



MEMORANDUM

Agenda Item No. 1(D)3

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 10, 2001

FROM: Sid Levin, Chairperson
Charter Review Task Force

SUBJECT: Final Report

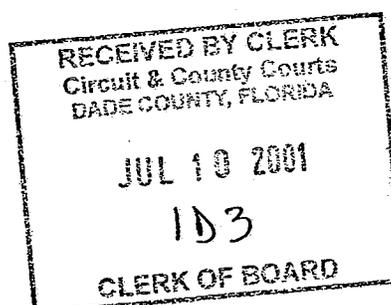
I am pleased to submit the attached Final Report of the Charter Review Task Force for your review. The past 17 months have been a very interesting and productive period for the members of the Task Force. We have progressed through the entire Charter twice, reviewed reports of previous Charter Review Task Forces, held three public hearings and held discussions with Mayor Penelas, Dan Paul, a primary architect of our current Home Rule Charter, and State Representative Carlos Lacasa regarding varying suggested reforms to the Charter. The attached report summarizes the final recommendations of the Task Force and reflects careful and reasoned deliberation of many issues crucial to the future of this community. The Task Force is submitting this report for your consideration now in order to provide you with adequate time over your August recess to carefully review our recommendations.

The attached report is divided into two parts. The first part organizes the recommendations into several policy areas. The second part (Attachment A of the report) is a black-lined version of the current Charter showing the more technical or "housekeeping" changes recommended by the Task Force, including removing language related to offices no longer in existence, eliminating references to boards and departments that are no longer in existence, relocating certain items to more logical sections of the Charter, and making all references in the Charter gender neutral. All technical or housekeeping changes could be covered by one ballot question. The report also contains information regarding issues that were debated by the Task Force, but for which final recommendations were not approved.

For your consideration, attachment B is a minority report prepared by one of the thirteen members of the Task Force. This report deals specifically with issues related to the position of County Manager, the provision of an Internal Auditor, incorporation and revenue sharing, and salaries of Commissioners.

All of the individuals who have served on the Task Force are grateful for the opportunity to have served and to provide these recommendations for Charter amendments for your consideration. We have now completed our appointed mission. At this point, it is at the discretion of the County Commission to determine the next steps in the Charter amendment process. The Board may wish to schedule workshops or special meetings to discuss the recommended amendments. Which recommendations, if any, to be forwarded to the voters, how ballot language would be structured, and when elections would be held to consider the chosen amendments are all decisions that must be made by the Board. Members of the Task Force remain available to assist you through this process.

Cc: Honorable Alex Penelas, Mayor
Members, Charter Review Task Force



Miami-Dade County Charter Review Task Force

Final Report

June 2001

Sid Levin, Chairperson

Commissioner Miriam Alonso • Commissioner Joe A. Martinez
Commissioner Katy Sorenson • Commissioner Javier Souto
Michael Benages • Hugh Cochran • Miguel DeGrandy
Walter Harvey • M. Athalie Range • Eugene Stearns
Robert Thompson • Thomasina Williams

Exhibit 1D3
7-10-01

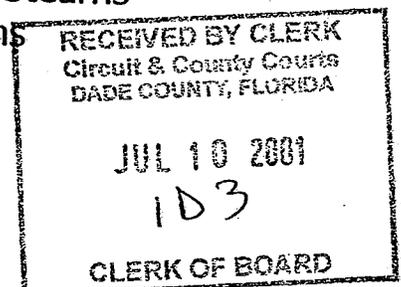


Table of Contents

	<u>Page</u>
I. Introduction	3
II. Recommendations	4
A. Board of County Commissioners	4
B. Office of the Mayor	4
C. County Manager	5
D. Municipalities and Incorporation	6
E. Elections, Initiative, Referendum and Recall	6
F. Administrative Organization and Other Issues	7
G. Technical Changes	7
H. Recommendations Not Approved by Task Force	8
III. Conclusion	9
IV. Attachments	
A. Draft Charter with recommended technical changes	
B. Minority Report	

Introduction

Two years ago, the Board of County Commissioners created the Charter Review Task Force to review the entire Miami-Dade Home Rule Charter, and make recommendations for amendments or revisions. The Charter requires the periodic creation of such a Task Force to ensure the Charter itself is regularly reviewed and updated if necessary. The Task Force, pursuant to Ordinance 99-56, consists of 13 members, comprised of each County Commissioner or his or her designee. In accordance with Ordinance 01-63, the Task Force's recommendations are included in this final report.

The Task Force held more than 25 public meetings and discussed a wide array of very important issues, such as: the separation of powers between the Board of County Commissioners, Mayor and County Manager; municipal incorporation and annexation; the administration of County government; park land and facility regulations; and local elections. Three public hearings were held at the West Dade Regional Library, the North Dade Regional Library, and the South Dade Government Center to gather suggestions and comments from the citizens of Miami-Dade County. Information about the Miami-Dade County Home Rule Charter and the Charter Review Task Force and the preliminary recommendations for amendments were made available for review on the County's website at <http://www.co.miami-dade.fl.us/charter>. This final report is also available at that site.

The Charter Review Task Force moved sequentially through the Charter twice, reviewing all sections for potential amendments. Task Force members made suggestions for fundamental policy changes, but also reviewed the Charter for technical adjustments. The Task Force held discussions with Mayor Alex Penelas, Representative Carlos Lacasa, and Dan Paul, one of the original architects of the Charter. A comprehensive list of recommendations was developed and Task Force members worked to cull down the list to those recommendations most important for the future of Miami-Dade County.

In the first part of the report, the Charter Review Task Force has made recommendations regarding the powers of Miami-Dade County, the Board of County Commissioners, the Mayor, the County Manager, municipalities and incorporation, initiative, referendum and recall, and administrative organization. This report details the specific recommendations and, in general, the issues surrounding the recommendation and its purpose. Each recommendation received the support of a majority of the Task Force members.

The second part of this report (Attachment A) is a formal rewritten Charter to illustrate only those technical changes recommended by the Task Force. It does not provide formal Charter language related to the recommendations in the first part, nor does it contain specific ballot language. It was believed better to leave those tasks to be completed after the Commission's review. The Charter Review Task Force served at the pleasure of the Board to identify potential areas for Charter amendments. It is the prerogative of the County Commission to determine those areas for which it feels amendments should be placed on a ballot for voter consideration. Once those areas are identified, Charter and ballot language would appropriately be developed. We are prepared to assist the Board should it desire, through the balance of the process.

A minority report provided by one of the 13 members of the Charter Review Task Force has been prepared offering alternative amendments in several areas (Attachment B).

Recommendations

The Charter Review Task Force compiled a list of suggested revisions to the Charter. These revisions include both fundamental policy changes detailed in the first part of the report, as well as technical and "housekeeping" changes (Attachment A). The Task Force considered carefully those powers enumerated in the Charter to ensure that they were neither too restrictive nor too broad as to preclude the provision of the most efficient and effective services to the citizens of Miami-Dade County, as well as to ensure an appropriate balance of power among the different branches of Miami-Dade County government. The following also details recommendations considered carefully but not approved.

Board of County Commissioners

Many issues were discussed related to the composition and powers of the Board of County Commissioners. The final recommendations of the Task Force regard reapportionment and redistricting, Commission salaries, vacancies, the organization of the Board and public hearings.

- The Task Force recommends that a provision be included in the Charter requiring that **Commission ordinance, the Board be required to hold a meeting regarding redistricting and reapportionment, similar to the standards for state and federal legislatures.**

- The Task Force recommends that the provisions for Commission salaries be removed from the Charter and that Commission salaries be determined pursuant to state law. The Task Force also recommends that the Charter be revised to remove the Board's ability to appoint new members in favor of a special election to be held within 90-120 days of a vacancy. A special election should not be required if a general countywide election will occur within 180 days of a vacancy.

- The Task Force feels that the Board should have the power to organize itself. To that end, it recommends that the Commission should be permitted to establish its own rules of procedure, including the ability to organize itself and select a Chairperson and Vice Chairperson, and to establish Commission Committees. These actions should not be subject to Mayoral veto. If the Board establishes Commission Committees, the Task Force also recommends that certain public hearings should by ordinance be permitted to be before either the Committees or the full Board.

Office of the Mayor

- The process for filling a vacancy in the Office of the Mayor is not provided in the Charter. The Task Force recommends that, in the absence of a Mayor, the Chairperson of the Commission should be appointed as Acting Mayor until a new Mayor is selected by a special election and the Vice-Chairperson of the Commission should be appointed as the interim Chairperson. The recommended process continues with a special election to

be held within 90-120 days to fill the vacancy. If the Acting Mayor chooses to run for Mayor, he or she would relinquish his or her position as Chairperson of the Commission and a special election would be held for that Commission seat on the same date as the Mayor special election. Should the Acting Mayor choose not to run for Mayor, he or she would return to the position of Chairperson once a new Mayor has been elected.

The Task Force recommends that the provisions regarding the Mayor's responsibilities be amended to require the Mayor's budget message be more priority setting in nature and occur in March, earlier in the budget process. Between June 1 and July 15, the County Manager should present the proposed budget. The Mayor's response to this proposed budget should be presented by the end of July, before the Board adopts the tentative millage rates.

Members of the Task Force suggest that the Mayor's veto power should be limited to ordinances dealing with general legislation and appropriation of funds and not be extended to resolutions dealing with rules and procedures of the Board (as mentioned above) or to quasi-judicial or zoning matters. The line-item veto with respect to budget ordinances should be retained.

County Manager

The Task Force discussed, but did not recommend, eliminating the position of County Manager in favor of a strong mayor. The Task Force did make some recommendations related to the Office of the County Manager. One such recommendation is that the provision regarding the appointment of the Finance Director be amended to include the Clerk of the Courts in that appointment, as the Clerk has fiduciary responsibility per state statute.

The Task Force discussed the procurement process at great length. The primary concern of members of the Task Force was the influence of lobbyists on the procurement decisions made under the current rules. In this area, Task Force members felt so strongly about their recommendation, specific language was drafted to accomplish the improvements in the process they developed. The amendment would include the following language in the Charter provision regarding the procurement of supplies, materials, and services other than professional: "Notwithstanding any other provision of this Charter, neither the Mayor nor any Commissioner nor any of their staff shall communicate with: a) the County Manager or any of the administration staff of the County or any member of a selection committee or appointed board; or b) the bidder or proposer or any representative of any bidder or proposer, regarding the solicitation, evaluation, negotiation, protest or award of any bid, RFP or RFQ other than at a public meeting of the Board or in writing." This language was developed with the quasi-judicial standards of the zoning process in mind.

The Task Force was also concerned with strengthening the safeguards against Commission involvement in administration matters, but didn't want to preclude the effective provision of services to constituents. A recommendation that language should be added to the Charter indicating that County Manager or staff members' participation in violations of the

section of the Charter relating to these safeguards by elected officials is grounds for removal of the County Manager or the staff member was approved. However, the Task Force also recommended that **language should be added to this section that permits County Commissioner inquiries of the administration regarding constituent services.**

Municipalities and Incorporation

The preliminary recommendations in this area included a provision that requires that all pre-agreed conditions established by the Board of County Commissioners regarding a proposed incorporation be included in a proposed city's charter and that these conditions cannot be removed by the new municipality without prior Board of County Commissioners approval prior to a municipal vote. Beyond the Task Force's efforts to review the Charter and make recommendations, this provision was placed on the ballot of October 3, 2000 and passed by a majority vote of the electorate.

The Task Force members discussed the issues of incorporation and its impacts on Miami-Dade County. In an effort to meet the desires of the citizens of the unincorporated area for more control over the governing of their community, the Task Force developed a recommendation concerning **limited purpose units of government. This amendment would allow the Board to create such units, which would be dependent to the Board of County Commissioners, subject to an affirmative vote of area residents. The units would be provided with limited municipal taxing authority, certain municipal-type powers, the ability to fund and/or provide an enhanced level of service and be restrained from providing services already provided by the County (such as police, fire, library and solid waste collection).** This local government structure would be offered as an alternative for areas desiring more local control but not wishing to pursue incorporation. This option is offered as an alternative and not a replacement to the existing incorporation process.

Elections, Initiative, Referendum and Recall

The Task Force had many suggested revisions to the Charter related to elections, initiative, referendum and recall. One recommendation is to **include the Mayor in the list of offices subject to recall.** The Task Force also suggests that **the number of signatures required for recall be increased to 5% for countywide offices and 10% for district elected offices.** Currently, only 4% of registered voters' signatures are required. The purpose for this increase is twofold. Members of the Task Force recognized that requiring only 4% of the signatures of registered voters in a district to recall the representative from that district was not a high enough objective, as in some districts this number could be less than 5,000 voters. However, the Task Force also did not want to place too high a requirement for recall of countywide officers. Therefore, the two-tiered recommendation was developed.

The Task Force also recommended changes in the percentage of registered voters required for initiative petitions to place questions related to ordinances on a ballot. Again, a two-tiered system is recommended. **Initiative petitions submitted with signatures of at least 5% of registered voters would be placed on the ballot of the next general election while the Board would have the option to schedule a special election for initiative petitions with the signatures of at least 10% of registered voters.** The Task Force further suggests

that an amendment be included to allow initiatory petitions for Charter amendments for which signatures of 10% of registered voters have been gathered to be accepted at any time and scheduled for a special election, unless submitted during a predetermined period prior to a general election. The Charter currently provides that such amendments may only be proposed biennially, during even numbered years in which state primary and general elections are held.

Finally, the Task Force recommended that **County elections be held in September, with runoffs, if necessary, in November, at the time of the general election.** Currently, the Charter provides that a runoff, if required, be held at the time of the second state primary, which is held in October. Members suggested that voter turnout would be higher at the time of the general election. Subsequent to the Task Force formulating this recommendation, the State Legislature passed a bill removing the second state primary during this year's session and it was signed by Governor Bush. Therefore, the objective of the Task Force's recommendation will already be in place as of 2002. A technical adjustment to the language in the Charter referring to the election process is necessary to conform to the statutory change and provide for runoffs to be held at the time of the general election.

