

MIAMI-DADE COUNTY
FINAL OFFICIAL
Meeting Minutes

Board of County Commissioners

*Stephen P. Clark Government Center
111 N.W. 1st Street
Miami, FL 33128*

Monday, April 9, 2007
9:30 AM, Commission Chambers

Harvey Ruvlin, Clerk
Board of County Commissioners

Kay Sullivan, Director
Clerk of the Board Division

Scott Rapple, Commission Reporter, (305) 375-5108



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Members Present: Bruno Barreiro; Jose "Pepe" Diaz; Audrey M. Edmonson; Carlos A. Gimenez; Sally A. Heyman; Dennis C. Moss; Dorrin Rolle; Natacha Seijas; Katy Sorenson; Rebeca Sosa; Javier D. Souto

Members Absent: Barbara J. Jordan; Joe A. Martinez

Members Late: None.

Members Excused: None.

Members Absent County Business: None.

1 MINUTES PREPARED BY

Report: *Scott Rappleye, Commission Reporter, (305) 375-5108*

1A MOMENT OF SILENCE

1B PLEDGE OF ALLEGIANCE

1C ROLL CALL

Report: *The following staff members were present: County Attorney Murray A. Greenberg; Assistant County Attorney Oren Rosenthal; and Deputy Clerks Kay Sullivan and Mary Smith-York.*

1D EFFECT OF STRONG MAYOR CHARTER CHANGES

1D1

071094 Discussion Item

DISCUSSION ITEM RE: CHANGES IN ROLES AND RESPONSIBILITIES OF POSITIONS

Presented

Report: *See Report Under Agenda Item 1D3, Legislative File No. 071096.*

1D2

071095 Discussion Item

DISCUSSION ITEM RE: CHANGES OR IMPACT OF PRIOR RESOLUTIONS

Presented

Report: *See Report Under Agenda Item 1D3, Legislative File No. 071096.*

1D3

071096 Discussion Item

DISCUSSION ITEM RE: CHANGES IN BUDGET PROCESS

Presented

Report: *Chairman Barreiro called the Committee of the Whole meeting to order at 9:40 a.m., and explained the intent of the meeting was to discuss changes that were necessary pursuant to the Charter revision, which changed the structure of the County Government from an Executive Mayor to a Strong Mayor form of government.*

County Attorney Greenberg noted the County Attorney's Office reviewed the Code of Miami-Dade County and other legislation and had compiled a list of the legislation that needed to be adjusted as a result of the changes to the Home Rule Charter (Charter). He pointed out that the County Commission retained its full legislative authority and recommended the County Commission consider rescinding some of the authority delegated to the County Manager.

Chairman Barreiro said the County Commission could approach the budget in two ways: 1) shift positions from the Office of Strategic and Business Management (OSBM), which he was told could not be done legally, or 2) create positions under the County Commission or the Office of Commission Auditor.

Commissioner Gimenez noted shifting positions would be problematic and would violate the Charter. He said the County Commission should increase the Office of Commission Auditor's staff with enough positions to verify every expense, income, and revenue account as well as provide the County Commission with recommendations on the Mayor's proposed budget, as indicated in the Code.

Commissioner Heyman noted she was satisfied with the existing budget process. She expressed concern that the Commission Auditor or the OSBM would need more people to perform additional budgeting tasks that had been assigned. She asked the County Attorney to review the Charter and highlight any obsolete legislation for review by the Commission.

Commissioner Moss noted the County Commission's relationship with the County Manager had changed and he suggested the commissioners change their view of how their own staff functioned. He suggested that the Budget and Finance Committee examine the Mayor Office's staffing needs. He said the commissioners needed to have enough employees to ensure County services operated properly and to ensure proper checks and balances.

Commissioner Diaz said that the County Commission had the final voice in County operations and would be accountable for what happened. He noted the Commission needed to pass legislation that would ensure it clearly understood and received precise information from staff. He expressed concern regarding the commissioners being unable to verify information from staff since they could not be involved with County Administration.

Commissioner Sorenson referenced page six (6), letter A of the Charter which stated, "The Government has been created to protect the governed, not the governing." She questioned which problem(s) needed to be solved, and said she did not want to create a parallel department prematurely.

Responding to Commissioner Rolle, County Attorney Greenberg clarified the report he would distribute contained a comprehensive list of legislation, which the County Attorneys and the Departments indicated may require some adjustment as a result of the change in the form of government.

