



MIAMI-DADE COUNTY FINAL OFFICIAL MINUTES Charter Review Task Force

Board of County Commissioners
Main Library Auditorium, 1st Floor
101 West Flagler Street

Wednesday, January 23, 2008
As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

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Clerk of the Board Division

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**CLERKS SUMMARY AND OFFICIAL MINUTES
CHARTER REVIEW TASK FORCE MEETING
JANUARY 23, 2008**

The Charter Review Task Force convened in a meeting on January 23, 2008, at 10:00 a.m. in the Main Library Auditorium, First Floor, 101 West Flagler Street. The following members were present: Chairman Victor M. Diaz, Jr. and members Ms. Lynn Dannheiser; Mr. Miguel De Grandy; David Dermer, former Mayor of the City of Miami Beach; Carlos Diaz-Padron, former Mayor of the City of West Miami; Maurice Ferre, former Mayor of the City of Miami; City of Miami Gardens Mayor Shirley Gibson; Commissioner Carlos Gimenez; Mr. Robert A. Ginsburg; Mr. Murray Greenberg; Mr. Larry Handfield; Mr. John Hogan; Mr. Robert Holland; Mr. Richard Kuper; Mr. Jorge Luis Lopez; Mr. H. T. Smith; and Ms. Yvonne Soler-McKinley; (Ms. Elizabeth Hernandez; Mr. Francois Illas; Raul L. Martinez, former Mayor of the City of Hialeah; and Mr. Ignacio Vazquez were absent).

1. Call to Order

Chairman Diaz called the meeting to order at 10:30 a.m.

2. Roll Call

The following staff members were present: County Manager George Burgess; Assistant County Manager Susanne M. Torriente; Assistant County Attorneys Cynthia Johnson-Stacks and Wifredo Ferrer; Assistant to the County Manager Maggie Fernandez; Office of Strategic Business Management (OSBM) Director Jennifer Glazer-Moon; OSBM staff Vivian Duyos; and Deputy Clerks Diane Collins and Judy Marsh.

3. Approval of Minutes

A. Approval of January 17, 2008 Meeting Minutes

It was moved by Mr. Kuper that the minutes of the January 17, 2008 Charter Review Task Force meeting be approved. This motion was seconded by Ms. Soler-McKinley.

Chairman Diaz asked that paragraph 1, page 5 of the minutes be corrected as follows: "Chairman Diaz noted the preliminary recommendation did not affect the current incorporation process and was motivated by uniform feedback from various public hearings, expressing frustration with the current process."

Assistant County Attorney Cynthia Johnson-Stacks advised that paragraph 1, page 3 of the minutes should be corrected to reflect “abuse of discretion standard” in the last sentence.

The Task Force by motion duly made, seconded and carried, unanimously approved the January 17, 2008 Charter Review Task Force minutes, as corrected.

There being no objection, the following agenda items were considered out of order.

5. New Business

A. Review of Final Report

Following discussion among Task Force members regarding the possibility of calling a meeting on Friday, January 25, 2008, in order to vote on the Task Force’s Final Report to the County Commission due on January 29, 2008, it was moved by Mr. De Grandy that the Task Force approve today (1/23) its Final Report for transmission to the County Commission and to delegate the responsibility of further reviewing the justification and explanation of the text of the report to Chairman Diaz and the County Manager’s Office. This motion was seconded by Mr. Lopez, and upon being put to a vote, passed unanimously by those members present.

Chairman Diaz noted a comprehensive Final Report, including all the Task Force’s recommendations would be available to the members by the close of business tomorrow (1/24). He stated Task Force members would be given an opportunity to attach any Dissenting Opinions to the Report by 12:00 noon on Tuesday, January 29, 2008, and the Report would subsequently be transmitted to the County Commission approximately 5:00 p.m. on January 29, 2008.