Administrative Organization and Other Issues

The Task Force recommended that **the position of Inspector General be included in the Charter.** This amendment should provide **that the Inspector General be authorized to perform audits and that the jurisdiction of the Inspector General be extended to include other governmental entities in the County by interlocal agreement.** At the request of the Commission on Ethics and Public Trust, the Task Force also considered and approved a recommendation that **the provision regarding the Ethics Commission be amended to remove the requirement that the Commission be made up of five members, in favor of establishing the number of members by Board ordinance.**

Another suggested amendment approved by the Task Force concerns the language regarding the use of funding in special tax districts. Currently, the Charter restricts the use of funding in special tax districts to special district purposes. While this is a logical restriction, it creates situations that are not necessarily rational. For example, the Air Rescue function is funded by the countywide general fund. Currently, although the employees performing this function are employees of the Fire and Rescue Department, this function must reside in the countywide general fund. If the language is revised to **allow non-district funding sources for special district purposes that are regional in scope,** a transfer could be made from the countywide general fund to the Fire and Rescue district fund to support this function. The Task Force also approved the recommendation that **the referendum requirement for the creation of franchises be removed from the Charter.**

Technical Changes

Finally, the Task Force made many preliminary recommendations for technical and procedural amendments to the Charter. These changes include removing language related to offices no longer in existence, eliminating references to boards and departments that are no longer in existence, relocating certain items to more logical sections of the Charter, and

making all references in the Charter gender neutral. A black-lined version of the current Home Rule Charter detailing these technical changes only is included as Attachment A of this report. We believe that all technical or housekeeping changes recommended could be covered in one ballot question.

Key Recommendations Not Approved by the Task Force

Many of the ideas and suggestions developed during the Task Force's review of the Charter were not ultimately approved for recommendation to the Board. These include the abolition of the Fire Board and increasing the number of County Commission districts. The Task Force also considered changing the selection method for Commissioners and establishing term limits. A provision establishing a process to allow the Board to remove the Mayor for misfeasance or malfeasance was not approved, nor was establishing a separate counsel for the Mayor's office or abolishing the position of County Manager in favor of a strong Mayor.

Provisions to enable the Board to eliminate enclave areas without the approval of the affected municipality and to give the Board the authority to create a countywide revenue sharing program were not approved. In light of a Charter amendment approved by the electorate on October 3, 2000 regarding County – prospective new City negotiations of incorporation terms and conditions, the Task Force did not approve requiring mitigation payments or otherwise require fiscal neutrality as a condition of incorporation since such issues could be negotiated.

Conclusion

The Charter Review Task Force respectfully submits this report detailing our final recommendations. These amendments were approved for recommendation by a majority of the Task Force members. A minority report, prepared by one of the thirteen members of the Task Force, with amendments related to the position of County Manager, the provision for an internal audit function, incorporation, and Commission salaries has been submitted for your consideration, as well.

The next step in the Charter review process is at the discretion of the Board. We have presented our recommendations without submitting Charter or ballot language enabling these amendments. The Board may wish to schedule one or more workshops to discuss the proposed recommendations. During those workshops, the Board can consider Charter and ballot language pertaining to the slate of questions that may be placed on the ballot for voter approval, the organization of those questions and the timing of the election. By submitting this report in July, Commissioners will have time to review these recommendations and consider the next steps carefully prior to the next general election in November 2002. Members of the Task Force remain available to the Board to assist throughout this process.

The Charter Review Task Force would like to thank the staff of the County Attorney's Office and the County Manager's Office for their support throughout our deliberations, specifically First Assistant County Attorney Murray Greenberg, Assistant County Attorney Cynthia Johnson-Stacks, Senior Assistant to the County Manager George Burgess and Junior Assistant to the County Manager Jennifer Glazer-Moon. This has been a lengthy and deliberate process. Task Force members are appreciative of the opportunity to be involved in such an important effort for our County.

Respectfully submitted,

Sid Levin, Chairperson

Commissioner Miriam Alonso
Commissioner Joe A. Martinez
Commissioner Katy Sorenson
Commissioner Javier Souto
Michael Benages
Hugh Cochran
Miguel DeGrandy
Walter Harvey
M. Athalie Range
Eugene Stearns
Robert Thompson
Thomasina Williams

Attachment A

[DRAFT RECOMMENDED TECHNICAL,
PROCEDURAL, NON-POLICY REVISIONS ONLY, AS
SUGGESTED BY DATABASE]¹

**THE HOME RULE AMENDMENT AND CHARTER
(AS AMENDED THROUGH OCTOBER 3, 2000)**

**MIAMI-DADE COUNTY
FLORIDA**

¹ Words underlined are added. Words overstricken are deleted. Text marked by shading and [CJ#] are annotated references to specific requirements and suggestions of the database approved by the Charter Review Task Force. These annotations are listed in the Comment List at the end of this document.

The Miami-Dade County Home Rule Amendment to the Florida State Constitution was adopted November 6, 1956.

The Miami-Dade County Home Rule Charter was adopted May 21, 1957.

INDEX

	Page
HOME RULE AMENDMENT	1-4
CHARTER	5
PREAMBLE	5
CITIZENS' BILL OF RIGHTS	6-9
ARTICLE 1 — <u>POWERS OF COUNTY GOVERNMENT BOARD OF COUNTY COMMISSIONERS</u>	
1.01 - Powers	
ARTICLE 2 - <u>COUNTY COMMISSION</u>	
1.02 — <u>Resolutions and Ordinances</u>	
2.01 1.03 - Districts	
2.02 1.04 - Composition of the Commission	
2.03 1.05 - Forfeiture of Office	
2.04 1.06 - Salary	
2.05 1.07 - Vacancies	
2.06 1.08 - Organization of the Commission	
2.07 — <u>Resolutions and Ordinances</u>	
ARTICLE 3 — <u>MAYOR</u>	
3.01 1.09 - Election of Mayor	
3.02 1.10 - Responsibilities of the Mayor	
ARTICLE 4-2 - <u>ELECTIONS</u>	
42.01 - Election and Commencement of Terms of County Commissioners	
42.02 - Reserved	
42.03 - Nonpartisan Elections	
42.04 - Qualifications and Filing Fee	
42.05 - Reserved	
42.06 - Additional Regulations and State Laws	
42.07 - Canvassing Elections	

ARTICLE 53 - THE COUNTY MANAGER

- 53.01 - Functions
- 53.02 - Qualifications
- 53.03 - Absence of Manager
- 53.04 - Powers and Duties
- 53.05 - Restriction on Commission Members

ARTICLE 64 - ADMINISTRATIVE ORGANIZATION AND
PROCEDURE

- 64.01 - Departments
- 64.02 - Administrative Procedure
- 64.03 - Financial Administration
- 64.04 - Assessment and Collection of Taxes
- 64.05 - ~~County Department of~~ Personnel
- 64.06 - Department of Law
- 64.07 - ~~County Department of~~ Planning
- 64.08 - Boards
- 6.09 - Regional Offices

ARTICLE 75 - MUNICIPALITIES

- 75.01 - Continuance of Municipalities
- 75.02 - Municipal Powers
- 75.03 - Municipal Charters
- 75.04 - Changes in Municipal Boundaries
- 75.05 - Creation of New Municipalities
- 75.06 - Contracts with Other Units
of Government
- 75.07 - Franchise and Utility Taxes
- 7.08 - Annual Audits

ARTICLE 86 - PARKS, AQUATIC PRESERVES,
AND PRESERVATION LANDS

- 86.01 - Policy
- 86.02 - Restrictions and Exceptions
- 86.03 - Enforcement and Construction
- 86.04 - Jurisdiction

ARTICLE 97 - INITIATIVE, REFERENDUM, AND RECALL

- 97.01 - Initiative and Referendum
- 97.02 - Recall

ARTICLE 108 - GENERAL PROVISIONS

~~8.01 - Abolition of Certain Offices and
Transfer of Functions~~

~~8.02 - Reserved~~

~~8.03 - Tort Liability~~

~~8.04 - Supremacy Clause~~

~~10.018-05 - Existing Franchises, Contracts,
and Licenses~~

~~10.028-06 - Construction Effect of the Charter~~

ARTICLE 11 - AMENDMENTS AND REVISIONS

~~108.07 - Amendments~~

~~108.08 - Revisions~~

~~8.09 - Effective Date~~

ARTICLE 129 - NAME OF COUNTY

~~129.01 - Name of County~~

HOME RULE AMENDMENT

(e) May provide a method for establishing new municipal corporations, special taxing districts, and other governmental units in Dade County from time to time and provide for their government and prescribe their jurisdiction and powers.

(f) May abolish and may provide a method for abolishing from time to time all offices provided for by Article VIII, Section 6, of the Constitution or by the Legislature, except the Superintendent of Public Instruction and may provide for the consolidation and transfer of the functions of such offices, provided, however, that there shall be no power to abolish or impair the jurisdiction of the Circuit Court or to abolish any other court provided for by this Constitution or by general law, or the judges or clerks thereof although such charter may create new courts and judges and clerks thereof with jurisdiction to try all offenses against ordinances passed by the Board of County Commissioners of Dade County and none of the other courts provided for by this Constitution or by general law shall have original jurisdiction to try such offenses, although the charter may confer appellate jurisdiction on such courts, and provided further that if said home rule charter shall abolish any county office or offices as authorized herein, that said charter shall contain adequate provision for the carrying on of all functions of said office or offices as are now or may hereafter be prescribed by general law.

(g) Shall provide a method by which each municipal corporation in Dade County shall have the power to make, amend or repeal its own charter. Upon adoption of this home rule charter by the electors this method shall be exclusive and the Legislature shall have no power to amend or repeal the charter of any municipal corporation in Dade County.

(h) May change the name of Dade County.

(i) Shall provide a method for the recall of any commissioner and a method for initiative and referendum, including the initiation of and referendum on ordinances and the amendment or revision of the home rule charter, provided, however, that the power of the Governor and Senate relating to the suspension and removal of officers provided for in this Constitution shall not be impaired, but shall extend to all officers provided for in said home rule charter.

(2) Provision shall be made for the protection of the creditors of any governmental unit which is merged, consolidated, or abolished or whose boundaries are changed or functions or powers transferred.

(3) This home rule charter shall be prepared by a Metropolitan Charter Board created by the Legislature and shall be presented to the electors of Dade County for ratification or rejection in the manner provided by the Legislature. Until a home rule

charter is adopted the Legislature may from time to time create additional Charter Boards to prepare charters to be presented to the electors of Dade County for ratification or rejection in the manner provided by the Legislature. Such charter, once adopted by the electors, may be amended only by the electors of Dade County and this charter shall provide a method for submitting future charter revisions and amendments to the electors of Dade County.

(4) The County Commission shall continue to receive its pro rata share of all revenues payable by the state from whatever source to the several counties and the State of Florida shall pay to the Commission all revenues which would have been paid to any municipality in Dade County which may be abolished by or in the method provided by this home rule charter; provided, however, the Commission shall reimburse the comptroller of Florida for the expense incurred, if any, in the keeping of separate records to determine the amounts of money which would have been payable to any such municipality.

(5) Nothing in this section shall limit or restrict the power of the Legislature to enact general laws which shall relate to Dade County and any other one or more counties in the State of Florida or to any municipality in Dade County and any other one or more municipalities of the State of Florida, and the home rule charter provided for herein shall not conflict with any provision of this Constitution nor of any applicable general laws now applying to Dade County and any other one or more counties of the State of Florida except as expressly authorized in this section nor shall any ordinance enacted in pursuance to said home rule charter conflict with this Constitution or any such applicable general law except as expressly authorized herein, nor shall the charter of any municipality in Dade County conflict with this Constitution or any such applicable general law except as expressly authorized herein, provided however that said charter and said ordinances enacted in pursuance thereof may conflict with, modify or nullify any existing local, special or general law applicable only to Dade County.

(6) Nothing in this section shall be construed to limit or restrict the power of the Legislature to enact general laws which shall relate to Dade County and any other one or more counties of the State of Florida or to any municipality in Dade County and any other one or more municipalities of the State of Florida relating to county or municipal affairs and all such general laws shall apply to Dade County and to all municipalities therein to the same extent as if this section had not been adopted and such general laws shall supersede any part or portion of the home rule charter provided for herein in conflict therewith and shall supersede any provision of any ordinance enacted pursuant to said charter and in conflict therewith, and shall supersede any provision of any charter of any municipality in Dade County in conflict therewith.

(7) Nothing in this section shall be construed to limit or restrict the power and jurisdiction of the Railroad and Public Utilities Commission or of any other state agency, bureau or commission now or hereafter provided for in this Constitution or by general law and said state agencies, bureaus and commissions shall have the same powers in Dade County as shall be conferred upon them in regard to other counties.

(8) If any section, subsection, sentence, clause or provision of this section is held invalid as violative of the provisions of Section 1, Article XVII of this Constitution the remainder of this section shall not be affected by such invalidity.

(9) It is declared to be the intent of the Legislature and of the electors of the State of Florida to provide by this section home rule for the people of Dade County in local affairs and this section shall be liberally construed to carry out such purpose, and it is further declared to be the intent of the Legislature and of the electors of the State of Florida that the provisions of this Constitution and general laws which shall relate to Dade County and any other one or more counties of the State of Florida or to any municipality in Dade County and any other one or more municipalities of the State of Florida enacted pursuant thereto by the Legislature shall be the supreme law in Dade County, Florida, except as expressly provided herein and this section shall be strictly construed to maintain such supremacy of this Constitution and of the Legislature in the enactment of general laws pursuant to this Constitution.

MIAMI-DADE COUNTY HOME RULE CHARTER

PREAMBLE

We, the people of this County, in order to secure for ourselves the benefits and responsibilities of home rule, to create a metropolitan government to serve our present and future needs, and to endow our municipalities with the rights of self determination in their local affairs, do under God adopt this home rule Charter.

