MEMORANDUM

Special Item No. 10

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 initiative petitions to provide that the Clerk of the Circuit Court rather than the Board of County Commissioners approve form of citizen initiative petitions

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

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: R. A. Cuevas, Jr. County Attorney

SUBJECT: Special Item No. 10

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. 10
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 THAT THE CLERK OF THE CIRCUIT COURT, RATHER THAN THE BOARD OF COUNTY COMMISSIONERS, APPROVE CITIZEN INITIATIVE PETITIONS AS TO FORM

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 RELATING TO
APPROVAL AS TO FORM OF INITIATIVE PETITIONS

SHALL THE CHARTER BE AMENDED TO PROVIDE THAT THE CLERK OF THE CIRCUIT COURT, RATHER THAN THE BOARD OF COUNTY COMMISSIONERS, APPROVE CITIZEN INITIATIVE PETITIONS AS TO FORM?

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 Carlos A. Gimenez. 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 - 8

INITIATIVE, REFERENDUM, AND RECALL

SECTION 8.01. **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, including proposed ballot language [[~~, to the Board~~]] >>to the Clerk of the Circuit Court, who<< [[~~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 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 name, the date, and his 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 Board which shall within 30 days 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 may within 30 days after the date a sufficient petition is presented adopt the ordinance as submitted in an initiatory petition or repeal the ordinance referred to by a referendary petition. If the Board does not adopt or repeal the ordinance as provided above, then the proposal shall be placed on the ballot without further action of the Board.

5. If the proposal is submitted 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 on the first Tuesday after 120 days from certification of the petition. 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.

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ARTICLE - 9

GENERAL PROVISIONS

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SECTION 9.07. **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~~]]. >>An initiative petition to amend this Charter shall be submitted, together with proposed ballot language, to the Clerk of the Circuit Court, who shall without delay approve as

to form a petition for circulation in one or several copies as the proposer may desire.<< 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. The Board of County Commissioners shall call an election to be held within 60-120 days of the date that a certified petition is presented to the County Commission. Such election shall be called in conjunction with a countywide election; however, if no countywide election is scheduled to occur within 60-120 days of presentation, a special election on the petition shall be called.

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.

SECTION 9.08. **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 9.07 (C) and (D). Simultaneous elections may be held on a proposed revision and on individual amendments that are proposed.

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