MEMORANDUM

GO
Agenda Item No. 2L

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: April 13, 2010

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

SUBJECT: Resolution calling a countywide special election for the purpose of whether to amend the Home Rule Charter to return to the County Commission and the County Manager, as of November 2012, certain powers and responsibilities previously transferred to the Mayor

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.

R. A. Cuevas, Jr.
County Attorney

RAC/up

MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: May 4, 2010

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

SUBJECT: Agenda Item No.

Please note any items checked.

_____ "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

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ No committee review

_____ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve

_____ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No.
5-4-10

RESOLUTION NO. _____

RESOLUTION CALLING A COUNTYWIDE SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, IN CONJUNCTION WITH A PRIMARY ELECTION TO BE HELD ON TUESDAY, AUGUST 24, 2010, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF MIAMI-DADE COUNTY THE QUESTION OF WHETHER TO AMEND THE HOME RULE CHARTER TO RETURN TO THE COUNTY COMMISSION AND THE COUNTY MANAGER, AS OF NOVEMBER 2012, CERTAIN POWERS AND RESPONSIBILITIES PREVIOUSLY TRANSFERRED TO THE MAYOR

WHEREAS, the Board wishes to call a special election in Miami-Dade County in conjunction with a primary election to be held on Tuesday, August 24, 2010, for the purpose of submitting to the electors of Miami-Dade County the question stated herein; and

WHEREAS, the Board desires that the proposed amendments shall only become effective with the commencement of the term of the next Mayor elected during the regularly scheduled elections of 2012,

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 primary election, is hereby called and shall be held in Miami-Dade County, Florida on Tuesday, August 24, 2010, 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 PERTAINING TO POWERS OF COUNTY COMMISSION, COUNTY MAYOR AND COUNTY MANAGER

SHALL THE CHARTER BE AMENDED, EFFECTIVE NOVEMBER 2012, TO TRANSFER THE POWERS AND RESPONSIBILITIES OF ADMINISTERING COUNTY GOVERNMENT FROM THE ELECTED MAYOR TO THE APPOINTED COUNTY MANAGER INCLUDING THE POWER TO APPOINT DEPARTMENT DIRECTORS SUBJECT TO COMMISSION APPROVAL, AND DIRECT, SUPERVISE, REPRIMAND OR REMOVE DEPARTMENT DIRECTORS AND TO ALSO PROVIDE THAT THE COMMISSION SHALL HAVE THE POWER TO REMOVE THE COUNTY MANAGER OR APPROVE THE MAYOR'S REMOVAL OF THE COUNTY 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 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 Barbara J. Jordan. 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:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of May, 2010. 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.

Oren Rosenthal

MIAMI-DADE COUNTY
HOME RULE CHARTER[1]

* * *

CITIZENS' BILL OF RIGHTS

*>>**Note:** By special election called pursuant to Resolution No. R-[ ], and held on August 24, 2010, the voters amended Sections (A)(1), (10) – (12), and (15) of the Citizens Bill of Rights effective the second Tuesday next succeeding the date of the general election held November 2012 as indicated in the endnote.<<*

* * *

ARTICLE - 1
BOARD OF COUNTY COMMISSIONERS

*>>**Note:** By special election called pursuant to Resolution No. R-[ ], and held on August 24, 2010, the voters amended Sections 1.01(A)(introduction) and 1.01(A)(8) effective the second Tuesday next succeeding the date of the general election held November 2012 as indicated in the endnote.<<*

* * *

ARTICLE - 2
MAYOR

*>>**Note:** By special election called pursuant to Resolution No. R-[ ], and held on August 24, 2010, the voters amended Section 2.02 effective the second Tuesday next succeeding the date of the general election held November 2012 as indicated in the endnote.<<*

* * *

ARTICLE - 4
COUNTY MANAGER

*>>**Note:** By special election called pursuant to Resolution No. R-[ ], and held on August 24, 2010, the voters amended Sections 4.01, 4.03, 4.04 and added Section 4.05 effective the second Tuesday next succeeding the date of the general election held November 2012 as indicated in the endnote.<<*

* * *

---

[1]Words [[double bracketed]] shall be deleted. Words >>double arrowed<< constitute the new language. Remaining provisions are now in effect and remain unchanged.

ARTICLE - 5
ADMINISTRATIVE ORGANIZATION AND PROCEDURE

*>>**Note:** By special election called pursuant to Resolution No. R-[ ], and held on August 24, 2010, the voters amended Sections 5.01, 5.02, 5.03, 5.05(B) and (C), 5.06, and 5.07 effective the second Tuesday next succeeding the date of the general election held November 2012 as indicated in the endnote.<<*

* * *

ARTICLE - 9
GENERAL PROVISIONS

*>>**Note:** By special election called pursuant to Resolution No. R-[ ], and held on August 24, 2010, the voters amended Sections 9.01(A) and 9.01(C) effective the second Tuesday next succeeding the date of the general election held November 2012 as indicated in the endnote.<<*

* * *

>>Endnote: Effective the second Tuesday next succeeding the date of the general election held November 2012 the words stricken through shall be deleted from the Charter and the words underscored shall be added with the remaining provisions that are now in effect to remain unchanged as follows:

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 ~~Mayor~~ 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.

* * *

10. **~~Mayor's, City Managers'~~ Managers' and Attorneys' Reports**. The County ~~Mayor~~ 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 ~~Mayor~~ 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 ~~Mayor~~ 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**. The County ~~Mayor~~ 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.

* * *

15. **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 fulltime County and municipal employees of all outside employment and amounts received therefrom. The ~~Mayor~~ Manager and any City Manager may require monthly reports from individual employees or groups of employees for good cause.

