Garcia considered simultaneously the Mayor's and Clerk of Courts' presentations.

Mayor Carlos Gimenez appeared before the Charter Review Task Force to discuss the issue of succession in the event a vacancy was created in the Office of the Mayor, noting the succession issue surfaced when the previous Mayor was recalled and the vacancy remained vacant during the timeframe it took to replace the Mayor. He stated many of the Mayor's powers cannot be delegated due to the provisions of the Charter, and he hoped this Task Force would develop a recommendation to address another recall or incapacitation. He recommended that the person temporarily filling the Mayor's vacancy until the election was held be made ineligible to run for the office, and he suggested that the County Commission could be allowed to make an appointment and have County government retroact to the manager's form of government for the timeframe until an election was held. He emphasized that the person appointed to fill the vacancy should not be allowed to run for the permanent office due to the incredible advantage provided to that individual.

Mayor Gimenez stated he would like to give this Task Force the prerogative to determine the best approach to select a Mayor to temporarily fill the vacancy, but the succession issue needed to be addressed and inserted in the Charter.

Mr. Terry Murphy commented on the succession plan of New York City, noting they had a citywide elected public advocate mostly like the Inspector General and Comptroller. He stated he had also researched the City of Chicago; and because of the unclearness of the language, it did not seem to be good legislation. He advised he also researched other charters in the State of Florida; and in most cases, there was deference to the sheriff, president of the council, and vice chair. He noted in Jacksonville the succession line was continued by appointing committee chairs and other individuals. He recommended that limited powers associated to state of emergencies be bestowed in a succession line, and he also recommended the succession line be the Chairman of the Board, Vice Chair of the County Commission, and the Clerk of Courts due to the Clerk's existing judiciary responsibilities over the County's treasury. He noted the Clerk was a countywide elected official; and if the Chairman or Vice Chair were running for Mayor, the Clerk would be able to perform those limited responsibilities during the proposed 90 day timeframe previously discussed.

Mayor Gimenez concurred with Mr. Murphy's recommendation that those mayoral powers necessary to be delegated be transferred to the Clerk of Courts since the Clerk was a countywide elected official, and the Clerk already performed a number of administrative duties related to the court system. He stated many of the Clerk's responsibilities and duties were aligned with many of the Mayor's duties in that sense, and it was a neutral position.

CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
MAY 30, 2012

Mayor Gimenez commented delegating limited powers from the Office of the Mayor to the Chairman of the Board and Vice Chair of the County Commission also made sense, and it was only about delegating limited powers. He said his major concern was delegating all the Mayor's powers because due to the firing and hiring powers. He stated continuity was important in the absence of the Mayor, and it was something this Task Force would probably like to ensure it was adhered to.

Mayor Gimenez stated the County needed to establish a succession plan, and he expressed his concern with the issue of whether delegating limited powers to the Clerk or Chairman of the Board would conflict with the provisions of dual office holding.

Assistant County Attorney Oren Rosenthal advised this issue was discussed at previous Task Force meetings, and the temporary transfer of limited powers from the Office of the Mayor to another elected office did not conflict with the dual office holding provisions as long as it was not the complete transfer of powers from the Office of the Mayor. He noted Mr. Murphy had asked that language be drafted to transfer specific supreme powers like emergency management powers, only hiring powers, and power to recommend competitive bid waivers.

Mayor Gimenez reiterated it was necessary to propose a Charter amendment to include in the Charter a succession plan for the Office of the Mayor.

In response to Mr. Manrique's inquiry regarding what was the appropriate timeframe to call a special election, Mayor Gimenez responded the 90 day timeframe had the concern that the vacancy would be vacant for a prolonged period since there was no assurance a candidate would be elected during the first election; and a runoff election would cause further delays. He recommended that County government could be retroacted to a manager form of government with the County Commission overseeing the person appointed to carry out the Mayor's duties.

Mayor Gimenez stated that the runoff election would probably also need a timeframe of 90 days if there was a need to allow 90 days to coordinate the special election.

Vice Chairwoman Greer commented there was no need to allow 90 days, and thirty five (35) days was sufficient time.

Mr. Percival recommended that appropriate language be included to prevent the person appointed to perform the limited mayoral duties during the interim period due to an illness or incapacitation from being able to change the Mayor's action inasmuch as the Mayor would have to revert the actions taken during his absent upon his return, and it would be costly for the County.

Mayor Gimenez concurred with Mr. Percival's recommendation.

In response to Mr. Martinez's question regarding whether the limited duties would be delegated to the appointee for the entire time period of incapacitation, through the election, or just for the state of emergency period, Mayor Gimenez responded that there was no need to transfer certain powers of the Mayor such as hiring and firing for the 90 day period. He stated other powers such as certain signatory powers, waivers of bids, and emergency powers needed to be delegated to an

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individual the County Commission had faith and confidence to administrate the County and perform those duties. He noted the County needed a great administrator to carry out those responsibilities because a strong mayor position was not a council manager form of government.

Chairman Garcia asked the Clerk for an opinion as to who should assume the responsibilities of the Mayor.

Clerk of Courts Harvey Ruvín thanked all Task Force members for displaying confidence in him and his competence, and he provided an overview on his role, functions, and responsibilities. He stated that, based on his experience of over 20 years, the Clerk's Office was not the best choice to assume those responsibilities since the DNA of his office was administrative and neutrality due to the likelihood of unforeseen lawsuits and community controversies. He noted the Constitution placed on his office the responsibility to be the custodian of County funds and public records including court and County Commission files; and he also had check and balance and audit functions. Therefore, the Clerk's Office needed to maintain its shield around the office in order to maintain neutrality; and pursuant to the Charter, he acted as the Clerk of the Board for the Board of County Commissioners and co-appointed with the Mayor the Finance Director and Internal Auditor.

Mr. Ruvín provided a professional background history of himself, and he explained the form of government in place prior to the implementation of the 13 single member county commission districts, noting there had been a Vice Mayor position. He recommended that the Vice Mayor position be reinstituted and rotated among the 12 members of the County Commission not serving as Chairman of the Board to have each commissioner serve a four month term.

Upon concluding his presentation, Mr. Ruvín stated that recommendation would impair the Clerk from executing its other important duties.

Ms. Aguilar commented that holding outside employment would become problematic if the Chair accepted the additional responsibility of performing the Mayor's duties for the interim period since the position would become a full-time position. She suggested that the Task Force members consider transferring the powers to the Chairman of the Board; and if he/she accepted those additional duties and responsibilities, the day-to-day operations of the County would be delegated to an assistant county manager or deputy mayor.

Mayor Gimenez recommended that the County Commission should select an individual who was not a member of the Commission to assume the duties of the interim Mayor, and that this individual could not run for the position in the next election, and the individual should be titled "Interim Mayor." He suggested the individual should not be a member of the County Commission and should assume the duties of interim mayor and would be ineligible to run in the upcoming election. He noted the individual should be someone the County Commission as a whole had confidence in his competence to administrate the Office of the Mayor for the limited amount of time prior to the special election. He clarified it was similar to reverting to the council manager form of government for three to four months. He stated it would allow for separation of powers, and the Chairman would not be required to assume additional responsibilities. He

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clarified the positions of assistant county managers were reclassified to deputy mayors since the manager's position would be abolished in November.

Vice Chairwoman Greer pointed out the existing system provided the County Commission the ability to appoint a person to be the Mayor if a vacancy occurred. She clarified the Task Force wanted to address the cases where the Commission did not appoint a Mayor. She questioned what specific powers needed to be transferred to the person who temporarily filled the mayoral vacancy.

Mayor Gimenez noted he would submit a memorandum to the Task Force that detailed the powers that needed to be transferred. He pointed out that he could not delegate certain powers, and that the Task Force should focus on what to do regarding these powers. He suggested the Task Force consider an amendment to the Charter that would not allow a person to serve as an appointed mayor for a long period of time.

Mr. Ottinot concurred that a succession plan was needed. He clarified the issue to consider was who would be the successor. He noted no administrator should have the firing authority taken away from him or her. He suggested the Mayor be required to designate a successor to be confirmed by the County Commission.

Mr. Slesnick asked Mayor Gimenez include in his memorandum to the Task Force his recommended process for how to handle a mayoral vacancy.

Mayor Gimenez explained when he was a commissioner his preference was that the Commission could delegate the mayor's authority to the County Manager.

Mayor Bermudez noted the simplest solution was to have a Deputy Mayor fill the mayor's role for the short period of time until a new Mayor was elected.

Mr. Ruvin noted the alternative to choose needed to be removed, and that someone should be compelled to appoint an individual to fill the vacancy.

Mayor Bermudez noted he supported a process to appoint a County administrator to fill the mayoral vacancy for 90 to 120 days, and that he was not opposed to limiting that person's powers. He clarified the issue was how to get the best person to fill the vacancy.

Mr. Percival pointed out Task Force members opposed an appointment process in their previous meeting. He clarified the Task Force needed to identify a simple solution. He spoke in support of a Deputy Mayor being appointed to fill a mayoral vacancy.

Assistant County Attorney Rosenthal advised the Mayor had delegable and non-delegable powers, and the Task Force should focus on a process to continue the non-delegable powers. He pointed out the County Attorney's Office had written a memorandum regarding the delegable and non-delegable powers, and it would be distributed. He advised the vacancy and incapacitation absences were two separate issues. He suggested the Task Force consider the process in Section 4.03 of the Charter relating to the absence of the County Manager.

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In response to Mr. Slesnick's question regarding whether that would be one of the technical amendments included in the Final Report, Assistant County Attorney Rosenthal advised it was a policy decision as to whether or not the Task Force members wished to have the Mayor's powers continued during an incapacitation period by someone appointed by the Mayor.

Mr. Murphy pointed out that the Charter referenced the Chair and Vice Chair of the County Commission, but the deputy mayors were not chartered positions unless the Task Force wished to make those chartered positions.

Chairman Garcia asked that all proposals be set forth inasmuch as the County Attorneys would begin drafting language for the Task Force.

Upon conclusion of the foregoing discussion, Chairman Garcia proceeded to consider the Incorporation/Annexation item.

- **Office of the Inspector General**

Inspector General Christopher Mazzella, Office of the Inspector General, appeared before the Charter Review Task Force (the Task Force) and provided testimony on the inception and purpose of the Office, its history, legislative issues affecting it, and budgetary issues. He stated the Office was instituted over twelve (12) years ago, and it had grown to employ 38 investigators representing a diverse team of qualified employees. He advised the office had received accreditation from the Commission for Florida Law Enforcement Accreditation (CFA), and it was one of the first Office of Inspector General in the State of Florida receiving this type of accreditation. He noted it had become a model for the inspector general community.

Inspector General Mazzella advised that investigations, audits, and reviews had identified over \$150 million in lost revenues for the County and 210 individuals were prosecuted and arrested for a variety of crimes since the inception of the Office. He advised the Office had a deterrent effect because it had the ability to pursue criminal cases, but it had no arrest authority.

Inspector General Mazzella recommended that the Miami-Dade County Charter should have a provision for the Office of Inspector General to prevent political influences from inhibiting its operations. He also recommended that the Office be made an independent, permanent organization able to sustain itself independently of the budget process and provide for its funding, powers, and jurisdiction. He stated that this Task Force should give high importance to the issue of making the Office of Inspector General a permanent institution.

Ms. Patra Liu, Assistant Inspector General and Legal Counsel for the Office, appeared before the Task Force and recommended that the Charter include a funding provision for the Office.

In response to Vice Chairwoman Greer's inquiry as to whether the Charter should be amended to include a funding mechanism for the Office of Inspector General, Inspector General Mazzella advised the operations of the Office were primarily funded from proprietary revenues, memorandums of understanding, and the County's General Fund. He recommended that the

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funding provision included in the City of New Orleans' Charter for the Office of Inspector General be used as a model whereby a percentage of the budget was appropriated to the Office of the Inspector General. He stated that mechanism was the most flexible and provided the steadiest stream of funding.

In response to Mr. Smith's inquiry, Inspector General Mazzella advised his Office had provided more funding than they had received.

In response to Mr. Smith's inquiry regarding whether including the Office in the Charter would make it more effective, Inspector General Mazzella advised the County Commission could vote out of existence the Office, which was politically highly unlikely; but it was possible. He noted the Office's powers, authorities, and jurisdictions were all subject to legislation; and he recommended a Charter provision to grant those issues was to the best interest of the Office.

Following a discussion regarding the County Commission's ability to abolish the Office, Inspector General Mazzella commented that he could not be influenced by politics; but the Office needed to be protected from political influences since it was unknown how political influences would affect the operations of his successor.

Mr. Joe Arriola commented Inspector General Mazzella had not provided good reasons to ask that this Task Force should recommend that it made an independent entity.

Vice Chairwoman Greer commented that the Charter should be amended to include the Office of Inspector General.

In response to Mr. Arriola's objection, Inspector General Mazzella clarified that it should be one of the most important issues for this Task Force to consider.

Vice Chairwoman Greer commented that it should be acknowledged that the Office had not been affected by political influences and had received no interference.

Mr. Terry Murphy commented that this recommendation was included in the 2007 Charter Review Task Force's Final Report, and the County Commission had placed that recommendation in the ballot. He noted the ballot question had failed during the last electorate referendum, but he did not think there was an objection to move this recommendation forward.

Mr. Carlos Manrique asked Inspector General Mazzella to provide an opinion on whether the Ethics Commission and the Office of Inspector General should be merged into one office to streamline, how would that affect the Office's contract with the School Board, whether the services to the School Board and the County would be impacted, and whether the Office should be an elected position.

Mr. Manrique also asked Inspector General Mazzella to provide an opinion regarding whether a ballot question should be placed on the ballot to ask voters if the salary of county commissioners should be increased. He expressed his preference for prohibiting outside employment and how that prohibition could be enforced.

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Inspector General Mazzella advised the functions of the Office of Inspector General and Ethics Commission were not similar, and the mission of the Office was to investigate fraud, waste, mismanagement, and corruption in County government. He stated the Office had no jurisdiction of municipalities while the Ethics Commission did, and the Task Force members would probably wish to consider that issue in respect to the Charter.

Inspector General Mazzella advised the Ethics Commission main purpose and role, besides education and rendering opinions, was to investigate violations of the Code of Ethics, which was more limited in scope than the mandate provided to the Office of the Inspector General, which was basically to investigate, audit, and review the operations and programs of County government. He noted merging both offices would not achieve very efficient, effective results; and in his opinion, the School Board contract would not be affected. He stated the County ordinance currently in effect allowed the County to enter into local agreements with other entities whether municipalities or state agencies like the School Board; therefore, the inclusion of the Office in the Charter was a questionable legal issue, which should be directed to the County Attorney's Office. In his opinion, the School Board contract would not be influenced.

Inspector General Mazzella advised that he did not believe the Inspector General should be an elected position; and the individual holding the office should not be subjected to a political process to fund raise and court individuals that he/she might have to investigate in the future.

A brief discussion ensued regarding the position of the State Attorney's Office being an elected office.

Inspector General Mazzella recommended that the best mechanism to appoint an Inspector General was to have an independent committee of individuals with no direct relationship to County government make the selection. He also recommended that the Inspector General should not be made subject to the electorate process.

In response to Vice Chairwoman Greer's inquiry regarding conducting investigations of outside employment, Inspector General Mazzella advised the Office had investigated in the past County employees engaged in outside employment and to the extent that employment conflicted with their duties and responsibilities as County employees. Consequently, he did not consider that would be a restriction or problem for his office to pursue.

Mr. Donald Slesnick commented that this Task Force should concentrate on placing on the ballot the most important issues the public could understand in order to be able to accomplish something. He stated that the last Task Force published a legacy report, and it had accomplished nothing.

Mayor Juan Carlos Bermudez advised there was confusion as to the role and responsibilities of the Office of the Inspector General, and he expressed his support for establishing an independent Office due to the public's perception of government. He advised that it was important for this body to send a message that the proposal intended to establish in Miami-Dade County the best, most ethical government possible to oversee each county commissioner and employee including

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the Mayor; and it was in the best interest of the County to have an independent Inspector General. He stated that was a recommendation this Task Force should consider and discuss; and other issues such as clear conflicts in outside employment should also be discussed. He stated this Task Force should focus on primary issues of importance; and in his opinion, the ballot question had failed because the public did not understand it due to the manner in which it was written. He also believed the question of whether an independent Office of the Inspector General should be established would be approved if the issue was explained to the public, and he suggested the process be transparent. He stated it was important to address this issue now when the opportunity was afforded, and he stated that he was sure the public would approve a proposal to have an independent body review how the rules were enforced and who followed those rules. He commented that the public was now ready to come together to discuss issues to make decisions, and the public should be provided with the opportunity to make that decision after receiving an explanation.

Mr. Slesnick clarified he had never implied or stated the public was not smart enough.

Mr. Lawrence Percival stated this Task Force was an important body charged with an important task. He believed it was their responsibility to perform to the best of their abilities; and if it meant recommending comprehensive Charter amendments, the Task Force members should not limit themselves to only considering the maximum number of recommendations suggested. He asked that Professor Smith provide guidance on this regard since he served in the last Charter Review Task Force.

Mr. Percival noted the recommendations contained in the Final Report of the last Task Force were still before this Task Force for consideration and review. He noted previous ballot questions had failed due to the language and the manner in which the ballot questions were presented to voters, and it had affected the turnout.

Mr. Percival stated the Inspector General's position was an important, and it needed to be preserved as an independent office. He advised that he wished to prevent the County Commission from interfering with the Inspector General's role by reducing the funding allocation to affect the investigative functions of the Office. He recommended that the Office of the Inspector General be included in the Charter.

Mr. Percival also commented that Office generated revenues well in excess of the funds the County invested in its operations. He recommended that the Task Force consider developing a formula to have the County share a small percentage of the revenues generated by its investigative work to maintain its ability to always be able to perform and carry out adequately and comprehensively the mission of the position.

In response to Mr. Percival's inquiry, Inspector General Mazzella affirmed the County placed in the General Fund the revenues identified and collected by the Office.

Ms. Pamela Perry pointed out law enforcement should never include a profit or financial motive component even though she understood the reasons for the recommendation, but she thought it

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would be problematic. She stated establishing an independent Office was important, and the question imposed was how to do it.

Mr. Louis Martinez commented this Task Force had some serious and significant issues to consider, but issues like salary regardless of the level would probably be rejected by the voters. He recommended that the Task Force should not consider reviewing the issue of establishing an independent Office of the Inspector General due to the unlikelihood of being approved by the voters, even though he shared Mayor Bermudez's sentiments and agreed the County had a problem with the public's perception of government.

Mr. Murphy commented the jurisdictional aspect of the Inspector General in terms of the municipalities should be considered.

Mr. Arriola reiterated on his position that Inspector General Mazzella failed to provide justification for including the Office in the Charter, and it was only a point of view expressing the wish to have that happen. He advised that the Inspector General provide good justification as to why it was important to set forth this recommendation, and none of the reasons mentioned showed interference with his role and functions. He stated the Task Force should focus on issues impacting the community negatively, and issues not causing problems should be left alone. He stated the Inspector General was performing a great job, and it was unlikely politicians would interfere with his functions.

Inspector General Mazzella responded the intent of the request was to secure the existence of the Office since it was impacted by legislation, and legislation could abolish the Office. He stated this was the time to make positive changes and bring the Office of Inspector General into a permanent status.

Vice Chairwoman Greer advised the next step would be to have the appropriate language drafted. She asked Mayor Bermudez to meet with the Assistant County Attorneys to discuss the structure of a possible Charter amendment recommendation to be brought back before the Task Force for discussion at its next meeting, and she asked that the proposed language be distributed to all Task Force members.

In response to Ms. Perry's inquiry regarding the type of balance and check which should be included in the Charter, Inspector General Mazzella advised the Office operated under a four year renewable contract; and similar language should be included in the Charter to provide a mechanism to measure the Inspector General's performance and allow appropriate action to be taken if necessary. He recommended the powers and jurisdiction would have to be defined by ordinance, or included in the Charter if legally permissible; but certainly, the jurisdiction, authority, and powers of the IG should be set forth in the ordinance or the Charter to provide the structure by which the IG would operate.

Chairman Rene Garcia joined the meeting.

Mr. Manrique suggested to Mayor Bermudez that the same argument should be used for all offices, and he recommended one ballot question should be drafted.

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Upon conclusion of the foregoing discussion, the Task Force members considered the presentation on the Commission on Ethics and Public Trust.

o **Commission on Ethics and Public Trust**

Mr. Joseph Centorino, Executive Director and General Counsel of the Miami-Dade Commission on Ethics and Public Trust (COE), appeared before the Charter Review Task Force and presented an overview of his responsibilities and duties. He stated he had held this position since September of 2011; and prior to that, he had been the Chief of the Public Corruption Division of the Miami-Dade State Attorney's Office, working collaboratively with the Ethics Commission and the Inspector General on various joint investigations and prosecutions and training programs.

Mr. Centorino provided a brief background history of the COE, noting it was created as an independent entity in 1996 through a Charter amendment. He stated the COE's Board was comprised of five members appointed by non-County government entities consisting of two members appointed by Miami-Dade County's Chief Judge, one member by the League of Cities, one member by the University of Miami Law School and St. Thomas Law School on a rotating basis, and one member by the Florida International University Labor Center. He also stated those appointments were independent pursuant to the County's Charter; therefore, the COE was a truly chartered and an independent board.

Mr. Centorino noted he was accountable to the COE's Board and not to the Mayor or County Commission. He noted he was not under contract, but he was a payroll employee subject to the terms and conditions established by the COE with the responsibility of supervising and hiring most of the staff members with the exception of the Advocate. He explained the Advocate was the person who prosecuted ethics violations before the COE, and he/she was appointed separately by the COE's Board. He stated the Advocate was subject to his general supervision.

Mr. Centorino stated the COE employed a maximum of approximately 15 employees under the previous Executive Director, and it currently employed 13 employees due to the budgetary cutbacks in County government.

Mr. Centorino explained part of the functions of the Office were to provide training for County and municipal employees and officials countywide. He stated the COE had jurisdiction over County government, all County public servants whether elected or not, personnel, and all municipal personnel within the County. He stated the COE had no jurisdiction over the School Board, and it conducted training and classroom work in the schools when resources were available to work with the students and administrators in terms of developing ethical programs. Therefore, the three basic areas covered were training of elected officials, employees, and political candidates on election rules and laws. He noted the COE also provided opinions to anyone affected by a County ordinance.

Pursuant to Chairman Garcia's request, Mr. Centorino's presentation was deferred to a later time during the meeting to consider the issue of the Mayoral Vacancy.

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Upon conclusion of the Mayor's presentation on the Mayoral vacancy, Mr. Joseph Centorino, continued his presentation, noting he would answer questions from the Task Force members.

Mr. Murphy explained he proposed to amend Section (C) of the Citizens' Bill of Rights to make it consistent with Section (A)17 giving the COE jurisdiction over the Citizens' Bill of Rights. He noted that this proposed amendment would impact Section 7.03, and he proposed amended language to that section to account for the amendment to the Citizens' Bill of Rights.

Mayor Bermudez suggested this proposed amendment include a provision to have the courts determine whether the case was a Citizens' Bill of Rights issue.

Mr. Murphy clarified his intent was to clarify the COE should be the first entity to address violations to the Citizens' Bill of Rights.

Mayor Bermudez clarified county residents should not be denied the right to use the court system.

Mr. Smith questioned whether the COE had the capacity to enforce the provisions of the Citizens' Bill of Rights.

Mr. Centorino noted the COE did have the capacity. He pointed out the Code of Miami-Dade County gave the COE power to enforce the Citizens' Bill of Rights, and the COE investigated Citizens' Bill of Rights issues. However, the COE could not impose penalties, and Mr. Murphy's proposed Charter amendment would generate consequences for violating the Citizens' Bill of Rights. He noted he was not opposed to the citizens maintaining the right to bring an action.

Mr. Murphy noted he would amend his proposal to give citizens the option to use the court system.

Mayor Bermudez noted the County had to be able to enforce its laws.

Mr. Ottinot noted the COE should stay informed on any concurrent court hearings when investigating any potential Citizens' Bill of Rights violations.

Mr. Murphy questioned whether Mr. Ottinot's comment was a matter of procedure.

Mr. Centorino explained the COE had investigated potential Citizens' Bill of Rights violations jointly with the State Attorney's Office. He pointed out the Code included potential criminal penalties that could be enforced by the State Attorney.

Mr. Ottinot expressed concern regarding the potential for a COE investigation to complicate a court case on the same potential Citizens' Bill of Rights violation.

Mr. Centorino clarified the COE was independent of any lawsuit and had authority to investigate. He noted the COE should not be constricted from investigating due to a pending lawsuit.

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Ms. Perry noted a citizen being investigated for potential Citizens' Bill of Rights violations could be innocent and should not be forced to stop the behavior. She expressed concern that the COE investigation could be stopped by filing a lawsuit.

Mr. Smith expressed concern regarding the unintended consequences that could result from the COE investigation stopping if a lawsuit was filed.

It was moved by Mr. Murphy that the Task Force members approve including in its Final Report the proposed Charter amendment to the Citizens' Bill of Rights and Article VII PARKS, AQUATIC PRESERVES AND PRESERVATION LANDS as amended to retain the first sentence in (C) Remedies for Violations that was stricken through and to place this sentence after the new proposed language. This motion was seconded by Mayor Bermudez.

Mr. Centorino questioned whether the circuit court would be empowered to impose the same penalties as the COE.

Assistant County Attorney Johnson-Stacks advised the "general equity jurisdiction" language would allow the courts to impose any remedy. She spoke in favor of the motion.

Vice Chairwoman Greer questioned who would decide the penalty for violating the Citizens' Bill of Rights and who would be the appealing entity.

Upon conclusion of the foregoing discussion, the motion was put to a vote, and it passed by a vote of 14-0.

In response to Mr. Percival's inquiry regarding whether it would be beneficial to merge the IG and COE to form one entity, Mr. Centorino advised he had no objection to that recommendation; but he advocated for coordination and cooperation among all County agencies. He noted whatever action was taken should not diminish or constrain any of the existing functions of the IG and COE. He stated that the original concept was to place the IG under the jurisdiction of the COE, but the IG and COE were separated to ensure the IG continued to be involved in criminal investigations and actions.

Mr. Percival commented he hoped the Task Force members identified soon a manner by which to include in the Code the IG's position and ensure these two offices were not merged. He also stated, and he reiterated his position that both offices should be independent and included in the Code.

Mayor Bermudez commented on the issue of jurisdiction, noting the IG's and COE's played very different roles.

Mr. Manrique expressed his disagreement with Mr. Percival. He commented on the oversight related issues of both offices, noting the influence of the County Commission would be eliminated if the IG was overseen or merged with the COE. Therefore, he expressed his support for merging both offices to save taxpayers monies.

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Chairman Garcia noted any Task Force member could make a motion, and it would be put up for a vote.

There being no other comments, Chairman Garcia proceeded to consider the Office of Intergovernmental Affairs item.

- **Mayoral Veto/Collective Bargaining Impasse Disputes – No presentation was made**
 - **GSAF Letter**
 - **PBA Letter**
- **Office of Intergovernmental Affairs**

Mr. Terry Murphy noted the public perceived the County Mayor as the spokesperson and representative of the County in intergovernmental affairs matters. He referenced Section 5.09(B), which specified that the County Commission was not to engage in administrative matters; and he stated that, while it was a housekeeping item; it was a policy matter because the Office of Intergovernmental Affairs currently reported to the Chair of the County Commission. He said this proposal would result in a structural change to the Charter.

It was moved by Mr. Murphy that the Task Force members approve including in its Final Report this proposed Charter amendment to Section 2.02 relating to the Responsibilities of the Mayor. This motion was seconded by Ms. Aguilar.

Assistant County Attorney Johnson-Stacks advised this proposed amendment to Section 2.02 was a policy amendment.

Upon conclusion of the foregoing discussion, the motion was put to a vote, and passed by a vote of 11-0 (Mr. Martinez, Mr. Richardson, and Mr. Arriola were absent).

OTHER BUSINESS

- **Feedback received via the website and email – No presentation was made**

ADJOURNMENT

There being no further business to come before the Miami-Dade County Charter Review Task Force, the meeting adjourned at 1:35 p.m.

Chairman Rene Garcia
Miami-Dade County Charter Review Task Force



**Board of County Commissioners
Charter Review Task Force
May 30, 2012**

Prepared by: Jovel Shaw

EXHIBITS LIST

NO.	DATE	ITEM #	DESCRIPTION
1	5/30/2012		2012 Charter Review Task Force First Meeting Sign-in Sheet
2	5/30/2012		Text of Proposed Charter Amendment for Article 6
3	5/30/2012		Concept: Improving Citizen Bill of Rights Remedies Proposal
4	5/30/2012		Concept: Move responsibility for Intergovernmental Affairs from the County Commission to the Mayor
5	5/30/2012		Concept: Outline of Miami-Dade County Regional Government Charter Amendment Proposal
6	5/30/2012		Incorporation Petition Concept by Vice-Chair Greer
7	5/30/2012		Memo from Assistant County Attorneys Eugene Shy, Jr. and Valda Christian re: Changing Governance of the PHT Of Miami-Dade County
8	5/30/2012		Letter to Charter Review Task Force from SEIU Healthcare Florida Local 1991
9	5/30/2012		Dissenting Opinion to Hospital Governance Task Force Recommendations
10	5/30/2012		Hospital Governance Task force Presentation by Flitch Healthcare
11	5/30/2012		White Paper to Hospital Governance Task Force by Flitch Healthcare
12	5/30/2012		Washington Economics Group Study
13	5/30/2012		Memo and Presentation from Larry S. Gage to Hospital Governance Task Force
14	5/30/2012		Response to Grand Jury Report by Martha Baker, R.N., President, SEIU Local 1991
15	5/30/2012		Hospital Governance Models
16	5/30/2012		Inspector General 2007 Annual Report
17	5/30/2012		Inspector General 2010 Annual Report

2012 Charter Review Task Force

Meeting

Miami Art Museum

May 30, 2012 at 9:00 a.m.

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Annexing Cities Retain Municipal Franchise Fee and Utility Tax Revenues, Except for Amounts Needed to Pay Debt Service on Bonds which Pledged These Revenues:

Concept: Section 6.07 of the Home Rule Charter should be amended to require that the portions of revenue from franchise fees or utility taxes attributable to areas annexed into a municipality shall be used first to pay the annexed area's pro-rata share of debt service payments secured by such franchise fees and/or utility taxes, with the balance to be used by the annexed area for municipal purposes.

Text of Proposed Charter Amendment:

ARTICLE - 6
MUNICIPALITIES

SECTION 6.01. CONTINUANCE OF MUNICIPALITIES.

The municipalities in the county shall remain in existence so long as their electors desire. No municipality in the county shall be abolished without approval of a majority of its electors voting in an election called for that purpose. Notwithstanding any provision of the Charter, the Board of County Commissioners shall have the authority to abolish a municipality by ordinance where such municipality has twenty or fewer electors at the time of adoption of the ordinance abolishing the municipality. The right of self determination in local affairs is reserved and reserved to the municipalities except as otherwise provided in this Charter.

SECTION 6.02. MUNICIPAL POWERS.

Each municipality shall have the authority to exercise all powers relating to its local affairs not inconsistent with this Charter. Each municipality may provide for higher standards of zoning, service, and regulation than those provided by the Board of County Commissioners in order that its individual character and standards may be preserved for its citizens.

SECTION 6.03. MUNICIPAL CHARTERS.

A. Except as provided in Section 5.04, any municipality in the county may adopt, amend, or revoke a charter for its own government or abolish its existence in the following manner. Its governing body shall, within 120 days after adopting a resolution or after the certification of a petition of ten percent of the qualified electors of the municipality, draft or have drafted by a method determined by municipal ordinance a proposed charter amendment, revocation, or abolition which shall be submitted to the electors of the municipalities. Unless an election occurs not less than 60 nor more than 120 days after the draft is submitted, the proposal shall be submitted at a special election within that time. The governing body shall make copies of the proposal available to the electors not less than 30 days before the election. Alternative

SECTION 6.07. FRANCHISE AND UTILITY TAXES.

Revenues realized from franchise and utility taxes imposed by municipalities shall belong to municipalities. >>Franchise and utility tax revenues imposed by the County which are attributable to areas annexed into a municipality shall first be used to pay the annexed area's pro-rata share of debt service payments or refunding of such debt service secured by such franchise fee or utility tax revenues at the time of the annexation, with the balance to be paid to the municipality to be used by the annexed area for municipal services.

The municipality's annual pro-rata share of debt service for the annexed area shall be determined by multiplying the total debt service on the outstanding debt in each fiscal year by the municipality's percentage share of pledged revenues (revenues pledged by the County to the repayment of the debt).

Once the County's debt service obligations have been retired, no future debt can be issued unless the debt is issued for purposes of refunding bonds for which franchise fees and utility taxes attributable to the annexed area were pledged as security, so long as such refunding will realize an interest cost savings and will not extend the original term of the bonds being refunded.<<

Improving Citizen Bill of Rights Remedies Proposal

Concept:

Amend Subsection (C) of the Citizen's Bill of Rights to have the Ethics Commission impose penalties, as authorized by the Code (with the exception of any sanctions that are subject to collective bargaining), for the violation of the Bill of Rights rather than a private suit and amend Section 7.03 to still permit a private cause of action to enforce Article VII of the Charter.

Text of Change:

MIAMI-DADE COUNTY HOME RULE CHARTER

CITIZEN'S BILL OF RIGHTS¹

* * *

(C). **Remedies for Violations.** ~~[[In any suit by a citizen alleging a violation of this Article filed in the Dade County Circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the Court. Any public official or employee who is found by the Court to have willfully violated this Article shall forthwith forfeit his office or employment.]]~~ >>The Commission on Ethics and Public Trust shall enforce the provisions of this Article and may impose any penalty authorized by the County's Code, and not otherwise prohibited by a collective bargaining agreement, for a violation of this Article.<<

* * *

ARTICLE VII

PARKS, AQUATIC PRESERVES AND PRESERVATION LANDS

¹Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Move responsibility for Intergovernmental Affairs from the County Commission to the Mayor

Concept:

Create a new Subsection (H) of Section 2.02 to provide that Intergovernmental Affairs is a responsibility of the Mayor, rather than the County Commission. Intergovernmental Affairs currently reports to the County Commission pursuant to an ordinance passed in 2004.

Text of Change:

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-2¹

MAYOR

* * *

SECTION 2.02. RESPONSIBILITIES OF THE MAYOR.

* * *

>>H. The Mayor, or such other persons who may be designated by the Mayor, shall be responsible for the management of the County's intergovernmental affairs at the federal, state, regional and local level and shall carry out the policies adopted by the Commission. Unless authorized by the Mayor, the provisions of section 5.09(B) shall apply.<<

¹Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Outline of Miami-Dade County Regional Government Charter Amendment Proposal

Concept:

Provide a process by which all of unincorporated Miami-Dade County will be incorporated into new municipalities or annexed into existing municipalities within 4 years.

Process:

I. Creation of new municipalities – Amend Article 6.05 to add alternate method of incorporation

An incorporation committee organized by electors from the proposed area of incorporation may initiate the process by filing with the Clerk of the Circuit Court an initiatory petition in the manner set forth in Article 8.01 for initiatory petitions. The Petition shall be circulated and canvassed in the manner set forth in Section 8.01 except as provided herein. Upon the certification of signatures from ten percent (10%) of the electorate in the proposed area of incorporation the Clerk shall present the petition to the Board of County Commissioners at their next regularly scheduled meeting at which time the Board shall call an election to authorize the creation of a municipality. Such election shall occur no sooner than ninety (90) and no greater than one hundred twenty (120) days from the date the Clerk certifies the signatures. The election shall be held, whenever practicable, in conjunction with another election scheduled to occur within the proscribed time period. The election shall be determined by an affirmative vote of a majority of resident electors voting in the proposed new municipality. During the sixty (60) days following the certification of the petitions, the Board shall complete a budgetary analysis in cooperation with the incorporation committee of and on the proposed incorporation, including a general analysis of three existing municipalities' budgeted expenditures for consideration by the incorporation committee and the public, and schedule at least one public hearing prior to the incorporation election.

Within 30 days after certification of the election, the Board of County Commissioners shall appoint from a list proposed by the incorporation committee a five member Charter Committee which shall, within ninety (90) days after appointment, create a Charter for the newly incorporated area setting forth the form of government and governing body of the newly incorporated area. Upon completion, the proposed Charter will be submitted to the electors of the newly incorporated area no sooner than 60 days and no later than 120 days after it is completed. Upon an affirmative vote of a majority of those electors within the proposed municipality, the municipal charter shall become effective and the municipality shall be created at the time stated in the municipal charter. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by the County Home Rule Charter and the Constitution and general laws of the State of Florida.

II. Annexation Amendment - Article 6.04

Adjacent areas of Miami-Dade County may be annexed into existing municipalities by a majority vote of the residents in the proposed area of annexation at the initiation of the Board of County Commissioners, the municipality into which the proposed area will be annexed, or by initiatory petition by 10% of the

Incorporation Petition Concept by Vice-Chair Greer:

Concept: Amend Section 6.05 to create 6.05(a) Incorporation by the Board and 6.05(b) Incorporation by Initiatory Petition. The initiatory provision incorporation process will be modeled after initiatory petition for ordinances and Charter Amendments.

Text of Proposed Charter Amendment:

ARTICLE - 6 MUNICIPALITIES

SECTION 6.01. CONTINUANCE OF MUNICIPALITIES.

The municipalities in the county shall remain in existence so long as their electors desire. No municipality in the county shall be abolished without approval of a majority of its electors voting in an election called for that purpose. Notwithstanding any provision of the Charter, the Board of County Commissioners shall have the authority to abolish a municipality by ordinance where such municipality has twenty or fewer electors at the time of adoption of the ordinance abolishing the municipality. The right of self determination in local affairs is reserved and reserved to the municipalities except as otherwise provided in this Charter.

SECTION 6.02. MUNICIPAL POWERS.

Each municipality shall have the authority to exercise all powers relating to its local affairs not inconsistent with this Charter. Each municipality may provide for higher standards of zoning, service, and regulation than those provided by the Board of County Commissioners in order that its individual character and standards may be preserved for its citizens.

SECTION 6.03. MUNICIPAL CHARTERS.

A. Except as provided in Section 5.04, any municipality in the county may adopt, amend, or revoke a charter for its own government or abolish its existence in the following manner. Its governing body shall, within 120 days after adopting a resolution or after the certification of a petition of ten percent of the qualified electors of the municipality, draft or have drafted by a method determined by municipal ordinance a proposed charter amendment, revocation, or abolition which shall be submitted to the electors of the municipalities. Unless an election occurs not less than 60 nor more than 120 days after the draft is submitted, the proposal shall be submitted at a special election within that time. The governing body shall make copies of the proposal available to the electors not less than 30 days before the election. Alternative proposals may be submitted. Each proposal approved by a majority of the electors voting on such proposal shall become effective at the time fixed in the proposal.

B. All municipal charters, amendments thereto, and repeals thereof shall be filed with the Clerk of the Circuit Court.

SECTION 6.04. CHANGES IN MUNICIPAL BOUNDARIES.

A. The planning director shall study municipal boundaries with a view to recommending their orderly adjustment, improvement, and establishment. Proposed boundary changes may be initiated by the Planning Advisory Board, the Board of County Commissioners, the governing body of a municipality, or by a petition of any person or group concerned.

B. The Board of County Commissioners, after obtaining the approval of the municipal governing bodies concerned, after hearing the recommendations of the Planning Advisory Board, and after a public hearing, may by ordinance effect boundary changes, unless the change involves the annexation or separation of an area of which more than 250 residents are electors, in which case an affirmative vote of a majority of those electors voting shall also be required. Upon any such boundary change any conflicting boundaries set forth in the charter of such municipality shall be considered amended.

C. No municipal boundary shall be altered except as provided by this Section.

SECTION 6.05. CREATION OF NEW MUNICIPALITIES.

(A) The Board of County Commissioners ~~[[and only the Board]]~~ may authorize the creation of new municipalities in the unincorporated areas of the county after hearing the recommendations of the Planning Advisory Board, after a public hearing, and after an affirmative vote of a majority of the electors voting and residing within the proposed boundaries. The Board of County Commissioners shall appoint a charter commission, consisting of five electors residing within the proposed boundaries, who shall propose a charter to be submitted to the electors in the manner provided in Section 5.03. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by this Charter and the Constitution and general laws of the State of Florida. Notwithstanding any provision of this Charter to the contrary, with regard to any municipality created after September 1, 2000, the pre-agreed conditions between the County and the prospective municipality which are included in the municipal charter can only be changed if approved by an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors.

>>(B) A new municipality may also be created by petition of electors residing in the area to be incorporated in accordance with the following process:

1. An incorporation committee composed of a minimum of 5 electors from the proposed area of incorporation will initiate the process by filing with the Clerk of the Circuit Court an initiatory petition on a form prescribed by the Clerk for

such purpose. The form shall identify the names and addresses of the Incorporation Committee members and describe the proposed incorporation area. Within seven (7) days of receipt of the form, the Clerk shall approve the form of petition and provide the Incorporation Committee the total number of the electors within the proposed incorporation area and the number of required signatures which shall be equal to ten percent (10%) of the electors in the proposed incorporation area.

2. From the date of approval of the above form, the Incorporation Committee will have six (6) months to obtain signatures equal to ten percent (10%) of the electors in the proposed incorporation area on a petition provided by the Clerk. The petition shall require the name, address and signature of the elector but such signatures shall not have to be notarized.
3. The signed petitions will be submitted to the Clerk, who shall have thirty (30) days to canvass the signatures contained therein.
4. Upon certification of the sufficiency of the signatures on the petition, the Clerk shall present the petition to the Board of County Commissioners at their next regularly scheduled meeting, at which time the Board shall call an election to authorize the creation of a municipality, which election shall occur no sooner than ninety (90) and no greater than one hundred twenty (120) days from the date the Clerk certifies the signatures. The election shall be held, whenever practicable, in conjunction with another election scheduled to occur within the proscribed time period. The election shall be decided by an affirmative vote of a majority of electors voting in the proposed incorporation area.
5. During the sixty (60) days following the certification of the petition, the Board shall complete a budgetary analysis in cooperation with the Incorporation Committee of and on the proposed incorporation area and schedule at least one public hearing prior to the incorporation election. Such budgetary analysis shall at a minimum estimate all of the identifiable revenues generated by the proposed incorporation area prior to incorporation, and present the operating expenses of comparable small, medium and large municipalities providing typical municipal services.
6. Within 30 days after certification of the election, the Board of County Commissioners shall appoint, from a list proposed by the Incorporation Committee, a five member Charter Committee which shall, within ninety (90) days after appointment, create a Charter for the newly incorporated area setting forth at least the form of government and governing body of the newly incorporated area. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by the County Home Rule Charter and the Constitution and general laws of the State of Florida. Upon

completion, the proposed Charter will be submitted to the electors of the municipality no sooner than 60 days and no later than 120 days after it is completed. Upon an affirmative vote of a majority of those electors within the municipality, the municipal charter shall become effective and the municipality shall be created at the time stated in the municipal charter.<<

Memorandum



Date: May 30, 2012

To: Sen. Rene Garcia, Chairman, and Members of the
Miami-Dade County Charter Review Task Force

From: Eugene Shy, Jr.,
Assistant County Attorney, and
Valda Clark Christian,
Assistant County Attorney

Two handwritten signatures in black ink, one above the other, appearing to be the signatures of Eugene Shy, Jr. and Valda Clark Christian.

Subject: Changing Governance of the Public Health Trust of Miami-Dade County—Miami-Dade County Hospital Governance Taskforce recommendation to establish a new not for profit corporation for the management and operation of Jackson Health System

At the May 23rd meeting of the Miami-Dade County Charter Review Task Force ("Charter Review Task Force"), the Charter Review Task Force asked about the legal implications of changing the Public Health Trust governance to the not for profit corporate form of governance as recommended by the Miami-Dade County Hospital Governance Taskforce ("Hospital Governance Taskforce") in its May 12, 2011 Final Report ("Final Report"). Specifically, the Charter Review Task Force asked how a governance change to a not for profit corporate form as recommended by the Hospital Governance Taskforce might affect: (a) sovereign immunity, (b) surtax revenue, (c) Sunshine matters, and (d) intergovernmental transfers.

In 2011, the Hospital Governance Taskforce considered alternative models for operating the Jackson Health System, including but not limited to: direct operational control by the County, direct operational control by a university, increased autonomy for the Public Health Trust, creation of an independent hospital authority or public benefit corporation, creation of a taxing district, operation by a non-profit organization formed by Miami-Dade County, for profit governance, contract management by a third party, and/or a hybrid of the above models.

Under current Florida Statute, a county has the authority to sell or lease a county hospital to a for profit or not for profit Florida corporation, and to enter into leases or other contracts with for profit or not for profit Florida corporations for the purpose of operating and managing such hospitals. Sec. 155.40, Fla. Stat. A sale or lease under this statute would cause Jackson Health System to become a private not for profit hospital system.^{1 2}

¹ This is the statutory vehicle that Tampa General Hospital used. On its website, Tampa General states that "Tampa General is a private not-for-profit hospital..." <http://www.tgh.org>

² In deciding the case of *Indian River County Hospital District v. Indian River Memorial Hospital, Inc.*, 766 So. 2d 233 (4th DCA 2000), the 4th District Court of Appeals of Florida stated, at 238, the legislative intent of Section 155.40, Fla. Stat.: The Florida Legislature has recognized that public hospitals must be able to privatize in order to retain and attract revenue sources and compete with for-profit hospitals.

After consideration of the various alternative models of operating the Jackson Health System, the Hospital Governance Taskforce recommended as Recommendation 7 in its Final Report, that the Commission:

Establish a new not for profit corporation to manage and operate Jackson Health System, reserving to the County only certain enumerated powers described herein or otherwise provide by law.

Additionally, the Hospital Governance Taskforce included recommendations in its Final Report regarding sovereign immunity³, the surtax⁴ and Disproportionate Share Hospital (DSH) funding⁵.

A. Sovereign Immunity

In general, the sovereign immunity doctrine restricts tort suits against the government. The Florida Constitution provides that “provision may be made by general law for bringing suit against the state...” Pursuant to that constitutional power, the Florida legislature statutorily has waived sovereign immunity on a limited basis for state and political subdivisions, including agencies and instrumentalities. Sec. 768.28, Fla. Stat. The Public Health Trust has been found a state agency, for the purposes of sovereign immunity. State agencies also can include corporations primarily acting as instrumentalities or agencies of a county.

However, although possibly incorporated in the first instance by the County, a new not for profit corporation is an independent entity and likely not, under Florida case law, covered by sovereign immunity.⁶ Pursuant to Sec. 155.40, Fla. Stat., if a public hospital is sold or leased, unless expressly stated otherwise in the lease or sales documents, the transaction is not to be considered a transfer of government function and is not to be construed to mean that the lessee or purchaser is ‘acting on behalf of the government. If there is a complete sale of a public hospital, such sale shall not be construed to make the private corporation an agency. Thus, sovereign immunity would not necessarily apply to a not for profit operating the Jackson Health System. Ultimately, whether a corporation is acting as an instrumentality or agency, and thus covered by sovereign immunity, is an issue of fact for a judge or jury. However, the state legislature could amend the Florida Statutes to provide that public hospitals leased or sold to private not for profit corporations pursuant to Sec. 155.40, Fla. Stat., are primarily acting as agencies or instrumentalities of governmental entities and are acting on behalf of governmental entities. Thus, sovereign immunity could apply to the sold or leased hospital.

³ Final Report Recommendation 8. Provide sovereign immunity. Every effort should be made to structure the not for profit corporation in such a way so as to preserve the applicability of the sovereign immunity statute, including pursuing legislative changes...

⁴ Final Report Recommendation 9. Concurrently with creation of this new not for profit corporation, the Taskforce recommends creating a Public Health Advisory Committee to ensure accountability on the use of unique public funds (1/2 penny surtax funds; ad valorem/general fund support, etc.)...

⁵ Final Report Recommendation 11. Ensure Jackson Health System remains eligible for Disproportionate Share Hospital (DSH) funding.

⁶ Tampa General Hospital does not have sovereign immunity. See Final Report, Appendix J.

B. Surtax Revenue

Miami-Dade County is currently authorized to levy a ½ penny sales surtax to support the “county public general hospital” provided the County contributes a “maintenance of effort”. Sec. 212.055(5), Fla. Stat. In 2008 the surtax generated approximately \$187,408,133 and the maintenance of effort and other contributions from ad valorem revenue totaled approximately \$178,059,996. “County public general hospital” means a general hospital . . . which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.” Sec. 212.055, Fla. Stat. The statute requires the proceeds be “remitted promptly to the agency, authority, or public health trust,” which refers to the antecedent phrase “its agency, authority, or public health trust.” Id. Under this language the County could not levy this tax to support a private hospital. Therefore this revenue stream would terminate if a new not for profit corporation operates and manages Jackson Health System under Sec. 155.40, Fla. Stat. Sec. 212.055(5), Fla. Stat. would need to be amended if the County intended to continue to access this revenue stream for the support of the new not for profit corporation recommended by the Hospital Governance Taskforce.

Additionally, the voters of Miami-Dade County approved the levy of the surtax by referendum⁷. A new referendum may be necessary to redirect the surtax to a new not for profit corporation.

C. Sunshine Matters

Generally, there are two tests that the Florida courts apply to determine whether the Public Records Act applies to a private entity such as a new not for profit corporation. The first is the delegation test: if a public entity delegates a statutorily authorized function to a private entity, any records generated by the private entity’s performance of that duty becomes a public record. The second test is based on the review of the totality of factors (nine (9) enumerated factors in Florida case law). If combined factual findings regarding the nine (9) factors show that the private entity is acting on behalf of the public entity, then the Public Records Act applies.

As it relates to the meeting requirements of the Sunshine Law, a private entity is subject to those provisions if a public entity delegates the performance of all or a portion of its public purpose to that private entity. And as with public records, the courts use the totality of factors test to determine whether or not the Sunshine Law meeting requirements apply to a private entity that purchased a public hospital.

⁷ The ballot question provided that the surtax proceeds would be used “for the operation, maintenance and administration of Jackson Memorial Hospital to improve health care services such as: emergency room treatment/trauma care for life-threatening injuries; critical care for infants and children; obstetric and gynecological services; treating severe burns, spinal cord injuries, and Alzheimer’s disease.”

Further, the Florida legislature in adopting Sec. 395.3036, Fla. Stat., has provided that the records of a private corporation that leases a public hospital are exempt from the Public Records Law and the meetings of its board are exempt from the Sunshine Law as long as certain criteria are met. First, the public lessor must comply with the public finance accountability provision of Sec. 154.40(5), Fla. Stat. which addresses the sale or lease of a public hospital to a for-profit or not-for-profit entity. Secondly, the arrangement must comply with at least three of the following five criteria: (i) the government cannot be the incorporator of the private corporation; (ii) there can be no commingling of funds between the government and private entity; (iii) the private entity cannot participate in the decision making for the government; (iv) the lease agreement does not expressly require the private corporation to comply with the Sunshine Law and Public Records law; and (v) the government is not entitled to receive any revenues from the private entity (except rents or administrative fees) and the government cannot be responsible for debts or other obligations. Lastly, receiving Medicare, Medicaid, government grants or loans alone does not render a private hospital subject to the Sunshine Law.

D. Intergovernmental Transfers

Intergovernmental transfers ("IGTs") are the transfer of public funds from different levels of government, or governmental entities/taxing districts, to the state government. States commonly use IGTs, in lieu of general revenue, to fund the non-federal share of certain Medicaid payments. Federal Medicaid dollars then match the IGTs used as part of the state share of Medicaid funding. The states can then pay the enhanced funds to qualifying providers.

Currently in Florida, IGTs are used primarily for the purpose of providing higher payment rates or special Medicaid payments for hospital inpatient and outpatient services. Specifically, IGTs are primarily used in hospital fee for service rates to fund the exempt portion and authorized buybacks of inpatient and outpatient hospital rates. Some Florida counties do not have sufficient local funds to contribute IGT dollars in support of their share of exemptions and buybacks. Jackson Memorial historically has been the greatest state contributor of IGT funds to support Medicaid funding. In practice, the utilized funds are surtax dollars. In the 2010-2011 fiscal year, the state and federal amount required to fund the exemption and buybacks for the qualifying hospitals in the county for the impacted population exceeded \$139,000,000 (with approximately \$50,000,000 contributed through Jackson Memorial).

