



**MEMORANDUM**

Agenda Item No. 11(A)(20)

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

**DATE:** November 3, 2011

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

**SUBJECT:** Resolution calling a countywide special election for the purpose of submitting to the electors the question of whether to amend the charter to establish the Office of Police Director as an elected charter official responsible for police and corrections functions

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.

  
\_\_\_\_\_  
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)(20)  
11-3-11

RESOLUTION NO. \_\_\_\_\_

RESOLUTION CALLING A COUNTYWIDE SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, TO BE HELD ON TUESDAY, [ ], 2012, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF MIAMI-DADE COUNTY THE QUESTION OF WHETHER TO AMEND THE CHARTER TO ESTABLISH THE OFFICE OF POLICE DIRECTOR AS AN ELECTED CHARTER OFFICIAL RESPONSIBLE FOR POLICE AND CORRECTIONS FUNCTIONS WHO HAS MORE INDEPENDENCE THAN CURRENT ADMINISTRATIVE DIRECTORS AND WHO MAY BE RECALLED BY VOTERS, INSTEAD OF THE MAYOR BEING RESPONSIBLE FOR PERFORMING SUCH FUNCTIONS THROUGH DEPARTMENT DIRECTORS THE MAYOR APPOINTS, SUBJECT TO DISAPPROVAL BY THE COMMISSION, AND SUSPENSION, REPRIMAND, REMOVAL OR DISCHARGE AT THE SOLE DISCRETION OF THE MAYOR

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

**Section 1.** A countywide special election is hereby called and shall be held in Miami-Dade County, Florida on Tuesday, [ ], 2012, for the purpose of submitting to the qualified electors of Miami-Dade County the proposal for amendment to the Miami-Dade County 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 ESTABLISHING**  
**POLICE DIRECTOR AS AN ELECTED CHARTER**  
**OFFICIAL WITH POLICE AND CORRECTIONS**  
**FUNCTIONS**

SHALL THE CHARTER BE AMENDED TO ESTABLISH THE OFFICE OF POLICE DIRECTOR AS AN ELECTED CHARTER OFFICIAL RESPONSIBLE FOR POLICE AND CORRECTIONS FUNCTIONS WHO HAS MORE INDEPENDENCE THAN CURRENT ADMINISTRATIVE DIRECTORS AND WHO MAY BE RECALLED BY VOTERS, INSTEAD OF THE MAYOR BEING RESPONSIBLE FOR PERFORMING SUCH FUNCTIONS THROUGH DEPARTMENT DIRECTORS THE MAYOR APPOINTS, SUBJECT TO DISAPPROVAL BY THE COMMISSION, AND SUSPENSION, REPRIMAND, REMOVAL OR DISCHARGE AT THE SOLE DISCRETION OF THE MAYOR?

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 Jose "Pepe" Diaz. 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

Esteban L. Bovo, Jr.

Sally A. Heyman

Jean Monestime

Rebeca Sosa

Xavier L. Suarez

Lynda Bell

Jose "Pepe" Diaz

Barbara J. Jordan

Dennis C. Moss

Sen. Javier D. Souto

The Chairperson thereupon declared the resolution duly passed and adopted this 3<sup>rd</sup> day of November, 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 HOME RULE CHARTER

ARTICLE - 3<sup>1</sup>

ELECTIONS

**SECTION 3.01. ELECTION AND COMMENCEMENT OF  
TERMS OF COUNTY COMMISSIONERS  
>> THE MAYOR AND POLICE  
DIRECTOR<<.**

A. The election of the Commissioners from even-numbered districts shall be held in 1994 and every four years thereafter and the election of Commissioners from odd-numbered districts shall be held in 1996 and every four years thereafter at the time of the state primary elections. >>Notwithstanding any provision of Section 2.02 of this Charter, the Police Director, who shall be the Office of Police Director, shall be elected, commencing with the countywide election to be held at the same time as the state primary election in 2012 and every four years thereafter.<<

B. A candidate must receive a majority of the votes cast to be elected. ~~[[Effective with the election for County Commission in 2004, if]]~~ >>If<< no candidate receives a majority of the votes cast there will be a runoff election at the time of the general election following the state primary election between the two candidates receiving the highest number of votes. Should a tie result, the outcome shall be determined by lot.

C. Except as otherwise provided in this Charter, ~~[[beginning with the elections in 2004]]~~, the terms of office of the Mayor ~~[[and]]~~ >>and Police Director<< shall commence on the second Tuesday next succeeding the date of the general election in November.

D. Notwithstanding any other provision of this Charter, effective with the term of Mayor scheduled to commence in October, 1996, no person shall be elected as Mayor for more than two consecutive four-year terms. Neither service as Mayor or County Commissioner prior to the terms scheduled to commence

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<sup>1</sup>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.

in October, 1996, nor service of a partial term subsequent to October, 1996, shall be considered in applying the term limitation provisions of this section.

