

August 23, 2012

Agenda Item No. 1F1

Memorandum



Date: July 17, 2012

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

From: Senator Rene Garcia, Chairman
Charter Review Task Force

Subject: Charter Review Task Force - Final Report



Attached for the consideration of the Board of County Commissioners is the Final Report of the Charter Review Task Force. I am honored to have been appointed by the members of the Charter Review Task Force as Chairman. It has been a privilege serve with such distinguished community leaders, whose commitment and dedication to Miami-Dade County have been unwavering. While the process has been collegial and collaborative, the Task Force members have been engaged in vigorous dialogue and debate.

I want to thank each of my fellow Task Force members for dedicating their valuable time and energy to this important process. The time frame in which we had to conduct our work was challenging, but the members were committed to fulfilling our charge to the best of our ability. It is my hope that the Board of County Commissioners will fulfill the intent of Resolution No. R-253-12 and place the four recommendations approved by 2/3 of the membership of the Task Force on the November 6, 2012 ballot for consideration by the voters. Additionally, the Task Force approved 12 recommendations with a simple majority. It is also my hope that the Board will carefully consider these recommendations for placement on the November 6th ballot for consideration by the voters.

The work of the Charter Review Task Force could not have been performed without the professional support of staff from the Mayor's Office, County Attorney's Office, Clerk of the Board and various County Departments. They have been indispensable throughout this process and on behalf of the Task Force, I thank them for all of their efforts.

Thank you for considering the final recommendations of the Charter Review Task Force and for your service to our community.

If you have any questions or concerns, please feel free to contact me directly.

Attachment

cc:

Honorable Carlos A. Gimenez, Mayor
Honorable Harvey Rivlin, Clerk of the Circuit and County Courts
Members of the Charter Review Task Force
R.A. Cuevas, County Attorney
Office of the Mayor Senior Staff
Department Directors
Charles Anderson, Commission Auditor

Miami-Dade County Charter Review Task Force

**Final
Recommendations
Report**

July 17, 2012

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Executive Summary

The Miami-Dade Charter Review Task Force (CRTF) has concluded its charge and has sixteen recommendations regarding the Miami-Dade Home Rule Charter. This final report provides each issue of study, recommendation, and a brief synopsis of the rationale for the recommendations. At the conclusion of this report, dissenting and concurring opinions are attached.

Final Recommendations

1. Technical Amendments – That the Charter be amended to correct scrivener's errors and technical changes. (Motion Passed: 13-0)
2. Term Limits – That the Charter be amended to have term limits for County Commissioners of two consecutive four-year terms, commencing in November 2012, which concurs with Board Resolution No. R-254-12. (Motion Passed: 9-2)
3. Vote Requirement to Expand the Urban Development Boundary (UDB) - That the Charter be amended to require a 2/3 vote of all Commissioners in office to expand the Urban Development Boundary. (Motion Passed: 11-0)
4. Incorporation – That the Charter be amended to provide that changes in municipal boundaries require a 2/3 vote of the Board of County Commissioners; and that the Board no longer has the sole authority to create new municipalities and that Incorporation By Initiatory Petition, modeled after the initiatory petition for ordinances and Charter amendments be added to the Charter. (Motion Passed: 15-1)
5. Citizens' Bill of Rights – That the Charter be amended so that, except in municipalities whose charters specifically provide that the Citizens' Bill of Rights shall be enforced in Circuit Court, the Commission on Ethics and the Public Trust may enforce the Citizens' Bill of Rights and impose any penalty authorized by the County Code. Penalties prohibited by a collective bargaining agreement may not be imposed. All citizens continue to have the ability to directly file suit in Circuit Court. (Motion Passed: 9-2)
6. Responsibilities of the Mayor (Intergovernmental Affairs) – That the Charter be amended to add responsibility for intergovernmental affairs to the Responsibilities of the Mayor. (Motion Passed: 11-0)
7. Salary for Commissioners – That the Charter be amended to set the salary for Commissioners at the median income in Miami-Dade County, computed annually, to commence November 22, 2016. (Motion Passed: 14-0)

8. Veto Power of the Mayor – That the Charter be amended to add any item resolving collective bargaining agreement impasse to those items the Mayor does not have the authority to veto. (Motion Passed: 7-5)
9. Mayoral Vacancy – That the Charter should be amended to increase to 90 days an election to fill a vacancy for Mayor or member of the Board with a 10 day qualification period, and that upon a vacancy in the Office of the Mayor, the powers vested in the Charter in the Office of the Mayor to head the County for emergency management purposes, to hire department directors, and to recommend waivers of competitive bidding shall be temporarily vested in the Chairperson of the County Commission as supplementary powers. If the Chair relinquishes such powers, they shall then be vested with the Vice-Chair. If the Vice-Chair relinquishes such powers, they shall then be vested in the Clerk of the Courts. If the Board calls an election to fill the vacancy in the Office of Mayor, the person exercising the powers of the Mayor cannot qualify as a candidate for that office. (Motion Passed: 12-0)
10. Franchise and Utility Taxes – That the Charter be amended to require that upon annexation or incorporation of areas of the County, the franchise fees and utility taxes generated within those areas shall first be used to pay the areas' annual pro-rata share of debt service payments secured by those fees and taxes with the balance to be paid to the municipality for municipal purposes and to provide that upon the expiration of the electric franchise agreement currently in place, the newly created municipality or municipality that has annexed unincorporated areas shall have sole authority to negotiate and enter into a new electric franchise agreement. (Motion Passed: 11-0)
11. Petition Process – That the Charter be amended to eliminate the notarization requirement on petition forms and to provide that a recall petition state the cause for recall. (Motion Passed: 8-3)
12. Ordinances Adopted Via Initiative Process – That the Charter be amended to extend from one year to three years the time during which an ordinance adopted via the initiative process shall not be amended or repealed. (Motion Passed: 11-0)
13. Transfer of Functions of the Office of Sheriff – That the Charter be amended to transfer the functions of the Office of Sheriff, excluding those functions which pertain to corrections and County jails, from the Mayor to the Director of Miami-Dade Police Department. (Motion Passed: 10-1)

