



MIAMI-DADE COUNTY FINAL OFFICIAL MINUTES CHARTER REVIEW TASK FORCE

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

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August 29, 2007
As Advertised

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CLERK'S SUMMARY AND OFFICIAL MINUTES
CHARTER REVIEW TASK FORCE MEETING
August 29, 2007

The Charter Review Task Force convened in a meeting on August 29, 2007, at 10:00 a.m. in the 1st Floor Auditorium of the Miami-Dade County Main Library, 101 W. Flagler Street, Miami, Florida. The following members were present: Chairman Victor M. Diaz, Jr. and members Ms. Lynn Dannheiser, Mr. Carlos Diaz-Padron, Mayor Shirley Gibson, Mr. Robert A. Ginsburg, Mr. Murray Greenberg, Mr. Larry Handfield, Mr. John Hogan, Mr. Robert Holland, Mr. Francois Illas, Mr. Richard Kuper, Mr. Raul L. Martinez, Mr. H. T. Smith, and Mr. Ignacio Vasquez (Mr. Miguel De Grandy, Mayor David Dermer, Mr. Maurice A. Ferre, Commissioner Carlos A. Gimenez, Ms. Elizabeth Hernandez, Ms. Yvonne Soler-McKinley, and Commissioner Javier D. Souto were late).

1. Call to Order

Chairman Diaz called the August 29, 2007 meeting of the Charter Review Task Force to order at 10:11 a.m.

2. Roll Call

The following staff members were present: Assistant County Manager Susanne M. Torriente and Assistant to the County Manager Maggie Fernandez; Assistant County Attorneys Robert Duvall and Wifredo Ferrer; and Deputy Clerks Doris Dickens and Scott Rappleye.

Chairman Diaz expressed appreciation to County staff for their efforts in supporting the Task Force and providing requested materials.

3. Approval of August 15, 2007 Meeting Minutes (revised)

August 14, 2007 Workshop & Public Hearing Report of Statements

In response to Mr. H. T. Smith's inquiry regarding the notation on the Agenda that the August 15, 2007 Meeting Minutes were revised, Chairman Diaz pointed out that the aforementioned minutes were revised to correct some typographical errors and to indicate that the meeting was adjourned at 1:03 p.m., rather than at 2:43 p.m.

It was moved by Mr. Smith that the August 15, 2007 Meeting Minutes be approved as revised. This motion was seconded by Chairman Diaz, and upon being put to a vote passed unanimously.

Chairman Diaz noted that pursuant to the Task Force's practice, the August 14th workshop and public hearing report was not official meeting minutes; that the public comments from these meetings would be maintained by the Clerk as a part of the official record, unless Task Force members wished to start officially approving them. Consequently, the meeting minutes for workshops and public hearings of the Task Force would not be completed and submitted for approval as expeditiously as the monthly Task Force meetings.

Members of the Task Force unanimously agreed that minutes for Charter Review Task Force workshops and public hearings should not be submitted for official approval.

4. Old Business

- **Discussion of Issue 1 – Study of the Sheriff, Tax Collector, Property Appraiser and Supervisor of Elections being elected**

Pursuant to Chairman Diaz's request for a preliminary recommendation with respect to the Tax Collector, it was moved by Mr. Ignacio Vasquez that the Task Force recommend to the County Commission that a question be placed on the ballot to allow the voters to determine whether the Tax Collector should be an elected position. This motion was seconded by Ms. Elizabeth Hernandez.

Mr. Robert Holland spoke in opposition to the motion. He contended the Tax Collector, Property Appraiser, and the Sheriff should be regulated positions, appointed by the Executive Branch, and with some professional criteria attached. Mr. Holland noted he felt the Supervisor of Elections should be appointed, but not by the Executor Body; that this individual should be appointed by the County Commission from a slate of candidates submitted by the Executive Branch that met certain criteria. Using the Clerk of the County's Circuit and County Courts and State Attorney as bases for his argument that even in an elected office, the incumbent could remain in office for almost a lifetime.

Mr. Holland suggested this body develop a creative, effective hybrid model that imposed conditions to ensure that individuals in those positions were effective. Mr. Holland suggested that if it was the will of this body and the County Commission to allow the voters to determine whether the Tax Collector, the Property Appraiser, and the Sheriff should be elected positions, term limits should be imposed.

