

MEMORANDUM

Agenda Item No. 11(A)(4)

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

DATE: October 18, 2011

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

SUBJECT: Resolution creating a
Charter Review Task Force

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



R. A. Cuevas, Jr.
County Attorney

RAC/up

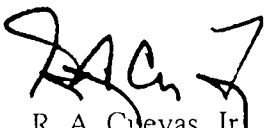


MEMORANDUM

(Revised)

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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. 11(A)(4)
10-18-11

RESOLUTION NO. _____

RESOLUTION CREATING A CHARTER REVIEW TASK FORCE; SETTING FORTH POWERS AND RESPONSIBILITIES OF SUCH TASK FORCE; REQUIRING A REPORT; EXPRESSING COUNTY COMMISSION'S INTENT TO FORWARD ANY RECOMMENDATION OF THE TASK FORCE APPROVED BY A 2/3'S VOTE OF ITS MEMBERSHIP FOR PLACEMENT ON BALLOT AT THE NEXT COUNTYWIDE ELECTION PURSUANT TO SECTION 9.07 OF THE HOME RULE CHARTER; ADDRESSING RELATED MATTERS; AND PROVIDING FOR SUNSET

WHEREAS, Section 9.07 of the Home Rule Charter provides that amendments to the Charter may only be proposed by a resolution adopted by the Board of County Commissioners or by petition of electors as set forth in the Charter; and

WHEREAS, Section 9.08 of the Home Rule Charter of Miami Dade County (the "Charter") requires this Board of County Commissioners (the "Board") at least once in every five year period to review the Charter and determine whether or not there is a need for revisions of the Charter; and

WHEREAS, over four (4) years ago, the Board created the most recent Charter Review Task Force to review the Charter and advise the Board of any recommended amendments or revisions; and

WHEREAS, there may be a need to amend the Charter to address pressing issues; and

WHEREAS, the creation of a Charter Review Task Force will allow more opportunity for public input and focused study of possible amendments to the Charter; and

WHEREAS, this Board should forward any proposal of the Charter Review Task Force, which is approved by 2/3's vote of the membership of such Task Force for placement on the ballot of the next available, currently scheduled countywide election, in accordance with Section 9.07 of the Charter; and

WHEREAS, three countywide elections are currently scheduled to take place in 2012,

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

Section 1. There is hereby created a Charter Review Task Force which shall consist of twenty (20) members, thirteen (13) of which shall be appointed by each County Commissioner, one (1) by the Mayor of Miami-Dade County, four (4) by each of the four largest cities in Miami-Dade County, and two (2) by the League of Cities to represent smaller cities in Miami-Dade County. Appointments may be made by submission of a memorandum to the Clerk of the Board of Miami-Dade County by each official or entity authorized to make such appointment. The Chairperson of the Task Force shall be selected by the members of the Task Force.

Section 2. The Task Force shall reflect racial, ethnic, and gender balance and diversity.

Section 3. The Task Force shall be staffed by the County Mayor or the County Mayor's Designee, the County Attorney, and County Clerk.

Section 4. The Task Force shall review the Home Rule Charter of Miami-Dade County in its entirety and shall prepare and submit to this board written recommendations setting forth any proposed amendments or revisions to the Charter. In conducting its review, the Task Force should:

- a. Study the Final Report of the last Charter Review Task force.

- b. Invite knowledgeable members of the community to appear and make recommendations.
- c. Conduct public hearings at various stages in the review process.
- d. Conduct regional public meetings (for example, in North, South, Central Miami-Dade County) to convey recommendations of the Charter Review Task Force to persons in attendance and receive any additional comments from the public regarding recommendations, prior to submission of a report to the Board of County Commissioners recommending charter amendment proposals. These regional public meetings shall be in addition to meetings which are to be conducted in accordance with the Code of Miami-Dade County, Florida. Nothing herein would prohibit the Task Force from conducting by electronic means any such regional public meetings required by this paragraph.

Section 5. All proceedings of the Charter Review Task Force shall be conducted in accordance with the Government in the Sunshine Law (Sec. 286.011 Fla. Stats.) and the Citizens' Bill of Rights of the Miami-Dade County Home Rule Charter. The Task Force shall be deemed an "agency" for the purposes of the Public Records Law (Sec. 119 Fla. Stats.).

