



MIAMI-DADE COUNTY FINAL OFFICIAL MINUTES CHARTER REVIEW TASK FORCE

Board of County Commissioners
Stephen P. Clark Center
Commission Chambers
111 N.W First Street
Miami, Florida 33128

June 20, 2012
As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

Christopher Agrippa, Division Chief
Clerk of the Board Division

Mary Smith-York, Commission Reporter
(305) 375-1598



CLERK'S SUMMARY AND OFFICIAL MINUTES
CHARTER REVIEW TASK FORCE – FINAL PUBLIC HEARING
JUNE 20, 2012

The Miami-Dade Charter Review Task Force (Task Force) convened on June 20, 2012, in the Commission Chambers on the Second Floor of the Stephen P. Clark Center, 111 N.W. 1st Street, Miami, Florida, at 5:00 p.m. There being present Chairman Rene Garcia, Vice Chairwoman Evelyn Langlieb Greer, Mayor Carlos Bermudez, Mr. Victor Diaz, Councilwoman Isis Garcia-Martinez, Councilman Luis Gonzalez, Mr. Carlos Manrique, Mr. Louis Martinez, Mr. Terry Murphy, Mr. Hans Ottinot, Mr. Lawrence Percival, Ms. Pamela Perry, Mayor Donald Slesnick, Professor H.T. Smith; (Members Mr. Armando Bucelo, Representative John Patrick Julien, Reverend Dr. Walter Richardson, 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 Eugene Shy; Inson Kim, Les Pantin, and Lorna Mejia from the Mayor's Office; and Deputy Clerk Mary Smith-York.

- Welcome and Introduction

Chairman Garcia called the meeting to order at 5:13 p.m. and welcomed the Task Force members and all others present at tonight's meeting. He noted the Task Force would consider outstanding items from the previous agenda first, adjourn, and then reconvene and open the public hearing. He noted the residents could also in the public hearing via email and telephone. Chairman Garcia recognized Task Force member Victor Diaz to provide remarks.

Mr. Victor Diaz appeared before the Task Force, apologized for not attending previous meetings of this Task Force, and provided an explanation as to why he was unable to attend. He commended Task Force members for the enormous amount of work completed in such a short timeframe, and noted during discussion before the Board of County Commissioners (BCC) on whether or not to create a board to review the Charter, he recommended the Task Force be given a show of confidence to ensure that the deliberations would be meaningful and the findings and recommendations would not fall on deaf ears. He stated he championed the "Expression of Intent" that any recommendation that received 14 affirmative votes of Task Force members should be placed on the ballot for approval by the voters. Mr. Diaz noted he would respond to each of the proposed recommendations prepared by this Task Force. He said he believed the BCC should consider any proposal that had 14 affirmative votes, which none of the proposals by this Task Force had received. He urged the Task Force members to provide a mechanism to allow people to express voice their positions.

Mayor Donald Slesnick suggested Mr. Diaz add his votes on June 26, 2012, when the Task Force confirmed all the votes.

At Mr. Diaz' request, Assistant County Attorney Oren Rosenthal advised that it was up to this Task Force to decide whether or not to open the floor for voting. He explained that votes could not be combined from different days and that if the floor was reopened for voting, the outcome of the votes tonight would take precedence.

Following further discussion, Chairman Diaz stated the Task Force would need to consider a motion to open the floor for voting, and noted a public hearing must be held to discuss any new issues.

Mr. Rosenthal explained that the Task Force was required to schedule a public hearing to allow the public to provide input and feedback on its findings and recommendations. After the public hearing, Task Force members must consider the recommendations and decide whether changes were necessary, Mr. Rosenthal noted. However, a public hearing would not be required on the final recommendations.

Mayor Slesnick suggested Task Force members consider those items that passed by a majority vote in order to garner 14 affirmative votes.

Councilman Luis Gonzalez noted he concurred with Mayor Slesnick that the floor be reopened for voting on June 26th, and that the votes be reconsidered.

Mr. Lawrence Percival pointed out that this is the first time 16 members were present and recommended that the Task Force vote on as many issues as possible.

Mr. Terry Murphy noted proposals that were previously approved could fail if reconsidered. He suggested that each proposal be revisited, individually, to determine whether the vote should be reconsidered.

Chairman Garcia suggested that each Task Force member could decide whether or not to reconsider votes on his/her proposal(s); however, the goal was for Task Force members to reach a consensus by 14 affirmative votes.

In response to Ms. Pamela Perry's question as to whether the Task Force could legally reconsider proposals tonight, Mr. Rosenthal explained that a number of proposals on the agenda were advertised and could be considered tonight. He noted he believed the actual notice included anything within the Task Force's purview; however, the Chairman had the discretion to add proposals to the agenda for consideration at any time.