Chairman Diaz responded to Mayor Martinez' questions as to whether the foregoing motion was a preliminary recommendation. He clarified that the procedure agreed upon by Task Force members at the last meeting would be followed; that this body would vote on motions in the form of preliminary recommendations, solicit public comment and feedback, and revisit the preliminary recommendations after the public hearing process.

Following further clarification, Mr. Ferre concurred with Mr. Holland. Mr. Ferre spoke in opposition to making technical positions elected offices.

Mr. Vasquez suggested the Task Force members would disrespect the wishes of the County Commission and the public if they did not recommend these positions be placed on the ballot.

Ms. Dannheiser pointed out that the Tax Collector, the Property Appraiser, nor the Sheriff set public policy; that these were technical positions that required the ability to operate large agencies and administer the law. She spoke in support of appointed positions, and suggested a consideration for the Task Force was who would make the appointment.

Mr. Hogan noted that the individuals in these positions needed to be insulated from the media and from personal relationships that may potentially influence them, which he noted could be accomplished through an appointed process.

Commissioner Gimenez noted he would support a motion to recommend to the County Commission that the voters be allowed to determine whether the Tax Collector should be an elected position. He stated that he thought the existing appointment process was political. He spoke against the argument that the technical nature of these positions favored appointment.

Regarding the existing appointment process, Commissioner Gimenez said he wanted to separate these positions from being obliged to an elected official. He pointed out that neither the Mayor nor the County Commission was allowed to unduly influence the County Manager, in any way, under the old form of County Government.

Mr. Handfield spoke in opposition to the motion. He pointed out that the Task Force was charged with the responsibility to deliberate on these issues and present a recommendation.

Ms. Elizabeth Hernandez noted she felt a responsibility to recommend that this question be placed on the ballot to provide the opportunity for an intellectual campaign to deliberate the pros and cons.

Pursuant to Mr. Richard Kuper's request, Mr. Vasquez amended his motion to include a limit of two four-year terms.

Chairman Diaz noted the strong arguments against electing the tax collector persuaded him to think electing the tax collector was not advisable. He expressed concern regarding the impact electing these positions would have on diversity.

Chairman Diaz pointed out the pending discussion regarding the appointment process could conflict with the new form of government, and he suggested the Task Force could consider whether or not the new form of government should be revisited. He noted he thought the issue of political influence in the appointment process could be resolved by setting minimum qualifications for the position.

Mayor Gibson expressed concern regarding the negative message that establishing minimum qualifications could send concerning the public's ability to make intelligent decisions. She pointed out that elected officials did not need special qualifications except to find individuals who were proficient in the necessary skill areas.

Mr. Martinez noted he thought the real issue and concern was how to provide accountability. He stated that block voting existed in the County and the public needed to reach out to each other.

Chairman Diaz pointed out that the existing minimum qualifications in the pay plan for the tax collector were as follows: "Bachelors degree in Business Administration, Public Administration or related field. A minimum of seven to nine years of administrative and supervisory experience in the management of complex revenue collection and disbursement activities is required." Chairman Diaz noted that the Mayor was not bound by these qualifications and they could be changed.

Mr. Illas expressed concern regarding the lack of recognition of the need for County positions and officials to be accountable to municipalities. He noted that local government impacted residents everyday and that municipal and County government needed to work together.

Mayor Dermer suggested that the Task Force consider an appointment process that would include an advise and consent provision that would ensure the Mayor interacted with the County Commission to nominate an individual based on the desired qualifications and that a majority of the Commission must approve the Mayor's nominee.

Mr. Greenberg pointed out that the Tax Collector was not a department head and was part of the Finance Department. He noted that a director had to have the confidence of his or her subordinates. He questioned the consequences of making these positions elected officials and the limits of the elected officials' powers.

Mr. Vasquez noted he thought some of Mayor Carlos Alvarez's decisions when the Mayor was Police Chief regarding the length and width of sideburns and when and where police could use deadly force were policy decisions.

Following further comments by Mr. Vasquez regarding the hidden politics in the Police Department, Mr. Smith spoke in opposition to the motion. He noted that the County was diverse in appearance but was segregated in voting and housing patterns.