14. Charter Review Task Force – That the Charter be amended to provide that a Charter Review Task Force shall meet every eight (8) years and recommend changes to the Charter for the General Election, with any recommendation approved by a 2/3 majority of the Task Force members being placed directly on the ballot by the Board. (Motion Passed: 12-0)

15. Conflicting Outside Employment – That the Charter be amended to provide that Commissioners may not take, or hold office, if they are employed by any entity that does business with the County or any entity or agency controlled by the County; and that no entity may bid for or be awarded a County contract if a member of the Commissioners' immediate family is an owner, director, board member, or consultant of the entity or a subcontractor of the entity or has any financial relationship with the entity or a subcontractor of the entity. (Motion Passed: 16-0)

16. Mayoral Conflict of Interest in Procurement – That the Charter be amended to provide that in circumstances where the Mayor, in writing, informs the Clerk of the Courts that he or she has a conflict of interest in the solicitation, evaluation, award or recommendation of award of a contract, that the Clerk of the Courts, and not the Mayor, shall have all authority provided by the Board or Charter in those instances including the authority to recommend a bid waiver. (Motion Passed: 16-0)

Introduction and Background

The Miami-Dade County Home Rule Charter was adopted in 1957, essentially becoming the "constitution" for Miami-Dade County. This year marks the 55th anniversary of the Charter's adoption. The Home Rule Charter grants the voters of Miami-Dade County very broad powers to determine for themselves the form of their local government. This granting of state constitutional authority to the electors of Miami-Dade County is one of the greatest legislative achievements for this County's residents.

In order to ensure that the Home Rule Charter is responsive to the changing needs of our community, the Charter (Sec. 9.08) requires that the Board of County Commissioners (Board) review the Charter at least once every five years to determine whether or not it requires revision.

On March 8, 2012, per Board Resolution No. R-253-12, the Miami-Dade County Charter Review Task Force (CRTF) was created to review the Charter in its entirety and submit to the Board recommendations setting forth any proposed amendments or revisions to the Charter. This CRTF consists of 20 members (Appendix A): 13 members were appointed by the Board, one member was appointed by the Mayor, four members were appointed by the four largest cities in Miami-Dade County (Miami, Hialeah, Miami Gardens and Miami Beach), and two were appointed by the Miami-Dade League of Cities.

In conducting this review, the Board directed the Task Force to:

- Study the Final Report of the last Charter Review Task Force (dated January 29, 2008)
- Study all proposed charter amendments submitted to the voters since the last Charter Review Task Force issued its recommendations;
- Invite knowledgeable members of the community to appear and make recommendations;
- Conduct public hearings at various stages in the review process;
- Conduct regional public meetings to convey recommendations of the Charter Review Task Force, receive any additional public comments regarding recommendations, and consider any public comments prior to submission of a final report to the Board; and
- Provide a final report to the Board for its July 17, 2012 meeting.

The Board, per R-253-12, expressed its intent to forward any recommendation approved by at least 2/3's of the membership of the Task Force for placement on the ballot at the next available countywide election. Recommendations approved by a simple majority of the Task Force will be considered by the Board for placement on the ballot.

The Task Force convened its first meeting on April 17, 2012. Five public hearings were held from May 7th and May 14th throughout Miami-Dade County to gather input from the community regarding areas of interest. The Task Force reconvened on May 17th and met on a regular basis until June 26th.

In this final report, we make recommendations regarding 16 issues we have studied and deliberated at our Task Force meetings. On June 20th a final public hearing, which was aired on Miami-Dade Television and via webcast, was convened to receive public input on these recommendations which we then considered at a final Task Force meeting on June 26th.

Public Input in Charter Review Process

As directed by the Board, this Charter Review process has provided for a high degree of public participation. Despite the relatively short timeframe in which the Task Force had to complete its work, Task Force members and County staff have been committed to providing the public a comprehensive and transparent process.

Charter Website

The current Charter Review Task Force website (<http://www.miamidade.gov/charter/task-force-2012.asp>) was launched on April 16, 2012. The comprehensive website includes information such as historical Charter information, previous task force reports, and recent Commission-sponsored resolutions to amend the Charter. Also posted are all meeting agendas and minutes, including minutes for public hearings, and Task Force membership. Most importantly, the website provides the public the opportunity to provide input and comments on all matters. Throughout the entire process the public has, and will continue to have, the ability to send their comments through the website or via e-mail at charter@miamidade.gov. All emails received have, and will continue to be forwarded to the Task Force members. As of June 28, 2012, fifty one (51) email comments have been received and there have been more than 6,674 visitors to the website. Additionally, the Task Force members requested that a blog site be established for members of the public who wished to post comments informally and/or anonymously. On May 16, 2012, www.charterreview2012.blogspot.com was launched.

Input from Knowledgeable Members of the Community

Per Resolution No. R-253-12, the Task Force invited numerous knowledgeable members of the community to provide input on topics of discussion. Specifically, we solicited input from Miami-Dade Mayor Carlos A. Gimenez, Clerk of the Courts Harvey Ruvlin, Inspector General Christopher Mazzella, Commission on Ethics and Public Trust Executive Director Joe Centorino, Jackson Memorial Financial Recovery Board Chairman Marcos Lapeiuc, SEIU-President Martha Baker, South Broward Hospital District President and CEO Frank Sacco, County Budget Director Jennifer Moon, Assistant Supervisor of Elections Christina White, Assistant Director of Internal Service Mary Lou Rizzo, and Purchasing Division Director Amos Roundtree.

Public Hearings

The Task Force has held six public hearings. Between May 7 and May 14, five public hearings were held throughout Miami-Dade County at the Miami Art Museum, North Dade Regional Library, West Kendall Regional Library, South Dade Regional Library, and Wilde Community Center in Hialeah in order to gather public input at the beginning of the process.