Currently, through Jackson Memorial Hospital and using the surtax and maintenance of effort dollars, Miami-Dade County has been able to fund this amount in full. However, if Jackson Memorial were led by a not for profit corporation, likely it would no longer qualify as a governmental entity and would not be able to directly make an IGT. The County, as the remaining governmental entity, would need to make any IGTs on behalf of the local area. Further, as noted above, if led by a not for profit corporation Jackson Memorial likely would lose its county public general hospital status. Thus it would not be able to contribute surtax dollars, or the maintenance of effort dollars related thereto, without a statutory change. The County would need to identify new revenue to commit to IGTs in order to maintain the local exemption and buyback support. If unable to do so, the local area (and state at large) likely would see a

reduction in federal match dollars and contraction of the exemption and buyback programs.

CONCLUSION

In conclusion, creation of a new not for profit corporation to operate and manage Jackson Health System would result in it becoming a private hospital system. That result would mean that: (a) it will be unlikely that the new not for profit corporation will have the protection of sovereign immunity, unless the Florida legislature adopts appropriate legislation; (b) the surtax revenues would terminate, unless the legislature amends Sec. 212.055(5) and, possibly, a new referendum would need to be held; (c) Sunshine laws could be made applicable by contract to apply or by application of the test in the case law. Pursuant to Sec. 395.3036, Fla. Stat., the Florida legislature has expressed its intent that private corporations that lease a public hospital should be exempt from the Sunshine law; and (d) federal matching dollars supporting the state and local exemption and buyback programs would be at risk pending a statutory change to support the state's ability to maintain intergovernmental transfer contribution levels.

cc: Hon. Chairman Joe A. Martinez
and Members, Board of County Commissioners
Hon. Carlos A. Gimenez, Mayor
Christopher Agrippa, Division Chief, Clerk of the Board



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Martha Baker, RN
President

Sam Ruiz, RN
Vice President

Barbara Scollon, RN
Treasurer

Doris Rahming, RN
Secretary

May 29, 2012

Dear Members of the Miami-Dade County Charter Review Task Force,

Jackson Health System (JHS) is the center of our community's healthcare system. It is a complex system of six hospitals, clinics and other services and is the epicenter of medical research. It serves the indigent as well as the insured---including those in need of cutting-edge cures. In addition, JHS is the training agent for more than 1,000 residents. Simply put, it is our public healthcare jewel.

It would be a great disservice to our community to politicize the survival of Jackson by tacking its future onto the governance issues you are examining. While it appears a few personal agendas may have caused this matter to be wedged into your agenda, good government and ethics suggests that it not be taken up by the Task Force.

First, it is clear that the due diligence necessary to properly study Jackson is beyond the scope and timing of the Task Force. Reviewing the impact of governance on health care requires the inclusion of medical experts, hospital administrators and a sophisticated analysis---none of which are present.

Second, the legal hurdles are many. Just a few core legal questions include: the survival of sovereign immunity, Sunshine laws, public employer status, the County funding obligation for JHS, assignment of the half-penny surtax, eligibility for earmarked federal Medicaid funds, the restriction of bond covenants on governance changes, real property restrictive deed covenants on the use of Jackson landholdings, the impact on UM's recently gained limited sovereign immunity and ACGME accreditation risks. The many legal issues involved cannot be hurriedly addressed by the County Attorney.

Third, the Task Force was never charged with a Jackson governance review. In fact, such a review has already been reported to the BCC. While there is great debate on those findings, they were already acted upon. It is simply disingenuous for your group to go beyond its legally defined scope of inquiry. A few amongst you are attempting to backdoor the Jackson issue onto your already "full plate." This does not honor your stellar reputations and it is a disservice to the community.

We are the caregivers of Jackson. We treat every fallen police officer, watch over the most complex of organ transplants, treat the diseases other hospitals cannot handle and never turn away any human being from needed care. We do this with pride and medical expertise that is second to none. We only ask in exchange that you do not engage in a rush to judgment. We urge you to not go beyond your charge. Please do not force Jackson's structure on to your agenda ---- our public hospital deserves better.

Finally, to give you a sense of the complexity and depth of the healthcare governance issues, we submit just a sampling of the many relevant materials that should be considered in a full review. We have much

more documentation for your analysis if requested.

Perhaps the motto that guides Jackson's caregivers could serve you in your tasks as well ---" DO NO HARM. "

Sincerely,

A handwritten signature in cursive script that reads "Martha Baker RN". The signature is fluid and written in dark ink.

Martha Baker, RN
President

Cc: Honorable Carlos A. Gimenez, Mayor
Honorable Joe A. Martinez, Chairman
and Members, Board of County Commissioners
Robert Cuevas, County Attorney
Eugene Shy, County Attorney

Appendix L

Dissenting View of a Taskforce Member

Hospital Governance Task Force Dissenting Opinion

The Hospital Governance Task Force (HGT) was a unique and valuable opportunity for a diverse group of community leaders to explore, discuss, and learn more about the governance and related issues impacting Jackson Health System. The group included subject matter experts on hospital governance structures and also solicited the input on several major public healthcare systems on the strengths and weaknesses of their models. Although brief (less than 20 hours total), the task force was able to learn much on the topic and Mr. Zapata should be commended for his leadership.

Given the short duration of the task force and the lack of any legal, financial, operational, strategic or other due diligence or modeling of alternative governance models as they would impact Jackson Health System, it would be inappropriate for the task force to author any specific recommendations to the County Commissioners at this point. The governance discussion is inherently complex and therefore any change in the governance structure is a relatively long process to evaluate and implement. It is clearly not to be considered a solution for the immediate financial issues impacting Jackson. As Mr. Larry Gage, a national known hospital governance expert, reported to the task force “effective governance is a tool, not a panacea.” Therefore, Jackson needs to remain focused on the very real operational and other issues currently impacting its ability to achieve sustainability in the short term.

Jackson is currently going through a major leadership transition with the hiring of a new Chief Executive Officer. In addition, the County recently approved the formation of a financial recovery board to oversee Jackson which is in the process of being populated. The financial recovery board is not a governance change, per se, as it is contemplated in ordinance 25A, but it does serve the purpose of reducing the size of the board and populating the board with subject matter experts in relevant areas of focus. These changes have great potential and should be allowed to crystallize and mature prior to introducing a further complexity of a new governance structure. This will provide Jackson the best opportunity to achieve immediate sustainability which needs to be the paramount focus. There can be no distractions from this vital objective although continued study of the optimal governance structure for Jackson is advisable.

The *National Association of Public Hospitals and Health Systems* reported that “before considering a major reorganization, it is essential to evaluate the challenges and obstacles that face a given hospital or health system – and to determine which of these challenges can be improved through improved structure or governance.” The following are some operational issues that need to be addressed regardless of the governance structure:

- Develop and implement a contemporary overall strategic plan.
- Secure cash resources to avoid permanent and irreversible consequences to core service levels and mission due to current cash crisis.
- Develop and implement a primary care and outpatient services strategy.
- Reduce length of stay to clinical optimal levels.

Appendix L

- Provide budgeting and other financial reporting with integrity and credibility.
- Maximize the leverage of the Jackson Health Plan.
- Shift the labor cost curve through universal adoption of evidence based medicine guidelines; treating each patient in the most cost effective, clinically appropriate setting; improving patient throughput and other measures.
- Optimize the relationship with the University of Miami.
- Position Jackson for success in an ACO and/or capitated environment.
- Enhance information technology solutions to achieve meaningful use standards.
- Position Jackson to participate successfully in the HHS Patient Safety Initiative Funding Program.

These are several of the mission critical objectives for Jackson to immediately pursue within the revised executive leadership team and newly enacted financial recovery board.

There are certain attributes of any governance model that the task force believes are important for Jackson Health System. Miami-Dade County will always be a vital component of the governance structure of Jackson, even if a new model is ultimately selected, as it has the inherent responsibility to provide healthcare services to the underserved population of the County. Any newly created entity would undoubtedly seek financial support from the County, via the taxpayers, to support the valuable mission of Jackson. Therefore, the governance conversations need to remain open, transparent and in the sunshine to continue to preserve these interests.

The impact of a governance change on all sources of reimbursement, on the outstanding bond obligations, on the pension program, on sovereign immunity, and on other major components of the public healthcare model needs to be fully vetted to avoid any unintended consequences. It is irresponsible to provide specific recommendations on a governance model change, i.e. not-for-profit, without a full understanding of how a change in governance may impact these factors. The taskforce has not studied these issues with any level of specificity and is not in a position to make such recommendations.

As noted, any fundamental change in governance structure is a long term consideration as the financial recovery board should be allowed to address the immediate issues impacting Jackson. Continued exploration, including moving towards appropriate due diligence, should continue to be pursued to identify the optimal governance model for Jackson in the future.

Conclusions

- Jackson Health System is an important community resource and its mission is in jeopardy under the status quo.
- Greater accountability is required for the fulfillment of the mission within a sound financial framework, given budgetary restraints, reduced federal and state funding and competitive pressures.

Appendix L

- The evaluation of optimal governance models should continue in an effort to identify the most efficient and effective structure to allow Jackson Health System to fulfill its mission for decades to come. Any recommendations should be data driven and fully vetted to ensure that this very important assignment is handled with the highest degree of professionalism and responsibility.
- Legal and financial experts need to be engaged to perform the necessary due diligence. Any new structure should maintain Sovereign Immunity which goes hand in hand with the Sunshine Laws. The revenue streams should be enhanced, not decreased with any new structure. The eligibility for ad valorem and ½ cent sales tax should be fully studied to ensure continued availability to fund the mission of Jackson in any recommended model.
- The taskforce never considered or evaluated the risk to federal funding such as Intergovernmental Transfers (IGT) and Certified Public Expenditures (CPE) that a new structure such as not-for profit could possibly jeopardize. These federal monies are a real possibility and are being strategically pursued at JHS. A public structure is necessary to qualify as a recipient for these funds currently.
- The current effort has been very valuable but not sufficient to formulate any concrete solutions or recommendations.
- Task force membership should be re-evaluated to remove any task force members with a conflict of interest. Several members are direct competitors of Jackson and others have competing interests.
- A structure change to a private entity would most likely mandate a cessation in the Public Retirement System (FRS and PHT retirement) and the cost of doing so needs to be evaluated. The taskforce never explored or even recognized this risk which has the potential of significantly increasing the contribution from the employer.
- The Miami-Dade County Commission is an integral component of the governance of Jackson Health System and will continue to be so under any governance model. The tax payers of Miami Dade provide significant funding to Jackson and their elected officials are very relevant to its governance process.
- The immediate focus should be on developing a strategy for Jackson Health System to make it a more competitive alternative in the market place to serve everyone's healthcare needs in Miami-Dade County. The new executive team and the new financial recovery board should be given an opportunity to succeed with great assistance from the County.
- All current efforts regarding Jackson Health System should be directed towards averting a reduction in scope of services provided to County residents and to avoiding any deterioration to the great mission of Jackson. The operational issues denoted in this report should be the primary focus.

Submitted by:
Martha Baker, RN, President
SEIU Healthcare Florida, Local 1991

Hospital Governance Taskforce (HGT) Presentation

Duane J. Fitch, CPA, MBA

April 14, 2011



Discussion Topics

- Introduction
- Importance of Taskforce
- Immediate Issues Independent of Governance Discussion
- Current Governance Model

Discussion Topics

- Governance Effectiveness vs. Governance Structure
- Operational Issues Universal to All Governance Models
- PHT Observation
- Miami-Dade County Observation

Importance of Taskforce

- Governance is a Primary Component of an Integrated, Complex, Healthcare Delivery System.
- Governance Structures have Evolved to Meet Significant Challenges of Healthcare Finance and Operations.
- Mr. Gage's Presentation on the Various Governance Models and Examples of Each was Very Informative and Well Done. Mr. Gage is a Preeminent Leader in this Area.



Importance of Taskforce

- ☞ Public Hospital's Governance Structures are Often Multi-Factorial and Exhibit Attributes of Several Different Models.
- ☞ Public Hospitals Consist of Multiple Extraordinarily Complicated Sub-Systems that are Co-Dependent on One Another and Often Times in Conflict.

Importance of Taskforce

- Effective Governance Structures Continually Adapt to the Issues and Opportunities Impacting the Hospital.
- Effectiveness within a Current Structure is as Important as the Structure Itself.

Immediate Issues to Address Independent of Governance Discussion

- ☞ Cash Infusion to Avoid Permanent/Irreversible Consequences to Core Service Levels Due to Cash Crisis (Internal/External Efforts).
- ☞ Access to Bridge Financing to Allow Turnaround Efforts to Take Root.

Immediate Issues to Address Independent of Governance Discussion

- ✎ **Balancing Mission (Single Standard of Care to All Patients Regardless of Ability to Pay) with Financial Constraints.**
- ✎ **Providing Clear and Consistent Direction to New CEO and Executive Team During the On-Boarding Process and Turnaround Efforts.**



Immediate Issues to Address Independent of Governance Discussion

- Any Governance Change will Likely take a Significant Period of Time, be Very Expensive, Require Extensive Due Diligence and Modeling, and be the Subject of Extensive Legal Debate. It is not a Fix for the Current Financial Reality Facing Jackson.

Current Governance Model:

Hybrid

Current Model Includes Elements of:

- Direct Governance- County Reserve Powers, 25A Ordinance, Unfunded Mandates
- Freestanding Board with Some Authority- Public Health Trust
- Taxing District- No Independent Ability to Levy Taxes but the Beneficiary of Ad Valorem Taxes and 1991 Half-Penny Tax

Governance Effectiveness vs. Governance Structure

“Before considering a major reorganization, it is essential to evaluate the challenges and obstacles that face a given hospital or health system – and to determine which of these challenges can be improved through improved structure or governance.”

Restructuring ➦ Sustainability

Operational Issues Universal to All Governance Models

- Develop and Implement a Contemporary Overall Strategic Plan.
- Develop and Implement a Primary Care and Outpatient Services Strategy.
- Reduce Length of Stay to Clinical Optimal Levels.
- Provide Budgeting and Other Financial Reporting with Integrity and Creditability (\$232MM Audit Adjustments for FY2009, FY2011 Budget).

Operational Issues Universal to All Governance Models

- ☞ Maximize the Leverage of the Jackson Health Plan.
- ☞ Shift the Labor Cost Curve through Universal Adoption of Evidence Based Medicine Guidelines; Treating Each Patient in the Most Cost Effective, Clinically Appropriate Setting; Improving Patient Flow and other Measures.

Operational Issues Universal to All Governance Models

- ☞ Optimize the Relationship with the University of Miami.
- ☞ Position Jackson for Success in an ACO and/or Capitated Environment.
- ☞ Enhance Information Technology Solutions to Achieve Meaningful Use Standards.
- ☞ Position Jackson to Participate Successfully in the HHS Patient Safety Initiative Funding Program.



PHT Observation

- A Change in PHT Composition, Qualifications, and/or Size May Make it a More Nimble, Effective, and Efficient Governance Body More Readily Able to Address the Immediate Issues and Opportunities Impacting Jackson Health System.
- PHT Board Members Serve as Tireless Volunteers and should be Commended for their Commitment to Public Service.

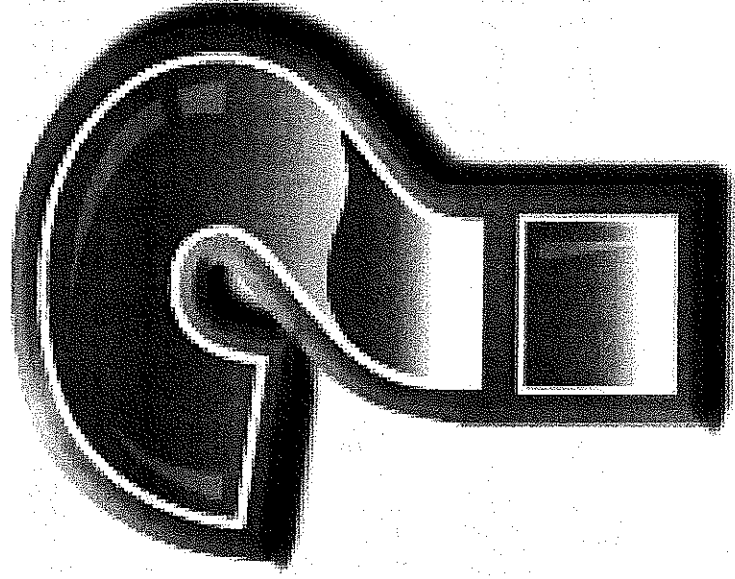
PHT Changes to Evaluate- Short Term

- Smaller Membership/Targeted Areas of Expertise
- Enhanced Board Education and Training
- Exclusive Focus on Strategy, Accountability, and Turnaround Efforts.
- Update By-Laws and Board Policies to Ensure Effectiveness and Role Clarity.

Miami-Dade County Observation

- Under Most Governance Models, the County will Retain a Significant (if not exclusive) Responsibility for Funding Healthcare for the Indigent Population of Miami-Dade. As Such, the County will Likely Seek to Maintain Certain Reserve Powers and a Level of Control.

Questions?





March 23, 2011

Commissioner Joe A. Martinez
Chairman, Board of County Commissioners
Miami-Dade County

John H. Copeland, III
Chairman, Public Health Trust
Jackson Health System

Eneida Roldan, MD, MPH, MBA
President and Chief Executive Officer
Jackson Health System

Dear Chairman Martinez, Chairman Copeland III, and Dr. Roldan,

Jackson Health System is a treasured community asset that has great potential despite its current economic position. The recent interest in the System from a variety of sources illustrates this potential. Our firm has been privileged to witness the great healthcare services provided by Jackson to the Miami-Dade community throughout our engagement with SEIU 1991 since the spring of 2010. The System is clearly at a cross road and clear and decisive action is required immediately to transition Jackson in to a sustainable model. This will require additional working capital, a high degree of cooperation and engagement from all stakeholders, and a turnaround team to work in conjunction with Jackson leadership and governance to transition Jackson into a cost effective, patient centered, healthcare delivery system with the ability to attract patients from all demographics. *Our core belief is that excellent care, delivered in the appropriate setting, is cost effective and also produces a high degree of patient satisfaction. Applied consistently over time, this approach leads to increased market share, improved financial performance, and ultimately to the creation of a sustainable healthcare delivery system that fulfills its stated mission.*

Of course, working capital is required to effectuate a meaningful and sustainable Jackson capable of delivering on its critical mission. Our solution is based on keeping Jackson as a treasured and viable public asset and therefore the working capital will need to come from leveraging Jackson's own assets and/or an infusion from local, state, federal or other resources. Other areas worthy of exploration are additional community support through a referendum, loans from pension funds, monetization of certain assets, or any other potential sources. Given the critical

financial nature of Jackson, no alternatives can be overlooked. *However, Jackson should not ask any party for any money in the absence of a comprehensive and strategic turnaround plan, with the right partner capable of executing it, and a supportive authority structure that will enable its implementation.*

Our turnaround plan is thoughtful, strategic, transparent, and focused on providing excellent patient care in the lowest cost setting. It will move Jackson into a cost effective primary care and outpatient services mode while maintaining its world class inpatient and specialty services for patients that require this level of care. *It will focus on improving the overall patient experience to make Jackson a viable choice for all members of the community.* It will focus on providing excellent clinical services in a cost effective manner to position Jackson to compete fiercely in the marketplace against all other healthcare providers for all patients. It will employ Jackson's strategic assets, like the Jackson Health Plan, to attract and build increased market share. It will leverage the unparalleled brand that Jackson has created over the past 90 plus years.

Our plan is not built around a financial transaction that will permanently and irreversibly change Jackson's basic construct. *Our plan is all about execution – and rebuilding Jackson through the provision of excellent, cost effective, patient centered services provided in the right setting.* This will result in an increased patient base, an improved payer mix, and an innovative, contemporary Jackson that can compete and thrive in the new healthcare world.

This plan should serve to inspire potential funding sources that their investment in Jackson will be utilized to facilitate a strategic, patient centered turnaround that will result in a sustainable Jackson while enabling it to remain an asset of Miami-Dade County. We look forward to an opportunity to present our ideas and proposal.



Duane J. Fitch, CPA, MBA
President
Fitch Healthcare Consulting

Jackson Health System Management Services Proposal

Introduction and Background

Jackson Health System is a remarkable public healthcare institution that performs medical miracles every day. It is a wonderful community based resource that provides comprehensive healthcare services to all patients, including the most underserved segment of the population. The System also serves as a major economic engine to the Miami-Dade community. It employs over 10,000 people and produces annual gross revenue of over \$4 billion. *It has a long standing relationship with the University of Miami and has been a partner with them in the training of generations of world class physicians.* Any significant reduction to its scope would have a serious detrimental impact to both the healthcare and economic profile of Miami-Dade County.

There is no question that the financial crisis at Jackson is real and that it has been in the making for quite some time. *The threat of running out of cash in the next couple of months is a credible one and the situation needs to be addressed now.* The economy and the infusion of uninsured patients are clearly factors in the current profile; however, there are also a significant number of real opportunities that have not been taken advantage of to position Jackson for sustainability. Internal and external factors have contributed significantly to the crises, many of which have not been responded to in a proactive manner. The System is generating significant and unsustainable operating losses and there is a tremendous immediate need for working capital and resources for strategic investment. Jackson is at a critical juncture and business as usual will result in an adverse outcome for Jackson, the University of Miami, other local hospitals, and the patients and community served by Jackson.

Turnaround Initiative and Objective

The System is operating without a contemporary strategic plan. The FY2011 operating budget is drastically off course. There is no comprehensive operations plan to guide the organization's initiatives and to track and monitor progress. *This lack of focus and planning has contributed to the tremendous crisis which now requires immediate intervention before permanent and irreversible decisions are made impacting the future of this great healthcare system.*

Jackson is in immediate need of securing a focused financial and operational turnaround team to lead its efforts toward sustainability. FHC will provide a team of experienced healthcare experts that will have the challenge and responsibility of positioning Jackson as a cost effective, financially viable, patient centered healthcare provider that is prepared for the risks and rewards available under the provisions of the emerging healthcare reform guidelines. Phase I of this

project, sustainability, will require a minimum of 30 months. This is a very aggressive timeline that will require intense focus and cooperation from all stakeholders to achieve. Goals and objectives for subsequent phases will be mutually agreed upon by the parties at a later date. ***The overarching goal of Phase I is to generate \$50 million in margin and to have \$200 million in cash resources at the conclusion of the first year.*** These targets assume that \$200 million in working capital is secured as discussed later in this proposal. They are also predicated on the timely approval of this proposal including the initiatives contained herein and a high degree of cooperation in their implementation. The projected performance will greatly assist Jackson's ability to remain a community asset. It will also position Jackson, via the County, to enter into the debt financing market to secure additional capital in the future for continued strategic investment through subsequent phases.

Jackson will need to be positioned as a marketplace destination for all of its healthcare services in terms of patient service and satisfaction levels, clinical outcomes, turnaround times, length of stay, and all other relevant metrics. It needs to be a compelling choice for all members of the community, not just the underserved. The Jackson Health Plan, a very strategic asset already with significant additional potential, will be positioned as a "feeder" to Jackson through the use of incentives, advertising, and other strategies. Jackson will need to fiercely compete through service, quality, and cost to earn the opportunity to expand its patient base to include more insured patients. ***Increased patient service revenue through enhanced market share and improved payer mix is the key to a sustainable turnaround for Jackson. This turnaround team will need to have the authority and accountability to remove all barriers that are in conflict with this construct, in conjunction with guidance provided by governance.***

Working Capital

The turnaround effort will ultimately need working capital to implement the important initiatives that are required. These include the transition to a "medical home" care model for primary care services and the transition to a patient centered service delivery mindset in all aspects of emergency department and inpatient care. Operating losses will also need to be funded during the transition. In addition, proposed reductions in current funding sources will need to be addressed as they will create a larger financial challenge moving forward. An estimate of the amount needed to sustain Jackson through the turnaround period and into sustainability is \$200 million which equates to approximately 40 days cash on hand. The working capital and the margin goals for Phase I exclude the impact of potential further reductions in existing funding sources. ***Given the complexity of securing additional working capital, we recognize that it may not be received at all once (or even at all) and we are capable of adjusting to this possibility although it will extend the duration of the pathway to sustainability as well as the goals and objectives of Phase I.*** The working capital is needed to fund the operating losses during the turnaround phase as well as provide working capital to commence the strategic initiatives

designed to enable the longer term turnaround to take root. Longer term, Jackson will require much more capital to continue its ability to take advantage of marketplace opportunities and to make the strategic investments required for the future. A successful turnaround project may position Jackson, through the County, to secure tax exempt bond financing based on its improved operating performance to fund all or a portion of these needs. *A demonstrated track record of success in this initiative may also serve as a basis for a referendum for additional taxpayer support of Jackson with the knowledge that the proceeds will be used appropriately and strategically.*

Sources of Working Capital

The source of the working capital is a challenging obstacle but several options should be considered. One option is to consider leveraging the real estate and any other assets of Jackson through a sale/leaseback, outright sale, mortgage or other financing arrangement. A thorough analysis of the debt instruments currently in place will need to occur to determine if this is a viable option. The County will need to take the lead to enable this solution should it be allowable under the terms of the debt instruments. A private "buyer" of Jackson would undoubtedly explore this option to fund the losses, service the assumed debt, and make agreed upon capital investments until their own turnaround efforts take root.

Another option for working capital is to enroll a State or Federal funding source in the turnaround journey and obtain their willingness to be a part of it financially. *Assurances would be needed that there is an unwavering commitment to a new approach that is genuinely designed to achieve long term sustainability.* Given the history of the financial performance of Jackson and the sustained lack of credibility in financial reporting, budgeting, and strategic planning, the need for assurances is understandable and expected. Government funding is extremely difficult to secure in any event but funding Jackson in its current configuration might be considered irresponsible if it is not predicated on a fundamentally different model of accountability and execution than has existed in the past.

Authority Structure for Turnaround

The turnaround team will need an authority structure that is supportive, engaged, efficient, effective, knowledgeable and free from extraneous involvement. In addition, the authority structure needs to be exclusively focused on the best interests of Jackson and be willing and able to support the turnaround team during times of difficult decision making. At this point, the source of the membership for the authority structure (PHT, County, or a hybrid) is not as important as the attributes described above. *The project would be best served by a smaller (approximately 7 member) and more nimble authority structure that has a membership comprised of dedicated individuals with a demonstrated capability in healthcare finance,*

strategy, operations, marketing, etc. in addition to a couple of community leaders. This body will need to participate in the preparation of the strategic, operational, and financial plans prepared by the turnaround team and monitor the status of implementation (and remove barriers thereto) on a regular basis. A high degree of focus and discipline is required to keep the project on track and to adjust to issues and concerns as they arise.

Sustainability Model

The goal of the turnaround project is to position Jackson for long term sustainability as a vibrant, patient centered, clinically excellent, innovative, contemporary and financially viable public healthcare system. This will be accomplished by increasing market share (and revenue) through the adoption of a patient centered care model in all aspects of service delivery. *The turnaround effort will focus on the identification and elimination of all barriers to the delivery of safe, timely, respectful, cost effective, patient centered, and evidenced based care in the proper care setting for each patient, every time.* A significant transition to primary care and outpatient based care will be an area of focus to enhance Jackson's ability to treat patients in the lowest possible cost setting.

University of Miami

The University of Miami is a critical partner of Jackson in all aspects of its clinical operations and will play an important role in the transitioning of Jackson to a sustainable model. A thorough study of all aspects of the relationship with the University of Miami will be performed and a value proposition analysis will be prepared in an attempt to quantify the overall net financial impact to Jackson of its relationship with UM. This will be completed and published prior to the extension of the current agreement in place with UM. *In addition, service level performance targets will be developed and monitored for all aspects of patient care services provided by UM physicians to help ensure that the partnership provides timely, patient centered services to all patients at Jackson.* UM is a partner of Jackson in the provision of healthcare services and also a formidable competitor of Jackson for non-indigent patients and potentially profitable service lines. This is a very complex relationship that requires constant monitoring and balancing to ensure it achieves its objectives and is equitable to both parties.

Operating Costs

Jackson's operating cost per unit of service delivered will need to be reduced to ensure sustainability. This will be accomplished through an uncompromised conversion to evidenced based medicine guidelines for all appropriate patients. This will help to reduce length of stay, move patients to the lowest cost treatment setting, reduce hospital generated complications, and increase patient satisfaction and clinical outcomes. This is the right approach in a patient

centered delivery model. Jackson will also vehemently enforce the service guidelines for physician consultations in the emergency department and all other care settings. This will help reduce the length of stay (and related costs) in the emergency department and elsewhere and also increase patient satisfaction levels and therefore patient volumes. *This will allow Jackson's fixed costs to be spread out over a larger base.*

In addition, more primary care and outpatient services will be provided to help reduce repeated costly emergency room visits, to provide the appropriate setting for follow up visits, and to create a medical home designed to promote patient wellness and accountability. Agency and overtime expenses will be reduced by immediately making training programs available for care givers in low census areas to train them to be able to serve in the higher acuity clinical settings now using agency and overtime resources. Additional staff members will also be hired so that more shifts can be filled with straight time pay versus overtime and agency pay. In situations where patient volumes do not support the current staffing models, every effort will be made to deploy workers to understaffed settings within Jackson before eliminating positions. *The labor cost per unit of service will be reduced through lower length of stay, increasing patient volumes through enhanced service levels, elimination of inappropriate admissions, more timely service in the ED, placing patients in the lowest appropriate acuity setting, more efficient patient flow through throughout the hospital, and the addition of primary care resources.* We believe this is a powerful and sustainable approach to managing labor costs and it results in increased patient satisfaction and increased clinical quality for the patients. Some of these initiatives are currently underway or under consideration and our approach would increase their velocity and ensure accountability for their execution.

Primary Care and Outpatient Services

Importantly, Jackson needs to make a significant financial and strategic investment in the expansion of primary care physician services and outpatient clinics and capabilities. This will allow Jackson to be positioned for the dynamics of healthcare reform which will reward healthcare providers for their ability to improve the overall wellness of the populations that they serve. This is the accountable care model. It will also allow Jackson to consistently treat and monitor patients in the lowest appropriate cost setting. Currently, patients with chronic conditions and/or no access to primary care services frequently seek treatment at the Jackson emergency department, a very high cost environment. These patients have often delayed seeking care and therefore present in a much more compromised state than if they would have had access to primary care through a medical home. Enhanced primary care and outpatient modalities are one of the keys to reducing operating costs and improving the overall community health. Jackson is significantly behind in these areas which are fundamental in the equation of long term sustainability.

Public/Private Partnership Opportunity

Jackson should consider entering into a transaction with a private enterprise to provide the capital for the expansion into primary care and outpatient services. For example, a private company may invest the upfront capital to develop a primary care/outpatient center on the campus of Jackson and Jackson can become a long term tenant of this facility. This will allow Jackson to make much quicker progress on the primary care strategy than if it had to use its own capital, which is not currently available. This is just one example of an opportunity for a public/private partnership that does not change the fundamental ownership model of Jackson but provides a win-win relationship between the parties.

Outside Proposals

The existence of outside offers to take over Jackson should serve as a very real reminder that Jackson is a wonderful facility with a lot of potential, including the potential to be financially viable if it is run efficiently, effectively and strategically. This activity should serve as an immediate call to action to all stakeholders.

Any outside operator of Jackson will be motivated to adopt a strategic plan, invest in primary care capabilities, reduce operating expenses, work in an efficient and effective governance structure, be adequately funded for the responsibilities it takes on, provide care in the lowest cost setting, reduce length of stay to clinically optimal levels, provide budgeting and other financial reporting with integrity and credibility, invest in information technology including achieving meaningful use compliance, maximize the Jackson brand, maximize the leverage of the Jackson Health Plan, increase physician, patient and employee satisfaction levels, optimize the relationship with the University of Miami, achieve a balanced and harmonic relationship with labor, maximize reimbursement through automation, grow market share, be attractive to all patients, and take all other reasonable steps to ensure a financially viable organization into the future. *These are the right steps to take and immediate action should be taken to begin the process to achieve them before it is too late. The time is now.*

Jackson can be Saved

The above are all initiatives that can be achieved by Jackson with significant support by all stakeholders (internal and external) and with FHC as its turnaround team partner. Our team will integrate with the existing Jackson leadership to ensure continuity of the initiatives already underway. *Many important and impactful initiatives have already been developed by Jackson and they are in various stages of implementation including revenue cycle improvement, FQHC initiatives, supply chain expense initiatives, industry benchmarking, etc. It is critical that these continue to move forward.*

Turnaround Plan

Exhibit I describes the major initiatives that we will put into place to enact the turnaround. The completion dates will be filled in and presented to the authority structure within 60 days of commencement of the engagement.

Exhibit I:

Jackson Health System Turnaround Plan

	Description	Completion Date
1	Develop <i>a meaningful, transparent, and inclusive process that involves all stakeholders</i> to prepare, communicate, and execute meaningful strategic, operational, and financial plans to guide the activities and resource utilization of Jackson.	
2	<i>In conjunction with the PHT and the County, secure access to approximately \$300 million to fund the turnaround effort and to fund operational losses during the interim period.</i> Explore options to leverage the real estate or other assets in addition to pursuing options with State and Federal resources. The turnaround efforts are not predicated on securing the additional resources although the velocity and impact of the project would be greatly enhanced.	
3	<i>Institute the use of evidenced base medicine guidelines wherever applicable to reduce the length of stay, move patients to the lowest appropriate acuity settings, reduce operating costs, reduce hospital borne infections, and enhance patient satisfaction and clinical outcomes.</i> Develop real time intervention processes to immediately resolve instances where there is a lack of alignment between the case management function and the attending physician.	
4	In conjunction with case management, utilization review, and social workers, <i>identify and resolve issues impacting timely patient discharge.</i> This initiative will supplement the adoption of evidenced based medicine guidelines and other strategies impacting length of stay.	
5	<i>Develop and implement a primary care physician strategy</i> that results in increased primary care capabilities on the Jackson main campus. This is not limited to the ongoing discussions regarding FQHC's. This will help to decompress the emergency department, reduce operating costs, decrease wait times to improve patient satisfaction, and position Jackson to respond to the priorities of health care reform. A robust primary care presence will also help Jackson achieve greater market share among employees and the overall community.	
6	<i>Develop and implement an information technology strategic plan</i> to ensure that Jackson is fully utilizing existing information technology resources and also is positioned to excel with the enhanced transparency and other outcome reporting guidelines associated with health care reform.	

	Description	Completion Date
7	Conduct a thorough value assessment of the overall relationship with the University of Miami and evaluate the totality of the relationship through the lenses of financial performance, clinical quality, strategic importance, and operational efficiency and effectiveness. A detailed, fact based evaluation of this relationship is absolutely critical for Jackson to make timely and relevant decisions and to ensure that the arrangement continues to be mutually beneficial.	
8	Develop and implement a governance dashboard focused on key metrics in the areas of clinical quality/patient safety, financial performance, operational efficiency and effectiveness, customer service, market share, and physician/patient/employee satisfaction. A current state and a desired state will be established for each metric selected and governance should review a stoplight report every month documenting progress on achievement of the desired state value. This tool is very helpful to distinguish between operational issues and tactics and governance issues.	
9	Enhance the timeliness, accuracy, and credibility of financial information reported to all stakeholders to facilitate meaningful decision making and timely course correction. Develop an accountability culture where managers are provided timely departmental reports and report upon issues, opportunities, and compliance with budget.	
10	Continue to work in conjunction with UM to establish, monitor and maintain quality service standards to ensure timely availability of specialty physicians to serve the needs of the Jackson ED. Create a mechanism to measure compliance and course correct on a real time basis.	
11	Provide the appropriate number of inpatient hospitalist physicians, patient admitting teams, and specialty physicians to address the long standing legacy issue of "bed holds" in the emergency department. This practice results in very high costs, low reimbursement and reduced patient, employee and physician satisfaction levels.	
12	Review and adjust, if needed, the span of control of the senior management team to ensure the availability of qualified personnel to oversee the multiple initiatives that are currently underway along with the new ones included in the turnaround.	
13	Develop marketing campaigns to accentuate the experience of the Jackson clinical team, the nurse to patient ratios, and advanced clinical services provided. Supplement with focus on new service levels provided in ED and other service lines once they have been achieved.	
14	Make meaningful and tangible progress in the reduction of overtime and agency spending through the recruitment of additional resources to fill the shifts currently staffed using these means and the training of nurses in low census areas.	

**DETERMINANTS OF THE EFFECTIVENESS
OF BOARD GOVERNANCE IN HOSPITALS:
IMPLICATIONS FOR STRATEGIC DECISION MAKING
AND LONG-TERM VIABILITY**

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May 20, 2011

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I. EXECUTIVE SUMMARY

☐ The type of legal structure of a hospital (for-profit, (501)(c)(3), public, Taxing District and others) has less to do with the viability and quality care of a hospital than efficient board governance, effective strategic planning and implementation and top management qualities. Positive financial results and top quality care are the results of these factors, not the results of the legal structure of a hospital.

☐ The effectiveness of Board Governance in providing strategic direction and oversight is important in determining the financial viability and quality care of hospitals, according to the comprehensive research and case studies contained in this Study.

☐ Board Governance effectiveness is determined by at least the following four factors:

1. **Board Size.** Most of the high-performing hospitals studied, with similar characteristics of the Jackson Health System (JHS), have between 11 and 14 board members, with active standing committees empowered to work with hospital management and to reach vital decisions in key functions such as finance, strategic planning, marketing mix and others.
2. **Board Power** to help develop and oversee implementation of decisions of strategic importance to a hospital is another component of Board effectiveness.
 - JHS Board Power is diluted by significant “height” and “width,” with oversight of the Board (height) by a large county commission made up of distinct districts and a relatively large Trustee Board (width).
 - The “depth” of the Board is defined by the individual levels of experience and qualifications of the members in the group (depth).
3. **Board Efficiency** is another important determinant of Board Governance effectiveness.
 - Efficiency is enhanced by **independence** of standing committees of the Board.
 - Efficiency is also intensified by reducing the number of overall Board meetings, and allowing the more flexible, smaller and expert committees of the Board to meet more frequently with hospital management such as the CEO, CFO, COO and others.

- “Ad-Hoc” emergency meetings of the Board should be kept to a minimum according to “best practices” of Board Governance.
- JHS’s Board Governance appears to have a large number of “emergency” meetings, where limited information to make sound strategic decisions are discussed and debated, which in turn creates confusion among management, critical medical personnel and stakeholders.

4. **Board Composition** is also a key driver of effectiveness in governance structure.

- Board members must include independent directors (S.E.C. test), with significant experience in strategic planning **at hospitals**; financial services, medical care and administration related to funding sources from local and federal governments.
- Successful Board Governance at the hospitals studied avoid over emphasis in one area of Board composition as this changes Board-power dynamics, and could create a biased view of strategic objectives.

The primary conclusion of this study is threefold:

1. There is no governance structure that directly determines the effectiveness of a health system. There are no magical governance answers.
2. **The type of legal structure of a hospital (for-profit, (501)(c)(3), public, Taxing District and others) has less to do with the viability and quality care of a hospital than efficient board governance, effective strategic planning and implementation and top management qualities. Positive financial results and top quality care are the results of these factors, not the results of the legal structure of a hospital.**
3. There are multiple factors that lead to effective governing boards (e.g. power, size, composition, efficiency). These variables are in part driven by the type of health system over which the board governs.

The Washington Economics Group was commissioned by the doctors, nurses and other healthcare professionals of SEIU Local 1991 at Jackson Health System.

II. OVERVIEW

The governance structure within an organization plays an important role in its development and the decision-making related to a number of strategically important areas. In public hospitals for example, the decision-making of Boards can affect the areas of finance and capital, operations, quality, medical staff and personnel, strategic planning and philanthropy decisions among others.

An effective hospital board has been shown to be related to high hospital financial performance. The size and composition of hospital governance boards, and the function (public, private, religious, etc) of the hospital itself, all interact and partially determine the board's effectiveness.

In essence, if the hospital relied heavily on private donations and fundraising, and the hospital was rather large, having a larger board of directors, many of whom had experience in fundraising, would be important for the hospital. If, on the other hand, the hospital received support from the local or federal government instead, as is the case with public hospitals, fundraising experience would be less important for board member selection than administrative skills and knowledge of the administration within the hospitals. Indeed, Rick Kneipper writes of the financial crisis at Jackson that board governance expertise is critical and the board of trustees should be changed so that the majority of members have experience or a background in finance, accounting, business, management or labor. Kneipper also states that at least some of the board members should have backgrounds specifically in hospital finance, hospital management or experience with running a hospital. Therefore, it seems that the effectiveness of board governance structure in hospitals, both as a matter of overall size of the board and as a matter of the composition based upon the experience of each board member, is also contingent on the function of the hospital (or what each hospital needs from its board members).

A majority of hospitals fall into three basic categories; Public (hospitals funded or operated by city, state or federal governments), Religious (hospitals owned and or operated by religious denominations), and Private Nonprofits (hospitals that have no government or religious affiliation), although there are other models such as private for profit, and others. In each of these functional types of hospitals there may also be sub-categories or models of governance structures. For example, within public hospitals although there may be only one main governance board, it may be appointed by and report to a state or local authority, such as a county board of supervisors or some other third-party. Privately owned hospitals on the

other hand, may have multiple boards ranging from national corporate-levels that guide all hospitals under management, to local business-levels, guiding one hospital in particular. Therefore, as the board size is usually examined when exploring how efficient a board is at achieving its mission and creating a high-performing hospital, also considering any additional number of board-levels, or higher authorities it reports to, may be necessary. In each case an attempt is made to optimize the governance structure based upon the environment and the needs of the hospital. In this analysis, the primary focus will be on the board governance effectiveness among public, non-profit hospitals. This study will develop:

- 1) A conceptual framework on board governance structure issues such as size, composition, experience, linkages, institutional pressures and resource dependency,
- 2) A comprehensive list and framework of key determinants of board effectiveness will be discussed; and
- 3) Case studies and other evidence of best practices or key drivers of board effectiveness in hospitals, primarily public hospitals, will be examined.

The primary conclusion of this study is threefold:

1. There is no governance structure that directly determines the effectiveness of a health system. There are no magical governance answers.
2. **The type of legal structure of a hospital (for-profit, (501)(c)(3), Taxing District and others) has less to do with the viability and quality care of a hospital than efficient board governance, effective strategic planning and implementation and top management qualities. Positive financial results and top quality care are the results of these factors, not the results of the legal structure of a hospital.**
3. There are multiple factors that lead to effective governing boards (e.g. power, size, composition, efficiency). These variables are in part driven by the type of health system over which the board governs.

III. CONCEPTUAL FRAMEWORK: BEST PRACTICES IN HOSPITAL GOVERNANCE

In this section, best practices and concepts related to upper-level management teams and board governance will be examined such that an understanding of what issues impact strategic decision making and the effectiveness and quality of decision making may be better understood. In addition, institutional and resource dependency concepts will be explored as a fundamental factor in the relationship between board governance and organizational effectiveness. This analytical background will support a conceptual framework for the key drivers of success in board governance among public hospitals which will later be analyzed qualitatively through case studies and other evidence.

Board Governance - When it comes to executive boards and the oversight of organizations, there are many dynamics in play including the amount of power that the board has, who has power among the board members, what is the level of similarity or dissimilarity among board members, what are the effects of linkages between board members and other entities, how does board member composition effect future member selection and how does board governance effect the hospital's ability to attract vital resources such as funding and medical personnel.

Board Power can be described as the level of influence the board has on a particular area in which strategic decisions are made. In public hospitals for example, when board power is high among officials from a relevant government body, the ability to influence revenue streams from taxpayers is also normally high. Inversely, in cases where board power is given to a third party or to managers within the hospital itself, the ability to influence the quality of care will be high but power to influence revenue streams from taxpayers is lower. Board power may also be considered as a function of the overall restrictions placed on it by complex environments. According to the National Association of Public Hospitals and Health Systems (NAPHHS) public-hospital boards, for example, often have a more complicated set of responsibilities than that of boards from other hospitals in their communities. For example, these boards must adhere to legal, regulatory and political pressures while providing a safety net for the uninsured or underinsured population; worry about reductions in Medicaid funding and local support as well as the competition for such patients; consider immigration reform issues and its effect on patient status, how hospital business is regarded in the public eye and many other issues that encumber management processes. Therefore, although boards may influence several areas of strategic importance, the power that they wield in any one area may be regulated or checked by responsibilities that they have to another constituent area. The research conducted for this study shows that

although boards may have the ability to increase the allocation of funding to support hospital costs, pressures to reduce costs in order to receive state funding, or restrictions placed on funding, may inhibit this. Conversely, the ability to provide quality healthcare by attracting better doctors and nurses may be a function of the salaries and benefits that are paid.

Board Member Power – This is not the same as board power in general. Where board power is the overall ability of the board to decide on and influence matters of strategic importance, *board member power* is the ability to decide on and influence matters of strategic importance that individual members within the board have. Although the function of a board is to serve as a collection of persons who are, for the most part, equally responsible for the strategic outcomes of an organization, such equal distribution of board power is rare. Indeed, often there are one or more board members that dominate the remaining board members regarding what strategic areas need attention and what decisions, if any, should be made in those areas. In some cases, CEO-Board directors or (top managers) actively recruit board members that serve, or have served, on passive boards so that they can maintain their control over board decisions.

Similarly, it is argued that active boards, where top managers do not have control, will seek out board members who serve or have served on active boards-where board members regularly intervene in strategic matters. Indeed, when incumbent CEOs have power over the board members they seek to have members appointed that are similar to themselves so that they are more sympathetic to them with respect to their strategic plans. When this is the case, the CEOs have a tendency to receive more lucrative compensation packages, and also engage in activities that are not essential to the success of the organization, and thus this is an example of the agency costs associated with management not in the best interest of the institution.

Board Member Similarity - The strategic direction of an organization is often thought to be a reflection of the characteristics of top management teams. In other words, the background and makeup of each leader such as their work experience, formal education, age and other attributes, all influence the manner in which leaders view, and cognitively interpret, the environment in which strategic decisions are made. Indeed, case evidence demonstrates that managers of hospitals have been shown to play an important role in scanning and interpreting information from the environment in order to make sense of it and act strategically so that their hospitals may perform better than managers that are less pro-active. Therefore, **the results of positive financial performance and strategic direction are primarily the outcomes of board decisions.**

When board members are similar in terms of their characteristics, the manner in which they view and interpret the world is also likely to be similar. As noted previously, top managers within boards, such as CEOs who may be chairman, often seek out board members who are demographically similar in order to achieve power within the board. Thus, too much demographic similarity of board members is also likely to yield an unfavorable distribution of strategic attention and power of influence targeting one area rather than creating a comprehensive view. For example, **if hospital board members were heavily influential and they similarly believed the only solution to a strategic issue, such as reducing deficits, was to reduce costs, such as labor, they would only focus attention on this matter and not necessarily examine other issues that may be creating budget deficits, such as an inability to generate revenue or minimize losses from operational ineffectiveness.**

In an attempt to improve board effectiveness that is hindered by such issues, the Wyoming Valley Health Care System board elected seven new members, and had a fresh and balanced board. This move effectively removed entrenched leadership that may have continued to view strategic issues in a similar manner based upon their collective experience, and also allowed for a balanced perspective that included the cognition of physicians as well as banking officials.

Board Size - Board size is generally measured by the number of members serving on a particular board, and this is reported to influence the effectiveness of boards in many hospital systems. For example, recommendations for the WVHCS board in 2001 led to the reduction in board members from 16 to 13 in an effort to improve efficiencies. The Bain & Company Report on hospital governance also shows that high performing non-profit boards have an average of 14 members, with a sample size of boards ranging from 6 to 20. This leads some to believe that a bigger board is not necessarily more effective, and there are several reasons why this may be the case. As noted above in reference to similarity/dissimilarity, having too many board members may hinder the decision-making process. **Thus, having a diverse body to share information and perspective is good up until a certain point, and then the added benefit of additional opinions is outweighed by sluggish decision making or other problems created by additional members.**

Board size measured by number of members is not necessarily a complete view of the size of the board. For example, to understand the size of a box, one cannot only look at its width, but also the depth and the height must be included to have a good understanding of its size. Similarly, hospital boards may have an additional measure of depth such as the number of standing committees that serve specific roles on the board. There is also a matter of height

when it comes to board size. Privatized hospitals may have one board where public hospitals have multiple board levels from local to governmental responsibilities requiring coordination between the levels.

Board Member Linkages - A board member linkage is any connection that a board member has with another group or organization. In the case of the JHS, the Public Health Trust has members that work for other organizations, it has two members that sit on the Board of County Commissioners, and it has other ex-officio members that may be in charge of hospitals or university schools of medicine within the local community. Accordingly, each member has access to different learning mechanisms from the organizations that they represent, and they also have different linkages that they may influence on behalf of the Public Health Trust or that may influence them and thus the Board of Trustees. Each board member is appointed and brings with them a connection to the external community that will influence the manner in which they think and act as a part of the board.

Gerald F. Davis in Corporate Governance argues that attempting to reform board governance by changing their incentive plans is of little use because the real effect may stem from the relations they have serving on being other boards, or being the heads of other organizations. Indeed, the *interlocks* that they have with other organizations yield a type of social influence that may affect the strategic decision making as well as the strategies themselves. Thus, linkages cannot simply be characterized as having a positive or negative impact on board governance, but rather identified as a manner of social influence that must be taken into account when creating an effective board structure.

Essentially, each board member is embedded in a larger social environment in which they face normative pressures to adhere to the demands of society and industry on how to behave strategically. These pressures are described as isomorphic pressures (meaning a change in form similar to other successful organizations), as the leaders of organizations have a tendency to *mimic* best strategies, follow the *norms* of society and be *coerced* by influential external parties until most organizations all look the same. For example, Harding and Preker argue that there is justification and increased pressure to privatize, corporatize, and/or autonomize the management of public safety-net hospitals that will lead many hospitals to alter their governance structures accordingly. On one end of this spectrum, giving more autonomy to hospitals will allow management to have more control over accessing revenues, but goals for quality and access to care functions may still need to be specified. Privatization, on the opposite end of this spectrum, where management not only will more closely resemble a *corporation*, would cede control to separate owners most likely keeping the generation or profits at paramount importance (the implication being at the expense of

IV. DETERMINANTS OF BOARD EFFECTIVENESS: SPECIFIC EXAMPLES

In this section, a review of research and cases on the key determinants of board effectiveness will be discussed based on the conceptual framework developed previously, with primary focus on public hospitals similar to Jackson Health System (JHS). Most evidence of board effectiveness will deal with financial performance; however, it should also be noted that financial performance is not the only measure of effectiveness, and it may often times be correlated with other measures such as quality of patient care and operational effectiveness. Any and all evidence that particular board governance structures or policies are more effective than others will be provided. Also, findings that suggest that one area is more important for board effectiveness than others will be discussed and the interaction effects with other areas will be examined. **Finally, a model will be created to illustrate the relationships between key determinants of board effectiveness and their relationship to decision making, leading to long-term hospital viability.**

Hospital Type - There is no optimal model of governance as studies examining the attempts of public hospitals to change their governance structure have proven. For example, Grady Memorial Healthcare System in Atlanta and Westchester Medical Center in upstate New York both shifted to hospital 501(c) (3) and public-benefit corporations. Grady Memorial had a great deal of success and support from the local community; Westchester Medical nearly went bankrupt as a result of failure to create autonomy in hospital management and problems from the local community. Studies show that there were trade-offs to different legal classifications. **For-profit corporations may lose focus of the mission of the hospital to serve the community, as well as government funding, and a hospital district structure would require alterations in property taxes which would likely be difficult.**

In a 2008, National Public Health and Hospital Institute Report on "Best Practices in Public Board Governance," prepared by Larry Gage and David Gross, for a proposal to restructure the Cook County Bureau of Health Services. The authors examined semi-autonomous boards within the local government, Independent Non-taxing Unit of Government, Independent Taxing Districts, and Non-profit corporation models and suggested that best practices apply to all models and indicated that the models are not necessarily what are most important. **They suggest that autonomy, accountability and member leadership are the keys to successful boards, and each model presents benefits and drawbacks with respect to this.**

Board Size - Efficiency is a key determinant of board effectiveness and part of this is matching the size of the board correctly to the financial status and complexity of the

organization. Cases studied frequently find 9 to 11 member boards, although some were as large as 17 members in the case of Grady Memorial. The 2008 NPHHI report found that there were about 13 board members on average per hospital with fewer on average (8) in non-public hospitals.