CITIZENS' BILL OF RIGHTS

- (A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:
1. **Convenient Access.** Every person has the right to transact business with the County and the municipalities with a minimum of personal inconvenience. It shall be the duty of the County Manager and the Commission to provide, within the County's budget limitations, reasonably convenient times and places for registration and voting, for required inspections, and for transacting business with the County.
 2. **Truth in Government.** No County or municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public. Miami-Dade County should endeavor to make its decisions based on merit and ability to perform in consideration of the public good of the inhabitants of the county[.]
 3. **Public Records.** All audits, reports, minutes, documents and other public records of the County and the municipalities and their boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public.
 4. **Minutes and Ordinance Register.** The Clerk of the Commission and of each municipal council shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances and resolutions listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than 30 days after the conclusion of the meeting.
 5. **Right to be Heard.** So far as the orderly conduct of public business permits, any interested person has the right to appear before the Commission or any municipal council or any County or municipal agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the governmental entity involved. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit any governmental entity or agency from imposing reasonable time limits for the presentation of a matter.

6. **Right to Notice.** Persons entitled to notice of a County or municipal hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for cancelling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

7. **No Unreasonable Postponements.** No matter once having been placed on a formal agenda by the County or any municipality shall be postponed to another day except for good cause shown in the opinion of the County Commission, the municipal council or other governmental entity or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for cancelling the hearing or rendering invalid any determination made at such hearing.

8. **Right to Public Hearing.** Upon a timely request of any interested party a public hearing shall be held by any County or municipal agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the Law Department of the County or of any municipality, not to any body whose duties and responsibilities are solely advisory.

At any zoning or other hearing in which review is exclusively by certiorari, a party or his ~~or her~~ counsel ~~(can)~~ shall be entitled to present his or her case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.

9. **Notice of Actions and Reasons.** Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any County or municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.

~~10. **Managers' and Attorneys' Reports.** (ca) The County Manager and County Attorney and each City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions~~

~~11. — **Budgeting.** In addition to any budget required by state statute, the County Manager shall prepare a budget showing the cost of each program for each budget year. Prior to the County Commission's first public hearing on the proposed budget required by state law, the County Manager shall make public a budget summary setting forth the proposed cost of each individual program and reflecting all major proposed increases and decreases in funds and personnel for each program, the purposes therefore, the estimated millage cost of each program and the amount of any contingency and carryover funds for each program.~~

~~12. — **Quarterly Budget Comparisons.** (c5) The County Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.~~

~~13. — **Adequate Audits.** (c5) An annual audit of the County and each municipality shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. A summary of the results, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy.~~

~~14. — **Regional Offices.** (c6) Regional offices of the County's administrative services shall be maintained at locations in the County for the convenience of the residents.~~

~~15-10. **Financial Disclosure.** The Commission shall by ordinance make provision for the filing under oath or affirmation by all County and municipal elective officials, candidates for County and municipal elective offices, such employees as may be designated by ordinance, and such other public officials, and outside consultants who receive funds from the County or municipalities, within the County and who may legally be included, of personal financial statements, copies of personal Federal income tax returns, or itemized source of income statements. Provision shall be made for preparing and keeping such reports current from time to time, and for public disclosure.~~

The Commission shall also make provision for the filing annually under oath of a report by full-time County and municipal employees of all outside employment and amounts received therefrom. The County Manager or any City Manager may require monthly reports from individual employees or groups of employees for good cause.

~~16-11.~~ **Representation of Public.** The Commission shall endeavor to provide representation at all proceedings significantly affecting the County and its residents before State and Federal regulatory bodies.

~~17 12.~~ **Commission on Ethics and Public Trust.** The County shall, by ordinance, establish an independent Commission on Ethics and Public Trust comprised of five members, not appointed by County Commission, with the authority to review, interpret, render advisory opinions and enforce the county and municipal code of ethics ordinances, conflict of interest ordinances, lobbyist registration and reporting ordinances, ethical campaign practices ordinances, when enacted, and citizens' bill of rights.

- (B). The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of Dade County. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the County. The orderly, efficient and fair operation of government requires the intelligent participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.
- (C). **Remedies for Violations.** In any suit by a citizen alleging a violation of this Article filed in the Dade County Circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the Court. Any public official or employee who is found by the Court to have willfully violated this Article shall forthwith forfeit his or her office or employment.
- (D). **Construction.** All provisions of this Article shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this Article shall be declared invalid, it shall not affect the validity of the remaining provisions.

ARTICLE - 1

POWERS OF COUNTY GOVERNMENT^[CJ7]

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 and shall have the power to carry on a central metropolitan government. This power shall include but shall not be restricted to the power to:

1. Provide and regulate arterial, toll, and other roads, bridges, tunnels; and related facilities; eliminate grade crossings; provide and regulate parking facilities; and develop and enforce master plans for the control of traffic and parking.
2. Provide and operate air, water, rail, and bus terminals, port facilities, and public transportation systems.
3. License and regulate taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire operating in the county.
4. Provide central records, training, and communications for fire and police protection; provide traffic control and central crime investigation; provide fire stations, jails, and related facilities; and subject to Section 1.01A(18) provide a uniform system for fire and police protection.
5. Prepare and enforce comprehensive plans for the development of the county.
6. Provide hospitals and uniform health and welfare programs.
7. Provide parks, preserves, playgrounds, recreation areas, libraries, museums, and other recreational and cultural facilities and programs.
8. Establish and administer housing, slum clearance, urban renewal, conservation, flood and beach erosion control, air pollution control, and drainage programs and cooperate with governmental agencies and private enterprises in the development and operation of these programs.
9. Provide and regulate or permit municipalities to provide and regulate waste and sewage collection and disposal and water supply and conservation programs.

10. Levy and collect taxes and special assessments, borrow and expend money and issue bonds, revenue certificates, and other obligations of indebtedness in such manner, and subject to such limitations, as may be provided by law.
11. By ordinance, establish, merge, and abolish special purpose districts within which may be provided police and fire protection, beach erosion control, recreation facilities, water, streets, sidewalks, street lighting, waste and sewage collection and disposal, drainage, and other essential facilities and services. All county funds for such districts shall be provided by service charges, special assessments, or general tax levies within such districts only. The Board of County Commissioners shall be the governing body of all such districts and when acting as such governing body shall have the same jurisdiction and powers as when acting as the Board; provided, however, the Board of County Commissioners shall not be the governing body of the Metro-Dade Fire and Rescue Service District established by Ordinance No. 80-86, but said Fire and Rescue Service District shall be governed by five members elected for initial terms of two years by the registered voters of the Metro-Dade Fire and Rescue Service District; ~~provided further, however, that the governing board of the juvenile welfare special district shall not be the Board of County Commissioners, but shall consist of the superintendent of schools, a local school board member, the district administrator of the Department of Health and Rehabilitative Services, a member of the Board of County Commissioners and five members appointed by the Governor.~~ (CJ8).
12. Establish, coordinate, and enforce zoning and such business regulations as are necessary for the protection of the public.
13. Adopt and enforce uniform building and related technical codes and regulations for both the incorporated and unincorporated areas of the county; provide for examinations for contractors and all parties engaged in the building trades and for the issuance of certificates of competency and their revocation after hearing. Such certificates shall be recognized and required for the issuance of a license in all municipalities in the county. No municipality shall be entitled to require examinations or any additional certificate of competency or impose any other conditions for the issuance of a municipal license except the payment of the customary fee. The municipality may issue building permits and conduct the necessary inspections in accordance with the uniform codes and charge fees therefor.
14. Regulate, control, take over, and grant franchises to, or itself operate gas, light, power, telephone, and other utilities, sanitary and sewage collection and disposal systems, water supply, treatment, and service systems, and public transportation systems, provided, however, that:

(a) Franchises under this subsection may only be granted by a two-thirds vote of the members of the Board present and approved by a majority vote of those qualified electors voting at either a special or general election.

(b) The county shall not operate a light, power, or telephone utility to serve any territory in the county which is being supplied with similar service except by a majority vote of those qualified electors voting in an election held not less than six months after the Board has passed an ordinance to that effect by a two-thirds vote of the members of the Board present. Such ordinance shall contain information on cost, method of financing, agency to regulate rates, agency to operate, location, and other information necessary to inform the general public of the feasibility and practicability of the proposed operation.

15. Use public funds for the purposes of promoting the development of the county, including advertising of the area's advantages.

16. Establish and enforce regulations for the sale of alcoholic beverages in the unincorporated areas and approve municipal regulations on hours of sale of alcoholic beverages.

17. Enter into contracts with other governmental units within or outside the boundaries of the county for joint performance or performance by one unit in behalf of the other of any authorized function.

18. Set reasonable minimum standards for all governmental units in the county for the performance of any service or function. The standards shall not be discriminatory as between similar areas. If a governmental unit fails to comply with such standards, and does not correct such failure after reasonable notice by the Board, then the Board may take over and perform, regulate, or grant franchises to operate any such service. The Board may also take over and operate, or grant franchises to operate any municipal service if:

(a) In an election called by the Board of County Commissioners within the municipality a majority of those voting vote in favor of turning the service over to the county; or

(b) The governing body of the municipality requests the county to take over the service by a two-thirds vote of its members, or by referendum.

19. By ordinance, abolish or consolidate ~~the office of constables, or~~ any ~~county~~ county office created by the Legislature, or provide for the

consolidation and transfer of any of the functions of such officers, provided, however, that there shall be no power to abolish the Superintendent of Public Instruction, or to abolish or impair the jurisdiction of the Circuit Court or to abolish any other Court, provided by the Constitution or by general law, or the judges or clerks thereof.

20. Make investigations of county affairs, inquire into the conduct, accounts, records, and transactions of any department or office of the county, and for these purposes require reports from all county officers and employees, subpoena witnesses, administer oaths, and require the production of records.

21. Exercise all powers and privileges granted to municipalities, counties, and county officers by the Constitution and laws of the state, and all powers not prohibited by the Constitution or by this Charter.

22. Adopt such ordinances and resolutions as may be required in the exercise of its powers, and prescribe fines and penalties for the violation of ordinances.

23. Perform any other acts consistent with law which are required by this Charter or which are in the common interest of the people of the county.

24. Supersede, nullify, or amend any special law applying to this county, or any general law applying only to this county, or any general law where specifically authorized by the Constitution.

B. No enumeration of powers in this Charter shall be deemed exclusive or restrictive and the foregoing powers shall be deemed to include all implied powers necessary and proper to carrying out such powers. All of these powers may be exercised in the incorporated and unincorporated areas, subject to the procedures herein provided in certain cases relating to municipalities.

C. The Board shall have the power of eminent domain and the right to condemn property for public purposes. The Board shall make fair and just compensation for any properties acquired in the exercise of its powers, duties, or functions. The Board shall also provide for the acquisition or transfer of property, the payment, assumption, or other satisfaction of the debts, and the protection of pension rights of affected employees of any governmental unit which is merged, consolidated, or abolished or whose boundaries are changed or functions or powers transferred.

D. The Board shall be entitled to levy in the unincorporated areas all taxes authorized to be levied by municipalities and to receive from the state any revenues collected in the unincorporated areas on the same basis as municipalities.

E. This Charter and the ordinances adopted hereunder shall in cases of conflict supersede all municipal charters and ordinances, except as herein provided, and where authorized by the Constitution, shall in cases of conflict supersede all special and general laws of the state.

All other special and general laws and county ordinances and rules and regulations not inconsistent with this Charter shall continue in effect until they are superseded by ordinance adopted by the Board pursuant to this Charter and the Constitution.

ARTICLE 2

THE COUNTY COMMISSION

SECTION 1.02. RESOLUTIONS AND ORDINANCES

~~A. The Board shall adopt its own rules of procedure and shall decide which actions of the Board shall be by ordinance or resolution, except as otherwise provided in this Charter and except that any action of the Board which provides for raising revenue, appropriating funds, or incurring indebtedness (other than refunding indebtedness), or which provides a penalty or establishes a rule or regulation for the violation of which a penalty is imposed shall be by ordinance.~~

~~B. Every ordinance shall be introduced in writing and shall contain a brief title. The enacting clause shall be "Be it Ordained by the Board." After passage on first reading, a short summary of the ordinance shall be published in a daily newspaper of general circulation at least once together with a notice of the time when and place where it will be given a public hearing and be considered for final passage. The first such publication shall be at least one week prior to the time advertised for hearing. No ordinance shall be declared invalid by reason of any defect in publication or title if the published summary gives reasonable notice of its intent.~~

~~C. At the time and place so advertised, or at any time and place to which such public hearing may from time to time be adjourned, the ordinance shall be read by title and a public hearing shall be held. After the hearing, the Board may pass the ordinance with or without amendment.~~

~~D. The Board may adopt in whole or in part any published code by reference as an ordinance in the manner provided by law.~~

~~E. The effective date of any ordinance shall be prescribed therein, but the effective date shall not be earlier than ten days after its enactment.~~

~~F. To meet a public emergency affecting life, health, property, or public safety the Board by two-thirds vote of the members of the Board may adopt an emergency ordinance at the meeting at which it is introduced, and may make it effective~~

~~immediately, except that no such ordinance may be used to levy taxes, grant or extend a franchise, or authorize the borrowing of money. After the adoption of an emergency ordinance, the Board shall have it published in full within ten days in a daily newspaper of general circulation.~~

~~G. Each ordinance and resolution after adoption shall be given a serial number and shall be entered by the clerk in a properly indexed record kept for that purpose.~~

~~H. Within two years after adoption of this Charter the Board shall have prepared a general codification of all county ordinances and resolutions having the effect of law. The general codification thus prepared shall be adopted by the Board in a single ordinance. After adoption the Board shall have the codification printed immediately in an appropriate manner together with the Charter and such rules and regulations as the Board may direct. Additions or amendments to the code shall be prepared, adopted, and printed at least every two years.~~

SECTION ~~2.011-03.~~ DISTRICTS. ~~(C112)~~

A. There shall be ~~eight~~ thirteen County Commission districts. The current initial boundaries of these districts shall be as shown on the map attached as Exhibit A and made a part hereof.

