

MEMORANDUM

Agenda Item No. 11(A)(4)

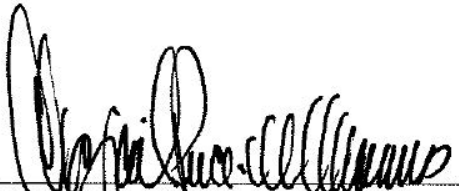
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: July 21, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution rescinding Resolution No. R-272-19 and canceling special election called therein and calling a countywide special election in Miami-Dade County, Florida, to be held in conjunction with a General Election on Tuesday, November 3, 2020, for the purpose of submitting to the electors of Miami-Dade County the question of whether to amend the Home Rule Charter to require that, commencing with the qualifying for and holding of the General Election in 2024 and contingent on a change to state law, the election of the sheriff, property appraiser, tax collector, and supervisor of elections be conducted on a nonpartisan basis and no ballot shall show the party designation of any candidate for those offices

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Esteban L. Bovo, Jr.


Abigail Price-Williams
County Attorney

APW/smm



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: July 21, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 11(A)(4)

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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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)
7-21-20

RESOLUTION NO. _____

RESOLUTION RESCINDING RESOLUTION NO. R-272-19 AND CANCELING SPECIAL ELECTION CALLED THEREIN AND CALLING A COUNTYWIDE SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, TO BE HELD IN CONJUNCTION WITH A GENERAL ELECTION ON TUESDAY, NOVEMBER 3, 2020, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF MIAMI-DADE COUNTY THE QUESTION OF WHETHER TO AMEND THE HOME RULE CHARTER TO REQUIRE THAT, COMMENCING WITH THE QUALIFYING FOR AND HOLDING OF THE GENERAL ELECTION IN 2024 AND CONTINGENT ON A CHANGE TO STATE LAW, THE ELECTION OF THE SHERIFF, PROPERTY APPRAISER, TAX COLLECTOR, AND SUPERVISOR OF ELECTIONS BE CONDUCTED ON A NONPARTISAN BASIS AND NO BALLOT SHALL SHOW THE PARTY DESIGNATION OF ANY CANDIDATE FOR THOSE OFFICES

WHEREAS, on November 6, 2018, the Florida voters amended the Florida Constitution to, among other changes, prohibit a charter county from abolishing the county constitutional offices of clerk of court, sheriff, property appraiser, tax collector, and supervisor of elections and requiring that such county constitutional officers be selected by election; and

WHEREAS, the amendment provided that this change shall become effective in Miami-Dade County on January 2, 2025 and shall govern the qualifying for and holding of the Primary and General Elections for county constitutional officers in 2024; and

WHEREAS, this Board believes that the County would best be served by electing the offices of sheriff, property appraiser, tax collector, and supervisor of elections on a nonpartisan basis; and

WHEREAS, on March 5, 2019, this Board adopted Resolution No. R-272-19 placing the question of whether to elect county constitutional officers on a non-partisan basis before the voters of Miami-Dade County on the November 3, 2020 General Election in reliance on the Florida Supreme Court's January 4, 2019 decision in *Orange County v. Singh*; and

WHEREAS, *Singh* held that charter counties may provide for county constitutional officers to be elected on a non-partisan basis; and

WHEREAS, on April 18, 2019, the Florida Supreme Court withdrew its January 4, 2019 opinion and issued a substitute opinion, which held that a charter county's ability to provide for the election of county constitutional officers on a non-partisan basis is expressly preempted under current state law; and

WHEREAS, under the interpretation of state law in the Florida Supreme Court's April 18, 2019 opinion, the electors of Miami-Dade County through their Home Rule Charter are now expressly preempted from providing for the non-partisan election of their county constitutional officers absent subsequent changes to state law; and

WHEREAS, the ballot question and proposed amendment to the Home Rule Charter adopted in Resolution No. R-272-19 are no longer consistent with the Florida Supreme Court's substitute opinion; and

WHEREAS, this Board continues to maintain that the electors of the County should have the right to decide whether their county constitutional officers should be elected on a partisan or non-partisan basis; and

WHEREAS, under the April 18, 2019 *Singh* opinion, the Florida Legislature could amend state law to allow electors in charter counties to decide whether or not to elect county constitutional officers on a non-partisan basis; and

WHEREAS, this Board believes that the electors of the County should have the right to decide, in advance of the Florida Legislature considering this change, whether the Home Rule Charter should be amended to allow for the immediate implementation of this change in state law; and

WHEREAS, placing this question before the electors of the County also could provide insight to members of the Florida Legislature on whether state law should be amended to permit such method of election,

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

Section 1. Resolution No. R-272-19 is hereby rescinded and the special election called therein for November 3, 2020 is hereby cancelled.

Section 2. A countywide special election is hereby called and shall be held in Miami-Dade County, Florida in conjunction with a General Election on Tuesday, November 3, 2020, for the purpose of submitting to the qualified electors of Miami-Dade County the proposal for amendment to the Home Rule Charter in the form attached hereto and made a part hereof.

Section 3. Notice of such election shall be published in accordance with section 100.342, Florida Statutes.

Section 4. 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 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:

NONPARTISAN ELECTION OF COUNTY SHERIFF,
PROPERTY APPRAISER, TAX COLLECTOR AND
SUPERVISOR OF ELECTIONS

SHALL THE CHARTER BE AMENDED TO REQUIRE, COMMENCING WITH THE QUALIFYING FOR AND HOLDING OF THE GENERAL ELECTION IN 2024, THAT, CONTINGENT ON A CHANGE TO STATE LAW, THE ELECTION OF THE SHERIFF, PROPERTY APPRAISER, TAX COLLECTOR, AND SUPERVISOR OF ELECTIONS BE CONDUCTED ON A NONPARTISAN BASIS AND THAT NO BALLOT SHALL SHOW THE PARTY DESIGNATION OF ANY CANDIDATE FOR THOSE OFFICES?

YES

NO

Section 5. The form of the ballot shall be in accordance with the requirements of general election laws.

Section 6. Early voting shall be conducted in accordance with the requirements of general election laws.

Section 7. 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 8. 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 9. 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 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 10. 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 Esteban L. Bovo, Jr. 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:

Audrey M. Edmonson, Chairwoman	
Rebeca Sosa, Vice Chairwoman	
Esteban L. Bovo, Jr.	Daniella Levine Cava
Jose "Pepe" Diaz	Sally A. Heyman
Eileen Higgins	Barbara J. Jordan
Joe A. Martinez	Jean Monestime
Dennis C. Moss	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared this resolution duly passed and adopted this 21st day of July, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the 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.



Oren Rosenthal

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-3¹

ELECTIONS

* * *

SECTION 3.03. NONPARTISAN ELECTIONS.

All elections for Mayor, Clerk of the Circuit Court and the 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.

>>Commencing with the qualifying for and holding of the General Election in 2024 and to the extent permitted by state law, all elections for Sheriff, Property Appraiser, Tax Collector, and Supervisor of Elections shall be nonpartisan and no ballot shall show the party designation of any candidate. In such elections, 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.<<

* * *

¹Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.