

MEMORANDUM

**INLUC
Agenda Item No. 2D**

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

DATE: April 13, 2011

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

SUBJECT: Resolution calling a Special Election for the purpose of submitting to the electors of Miami-Dade County the question of whether to amended the Home Rule Charter to provide that, upon the Office of Mayor becoming vacant, the powers and responsibilities of the Office of Mayor, except veto power, shall be temporarily transferred to the Chairperson of the BCC

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Natacha Seijas.



R. A. Cuevas, Jr.
County Attorney

RAC/jls



MEMORANDUM
(Revised)

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

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 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF MIAMI-DADE COUNTY THE QUESTION OF WHETHER TO AMEND THE HOME RULE CHARTER TO PROVIDE THAT, UPON THE OFFICE OF MAYOR BECOMING VACANT, THE POWERS AND RESPONSIBILITIES OF THE OFFICE OF MAYOR, EXCEPT VETO POWER, SHALL BE TEMPORARILY TRANSFERRED TO THE CHAIRPERSON OF THE BOARD OF COUNTY COMMISSIONERS UNTIL THE OFFICE OF MAYOR IS FILLED BY EITHER ELECTION OR APPOINTMENT

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 Tuesday, [], 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
PROVIDING TEMPORARY TRANSFER TO CHAIR OF
CERTAIN MAYORAL POWERS DURING VACANCY

SHALL THE CHARTER BE AMENDED TO PROVIDE THAT UPON A VACANCY IN THE OFFICE OF MAYOR, THE POWERS AND RESPONSIBILITIES OF THE MAYOR, EXCEPT THE POWER TO VETO, ARE TEMPORARILY TRANSFERRED TO THE COUNTY COMMISSION CHAIRPERSON UNTIL A MAYOR IS APPOINTED OR ELECTED WITH THE EXERCISE OF SUCH POWERS SUBJECT TO DISAPPROVAL BY A MAJORITY OF THE BOARD MEMBERS PRESENT AT THEIR NEXT MEETING FOLLOWING SUCH ACTIONS?

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.

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The Prime Sponsor of the foregoing resolution is Commissioner Natacha Seijas. 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 |
| Rebeca Sosa | Sen. Javier D. Souto |

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of May, 2011. 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. *[Signature]* OR

Oren Rosenthal

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-1¹

BOARD OF COUNTY COMMISSIONERS

* * *

Section 1.07. VACANCIES.

Any vacancy in the office of Mayor or the members of the Board shall be filled by majority vote of the remaining members of the Board within 30 days, or the Board shall call an election to be held not more than 45 days thereafter to fill the vacancy. The person chosen to fill the office vacated must at the time of appointment meet the residence requirements for the office to which such person is appointed. A person appointed shall serve only until the next county-wide election. A person elected shall serve for the remainder of the unexpired term of office. If a majority of the members of the Board should become appointed rather than elected to office, then the Board shall call an election to be held not more than 45 days thereafter to permit the registered electors to elect commissioners to succeed the appointed commissioners; appointed commissioners may succeed themselves unless otherwise prohibited by the Charter. If a county-wide election is scheduled to be held within 180 days from the date on which the majority of the members of the Board become appointive, the Board may elect to defer the required election until the scheduled county-wide election. >>Notwithstanding the foregoing or any other provision in the Charter, if the office of Mayor shall become vacant all powers and responsibilities of the office of Mayor, with the exception of the mayoral veto, shall be temporarily transferred to the Chairperson of the County Commission until the office of Mayor is filled by appointment or election as provided herein. Any action taken by the Chairperson of the County Commission exercising the powers and responsibilities of the Mayor shall be subject to disapproval by a majority of the Board of County Commissioners present at their next meeting.<<

¹Words 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.