~~Note: There are thirteen County Commission districts. Meek v. Metropolitan Dade County, 908 F.2d 1540 (11th Cir. 1990), opinion after remand, 985 F.2d 1471 (11th Cir. 1993).~~

B. The Board may by ordinance adopted by two-thirds vote of the members of the Board change the boundaries of the districts from time to time. The boundaries shall be fixed on the basis of the character, population, and geography of the districts.

SECTION ~~2.021-04.~~ COMPOSITION OF THE COMMISSION. ~~(C113)~~

The Commission shall consist of thirteen members, each of whom shall be a qualified elector residing within his or her district for at least six months and within the County for at least three years before qualifying and who shall be elected by the qualified electors of his or her district.

~~The Commission shall consist of nine members elected as follows:~~

~~From each of the eight districts there shall be elected by the qualified electors of the county at large a County Commissioner who shall be a qualified elector residing within the district at least six months and within the county at least three years before qualifying. Commencing with the election of Mayor in 1996, the Commission shall consist of eight members.~~

~~Beginning with the state primary elections in 1968, the Mayor and each Commissioner shall be elected for a term of four years.~~

~~Note: The Commission consists of thirteen members elected from districts. Meek v. Metropolitan Dade County, 908 F.2d 1540 (11th Cir. 1990), opinion after remand, 985 F.2d 1471 (11th Cir. 1993).~~

SECTION 2.031-05. FORFEITURE OF OFFICE.

A. Any member of the Board of County Commissioners who ceases to be a qualified voter of the county or removes ~~him~~himself or ~~herself~~herself 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 or her office. Any Commissioner except the Mayor who ceases to reside in the district which he represents shall also immediately forfeit his or her office.

B. Any elected or appointed county official who holds any other elective office, whether federal, state or municipal, shall forfeit his or her 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. 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.

SECTION 2.041-06. SALARY.

Each County Commissioner shall receive a salary of \$6,000 per year payable monthly and shall be entitled to be reimbursed for such reasonable and necessary expenses as may be approved by the Board.

SECTION 2.051-07. VACANCIES.

Any vacancy in the office of Mayor or the other members of the Board shall be filled by majority vote of the remaining members of the Board within 30 days, or the Board shall call an election to be held not more than 45 days thereafter to fill the vacancy. The person chosen to fill the office vacated must at the time of appointment meet the residence requirements for the office to which such person is appointed. A person appointed shall serve only until the next county-wide election. A person elected shall serve for the remainder of the unexpired term of office. If a majority of the members of the Board should become appointed rather than elected to office, then the Board shall call an election to be held not more than 45 days thereafter to permit the registered electors to elect commissioners to succeed the appointed commissioners; appointed commissioners

may succeed themselves unless otherwise prohibited by the Charter. If a county-wide election is scheduled to be held within 180 days from the date on which the majority of the members of the Board become appointive, the Board may elect to defer the required election until the scheduled county-wide election.

SECTION ~~2.06~~ 2.08. ORGANIZATION OF THE COMMISSION.

Commencing with the election of Mayor in 1996, the Mayor shall not be a member of the Commission. The Mayor shall be the presiding officer of the Commission with the authority to designate another member of the Commission to serve as presiding officer. The Clerk of the Circuit Court or a deputy shall serve as clerk of the Commission. No action of the Commission shall be taken except by a majority vote of those present at a meeting at which a majority of the Commissioners then in office is present. All meetings shall be public.

SECTION 2.07. RESOLUTIONS AND ORDINANCES.

A. The Board shall adopt its own rules of procedure and shall decide which actions of the Board shall be by ordinance or resolution, except as otherwise provided in this Charter and except that any action of the Board which provides for raising revenue, appropriating funds, or incurring indebtedness (other than refunding indebtedness), or which provides a penalty or establishes a rule or regulation for the violation of which a penalty is imposed shall be by ordinance.

B. Every ordinance shall be introduced in writing and shall contain a brief title. The enacting clause shall be "Be it Ordained by the Board." After passage on first reading, a short summary of the ordinance shall be published in a daily newspaper of general circulation at least once together with a notice of the time when and place where it will be given a public hearing and be considered for final passage. The first such publication shall be at least one week prior to the time advertised for hearing. No ordinance shall be declared invalid by reason of any defect in publication or title if the published summary gives reasonable notice of its intent.

C. At the time and place so advertised, or at any time and place to which such public hearing may from time to time be adjourned, the ordinance shall be read by title and a public hearing shall be held. After the hearing, the Board may pass the ordinance with or without amendment.

D. The Board may adopt in whole or in part any published code by reference as an ordinance in the manner provided by law.

E. The effective date of any ordinance shall be prescribed therein, but the effective date shall not be earlier than ten days after its enactment.

F. To meet a public emergency affecting life, health, property, or public safety the Board by two-thirds vote of the members of the Board may adopt an

emergency ordinance at the meeting at which it is introduced, and may make it effective immediately, except that no such ordinance may be used to levy taxes, grant or extend a franchise, or authorize the borrowing of money. After the adoption of an emergency ordinance, the Board shall have it published in full within ten days in a daily newspaper of general circulation.

G. Each ordinance and resolution after adoption shall be given a serial number and shall be entered by the clerk in a properly indexed record kept for that purpose.

H. Within two years after adoption of this Charter the Board shall have prepared a general codification of all county ordinances and resolutions having the effect of law. The general codification thus prepared shall be adopted by the Board in a single ordinance. After adoption the Board shall have the codification printed immediately in an appropriate manner together with the Charter and such rules and regulations as the Board may direct. Additions or amendments to the code shall be prepared, adopted, and printed at least every two years.

~~SECTION 1.09. ELECTION OF MAYOR (C114).~~

~~There shall be elected by the qualified electors of the county at large a Mayor who shall be a qualified elector residing within the county at least three years before qualifying. The Mayor shall not serve as a member of the Commission.~~

~~SECTION 1.10. RESPONSIBILITIES OF THE MAYOR.~~

~~Commencing with the election of Mayor in 1996, the Mayor shall serve as head of the county government with the following specific responsibilities:~~

~~A. The Mayor shall within ten days of final adoption by the Commission, have veto authority over any legislative, quasi-judicial, zoning, master plan or land use decision of the Commission, including the budget or any particular component contained therein which was approved by the Commission; provided, however, that if any revenue item is vetoed, an expenditure item in the same or greater dollar amount must also be vetoed. The Commission may at its next regularly scheduled meeting after the veto occurs, override that veto by a two-thirds vote of the Commissioners present.~~

~~B. When one person succeeds another in the position of Mayor, the successor shall have the right to appoint the Manager, subject to the approval within 14 days of a majority of the Commissioners then in office. The Mayor shall appoint the Manager, subject to the approval within 14 days of a majority of the Commissioners then in office. The Mayor may remove the Manager subject to the Commission's conducting a hearing within 10 days of said removal and the Commission's overriding the Mayor's action by a two-thirds vote of those Commissioners then in office. Additionally, the Commission by a two-thirds vote of those Commissioners then in office shall be able to remove the Manager.~~

~~C. The Mayor shall appoint the members of all standing committees and the chairperson and vice chairperson of each committee. There shall be as many standing and special committees as deemed necessary by the Mayor.~~

~~D. The Mayor shall prepare and deliver a report on the state of the county to the people of the county between November 1 and January 31 annually. Such report shall be prepared after consultation with the Commissioners and the Manager.~~

~~E. The Mayor shall prepare and deliver a budgetary address annually to the people of the county between July 1 and September 30. Such report shall be prepared after consultation with the Manager and budget director.~~

ARTICLE - 3

MAYOR

SECTION 3.01 ELECTION OF MAYOR.

There shall be elected by the qualified electors of the county at large a Mayor who shall be a qualified elector residing within the county at least three years before qualifying. The Mayor shall not serve as a member of the Commission.

SECTION 3.02. RESPONSIBILITIES OF THE MAYOR.

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

A. The Mayor shall within ten days of final adoption by the Commission, have veto authority over any legislative, quasi-judicial, zoning, master plan or land use decision of the Commission, including the budget or any particular component contained therein which was approved by the Commission; provided, however, that if any revenue item is vetoed, an expenditure item in the same or greater dollar amount must also be vetoed. The Commission may at its next regularly scheduled meeting after the veto occurs, override that veto by a two-thirds vote of the Commissioners present.

B. When one person succeeds another in the position of Mayor, the successor shall have the right to appoint the Manager, subject to the approval within 14 days of a majority of the Commissioners then in office. The Mayor shall appoint the Manager, subject to the approval within 14 days of a majority of the Commissioners then in office. The Mayor may remove the Manager subject to the Commission's conducting a hearing within 5 days of said removal, and the Commission's overriding the Mayor's action by a two-thirds vote of those Commissioners then in office. Simultaneous with the removal of the Manager by the Mayor, the Mayor shall appoint a qualified administrative officer of the county as the interim manager. The interim manager shall assume the duties and authority of the Manager and shall serve as interim manager until such time as

the Mayor's removal of the Manager is overridden by the Commission or a new Manager is appointed by the Mayor. Additionally, the Commission by a two-thirds vote of those Commissioners then in office shall be able to remove the Manager.

C. The Mayor shall appoint the members of all standing committees and the chairperson and vice-chairperson of each committee. There shall be as many standing and special committees as deemed necessary by the Mayor.

D. The Mayor shall prepare and deliver a report on the state of the county to the people of the county between November 1 and January 31 annually. Such report shall be prepared after consultation with the Commissioners and the Manager.

E. The Mayor shall prepare and deliver a budgetary address annually to the people of the county between July 1 and September 30. Such report shall be prepared after consultation with the Manager and budget director.

ARTICLE - 24

ELECTIONS

SECTION 24.01. ELECTION AND COMMENCEMENT OF TERMS OF COUNTY COMMISSIONERS.

A. Unless otherwise provided in the Charter, beginning in 1976, the election of the Mayor and the County Commissioners from four County Commission districts to be selected by voluntary arrangement or by lot prior to June 1, 1976 shall be held at the time of the state primary elections in 1976 and every four years thereafter at the same time. The County Commissioners from the other four County Commission districts shall also be elected in 1976 in the same manner, but only for two year terms; the election of County Commissioners from these four County Commission districts will be held again in 1978 and every four years thereafter at the time of the state primary elections.

Note: The election of the Commissioners from even-numbered districts shall be held in 1994 and every four years thereafter and the election of Commissioners from odd-numbered districts shall be held in 1996 and every four years thereafter. Meek v. Metropolitan Dade County, 908 F.2d 1540 (11th Cir. 1990), opinion after remand, 985 F.2d 1471 (11th Cir. 1993).

B. A candidate must receive a majority of the votes cast to be elected. If no candidate receives a majority of the votes cast there will be a runoff election at the time of the state second primary election between the two candidates receiving the highest number of votes. Should a tie result, the outcome shall be determined by lot.

C. Except as otherwise provided in this Charter, the terms of office of the Mayor and the other County Commissioners shall commence on the second Tuesday next succeeding the date provided for the state second primary elections.

D. Notwithstanding any other provision of this Charter, effective with the term of Mayor scheduled to commence in October, 1996, no person shall be elected as Mayor for more than two consecutive four-year terms. Neither service as Mayor or County Commissioner prior to the terms scheduled to commence in October, 1996, nor service of a partial term subsequent to October, 1996, shall be considered in applying the term limitation provisions of this section.

SECTION 24.02. RESERVED

SECTION 24.03. NONPARTISAN ELECTIONS.

All elections for Mayor and the other members of the Board shall be nonpartisan and no ballot shall show the party designation of any candidate. No candidate shall be required to pay any party assessment or state the party of which he is a member or the manner in which he voted or will vote in any election.

SECTION 24.04. QUALIFICATIONS AND FILING FEE.

All candidates for the office of Mayor or County Commissioner shall qualify with the Clerk of the Circuit Court no earlier than the 63rd day and no later than noon on the 49th day prior to the date of the election at which he is a candidate in the method provided by law or ordinance, and shall pay a filing fee of \$300. All filing fees shall be paid into the general funds of the county.

SECTION 24.05. RESERVED.

SECTION 24.06. ADDITIONAL REGULATIONS AND STATE LAWS.

A. The Board may adopt by ordinance any additional regulations governing elections not inconsistent with this Charter.

B. Except as otherwise provided by this Charter or by ordinance adopted hereunder the provisions of the election laws of this state shall apply to elections held under this Charter.

SECTION 24.07. CANVASSING ELECTIONS.

All elections under this Charter shall be canvassed by the County Canvassing Board as provided under the election laws of this state.

ARTICLE -35

THE COUNTY MANAGER

SECTION 35.01. FUNCTIONS.

~~Commencing with the election of Mayor in 1996, the~~ The Manager shall be the head of the administrative branch of the county government. The Commission shall fix the Manager's compensation, and the Manager shall serve as provided in Section ~~1-10~~ 3.02.

SECTION 35.02. QUALIFICATIONS.

~~Commencing with the election of Mayor in 1996, the~~ The Manager shall be chosen on the basis of the Manager's executive and administrative qualifications. At the time of the Manager's appointment the Manager need not be a resident of the state. Neither the Mayor nor any Commissioner shall be eligible for the position of Manager during or within two years after the expiration of their respective terms.

SECTION 35.03. ABSENCE OF MANAGER.

~~Commencing with the election of Mayor in 1996, the~~ The Manager shall be chosen on the basis of the Manager's executive and administrative qualifications. At the time of the Manager's appointment the Manager need not be a resident of the state. Neither the Mayor nor any Commissioner shall be eligible for the position of Manager during or within two years after the expiration of their respective terms.

~~Commencing with the election of Mayor in 1996, the~~ The Mayor, subject to the approval of the Commission, may designate a qualified administrative officer of the county to assume the duties and authority of the Manager during periods of temporary absence or disability of the Manager.

