

Miami-Dade County Charter Review Task Force Meeting
Monday, October 16, 2017
Miami-Dade County
Commission Chambers
111 NW 1st Street
6:00 p.m.
Agenda

- Reasonable Opportunity for the Public to be Heard
- 1st ISSUE FOR CONSIDERATION: **Procurement**.

Report from the County Attorney's Office on the County Commission's previous delegation of contracting authority, and the extent to which the constitutional requirement that the County Commission be the governing body of the County constrains the amending of the Charter to eliminate the Commission's ability to select the entity with whom the County contracts.

DISCUSSION AND VOTE on whether the Charter should be amended as relates to the **procurement** process, and if so, what those amendments should be?

Task Force Member Ferré's proffered amendment (see attached).

- 2nd ISSUE FOR CONSIDERATION: Whether current Charter provisions relating to the following aspects of the **County Commission** should be amended:
 - a. Commissioner compensation
 - b. Structure and organization of the County Commission
 - i. number of Commissioners
 - ii. method of election by district, at-large, or some combination
 - iii. alternate ways of fostering county-wide perspective
 - c. Term limits

PRESENTATION:

Five to ten-minute presentation by the County Attorney's Office as to the current Charter provisions relating to the above aspects of the County Commission.

DISCUSSION AND VOTES:

On whether any of the foregoing Charter provisions should be amended.

Chairman Cuevas' proffered amendments as to compensation, alternate way to foster county-wide perspective on the Commission and term limits (see attached).

- 3rd ISSUE FOR CONSIDERATION: Report from the County Attorney's Office as to the current provisions for handling elections during emergencies.
- 4th ISSUE FOR CONSIDERATION: Scheduling of regional, public hearings of the Task Force in the months of November and December so that members of the public may appear and make recommendations to the Task Force regarding amendment or revision of the Charter.
- Approval of the Clerk's Summary of Minutes for the September 25, 2017 Charter Review Task Force Meeting.
- Adjournment

PROPOSAL TO CREATE INDEPENDENT DEPARTMENT OF PROCUREMENT MANAGEMENT

Recommendation: The Charter should be amended as set forth below to create an independent department of procurement management. The director of such department will be appointed by the Mayor subject to the approval of a majority of the Commission and may be disciplined or terminated by the Mayor of a majority of the Commission. In the event the Mayor disciplines or terminates the director of the department of procurement management, the Commission may overturn such decision by a 2/3 vote of those members in office at the next regularly scheduled meeting. The department shall be responsible for the solicitation of all contracts in excess of one million dollars or such other amount as set by the Commission. The Board may approve the director's recommendation to award contracts or reject all bids by majority vote, but, if the Board desires to take any other action, a two-thirds vote shall be required.. The director of the department of procurement management shall also recommend all waivers of the competitive process to the Commission.

PROPOSED AMENDMENTS TO THE CHARTER

SECTION 2.02. - RESPONSIBILITIES OF THE MAYOR.

The Mayor shall serve as head of the county government with the following specific powers and responsibilities:

A. The Mayor shall be responsible for the management of all administrative departments of the County government>>, except the Department of Procurement Management,<< and for carrying out policies adopted by the Commission. The Mayor, or such other persons who may be designated by the Mayor, shall execute contracts and other instruments, and sign bonds and other evidences of indebtedness. The Mayor shall serve as the head of the County for emergency management purposes.

B. The Mayor shall have the right to attend and be heard at any regular or special open session meeting of the Commission, but not the right to vote at such meetings.

C. Unless otherwise provided by this Charter, the Mayor shall have the power to appoint all department directors of the administrative departments of the County. Appointment of these department directors>>, except for the director of the department of procurement management,<< shall become effective unless disapproved by a two-thirds majority of those Commissioners then in office at the Commission's next regularly scheduled meeting. >>The appointment of the director of the department of procurement management shall become effective upon approval of a majority of those Commissioners then in office.<< The Mayor shall also have the right to suspend, reprimand, remove, or discharge any administrative department director, with or without cause. >>The Commission shall also have the right to suspend, reprimand, remove, or discharge the director of the department of procurement management by majority vote of those Commissioners then in office and may overturn any decision of the Mayor to suspend, reprimand, remove, or discharge the director of the department of procurement management by a two-thirds majority of those Commissioners then in office at the Commission's next regularly scheduled meeting.<<

D. The Mayor shall within ten days of final adoption by the Commission, have veto authority over any legislative, quasi-judicial, zoning, master plan or land use decision of the Commission, including the budget or any particular component contained therein which was approved by the Commission; provided, however, that (1) if any revenue item is vetoed, an expenditure item in the same or greater dollar amount must also be vetoed and (2) the Mayor may not veto the selection of the chairperson or vice-chairperson of the commission, the enactment of commission committee rules, the formation of commission committees, or the appointment of members to commission committees. The Commission may at its next regularly scheduled meeting after the veto occurs, override that veto by a two-thirds vote of the Commissioners present.

E. The Mayor shall prepare and deliver a report on the state of the county to the people of the county between November 1 and January 31 annually. Such report shall be prepared after consultation with the Commissioners.

F. The Mayor shall prepare and deliver a budgetary address annually to the people of the county in March. Such address shall set forth the Mayor's funding priorities for the County.

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SECTION 5.01. - DEPARTMENTS.

There shall be departments of finance, personnel, planning, >>procurement management<< law, and such other departments as may be established by administrative order of the Mayor. All administrative functions not otherwise specifically assigned to others by this Charter shall be performed under the supervision of the Mayor.

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SECTION 5.03. - FINANCIAL ADMINISTRATION.