Following further discussion, it was moved by Ms. Dannheiser that Chairman Diaz call the question on the motion that was on the floor. This motion was seconded by Ms. Hernandez, and upon being put to a vote, passed.

It was moved by Mr. Vasquez that the Task Force recommend to the County Commission that a question be placed on the ballot to allow the voters to determine whether the Tax Collector should be an elected position, with two four-year terms. This motion was seconded by Ms. Hernandez, and upon being put to a vote, failed to carry by a vote of 4-17 (Chairman Diaz, Ms. Dannheiser, Mr. De Grandy, Mayor Dermer, Mr. Diaz-Padron, Mr. Ferre, Commissioner Gimenez, Mr. Ginsburg, Mr. Greenberg, Mr. Handfield, Ms. Hernandez, Mr. Hogan, Mr. Holland, Mr. Illas, Mr. Kuper, Mr. Smith, and Ms. Soler-McKinley voted "no").

Pursuant to Chairman Diaz's question whether or not the Task Force had another motion regarding the Tax Collector, it was moved by Mr. Martinez that the Task Force make no recommendation to the County Commission regarding the Tax Collector position. This motion was seconded by Mr. Vasquez.

Following further discussion, Mr. Martinez amended the foregoing motion to recommend that the Tax Collector position remain unchanged.

Mr. Miguel De Grandy expressed concern regarding the Chairman interrupting discussion and calling the question on Mr. Vasquez's motion before all Task Force members were provided an opportunity to comment. He noted that such an interruption defeated the purpose of the Task Force to deliberate.

Commissioner Souto concurred with Mr. De Grandy.

Following discussion regarding the vote cast on Mr. Vasquez's motion, Mr. Martinez withdrew his motion that the Task Force recommend to the County Commission that the Tax Collector position remain unchanged.

It was moved by Mr. Murray Greenberg that the Task Force Recommend to the County Commission that a question be placed on the ballot to allow the voters to determine whether the selection process for the Tax Collector would remain an appointed position, and not until after all, if any, positions are recommended for election, shall it be determined what conditions, if any, should be placed on those positions. This motion was seconded by Mr. John Hogan, and

upon being put to a vote, passed 17-4 (Mayor Gibson, Mr. Illas, Commissioner Souto, and Mr. Vasquez voted “no”).

(Note: The following language reflects the foregoing motion as clarified by Mr. Greenberg at the meeting of September 19, 2007:

It was moved by Mr. Murray Greenberg that not until after all, if any, positions were recommended for election, should it be determined what conditions, if any, should be placed on those positions. This motion was seconded by Mr. John Hogan, and upon being put to a vote, passed 17-4 (Mayor Gibson, Mr. Illas, Commissioner Souto, and Mr. Vasquez voted “no”).)

It was moved by Mr. Ferre that the Task Force recommend to the County Commission that the position of Sheriff remain unchanged. This motion was seconded by Mr. Hogan.

Mr. De Grandy noted the positions of Tax Collector and Sheriff were qualitatively different. He pointed out that the Sheriff exercised discretion to make many decisions. He said that the existing appointment process for the Sheriff did not provide enough safeguards to ensure that the Sheriff would not be influenced by the Mayor.

Mr. Hogan pointed out that the professionalism of the Miami-Dade Police Department was under appreciated. He noted that when he was a Prosecutor people all across Florida routinely told him the County was fortunate to have an appointed Sheriff. Mr. Hogan noted he thought the Sheriff's reporting process needed to be changed; however, accomplishing this through election of the Sheriff was not the right change.

Ms. Soler-McKinley noted she thought the majority of citizens would be better served if City Manager's had better access to the Sheriff. She spoke in support of a change in the appointment process to ensure the Sheriff was more accessible to municipalities and more accountable to citizens.

In response to Commissioner Gimenez's question regarding who was the County Sheriff, Mr. Greenberg clarified the Mayor was the Sheriff.

Commissioner Gimenez pointed out that the County Sheriff was elected and noted the issue to consider was how to separate the Police Director from the Mayor/Sheriff. He asked the Task Force to consider what would be the proper checks and balances to ensure the Police Director was insulated from the political process.