4B. Initiative, Referendum, Petition and Recalls (Mayor Alvarez’ January 8, 2008 Letter)

Chairman Diaz recapped the Task Force’s recommendations that the Charter be amended to limit the power of the County Commission to regulate or change the provisions within the Charter relating to citizen initiatives, without a vote of the people of Miami-Dade County; and that only those provisions that are set forth in the Charter should govern citizen initiatives. He noted the County Commission had enacted a series of legislation, some of which set forth technical requirements for the form of a citizen initiative petition. Chairman Diaz noted Miami-Dade County Mayor Carlos Alvarez, responding to the Task Force’s recommendations, forwarded a letter to the Task Force suggesting that the Task Force recommend to the County Commission that the current County Code provisions specifying the form of a citizen initiative petition be placed into the Charter.

Chairman Diaz referenced proposed Charter amendments submitted by Stephen F. Rosenthal, Esq., based on Section 12-23(2) of the Miami-Dade County Code, relating to Mayor Alvarez' recommendation. He noted some of these recommendations would have to be changed to be consistent with the Task Force's other recommendations. Chairman Diaz stated he felt including certain minimum requirements for citizen initiative petitions within the Charter was good; however, he expressed concern that some of the anti-fraud protections that this provision was intended to address, i.e. certain disclosures to ensure the petition circulators were complying with certain requirements, would have a chilling effect on citizen initiatives.

Chairman Diaz questioned whether Task Force members wished to leave the Charter completely silent regarding the requirements for the form of the citizen initiative petition, or whether the members wished to recommend that the Charter be amended to include the proposed petition amendments submitted by Mr. Rosenthal. Chairman Diaz noted Mr. Rosenthal's proposed amendments were current provisions within the Miami-Dade County Code.

Mayor Ferre spoke in support of Mr. Rosenthal's proposed amendments and noted these amendments and Mayor Alvarez' recommendations would place protective language into the Charter which would address abuses in the petition process.

It was moved by Mayor Ferre that the Task Force recommend to the County Commission that the Charter be amended to include the proposed amendments submitted by Stephen F. Rosenthal, Esq. This motion was seconded by Mr. Kuper.

Discussion ensued among Task Force members regarding the foregoing motion.

Mr. Greenberg expressed concern regarding the unintended consequences of Mr. Rosenthal's proposed Charter amendments and noted he was not certain this repealed the requirement for one signature per page. He suggested the Task Force consider whether the State law which limits ballot questions to 75 words and titles to 15 words, and the County ordinance mandating Creole would be applicable. Mr. Greenberg suggested the foregoing motion be amended to provide that any ordinances inconsistent herewith are hereby repealed.

Chairman Diaz noted Mr. Rosenthal was his law partner; however, he had not discussed the proposed amendments with him before their submittal to the Task Force. Chairman Diaz stated he felt placing specific requirements within the Charter relating to citizens initiative petitions was a good idea and was consistent with the Task Force's recommendations; however, he expressed concern regarding over-specificity, noting it would be difficult to change the Charter later on if necessary. Chairman Diaz expressed concern that exposing the petition circulator to potential criminal liability might have a chilling effect on citizen initiatives. He referred to Page 4, Recommendation No. 6 of the Task Force's Draft Report of its Final Recommendations to the County Commission. Chairman Diaz noted the Task Force previously adopted a final

recommendation to the County Commission that the electors of Miami-Dade County be asked whether Articles 8 and 9 of the Home Rule Charter shall be amended to provide that the County Commission shall adopt no resolutions or ordinances regulating the petition procedures as defined in that article of the Home Rule Charter. He referenced the existing Charter requirements in Article 8.01(1) and 8.01(2) regarding citizen initiative petitions.

Mr. De Grandy spoke in support of the proposed amendments; however, he offered a friendly amendment to the foregoing motion to provide that all existing ordinances regarding citizen initiative petitions would be repealed and no ordinance relating to the initiative process shall be effective until ratified by the voters at the next general election. Mr. De Grandy also offered a friendly amendment to provide that the petition shall be printed in 14-point font.

Chairman Diaz noted he felt Mr. De Grandy's amendment regarding citizen initiative petitions would be inconsistent with the Task Force's prior final recommendation.

Mr. Smith noted while he supported strengthening the citizen initiative process, he would vote "no" on the motion on the floor because of unintended consequences and inconsistencies with State law.