A. The department of finance shall be headed by a finance director appointed by the Mayor and the Clerk of the Circuit and County Courts. The finance director shall have charge of the financial affairs of the county

B. Between June 1 and July 15, the County Mayor should prepare a proposed budget containing a complete financial plan, including capital and operating budgets, for the ensuing fiscal year. The budget prepared and recommended by the Mayor, shall be presented by the Mayor or his or her designee to the Commission on or before the Board adopts tentative millage rates for the ensuing fiscal year. A summary of the budget shall be published and the Board shall hold hearings on and adopt a budget on or before the dates required by law.

C. No money shall be drawn from the county treasury nor shall any obligation for the expenditure of money be incurred except pursuant to appropriation and except that the Board may establish working capital, revolving, pension, or trust funds and may provide that expenditures from such funds can be made

without specific appropriation. The Board, by ordinance, may transfer any unencumbered appropriation balance, or any portion thereof, from one department, fund, or agency to another, subject to the provisions of ordinance. Any portion of the earnings or balance of the several funds, other than sinking funds for obligations not yet retired, may be transferred to the general funds of the county by the Board.

~~[[D. Contracts for public improvements and purchases of supplies, materials, and services other than professional shall be made whenever practicable on the basis of specifications and competitive bids. Formal sealed bids shall be secured for all such contracts and purchases when the transaction involves more than the minimum amount established by the Board of County Commissioners by ordinance. The transaction shall be evidenced by written contract submitted and approved by the Board. The Board, upon written recommendation of the Mayor, may by resolution adopted by two thirds vote of the members present waive competitive bidding when it finds this to be in the best interest of the county. Notwithstanding any other provision of the Charter to the contrary, in circumstances where the Mayor informs the Chairperson of the Board of County Commissioners in writing that he or she has a conflict of interest in the solicitation, evaluation, award, or recommendation of award of a contract, the Chairperson of the Board of County Commissioners and not the Mayor shall have all authority provided by this Charter or the Board to solicit, evaluate, award or recommend the award of such contract including, but not limited to, the authority to recommend a bid waiver in writing.]]~~

E. Any county official or employee of the county who has a special financial interest, direct or indirect, in any action by the Board shall make known that interest and shall refrain from voting upon or otherwise participating in such transaction. Willful violation of this Section shall constitute malfeasance in office, shall effect forfeiture of office or position, and render the transaction voidable by the Board.

F. Such officers and employees of the county as the Board may designate shall give bond in the amount and with the surety prescribed by the Board. The bond premiums shall be paid by the county.

G. At the end of each fiscal year the Board shall provide for an audit by an independent certified public accountant designated by the Board of the accounts and finances of the county for the fiscal year just completed.

H. The Budget Commission created by Chapter 21874, Laws of Florida, 1943, is hereby abolished, and Chapter 21874 shall no longer be of any effect.

>>SECTION 5.03.01 – PROCUREMENT MANAGEMENT.

A. Contracts for public improvements and purchases of supplies, materials, and services other than professional shall be made whenever practicable on the basis of specifications and competitive bids. Formal sealed bids shall be secured for all such contracts and purchases when the transaction involves more than the minimum amount established by the Board by ordinance. The transaction shall be evidenced by written contract submitted and approved by the Board.

B. The department of procurement management shall be an independent administrative department under the direction of an appointed director. The department of procurement management shall be responsible for soliciting all contracts for public improvements and purchases of supplies, materials, and services, including professional, when the transaction involves more than one million dollars or such other minimum amount established by the Board by ordinance. The director of the department of procurement management shall recommend the award of competitively solicited contracts to the Board who may

approve such award or reject all proposals by a majority vote of those Board members present. A two-thirds vote of the Board members present shall be required to take any action other than rejection of all proposals or the recommended action of the director.

C. The Board, upon written recommendation of the director of the department of procurement management, may by resolution adopted by two-thirds vote of the members present waive competitive bidding when it finds this to be in the best interest of the county.

D. Notwithstanding any other provision of the Charter to the contrary, in circumstances where the director of the department of procurement management informs the Chairperson of the Board of County Commissioners in writing that he or she has a conflict of interest in the solicitation, evaluation, award, or recommendation of award of a contract, the Chairperson of the Board of County Commissioners and not the director of the department of procurement management shall have all authority provided by this Charter or the Board to solicit, evaluate, award or recommend the award of such contract including, but not limited to, the authority to recommend a bid waiver in writing.<<

CHAIRMAN CUEVAS PROPOSAL ON COMMISSIONER ELECTIONS

Recommendation: The move to district elections was not achieved without cost. For the thirty years prior to the installation of district elections, commissioners were all elected countywide. This meant that every Miami-Dade citizen was a constituent of every commissioner, and every commissioner had reason to be interested in and sensitive to issues affecting all citizens as well as issues of countywide concern. The district election format has a tendency to narrow the focus of each commissioner to the special needs of his or her district. In addition, citizens who previously voted for all commissioners now vote for only one commissioner out of thirteen. Thus, individual citizens are separated from the commission as a whole and are virtually powerless when it comes to countywide issues.

Nevertheless, those issues constitute major responsibilities of the commission, and the commission's decisions directly affect the quality of life, and the cost of government, for the entire community. Such issues include, among others, the airport, the seaport, Jackson Memorial Hospital, traffic and transportation systems, major recreational, arts and sports venues, water and sewer systems, environmental protection, the master plan and the UDB.