Councilwoman Isis Garcia-Martinez concurred with the suggestion that the Task Force take advantage of the number of members present and allow the voting to take place and approve as many proposals as possible tonight.

Chairman Garcia read the first item, Governance of Jackson Memorial Hospital, into the record and relinquished the chair to Vice Chairwoman Greer.

CRTF Issues of Study

- **Governance of Jackson Memorial Hospital**

- **JMH Governance Proposal by Chair Garcia**

Chairman Garcia noted this proposal was created as a result of multiple hearings before this Task Force and pointed out that this proposal would not privatize Jackson Memorial Hospital (Jackson). He stated he had remained open and transparent about his position that Jackson must not be privatized, noting he presented House Bill 711 last year (2011), to ensure that Jackson, which was a public hospital, was not sold. Chairman Garcia said he took offense to comments that he supported privatization of Jackson. He noted based on this proposal, the seven-member board, created earlier this year by BCC would be permanent and would remain an agency of the County subject to the Sunshine Law, intergovernmental transfer capacities, sovereign immunity, and surtax revenues. He noted the seven-member board was more nimble and functional than the previous 17-member board, and the fact that its members could better understand and control the issues because they had easier access to members of the Administration.

Chairman Diaz noted the accountability measures, transparency via public record and open meetings were preserved in this proposal, and the Miami-Dade Inspector General and Commission on Ethics retained jurisdiction over the seven-member board. Concerning the BCC Authority, Chairman Diaz noted the BCC created the Financial Recovery Board (FRB) to acquire deep knowledge of Jackson's operations and make difficult, but necessary decisions to help it thrive and remain sustainable, More importantly, the BCC empowered the FRB to act by an agreement to control its powers to veto, which should be codified to last year's success. The BCC will retain powers over Trustee appointments, ad valorem tax revenue, and other areas; and the FRB would be more directly accountable for strategy, budget implementation, and management oversight.

Chairman Garcia noted concerns were raised regarding the language contained within Chapter 607, Florida Statutes, which was addressed in the South Broward Hospital District's Charter to delineate the powers of the Board under Corporate Guidelines. Chairman Garcia noted he was willing to amend this language.

It was moved by Chairman Garcia that the foregoing proposed recommendation be amended to delete the language "of a corporation organized pursuant to Chapter 607, Florida Statutes, shall have power" from Section C, paragraph 2, the first sentence. This motion was seconded by Mr. Percival, for discussion.

Mr. Joe Arriola advised Assistant County Attorney Eugene Shy to clarify for Task Force members that this proposed language did not give the Board any rights to privatize the hospital.

In response to Mr. Arriola's request, Assistant County Attorney Eugene Shy stated pursuant to this proposal, the Public Health Trust (PHT) would remain in place as a

County agency in its totality, and clarified that the name would not change from Public Health Trust to Healthcare Trust.

Chairman Garcia explained the intent of this proposal was to create a self graduating board with the initial membership be appointed by the BCC, and the PHT submit three names to the BCC thereafter. He noted this would ensure the County's involvement and provide for checks and balances between the County and the PHT. Chairman Garcia noted the BCC would still approve the PHT's budget, making sure it was done in the Sunshine, and explained that the intent of this proposal was to ensure a firewall existed between the day-to-day operations at Jackson and the BCC.

- **Governance of County Hospitals Proposal by Mayor Juan Carlos Bermudez**

Mayor Bermudez noted his proposed item was based on comments by representatives from the Public Health Trust. He noted he believed it was critical to limit the involvement by the BCC to maintaining the governance of the Trust. Mayor Bermudez stated he was willing to withdraw his proposal and support a proposal that was more likely to be placed on the ballot, provided the language clearly stated that the potential political involvement would have the greatest impact on the Trust's ability to work effectively. He requested clarification from Chairman Garcia on his approach.

Mayor Slesnick noted he would approach this cautiously after being told by the Chairman of the Trust that this was not the appropriate time to act on it. He stated some Task Force members might have been misled about the Chairman's comments regarding his proposed language; however, he was comfortable with the amended language and suggested that the public be allowed to provide their input, and that Task Force members vote on it at the next meeting. Mayor Slesnick said it would not be feasible to vote on this revised proposal before allowing the public to comment on it,

In response to Vice Chairwoman Greer's request for clarification on whether to adjourn the Task Force meeting, open the public hearing, and resume the meeting afterwards, Assistant County Attorney Oren Rosenthal noted the Task Force was required to hold public hearings on new proposals that had not been acted on. He advised that a public hearing would not be held on the Task Force's proposal pertaining to Jackson because no preliminary vote had been taken.