SECTION 35.04. POWERS AND DUTIES.

A. Commencing with the election of Mayor in 1996, the Manager shall be responsible for the administration of all units of the county government under the Manager's jurisdiction, and for carrying out policies adopted by the Commission. The Manager, or such other persons as may be designated by resolution of the Commission, shall execute contracts and other instruments, sign bonds and other evidences of indebtedness, and accept process.

B. ~~Unless otherwise provided for by civil service rules and regulations, the Manager shall have the power to appoint and suspend all county administrative department heads of the major departments of the county, to-wit: Tax Collector, Tax Assessor, Department of Public Works, Department of Public Safety, Building and Zoning Department, Planning Department, Finance Department, Park and Recreation~~

~~Department and Internal Auditing Department, except that before~~ [CJ17] Before any appointment shall become effective, the said appointment must be approved by the County Commission and if the same is disapproved the said appointment shall be void. In the event such appointment shall be disapproved by the County Commission the appointment shall forthwith become null and void and thereupon the County Manager shall make a new appointment or appointments, each of which shall likewise be submitted for approval by the County Commission. However, the right to suspend, remove or discharge any department head with or without cause, is reserved at all times to the County Manager.

SECTION 35.05. RESTRICTION ON COMMISSION MEMBERS.

Neither the Mayor nor any Commissioner shall direct or request the appointment of any person to, or his or her removal from, office by the Manager or any of the Manager's subordinates, or take part in the appointment or removal of officers and employees in the administrative services of the county. Except for the purpose of inquiry, as provided in Section 1.01A(20), the Mayor and Commissioners shall deal with the administrative service solely through the Manager and neither the Mayor nor any Commissioner shall give orders to any subordinates of the Manager, either publicly or privately. Any willful violation of the provisions of this Section by the Mayor or any Commissioner shall be grounds for his or her removal from office by an action brought in the Circuit Court by the State Attorney of this county.

ARTICLE - 46

ADMINISTRATIVE ORGANIZATION AND PROCEDURE

SECTION 46.01. DEPARTMENTS.

There shall be a departments of finance, personnel, planning, law, and such other departments as may be established by administrative order of the Manager ordinance of the County Commission. All functions not otherwise specifically assigned to others by this Charter shall be performed under the supervision of the Manager.

SECTION 46.02. ADMINISTRATIVE PROCEDURE.

The Manager shall have the power to issue and place into effect administrative orders, rules, and regulations. The organization and operating procedure of departments shall be set forth in administrative regulations which the Manager shall develop, place into effect by administrative orders, and submit to the Board. The Board may, by resolution, modify such orders, rules or regulations providing, however, no such orders, rules or regulations creating, merging, or combining departments, shall become effective until approved by resolution of the Board.

SECTION 46.03. FINANCIAL ADMINISTRATION.

A. The department of finance shall be headed by a finance director appointed by the Manager. The finance director shall have charge of the financial affairs of the county.

B. On or before the date established by law, the Manager shall recommend to the Board a proposed budget presenting a complete financial plan, including capital and operating budgets, for the ensuing fiscal year. A summary of the budget shall be published and the Board shall hold hearings on and adopt a budget.

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 Manager, 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.

E. Any county official or employee of the county who has a special financial interest, direct or indirect, in any action by the Board shall make known that interest and shall refrain from voting upon or otherwise participating in such transaction. Willful violation of this Section shall constitute malfeasance in office, shall effect forfeiture of office or position, and render the transaction voidable by the Board.

F. Such officers and employees of the county as the Board may designate shall give bond in the amount and with the surety prescribed by the Board. The bond premiums shall be paid by the county.

G. ~~At the end of each fiscal year the Board shall provide for an audit by an independent certified public accountant designated by the Board of the accounts and finances of the county for the fiscal year just completed.~~ At the end of each fiscal year, the County shall require an audit to be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. A summary of

the results, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy.

H. The Budget Commission created by Chapter 21874, Laws of Florida, 1943, is hereby abolished, and Chapter 21874 shall no longer be of any effect.

SECTION 46.04. ASSESSMENT AND COLLECTION OF TAXES.

A. Beginning with the tax year 1961, the county tax rolls prepared by the county shall be the only legal tax rolls in this county for the assessment and collection of county and municipal taxes. Thereafter no municipality shall have an assessor or prepare an ad valorem tax roll. Each municipality shall continue to have the right to adopt its own budget, fix its own millage, and levy its own taxes. Each municipality shall certify its levies to the County Manager not later than 30 days after the county tax rolls have been finally approved by the Board. Any municipality may obtain a copy of this tax roll upon payment of the cost of preparing such a copy, and copies of the tax rolls shall be available for public inspection at reasonable times. Maps showing the assessed valuation of each parcel of property may be prepared and made available for sale to the public at a reasonable price.

B. All county and municipal taxes for the tax year beginning January 1, 1961, and all subsequent tax years, shall be collected by the county on one bill prepared and sent out by the county. The amounts of county and municipal taxes shall be shown as separate items, and may be paid separately.

C. Delinquent municipal taxes shall be collected in the same manner as delinquent county taxes.

D. All the tax revenues collected for any municipality shall be returned monthly by the county to the municipality.

SECTION 46.05. DEPARTMENT OF COUNTY PERSONNEL.^[CJ18]

A. The Board of County Commissioners shall establish and maintain personnel and civil service, retirement, and group insurance programs. The personnel system of the county shall be based on merit principles in order to foster effective career service in county employment and to employ those persons best qualified for county services which they are to perform.

~~B. The County Manager shall appoint a personnel director who shall head the department of personnel and whose duty it shall be to administer the personnel and civil service programs and the rules governing them.~~ The standards of such programs shall not be less than those prevailing at the time of the effective date of this Charter.

~~C. Except as provided herein, Chapter 30255, General Laws, 1955, as it exists on the effective date of this Charter, shall remain in effect until amended or changed by ordinance of the Board of County Commissioners adopted by two-thirds vote of the members present after recommendation from either the Personnel Advisory Board or the County Manager. [C]19]~~

DB. Employees of municipalities who, by merger, transfer, or assignment of governmental units or functions become county employees, shall not lose the civil service rights or privileges which have accrued to them during their period of employment with such municipality, and the county shall use its best efforts to employ these employees within the limits of their capabilities. However, if because of the merger of a department or division of a municipality with the county, all of the employees of such department or division are unable to be employed by the county either because of lack of funds or lack of work, the employee possessing the greater amount of service shall be retained in accordance with civil service rules and regulations. Those employees who are not retained shall be placed on a priority list for employment by the county subject to seniority. Any non-retained employee shall have the option, if a vacancy occurs or exists in another department, and if he or she is qualified to render the service required, to either accept such employment or remain on the priority list until such time as employment shall be available for ~~him~~ in the non-retained employee in his or her own or similar classification.

EC. The pension plan presently provided by the state for county employees shall not be impaired by the Board. Employees of municipalities, who by merger, transfer, or assignment of governmental units or functions become county employees shall not lose their pension rights, or any reserves accrued to their benefit during their period of employment with such municipality. The Board of County Commissioners shall provide a method by which these employees' rights and reserves shall be protected, and these employees shall continue until retirement, dismissal, or death in a pension status no less beneficial than the status held by them at the time of merger or assignment.

FD. The Board of County Commissioners shall provide and place into effect a practical group insurance plan for all county employees.

SECTION 46.06. DEPARTMENT OF LAW.

There shall be a county attorney appointed by the Board of County Commissioners who shall serve at the will of the Board and who shall head the department of law. He or she shall devote his or her full time to the service of the county and shall serve as legal counsel to the Board, Manager, and all county departments, offices, and agencies, and perform such other legal duties as may be assigned to ~~him~~ him or her. With the approval of the Board, he or she may appoint such assistants as may be necessary in order that his or her duties may be performed properly. The Board may employ special counsel for specific needs.

SECTION 46.07. DEPARTMENT OF COUNTY PLANNING. [C]20]

~~The department of planning shall be headed by a planning director appointed by the County Manager. The planning director shall be qualified in the field of planning by special training and experience. Under the supervision of the Manager and with the advice of the Planning Advisory Board elsewhere provided for in this Charter, the planning director shall among other things:~~

The County shall carry out the following planning functions:

1. Conduct studies of county population, land use, facilities, resources, and needs and other factors which influence the county's development, and on the basis of such studies prepare such official and other maps and reports as, taken together, constitute a master plan for the welfare, recreational, economic, and physical development of the county.
2. Prepare ~~proposed for review by the Planning Advisory Board, and for adoption by the Board of County Commissioners,~~ zoning, subdivision and related regulations for the unincorporated areas of the county and minimum standards governing zoning, subdivision, and related regulations for the municipalities; and prepare recommendations to effectuate the master plan and to coordinate the county's proposed capital improvements with the master plan.
3. Review the municipal systems of planning, zoning, subdivision, and related regulations and make recommendations thereon with a view of coordinating such municipal systems with one another and with those of the county.

SECTION 46.08. **BOARDS** [C21]

A. The Board of County Commissioners shall ~~may~~ by ordinance create a Planning Advisory Board, a Zoning Appeals Board, and such other boards as it may deem necessary, prescribing in each case the number, manner of appointment, length of term, and advisory or quasi-judicial duties of members of such boards, who shall serve without compensation but who may be reimbursed for necessary expenses incurred in official duties, as may be determined and approved by the Board of County Commissioners.

~~B. The Board of County Commissioners may by ordinance provide for the expansion of the City of Miami Water and Sewer Board to an agency county-wide in scope and authority, with the power to acquire, construct and operate water and sewer systems within the incorporated and the unincorporated areas of Dade County, which agency shall be known as the Miami Dade Water and Sewer Authority. The Miami Dade Water and Sewer Authority shall have the responsibility to develop and operate a county-wide water and sewer system for the purpose of providing potable water, sewage~~

~~collection and disposal and water pollution abatement to the citizens of Dade County (C22).~~

~~C. Dade County shall retain all its powers, including but not limited to that of eminent domain, in relation to the creation of a county-wide water and sewer system, for the purpose of cooperating with the Miami Dade Water and Sewer Authority.~~

Section 6.09. Regional Offices.

Regional offices of the County's administrative services shall be maintained at locations in the County for the convenience of the residents.

ARTICLE - 57

MUNICIPALITIES

SECTION 57.01. CONTINUANCE OF MUNICIPALITIES.

The municipalities in the county shall remain in existence so long as their electors desire. No municipality in the county shall be abolished without approval of a majority of its electors voting in an election called for that purpose. The right of self determination in local affairs is reserved and preserved to the municipalities except as otherwise provided in this Charter.

SECTION 57.02. MUNICIPAL POWERS.

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

SECTION 57.03. MUNICIPAL CHARTERS.

A. Except as provided in Section 75.04, 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 57.04. 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 57.05. CREATION OF NEW MUNICIPALITIES.

The Board of County Commissioners and only the Board may authorize the creation of new municipalities in the unincorporated areas of the county after hearing the recommendations of the Planning Advisory Board, after a public hearing, and after an affirmative vote of a majority of the electors voting and residing within the proposed boundaries. The Board of County Commissioners shall appoint a charter commission, consisting of five electors residing within the proposed boundaries, who shall propose a charter to be submitted to the electors in the manner provided in Section ~~7.035-03~~. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by this Charter and the Constitution and general laws of the State of Florida. Notwithstanding any provision of this Charter to the contrary, with regard to any municipality created after September 1, 2000, the pre-agreed conditions between the County and the prospective municipality which are included in the municipal charter can only be changed if approved by an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors.

SECTION 57.06. CONTRACTS WITH OTHER UNITS OF GOVERNMENT.

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

SECTION 57.07. FRANCHISE AND UTILITY TAXES.

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

SECTION 7.08. ANNUAL AUDITS.

At the end of each fiscal year, each municipality shall require an audit to be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. A summary of the results, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy.

ARTICLE - 68

**PARKS, AQUATIC PRESERVES, AND
PRESERVATION LANDS**

Note: This Article does not apply to municipal property in Coral Gables, Hialeah, Hialeah Gardens, Miami, Sweetwater and West Miami. See Section 68.04.

SECTION 68.01. POLICY.

Parks, aquatic preserves, and lands acquired by the County for preservation shall be held in trust for the education, pleasure, and recreation of the public and they shall be used and maintained in a manner which will leave them unimpaired for the enjoyment of future generations as a part of the public's irreplaceable heritage. They shall be protected from commercial development and exploitation and their natural landscape, flora and fauna, and scenic beauties shall be preserved. In lands acquired by the County for preservation and in parks along the Ocean or the Bay the public's access to and view of the water shall not be obstructed or impaired by buildings or other structures or concessions which are in excess of 1500 square feet each. Adequate maintenance shall be provided.

SECTION 68.02. RESTRICTIONS AND EXCEPTIONS.