I propose that when commissioners are elected from their districts in the primary election, the names of all other commissioners would be placed on every ballot countywide in a merit retention format: "Shall County Commissioner A be retained in office?" If a majority votes "YES" the commissioner serves the remaining two years of his or her term. If a majority votes "NO" the Charter will provide for an election in that commissioner's district, to be held at the general election, for a commissioner to serve the remaining two years. The commissioner listed on the merit retention ballot would still be eligible to qualify and run. This proposal: (1) encourages and rewards commissioners for dedication to countywide issues; (2) gives all Miami-Dade voters an investment in the commission as a whole; and (3) preserves the central theme of district elections--only voters within a district elect their commissioner.

PROPOSED AMENDMENTS TO THE CHARTER

SECTION 3.01. – ELECTION AND COMMENCEMENT OF TERMS OF COUNTY COMMISSIONERS.

A. The election of the Commissioners from even-numbered districts shall be held in 1994 and every four years thereafter and the election of Commissioners from odd-numbered districts shall be held in 1996 and every four years thereafter at the time of the state primary elections. >>A candidate must receive a majority of the votes cast to be elected. Effective with the election for County Commission in 2004, if no candidate receives a majority of the votes cast there will be a runoff election at the time of the general election following the state primary election between the two candidates receiving the highest number of votes. Should a tie result, the outcome shall be determined by lot.<<

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

the two years preceding the state primary election shall run in a countywide election for retention in office. Such Commissioners shall have their name appear on the ballot in order of Commission district as follows: "Shall County Commissioner [name] be retained in office?" and thereafter the words "Yes" and "No." If a majority of the qualified electors voting on such question vote for retention, the Commissioner shall be retained for the remainder of the term. If less than a majority of the qualified electors voting on such question vote for retention, an election shall be held within the Commissioner's district in conjunction with the state general election to fill the remainder of the term of office. Qualification dates shall be established by the Board of County Commissioners by ordinance. The Commissioner who failed to obtain a majority vote for retention shall be entitled to qualify as a candidate to fill the remainder of the term of office. The candidate receiving the highest vote total in such election shall fill the remainder of the term of office and shall take office on the second Tuesday next succeeding the state general election.<<

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CHAIRMAN CUEVAS PROPOSAL TO ELECT COMMISSION CHAIRPERSON AND VICE-CHAIRPERSON

Recommendation: The County Commission should have a more county-wide perspective that cannot be obtained by solely relying on single member district elections. To inject a more county-wide prospective, the Chairperson and Vice-Chairperson of the County Commission should be elected at a countywide election every two years. All County Commissioners serving in the second half of their term shall become eligible for such election with the commissioner receiving the highest vote becoming Chairperson for the next two years and the commissioner receiving the second highest vote total becoming the Vice-Chairperson for the next two years. The Chairperson shall be responsible for presiding over commission meetings and shall establish all standing committees, special committees and ad hoc committees and shall appoint their membership.

PROPOSED AMENDMENTS TO THE CHARTER

SECTION 1.08. – ORGANIZATION OF THE COMMISSION AND COMMISSION COMMITTEES

The Mayor shall not be a member of the Commission. ~~[[The Commission shall select the chairperson and vice chairperson of the Commission.]]~~ >>Commencing with the state primary election in 2020, the Chairperson and Vice-Chairperson shall be elected for two-year terms by county-wide election held at the time of the state primary elections. All commissioners elected within the proceeding two years shall automatically become candidates for such election. Commissioners shall be listed in order of commission district on the ballot. The commissioner receiving the highest votes shall become the Chairperson and the commissioner receiving the second-highest votes shall become the Vice-Chairperson. Should a tie result, the outcome shall be determined by lot. The term of the Chairperson and Vice-Chairperson shall commence on the second Tuesday next succeeding the date of the general election in November.<< The Chairperson shall preside over commission meetings and perform such other duties set forth in the charter and ordinances of Miami-Dade County. The Vice-Chairperson shall perform the duties of the chairperson in the absence or incapacity of the Chairperson. Any member may be selected by the Commission to preside over commission meetings in the event of the absence of the Chairperson and the Vice-Chairperson.

The >>Chairperson<<~~[[Commission]]~~ may organize ~~[[itself]]~~ >>the Commission<< into standing committees, special committees, and ad hoc committees. Upon formation of any such committees, the ~~[[Commission]]~~ >>Chairperson<< may appoint its members ~~[[or authorize the Chairperson to appoint committee members]]~~. Commission committees may conduct public hearings, as authorized by ordinance of the Commission. The Clerk of the Circuit Court or a deputy shall serve as clerk of the Commission. No action of the Commission shall be taken except by a majority vote of those present at a meeting at which a majority of the Commissioners then in office is present. All meetings shall be public.

>>A vacancy in the office of Chairperson shall be filled by the Vice-Chairperson and a vacancy in the office of Vice-Chairperson shall be filled by majority vote of the Commission to be held at the next regularly scheduled meeting.<<

CHAIRMAN CUEVAS PROPOSAL TO ELIMINATE TERM LIMITS

Recommendation: The term limits imposed by the Charter on County Commissioners should be eliminated. The problems facing this community are difficult ones. They are not easy to understand, and they are certainly not easy to solve. The ability to do so depends on understanding the complex entity which is the County and being able to generate consensus at the Commission level as to how best to apply its many resources towards solving these problems. These intertwined prerequisites for solving our problems are developed over time through experience serving as a Commissioner. It does not serve us well to cast away that experience arbitrarily at the end of eight years. The voters should have the ability to re-elect a Commissioner that they believe is effective, regardless of how long the Commissioner may previously have served. Experience in governing is not a negative attribute.

