

**MEMORANDUM**

Special Item No. 18

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

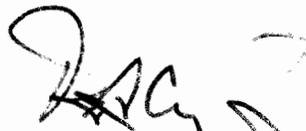
**DATE:** July 18, 2008

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

**SUBJECT:** Resolution calling special  
election relating to  
appointment of Police  
Department Director

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Carlos A. Gimenez, Co-Sponsor Commissioner Jose "Pepe" Diaz and Co-Sponsor Commissioner Sally A. Heyman.

  
\_\_\_\_\_  
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

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County Attorney

**SUBJECT:** Special Item No. 18

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

Special Item No. 18

Veto \_\_\_\_\_

7-18-08

Override \_\_\_\_\_

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 TO AMEND THE HOME RULE CHARTER TO REQUIRE APPOINTMENT OF A POLICE DEPARTMENT DIRECTOR AND TO PROVIDE A METHOD OF APPOINTMENT, REAPPOINTMENT AND DISMISSAL OF SUCH DIRECTOR, AND TO REQUIRE THAT, EXCEPT FOR THE PURPOSE OF TRANSMITTING CONSTITUENT INQUIRIES, BUDGETING, AND FUNDING, THE POLICE DEPARTMENT DIRECTOR SHALL PERFORM HIS/HER DUTIES WITHOUT SUPERVISION OR INTERFERENCE FROM THE MAYOR OR COUNTY MANAGER

**WHEREAS**, on November 6, 2007, the Miami-Dade County Home Rule Charter Task Force submitted its initial recommendations to the Board of County Commissioners (“Board”); and

**WHEREAS**, those initial recommendations advised that the County’s Police Department Director (i.e. Sheriff, Police Chief) should remain an appointed position, albeit one with a four-year renewable term, with other requirements and restrictions; and

**WHEREAS**, among those requirements and restrictions were that the Board, by a two-thirds vote, could disapprove the Mayor’s initial four-year term appointment and any subsequent renewals of the Police Department Director, and the Board could, by a two-thirds vote, dismiss the Police Department Director at any time, as could the Mayor with a majority vote of the Board; and

**WHEREAS**, another restriction was that, except for the purposes of transmitting constituent inquiries, budgeting, and funding, the Mayor would be prohibited from supervising

and interfering with the performance of the official duties of the Police Department Director,

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

Section 1. A countywide special election, to be held 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:

HOME RULE CHARTER AMENDMENT  
RELATING TO APPOINTMENT, DISMISSAL, AND  
INDEPENDENCE OF THE POLICE DEPARTMENT  
DIRECTOR

SHALL THE CHARTER BE AMENDED TO PROVIDE THAT THE POLICE DEPARTMENT DIRECTOR:

- BE APPOINTED BY THE MAYOR TO A RENEWABLE FOUR-YEAR TERM, UNLESS DISAPPROVED BY A TWO-THIRDS VOTE OF COMMISSIONERS;

- CAN BE DISMISSED FROM OFFICE BY THE MAYOR WITH A MAJORITY VOTE OF COMMISSIONERS, OR BY A TWO-THIRDS VOTE OF COMMISSIONERS;
- EXCEPT FOR CONSTITUENT INQUIRIES, BUDGETING, AND FUNDING, SHALL PERFORM HIS/HER DUTIES WITHOUT SUPERVISION OR INTERFERENCE FROM THE MAYOR OR MANAGER?

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

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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 Carlos A. Gimenez, and the Co-Sponsors are Commissioner Jose "Pepe" Diaz and Commissioner Sally A. Heyman. 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-Chairman |                    |
| 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 18<sup>th</sup> 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.



Monica Rizo

**MIAMI-DADE COUNTY HOME RULE CHARTER**

**ARTICLE-2<sup>1</sup>**

**MAYOR**

\* \* \*

**Section 2.02. RESPONSIBILITIES OF THE MAYOR**

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

\* \* \*

>>D. Notwithstanding any other provision of this Charter, the Mayor shall appoint a Police Department Director to a renewable four-year term, unless the appointment or any renewal is disapproved by a two-thirds vote of those Commissioners then in office at the Commission's next regularly scheduled meeting. The Police Department Director can be dismissed by the Mayor, with the consent of a majority vote of those Commissioners then in office, or by the Commission with a two-thirds vote of those Commissioners then in office. Except for the purpose of transmitting constituent inquiries, budgeting, and funding, the Police Department Director shall perform his or her duties without supervision or interference from the Mayor or the County Manager.<<

~~[[D]]~~ >>E.<< Unless otherwise provided by this Charter, the Mayor shall have the power to appoint all department directors of the administrative departments of the County. Appointment of these department directors shall become effective unless disapproved by a two-thirds majority of those Commissioners then in office at the Commission's next regularly scheduled meeting. The Mayor shall also have the right to suspend, reprimand, remove, or discharge any administrative director, with or without cause.

~~[[E]]~~ >>F.<< 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

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<sup>1</sup>Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

of the Commission, including the budget or any particular component contained therein which was approved by the Commission; provided, however, that (1) if any revenue item is vetoed, an expenditure item in the same or greater dollar amount must also be vetoed and (2) the Mayor may not veto the selection of the chairperson or vice-chairperson of the commission, the enactment of commission committee rules, the formation of commission committees, or the appointment of members to commission committees. 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.

[[F]] >>G.<< 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.

[[G]] >>H.<< The Mayor shall prepare and deliver a budgetary address annually to the people of the county in March. Such address shall be prepared after consulting with the Manager and budget director and shall set forth the Mayor's funding priorities for the County.

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## ARTICLE-9

### GENERAL PROVISIONS

#### Section 9.01. ABOLITION OF CERTAIN OFFICES AND TRANSFER OF FUNCTIONS

\* \* \*

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 shall delegate to a Police Department Director the powers and functions of such office and such director shall carry out the policy directives of the Board of County Commissioners. The powers and functions delegated to the Police Department Director shall not include those which pertain to corrections and the operation of the County jails and detention facilities. <<The Mayor may delegate to a suitable

person or persons the powers and functions ~~[[of such office]]~~  
>>which pertain to corrections and the operations of the County  
jails and detention facilities<<.