

MEMORANDUM

Special Item No. 21

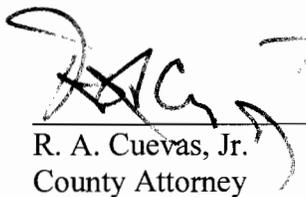
TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: July 18, 2008

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution calling special
election relating to election
of County Sheriff

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez.



R. A. Cuevas, Jr.
County Attorney

RAC/bw



MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: July 18, 2008

FROM: 
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SUBJECT: Special Item No. 21

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Special Item No. 21
7-18-08

RESOLUTION NO. _____

RESOLUTION CALLING A COUNTYWIDE SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, IN CONJUNCTION WITH A GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2008, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF MIAMI-DADE COUNTY THE QUESTION OF WHETHER THE MIAMI-DADE COUNTY HOME RULE CHARTER SHALL BE AMENDED TO PROVIDE FOR THE TRANSFER OF THE POWERS AND FUNCTIONS OF THE COUNTY SHERIFF FROM THE MAYOR OR HIS APPOINTEE TO A COUNTY OFFICIAL ELECTED BY THE VOTERS

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. A countywide special election, in conjunction with a general election is hereby called and shall be held in Miami-Dade County, Florida on Tuesday, November 4, 2008, for the purpose of submitting to the qualified electors of Miami-Dade County the proposal for amendment to the Home Rule Charter in the form attached hereto and made a part hereof.

Section 2. Notice of such election shall be published in accordance with Section 100.342, Florida Statutes.

Section 3. The result of such election shall be determined by a majority of the qualified electors of Miami-Dade County voting upon the proposal. The polls at such election shall be open from 7:00 a.m. until 7:00 p.m. on the day of such election. All qualified electors of Miami-Dade County, Florida shall be entitled to vote at said election. The County registration

books shall remain open at the Office of the Miami-Dade County Supervisor of Elections until twenty-nine (29) days prior to the date of such election, at which time the registration books will close in accordance with the provisions of general election laws. The question shall appear on the ballot in substantially the following form:

CHARTER AMENDMENT
CHANGING THE COUNTY SHERIFF FROM AN APPOINTED POSITION TO AN
ELECTED OFFICE

SHALL THE CHARTER BE AMENDED TO PROVIDE FOR THE TRANSFER OF THE POWERS AND FUNCTIONS OF THE COUNTY SHERIFF, EXCLUDING THOSE POWERS AND FUNCTIONS THAT PERTAIN TO CORRECTIONS AND THE OPERATION OF COUNTY JAILS, FROM THE MAYOR OR HIS APPOINTEE TO A COUNTY OFFICIAL ELECTED BY THE VOTERS?

YES

NO

Section 4. The form of the ballot shall be in accordance with the requirements of general election laws.

Section 5. Early voting shall be conducted in accordance with the requirements of general election laws.

Section 6. Absentee paper ballots may be used by qualified electors of Miami-Dade County for voting on this question. The form of such absentee ballot shall be in accordance with the requirements prescribed by general election laws.

Section 7. A sample ballot showing the manner in which the question or proposal aforesaid will appear at this election shall be published and provided in accordance with the applicable provisions of general election laws.

Section 8. This special election on the proposal aforesaid shall be held and conducted in accordance with applicable provisions of the general laws relating to elections and the provisions of the Miami-Dade County Home Rule Charter. The County Mayor or his or her designee, the Finance Director, and the Clerk of the County Commission are hereby authorized and directed to take all appropriate actions necessary to carry into effect and accomplish the provisions of this resolution. This election shall be a nonpartisan election. Election officials in connection with this election shall be appointed in accordance with the provisions of general election laws.

Section 9. This election shall be canvassed by the County Canvassing Board, in accordance with the provisions of Section 3.07 of the Home Rule Charter.