PROPOSED AMENDMENTS TO THE CHARTER

SECTION 3.01. – ELECTION AND COMMENCEMENT OF TERMS OF COUNTY COMMISSIONERS.

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~~>>E. Notwithstanding any other provision of this Charter, effective with the term of Commissioners scheduled to commence in 2012, no person shall be elected as Commissioner for more than two consecutive four year terms. No term of service as a Commissioner commencing prior to 2012 shall be considered a part of or counted toward the two term limit.<<~~

CHAIRMAN CUEVAS PROPOSAL ON COMMISSIONER COMPENSATION

Recommendation: Miami-Dade County established an annual salary of \$6,000 for County Commissioners in 1957, when the County's Home Rule Charter was adopted. In 1957, the U.S. Census reported that the median income of men was \$3600 and of women was \$1100 for 1956. (See, Attachment 1) While the demands of the position of County Commissioner have grown substantially, the salary has remained the same. Currently, the national median household income is \$59,039 (See, Attachment 2).

PROPOSED AMENDMENTS TO THE CHARTER

SECTION 1.06. – SALARY.

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Each County Commissioner shall receive a salary of [~~[\$6,000]~~] >>\$50,000<< per year payable monthly and shall be entitled to be reimbursed for such reasonable and necessary expenses as may be approved by the Board.

**MIAMI-DADE CHARTER REVIEW TASK FORCE
CLERK'S SUMMARY AND OFFICIAL MEETING MINUTES
SEPTEMBER 25, 2017**

The Miami-Dade Charter Review Task Force (the Task Force) convened its fifth meeting on September 25, 2017, at the Miami-Dade County Stephen P. Clark Government Center, Commission Chambers, Second Floor, 111 N.W. 1st Street, Miami, FL 33128, at 6:10 p.m. Upon roll call, the following Task Force members were present: Chair Robert Cuevas, Ms. Alice Burch, Mr. Jeff P. H. Cazeau, Mr. Alfredo J. Gonzalez, and Mr. Marlon Hill. Mr. Maurice Ferre, Mr. Neisen Kasdin, and Mr. Eric Zichella arrived late. Vice Chair Maria Lievano-Cruz, Mr. George M. Burgess, Mr. Carlos Diaz-Padron, Mr. Luis E. Gonzalez, Mr. William H. Kerdyk Jr., and Mr. Mike Valdes-Fauli, were absent. The Commission District 10 seat remains vacant.

County Commissioner Daniella Levine Cava was also present.

In addition to Task Force members, the following staff members were present: Assistant County Attorneys Oren Rosenthal and Mike Valdes; Ms. Nicole Tallman, Director of Policy and Legislation and Ms. Patricia Flor, Senior Policy Analyst, Office of the Mayor; and Mr. Alan Eisenberg, Deputy Clerk, Office of the Clerk of the Board.

Mr. Alan Eisenberg announced that notice was received from Vice Chair Maria Lievano-Cruz, Mr. George Burgess, Mr. Carlos Diaz-Padron, Mr. William H. Kerdyk, Jr., and Mr. Mike Valdes-Fauli that they would be absent from today's (9/25) meeting.

Assistant County Attorney Rosenthal advised Chair Cuevas that action could not be conducted on any agenda item without a quorum and the Board of County Commissioners Rules of Procedure required a waiting period of thirty (30) minutes before the meeting could be cancelled. He further advised Chair Cuevas that the Task Force could schedule another meeting date, if desired.

Discussion ensued amongst Task Force Members and the Assistant County Attorney about how to proceed in the absence of a quorum. It was decided that the Task Force would proceed with the citizen's presentations.

REASONABLE OPPORTUNITY FOR THE PUBLIC TO BE HEARD

Chair Robert Cuevas opened the reasonable opportunity for the public to be heard.

Ms. Maribel Balbin, 8346 Dundee Terrace, Miami, National Board Member, League of Women Voters, mentioned the Strong Mayor form of government and Article 8 relating to petition requirements needed to be addressed.

County Commissioner Daniella Levine Cava, 15360 SW 67 Court, Palmetto Bay, acknowledged Task Force members for their service. She mentioned that she and Board of County Commission

Chairman Esteban Bovo sponsored the legislation creating the Task Force. Commissioner Levine Cava commended her Task Force appointee, Mr. Robert Cuevas for agreeing to serve as its Chair. She said she was looking forward to public input, noting the League of Women Voters was an active participant throughout the process. Commissioner Levine Cava said she looked forward to the upcoming publically announced opportunities for public participation and that she would help promote those meetings once scheduled. She questioned whether the issues presented during the public process would be addressed by the Task Force, even though certain issues were already being considered. Commissioner Levine Cava expressed her support to the Task Force, noting the February deadline for the report was an aggressive timeline.

Mr. Alfredo Gonzalez commented that some items were already considered; however, the Task Force members were committed to revisiting items as necessary after the public process.

Mr. Maurice Ferre stated that he asked Chair Cuevas to schedule a joint meeting with the Broward County Charter Review Committee (BCCRC). He reported that BCCRC's findings can be placed directly on the ballot which was similar to the State of Florida Constitutional Review Committee process, noting it was a different process than used in Miami-Dade County. Mr. Ferre inquired whether Commissioner Levine Cava would sponsor legislation before the BCC changing the County Charter to allow future Charter Review Task Force recommendations to be placed directly on the ballot. He said he believed this would promote more public participation in the charter review process.

Commissioner Levine Cara stated that she reserved legislation to sponsor any items presented by the Task Force, noting she would follow through with this recommendation, if presented by the Task Force.