In addition to members of the public speaking at the five public hearings, a number of elected officials attended including Commission Chair Joe A. Martinez, Representative Carlos Lopez-Cantera, Community Council 14 Vice-Chair Wilbur Bell, Representative Juan Zapata, Sunny Isles Beach Vice-Mayor Lewis Thaler, Miami-Lakes Mayor Michael Pizzi, Miami-Lakes Councilman Nelson Hernandez, and Hialeah Councilman Paul Hernandez. The following organizations also offered input through the public hearings: Let's Incorporate Now Coalition (LINC), West Kendall MAC, Latin Builders Association, Kendall Federation of Homeowners, Village of the Falls Steering Committee, League of Women Voters, the Government Supervisors Association of Florida (GSAF), the International Association of Fire Fighters (IAFF), and the Florida Atlantic Building Association.

Additionally, during our deliberations, the Task Force allowed for citizen input on specific issues at our public meetings.

Lastly, on June 20th, the Task Force hosted a public hearing in the Commission Chambers to convey the recommendations to the public and receive any additional comments from the public regarding our recommendations. The public hearing was televised live on Miami-Dade Television and via webcast. Residents were able to participate by attending in person, by calling in, and by emailing their comments. The Task Force heard from 25 speakers and received three emails during the hearing. Additionally, there were residents who attended the meeting, but did not request to speak.

The Task Force continues to receive public comments through the website and via e-mail. We believe that the degree of public participation fully complies with the Board's desire to engage the community in this process and to promote greater awareness of the Home Rule Charter.

Recommendations

At the onset of this Charter Review process, the Task Force agreed to take votes at each meeting after deliberating on respective issues understanding that the public would have the opportunity to provide comments on the recommendations brought forward.

The following summarizes, by issue, the rationale and justification for our recommendations.

Issue #1 – Technical Amendments

The Task Force discussed that this Charter Review process provided for an opportunity to make amendments that would correct scrivener and technical errors. The Task Force asked the County Attorney's Office to bring forward amendments that are purely technical in nature:

Recommendation

That the titles to the following sections be amended to read:

- Section 1.05. Forfeiture of Office ~~>>of County Elected and Appointed Officials and Employees<<~~.
- Section 1.07. Vacancies ~~>>in the Office of the Mayor or County Commissioner<<~~.
- Section 3.01. Election and Commencement of Terms of County Commissioners ~~>>and Mayor<<~~.

That the following references be removed:

- Section 5.08. Remove reference to Miami-Dade Water and Sewer Authority.
- Section 8.02. Remove reference to the Sheriff or Constable.

That the following references be corrected:

Section 6.03. Change reference in first sentence to Section ~~>>6.04<<~~, deleting ~~[[5.04]]~~.

Section 6.05. Change reference in second sentence to Section ~~>>6.03<<~~, deleting ~~[[5.03]]~~.

(Motion Passed: 13-0)

Issue #2 – Term Limits

In arriving at our recommendation regarding term limits, the Task Force considered and debated the following:

- The public's desire to set term limits for Commissioners
- The benefits and detriments of term limits, including attracting candidates and the impact to institutional knowledge
- The recent Florida Supreme Court Ruling upholding the constitutionality of term limits
- Consecutive terms versus two terms in total

- That the Mayor is term limited
- The issue of term limits should be separate from the issue of salaries and outside employment
- The issue of whether the term limits should be retroactive, and if so, how many years
- The legality of placing a charter amendment that would differ from the resolution (No. R-254-12) approved by the Board on March 8, 2012

Recommendation

That the Charter be amended to have term limits for County Commissioners of two consecutive four-year terms, commencing in November 2012, which concurs with Board Resolution No. R-254-12. (Motion Passed: 9-2)

Background

The Task Force felt it should address this issue despite the fact that the Board of County Commissioners has voted to put on the November 6th ballot an amendment that would place a term limit for County Commissioners of two consecutive four-year terms commencing in November 2012. This issue was brought up numerous times by speakers at the public hearings held at the beginning of the process.

Most of the Task Force members felt that two four-year terms was sufficient with many of them reflecting on their experiences at the municipal and state levels. However, there was discussion regarding the question of retroactivity and if so, how many years, and whether the eight years should be a lifetime limit to avoid a situation of serving the two terms and then sitting out a term and running again. Ultimately, the Task Force decided on term limits of two consecutive four-year terms and that they should be prospective beginning November 2012, concurring with Board Resolution No. R-254-12

Issue #3 – Vote Requirement to Expand the Urban Development Boundary (UDB)

In arriving at our recommendation regarding the UDB, the Task Force considered and debated the following:

- That the current 2/3 vote requirement to approve applications to amend the Comprehensive Development Master Plan (CDMP) that would expand the UDB are set forth by ordinance in the County Code
- That the Charter does not currently have a section that addresses the UDB

Recommendation

That the Charter be amended to require a 2/3 vote of all Commissioners in office to expand the Urban Development Boundary. (Motion Passed: 11-0)

Background

During the public hearings held at the beginning of the process, Task Force members heard from builders' groups that the current vote requirement should be maintained in the County Code, as it has been in place for quite some time and that the Board had not made any changes. However, the Task Force felt that, in spite of the fact that there currently is a 2/3 vote requirement to expand the UDB, the Board could by ordinance change that requirement and that a section should be added to the Charter to include the 2/3 vote requirement.