Mayor Bermudez noted he understood and supported what he believed to be Chairman Garcia's intent to create a balance between the PHT and the BCC, giving the Board the necessary liberty to be out of the political decision-making process. He requested Chairman Garcia's response to his request that language providing clarification on the impact political involvement was included in his proposal.

Chairman Garcia read into the record the following language from Section 7, A. 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...” He stated following the initial appointment, the PHT members would have the ability to govern themselves.

In response to Ms. Pamela Perry’s inquiry regarding the potential for the \$200 million to be handed over to a completely private board without a 2/3 vote by the BCC, Chairman Garcia advised that a private board was not involved. He clarified that the PHT would remain intact and the budgetary component would remain exclusively with the BCC. Concerning Ms. Perry’s question as to whether the BCC would have the power to override an improper financial decision by the PHT, Chairman Garcia stated he interpreted the language as mandating that the budget come before the BCC for approval.

Mr. Arriola, as a member of the FRB, explained that the FRB was extremely comfortable with this language and that he would feel uncomfortable with the FRB having total power. He stated that by having the BCC approve the FRB budget, it created a happy medium and simultaneously protected the FRB from the political interference. Mr. Arriola said he supported Chairman Garcia’s proposal.

Councilman Luis Gonzalez asked Chairman Garcia if it was his intent to include as a member of the Trust a physician. He explained that at the last meeting, he expressed concern that no member of the current Board had healthcare experience and that he would like to see a representative from the healthcare industry included. Councilman Gonzalez stated that as a business person, he believed healthcare was a totally different type of business.

Vice Chairwoman Greer clarified that Councilman Gonzalez was requesting that Chairman Garcia’s proposal be amended to add at least two healthcare professionals to the seven-member board.

Mr. Arriola expressed a concern that it would be a huge mistake to bring in a doctor or healthcare professional to this board. He noted members of the Board must make business decisions and a healthcare professional may be inclined to second guess the actions of the physicians and the daily operations of the hospitals.

Chairman Garcia noted he had no problem amending his proposal to add a healthcare professional.

Mr. Percival, who seconded the initial motion, noted the amended language was acceptable to him as well.

Mr. Carlos Manrique proposed amending the language to add a Conflict of Interest (COI) provision using the language from the COI for a County Commissioner Item on today’s (6/20) agenda.

Chairman Garcia noted this issue was covered in Section B: Accountability, Ethics, Public Records and Public Meetings, which stated: "...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..." Therefore, the related ordinances would be subject to the same jurisdiction.

Vice Chairwoman Greer suggested this language be amended to insert "...Conflicts of Interest..." after the words "related to" and before the words "such offices."

Chairman Garcia noted he accepted this proposed amended language.

Mr. Victor Diaz advised that the County Attorney had provided him with the existing County Ordinance for the Public Health Trust, and the language in Section E states, "...This amendment shall, in cases of conflict, supersede all ordinances in effect as of the effective date of the amendment..." Mr. Diaz referenced Article 25A and questioned whether the provisions of the County code would be in conflict with this language or rendered null or void if this proposed Charter amendment was approved by the voters. He suggested that the County Attorney carefully review this proposal to avoid unintended consequences.

Assistant County Attorney Shy advised comparisons had not been made to determine whether the provisions of Chapter 25A would be in conflict with this proposal. He noted staff may also need to review Chapter 154, and pointed out that Chapter 25A was the result of action taken pursuant to State Law, and concerns regarding inconsistencies in the proposed amendment would arise.

Councilwoman Isis Garcia-Martinez asked that this proposal be amended to add a healthcare professional, noting it was her experience that a medical physician was always included on the board. She noted the term "healthcare professional" was too vague and recommended the term "licensed practitioner" be used.

Mr. Percival noted he accepted the amendment to include the language "licensed healthcare practitioner."

Assistant County Attorney Eugene Shy advised that beginning July 16, 2012, hospital governing boards would have to include a physician of another medical professional as a member. He recommended that language be amended accordingly.

Mr. Smith said it was obvious that at least two members of this Task Force have dedicated a substantial amount of time and effort on behalf of the Public Health Trust. He noted that everyone agreed that Jackson Memorial Hospital and the Public Health Trust needed improvement; however, the primary charge of this Task Force was to do no harm. Mr. Smith noted he questioned whether this Task Force had sufficient time to address all the questions.