Following comments by Commissioner Rolle, Commissioner Sosa spoke in support of the County Commission reviewing and adjusting existing legislation. She emphasized the need for all County positions and offices to have the proper resources to perform their duties. She noted the County Commission no longer had the County Manager's help and needed to ensure it had the proper management.

County Attorney Greenberg provided his legal opinion of why the County Commission could not shift budget positions from the OSBM to the Commission Auditor. He explained that the OSBM was an administrative department and the Charter gave the Mayor purview of the administrative functions of the government. He pointed out that the County Commission could control the funding of the OSBM, but the funding needed to be reasonable.

Commissioner Seijas recommended that the County Commission analyze the structure of Jacksonville's government to help broaden its approach to the budget and legislation.

Responding to Commissioner Seijas' question concerning Section 2.02(D) of the Charter, whether or not the Mayor could appoint or remove personnel below the level of department directors, County Attorney Greenberg advised that pursuant to Section 5.01, the Mayor could appoint and remove those positions.

Commissioner Seijas pointed out that the Mayor had been given more power than appointing and removing department directors at will, which was not explained in the campaign presented to the voters.

Referencing Section 2.02(E) on veto authority of the Mayor, Commissioner Seijas questioned the logic of the Mayor having power, through the County Administration, to present and recommend items subject to veto. She explained that the department directors would never present an item that the Mayor did not support. She suggested that the County Commission ask the County Attorney's Office to find an outside expert on Constitutional law who could provide legal advice to ensure the governing rights of the Mayor and the County Commission, pursuant to the January 23, 2007 election, were fairly implemented.

Commissioner Seijas noted Section 4.01 of the Charter gave the County Manager one responsibility, "to assist the Mayor in the administration of County government" and this language made it inappropriate for the County Commission to accept policy recommendations from the County Manager. She expressed concern that the current practice of the County Manager making policy recommendations could be misused and negatively impact County elections.

Following Commissioner Seijas' question, pursuant to Section 5.02 of the Charter, regarding administrative orders, County Attorney Greenberg explained the Mayor had authority over the administrative functions set forth in administrative orders. He noted the County Commission would issue implementing orders in lieu of administrative orders to carry out policies in ordinances and resolutions passed by the Board, such as setting fees at parks.

Commissioner Seijas asked County Attorney Greenberg to revisit his memorandum entitled "Effects of the Strong Mayor Charter Amendment on Administrative Orders," dated February 21, 2007, and to prepare a more

comprehensive written description of the process for implementing Administrative Orders.

Commissioner Souto explained the County Commission controlled budget matters and it was justified to have its own budget office by the campaign argument that the County Commission was like the legislatures in Tallahassee and Washington, D.C. He pointed out their structures included a budget department.

Commissioner Gimenez pointed out the potential for problems when one person was given too much power. He said he thought the County Commission needed to develop practices that would safeguard it and ensure the information provided by the administration was correct.

In response to Commissioner Moss' inquiry as to whether or not the County Commission could change the structure of County Government, County Attorney Greenberg, referencing Section 5.01 of the Charter, explained the County Commission could establish policies, but the Mayor was responsible for implementing the administrative decisions to carry out policies.

Responding to Commissioner Moss' question regarding the County Commission's role in approving the Mayor's appointment of department directors, Commissioner Gimenez explained he was preparing legislation that would establish rules to provide the County Commission a formal review process of the Mayor's appointees, and allow the County Commission to exercise its authority to disapprove the appointee by a 2/3 vote.

Following Commissioner Sosa's question concerning the budget and the County Commission funding departments, County Attorney Greenberg clarified the County Commission could eliminate functions and responsibilities, but not departments; and that the County Commission would determine what was reasonable funding for each department, unless the issue was taken to Court and then a Judge would make a ruling of what was reasonable.

Discussion ensued between Chairman Barreiro and County Attorney Greenberg regarding the extent that the County Commission utilize its legislative policy making authority to create or eliminate departments.

County Attorney Greenberg noted the County Commission retained legislative policy making authority of what functions it wanted the County Administration to perform, but it could not decide who would carry out the functions and how the functions would be carried out. He further noted the Table of Organization was an administrative function.

Following comments by Commissioner Moss regarding how the U. S. Congress created, eliminated, and merged departments, County Attorney Greenberg cautioned the commissioners against using the congressional analogy to understand their authority and pointed out that the Federal Constitution did not make the President the administrative head of the government.

Responding to Commissioner Diaz's concern that County services would not be fairly managed to the commissioners, County Attorney Greenberg explained the County Commission could employ as many people as necessary to carry out its functions. He clarified that page 14, number 19, of the Charter did not apply to today's (4/9/07) discussion.