The Bain & Company Report suggests that high-performing non-profit hospitals have an average board size of about 11-14 members. Research shows that board size is reduced in importance when the hospitals rely less on the local environment for funding, as is the case with federally funded hospitals, although many hospitals have recognized that smaller boards might be more efficient, and board sizes have been adjusted in this manner. For example, the Wyoming Valley Healthcare System was reduced from 16 to 13 members to improve efficiency upon the recommendation of consultants (see References in Appendix II for this section).

Board Levels – Board Levels and Committees are issues of board size that matter and should be taken into consideration. The Greater Southeast Community Hospital in Washington, D.C. had as many as 13 boards and 70 members as they thought bigger was better. This hospital later recognized the inefficiency and attempted to reduce board size and complexity, achieving 25 percent reductions, but eventually this hospital would have to make enormous cuts in its services, and ended up nearly insolvent before being purchased by a private healthcare company that changed its name due to the bad reputation it had received. **Standing committees that separately audit the board, governance and finance/budget activities are essential for increased financial performance. Independent committees and auditing of the board for conflicts of interest, allowing for meetings without executives and delegation of authority to committees are all recommended to improve board effectiveness, and this has some implications for efficiency. Sharing information is also recommended in recent management studies, which means having regular meetings, setting attendance requirements and having access to senior executives. The Bain & Company Report suggests that having around 8 to 12 meetings per year is the norm for high-performing hospitals while also having about 8 standing committees.**

Board Power – Research and cases of financially viable hospitals, recommended that boards be actively engaged in oversight of executive management (CEO, COO, CFO, GC), and it has shown that proactive adoption of such items, as guidelines to financial oversight increases financial performance in hospitals. The National Public Health and Hospital Institute Report as well as Bharucha & Oberlin (see Reference Section), argued that boards should serve to empower the hospital administrators and give them autonomy while still providing oversight and accountability. Best practices recommend that board directors receive orientation and ongoing education alongside a clearly established set of

responsibilities, thus a mission statement of organization with a statement of directors' responsibilities should be formalized. A 2009 article from the International Journal of Environmental Research and Public Health found limitation of board member terms, as was recommended by Bain & Company and Peregrine & Schwartz. Recommendation of term limits at a maximum of three years, with some consulting firms recommending term limits of one year. This helps generate fresh thinking, eliminating some cognitive and attention-based bias, creating active boards, and limits insidership and the formation of powerful subgroups within the board.

Best Practices recommend that boards must ensure high executive performance, high quality of patient care, financial health and oversight of itself. Thus, boards are in essence established to reduce agency costs within hospital administration and consequently the elimination of conflicts of interest that inhibit the accomplishment of any one of these tasks. To make decisions effectively, policies must be set by boards, such that decisions include evaluation of external scenarios in accordance with internal mission statements and goals, lest decisions be disjointed and ineffective. There must also be a healthy balance of power with the CEO and boards such that tensions may be reduced and performance enhanced.

Board Composition – Best Practices indicate that there needs to be diversity of experience and an establishment of qualifications to serve on the board in order to increase effectiveness. They suggest that boards need to have access to hospitals' administrative staff/executives on a regular basis, not just at scheduled board meetings. High-performing hospitals often have a CFO representative-member on the board, which would help sort out financial planning issues, and most boards carry majority of outside members (non-medical staff, non-hospital administrators.)

High-performing hospitals tend to have more medical staff (about 30 percent) and more hospital administrators (about 10 percent) on Boards than those hospitals that perform about average. This could be attributable to the need to maintain quality care to attract patients and the need for unique information sharing provided by administrators and medical staff directly involved with hospital operations. However, it is noted that public hospitals should not have more than 50 percent of their members receive more than 10 percent on their income from a healthcare profession. In essence, many hospitals that attempt revisions of management oversight, board composition, public involvement and education as well as hospital bylaws, increase the flexibility of hospitals and this in turn improves effectiveness. The following matrix summarizes recommendations for efficient Board Governance, based on the exhaustive research of management practices and concepts at hospitals in the U.S. A model of discussion of board effectiveness is also presented.

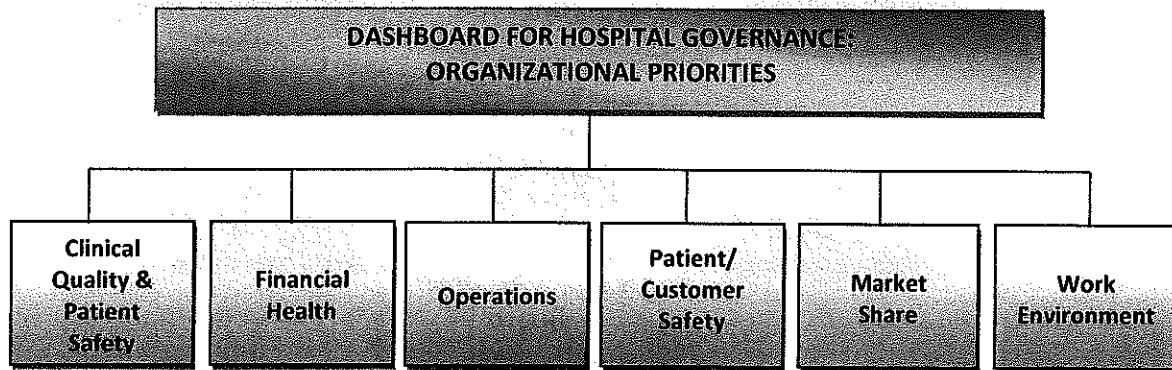
Broad Categories of Key Determinants of Board Effectiveness in Non-Profit Hospitals: Recommendations

Board Size	Board Power	Board Efficiency	Board Composition
<p>Reduce committee members to optimal size for efficiency</p> <ul style="list-style-type: none"> Many high performing hospitals have 11-14 total board members, at a maximum. <p>Reduce number of standing committees & maximize independency</p> <ul style="list-style-type: none"> Many high-performing hospitals have around 8 or fewer standing committees. Financial/business, strategic planning, governance of hospital, self-auditing, nominating, and quality committees are all critical to successful boards. 	<p>Create an active (proactive), independent board for oversight of management of hospital</p> <ul style="list-style-type: none"> Board members need to be actively engaged and be empowered in informed oversight of hospital, with specific guidelines for oversight of CEO and other executive performance. <p>Create a specific set of duties & responsibilities for board</p> <ul style="list-style-type: none"> The board's authority and duties must be clearly laid out alongside all those in standing committees and individual members. <p>Remove conflicts of interest</p> <ul style="list-style-type: none"> Many high performing hospitals limit the term of members to less than 3 years, some as few as one. Create independence from CEO (of hospital) and Board Director position. Have committee meetings without CEO or other hospital administration on a regular basis. 	<p>Reduce overall meetings to the amount necessary to achieve objectives</p> <ul style="list-style-type: none"> Many high performing hospital Boards meet less than 12 times per year. <p>Increase autonomy & independence of standing committees</p> <ul style="list-style-type: none"> Establish qualifications of members and formally create mandates for independent committees. Many high-performing hospitals have audits of budget/financial performance, governance of hospital, strategic planning and auditing of the board itself. <p>Promote timely information sharing</p> <ul style="list-style-type: none"> Regularity in meetings, required attendance, and access to members who can share strategically important information will improve decision-making speed and ability. <p>Prepare plans for removal or transfer of board members in the event of conflict or failure to perform duties</p> <ul style="list-style-type: none"> Specific guidelines and timelines should be created to ensure board members fulfill their duties, when members fail to meet their responsibilities, an efficient codified plan to correct the problem should already be in place. 	<p>Establish qualifications needed based on the demands of external constituents</p> <ul style="list-style-type: none"> Be sure to include members experienced with strategic planning in hospitals, financial services, medical care, and of course administration related to funding from local or federal government (public relations). <p>Do not over or under emphasize particular qualifications in members</p> <ul style="list-style-type: none"> Highly effective hospitals often have about 30 percent medical staff, 60 percent outside independent directors (usually from business and financial services), and about 10 percent hospital administration. Over emphasis in one area can change board power dynamics and create a biased view of strategic objectives. Board appointments based on competence, not political connections.

Recommendations for the Jackson Health System based on Key Determinates of Board Effectiveness			
Board Size	Board Power	Board Efficiency	Board Composition
<p>Reduce the number of Public Health Trust members, currently at 16 members and 7 ex-officio members, to 11-14 total board members. This is the recommended maximum size for efficiency.</p> <p>Do not exceed the number of current standing committees, currently at 6 within the Public Health Trust, in order to maximize independence and to meet the strategic goals of the Public Health Trust.</p>	<p>The Operations Oversight committee shall be independent and provide informed and proactive oversight of the hospital system, with specific guidelines for oversight of the new CEO and other executive performance.</p> <p>Revisit and update the duties and responsibilities for the Public Health Trust members under the new CEO.</p>	<p>Reduce excessive meetings to the amount necessary to achieve strategic, planned objectives.</p> <p>Increase the autonomy and independence of the six standing committees.</p> <p>Require timely information sharing and attendance guidelines for members. If guidelines are not met, plans should be in place so that members failing to perform their duties are removed or transferred.</p>	<p>Among other members with diverse professional experience, include members who have the following background and experience: hospital management, strategic planning and financial management of hospitals and administration related to funding from local, state or federal governments.</p> <p>Ensure that Public Health Trust members are appointed based on their merits and competence, not for their political connections.</p>

Furthermore, determinants of a quality and efficient hospital system depend on important policies being in place and a tool to measure the operating functionality of such policies. As shown in the figure below, a **dashboard for best governing practices** should be included as part of a system-wide performance management tool to measure, track and carry out the performance priorities as determined by the hospital system's Board of Directors and management. An effective governing body adheres to guidelines that are in place to ensure the seamless function of its mission. For example, **an effective governing body will have a strategic plan in place which incorporates measures for clinical quality and patient safety, financial approaches and top patient care and employee satisfaction practices.**

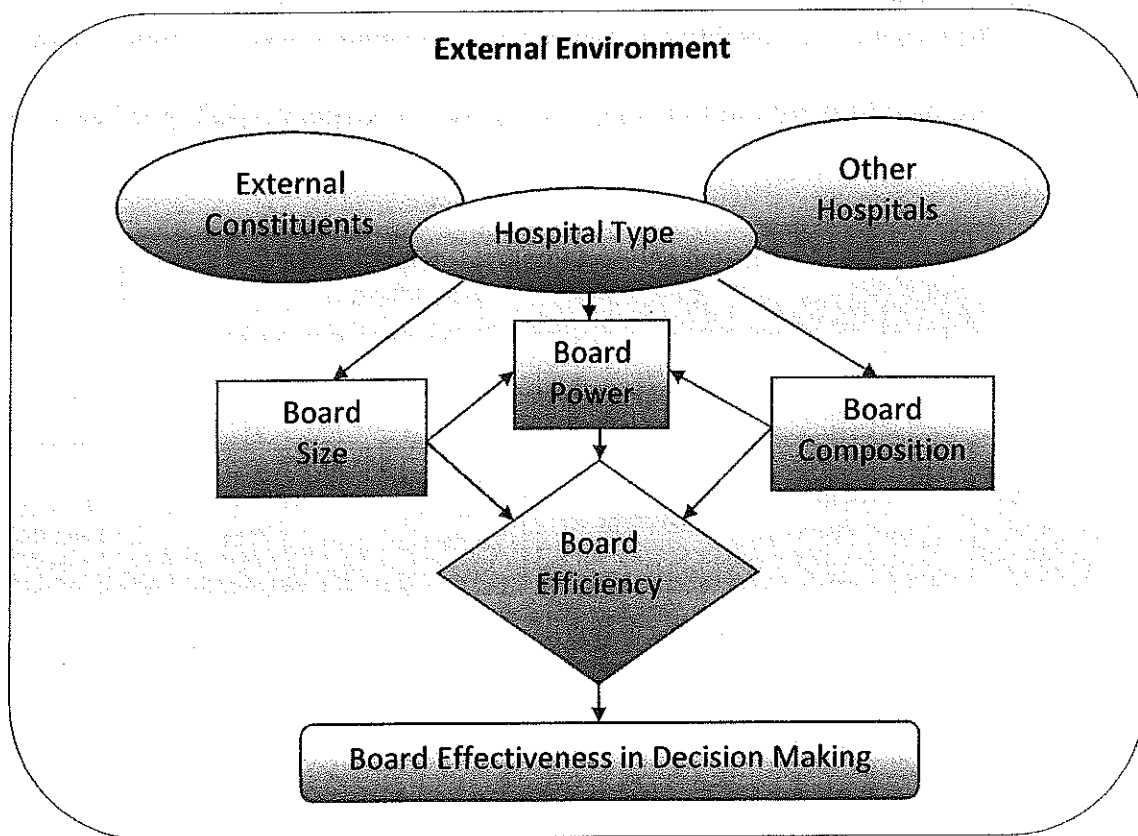
Organizational Priorities in Hospital Governance: A Recommended Dashboard



V. CONCLUSIONS ON BOARD GOVERNANCE AND EFFECTIVENESS IN DECISION MAKING

Based on the research conducted, below is a schematic summary of factors impacting decision making within Boards.

Model of Factors Contributing to Board Governance Effectiveness in Decision-Making



Source: The Washington Economics Group, Inc.

Research and cases presented in this Study suggest that simply changing legal status may not improve efficiency. Board governance efficiency depends on best practices as discussed in this analysis, not legal structure per se. Efficient boards are equipped to deal with non-performance issues proactively so that problems do not perpetuate. Efficiency could be described as maximizing the productivity of meetings, minimizing conflicts of interest (and therefore reducing agency costs), sharing information in a timely fashion and attending to strategic concerns and implementations of decisions while they are relevant. Accordingly, efficiency seeks the optimum amount of meetings to facilitate this process. Efficiency is in turn partially a function of *board power*, *board size* and *board*

composition, with the latter two factors also affecting board power, and all factors related to the strategic fit with hospital type.

As mentioned previously, each hospital requires its own unique board structure and composition to yield optimal efficiency in decision making. ***Hospital type*** will partially dictate this need as private hospitals and public hospitals face different needs; taxing districts versus public trusts that report to county commissioners are facing different pressures for funding, and of course size and scope of hospital care are important as well. Each hospital has a unique array of ***external constituents*** that it must attend to in order to maintain legitimacy that may help attract scarce resources. These hospitals are also operating in an external environment where they compete with *other hospitals* for resources such as Medicaid funding, patients and medical staff (as well as board members). Thus, the optimal board structure is contingent on a number of external factors interacting with internal factors. So although benchmarking is a good way to determine if the governance structure is not efficient, it should most likely be taken as reform priority only in cases where there is a large difference in the recommended structural norms that lead to high performance and what the focal hospital structuring looks like. It is also worth considering any structural reform in the case of larger macro-environmental reform or changes, as high performing hospitals under one set of conditions may not be high performing under alternate conditions in the external environment (i.e. changes in health insurance coverage or economic conditions).

The type of legal structure of a hospital (for-profit, (501)(c)(3), public, Taxing District) has less to do with the viability and quality of care of a hospital than efficient board governance, effective strategic planning and implementation and top management qualities. Positive financial results and top quality care **are the results** of these factors, not the results of the legal structure of a hospital.

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APPENDIX I

SPECIFIC HOSPITAL CASES AND EVIDENCE OF EFFECTIVENESS

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SPECIFIC HOSPITAL CASES

- **Grady Healthcare System (GHS)**

GHS, based in metro Atlanta, was and still remains a non-unionized hospital system with nearly 1,000 beds and one of the largest Level 1 Trauma Centers in the U.S. More than ¾ of its patients were on Medicaid or uninsured in 2008. Up until 2007, GHS was a Hospital Authority model marred with allegations of corruption and discrimination, alongside highly politicized board members not yielding authority to leadership at the hospital. Prior appointed boards lacked independence and expert backgrounds such as finance and information technology, and Grady Memorial Hospital faced a \$120 million shortfall. From 2005-2008 there were five new CEOs. The System also had issues with recruiting and retaining qualified employees and firing those not meeting standards as a result of civil service limitations. In 2006, GHS was bordering on insolvency and accordingly, officials established the “Greater Grady” Task Force that was asked to return GHS to a viable healthcare entity.

The “Greater Grady” Task Force recommended restructuring the legal entity and changing board governance structure to the Grady Memorial Hospital Corporation. The agreement had many provisos including \$200 million in commitments from the business community in Atlanta, commitments to retain vital healthcare services for the community and to raise \$100 million in philanthropic funds by 2012. The new board was put in place that had 17 members with four of them retained from the current board. A new CEO was also appointed in less than six months and within 9 months GHS had \$42.6 million enhancements in revenue cycle, \$17.2 million in supply chain savings and had received over \$50 million in philanthropic funding.

As part of the Metro Atlanta Chamber of Commerce’s request for best governance practices, the following main findings and recommendations to GHS were:

- Board sizes of high performing hospitals were about 11-14 members, met about 8-12 times per year, had around 8 standing committees,
- Boards should have three or more members with finance experience,
- Twenty (20) to 30 percent of members with hospital and medical expertise and a majority with management experience,
- Clearly established guidelines for monitoring CEO performance and a separate auditing of board performance.

- **Cook County Health & Hospitals System (CCHHS)**

CCHHS, formerly known as the Cook County Bureau of Health Services (CCHHS) in Chicago, Illinois, is a unionized hospital that serves the approximately 5 million residents of Cook County, Illinois, with its three hospitals and various health and services departments. It is a teaching hospital with Level I Trauma Center and 464 beds among its hospitals. In 2008, an 11-member board was elected by the Cook County President and County Board of Commissioners in an effort to improve efficiency and delivery of healthcare to the residents of Cook County, overseeing a budget of nearly \$1 billion in medical care to its 500,000 annual patients.

In May 2008, a report to the Union League Club of Chicago and to the citizens of Cook County was prepared by the National Public Health and Hospital Institute (NPHHI) regarding best practices in Public Hospital Governance. The Report presented proposals to the restructuring of the Cook County Bureau of Health Services. It also examined governance models such as a semi-autonomous Board within Local Government, Independent Non-taxing Unit of Government, Independent Taxing District and Nonprofit Corporation. The findings were mostly applicable to taxing and non-taxing units of government, but it stated that regardless of the model (even in nonprofit corporations), 'best practice' recommendations would apply.

The NPHHI Report found the following: reorganization success was contingent on achieving a balance between *autonomy* (in critical areas such as budget and finance, strategic planning, procurement and purchasing, and personnel) and *accountability* by elected officials and the community to ensure public funds are being used efficiently.

Board organization initiatives need to simultaneously consider the following areas to optimize efficiency: size (7-13 members), appointment procedures for members of the board (broad range of interests should be represented, no single political entity should appoint members), removal policies for board members (if members violate bylaws or fail to do their job), term staggering and term limits (directors 4-year terms, members 3-year terms with revolving appointments to avoid loss of entire board at once), qualifications of board members (including management, law, finance, and medical or health backgrounds), bylaws to guide meetings and behavior of members, number of standing committees (6-8 committees with auditing of governance and finance/accounting paramount among others), board education (keeping members informed on matters of importance and training new members), board action (voting requirements for decision making), removal of conflicts of interest (external linkages that can create bias and/or agency costs should be reduced or eliminated), and indemnification against liabilities (such that there is no liability for members acting in the best interest of the hospital that would inhibit board members from taking action on

strategic matters of importance). *Accountability and transparency* should also exist such as: who is voting on important issues, the keeping of records, listing of mission, and maintaining some local government reserve powers for accountability, but many public hospitals cite *transparency* as the Achilles heel of public hospitals – when competing with privatized hospitals that do not keep a public record of their strategic discussions and initiatives.

The recommendation of the NPHHI Report was that in the circumstance of the Cook County Bureau of Health Services, it should create a hospital board within county government. The board should consist of 11-voting members and one non-voting CEO ex-officio member with various appointments made by alternate political entities. The board members should have 2-year staggered terms and should delegate authority to the hospital CEO and hospital administrators whenever possible while maintaining oversight. Many of these recommendations were implemented the same year.

- **Denver Health**

Denver Health is Colorado's primary safety-net hospital, is non-unionized, and has 477 beds and a Level 1 Trauma Center. The system provided about \$300 million in uncompensated care in 2008. Formerly a department of the city/county government during the early to mid-1990's, Denver Health had difficulties dealing with operational flexibility and faced many constraints by local government both in civil purchasing and service as well as legal constraints. The hospital and 11 community clinics operated in rather isolated fashion and leadership lacked the authority or experience to make decisions that could improve management.

In 1997, Denver Health became the Denver Health Hospital Authority (DHHA). Prior to this change, a task force was commissioned to examine alternative mechanisms/models of governance including: a not-for-profit corporation, public benefit corporation, hospital district and a hospital authority. The move to a hospital authority was instrumental in increasing the management's efficiency, flexibility and ability to act strategically while still remaining a public entity. The board now consists of 9 members appointed by the mayor that are otherwise insulated from local political pressure and have a great deal of autonomy. Although the structural change was influential, the success of the system was more in line with gaining flexibility which led to increasingly efficient practices.

The 9 members have 5-year terms limits and direct the financial management, education, personnel, quality assurance and compensation activities as well as Denver Medical Health Plan, Inc. The CEO reports directly to the board and suggests that the new stability in

leadership has facilitated the strategic planning and implementation process. The new DHHA was transferred property and other balance sheet assets with the following provisions: 1) that the assets be used to support the hospital's mission, 2) the assets not be sold without permission, 3) over time the Authority provide an amount of unreimbursed care equal to the value of the assets, and 4) in the event of default, all assets will revert back to the city.

The hospital's operational flexibility has improved alongside its integration with multiple care facilities. The hospital now has a competitive market-based salary structure for physicians and other medical staff and has integrated county, state and federal funding and negotiated improved DSH financing. Since making the change they have delivered over \$1 billion in unsponsored care, have had \$130 million in capital improvements and currently have a positive net margin.

- **Tampa General Hospital**

Tampa General Hospital (TGH) is a private not-for-profit hospital serving 12 counties and a population of over 4 million. It is the region's leading safety net hospital and has the region's only Level 1 Trauma Center that serves the 23 surrounding counties. This Hospital has 1,004 beds and around 6,700 employees. TGH has a longstanding relationship with the University of South Florida's College of Medicine (since 1970), and serves as the College's primary teaching affiliate with over 300 residents assigned to specialty training in a broad spectrum of areas from neurosurgery to internal medicine. TGH is presently governed by a 15-member, volunteer Board of Directors that includes four M.D.'s, one of whom is chief of staff, and a non-physician Chairman of the Board.

Tampa General Hospital opened in 1927 as Tampa Municipal Hospital, a 250-bed facility that would later become the region's largest provider of indigent care. Its governance structure has changed several times during its lifetime with hospital board governance in 1931, City Council oversight in 1949, a Hospital and welfare board in 1963 and then to a Hospital authority under the county board of commissioners in 1980. Governance in some cases was related to external involvement and/or contribution. In 1971, the Hillsborough County Commission agreed to supplement revenues to TGH with property taxes; in 1981 the Hospital authority issued a \$166 million bond to renovate the hospital and create another 550-bed tower, and in 1985 another quarter-percent sales tax was added to fund indigent healthcare (the tax law lapsed in 1987) amid warnings of an impending financial crisis. Prior to this, in 1983, TGH was recording financial losses beyond \$11 million per year and was on the verge of bankruptcy, as it was providing a disproportionate amount of the share of charity healthcare (up to 75 percent of the indigent care in 1990-91) yet dividing the balance of support by as many as 10 hospitals by 1991. Indeed, the lack of proportionate support as

well as the inability to compete effectively with many privatized hospitals that emerged in the region during the 1980s and 1990s is blamed for the 13 years of losses prior to the privatization of TGH in 1997.

Several attempts had been made to privatize the hospital prior to 1997. Many attributed the financial issues of TGH to the bureaucracy of being a public hospital which some argued prevented TGH from moving to a better location off of the inconvenient Davis Island, making all meetings available to the public, essentially disclosing the hospital's strategic initiatives to competitors and withholding from county commissioners Medicaid funding, in some cases to leverage transparency of hospital finances and operations. Hospitals accounting policies, in particular 'cost shifting,' are issues with many hospitals facing similar shortfalls, as indicated by a former member of TGH's Board of Directors; public hospitals could offset some of their losses by overcharging paying customers and the privately insured. As insurance reimbursement policies became more stringent throughout the 1980s this became more difficult.

Prior to achieving privatization several options were considered in order to help alleviate the financial issues facing TGH including such broad tactics as divestiture (sale of assets) and reorganization. Many options had mixed support, however and were met with resistance. The president of TGH in the mid-1980s, Newell France, believed privatization was the only method of offsetting skyrocketing indigent care costs with diversified revenue streams. Privatization would also allow the CEO and hospital more autonomy to negotiate contracts, making them more competitive, although he was unable to achieve this reorganization. David Bussone, the TGH president from 1991-1995 believed the hospital's public status decreased its ability to compete effectively with surrounding privatized hospitals, yet he attempted divestiture measures, and such changes did not sit well with the public community.

Although privatization seemed like the best option to many hospitals executives it was consistently opposed by the public and was not without its drawbacks. One main reason it was met with opposition was that the public believed privatization would lead the hospital to abandon its mission as a safety net provider of healthcare to indigent patients. In the case of TGH a move from public to private nonprofit was viewed by the public as the same as moving to private for-profit status. As with many cases of privatization, the loss of government funding and some legal abilities provided to public hospitals was a concern. For example, the Lien Law that allowed TGH to place a lien on the awards of accident victims. Privatization did not grant the hospital that same right and from 1998-2000 revenue stream losses from Medicaid and the Lien Law were as much as \$40 million.

TGH was reorganized as a private nonprofit, with its present 15-member volunteer board, in 1997. However, it continued to absorb financial losses for several years after the move, partially as a result of the transition in funding to a (501)(c)(3) and also amidst a challenging political environment and public anger. The public continued to lobby for transparency of operations under Florida's Sunshine Law. TGH recorded a \$4.1 million profit in 1997, however, experienced losses of \$17.3 million in 1998, \$10.2 million in 1999 and \$7.1 million in 2000 until it (TGH) reversed the trend and achieved a \$9 million profit in 2001 and \$56.2 million in 2002. During 2003, the City Council also approved a \$103 million expansion. In addition to the financial turnaround, and despite worries that it would no longer serve as a public safety net hospital, the hospital's indigent care expenses more than tripled from 1999 until 2003. Deloitte and Touche estimated that although initially privatization looked more costly than the former model of governance, the \$11 million in losses for 1999 would have been quadrupled had they not privatized. Total profits rose consistently from 2004 until 2007 (as did indigent patient expenses) when it recorded profits of \$67.2 million, yet in 2008 it saw a sharp decline in profits to only \$5 million.

Privatization at TGH was not immediately effective, despite its initial profits; several more years of financial losses occurred, mostly as a result of non-cooperation and coordination with the external environment. The move toward privatization did mean that some governmental funding limitations were placed on TGH as well as rights such as with the Lien Laws, however, the following are some of the benefits sought and achieved by TGH as well as other privatizing hospitals:

- Greater strategic and managerial flexibility achieved by removing the bureaucracy of public oversight and procurement rules,
- Ability to seek alternative revenue streams, such as philanthropic contributions under (501)(c)(3), in response to a lack of community and local governmental tax and funding support,
- Organizational streamlining for efficiency of operations and improvement of quality of services and costs savings,
- Medicaid Managed Care to create strategic partnerships with a variety of specialty healthcare providers that matched demand efficiently.

- **Shands Healthcare**

Shands Healthcare is a private, not-for-profit hospital affiliated with the University of Florida's Health Science Center in Gainesville, Florida. Shands Hospital at the University of Florida is unionized while the other hospitals within the system are not unionized. Shands encompasses two academic Medical Centers and two specialty Hospitals as well as outpatient programs and physician practices. It has nearly 1,500 University of Florida (UF) faculty and community physicians alongside over 13,000 employees and roughly 2,000 volunteers that serve 17 counties and receive patients from all of Florida's 67 counties. Shands has two Level I Trauma Centers with emergency air and ground transport, with 220,091 emergency room visits, 1,154,115 outpatient visits and 1,807 licensed beds that served 85,527 hospital admissions in fiscal year 2010. Shands has a 19-member Board of Directors and was a recipient of the 2008 Governor's Sterling Award for Excellence in Performance with scored categories that include leadership, strategic planning and process management among others.

Shands was originally part of what is described as an Academic Health Center (AHC), which in essence is a set group of interrelated entities including such things as medical schools, clinical practices, research activities and associated teaching hospitals, for example. These relationships vary from highly related, with a single CEO and oversight board, to loosely-integrated, independently led and separately board-governed entities. Founded in 1956, the UF Health Sciences Center grew to include colleges of: medicine, nursing, pharmacy, dentistry, veterinary medicine and public health by 1995, in essence growing more diversified and complex. In 1976, a faculty group practice was introduced under the (501)(c)(3) status and in 1980 another Health Center was established in Jacksonville, 70 miles away. The collection of entities often had alternative strategic needs and conflicts among parties within the AHC emerged contributing to decreased efficiency. In the late 1970s and early 1980s, changes in the external environment created significant liabilities for the Shands Teaching Hospital Model AHC. Notably, Shands was facing increased competition from privatized hospitals; it faced significant curbs in reimbursement from the federal Medicare program, and had increased legal and financial risks as a teaching hospital.

In 1985, in response to external pressures, Shands Teaching Hospital was spun-off into a private nonprofit corporation with the primary function of supporting the University of Florida Health Science Center. This move significantly increased operational flexibility and allowed Shands to compete with other privatized hospitals more effectively, particularly with issues related to purchasing and personnel that were state-regulated under the previous legal classification. It has been recognized however that some drawbacks came from the new system, such as an incremental medical liability insurance coverage of \$12 million per year and perhaps some errors with purchasing made for Gainesville facilities, not critical to Shands, but thought to be strategically important to prevent competitors from acquiring them. Additionally, in 1998 the position of Vice President for Health Affairs was combined with the position of Dean of Medicine, while the President of the University became the Chairman of the Board. Although the President's position as Chairman was to be temporary, it became permanent in 2003 with the passage of new legislation. In the fiscal year ended June 30, 2010 Shands provided \$152.4 million in unsponsored care and generated a profit from its consolidated operations of \$26.9 million.

Although Shands Healthcare was proactive in its move towards privatization and still largely assumes its initial role as a teaching hospital in support of the University's College of Medicine, providing \$40 million in academic and clinical program funds to the college in 2007-2008, there is some concern over the disintegrated nature of the Academic Health Center. Having so many constituencies under one roof has caused some to worry that turf wars between one entity, for example the college of medicine, and another, for example the hospital will emerge. Thus, although Shands has been successful at pleasing multiple constituencies, and proactive in changes to its legal structure that aided in enhancements of operational efficiency and flexibility, it is recommended that additional attention be placed on the integration of all interrelated entities, particularly at a functional-level. Shands Healthcare has a 19-member Board that oversees separate hospital boards and is considered somewhat disintegrated at present, although efforts are being made to reverse this trend.

Indeed, in 2010 the Shands Hospital Board of Directors voted to restructure governance at Shands Jacksonville and Shands at the University of Florida so that they would more closely collaborate as 'sister' entities. It is considered vital that the faculty recognize that the partners who run the hospital have a great business acumen and extensive managerial expertise that will enhance competitive positioning.

The study of the economic impact of the proposed project is a complex task. It requires a thorough understanding of the project's nature and scope, as well as the economic conditions of the area in which it is to be carried out. The following sections discuss the various factors that must be considered in such a study.

First, it is necessary to determine the project's objectives and the benefits it is expected to bring. This involves a careful analysis of the project's description and the needs of the community. Next, the economic conditions of the area must be studied. This includes an examination of the local economy, the labor force, and the existing infrastructure. Only by understanding these conditions can the project's impact be accurately assessed.

Finally, the study must take into account the potential for both positive and negative impacts. While the project may bring new jobs and income to the area, it may also displace existing workers or cause environmental damage. A balanced and objective study will consider all of these factors and provide a clear picture of the project's overall economic impact.

APPENDIX II

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MEMORANDUM

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DATE: May 3, 2011
TO: Bob Johnson
FROM: Larry S. Gage
SUBJECT: Comments for Governance Task Force on Proposed Models

You have asked for comments on the pros and cons of organizational and funding models under consideration by the Governance Task Force. I am happy to provide the following general observations, and to follow up as needed in response to any questions you (or other members of the Task Force) may have.

I. Structural and Governance Models.

You have suggested that the following models are under consideration by the Task Force:

- a. Direct Operational Control by the County
- b. Direct Operational Control by the University
- c. Status Quo (Separate Governance Entity)
- d. Enhanced Status Quo
- e. Hospital District Authority
- f. Taxing District
- g. Non- Profit Organization formed by the County
 - 1) 501 (c) 3
 - 2) Public Benefit Corporation

I think that realistically, there is very little to be gained (and potentially much to be lost) by returning Jackson Memorial to the direct operation of the County. One of their current obstacles to success – as described in considerable detail in my 2008 report – is the fact that even in its current structure as a semi-independent Public Health Trust, the JHS Board and management has not been granted adequate autonomy from County rules, regulations and requirements. For this reason, I would also discourage the Task Force from thinking about the status quo as an option, unless the County was willing to give the Trust considerably more autonomy than they currently enjoy.

Of the remaining options, the same comments would apply to either an Authority or public benefit corporation structure. Both are generally thought of as semi-independent entities that retain ties to

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the governmental entity that created them. Those that have had the greatest measure of success in transforming their systems have been granted considerably greater autonomy than is currently enjoyed by the JHS Board and management. Since such autonomy could clearly be granted under the current structure if the County was willing to do so, there would likely be little need to also create an entirely new authority or PBC structure to accomplish the same goal (unless it is done for image or "branding" purposes.)

Each of the remaining three options (operation by university, taxing district, 501-c-3 non-profit corporation) has the potential to generate substantial improvement over the current situation, although each also has drawbacks.

The creation of an independent taxing district certainly has some merit. The major difference between an authority/PBC/trust type of structure and a taxing district is the ability to collect and spend tax revenues directly, without needing to rely on the County. There will likely remain a substantial need for supplemental funding for the foreseeable future. Even after the implementation of health reform (assuming it is ultimately implemented and not repealed by the Congress or thrown out by the courts), there will be a substantial need for uncompensated care by populations that will not be covered (immigrants) and for community-wide services provided by JHS that will likely never be adequately funded by patient care revenues. Moreover, there is ample precedence for the creation of taxing districts in Florida, and their boards are often appointed by a combination of state and local governing bodies, thereby somewhat insulating them from politics at either level. (If a taxing district model is considered, I would suggest looking at the Palm Beach County Health Care District rather than the North or South Broward Districts, whose boards are appointed entirely by the Governor. Three members of the seven member Palm Beach District Board are appointed by the Governor, three by the County, and the seventh is the County Health Officer serving ex officio.)

On the other hand, the creation of a taxing district requires a number of political approvals, including the approval of the voters who reside within the district. This has been considered to be politically unfeasible in the past. Also, Governor Scott has recently made clear his concern about taxing districts and appointed a commission to study them, so this may not be an ideal time politically to seek to create a new one. Finally, it is well known that the North Broward District is itself seriously exploring alternative models to its current district structure, so that this structure may not ultimately prove to be ideal.

Direct operation by the University of Miami also has much to recommend it, provided that sufficient operating autonomy can be delegated to the University to permit it to take the necessary steps to transform the system and to integrate it thoroughly with the other components of the current University Health system. The model for a management relationship (both in terms of structure and in terms of achievement of success) is the management of Harborview Medical Center, the major public teaching hospital owned by King County, by the University of Washington. Harborview retains its own separate Board, appointed by the County, which oversees the relationship, but the University has been granted full control over personnel, operations, procurement, etc.

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Potential barriers to the success of a University of Miami management agreement may include the difficulty of negotiating all of the details of such an agreement, the willingness of the County to enter into the required funding agreements, while providing iron-clad assurances that there would not be political interference once the relationship is established, and the question of how such an agreement would fit within the long-range strategic plans of the University for its own health system.

One way to address these concerns would be to consider the third remaining model, which is the creation of a new non-profit corporation to operate the Jackson Health System. Such a new corporation would by its nature need to be granted substantial operating autonomy, which would include the ability on its own to enter into a more robust management or affiliation agreement with the University. Such a model could also be considered a stepping stone to a full asset merger with the University Health system, through the creation of an entity like the Boston Medical Center (which I would suggest as a very positive model for the Task Force to consider carefully). The creation of a non-profit corporation that retains the mission of a safety net health system has clear analogies in Florida (Tampa General) and in other states (Grady Memorial, Truman Medical Centers, etc.).

Potential obstacles to the successful implementation of a non-profit model would include the degree to which the County was willing to transfer all of the necessary financial and operating autonomy (including personnel, financial and procurement autonomy) to the new corporation, while also ensuring adequate funding for the system's safety net mission.

2. Your second question related to the development of a financial model between Jackson Health System and Miami-Dade County that addresses:
 - a. Mutual accountability
 - b. Pays JHS for indigent care
 - c. County Mandated Services
 - d. A system that keeps pace with health care inflation

Some of my observations about the financial model are included in my comments on structural issues above. As noted above, it is highly unlikely that the Jackson Health System will be fully self-supporting from patient care revenues at any time in the foreseeable future, even with the implementation of health reform. All of the elements identified above will therefore remain essential to the ability of the JHS to continue to fulfill its multiple missions, even while implementing transformational reforms that could ease future pressure on and need for subsidies and supplemental funding. It is important to note that the state will remain an essential partner in adequate funding for the Jackson Health System, under any structure adopted. Leveraging local tax dollars to draw down federal Medicaid dollars for various purposes will remain an important part of the model.

Models for Organizational & Structural Reform

Larry S. Gage, President, NAPH

Partner, Ropes & Gray LLP

Miami-Dade County Hospital Governance Task Force

April 8, 2011

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Agenda

- What is a “typical” public hospital?
- Why do public hospitals restructure?
- Case Studies of Structural Reforms

What is a "Typical" Public Hospital?

- Direct governance by elected/appointed officials
- Advisory board or commission
- Freestanding board with some autonomy
- State University
- Hospital District
- Hospital Authority
- Public benefit corporation
- Private non-profit corporation
- Public/private partnership

Public Hospitals in Transition

- In 1981, half of NAPH members were traditional City or County owned hospitals
- Less than 10% retain that structure today
- Restructuring is seen as one response to strategic and financial threats and opportunities

Why Do Public Hospitals Restructure?

- Financial pressures
 - Large numbers of uninsured and underinsured patients
 - Community need for money-losing services
 - Increased demand, reduced funds when economy slows
 - Disproportionate impact of Medicaid cuts and “reforms”
 - Aggressive competition for reimbursed services
 - Drain on local government resources
- Lengthy budget & decision-making process
- Limited control over revenues, expenditures
- Personnel & procurement constraints
- Under-funded medical education role
- Access to capital
- Ability to partner or compete
- Need to prepare for health reform

Health Reform: Challenges & Opportunities

- Coverage Expansion
 - Health Insurance Exchanges (29 Million New Members by 2019)
 - Expands Medicaid (16 Million New Enrollees by 2019)
- Delivery System Pressures
 - Value-based Purchasing
 - Hospital Readmissions
 - Hospital-Acquired Conditions
 - Payment Bundling
 - Accountable Care Organizations & Medical Homes
 - Primary Care Reimbursement
- Payment Reductions

Health Reform – Delivery System Reforms

- Payment Innovation Center
- Medicaid Global Payment Demonstration
- Accountable Care Organizations
- Community-based Collaborative Care Networks
- Payment Bundling Demonstration
- Uninsured Access Demonstration
- Community Health Teams Support Patient Centered Medical Homes
- Federal Coordinated Health Care Office for Dual Eligible Patients

Advantages of Public Status

- Access to county tax revenues
- Access to general obligation bonds
- Ability to make Medicaid transfers and receive supplemental payments
- OSHA, Social Security, labor, antitrust, tax and other federal and state exemptions
- Availability of cross subsidies for prevention & public health
- Sovereign immunity and eminent domain
- Access to municipal support services – pension, benefits, self-insurance fund, etc.

Checklist: Typical Goals of Governance Reform

- Reduce costs/improve operational efficiency
- Strengthen clinical integration
- Improve quality and patient satisfaction
- Enhance reimbursement opportunities/broaden payer mix
- Improve relationship with County: insulate County from future risk
- Raise capital/reduce indebtedness
- Improve ability to act competitively
- Achieve closer affiliation with other system(s)
- Prepare for health reform through creation of regional integrated system

Case Studies: Models of Governance Reform at Other Safety Net Systems

Potential Models for Governance Reform

- Independent Authority or Public Benefit Corporation
- Independent Taxing District
- Contract management
- New non-profit corporation
- Merger with existing non-profit system
- Acquisition by for-profit system

Independent Authority or Public Benefit Corporation

- Special legislation authorizes transfer of significant County services & powers
- State law may authorize County to create through resolution or ordinance
- County can appoint board
- Assets, personnel, programs, obligations can all be transferred to new entity
- Contracts and agreements between County and authority govern services, funding
- County reserve powers

Independent Authority or PBC: Examples

- Alameda County Health Care Authority
- Hennepin County Medical Center
- Nassau & Westchester Counties NY
- Denver Health & Hospitals Authority
- Hawaii Health Systems Corporation
- New York City Health & Hospitals Corporation
- Universities of Colorado, Kansas, Wisconsin

Alameda County Health Care Authority

- Hospital authority with County-appointed Board
- Objectives:
 - More flexibility and autonomy
 - Greater ability to compete in healthcare marketplace
 - End County's perceived funding "drain"
- Results:
 - Revenue and productivity have improved
 - Estimated increase in revenues per patient day
 - Improved personnel recruitment and retention
 - Enhanced ability to achieve passage of new tax
 - Greater financial stability for County and ACHC
 - Still realizing potential advantages
 - "Extremely beneficial"
- May seek additional power

Hennepin County Medical Center

- Authority with County-appointed Board
- Objectives:
 - More focused, dedicated governance
 - Greater ability to compete in healthcare marketplace
 - Reduce drain on County's property taxes
 - Restructure relationships with medical staff
- Results:
 - Improved productivity and more efficient operations
 - Volume of insured business growing
 - Improved personnel recruitment
 - Benefits of dedicated Board's focus
 - Compared with past trajectories, "very successful" financial projections
 - Serious work has begun on medical staff restructure

Independent Taxing District

- Common form of public hospital in Florida, California, Texas
- Each District established by statute in Florida
- A County may have one or more Districts
- Governing boards appointed by Governor in Florida
- Florida Districts enjoy broad powers
 - Create or purchase non-profit or for-profit facilities
 - Enter management contract for hospital
 - Transferring all or majority of hospital assets to third party
 - Create subsidiary, participate in joint venture
 - Levy taxes, issue bonds

Taxing District: Examples

- Maricopa Integrated Health System
- Dallas County Hospital District (Parkland)
- Harris County Hospital District (Houston)
- North & South Broward Districts

Taxing District: Examples

- **Maricopa Integrated Health System:**
 - Taxing health care district with 5 elected directors
 - County sought greater financial independence and autonomy for MIHS
 - Now benefit from greater stability, financial planning, flexibility
 - “Absolutely a net positive”
- **Dallas County Hospital District (Parkland):**
 - Longstanding taxing healthcare district with Board of Managers appointed by County commissioners
 - County approves the tax rate, the budget, and debt issuance
 - Recognizes health care as a business
 - Structure encourages flexibility and strong governance

Contract Management by Third Party

- Harborview Medical Center (County hospital managed by University of Washington)
- Wishard Memorial Hospital (City-County hospital managed by Indiana University)
- Brackenridge Hospital (City hospital owned by new taxing district and managed by Seton Health, part of Ascension)

Harborview Medical Center

- Details: Management contract under which Harborview Medical Center ("HMC") capital assets are owned by King County and HMC is managed by the University of Washington ("UW").
- Primary Goal: To maintain a hospital providing care for King County, while being a teaching center for UW.
- Legal Obligations:
 - HMC has own Governing Board, appointed by County
 - Determined to be an arm of state government, with state obligations.
 - All employees are considered UW employees; those who began at HMC prior to 1970 retain previously acquired county rights, including retirement benefits.

New Non-Profit Corporation

- Grady Health System
- Tampa General Hospital
- Truman Medical Centers
- Regional Medical Center at Memphis
- University hospitals of Florida, Maryland, West Virginia, Georgia etc.

Grady Health System

- Details: Lease and transfer agreement
 - Grady Health System, operated by Fulton-Dekalb Hospital Authority (the “Authority”), is leased to new nonprofit Grady Memorial Hospital Corporation.
- Primary Goal: To gain more operating autonomy from two-county Authority in order to contain costs and gain access to capital & philanthropy
- Legal Obligations:
 - Grady has no responsibility for former/retired employees
 - Grady remains subject to certain public requirements
 - Open Meeting & Records
 - Financial Reports

Tampa General Hospital

- Details: Transfer of Tampa General Hospital ("TGH") from Hillsborough County Hospital Authority to new private, non-profit corporation.
- Primary Goal: Given lack of local financial support, need to compete with private hospitals in the region for privately insured, Medicare and Medicaid patients.
- Legal Obligations:
 - TGH remains subject to liberally-construed sunshine laws.

Merger or Affiliation with Existing Not-for-profit Corporation

- Great Lakes Health System of Western New York
- Boston Medical Center
- UMass Memorial Health Care System
- Fresno County Valley Medical Center
- University of Arizona Healthcare

Great Lakes Health System of Western New York

- Details: Contractual relationship between Erie County Medical Center ("ECMC"), a public benefit corporation, and Kaleida Health, a non-profit corporation.
- Primary Goal: To address excessive bed capacity, duplication of services, and economic challenges in region.
- Legal Obligations:
 - ECMC maintains its status as a PBC, and remains subject to state ethics, personnel, and procurement policies.

Boston Medical Center

- Details: Merger of the public Boston City Hospital ("BCH") with the private not-for-profit Boston University Medical Center.
- Primary Goal: Consolidation of operations and relieving BCH of governmental constraints and obligations in order to improve payer mix and compete more effectively.
- Legal Obligations:
 - BCH must file an annual report to the city on its provision of health care services.
 - BCH is no longer subject to civil service or procurement rules.
 - BCH maintains its status as a public hospital for Medicaid DSH adjustments.

Characteristics of For-profit Systems

- Narrow market focus (urban, suburban, rural)
- Narrow business focus (operating hospitals)
- Junk-rated debt – but retain ability to borrow
- Bullish on health reform!
- Intense focus on operating efficiencies
- Labor costs average 40% of total costs (compared to 53% for all non-profit hospitals under \$1 billion)
- Supply costs under 16% of total costs (vs 18-20% for average community hospital)

For-profit Hospital Systems

Publicly Owned (#)

- HCA (154)
- Community Health Systems (126)
- Lifepoint (52)
- Hospital Management Associates (50)
- Tenet (49)
- Universal (25)

Privately Held (#)

- Vanguard (25) (Blackstone)
- Iasis (18) (Texas Pacific)
- Ardent (8) (Welsh Carson)
- Steward (6) (Cerberus)
- Essent (5) (Cressey, Vestar)
- Regional Care (4)
- LHP (2) (Formerly Triad)
- American Health Care Network (0) (Ascension and Oak Hill)
- Over two dozen PE firms waiting in the wings (with \$\$\$)

What Do For-Profit Companies/PE Investors Look For?

- Distressed hospitals in need of capital
- Ability to buy cheap and use leverage
- Potential to cut costs and improve cash flow
- Potential to generate scale for company
- Ability to cut deal with labor force
- Continuous growth – potential availability of other providers in market and/or state
- A viable exit strategy – sale, merger or IPO
- To be the next HCA.....

Potential Models of For-Profit Acquisition

- Amarillo Hospital District (Universal)
- Oklahoma University Medical Center (HCA)
- Memorial Medical Center, Las Cruces (Lifepoint)
- Detroit Medical Center (Vanguard)
- Caritas Cristi System (Cerberus/Steward)

Detroit Medical Center/Vanguard

- DMC down to a few days cash, with aging plant and equipment, inner city location, declining utilization, poor payer mix
- State refused bailout; local systems not interested; facing closure of most facilities
- \$1.267 billion "deal" closed January 1, 2011 – Vanguard agreed to assume \$417 million debt, assume pension obligations and spend \$850 million on capital over 5 years
- Non-profit board remains in place to manage \$140 million spent annually on charity care
- Deals cut with unions

Caritas Christi/Cerberus

- Six hospital Caritas Cristi system perceived to be failing in aggressively competitive Boston hospital market
- Both Ascension and CHI had passed on opportunity to purchase
- Cerberus agreed in 2010 to pay \$895 million to assume debt and pension liability and for capital infusion over five year period
- Cerberus had no previous health industry experience and no management team – Caritas management was preserved and became “Steward”
- Deal cut with SEIU to unionize workers
- Required approval of AG, Archdiocese, state Supreme Court
- Steward has already acquired two other Massachusetts hospitals and has aggressive expansion goals – desire to “scale up” for future “event”

In Conclusion – Issues to Be Considered

- Remember: effective governance is a tool, not a panacea
- System change requires will, ideas & execution
- Systematically identify key problems – and determine if a new structure can address them (conduct thorough preliminary assessment prior to making final decision to proceed)
- Carefully define new structure: make sure it has the resources and power it needs
- Lay out required process in detail before proceeding, e.g., authorizing legislation, referendum, board structure, services to be transferred, funding, personnel, procurement, information, accounting & financial systems, etc.
- Educate & enlist all relevant stakeholders
- Recruit an outstanding board – and let it function with sufficient autonomy to get the job done

September 10, 2010

VIA HAND DELIVERY
& FACSIMILE

To: The Honorable Board of County Commissioners
Commissioner Dennis Moss, Chair
Commissioner Barbara Jordan
Commissioner Dorrin Rolle
Commissioner Audrey Edmonson
Commissioner Sally Heyman
Commissioner Bruno Barreiro
Commissioner Rebeca Sosa
Commissioner Carlos Gimenez
Commissioner Katy Sorenson
Commissioner Javier Souto
Commissioner Joe Martinez
Commissioner Jose "Pepe" Diaz
Commissioner Natacha Seijas

From: Martha Baker, RN, President, SEIU Local 1991

**Re: Jackson Doctors, Nurses and Healthcare Professionals Respond to
PHT Grand Jury Report (BCC Agenda Item 6B2)**

Our healthcare union, which represents over 5,000 doctors, nurses and other healthcare professionals working at PHT/Jackson Health System, made the original request to have the Grand Jury investigate the operations of PHT/JHS. We did so because as we labor each day to save lives, we also are professionals dedicated to saving the public's health system.

We very much appreciate the efforts of the citizens who served on the Grand Jury. They recognized the importance of JHS to our community.

There are many important factual findings brought out by the report. These issues demand further investigation. However, there were multiple political conclusions and opinions offered by the report. If we are to have an honest discussion of the report it is critical that the community know the difference between political conclusions and factual findings.

Grand Jury Finds Evidence of Gross Operational Mismanagement Perpetrated by the PHT Administration and/or PHT Board.

