

Key Sullivan

January 16, 1990

Honorable Mayor and Members
Board of County Commissioners

Dear Mayor and County Commissioners:

The Dade County Charter Review Board completed its deliberations on proposed Charter amendments on January 5, 1990. The attached final report recommends a number of Charter amendments that would change the basic structure of the County Commission as well as enhance the responsibilities of the Mayor. Other proposed amendments would change the name of the County, modify initiative petition procedures, change requirements for election to office, terms of office and salaries of commissioners. In addition, there are a number of proposed amendments that are revisionary or technical in nature which were submitted by the staff and received the endorsement of our group.

In November, I reported to you that our committee was a very diverse one with individual points of view that covered the full range of opinion on political theory and governmental structure. Out of that diversity, however, came thought provoking debate that through the normal parliamentary processes of give and take led to our final product. This report has received the unanimous approval of the Charter Review Board; but in the making of it, those members whose convictions on individual issues differ markedly from the consensus of the group have reserved the right to convey to the County Commission their views.

You will note that there are several issues on which we have not yet made a final recommendation. These items generally deal with the required votes on certain items and therefore, are dependent upon the size and composition of the County Commission. If you wish, once the size and composition of the Commission is established as a proposed Charter amendment, we can reconvene to propose specific vote requirements.

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It has been my privilege and pleasure to serve as the Chairman of the Dade County Charter Review Board and I am most appreciative of the hard work and dedication of the members. They are to be commended for their spirit of cooperation, conciliation, and public service. On behalf of the entire Dade County Charter Review Board, I wish to thank the staff of the County Attorney's Office and County Manager's Office for their efforts and faithful attendance to our needs.

Sincerely,



Merrett R. Stierheim, Chair
Charter Review Board

cc: Charter Review Board Members



**CHARTER REVIEW BOARD
FINAL REPORT
JANUARY, 1990**

CHARTER REVIEW BOARD MEMBERS

Merrett R. Stierheim, Chair

Gregory P. Borgognoni, Vice Chair

Aileen Lotz, Vice Chair

Dorothy Baker

Danny Brown

Tomas Garcia-Fuste

Rod Jude

Chris Korge

William Losner

Obdulio Piedra

David Samson

INTRODUCTION

The Dade County Charter Review Board was created in September, 1989, by the County Commission and was instructed to review previous Charter amendment proposals and to identify potential amendments and revisions to the Charter. The eleven members of the Charter Review Board (CRB) conducted numerous sessions to hear presentations by County Commissioners, County staff and members of the Charter Review Advisory Group. Resolutions from several individual municipalities (City of Coral Gables, City of Miami Springs, City of North Miami Beach and the Town of Surfside) were submitted, and the CRB heard a presentation from the Dade League of Cities.

After thorough discussion the CRB adopted a series of motions that delineate their recommendations regarding proposed revisions in virtually every section of the existing Charter. Important proposed amendments include the duties and powers of the Mayor, the size and composition of the County Commission, the processes for initiative petition referenda, terms of office and other requirements of candidacy, the name of the County, and general technical and other revisionary language proposals.

This report outlines the recommendations of the Charter Review Board in everyday language. Specific Charter language will be prepared by the County Attorney's Office upon direction of the Board of County Commissioners.

The recommendations in this report are categorized as follows:

1. Duties and Responsibilities of the Mayor
2. Composition of the Board of County Commissioners, Method of Election of Commissioners and Associated Matters
3. Salary of the Mayor and Members of the Board of County Commissioners
4. Initiative Referendum; Modifications to Election Requirements; Residency Requirements; and Terms of office
5. The Name of the County
6. Miscellaneous Charter changes and changes that represent a comprehensive clarification and updating of terminology and certain substantive procedural requirements.

Several proposals require a fractional vote of the Commission as part of override provisions (e.g., 3/5 vote, 2/3 vote). The existing Charter contains specific fractional vote requirements for such things as emergency ordinances or waivers of competitive bids. In each case, the CRB believed that a larger than simple majority vote of the Commission was needed, but the decision on what specific fractional vote should apply should be made once there is a final recommendation on the composition of the full Commission.

RECOMMENDATIONS FOR CHANGES TO THE DADE COUNTY CHARTER

I. DUTIES AND RESPONSIBILITIES OF THE MAYOR

The Mayor's Role as a Member of the Commission

The Mayor should be the chairperson, and a voting member of the County Commission.

The Mayor should have the power to organize the County Commission into committees and to appoint and remove the chairperson and members of the committees. The Mayor should also be eligible to serve on committees.