In furtherance of this policy parks shall be used for public park purposes only, and subject to the limited exceptions set forth in this Article, there shall be no permanent structures or private commercial advertising erected in a public park or private

commercial use of a public park or renewals, expansions, or extensions of existing leases, licenses, or concessions to private parties of public park property, unless each such structure, lease, license, renewal, expansion, extension, concession or use shall be approved by a majority vote of the voters in a County-wide referendum. Nothing in this Article shall prevent any contract with federally tax-exempt not-for-profit youth, adult, and senior cultural, conservation and parks and recreation program providers. To ensure aquatic preserves, lands acquired by the County for preservation, and public parks or parts thereof which are nature preserves, beaches, natural forest areas, historic or archeological areas, or otherwise possess unique natural values in their present state, such as Matheson Hammock, Greynolds Park, Redlands Fruit and Spice Park, Castellow Hammock, Crandon Park, Trail Glades Park, Deering Estate Park, Pine Shore Park, Old Cutler Hammock, Chapman Field, Tamiami Pinelands, Wainright Park, Larry and Penny Thompson Park, Whispering Pines Hammock, Mangrove Preserve, Owaissa Bauer Park, Fuchs Hammock, Black Point Marina, Simpson Park, Sewell Park, Barnes Park, Virginia Key, mangrove preserves, and all other natural or historical resource based parks do not lose their natural or historical values, any structure, lease, license, renewal, extension, concession or use in any of this class of public parks or in aquatic preserves and preservation lands must be approved by an affirmative vote of two-thirds of the voters in a County-wide referendum. No park shall be designed to be used beyond its appropriate carrying capacity and to the extent required by law all parks and facilities and permitted special events and concessions operating in the parks shall be fully accessible to persons with disabilities. Nothing in this Article shall prevent the maintenance of existing facilities, the maintenance, operation, and renovation of existing golf course and marina restaurants at their existing square footage by government agencies or private operators, provided such private operators are chosen as a result of competitive selection and their initial contract terms are limited to no more than ten years, or the construction, operation, maintenance, and repair by government agencies or private operators of or issuance of temporary permits for:

- A. Appropriate access roads, bridges, fences, lighting, flag poles, entrance features, picnic shelters, tables, grills, benches, irrigation systems, walls, erosion control devices, utilities, trash removal, parking and security and fire facilities for the primary use of the park system;
- B. Food and concession facilities each not in excess of 1500 square feet of enclosed space, with any complementary outdoor or covered areas needed to service park patrons;
- C. User-participation non-spectator recreation and, playground facilities, golf courses and golf-course related facilities, and bandstands and bandshells containing less than 1,000 spectator seats and athletic facilities, sports fields and arenas containing less than 3,000 spectator seats;
- D. Facilities for marinas, sightseeing and fishing boats, visiting military vessels, and fishing;

- E. Park signage and appropriate plaques and monuments;
- F. Rest rooms;
- G. Fountains, gardens, and works of art;
- H. Park service facilities, senior, day care and pre-school facilities, small nature centers with not more than one classroom;
- I. Film permits, temporary fairs, art exhibits, performing arts, concerts, cultural and historic exhibitions, regattas, athletic contests and tournaments, none of which require the erection of permanent structures;
- J. Advertising in connection with sponsorship of events or facilities in the park, provided however all such facilities and uses are compatible with the particular park and are scheduled so that such events do not unreasonably impair the public use of the park or damage the park.
- K. Programming partnerships with qualified federally tax exempt not-for-profit youth, adult, and senior cultural, conservation, and parks and recreation program providers;
- L. Agreements with cable, internet, telephone, electric or similar service providers or utilities, so long as any installations are underground or do not adversely impact natural resources, or parks facilities and uses.

No park facilities, golf courses, or County lands acquired for preservation shall be converted to or used for non-park offices, purposes, or uses. The County, the municipalities, and agencies or groups receiving any public funding shall not expend any public money or provide any publicly funded services in kind to any project which does not comply with this Article. No building permit or certificate of occupancy shall be issued for any structure in violation of this Article. The restrictions applying to parks in this Article shall not apply to the Dade County Youth Fair site, Metro Zoo, Tamiami Stadium, Haulover Fishing Pier, the Dade County Auditorium, the Museum of Science, the Gold Coast Railroad Museum, Vizcaya Museum and Gardens, Trail Glade Range, the Orange Bowl, the Commodore Ralph Munroe Marine Stadium, the Seaquarium, Curtis Park track and stadium, Fairchild Tropical Gardens, and mini and neighborhood parks except that no mini or neighborhood park may be leased or disposed of unless a majority of the residents residing in voting precincts any part of which is within 1 mile of the park authorize such sale or lease by majority vote in an election.

SECTION 68.03. ENFORCEMENT AND CONSTRUCTION.

All elections required by this Article shall be held either in conjunction with state primary or general elections or as part of bond issue elections. The provisions of this

Article may be enforced in the same manner as provided in Section (C) of the Citizens' Bill of Rights of this Charter. The provisions of this Article shall be liberally construed in favor of the preservation of all park lands, aquatic preserves, and preservation lands. If any provision of this Article shall be declared invalid it shall not affect the validity of the remaining provisions of this Article. This Article shall not be construed to illegally impair any previously existing valid written contractual commitments or bids or bonded indebtedness.

SECTION 68.04. JURISDICTION.

Except as otherwise provided herein the provisions of this Article shall apply to all County and municipal parks, aquatic preserves, and lands acquired by the County for preservation now in existence or hereafter acquired, provided that if this Article was not favorably voted upon by a majority of the voters voting in any municipality at the time of the adoption of this Article the municipal parks of such municipality shall be excluded from the provisions of this Article.

ARTICLE 79

INITIATIVE, REFERENDUM, AND RECALL

SECTION 79.01. INITIATIVE AND REFERENDUM.

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

1. ~~The person proposing the exercise of this power shall submit the proposal to the Clerk of the Board who shall submit the proposal to the Board. The Board which shall without delay approve as to form a petition for circulation in one or several copies as the proposer may desire.~~
2. The person or persons circulating the petition shall, within 60 days of the approval of the form of the petition, obtain the valid signatures of voters in the county in numbers at least equal to four percent of the registered voters in the county on the day on which the petition is approved, according to the official records of the County Supervisor of Elections. In determining the sufficiency of the petition, no more than 25 percent of the valid signatures required shall come from voters registered in any single county commission district. Each signer of a petition shall place thereon, after his or her name, the date, and his or her place of residence or precinct number. Each person circulating a copy of the petition shall attach to it a sworn affidavit stating the number of signers and the fact that each signature was made in the presence of the circulator of the petition.

3. The signed petition shall be filed with the Clerk of the Board who shall submit the petition to the Board. ~~The Board which shall~~ within 30 days of submission of the petition to the Clerk of the Board order a canvass of the signatures thereon to determine the sufficiency of the signatures. If the number of signatures is insufficient or the petition is deficient as to form or compliance with this Section, the Board shall notify the person filing the petition that the petition is insufficient and has failed.

4. The Board shall within 30 days after the date a sufficient petition is presented either:

(a) Adopt the ordinance as submitted in an initiatory petition or repeal the ordinance referred to by a referendary petition, or

(b) Submit the proposal to the electors in impartial and concise language and in such manner as provides a clear understanding of the proposal.

5. If the Board determines to submit the proposal to the electors, the election shall be held either:

(a) In the next scheduled county-wide election, or

(b) If the petition contains the valid signatures in the county in numbers at least equal to eight percent of the registered voters in the county, the election shall take place within 120 days after the date the petition is presented to the Board, preferably in an election already scheduled for other purposes, otherwise in a special election. The result shall be determined by a majority vote of the electors voting on the proposal.

6. An ordinance proposed by initiatory petition or the repeal of an ordinance by referendary petition shall be effective on the day after the election, except that:

(a) Any reduction or elimination of existing revenue or any increase in expenditures not provided for by the current budget or by existing bond issues shall not take effect until the beginning of the next succeeding fiscal year; and

(b) Rights accumulated under an ordinance between the time a certified referendary petition against the ordinance is presented to the Board and the repeal of the ordinance by the voters, shall not be enforced against the county; and

(c) Should two or more ordinances adopted at the same election have conflicting provisions, the one receiving the highest number of votes shall prevail as to those provisions.

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

SECTION 79.02. RECALL.

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

1. The Clerk of the Circuit Court shall approve the form of the petition.
2. The person or persons circulating the petition must obtain signatures of electors of the county, district, or municipality concerned in numbers at least equal to four percent of the registered voters in the county district or municipality on the day on which the petition is approved, according to the official records of the County Supervisor of Elections.
3. The signed petition shall be filed with and canvassed and certified by the Clerk of the Circuit Court.
4. The Board of County Commissioners must provide for a recall election not less than 45 nor more than 90 days after the certification of the petition.
5. The question of recall shall be placed on the ballot in a manner that will give the elector a clear choice for or against the recall. The result shall be determined by a majority vote of the electors voting on the question.
6. If the majority is against recall the officer shall continue in office under the terms of his or her previous election. If the majority is for recall he or she shall, regardless of any defect in the recall petition, be deemed removed from office immediately.
7. No recall petition against such an officer shall be certified within one year after he or she takes office nor within one year after a recall petition against ~~him~~ him or her is defeated.

8. Any vacancy created by recall in the offices of Sheriff or Constables shall be filled for the remaining term by appointment by the Board of County Commissioners, or the Board may require the office to be filled at the next regular election or at a special election called for that purpose.

ARTICLE - 10

GENERAL PROVISIONS

ARTICLE - 8

GENERAL PROVISIONS

SECTION 8.01. ABOLITION OF CERTAIN OFFICES
AND TRANSFER OF FUNCTIONS. [CJ23]

A. On May 1, 1958, the following offices are hereby abolished and the powers and functions of such offices are hereby transferred to the County Manager who shall provide for the continuation of all the duties and functions of these offices required under the Constitution and general laws of this state: County Assessor of Taxes, County Tax Collector, County Surveyor, County Purchasing Agent, and County Supervisor of Registration.

B. The County Manager may delegate to suitable persons the powers and functions of such officers, provided however that until the term of office for which they were elected shall terminate the County Assessor of Taxes, the County Tax Collector, the County Supervisor of Registration, and the County Purchasing Agent shall each if he so desires remain in his position and receive the same salary as presently provided for by statute.

C. In the event that other elective officers are abolished by the Board, the Board shall provide that any person duly elected to such office shall if he so desires remain in the same or similar position and receive the same salary for the remainder of the term for which he was elected, and shall provide for the continuation of all duties and functions of these offices required under the Constitution and general laws.

D. On November 9, 1966, the Office of Sheriff is hereby abolished and the powers and functions of such office are hereby transferred to the County Manager, who shall provide for the continuation of all the duties and functions of this office required under the Constitution and general laws of this state. The County Manager may delegate to a suitable person or persons the powers and functions of such officer. Section 1.01A(19)(a) of this Charter is amended by deleting the word "Sheriff" and subsections (b) and (c) are repealed.

SECTION 8.02. RESERVED.

~~SECTION 8.03. TORT LIABILITY. [C126]~~

~~The county shall be liable in actions of tort to the same extent that municipalities in the State of Florida are liable in actions in tort. However, no suit shall be maintained against the county for damages to persons or property or for wrongful death arising out of any tort unless written notice of claim shall first have been given to the county in the manner and within the time provided by ordinance, except that the time fixed by ordinance for notice shall be not less than 30 days nor more than 120 days.~~

~~Note: Waiver of County's tort immunity held unconstitutional in Kaulakis v. Boyd, Fla. 1962, 138 So.2d 505.~~

~~SECTION 8.04. SUPREMACY CLAUSE.~~

~~A. This Charter and the ordinances adopted hereunder shall in cases of conflict supersede all municipal charters and ordinances, except as herein provided, and where authorized by the Constitution, shall in cases of conflict supersede all special and general laws of the state.~~

~~B. All other special and general laws and county ordinances and rules and regulations not inconsistent with this Charter shall continue in effect until they are superseded by ordinance adopted by the Board pursuant to this Charter and the Constitution.~~

Section ~~10.018.06~~ EXISTING FRANCHISES, CONTRACTS AND LICENSES.
[C127].

All lawful franchises, contracts, and licenses in force on the effective date of this Charter shall continue in effect until terminated or modified in accordance with their terms or in the manner provided by law or this Charter.

Section ~~10.028.07~~ CONSTRUCTION OF THE CHARTER [C128]

A. This Charter shall be liberally construed in aid of its declared purpose, which is to establish effective home rule government in this county responsive to the people. If any Article, Section, subsection, sentence, clause, or provision of this Charter or the application thereof shall be held invalid for any reason, the remainder of the Charter and of any ordinances or regulations made thereunder shall remain in full force and effect.

B. Nothing in this Charter shall be construed to limit or restrict the power and jurisdiction of the Florida Railroad and Public Utilities Commission.

ARTICLE - 11

AMENDMENTS AND REVISIONS.

SECTION 8-0711.01. AMENDMENTS.

A. Amendments to this Charter may be proposed by a resolution adopted by the Board of County Commissioners or by petition of electors numbering not less than ten percent of the total number of electors registered in Dade County at the time the petition is submitted to the Board. Initiatory petitions shall be certified in the manner required for initiatory petitions for an ordinance.

B. Amendments to this Charter may be proposed by initiatory petitions of electors biennially, only during even numbered years in which state primary and general elections are held. All elections on charter amendments proposed by initiatory petitions shall be held in conjunction with state primary or general elections, unless the Board of County Commissioners shall determine to call a special election by two-thirds vote of the entire membership.

C. Amendments to this Charter may be proposed by the Board of County Commissioners at any time. Elections on charter amendments proposed by the Board shall be held not less than 60 nor more than 120 days after the Board adopts a resolution proposing any amendment.

D. The result of all elections on charter amendments shall be determined by a majority of the electors voting on the proposed amendment.

E. Any amendment to this Charter shall become effective 60 days after ratification by a majority of the qualified electors of the county voting on such amendment or such date as is specified in the proposed amendment.

SECTION 8-0811.02. REVISIONS.

At least once in every 5 year period the Board shall review the Charter and determine whether or not there is a need for revision. If the Board determines that a revision is needed, it shall establish a procedure for the preparation of a proposed revision of the Charter. The proposed revision shall then be presented to the Board for review, modification and approval. If the Board approves such proposed revision, either with or without modification, it shall present such proposed revision to the electorate in accordance with the provisions of Section 8-0711.01 (C) and (D). Simultaneous elections may be held on a proposed revision and on individual amendments that are proposed. Any revision to this Charter shall become effective 60 days after ratification by a majority of the qualified electors of the county voting on such revision or such date as is specified in the proposed revision.

SECTION 8.09. ~~EFFECTIVE DATE.~~

~~— This Charter shall become effective 60 days after it is ratified by a majority of the qualified electors of the county voting on the Charter.~~

ARTICLE - 129

NAME OF COUNTY

SECTION 911.01. NAME OF COUNTY.