The Grand Jury did an excellent job of framing the issues or as the report said, "incompetencies." Highlights of some of these findings include:

- Accounts receivables were overestimated by management and the PHT Board did not detect such errors, leading to a \$50MM deficit instead of a \$50MM gain in the 2009 budget.
- Management instituted a Net Patient Revenue Adjustment, and the PHT Board did not detect the error which lead to a falsely inflated revenue/AR. (pg 22)
- JHS management miscalculated contractual adjustments. As pointed out by the auditor, a huge error was created by JHS administration when it used an inaccurate reimbursement rate in calculating its projected revenue. (pg 23) The PHT Board never caught this error.
- Management thought there was a \$46MM budget deficit in 2009. PHT Board thought the same. However, it took external auditors to disclose the real deficit of \$244MM.
- The Revenue Cycle is broken and JHS was unable for years to properly collect on its billings. JHS paid millions to have Deloitte work at JHS with their primary assignment to fix the revenue cycle. Deloitte proceeded to rescue the broken department by staffing with their own employees and moving the entire billing world off campus. Then, when Deloitte left JHS 5 years later, the billing world collapsed again. JHS internal employees had never fully learned to properly collect all monies owed. JHS paid Deloitte greater than \$80MM over five years.
- The words of the report sum up certain managerial incompetence. "We were stunned by the lack of competence certain witnesses demonstrated during the course of their testimony about the finances of JHS...It appears to us that persons at JHS are working in positions for which they are not qualified...We have no confidence in the numbers presented in the internal financial reports...." (pg 20-21).

- As the report stated, “management should have known there was a problem because JHS issues monthly financial statements to management and members of the PHT. For fiscal year 08-09 the monthly CFO reports reflected the following warning signs:

- increase in money owed
- decrease in cash on hand
- decrease in cash and investments
- decrease in money coming in

The failure of the PHT [Board] to note this trend and address it in a timely manner may speak to the need to change the eligibility requirement for those serving on the PHT...”(Pg 26)

- “In the 2009 Audit Reports, the auditors found a certain deficiency that they considered a 'material weakness' in internal control, which affected the JHS financial statements.” The auditors also reported “the checks and balances ...were insufficient.”(pg 29)

The Grand Jury Offered a Political Conclusion, not Based on the Facts in the Report, but Rather Based on Their Personal Desire to Blame the County Commission for the Crisis at Jackson.

One would hope that personal opinions would not be intertwined into a factual report. Unfortunately, regardless of the facts the Grand Jury found, its ultimate conclusion in every case was to blame the woes on the governing structure of the PHT. In the end the report essentially blames the County Commission for the managerial incompetencies of certain Jackson administrators and the lack of proper oversight by the PHT Board members themselves.

The Grand Jury makes a flawed recommendation to change the governance structure and actually give *more* autonomy to the very PHT Board that was unable (or perhaps unwilling) to catch management's mistakes and "incompetencies." The auditors talk about insufficient “checks and balances,” yet the Grand Jury recommends removing a critical check and balance, the BCC.

Further, this report is being used by certain lobbyists to remove the ultimate check and balance, the voters of Dade County. They are disingenuously advocating to take away the right of the electorate to remove from office those who are accountable for Jackson by creating an insulated private organization.

There are many matters that may have lead to such gross incompetence at JHS. However, the Grand Jury only mainly focuses upon structure as the alleged culprit. With

millions of dollars mishandled not a single administrator was held accountable. No vendors or lobbyists were called into question. No indictments were issued. The report purposely avoided "naming names" – allowing public officials to evade responsibility.

The PHT Board only received one central admonishment. On pg 30 of the report it is written that, "The PHT's specific job is to make sure something like this does not happen." The PHT Board clearly failed to do their job. Yet the Grand Jury report suggests they get more autonomy in several arenas.

The County Commission and County Structure has Created an Outstanding Police Department, Nationally Recognized Fire Rescue Service, and World Class Healthcare at Jackson. Yet, now BCC is to be Blamed for the JHS Crisis.

How can the same BCC and County structure that manages our incredibly successful Police Department and Fire Rescue Department, become bumbling idiots with regard to PHT? The Police Department has the right to use lethal force. Fire Rescue becomes our front line during our most challenging crises. Why is it that only PHT business operation are running afoul of the public trust?

It is odd that the so called broken structure at PHT/JHS seems to also produce superb medical results. While some managers and the PHT Board commit operational malpractice, the healthcare professionals at Jackson perform medical miracles every day. The employees should be commended for their continued deliverance of excellent healthcare when the systems around them are crumbling with incompetence. The employees not only gave 5 percent of their wages, but took voluntary demotions and froze wages and bonuses for 12 months adding up to a 7-12 percent contribution in reality. The employees at Jackson donated over 100 million in concessions this year alone. The union employees also have created an Efficiency Task Force that is saving JHS multiple millions.

To make Jackson Stronger We must have an Honest Community Dialogue and not Engage in Political Games. It is perverse that a Report that Allegedly Seeks to take the Politics out of Jackson, has done just the Opposite. Instead of Sticking to the Facts and Looking for Solutions, the Report Bootstraps a Preordained Conclusion and Blames Everything on the Commission and the Employees. Simply put the Facts do not Support the Conclusion.

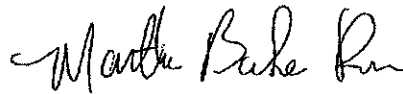
Critical stakeholders never appeared before the Grand Jury. Did any charity care patients testify? Did independent experts on hospital administration testify? Did renowned scholars on government and governance appear? Were any independent studies commissioned? We think not.

It is disconcerting also to note that many of the allegations and certain testimony presented was not verified or checked for accuracy. For example, the report is completely false when it reports that the BCC overruled the PHT and unilaterally gave employee raises. That never happened and the evidence proving otherwise is easily discoverable. We would like the Grand Jury to follow up to see if that witness committed perjury or was just mistaken.

It Is Time for the Stakeholders to come Together to Save Jackson

Instead of political gainmanship, self-serving task forces and anointed committees of 41 throwing political rocks, it would be best for the community and the stakeholders to have an honest dialogue. Can one imagine what healthcare would be like if our doctors and nurses approached a heart attack patient in the same manner that the Grand Jury approached its political conclusion? We, as medical professionals, must every day labor to save our patients lives. We now call upon the BCC to approach the Jackson crisis with the same professionalism and honesty.

Sincerely,



Martha Baker, RN, President

CC: The Honorable Katherine Fernandez Rundle
The Honorable Mayor Carlos Alvarez
County Manager George Burgess
PHT President Dr. Eneida Roldan

Hospital Governance Models

[illegible]

2007 Annual Report



A Decade of Service



Miami-Dade Office of the Inspector General

Office of the Inspector General



The Office of the Inspector General was established ten years ago and so this Anniversary Edition of our 2007 Annual Report is very special. I hope it helps you better understand our wide ranging investigative responsibility, mission and vision.

Our primary goal is to restore the public's trust in government by enforcing honesty and integrity in the business practices and policies of our County's projects, programs and contracts. I believe this report demonstrates that we have made significant progress in achieving this objective.

This report highlights some of our outstanding accomplishments over the past ten years by describing some of our more prominent and influential investigations, audits, and initiatives.

Because of the continued support my office has received from elected officials, County staff, the law enforcement community, the Miami-Dade State Attorney's Office, and, most importantly, from the public, we achieved momentum to help lead Miami-Dade County to earn a top spot as a leader in fighting corruption at the local level. Indeed, County government has become an active partner in this endeavor over the years through the enactment and implementation of many accountability programs and procedures. And for that I would like to express my deep appreciation. As always, the OIG will perform its statutory duties and root out corruption and abuse through accurate and unbiased investigations.

Very truly yours,

A handwritten signature in dark ink, reading "Christopher R. Mazzella". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Christopher Mazzella
Inspector General

A Decade of Service

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Office of the Inspector General

How It All Began

Ten years ago, in response to the public's demand for clean government, the Miami-Dade County Board of County Commissioners (BCC) created the Office of the Inspector General (OIG) in December 1997. The Office was created through the enactment of Section 2-1076 of the Code of Miami-Dade County, our enabling authority. It empowered the OIG to investigate and review allegations of waste, fraud, abuse and mismanagement in County government.

The BCC determined that the oversight of such a large and diverse government required the OIG to be independent and autonomous. To effectively uphold this mandate, the Commissioners vested the OIG with independent status so that it could carry out its goals without political interference. Miami-Dade County has one of the few inspectors general in the country that has jurisdiction to investigate officials at any level, including elected officials.

Offices of Inspectors General (OIG) are commonly known as "watchdog" agencies and are found in all levels of local, state and federal government. The Miami-Dade County OIG has oversight of over 60 County departments, including Aviation, Seaport, Transit, Housing, Community and Economic Development, Water and Sewer, Public Works, Planning and Zoning, Solid Waste Management, Human Services, Cultural Affairs, the Libraries, and the Miami-Dade Public Health Trust/Jackson Memorial Hospital.

In March of 2005, the Miami-Dade Board of County Commissioners voted unanimously on a new measure to give the OIG greater autonomy and independence by revamping the selection and removal process of the Inspector General (IG) and by specifically codifying the jurisdiction, powers and responsibilities of the OIG.

A Look At What We Do

Specifically, under its oversight responsibilities the Miami-Dade Inspector General has authority to conduct investigations of County affairs and to review past, present and proposed County programs, accounts, records, contracts, and

transactions. The OIG investigates allegations of fraud, waste, abuse and misconduct involving public officials and County employees, as well as contractors and vendors doing business with the County. It also has the power to report and recommend to County government whether particular programs, contracts or transactions are financially sound, reasonable, necessary or operationally deficient. The OIG may conduct random audits and inspections. The OIG may also provide general oversight on departmental programs and large-scale construction projects.

The Miami-Dade Office of the Inspector General serves the more than 2.3 million citizens of the County with the objective of preventing misconduct and abuse among public officials and County employees, as well as contractors and vendors doing business with the County. With a principal objective of promoting honesty and efficiency in government, the Office of the Inspector General strives to ensure that taxpayers get a fair and honest accounting of their money, and it seeks to find appropriate remedies to recover the loss of public monies.

In performing its primary mission, the OIG is empowered to require the production of documents and records by using its power to issue subpoenas, when proper and necessary. The OIG can also require reports from any County official, County agency or instrumentality regarding any matter within its jurisdiction.

The OIG's Executive Staff

Christopher Mazzella was appointed as the first Inspector General of Miami-Dade County in September 1998, upon retiring from a distinguished thirty-four year career with the FBI. Since becoming operational in the fall of 1998, the OIG has prosecuted officials involved in bribery, official misconduct, fraud, and election law violations. Mr. Mazzella earned the designation of Certified Inspector General by the National Association of Inspectors General.

As the County's Inspector General, Mr. Mazzella has participated on a number of task forces aimed at restoring integrity and ethics in County government. For instance, his participation on the Debarment Task Force played an important role in the adoption of legislation strengthening the County's debarment policy to exclude dishonest contractors. He also participated on committees studying procurement and lobbying reforms, and participated in the Ethics in Business and Government Committee of the Miami Chamber of Commerce. This group drafted a model business code of conduct. Mr. Mazzella often lectures to various professional organizations regarding the types of fraud cases investigated by his Office.

During his career with the FBI, Mr. Mazzella investigated and supervised complex organized crime and public corruption cases. In a famous organized crime investigation code-named "Operation Gangplank", the leadership of the Philadelphia organized crime family was dismantled. Mr. Mazzella was also responsible for a number of prominent public corruption prosecutions in South Florida.

Mr. Mazzella also held a number of executive level positions at the FBI. He was Legal Counsel for two field offices. While assigned to the Office of Legal Counsel in Washington, D.C., Mr. Mazzella conducted liaison activities with Congress and was instrumental in drafting legislation expanding the jurisdiction of the FBI. He served as the Organized Crime Drug Enforcement Task Force Coordinator for the Florida Caribbean Region. In that capacity, he coordinated the FBI's drug programs and investigations in the Florida

Caribbean region, involving over 200 federal, state and local law enforcement personnel. In that capacity, he helped secure millions of dollars in federal funding for local law enforcement initiatives and personnel.

The Deputy Inspector General, Alan Solowitz, has been with the Office since its inception and is primarily charged with heading the Investigations Unit. Prior to joining the OIG, Mr. Solowitz was a Law Enforcement Investigator with the Florida Division of Insurance Fraud, a Senior Investigator with the State of Florida Medicaid Fraud Control Unit, and was a police officer with the City of Miami Beach Police Department for 28 years. There he held the positions of Assistant Chief of Police, Chief of Investigations and SWAT Commander.

His extensive investigative background includes organized insurance fraud, health care fraud, corporate fraud, organized crime, money laundering, narcotics, violent criminal and racketeering investigations. Mr. Solowitz is a graduate of the FBI National Academy and the Institute on Organized Crime. He is a member of the American Institute for Industrial Security and is also a Certified Fraud Examiner. Mr. Solowitz is a Certified Inspector General and a board member of the National Association of Inspectors General.

The Assistant Inspector General and Legal Counsel for the Office, Patra Liu, manages and supervises the legal, audit and administrative units. As the chief legal advisor to the Inspector General, she provides independent legal advice on both procedural and substantive matters and monitors proposed legislation, advising the Inspector General of any potential implications for the office. Ms. Liu is responsible for the filing of administrative debarment actions, ethics complaints, enforcing subpoenas, and defending the OIG in civil actions. She reviews all subpoenas and reports issued by the Office, coordinates the contract and project oversight assignments of the Audit Unit, and supervises administrative operations of the office, including the Office's finances and its annual budget. Ms. Liu joined the Miami-Dade OIG in March 2000 and took on the

Office of the Inspector General

additional responsibilities of Assistant Inspector General in February 2002.

Ms. Liu was previously with the Miami-Dade State Attorney's office in the Economic Crimes Unit, prosecuting numerous criminal cases involving health care fraud, insurance fraud, embezzlement, money laundering, and various schemes to defraud. Directly before joining the OIG, she was a Florida Assistant Attorney General to the State's Medicaid Fraud Control Unit serving as the Miami Bureau's in-house legal advisor. She coordinated legal action with federal prosecutors; prepared and negotiated civil settlements; handled civil cases involving the False Claims Act, the State's civil theft statute, applications for other injunctive relief involving the proceeds of Medicaid fraud, and forfeiture actions. Ms. Liu has also earned the designation of Certified Inspector General by the National Association of Inspectors General (AIG). She currently sits on the AIG's Executive Committee and is a member of the AIG's Ethics and Training committees.

The Rest of Our Team

Staffing is a critical factor in determining the volume and caseload of investigations, audits, and inquiries. The Inspector General launched the Office in 1998 with just two investigators, an analyst and an administrative staffer. Today his executive team leads a diverse team of over thirty-four highly skilled professionals from various disciplines and backgrounds that include former prosecutors and law enforcement officials; certified public accountants, internal auditors and fraud examiners; financial investigators; criminal analysts; and engineers. His staff has specialties in the fields of construction auditing, engineering, project management, financial forecasting, forensic information retrieval, and criminal justice database facilitation. Many staff members hold professional certifications in various disciplines.

The Office has grown substantially since its earliest years, remaining constant at thirty-one budgeted staff positions for the past several years. The Fiscal Year 06-07 adopted budget increased OIG staff positions by seven positions,

primarily to handle the increased caseload resulting from the Miami-Dade Housing Agency crisis and our stepped up auditing efforts of Miami-Dade Transit contracts.

The additional positions will positively impact our ability to quickly tackle the increasing number of complaints that are brought to our attention, as well as provide the opportunity for increased contract oversight.

The Office is divided into four operational units that work together to fulfill the OIG's primary mission of County oversight. These four units are: Investigations, Audit, Legal, and Administration.

The Investigations Unit

A diverse group of Special Agents comprise the Investigations Unit. The staff is represented by various investigative backgrounds, experience, and disciplines. This experience runs from traditional law enforcement backgrounds to state regulatory backgrounds.

Investigative Analysts support the Unit by maintaining compliance in the usage of specialized investigative databases that are instrumental in furthering the objectives and function of the Unit.

The Audit Unit

The Audit Unit was first established in 2000 with the hiring of its first audit professional. Today, the Unit is almost fully staffed, and includes an Audit Supervisor, four auditors, and two contract specialists.

The Audit Unit concentrates its resources on distinct aspects of County contracts and projects, recognizing its differences in size, resources, and mission from other County audit agencies.

The Unit also assists the Investigations Unit with cases requiring investigative accounting. The Unit serves the OIG's mission by providing procurement oversight and by participating in reviews, studies and evaluations, in addition to conducting specialized audits on County contracts and projects.

Audit Unit members include staff that are certified public accountants, internal auditors, and fraud examiners. The Unit also includes two contract oversight specialists with backgrounds in governmental budgets and finance, and engineering.

The Legal Unit

The Legal Unit provides legal counsel to the Inspector General. OIG attorneys assist the Investigations Unit in assessing the strengths and weaknesses of any investigation with potential civil, administrative or criminal implications. The Unit reviews proposed ordinances and resolutions to provide the Inspector General with an independent legal assessment of the potential or possible impact of the legislative items. The Unit also reviews County contracts to assess contractual rights and liabilities, as well as the efficiency and cost effectiveness of these contracts.

The Legal Unit reviews all subpoenas to be issued by the Inspector General and is charged with making sure the office complies with its "advance notice" responsibilities in the areas of subpoena issuance and final report distribution. All final public reports issued by the office are reviewed by the Legal Unit for legal sufficiency and work product integrity. OIG attorneys also handle litigation involving the office. The Unit has also provided for a summer Law Clerk Internship Program that recruits from Florida law schools.

The Administrative Unit

Individuals in this unit handle the day-to-day administrative functions required of any office, as

well as supporting the OIG's oversight mission through the preparation and dissemination of our public reports, maintenance and updating of information on our independent website, the tracking and referral of complaints, and the design and distribution of OIG posters, flyers, and the annual report.

Providing Additional Oversight Support

In its overall mission to provide effective oversight support to the County, the OIG maintains a critical presence at various County locations by allocating staff and other resources for satellite assignments.

While its office at the Performing Art Center (PAC) was recently dismantled at the conclusion of construction, additional OIG presence can be found at Miami International Airport; the Port of Miami; the Water and Sewer Department; the Public Health Trust at Jackson Memorial Hospital; Miami-Dade Transit; the Miami-Dade Housing Agency; and, most recently, at Miami-Dade County Public Schools.

Now At Miami-Dade County Public Schools

In December 2007, the Board of County Commissioners unanimously approved an Interlocal Agreement with the School Board of Miami-Dade County. Under the agreement, the Miami-Dade County Office of the Inspector General would take on the additional role of Inspector General for the nation's fourth largest school district. The Interlocal Agreement grants to the OIG the authority to investigate any aspect of the school system. Independent oversight is essential to a school district managing \$5.6 billion in public funds.

Office of the Inspector General

The Office of the Inspector General is currently in the process of drawing up its proposed annual budget and is proceeding to lay the groundwork for its new base of operations. According to Inspector General Mazzella, the OIG will focus on several areas, including the school district's procurement process and construction program.

OIG Financial Report

Three separate sources fund the OIG's budget: IG propriety contract fees assessed on County contracts; direct payments collected through memorandums of understanding contracted with various County departments; and general funds allocated through the County's budget process.

The OIG's approved budget for FY 06-07 was \$5.1 million and our actual expenditures for the year were \$4.6 million. With a long history of careful budgetary planning, just 34% of the OIG Fiscal Year 06-07 budget was derived from County General Funds. The \$1.7 million in County General Funds was primarily utilized for the expansion of staff, physical office space, and equipment.

For the current fiscal year, the OIG's overall budget, as approved by the Board of County Commissioners, totals \$5.2 million, largely in account for its recent expansion approval.

Our Report Card - Making the Grade

Since the inception of the Office ten years ago, beginning with our first arrests involving a ghost employee on the Water and Sewer Department's payroll, OIG investigations have yielded over 180 arrests and the indictment of eleven companies.

During Fiscal Year 2006-07, we can report that OIG investigations yielded seventeen arrests and resulted in the indictment of five companies. Charges included grand theft, forgery, uttering a false instrument, official misconduct, obtaining property or credit through false statements, money laundering, organized scheme to defraud, campaign contributions in the name of another, excessive campaign contributions, and failure to secure Workers Compensation insurance coverage.

Fraud complaints continue to remain an invaluable source of leads in our mission to detect, investigate and prevent fraud, mismanagement, waste and the abuse of power in County programs, projects and contracts. We continue to encourage the citizens, employees and vendors of Miami-Dade County to contact us with their suspicions of fraud. Complaints can be made by calling our fraud hotline, by going to the report fraud link on our website, or by writing or faxing the complaint to our office. The number of fraud complaints made to the OIG has tripled during the past five years and over 2095 complaints have been handled by the Office during this time. Statistics for the last year show that a total of 586 complaints were received, which was a 20% increase from the previous year. Eight percent of the complaints received resulted in the OIG initiating an inquiry, investigation or review; 10% were related to a matter already under OIG investigation or review; 43% were referred to another agency for appropriate action; 26% did not warrant any further action; 8% were from and handled by our dedicated Housing Hotline and 5% are still under review for further determination by the OIG.

During its first decade of operations, the OIG identified over \$106 million dollars in questionable costs, losses and damages, and lost revenues through OIG investigations, audits and reviews. Since 1998, over \$60 million in future savings and restitution has been achieved for the County.

In continuing our mission to fight against waste and abuse within our County government, this fiscal year the OIG issued thirteen audit and other final reports, and the OIG audited, inspected, and reviewed 23 programs. To review these reports online, visit our website at www.miamidadeig.org.

**2007 Highlights
Significant Cases,
Audits and
Activities**

Million Dollar Theft and Money Laundering Scheme

An OIG investigation, initiated in September 2006, uncovered a \$1 million theft from the Miami-Dade County Water and Sewer Department (WASD). The investigation led to the arrest of Charles Anthony Vance, a WASD employee since 1991, and Frank Tucker, the principal of the company that laundered the stolen funds, Modular Innovations .

The embezzlement scheme was directly tied to Vance's position at WASD where he was in charge of the mailroom, and specifically tied to his job duties over the metered mail accounts with the U.S. Postal Service (USPS). Vance was able to embezzle \$1 million, from September 2003 to August 2006, by requesting and then diverting twenty \$50,000 checks that were meant to replenish the postage meter accounts. The checks were then deposited into a USPS account in the name of Modular Innovations, the company controlled by co-defendant Tucker. The funds were then withdrawn and deposited into a series of bank accounts as a way to launder the stolen proceeds. Our examination of financial records revealed that Vance purchased a 2006 BMW 530i and a 2005 Honda Accord with funds directly traceable to the stolen proceeds. Using secondary bank accounts hiding the stolen funds, Vance also wrote checks to himself, to cash, and to friends totaling \$50,700.

Vance was arrested in October 2006. Tucker surrendered to authorities and pled guilty to the criminal charges in November 2006. Tucker's plea required him to cooperate with authorities against Vance. In exchange, he will be sentenced to three years state prison followed by 10 years of probation. He is jointly responsible for paying back the \$1 million of stolen proceeds, and as

of December 2007, he has paid back \$262,432. Additionally, as part of the legal proceedings, the two vehicles were seized and forfeited.

Just recently in March 2008, Vance pled guilty to the criminal charges for the mailroom embezzlement and other unrelated WASD theft charges. He received a sentence of 10 years in state prison with a possible sentence mitigation to eight years based on honest and truthful cooperation with the investigating authorities to identify stolen funds, additional perpetrators, and substitute assets. Vance is jointly responsible with Tucker to pay back the stolen funds. In order to qualify for any sentence mitigation, he will be required to pass a polygraph test.

Criminal Investigations Affecting Affordable Housing and Economic Development

OIG investigations have led to three prominent arrests and the filing of criminal charges against individuals directly involved in the botched housing and economic development activities of Miami-Dade County. By the year's end, all three criminal prosecutions were still on-going.

In March 2007, the OIG's investigation into uses of the County's Documentary Stamp Surtax funds (dedicated for affordable housing initiatives) uncovered that Raul Masvidal, the developer working with the Miami-Dade Housing Agency to build new offices for the agency, had diverted funds slated for the building of the agency's new administrative headquarters for his own personal use. Surtax funds were given to the developer as an "equity contribution" toward the construction costs. Of those funds, \$287,000 was used to purchase two large sculptures (a stacked set of teacups and a gigantic slice of watermelon). However, when questioned by County auditors, Masvidal produced a fraudulent invoice detailing the purchase of only one sculpture – the

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teacups—for the price of \$287,493. The purchase of the second sculpture was kept hidden from the County. In subsequent loan documents, Masvidal used both pieces of artwork as collateral for a personal loan. Masvidal has been charged with Organized Scheme to Defraud and First Degree Grand Theft.

Also in March 2007, the OIG announced the arrest of Reynaldo Diaz, a developer who received \$940,000 in funds slated to provide affordable housing for low and moderate income families. Diaz, who contracted with the County to build 28 homes, had to show that he was in possession or control of site properties where the affordable housing could be built. The investigation revealed that among the application paperwork submitted to the County, Diaz included fake real estate sales contracts for six properties. The funds were given to Diaz's company and the funds were deposited and disbursed for expenses other than the construction of affordable homes. Only two of the 28 homes were ever built. Diaz has been charged with Organized Scheme to Defraud, a first degree felony.

In September 2007, an investigation by the OIG resulted in a state judge issuing a warrant for the arrest of Poinciana Biopharmaceutical Park developer Dennis Stackhouse and several of his companies for criminal violations of the State's campaign financing laws. The OIG investigation found that a total of \$3,500 in campaign contributions was made by Stackhouse in the names of two of his employees. The employees were reimbursed by Stackhouse through several companies that he controlled. One of the companies received federal funds expended through the Empowerment Trust. Stackhouse has been charged with three counts of Contributions in the Name of Another and two counts of Excessive Campaign Contributions.

County Employees Arrested in Tuition Refund Fraud

Since 1963, employees of Miami-Dade County have been offered a generous Tuition Refund Program that provides the opportunity to enroll in any school of higher learning, even high-end institutions such as the University of Miami School of Law and Harvard University. The Program refunds up to 50% of eligible out-of-pocket tuition costs with taxpayer dollars. The employee must obtain a "C" grade or better in order to receive reimbursement.

In early March 2006, the OIG began a probe into the Program due to possible employee misconduct in not reporting grants and scholarships, as required by Program rules. In addition to hundreds of referrals made to the County's Human Resources (HR) Department, where we identified overpayments, the OIG investigation also resulted in five County employees being charged with submitting falsified documents (i.e. falsified grades to show grades of a "C" or higher) in order to qualify for Program reimbursement.

Four individuals were indicted by the Miami-Dade County Grand Jury in November 2006 for submitting falsified copies of their college transcripts in order to fraudulently receive tuition reimbursement from the County. Two of the four were employees of the Clerk's Office; the third was the Tuition Refund Coordinator for the Planning and Zoning Department; and the fourth, an employee of the County's HR Department, was the person responsible for oversight and processing of tuition reimbursements for all County employees. Public funds stolen by these four employees exceeded \$30,000. In June 2007, all four employees pled to theft-related charges and were sentenced to two years probation with the special conditions that they pay restitution to the County, complete 200 hours of community service, and reimburse the OIG for the costs of the investigation.

Two months later, in August 2007, the on-going OIG probe revealed that a fifth individual submitted falsified grades in order to receive reimbursement according to Program rules, requiring grades of a "C" or higher.

As of December 31, 2007, the OIG has identified a cumulative total of over \$400,000 in overpayments among 200-plus employees. The overpayments were reported to the County Manager's Office and to the HR Department for appropriate action. Just as importantly, the Program's paperwork and process deficiencies illustrated in the Miami-Dade County Grand Jury Report are in the process of being corrected. New procedures to ensure verification in the areas of grants, scholarships, and student grades have been enacted. Uniform training is also being provided to departmental tuition refund coordinators regarding the new procedures.

Cheating the Clock for Overtime Pay

Two long-term County workers, one of twenty-six years and the other thirteen, were caught on video changing the time clock while working weekends in the Department of Solid Waste Management's North Dade Landfill Maintenance Shop. One manually changed the date and time settings while the other acted as the look-out. By tampering with the time cards, they caused false overtime to be recorded on official payroll attendance records. In addition to the video, the pair was surveilled arriving and departing from work at different times than reflected on their time cards. Sunpass toll records documented them leaving work earlier than their time cards indicated. They obtained over \$2,000 each from January 2006 through June 2007 in falsified weekend overtime pay. Both employees were arrested and pled guilty to Organized Scheme to Defraud and Official Misconduct. Both must repay the County for the fraudulent overtime and the OIG for its investigative costs.

Multi-Departmental Audit of the Equitable Distribution Program

As a follow-up to an earlier OIG report on an engineering firm that resulted in it receiving

a one-year suspension for violating County procedures, we initiated a multi-departmental review of the County's Equitable Distribution Program (EDP), focusing on the selection processes and practices used by County departments when selecting a professional consultant for a particular project.

The EDP is the County's standard method to procure architectural and engineering (A&E) services for miscellaneous projects not exceeding \$1 million in construction costs and \$50,000 for study activities. The program consists of a pre-qualified pool of eligible A&E firms available to do county work and is designed to equitably distribute work and increase opportunities for locally based businesses. The EDP is administered by the County's Office of Capital Improvements (OCI).

We reviewed ten County departments. Our review revealed that several departments lacked adequate documentation to sufficiently support their solicitation processes and selection criteria. We also found that some departments did not require their EDP consultants to submit certain monthly reports and other departments did not adequately document a firm's declination to participate in the process.

Furthermore, we found that one project in particular had a poorly performing consultant and was also poorly managed by department project managers. The consultant received 95% of its fee; however, the consultant had stopped paying its sub-consultants and had not turned in architectural plans anywhere near 95% completion. The OIG's involvement resulted in the sub-consultants getting paid and the County department taking action to finish the plans in-house in order to move along with the stalled project.

In response to the recommendations and findings in our final report, OCI and the County departments established corrective measures

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to ensure consistency in the selection processes and selection criteria. OCI has revised its EDP procedures and has included additional documents and reports on its Capital Improvements Information System webpage for both departments and EDP firms to access. Additionally, OCI committed to providing additional training to department personnel and EDP firms about the program and the processes required of them. Several departments have implemented their own internal procedures to ensure that their selection processes and criteria are properly documented.

Seaport Oversight: Audit of a Construction Manager At-Risk's Change Order

As part of the OIG's continuing oversight activities at the Seaport, we selected for audit a change order to the Seaport's Construction Manager at-risk (CM) contract with Centex Construction Inc. for a variety of capital improvements in the cargo areas of the Port of Miami. The change order was for an additional 60 contract days at a cost of \$626,844. The audit was predicated on our assessment that the change order was not adequately supported when it was brought before the Board of County Commissioners for approval.

Seaport officials informed us that the CM had not already received the additional compensation related to the 60 days; however, during our review we determined that the Seaport had, in fact, already paid additional compensation of \$95,685 to Centex, in the form of extended general conditions costs, before the change order was even administratively executed by the County Manager.

To determine whether authoritative support for both the payment of the additional funds and the authorized extension was provided, we evaluated whether the Seaport employed a reasonable, effective and documented process to review and approve the contract change order. We found disorganized and incomplete support, which required us to make repeated requests to the CM for copies of its records. This condition raised our concerns on whether the Seaport's program

manager could have completed an effective and thorough evaluation.

Lastly, we continue to be concerned that the practice of using one CM for multiple, concurrent projects could provide cover for questionable CM performance or allow a CM to maximize its revenues at additional cost to the Seaport. This condition, combined with ineffective program management and incomplete departmental files, could result in a problematic situation where a CM "at-risk" is never really "at-risk." We grant that there may be operational efficiencies and cost savings gained by having one CM for multiple projects, but unless the Seaport can establish an effective program management function, any such efficiencies and savings appear to evaporate during actual construction. We recommended that the Seaport re-evaluate its practice of combining multiple projects, that easily merit separate contracts, into one "jumbo-sized" contract.

Airport Security Company Underreports Revenues to Avoid Paying Fees

In February 2007, the OIG released its final report on JMG Insystem, Inc. d/b/a Sereca Security, a security services firm providing services to airlines at Miami International Airport (MIA). Firms apply to provide services at MIA under permits issued by the Miami-Dade Aviation Department. Under the permit terms the firm must report its gross revenues and pay the Aviation Department a fee based on 7% of the gross revenue. The OIG investigation found that for the year 2005 alone, Sereca underreported its gross revenues by \$3 million, thereby shortchanging the County over \$200,000 in permit fees. The OIG highly recommended that the Aviation Department review 2006 and prior years to determine how much may be owed in additional underreported amounts.

The Aviation Department has since terminated Sereca's permit and has requested supporting

financial documentation and certified financial audits for other permit years as recommended by the OIG. As of November 2007, Sereca has repaid \$145,919 of the initial \$209,000 due to the County. The OIG has initiated several other reviews of companies operating under similar permits at the airport to ensure that the County is receiving what it is properly owed.

Audit of Miscellaneous Construction Contract with TGSV Enterprises, Inc.

An OIG audit of the Aviation Department's MCC-6-2002 contract for miscellaneous construction projects did not result in any findings or recommendations requiring management's response. Our review focused on MDAD's administration of the contract, including whether compensation was paid according to contract terms. We sought to determine if the contractor effectively used the contract to make work available to certified Community Small Business Enterprise subcontractors (CSBE), implemented required CSBE program participation and paid its subcontractors timely. We also reviewed the Department of Business Development's monitoring of this contract.

We found that the MCC-6 contractor, TGSV, performed its work assignments and fulfilled its primary objective in engaging CSBE subcontractors in the construction work. Over 58% awarded for hard construction costs (\$13.3 million out of \$22.8 million) through November 2006 went to CSBE contractors and TGSV paid almost \$1.5 million to its two CSBE construction management services subcontractors.

Tale of Two Companies: Union Electrical and Union Electric

This investigation involved two corporations. The first, Union Electrical Contractor, Inc. (Union Electrical), is a state licensed electrical contractor and a County certified Community Small Business Enterprise (CSBE) approved to perform work under the Office of Capital Improvements' (OCI) CSBE 7040 contract program. Mr. Ruiz is the principal owner and the licensed electrician holding the company's electrical contractor license. Mr. Reloba was a field supervisor in this

company.

The second company, Union Electric Contractor, Inc. (Union Electric), is a separate company formed in 2004 by Mr. Reloba and Mr. Ruiz. This company is not a CSBE certified County contractor, is not a registered County vendor, and is not approved under the 7040 contract program. The company is controlled by Mr. Reloba, who is not a licensed electrician. This company does not list any individual as its qualifier, and the company is not licensed.

In 2002, Union Electrical was hired to work on the grounding system at the Miami-Dade Police Department Annex Building. In 2006, additional work to the grounding system was needed and Union Electric was hired. During the course of a separate OIG investigation, we discovered that Union Electric had not applied for or obtained the required electrical permit for the 2006 project and that Union Electric was an unlicensed contractor that should not have performed the work on this project. The Miami-Dade County Building Department was notified and issued a Notice of Violation for electrical work without a permit. Remedial measures were taken in order to cure the unlicensed electrical work. The investigation also revealed that the second company, Union Electric, usurped the identity of Union Electrical and that payments were allegedly diverted. The case has been referred to the State Attorney's Office for prosecutive action.

ASMO's Permits to Provide Services At MIA

American Sales and Management Organization Corp. (ASMO) provides general aeronautical and security services to its clients at Miami International Airport (MIA). These services include ramp, porter assistance, dispatching, ticket counter, baggage check-in, delayed baggage and security services. ASMO is

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authorized to provide these services at MIA under two separate permits issued by the Miami-Dade Aviation Department. Under the terms of the permits, ASMO must remit certain fees to MDAD based upon its gross revenues. American Airlines (AA) is ASMO's largest client at MIA.

The primary purpose of the OIG audit was to determine if ASMO had accurately and timely reported its gross revenues to MDAD. Of course, we wanted to ensure that MDAD was paid the correct amount that it was due under the permits. The OIG's audit focused on ASMO's revenues generated from one client, AA, for the period January 2005 through December 2006.

In general, ASMO performed unsatisfactorily. The OIG determined that ASMO either did not report or reported late (when it was detected by the OIG auditors) over \$6 million, amounting to 14% of its total reportable gross revenues. This amounted to ASMO not paying (or paying late due to the OIG's detection) approximately \$430,000 to MDAD. We are pleased to report that as a result of our audit, ASMO has already paid over \$200,000 in additional fees and \$32,860 in late charges to MDAD. The OIG also determined that ASMO still owes MDAD \$75,000 in unpaid percentage fees, based on over \$1 million in unreported revenues. This is in addition to \$65,000 in other late charges that ASMO owes to MDAD, as detailed in our audit. Based on the cumulative impact of all of the findings, the OIG recommended that MDAD consider ASMO's fitness to continue providing services at MIA. Moreover, the OIG recommended for MDAD to examine its airport-wide permit oversight activities and take increased steps to ensure that all permittees are complying with their respective agreements.

7th Avenue Transit Village Development Project

An audit of the Miami-Dade Empowerment Trust's (MDET) selection of Red Rock Global, LLC (RRG) as its development partner for the 7th Avenue Transit Village Project (Project) was undertaken to audit all the invoices that had been paid up to that point and to determine

what Project deliverables RRG had produced. The overall Project is an \$86 million mixed-use development, which includes a transportation hub and passenger activity center.

The Miami-Dade Transit Department was to share in the Project's costs. The Transit Department was to reimburse MDET for 100% of the transportation improvements costs and 50% of all costs jointly serving Transit and joint-development portions of the Project.

The OIG audit concluded that MDET did not comply with its Trust Board Resolution requiring that it award the Project based on a competitive selection. We also determined that the Project schedule defined the starting point in March 2006, yet significant Project activities (that were compensated for) began in June 2005, one year before the Letter of Agreement between MDET and RRG, and six months before the Board of County Commissioners approved that agreement.

The audit found the entire amount of \$351,906 paid by MDET to RRG (based on the first three invoices) to be questionable costs. The costs either pre-dated the Letter of Agreement and/or lacked adequate support justifying its payment. Furthermore, OIG auditors were unable to validate whether any of the invoiced charges were allowable or consistent with agreement work scopes, schedules and other contract requirements. For example, travel expenses were paid without submission of valid documentation, such as airline tickets, itinerary documentation and receipts for lodging, taxis, or car rentals. In addition, we found a RRG invoice containing over \$9,000 in duplicate expenses.

We questioned several budgeted line-items, which were invoiced and paid as lump-sum expenses, including a line-item for legal expenses that was paid even though there was no evidence that legal fees were incurred. Over 23% of the almost \$1 million in budgeted RRG Project costs were for "contingencies." The OIG critically questioned why a pre-project development budget, such as this one, would even have a

dedicated line-item for contingencies when no construction was taking place. In addition, a contingency line item was paid on a pro-rata lump-sum basis with no supporting evidence that any money for “contingencies” was spent. Furthermore, the budget already included line-item amounts for developer, architect and contractor reimbursables, which could have covered any contingencies.

We recommended that the Transit Department not pay MDET until MDET obtained complete and verifiable support for the charges it submitted for reimbursement. Similarly, the OIG recommended to MDET that it should closely review all RRG invoices and requests for reimbursement to ensure RRG’s accurate accounting and the reasonableness of the charges.

A Decade in Review Snapshots from the First Ten Years

OIG STING OPERATIONS

Miami Fire Equipment Fraudulent Billing Sting

In January of 2001, the OIG released a report on Miami Fire Equipment, a fire extinguisher company that had been contracting with the County for the previous three years. The OIG initiated an undercover sting to determine the extent of the fraudulent overbilling by the vendor. The sting revealed that the County was being billed for parts that were not actually replaced, and was being charged for services that were otherwise free according to the vendor’s bid proposal. As a result of our investigation, the County negotiated a settlement for a total of \$138,000. The vendor, as part of the agreement, also voluntarily suspended itself from engaging in or bidding on County contracts for a two-year period.

Extinguishing the Fraudulent Billing Scheme of Biscayne Havana Fire & Safety Equipment Company

On the heels of the previous sting operation, the OIG commenced a similar sting operation to investigate Biscayne Havana Fire and Safety Equipment Company (Biscayne Havana) for defrauding both the County and the City of Miami in its performance under lucrative service contracts to maintain and repair the County’s and City’s fire extinguishers. Biscayne Havana was previously awarded a contract to service fire extinguishers from the City of Miami. After revoking the contract from Miami Fire Equipment, the County accessed the City’s contract with Biscayne Havana while the County utilized the procurement process to find a new vendor.

To make the case, the OIG hired an expert to inspect 32 fire extinguishers. The expert certified that the 32 extinguishers were in perfect working order, and marked them with special invisible ink. These specially-marked extinguishers were then delivered to Biscayne Havana for inspection, maintenance, and repair, if necessary. Biscayne Havana billed the County for maintenance and repair work on a number of the specially-marked extinguishers.

The extinguishers were again examined by the OIG’s expert witness to determine if, in fact, any maintenance or repair work had been performed as claimed in the Biscayne Havana invoices. The expert stated categorically that no work at all had been performed. Furthermore, an OIG review of thousands of invoices submitted to the City and County for payment from Biscayne Havana revealed that Biscayne Havana habitually overbilled for both work not performed over the course of the contract and work not chargeable pursuant to the contract. Lastly, OIG investigation of the qualifier’s credentials revealed that he

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had lied to the State Fire Marshal on various licensing applications, by denying that he was a previously convicted felon, in violation of state law.

The owner of the company and its qualifier were arrested, and the company itself was indicted on numerous charges of Grand Theft and Aggravated White Collar Crime. Charges against the owner of the company were dismissed following his death while pending trial. The company qualifier pled guilty to Aggravated White Collar Crime and was ordered to pay \$7,500 in restitution to the City of Miami and \$32,500 to Miami-Dade County for his portion of the much-larger theft. During the probationary term, the qualifier was debarred from doing any future business with either the City of Miami or Miami-Dade County. The Company was dissolved and closed.

Operation "Get the Lead Out"

An OIG investigation that began in March 2004 proved that indeed "scales sometimes lie." The investigation uncovered several schemes at the Department of Solid Waste Management (DSWM): one by waste tire haulers to cheat the County's truck scales; a second by a County employee to steal and illegally resell DSWM payment coupons; and a third by DSWM employees to defraud the County of disposal fees for their own profit.

The probe began at the County's Resource Recovery Facility, where waste is converted into energy after being shredded and recycled. The OIG review of the facility's procedures revealed that in order to assess disposal fees, the scale house routinely kept records of the weight of empty registered disposal trucks. The scale house would then subtract this weight from the weight of fully loaded trucks, and assess a \$75 per ton disposal fee to the difference.

In the first scheme, two brothers owning a Hialeah tire disposal business were arrested after adding thousands of pounds of hidden lead weight to one truck and a false heavy plywood liner to another truck to fraudulently inflate the weight of their supposedly empty disposal trucks. They

then removed the hidden weight and dumped truckloads of tires at greatly reduced disposal fees. Pursuant to an OIG sting operation, both brothers and another co-conspirator were arrested after a driver and one of the disposal trucks were caught with two false 33-gallon gas tanks filled with lead. Both disposal trucks were searched and seized by State Attorney's Office investigators and the lead tanks, plywood and disposal trucks were impounded.

In a second scheme, the DSWM employee who actually sold the coupons (which are used for payment purposes for disposing at the County facility) was arrested for theft when it was revealed that he stole coupons and resold them to the commercial waste tire haulers at 20-40% less than the coupon's face value. An OIG audit of coupon sales showed that over \$480,000 worth of coupons were unaccounted for. The missing coupons were voided by serial number, thus preventing thousands of dollars in additional fraudulent transactions. The investigation showed that the employee illegally pocketed as much as \$52,000 before he was caught. The investigation also revealed that the two brothers from the lead/plywood scheme were among the biggest black market customers who purchased and used the stolen coupons to pay their already-reduced disposal fees.

In a third scheme, three employees defrauded the County of disposal fees in two separate incidents. These employees used their County disposal vehicle, which is exempt from paying disposal fees, to bypass the scales and dump tires directly into the shredding area. One pair fraudulently pocketed cash from a tire vendor to dispose of over nine tons of tires. Another employee fraudulently disposed of nearly twenty tons of tires.

A final resolution from all seven arrests was reached through various pleas, resulting in

restitution of almost \$150,000 for the County. The Resource Recovery Center discontinued disposal coupon sales, made procedural changes in assessing and weighing trucks, and increased employee training. DSWM now collects over \$25,000 in additional fees each month since implementing the new procedures. A post-investigation review revealed that revenues increased by 46% in one three-month period alone. In the years to come, we can expect that revenues will increase by millions because of this investigation.

ELECTION OVERSIGHT AND INVESTIGATIONS

Former Commissioner Miriam Alonso Convicted of Public Corruption Crimes

A joint investigation conducted by the OIG, the Miami-Dade Police Department, and the Miami-Dade State Attorney's Office led to the arrests of Miami-Dade County Commissioner Miriam Alonso, her husband and her chief of staff. All three were charged with a variety of corruption-related offenses, including Organized Scheme to Defraud, Grand Theft, Evidence Tampering, Money Laundering, and Exploitation of Official Position. The investigation focused on the pilfering of approximately \$50,000 from Alonso's 1998 reelection campaign account and the misuse of approximately \$78,000 raised to combat a campaign to recall Alonso because of her landfill expansion efforts near Miami Lakes. After Commissioner Alonso's arrest, the Governor suspended her from the Board of County Commission and she later resigned.

Miriam Alonso and her husband Leonel were sentenced in October 2006 and received two years of house arrest followed by three years probation. They were also ordered to pay \$250,000 in restitution and investigative costs. Alonso's chief of staff was charged with mortgage fraud-related offenses and pled to the charges

in 2002. She was sentenced to probation and ordered to pay \$105,845 restitution and perform community service. She cooperated during the remainder of the investigation into the Alonsos.

The Alonso investigation led to other arrests, including the arrests of Alonso's daughter and her daughter's husband for misusing campaign funds raised for her 1997 failed bid to be elected to the City of Miami Commission. Two other Alonso associates, who lied under oath to the State Attorney's office about anti-recall campaign work, pled guilty in February 2003.

2002 Primary Election and Subsequent Oversight

In the aftermath of the September 2002 primary elections, when the County's newly acquired touch screen voting machines wreaked havoc at the polls, the OIG, at Mayor Penelas' request, conducted a thorough examination of what went wrong. In perhaps the most crucial advice ever rendered by this Office, we recommended that the County's crisis management professionals lead the upcoming general election planning and preparation efforts. We cautioned the County not to rely on any new, untested software upgrades, but instead to plan around known parameters, in light of the six week time limitation to prepare for the general election. The command staff of the Miami-Dade Police Department, who became the Special Project Management Team, echoed the same sentiments and embraced the OIG's recommendations, thus averting another voting fiasco during the November 2002 election.

Afterwards, the OIG turned its attention to the procurement process used in the selection and purchase of Election Systems and Software, Inc.'s (ES&S) iVotronic touch screen direct recording

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electronic devices. Our review focused on the representations made by the vendor and expectations of the client (the County) in an area of election systems technology that was relatively new. This was particularly relevant to Miami-Dade County, as our election needs warranted technological adjustments to the vendor's firmware in order to produce a tri-lingual ballot display. Despite assurances to the contrary, Miami-Dade County found that the upgrade to accommodate our tri-lingual needs required other resources and logistical adjustments that were not as represented.

The 2004 Election

Two years later, the OIG was again involved in assessing the County's overall preparedness for the then-upcoming 2004 elections. The OIG issued a number of recommendations—which were all adopted—to help ensure the integrity of the election process. Recommendations included additional training in areas of absentee ballots, specifically in handwriting analysis; providing extra pre-election polls security; implementing Election Day parallel testing; and conducting additional post-election audits. County preparedness for the fall elections was high, and Miami-Dade County earned high marks for its 2004 electoral processes.

Commission Candidate's Theft of Campaign Financing Trust Fund Monies

An investigation was initiated after the OIG was alerted to campaign contribution irregularities in the 2004 County Commission District 13 election. The initial focus was on the campaign of candidate Jorge Roque. During the course of the campaign, the Elections Department unknowingly relied on fraudulent information supplied by the candidate and thus determined that Roque was eligible to receive \$75,000 of public matching funds from the County's Campaign Financing Trust Fund.

Investigative fieldwork verified that fraudulent activity did occur for qualifying the campaign to receive \$75,000 that the candidate would not otherwise have been entitled to receive. The scheme was accomplished by reimbursing

supposed contributors, thereby creating fake campaign contributions. The candidate then reported these phony contributions to the Elections Department to satisfy the minimum requirements (number of contributors and amount of contributions) in order to obtain public financing.

The investigation led to the arrests of four individuals related to the Roque campaign: the candidate, the candidate's campaign manager, the candidate's sister-in-law, and a sitting City of Hialeah Councilwoman who was supporting the candidate in the election. The Councilwoman pled to charges and resigned her seat on the City of Hialeah Commission. The sister-in-law pled guilty to charges and was sentenced to house arrest and probation, and ordered to pay restitution and investigative costs. The candidate was convicted after trial by jury, and sentenced to 17 months in state prison. The Judge also ordered him to pay back the monies he stole from the Trust Fund and pay costs of the OIG investigation. The candidate is currently appealing his conviction. The fourth individual, the campaign manager, is currently awaiting trial.

The fraudulent activities discovered in the Roque investigation led the OIG to audit the qualification submittals of all eleven candidates that applied for public funding in 2004. These audits identified loopholes, deficiencies, inefficiencies, problems and other notable concerns with the procedures used to verify information provided by candidates and used to qualify them as eligible to receive public Campaign Financing Trust Fund monies. As a result, the BCC amended the language of the Campaign Finance Ordinance to include the OIG recommendations.

**MIAMI
INTERNATIONAL
AIRPORT****Review of the Duty-Free Concessions
Agreement**

An investigation of the Duty Free Concession Agreement at Miami International Airport (MIA) revealed violations of several important contractual provisions that required real, meaningful and commercially useful participation by vendors designated disadvantaged business enterprises (DBEs). The awarded Joint Venture (JV) Concession Agreement included four DBEs as JV partners. It was found that these four partners were allocated over \$14 million in revenues since 1995, but had not performed any actual work or services despite complaints by one of the JV partners who wanted to participate. The OIG also concluded that MDAD staff failed to properly monitor and accurately report the required DBE participation. In response to our report, the Aviation Department took remedial action to correct this contract violation.

**Paramedia Audit Results in Prison Sentence
for Lobbyist**

Beginning in 2001, the OIG questioned the County's extensions of a multi-million dollar consulting contract between the airport and Paramedia, a company running an international marketing office in Madrid, Spain. An audit conducted by the OIG highlighted numerous instances of contractual non-compliance by Paramedia. OIG auditors found instances of failure to provide MDAD with detailed invoices, failure to document personnel time, failure to supply detailed annual marketing plans and budget proposals as required, and failure to maintain adequate financial and accounting records. The OIG also noted that MDAD paid for non-contractual expenses and that MDAD made payments without requiring supporting documentation. These financial discrepancies and questions over the need for an office in Madrid, Spain led MDAD to terminate the contract with Paramedia.

The OIG's concerns were compounded by the fact that a very large amount of Paramedia's income was disbursed to other companies controlled by Paramedia's principals. In continuing the review, the OIG uncovered criminal activity by one of Paramedia's principals, who also worked as a lobbyist. In 2003, this person was arrested and charged with 75 counts of illegal credit card factoring, which totaled over \$527,000 in false credit card charges to the American Express Credit Card Company.

The individual was arrested a second time in 2003, when it was discovered that in his role as a lobbyist, he pocketed hundreds of thousands of dollars given to him by companies seeking to do business with the County. The investigation revealed that as a lobbyist, he falsely represented to his clients that the money given to him would be used to buy expensive gifts and lavish dinners for public officials. While it was clear from the OIG investigation that the lobbyist pocketed the money and that public officials did not receive any gifts, the perception that County officials would engage in such illegal and improper conduct was tremendously damaging. The OIG also provided the IRS with information leading to his indictment and arrest for federal tax evasion crimes.

In 2005, the lobbyist was sentenced to two years in federal prison, to be followed by two years of supervised release, and he was ordered to pay the IRS \$472,970 in restitution. He was also sentenced concurrently in state court to two years state prison followed by ten years probation, and was ordered to pay \$203,972 in restitution and OIG investigative costs.