The Mayor should be empowered to exercise a general, legislative veto excluding zoning items within 10 days of enactment. The veto should be subject to an override by 3/5 of the voting members of the County Commission. The Mayor should not be eligible to vote on the override. The item may be vetoed regardless of how the Mayor voted on the item. The Commission should only be permitted to override a veto at the next scheduled regular meeting. A veto stays implementation of any action. (The fraction of the Commission required to override a veto should be reviewed once composition of the Commission is finalized).

Budget Preparation

The Manager should prepare and present the budget for Metropolitan Dade County in accordance with State law.

The Mayor should be allowed to veto any new line item in the budget, however, the Commission should be able to override the veto at the next scheduled meeting with a 3/5 override. The Mayor should not be eligible to vote on the override. (The fraction of the Commission required to override a veto should be reviewed once composition of the Commission is finalized).

The Mayor may direct the Manager to set aside in a separate category, particular programs or segments of programs in the budget to review as potential veto items. These programs must be identified before the budget is set for adoption.

Specific budget appropriations subject to a veto should be limited to: a) a budget change proposal identified in the departmental descriptions of the Proposed Budget, b) funding to a community based organization, c) a specific capital project, d) a program or segment of a program identified in the budget policy paper submitted by the Mayor, and e) allocations from the contingency fund. All other organizational and structural classification of funding in the County budget, as well as services mandated by State law, shall not be affected by such veto authority.

Any veto of a revenue item must have a corresponding expense reduction. The override provision may apply to either the revenue item or the expenditure, but may not result in an unbalanced budget.

Any veto of salary expenditures must apply to a class of employees or to a bargaining unit, not to individuals.

Existing programs for budget veto should be highlighted before June 1, and new programs should be highlighted between July 15, and the first budget hearing. A veto should be submitted by the Mayor within 10 days of final adoption of the County Budget by the County Commission.

Members of the CRB felt that many of the definitions and procedures concerning the budget veto outlined above were too detailed to be included in the Charter but should be adopted by ordinance. The detail is included here so that if the County Attorney is directed to prepare Charter language, the full intent can be included and the veto power is not diluted.

Nomination and Removal of the County Manager

The Mayor should nominate the County Manager within 120 days of a vacancy in the position unless an extension is granted to the Mayor by the County Commission. The appointment of the County Manager should be confirmed by a majority vote of the Commission. In the event that the Mayor does not nominate a County Manager within 120 days, the County Commission, should be required to nominate and select the County Manager.

In the event that there is a vacancy or absence in the position of County Manager, the Mayor should designate an Acting County Manager from the senior executive service of the County. This appointment should not be subject to confirmation by the County Commission.

The Mayor should have the authority to remove the County Manager by notifying the County Manager and the County Commission in writing. Upon receipt by the County Manager and the County Commission of the Mayor's intent to remove the Manager, the Manager should be suspended, with pay, for up to forty-five (45) days. The County Commission should be permitted to override the Mayor's removal of the Manager by a 2/3 majority vote of the Commission excluding the vote of the Mayor. If the commission does not override the removal of the Manager in 45 days, the County Manager should be removed as of the 46th day. (The fraction of the Commission required to override removal should be reviewed once composition of the Commission is finalized).

A majority vote of the County Commission should also result in the removal of the County Manager. In the event that the County Commission votes to remove the County Manager, such removal should become effective on a date set by the County Commission. The Mayor should be eligible to vote on this removal, but should not have the power to veto the removal.

II. COMPOSITION OF THE BOARD OF COUNTY COMMISSIONERS; METHOD OF ELECTION AND ASSOCIATED MATTERS

No single proposal on the composition of the Commission received unanimous approval. The proposals that won the most support (7 of 10 votes) were those which contained a majority of single member district commissioners and a minority of at-large commissioners. These proposals ranged from a total of 13 Board members, with 8 district commissioners, 4 at-large commissioners, and a Mayor to 11 total board members with either 7 district commissioners, 3 at-large commissioners and a Mayor or 6 district commissioners, 4 at large commissioners and a Mayor.

All of the above proposals stipulated that for zoning items, only at-large commissioners, the district commissioner from the area where the zoning occurs, and the Mayor may vote. As a matter of principle, the CRB felt that only Commissioners elected by district residents should be eligible to vote on zoning items. It should be noted that if this provision on members of the commission that may vote on zoning items is included when a final decision as to the composition of the Board is made, consideration should be given to whether an even or an odd number of commissioners would be eligible to vote on zoning items.

Three of ten members favored the current Commission composition.

The boundaries of the districts should be adjusted not less than once every 10 years following the U.S. Census. The boundaries related to the proposed charter changes should be drawn according to the 1990 U.S. Census, prior to the 1992 state primary elections

III. SALARY OF THE MAYOR AND COUNTY COMMISSIONERS

District Commissioners should receive a salary in the amount provided by state law for state legislators (\$21,650). At-large Commissioners should receive a salary which is 10% greater than District Commissioners (\$23,820).