Issue #4 – Incorporation

In arriving at our recommendation regarding the annexation and incorporation processes, the Task Force considered and debated the following:

- The experiences of cities formed more recently, such as the Village of Pinecrest, the City of Doral, and the City of Miami Gardens
- The experiences of areas that are interested in incorporation, such as the Falls
- The incorporation moratorium from 2005-2012
- Whether incorporation and/or annexation should be mandated to follow the Broward County model
- The issues of "cherry-picking"
- Elimination and/or creation of enclaves
- Viability of cities
- The role of the Board of County Commissioners and Planning Advisory Board
- Self-determination
- The petition process and the 25% threshold
- That the current incorporation process itself governed by ordinance in the County Code

Recommendation

That the Charter be amended to provide that changes in municipal boundaries require a 2/3 vote of the Board of County Commissioners; and that the Board no longer has the sole authority to create new municipalities and that Incorporation By Initiatory Petition, modeled after the initiatory petition for ordinances and Charter amendments be added to the Charter. (Motion Passed: 15-1)

Background

The incorporation issue was one of the most mentioned at the public hearings at the beginning and the end of the process. Task Force members also convened a Sunshine Meeting to workshop the issue, and citizens were given the opportunity at that, and a subsequent Task Force meeting, to provide input. During the Task Force discussions, a number of the members spoke of their own experiences with the incorporation process and the difficulty of that process. That currently,

per the Charter, the authority to create new municipalities lies exclusively with the Board, but that citizens wanting to incorporate should have a process in the Charter that ultimately allows the voters of those areas the ability to vote it up or down. There was concern by some members that the Board, as the elected governing body of the County, should have some role in the incorporation process.

The recommended process is somewhat modeled after the initiatory petition for ordinances and Charter amendment processes and calls for an incorporation committee, comprised of a minimum of five electors, to present for approval a petition to the Clerk of the Courts. The Clerk notifies the incorporation committee as well as the Board of approval or disapproval. The Board within 90 days must review the petition and recommend any changes to the boundaries of the proposed municipality to the incorporation committee at a public hearing. At the public hearing the Board shall approve the petition, as presented in the petition or as revised by the incorporation committee. The Board may only reject the petition upon the determination that the proposed incorporation will not have contiguous boundaries or will leave an unincorporated enclave area within its boundaries. The incorporation committee will have six months to gather signatures of 10% of the electors in the proposed area. The Clerk then has 30 days to certify the signatures after which the petition goes before the Board at its next regularly scheduled meeting. The Board must then call for an election no sooner than 90 days and no later than 120 days after the petition has been certified. The Board must complete a budgetary analysis, in cooperation with the incorporation committee, within 60 days of the petition certification that includes, at a minimum, revenues generated by the proposed area of incorporation prior to incorporation and operating expenses of comparable small, medium and large cities providing typical municipal services. Upon certification of the election, the Board shall appoint, from a list provided by the incorporation committee, a five member Charter Committee which shall have 90 days to create a Charter. Upon completion, the proposed Charter will be submitted to the electors of the municipality no sooner than 60 days and no later than 120 days after it is completed.

This recommendation was initially approved at the May 30th Task Force meeting by a vote of 11-2. The item was reconsidered and amended at the June 20th Task Force meeting and subsequently approved.

Issue #5 – Citizens' Bill of Rights

In arriving at our recommendation regarding allegations of violations of the Citizens' Bill of Rights and the penalties for such violations, the Task Force considered and debated the following:

- That allegations of violations must be filed in the Circuit Court
- The severity of the remedy for violations of the Citizens' Bill of Rights

Recommendation

That the Charter be amended so that, except in municipalities whose charters specifically provide that the Citizens' Bill of Rights shall be enforced in Circuit Court, the Commission on Ethics and the Public Trust may enforce the Citizens' Bill of Rights and impose any penalty authorized by the County Code. Penalties prohibited by a collective bargaining agreement may not be imposed. All citizens continue to have the ability to directly file suit in Circuit Court. (Motion Passed: 9-2)

Background

During the public hearings held at the beginning of the process, Task Force members heard from a citizen that the Citizens' Bill of Rights needed revisions, including the Remedies for Violations. The Task Force discussed the Remedies for Violations and that the sole remedy for allegations was to file suit in Circuit Court and that the sole penalty for violation was forfeiture of office or employment. It was felt that by providing citizens the sole option of filing suit in Circuit Court, the Charter discouraged allegations being brought forward. Additionally, the forfeiture of office/employment penalty was overly harsh given that there was no discretion based on the severity of the violation. The Task Force thought that since the Commission on Ethics and Public Trust is already charged in the Citizens' Bill of Right to enforce the Citizens' Bill of Rights that it should also be able to impose penalties authorized by the County Code. However, members also believed that the ability to file suit in Circuit Court remain should a citizen wish to pursue that option. Members also wanted to protect municipal charters that specifically state that enforcement of the Citizens' Bill of Rights must be sought in Circuit Court.

This recommendation was initially approved at the May 30th Task Force meeting by a vote of 12-0. The item was reconsidered and amended at the June 26th Task Force meeting and subsequently approved.

Issue #6 – Responsibilities of the Mayor (Intergovernmental Affairs)

In arriving at our recommendation to move responsibility for Intergovernmental Affairs from the Board to the Mayor, the Task Force considered and debated the following:

- Public perception that the Mayor is the head of the County and the representative of the electorate

Recommendation

That the Charter be amended to add responsibility for intergovernmental affairs to the Responsibilities of the Mayor. (Motion Passed: 11-0)

Background

The Task Force discussed the public perception that the Mayor is the head of the County government and should represent the community before other governments, including the federal and state levels. While the Board sets the policies, it is the Mayor, as the Administration, who is responsible to carry out those approved policies.

Issue #7 – Salary for Commissioners

In arriving at our recommendation regarding salary for Commissioners, the Task Force considered and debated the following:

- State formula
- An alternative formula based on value of property tax roll and population
- Median income in Miami-Dade County
- Value of Executive Benefits
- Consideration of cost of living adjustments
- Incremental increases in salary until a set amount (such as State formula) is reached
- When salary increase should be implemented
- Consideration of what professionals are paid and ability to attract candidates

Recommendation

That the Charter be amended to set the salary for Commissioners at the median income in Miami-Dade County, computed annually, to commence November 22, 2016.