In response to Chairman Diaz' question regarding the repeal of existing ordinances, Assistant County Attorney Cynthia Johnson-Stacks noted in the absence of an expressed statement that existing ordinances are repealed, there might be an ambiguity as to the effectiveness of existing ordinances.

In response to Mayor Dermer's inquiry regarding the difference between the existing Charter language relating to certification by the petition gatherer versus language in the proposed amendment, Assistant County Attorney Johnson-Stacks noted the existing ordinance reflects the proposed Charter change which states that "to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be."

Mayor Dermer stated he felt the issue regarding each signature being the genuine signature of the person whose name it purports to be was problematic. He noted he appreciated the unanimity of the Task Force in respecting existing Charter provisions relating to citizen initiatives.

Mr. Ginsburg expressed concern regarding Paragraphs B.1 and B.4 of the proposed amendments regarding proposed ballot language. He noted the language submitted by the petition circulator might not meet the required standard. Mr. Ginsburg suggested the latter part of Paragraph B.2(e) and Paragraph B.2(f) of the proposed amendments be deleted.

Mayor Ferre requested that Paragraph 4 of the proposed amendments be deleted.

Chairman Diaz noted Paragraph B.1 of the proposed amendments should refer to the “Clerk” instead of the “Board” in order to be consistent with Recommendation “A.”

Commissioner Gimenez spoke in support of the petition being printed in 14-point font; however, he suggested the title and text of the proposed amendment be printed in English and be mute as to Spanish and Creole. He suggested language be included within the Charter to provide for a percentage of electors whose first language was not English in order to cover any future language(s).

Commissioner Gimenez suggested keeping the following language in Section B. 2(e) of the proposed amendments: “a sworn statement that the circulator personally circulated the petition, witnessed each signature as it was being written” and deleting the remainder of 2(e). He also suggested keeping Section B. 2(f). Commissioner Gimenez recommended the Charter be amended to provide the following language: “the initiative, referendum and recall process shall be governed only by the following.”

Chairman Diaz noted the Task Force previously made a recommendation regarding governing the initiative, referendum and recall process. He referenced the recommendation from the Assistant County Attorney and former County Attorney requiring explicit language in order to repeal existing ordinances.

Mr. Kuper noted he seconded the motion for discussion purposes; however, he could not support the motion at this time due to the issues that were raised. He expressed concern regarding the reference to perjury in Section (2)(e) of Mr. Rosenthal’s proposed amendments, noting this would create a detrimental effect in the petition process. Mr. Kuper agreed with the comments made by Task Force members regarding Section (2)(e) and (f); and the petition being printed in 14-point font. He also expressed concern regarding a percentage of future residents who spoke another language.

In response to Mr. De Grandy’s inquiry whether existing State Statutes regarding fraud would still apply if the language regarding a sworn statement and penalty of perjury was not included in the proposed amendments, Assistant County Attorney Wifredo Ferrer advised typically when someone was charged with fraud, there had to be a specific statute that applied to a specific situation. He noted unless a general Florida Statute could be found that would apply in this situation, he felt the purpose this specific language was included in the Code was to make it clear that type of fraud shall be criminal.

Mr. Lopez stated he was a strong supporter of Mayor Dermer’s initial recommendation regarding the electors’ right to petition government. He expressed concern regarding potential unintended consequences of the proposed amendments and noted if the Task Force was going to make a

commitment to ask the County Commission and ultimately the voters, to enshrine these principles, it should be done correctly. He questioned whether the Task Force was carefully identifying those enhancements, clarifications and protections that were absolutely necessary.

Mr. Hogan concurred with Assistant County Attorney Ferrer's comments regarding fraud. He noted he felt the Task Force was dealing with unexpected consequences of its final recommendation regarding the citizen initiative petition process and it should be specific about this recommendation. Mr. Hogan said Mayor Alvarez's recommendation was well taken because he was trying to address the most fundamental issues. He noted he was not concerned about the perjury issue.

Chairman Diaz noted Mr. Rosenthal's proposed amendments referred to Section 9.07 of the Charter and not 8.07. Mayor Ferre accepted this amendment.

