MEMORANDUM

ILUC
Agenda Item No. 6(A)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: January 12, 2011

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

SUBJECT: Resolution calling a countywide special election on whether the Home Rule Charter shall be amended to specify the exclusive process, form, content, and method for certification of citizen initiative, referendum, recall and charter amendment 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/up

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: February 1, 2011

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 Agenda Item No.
Veto _____
Override _____

RESOLUTION NO. _____

RESOLUTION CALLING A COUNTYWIDE SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, TO BE HELD ON TUESDAY, [ ], 2011, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF MIAMI-DADE COUNTY THE QUESTION OF WHETHER THE HOME RULE CHARTER SHALL BE AMENDED TO: SPECIFY THE EXCLUSIVE PROCESS, FORM, CONTENT, AND METHOD FOR CERTIFICATION OF CITIZEN INITIATIVE, REFERENDUM, RECALL, AND CHARTER AMENDMENT PETITIONS, REPEAL ALL PROVISIONS IN CURRENT ORDINANCES AND RESOLUTIONS THAT REGULATE CITIZEN INITIATIVE, REFERENDUM, RECALL, AND CHARTER AMENDMENT PETITIONS, AND PROVIDE THAT THE BOARD OF COUNTY COMMISSIONERS SHALL NOT ADOPT ANY RESOLUTION OR ORDINANCE THAT REGULATES SUCH PETITIONS

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

Section 1. A countywide special election is hereby called and shall be held in Miami-Dade County, Florida on [ ], 2011, 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
SPECIFYING CITIZEN PETITION PROCEDURES AND
PROHIBITING REGULATION BY ORDINANCE
OR RESOLUTION

SHALL THE CHARTER BE AMENDED TO:

- SET FORTH THE EXCLUSIVE PROCESS, FORM, CONTENT, AND METHOD FOR CERTIFICATION OF CITIZEN INITIATIVE, REFERENDUM, RECALL, AND CHARTER AMENDMENT PETITIONS;
- REPEAL ALL PROVISIONS IN CURRENT ORDINANCES AND RESOLUTIONS THAT REGULATE SUCH PETITIONS;
- PROVIDE THAT THE BOARD OF COUNTY COMMISSIONERS SHALL NOT ADOPT ANY ORDINANCE OR RESOLUTION THAT REGULATES SUCH PETITIONS; AND

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 Manager, the Finance Director, the Supervisor of Elections 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:

Joe A. Martinez, Chairman
Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro	Lynda Bell
Jose "Pepe" Diaz	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of February, 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. for OR

Oren Rosenthal

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-8[1]

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 Clerk of the Circuit Court a proposed petition, in the form specified in section (2) below, and proposed ballot language, including a title. The Clerk [[~~who~~]] shall without delay approve as to form a petition for circulation in one or several copies as the proposer may desire. A public hearing shall be held on the proposal at the next Board of County commissioner meeting subsequent to the date the Clerk approves the petition.

2. >>The petition shall be printed in 14-point font and contain the following information: (a) the title and text of the proposed petition, printed in English, Spanish and Creole; (b) a statement in each petition circulator's own handwriting, setting forth his or her own name, both in printed and signature form; (c) the residence address of the circulator; (d) dates between which all the signatures on each individual petition were obtained; and (e) a sworn statement that the circulator personally circulated the petition and witnessed each signature as it was being written.

3.<< The person or persons circulating the petition shall, within 60 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~~

[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.

~~stating the number of signers and the fact that each signature was made in the presence of the circulator of the petition.~~]]

[[~~3.~~]]>>4.<< The signed petition shall be filed with the [[~~Board~~]] >>Clerk<< 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~~]] >>Clerk<< shall notify the person filing the petition that the petition is insufficient and has failed.

[[~~4.~~]]>>5.<< 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.~~]]>>6.<< 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.~~]]>>7.<< 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.~~]]>>8.<< 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.

>>9.<< The provisions in all current ordinances and resolutions regulating the initiative and referendum process shall be repealed. The Board of County Commissioners shall not adopt any resolution or ordinance regulating the initiative and referendum process.<<

Section 8.02. RECALL

Any member of the Board of County Commissioners, the Mayor, the Property Appraiser, the Sheriff or Constable may be removed from office by the electors of the county, district, or municipality by which he was chosen. The procedure on a recall petition shall be identical with that for an initiatory or referendary petition, except that:

* * *

7. No recall petition against such an officer shall be certified within one year after he takes office nor within one year after a recall petition against him is defeated.

>>The initiatory process on a recall provision shall be governed exclusively by the provisions of the Charter and the Board shall not adopt any ordinance or resolution thereon.<<

ARTICLE-9

GENERAL PROVISIONS

* * *

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~~]] >>Clerk.<< [[~~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 [[~~.~~]] >>, governed by the procedures set forth herein and those specified in subsections 1, 2, and 4 of Section 8.01 of the Charter. If the

Supervisor of Elections certifies the sufficiency of the petitions. << [[~~T~~]] >>t<<he 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. The initiatory process to amend the Charter shall be governed exclusively by the provisions of the Charter and the Board shall not adopt any ordinance or resolution thereon. <<

[[~~C.~~]]>>D.<< 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.~~]]>>E.<< The result of all elections on charter amendments shall be determined by a majority of the electors voting on the proposed amendment.