Mr. Terry Murphy questioned whether the notion that a firewall would be erected between the County Commission and the Public Health Trust was any different than the ordinance that currently existed in Chapter 25A. He read the language contained within Section 2 into the record as follows: "except as provided above, the Trustees may exercise all the powers to provide any and all types of health care facilities, equipment, services, and any and all types of facilities and services related to incidental thereto directly or indirectly employ such personnel as necessary to carryout such powers and to sue and be sued."

Mr. Murphy said Chapter 25A has always provided a wall between the Trust and the Commission on personnel issues as well as the ability to sue and be sued. He noted a perception of meddling existed; however, the legal provisions provided in Chapter 25A granted tremendous powers to the Public Health Trust for the past thirty years. Mr. Murphy questioned whether incorporating that language into the Charter would fix anything, noting that the Commission still had authority over the Public Health Trust's budget. He also noted he questioned the provision for a self-perpetuating appointment process, yet the County Commission would have sole authority to confirm the appointment of Trustees. It was possible to provide more independence and to restructure the nominating council process by amending the ordinance, Mr. Murphy noted. He suggested a representative from the Dade County Medical Association and other organizations be included as members of the nominating council rather than elected officials.

Continuing, Mr. Murphy stated he did not understand what Task Force members intended to accomplish by transferring some powers and making them permanent into the Charter. He noted today was the first day this Task Force had addressed Charter change language and he did not believe it was appropriate to vote on this proposal tonight.

Vice Chairwoman Greer asked Mr. Murphy whether he had confidence that the County Commission would not remove the firewall from the ordinance and place the language into the Charter.

Mr. Murphy asked the County Attorney the difference between Section 2 and the provisions of Chapter 25A as it pertains to the firewall.

Assistant County Attorney Shy noted this would be part of an analysis that staff would perform later. He noted that the County Commission must approve the budget, bond financing, and labor contracts pursuant to Chapter 25A.

Ms. Pamela Perry questioned whether or not this language, if incorporated in the Charter, would create an obstacle for privatization later. She noted everyone wanted to keep politics out of health care; however, the problem was making a rushed judgment may create more problems than it would solve. Ms. Perry said the proposal to privatize Jackson Hospital would be an option if efforts to turn it around proved unsuccessful.

Mr. Lawrence Percival noted he understood everyone's concerns; however, the votes taken today would be preliminary. He said the County Attorney could provide Task Force members with more information at the meeting next week.

It was moved by Mr. Lawrence Percival that Task Force members open the floor for voting. This motion was seconded by Mr. H.T. Smith, and being put to a vote, passed by a vote of 16-0 (Mr. Bucelo, Mr. Julien, Mr. Richardson, and Mr. Trujillo were absent).

Chairman Garcia provided an overview of the various issues discussed by the Task Force thus far. He noted the language contained in his proposal was derived from the South Broward District Charter, which had been commended by individuals involved in the health care industry. He also proffered an amendment to eliminate Chapter 607 of the Florida Statutes and commented on HB 711, which governed the sale or lease of public hospitals. He noted the Board of County Commissioners was still subject to a check and balances while simultaneously allowing the PHT to continue the day to day operations and functions.

Mr. Diaz asked whether or not the acceptance of this proposal, as amended, was subject to an opinion from the County Attorney's office regarding the impact of this proposal and whether or not it was interrelated or interdependent on existing ordinances or state statutes.

Vice Chairwoman Greer explained the CRTF procedure was to conduct a preliminary vote to allow for further discussion. She noted it was her understanding that the preliminary vote was necessary for this proposal to be discussed during the public hearing, and reconsider the vote at a subsequent public hearing if a majority of Task Force members agreed.

Vice Chairwoman Greer further explained the County Attorney's office has been very responsive throughout the process by responding to questions posed by Task Force members in a timely manner.

Mr. Martinez noted he concurred with Mr. Diaz that Task Force members should have an opinion from the County Attorney's office before voting on this issue.

In response to an inquiry by Ms. Pamela Perry regarding whether or not Task Force members could abstain from voting, Assistant County Attorney Rosenthal advised that if a member was present their vote should be registered.

Hearing no further questions or comments, the Task Force proceeded to vote on the motion to approve the JMH Governance item as amended to delete the language "...of a corporation organized pursuant to Chapter 607, Florida Statutes, shall have power..." from Section C, paragraph 2, first sentence; to provide that a "licensed healthcare practitioner" be added to the seven-member board; and to insert, "...Conflicts of Interest..." after the words "related to" and before the words "such offices" in Section B, line 2. Upon being put to a vote, the motion carried by a vote of 12-4 (Mr. Murphy, Ms.