(Motion Passed: 14-0)

Background

During the public hearings held at the beginning of the process, Task Force members heard many different opinions in regards to salary for Commissioners. The Task Force felt that Commissioners deserved an increase in salary and that the \$6,000 figure may have been adequate for 1957, but was now too low given the complexity and size of Miami-Dade County government. However, they were concerned that the State formula of approximately \$92,000 would not be acceptable to the voters. After considering different figures and formulas, the Task Force set the figure at the County's median income, which would be calculated annually. The Task Force set the salary to commence on November 22, 2016 so that all commissioners would need to win an election before salaries take effect. Additionally, the Task Force felt that this might better prevent voters from the impression that sitting commissioners would receive a "pay raise."

Issue #8 – Veto Power of the Mayor

In arriving at our recommendation to add any item resolving collective bargaining agreement impasse to those items the Mayor does not have the authority to veto, the Task Force considered and debated the following:

- That the Mayor is a party to the impasse
- That the County should follow the process as provided in State statute
- Whether this infringes on the powers of the Strong Mayor
- The Board's ability to override a Mayoral veto

Recommendation

That the Charter be amended to add any item resolving collective bargaining agreement impasse to those items the Mayor does not have the authority to veto. **(Motion Passed: 7-5)**

Background

During the public hearings held at the beginning of the process, Task Force members heard from two labor unions representing County employees regarding this issue. The Police Benevolent Association (PBA) submitted a letter to the Task Force and the Government Supervisors Association of Florida (GSAF) provided input and provided their comments in writing.

There was discussion on the impasse process and that the parties involved were the labor union and the Administration, which the Mayor is the head of. There was debate whether the Mayor as a party of the impasse should then be able to veto the decision of the Board to resolve the impasse. Some members advocated that the process as provided in State statute should be followed by the County. Other members felt that while the Mayor could veto impasse items, the Board also had the ability to override the veto. Also, noted was that the only items the Mayor, per the Charter, could not currently veto was limited to internal Board business such as how the Board chose its leaders and how the Board organized itself. Additionally, they discussed whether this infringes on the powers of the Strong Mayor.

Issue #9 – Mayoral Vacancy

In arriving at our recommendation regarding any vacancy in the Office of the Mayor or members of the Board, the Task Force considered and debated the following:

- The Elections Department's timeline and requirements for elections, regarding absentee ballots and early voting
- Need for continuity
- Succession plan
- Role of Board Chair, Vice-chair
- Role of Clerk of Courts – fiduciary responsibilities, countywide office, responsibilities currently in the Charter

- Transferring only powers of Mayor versus appointing individual to that position
- Concern with State's prohibition on dual office holding and possibly triggering additional vacancy
- Concern of those individuals filling vacancies then qualifying to run
- An elected versus non-elected individual filling vacancies
- Recommendation submitted by Mayor Gimenez at Task Force's request

Recommendation

The Charter should be amended to increase to 90 days an election to fill a vacancy for Mayor or member of the Board with a 10 day qualification period, and that upon a vacancy in the Office of the Mayor, the powers vested in the Charter in the Office of the Mayor to head the County for emergency management purposes, to hire department directors, and to recommend waivers of competitive bidding shall be temporarily vested in the Chairperson of the County Commission as supplementary powers. If the Chair relinquishes such powers, they shall then be vested with the Vice-Chair. If the Vice-Chair relinquishes such powers, they shall then be vested in the Clerk of the Courts. If the Board calls an election to fill the vacancy in the Office of Mayor, the person exercising the powers of the Mayor cannot qualify as a candidate for that office.

(Motion Passed: 12-0)

Background

The Task Force invited Mayor Carlos Gimenez and Clerk of the Courts Harvey Ruvín to provide their input on this issue. Clerk Ruvín felt that the Clerk's responsibilities should not be extended to include certain powers of the Mayor. He believes that the Office of the Clerk holds a position of neutrality in County government and that should be maintained in the event of a mayoral vacancy. Mayor Gimenez was asked to provide his recommendation to the Task Force. His written recommendation was for the Mayor to designate a qualified administrator, who would, in the event of absence, incapacitation, or vacancy, have the mayoral powers vested in the Charter for emergency management purposes, to hire department directors, to fire department directors, and recommend waivers of competitive bidding. The Board could, with a 2/3 vote, disapprove the Mayor's designee.

In discussing this issue, Task Force members felt that the individual given certain powers of the Mayor should be an elected official since the Mayor was an elected official. They believed the caveat that the person exercising the powers of the Mayor cannot qualify to run to fill the vacancy provides a safeguard against using this to obtain a campaign advantage.

As it relates to the time increase to 90 days for a vacancy election with a run-off 30 days later and a 10 day qualification period, the Task Force members agreed with the Elections Department representative that these were reasonable and allowed the department to meet all of their requirements as they relate to absentee ballots and early voting.

Issue #10 – Franchise and Utility Taxes

In arriving at our recommendation regarding franchise and utility taxes in municipalities, the Task Force considered and debated the following:

- Annexation of commercial areas
- Revenues generated by areas of annexation and incorporation
- Fees and taxes generated
- Debt service payments secured by fees and taxes

Recommendation

That the Charter be amended to require that upon annexation or incorporation of areas of the County, the franchise fees and utility taxes generated within those areas shall first be used to pay the areas' annual pro-rata share of debt service payments secured by those fees and taxes with the balance to be paid to the municipality for municipal purposes and to provide that upon the expiration of the electric franchise agreement currently in place, the newly created municipality or municipality that has annexed unincorporated areas shall have sole authority to negotiate and enter into a new electric franchise agreement. (Motion Passed: 11-0)

Background

The Task Force felt that an obstacle to annexation, and incorporation, was the issue of franchise fees and utility taxes. In order to make annexation a desirable and viable option for cities, there needs to be at least enough revenues generated for the cities to cover the costs of providing services to the annexed areas. The same applies to newly incorporated cities. However, the Task Force was reminded that franchise fees and utility tax revenues are used to secure debt service and those areas should continue to pay their pro-rata share. The remaining revenues after debt service payments could be utilized for municipal services in the annexed or newly incorporated areas.