The Mayor's salary should be 15% greater than District Commissioners (\$24,900).

It should be noted that four of the CRB members felt salaries for the Mayor and County Commissioners should equal those of non-Charter County Commissioners as provided by State law (\$51,600).

Salary changes should become effective once all members of the County Commission have been elected following the approval of the Charter changes.

IV. INITIATIVE REFERENDUM; MODIFICATIONS TO ELECTION REQUIREMENTS; RESIDENCY REQUIREMENTS; TERM OF OFFICE

Initiative petitions for ordinances and Charter Amendments should be permitted to circulate for 120 days.

Initiative proposals should be voted upon at the next scheduled countywide election unless the initiative petition specifically calls for a special election.

The number of days required to call an election should be standardized throughout the Charter as 120 days.

Candidates for district seats should be required to reside in the district 1 year prior to qualification. Candidates for Mayor, district and at-large seats should be required to reside in Dade County 3 years prior to qualification.

The Mayor should be limited to two (2) consecutive full four (4) year terms. If the Mayor is appointed for a portion of a term, then that Mayor would still be eligible to be elected to two consecutive four year terms.

V. NAME OF THE COUNTY

The name of the County should be changed to Metropolitan Miami-Dade County.

VI. GENERAL UPDATING; MISCELLANEOUS CHARTER CHARTER CHANGES

Clarification and General Updating

There should be a comprehensive clarification and updating of terminology and certain substantive and procedural requirements as recommended by the County Attorney's Office and the County Manager's Office including standardizing use of Commission references, making the Charter conform with State Law, and making the Charter gender neutral.

Specific references to County departments, boards, and offices should be deleted. All departments, boards, etc. would be created by ordinance.

Forfeiture of Office

The Charter Review Board was divided on the proposal to require County Commissioners to attend at least 70 percent of all required meetings unless there was a good cause for the absence. The motion to add an attendance requirement for County Commissioners in the Charter resulted in a 5 to 5 vote.

County Commission Vacancies

The Charter should be amended to invest the power to appoint a new Commissioner to fill a vacancy caused by a Commissioner's removal for criminal activity with the County Commission and not the Governor.

Organization of the Commission

A quorum of the Commission should consist of a majority plus one of the Commissioners (including the Mayor) then in office.

Commission Powers

Replace the countywide referendum requirement to approve franchises with an approval by a 2/3 vote of the County Commission.

Qualifications of the County Manager

The Charter should contain, in general terms, the qualifications of the County Manager. This language should be included to help ensure that the professionalism of the position is maintained.

ADDITIONAL CHARTER REVIEW BOARD RECOMMENDATIONS

In addition to the above recommended Charter changes, the Charter Review Board presents the following recommendations to the County Commission for their consideration:

1. Tentative district lines, to the extent possible, and where practicable, should be drawn before the election where voters will be asked to vote upon proposals concerning Charter changes.
2. As recommended by the Dade League of Cities, district boundaries, wherever feasible, should not traverse municipal boundaries.
3. Race and ethnic factors should be weighed when district boundaries are drawn.
4. The Charter changes should be placed on the ballot in the fall of 1990.
5. The County should appropriate funds to enhance public awareness and to publicize Charter changes that are proposed.
6. District elections, if approved as a Charter change, should commence in 1992. The exact phase-in of the proposed Charter changes should be decided by the Commission once the composition of the Board is finalized.
7. Charter changes regarding the duties of the Mayor should not become effective until the commencement of the term of the Mayor elected in 1992.
8. The phase-in of a new composition of the Commission should be done in such a manner as to avoid shortening the term of a sitting Commissioner.
9. The County Commission should adopt an ordinance requiring the confirmation of all Assistant County Managers and Department Directors.
The County Manager should be required to submit acting or interim Department

Directors for confirmation by the County Commission within 6 months of their appointment.

10. The Commission should, by ordinance, create zoning appeals boards in the unincorporated area. Each zoning appeals board should have members who reside in the unincorporated area within the boundaries of a district and are nominated by commissioners elected from the respective districts and are appointed by the Mayor and the County Commission. The rules of procedure for the Zoning Appeals Boards should be established by ordinance.
11. The Commission should, by ordinance, set a date certain for the Mayor's State of the County speech and it should become a part of the official records of the County.
12. The County Commission should by ordinance, define the role of the Commission committees, the specific rules of procedures, the powers of the committee chairperson, and deadlines/time frames for items to be considered by committee, and/or returned to the full Commission for consideration.
13. An ordinance, outlining the specific procedures and definitions for the budget veto which have not been included in the Charter language, should be adopted. Included in the section entitled "Recommendations for Changes to the Dade County Charter", is a detailed description of the CRB's recommendations concerning budget veto.