Perry, Mr. Slesnick, and Mr. Smith voted No; Mr. Bucelo, Mr. Julien, Mr. Richardson, and Mr. Trujillo were absent)

- **Outside Employment**

- **Outside Employment Proposal by CRTF**

Assistant County Attorney Rosenthal advised the Task Force had not taken any preliminary vote on recommendations pertaining to outside employment and procurement, and suggested that they be considered,

Mayor Bermudez noted he would withdraw his proposed recommendation pertaining to Jackson.

Assistant County Attorney Rosenthal noted the recommendations on outside employment were made by the Task Force at its previous meeting, and included information provided by Mayor Bermudez regarding immediate family members.

Mayor J.C. Bermudez clarified that his proposal was not specifically directed to any particular commissioner or individual; however, the Charter needed to specify that Conflicts of Interests (COI) were unacceptable. He noted people in this community favored clear, transparent government that prohibited COI.

It was moved by Mayor Bermudez that Article -1, Section 1.05, Paragraph B be amended to include the following language: “No County Commissioner may have an ownership interest in, or receive money, gifts, favors, financial benefits or anything of value as a result being employed by or consulting 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;” that Paragraph B be renamed as Paragraph C and that Paragraph C be renamed as Paragraph D; and that Article 5, Section 5.03 Paragraph D, be amended to add the following language: “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.” This motion was seconded by Mr. Victor Diaz, followed by discussion.

Chairman Garcia noted Task Force members needed to address two additional Agenda items before the beginning of tonight's (6/20) public hearing.

Mr. Victor Diaz noted he believed outside employment by commissioners should be prohibited and that their salaries/compensation should be increased.

Vice Chairwoman Evelyn Greer noted the prohibition on outside employment would be difficult to enforce, noting an individual could be a County Commissioner and practice law at the same time; preventing many qualified candidates from engaging in public service. She said she believed Mayor Bermudez' intent was to get as close to preventing a real Conflict of Interest without discouraging people from seeking office.

Mr. Terry Murphy noted the following language was contained within the proposal: "...or has any financial relationship with the entity or a subcontractor of the entity." He noted employment was a financial relationship, which existed when a family member was employed by La Carretta, a business under contract with the County. He said a family member employed by this business would be sufficient reason for a commissioner to resign his/her office as the language was currently written. He noted that the language and definition of an extended family was very broad along with the consequences of forfeiting one's office.

Mayor Bermudez noted he believed that the conflict of interest was the major concern of this community and their lack of faith in the process. He said due process was included in the language in the event that a commissioner believed the determination to forfeit office was improper, noting the City of Doral adopted the same definition for "family members" and that he believed this was a good model for Miami-Dade County. He said open and transparent government at the County level was critical to ensure that all local governments within this County were perceived properly. Mayor Bermudez noted this was a step in the right direction, even though he supported commissioners receiving a fair salary with no outside employment.

Mayor Luis Gonzalez urged Task Force members to call the vote on this item.

Mr. Carlos Manrique asked for clarification on whether the Inspector General or the Commission on Ethics or both would determine whether a County Commissioner was in violation.

Assistant County Attorney Rosenthal responded that the Task Force should choose either the Inspector General or the Commission on Ethics.

Mr. Manrique noted his preference for the Commission on Ethics.

Mayor Bermudez accepted the friendly amendment that the Commission on Ethics would be selected to determine whether a County Commissioner violated this Section.

Mr. Murphy said the Mayor and a majority of the County Commission would need to resign should this item be approved by referendum, considering the vast number of businesses and government entities conducting business with the County. He noted that a general provision would be appropriate even though a Code of Ethics and a Conflict of Interest Ordinance already existed that governed conduct at the County. Mr. Murphy said it was inappropriate at this time to consider this Charter issues and to force the Commission to place it on the ballot, noting he would not vote rather than vote against a conflict of interest issue.

Mr. Diaz suggested the foregoing proposed item be amended to include a 2016 effective date.

The motion previously made by Mayor Bermudez, as amended, and seconded by Mr. Diaz was then put to a vote, and passed by a vote of 16-0 (Mr. Bucelo, Mr. Julien, Mr. Richardson, and Mr. Trujillo were absent).

- **Procurement Recommendations**

- **Procurement Recommendations/Conflict of Interest Proposal by Terry Murphy**

Mr. Murphy noted this item dealt with the Conflicts of Interest (COI) involving the Mayor on procurement issues. He noted he had concerns regarding the power of the Mayor to delegate his authority to make procurement recommendations to members of the County Administration. Mr. Murphy pointed out that members of the Administration were exempt employees who served at the Mayor's will, and he believed these employees would be placed in an awkward position if the Mayor declared a COI. He recommended the Clerk of Courts, who was familiar with the County's procurement process and typically followed that process, assume responsibility if the Mayor declared a COI. Mr. Murphy noted this would be a seamless transition since the Clerk was an elected official. Based on the item considered immediately before this item tonight (6/20), COIs would not be possible in the year 2016; however, he was proposing that the authority to make procurement recommendations be delegated to the Clerk, in the interim.