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Fuel Farm Scam

A massive investigation by the OIG and the Miami-Dade State Attorney's Office into Miami International Airport's fuel farm facility revealed that almost 3 million gallons of jet fuel, worth almost \$4 million, was stolen from the facility from 1999-2003. The investigation focused on Aircraft Services International Group (ASIG), the company hired by the Miami-Dade Aviation Department (MDAD) to operate and manage the fuel depot. The investigation netted eight separate but related criminal cases involving numerous individuals and five companies, including ASIG. Individual defendants include ASIG employees, MDAD contractors, and one MDAD employee. The investigation also revealed contract fraud—overbilling—and unlawful payments to the County employee. Criminal charges included Racketeering, Organized Scheme to Defraud, Grand Theft and Unlawful Compensation.

A plea agreement was reached with a top level ASIG manager responsible for billing schemes involving fictitious work and parts. The plea agreement required him to sell his home, which was partially purchased with proceeds from the theft, to pay restitution of \$200,000. In a separate settlement, the County received \$2.5 million in restitution from ASIG. Just recently, six of the major players in the fraud scheme were sentenced. The sentences ranged from four years in state prison for the ASIG manager to four years of house arrest for two of the lesser culpable defendants.

One conservative estimate projects the County's savings as a result of this investigation at over \$15 million for a five-year period. As in similar frauds detected by the OIG, corrective actions were taken by the airport in order to avert any future fuel thefts.

PROPERTY TAX, FORECLOSURE AND TITLE CASES

County Tax Collector's Office – Fraud in the Sale of 2002 Property Tax Certificates

A joint investigation with the Florida Department of Law Enforcement into misconduct at the County Tax Collector's Office centered on the 2002 tax certificate sale of unpaid delinquent 2001 real estate taxes. The investigation uncovered the common practice of tax certificate buyers to give gifts, tips and gratuities to employees of the Tax Collector's Office and the Clerk of the Court's Tax Deed Section. This practice was clearly in violation of County regulations and was brought to the attention of County management. Twenty-three County employees were identified; they resigned, were suspended, or were subsequently disciplined for violating County policies.

The investigation also uncovered a scheme by an employee to alter the interest rate on the auctioned tax certificates that were purchased by one particular buyer. The interest rate is passed on to the property owners, who would then have to pay inflated amounts to remove the lien. The interest rates due on these altered tax certificates would have given that tax certificate buyer a fraudulent net gain of over \$37,600. The identified buyer is now prohibited from participating in future tax certificate sales.

The investigation resulted in the arrest of two Tax Collector's Office supervisors. One supervisor was charged with Perjury in an Official Proceeding for lying about accepting gifts. The other supervisor, who worked as an auctioneer during the tax certificate sale, was arrested for Official Misconduct and Aggravated White Collar Crime in connection to the fraudulent alteration of the tax certificate sales cards. He has since pled to the charges and was sentenced to house arrest followed by probation. He is required to pay investigative costs, perform community service,

resign his County employment, and is banned from future government employment. Due to the OIG investigation, the Tax Collector's Office has changed their procedures for conducting tax certificate auctions and instituted internal controls to ensure that this type of corruption of the sales process could not occur again in the future.

Operation Foreclosure Vultures

The OIG takes pride in our record of protecting our community's disadvantaged citizens from scam artists. Multiple schemes were uncovered by OIG investigators, working closely with the Florida Department of Law Enforcement (FDLE) and the Office of Statewide Prosecution, in an investigation dubbed "Operation Foreclosure Vultures." The investigation has yielded numerous arrests thus far, and began after a group of Circuit Court Judges alerted the OIG of concerns that were arising in court. In the first probe, an asset locator was arrested for his part in a foreclosure surplus fraud scheme that victimized South Florida homeowners. The scheme was perpetrated through the Circuit Courts of Miami-Dade and Hillsborough Counties.

"Operation Foreclosure Vultures" highlighted a serious weakness plaguing the court system. This weakness provided the opportunity for unscrupulous predators and asset locators to victimize homeowners who are unaware that monies from the foreclosure sales of their homes exceeded the debt on the properties. One scheme involved misappropriating \$66,339 in surplus foreclosure funds from 20 victims. In another scheme, \$48,000 in surplus funds owed to an elderly foreclosure victim was misappropriated.

In a separate probe, four individuals, one of whom was an attorney, were arrested for falsifying loan documents to gain illegal proceeds. As of the date of this report, the attorney's case is still pending in the criminal courts; however, the Florida Supreme Court has permanently disbarred him from the practice of law in the State of Florida for his participation in the scheme. The other three, arrested on

charges of Organized Scheme to Defraud and Grand Theft, have pled guilty. As a part of their sentence they must pay restitution to the victims and the OIG's investigative costs.

Stolen Identities and Stolen Homes

An OIG joint investigation with the Miami-Dade State Attorney's Office and the Miami-Dade Police Department resulted in the arrests of a man and a woman for stealing identities and stealing homes. The investigation was launched after the OIG learned that two separate homes and a vacant lot adjacent to one of the homes were all mysteriously deeded to the same woman, who used two different names. One name was proven to be a stolen identity. Investigation of the deeds revealed that the notary public information was bogus and that the identities of two notary publics were also stolen by the pair. These three transactions were mysterious, in that at the time the bogus deeds were purportedly signed, the real owners of the homes and lot had either been dead for over ten years, or were elderly and confined to a nursing home suffering from dementia.

As the investigation unfolded, evidence revealed that the woman involved in the scheme was a drug addict who acted as a straw buyer for the mastermind of the scheme, a man who was in the real estate business. Evidence further revealed that they appeared together at a Team Metro office to negotiate a settlement of liens related to one property. At that time, they posed as brother and sister using false names. The mastermind was so brazen as to attempt to obtain a medical discount for his supposed sister, by pointing out her emaciated physical appearance and claiming she was a "cancer patient." Upon being pressed for medical evidence of her disease, he quickly dropped this claim.

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After title of the properties was conveyed into the addict's various names, she then conveyed equitable title to the mastermind's corporate entity or his designee, and then purportedly conveyed real title to innocent third parties. The mastermind and addict netted over \$100,000 cash from the various transactions and left a wake of chaos behind them. The real owners' heirs, the innocent purchasers, the mortgage companies, and the title insurance companies were left to sort out the legal morass created by the pair's fraudulent acts.

The now-former addict has entered a plea to the charges and has agreed to testify against the mastermind, who is currently awaiting trial. She remains in jail and will be sentenced after completing the obligations under the plea agreement. The mastermind is facing a multitude of five-year minimum mandatory state prison sentences, should he be convicted at trial.

Due to the OIG investigation, the County Recorder's Office instituted a postcard notification system, in an attempt to keep these types of cases from occurring again in the future. If any instrument affecting title, such as a quitclaim deed, is filed and recorded, the owner of record at the time of the filing is sent written notification via postcard. This notification informs them that an instrument affecting title to the property has been filed.

MIAMI-DADE BUILDING DEPARTMENT

Certificates of Completion for Sale

In 2003, the OIG launched a widespread investigation into activities at the Building Department, namely whether a County employee was illegally issuing Certificates of Completion and/or Occupancy on uninspected work for his own personal gain. Investigation revealed that a County employee who once had the authority to issue Certificates of Completion had been transferred to another department. However, his computer access to Building Department databases was never adjusted or taken away. This investigation culminated in the arrests of four individuals for various fraud-related crimes, such as Grand Theft, Organized Scheme to Defraud, Official Misconduct, and Unlawful Compensation. These arrests included the corrupt County employee, the president of a company in the business of expediting commercial and residential building plans, the project manager for a real estate development firm, and a licensed general contractor.

In 2005, the president of the expediting company pled guilty to charges in seven cases and was sentenced to house arrest, probation, and the payment of restitution. He also agreed to testify against the corrupt County employee. The corrupt County employee pled guilty and was sentenced to six months in the County jail, followed by house arrest and probation. In addition to the nine illegal Certificates of Completion at issue among the four defendants, the corrupt employee admitted to issuing illegal

Certificates of Completion in over 50 other cases.

The project manager for a real estate development firm agreed to pay costs of the OIG investigation and perform community service. The general contractor entered a plea in late 2006, and is still awaiting sentencing. He has already made restitution regarding the crimes charged by correcting any illegal construction and obtaining proper Certificates of Completion on two properties for which he was charged. Furthermore, he is working to legalize 39 other properties that he had involvement on, but was barred from being criminally charged due to statute of limitation issues.

Corrupt Employees Accepting Gifts to Speed-Up the Processing of Construction Plans

As the OIG delved more deeply into the activities of the corrupt employee mentioned above and the other three individuals arrested, evidence surfaced that two additional employees in the Building Department were habitually accepting gifts, tips or gratuities from customers to “speed up their work.” That is, if an expediter needed plans pushed through the system and approved more quickly, a small gift to certain employees made that happen.

In 2004, a plans processing technician and a clerk working in the Microfilm Section were arrested for numerous charges of Unlawful Compensation. Both were fired from County employment, entered pleas, and were sentenced to probation.

PUBLIC WORKS

OIG Bores into Roads to Determine the Quantity of Asphalt Work

In 2001, the OIG reviewed billings submitted by a paving contractor for permanent asphalt patching work done in various neighborhoods around the County. The OIG’s review questioned the quantities of asphalt laid by the contractor and, thus, the bill paid by the County. The OIG retained field experts to examine core samples of the asphalt patches. These samples provided proof that the contractor overbilled the County on the amount of material laid. As a result of the OIG’s investigation, the Public Works Department obtained a \$40,000 credit from the paving contractor.

OIG Digs Down to Drainage Trenches to Determine Quality of Work

A 2005 OIG investigation resulted in arrests of a County contractor, two employees, and fraud-related charges for a corporation in connection with the contractor’s work on County storm drainage projects. The charges related to billing Miami-Dade County for substandard work, work not performed, and for billing the County for used materials that were represented as new. It is estimated that the County lost over \$100,000 due to this scheme.

The contract in part called for storm drainage trenches to be installed at certain specified depths. The company then billed the County depending upon that depth. The deeper the trench, the more the contractor was paid. The OIG investigation revealed that although the plans called for—and the contract paid for—trenches at depths of 13 feet, the trenches in some areas were actually 2-8 feet shallower than required. The OIG determined that the required depth had not been achieved by actually digging down and measuring the actual depth of the trenches.

The Public Works Department used an outside agency to inspect the day-to-day construction

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of this project and to ensure that the County got what it paid for. The duties of this agency included preparing daily inspection reports detailing the amount of pipe laid, the depth of trenches, and number of structures installed by the contractor. Instead of performing these duties, the outside agency accepted the word of the contractor's employees as to the depth of the trenches, instead of demanding that the trenches be dug up to verify the depths and to properly inspect the worksites.

As a result of this investigation, the County has implemented specific reforms to hold inspectional service contractors responsible for failures in detecting and/or reporting defective work. As of the date of this report, all defendants are awaiting trial.

QNIP Audit Series

During 2002, the OIG selected nine Miami-Dade Public Works Department (PWD) contracts under the Quality Neighborhood Initiative Bond Program and Quality Neighborhood Improvement Program (collectively referred to as QNIP) for street resurfacing and drainage improvement. The audit resulted in four separate audit reports that address a variety of QNIP issues.

Report 1 addressed PWD's contract administration activities, including its payment processing practices. We generally found PWD's contract administration and payment processes to be inefficient in several areas, including timeliness of payments and in its consistency in obtaining Release of Claim forms from its contractors and direct material suppliers.

Report 2 focused on the Department of Business Development's (DBD) monitoring of contractor compliance with the workforce requirement in QNIP contracts. Overall, the audit found DBD's oversight to be lacking in consistency and effectiveness.

Report 3 addressed PWD's contract administration relating to its handling of financial issues. We found unauthorized use of contract contingency allowances; significant,

unexplained cost variances between estimates and final work order costs; and questionable reports of contingency allowance usage.

Report 4 described unauthorized usage of QNIP contracts; questionable costs due to undocumented work and disproportionate costs; and improper unit costs assigned to "lump sum" work orders.

Each OIG Report contained specific recommendations to address the various weaknesses and inefficiencies revealed by the audit. Management was given an opportunity to respond to the above reports during the audit process, and their comments showed management's willingness and intent to correct identified deficiencies. Management occasionally challenged specific audit findings, but generally appreciated the in-depth review conducted by the OIG and have since implemented several important audit recommendations.

EMPLOYEE UNION CASES**President of Transport Workers Union
Convicted of Fraud**

The OIG investigation of the president of the Transport Workers Union (TWU) Local 291 resulted in criminal charges being filed against Edward Talley (Talley). The OIG investigation revealed that Talley abused his position as TWU president to steal union monies. As a Miami-Dade Transit Agency employee, Talley used County procedures governing the donation of leave time to siphon off union monies. These fraudulent acts were concealed from the TWU membership and served only to benefit Talley. Talley was arrested in July 2001 and charged with Organized Scheme to Defraud and Grand Theft. He later pled guilty and was ordered to repay \$85,910 in restitution. As part of his plea, the court ordered that Talley pay investigative costs, resign both his presidency and his membership in the TWU, refrain from working in any capacity for any union, and refrain from holding public office or working for any government agency.

**Former County Employees Serving as
AFSCME Local 121 Officials Convicted of
Racketeering**

The OIG launched an investigation when, at the urging of the former Director of the Water and Sewer Department (WASD), the newly elected President of the American Federation of State, County, and Municipal Employees (AFSCME) Labor Union, Local 121, lodged a formal complaint. The complaint alleged that thousands of dollars (dues paid by County employees) were stolen from the Union's coffers over a five-year period by the preceding administration. AFSCME Local 121 serves the employees of the WASD. Members consist mainly of WASD employees in positions ranging from meter readers to engineers. The County deducts membership dues from the participating employee's payroll and remits them to Local 121.

The ensuing investigation, conducted jointly by the OIG and the Miami-Dade State Attorney's Office, found that over a five year period the former President, Vice President, Secretary-

Treasurer, Recording Secretary and Executive Board Members received checks drawn on the Union checking account totaling \$350,832, without the membership's knowledge or consent. In order to conceal the fraud and explain the Union's lack of money, members were given a variety of explanations including that the lack of money was due to the "wining and dining of County Commissioners." The investigation found that due to the large amount of money that the Union officials paid themselves, various monthly per capita payments to both the International Union and the Regional Council, entities that oversee the Local 121, were not made. This failure to pay placed the Local 121's sovereignty and existence in jeopardy. The former administration's failure to pay Local 121's financial obligations was particularly egregious, because the Union had no other material expenses other than their per capita taxes.

After the initial arrests in April of 2005, the former Executive Board members agreed to testify against the former Local 121 officers. In March of 2006, the former Recording Secretary pled to grand theft charges and he was sentenced to probation. He was ordered to pay restitution of \$20,000 to the Local 121 and to pay the costs of the investigation to the OIG. He also agreed to testify against the former President and Secretary-Treasurer.

In January of 2007, the former President and Secretary-Treasurer each pled guilty to Conspiracy to Racketeer and Organized Scheme to Defraud, both first-degree felonies. Each was sentenced to two years of house arrest followed by ten years of probation, wherein they were ordered to pay a total of \$179,434 in restitution, and pay OIG investigative costs.

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EMPLOYEE MISCONDUCT CASES

OIG Ghostbusters Discover Ghost Employee at WASD

In 1998, the OIG uncovered alleged payroll fraud committed by a WASD senior administrator. Investigation found that she falsified time sheets of a seasonal student employee who never actually worked at WASD. This "ghost employee" was allegedly the goddaughter of the administrator. As part of the scheme, the administrator directed other WASD employees to lie about and otherwise cover-up for the ghost employee. In total, the ghost was paid \$4,875.

As part of its investigation, the OIG consulted a questioned documents examiner to determine the authenticity of signatures on the time sheets. After their arrests, the administrator and the ghost were both convicted after a trial by jury. The two were sentenced to probation and were ordered to complete 300 hours of community service, and pay approximately \$16,000 in restitution and investigative costs. Additionally, the administrator was sentenced to 15 weekends in the County jail to be served over the course of her probation, primarily for involving other employees and asking them to lie on her behalf.

Corrections Employee Convicted for Falsifying Military Leave Orders

Information was received by the OIG concerning suspected fraudulent Military Reserve Orders submitted by a Corrections Department employee. Our investigation revealed that the employee submitted five falsified military orders, thereby causing the falsification of eight Payroll Attendance Reports. The scam netted him 33 days of Military Reserve Leave from his County employment in 2000-2001. The scam cost the County \$3,845 plus benefits. The corrections officer was arrested and pled guilty to 13 counts of Official Misconduct and eight counts of Grand Theft. The defendant's sentence included full restitution to the County and payment of the OIG's investigative costs.

A Supervisor is Guilty of Overtime Fraud

The OIG exposed a WASD supervisor who

abused his position by fraudulently altering his Payroll Attendance Reports to obtain pay for overtime hours not worked. In the course of 18 months, the supervisor defrauded the County of over \$36,000. He was arrested and pled guilty in 2001 to 33 counts of Grand Theft and other charges. The supervisor was sentenced to 30 days in the County jail, one year of house arrest, and 14 years of probation wherein he was ordered to pay restitution of \$36,442. He also forfeited over \$25,000 in accrued sick and annual leave pay.

County Fire Rescue Engineer Arrested, Then Extradited from Hungary to Face Additional Charges

A County engineer working in the Fire Rescue Department was arrested in February 2003 on 38 counts of Bribery, Money Laundering, Organized Scheme to Defraud and other serious crimes. OIG investigators determined that while employed by the County, the engineer secretly owned and operated two companies that drafted fire sprinkler plans. His businesses received over a million dollars from July 1998 to 2003 for producing fire sprinkler plans for at least 18 different companies. As an engineer for the County, he was responsible for reviewing and approving some of the same fire sprinkler plans that his own business had prepared. Further investigation revealed that he recommended his own company to County vendors whose plans he was reviewing, and also solicited bribes from those vendors. In April 2003, OIG Special Agents obtained a second warrant for his arrest after determining that he solicited three of his employees and a client to falsely testify on his behalf to prosecutors. After learning of this second warrant, he literally ran out of the courthouse and fled the country.

The OIG's pursuit and investigation into his whereabouts resulted in his unprecedented extradition from Hungary, the country to which

he had fled. U.S. Marshals escorted him back to the U.S. and booked him into the Miami-Dade County Jail. After pleading guilty, he was sentenced to three years in Florida state prison, was ordered to pay \$58,537 in restitution, forfeited over \$20,000 in annual and sick leave, and was ordered to pay \$20,000 in OIG investigative costs. During the course of this investigation, the OIG shared evidence of his finances with the IRS. Based in large part upon this evidence and after his return to the U.S., the engineer (for a third time) and his employee (for the first time) were indicted, arrested, and pled guilty to federal tax evasion charges related to the engineer's secret businesses.

Phantom Juror Exposed

The OIG investigated a former Court Records Specialist for payroll fraud. The investigation led to his arrest for defrauding the County Clerk's Office out \$17,388 in salary and benefits. The former County employee had orchestrated an on-going lie that he was serving on federal jury duty for about six months. The investigation revealed that while still employed by the County, the employee had in fact been summoned for duty, but had failed to appear for service. Instead, he reported to supervisors that he had been selected to serve on an important federal criminal jury trial. The employee would periodically report to supervisors over the six-month period that he was still serving on the jury, but could not give specifics regarding the case due to confidentiality concerns and the federal judge's orders not to talk about the case. After repeated requests from supervisors to provide back-up documentation of his service, the clerk abruptly resigned.

In 2004, the former Court Records Specialist pled guilty to all charges, was sentenced by the Court to probation, and was banned from seeking public employment. Prior to sentencing, the former employee paid a total of \$17,388 in restitution to the County and also paid OIG investigative costs.

**THE
PUBLIC
HEALTH
TRUST****Cardinal Health 109, Inc. Probe Involving Sex, Lies, and Prescription Medication**

An OIG investigation was undertaken in 2005 into the Public Health Trust's (PHT) multi-million dollar pharmacy operations management contract with Cardinal Health 109, Inc. (Cardinal), which had been awarded as a no-bid contract based on the promise that taxpayers would save millions of dollars. Cardinal's implementation manager, the person in charge of the PHT contract, was arrested and charged in December 2004 with Organized Scheme to Defraud and Grand Theft. The arrest stemmed from nine instances where he fraudulently submitted bills for nights at strip clubs, fishing trips, and for expensive meals. His expense reports falsely stated the purpose of the events and inflated the number of attendees to avoid scrutiny by the PHT and Cardinal. It was also discovered that the PHT signed off on over \$6,380 in expenses without reviewing bills or requesting back-up documentation that might have triggered appropriate scrutiny of expenses. This was just the tip of the iceberg.

This manager was the same person in charge of the PHT's pharmacy operations and who supervised the Cardinal transition team that set up Cardinal's billing system to the PHT. A subsequent audit uncovered that the PHT suffered over \$15 million in damages and overcharges. A settlement with Cardinal was eventually reached, which resulted in the return of \$11 million to the PHT.

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The Admission and Treatment of Non-County Residents and Non-Emergency Patients at JMH

In December 2003, the OIG issued an audit report of non-County resident and non-emergency treatment and admissions at Jackson Memorial Hospital (JMH). This audit followed the investigation of a non-resident patient from Guatemala who was admitted to and treated by JMH's Burn Center. This patient died in 2001, owing JMH a bill of approximately \$2.2 million for his treatment and care.

The audit was presented to the PHT to provide comprehensive evidence of the financial impact of non-County resident admissions; to assist in evaluating future measures that could be adopted by the PHT to address similar occurrences; and to recommend possible actions in the pursuit and collection of unpaid balances (especially those balances guaranteed by third party international insurance carriers and foreign governments). The audit summarized data compiled by OIG auditors on admissions, lengths of stays, and costs related to selected non-County residents admitted to and treated at JMH. Although cumulative patient account balances exceeded \$85 million, the audit focused only on 68 notable cases that represented almost \$16.3 million in unpaid balances, and on adjustments exceeding \$2 million.

Of the 68 unpaid patient accounts scrutinized, the OIG audit determined that four patients received free services by JMH, 30 patients had accounts managed by the International Health Center and 34 patients were other self-paying, non-County residents. These patients included a Peruvian who received two years' worth of treatment and left an unpaid balance of \$1.16 million; a Saudi national admitted with a guarantee letter from the Saudi Arabian government and who died leaving an unpaid balance of \$235,500; four patients from Aruba who were admitted under the same insurance company and who collectively left an unpaid balance of \$930,909 for treatments

dating back to 2001; and an Indiana patient with an unpaid balance of over \$1 million owed by his state after receiving multiple organ transplants and ongoing care for 2 ½ years.

PHT management concurred with the findings highlighted by the audit and implemented remedial actions. Most notably, the PHT assumed administrative control of the intake and initial screening process of Jackson Health System hospital patients who utilize the International Health Center. Furthermore, the PHT hired collection agencies, specializing in international patient collections, to assist them with the collection of unpaid patient debt.

Audit of Collection Agency Fees

The OIG Audit Unit completed a review of the PHT's collection of out-of-state Medicaid accounts. We found that the PHT was unnecessarily paying fees of 7.5% of the collected amount for patients whose medical procedures were either pre-arranged or pre-authorized. As a result of the audit, the collection of these accounts was transferred in-house. Later, an OIG follow-up found that the PHT had done a poor job in collecting these accounts; subsequently, the OIG provided the PHT with recommendations for enhancing its current methods of collection. The PHT was encouraged to aggressively collect these accounts, which totaled almost \$6 million owed by a mere 14 patients.

Audit of Incident Management Group, Inc. Reveals Million Dollar Discrepancy

The OIG's extensive review of the consultancy arrangement between the PHT and the Incident Management Group, Inc. (IMG) questioned, among other things, the procurement process utilized to initially select IMG, the types of services allegedly provided by IMG, and the poor documentation submitted to the PHT as support for payment of its services. Moreover, the OIG outright questioned some of the consultant's invoices for so-called "recruitment fees" and a PHT trustee's involvement in matters related to invoicing disputes. After issuance of the OIG's final report, and in response to our follow-up,

a PHT internal audit concurred in identifying over \$1 million in questionable payments and overcharges, and stated it would be seeking recoveries from the vendor.

**WATER
AND
SEWER
DEPARTMENT**

WASD Water Tampering Unit

The Inspector General spearheaded an effort to detect consumer utility tampering at the County's Water and Sewer Department (WASD), leading to the creation of the Water Tampering Unit in June of 1999. Since its inception through the end of this fiscal year, the Unit has performed over 33,000 inspections and has found evidence of tampering during 17% of the inspections. The Unit has issued over \$2.7 million in tampering citations and has actually recovered almost \$2.4 million in revenues from these citations. Residential tampering has comprised the bulk of the citations issued (79%), followed by violations at construction sites (14%), commercial property tampering (4%), tampering at multi-unit properties (2%), and tampering of fire hydrants (1%). WASD's Tampering Enforcement Program won an achievement award and received national recognition by the National Association of Counties for its innovative resource saving program.

The OIG continued its work at WASD to expand this recovery initiative to the tampering of water fire lines and other illegal thefts of our crucial water supplies. The OIG joined with WASD and conducted a study to determine the feasibility of applying similar measures to detect the tampering of metered water fire lines. The study specifically reviewed fire line meters at the County's Seaport and revealed that there had been no billing for approximately six months, equating to a loss of over \$15,000, which was immediately billed by WASD to the Seaport. If it

had not been for the oversight the OIG initiated in this area, WASD would have continued to lose \$2,600 each month from the Seaport alone. This initiative has been expanded to other large-scale facilities and will result in anti-theft measures being put into place where needed.

Pump Station Improvement Project

In December 1998, an OIG investigation uncovered a multi-million dollar fraud in the construction of a \$450 million County sewer project known as the Pump Station Improvement Program (PSIP). The County settled with several major contractors on the project in January 2001. The settlements required reexamination and testing of the pipelines and, where necessary, recertification of the installed underground lines. Over \$7 million in estimated potential losses to the County were averted because of the investigation, as all remedial work was completed at no additional charge—not to mention the aversion of public safety and health risks to citizens of Miami-Dade County.

WASD AUDIT SERIES – 3 REPORTS

The OIG Audit unit completed a series of three audit reports in 2005, relating to a WASD contract for the installation or repair of various force mains and their associated systems. Known as a "blanket", the contract establishes a pool of eligible contractors who then bid on individual projects. Seventeen construction projects—ranging from \$100,000 to \$2.6 million in work order amounts—were reviewed as part of this audit.

The first two audit reports focused on WASD procedures for work order pre-bid estimates,

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work order bid proposals and awards, contract documentation, and the reporting of final contract expended amounts. The audits also focused on documenting the work completion date, which is essential in determining whether liquidated damages and/or time extensions are applicable. It was found that project files for the work orders issued did not contain records establishing and documenting authoritative work completion dates, which are essential project records for work order close-outs or for the granting of time extensions for the assessing of liquidated damages. Many of the completed work orders appeared to have been completed "late" to some degree, time extensions were not documented, and liquidated damages were not assessed against any of the contractors, regardless of whether time extensions were granted.

The third audit focused on WASD's change order documentation and detailed three findings related to inadequate record keeping, approval of change order amounts without obtaining adequate cost data, and questioning specific change order amounts for work orders sampled. The OIG emphasized the need for WASD to maximize its collective professional experiences and knowledge of prior contract histories to improve upon the contractual terms and conditions, bid specifications, work descriptions and unit price comparisons, which should positively affect reducing change orders prospectively.

As a result of the OIG's findings and recommendations, WASD has implemented corrective measures addressing the cited deficiencies, including expanded training for its employees, issuing new procedures, centralizing its record keeping and document control, and processing contractor claims in a timelier manner.

FOCUS FOR THE UPCOMING YEAR

The Inspector General's Office will face enormous challenges in the coming year. Of course, we will continue our oversight initiatives of County programs, projects and contracts, and conduct audits, reviews and investigations of County affairs to deter fraud, waste, and abuse wherever possible. We will also focus our limited resources on identifying and recovering monetary losses suffered by the County because of criminal activity or misconduct.

As we embark in 2008, our Office has assumed the role of Inspector General for the Miami-Dade County Public School District. Both the School Board and the Board of County Commissioners concluded that it would be more efficient and effective to use the services of the County's OIG because it is an established, highly respected organization. Given the size and complexities of the school district, this new responsibility will test our capabilities but, undoubtedly, will provide an exceptional opportunity for the OIG to help the district achieve savings at a time of dwindling tax revenues.

In short, we expect that County programs and projects will continue to expand. As such, the OIG will streamline its oversight strategies to monitor expenditures and uses of the County's tax and bond revenues. Future initiatives include examining grant proceeds from the Building Better Communities Bond Program, monitoring capital infrastructure improvements to our transportation network, and investigating complaints and abuses in our procurement programs.

APPENDIX A

Sec. 2-1076. Office of the Inspector General.

(a) Created and established. There is hereby created and established the Office of Miami-Dade County Inspector General. The Inspector General shall head the Office. The organization and administration of the Office of the Inspector General shall be sufficiently independent to assure that no interference or influence external to the Office adversely affects the independence and objectivity of the Inspector General.

(b) Minimum Qualifications, Appointment and Term of Office.

(1) Minimum qualifications. The Inspector General shall be a person who:

(a) Has at least ten (10) years of experience in any one, or combination of, the following fields:

(i) as a Federal, State or local Law Enforcement Officer;

(ii) as a Federal or State court Judge;

(iii) as a Federal, State or local government attorney;

(iv) progressive supervisory experience in an investigative public agency similar to an inspector general's office;

(b) Has managed and completed complex investigations involving allegations of fraud, theft, deception and conspiracy;

(c) Has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary; and

(d) Has a four-year degree from an accredited institution of higher learning.

(2) Appointment. The Inspector General shall be appointed by the Ad Hoc Inspector General Selection Committee ("Selection Committee"), except that before any appointment shall become effective, the appointment must be approved

by a majority of the whole number of members of the Board of County Commissioners at the next regularly scheduled County Commission meeting after the appointment. In the event that the appointment is disapproved by the County Commission, the appointment shall become null and void, and the Selection Committee shall make a new appointment, which shall likewise be submitted for approval by the County Commission. The Selection Committee shall be composed of five members selected as follows:

(a) The State Attorney of the Eleventh Judicial Circuit for Miami-Dade County;

(b) The Public Defender of the Eleventh Judicial Circuit for Miami-Dade County;

(c) The Chairperson of the Miami-Dade Commission on Ethics and Public Trust;

(d) The President of the Miami-Dade Police Chief's Association; and

(e) The Special Agent in charge of the Miami Field Office of the Florida Department of Law Enforcement.

The members of the Selection Committee shall elect a chairperson who shall serve as chairperson until the Inspector General is appointed. The Selection Committee shall select the Inspector General from a list of qualified candidates submitted by the Miami-Dade County Employee Relations Department.

(3) Term. The Inspector General shall be appointed for a term of four (4) years. In case of a vacancy in the position of Inspector General, the Chairperson of the Board of County Commissioners may appoint the deputy inspector general, assistant inspector general, or other Inspector General's office management personnel as interim Inspector General until such time as a successor Inspector General is appointed in the same manner as described in subsection (b)(2) above. The Commission may by majority vote of members present disapprove of the interim appointment made by the Chairperson at the next regularly scheduled County Commission meeting after the appointment. In the event such appointment shall be disapproved by the County Commission, the appointment shall become null and void and, prior to the next

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regularly scheduled Commission meeting, the Chairperson shall make a new appointment which shall likewise be subject to disapproval as provided in this subsection (3). Any successor appointment made by the Selection Committee as provided in subsection (b)(2) shall be for the full four-year term.

Upon expiration of the term, the Board of County Commissioners may by majority vote of members present reappoint the Inspector General to another term. In lieu of reappointment, the Board of County Commissioners may reconvene the Selection Committee to appoint the new Inspector General in the same manner as described in subsection (b)(2). The incumbent Inspector General may submit his or her name as a candidate to be considered for selection and appointment.

(4) Staffing of Selection Committee. The Miami-Dade County Employee Relations Department shall provide staffing to the Selection Committee and as necessary will advertise the acceptance of resumes for the position of Inspector General and shall provide the Selection Committee with a list of qualified candidates. The County Employee Relations Department shall also be responsible for ensuring that background checks are conducted on the slate of candidates selected for interview by the Selection Committee. The County Employee Relations Department may refer the background checks to another agency or department. The results of the background checks shall be provided to the Selection Committee prior to the interview of candidates.

(c) Contract. The Director of the Employee Relations Department shall, in consultation with the County Attorney, negotiate a contract of employment with the Inspector General, except that before any contract shall become effective, the contract must be approved by a majority of Commissioners present at a regularly scheduled Commission meeting.

(d) Functions, authority and powers.

(1) The Office shall have the authority to make investigations of county affairs and the power to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions.

(2) The Office shall have the power to require reports from the Mayor, County Commissioners, Manager, County agencies and instrumentalities, County officers and employees and the Public Health Trust and its officers and employees regarding any matter within the jurisdiction of the Inspector General.

(3) The Office shall have the power to subpoena witnesses, administer oaths and require the production of records. In the case of a refusal to obey a subpoena issued to any person, the Inspector General may make application to any circuit court of this State which shall have jurisdiction to order the witness to appear before the Inspector General and to produce evidence if so ordered, or to give testimony touching on the matter in question. Prior to issuing a subpoena, the Inspector General shall notify the State Attorney and the U.S. Attorney for the Southern District of Florida. The Inspector General shall not interfere with any ongoing criminal investigation of the State Attorney or the U.S. Attorney for the Southern District of Florida where the State Attorney or the U.S. Attorney for the Southern District of Florida has explicitly notified the Inspector General in writing that the Inspector General's investigation is interfering with an ongoing criminal investigation.

(4) The Office shall have the power to report and/or recommend to the Board of County Commissioners whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Any review of a proposed project or program shall be performed in such a manner as to assist the Board of County Commissioners in determining whether the project or program is the most feasible solution to a particular need or problem. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications and applicable law.

(5) The Office shall have the power to analyze the need for, and the reasonableness of, proposed change orders. The Inspector General shall also be authorized to conduct any reviews, audits,

inspections, investigations or analyses relating to departments, offices, boards, activities, programs and agencies of the County and the Public Health Trust.

(6) The Inspector General may, on a random basis, perform audits, inspections and reviews of all County contracts. The cost of random audits, inspections and reviews shall, except as provided in (a)-(n) in this subsection (6), be incorporated into the contract price of all contracts and shall be one quarter (1/4) of one (1) percent of the contract price (hereinafter "IG contract fee"). The IG contract fee shall not apply to the following contracts:

- (a) IPSIG contracts;
- (b) Contracts for legal services;
- (c) Contracts for financial advisory services;
- (d) Auditing contracts;
- (e) Facility rentals and lease agreements;
- (f) Concessions and other rental agreements;
- (g) Insurance contracts;
- (h) Revenue-generating contracts;
- (i) Contracts where an IPSIG is assigned at the time the contract is approved by the Commission;
- (g) Insurance contracts;
- (j) Professional service agreements under one thousand dollars (\$1,000);
- (k) Management agreements;
- (l) Small purchase orders as defined in Administrative Order 3-2;
- (m) Federal, state and local government-funded grants; and
- (n) Interlocal agreements.

Notwithstanding the foregoing, the Commission may by resolution specifically authorize the inclusion of the IG contract fee in any contract. Nothing contained in this Subsection (c)(6) shall in any way limit the powers of the Inspector

General provided for in this Section to perform audits, inspections, reviews and investigations on all county contracts including, but not limited to, those contracts specifically exempted from the IG contract fee.

(7) Where the Inspector General detects corruption or fraud, he or she shall notify the appropriate law enforcement agencies. Subsequent to notifying the appropriate law enforcement agency, the Inspector General may assist the law enforcement agency in concluding the investigation. When the Inspector General detects a violation of one (1) of the ordinances within the jurisdiction of the Ethics Commission, he or she may file a complaint with the Ethics Commission or refer the matter to the Advocate.

(8) The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, County staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud.

(9) The Inspector General shall have the power to review and investigate any citizen's complaints regarding County or Public Health Trust projects, programs, contracts or transactions.

(10) The Inspector General may exercise any of the powers contained in Section 2-1076 upon his or her own initiative.

(11) The Inspector General shall be notified in writing prior to any meeting of a selection or negotiation committee where any matter relating to the procurement of goods or services by the County is to be discussed. The notice required by this subsection (11) shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four (24) hours prior to the scheduled meeting. The Inspector General may, at his or her discretion, attend all duly noticed County meetings relating to the procurement of goods or services as provided herein, and, in addition to the exercise of all powers conferred by Section 2-1076, may pose questions and raise concerns

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consistent with the functions, authority and powers of the Inspector General. An audio tape recorder shall be utilized to record all selection and negotiation committee meetings.

(12) The Inspector General shall have the authority to retain and coordinate the services of Independent Private Sector Inspectors General (IPSIG) or other professional services, as required, when in the Inspector General's discretion he or she concludes that such services are needed to perform the duties and functions enumerated in subsection (d) herein.

(e) Physical facilities and staff.

(1) The County shall provide the Office of the Inspector General with appropriately located office space and sufficient physical facilities together with necessary office supplies, equipment and furnishings to enable the Office to perform its functions.

(2) The Inspector General shall have, subject to budgetary allocation by the Board of County Commissioners, the power to appoint, employ, and remove such assistants, employees and personnel and establish personnel procedures as deemed necessary for the efficient and effective administration of the activities of the Office.

(f) Procedure for finalization of reports and recommendations which make findings as to the person or entity being reviewed or inspected. Notwithstanding any other provisions of this Code, whenever the Inspector General concludes a report or recommendation which contains findings as to the person or entity being reported on or who is the subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the report or recommendation and such person or entity shall have 10 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The requirements of this subsection (f) shall not apply when the Inspector General, in conjunction with the State Attorney, determines that supplying the affected person or entity with such report will jeopardize a pending criminal investigation.

(g) Reporting. The Inspector General shall annually prepare and submit to the Mayor and Board of County Commissioners a written report concerning the work and activities of the Office including, but not limited to, statistical information regarding the disposition of closed investigations, audits and other reviews.

(h) Removal. The Inspector General may be removed from the office upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.

(i) Abolition of the Office. The Office of the Inspector General shall only be abolished upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.

(j) Retention of current Inspector General. Notwithstanding any provision to the contrary, the incumbent Inspector General, Christopher R. Mazzella, shall serve a four-year term of office commencing on December 20, 2005, as provided in the Memorandum of Understanding approved by Resolution No. R-1394-05, and shall not be subject to the appointment process provided for in Section 2-1076(b)(2).

(Ord. No. 97-215, § 1, 12-16-97; Ord. No. 99-63, § 1, 6-8-99; Ord. No. 99-149, § 1, 10-19-99; Ord. No. 00-105, § 1, 7-25-00; Ord. No. 01-114, § 1, 7-10-01; Ord. No. 05-51, § 1, 3-1-05; Ord. No. 06-88, § 2, 6-6-06; Ord. No. 07-165, § 1, 11-6-07)

APPENDIX B: INTERLOCAL AGREEMENT BETWEEN THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, AND MIAMI-DADE COUNTY, FLORIDA, FOR THE PROVISION OF INSPECTOR GENERAL SERVICES THROUGH THE OFFICE OF THE MIAMI-DADE COUNTY INSPECTOR GENERAL

THIS INTERLOCAL AGREEMENT (the “Interlocal Agreement” or “Agreement” or “ILA”) is entered into as of the 27th day of December 2007, by and between THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, a public body corporate and politic and governing body of The School District of Miami-Dade Florida, a political subdivision of the State, existing under the laws of the State of Florida, its successors and assigns (hereinafter referred to as the “School Board”), and MIAMI-DADE COUNTY, a political subdivision of the State, its successors and assigns (hereinafter referred to as the “County”). The School Board and the County are sometimes referred to herein individually as a “Party” and collectively as the “Parties”)

RECITALS

WHEREAS, Section 163.01, Florida Statutes, the “Florida Interlocal Cooperation Act of 1969,” authorizes public agencies to enter into interlocal agreements for mutual benefit; and

WHEREAS, the home rule powers under Section 1001.32(2), Florida Statutes, authorizes the School Board to exercise any power except as expressly prohibited by the State Constitution or general law; and

WHEREAS, the School Board seeks to hire an Inspector General that would be responsible, on behalf of the School Board, for conducting independent audits and investigations into school district practices and operations in order to prevent and detect fraud, waste, financial mismanagement, or other abuses, and promote accountability, integrity, economy, and efficiency in government; and

WHEREAS, School Board Rule 6GX13-8A-1.08 expressly authorizes the School Board, as an alternative method to selecting and employing an Inspector General, to contract through an interlocal

agreement with the County for inspector general services to fulfill the role of the Inspector General for the School Board; and

WHEREAS, the County already has an established Office of the Inspector General that has been nationally recognized for independently and effectively conducting inspector general activities; and

WHEREAS, the County and the School Board recognize that, given the knowledge, experience, and ability of the staff of the Office of the Miami-Dade County Inspector General in conducting investigations into government waste, fraud, or mismanagement, the Office of the Miami-Dade County Inspector General is in the best position to expeditiously fulfill the services of Inspector General for the School Board; and

WHEREAS, the School Board and the County have determined that it will serve the public interest to enter into this Interlocal Agreement in order to accomplish all of the foregoing goals,

Now Therefore, in consideration of the terms and conditions, promises and covenants hereinafter set forth, the Parties agree as follows:

Section 1. Recitals Incorporated.

The above recitals are true and correct and incorporated herein by reference.

Section 2. Purpose.

The purpose of this Interlocal Agreement (ILA) is to arrange for the services of an Inspector General and the provision of inspector general services to the School Board by the Miami-Dade County Office of the Inspector General (County OIG).

Section 3. Responsibilities, Functions, Authority, and Jurisdiction of the Inspector General:

a. The Miami-Dade County Inspector General shall act as head of the School Board’s Office of Inspector General (hereinafter “SB OIG”) and serve as the Inspector General for the School Board during the term of this ILA. The organization and administration of the SB OIG shall be sufficiently independent to assure that no interference or influence external

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to the SB OIG adversely affects the independence and objectivity of the Inspector General. The term “Inspector General” when standing alone hereinafter shall refer to the Inspector General for the School Board whose role is being fulfilled by the County’s Inspector General pursuant to the terms of this ILA.

b. The SB OIG shall have the authority to make investigations of School Board affairs and the power to review past, present and proposed School Board programs, accounts, records, contracts and transactions.

c. The SB OIG shall have the power to require reports and the production of records from the Superintendent, School Board members, School District departments and allied organizations, and District officers and employees, regarding any matter within the jurisdiction of the Inspector General.

d. The OIG shall have the power to report and/or recommend to the School Board and/or the Superintendent whether a particular project, program, contract, or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Any review of a proposed project or program shall be performed in such a manner as to assist the School Board or Superintendent in determining whether the project or program is the most feasible solution to a particular need or problem. Monitoring of an existing project or program may include reporting whether the project is on time, within budget, and in conformity with plans, specifications and applicable law.

e. The OIG shall have the power to analyze the need for, and the reasonableness of, proposed change orders. The Inspector General shall also be authorized to conduct any reviews, audits, inspections, investigations or analyses relating to departments, offices, committees, activities, programs and agencies of the School Board.

f. The Inspector General may, on a random basis, perform audits, inspections and reviews of all School Board contracts. All prospective bidders, proposers, vendors and contractors doing business with the School Board will be informed of the authority of the SB OIG to conduct such random audits, inspections, and reviews and language to this effect, including but not limited to the authority

of the SB OIG to access contractor records and the obligation of the contractor to make those records available upon request, shall be incorporated into every bid, proposal, contract and purchase order issued by the School Board after the effective date of this ILA.

g. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect, and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, School Board staff, and elected officials, in order to ensure compliance with contract specifications and detect corruption and fraud.

h. Pursuant to § 112.3187(6), Fla. Stat., the OIG shall be the designee of the District’s chief executive officer for purposes of receiving Whistle-blower’s Act disclosures under § 112.3187(7) and investigating in accordance with §§ 112.3187-31895, Fla. Stat.

i. Notwithstanding section (h) above, the Inspector General shall have the power to review and investigate any citizen’s complaints regarding School Board projects, programs, contracts or transactions.

j. The Inspector General may exercise any of the responsibilities, functions and authorities contained in this ILA upon his or her own initiative.

k. The Inspector General shall be notified in writing prior to any meeting of a selection or negotiation committee where any matter relating to the procurement of goods or services by the School Board is to be discussed. The notice required by this section shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four hours prior to the scheduled meeting; said notice may be provided via electronic mail. The Inspector General may, at his or her discretion, attend all duly noticed School District meetings relating to the procurement of goods or services as provided herein, and may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General. An audio tape recorder shall be utilized to record all selection and negotiation committee meetings.

1. Under § 1002.22(3), Fla. Stat., student records are highly confidential and may be disclosed only as allowed by § 1002.22(3)(d), Fla. Stat., and State Board of Education Rule 6A-1.0955, F.A.C. The Inspector General will observe these restrictions when preparing reports, as well as observing all other applicable confidentiality requirements under state and federal law.

Section 4. Coordination Of Activities With Internal And External Agencies.

a. The School Board, Superintendent, Chief Auditor, Office of Civil Rights Compliance, Civilian Investigative Unit, Office of Professional Standards and Miami-Dade Schools Police will cooperate with the Inspector General and SB OIG to achieve the goals of preventing and detecting fraud, waste, financial mismanagement, or other abuses, and promoting accountability, integrity, economy, and efficiency in government. Although the SB OIG does not, whenever possible, intend to duplicate the work of the aforementioned entities, its audits, investigations, inspections and reviews may from time to time address the same or similar issues or activities being reviewed by the aforementioned entities. In such cases, and in every case, SB OIG audits, investigations, inspections and reviews will be conducted separately and independently from the aforementioned activities, and upon conclusion, the SB OIG, where appropriate, shall refer the disposition or finalization of an audit, investigation, inspection or review to the appropriate school board entity for any additional action. The Inspector General, District Superintendent and directors of the aforementioned departments may, through subsequent mutual written agreement(s), agree upon operating procedures to ensure that the aforementioned goals are achieved.

b. The Inspector General shall not interfere with any ongoing criminal investigation of the State Attorney or the U.S. Attorney for the Southern District of Florida where the State Attorney or the U.S. Attorney for the Southern District of Florida has explicitly notified the Inspector General in writing that the Inspector General's investigation is interfering, or would interfere, with an ongoing criminal investigation.

c. Where the Inspector General detects corruption or fraud, he shall notify the appropriate

law enforcement agency(ies). Subsequent to notifying the appropriate law enforcement agency, the Inspector General may assist the law enforcement agency in concluding the investigation.

d. OIG personnel will make every reasonable effort to minimize any disruption or interference with work activities being performed in the school system. Except where investigative requirements dictate otherwise, advance notice should be given of a need for the IG or other OIG staff to access areas not routinely accessed by the Board, employees, contractors, or subcontractors of a school. Visits to school sites should be coordinated with the principal and School Police; and any access to students (e.g. interviews or requests for statements) must be consistent with the District's procedures for investigations and the rights of parents and guardians. OIG personnel, who in the course of their employment will have direct contact with students or access to school grounds while students are present, must comply with the requirements of the Jessica Lunsford Act, § 1012.465, Fla. Stat. (2007), and any amendments thereto.

Section 5. Physical Facilities and Staff of the SB OIG:

a. The School Board and District shall provide the SB OIG with appropriately located office space and sufficient physical equipment facilities together with necessary office supplies, equipment, and furnishings to enable the SB OIG to perform its functions.

b. The Inspector General may make available staff members of the County's OIG to provide administrative, legal, investigative, audit and inspectional services. The provision of these services will be reimbursed by the School Board pursuant to Section 7 of this agreement. County personnel providing services pursuant to this agreement, including the Inspector General, shall remain at all times employees of the County.

c. The District Superintendent will make available personnel, resources and accommodations to the Inspector General in order to staff the SB OIG. Funding for personnel, resources and accommodations provided by the District shall be included in the annual allocation by the School Board for the SB OIG as provided in Section 7 of this agreement. The identification, duration, and terms of detachment of District personnel pursuant to this

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section will be made by subsequent mutual written agreement(s) between the Inspector General and the Superintendent, which will be in conformance with the requirements of § 112.24, Fla. Stat. During the term of this ILA, the School Board hereby delegates to the Superintendent the authority to enter into said personnel detachment agreements. These individuals shall report directly to the Inspector General or his designee during the period of the detachment. District personnel detached to the SB OIG shall remain at all times employees of the School District and such detachment will in no way adversely affect the individual's employment rights and privileges, nor shall an employee's return to his or her previous position be adversely affected after a period of detachment to the SB OIG. At the conclusion of their detachment, placement and assignment of school district employees will be governed under the terms of their respective collective bargaining agreements.

d. The Inspector General shall, subject to the budgetary allocation by the School Board, have the authority to retain and coordinate the services of Independent Private Sector Inspectors General (IPSIG) or other professional services, as required, when in the Inspector General's discretion he or she concludes that such services are need to perform the duties and functions enumerated in this ILA.

e. The Inspector General shall have the power to establish personnel and operating procedures as deemed necessary for the efficient and effective administration and performance of this ILA.

Section 6. Reports and Recommendations by the OIG:

a. Notwithstanding any other provision of this ILA, whenever the Inspector General drafts a report or recommendation which contains findings as to the person or entity being reported on or who is the subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the report or recommendation and such person shall have 10 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The requirements of this section shall not apply when the Inspector General, in conjunction with the State Attorney, or other prosecuting authority, determines

that supplying the affected person or entity with such report will jeopardize a pending criminal investigation.

b. The Inspector General shall annually prepare and submit to the School Board a written report concerning the work and activities of the SB OIG as it relates to the duties outlined in this ILA including, but not limited to, statistical information regarding the disposition of closed investigations, audits, and other reviews.

Section 7. Budgetary Allocation By The School Board.

It is agreed by the Parties that the operations and services to be provided by the SB OIG to the School Board shall be adequately funded at no cost to the County.

a. Initial Allocation. The School Board agrees that it will allocate \$75,000 (allocated from a fund that has been budgeted for purposes reasonably related to OIG services) as an initial amount of funds to the SB OIG, and place such funds in an account to be drawn by the SB OIG as needed, until an annual budget is agreed upon by the School Board and the Inspector General. The SB OIG will provide the School Board with an invoice, accounting or other report of any monies drawn from the initial \$75,000 allocation.

b. SB OIG Budget. The Inspector General will, within 90 days after the ILA becomes effective, present to the School Board, through a recommendation from the Superintendent, a proposed annual budget for the SB OIG and a method for its implementation. This proposed budget shall be inclusive of the resources to be provided by the County OIG through its professional staff and any operating expenditures made directly by the County OIG in the furtherance of or pursuant to this ILA. Additionally, the annual budget shall contain funds to accommodate the resources to be provided for the operation of the SB OIG as identified in Section 5(a) and 5(c) herein, and sufficient funds for the general operation of the SB OIG. Once the SB OIG and the School Board are in agreement, the School Board shall adequately fund the costs of the services and operations for not less than the first year of this ILA. Thereafter, annual budgets shall be proposed in accordance with the guidelines set forth in this Section.

c. Compensation for County OIG services. Compensation for direct County OIG services shall be paid by the School Board within 30 days upon presentation of an invoice from the County OIG, which shall be submitted quarterly. Copies of receipts or other appropriate supporting documentation will be presented with the invoice seeking payment. Compensation for professional services rendered by County OIG personnel shall include the individual's direct hourly salary, County payroll fringe and other benefits, and applicable County OIG office overhead.

d. Should the parties hereto be unable to agree upon a budget in the manner prescribed in this section, this ILA shall be void ab initio, and any unexpended and unencumbered funds included in the initial funding allocation provided by the School Board, shall be returned to the School Board.

Section 8. Termination of ILA.

This ILA may be terminated for any reason, including convenience, by either party by thirty (30) days' written notice to the other party.

Section 9. Term and Effective Date of ILA.

This ILA shall take effect upon final execution of the ILA by both the School Board and the County, for a term of three years from the date it takes effect. This three year term may be renewed for an additional term, the length of which must be determined and agreed upon by both parties to the ILA.