Ms. Susan Windmiller, 2103 Coral Way, Suite 200, Miami, President, League of Women Voters of Miami-Dade County appeared before the Task Force. She expressed support for the Strong County Manager form of government. Ms. Windmiller mentioned the citizen petition process needed to be reviewed. She pointed out that a provision needed to be added to Article 3 that would postpone a scheduled election until a declaration of natural disaster or emergency was lifted.

Mr. Maurice Ferre agreed that suspending voting following a disaster be discussed, noting staff should present recommendations to the Task Force with the League of Women Voters (League) assistance. He pointed out that the Task Force already voted against a Strong Manager form of government; however, suggested evaluating an alternative approach where an elected mayor appointed a manager who was then confirmed by the commission. Mr. Ferre noted this approach was used by Washington, DC; Philadelphia, PA; Newark, NJ; and elsewhere throughout the Country. He mentioned that the State of Florida Constitution says that all power of governance will be vested in the county commission, yet as a consequence what we really had was an elected manager and the League was requesting an appointed manager.

Ms. Windmiller disagreed with Mr. Ferre's suggestion, noting the BCC was the policy making body and the county manager was the professional who implemented policy. She said there was

currently no clear line as to who sets policy, who implements policy, who was responsible and who was accountable.

Chair Cuevas agreed that accountability was the key issue, noting the item could be revisited by the Task Force, if desired.

Mr. Neisen Kasdin commented that a Strong Mayor was more important than ever, given County's complexity.

There being no other persons wishing to address the Task Force, the reasonable opportunity to be heard was closed.

Following the reasonable opportunity to be heard, at 6:31 p.m., Chairman Cuevas noted business could not be conducted due to the lack of quorum.

Assistant County Attorney Oren Rosenthal indicated that Rule 5.04 provided that should no quorum attend within thirty (30) minutes after the hour appointed for the meeting, the chairperson or clerk may adjourn the meeting until another hour or day unless, by unanimous agreement, those members present select another time. The names of the members present and their action at such meeting shall be recorded in the meeting minutes by the clerk.

In response to Mr. Kasdin's question whether another Task Force member was in route to the meeting, Ms. Nicole Tallman reported that Mr. Eric Zichella would be here shortly.

Mr. Ferre expressed confusion over the procedure used for processing ideas and motions', noting a clear understanding was needed on how to address items presented to the Task Force.

Chair Cuevas said he brought up items presented by Task Force members with the most votes for discussion, with the exception of commissioner salaries. He noted any proposal relevant to the issues on the meeting agenda should be put on the agenda and considered.

Mr. Ferre stated that items should be presented at least four (4) days before the meeting in which the item was to be discussed.

Chair Cuevas said the meeting agenda would need to be distributed the Monday prior to the meeting to accommodate the 4-Day Rule requirements.

Mr. Alfredo Gonzalez concurred with Mr. Ferre that Task Force members should be present to advocate for their proposals; however, noted that public testimony could lead to subsequent motions.

Chair Cuevas pointed out that meeting agenda's would clearly present the upcoming items to be considered. He said that any member could invoke the 4-Day Rule on any item presented that was not on the published agenda, noting the item would not be considered until the following meeting.

Mr. Kasdin commented that the Task Force should be less formal and less procedural, to allow more discussion on substantive issues.

Ms. Alice Burch pointed out that many issues being discussed were closely intertwined, noting the difficulty in picking agenda items and not bringing up other areas of interest that related to the discussion.

Mr. Ferre suggested the Task Force waived the 4-Day Rule, with the understanding that a vote be withheld on new items until the beginning of the next Task Force meeting, in the event that anyone was uncomfortable with voting on that item. He said this would allow Task Force members to be present at the subsequent meeting if they wanted to be part of that decision process.

Mr. Jeff Cazeau stated that he would rather discuss substantive content rather than procedures.

Mr. Alfredo Gonzalez indicated that there was not a 4-Day Rule discussion on today's (9/25) meeting agenda and we should continue with the published agenda.

1st ISSUE FOR CONSIDERATION: Discussion and vote on whether the Charter should be amended as relates to the *budget process*, and if so, what those amendments should be?

There was no discussion about the budget process and no suggested changes to the process were made.

2nd ISSUE FOR CONSIDERATION: Discussion and vote on whether the Charter should be amended as relates to the *organization and function of the Finance Department*, and if so, what those amendments should be?

Mr. Eric Zichella stated for the record that the Finance Department should be organized under the direction and discretion of the County Commission, noting the Commission should formulate the County budget.

There was no further discussion about the budget process and no suggested changes to the process were made.

3rd ISSUE FOR CONSIDERATION: Discussion and vote on whether the Charter should be amended as relates to the *Office of the Commission Auditor*, and if so, what those amendments should be?

Mr. Alice Burch stated that the Commission Auditors (CA) Office was doing the best it could under the current circumstances, noting governmental offices usually exhibited strengths and weaknesses at various times. She said she believed the County Commission had the ability to deal with the CA Office to find the needed information to serve the public.

Mr. Eric Zichella said that his proposed amendment changing the CA Office name reflected current needs. He said it was not the intention that the CA Office only conducted audits, noting

there was a separate County Audit Department that could perform this function. Mr. Zichella mentioned that the CA Office was intended to provide information to the County Commission. He noted the requirement that the Director was a Certified Public Accountant (CPA) made it more difficult to find an individual who was best equipped to manage that office and that another individual holding such designation could be hired for the office, if necessary.

It was moved by Mr. Eric Zichella to amend Section 9.10 of the County Code changing the Office of the Commission Auditor's name to the Commission Office of Management and Research and eliminating the requirement that the Director be a Certified Public Accountant. This motion was seconded by Mr. Alfredo Gonzalez.