It was moved by Mr. Murphy that the following language be incorporated into the proposed procurement recommendation "...Notwithstanding any other provision of the Charter to the contrary, in circumstances where the Mayor informs the Clerk of 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..." This motion was seconded by Mr. Percival, followed by discussion.

Mr. Ottinot suggested efforts be made to contact the Clerk to get his opinion on this proposal.

Chairman Garcia asked staff to contact the Clerk, as suggested by Mr. Ottinot.

Hearing no further questions or comments, the Task Force proceeded to vote on the foregoing motion by Mr. Murphy, and seconded by Mr. Percival, which upon being put to a vote, passed by a vote of 16-0 (Mr. Bucelo, Mr. Julien, Mr. Richardson, and Mr. Trujillo were absent).

Other Business

○ Incorporation Petition Process Proposal by Don Slesnick

Vice-Chairwoman Greer noted that Mayor Slesnick proposed an item that modified her Incorporation Item. She said she excluded the County Commission from the Incorporation process; however, Mayor Slesnick included the Commission in that process on limited grounds. Vice-Chairwoman Greer noted that she proposed and Mayor Slesnick agreed to several amendments to his proposal.

Vice-Chairwoman Greer noted her first amendment allowed the Clerk to inform the Incorporation Committee if discrepancies existed in boundaries, petitions, or other technical issues. She proceeded to read the proposed amendment into the record as follows: to add after the last sentence of Section 6.05 (B) the language “The Clerk shall advise the Incorporation Committee of the reasons for disapproval and the Incorporation Committee may submit a new petition at any time.”

Vice-Chairwoman Greer read another proposed amendment into the record as follows: to change the language in Section 6.05 (B) 2 (a) to read: “No later than ninety (90) days after the approval of the above form by the Clerk, the Board of County commissioners shall review the appropriateness of the petition for incorporation and recommend any changes to the boundaries of the proposed municipality to the Incorporation Committee at a public hearing.” She explained this proposed amendment provided a more consensual process with public hearings and additional information for the Incorporation Committee and would not allow the County Commission to stop the Incorporation process.

Vice-Chairwoman Greer also proposed an amendment to Section 6.05 (B) 2 (b), line 5, to insert the word “or” as follows: “upon its determination that the proposed incorporation will not have contiguous boundaries or will leave an unincorporated enclave...” She said this limited the grounds that the County Commission could not schedule a hearing to: 1) the boundaries have not been regularized through the Clerks review and are not contiguous, or 2) there is an enclave created in the middle of the proposed incorporation.

Vice-Chairwoman Greer proposed the following additional amendments: to modify Section 6.05 (B) 3 to reflect “The Incorporation Committee will have “six months after the date the Board was required to approve the incorporation petition to obtain signatures”; and Section 6.05 (B) 6 to add “The budgetary analysis will include a

response by the Incorporation Committee if such Committee requests an opportunity to include a response.”

Mr. Manrique noted he offered a friendly amendment that would add a 2/3 vote provision for the creation of new incorporated areas. He said this would put the County Commission back into the process, similar to Mayor Slesnick’s proposal.

Vice-Chairwoman Greer did not accept the friendly amendment for a 2/3 vote on the creation of new municipalities added to the boundary changes section.

Mr. Manrique clarified that his proposal required a 2/3 vote to stop and create an incorporation.

Vice-Chairwoman Greer noted that the previous proposal should be brought forward as an Item and that this Committee should proceed with Mayor Slesnick’s item and her amendments.

Mr. Diaz expressed concern whether this ordinance would ensure that only donor communities received a benefit and did not incorporate and leave behind those that needed County revenue support.

Vice-Chairwoman Greer responded that this Task Force heard from donor communities that were ready to incorporate when the moratorium was imposed seven years ago. She noted the attitude of people had changed about the ability of communities that received CDBG grants and other assistance besides property taxes. Vice-Chairwoman Greer said the Task Force rejected mandatory incorporation to allow voters to make independent decisions on this issue.

Mr. Murphy inquired and was informed by Vice-Chairwoman Greer that the following language contained in Section 6.05 (B) 2 (a) as follows: “..., whether the proposed incorporation complies with the requirements of this Section” was removed.