Following discussion, Chairman Diaz noted the County Attorney's Office had provided a legal opinion concerning the Sheriff position; and that the legal opinion concluded that the Mayor

possessed the power of the Sheriff, under Section 9.01.C of the Charter, and that the Mayor had delegated those powers upon the head of the Police Department.

Following discussion regarding the intent of Mr. Ferre's motion, Mr. Ferre amended his motion to clarify that the intent of his motion was for the Sheriff not to be an elected position. He noted that he did not oppose including a section for checks and balances that provided for the Mayor's appointee to be subject to approval by the County Commission.

Following Mr. Greenberg's remarks urging the Task Force to cease using the word "Sheriff" and replace it with "Police Director," Mr. Holland provided criteria that the Task Force could recommend be included with the position of Sheriff or Police Chief as part of the Charter.

Following further comments by Mr. Vasquez regarding the political nature of the Police Director position, Mr. Ginsburg pointed out that the Sheriff was an elected position when the Home Rule Charter was originally adopted; that the Police Department had numerous scandals; and that the public voted in 1966 to eliminate the office of Sheriff. He explained the McNair v. Kelly lawsuit and noted that it was the consequences of independent elected officials. Mr. Ginsburg expressed concern regarding the budget issues presented by an elected sheriff. He noted several entities that could investigate the Mayor. Mr. Ginsburg expressed concern regarding the campaign process of the Sheriff's subordinates raising revenue and resigning to campaign against their boss.

Mr. Illas expressed concern regarding the reliability and timeliness of the entities mentioned by Mr. Ginsburg to investigate the Mayor. He noted the impact the Police Director had on municipalities for supplementary services. He expressed concern regarding the nonexistence of a relationship between the Police Director and the municipalities. Mr. Illas pointed out that the solution to this position could help create equality between the municipalities and the County.

Mayor Dermer expressed concern regarding showmanship in campaigns by the candidates for Sheriff, if the position was elected. He recommended to Mr. Ferre that he amend his motion to include a term or reappointment provision.

In response to Mayor Dermer's recommendation, Mr. Ferre amended his motion to set the appointment period for the police director at four years.

Mr. Hogan, as the seconder of Mr. Ferre's motion, accepted the amendment.

Mr. Hogan noted he thought that a super majority vote of the County Commission should be required to veto the Mayor's appointee for Police Director.

Chairman Diaz spoke in support of Mr. Ferre's motion. He noted he thought the professionalism of the Public Safety Director position was the most important issue. He expressed concern regarding the impact an elected Public Safety Director would have on preserving diversity and the professionalism of the Public Safety Director.

Following Mr. Vasquez's comments regarding the existence of politics in the law enforcement sector, Chairman Diaz clarified that the motion on the floor was that the Task Force recommend to the County Commission that the office of Public Safety Director be appointed by the Mayor, subject to one four-year term, and may be reappointed, subject to veto by a simple majority of the County Commission.

Mr. Kuper spoke in support of the Task Force recommending that the issue of an elected Sheriff versus an appointed Sheriff be placed on the ballot. He pointed out that appointed individuals were equally susceptible to scandals as were elected officials. Mr. Kuper noted the municipalities could not be neglected.

Mr. De Grandy recommended that Mr. Ferre amend his motion to include a provision that the Mayor and County Commission could not order the Police Chief regarding investigations after he or she was appointed.

Mr. Ferre and Mr. Hogan accepted Mr. De Grandy's recommendation.

Commissioner Gimenez noted that he thought the Task Force should discuss the issues of separation and insulation first, and then discuss the issue of elected versus appointed.

Chairman Diaz clarified that the last amendment to Mr. Ferre's motion was that once the Public Safety Director was appointed the Charter would provide that any interference with the duties of the office of Public Safety Director was cause for termination.

Mr. Ferre clarified that the intent of his motion was for the Task Force to recommend that it did not want an elected Sheriff; that the County Commission be provided input regarding the Mayor's appointee; that the Public Safety Director be appointed for a four year term without interference from the Mayor and the County Commission; and that the Public Safety Director be reappointed after four years to provide a review process of the Director's work.

Following Mr. Holland's recommended amendments to Mr. Ferre's motion, and Mr. Ferre and Mr. Hogan accepting Mr. Holland's recommendation concerning removal from office, Chairman Diaz clarified that the motion on the floor was as follows:

