Memorandum

MIAMI-DADE COUNTY

Date: June 15, 2010

Agenda Item No. 8(L)(1)(A)

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

From: George M. Burgess
County Manager

Subject: Resolution Calling for a Special Election to Modify the Miami-Dade County Home Rule Charter to allow the Miami-Dade County Board of County Commissioners to Approve or Amend Franchise Fee Agreements

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The following substitute differs from the original in that the ballot question contained in the accompanying resolution includes additional language informing the electorate that this action is consistent with the practice of other Florida counties, as requested at the May 18, 2010 Board of County Commissioners (BCC) meeting.

Recommendation

It is recommended that the BCC approve the attached resolution calling for a special election to be held in conjunction with a State of Florida primary election on August 24, 2010. This election will ask the electorate whether the Miami-Dade County Home Rule Charter (Charter) should be amended to allow the BCC to approve franchises or amend franchise agreements by supermajority vote of the Board members present without subsequently holding a special election to seek approval of the electorate.

Scope

The franchise agreements under the purview of the BCC are for areas of the Unincorporated Municipal Service Area (UMSA) within Miami-Dade County.

Fiscal Impact

This item will have a positive fiscal impact. Currently the Charter provides for the granting of franchises by the BCC along with a majority vote of the qualified electors. This change in the code will eliminate the referendum requirement and save the cost of future elections.

Track Record/Monitor

All agreements with franchises will be monitored by the Office of Strategic Business Management.

Background

Section 1.01 A 14 (a) of the Charter gives the BCC the authority to enter into franchise agreements. Currently, a franchise can only be granted by a two-thirds vote of the BCC members present and approval by the majority vote of the qualified electors at a special or general election. This change to the Charter would allow the BCC to grant or amend a franchise agreement without a referendum. For example, the BCC approved current electrical franchise fee agreement with Florida Power and Light by ordinance and it was then later approved by the electorate. The Charter can be amended allowing the BCC the authority to enter into franchise agreements without subsequent electorate approval. Not requiring the

electorate to approve franchise agreements is consistent with common practice of other counties in the State, and with municipalities in Miami-Dade County.

Currently, any amendments to a franchise agreement would require that the same process be followed as if it were a new agreement, BCC approval by a two-thirds vote and approval by the majority vote of the electorate. If the County is able to re-negotiate more favorable terms to the current agreement, any changes would require the same approval process as a new agreement. The BCC can consider amending the Charter to allow that specific changes in the franchise agreement would only require a two-thirds vote and not a subsequent election.

Jennifer Glazer-Moon, Special Assistant/Director
Office of Strategic Business Management

cmo20610

MEMORANDUM

(Revised)

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

DATE: June 15, 2010

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

SUBJECT: Agenda Item No. 8(L)(1)(A)

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**

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Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(L)(1)(A)
6-15-10

RESOLUTION NO. _____

RESOLUTION CALLING FOR A SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, IN CONJUNCTION WITH A STATE 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 THE MIAMI-DADE COUNTY HOME RULE CHARTER BE AMENDED TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS (BOARD) TO GRANT A FRANCHISE OR AMEND A FRANCHISE AGREEMENT UPON APPROVAL OF A TWO-THIRDS VOTE OF BOARD MEMBERS PRESENT WITHOUT REQUIRING SUBSEQUENT APPROVAL OF THE PROPOSED FRANCHISE OR AMENDMENT BY A MAJORITY OF THE ELECTORATE

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,

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

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:

HOME RULE CHARTER AMENDMENT
RELATING TO FRANCHISES

SHALL THE CHARTER BE AMENDED TO >>MAKE IT CONSISTENT WITH THE PRACTICE OF ALL FLORIDA CHARTER COUNTIES BY ALLOWING<<[1] [[~~ALLOW~~]] THE BOARD OF COUNTY COMMISSIONERS TO GRANT A FRANCHISE OR AMEND A FRANCHISE AGREEMENT UPON APPROVAL BY A TWO-THIRDS VOTE OF BOARD MEMBERS PRESENT WITHOUT REQUIRING SUBSEQUENT APPROVAL BY A MAJORITY OF THE ELECTORATE AS IS CURRENTLY PROVIDED FOR IN THE CHARTER?

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.

[1]The differences between the substitute and the original item are indicated as follows: words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< constitute the amendment proposed.

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 foregoing resolution 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 15th day of June, 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

Approved by County Attorney
to form and legal sufficiency. CHC/OR

By:_____
Deputy Clerk

Craig H. Coller
Oren Rosenthal

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-1[1]

BOARD OF COUNTY COMMISSIONERS

* * *

SECTION 1.01. **POWERS**

* * *

14. Regulate, control, take over, and grant franchises to, or itself operate gas, light, power, telephone, and other utilities, sanitary and sewage collection and disposal systems, water supply, treatment, and service systems, and public transportation systems, provided, however, that:

    (a) Franchises under this subsection may only be granted >>or franchise agreements may only be amended<< by a two-thirds vote of the Board >> members<< present [[~~and approved by a majority vote of those qualified electors voting at either a special or general election~~]].

[1]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.