A. The name of ~~Dade~~ the County shall ~~officially be changed to~~ Miami-Dade County and all references to Dade County in the Florida Constitution, Florida Statutes, Code of Metropolitan Dade County, federal law, case law and other legal documents, shall be deemed to be references to Miami-Dade County.

B. ~~The Commission shall by ordinance provide a method to implement the official name change.~~

~~Note: Miami Dade County Ordinance 97-212. This ordinance is codified in Section 1-4.2 in the Code of Ordinances and is recorded in the Official Records of Miami-Dade County, Florida at Book 17968, Page 0498.~~

SIGNERS OF METROPOLITAN CHARTER

BOOK 182 PAGE 691

The Metropolitan Charter Board of Dade County, Florida, hereby delivers to E. B. Leatherman as Clerk of the Circuit Court of Dade County, Florida, the foregoing proposed Charter for Dade County, and certifies that it has been prepared by the Metropolitan Charter Board pursuant to Chapter 31420, Laws of Florida, Acts of 1956 Extraordinary Session.

_____ Charles H. Crandon	_____ William L. Pallot
_____ Maxine E. Baker	_____ Franklin Parsons
_____ George H. Cooper	_____ Kurt Peiser
_____ William Grogan	_____ W. Keith Phillips
_____ Malvina W. Leibman	_____ J. D. Ryan
_____ George S. Okell, Sr.	_____ William D. Singer
_____ Max Orovitz	_____ H. Franklin Williams
_____ Joseph J. Orr	_____ Mitchell Wolfson

Chairman

S. D. Phillips, Jr.

April 15, 1957

Comments to Charter

Page: 13

[CJ1] "Indicate government operates to make decisions based on merit and ability to perform (needs to be aspirational goal so as not to create a cause of action.)"

Page: 14

[CJ2] Gender-neutrality changes begin here and continue throughout document.

Page: 14

[CJ3] "Delete county manager and attorney reporting requirements."

Page: 15

[CJ4] "Delete the requirement that actual department expenditures for a quarter be compared to one quarter of the proposed annual expenditure set forth in the adopted budget."

Page: 15

[CJ5] "Item 13 should be relocated". See new sections 7.08 and 6.03(G).

Page: 15

[CJ6] "Rights enumerated should be generic; administrative items should be relocated in Charter or reworded entirely." Per minutes, this item was deemed administrative and relocated – See Section 6.09.

Page: 17

[CJ7] "Article 1 should be a listing of powers of County government and the Charter should include separate sections for the Board of County Commissioners and Mayor."

Page: 18

[CJ8] Juvenile welfare district was created pursuant to an election, but was never funded.

Page: 19

[CJ9] "Delete reference to constable."

Page: 21

[CJ10] "[t]he Supremacy Clause Section should be included in the first article (rights and powers)."

Page: 21

[CJ11] Relocated to Section 2.07.

Page: 22

[CJ12] Modified to reflect actual number of commission districts, in accordance with *Meek v. Metropolitan Dade County*, 908 F.2d 1540 (11th Cir. 1990), opinion after remand, 985 F.2d 1471 (11th Cir. 1993).

Page: 22

[CJ13] See comment above.

Page: 25

[CJ14] Provisions of Charter related to Mayor have been moved to Article 3.

Page: 26

[CJ15] "Deadline for Commission action following the removal of the County Manager by the Mayor should be reduced from 10 to 5 days."

Page: 27

[CJ16]“In the event the Mayor chooses to remove the County Manager, s/he should be suspended and a temporary replacement named.”

Page: 30

[CJ17]“Remove language specifying departments for which the County Manager appoints directors.”

Page: 32

[CJ18]References to county departments are deleted, because of changing departmental names and consolidation of functions over the years. Other revisions herein provide for the creation of departments by ordinance of the County Commission.

Page: 33

[CJ19]The County has adopted comprehensive civil service rules over the years rendering the reference to this 1955 Florida General Law obsolete.

Page: 33

[CJ20]Deletes specific reference to a County department. See comment 18.

Page: 34

[CJ21]“Eliminate reference to specific boards. Provide for the Board of County Commissioners to create boards by ordinance as appropriate and as the budget permits.”

Page: 34

[CJ22]“Eliminate existing section 4.08 (B) as it is not relevant.” Also, existing section 4.08(C) is eliminated for the same reason.

Page: 40

[CJ23]“Petitions should be submitted to the Clerk of the Board of County Commissioners, instead of the Board of County Commissioners.”

Page: 42

[CJ24]References to the sheriff were obsolete and eliminated.

Page: 43

[CJ25]“Remove ‘Abolition of Certain Offices and Transfer of Functions’ from Charter.”

Page: 43

[CJ26]Deleted because provisions were held unconstitutional in *Kaulakis v. Boyd*, 138 So.2d 505 (Fla. 1962).

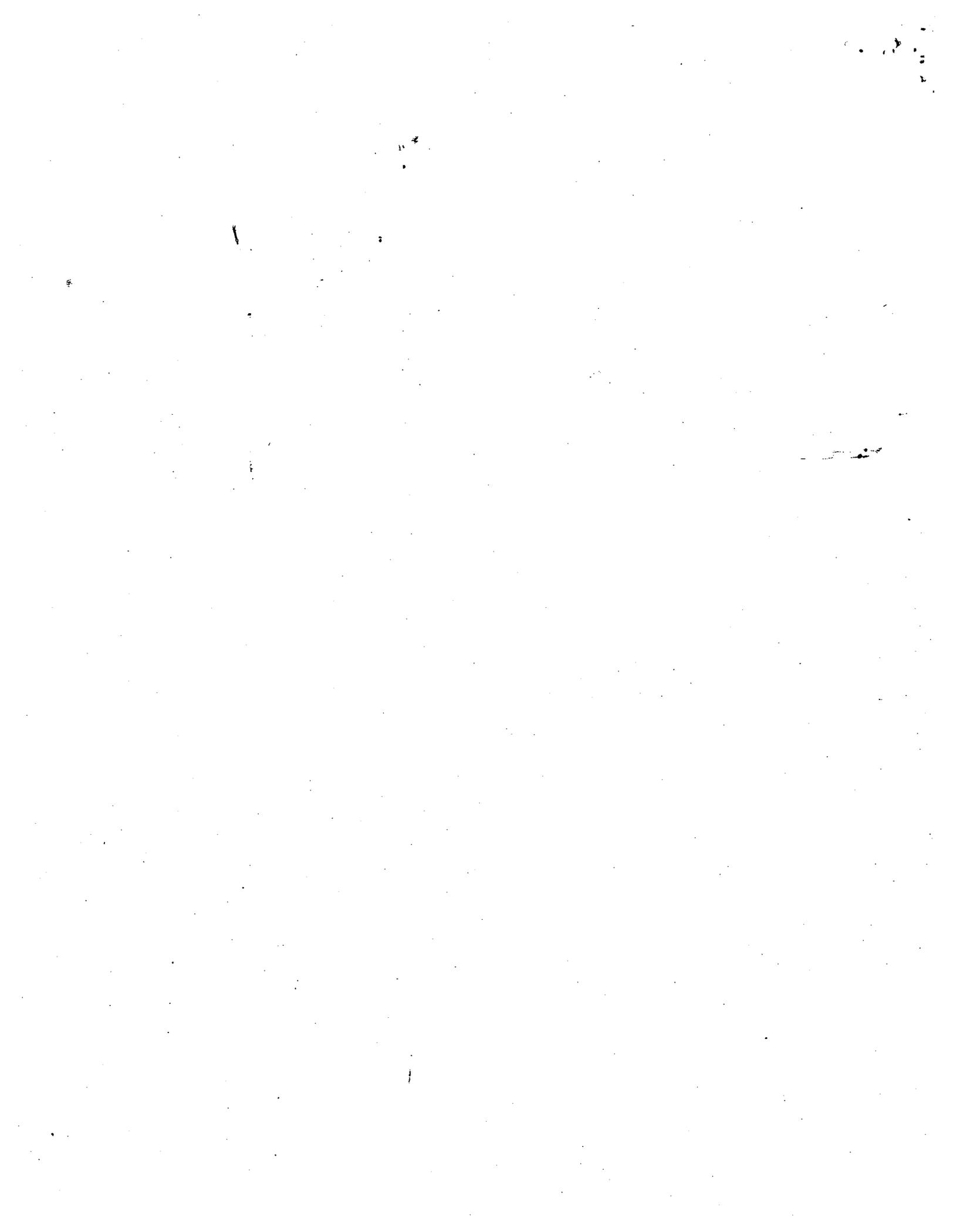
Page: 44

[CJ27]“In the event of a rewrite of the entire Charter, [current] Article 8 should deal solely with amendments and revisions. Thus, this provision was relocated.

Page: 44

[CJ28]“In the event of a rewrite of the entire Charter, [current] Article 8 should deal solely with amendments and revisions.” Thus, section re Effect of the Charter, the substance of which is contained currently in Article 8, is relocated here.

Attachment B



Charter Revision for Miami-Dade County

A Dissenting View

**Eugene E. Stearns
Member
Charter Review Task Force
June 8, 2001**

I. Overview

When the Charter Review Task Force commenced its review of the Miami Dade County Charter there was both optimism and cynicism. Optimism that people of good faith would carefully examine the existing structure of our County government with a view toward improving it. Scepticism that the result would not be any different than the product of most other County task forces and commissions – dust collecting in the archives of County government. Now, I regrettably believe the latter result to be the best outcome for our lengthy effort.

The recommendations of the Task Force, if adopted, would perpetuate serious design defects in the organization of Miami Dade County government. Because of those design defects, County government has never been able to properly fulfill its role as a regional government for all of the people of Miami Dade County. Instead, this government has focused on providing municipal regulation and municipal government in the unincorporated area – tasks it has utterly failed to competently or honestly achieve throughout its 44 year history.

The new Charter envisioned by the Task Force would preserve the existing undemocratic governance of the unincorporated area, preserve the existing imbalance in tax resources among municipal governments, preserve the existing absence of separation of powers among executive and legislative branches of government, preserve a failed system of appointed rather than elected leadership, and preserve the unusual circumstance in which appointed managers audit themselves.

The recommendations of the Task Force would submit to the voters an amendment on Commission salaries that has been rejected by the voters again and again. Although County Commission salaries are too low, continuing to submit the same rejected proposal reflects a contempt for the electorate that is, unfortunately, characteristic of the history of this government – it knows more than the people. We should present to the electorate an opportunity to increase Commission salaries but should directly include the public in the process of choosing an appropriate level of compensation.

Perhaps not surprisingly considering the manner in which the Task Force was selected, the only area of any consequence where improvements are recommended is in the organization of the Commission itself. Those changes are desirable, but stand in stark contrast to the unwillingness to address in other areas, fundamental problems.

II. Municipal Government

A. The existing condition

The existing charter provisions regarding municipal government find their origin in a pre-Charter conflict between then existing municipal governments and the proponents of a new metropolitan government. The pro-Metro advocates envisioned a future in which a large county government, with economies of scale, would, in addition to organizing a regional government for the entire County, provide municipal services in the unincorporated area at a lower cost than the same services provided by municipal governments. They envisioned a future when the citizens of the existing municipalities, paying high costs for relatively inferior services provided by their cities (as compared to the superior service expected to be offered by Metro at lower costs) would rise up and demand consolidation. Over time, it was believed, would emerge a centralized government providing both county and municipal services. For their part, the pro-city advocates believed it unlikely that their citizens would ever opt for Metro municipal services and fought to protect their independence and powers in perpetuity.

Unrepresented in this debate (which went on for many years) were those future citizens who would soon populate the vast reaches of unincorporated Dade County. These were the people who were to be served by this new municipal/unincorporated area government expected to provide high quality services at mass production costs. In the absence of voices from unincorporated area citizens, the pro-Metro, pro-city forces struck a compromise reflected in the original Charter which remains with us today – a compromise which bargained away the rights of future generations in the unincorporated area.

The essence of the compromise was the creation of a Charter that established two tiers of local government, a municipal tier and a County tier. Municipal government would be provided by cities. Regional, or County-wide government, would be provided by the County. To protect *existing* cities, the Charter guaranteed citizens of municipalities, *but only citizens of municipalities*, the right of self determination in local affairs. To build the utopian unincorporated area municipal government that was optimistically (or naively) expected to cause all others to "wither away", the Charter granted to the County the power within the unincorporated area to levy and collect municipal taxes and spend municipal dollars. It also granted to the County in all other respects the power to act as a municipal government over the land, businesses and persons within the unincorporated area.

The Charter also granted to the County the absolute power to approve the organization of any new municipalities, thereby giving County government the power to determine who, if anyone, could escape its rule.

From its inception, Dade County's Metro government has exercised its broad municipal powers in an embarrassingly inappropriate fashion. Special interest zoning

decisions, without regard to public services, infrastructure, or congestion, were the norm, causing in the unincorporated area a mindless, poorly planned, suburban sprawl with little character or community identity. Maintenance of public property within the unincorporated area has been and remains a disgrace. Basic municipal services such as local parks, were ignored. Major services, such as solid waste removal, became an opportunity for vendors and salesmen to lock the County into deals so wasteful and extravagant that no entity not *required* to use the service would do so.

The County's stewardship over unincorporated area tax revenues has been equally shameless. County leaders over the years have utilized tens of millions of unincorporated area revenue dollars to prop up County finances. The County has brazenly funded and guaranteed County-wide projects and financial obligations with unincorporated area dollars, while ignoring the basic infrastructure and service needs of the unincorporated area.

The magnitude of the theft of unincorporated area tax revenues is breathtaking considering the relatively small budget for unincorporated area government. For example, one of the unincorporated area's principal revenue sources, the 10% utility tax, was pledged by Dade County as security for a \$90 million revenue bond used to pay off existing County-wide debt, build parking garages for the Metrorail system and complete and furnish the downtown government center building – a building *County voters* overwhelmingly voted not to build. For another example, Miami Dade County arbitrarily charges unincorporated area taxpayers 35% of the operating costs of County government, notwithstanding that unincorporated area government accounts for approximately 10% of the total County budget. For another, unincorporated area taxpayers fund Metro police services, including specialized services used for free by existing municipalities.