Section 6. The Task Force shall submit its written recommendations to this Board no later than one hundred and twenty (120) days of the effective date of this resolution, provided, however nothing herein prohibits the Task Force from providing a report or reports to the Board prior to prior to such time.

Section 7. The Commission hereby expresses its intent to forward any item approved by at least 2/3's of the membership of the Charter Review Task Force for placement on the ballot at the next available countywide election, pursuant to Section 9.07 of the Charter.

Section 8. Nothing in this resolution precludes the Board of County Commissioners or a petitioner who has been certified by the Clerk of the Board to have submitted a legally sufficient initiative petition with sufficient signatures from placing a proposal to amend the Charter on the ballot, nor does anything herein preclude the Mayor of Miami-Dade County from seeking the placement of such a proposal on the ballot, pursuant to Section 9.07 of the Charter.

Section 9. The Task Force created pursuant to this resolution shall sunset and stand dissolved on the 364th day from the effective date of this resolution, unless it is extended by an ordinance duly adopted by the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Sally A. Heyman. 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
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 18th day of October, 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.



Cynthia Johnson-Stacks

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR



Legislative Notes

Agenda Items: 11(A)(3), 11(A)(4), 11(A)(5)

File Numbers: 111732, 111755 and 111747

Committee(s) of Reference: Board of County Commissioners

Date of Analysis: September 22, 2011

Summary

These resolutions propose the creation of a Charter Review Task Force (Task Force), setting forth powers and responsibilities and providing for a sunset; however, they each provide different requirements in the following areas:

- Membership;
- Membership selection process;
- Selection of the Task Force Chair;
- Staffing requirements;
- Additional tasks provided for while conducting the review of the Home Rule Charter;
- Deadline for written recommendations to be submitted to the Board of County Commissioners (BCC);
- Date of Sunset provision; and
- Intent to place recommendations on a ballot.

See Attachment A for a side by side comparison of the proposed resolutions.

Background and Relevant Legislation

Previous Task Force Composition and Recommendations

On April 24, 2007, under Resolution No. 462-07, the BCC created a Charter Review Task Force consisting of 21 members including each County Commissioner and the Mayor, or their respective designees; four (4) members selected by each of the four (4) largest municipalities in Miami-Dade County; and three (3) members selected by the League of Cities representing the smaller cities in Miami-Dade County. The chair was selected by the chair of the BCC.

The Final Report was presented to the BCC on January 28, 2008, and included the following 18 recommendations:

- The Public Safety Director (i.e. Sheriff, Police Chief) should remain an appointed position. However, the Task Force recommended that the electors of Miami-Dade County be asked whether they wish to amend the Home Rule Charter to provide that the Public Safety Director be appointed by the Mayor for a period of four (4) years.
- The Supervisor of Elections should remain an appointed position. However, the Task Force recommended that the electors of Miami-Dade County be asked whether they wish to amend the

Home Rule Charter to provide that the Supervisor of Elections be appointed by the Mayor for a period of four (4) years.