The Prime Sponsor of the foregoing resolution is Commissioner Joe A. Martinez. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

- | | |
|------------------------------------|--------------------|
| Bruno A. Barreiro, Chairman | |
| Barbara J. Jordan, Vice-Chairwoman | |
| Jose "Pepe" Diaz | Audrey M. Edmonson |
| Carlos A. Gimenez | Sally A. Heyman |
| Joe A. Martinez | Dennis C. Moss |
| Dorrin D. Rolle | Natacha Seijas |
| Katy Sorenson | Rebeca Sosa |
| Sen. Javier D. Souto | |

The Chairman thereupon declared the resolution duly passed and adopted this 18th day of July, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Cynthia Johnson-Stacks

MIAMI-DADE COUNTY HOME RULE CHARTER

* * *

ARTICLE - 5

ADMINISTRATIVE ORGANIZATION AND PROCEDURE

* * *

>>SECTION 5.08. SHERIFF; MIAMI-DADE POLICE DEPARTMENT

Commencing with the state primary election to be held in Miami-Dade County in 2010 and every four years thereafter, the County Sheriff shall be the administrative head of the Miami-Dade Police Department and an officer of the County recognized by this Charter, who shall be elected on a nonpartisan basis by a majority of the qualified electors voting at such election. Upon election, the County Sheriff shall be a County official. In the event that the Mayor or a County Commissioner qualifies to run for County Sheriff, such official shall not be required to resign from his or her respective office, unless required by state law.

Any vacancy in the office of the County Sheriff shall be filled by majority vote of the County Commissioners then in office within 30 days of the vacancy, or the Board shall call an election to be held not more than 45 days thereafter to fill the vacancy. A person appointed shall serve only until the next countywide election. A person elected to fill a vacancy shall serve for the remainder of the unexpired term of office.

The County Sheriff shall meet the requirements of and perform his or her duties in accordance with the provisions of the Home Rule Charter, general law and the ordinances of Miami-Dade County and carry out the policies adopted by the Commission. The Sheriff shall not be required to perform his or her powers and functions under the supervision of the Mayor or the County Manager. Neither the County Mayor, nor a County Commissioner or the County Manager shall direct the Sheriff to investigate or take any particular law enforcement action against any person or persons. The County Attorney's Office shall provide legal services to the County Sheriff and the Miami-Dade Police Department in accordance with Section 5.06 of this Charter.

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The County Sheriff shall provide law enforcement services on a countywide basis to the unincorporated municipal service area in accordance with the County budget in effect on the effective date of this amendment and in accordance with future budgets adopted by the Board of County Commissioners.

The County Sheriff shall honor contracts entered into between the municipalities and Miami-Dade County for the provision of police services. The County Sheriff may enter into interlocal agreements with any municipality to provide law enforcement services within the boundaries of the municipality.

Employees of the County assigned to the Miami-Dade Police Department as of the effective date of this charter amendment shall not lose their status as County employees or any accrued civil service rights or privileges, as a result of the election of the County Sheriff.<<

SECTION ~~[[5.08]]~~>>5.09<<. **BOARDS.**

A. The Board of County Commissioners shall 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.

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.

* * *

ARTICLE – 9

GENERAL PROVISIONS

SECTION 9.01 ABOLITION OF CERTAIN OFFICES AND TRANSFER OF FUNCTIONS.

A. On May 1, 1958, the following offices are hereby abolished and the powers and functions of such offices are hereby transferred to the Mayor, who shall assume all the duties and functions of these offices required under the Constitution and general laws of this state: County Tax Collector, County Surveyor, County Purchasing Agent, County Supervisor of Registration. The Mayor may delegate to a suitable person or persons the powers and functions of such offices.

B. 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.

C. On November 9, 1966, the Office of Sheriff is hereby abolished and the powers and functions of such office are hereby transferred to the Mayor, who shall assume all the duties and functions of this office required under the Constitution and general laws of this state. The Mayor may delegate to a suitable person or persons the powers and functions of such office. >>Notwithstanding any provision herein to the contrary, after the effective date of this Charter amendment, the powers and functions of the Office of Sheriff, excluding those powers and functions that pertain to corrections and the operation of County jails, shall be transferred to the County Sheriff, who is elected pursuant to Section 5.08 of this Home Rule Charter. <<