Section 10. Indemnification and Legal Representation of the County, OIG and OIG Staff:

The School Board agrees to indemnify and hold harmless the County and its officers, employees, agents and instrumentalities including, but not limited to, the Inspector General, any member of the County OIG, and any District personnel detached or assigned to the SB OIG for any civil actions, complaints, claims, or lawsuits that may be served on them resulting from the performance of this ILA, subject to the provisions of § 768.28, Fla. Stat. The School Board agrees to pay the legal fees and expenses resulting from the defense of such actions in accordance with § 1012.26, Fla. Stat. Notwithstanding any provisions of State law or School Board Rules, the School Board agrees that the County and its officers,

employees, agents and instrumentalities including, but not limited to, Inspector General, any members of the County OIG and any District personnel detached or assigned to the SB OIG, at their sole discretion, may use or retain the services of in-house, County, outside and/or private legal counsel of their choice, in the defense of such actions, and that such services shall be paid for by the School Board, to the extent consistent with § 768.28, Fla. Stat., as interpreted by case law and pertinent Attorney General's opinions.

Section 11. Miscellaneous.

a. Notices. All notices, requests, consents, and other communications under this ILA shall be made in writing and shall be personally delivered, mailed by First Class Mail, postage prepaid, or sent by overnight delivery service, to the parties, as follows:

If to the School Board:

Dr. Rudolph F. Crew, Superintendent
Miami-Dade County Public Schools
1450 NE 2nd Avenue
Miami, FL 33132
Phone: 305-995-1430
Fax: 305-995-1488

With a Copy to:

JulieAnn Rico, Esquire
School Board Attorney
The School Board of Miami-Dade County
1450 NE 2nd Avenue
Miami, FL 33132
Phone: 305-995-1304
Fax: 305-995-1412

If to the County:

Christopher R. Mazzella, Inspector General
Miami-Dade County OIG
19 W. Flagler Street, Suite 220
Miami, FL 33130
Phone: 305-375-1946
Fax: 305-579-2656

Office of the Inspector General

With a Copy to:

Robert A. Cuevas Jr., County Attorney
Miami-Dade County Attorney's Office
111 N.W. 1st Street, Suite 2800
Miami, FL 33128
Phone: 305-375-5151
Fax: 305-375-5634

Except as otherwise provided in this ILA, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 PM (at place of delivery) or on non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the School Board and counsel for the County may deliver Notice on behalf of the School Board and the County, respectively. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the Parties.

b. **Enforcement of Agreement.** In the event that the County, including the County OIG and the Inspector General, is required to prosecute or defend any action by court proceeding or otherwise relating to this ILA, the School Board shall be responsible for the fees and costs of the County's attorneys to the extent permitted by law.

c. **Entire Agreement.** This instrument incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein. The Parties also acknowledge that certain operating procedures and protocols, relating to the assignment of staff and coordination of activities among certain School Board departments, will be stated and agreed to by the Inspector General and the District Superintendent through subsequent, separate written agreements, as provided for in Sections 4(a), 5(c) and 5(e).

d. **Amendments.** Amendments and Addenda to and waivers of the provisions contained in this

Interlocal Agreement may be made only by an instrument in writing which is executed by both Parties.

e. **Joint Preparation.** This Interlocal Agreement has been negotiated fully between the Parties as an arm's length transaction. Both Parties participated fully in the preparation of this Interlocal Agreement and received the advice of counsel. In the case of a dispute concerning the interpretation of any provision of this Interlocal Agreement, both Parties are deemed to have drafted, chosen, and selected the language, and the doubtful language will not be interpreted or construed against any Party.

f. **Assignment.** This Interlocal Agreement may not be assigned, in whole or in part, by any Party without the prior written consent of the other Party.

g. **No Third Party Beneficiaries.** This Interlocal Agreement is solely for the benefit of the School Board and the County and no right or cause of action shall accrue upon or by reason of, to or for the benefit of any third party not a formal party to this Interlocal Agreement. Nothing in this Interlocal Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the School Board and the County any right, remedy, or claim under or by reason of this Interlocal Agreement or any of the provisions or conditions of this Interlocal Agreement; and all of the provisions, representations, covenants, and conditions contained in this Interlocal Agreement shall inure to the sole benefit of and shall be binding upon the School Board and the County, and their respective representatives, successors, and assigns.

h. **Severability.** The invalidity or unenforceability of any one or more provisions of this Interlocal Agreement shall not affect the validity or enforceability of the remaining portions of this Interlocal Agreement or any part of this Interlocal Agreement that is not held to be invalid or unenforceable.

i. **Governance and Venue.** This Interlocal Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. Venue for any dispute shall be in Miami-Dade County, Florida. Disputes arising from this agreement are subject to

and must adhere to the provisions of Chapter 164 of the Florida Statutes, the “Florida Governmental Conflict Resolution Act.”

j. Joint Defense. In the event that the validity of this Agreement is challenged by a third party or parties unrelated to the Parties through legal proceedings or otherwise, the Parties hereto agree to cooperate with each other in defense of this Agreement, with the School Board to bear attorneys’ fees and costs associated with such defense.

k. Time of the Essence. The parties acknowledge that time is of the essence in the performance of all obligations required hereunder and all “days” referenced herein shall be deemed “business days” unless otherwise specifically set forth.

l. Authorization. The execution of this Interlocal Agreement has been duly authorized by the School Board and the County. The School Board and the County have complied with all the requirements of law in connection with the execution and delivery of this Interlocal Agreement and the performance of their respective obligations hereunder. The School Board and the County have full power and authority to comply with the terms and provisions of this instrument.

m. Headings for Convenience Only. The descriptive headings in this Interlocal Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Interlocal Agreement.

n. Counterparts. This Interlocal Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute but one and the same instrument.

Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document.

*Approved By the School Board of Miami-Dade County
on October 17, 2007, Agenda Item #2.*

*Approved by the Miami-Dade Board of County
Commissioners on December 18, 2007,
R-1387-07.*

Office of the Inspector General

4 Convenient Ways to Report Fraud



Online



Mail

Fax



Fraud Hotline: (305) 579-2593





**Miami-Dade County
Office of the Inspector General
19 West Flagler Street, Suite 220
Miami, Florida 33130
Phone: (305) 375-1946
Fax: (305) 579-2656**



**Report Fraud Hotline: (305) 579-2593
or report fraud on our website at
www.miamidadeig.org**



Miami-Dade County
OFFICE OF THE INSPECTOR GENERAL
Christopher R. Mazzella, Inspector General
A State of Florida Commission on Law Enforcement Accredited Agency



NEWS RELEASE

Office of the Inspector General 2010 Annual Report Released

The Office of the Inspector General (OIG) today released its 2010 Annual Report summarizing important investigations and audits conducted in Fiscal Year 2009-2010. The report notes that since 1998, the OIG has identified over \$140 million dollars in questionable costs, losses, damages, and lost revenues. In this past fiscal year alone, the OIG identified almost \$6.1 million dollars in questionable costs, losses, and lost revenues and achieved over \$2.6 million dollars in future savings, prevented losses, and restitution. The report also notes that since its inception, investigations have resulted in the arrests of 202 individuals and the indictment of eleven companies.

The OIG was established by the Board of County Commissioners as an independent, autonomous agency empowered to investigate fraud, abuse, waste, and mismanagement in County affairs. The OIG has oversight over all County departments, agencies, and boards, including all County officials and employees, and vendors doing business with the County. In 2008, the OIG also assumed the role of Inspector General for the Miami-Dade Public School District, the fourth largest in the country. The OIG is designated a "criminal justice agency" by the FBI and is accredited by the Commission for Florida Law Enforcement Accreditation.

To report abuse, fraud or corruption, call the Inspector General's hotline at (305) 579-2593, or visit the OIG's website at www.miamidadeig.org. The OIG will protect the identity of callers to the full extent of the law. Our website offers additional information about the OIG. The 2010 Annual Report is also published on our website.



Annual Report 2010



Miami-Dade Office of the Inspector General

MESSAGE FROM THE INSPECTOR GENERAL



It is with considerable pride that we present our 2010 Annual Report. As you read this report you will see that we have addressed a number of controversial issues. I hope that in fulfilling our mission we have demonstrated to you, our ultimate stakeholders, the importance of independent oversight of County operations and programs. Why? Because we are trying our best to ensure your tax dollars are spent wisely and frugally, particularly in these difficult economic times. The Board of County Commissioners has continued to support the efforts of the Office of the Inspector General (OIG), both legislatively and funding-wise. I think we should give them considerable credit for that support.

I also wanted to take a moment to tell you about the accreditation the OIG received from the Commission for Florida Law Enforcement Accreditation. In July 2010, the Miami-Dade County Office of the Inspector General was accredited by the Commission for Florida Law Enforcement Accreditation. Accreditation is the certification that the Office of the Inspector General adheres to the highest level of professionally recognized best business standards and practices. Accreditation for Offices of Inspectors General is a relatively new process and the Miami-Dade County Office of the Inspector General is one of just a few OIGs in the State of Florida that have received this prestigious recognition.

In closing, let me stress that more and more local governments are adopting OIGs to oversight their operations. Both Palm Beach and Broward Counties have joined the ranks. The Miami-Dade OIG is the model they looked to in creating their offices. We appreciate all your support and look forward to continuing our efforts to provide transparency, fairness, and ethical governmental operations in Miami-Dade County.

Sincerely,

A handwritten signature in blue ink that reads "Christopher R. Mazzella". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

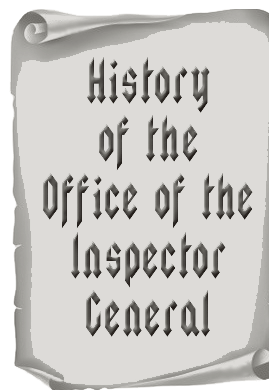
Christopher Mazzella
Inspector General

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History of the Office of the Inspector General

The Miami-Dade County Board of County Commissioners (BCC) responded to the public's demand for clean government fourteen years ago by creating the Office of the Inspector General (OIG). The Office was created in December 1997 through the enactment of Section 2-1076 of the Code of Miami-Dade County, our enabling authority. It empowered the OIG to investigate and review allegations of waste, fraud, abuse, and mismanagement in County government. The BCC determined that the oversight of such a large and diverse government required the OIG to be independent and autonomous. To effectively uphold this mandate, the BCC vested the OIG with an independent status so that it could carry out its goals without political interference.



The Office's first Inspector General (IG), Christopher Mazzella, was selected and appointed in September 1998, and has continuously served since then. Mr. Mazzella was reappointed as the County's IG in 2005, and again reappointed for another four-year term in December 2009.

While IG offices are found throughout the country at all levels of local, state, and federal jurisdictions, the Miami-Dade IG is one of the few inspectors general in the country that has jurisdiction to investigate officials at any level — including elected officials. The Miami-Dade County Office of the Inspector General has been favorably viewed by other local jurisdictions around the country as being a leading model upon which to structure their organization.

In performing our mission, the OIG is empowered to require the production of documents and records by using its power to issue subpoenas, when proper and necessary. The OIG can also require the production of reports regarding any matter within its jurisdiction from any County official, County agency, or instrumentality.

Serving the Miami-Dade Community



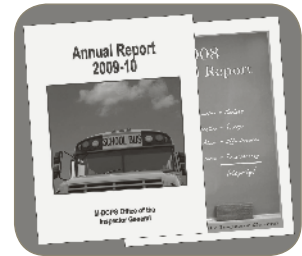
As one of its oversight responsibilities, the Inspector General's Office specifically has authority to conduct investigations of County affairs and to review past, present and proposed County programs, accounts, records, contracts, and transactions. The OIG investigates allegations of fraud, waste, abuse, and mismanagement involving public officials and County employees, as well as contractors and vendors doing business with the County. It also has the power to report and recommend to County government whether particular programs, contracts, or transactions are financially sound, reasonable, necessary, or operationally deficient.

The OIG may conduct audits and inspections, and it may also provide general oversight of departmental programs and large-scale construction projects regarding any matter within its jurisdiction. One recent example of the construction contract oversight it is providing is that of the Marlin's Baseball Stadium. Furthermore, the Office offers guidance and assistance to other agencies and County departments, and conducts numerous pre-employment screenings of employees and contractors working in sensitive security areas.

Today, the Miami-Dade OIG has oversight of a County budget totaling over \$7.5 billion spread over 64 County departments, including the Seaport, Transit, Housing, Aviation, Community

and Economic Development, Water and Sewer, Public Works, Planning and Zoning, Solid Waste Management, Human Services, Cultural Affairs, the Libraries, and the Miami-Dade Public Health Trust/Jackson Memorial Hospital.

The Board of County Commissioners unanimously approved an Interlocal Agreement in December 2007 with the School Board of Miami-Dade County. Under the agreement, the Office of the Inspector General would take on the additional role of Inspector General for the nation's fourth largest school district. The Interlocal Agreement grants the OIG the authority to investigate any aspect of the school system. Independent oversight is essential to a school district managing \$4.3 billion in public funds. The second annual report of the Miami-Dade County Public Schools IG was published in July 2010, and can be viewed at www.miamidadeig.org/whatsnewMDCPS.html.



The OIG serves the Miami-Dade community of almost 2.4 million people by detecting, investigating, and preventing fraud, mismanagement, waste, and the abuse of power in County projects, programs and contracts. Above all, our principal objective is to promote honesty, efficiency and ethics in government, and to maintain and promote the public's trust in government. We must continue to stay vigilant to ensure that, in the final analysis, our citizens get a fair and honest accounting of taxpayer money.

Operational Structure of the Office

The Office is led by the Inspector General, who was appointed by the Board of County Commissioners. He is assisted by the Deputy Inspector General and the Assistant Inspector General. The Assistant IG also serves as the OIG's Legal Counsel. The Office is fully committed to recruiting a diverse team of qualified employees that reflect the makeup of Miami-Dade County. Our team consists of highly skilled professionals from various disciplines and backgrounds that include attorneys, certified public accountants, certified fraud examiners, former law enforcement officials, investigators, financial analysts, engineers, and forensic accountants. Additionally, some of our staff members have specialties in the fields of construction, information technology, investigative databases, and government procurement.

The OIG office structure is comprised of four operational units that work together to fulfill its primary mission of County oversight. The four operational units are: Investigations, Audit, Legal, and Administration.

The Investigations Unit

A staff of special agents with diverse backgrounds comprises the Investigations Unit. The Unit consists of employees who have various investigative backgrounds and disciplines possessing experiences that have been gained mostly by working in the public service sector for agencies whose activities ranged from traditional law enforcement to governmental regulation.



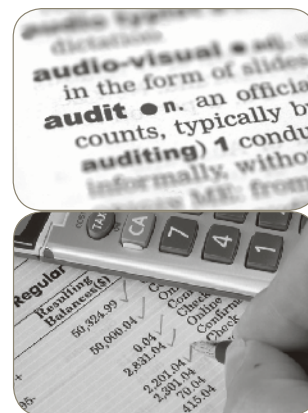
The Unit is supported by Investigative Analysts who have specific expertise in the usage and compliance required of specialized investigative databases that are instrumental in furthering the objectives and function of the Unit.



The Audit Unit

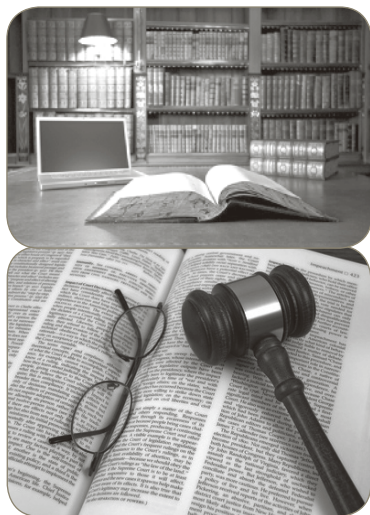
The Audit Unit consists of an Audit Manager and five auditors that are Certified Public Accountants, Certified Internal Auditors, and Certified Fraud Examiners. Additionally, the Unit is supplemented with two contract oversight specialists who have professional expertise in governmental budgets, finance, and engineering, as well as all being Certified Inspector General Auditors.

The Audit Unit recognizes that it is different in size, resources, and mission from other County audit departments, and thus concentrates its resources on distinct aspects of County contracts and projects. The Unit serves the OIG's mission by randomly providing procurement oversight and by participating in reviews, studies and evaluations, in addition to conducting specialized audits on County contracts and projects. The Unit also assists the Investigations Unit with cases that require investigative accounting in such a manner that the outcome will have suitable application to a court of law.



The Legal Unit

Legal counsel is provided to the Inspector General by the Legal Unit. OIG attorneys work closely with the Investigations Unit to assess the strengths and weaknesses of any investigation with potential civil, administrative or criminal implications. The Unit also reviews County contracts to assess contractual rights and liabilities, as well as the efficiency and cost effectiveness of these contracts. From time to time, OIG attorneys also assist with the Office's procurement and contracting oversight responsibilities. The Unit reviews proposed ordinances and resolutions to provide the Inspector General with independent legal assessments of the potential or possible impact of legislative items.



The Legal Unit reviews all subpoenas to be issued by the Inspector General. OIG attorneys are charged with making sure that the Office complies with its "advance notice" responsibilities in the areas of subpoena issuance and final report distribution. All public reports issued by the OIG are reviewed by the Legal Unit to ensure legal sufficiency and work product integrity. OIG attorneys also respond to public records requests and handle any litigation involving the Office.

The Administrative Unit

Unit members support the OIG's oversight mission and handle the day-to-day administrative functions required of any office. This is accomplished through the preparation and dissemination of our public reports; maintenance and updating of information on our independent website; the tracking and referral of all incoming complaints; and the design and distribution of OIG posters, flyers, and our annual report.



Our Executive Team

Christopher R. Mazzella

Christopher Mazzella became the first Inspector General appointed by Miami-Dade County in September 1998. He accepted the position upon retiring from a distinguished thirty-four year career with the FBI. Since the Office became operational in the fall of 1998, the OIG has investigated officials involved in bribery, official misconduct, election law violations, and fraud. In addition, Mr. Mazzella earned the designation of Certified Inspector General by the national Association of Inspectors General.

Mr. Mazzella has participated on a number of task forces aimed at restoring integrity and ethics in our County government. For instance, his participation on the Debarment Task Force played an important role in the adoption of legislation that strengthened the County's debarment policy to exclude dishonest contractors. He has also participated on committees studying procurement and lobbying reforms, and often lectures to various professional organizations regarding the types of fraud cases investigated by his Office.

During his career with the FBI, Mr. Mazzella investigated and supervised complex organized crime and public corruption cases. In a famous organized crime investigation code-named "Operation Gangplank," the leadership of the Philadelphia organized crime family was dismantled. Mr. Mazzella was also responsible for a number of prominent public corruption prosecutions in South Florida.

Mr. Mazzella also held a number of executive-level positions at the FBI. He was Legal Counsel for two field offices. While assigned to the Office of Legal Counsel in Washington, D.C., Mr. Mazzella conducted liaison activities with Congress and was instrumental in drafting legislation expanding the jurisdiction of the FBI. He served as the Organized Crime Drug Enforcement Task Force Coordinator for the Florida Caribbean Region. In that capacity, he coordinated the FBI's drug programs and investigations in the Florida Caribbean region, involving over 200 federal, state and local law enforcement personnel, and helped secure millions of dollars in federal funding for local law enforcement initiatives and personnel.

As the public's demand for ethical government continues to grow, Mr. Mazzella has been called upon to showcase the Miami-Dade IG Office, which has served as a successful model for other local governments.

Mr. Mazzella holds a Juris Doctor and Master of Arts degree and is a member of the Florida, New Jersey, and Missouri Bar Associations.

Alan Solowitz

The Deputy Inspector General has been with the Office since its inception in 1998, and is primarily charged with heading the Investigations Unit. Mr. Solowitz has received the designation of Certified Inspector General by the national Association of Inspectors General.

Prior to joining the OIG team, Mr. Solowitz was a Law Enforcement Investigator with the Florida Division of Insurance Fraud, a Senior Investigator with the State of Florida Medicaid Fraud Control Unit, and was a police officer with the City of Miami Beach Police Department for 28 years. There he held the positions of Assistant Chief of Police, Chief of Investigations, and SWAT Commander.

His extensive investigative background includes organized insurance fraud, health care fraud, corporate fraud, organized crime, money laundering, narcotics, and violent criminal and racketeering investigations. Mr. Solowitz is a graduate of the FBI National Academy and the Institute on Organized Crime.

Mr. Solowitz is a member of the American Institute for Industrial Security and is also a Certified Fraud Examiner. He has also recently served on the Board of Directors of the national Association of Inspectors General.

Patra Liu

As Assistant Inspector General and Legal Counsel for the Office, Ms. Liu manages and supervises the legal, audit, and administrative units of the Miami-Dade Office of the Inspector General. She is the chief legal advisor to the Inspector General, and in her role as Assistant Inspector General, she coordinates the activities of the Audit Unit and oversees all the administrative operations of the Office, including the Office's finances and its annual budget. Ms. Liu joined the Miami-Dade OIG in March 2000.

Ms. Liu began her legal career as a criminal prosecutor with the Miami-Dade State Attorney's Office. After working her way through various assignments within the State Attorneys Office, she was last assigned to the Economic Crimes Unit investigating and prosecuting cases involving health care fraud, insurance fraud, embezzlement, money laundering, and various schemes to defraud. Directly before joining the OIG, Ms. Liu was a Florida Assistant Attorney General in the Medicaid Fraud Control Unit. There she served as the Miami Bureau's in-house legal advisor, coordinating legal action with federal prosecutors and handling civil cases involving the False Claims Act, Florida's civil theft statute, applications for other injunctive relief involving the proceeds of Medicaid fraud, and forfeiture actions.

Ms. Liu received her Juris Doctor degree from the University of Washington in Seattle, Washington. She has a Bachelor of Arts in History from the same institution. She is a member of the Florida and Washington State Bar Associations. Ms. Liu became a Certified Inspector General in 2003 and earned the designation of Certified Inspector General Auditor in 2009. Both certifications are accorded by the Association of Inspectors General (AIG), a national organization that Ms. Liu is an active member of and which she has served on its Board of Directors since 2006. Ms. Liu was also recently made a Board member of the Florida Chapter of the AIG.

Training, Lectures, and Speaking Engagements

Mr. Mazzella played an instrumental part in the creation of IG offices in Palm Beach and Broward Counties. Mr. Mazzella testified before the statewide Grand Jury in April of 2009 regarding corruption issues. Mr. Mazzella also spoke before the Palm Beach Ethics Commission and other governmental entities regarding the role of the IG in local government. Consequently, OIGs were created and modeled after the Miami-Dade County IG's office.



Mr. Mazzella was invited to address civic organizations, rotary clubs, and other groups this year.



OIG Special Agents are sometimes requested to lend their professional expertise to the community. This year, OIG staff taught several courses at the Association of Inspectors General/Certified Inspectors General Institute. The focus of one course, *Multi-Jurisdictional Investigations*, highlighted aspects of an OIG investigation that required international extradition of a County public official from Hungary back to Miami. Another course, *Digital Evidence*, focused on probative information stored or transmitted in digital or electronic form that can be used in trial.

Upon receiving Ethics Instructor certification from the Federal Law Enforcement training center, OIG staff conducted a series of training classes in the law enforcement community. This fiscal year, *Ethics Training for Law Enforcement* was presented by OIG staff to Officers at Miami-Dade Schools Police Department and the Surfside Police Department.

Professional Development of Staff

The most highly skilled and experienced professionals in their fields are recruited for the OIG team. To maintain these levels, the Office has made a commitment to invest resources for specialized training and certifications. Continuing education, advanced training, and technology expertise are prerequisites for successful operations.

In accordance with fulfilling these goals, staff received specialized training at such courses as: *Ethics for Governmental CPAs in Florida*; *Governmental Accounting and Auditing*; *Non-profit Accounting*; *Individual Gross Income*; Jackson's *Advanced Clinical Knowledge System*—Cerner Learning Services; *INVISION Patient Accounting*; *Updates to the Ethics Ordinance*; *OIG Policies & Procedures*; *Anatomy & Illusiveness of Procurement Fraud and Fraud Schemes in Your Contracting Process*—the Association of Inspectors General; *Red Flags of Collusion*—USDOJ Antitrust Division; *Diversity Matters for Supervisors*; *Bisk CPE Network Accounting and Auditing*; *Compliance Auditing and Other Types of Engagements*; *Audit Evidence and Work Paper Documentation*; *Behavior Pattern Recognition*—Miami Dade Aviation Department; *Law Enforcement Training Seminar*—Palm Beach Economic Crime Unit Financial Institution; *Intelligence Analysis Training*—Michigan Intelligence Operations Center for Homeland Security; and *Financial Crimes and Fraud Investigations*—Financial Institutions Security Association.

OIG staff also attended a wide variety of educational seminars and conferences this year. These include: *Back to Basics* and *Compliance 101 for Certified Fraud Examiners*—Association for Certified

Fraud Examiners; the *2010 Fraud Conference*; the South Florida Inspector General Council; the *Criminal Justice Information Services Annual Training Symposium* by the Florida Department of Law Enforcement; the *Financial Institution/Law Enforcement Training Seminar* by the Palm Beach Police Department Economic Crime Unit; and monthly training seminars at FISA (Financial Institutions Security Association).



Administration staff furthered their office skills by completing classes such as *Advanced Excel*, *Business Writing for Professionals*, *Finance & Accounting for Non-Financial Managers*, and *Dreamweaver Advanced* website training. Staff also completed various County proprietary systems courses.



Miami-Dade Office of the Inspector General Achieved Accreditation

In July 2010, the Miami-Dade County Office of the Inspector General was accredited by the Commission for Florida Law Enforcement Accreditation (CFA). Accreditation is the certification that the Office of the Inspector General adheres to the highest level of professionally recognized best business standards and practices. Accreditation for Offices of the Inspector General is a relatively new process and the Miami-Dade

County Office of the Inspector General is one of just a few OIGs in the State of Florida that have received this prestigious recognition.

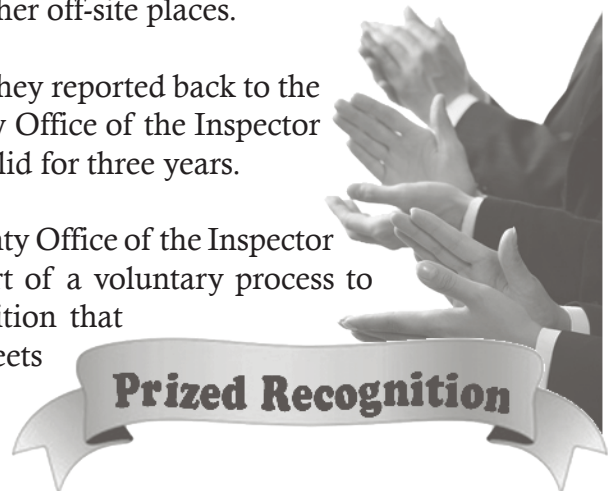
In 1993, the Commission for Florida Law Enforcement Accreditation was formed. Initially the accreditation process was just for law enforcement and correctional agencies. In 2009, the Commission for Florida Law Enforcement Accreditation expanded their program to include Offices of the Inspector General. An accreditation program has long been recognized as a means of maintaining the highest standards. Accreditation is the certification by an independent reviewing authority that an entity has met specific requirements and prescribed standards.

The CFA Board is comprised of four sheriffs, four chiefs, and one representative each from the Association of Counties, the League of Cities, the State Law Enforcement Chiefs' Association, the Judiciary, and in 2009, an Inspector General was added. The CFA worked closely with Florida's Inspectors General to develop professional standards for Florida Inspector General Investigative functions.

In May 2010, an assessment team from the CFA arrived to examine all aspects of the Miami-Dade County Office of the Inspector General's policies and procedures, management, and operations. The Miami-Dade County Office of the Inspector General had to comply with approximately 40 standards in order to receive accredited status. The CFA's assessment team was composed of law enforcement practitioners from similar agencies. The assessors reviewed written materials, interviewed individuals, and visited offices, and other off-site places.

Once the CFA's assessors completed their review, they reported back to the full Commission Board. The Miami-Dade County Office of the Inspector General received accreditation July 2010 that is valid for three years.

Verification by the team that the Miami-Dade County Office of the Inspector General meets the Commission's standards is part of a voluntary process to gain or maintain accreditation—a prized recognition that the Office's performance and investigative work meets high standards of excellence.

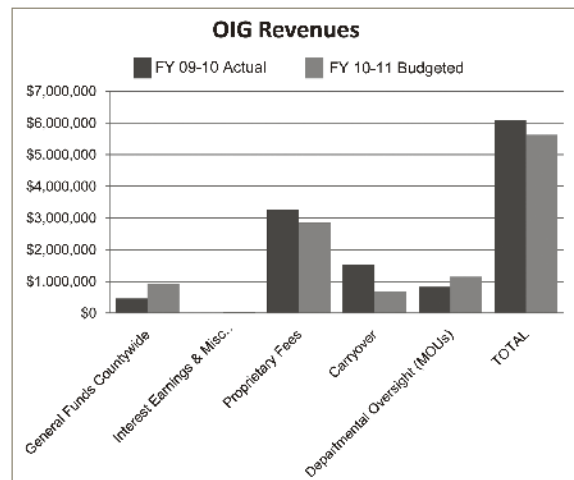
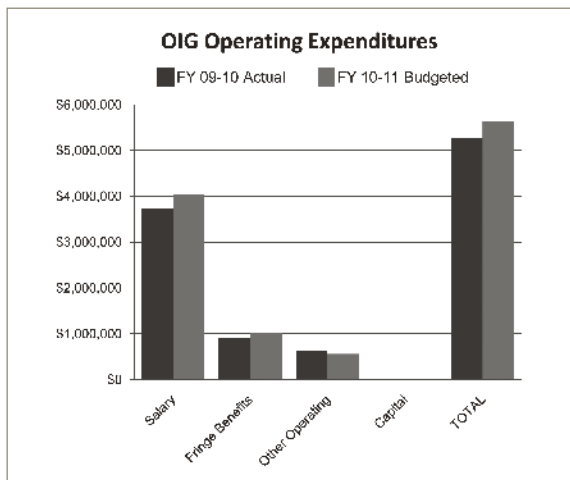


Our Financial Report

The OIG's budget is funded by three distinct sources. These include the IG proprietary fees assessed on County contracts, direct payments collected through memorandums of understanding contracted with various County departments, and general funds allocated through the County's budget process. A fourth category is OIG carryover (higher than expected returns on IG contract fees and unspent accumulated savings), which greatly offsets the OIG's need for general fund dollars.



For the fiscal year 2009-10, the OIG's budget was approved at \$5,329,000 for 38 positions. The actual 09-10 expenditures came in much lower — at \$274,000 below the budget. IG contract fees collected in 2009-10 combined with the IG's fiscal restraint resulted in a healthy carryover of over \$1.5 million into the fiscal year budget of 2010-11, which the Board of County Commissioners approved at \$5.6 million.



The impact of the Office of the Inspector General extends beyond just the financial considerations. We strive to create an atmosphere of credibility within government. The outcome of maintaining transparency and trust in local county government is invaluable, and public officials want the same thing. We continue to stay vigilant to ensure that, in the final analysis, County taxpayers receive a fair and honest accounting of their funds. We are a productive and cost efficient Office with an ultimate goal to prevent misconduct and abuse, and to seek appropriate remedies to recover public monies that would otherwise be lost to waste, fraud, or abuse.

OIG Achievements

Questionable Costs, Savings, and Restitutions

For the fiscal year 2009-2010, the OIG identified over \$6.1 million in questionable costs, losses, damages, and lost revenues for the County. During this same reporting period, over \$2.57 million in averted losses, projected savings, and financial recoveries have been achieved for the County.



The Office of the Inspector General was created in 1998, and since its inception has identified over \$140 million dollars in questionable costs, losses and damages, and lost revenues.

Fraud Complaint Summary

In accordance with our mission to promote ethics, honesty, and efficiency in government and to restore and promote the public's trust in government, the OIG continues to provide the public with access to register their concerns via the OIG Fraud Complaint Program. This program is an essential element in our efforts to combat fraud, as it provides an invaluable means in generating fraud leads from citizens, vendors, contractors, subcontractors, and employee sources throughout the County. These leads from the public are a key component in the continued development and productivity of the office.



Our investigations are initiated upon the receipt of credible information alleging an act of fraud, waste, financial mismanagement, or corruption that falls within the OIG's jurisdiction. We encourage any person to contact us to report suspected instances of fraud or corruption involving the County. There are a variety of convenient methods available



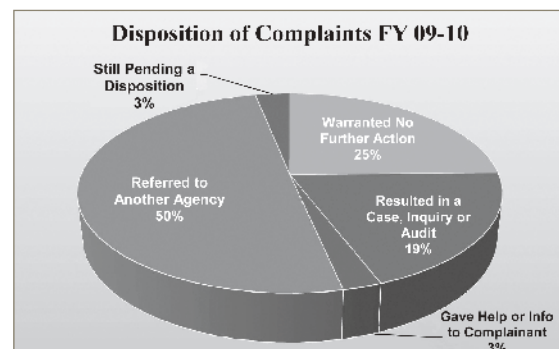
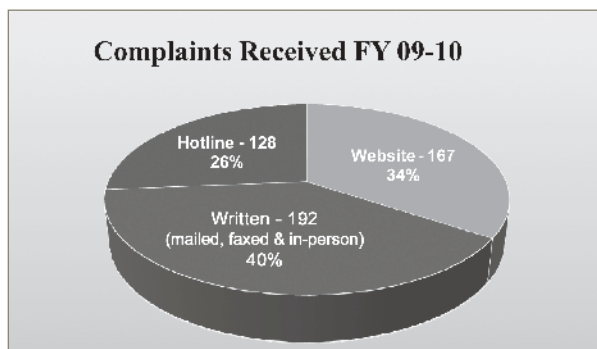
to register a fraud complaint. Written complaints can be mailed to us at 19 West Flagler Street, Suite 220, Miami, Florida 33130. Calls can be made to our dedicated Fraud Hotline at (305) 579-2593, or




a complaint can be faxed to us at (305) 579-2656. The public may also visit our website to report fraud confidentially on-line at www.miamidadeig.org.

While you may remain anonymous if you wish, we do encourage you to identify yourself in case we need additional information that might prove helpful in our review of the matter. If you believe that making a report to the OIG will place you at risk of retaliation, you should inform the OIG of this concern. There are certain provisions under the Code of Miami-Dade County and Florida law that protects employees, independent vendors, or contractors under contract with the County or school district, from retaliation under certain circumstances.

The Office received 487 fraud complaints for the 2009-10 fiscal year: 167 complaints were received on-line; 192 complaints were mailed, faxed, or received in person; and 128 complaints came in on the dedicated fraud hotline. The majority of the complaints (50%) were referred to appropriate County departments or other governmental agencies that could directly address the complaints. It was determined that 25% did not warrant further action. However, 19% of the complaints received did lead to the initiation of a case, audit, or inquiry, or related to an investigation.



Some Examples of Reviews From Our Complaint Files

- An inquiry was opened on a anonymous fraud complaint alleging there was a problem with the manner that video equipment was purchased, inventoried, and stored at the Video Shop Services of the Miami-Dade Aviation Department. Despite repeated requests to remedy the problem, equipment was routinely purchased without a proper accounting of the existing equipment. The underlying complaint was substantiated. As a result, corrective measures were put into place in the form of standard operating procedures for inventory tracking of video shop equipment.
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- A money order submitted to the Miami-Dade Tax Collector to pay the property taxes of a third-party was returned to the Finance Department from the Federal Reserve Bank, as it was drafted on an account that did not exist. An OIG investigation revealed that the perpetrator had prepared two fraudulent money orders, totaling \$150,498.83, while he was an inmate in a U.S. Bureau of Prisons facility. The counterfeit money orders contained details similar to those used by the *Sovereign Citizen Movement*, a radical group that believes they are not subject to any statutes or proceedings at the federal, state, or municipal levels – and reject most forms of taxation as illegitimate. The case has been referred to the U.S Secret Service for possible criminal charges.
 - An OIG review into the claims process from damage by excavators to Miami-Dade Water and Sewer Department underground water and sewer lines resulted in the implementation of a number of procedural changes aimed at improving the effectiveness of their damage assessment and collections. This included the reassignment of management personnel in the claims and collections department, improved review of the damage investigation process, and the timely referral of claims to the County Attorney's Office.
 - U.S. Postal Inspectors requested OIG assistance in their investigation of an identity theft ring when a County employee, who was not the target of the investigation, was identified as a possible source of information related to individuals suspected of having involvement in this ring. Through the assistance of the OIG, the County employee was located and subsequently interviewed, resulting in information that enabled the Postal Inspectors to identify the individuals and serve a search warrant. The Postal Inspectors obtained additional information that was significant to their investigation and are currently awaiting prosecution approval.

Arrest Statistics Summary

Criminal Investigations — Arrests, Convictions and Guilty Verdicts

Since the formation of the Miami-Dade OIG in 1998, there have been 202 arrests and 11 companies indicted for crimes and frauds against the County.



OIG investigations resulted in a number of significant fraud-related arrests and convictions in 2010. A central theme that underscored the fraudulent misconduct uncovered by the OIG this



fiscal year was the falsification by wrongdoers of documents and forms that are required to be filed with various Miami-Dade County, State of Florida, and federal governmental departments and agencies. Our investigations led to 5 arrests this year. The arrest charges included Grand Theft, Organized Scheme to Defraud, Forgery, and Uttering Forged Instruments.

Ten defendants pled or were found guilty this fiscal year for various crimes ranging from Organized Scheme to Defraud, White Collar Crime, Money Laundering, Grand Theft, Official Misconduct, to Forgery and Notary Fraud.

Former Judge and His Assistant Sentenced for Misuse of County and State Grants

Based on an OIG investigation, former Circuit Court Judge Phillip S. Davis was convicted and sentenced to 20 years in state prison followed by 10 years of probation. His assistant, Joan Marie Headley, was sentenced to 10 years in state prison followed by 10 years of probation. Davis and Headley were each found guilty of Organized Scheme to Defraud, Aggravated White Collar Crime, Grand Theft, and Money Laundering.



Davis and Headley, Director and Administrative Assistant of Miami-Dade Resident College (MDRC) respectively, were convicted of defrauding the County and the State of Florida of approximately \$80,000. MDRC, a not-for-profit corporation established to provide disadvantaged juveniles or those within the criminal justice system with social work services, sought and received a variety of grants from the County and State. The frauds were committed against three grants awarded by Miami-Dade Housing Agency (now PHA) and one State grant that were meant to fund social work services and programs for disadvantaged youth.

Davis and Headley developed a sophisticated scheme through the use of a shell corporation, WorkForce Management, Inc., to provide MDHA and the State with invoices for employee payroll showing false wage rates. Once MDHA provided the grant monies to MDRC, the employees were paid at much lower rates. The invoices submitted also falsely stated the scope of work being done by some of the employees. Davis and Headley were also able to increase their own salaries above the amounts allowable by the grants for their alleged work.

Arrest of County Employee Who Stole County Grant Funds to Repay Stolen City Grant Funds

The arrest of County grant recipient Charles Leon Cutler was a result of a joint investigation by the OIG and the Miami-Dade State Attorney's Office. Cutler headed the non-profit Veteran's Employment Transition Services, Inc. (VETS) and was charged with Grand Theft for misappropriating grant funds.

Cutler received County monies to fund job training programs and an educational and informational summit for military veterans residing in the County. He also received City of Miami funds for a separate job training and placement program. The investigation uncovered that Cutler misappropriated funds from the City of Miami grant and then misappropriated County grant funds to repay the city theft. When the city grant was assigned to Miami-Dade



College, VETS was required to return any unused funds. Cutler wrote several checks to himself, totaling \$4,000, instead of transferring the funds. Cutler's theft was uncovered by Miami officials who advised that they would notify law enforcement. The very next day, Cutler repaid Miami-Dade College by diverting funds from the County grant funds by falsely certifying the amounts of employee salaries. Additionally, he diverted \$1,000 for his personal use, and paid his daughter \$2,500 and his ex-wife \$2,000 for summit coordination and catering services. The investigation determined that the summit was actually organized by the Liberty City Trust, held on city property, and catered with city funds—with no financial support from VETS.

Water & Sewer Department (WASD) Employee Arrested for Stealing County Tools

Donald L. Richard was charged with Organized Scheme to Defraud and Grand Theft when an investigation by the OIG and the State Attorney's Office uncovered his scheme to steal tools that he purchased for the WASD Interama Electrical Shop. Richard was a 33-year WASD employee and a Plant Electrical Supervisor at the shop for almost two decades. Richard manipulated an internal control log, reusing inventory numbers on the log to keep purchases for his personal use. Richard admitted to OIG Special Agents that two tool chests were at his home, which the Agents found to be full of unused, name brand tools. The OIG was later advised that Richard returned a pressure washer to the plant. To date, an additional 48 tools have mysteriously appeared at the Interama Electrical Shop that Richard supervised. The value of the tools first recovered exceeds \$2,000; the value of the additional returned tools has not yet been determined.



Arrest of Former Jackson Health System (JHS) Employee for Theft

Based on information received from JHS, the OIG conducted a joint investigation with the State Attorney's Office that resulted in the arrest of Michael R. Clarke on charges of Organized Scheme to Defraud, Grand Theft, and Petit Theft. The investigation found that Clarke, a Patient Care Assistant at the Batchelor Urology Center, deposited 17 patient checks into his personal credit union account after telling patients or their relatives to leave the payee line of the check blank or to make the checks out to cash. The checks were written between June 2008 and July 2009 and totaled \$7,781. He then manipulated the JHS computer system to ensure that no bill would be generated for the services provided. His scheme unraveled when a patient and her husband complained to JHS that their billing statement did not reflect the payments they had made to the Batchelor Center.



Tax Collector Employee Arrested for Defrauding the Florida Housing Finance Corp.

Kenneth Arthur Ferguson of the County Finance Department's Tax Collector's Office was arrested on charges of Organized Scheme to Defraud, Forgery, and Uttering Forged Instruments. Departmental officials suspected forgery and alerted the OIG. The investigation uncovered his



scheme to fraudulently obtain reduced rent housing through the Florida Housing Finance Corporation's low-income rent program. Ferguson's salary as a Tax Records Specialist II was higher than the qualifying limits for rental reduction at Villas Del Lago Apartments, so he forged his supervisor's signature on employment verification forms and altered payroll statements as proof of income in order to qualify. The OIG found that Ferguson had submitted fraudulent forms since 2005 to receive over \$37,000 in reduced rent housing benefits.

OCD Grant Recipient Sentenced on Uttering Forged Instruments and Notary Fraud

The President of Rezkitna Corporation, Abdallah Masoud Mustafa, pled guilty to Notary Fraud and Forgery. Rezkitna Corporation owns the M&M Supermarket in Homestead, a recipient of a community redevelopment grant with the Office of Housing and Community Development.



An OIG investigation uncovered that Mustafa forged required insurance certificates to obtain the grant, and also notarized his own signature on documents submitted to the County. The County paid various companies over \$49,000 for improvements to the M&M Supermarket. At his sentencing he was ordered to repay the costs of investigation to the OIG and the costs of prosecution to the SAO. Rezkitna Corporation will also be debarred from contracting with the County for five years.

Former Transit Employee Pleads Guilty to Jury Duty Fraud

Anna Maria Doleman was arrested after an OIG investigation uncovered that she falsified documents as proof of jury duty to excuse her from a week of work. The OIG found that Doleman had not been summoned to jury duty and the documentation submitted was completely fabricated—down to the fake person whose signature was on the fake Clerk of the Courts memorandum. Doleman, a five-year Rail Vehicle Mechanic for Miami-Dade Transit, pled guilty to Forgery, Uttering a Forged Instrument, Grand Theft, and Official Misconduct.



Property Tax Exemption Case Concluded

Four criminal cases were concluded this fiscal year from an investigation reported in 2008, identifying 42 properties where a Total & Permanent Exemption for disabilities was erroneously continued. The 42 properties had a cumulative assessed value of over \$6 million. The criminal cases resulted in restitution to the County of \$77,957 and repayment of \$10,000 in investigative costs to the OIG. Remedial measures were also implemented by the Property Appraiser's Office.

Acquisition of Scheduling Consulting Services for the Miami-Dade Fire Rescue Department (MDFR) Training Facility Construction Project

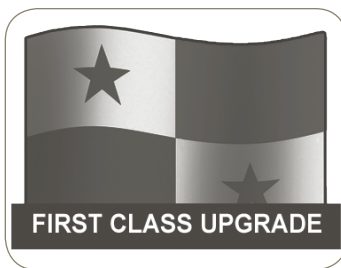
This investigation involved reviewing the MDFR acquisition process for professional services of an "Owner Scheduling Independent Consultant" via a pass-through arrangement with the general contractor, MCM Corporation. The scheduling consultant was paid by the general contractor with funds from the construction contract's contingency allowance account, which the OIG found to be against sound contract administration principles. It subverts the qualification



and selection process and creates a conflict of interest. An owner's consultant should not be paid by the entity it is overseeing. County procurement processes were circumvented and construction contingency funds were used for non-conforming expenses. The means and methods employed by MDFR put the department's reputation at risk in managing and overseeing its own construction projects.

Review of Miami-Dade Transit's (MDT) Credit Card Payment Security Features

An OIG investigation into the MDT Fare Collection System—which allows riders to purchase an “Easy Card” to pay when using Metrorail, Metro Buses, and STS vehicles—was initiated when a rider reported observing two men offering to sell Easy Card passes at a discounted amount to other MDT patrons. The investigation determined that Cubic Transportation System, Inc. failed to install anti-fraud features into ticket vending machines as contractually required, allowing credit card thieves to routinely purchase Easy Cards and sell them at a discount. MDT failed to fully monitor Cubic's installation efforts, failed to conduct a final inspection of the ticket system, failed to ensure contractual compliance and operational security, and failed to take other measures within its control to minimize losses. Cubic is now working with MDT to install the required security features that allow for the identification of suspicious credit card activity and has agreed to perform the repairs at no cost. Substantial losses were incurred by MDT in a one year period—in part as a result of the use of stolen credit cards at ticket vending machines. The OIG recommended referral of this matter to the County Attorney's Office to seek monetary recoupment caused by the failure to implement contractually required credit card security features, and to seek liquidated damages for untimely performance of its contractual obligations.



Abuse of Miami-Dade County Restrictions on Outside Employment by the Mayor's Former Chief of Staff and Miami-Dade Police Department Officials

The OIG investigation determined that the former Chief of Staff to the Mayor's Office and several Miami-Dade County Police Department (MDPD) officials violated County restrictions on outside employment, engaged in questionable leave usage, and improperly obtained first-class airplane ticket upgrades while traveling to Panama as paid consultants for a private company.

The OIG investigation revealed that between 2007 and 2009 the officials repeatedly failed to properly complete and submit County-mandated outside employment forms. During that time, the Mayor's former Chief of Staff and the MDPD officials were paid approximately \$418,363 in outside income from their Panamanian consulting work. One MDPD official, the former Director of the MDPD Police Institute who was directly responsible for the training of police recruits—never obtained authorization for outside employment for 2007-2009, yet made over \$250,000 in outside income. Second, the OIG investigation determined that the Mayor's former Chief of Staff and the MDPD officials used over 128 hours of paid administrative leave related to their outside employment. Some of the officials, while traveling in Panama, were not charged any leave for being away. Further, an MDPD policy prohibiting more than 20 hours of outside employment per payroll week was routinely ignored by the MDPD officials. Third, we

determined that between 2007-2009, the Mayor's former Chief of Staff and two other officials obtained a total of at least 10 first-class ticket upgrades for travel to Panama. In October 2009, they were upgraded after a uniformed MDPD sergeant made a request on their behalf to an American Airlines gate agent, despite an MDPD policy directive issued a month beforehand that specifically prohibited such solicitations. Although the County Code requires such upgrades to be disclosed as gifts if valued over \$100, there was only one instance where such a disclosure was made, and that was after the October 2009 trip.

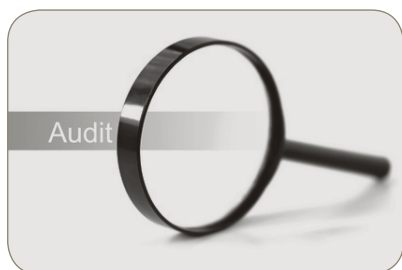
The investigation concluded that these abuses could have been detected by routine scrutiny of the information contained on the forms that were filed, as well as timely scrutiny into the fact that many required forms were not filed at all. Instead, the outside work obligations of the officials could reasonably be perceived as having hampered performance of their official duties, a situation that could have been detected and prevented by MDPD. As such, several recommendations were offered by the OIG to remedy these deficiencies.

Monitoring/Oversight of Major Projects

In addition to its mission to investigate fraud, waste, and abuse, the OIG also has contract oversight specialists that monitor and review major projects. For instance, the OIG has an engineer on-site at the Florida Marlins Stadium Project.



Audits, Reviews, and Contract Oversight



The purpose of the OIG's Audit Unit is to support the mission of the OIG by detecting and preventing fraud, waste, mismanagement, and abuse of power in County projects, programs, and contracts, and, where possible, to recover public monies. This is achieved through the performing of audits, reviews, inspections, and other audit-related activities. Most OIG audits involve one or more of the following reviews:

Type I Procurement and contracting evaluations where we look at process transparency and integrity surrounding individual activities throughout the procurement cycle or at the complete cycle itself, beginning with planning stages, and going through solicitation and award, administration, goods/services delivery, payment, and, lastly, close-out.

Type II Expenditure analyses where we test spent monies for propriety, reasonableness, and necessity.

Type III Revenue verifications where we substantiate that County permittees are accurately, completely, and promptly reporting their revenues earned under County permits and remitting to the County its portion thereof.

Type IV Procedural reviews where we evaluate an entity's processes and practices looking for weaknesses or deviations from the norm or a failure to meet standards or noncompliances with authorizing legislation or other regulatory guidance.

In addition, OIG Auditors have been reporting on concerns that certain activities, processes, conditions, etc., observed during their audits pose a reputational risk to the audited entity specifically and to the County overall. Common risks that the OIG auditors have encountered in the past that contribute to an entity's reputational risk include unacceptable accounting, excessive costs, unachieved objectives and goals, undocumented deviations from standard practices, erroneous management decisions, and loss of assets.

Audit of Zoo Miami's Commodity Purchases (Metro Zoo)

An OIG audit found three conditions warranting management's attention. First, two resolutions provided Zoo Miami with continuous bid waiver authorizations for specified purchases along with a funding allocation. However, Zoo Miami only acknowledged one of those resolutions and its funding—the one with blanket bid waiver authority for specified purchases and a not-to-exceed annual funding allocation of \$800,000, in perpetuity. The other resolution provided limited bid waiver authority and a not-to-exceed one-time funding allocation of \$800,000, for a period up to six years. The audit found that the first resolution's bid waiver authority and funding allocation, in perpetuity, was a nonstandard, undesirable condition incompatible with good governance. This nearly decade old resolution no longer reflected current procurement best practices and should be replaced.



In addition, this resolution's blanket bid waiver authority for the acquisition of animals and their transportation costs was too broad of an authorization when purchasing commodity items. Second, the audit found that Zoo Miami's purchasing activities for animal foods and pharmaceutical products was completed singlehandedly without adequate compensating controls for the lack of duty segregation. Good business practice dictates that the responsibilities for asset custody, asset dispensing, asset ordering, asset receiving, and payment approval should be divided among staff to reduce the risk of undetected errors or inappropriate actions. Smaller organizations may have to task one individual with incompatible duties and responsibilities; however, even small organizations can institute compensating controls. While the audit found no evidence of wrongdoing (e.g., missing inventory), that does not lessen the risk inherent in the observed conditions.

The third condition found was that Zoo Miami could make greater efforts to document that purchases of specialty foods and pharmaceutical products are at fair and reasonable prices. Infrequent need and limited vendor selection may subject some of these goods and services to varying market conditions that prevent guaranteed prices for any length of time. The audit found that some vendors had been consistently providing goods and services for several years and recommended that Zoo Miami negotiate pricing provisions with these vendors to secure agreed upon terms for how prices will be set, ensuring some mitigating effect on the otherwise limited or sole source conditions influencing some of the Zoo Miami's specialty purchases.