- The position of Property Appraiser should become an elected position.
- That the electors of Miami-Dade County be asked whether they wish to amend the Home Rule Charter to provide that County Commissioners receive a population based salary provided by Florida's statutory formula (approximately \$91,995). Commissioner's terms in office will be limited to two, four-year terms and Commissioners will be prohibited from having outside employment.
- The Tax Collector remains as an appointed position.
- The manner in which the BCC is currently comprised will remain as is, with 13 single member Commission Districts.
- Appoint an independent Task Force to prepare and submit a comprehensive plan in 2009 for countywide incorporation, accomplished through annexation and/or incorporation, subject to amendments or changes by 2/3rds vote of the County Commission, and placed on the ballot at a general election in 2010.
- The electors of Miami-Dade County should be asked whether the Home Rule Charter should be amended to empower future Charter Review Task Forces to place proposed Charter amendments directly on the ballot.
- The electors of Miami-Dade County should be asked whether the Home Rule Charter should be amended to provide that the time period to collect signatures for proposed Charter amendments and citizens' initiatives be extended to 120 days and the proposed Charter amendments must only be placed on the ballot during a general election.
- The electors of Miami-Dade County should be asked whether the Home Rule Charter should be amended to require the County Commission to hold a public hearing on any citizen initiated changes to the Home Rule Charter on the date the County Commission sets the election date on the proposed Charter amendment.
- The electors of Miami-Dade County should be asked whether the Home Rule Charter should be amended to provide that the County Commission hold a public hearing on the proposed initiative at the time a citizen initiate petition is presented to the County Commission for possible passage or repeal of an ordinance.
- The electors of Miami-Dade County should be asked whether the Home Rule Charter should be amended to provide that the County Commission adopt no resolutions or ordinances regulating the citizen petition procedures as defined in the Home Rule Charter.
- The electors of Miami-Dade County should be asked whether the Home Rule Charter should be amended to reflect that the certification and petition gathering provisions contained in Article 8 of the Home Rule Charter should also govern citizen initiative petition procedures to amend the Home Rule Charter.
- The electors of Miami-Dade County asked whether the Home Rule Charter should be amended to provide that the Clerk of the Court, rather than the County Commission, approve as to form any citizen initiative petition.
- The electors of Miami-Dade County should be asked whether the Home Rule Charter should be amended to provide that bid protests will be heard by hearing officers charged with making final determinations based on findings of facts and conclusions of law; that the appeal process will be governed by the rules of procedures set forth in State of Florida's Administrative Procedure Act; and that the findings of the hearing officer would be final, subject to appeal by a disappointed bidder to the County Commission solely on an abuse of discretion standard.
- The electors of Miami-Dade County be asked whether the Home Rule Charter should be amended to provide that any Comprehensive Development Master Plan application requesting that the Urban

Development Boundary (UDB) line be moved must be approved by a vote of at least $\frac{3}{4}$'s of the County Commissioners then in office and that every five years an independent body will conduct a comprehensive and holistic study to determine where the UDB line should be drawn. If a change in the location of the UDB line is recommended by such independent body and such change in location is approved by a simple majority vote of County Commissioners present, such recommendations must be submitted for approval by the electorate in the form of a referendum.

- The electors of Miami-Dade County be asked whether the Home Rule Charter should be amended to provide that all zoning applications be heard first by the Community Councils with any appeals from those decisions being heard by hearing officers charged with making final determinations based on findings of facts and conclusions of law, that the appeal process will be governed by the rules of procedures set forth in State of Florida's Administrative Procedure Act, and that the findings of the hearing officer would be final, subject to appeal to the County Commission solely on an abuse of discretion standard.
- That the electors of Miami-Dade County be asked whether Section 9.07 of the Home Rule Charter be amended in the following manner:
 - Charter amendments may be proposed by a resolution adopted by the BCC or by petition of electors numbering not less than 10% of the total number of electors registered in Miami-Dade County at the time the petition is submitted to the Clerk.
 - Provide governing procedures for charter amendments by initiatory petitions of electors.
 - Amendments to this Charter may be proposed by the BCC at any time. Elections on charter amendments proposed by the Board will be held not less than 60 nor more than 120 days after the Board adopts a resolution proposing any amendment.
 - The result of all elections on charter amendments will be determined by a majority of the electors voting on the proposed amendment.
 - All current ordinances and resolutions regulating initiative petitions shall be repealed.