The friendly amendment offered by Mr. De Grandy that the County Commission shall adopt no resolutions or ordinances regulating the petition procedures set forth in the Charter, unless such ordinance is ratified by the people at the next general election, was not accepted by Mayor Ferre.

Mr. Greenberg questioned whether Mayor Ferre would accept the State law requirement which limits ballot questions to 75 words and titles to 15 words as an amendment.

In response to Chairman Diaz' inquiry whether State law would govern in the absence of stating the limitation on ballot questions and titles, Assistant County Attorney Johnson-Stacks advised State law would still govern and she did not believe the Task Force had to expressly mention the 15 words and 75 word ballot question.

Mr. Greenberg noted Task Force members had addressed other issues and he felt to have final recommendations before the Task Force had completed its deliberations was a disservice to the Task Force, the County Commission and the public.

Following discussion, it was moved by Mayor Ferre and seconded by Mr. De Grandy that the Task Force recommend to the County Commission that Section 9.07 of the Charter be amended as follows:

Section 9.07 Amendments

- A. Amendments to this Charter may be proposed by a resolution adopted by the Board of County Commissioners or by petition of electors numbering not less than ten percent of the

total number of electors registered in Dade County at the time the petition is submitted to the Clerk.

- B. Amendments to this Charter proposed by initiatory petitions of electors shall be governed by the following procedure:
 - 1. The person proposing the amendment shall submit to the Clerk a proposed petition, in the form specified in section (2) below, and proposed ballot language, including a title. The Clerk shall without delay approve as to form a petition for circulation in one or several copies as the proposer may desire.
 - 2. The petition shall be printed in 14-point font and contain the following information: (a) the title and text of the proposed amendment, printed in English, Spanish and Creole; (b) a statement in each petition circulator's own handwriting, setting forth his or her own name, both in printed and signature form; (c) the residence address of the circulator; (d) dates between which all the signatures on each individual petition were obtained; and (e) a sworn statement that the circulator personally circulated the petition and witnessed each signature as it was being written.
 - 3. Initiatory petitions shall be certified in the manner required for initiatory petitions for an ordinance.
 - 4. The Board of County Commissioners shall call an election to be held within 60-120 days of the date that a certified petition is presented to the County Commission. Such election shall be called in conjunction with the next scheduled general election.
- C. Amendments to this Charter may be proposed by the Board of County Commissioners at any time. Elections on Charter amendments proposed by the Board shall be held not less than 60 nor more than 120 days after the Board adopts a resolution proposing any amendment.
- D. The result of all elections on Charter amendments shall be determined by a majority of the electors voting on the proposed amendment.
- E. All current ordinances and resolutions regulating initiative petitions shall be repealed.

Upon being put to a vote, the foregoing motion passed unanimously by a vote of 17-0, (Ms. Hernandez, Mr. Illas, Mayor Martinez and Mr. Vazquez were absent).

Upon conclusion of the foregoing, Mr. Lopez expressed appreciation for having had the opportunity to work with Chairman Diaz and the Task Force members. He noted he came to work for Miami-Dade County in October 1990 to change what was considered at that time a broken system and this had been an important opportunity to continue that effort. Mr. Lopez said he was humbled that this last Task Force meeting was being held in this room surrounded by images of freedom, democracy and civil rights.

Chairman Diaz expressed appreciation to Mr. Lopez for his participation and support on the Task Force.

4A. Discussion of Issue 7 – Study of Balance of Power between Mayor & Board

Review Functions of Mayor vs. County Manager

Review Powers of Commission Auditor & Legislative Analysis

Review of Budget Process

It was moved by Mr. Ginsburg that the Task Force recommend to the County Commission that the Office of Strategic Business Management (Budget Department) be moved under the auspices of the County Commission; that the Budget Director be appointed by the County Commission, the appointment could be vetoed by the Mayor and overridden by the Commission; and the Budget Department would still be available to support the Mayor with respect to any questions/issues regarding the budget. This motion was seconded by Mr. De Gandy.