This recommendation was initially approved at the May 30th Task Force meeting by a vote of 14-0. The item was reconsidered and amended at the June 6th Task Force meeting and subsequently approved.

Issue #11– Petition Process

In arriving at our recommendation to amend the petition process, the Task Force considered and debated the following:

- Notarization as the most difficult obstacle
- The percentage of signatures required for recall
- Inclusion of cause for recall petitions
- Rebuttal language for recall petitions

Recommendation

That the Charter be amended to eliminate the notarization requirement on petition forms and to provide that a recall petition state the cause for recall. (Motion Passed: 8-3)

Background

During the public hearings held at the beginning of the process, the Task Force heard from citizens that the petition process needed to be made easier. During the discussion amongst the Task Force members, they agreed that the notarization requirement was the most burdensome part of the process. However, there was vigorous debate on whether the percentage of signatures required for the initiatory process should be increased, as well as for recall, in light of the elimination of the notarization requirement. Additionally, there was discussion as to whether recall petitions should include a stated cause and if a rebuttal statement should be allowed on the ballot. Members agreed that while a stated cause should be included on the recall petition that the percentages should remain as is and that a rebuttal statement on the ballot would be confusing and burdensome to the voters.

This recommendation was initially approved at the June 6th Task Force meeting by a vote of 11-2. The item was reconsidered at the June 26th Task Force meeting and subsequently approved in its same form.

Issue #12 – Ordinances Adopted Via Initiative Process

In arriving at our recommendation to extend from one year to three years the time during which an ordinance adopted via the initiative process shall not be amended or repealed, the Task Force considered and debated the following:

- The effort required by citizens to adopt an ordinance via the initiatory process
- A reasonable length of time that such ordinances cannot be repealed or amended by the Board

Recommendation

That the Charter be amended to extend from one year to three years the time during which an ordinance adopted via the initiative process shall not be amended or repealed.

(Motion Passed: 11-0)

Background

The Task Force felt that given the time-consuming effort required by citizens to adopt an ordinance via the initiatory process that one year was too short a period before the Board could amend or appeal that ordinance. There was discussion about what a reasonable amount of time would be. An option of five years was thought to be too long if there was a need to revise the ordinance. The Task Force felt a compromise of three years was reasonable.

Issue #13 – Transfer of Functions of the Office of Sheriff

In arriving at our recommendation regarding the transfer of the functions of the Office of Sheriff, the Task Force considered and debated the following:

- Whether the Mayor is required to appoint a Director of Miami-Dade Police
- The powers of the Office of Sheriff
- Possible conflicts with investigating the Mayor or Administration

Recommendation

That the Charter be amended to transfer the functions of the Office of Sheriff, excluding those functions which pertain to corrections and County jails, from the Mayor to the Director of Miami-Dade Police Department. (Motion Passed; 10-1)

Background

The Task Force invited Mayor Carlos Gimenez to provide his input on this issue. The Mayor referred to his participation in the 2007 Charter Review Task Force and his support for the recommendation of that group, which would have allowed for the re-appointment of the Police Director every four years, subject to disapproval by a 2/3 vote of the Board. That once appointed, the Police Director would carry out his/her duties independent from the Mayor or the Board, except for funding and budgeting matters. That the Mayor could fire the Police Director with concurrence by a simple majority of the Board, or the Board with a 2/3 vote could fire the Police Director.

The Task Force felt that because of the possible conflict in the case of the Police Department investigating the Mayor and because the Mayor was not required to delegate the powers of the Sheriff that it would be best to amend the Charter to have the powers of the Sheriff, not including those that pertain to corrections and County jails, be transferred to the Director of the Miami-Dade Police Department.

Issue #14 – Charter Review Task Force

In arriving at our recommendation to provide for a Charter Review Task Force to be convened regularly, the Task Force considered and debated the following:

- How often a Charter Review Task Force should be convened
- Importance of directly placing amendments on the ballot
- Presidential election cycle and gubernatorial election cycle
- Commencement date of next Charter Review Task Force

Recommendation

That the Charter be amended to provide that a Charter Review Task Force shall meet every eight (8) years and recommend changes to the Charter for the General Election, with any

recommendation approved by a 2/3 majority of the Task Force members being placed directly on the ballot by the Board. (Motion Passed: 12-0)

This recommendation was initially approved at the June 20th Task Force meeting by a vote of 12-3. The item was reconsidered and amended at the June 26th Task Force meeting and subsequently approved.

Background

The Task Force discussed the need for language to be included in the Charter to convene Charter Review Task Forces regularly. The Task Force concluded that every eight years was reasonable frequency and corresponded with proposed term limits for Commissioners. Additionally, the proposed amendment does not preclude the Board from creating a Charter Review Task Force when it wishes to do so. During the debate, members stressed the utmost importance of being able to place amendments directly on the ballot with a 2/3 vote of Task Force members. They felt previous Task Forces had spent much time and effort to provide recommendations to the Board, only to have most recommendations fail to be placed before the voters. There was additional discussion about whether Charter amendments should be on the Presidential election cycle or the gubernatorial election cycle. Many felt that although turnout is usually higher during Presidential elections, the ballots tend to be longer and Charter amendments are towards the end of the ballot, so voter fatigue becomes an issue. The Task Force agreed that the gubernatorial election cycle would be the better choice and that the next Charter Review Task Force be convened in June 2013, so that there would be ample time for the Task Force to do its work before the November 2014 gubernatorial election.