**SECTION 3.02. RESERVED.**

**SECTION 3.03. NONPARTISAN ELECTIONS.**

All elections for Mayor >>County Commissioners, and Police Director<< ~~[[and the other members of the Board]]~~ shall be nonpartisan and no ballot shall show the party designation of any candidate. No candidate shall be required to pay any party assessment or state the party of which he is a member or the manner in which he voted or will vote in any election.

**SECTION 3.04. QUALIFICATIONS AND FILING FEE.**

A. All candidates for the office of Mayor ~~[[øø]]~~ >><sub>1</sub><< County Commissioner >><sub>1</sub>or Police Director<< shall qualify with the Clerk of the Circuit Court no earlier than the 84th day and no later than noon on the 70th day prior to the date of the election at which he is a candidate in the method provided by law or ordinance, and shall pay a filing fee of \$300. All filing fees shall be paid into the general funds of the county.

B. Notwithstanding the foregoing, a person who seeks to qualify as a candidate for the office of Mayor ~~[[øø]]~~ >><sub>1</sub><< County Commissioner >><sub>1</sub>or Police Director<< and who meets the petition requirements of this section is not required to pay the filing fee required by this section or any other qualifying fee required by the state (collectively the "Qualifying Fee"). A candidate who seeks to qualify without paying the Qualifying Fee must obtain the number of signatures of voters in the geographical area represented by the office sought equal to at least 1 percent of the total number of registered voters of that geographical area, as shown by the compilation by the Supervisor of Elections for the immediately preceding general election. Signatures may not be obtained until the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to state law. The format of the petition shall be prescribed by the Supervisor of Elections and shall be used by candidates to reproduce petitions for circulation. Each petition must be submitted before noon of the 28th day preceding the first day of the qualifying period for the office sought to the Supervisor of Elections. The Supervisor shall check the signatures on the petitions to verify their status as voters in the geographical area

represented by the office sought. No later than the 7th day before the first day of the qualifying period, the Supervisor of Elections shall certify the number of valid signatures. The Supervisor of Elections shall determine whether the required number of signatures has been obtained and shall notify the candidate. If the required number of signatures has been obtained, the candidate shall be eligible to qualify pursuant to this section without paying the Qualifying Fee.

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## 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. All administrative functions not otherwise specifically assigned to others by this Charter shall be performed under the supervision of the Mayor.

\* \* \*

#### >>SECTION 5.09. OFFICE OF POLICE DIRECTOR.

A. Commencing in 2012, there shall be an Office of Police Director headed by an elected Police Director, as provided in the Charter.

B. The Office of Police Director shall carry out the policies of the Board of County Commissioners and powers and duties as transferred and assigned by Section 9.01(C) of this Charter. Except for budgeting, funding, and emergency management matters, the Police Director, as well as persons working under his or her supervision, shall perform their duties and powers without supervision or interference from the Mayor or the Commission. Notwithstanding any provision herein, the Mayor and Commissioners shall be permitted to communicate and make inquiries of the Police Director or employees of the Office of Police Director for the purpose of transmitting constituent inquiries or assisting the Mayor or Commissioners in exercising their powers as set forth in this Charter.

C. All other matters necessary or advisable for the functioning of the Office of Police Director shall be established by ordinance of the Board of County Commissioners.<<

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## ARTICLE-8

### INITIATIVE, REFERENDUM AND RECALL

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#### SECTION 8.02. RECALL.

Any member of the Board of County Commissioners, the Mayor, the Property Appraiser, ~~[[the Sheriff or Constable]] >>~~or the Police Director<< 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:

1. The Clerk of the Circuit Court shall approve the form of the petition.
2. The person or persons circulating the petition must obtain signatures of electors of the county, district, or municipality concerned in numbers at least equal to four percent of the registered voters in the county district or municipality on the day on which the petition is approved, according to the official records of the County Supervisor of Elections.
3. The signed petition shall be filed with and canvassed and certified by the Clerk of the Circuit Court.
4. The Board of County Commissioners must provide for a recall election not less than 45 nor more than 90 days after the certification of the petition.
5. The question of recall shall be placed on the ballot in a manner that will give the elector a clear choice for or against the recall. The result shall be determined by a majority vote of the electors voting on the question.
6. If the majority is against recall the officer shall continue in office under the terms of his previous election. If the majority is for recall he shall, regardless of any defect in

the recall petition, be deemed removed from office immediately.

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.

## ARTICLE-9

### GENERAL PROVISIONS

#### Section 9.01. ABOLITION OF CERTAIN OFFICES AND TRANSFER OF FUNCTIONS

\* \* \*

- 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, who shall assume all the duties and functions of this office required under the Constitution and general laws of this state. ~~[[The Mayor may delegate to a suitable person or persons the powers and functions of such office.]]~~ >>As of November 2012, upon the election of the Police Director, the powers and functions of the Office of Sheriff are transferred from the Mayor to the Office of Police Director. The powers and functions transferred to the Office of Police Director pursuant to this paragraph shall include those which pertain to corrections and the operation of the County jails and detention facilities and the custody of the prisoners therein.<<