As a result of the audit recommendations, Procurement is establishing competitive solicitations for the award of pharmaceutical products used by veterinary staff and a new contract was awarded for zoo specialty food items. The procurement of these commodities is moving away from bid waivers to open and competitive procurement awards and in establishing a limited bid waiver for the acquisition and transportation of animals.

Comprehensive Review of Architectural & Engineering and Construction Contracts Administered by Jackson Health System (JHS)

This audit was initiated after the OIG received complaints alleging favoritism in the procurement of architectural and engineering (A&E) services. The audit was part of a comprehensive review of A&E and construction contracts administered by JHS, including those awarded under the County's Miscellaneous Construction Contract Program (MCC) and the Equitable Distribution Program (EDP).



Part I — PHT/JHS' Equitable Distribution Program

Preparing and maintaining complete records is essential as equitable distribution programs and architectural & engineering services are procured based on which A&E firm is the most qualified. The determination of a firm's qualifications and its selection to perform work must be based on reasonable, objective criteria and should not be influenced by bias or favoritism. Complete selection process documentation helps minimize the business risk to JHS that it might award an EDP assignment to a less qualified firm that may result in added project costs and time delays. In addition, it helps to minimize any reputational risk to JHS if its documented EDP selections can be shown to be free from project manager bias and contractor favoritism.

Our first two audit findings described deficient record keeping by JHS project managers that raised red flags about their EDP procurements. Of ten project files inspected for documentation of selection factors, we found no evidence for five projects that the firms provided to JHS, in accordance with EDP protocols, were even contacted. These project files contained no criteria documenting how the firms were selected, which lent credence to the OIG complaints alleging favoritism and bid steering. The OIG concluded that JHS must repair any reputational damage by ensuring that contract selection processes are transparent, based on objective factors, and free from bias. Documentation of these selection processes should provide the extrinsic evidence of such transparency. Three recommendations were made related to the County's Office of Capital Improvement (OCI) that they should update EDP procedures to specifically define scope deviations/modifications, establish dollar thresholds for reporting deviations, and establish corresponding higher-level approvals for larger deviations with designated authorized personnel to approve scope deviations and price modifications. Also recommended was that OCI, with JHS input, formalize a technical trade category in OCI's information system (CIIS) to list firms with hospital experience, and establish objective criteria for discerning a firm's eligibility for inclusion on the list. The third recommendation addressed how one project's design plan was not reviewed nor approved by the Florida Agency for Health Care Administration until the project was nearly complete, although State law requires design plan approval prior to construction starting.



Part II — PHT/JHS' Use of the County's Miscellaneous Construction Program

This audit was the second in a series and focused on JHS' use of the County's Miscellaneous Construction Contract (MCC) Program. The audit found at least one condition identical to a condition noted in the first audit of JHS' use of the County's EDP—a lack of documentation plaguing project procurement and status reporting. JHS project managers often lacked complete files documenting the project cycle from Request for Price Quotation through project closeout. In addition, JHS project managers did not take steps to ensure that project information was entered into CIIS. The MCC relies on CIIS to store MCC project files and forms. Prospective contractors solicited for the projects were not drawn from the MCC contractor rotational pool. Also, subsequent award and payment amounts were not entered into CIIS. As a result, contractor standings in the rotational pool were based on incomplete data. This affects later MCC awards, as a contractor's prospective eligibility to submit proposals for future work is based on its ranking in the rotational pool, which is based on past award and payment amounts. A rotational pool is used to equitably distribute work among the participants based on their respective standings. Standings based on incomplete award totals and payment data would result in improper contractor selections—defeating the purpose of the rotational pool.

Another problematic condition found during our review of JHS' Strategic Sourcing and Procurement Department Relocation project was questionable judgment and poor management on the part of JHS project management staff when they continued a procurement—knowing that the described advertised project work scope was materially different from that shown on the project's drawings. This also reinforces the perception that JHS project management is not following the rules or using good judgment when operating in non-standard conditions.

In summary, the OIG continues to highlight risk areas in JHS construction contracting and

project management activities that, by their existence, lend credence to the complaints received alleging favoritism in JHS construction and related procurements. In response to the audit, JHS actions are on the right track to make these activities more efficient and effective, and with a documented objectivity and transparency that will serve to reassure process participants that contractor selections are free from project manager bias and contractor favoritism.



Review of the Jackson Health System Business Plan for the Proposed Civica Tower

This review involved examining the circumstances in which this Business Plan was prepared, authored, and distributed. The Civica Tower Project was proposed by the Swerdlow Development Company, LLC (Swerdlow) as a mixed-use office tower to be occupied by multiple JHS administrative divisions. The OIG's report revealed serious concerns about the integrity and objectiveness of the Business Plan. Two specific findings cast a cloud over the transparency of the proposed project. First, the PHT executive tasked with developing the Business Plan disavowed any involvement with development, writing, and production of the Business Plan. He did not know who prepared it or where it came from, but had no problem distributing it as a product of the PHT. Second, the PHT Board Chairperson collaborated with Swerdlow representatives to prepare and produce this Business Plan during the time the proposed Civica project was an official item under consideration by the PHT Board of Trustees that, as the Board's Chairperson, he would ultimately vote on its approval.

The OIG also questioned certain projections in the Business Plan, such as failing to account for principal repayment in its pro forma statement of annual debt service; funding for debt service payments during construction; funding for debt service reserve funds; additional costs to build out vacated hospital space, etc. Additionally, the two pro forma financials for third-party space, at 95% and 50% occupancy, had no basis for its occupancy projections. There was no study on the ability to fill these spaces with new doctors and no study showing that existing physicians would want to move their offices to Civica because it would be more economical, more conveniently located, or because it would be a new facility. There was no study addressing the loss of revenue to the PHT by tenants vacating its facilities in favor of Civica and no study to show the cost of renovating space left vacant by functions/ departments moving to Civica. There was no study of the PHT's true square footage needs. Before any advancement of the Civica or any similar project is made, objective data must be analyzed by unbiased professionals to justify such a large JHS financial commitment.

Environmental Task Force Trust Funds Administered by the Miami-Dade Police Department (MDPD)

In this audit of the South Florida Environmental Task Force (SFETF) Trust Fund and the Florida Environmental Task Force (FETF) Trust Fund (collectively "Trust Funds"), OIG Auditors evaluated expenditures from the Trust Funds to determine if they were: allowable under the terms and conditions of their governing authorities and agreements; reasonable and necessary; adequately supported by authoritative documentation; approved for payment by authorized personnel; and if equipment purchased with Trust Fund monies was properly safeguarded.

OIG Auditors found significant questionable business practices surrounding MDPD's administration of the Trust Funds. MDPD had unilaterally expanded the expenditure authority

granted to it by the Board of County Commissioners (BCC). Without seeking authorization from the BCC, MDPD expanded the authorized uses of the SFETF monies to non-environmental related purposes, heavily skewed in favor of supplying itself with vehicles, phones, and equipment instead of following its commitment to provide other Task Force member agencies with education, technology, and training. OIG Auditors also documented purchases where the stated justification for the purchase did not match the actual use of the equipment. Additionally, only about \$1.4 million of the \$4.1 million of FETF Trust Fund expenditures were approved by way of expenditure requests that included a stated amount.

It was also evident that purchases were excessive, unreasonable, and unnecessary for the Environmental Task Force. An example of both unreasonable and excessive expenditures was the purchase of 23 sports utility vehicles and trucks for over \$714,000 from the FETF Trust Fund during fiscal years 2000 through 2009. In addition, MDPD approved expenditures over this same timeframe (totaling over \$292,000) for up to 14 vehicle rentals per month; \$135,000 for motor fuel; and over \$25,000 for vehicle accessories, such as police sirens and lights. Notably, most of these vehicle related expenditures—totaling over \$1.1 million—were spent on MDPD personnel who were not members of the Environmental Task Force. No such vehicle expenditures were made for other FETF member agencies. MDPD also spent \$330,000 on computers, and another \$25,000 was spent on three Segways—two of which were found unused in a warehouse. The third Segway was located at MDPD Headquarters and used periodically for security patrol of the premises. Three Sharp 52” flat screen televisions that cost nearly \$6,000 were purchased from the SFETF Trust Fund. The justification documented on the request form states “the 52” televisions will be mounted with the Intergovernmental Bureau (IB) North Office Command Post...” OIG personnel observed two of the televisions at the IB North Office Command Post; however, the third television was observed by the OIG unused and in its original box at the Critical Incident Logistics Unit (CILU) warehouse. Moreover, MDPD also purchased three motorized flat screen TV mounts for \$3,334 using Trust Fund monies. Only one mount was being used; the other two mounts were found in storage at the CILU warehouse.



MDPD purchased a texture and paint sprayer that cost over \$4,000 using SFETF Trust Fund monies that was found in unopened packaging two years later. A review of phone services found that of 125 cell phone lines charged to the Trust Fund, only 19 were given to Task Force members. On one phone provider’s invoice for monthly service fees and usage, MDPD paid for 12 cellular phone lines and 26 connection card plans that had no usage.

In another troubling instance, MDPD misrepresented the status of the funding source in order to expedite the procurement process by waiving County requirements. In the case of six sport utility vehicles, the funds were misrepresented as deriving from grants that were about to expire. The trust fund monies do not expire, and thus had no need to be used quickly. Six hybrid Chevy Tahoe SUVs that cost over \$293,000 were purchased with FETF funds and assigned to MDPD command staff and the Mayor, although the justification memo stated the SUVs were needed to investigate local environmental crimes activity in rural hard-to-access areas that were void of paved roads and overgrown with vegetation. More issues included that MDPD overstated \$351,588 of FETF Trust Fund expenditures to federal oversight agencies; a \$250,000 settlement amount was incorrectly credited to the SFETF Trust Fund; and auditors observed instances

when the same expenditure request was attached to multiple invoices. For example, OIG auditors identified 42 payments totaling \$153,743 that were charged against two expenditure requests.

Another problematic area specifically involved the FETF, where MDPD and the United States Environmental Protection Agency signed an agreement stipulating certain protocols and uses of the funds. Accounting transactions show that MDPD spent on itself about \$3.6 million (or 87%) of the \$4.1 million collected—and other Task Force member agencies did not have an opportunity to use these funds. Furthermore, most of the MDPD expenditures were unrelated to investigating environmental crimes. We found that 50% of fund expenditures were made for vehicles, vehicle-related expenses, and mobile communications devices. Yet according to the agreement, task force members would supply their own cars and communications equipment.

Lastly, OIG Auditors assessed that MDPD did not maintain sufficient control over equipment purchased with Trust Funds. All such equipment was intended for use by Task Force members, but MDPD co-mingled this equipment with its own. Until the MDPD performed a physical inventory of these assets, which it began at the time of our audit, the MDPD did not have a central log, or other method, to track items purchased with SFETF and FETF funds. Several pieces of equipment were not located and other equipment was located in places where it blatantly should not have been. For example, a MDPD detective had in his possession—at his personal residence—a \$2,600 portable air conditioning unit. To date, a \$3,000 generator is still missing. In addition to the generator, over \$70,000 worth of cameras and GPS devices are missing.



As a result of this audit, a number of OIG recommendations aimed at curtailing the inappropriate expenditures of Trust Fund monies were implemented by the MDPD.

PARTNERSHIPS WITH OTHER AGENCIES

American Express Corporate Security
Association of Inspectors General
Association of Certified Fraud Examiners
Bank of America, Corporate Security
Broward County Clerk of Courts
Broward County Property Appraiser
Broward County State Attorney's Office
Citibank Security
City National Bank
City of Chicago OIG
City of Doral Building Department
City of Key West Citizen Review Board
City of Miami Building Department
City of Miami Police Department
City of Miami Civilian Investigative Unit
City of Miami Beach Building Department
City of Miami Beach Police Department
City of Miami Office of Internal Audits
Commission for FL Law Enforcement Accreditation
Dade County Federal Credit Union
District of Columbia OIG
District of Columbia, Office of Integrity & Oversight
Federal Bureau of Investigation
Financial Institutions Security Association
FL Agency for Health Care Administration
FL Agency for Workforce Innovation OIG
FL Attorney General's Office OIG
FL Chapter of the Association of Inspectors General
FL Dept. of Agriculture and Consumer Services
FL Dept. of Business & Professional Regulation
FL Dept. of Children & Families OIG
FL Dept. of Corrections OIG
FL Dept. of Environmental Protection OIG
FL Dept. of Financial Services OIG
FL Dept. of Health Office of Vital Statistics
FL Dept. of Health OIG
FL Dept. of Juvenile Justice
FL Division of Insurance Fraud
FL Dept. of Law Enforcement
FL Dept. of Revenue
FL Dept. of State – Division of Corporations
FL Dept. of State – Licensing Division
FL Dept. of State – Notary Section
FL Dept. of Transportation OIG
FL Highway Patrol
FL Medicaid Fraud Control Unit
FL Office of the Chief Inspector General
FL Office of Statewide Prosecution
FL Police Accreditation Coalition
Florida Bar Association
Florida International University
Institute of Internal Auditors

Internal Revenue Service
Interpol
Los Angeles County MTA OIG
Los Angeles Unified School District OIG
Louisiana State OIG
MDC Commission Auditor
MDC Commission on Ethics and Public Trust
Miami-Dade Clerk of the Board
Miami-Dade County Public Schools OIG
Miami Dade Dept. of Procurement Management
Miami-Dade Police Department
Miami-Dade Property Appraiser's Office
Miami-Dade Schools Police Department
Miami-Dade State Attorney's Office
Miami-Dade Tax Collector's Office
Miami-Dade Transit Department
Miami-Lakes Rotary Club
Miramar Police Department
Monroe County State Attorney's Office
NASA OIG
National Reconnaissance OIG
Ohio State OIG
Palm Beach County Clerk of Courts OIG
Palm Beach OIG
Palm Beach State Attorney's Office
Pinellas County Clerk of the Circuit Court OIG
Port Authority of NY & NJ OIG
Regions Bank
Social Security Administration OIG
South Florida IG Council
Surfside Police Department
SunTrust Bank Corporate Security
Texas Department of Criminal Justice OIG
University of Miami School of Law's Center for
Ethics & Public Trust
U.S. Attorney's Office, Southern District of FL
U.S. Bureau of Prisons
U.S. Dept. of Health & Human Services
U.S. Dept. of Homeland Security
U.S. Dept. of Housing & Urban Development
U.S. Department of Labor
U.S. Dept. of State
U.S. Dept. of Transportation OIG
U.S. Environmental Protection Agency OIG
U.S. Immigration and Customs Enforcement
U.S. Justice Department
U.S. Marshals Service
U.S. Postal Services Inspector General
U.S. Probation and Pretrial Services
U.S. Secret Service
Wachovia Bank Security
Washington Mutual Bank

APPENDIX

Sec. 2-1076 Office of the Inspector General

(a) **Created and established.** There is hereby created and established the Office of Miami-Dade County Inspector General. The Inspector General shall head the Office. The organization and administration of the Office of the Inspector General shall be sufficiently independent to assure that no interference or influence external to the Office adversely affects the independence and objectivity of the Inspector General.

(b) **Minimum Qualifications, Appointment and Term of Office.**

(1) Minimum qualifications. The Inspector General shall be a person who:

(a) Has at least ten (10) years of experience in any one, or combination of, the following fields:

(i) as a Federal, State or local Law Enforcement Officer;

(ii) as a Federal or State court judge;

(iii) as a Federal, State or local government attorney;

(iv) progressive supervisory experience in an investigative public agency similar to an inspector general's office;

(b) Has managed and completed complex investigations involving allegations of fraud, theft, deception and conspiracy;

(c) Has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary; and

(d) Has a four-year degree from an accredited institution of higher learning.

(2) Appointment. The Inspector General shall be appointed by the Ad Hoc Inspector General Selection Committee ("Selection Committee"), except that before any appointment shall become effective, the appointment must be approved by a majority of the whole number of members of the Board of County Commissioners at the next regularly scheduled County Commission meeting after the appointment. In the event that the appointment is disapproved by the County Commission, the appointment shall become null and void, and the Selection Committee shall make a new appointment, which shall likewise be submitted for approval by the County Commission. The Selection Committee shall be composed of five members selected as follows:

(a) The State Attorney of the Eleventh Judicial Circuit for Miami-Dade County;

(b) The Public Defender of the Eleventh Judicial Circuit for Miami-Dade County;

(c) The Chairperson of the Miami-Dade Commission on Ethics and Public Trust;

(d) The President of the Miami-Dade Police Chief's Association; and

(e) The Special Agent in charge of the Miami Field Office of the Florida Department of Law Enforcement.

The members of the Selection Committee shall elect a chairperson who shall serve as chairperson until the Inspector General is appointed. The Selection Committee shall select the Inspector General from a list of qualified candidates submitted by the Miami-Dade County Employee Relations Department.

(3) Term. The Inspector General shall be appointed for a term of four (4) years. In case of a vacancy in the position of Inspector General, the Chairperson of the Board of County Commissioners may appoint the deputy inspector general, assistant inspector general, or other Inspector General's office management personnel as interim Inspector General until such time as a successor Inspector General is appointed in the same manner as described in subsection (b)(2) above. The Commission may by majority vote of members present disapprove of the interim appointment made by the Chairperson at the next regularly scheduled County Commission meeting after the appointment. In the event such appointment shall be disapproved by the County Commission, the appointment shall become null and void and, prior to the next regularly scheduled Commission meeting, the Chairperson shall make a new appointment which shall likewise be subject to disapproval as provided in this subsection (3). Any successor appointment made by the Selection Committee as provided in subsection (b)(2) shall be for the full four-year term.

Upon expiration of the term, the Board of County Commissioners may by majority vote of members present reappoint the Inspector General to another term. In lieu of reappointment, the Board of County Commissioners may reconvene the Selection Committee to appoint the new Inspector General in the same manner as described in subsection (b)(2). The incumbent Inspector General may submit his or her name as a candidate to be considered for selection and appointment.

(4) Staffing of Selection Committee. The Miami-Dade County Employee Relations Department shall provide staffing to the Selection Committee and as necessary will advertise the acceptance of resumes for the position of Inspector General and shall provide the Selection Committee with a list of qualified candidates. The County Employee Relations Department shall also be responsible for ensuring that background checks are conducted on the slate of candidates selected for interview by the Selection Committee. The County Employee Relations Department may refer the background checks to another agency or department. The results of the background checks shall be provided to the Selection Committee prior to the interview of candidates.

(c) Contract. The Director of the Employee Relations Department shall, in consultation with the County Attorney, negotiate a contract of employment with the Inspector General, except that before any contract shall become effective, the contract must be approved by a majority of Commissioners present at a regularly scheduled Commission meeting.

(d) Functions, authority and powers.

(1) The Office shall have the authority to make investigations of county affairs and the power to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions.

(2) The Office shall have the power to require reports from the Mayor, County Commissioners, Manager, County agencies and instrumentalities, County officers and employees and the Public Health Trust and its officers and employees regarding any matter within the jurisdiction of the Inspector General.

(3) The Office shall have the power to subpoena witnesses, administer oaths and require the production of records. In the case of a refusal to obey a subpoena issued to any person, the Inspector General may make application to any circuit court of this State which shall have jurisdiction to order the witness to appear before the Inspector General and to produce evidence if so ordered, or to give testimony touching on the matter in question. Prior to issuing a subpoena, the Inspector General shall notify the State Attorney and the U.S. Attorney for the Southern District of Florida. The Inspector General shall not interfere with any ongoing criminal investigation of the State Attorney or the U.S. Attorney for the Southern District of Florida where the State Attorney or the U.S. Attorney for the Southern District of Florida has explicitly notified the Inspector General in writing that the Inspector General's investigation is interfering with an ongoing criminal investigation.

(4) The Office shall have the power to report and/or recommend to the Board of County Commissioners whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both

financially and operationally. Any review of a proposed project or program shall be performed in such a manner as to assist the Board of County Commissioners in determining whether the project or program is the most feasible solution to a particular need or problem. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications and applicable law.

(5) The Office shall have the power to analyze the need for, and the reasonableness of, proposed change orders. The Inspector General shall also be authorized to conduct any reviews, audits, inspections, investigations or analyses relating to departments, offices, boards, activities, programs and agencies of the County and the Public Health Trust.

(6) The Inspector General may, on a random basis, perform audits, inspections and reviews of all County contracts. The cost of random audits, inspections and reviews shall, except as provided in (a)-(n) in this subsection (6), be incorporated into the contract price of all contracts and shall be one quarter (1/4) of one (1) percent of the contract price (hereinafter "IG contract fee"). The IG contract fee shall not apply to the following contracts:

- (a) IPSIG contracts;
- (b) Contracts for legal services;
- (c) Contracts for financial advisory services;
- (d) Auditing contracts;
- (e) Facility rentals and lease agreements;
- (f) Concessions and other rental agreements;
- (g) Insurance contracts;
- (h) Revenue-generating contracts;
- (i) Contracts where an IPSIG is assigned at the time the contract is approved by the Commission;
- (j) Professional service agreements under one thousand dollars (\$1,000);
- (k) Management agreements;
- (l) Small purchase orders as defined in Administrative Order 3-2;
- (m) Federal, state and local government-funded grants; and
- (n) Interlocal agreements.
- (o) Grant Agreements granting not-for-profit organizations Building Better Communities General Obligation Bond Program funds.

Notwithstanding the foregoing, the Commission may by resolution specifically authorize the inclusion of the IG contract fee in any contract. Nothing contained in this Subsection (c)(6) shall in any way limit the powers of the Inspector General provided for in this Section to perform audits, inspections, reviews and investigations on all county contracts including, but not limited to, those contracts specifically exempted from the IG contract fee.

(7) Where the Inspector General detects corruption or fraud, he or she shall notify the appropriate law enforcement agencies. Subsequent to notifying the appropriate law enforcement agency, the Inspector General may assist the law enforcement agency in concluding the investigation. When the Inspector General detects a violation of one (1) of the ordinances within the jurisdiction of the Ethics Commission,

he or she may file a complaint with the Ethics Commission or refer the matter to the Advocate.

(8) The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, County staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud.

(9) The Inspector General shall have the power to review and investigate any citizen's complaints regarding County or Public Health Trust projects, programs, contracts or transactions.

(10) The Inspector General may exercise any of the powers contained in Section 2-1076 upon his or her own initiative.

(11) The Inspector General shall be notified in writing prior to any meeting of a selection or negotiation committee where any matter relating to the procurement of goods or services by the County is to be discussed. The notice required by this subsection (11) shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four (24) hours prior to the scheduled meeting. The Inspector General may, at his or her discretion, attend all duly noticed County meetings relating to the procurement of goods or services as provided herein, and, in addition to the exercise of all powers conferred by Section 2-1076, may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General. An audio tape recorder shall be utilized to record all selection and negotiation committee meetings.

(12) The Inspector General shall have the authority to retain and coordinate the services of Independent Private Sector Inspectors General (IPSIG) or other professional services, as required, when in the Inspector General's discretion he or she concludes that such services are needed to perform the duties and functions enumerated in subsection (d) herein.

(e) Physical facilities and staff.

(1) The County shall provide the Office of the Inspector General with appropriately located office space and sufficient physical facilities together with necessary office supplies, equipment and furnishings to enable the Office to perform its functions.

(2) The Inspector General shall have, subject to budgetary allocation by the Board of County Commissioners, the power to appoint, employ, and remove such assistants, employees and personnel and establish personnel procedures as deemed necessary for the efficient and effective administration of the activities of the Office.

(f) Procedure for finalization of reports and recommendations which make findings as to the person or entity being reviewed or inspected. Notwithstanding any other provisions of this Code, whenever the Inspector General concludes a report or recommendation which contains findings as to the person or entity being reported on or who is the subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the report or recommendation and such person or entity shall have 10 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The requirements of this subsection (f) shall not apply when the Inspector General, in conjunction with the State Attorney, determines that supplying the affected person or entity with such report will jeopardize a pending criminal investigation.

(g) Reporting. The Inspector General shall annually prepare and submit to the Mayor and Board of County Commissioners a written report concerning the work and activities of the Office including, but not limited to, statistical information regarding the disposition of closed investigations, audits and other reviews.

(h) Removal. The Inspector General may be removed from Office upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.

(i) Abolition of the Office. The Office of the Inspector General shall only be abolished upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.

(j) Retention of current Inspector General. Notwithstanding any provision to the contrary, the incumbent Inspector General, Christopher R. Mazzella, shall serve a four year term of office commencing on December 20, 2009, as provided in the Memorandum of Understanding approved by Resolution No. R-1394-05, and shall not be subject to the appointment process provided for in Section 2-1076(b)(2).

(Ord. No. 97-215, § 1, 12-16-97; Ord. No. 99-63, § 1, 6-8-99; Ord. No. 99-149, § 1, 10-19-99;
Ord. No. 00-105, § 1, 7-25-00; Ord. No. 01-114, § 1, 7-10-01; Ord. No. 05-51, § 1, 3-1-05;
Ord. No. 06-88, § 2, 6-6-06, Ord. No. 07-165; § 1, 11-6-07)



Miami-Dade County
Office of the Inspector General

19 West Flagler Street
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Phone: (305) 375-1946
Fax: (305) 579-2656

Report Fraud on Our Hotline: (305) 579-2593
or at www.miamidadeig.org





MIAMI-DADE COUNTY FINAL OFFICIAL MINUTES CHARTER REVIEW TASK FORCE

Board of County Commissioners
Stephen P. Clark Center
Conference Rooms 18-3 and 4
111 N.W First Street
Miami, Florida 33128

June 6, 2012
As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

Christopher Agrippa, Division Chief
Clerk of the Board Division

Flora Real, Commission Reporter
(305) 375-1294



**CLERK'S SUMMARY AND OFFICIAL MINUTES
MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE
JUNE 6, 2012**

The Miami-Dade Charter Review Task Force (the Task Force) convened on June 6, 2012, at the Stephen P. Clark Center, 111 N.W. First Street, Rooms 18-3 and 18-4, Miami, Florida, at 9:00 a.m. There being present Chairman Rene Garcia, Vice Chairwoman Evelyn Langlieb Greer, Mayor Juan Carlos Bermudez, Councilman Luis Gonzalez, Mr. Carlos Manrique, Mr. Terry Murphy, Mr. Hans Ottinot, Mr. Lawrence Percival, Reverend Dr. Walter Richardson, and Mayor Donald Slesnick; (Mr. Armando Bucelo, Councilwoman Isis Garcia-Martinez, Professor H. T. Smith, and Representative Carlos Trujillo were late); (Ms. Yolanda Aguilar, Mr. Joe Arriola, Mr. Victor Diaz, Representative John Patrick Julien, Mr. Louis Martinez, and Ms. Pamela Perry were absent).

In addition to Task Force members, the following staff members were present: Assistant County Attorneys Cynthia Johnson-Stacks and Jess McCarty, Ms. Inson Kim, Ms. Lorna Mejia, Mr. Les Pantin, Mr. Jeve Clayton, and Deputy Clerk Flora Real.

Chairman Garcia called the meeting to order at approximately 9:26 a.m., welcomed Task Force members and all others present, and proceeded with presentations, pending the arrival of a quorum.

Chairman Garcia welcomed Task Force members and all others present. He noted he had received several proposals from Task Force members since the last meeting, including proposals from Mayor Carlos Gimenez, Terry Murphy, and Mr. Slesnick outlining their recommendations to fill a mayoral vacancy, for incorporation/annexation.

Dr. Richardson asked that the Task Force break for lunch at 12:00 p.m. for an hour.

CRTF ISSUES OF STUDY

- **Salaries/Outside Employment**
- **Commission Salary Proposal**

Chairman Rene Garcia noted Task Force members asked the County Attorneys to craft appropriate language for each of the recommendations.

Mr. Lawrence Percival noted 14 members were present, which constituted a quorum, and he was hopeful that the Task Force would be able to vote on some of the issues before the noon recess.

Assistant County Attorney Cynthia Johnson-Stacks explained that based on this Task Force's proposal on commissioners' salaries, the \$6,000 annual salary for commissioners would remain in place until November 2016; and would increase to approximately \$54,000, equivalent to the median income range in Miami-Dade County (MDC) after November 2016. She noted although

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the figure would be reflected in the drafted language for the ballot question, it would read as follows: "...the salary as of 2016 would change from \$6,000 to the median income of MDC."

In response to Chairman Garcia's inquiry, Mr. Murphy clarified that was not his proposal.

Councilwoman Isis Garcia-Martinez said she would not feel comfortable with placing a question on the ballot that did not include the exact amount for commissioners' salaries.

Vice Chairwoman Evelyn Greer noted the median income range for salaries in MDC was at least \$46,000 based on the data obtained from Google.com.

Following further discussion on the median income range, Assistant County Attorney Johnson-Stacks advised that the ballot question would refer to an estimated amount based on the manner in which these types of questions were typically drafted; that as proposed, the salary would change over time consistent with the median income range.

Representative Carlos Trujillo said he supported the proposed language for salaries based on the median income range, noting the salaries would be inaccurate because they would be adjusted over the years consistent with the County's budget. In addition, the voters did not vote in favor of a salary increase for commissioners in the past because it was placed on the ballot as a single question rather than a combined question, Mr. Trujillo noted.

Assistant County Attorney Johnson-Stacks clarified that the proposed Charter language was before the Task Force today, not the drafted language for the ballot question. She explained that the law required that the proposed language include the average median income range, which meant that the actual numbers for the existing and the proposed salaries would be reflected in the language.

Following a discussion regarding the rationale for the proposal to implement the salary increase in year 2016, Mr. Murphy explained the intent was for the salary increases to be applicable to future elected commissioners and not incumbent commissioners, noting he believed the voters would be more likely to support it.

In response to Vice Chairwoman Greer's concerns regarding whether this proposal would impact additional executive benefits paid to the commissioners, Mr. Murphy noted the Human Resources Director explained that any additional compensation must be approved as part of the annual budget process and would require a public hearing. He further explained that the commissioner had the option to take the expense account as part of a salary or as a reimbursement of expenditures throughout the year.

Following further discussion regarding executive benefits, Mr. Smith suggested that Task Force members make recommendations collectively and in the best interest of the governance of this

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community. He noted Task Force members unanimously agreed that the proposed salary amount was too low, but it was up to the voters to uphold or reject that proposal. Mr. Smith also noted he would support this proposal, even though he disagreed with implementing it in 2016, which the voters would likely approve.

Mr. Bucelo said he disagreed with Mr. Smith, noting he believed that what mattered most was the way the proposed ballot question was presented to the voters, noting ballot questions must be simple and easy to understand.

It was moved by Reverend Richardson that the Task Force approve the proposed language amending the Home Rule Charter to provide that the \$6,000 annual salary of each County Commissioner remain in effect until November 2016; after which time, each County Commissioner shall receive a salary equivalent to the median income range within the County. This motion was seconded by Mr. Smith, and upon being put to a vote, passed by a vote of 13-1; (Mr. Slesnick voted "No"); (Ms. Aguilar, Mr. Arriola, Mr. Diaz, Representative Julien, Mr. Martinez, and Ms. Perry were absent).

Mr. Slesnick explained that he voted "No" on the foregoing motion because he disagreed with the proposal to implement the salary increase in 2016, but after listening to the rationale, he would change his vote to "Yes" consistent with the consensus of the group.

Subsequently, Mr. Slesnick' requested that the record reflect his vote as a "Yes" vote. Consequently, the foregoing motion passed by a unanimous (14-0) vote of those members present.

Upon conclusion of the foregoing presentation, Chairman Garcia proceeded to consider the Outside Employment Proposal.

o Outside Employment Proposal

Assistant County Attorney Cynthia Johnson-Stacks advised that this items involved a proposed amendment to Section 1.05 of the Charter pertaining to forfeiture of office for commissioners; and as proposed, would add language requiring that any commissioner employed by or consulting for the County; or who had an ownership interest in any firm doing business with the County or any affiliate of the County, must forfeit his/her office immediately.

In response to Reverend Richardson's inquiry regarding who would make that determination, Assistant County Attorney Johnson-Stacks noted another proposed amendment was before the Task Force pertaining to lawsuits file by citizens and the delegation of additional authority to the Commission on Ethics and other authorities to look at these issues. She advised the proposed amendment required that such proposals be submitted by the citizens.

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Discussion ensued regarding what the proposed amendment would accomplish.

Mayor Bermudez noted the term, "doing business with" was defined in the proposed amendment and penalties were not prescribed, which would not ensure open transparent government in MDC. He recommended that language be incorporated to define "immediate family" as spouse, domestic partner, parents, stepparents, stepchildren, spouses of children, and stepchildren of the person involved to accurately hold them accountable; and that outside employment be a violation subject to penalties.

Following discussion regarding whether the proposal under consideration should be expanded to define immediate family members, Mayor Bermudez proposed his recommendation as an amendment.

Mr. Bucelo noted the language in the first paragraph of Section 1.05(A) which states, "...or who fails to attend meetings without good cause," was too ambiguous. With regard to the phrase, "...shall immediately," Mr. Bucelo questioned whether a process was in place to allow a commissioner to automatically forfeit office, noting guidance language should be included following the word "immediately." He asked Ms. Johnson-Stacks to expand the "reside" and "immediately" to provide clarification and include trigger language.

Councilman Gonzalez said he agreed with Mayor Bermudez' comments and other comments made by Task Force members. He noted the language in the Charter was insufficient and inconsistent with the positions previously expressed by Task Force members and the residents of this community. He noted this process would provide an opportunity to expand the language in the Charter, and recommended that the this proposal be tabled to provide additional time for Task Force members to review it and proffer amendments.

Mr. Bucelo reiterated his proposal to amend the language contained in the first paragraph of Section 1.05(A), to clarify the word "immediately."

Vice Chairwoman Greer noted the Task Force members reached a consensus on the goal, but they needed to seek additional direction from the County Attorneys on clarifying that goal. She suggested Task Force members begin by discussing the process and each entity's role or charge in the process.

In response to Mr. Percival's question, Assistant County Attorney Johnson-Stacks advised the Office of the Inspector General and the Commission on Ethics could be codified. She said she believed that if that recommendation was made by a body designated by this Task Force, it would need the certainty of a court analysis for the very reasons mentioned earlier, which was to ascertain government actions and ensure that the person voting was in office. She advised that this Task Force could select a body to make a determination, but it would probably be in the best interest of County operations if the final determination was made by the body of jurisdiction.

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In response to Mr. Percival's question regarding whether the Inspector General or Commission on Ethics would be the best body to make that determination considering the purpose of this Task Force, Assistant County Attorney Johnson-Stacks clarified that decision must be made by the Task Force.

Additionally, Assistant County Attorney Johnson-Stacks noted the existing language in the Charter failed to include a definition for "doing business with" and "relatives" of the public official, but the County had an extensive Conflict of Interest Code (COI) which addressed in great detail, the issues of concern expressed by this Task Force. She suggested that the existing language contained in the Charter be maintained and that additional language be incorporated to allow the County Commission to define "doing business" and other concerns raised by Task Force members. She pointed out that the COI benefited from many legal advisory opinions and interpretations in the Code over the years that would address these types of concerns.

Mr. Bucelo noted this could resolve the concerns if feasible, noting the language could read: "...as per the Code or ordinance law" followed by a definition for "residency" and "immediately." He indicated that it was probably unnecessary to incorporate it here if the County Attorney agreed with the recommendation.

Mayor Bermudez said the language contained with the Code should be clear on what constitutes a COI and outside employment, and noted the appropriate body to enforce these provisions would be the Inspector General because the Commission on Ethics currently did not have any enforcement power.

Vice Chairwoman Greer noted she agreed with Mayor Bermudez.

Mr. Murphy noted he had some concerns with the language, "forfeiture of office" based on potential relationships or affiliations among relatives and firms doing business the County, specifically, relatives of public officials doing business with firms doing business with the County; and the prohibition on County Commissioners voting on contracts, etc., when their relatives were employed by those firms.

Following a discussion regarding COI and forfeiture of office, Mayor Bermudez asked that the Assistant County Attorneys be provided with a clear outline of their proposed recommendations today rather than instructions, which would enable them to draft appropriate language in response to the discussion among Task Force members.

Vice Chairwoman Greer recommended that this provision begin with the following language: "any County Commissioner may not be employed..." She also recommended that a complaint process be incorporated to ensure due process, whereby any complaint filed would be followed up by an investigation by the Inspector General, and the respective commissioner would be given

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an opportunity to respond. She provided further clarification regarding her proposed recommendation, and recommended that Task Force members solicit input from the Assistant County Attorneys and the Mayor.

In response to Dr. Richardson's question, Assistant County Attorney Johnson-Stacks explained that the County's COI ordinance was applicable to County Commissioners and occasionally, County Commissioners were employed by entities funded by the County. She said, under the existing Code, commissioners were allowed to declare a COI and refrain from voting.

Following Dr. Richardson's request for further clarification, Assistant County Attorney Johnson-Stacks noted the intent of this Task Force was to prohibit commissioners from voting under certain situations in the future.

Following further discussion, Assistant County Attorney Johnson-Stacks clarified that the Commission on Ethics had exclusive jurisdiction to interpret the Conflict of Interest Code.

Mayor Bermudez emphasized the importance to codify these issues.

Mr. Smith noted Task Force members should feel assured that the public would support more transparency and accountability in terms of ethics, and members of this body needed to anticipate and discuss the unintended consequences thoroughly and thoughtfully. He noted he supported this proposal and believed Task Force members should consider whether the final recommendations should provide the Commission on Ethics or Inspector General the authority to oust public officials without due process. He recommended that this Task Force consider having the final determination decided in a court of law.

Mr. Smith said he supported the proposal to define "family members," and recommended that Task Force members anticipate and discuss the potential unintended consequences of this proposal. He noted the definition for family members should address the concern previously raised by Mr. Murphy regarding the forfeiture of office.

Mayor Bermudez concurred with Mr. Smith regarding the definition of family members and the importance for ensuring due process.

Vice Chairwoman Greer summarized the foregoing discussion, noting this Task Force had agreed to ask the Assistant County Attorneys to craft new amendments that were clearer and more precise and provided that, "any County Commissioner may not be employed or doing business; and that of a complaint was made implicating a commissioner, the violation would be investigated by the Inspector General; the respective commissioner would be given an opportunity to respond; the Inspector General would render a conclusion; and the commissioner would have an opportunity to appeal that decision if adverse." She noted she did not believe the public at large, should be able to appeal a non-adverse ruling.

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Vice Chairwoman Greer also asked that a clear definition of “residency” be included.

Mayor Bermudez questioned whether the language should say commission member and immediate family or commission member only.

Vice Chairwoman Greer said she believed the agreement was to include language for immediate family, by anticipating potential unintended consequences; and to include a provision for “non-managerial family members” such as those not in a position to impact policy.

Councilman Gonzalez recommended that the Task Force members consider the position of consultants because these individuals had no impact on management or policy; they were largely involved in the political environment, particularly in Tallahassee.

In response to Mr. Manrique’s request for clarification, Vice Chairwoman Greer noted the statement should be corrected to say “any County Commissioner shall not be employed ...”

Upon conclusion of the foregoing presentation, the Task Force proceeded to consider the issue of the Mayoral Vacancy.

- **Mayoral Vacancy**
 - **Memo from Mayor Carlos A. Gimenez**
 - **County Attorney’s Opinion**
 - **Mayoral Vacancy Proposal by Terry Murphy**

The Task Force members considered proposals submitted by Mayor Carlos Gimenez, and Mr. Terry Murphy simultaneously with the County Attorney’s opinion.

Mr. Murphy presented his proposal for Mayoral vacancy. He explained that the Chairperson of the Board of County Commissioners (BCC) followed by the Vice Chairperson would naturally be successors to assume those responsibilities of the Office of the Mayor in the event of a temporary vacancy pending the outcome of an election. If the BCC Chairperson and Vice Chairperson were unavailable, the successor would be the Clerk of Circuit Courts; and the following three positions would be reflected in the Charter for succession purposes.

Subsequently, information was distributed to all Task Force members to clarify two issues in the Code. Mr. Murphy noted the Code contains a provision relating to state of emergency and power succession, which stipulated that the BCC Chairperson accepts the power to declare a state of emergency in the event the Mayor was unavailable. In addition, the language in the Code states that the County Commission had the authority to designate a budget officer to prepare the budget in the event of a vacancy during the budget process. He explained that, pursuant to State

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Statutes, the Clerk of Courts assumed those powers under state law if the County Commission had not designated a budget officer in the event the Mayor was incapacitated.

Mr. Murphy's proposal recommended the succession plan for a Mayoral vacancy be the Chairperson of the County Commission, followed by the Vice Chairperson of the BCC and the Clerk of Courts; whereas, Mayor Gimenez recommended that the successors be a member(s) of the County Administration based on the Mayor's recommendation.

Mr. Murphy said he disagreed with the Mayor's proposal because a vacancy in the Office of the Mayor should be filled by an elected official, particularly considering the high level of intergovernmental coordination of efforts involved.

Following further comments by Mr. Murphy, Vice Chairwoman Geer noted a quorum was no longer present and thus a motion could not be considered. She opened the floor for discussion.

Discussion ensued regarding the responsibilities of the Clerk of Courts pursuant to the State Constitution and the concerns previously expressed by the Clerk.

Mr. Percival reminded the Task Force members about the comments previously made by the Mayor and the Clerk of Courts, noting Ms. Inson Kim disseminated information via email regarding the precedent established by the former Mayor, who designated different individuals and granted them the authority to act in the event he was incapacitated.

In response to Mr. Percival's question, Mr. Murphy clarified that the commissioner filling the Mayoral vacancy would serve as an acting mayor; and his proposal included a provision to address the candidacy for the Office of Mayor, which would prohibit a commissioner serving as an interim Mayor from running for office.

Mr. Percival noted based on previous testimony, it was recommended that Task Force members not embrace Mr. Murphy's proposed succession plan. Consequently, he recommended that Task Force members collectively support the Mayor's proposed succession plan.

Vice Chairwoman Greer expressed her support for the Mayor's proposal.

Mr. Slesnick noted replacing an elected official with an administrator was a different issue. He stated that the Mayor submitted an alternative proposal in response to his request. He noted as previously stated by Mr. Ruvin, the BCC Chairperson and Vice Chairperson were elected for a purpose, while the Mayor pointed out that commissioners were elected for a totally different reason than running the County. He stated that, if those comments were taken into consideration, the County Commission could choose to consider different criteria to elect future Chairpersons of the County Commission. He also noted the Office of the Mayor had become highly

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politicized, and the ability to run successful political campaigns had surpassed technical and administrative competencies as the primary criteria for selecting candidates for that office.

Vice Chairwoman Greer clarified that the Mayor's proposal was different from Mr. Murphy's, and suggested that both proposals be discussed simultaneously.

Following further clarification regarding Mr. Murphy's intent, Mr. Smith pointed out that the timeframe for governance was limited. He noted the primary issues that must be considered by Task Force members was whether or not the individual filling the temporary vacancy should be allowed to run for office, the duration of the temporary assignment, and the criteria for identifying a successor.

Mr. Smith asked Mr. Slesnick to explain the succession plan in his proposal.

Mr. Slesnick noted he agreed with Mr. Smith. He explained the succession plans for the United States Government and State of Florida, which he noted outlined an automatic succession plan for elected officials. He said he supported Mr. Murphy's proposal because it provided for an automatic succession plan by individuals elected by the voters of Miami-Dade County (MDC); however, he would vote consistent with the majority of the Task Force members.

Mayor Bermudez questioned the additional language proposed by Mr. Murphy which states that, "pursuant to the provisions of this section..." and suggested the language should read: "...shall not qualify as candidate for Mayor," rather than "may..."

Mayor Bermudez noted he agreed with Mr. Slesnick that the position of Office of the Mayor should be filled by an elected official.

Upon conclusion of the foregoing discussion, the Task Force members proceeded to consider Mr. Murphy's proposal.

It was moved by Mr. Murphy that the Task Force approve his proposed language as amended, to establish Section 2.03 under Article 2 of the Charter to provide for the implementation of a succession plan in the event of a temporary vacancy in the Office of the Mayor, and providing for the powers and responsibilities of the Mayor be temporarily transferred to the Chair of the Board of County Commissioners (BCC), followed by the Vice Chair of the BCC and the Clerk of Courts; and to require that the person assuming the powers and responsibilities of the Office of Mayor pursuant to this Section, simultaneously with such determination, shall not be able to qualify as a candidate for the Office of Mayor in the respective election. This motion was seconded by Mr. Smith, and upon being put to a vote, passed by a vote of 12-0; (Ms. Aguilar, Mr. Arriola, Mr. Diaz, Representative Julien, Mr. Martinez, Ms. Perry, Representative Trujillo, and Chairman Garcia were absent).

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Upon conclusion of the foregoing discussion, Task Force members proceeded to consider the issue of Mayoral Veto/Collective Bargaining Impasse Disputes.

- **Incorporation/Annexation**
 - **Regional Government Proposal by Lawrence Percival**

During consideration of the issue on the Governance of Jackson Memorial Hospital, Mr. Lawrence Percival commented that Mr. Morales' senior partner was involved in the 2007 Charter Review Task Force; and that throughout a period of years, Mr. Morales was also involved in discussions involving municipal incorporations, the East Kendall Municipal Advisory Council, and the politics surrounding incorporation.

Mr. Percival commented on his vision to abolish the Unincorporated Municipal Service Area (UMSA), transform MDC into a regional government, and allow citizens to have a voice in determining whether or not to incorporate or annex, to the extent that the UMSA may be abolished. He noted his proposal would allow the County to effectively become a regional government and get out of municipal businesses.

Mr. Morales noted he sponsored a resolution in 1998, which was adopted and repealed two years later. This resolution would have eliminated municipal governments within ten years after the effective date of the resolution. He said his views on this issue had not changed because a large government lacked the ability to focus on small local issues due to other more pressing ones; and he believed that a regional government would provide an opportunity for communities to exercise self-governance and create a level of civic engagement at the local level. Mr. Morales said he could provide many other good reasons as to why the County needed to abandon municipal governments.

Mr. Percival said he would like for Task Force members to support his vision on this issue.

- **Governance of Jackson Memorial Hospital**
 - **County Attorney Memo**
 - **Materials Provided by SEIU Local 1991**

Chairman Garcia introduced Mr. Marco Jose Lapciuc, Chairperson of the PHT Financial Recovery Board.

Mr. Marco Lapciuc appeared before the Charter Review Task Force (the Task Force) and provided an overview on the problems at the Jackson Health System (JHS). He noted all Task Force members were aware of the importance of Jackson to this community. He also noted the hospital had improved its operations, was anticipating a surplus for the third quarter, and this was

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a unique opportunity for Task Force members to assist in the stabilization of JHS and the recovery efforts.

Mr. Lapciuc stated governance was most critical for JHS to remain competitive and attractive in order to retain competent doctors and other healthcare professionals. More importantly, it would provide professionals wishing to contract with JHS with a sense of stability and permanence that would not be subject to political influence.

Mr. Lapciuc asked that the following recommendations be considered with regard to Jackson Health Systems:

- That efforts be made to ensure that the hospital governance was competent;
- that the hospital be given a permanent board structure insulated from political influence;
- that the board structure be small and comprised of competent individuals in the healthcare field and free of conflict of interest;
- that the hospital's board be the entity selecting individuals contracting with the hospital while providing the County Commission the authority to investigate and conduct background checks on individuals selected;
- that the hospital's permanent board have complete and absolute operational autonomy to make decisions to fulfill the mission and be able to make decisions involving life and death matters;
- that the benefits of sovereign immunity, such as federal funding and Intergovernmental Governmental Transfer (IGT) revenue not be lost in the search for the best possible governance;
- that efforts be made to avoid losing other local and state funding;
- that the hospital governance be subject to Government in-the-Sunshine and that all discussions and decisions be made publicly pursuant to the Sunshine Law;
- that minor changes be made to the Sunshine Law to allow Jackson to remain competitive and be able to act strategically;
- that a five-year strategic plan be prepared, even though the changes imposed by the Healthcare Reform bill would make it difficult;
- that the hospital continue to be part of Miami-Dade County (MDC) and that the County Administration continue to provide oversight over the hospital's budget to protect its benefits and assets;
- that the hospital compete for funded patients in order to remain competitive and sustainable, particularly in today's turbulent economic environment;
- that MDC continue efforts to maintain and increase hospital admissions; and
- that the profits remain the primary focus of the hospital with an emphasis on how to help those individuals least fortunate in society with no other means of affording medical treatment.

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Mr. Lapciuc explained the benefits of a permanent board, noting the hospital wished to continue partnerships with the University of Miami (UM). He advised that the contract between the JHS and UM continued to be under negotiations, and JHS needed to attract doctors who would enhance revenue profits at the hospital because their patients would follow them.

Upon conclusion of the presentation, Chairman Garcia opened the floor for questions.

Vice Chairwoman Greer requested that Mr. Marco Lapciuc present a specific proposal outlining his recommendations.

Pursuant to Vice Chairwoman Greer's inquiry, Mr. Lapciuc provided specifics to his previous recommendations as follows:

- That the permanent board be comprised of 7 to 9 members with 2 members in waiting such as community advisors;
- that the preferred number for the permanent board was 7;
- that the permanent structure be implemented setting a very definitive record for the citizens of MDC based on a system of checks and balances, in conjunction with the Board of County Commissioners;
- that the permanent board be given complete operational autonomy; and
- that the permanent board's decisions be insulated from political influence.

Mr. Murphy commented that the operational autonomy concept was imbedded in Chapter 25A in that it gave the Trust the power to sue, be sued, enter into contracts, and conduct a wide range of other operational activities that would not be subject to review or ratifications by the governing body of the County. He stated that the hospital was operated independently in many ways, and noted anyone could make comments on the Trust's decisions; but in his opinion, no direct line of authority existed today under Chapter 25A. He thought the Financial Recovery Board (FRB) was operated under the same autonomy provided by 25A.

Mr. Lapciuc clarified that Chapter 25A could be amended at any given time by a simple majority vote of the Board of County Commissioners; therefore, he did not agree with Mr. Murphy's statements.

In response to Mr. Murphy's comments relating to the hospital's authority to enter into contracts since 1973, Mr. Lapciuc advised it was of critical importance that the mechanism be imbedded in a permanent sense since it was subject to the relationship between the Trust and the County Commission and to prevent Chapter 25A from being modified for political purposes. He also stated that the County Commission had the authority to reject the Trust's budget, and the County Commission had the discretion to veto that budget. He advised he would like to ensure that the Trust's budget continue to be approved by the Board of County Commissioners so that the hospital continue to be part of the County's balance sheet.

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Mr. Lawrence Percival stated the ultimate goal was how to implement a permanent governance structure. He asked Mr. Lapciuc to respond to the recommendations in Ms. Martha Baker's letter.

Mr. Lapciuc noted he agreed with much of Ms. Baker's letter and the County Attorney's comments. He expressed concern that tax revenues would be jeopardized by changing the status of Jackson Memorial Hospital in a way that would require a statewide referendum. He explained that sovereign immunity and federal revenues should not be placed at risk. Mr. Lapciuc stated that the hospital did not wish to deviate from its mission and work outside of the sunshine. He noted the Board of County Commissioners should continue to have oversight over the hospital to ensure it complied with its mission. He advised that the checks and balances needed to remain in place. Mr. Lapciuc recommended a model similar to the current FRB be implemented permanently in order to begin seeking business.

In response to Mr. Percival's question regarding the possibility of reconciling his recommendations with those of the Task Force regarding changing the hospital's status to not-for-profit, Mr. Lapciuc said he believed this Task Force would be unable to take a clear stance within the timeframe allowed to prepare its recommendations to place a referendum on the ballot, particularly considering this could jeopardize \$480 million of tax revenues. He said he could not, in good conscience, recommend the 501(c)3 model within the next two weeks considering the lack of knowledge on the impact of that model; therefore, he was unsure whether this would be an appropriate course of action. Mr. Lapciuc said although the 501(c)3 model had worked well in Tampa and many other cities, the many variables and unknowns prevented him from recommending it.

Mr. Lapciuc reiterated his position on the structure of the permanent board. He noted the existing board had the discretion to determine the competence of individuals nominated for the governance, while the County Commission maintained the authority to ratify those nominations.