Issue #15 – Conflicting Outside Employment

In arriving at our recommendation to address the issue of conflicting outside employment, the Task Force considered and debated the following:

- The conflicts of interest when Commissioners, or their family members, are employed by companies or organizations doing business with the County
- Current prohibitions in the Conflict of Interest and Code of Ethics Ordinance
- Entity that should determine violations
- Date the amendment should take effect

Recommendation

That the Charter be amended to provide that Commissioners may not take, or hold office, if they are employed by any entity that does business with the County or any entity or agency controlled by the County; and that no entity may bid for or be awarded a County contract if a member of the Commissioners' immediate family is an owner, director, board member, or consultant of the

entity or a subcontractor of the entity or has any financial relationship with the entity or a subcontractor of the entity. (Motion Passed: 16-0)

Background

Task Force members discussed the need to strengthen the conflict of interest code as the public trust was eroded when companies and organizations that employ Commissioners do business with the County. They felt this practice should end and that any violations, as determined by the Commission on Ethics, should result in immediate forfeiture of office. Any Commissioner, who has forfeited office as a result of this ban, may seek redress in Circuit Court. The Task Force also believed that expanding this to include Commissioners' immediate family was important. Therefore, entities that employ immediate family members of Commissioners may not bid, propose, or be awarded a County contract. Any violations would result in the company's forfeiture of the contract. In consideration of the current annual \$6,000 salary for Commissioners, the Task Force provided that this amendment would commence in November 2016, which coincides with the begin date of the proposed Commissioners' salary amendment.

Issue #16 – Mayoral Conflict of Interest in Procurement

In arriving at our recommendation to address the procurement process when there is a Mayoral conflict of interest, the Task Force considered and debated the following:

- Role of Clerk of Courts – fiduciary responsibilities, countywide office, responsibilities currently in the Charter
- Current process of delegation to Deputy Mayors
- The procurement process and the respective roles of the Mayor/Administration and the Board

Recommendation

That the Charter be amended to provide that in circumstances where the Mayor, in writing, informs the Clerk of the Courts that he or she has a conflict of interest in the solicitation, evaluation, award or recommendation of award of a contract, that the Clerk of the Courts, and not the Mayor, shall have all authority provided by the Board or Charter in those instances including the authority to recommend a bid waiver. (Motion Passed: 16-0)

Background

The Task Force discussed the current process in which the Mayor delegates, in writing, authority to a Deputy Mayor when he has a conflict of interest in a procurement matter. It was felt that because Deputy Mayors are appointed by the Mayor there could be questions about the true independence of their recommendations to award contracts. In such cases, the consensus was that the Clerk of the Courts should instead be delegated the authority, especially given the Clerk already has procurement authority.

Conclusion

The past few years have been very difficult for the residents of Miami-Dade County. They have been calling for reform. We must always strive to improve County government – to make it more responsive to the people we serve. While the Charter Review Task Force has worked diligently and accomplished much to this point, there is important work ahead. We hope our final recommendations will promote vigorous and productive dialogue within our community, in much the same way it did within the Task Force. We are looking forward to presenting our recommendations to the Board of County Commissioners at their meeting on July 17, 2012.

Dissenting & Concurring Opinions

Dissenting and concurring opinions from Task Force members are included in this section:

- Don Slesnick
- Terry Murphy
- Pamela Perry

MIAMI-DADE COUNTY CHARTER REVIEW TASK FORCE

Concurring Opinion of Member Don Slesnick

It has been an honor and a privilege to serve on the 2012 Charter Review Task Force. Special recognition should be given to the Chair and Vice-Chair for their dedicated leadership, to the Mayor's staff who made the work of the Task Force possible and to the lawyers of the County Attorney's office without whose advice and counsel the final work product could not have been achieved.

My votes on each proposal are recorded as part of the public record and I do not file this in order to recede from my previous positions. The purpose of this "Concurring Opinion" is to highlight certain factors which impacted my deliberation and to call to the Commission's attention several specific points which should be addressed before finalizing certain ballot questions for the electorate to consider.

1. It is disappointing to me that so few persons gave input to the Task Force. This is, in part, due to the time constraints under which we operated; the congested nature of the urban landscape which discourages in-person participation; other pressing issues in peoples' everyday lives; and an regrettable lack of interest in government. Thus, the Commission should note that the "input" received came from fewer than 150 people either in live testimony or by e-mail (many of whom were from a well-organized single-issue group focused on the topic of "incorporation"). Thus, it would be difficult for me to conclude that the Task Force took an accurate "pulse" of a community numbering more than two and a half million residents.
2. The time period given to the Task Force within which to accomplish it's mission was unrealistically compressed, and, thus, towards the end of the deliberations a number of decisions were hastily made before the discussion had truly concluded. At the last meeting, many of the members in attendance expressed frustration regarding the lack of time in which to finish meaningful debate over important details.
3. The County Clerk (Clerk of the Courts & Clerk to the Board), Honorable Harvey Ruvin, was generous in devoting his time, at the Task Force's request, to offer helpful guidance on several matters. I would call to the Commission's attention two of his expressed concerns:

- a. In the incorporation process proposal (Issue #4, pp. 6-8, "Final Recommendations") the Clerk pointed out that the Supervisor of Elections would be the appropriate official to validate the signatures contained in a petition. The Elections Department is the custodian of the records which are used in the process, not the Clerk's office. Members of the Task Force who were in attendance at the last meeting expressed a concern that the recommendation as previously adopted should be amended to correct what appeared to be a technical error. There was, however, a concern that with only a minimum quorum present (and deliberations approaching the "twelfth hour") it was not wise to reconsider the recommendation for fear of reopening other contentious issues.
- b. The Clerk took specific exception to the proposal placing certain aspects of the procurement process within his area of responsibility if and when the Mayor might declare a "conflict of interest". (Issue #16, pp. 15-16, "Final Recommendations") Unfortunately, his strong disagreement with the proposal was not voiced to the Task Force until the meeting after the meeting at which the vote was taken. Again, in large part, due to the lack of time, the Task Force did not move to reconsider the item.

Respectfully submitted this 3rd day of July, 2012.



Don Slesnick

Dissenting Opinion.

Terry Murphy, Member
2012 Charter Review Task Force
July 3, 2012.