Mr. Murphy noted an enclave was defined in the County Code as leaving 80 percent of the border accessible. He said he did not believe that a municipality would incorporate and leave an enclave within its borders. Mr. Murphy expressed concern that neighborhoods around the outer boundary would be left out of incorporations. He requested clarification whether the County Commission could make determinations over this issue.

Vice-Chairwoman Greer responded that none of the last seven incorporations created an enclave and this issue was not even discussed by the County Commission at its final hearings.

Mr. Hans Ottinot noted incorporation could transform Miami-Dade County and people wanted to make their communities better through incorporation. He noted he believed that incorporation could move forward without the interference of County government.

Mr. Ottinot said that cherry picking was evident by the County when they carved out the Stadium from the Miami Gardens incorporation.

Mayor Bermudez noted that the City of Doral had zoning taken away by the County from one square mile of the City, and that it was later returned by a Court proceeding. He said the only solution was an incorporation process that permitted people to move forward, to organize at the grass roots level, and to present the issue to a public vote. Mayor Bermudez noted the goal was to provide the most efficient, effective method to provide services to County residents.

Mr. Lawrence Percival said that as a matter of process, this proposal was placed on tonight's (6/20) agenda. He noted that he was previously asked to bifurcate this proposal and separate it from other proposals being considered at this meeting; however, it was not placed on the agenda. Mr. Percival said this request must be considered before the public hearing. He noted that he did not want to hold up the incorporation process; however, reminded Task Force members about their previous discussions over Regional Government. Mr. Percival said Regional Government would take away the responsibility of the County providing UMSA Services and allow areas to make their own decisions based upon their own vote as to what they wanted for their city.

Mayor Luis Gonzalez noted government should be all about granting the right of self-determination to the citizens. He said the seven year moratorium preventing citizens the right to organize, to analyze their situation, and to move forward with a vote was unconscionable and should never happen again.

Ms. Pamela Perry inquired whether a minimum size requirement existed for incorporation, or could a block incorporate.

Vice-Chairwoman Greer responded that five electors must submit a petition to initiate the process; the petition must be reviewed by the Board of County Commissioners; a public hearing was needed; the boundaries must be contiguous; a petition must be signed by 10 percent of the electorate; and a budget prepared.

Councilwoman Isis Garcia-Martinez noted it was important for communities to have participation. She said efforts were needed to resolve issues as easily as possible so that they could once again gain strength and trust in elected officials.

Vice-Chairwoman Greer read, for the record, the second amendment related to item 6.04(B): "The Board of County Commissioners, after obtaining the approval of the municipal governing bodies concerned, after hearing recommendations of the PAB, and after a public hearing, may by ordinance affect boundary changes with an affirmative vote of two-thirds of the members of the Board of County Commissioners."

It was moved by Mr. Smith that the proposed amendment to 6.04(B) be accepted.

Assistant County Attorney Rosenthal clarified the foregoing motion was to reconsider the prior item approved by the Task Force and to move Mr. Slesnick's amendment to Vice-Chairwoman Greer's proposal.

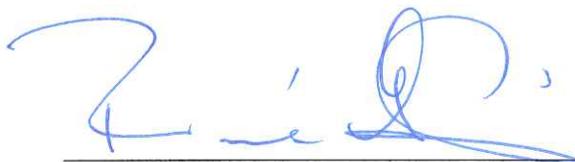
Vice-Chairwoman Greer seconded the motion, and upon being put to a vote, passed by a vote of 15-1 (Mr. Murphy voted No).

Mr. Slesnick announced he had to leave and apologized to the members and the public for not being able to stay for the remainder of the meeting.

Mr. Percival asked the Task Force to consider his proposal which was a hybrid of a recommendation made by the previous Task Force.

Assistant County Attorney Rosenthal clarified that Mr. Percival's proposal was to include a Charter Review Task Force in the Charter with requirements that the Task Force meet every four years; items approved by a two-thirds majority of those present be forwarded directly on to the ballot; and that sufficient time be allotted to consider their recommendations prior to the presidential election.

Chairman Garcia announced the public hearing would be opened following a short fifteen minute recess.



Chairman Rene Garcia
Miami-Dade County Charter Review Task For

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. ^{6 mos}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.<<

SERVICES | SUBSCRIPTIONS | DIGITAL NEWSPAPER | PLACE AN AD | MIAMI.COM | MOMMIAMI.COM | ELNUEVOHERALD.COM | PUBLIC NOTICES

Sprint **TRADE UP & SAVE \$100**
 For a limited time, bring us an iPhone from any carrier and get at least \$100 off an iPhone 4S.
LEARN MORE
 Residents apply.



iPhone

The Miami Herald Other Views

Monday, 06.11.12 Welcome Ivantlin Logout Member Center

Current: 82°
 59° / 77°
 Weather | Traffic

HOME DELIVERY
 Sunday's
 Miami Herald
 6 months for just \$20!