* * *

ARTICLE - 1
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~~. The County~~ and shall have the power to carry on a central metropolitan government. ~~The Board's powers~~ This power shall include but shall not be restricted to the powers to:

* * *

(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.

* * *

ARTICLE - 2
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:

~~A. The Mayor shall be responsible for the management of all administrative departments of the County government and for carrying out policies adopted by the Commission. The Mayor, or such other persons who may be designated by the Mayor, shall execute contracts and other instruments, and sign bonds and other evidences of indebtedness. The Mayor shall serve as the head of the County for emergency management purposes.~~

~~B. The Mayor shall have the right to attend and be heard at any regular or special open session meeting of the Commission, but not the right to vote at such meetings.~~

~~C. The Mayor shall appoint the County Manager unless such appointment is disapproved by a two-thirds majority of those Commissioners then in office at the Commission's next regularly scheduled meeting. The Mayor shall have the authority to dismiss the County Manager.~~

~~D. 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 department director, with or without cause.~~

~~E.~~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 (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.

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.

~~F~~C. 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~~D. 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.

* * *

ARTICLE - 4
COUNTY MANAGER

SECTION 4.01. **FUNCTIONS.**

~~The Manager shall serve under the direction of the Mayor and, as directed by the Mayor, shall assist the Mayor in the administration of County government. The Manager's compensation shall be set by the Mayor.~~ 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 2.02.

* * *

SECTION 4.03. **ABSENCE OF MANAGER.**

The Mayor, subject to the approval of the Commission, shall 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~~ unless disapproved by a two-thirds majority of the Commission at its next regularly scheduled meeting~~.

* * *

SECTION 4.04. **POWERS AND DUTIES.**

A. 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 administrative department heads of the departments of the County, except that 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~~4.04~~4.05. **RESTRICTION ON THE MAYOR AND COMMISSION MEMBERS.**

A. ~~No~~Neither the Mayor nor any Commissioner shall direct or request the appointment of any person to, or his or her removal from, office by ~~any subordinate of the Mayor~~ 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, nor shall ~~any subordinate of the Mayor accede to such direction or request~~ the Manager or any member of the administrative services accede to such direction or request. Any willful violation of this section by the Mayor or Manager or any County employee shall be grounds for his or her removal.

B. Except for the purpose of transmitting constituent inquiries to the administrative services and other inquiry, as provided in Section 1.01A(20), the Mayor and Commissioners shall deal with the administrative service solely through the County ~~Mayor or his or her designee and no Commissioner shall give orders to any subordinates of the Mayor, either publicly or privately~~ Manager's Office and neither the Mayor nor any Commissioner shall give orders to any subordinates of the Manager, either publicly or privately.

No County employee or official, other than the County ~~Mayor or his or her designee~~Manager, shall respond to or undertake any action to comply with any request by the Mayor or any Commissioner which violates the provisions of the preceding paragraph. The County ~~Mayor~~Manager shall not knowingly allow the Mayor or any Commissioner to deal with the administrative services in violation of the provisions of this section.

* * *

ARTICLE - 5
ADMINISTRATIVE ORGANIZATION AND PROCEDURE

SECTION 5.01. **DEPARTMENTS.**

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

SECTION 5.02. **ADMINISTRATIVE PROCEDURE.**

The ~~Mayor~~Manager shall have the power to issue and place into effect administrative orders, rules, and regulations. The organization and operating procedure of administrative departments shall be set forth in administrative regulations, which the ~~Mayor~~ 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 5.03. **FINANCIAL ADMINISTRATION**.

A. The department of finance shall be headed by a finance director appointed by the ~~Mayor~~ Manager and the Clerk of the Circuit and County Courts. The finance director shall have charge of the financial affairs of the county.

B. Between June 1 and July 15, the County ~~Mayor~~ Manager should present a proposed budget to the Mayor ~~prepare a proposed budget~~ containing a complete financial plan, including capital and operating budgets, for the ensuing fiscal year. The budget prepared and recommended by the ~~Mayor~~Manager and the Mayor's written response thereto shall be presented ~~by the Mayor or his or her designee~~ to the Commission on or before the Board adopts tentative millage rates for the ensuing fiscal year. A summary of the budget shall be published and the Board shall hold hearings on and adopt a budget on or before the dates required by law.

* * *

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 ~~Mayor~~Manager, may by resolution adopted by two-thirds vote of the members present

* * *

SECTION 5.05. **DEPARTMENT OF PERSONNEL**.

* * *

B. The ~~Mayor~~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 Mayor~~Manager.

* * *

SECTION 5.06. **DEPARTMENT OF LAW**.

There shall be a County Attorney appointed by the Board of County Commissioners~~,~~ ~~subject to veto by the Mayor unless overridden by a two-thirds majority of those Commissioners then in office~~ who shall serve at the will of the Board and who shall head the department of law.

He shall devote his full time to the service of the county and shall serve as legal counsel to the Board, Mayor, Manager, and all county departments, offices, and agencies, and perform such other legal duties as may be assigned to him. ~~He~~ With the approval of the Board, he may appoint such assistants as may be necessary in order that his duties may be performed properly. The Board may employ special counsel for specific needs.

SECTION 5.07. **DEPARTMENT OF PLANNING.**

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

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 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.

* * *

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~~Manager, who shall ~~assume~~ provide for the continuation of 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, and County Supervisor of Registration. ~~The Mayor may delegate to a suitable person or persons the powers and functions of such offices.~~ The Manager may delegate to suitable persons the powers and functions of such officers.

* * *

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~~Manager, who shall assume all the duties and functions of this office required under the Constitution and general laws of this state. The ~~Mayor~~ Manager may delegate to a suitable person or persons the powers and functions of such office.