Mr. Gonzalez asked and Mr. Zichella accepted a friendly amendment that the new name be the Commission Office of Budget and Research, noting he did not envision much management activity occurring.

Mr. Ferre inquired whether the current CA Office responsibilities included audit functions and whether this change removed the audit responsibility.

Mr. Zichella indicated that the audit function remained a viable function if they choose to do so. He said the CA Office was primarily intended to provide research and information to the County Commission.

Mr. Ferre said there was confusion over a lack of government transparency and accountability. He noted usually in a government the size of Miami-Dade County, the legislative body legislates and an executive ran the operation; however, we had a hybrid form of government which was not clearly delineated. Mr. Ferre pointed out that the County Commission was looking to the executive to provide the investigative material to make decisions, noting this could be a conflict. He said more power needed to be given to the County Commission in order to strengthen the legislative branch. Mr. Ferre said it needed to be an entity that was not under supervision of the elected manager (Strong Mayor).

Mr. Gonzalez clarified that the original intent of the CA Office was to help the County Commission get more information. He said some changes could improve this office, noting more than audit functions were needed to assist the Commission get needed information.

Ms. Burch added that she believed the current advertisement for a CA did not require that person to have a CPA designation.

Assistant County Attorney Oren Rosenthal reported that the County Charter currently required the CA be a CPA, noting someone could not be hired without such designation. He said this requirement would be eliminated with the Mr. Zichella's proposal. Assistant County Attorney Rosenthal pointed out that the requirement to provide the Commission with independent budgetary, audit, management, revenue forecasting, and fiscal analyses of commission policies, county services and contracts did not change with the amendment.

Mr. Ferre commented that there was a difference between audit and research functions. He said a CPA was needed to conduct audits. Mr. Ferre pointed out the amendment changed the office's title but not the substance of what they did.

Chair Cuevas stated that it changed the requirement to be a CPA.

Hearing no further questions or comments, the Task Force proceeded to vote.

Upon being put to a vote, the vote passed by a 6-2 vote of members present. Chair Cuevas and Mr. Ferre voted "No".

4th ISSUE FOR CONSIDERATION: Whether the Charter should be amended as relates to the procurement process?

- PRESENTATIONS:

- Five to ten minute presentation by the County Attorney's Office as to current Charter provisions and requirements of Florida Statutes relating to the procurement process .

Assistant County Attorney Oren Rosenthal stated that Miami-Dade County could differ from State of Florida legislation pursuant to the Home Rule Amendment and the County Charter in many aspects; however, this did not apply to the procurement process. He noted the County must comply with general procurement laws as well as judicial decisions. Assistant County Attorney Rosenthal said that the County's governing body must be the Board of County Commissioners (BCC). He pointed out that the courts interpreted the authority to adopt or reject contracts as governing body power, specifically in a Strong Mayor form of government. Assistant County Attorney Rosenthal said the power to approve contracts was a collateral power of the power to adopt budgets. He noted the power to contract could not be different from the power to budget because the budget was necessary to fund contracts.

Assistant County Attorney Rosenthal mentioned that the BCC could delegate those powers; however, it could not be taken away from them. On the other hand, he advised that the Charter could constrain the way the BCC exercised that power. Assistant County Attorney Rosenthal pointed out that the current Charter provided the Board's contracting powers in terms of Charter requirements. He noted Section 5.03 D of the Charter required competitive bid processes when practical and left it to the Board to determine practicability. Assistant County Attorney Rosenthal added that non-formal sealed bids were allowed under a pre-determined dollar amount; that the Board authorized contracts; that non-competitive bidding over a designated dollar amount was allowed following a written Mayoral recommendation and a 2/3 Board vote. He stated that a recent Charter amendment gave procurement authority to the BCC Chairperson when the Mayor indicated a conflict on a specific proposal.

Mr. Neisen Kasdin asked for more information on the court case requiring BCC approval of all contracts.

Assistant County Attorney Oren Rosenthal reported that *Citizens for Reform v. Citizens for Open Government* was the case where the 3rd District Court of Appeals (Court) analyzed whether the Strong Mayor Amendment was a constitutional amendment. He said the Charter Amendment transferred administrative powers from an appointed county manager to an elected county manager (Strong Manager). Assistant County Attorney Rosenthal advised Task Force members that pursuant to Section 125.01 of the Florida Statutes, if all powers rested with the BCC then they were still the County's governing body. He said that one of those powers was to adopt or reject contracts and because that power rested with the BCC after the Strong Mayor amendment, that amendment did not violate the Home Rule Amendment which made the BCC the governing body. Assistant County Attorney Rosenthal indicated that the Court ruled the Strong Mayor amendment constitutional because those powers were not transferred away from the governing body.

Assistant County Attorney Rosenthal advised Task Force members that the Board could delegate its power to a third party with certain predetermined limitations; however, the authority ultimately remained with the Board. He added that the Board always ratified contracts over a certain amount. Assistant County Attorney Rosenthal pointed out that any provision taking away authority from the governing body would likely run afoul of the Home Rule Amendment, noting the Board must either approve or reject contracts.

In response to Mr. Kasdin's question about making the procurement power independent of the Board, Assistant County Attorney Rosenthal said that the BCC as the governing body would need to be changed through a State of Florida Constitutional Amendment. He pointed out that although the ultimate procurement power remained with the Board, they could choose to delegate that power to a different administrative entity.

Mr. Kasdin commented that the BCC could control contract procurement through the budget process.