Prepared by: Elizabeth N. Owens

Attachment: Chart of Side by Side Comparison of Proposed Resolutions

Attachment A

Proposed Resolutions Creating a Charter Review Task Force (Task Force) Board of County Commissioners (BCC) - Item Nos. 11A25, 11A26, and 11A27				
Subject Area	11A25 Prime Sponsor: Comm. Diaz 14	11A26 Prime Sponsor: Comm. Heyman 20	11A27 Prime Sponsor: Comm. Martinez and Barreiro 21	
# of Members				
Membership Selection Process	- Each Commissioner nominates 2 people from which the BCC will select 9 members; - The Mayor may nominate 5 people from which the BCC will select 2 members; and - The League of Cities may nominate 5 people from which the BCC will select 3 members.	- Each Commissioner appoints a member totaling 13 members; - The Mayor appoints 1 member; - Each of the 4 largest cities in Miami-Dade County appoints a member totaling 4 members; and - The League of Cities appoints 2 representing the smaller cities in Miami-Dade County.	- Each Commissioner or their respective designee (13 members); - The Mayor or his respective designee (1 member); - Each of the 4 largest cities in Miami-Dade County selects a member (4 members); and - The League of Cities appoints 3 representing the smaller cities in Miami-Dade County (3 members).	
Task Force Chair Composition	Selected by the BCC. Registered voters in Miami-Dade County meeting one or more of the following qualifications: Attorneys with government experience; law professors; professors of public administration; CEO from industries designated as Miami-Dade Cluster Industries by the Beacon Council; CEO from non-governmental organizations; or civic minded individuals knowledgeable with issues affecting Miami-Dade County. Current elected officials, Miami-Dade County employees and persons registered as lobbyists in Miami-Dade County, or have lobbied Miami-Dade County in the preceding year, are not eligible to serve on the Task Force.	Selected by the members of the Task Force. The Task Force will reflect racial, ethnic, and gender balance and diversity.	Selected by the Chair of the BCC. The Task Force will reflect racial, ethnic, and gender balance and diversity.	
Staffing of the Task Force	The County Mayor or the County Mayor's designee, the County Attorney, and the County Clerk and all travel expenses for invited speakers will be reimbursed from general funds subject to the requirements of State Law.	The County Mayor or the County Mayor's designee, the County Attorney, and the County Clerk.	The County Mayor or the County Mayor's designee, the County Attorney, and the County Clerk.	
Duties and Responsibility	The Task Force will review the Home Rule Charter of Miami-Dade County in its entirety and will prepare and submit written recommendations setting forth any proposed amendments or	The Task Force will review the Home Rule Charter of Miami-Dade County in its entirety and will prepare and submit written recommendations setting forth any proposed amendments or	The Task Force will review the Home Rule Charter of Miami-Dade County in its entirety and will prepare and submit written recommendations setting forth any proposed amendments or	

Proposed Resolutions Creating a Charter Review Task Force (Task Force) Board of County Commissioners (BCC) - Item Nos. 11A25, 11A26, and 11A27			
Subject Area	11A25 Prime Sponsor: Comm. Diaz revisions to the Charter.	11A26 Prime Sponsor: Comm. Heyman revisions to the Charter.	11A27 Prime Sponsor: Comm. Martinez and Barreiro revisions to the Charter.
Additional Tasks in conducting the review of the Home Rule Charter	- Invite experts from the National Civic League to assist in the review of, and provide recommendations for amendments and improvements to the Home Rule Charter; - Study municipal charters of similarly sized local governments to identify effective charter structures and provisions; - Conduct public hearings at various stages in the review process; and - Specifically address potential amendments to the Charter regarding term limits for County Commissioners, the composition of the Board including the potential for at-large or regional Board members, salary of Commissioners and the Mayor, creation of a Charter office of inspector general, percentage of electors required to initiate a recall for district and county-wide officers, and a comprehensive succession of power for vacant charter office.	- Study the Final Report of the last Charter Review Task Force; - Invite knowledgeable members of the community to appear and make recommendations; - Conduct public hearings at various stages in the review process; and - Conduct regional public meetings to convey recommendations of the Task Force and receive any additional comments from the public prior to submission of a report to the BCC recommending charter amendment proposals.	- Study the Final Report of the last Charter Review Task Force; - Invite knowledgeable members of the community to appear and make recommendations; and - Conduct public hearings at various stages in the review process.
Deadline for Written Recommendations to BCC	Submitted within 180 days of the effective date of this resolution.	Submitted no later than 120 days of the effective date of this resolution, provided, however that nothing herein prohibits the Task Force from providing a report or reports to the Board prior to such time.	Submitted within 180 days of the effective date of this resolution.
Sunset Provision	On the 320 th day from the effective date of this resolution.	On the 364 th day from the effective date of this resolution.	On the 320 th day from the effective date of this resolution.
Ballot Placement	All matters approved by a 2/3's vote of the Task Force members will be placed on the Presidential election ballot in 2012 along with any other Charter Review Task Force recommendation the Board deems in the best interest of the residents of Miami-Dade County.	Any item approved by at least 2/3's of the membership of the Task Force will be placed on the ballot at the next available countywide election.	Does not address ballot placement.