In response to Mayor Bermudez' question regarding how other hospitals addressed the indigent patients, Mr. Lapciuc noted all hospitals in MDC provided charity healthcare and were mandated by federal regulations to stabilize patients coming into their emergency rooms. He clarified the tolerance level for the indigent and the extent of charity provided were issues out of the hospital's control. In addition, Mr. Bermudez noted providing charity was not the mission of other hospitals, and they did not provide the same charity services that Jackson provided after the patient was stabilized; and that indigent and charity care patients inevitably ended up at Jackson.

Mayor Bermudez noted he agreed with three recommendations made by Mr. Lapciuc, and that the hospital needed a permanent board insulated, as much as possible, from political influence. It also needed a definitive structure with flexibility, and governance with an independent operational structure. He invited Mr. Lapciuc to provide language on those proposals, if

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available, for the Task Force to consider. He stated that, in order to have successful government, one of the components was affordable healthcare; and Jackson was the only institution providing that. Therefore, he felt the voters would be open to at least consider those three recommendations.

Mr. Lapciuc advised that a written proposal would be put forth in consultation with the Chair of the Financial Recovery Board. He noted the hospital was operated pursuant to Government in-the-Sunshine, and that the Chief Executive Officer of the hospital and other colleagues would also be consulted before any language was proposed by the Task Force.

Mayor Bermudez stated that if the hospital did not wish to put forth proposed language, the County Attorney would be asked to prepare proposed language on those three issues he recommended.

Mr. Lapciuc clarified that any written proposals required the approval of the hospital Administration.

Mr. Slesnick commented on the newspaper article featuring Mr. Lapciuc, which he noted was published in *The Miami Herald* today (6/20). He questioned the rationale for not changing the name of the FRB.

Mr. Lapciuc stated the FRB was created by the Board of County Commissioners during the economic downturn, with the intent to ensure a sense of emergency action. The FRB was not created as a permanent board, and it was time to change the name and the status of the Board, Mr. Lapciuc maintained.

Chairman Garcia introduced Mr. Frank Sacco, Memorial Healthcare System of Broward County. He noted Mr. Sacco managed a remarkable healthcare system in Broward County; and that he invited him to explain how that system operates and to provide recommendations.

Mr. Frank Sacco advised that the Memorial Healthcare System was a d/b/a (doing business as) for the South Broward Hospital District. He provided an overview on how the hospitals operate, noting it was an independent taxing authority whereby the members of the Board were appointed by the governor. Mr. Sacco said he had been the CEO for 25 years.

Mr. Sacco provided a historical background on the finances and progress of the hospitals. He pointed out the hospitals' Board retained an outside consultant to work with management and the Board to determine the hospitals' future needs for the first time. The taxing support for the hospitals was reduced to 0.75 mills, representing a reduction of \$28 million on \$1.5 billion in net revenues; and the drop in property values made the impact of the reduced millage equivalent to a 0.6 or a 0.5 millage rate, Mr. Sacco stated. He noted all hospitals within the Memorial system were self-sufficient, and the tax dollars were dedicated to operating five indigent, uninsured healthcare clinics providing primary and specialty healthcare services for the residents of South

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Broward. He noted the Board realized that costs needed to be reduced and subsequently implemented a plan to reduce costs by \$75 to \$80 million, and the impact of this plan resulted in 175 frozen positions, 120 reclassified positions, and 50 layoffs.

Mr. Sacco advised that the Board also reviewed whether or not to privatize, and determined that the hospitals should be maintained as state, public, governmental entities to preserve transparency and its mission, and to continue to benefit from the governmental status, which outweighed the benefits of changing to a not-for-profit entity. He noted Intergovernmental Transfers (IGT), which provided approximately \$800 million, were critical to the Board's decision not to privatize, and provided an overview on the use of the IGTs and the benefits of those funds.

Following a brief discussion regarding the importance of the IGT funds, Mr. Sacco noted the Board had concerns regarding healthcare reform, and sovereign immunity was a major focus of the Board's decision-making process.

Mr. Sacco said the Board of governance of the Memorial Healthcare Systems was given a generative thinking exercise of 6 options which included no action to selling the hospitals; and with the new state law, the Board would have to repeat the generative thinking exercise. The Board considered 4 options, including converting to a 501(c)3 not-for-profit institution. The Board also decided to continue to operate the hospitals as public facilities with some of the assets/cash transferred into a not-for-profit to allow that entity to become more competitive in certain areas because of State Constitutional provisions for co-mingling private and public funds. He advised that the Board would have to revisit those issues due to the changes in State law relating to healthcare.

Mr. Sacco advised that the governance was another issue. He recommended a 7-member board may be the best practice; however, a 7 to 9-member board was workable. He stated board involvement and support was critical for the effective operation of the hospital. Mr. Sacco said if Jackson was to remain a public hospital and an access/safety net for the uninsured and undocumented residents, it must be competitive and less dependent on tax dollars.

Chairman Garcia advised that Mr. Lapciuc recommended the tax revenues be protected as well as sovereign immunity, IGT funds, and that the hospitals' be operated pursuant to the Sunshine Law.

In response to Chairman Garcia's question regarding how best to accomplish the goals of this Task Force considering the time constraints, Mr. Sacco recommended Task Force members begin reviewing the Miami-Dade County Public Health Trust and its affiliation with persons like Joe Robbie and Hal Chapman, who basically acted independently. He recommended a new Charter be established to enable the County Commission to ratify itself as a perpetuating board of Jackson Memorial that would only issue debt on its behalf. He also recommended that the

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operation of the hospital be insulated from interference by the County Commission and its politics.

Vice Chairwoman Greer asked Mr. Sacco to describe how Memorial Hospital's Board members were appointed and who made the appointments; how initial appointments were renewed; and how much control higher authorities had over the process?

Mr. Sacco explained that the Broward County Board of County Commissioners had no authority over the hospital's Board as the appointments were made by the Florida State Governor; only the Governor had the authority to remove a Board member for malfeasance, he added.

In response to Chairman Garcia's question on how to create a self-perpetuating board, Mr. Sacco explained that 7 to 9 reputable community leaders should be appointed to the nominating committee to develop a nominating process and nominate candidates for the County Commission members' ratification. He advised that it was preferable for the County Commission members not to make appointments from a list of candidates.

Following the presentation of a hypothetical governance board, Mr. Sacco advised that no selection criteria existed to appoint Memorial Hospital's Board members; and the appointments were made at the discretion of the Governor. He stated the Governor sent them the names of the appointees, and they did not have a self-perpetuating Board.

Discussion ensued regarding the concept of a self-perpetuating board and how the Governor made the appointments.

In response to Mr. Percival's inquiry as to whether Jackson Memorial's governance model was broken whereas Memorial Hospital's governance model was successful, Mr. Sacco advised that a history of mismanagement and a fractured relationship with the University of Miami (UM) impeded Jackson Memorial's success. He noted the hospital's current management team understood its environment better than previous management teams, and stated those were all critical elements.

Chairman Garcia reiterated that it was recommended that JHS create a self-perpetuating board, retain its ability to receive tax funding, IGT funds, and maintain sovereign immunity.

Pursuant to Mr. Ottinot's inquiry, Mr. Sacco clarified that the Board members were appointed to 4-year staggered terms with 2 members appointed each year for the first 3 years of the Governor's term and 1 member appointed the 4th year. He noted Board members served until replaced even if their term had expired.

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Following a discussion regarding the tenure of the Board members, Mr. Sacco explained that most of Memorial Hospital's Board members served up to eight years, and they had implemented a very stringent Conflict of Interest policy.

Vice Chairwoman Greer asked that Mr. Sacco provide the Task Force with a copy of Memorial Hospital's Conflict of Interest policy.

Responding to Mr. Percival's question, Mr. Sacco explained that a successful CEO educated the Board members as much as possible, provided them with all relevant information, and established an orientation process for new appointees. He noted Board members should be treated as trustees of hospital system and not as public officials.

Pursuant to Mr. Percival's inquiry, Mr. Sacco clarified that the Board held a monthly meeting as well as workshops on major issues to allow sufficient time to brief Board members and provide them with detailed information before voting of the issues. He noted the primary success factors would be the structure of the Board and its members' commitment to work on issues in collaboration with the Leadership of the hospital and its the medical staff.

In response to Chairman Garcia's question as to whether the Memorial Hospital System's governance board would have been as successful had it been structured like JHS, Mr. Sacco noted he was never interested in working for Jackson Memorial Hospital due to its governance structure and other elements.

Chairman Garcia asked Mr. Jimmy Morales to make his presentation.

Mr. Jimmy Morales, 6815 Corsica Street, Coral Gables, Miami, noted he was before the Task Force on behalf of himself. He noted from his previous experience as County Commissioner, this Task Force had a very short timeframe to develop a governance structure for a hospital that had experienced serious governance problems for several years. He said he did not believe the governance of JHS should be included in the Home Rule Charter as it would be too difficult to make changes to it later, and noted. Mr. Morales pointed out that Broward County had the ability to change its Home Rule Charter through the legislature, acting through a referendum.

Responding to Mayor Bermudez' question regarding the creation of an independent board, Mr. Morales stated that he favored a high level of independence whether JHS was public or not-for-profit. He said he agreed that transparency, Government in-the-Sunshine, and federal and state funding should not be jeopardized. Mr. Morales also noted he agreed with proposals to establish an independent board, strong Conflict of Interest policies, and appoint responsible and reputable Board members were more important than creating a State-of-the Art structure.

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Pursuant to Mayor Bermudez' question regarding ensuring that Board members had no Conflict of Interest issues, Mr. Morales stated that he did not object to prohibiting Board members from conducting business with the County directly or indirectly.

Mr. Morales recommended that the County Commissioners' salaries be increased as the position was full-time in many instances, and the formula used by other counties should be adopted by Miami-Dade County.

Chairman Garcia noted even though the Task Force had insufficient time to discuss the issue of governance, all members agreed that the JHS governing board needed to be independent, subject to Government-in-the-Sunshine laws, and eligible for IGT funds.

Mr. Morales complimented all Task Force members for their vigilance regarding healthcare issues, which was one of the most critical issues facing the country.

Upon conclusion of Mr. Morales' presentation on the governance of JHS, Mr. Percival asked Mr. Morales to provide his vision to abolish Unincorporated Municipal Service Areas and create regional governments.

(See report for agenda item relating to Incorporation/Annexation/Regional Government Proposal by Lawrence Percival.)

Upon conclusion of the discussion on regional governments, the Task Force resumed its discussion on the Governance of JMH.

Mr. Manrique clarified that the Chairman of the Board of County Commissioners asked this Task Force include the discussion on the governance of JMH in its agenda. He indicated that Task Force members were only concerned with the issues of sovereign immunity, tax authority, and governance, not with the privatization of JMH. Pursuant to the County Attorney's opinion, the hospital would lose its ability to collect taxes and its sovereign immunity status if privatized; therefore, this Task Force would refrain from addressing that issue and focus on improving the governance, Mr. Manrique explained. He noted Task Force members had presented some excellent recommendations today.

Mr. Morales said he applauded the Task Force's efforts to improve the governance of JHS, but as a former elected official, he understood how complicated this issue was and how the process worked. He recommended that Task Force members exercise caution when proposing that changes to JHS be incorporated in the Charter, which would be permanent and difficult to change.

Ms. Martha Baker, RN, President of SEIU Healthcare Florida Local 1991, apologized to the Task Force members who may have been alarmed by the comments in her letter. She clarified

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that she supported Mr. Lapciuc's recommendations for changes to the structure of JHS rather than to the governance; and explained that members of the Hospital Governance Task Force considered changing the hospital from a public entity to a 501(c)3, not-for-profit organization; however, they realized that the hospital would no longer be subject to Government in-the-Sunshine or sovereign immunity. Ms. Baker noted she also supported the proposals for a smaller, seven-member, permanent board; to change name of the FRB; and to establish requisite healthcare expertise qualifications for Board members and include individuals with medical and other healthcare expertise on the Board. She pointed out that the study conducted by the consulting firm found that Board members needed to have healthcare expertise and that the operational efficiencies were more important than the governance structure.

Ms. Baker noted operational efficiencies could be achieved within the current governance structure while keeping the hospital as a public entity. She recommended that the County Commission maintain some oversight without interfering with operations, and noted she agreed with the recommendation to grant JHS 100 percent operational independence. Ms. Baker explained that she was opposed to the proposed Charter amendment on the governance structure because it was a complicated issue that would require extensive discussions as well as healthcare expertise and transparency. She recommended that Mr. Magoya be allowed to manage the hospital operations, noting the competence of the CEO and Board members was important.

In response to Mr. Smith's inquiry, Ms. Baker noted she concurred with the other expert opinions to exclude this issue from Charter reform, and noted she looked forward to formalizing and improving upon the recent changes made to the FRB by the County Commission.

Councilman Gonzalez spoke in favor of reviewing the structure of the hospital's current Board, establishing criteria to ratified appointments to the Board, and appointing individuals to the board with requisite healthcare expertise.

Mr. Slesnick concurred with the recommendations made, noting they were all beyond the scope of this Task Force given the complexity of the issues and strict deadlines. He stated that it would be more appropriate to review those issues after the recommendations of this Task Force were placed on the ballot.

In response to Mayor Bermudez' question, Ms. Baker advised that the FRB was created by amending the Public Health Trust (PHT) and not through Charter reform. She advised that similar types of changes could be made without amending the Charter, and noted she wanted to participate in efforts to assist in making non-politicized decisions that were in the best interest of the County's public healthcare system.

Mayor Bermudez noted he disagreed with Mr. Slesnick's comments because the Task Force could easily consider a reasonable proposal to change the name and the structure of the board

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while maintaining its independence. However, he noted reviewing the operational efficiencies was more complex.

Chairman Garcia clarified that Mr. Slesnick was referring to the Task Force's strict deadline to review all the issues for the November 2012 ballot.

Vice Chairwoman Greer noted Ms. Baker's input was extremely helpful, and she agreed with Mayor Bermudez' comments. She provided an overview on the rationale for the FRB's creation, noting it was an effective governance structure that provided management stability and should be perpetuated with checks and balances. She suggested that a board similar to the FRB be created by Charter provision; and she also suggested that language be included outlining its composition, how it would be perpetuated, and the checks and balances.

Upon conclusion of the foregoing presentation, Chairman Garcia considered the issue of Salaries/Outside Employment.

- **Petition Process**

- **Petition Reforms Proposal by Mr. Terry Murphy**

Mr. Terry Murphy noted, with regards to Article 8 of the Home Rule Charter, the public was disappointed with the current petition process, particularly with the notarizing and circulator requirements. He stated his proposal would eliminate the requirement for a notary signature on petition forms; authorize a self-executing petition process whereby a voter could download or pick up a hard copy of a petition, thus eliminating a circulator requirement; allow a petition to be approved by the Clerk in multiple languages; provide for a uniform 10 percent registered voter requirement for the petition process; set the recall threshold at a level equal to the number of votes cast to elect the official if it was greater than 10 percent of registered voters; provide for a stated cause in the recall petition; and allow for a rebuttal statement on the ballot by the official subjected to the recall.

Mr. Murphy noted the only signature required on a petition should be the voter's signature. He suggested the rebuttal statement be confirmed by the Clerk and included in the 75 word ballot question.

Vice Chairwoman Greer requested clarification regarding Mr. Murphy's suggestion that a "stated cause" be placed on the petition.

Mr. Murphy clarified that the "stated cause" would provide the public with information on the reason an elected official was recalled from office. He noted the State Statutes governing the recall process listed various reasons an elected official could be recalled and allowed for a rebuttal statement to be included on the ballot question.

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Mr. Bermudez indicated that he could not support a 25 word rebuttal statement included on the ballot question and expressed concern that including such a statement would complicate ballot initiatives. He asked to be provided with an example of a ballot question that included a 25 word rebuttal.

Mr. Murphy explained that the State of Florida's recall petition process required a petitioner to provide a statement of cause and initially required signatures from 10 percent of the registered voters. The petitioner's statement of cause was then adjudicated through a panel, and if approved, signatures from 25 percent of the registered voters were required. He noted, once the required number of signatures was obtained, the official who was the subject of the recall was allowed the opportunity to make a rebuttal statement.

Mr. Percival expressed concern that changing the registered voter threshold from 4 to 10 percent would place an enormous burden on the citizens and stated he could not support that proposal. However, he expressed his support for placing a statement of cause on a petition.

Mr. Murphy explained that the 4 percent threshold was put in place when County Commissioners were elected at large and was not modified upon the inception of single-member districts; therefore, twice the amount of time was now being given to a lower threshold of registered voters.

Mr. Percival respectfully disagreed with Mr. Murphy and suggested the threshold be kept at 4 percent; that a statement of cause be placed on the petition; and concurred with Mr. Murphy's proposal to eliminate the notarizing and circulator requirements. He stressed that this was a citizen process, not a government for the governing.

Mr. Ottinot concurred with Mr. Percival and also expressed support for the County Commission maintaining control over the incorporation process.

Mr. Gonzalez asked that Task Force members be mindful of the population growth over the past few years.

Mr. Slesnick supported Mr. Murphy's efforts in trying to strengthen the recall process.

Councilwoman Garcia-Martinez stressed the need for a simplified process and spoke in opposition to placing a rebuttal statement on the ballot.

Mr. Murphy said providing a reason for a recall should be a fundamental requirement and he would be agreeable to placing it solely on the petition. He reiterated his support of increasing the threshold to 10 percent for recalls, incorporations, and referenda.

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Councilwoman Garcia-Martinez expressed concern that many registered voters in her community would not have the ability to access petitions electronically since most of her constituents were elderly and lacked computer skills. She spoke against raising the registered voter threshold to 10 percent. With regards to Article 8, Section 8.01(5)(b), the Councilwoman noted she did not support the proposed increase from 8 to 15 percent; and that she concurred with Mr. Murphy's proposal to eliminate the notarizing and circulator requirements.

Vice Chairwoman Greer expressed support for various suggestions made such as providing electronic downloads, removing the notarizing and circulator requirements, and maintaining the threshold at 4 percent.

It was moved by Vice Chairwoman Greer that the Task Force members recommend to the County Commission that the registered voter requirement in Article 8 of the Home Rule Charter be kept at 4 percent, that the notarizing and circulator requirements be removed, and that voters be allowed to electronically download the petitions. This motion died due to lack of a second.

Mr. Murphy noted he opposed the foregoing motion. He expressed concern over his colleague's suggestions and withdrew his proposed amendments to Article 8. He spoke against keeping the registered voter requirement at 4 percent, noting removal of the notarizing and circulator requirements from the Charter would allow petitions to be more freely circulated, copied, and distributed among computer literate individuals.

Mayor Bermudez noted Mr. Murphy's comments were valid; however, he concurred with the consensus to keep the threshold at 4 percent.

Chairman Garcia noted the difficulty he faced when trying to obtain 1,400 signatures to have his name placed on a state election ballot in state districts that were much larger than County Commission districts.

Mr. Smith noted he could not support raising the voter requirement threshold to 10 percent.

It was moved by Mr. Percival that the Task Force recommend to the County Commission that the 4 percent registered voter requirement be maintained; that the 120-day requirement to obtain valid voter signatures be maintained; that the need to have a notary sign the petition forms be eliminated; that the circulator requirement be eliminated; that a self-executing petition process be allowed; and that the Clerk be allowed to approve petitions in multiple languages. This motion was seconded by Councilwoman Garcia-Martinez.

Mr. Smith proposed an amendment to provide for a stated cause on a recall petition.

Mr. Percival accepted the foregoing amendment and clarified his motion on Article 8 of the Home Rule Charter was to maintain a 4 percent registered voter requirement; maintain the 120-

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day requirement to obtain valid voter signatures; eliminate the need to have a notary sign the petition forms; eliminate the circulator requirement; authorize a petition process that was self-executing; allow a petition to be approved by the Clerk in multiple languages; and provide for a stated cause in a recall petition. This motion was seconded by Mr. Smith.

Assistant County Attorney Cynthia Johnson-Stacks clarified that the motion before the CRTF was to amend Article 8 of the Home Rule Charter to remove the notary requirement on initiative, recall, and referendum petitions; remove the circulator requirement; and provide for a stated cause on the petition.

The foregoing motion, as clarified by Assistant County Attorney Johnson-Stacks, upon being put to a vote, passed by a vote of 8-3; (Mr. Murphy, Mr. Manrique and Mr. Slesnick voted "No"); (Ms. Aguilar, Mr. Arriola, Mr. Bucelo, Mr. Diaz, Representative Julien, Mr. Martinez, Mr. Ottinot, Ms. Perry, and Representative Trujillo were absent).

Upon conclusion of the foregoing presentation, the Task Force members considered the issue of the Office of the Sheriff.

- **Incorporation/Annexation**
 - **Municipal Boundary Change Petition Process Proposal by Terry Murphy –**
(This item was not considered)
 - **Incorporation Petition Process Proposal by Terry Murphy**

Mr. Murphy explained that his proposal included County Commission involvement on a limited basis immediately following the Clerk's approval of a petition. He proposed that the County Commission be allowed to exercise one of the three following options: approve the petition to go forward for signature gathering; return the petition back to the organizers for modification if its purpose was to create an enclave; or act as mediators with the ability to defer signature gathering for up to a year if the boundaries of a petition conflicted with a municipality's previously approved annexation or another previously filed incorporation request.

Vice Chairwoman Greer expressed concern with Mr. Murphy's proposal as it related to the County Commissioners acting as mediators.

Mr. Murphy noted the County Commissioners would only be deferring the signature gathering process for the incorporation or annexation request until the competing, or conflicting application was resolved.

Mr. Smith suggested the deferral time be no more than one year.

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A discussion ensued regarding the petition suspension process and conflicting petition applications.

Mr. Murphy presented a motion to amend Section 6.05 and create 6.05(a) Incorporation by the Board and 6.05(b) Incorporation by Initiatory Petition. The initiatory provision incorporation process would be modeled after the initiatory petition process for ordinances and Charter Amendments. This modification would provide that the Board of County Commissioners may suspend the petition process if the petition would lead to the creation of an enclave and may defer a petition if a conflicting petition has been filed earlier. This motion was seconded by Mr. Smith, and upon being put to a vote, failed due to a 5-5 tie vote; (Mayor Bermudez, Councilwoman Garcia-Martinez, Councilman Gonzalez, Mr. Manrique, and Vice Chairwoman Greer voted "No" and Reverend Richardson abstained from voting); (Ms. Aguilar, Mr. Arriola, Mr. Bucelo, Mr. Diaz, Representative Julien, Mr. Martinez, Mr. Ottinot, Ms. Perry, and Representative Trujillo were absent).

Incorporation Petition Process Proposal by Don Slesnick

Mr. Slesnick commented on the need for an expedited, facilitated incorporation process. He noted all residents of Miami-Dade County were affected by the decisions made in this County which is why he wanted the County Commission to maintain vigilance over the incorporation process to ensure it was done properly.

Mr. Slesnick explained his proposal to Section 6.05 would involve the creation of Section 6.05(a) Incorporation by the Board, and Section 6.05(b) Incorporation by Initiatory Petition. He noted the initiatory provision incorporation process would be modeled after initiatory petition for ordinances and Charter Amendments. This modification would expressly recognize that the Clerk of the Circuit Court may disapprove the petition for cause; that the County Commission had the authority to review the appropriateness of the petition for incorporation as described herein, following the advice of an Advisory Council with fair representation of all interests; that the Council may suggest alternate boundaries, but the decision on alternate boundaries would be left to the Incorporation Committee; that a strict ninety (90) day timeframe be established for County and Council review of the petition, which could be enforced by court action if the timeframe was not met; that a requirement be incorporated providing for a budget analysis to resident electors in the proposed incorporation area and providing that any proposed municipality whose boundaries include any area outside the urban development boundary, as described in the County's Comprehensive Development Master Plan, must abide by the permitted uses as set forth in such plan.

Vice Chairwoman Greer noted she did not support Mr. Slesnick's proposal, noting she was concerned that it would be too expensive and complex. She maintained that the simplest way to address incorporation would be to allow the people to vote.

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Mr. Gonzalez concurred with Vice Chairwoman Greer, and stressed the need to simplify the process.

Councilwoman Garcia-Martinez emphasized the importance for residents to be educated on the fiscal impacts of incorporation. She also noted the process should be simplified.

A discussion ensued regarding the current process during which it was noted the Charter required a review by the Planning Advisory Board (PAB) members who would subsequently submit a recommendation to the County Commission for approval by a simple majority vote.

Mr. Murphy suggested the Task Force consider including a proposal that a 2/3 vote be required for the County Commission to override any PAB recommendation.

Prior to further consideration of this item, Chairman Garcia recognized Mayor Gimenez, whom he noted was available to provide input on the Transfer of Powers and Functions Proposal submitted by Mr. Murphy, which was discussed earlier.

Mr. Bermudez noted he could not support Mr. Slesnick's proposal because he fully concurred with his colleagues regarding the need for a simpler process.

Mr. Percival spoke about the incorporation processes in the Falls and East Kendall areas, which he noted became extremely politicized and some commissioners were caught in the middle. He stressed the importance of creating a non-political, fair, and equitable incorporation process, noting he was concerned that Mr. Slesnick's proposal would create more public distrust.

Based on the concerns expressed by Task Force members, Mr. Slesnick offered to amend his proposal to remove Section 6.05(B)(2)(b).

Mr. Murphy noted he was concerned that some of the language contained in the Mr. Slesnick's proposal was too broad. He asked Mr. Slesnick if he would be amenable to striking the words "... or upon a showing of good cause," from Section 6.05(B)(1).

Mr. Slesnick agreed to strike the language as proposed by Mr. Murphy.

In response to concerns expressed by Mr. Murphy regarding the language contained in Section 6.05(B)(2)(c), Mr. Slesnick noted it was consistent with the language in the State Statutes.

Vice Chairwoman Greer pointed out that the process was not the problem but rather the politics.

It was moved by Mr. Slesnick that his proposal be approved as amended. This motion was seconded by Mr. Smith.

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Assistant County Attorney Jess McCarty clarified that the proposed amendment, would strike paragraph 2(b) from Section 6.05(B); strike the language contained within paragraphs 2(c) and 2(d) in Section 6.05 and combine the two paragraphs to read as follows: "The Board of County Commissioners may approve the proposed incorporation petition, as presented in the petition or as revised by the Incorporation Committee, or reject the incorporation petition as presented or as revised by the Incorporation Committee, upon its determination that a proposed incorporation is not appropriate, if the proposed municipality will not have contiguous boundaries; will leave an unincorporated enclave area within its boundaries; or is not amenable to separate municipal government, as provided by Florida statute and law.'

Hearing no other questions or comments, Task Force members proceeded to vote on Mr. Slesnick's proposal as amended. This motion, upon being put to a vote, failed by a vote of 4-7; (Mayor Bermudez, Councilwoman Garcia-Martinez, Councilman Gonzalez, Mr. Manrique, Reverend Richardson, Vice Chairwoman Greer, and Chairman Garcia voted "No"; Ms. Aguilar, Mr. Arriola, Mr. Bucelo, Mr. Diaz, Representative Julien, Mr. Martinez, Mr. Ottinot, Ms. Perry, and Representative Trujillo were absent).

Ms. Katherine (inaudible), 2430 NE 135 Street, North Miami, FL, appeared before the Task Force and commented on a survey conducted by *The Miami Herald* which found that 63 percent of voters within Miami-Dade County were opposed to incorporation. She noted she grew up in the Kendall area and witnesses the incorporation/annexation issues Kendall residents faced. She noted she supported the 25 percent signature requirement for petitions and stressed the need to provide better protections for residents in the County's unincorporated areas.

Chairman Garcia reiterated that a public hearing was scheduled for June 20, 2012 at 5:00 p.m. in the Commission Chambers.

ADD ON: Article 8 Section 8.01(7) Proposal by Mayor Juan Carlos Bermudez

Mr. Bermudez presented a motion to repeal Article 8, Section 8.01(7) of the Charter which reads: "An ordinance adopted by the electorate through initiatory proceedings shall not be amended or repealed by the Board for a period of one year after the election at which it was adopted, but thereafter it may be amended or repealed like any other ordinance."

Mr. Murphy voiced his concern with removing this provision in its entirety and suggested the time period be extended from 3 to 5 years.

Assistant County Attorney Jess McCarty advised that a date be inserted in lieu of repealing Article 8, Section 8.01(7), which could have an opposite effect and allow for immediate action to be taken.

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Mr. Bermudez noted Mr. Murphy's proposal to increase the timeframe from 3 to 5 years was acceptable.

Mr. Murphy asked that the time period be increased to 3 years.

It was moved by Mr. Bermudez that the Task Force amend Article 8, Section 8.01(7) to insert "a period of three years." This motion was seconded by Mr. Murphy, and upon being put to a vote, passed by a vote of 11-0; (Ms. Yolanda Aguilar, Mr. Joe Arriola, Mr. Armando Bucelo, Mr. Victor Diaz, Representative John Patrick Julien, Mr. Luis Martinez, Mr. Hans Ottinot, Ms. Pamela Perry, and Representative Carlos Trujillo were absent).

- **Office of the Inspector General** – This item was not considered
- **Mayoral Veto/Collective Bargaining Impasse Disputes**
 - **Veto of Collective Bargaining Impasse Proposal by Don Slesnick**
 - **GSAF Letter**
 - **PBA Letter**

The Task Force members considered the Mayoral Veto/Collective Bargaining Impasse Disputes items simultaneously.

Mayor Slesnick explained that the process for negotiating and approving Collective Bargaining Agreements (CBA), noting Chapter 447 of the Florida Statutes provided that these items be heard by the County Commission to act as a "referee" between the executive officer and the labor unions and that the final decision be made by the County Commission. He also noted the Mayor had recently used his veto power to veto the County Commission's decisions on CBAs.

Mr. Slesnick suggested that the Charter be amended and that the citizens of Miami-Dade County be given an opportunity to include a Charter Amendment to exempt this issue from the Mayor's veto powers.

Mr. Terry Murphy commented that the Strong Mayor provision included in the Charter in 2006 was drafted by advocates for the Strong Mayor, and was accomplished by petition. He stated that, he believed, the issue regarding vetoing a decision on impasse had been unintentionally excluded from the Charter. Therefore, Mayor's Slesnick's proposal represented a valid, good structural recommendation which conformed to the collective bargaining process in the State of Florida. He recommended that this Task Force consider it.

In response to Mayor Bermudez's question, Mr. Slesnick responded that the other areas the Mayor had no veto powers in the Charter were "the Mayor may not veto the selection of the Chairperson or Vice Chairperson of the County Commission, the enactment of commission

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committee roles, the formation of commission committees, and the appointment of members to commission committees.”

Discussion ensued regarding the provisions of Chapter 447 and its limitations.

Mr. Percival commented that the requirement of 2/3 majority vote to override the Mayor was a fair check and balance process as it was a process requiring both sides to cooperate to provide balance to the process.

Mr. Slesnick noted he was not arguing with the wisdom of the Mayor's or the County Commission's position. He stated his argument addressed what the system was intended to do and how it was intended to work.

In response to Mr. Ottinot's question regarding collective bargaining negotiations, Mr. Slesnick explained that the parties had to negotiate and once an impasse was reached, then, if both parties agreed, the impasse would be presented before a state appointed a special magistrate. He noted the role of the special magistrate was advisory only and to make recommendations, which could be ignored. He stated that the final step was to present the impasse to the County Commission to have the chief executive and the labor union representative(s) argue their positions, and the final vote was intended to be in the hands of the elected body. Mr. Slesnick noted the Mayor's veto threw out the balance.

Vice Chairwoman Greer commented that collective bargaining agreements were at the heart of the Mayor's functions as a chief executive; and she did not believe it was an oversight when the impasse issue was left out. Therefore, she would not support this proposal.

Mr. Smith expressed his disagreement with the comments made by Vice Chairwoman Greer. He stated that the executive branch had the authority to unilaterally negotiate, which was the power the Strong Mayor should have. He commented on the authority provided by the state legislature and the process, noting he believed it was an oversight.

Upon conclusion of the foregoing discussion, the Vice Chairwoman called for a motion.

It was moved by Mr. Slesnick that the Task Force approve the proposed amendment to the Charter amending Section 2.02, subsection 'E', to include the language "...or any item resolving a collective bargaining agreement impasse.." This motion was seconded by Mr. Murphy, and upon being put to a vote, the motion passed by a roll call vote of 7-5; (Councilwoman Garcia-Martinez, Councilman Gonzalez, Mr. Ottinot, Mr. Percival, Vice Chairwoman Greer voted "No"; Ms. Aguilar, Mr. Arriola, Mr. Diaz, Representative Julien, Mr. Martinez, Ms. Perry, Representative Trujillo, and Chairman Garcia were absent).

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Upon conclusion of the foregoing presentation, the Task Force adjourned its morning session at 12:30 p.m. until 1:30 p.m.

- **Office of the Sheriff**

- **Elected Sheriff Proposal by Don Slesnick**

Mr. Slesnick expressed his support for re-establishing the Office of the Sheriff which was a position currently appointed by the Mayor. He pointed out that every County within the State of Florida, with the exception of Miami-Dade County, had an elected Sheriff. He also noted this proposal was supported by the Dade County PBA who also recommended the establishment of a public safety special taxing district.

For discussion purposes, it was moved by Mr. Slesnick that the Task Force members transmit to the County Commission their proposed Charter amendment to Article 3: Elections that would provide for an elected Sheriff, establish the Sheriff's term of office, provide for nonpartisan elections and the process to qualify for election, establish the Office of the Sheriff as a County department, provide for recall of the elected Sheriff, and transfer powers and duties from the Mayor to an elected Sheriff. This motion was seconded by Mr. Percival.

Mayor Bermudez spoke about issues that were important to the community such as transportation, education, health care, and public safety. He expressed his opposition to the foregoing motion and voiced concern that an elected Sheriff would complicate matters and could be problematic.

Mr. Gonzalez noted he concurred with Mayor Bermudez stating the responsibility should remain with the County Mayor.

Mr. Richardson voiced his opposition to Mr. Slesnick's proposal.

Mr. Murphy explained that the notion of an elected Sheriff could have a positive impact since it provided assurance that law enforcement was independent of a Strong Mayor.

Mr. Richardson responded that the motion did not contain a provision stipulating the elected individual must be a professional law enforcement officer.

Mr. Manrique noted he could not support the foregoing motion due to the possible influx of incorporations in Miami-Dade County; particularly since those areas would create their own police departments, thus decreasing the County's police department.

A discussion ensued regarding concerns over an elected Sheriff at which point Mr. Slesnick pointed out he respected everyone's opinion. He noted, for the record, that 66 counties within

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the State of Florida had elected Sheriffs who provided excellent service to their respective counties. He expressed concern with Task Force members wanting citizens to have a voice on some issues, but not this issue, and asked that his motion be put to a vote.

Chairman Garcia clarified that Mr. Slesnick's motion was properly before the Task Force.

Mr. Slesnick's motion to transmit to the County Commission a proposed Charter amendment to Article 3 to provide for an elected Sheriff, establish the Sheriff's term of office, provide for nonpartisan elections and the process to qualify for election, establish the Office of the Sheriff as a County department, provide for recall of the elected Sheriff, and transfer powers and duties from the Mayor to an elected Sheriff, upon being put to a vote, failed to carry by a majority of Task Force members present (Chairman Garcia, Vice Chairwoman Greer, Mayor Bermudez, Councilman Gonzalez, Mr. Manrique, Reverend Richardson, and Councilwoman Garcia-Martinez voted "No"; Ms. Aguilar, Mr. Arriola, Mr. Bucelo, Mr. Diaz, Representative Julien, Mr. Martinez, Mr. Ottinot, Ms. Perry, and Representative Trujillo were absent).

Mr. Percival and Mr. Murphy noted, for the record, they voted "Yes."

Upon conclusion of the foregoing presentation, the Task Force members proceeded to consider the issue of Annexation/Franchise Utility Fee Proposal presented by the Vice Chairwoman Greer.

o Transfer of Powers and Functions Proposal by Terry Murphy

Mr. Murphy explained the intent of his proposal related to Article 9, Section 9.01C was to clarify that the appointed Miami-Dade PD Director would assume the Sheriff responsibilities with the exception of the management and administration of jail facilities.

Mr. Murphy presented a motion to amend Section 9.01C to transfer the powers and functions of the Office of Sheriff from the Mayor to the Director of the Miami-Dade Police Department or its successor law enforcement agency, effective on the second Tuesday next succeeding the date of the general election in November; and that the powers and functions transferred to the Director of the Miami-Dade Police Department or its successor law enforcement agency would not include Corrections and the operation of County jails, detention facilities, and the custody of prisoners. This motion was seconded by Mr. Percival.

A discussion ensued regarding the current powers of the office of the Sheriff where it was noted Sheriff's functions were outlined in the State of Florida Constitution. In Miami-Dade County the elected Mayor held the Sheriff's powers and had the ability to delegate those powers to an appointee which could result in a non certified law enforcement individual making law enforcement decisions.

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Mr. Smith explained the Mayor of this County, acting as the Sheriff, could have serious ramifications and suggested the wording "the Mayor may delegate" should be amended to "the Mayor shall delegate." He strongly opposed the County Mayor also acting in the capacity of the County Sheriff.

Assistant County Attorney Johnson-Stacks clarified the duties and functions of the County Sheriff as mandated by Florida Statute consisted of: Executing all process; executing writs, processes, and warrants; attending all terms of the circuit court and county court held in its county; executing all orders of the board of county commissioners of its county; being conservator of the peace in its county, suppressing tumults, riots, and unlawful assemblies in its county with force and strong hand when necessary; apprehending, without warrant, any person disturbing the peace, and carrying that person before the proper judicial officer, that further proceedings may be had against him or her according to law; having authority to raise the power of the county and command any person to assist it, when necessary, in the execution of the duties of its office; being ex officio, timber agents for its county; and performing such other duties as may be imposed upon it by law. She stated these functions were currently carried out by the Miami-Dade PD Director as delegated by the Mayor.

Mr. Murphy commented on the proposed language amendment proffered by Mr. Smith and noted his proposal, as drafted by Assistant County Attorney Jess McCarty, transferred the Sheriff powers and functions from the Mayor to the Director of the Miami-Dade PD.

Assistant County Attorney Johnson-Stacks advised the amendment proffered by Mr. Smith, changing the word "may" to "shall" would not accomplish what he intended inasmuch as the Mayor who delegated those powers, remained in ultimate control.

Vice Chairwoman Greer expressed concern that this proposed amendment would create a Charter office that the Mayor had no control over, therefore the Mayor would no longer have the authority to organize law enforcement responsibilities.

Assistant County Attorney Jess McCarty clarified that Mr. Murphy's proposal placed all statutory functions and responsibilities of the Sheriff with the Director of the Miami-Dade PD or the successor law enforcement agency.

A discussion ensued regarding the transference of the Sheriff's responsibilities in which it was noted the Mayor maintained authority over the powers/functions of the Sheriff, despite delegating those powers to another entity.

Mr. Murphy noted the previous Charter Review Task Force in 2006 discussed this issue and attempted to rectify the matter. He noted, based on his review of discussions held at that time, his proposed amendment addressed this issue in a straightforward manner by transferring the duties and functions of the Sheriff from the Mayor to the Director of the police department.

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Mr. Slesnick spoke in support of Mr. Murphy's proposal. He opined it removed the Mayor from being involved in any legal issues pertaining to law enforcement. He noted the Mayor was currently involved in police personnel issues since he had statutory authority over the department as the Sheriff.

Mr. Smith asked that Mayor Gimenez give the Task Force input on issue.

Following discussion on the foregoing motion, this issue was tabled, pending an opinion from Mayor Gimenez.

Upon inquiry by Mr. Slesnick as to whether or not a technical amendment should be made in Section 8.02 where it referenced the "Sheriff or Constable" if that wording no longer applied, Assistant County Attorney Johnson-Stacks advised it would be addressed if necessary.

Mayor Gimenez noted he supported the previous Charter Review Task Force recommendation which provided the following: that the Mayor appoint the Director of the Police Department and the appointment would be for a 4-year period, concurrent with the Mayor's term of office; the County Commission would have the right to reject the Mayor's appointment; the Mayor could fire the Director with majority vote approval by the County Commission; the County Commission could fire the Police Director by a super majority vote; upon the Director's appointment, the Mayor was prohibited from giving day-to-day operational directions to the Director, outside of budgetary matters.

Mr. Percival requested Mayor Gimenez clarify his position on transferring the Sheriff's powers from the Mayor to the Director of the Police Department.

Mayor Gimenez expressed no objection to the transfer of powers and supported some separation between the Sheriff and the Mayor. He noted, however, that budgetary matters related to the Police Department should remain under the Mayor's control.

Vice Chairwoman Greer explained that the office of the Sheriff in Miami-Dade County was abolished in 1966 and the powers and functions of that office were transferred to the Mayor. She noted Mr. Murphy's proposal created a Charter provision that required the Mayor to delegate those powers to the Director of the Police Department, as a Charter officer.

Mayor Gimenez noted he was fully aware of all of the Sheriff's powers and functions and asked for further clarification to determine if some should remain with the Mayor.

Upon inquiry by Mr. Richardson regarding whether or not the Mayor had to delegate the powers of the Sheriff, Mayor Gimenez expressed the opinion that those powers and functions should be delegated and reiterated his preference for separation between the Sheriff and the Mayor. He

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explained that, in the City of Miami, the Fire Chief and Police Chief were entitled to a hearing before the City Commission to prevent them from being fired at the whim of the City Manager without valid cause.

Upon inquiry by Mr. Manrique, Mayor Gimenez clarified that the County Commission currently had the right to disapprove any mayoral appointment by a two-thirds vote and the only additional recommendations he suggested was that the Mayor could fire the Director with a simple majority approval of the County Commission and the County Commission could fire the Director by a super majority vote.

There being no further discussion, Mr. Gonzalez presented a motion to amend Section 9.01C to transfer the powers and functions of the Office of Sheriff from the Mayor to the Director of the Miami-Dade Police Department or its successor law enforcement agency, effective on the second Tuesday next succeeding the date of the general election in November; and that the powers and functions transferred to the Director of the Miami-Dade Police Department or its successor law enforcement agency would not include Corrections and the operation of County jails, detention facilities, and the custody of prisoners. This motion was seconded by Mr. Bermudez, and upon being put to a vote, passed by a vote of 10-1; (**Mr. ?????** voted "No"; Ms. Yolanda Aguilar, Mr. Joe Arriola, Mr. Armando Bucelo, Mr. Victor Diaz, Representative John Patrick Julien, Mr. Luis Martinez, Mr. Hans Ottinot, Ms. Pamela Perry, and Representative Carlos Trujillo were absent).

At this time, the Task Force members resumed their discussion on the Incorporation Petition Process Proposal by Mr. Slesnick.

OTHER BUSINESS

- **Items Approved by the CRTF on May 30th**
 - **Incorporation Proposal by Vice-Chair Evelyn Greer**
 - **Annexation/Franchise Utility Fee Proposal by Vice-Chair Greer**

Vice Chairwoman Greer explained her proposed amendment to Article 6, Section 6.07, relating to management of Franchise Fees and Utility Tax Revenues. She explained the intent was to allow the County to retain a portion of the taxes and fees collected to pay existing bonds. She noted the proposed language was reviewed and accepted by Bond Counsel.

Mr. Manrique supported Vice Chairwoman Greer's proposal and put forth an amendment to include a provision that required Florida Power & Light (FPL) to negotiate with the municipalities once the Franchise Fee and Utility Tax contract between the County and FPL expired.

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Vice Chairwoman Greer accepted Mr. Manrique's amendment.

It was moved by Ms. Greer that her proposed amendment to Section 6.07 of the Charter approved at the May 30, 2012, Task Force meeting be further amended to clarify that when the contract between the County and Florida Power and Light (FPL) expired the municipality into which an area was annexed would have sole authority to negotiate a new franchise fee and utility tax agreement with FPL. This motion was seconded by Mr. Manrique, and upon being put to a vote, passed by a vote of 11-0; (Ms. Aguilar, Mr. Arriola, Mr. Bucelo, Mr. Diaz, Representative Julien, Mr. Martinez, Mr. Ottinot, Ms. Perry, and Representative Trujillo were absent).

o Citizens' Bill of Rights Proposal by Terry Murphy

Ms. Deborah Lam, 13441 SW 100 Court, Miami, FL, appeared before the Task Force and expressed concern with the lack of information as to how those affected by impending incorporation would be kept informed. She also asked that the petition signature requirement be kept at 25 percent and stressed the importance of elected officials providing oversight on the process to ensure all residents had a chance to be heard. She also suggested the Task Force consider the following: that resident's of an area being incorporated or annexed be provided with a financial assessment and allotted sufficient time to review the assessment; that public meetings be held early in the process in order to provide a clear account of what was being voted on; that the requirement allowing the County Commission to approve an incorporation in areas with an electorate of less than 250,000 be removed; that the County Commission be given the authority to call a vote if City officials refused to do so; and that annexations and incorporations be permitted every ten years, during a specific time, subsequent to census data publication and redistricting. She also commented on incorporation issues facing residents in the Falls area.

Chairman Garcia advised Ms. Lam that a public hearing would held on June 20, 2012 at 5:00 pm. in the Commission Chambers.

Ms. Lam also commented on *The Miami Herald* survey on incorporation which reflected 63 percent of County residents opposed it. She implored the Task Force to defer to the will of the people and stressed the importance of residents being kept informed.

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- **Office of Intergovernmental Affairs Proposal by Terry Murphy**
- **Feedback received via the website and email - This item was not considered**
- **Approval of Minutes - This item was not considered**
 - May 17, 2012 – Charter Review Task Force
 - May 23, 2012 – Charter Review Task Force

ADJOURNMENT

There being no further business to come before the Miami-Dade County Charter Review Task Force, the meeting adjourned at 5:29 p.m.

Chairman Rene Garcia
Miami-Dade County Charter Review Task Force



**Board of County Commissioners
Charter Review Task Force
June 6, 2012**

Prepared by: Jovel Shaw

EXHIBITS LIST

NO.	DATE	ITEM #	DESCRIPTION
1	6/06/2012		Vacancy in Mayor's Office and Procedure to Fill Mayoral Vacancy; Temporary Absence or Incapacity of Mayor by Mayor Gimenez
2	6/06/2012		A letter from Deborah Lamb pertaining to incorporation/annexation issues
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Vacancy in Mayor's Office and Procedure to Fill Mayoral Vacancy; Temporary Absence or Incapacity of Mayor

Concept (Gimenez):

Amend Section 1.07 to remove references to a Mayoral vacancy and create a new Section 2.03 and 2.04 to address the interim period after a vacancy and before the County Commission appoints a Mayor or calls an election fill a Mayoral vacancy, as well as periods of absence or incapacity. These sections would require the Mayor to designate a qualified administrative officer following election to office that would carry out emergency management functions; hire and discipline (including fire) department directors; recommend bid waivers to the Board of County Commissioners and exercise other legally delegable functions during periods of absence, incapacity or during an interim vacancy period.

Text of Change:

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-1¹

BOARD OF COUNTY COMMISSIONERS

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**Section 1.07. VACANCIES >>IN THE OFFICE OF
COUNTY COMMISSIONER<<.**

Any vacancy ~~[[in the office of Mayor or the members of]]~~ >>on<< the Board shall be filled by majority vote of the remaining members of the Board within 30 days or the Board shall call an election to be held not more than 45 days thereafter to fill the vacancy. The person chosen to fill the office vacated must at the time of appointment meet the residence requirements for the office to which such person is appointed. A person appointed shall serve only until the next county-wide election. A person elected shall serve for the remainder of the unexpired term of office. If a

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

majority of the members of the Board should become appointed rather than elected to office, then the Board shall call an election to be held not more than 45 days thereafter to permit the registered electors to elect commissioners to succeed the appointed commissioners; appointed commissioners may succeed themselves unless otherwise prohibited by the Charter. If a county-wide election is scheduled to be held within 180 days from the date on which the majority of the members of the Board become appointive, the Board may elect to defer the required election until the scheduled county-wide election.

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ARTICLE-2

MAYOR

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>>SECTION 2.03. TEMPORARY ABSENCE OR INCAPACITY OF MAYOR.

Within thirty (30) days of the Mayor assuming office, the Mayor shall designate a qualified administrative officer of the County to assume the following duties and authority of the Mayor during periods of temporary absence or incapacity of the Mayor:

1. Exercise emergency management powers, including powers authorized by state law.
2. Appoint all administrative department directors.
3. Suspend, reprimand, remove or discharge any administrative department director, with or without cause.
4. Issue written recommendations required for any waiver of competitive bidding.
5. Exercise such other legally delegable administrative actions of the Mayor as may have been or are delegated in writing to the administrator chosen by the Mayor.

Such designation shall become effective unless disapproved by a two-thirds vote of those Commissioners then in office at the Board's next regularly scheduled meeting.

The Mayor may rescind such designation, in which case the Mayor shall designate another qualified administrative officer subject to disapproval by the Board as set forth in this section.

SECTION 2.04. VACANCY IN THE OFFICE OF MAYOR.

Any vacancy in the office of Mayor shall be filled by majority vote of the Board within 30 days, or the Board shall call an election to be held not more than 45 days thereafter to fill the vacancy. The person chosen to fill the vacancy must at the time of appointment meet the residence requirements for the office, and shall serve only until the next countywide election. A person elected shall serve for the remainder of the unexpired term of office. Until such time as a Mayor is appointed or elected pursuant to this provision, the vacancy shall be considered a temporary absence or incapacity pursuant to section 2.03.<<

Thank you for letting me speak.

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I've read through the comments and proposals on the incorporation/annexation issues and I'm concerned because all I've read is how the process needs to be made easier with little mention of how the affected people will be properly informed of the process and that the critical information needed to decide the issue will be provided in a timely manner and will be accurate.

First, the petition requirement should be kept at the 25% level. Incorporation and annexation is a serious decision that affects residents' taxes and expenses. Lowering the requirement only means more people will not know the process has even been started. Maybe this committee should consider requiring a survey/questionnaire be sent from the County to each resident BEFORE any other efforts are made. I can tell you from personal experience how time consuming and physically draining a petition effort is and think a survey would be the easiest way to determine if a petition effort is even worthwhile.

The petition process should NOT be fashioned after the initiatory petition process because it would bypass the necessary County Commission oversight. Certain standards should be met BEFORE a vote is allowed. We need the BCC to oversee this process and be ready to stop or defer a vote until these standards are met. Including the Commission in the process ensures all sides a chance to be heard.

Any incorporation or annexation effort must provide the residents with an accurate financial assessment of the area to be incorporated or annexed. And the financials should be provided early in the process so the residents can have time to check the figures for accuracy and resolve any differences. Several public meetings should be required to accomplish this. Whether the new area is financially feasible or not, the residents should be given a clear and honest accounting of what they will be voting on. Those people who want to form a city can't expect an affirmative vote if people don't know what it will cost them.

No incorporation or annexation should be allowed without a vote of informed electors. This should include areas that consist of less than 250 electors. The BCC nor anyone should not be allowed to force people to incorporate or annex while denying them the normal process and their voting rights.

A real south Florida community consists of diverse populations, both ethnically and economically. Any incorporation or annexation should attempt to reflect that.

Annexation should require two separate votes. One for the new residents to be absorbed and one for the current city residents to see if they want to enlarge their city's boundaries. If either group does not want annexation, it should be vacated. Again, financials should be provided and people need to be well informed prior to any vote.

No one should be forced to incorporate or annex, whether it is 2012 or by 2016.

If people petition to vote to unincorporate their area, then a vote should be allowed. The County should be responsible for seeing it is enforced, whether the city's officials want to allow it or not. Miami Gardens is a prime example.

Once an incorporation or annexation has been defeated at the polls or the surveys indicate it is not wanted, the issue should not be allowed to be revisited for a period of 10 years, ideally after the Census and redistricting has been done. This will stop the repeated attempts of small groups of people from revisiting an issue that has just been settled. It will also give an area plenty of time to study the issue, get the financials correct, and make sure the general populace is informed. It is patently unfair for a small group of people to tie up the majority of area resident's lives with issues that they have already rejected.