Assistant County Attorney Rosenthal discussed pooled contracts, noting the BCC would set a \$5 million budget to purchase items in no more than \$1 million increments per contract. He said the Board would then delegate authority to the Mayor to create independent contracts for those items. Assistant County Attorney Rosenthal advised that it would be difficult for the Task Force to amend the Charter requiring the Board to do this, noting the Board could no longer choose not to delegate the authority to the Mayor. He said the Board could continue to control the process but the ultimate authority must remain with the Board to decide whether they wanted to enter into a contract.

Ms. Alice Burch questioned whether there were any examples of how a charter change could give the counter balance being discussed.

Mr. Maurice Ferre stated that the State of Florida Constitution delegated an enormous amount of power to the County through the Home Rule Charter; however, indicated that there were currently elected State legislators trying to put forward a State Constitutional change limiting these powers. He said there were many people in the State who were angry we had powers that others did not, noting we did not need State approval for the BCC to do a lot of things. Mr. Ferre

indicated that unless you changed the State Constitution you could not make certain changes locally. He suggested the BCC delegated authority and established certain restrictions on themselves by ordinance, as an alternative. Mr. Ferre said that the ultimate power of governance remained with the BCC, not with the Mayor, noting Miami-Dade County did not really have a Mayor, but had an elected manager.

Chair Cuevas pointed out that the County delegated a great deal of power to the Metro Transit Authority (MTA) to operate and conduct its affairs and questioned the amount of authority the Board could give and remain the governing body while relinquishing some control over contracting. He said he believed the MTA could continue to run the bus operation as long as contracting was subject to continuing Board budgetary control.

Assistant County Attorney Rosenthal advised that a separate governmental entity was created with the authority to contract. He said that the MTA was created by ordinance, noting the ordinance could be taken away the same as contracting could be delegated down to a separate entity by ordinance or resolution. Assistant County Attorney Rosenthal stated the County Charter could not divest the BCC of their ability to approve contracts. He said State laws allowing a separate government that the County Commission did not have to be the governing body of was an issue as well as whether it was by ordinance or by charter. Assistant County Attorney Rosenthal indicated that the BCC could decide to delegate that power through ordinance, implementing order or resolution to a third party within the constraints of governmental delegation.

Chair Cuevas asked Assistant County Attorney Rosenthal to further evaluate whether there was any validity to this approach.

Mr. Kasdin pointed out that the Home Rule Charter or State Statutes might need some fundamental changes. He said he did not believe the contracting authority was specifically adjudicated. Mr. Kasdin stated that the BCC was governing the County if they were controlling the budget and administration was instructed to implement that budget once passed by the Board. He noted contracting was subsidiary to controlling the budget.

Mr. Ferre commented on previous efforts to create certain authorities within the County, noting this never happened because of the constitutional provision putting the authority in the County Commission. He said that the Miami-Dade County Expressway Authority (MDX) was created in 1994 through State legislation and was not under County jurisdiction. Mr. Ferre noted subsequent resolutions were passed by the County relating to MDX; however, that legislation was never clarified by the courts.

- Five to ten minute presentation by Namita Uppal, Chief Procurement Officer, of the Internal Services Department which will provide an overview of the current procurement process.

Ms. Namita Uppal, Chief Procurement Officer, provided an overview of the County's Procurement Management Services operation; including the County Executive Leadership Team, Internal Services Department, and Procurement Management Division Table of Organization, the

Division's Mission, Centralization & Decentralization Services, Capital Departments, the Mayor's Delegation of Authority, Acquisition Methods, Active Contracts, and Contract Award Authority (See Exhibit).

In response to Mr. Ferre's question regarding pooled contracts, Ms. Miriam Singer, Sr. Assistant Director, Internal Services Department Procurement Management reported that the County accessed other jurisdictions competitive contracts when it made business sense and was scope appropriate. She said the prequalification pools were County only pools and they were available to other jurisdictions. Ms. Singer indicated that other municipalities were not included but they could access the County's pools. She said that the County could access other jurisdictions pools when it made sense; however, they usually accessed our contracts because of their size. Ms. Singer added that the County could join other county's contracts or State authorities as long as the competitive process mirrored ours, the scope was consistent, and we conducted a due diligence process.

Mr. Ferre inquired about whether the County followed State or County law relating to unsolicited proposals, noting County law was stricter than State law.

Ms. Singer reported that there was County legislation which mirrored State legislation and there was minimal difference between them. She noted an unsolicited proposal may be submitted only for capital projects and if the County was interested there would be a solicitation for competition. Ms. Singer said the County would adhere to the County ordinance related to unsolicited proposals.

Assistant County Attorney Mike Valdes added that County procedure that was stricter than State procedure would prevail unless those provisions were waived.

- DISCUSSION AND VOTE:
 - On whether the Charter should be amended as relates to the procurement process, and if so, what those amendments should be.
 - Task Force Member Ferre's proffered Amendment.

Mr. Neisen Kasdin suggested that topic be deferred and considered at a subsequent meeting in order to receive the additional requested information.

Mr. Ferre agreed with the deferral request. He asked that the intent of his proposal be presented in the meantime in order to gain a better understanding of its content.

Mr. Marlon Hill inquired whether Ms. Singer was aware of any inefficiency in the procurement process that could be improved through the Charter revision process.

Ms. Singer mentioned that the delegation of authority was among the most recognized best practices in governmental procurement, noting the BCC placed a great deal of trust in the Administration to delegate and any increase in this authority was welcome. She said that in

terms of Charter relationship; the County was working diligently on an Enterprise Resource Planning (ERP) solution for countywide efficiencies.