Mr. Greenberg spoke in opposition to the foregoing motion. He noted he felt this motion was premature as it was approximately one year since the electorate voted to move all departments under the auspices of the Mayor. Mr. Greenberg stated the County Commission still had strong control of the budget and he felt the foregoing motion would make the strong mayor weaker.

Mayor Ferre spoke in opposition to the foregoing motion. He noted this motion would change the balance of power. He stated the County Commission's purpose was to adopt the budget, override the Mayor's veto and provide oversight. Mayor Ferre noted if the Commission needed assistance, they should create a budget office.

Chairman Diaz referred to Attachment "B" to Agenda Item 4A in today's agenda package regarding the budget processes in different counties. He noted County Manager Burgess had requested to address Task Force members.

Mr. De Grandy spoke in support of the foregoing motion. He noted the strong mayor initiatives were not written by the voters, but by people who supported Mayor Alvarez' vision. Mr. De

Grandy said the voters were not given a choice as to whether some departments would be under the Mayor's jurisdiction and this proposition was fueled by procurement. He noted he did not believe it was inappropriate to state that the body that was responsible for adopting the budget should have the budgetary staff to craft a budget.

Mayor Gibson noted she previously made a statement regarding the strong mayor initiative. She stated while voter turnout was low for this initiative she respected the individuals who voted. Mayor Gibson disagreed with comments that the County Commission did not have sufficient staff, noting each commissioner had a sizeable budget to hire personnel to work with them and could choose to hire individuals with a budgetary background. Mayor Gibson noted this process should be given an opportunity to work.

Commissioner Gimenez spoke in opposition to the foregoing motion. He noted Miami-Dade County was moving towards the Duval County model. Commissioner Gimenez stated the Mayor and the County Manager needed staff in order to prepare the budget and then it was the County Commission's decision whether to approve the budget. He noted the County Commission and the County Administration had their own budget priorities which eventually had to be merged. Commissioner Gimenez said he felt the budget cycle was an administrative function, not a legislative function, and the Budget Office should remain with the Mayor. He noted the Commission was strengthening its oversight through the Commission Auditor's Office which would evolve in five years and would provide the right checks and balances.

Mr. Smith concurred with the comments made by other Task Force members.

Mr. Handfield noted he respected the will of the people regarding the strong mayor and it would be difficult to overstep boundaries.

County Manager Burgess disagreed with Mr. Ginsburg and agreed with Commissioner Gimenez. He noted Commissioner Gimenez introduced legislation that tried to define the budget proposal once it was submitted to the County Commission. Mr. Burgess stated the budget function was not only developing a proposed budget, but managing the spending plan, managing the resource allocation plan and spending strategies throughout the course of the year. He noted while different cities and counties had different tools of approaching the budget, the budget process was basically similar in that the Executive Branch submitted a proposed budget which was then modified by the Legislative Branch.

Mr. Ginsburg stated his motion was not disrespecting the voters, but asking the voters if they approved this change. He noted the Task Force was recommending numerous changes to what was previously adopted by the electorate as part of the Home Rule Charter, and this would simply be one other question that would be presented to the electors if the County Commission agreed with this recommendation. Mr. Ginsburg stated he felt the Commission needed to

address the budget process year round through the committee system in order to more effectively analyze the budget. He expressed concern that the County Commission spent most of its time discussing discretionary funds that people were applying for and noted he felt the Commission should be given the budgetary tools to perform their job.

Ms. Soler-McKinley stated she felt County Commissioners had the ability to call the budget director and their staff to provide briefings on the budget process. She noted the County Commission would always have the ability to adopt the budget and therefore, had a role in this process. Ms. Soler-McKinley stated it was the Commission's decision as to how much they wanted to be involved in the budget process.

Upon being put to a vote, the foregoing motion failed to carry by a vote of 11-3 (Mayor Dermer, Mayor Diaz-Padron, Mayor Ferre, Mayor Gibson, Commissioner Gimenez, Mr. Greenberg, Mr. Handfield, Mr. Kuper, Mr. Smith, Ms. Soler-McKinley and Chairman Diaz voted "no") (Mr. De Grandy, Mr. Ginsburg and Mr. Holland voted "yes") (Ms. Dannheiser, Ms. Hernandez, Mr. Hogan, Mr. Illas, Mr. Lopez, Mayor Martinez, Mr. Vazquez and were absent).