HOME | NEWS | SPORTS | ENTERTAINMENT | BUSINESS | LIVING | OPINION | JOBS | CARS | REAL ESTATE | SHOP | CLASSIFIEDS

Editorials | Other Views | Letters | Columnists | Blogs | Cartoons

The Miami Herald > Opinion > Other Views

Posted on Monday, 06.11.12

email print comment reprint

Miami Herald Web Search powered by YAHOO!SEARCH

MAMI-DADE CHARTER

Miami-Dade charter: What to do with unincorporated areas



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, here 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, suburbs, 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 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

Search: Horoscopes | Comics & Games | Data Sleuth

Sprint **TRADE UP & SAVE \$100**
 For a limited time, bring us an iPhone from any carrier and get at least \$100 off an iPhone 4S.
LEARN MORE
 Residents apply.



iPhone

Get the Deal

\$129 for 3 sessions of Zerona Lipo Laser at Slim Body Wellness Center (a \$1,200 value)



\$129.00

CityNow!

Value: \$1200
 Discount: 89%
 You Save: \$1071

dealsaver.com

Sign up for the daily deal email:

Enter your email here

Get Deal

MORE OTHER VIEWS

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.

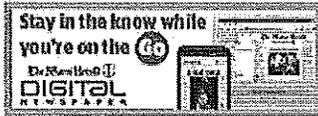
I hope this helps the Charter Review Taskforce start a dialogue on the alternatives to mass incorporation.

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

Tweet 3

Get the 5-Minute Herald
VIA EMAIL

Enter email address:



More from
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 3 1/2 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?

Miami-Dade charter: What to do with unincorporated areas

Cuba's "Habemus Papam"

Follow the campaign money, pass DISCLOSE Act, senators

Clinton's 'Dean Martin' to Obama's 'Frank Sinatra'

More

VIDEOS

VIDEO

More video

ON FACEBOOK

QUICK JOB SEARCH

Enter Keyword(s)

Enter City

Select a State

- All United States -

Select a Category

- All Job Categories -



Advanced Job Search
Search by Category

powered by **careerbuilder.com**

Join the

DISCUSSION

The Miami Herald is pleased to provide this opportunity to share information, experiences and observations about what's in the news. Some of the comments may be reprinted elsewhere in the site or in the newspaper. We encourage lively, open debate on the issues of the day, and ask that you refrain from profanity, hate speech, personal comments and remarks that are off point. Thank you for taking the time to offer your thoughts.

We have introduced a new commenting system called Disqus for our articles. This allows readers the option of signing in using their Facebook, Twitter, Disqus or existing MiamiHerald.com username and password.

Having problems? Read more about the commenting system on MiamiHerald.com.

HIDE COMMENTS

0 Comments

ADD NEW COMMENT

Login



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

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.

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.

* * *

ARTICLE 5

ADMINISTRATIVE ORGANIZATION AND PROCEDURE

* * *

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.<<

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 with an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office, unless the changes that involve 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 an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office determining 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.

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.<<

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.

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.

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 an 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

resident electors in the area proposed to be annexed. All elections shall be held within 90 to 120 days of the completion of the process initiating the annexation.

The Board of County Commissioners may propose annexation with the consent of the municipality to which the area is proposed to be annexed, after hearing the recommendations of the Planning Advisory Board, and after a public hearing by ordinance, 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.

A municipality may propose the annexation of an adjacent area of unincorporated Miami-Dade County by presenting a resolution to the Board of County Commissioners identifying the area of annexation it proposes to annex. The Board of County Commissioners shall by ordinance effectuate such annexation, 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.

The residents of a proposed area of annexation may propose the annexation of an area by 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 annexation the Clerk shall present the petition to the Board of County Commissioners at their next regularly scheduled meeting at which time the Board shall adopt an ordinance effectuating such annexation, 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. In the event multiple proposals for the annexation of the same area are presented the PAB shall recommend which proposal moves forward subject to disapproval by a two-thirds vote of the Board.

III. Regional Government – Create Section 6.08

If after two (2) years, there are still unincorporated areas of Miami-Dade County which are not incorporated or annexed into cities, the Board shall provide for incorporation into new municipalities or annexation into existing municipalities of those remaining areas, notwithstanding any provision of the Home Rule Charter to the contrary. Such incorporation or annexation shall be completed by 2016.