Subject: Improving Citizen Bill of Rights Remedies Proposal

It has been an honor to serve and participate in the deliberations of the 2012 Charter Review Task Force. Our Chairman, Senator Rene Garcia, was abundantly fair to all the members of the committee, and made every effort to allow the citizens input into the process. My only objection is to a particular amendment that was approved in the closing minutes of our final meeting.

The amendment was hastily approved by a majority vote before quorum was lost. However, I am confident that the Task Force would have arrived at a different conclusion had additional time been available for deliberation. I encourage the Board of County Commissioners to correct this error and advance the original proposal to the countywide electorate, without the last-minute amendment.

In response to a citizen's request to grant the Ethics Commission actual authority to enforce the Citizens' Bill of Rights, the Task Force adopted the original proposal. Currently, the Ethics Commission has the authority to oversee the Citizen Bill of Rights, but only the Circuit Court can impose sanctions. The Executive Director of the Miami-Dade County Commission on Ethics testified in favor of the original proposal, which grants all citizens of Miami-Dade County an alternative to Circuit Court - the ability to pursue justice through the Ethics Commission.

The last-minute amendment introduced an exception that would effectively deny the citizens within the boundaries of most cities access to this alternative remedy. A Charter amendment to only grant certain citizens of Miami-Dade County a right of access to the Ethics Commission would create disparity under our Citizens' Bill of Rights Section in the Charter that does not currently exist. Advancing this proposal in its original form would eliminate this disparity.

To: Senator Rene Garcia, Chairperson, 2012 Miami-Dade County Charter Review Task Force

Through: Inson Kim, Office of the Mayor

From: Pamela I. Perry, Member, 2012 Miami-Dade County Charter Review Task Force

Re: Concurring Opinions on Issues 5 and 15: Citizen's Bill of Rights and Outside Employment and Interests

Senator Garcia,

I write concerning two of the Miami-Dade County Charter Review Task Force's Recommendations.

First, I write to concur in part and dissent in part from the Recommendation under Issue 5. That Recommendation provides that residents may enforce the Citizens' Bill of Rights in the Circuit Court as well as the Miami-Dade Commission on Ethics and the Public Trust (the "Ethics Commission"). The Recommendation also provides that residents in municipalities governed by charters that provide solely for enforcement of the Bill of Rights in the Circuit Court are excluded from the provision allowing residents to bring rights violations to the Ethics Commission.

I strongly believe that the Ethics Commission should have jurisdiction to enforce the Bill of Rights, and I thus concur in part with the Recommendation. I also dissent in part, however, because I do not believe that persons that reside in municipalities governed by charters that permit enforcement of the Bill of Rights only in the Circuit Court should be excluded from seeking enforcement in the Ethics Commission.

I would also note that the exclusionary provision to which I object arose late the last day that the Task Force convened. Since that time, I have spoken with Joe Centorino, the Executive Director of the Ethics Commission, and reviewed opposing arguments. Having reconsidered the issue, it is my view that the current version of the Recommendation unnecessarily disenfranchises a large group of Miami-Dade residents who may wish to pursue an inexpensive and efficient remedy for violations of their fundamental rights. Accordingly, although I initially voted for the Recommendation and cannot change my recorded vote, I wish to register my dissent from the portion of the Recommendation that excludes some of our residents from the right to rectify violations of the Bill of Rights in the Ethics Commission. I would thus respectfully urge the Board of County Commissioners to place this Recommendation on the ballot without the exclusionary language.

Finally, I write to concur with the Recommendation under Issue 15. That Recommendation precludes Commissioners from holding office if they have certain financial interests in entities that do business with the County and contains related prohibitions for immediate family members. I write to concur because I believe that any requirements that are imposed upon the Board of County Commissioners should likewise be imposed upon the Miami- Dade County Property Appraiser and the Miami- Dade County Mayor. Accordingly, to the extent that the Board of County Commissioners approves all or part of the Recommendation under Issue 15, I would respectfully submit that the Property Appraiser and Mayor should be included in that provision as well.

I thank you again for your extraordinary work and leadership.

Appendix A

Charter Review Task Force Appointments

<u>Member</u>	<u>Appointment</u>
Terry Murphy	District 1 – Barbara J. Jordani
Representative John Patrick Julián	District 2 – Jean Monestime
Professor H.T. Smith	District 3 – Vice-Chairwoman Audrey Edmonson
Pamela Perry	District 4 – Sally A. Heyman
Louis Martínez	District 5 – Bruno A. Barreiro
Yolanda Aguilar	District 6 – Rebeca Sosa
Representative Carlos Trujillo	District 7 – Xavier Suarez
Honorable Evelyn L. Greer, Vice-Chairwoman	District 8 – Lynda Bell
Dr. Walter T. Richardson	District 9 – Dennis C. Moss
Carlos A. Maurique	District 10 – Javier D. Souto
Don Slesnick	District 11 – Chairman Joe A. Martinez
Joe Arriola	District 12 – Jose “Pepe” Diaz
Senator Rene Garcia, Chairman	District 13 – Esteban Bovo, Jr.
Lawrence Percival	Mayor Carlos A. Gimenez
Armando J. Buceño, Jr., Esq.	City of Miami
Honorable Isis Garcia-Martinez	City of Hialeah
Hans Ottinot, Esq.	City of Miami Gardens
Victor M. Diaz, Jr.	City of Miami Beach
Honorable Luis Gonzalez	Miami-Dade League of Cities
Mayor J.C. Bermudez	Miami-Dade League of Cities

Charter Review Task Force Staff

Mayor’s Office:	Inson Kim, Director of Policy and Legislative Affairs Lorna D. Mejia, Senior Analyst, Policy and Legislative Affairs Les Pantin, Mayor’s Aide Jevé Clayton, Mayor’s Aide
County Attorney’s Office:	Oren Rosenthal, Assistant County Attorney Cynthia Johnson-Stacks, Assistant County Attorney Jess McCarty, Assistant County Attorney
Clerk of the Board:	Christopher Agrippa, Division Chief, Clerk of the Board Doris Dickens, Senior Commission Clerk