Indeed, the manner in which funds are allocated between County and unincorporated area services is not determined by elected officials since these critical allocations are within the province of County administrative officers and employees who answer to no one. The allocations themselves are essentially invisible in County budgets and financial reports. The public is unable to discern if a County vehicle driven by a County employee is engaged in a County-wide task or a municipal task. Moreover, the allocation of that cost is routinely performed by persons who have a patent conflict of interest.

It is not difficult to understand the serious nature of the conflict. If the County were to ask the City of Coral Gables to volunteer its utility tax revenues to be pledged to support a County bond issue the answer would be plainly "no." If the County were to attempt to use Coral Gables employees for County-wide projects the attempt would be plainly refused. However, when the County dips into the resources of the unincorporated area, there is no one to say "no".

Putting it mildly, the promise of metropolitan municipal government – better service at a lower cost – has not been achieved. Whatever economies theoretically existing in

scale were more than lost through incompetence, graft and an absence of accountability to the citizens being governed.

The political structure that allowed these conditions to flourish, in retrospect, is quite obviously deficient. The leadership of County government was selected by every voter in the County. In the early days of Metro, over 80% of county residents lived in cities, largely unaffected by abuse of unincorporated area citizens. Although by the early 90's that relationship had changed to approximately 50/50 (as sprawl in the unincorporated area outstripped population growth in the largely developed existing cities), the effect of vote dilution on unincorporated area citizens continues. Citizens of municipalities, with no interest in the municipal government of the unincorporated area, elect people whose primary role is to govern the unincorporated area. The result – political power without political responsibility – has not proven to be a fertile environment for good government any more than it was when King George and the British Parliament ruled the American Colonies.

This is more than just an academic problem. The adverse effect of these circumstances on unincorporated area citizens has been substantial. Moreover, this design defect in unincorporated area government has been similarly unfortunate for County government itself. With its leadership mired in purely local decisions over the last four and one half decades, the County has totally failed to provide the level of regional government required for a metropolitan area of this magnitude. The County's administration of the airports, the seaport and WASA is simply embarrassing. Rather than regional specialized police forces funded with regional dollars, we have specialized police forces providing regional services *with unincorporated area dollars*.

The absence of political responsibility in unincorporated area government is aggravated by the enormous magnitude of the government. Meeting in the middle of the largest existing city – the City of Miami – the County Commission for decades found its greatest responsibility in regulating the suburbs. Suburban citizens, are forced to trek great distances to meetings in County buildings, and are typically confronted with political leaders in no hurry to address their issues.

The sheer length of Commission agendas made it impossible for average people to meaningfully participate in public decisions affecting their lives. So they largely did not.

In the meantime, while showing contempt for the people of the unincorporated area, the County routinely goes out of its way for the benefit of municipalities whose elected leadership is given deference in the halls of power of County government.

Not surprisingly considering these sad facts, the expected desire of those citizens of existing municipalities to "throw off the yoke" of what was expected to be their oppressive and expensive municipal governments did not happen. To the contrary, even the most heavily taxed citizens of one of the poorest managed cities facing bankruptcy not long ago voted overwhelmingly to stay within their city rather than be part of the vast

reaches of the unincorporated county. Indeed, rather than existing cities opting *in* to Metro, the overwhelming trend has been in precisely the opposite direction, with enormous pressure to opt *out* of Metro.

Despite bitter opposition from County leaders, four new cities were allowed to join the ranks of the existing municipalities: Key Biscayne, Aventura, Pinecrest and Sunny Isles Beach. Each of these cities has been, since inception, a resounding success, substantially improving the quality of local government, adding substantially to the tax base of the County as a whole, and most importantly, introducing basic democratic principles to purely local decisions. The undeniable success of these cities, however, has caused the County, anxious to pander to employee unions and retain its power over others, to find new mechanisms to resist the will of the people.

While this Task Force was conducting its meetings, the County proposed a Charter amendment to create a second class of cities. Under this provision, the County is permitted to condition new incorporations on the "agreement" of new cities to abide by "conditions of incorporation" imposed upon them by the County Commission. Those conditions could include long term financial commitments not borne by other cities and the non-terminable obligation to utilize County services. The County scheduled the referendum to consider this proposal during an election in which few voters participated (fewer voted for the amendment than are employed by County government). Although it barely passed, this onerous provision is now part of the Charter.

In order to preserve its power over the unincorporated area, the County has contended that no new cities should be created that are not "revenue neutral" unless they "agree" to pay a ransom. The demand for ransom is, on its face, outrageous. After all, the County has routinely diverted millions of dollars of unincorporated area revenues to fund County wide programs. Its complaint that its care for the financially needy requires second class citizenship for new cities, but just new cities, is simply cover for preservation of the wasteful bureaucracy of County government.

There is simply no legitimate public purpose served by imposing unique financial burdens on new cities, not borne by existing cities. If it is appropriate to impose financial burdens on wealthy cities – and it is – those financial burdens should fall on *all* wealthy cities, not just those who are now part of the unincorporated area. If it is appropriate to take funds from wealthy cities to help less fortunate cities, then the funds should benefit *all* less fortunate cities, not just those areas remaining in unincorporated Miami Dade County. And, if this kind of revenue sharing is appropriate, funds should not go to governments without adequate controls, with artificially low tax rates, which divert funds greater than the amounts proposed to be shared. In short, help should go only to those who are at least trying to help themselves.

Indeed, if there were rational standards for participation in revenue sharing programs, it would require at least an average "tax effort" (you should not help people, like the County, unwilling to help themselves), at least average overhead costs (you should not

give money to people who cannot manage their own affairs) and financial controls to make sure that the money is not just going out the back door (as Metro does with its unincorporated area dollars). Simply put, County government in its administration of unincorporated area affairs would not qualify for any rational revenue sharing program.

However, the fact that County government does not qualify today does not mean that it will not in the future. Moreover, a large number of poor cities make a maximum tax effort, carefully manage their affairs, and do not give away a large percentage of their operating funds to the wealthy. Because there is vast disparity in financial ability among the County's municipal governments, and because basic municipal services in each area of the County is important to all the people of the County, some form of revenue sharing must exist and must be permitted by the Charter.

In considering the appropriate form of revenue sharing it must be recognized that a substantial majority of the wealth of the County already resides within municipalities whose citizens enjoy "the right of self determination in local affairs". It is also quite clear that a substantial part of the poverty in the County is not in the unincorporated area but is in some of the oldest cities.

It is in this context that Charter revisions should be considered in the area of municipal government.

B. Proposed Revisions – Municipal Government

1. Municipal Revenue Sharing

A provision should be added to the Charter permitting the County Commission, by ordinance, to allocate among the County's municipalities on a basis other than the place where the tax revenue was generated up to three mills of the constitutionally permitted ten mill cap on municipal *ad valorem* taxes. Such a reallocation would require a finding by the County that it was necessary for the provision of basic municipal services in municipal governments without adequate tax sources. The County should be required to condition such revenue sharing dollars on maintenance by recipient municipalities of minimal management, financial and operating conditions and on minimal tax effort from existing revenue sources. That is, municipalities should not be allowed to do what unincorporated Miami Dade County does today, wasting tens of millions of dollars in municipal tax revenues and providing a minimal tax effort from existing revenue sources, while seeking revenue help from others.

2. Elimination of the Second Class Citizenship Amendment

The provision recently added to the Charter permitting the Commission to enforce pre-incorporation "agreements" on newly created municipalities should be removed. The

right of self determination in local affairs should not be a privilege enjoyed by only some within the County.

3. Prohibition Against the County's Misuse of Unincorporated Area Revenues

A Charter provision should be added to strengthen existing provisions in the Charter making it plainly and unequivocally illegal for the County to use any unincorporated area revenues for any purpose other than unincorporated area facilities, services or government. The County's historical misuse of unincorporated area revenues compels an even clearer statement of prohibition. For example, the Charter should specifically require that all allocations be specifically identified as such, and should include specific facts sufficient to establish a reasonable justification. Any County officer or employee who affects an allocation in violation of this provision would be subject to removal from office or employment.

4. Democratic Government for the Unincorporated Area

A Charter provision should be added giving the County no more than two years to organize a mechanism for the formation of a charter (or charters), including an elected governing body (or bodies), and executive officers for the municipal government of the unincorporated area (or all of the parts thereof except for predominately industrial/commercial areas which meet the standards for establishment of industrial/commercial quasi-cities, as described herein). In organizing such a government or governments, the elected leaders of those governments must be selected solely by citizens within the presently unincorporated area being subjected to a new government (or governments). The Charter provision should eliminate the discretion of the County to deny citizens the same right of self determination in local affairs enjoyed by existing municipalities and should preclude the County from requiring that new cities meet standards unlike those met by existing cities.

5. Right to Self Determination in Local Affairs

A Charter provision should be added, setting objective standards for incorporation, thus affording to citizens of communities within the presently unincorporated area, the right to organize municipal governments if those areas:

- include at least 5,000 people
- are contiguous
- do not intentionally exclude adjacent areas based on race, creed, ethnic origin or financial ability if the citizens of those areas desire inclusion

-would not create unincorporated enclave areas of a size too small to operate independently as incorporated municipalities

To make certain that a new unincorporated area government does not do to its citizens what has been done in the past, the right to self determination in local affairs should not be precluded in all of the unincorporated area is merged into a single municipal government.

6. Municipal government in industrial/commercial resource areas

A Charter provision should be added to permit the County, by ordinance, to establish quasi-municipal governments to levy municipal taxes and provide basic municipal services in areas designated by ordinance as industrial/commercial resource areas. In order to qualify for creation, an industrial/commercial resource area would have to be predominately industrial or commercial, contiguous, including not fewer than four square miles, with a residential population of less than 100 people and regionally significant. Governance of such areas would be provided by five member governing boards appointed by the Mayor with the advice and consent of the Commission for non terminable four year staggered terms. By ordinance, the Commission would be permitted to levy municipal taxes on such areas which would be utilized to fund, in whole or in part, revenue enhancement to municipal governments based on financial need.

III. Organization of the Executive Branch of County Government

A. The existing Charter

From the outset of its existence, the Charter has provided for a Council/Manager form of government in which the chief executive officer of the County was an appointed official. Until recently, with the creation of the office of executive mayor, the Manager was appointed by the County Commission. Now the Manager is appointed by the Mayor with the advice and consent of the County Commission. Under the current system, neither the Mayor nor the Commission is permitted to deal directly with subordinates of the Manager.

There are no formalized "checks and balances" nor is there a "separation of powers" in County government. Staff to the Commission is largely provided by the Manager. Legal advice to the Commission is generally provided by the same law office that advises County managers and agencies. Internal auditors are appointed by and answer to the County Manager.

The absence of separation of powers and checks and balances has been one of the most critical design failures of County government. A belief that appointed executives are superior to elected executives has proven erroneous. We have had the naive and indeed

undemocratic view that a system led by "professional managers" would lead to professional management. It has not.

In a small town government led by a part time Council, the town manager system is perfectly appropriate. In a multi-ethnic, multi-cultural regional government like that of Miami Dade County, appointed leadership is fundamentally undemocratic and unworkable. The United States is not run by an appointed official. The State of Florida is not run by an appointed official. Appointed officials have not brought "professionalism" to our government. The potential horrors that are offered as excuses for avoiding democracy have all been experienced during the 44 years our chief executive officer achieved office by appointment rather than election.

B. Proposed Revisions to the Charter – Executive Branch

1. Abolition of the County Manager

The position of County Manager should be abolished. In its place, the Mayor should be designated as the chief executive officer of Miami Dade County.

2. Organization of the Executive Branch into Departments

The Executive Branch of County government should be organized by ordinance into not more than 12 nor fewer than 7 departments. Each department should be headed by a director appointed by the Mayor with the advice and consent of the County Commission. After appointment and confirmation, each department head would serve at the pleasure of the Mayor.

3. Agency Boards for Proprietary Operations

Specialized agencies to administer specific proprietary operations may be headed by boards created by ordinance. The membership of any boards created to administer such agencies would be appointed by the Mayor subject to confirmation of the County Commission for four year staggered terms, half of which would extend past the term of office of the Mayor. Members of such boards could not be removed by the Mayor absent approval of the County Commission.

4. The County Auditor

Internal auditing of executive agencies should be removed from the executive branch and transferred to a newly created Office of County Auditor, whose head would be appointed by the County Commission. The County Auditor would be responsible for both performance and financial audits of all County agencies and would report to the County Commission.

IV. County Commission Salaries

A. The present circumstance

The Charter currently permits County Commissioners to be paid the sum of \$6,000 per year. Most agree that the time and responsibility involved in this position is too great to justify salary levels at that level, although the unhappiness with County government generally, and the County Commission specifically, makes it difficult for voters to approve salary increases. Again and again over the years, the County Commission has proposed to the electorate Charter amendments that would adopt the State schedule for Commission salaries. These proposals, which would increase salaries dramatically and take away public control over future salary levels, have all been overwhelmingly rejected at the polls. The Task Force proposes that we try again.

The public has spoken clearly on this issue. We should listen. Instead of proposing an end run on Commission salaries, the Charter should be amended to require the Commission to biennially submit to the voters alternative salary levels for Commissioners and allow the voters to choose from among them. The salary level achieving a majority of votes, when added to the votes cast for a lower salary, would be the salary for the following two years.

B. Proposed Revisions to the Charter – County Commission Salaries

The Charter should be amended to establish biennial review of County Commission salaries. The Commission would be required, by July 1 of each even numbered year, to propose to the voters alternative levels of Commission salaries with the lowest being the current level of \$6,000 per year. Starting from the lowest salary, the votes cast for each salary level would be added together until at least 50% plus one vote is reached. The salary level at which that 50% plus one vote is reached would be the Commission salary for the following two years, commencing with the next regularly scheduled Commission election.