It was moved by Mr. De Grandy that the Task Force recommend to the County Commission that the Charter be amended to include language to provide that the Mayor and the County Commission shall have access to the Budget Department's personnel and its resources upon request. This motion was seconded by Mr. Ginsburg.

Mr. Greenberg noted he felt the foregoing motion was unnecessary. He noted budget amendments could be made at any time and the ultimate decision was with the County Commission.

Upon being put to a vote, the foregoing motion failed to carry by a vote of 10-3 (Mayor Dermer, Mayor Diaz-Padron, Mayor Ferre, Mayor Gibson, Commissioner Gimenez, Mr. Greenberg, Mr. Kuper, Mr. Smith, Ms. Soler-McKinley and Chairman Diaz voted "no") (Mr. De Grandy, Mr. Ginsburg and Mr. Holland voted "yes") (Ms. Dannheiser, Mr. Handfield, Ms. Hernandez, Mr. Hogan, Mr. Illas, Mr. Lopez, Mayor Martinez and Mr. Vazquez were absent).

Chairman Diaz expressed appreciation to the County Commission for establishing this process, and to County Commission Chairman Bruno Barreiro for appointing him to the Task Force. He noted he felt the composition of Task Force members was fair and balanced, each of the appointing bodies had made excellent appointments, and the Charter Review process had been collegial and engaging. Chairman Diaz expressed appreciation to County Manager George Burgess; Assistant County Manager Susanne Torriente; Assistant to the County Manager Maggie Fernandez; Office of Strategic Business Management Director Jennifer Glazer-Moon and assistants Vivian Duyos, Ray Scher, Amy Horton-Tavera, Paul Mauriello and John Murphey; Assistant County Attorneys Joni Armstrong-Coffey, Cynthia Johnson-Stacks, Wifredo Ferrer

and Monica Rizo; Clerk of Courts Honorable Harvey Ruvin; Clerk of the Board Director Kay Sullivan; Senior Commission Clerk Doris Dickens and Commission Reporters.

Chairman Diaz expressed appreciation to Mayor Carlos Alvarez for providing the resources of his office at the Task Force's disposal in order to expedite research, particularly regarding single-member and at-large districts. He also expressed appreciation to the Department of Planning and Zoning; Elections Department; the Government Information Center and Ms. Marie Bertot, Office of the Mayor.

Chairman Diaz expressed appreciation to the public for their participation and the people who attended the Task Force's public hearings or visited the Website. He noted he felt this was the most public and open Charter Review process. Chairman Diaz expressed appreciation to the Task Force members and noted he was proud to have served with each member and expressed appreciation for their support of him as Chairman. He noted he was proud of the members' contributions to the community and to this Charter Review process. Chairman Diaz noted the Task Force did not address everything that needed changing about County government, but made important and significant recommendations. He stated Task Force members should be very proud of the final report and he was hopeful the members would stand beside him when this report was presented to the Commission and advocate for the recommendations not only to the Commission but to the community at-large. Most importantly, Chairman Diaz noted he was hopeful the members would continue to fight to make County government more effective, transparent, efficient, ethical and responsive to the people of Miami-Dade County.

Mayor Ferre expressed appreciation to County Commission Chairman Bruno Barreiro for appointing Mr. Diaz to serve as Task Force Chairman, and Chairman Diaz' ability to guide the Task Force members.

It was moved by Mayor Gibson that the Task Force adopt its final recommendations to the County Commission. This motion was seconded by Ms. Soler-McKinley, and upon being put to a vote, passed by a vote of 13-0 (Ms. Dannheiser, Mr. Handfield, Ms. Hernandez, Mr. Hogan, Mr. Illas, Mr. Lopez, Mayor Martinez and Mr. Vazquez were absent).

6. Adjournment

There being no further business to come before the Charter Review Task Force, the meeting was adjourned at 12:58 p.m.

Victor M. Diaz, Jr., Chairman
Charter Review Task Force