Assistant County Attorney Rosenthal mentioned that Mr. Ferre's proposal was intended to create a more independent, professional procurement process within the Charter. He said an independent Procurement Management Director outside the general administrative authority of the County Mayor would be created, subject to BCC approval and subject to termination by the Mayor or the BCC by majority vote. Assistant County Attorney Rosenthal noted this would provide more administrative freedom from the general administrative branch and more BCC control. He indicated this would be an independent administrative department within the BCC and that the Procurement Department would make recommendations for all procurements within a dollar amount to be determined but tentatively set for anything over \$1 million. Assistant County Attorney Rosenthal said the recommendation would require a 2/3 Board vote of approval.

Mr. Ferre commented that the County negotiated \$5 billion worth of contracts annually. He cautioned that corruption was always associated with money, noting contracts and real estate were major sources of money. Mr. Ferre said that the County Attorney's office was asked to look at best practices and develop alternate recommendations to discuss. He noted this was something for the future and would not apply to any current elected County official.

In response to Mr. Kasdin's question whether this model was used elsewhere, Ms. Singer reported that she was not aware of it being used elsewhere, noting most procurement organizations reported to a key administrator or Strong Mayor.

Mr. Ferre added that this permitted the BCC to be involved in procurement and would make the current procedures stronger.

There was no further discussion on the procurement process and the item was deferred to the October 16, 2017 meeting.

APPROVAL OF THE CLERK'S SUMMARY OF MINUTES FOR THE AUGUST 14, 2017 AND AUGUST 28, 2017 CHARTER REVIEW TASK FORCE MEETINGS

It was moved by Mr. Eric Zichella that the meeting minutes from the August 14, 2017 and the August 28, 2017 Charter Review Task Force meetings be approved. This motion was seconded by Mr. Alfredo Gonzalez and upon being put to a vote, passed unanimously by all members present.

OTHER BUSINESS

Chair Cuevas stated that the deferred Procurement discussion would be considered at the October 16, 2017 Task Force meeting. He asked Task Force members to provide staff with any other discussion items or ideas to be added to the meeting agenda. Chair Cuevas said the Task Force members suggestions relating to the County Commissioner compensation, term limits and district/countywide elections would also be placed on the meeting agenda.

Mr. Eric Zichella stated that County Commissioners should get paid more than \$6,000; however, expressed concern as to how to present this to the voters in a favorable manner, considering previous failed attempts to increase their salaries. He suggested capping salaries at 50 percent or some other agreeable percentage of the Mayor's salary as an option.

Chair Cuevas indicated that County Commissioners performed an enormous amount of work, noting he could not believe that the public would not accept the need to increase their salaries.

Mr. Neisen Kasdin commented that people believed County Commissioners were bad politicians and should not be rewarded. He said it was a disincentive for people with good motives to go into government and being paid some reasonable compensation for them to run for office might be an incentive.

Mr. Maurice Ferre mentioned this issue had been on the ballot numerous times. He asked staff to provide information on previous ballot language and the voting history related to County Commissioner salaries at the next meeting.

Chair Cuevas said that the County Commission needed to be behind this issue; to show the community the extent of what they did for the community; and to promote it amongst their constituents.

Mr. Ferre said they needed to make the case for the future rather than for themselves.

Ms. Alice Burch stated that the amendment being considered on procurement shuts the public off, noting a simpler approach was needed. She said that public meetings needed to engage the public and sell the idea of a better Charter for them. Ms. Burch noted everything coming out of the Task Force needed to be presented in a simplified manner so that the public would understand why it was being recommended.

Mr. Marlon Hill pointed out that he did not like concept of selling the idea to the public, but would rather communicate it. He asked staff about the status of the communications plan which he submitted, noting it was not included in the meeting package.

Ms. Nicole Tallman said that she shared his proposal with Task Force members and recalled that Chair Cuevas commented on that proposal at the last meeting. She advised Task Force members that information was being disseminated on Facebook and Twitter; however, nothing was currently being done in regards to sharing information through a newsletter or infographics.

Chair Cuevas commented that sometimes simplifying issues left out important aspects.

Mr. Hill indicated that we needed to explain why Charter changes were needed.

Chair Cuevas said the item sponsors would be responsible to provide those explanations.

Mr. Hill stated that the communications needed to be consistent over time for people to start embracing the why before they went to the polls.

Mr. Ferre said that the Task Force was only making recommendations; that the Board of County Commissioners approved those recommendations; and that they previously approved only a very small number of those recommendations.

Mr. Zichella mentioned he did not think it was the Task Force's responsibility to set up a communications plan, to sell, or to explain items to the voters. He pointed out the Task Force was charged to create language that was clear, concise and simple enough for the voters to understand. Mr. Zichella noted others should be involved in campaigning for or against the proposals.

Mr. Jeff Cazeau indicated that the Task Force had the duty to get the information out to the public; however, should not advocate for one position over the other. He said that he understood the rationale not to wait until the last moment to disseminate information, yet it was the public's responsibility to listen to these meetings and understand what was being considered.

Ms. Burch commented on the need for Strong Mayor qualifications, noting this issue needed to be revisited.

Mr. Alfredo Gonzalez inquired about the timeline for scheduling public outreach meetings.

Chair Cuevas responded that he was looking for public meetings to begin in November or December, 2017.

Mr. Gonzalez requested that the dates be considered at the next Task Force meeting.

In response to Chair Cuevas' request about the availability of public facilities throughout the County, Ms. Nicole Tallman reported that she already had this information.

ADJOURNMENT

There being no further business, the Charter Review Task Force meeting was adjourned at 8:13 p.m.