Discussion ensued between Commissioner Gimenez and County Attorney Greenberg regarding the County Commission funding County Departments.

County Attorney Greenberg clarified that the County Commission could pass a resolution directing the County Manager or Mayor to consider creating a specific department as a way to perform functions.

Following further discussion, Commissioner Sorenson urged her colleagues to stay focused on the vital issues of rapid growth, transportation, water shortage, property tax, and disaster planning.

In response to Commissioner Edmonson's inquiry regarding the County Commission adding departments under the Commission Auditor, County Attorney Greenberg explained the County Commission would not add departments, but could amend the existing ordinance to expand the Commission Auditor's responsibilities.

Following comments by Commissioner Diaz and Edmonson, County Attorney Greenberg advised each commissioner to list specifically what they wanted in an ordinance relating to the Commission Auditor and he would compile this information and prepare proposed amendments and submit them for consideration on first reading.

Commissioner Seijas read from the Charter page 8, number 11, regarding budgeting, and pages 19 & 20, Section 2.02(F) & (G), regarding the responsibilities of the mayor. She noted that some inconsistencies existed that had not been addressed. She suggested the commissioners use 3-1-1 to answer phone calls and provide reports regarding their districts. Commissioner Seijas expressed concern that the County Commission had no control of 3-1-1 and the processes had not been clarified.

Referencing Section 1.01(A) (20) of the Charter, County Attorney Greenberg stated the commissioners could get any information they desired from 3-1-1. He explained that the inconsistencies that Commissioner Seijas observed came from the creation of the Executive Mayor position in the 1992 Charter Amendment, which was effective 1996.

Commissioner Seijas asked the County Attorney to provide her with a written legal opinion on Section 2.02(D), Page 19, of the Charter pertaining to the appointment of Department Directors by the Mayor.

Following comments by Commissioner Sosa regarding the need for the County Commission and Administration to work together, Chairman Barreiro asked the County Attorney to work with the Commission to develop a written policy requiring Administrative Orders and Procedures developed by the County Mayor to come before the Board for approval.

County Attorney Greenberg acknowledged this request and agreed to meet with the commissioners to prepare an ordinance regarding Board approval of the Mayor's Administrative Orders.

Chairman Barreiro recommended that the County Commission prepare an ordinance to increase the Commission Auditor's staff for revenue forecasting, and that the County Commission construct the budget based on the Commission Auditor's forecast.

Following Commissioner Gimenez's explanation as to why the Commission Auditor needed to be increased immediately, Commissioner Moss asked the Commission Auditor to analyze how other agencies transitioned when a Strong Mayor form of government was created, and to bring back the findings to the Board for review.

In response to questions by Commissioner Moss, County Attorney Greenberg clarified the following points:

- the Mayor could not establish a department that the County Commission did not fund as part of the budget;
- the County Commission did not need to be concerned about the Mayor creating departments that were not in the budget;
- the Mayor had line item veto power over the budget, subject to override;
- the Mayor did not need to fill all budgeted positions if the service was being performed;
- the Mayor could not create positions that were not funded, unless the department stayed within its overall budget; and
- the changes to the budget would come before the Commission for approval as a supplemental budget.

Responding to County Attorney Greenberg's comments regarding the Mayor creating positions, Commissioner Gimenez clarified that the County Commission had the power to set the number of positions and the Mayor could not exceed that number without prior approval from the Commission.

Commissioner Moss expressed concern that the budget could be manipulated if it did not have more oversight. He noted these issues needed to be further clarified to accurately define the Mayor's flexibility.

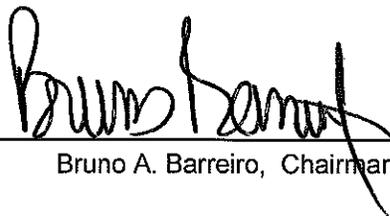
Chairman Barreiro pointed out the Mayor could not shift funding between departments.

Commissioner Seijas asked the Commission Auditor to provide her with a complete report detailing the job description for each position in the Commission Auditor's office, including the level of education, work experience, and qualifications required for each position. She asked that this report also identify the positions that would be needed to perform additional responsibilities if that office were expanded.

Commissioner Seijas asked the County Attorney to provide her with a written legal opinion regarding Section 2.01(E) of the Home Rule Charter regarding the County Mayor's veto authority.

ADJOURNMENT

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Bruno A. Barreiro, Chairman

ATTEST: HARVEY RUVIN, CLERK



By: Kay Sullivan, Deputy Clerk