

The Chairman thereupon declared that the vote resulted in a 6-6 tie, and in accordance with the Board's procedure this matter would be placed on the agenda for the meeting of July 17, 1962 at 9:00 A.M.

Chairman Gordon requested Mr. Thompson to meet with the County Manager to determine if an alternative proposal may be worked out in connection with the foregoing proposed ordinance which would be more acceptable to all concerned. Commissioner Haverfield requested Mrs. MacKenzie and other interested parties be notified of such a meeting so they could present their views.

It was moved by Commissioner Winston W. Wynne that Item 5 (a) be considered at this time. This motion was seconded by Commissioner Joseph A. Boyd, Jr., and upon being put to a vote, passed by a vote of 12-0, Commissioner James H. Allen was absent.

5 (a) Mr. James I. Keller, Chairman of the Charter Review Board, appeared before the Board and presented the following report with regard to the proposed Charter amendments which will appear on the ballot for the Special Charter Election to be held on August 21, 1962:

"METROPOLITAN CHARTER REVIEW BOARD
1416 Courthouse
Miami 32, Florida

July 3, 1962

To the Citizens of Metropolitan Dade County:

A major responsibility of the Charter Review Board of Metropolitan Dade County is to make recommendations to the Board of County Commissioners and our citizens on proposed amendments to the Home Rule Charter. Our Board has carefully reviewed the five proposed amendments to be voted on August 21. We are unanimously agreed that these changes will not be in the best interest of the citizens of Dade County, and we take this opportunity to report to the community our reasons for this decision.

A Charter change can be evaluated by only one criterion: Does the proposed amendment benefit the whole of Dade County and is it in the best interest of our citizens. As corollaries to this criterion we must consider whether the proposal will (1) make the elected and administrative officials of the county more directly responsible to the voters, and (2) provide the taxpayer with more service for each tax dollar collected.

We submit that none of the five proposals meets this standard. In fact, they chip away at the present clear lines of responsibility in our Charter for policy-making, administrative, and financial control.

In addition to stating here our general reasons for opposing these amendments, we intend to issue prior to the election more detailed analyses of each question.

Board of County Commissioners

The first amendment would change the composition of the Board of County Commissioners by providing for nine members, one to be elected from each of nine new districts to be determined by the Commission.

At the present time there are 13 commissioners -- 5 elected at-large, 5 elected from and by districts, and 3 from municipalities with more than 60,000 population (Hialeah, Miami, and Miami Beach).

The Charter Review Board during the past seven months held 10 public hearings throughout the county and has met with various civic organizations. Considerable concern was expressed with the present Charter provisions for selecting commissioners.

We determined, however, that there is no general agreement among the individuals or groups who appeared before us on either the number or method of selection of commissioners. We believe that if there is to be a change, the recommendation should be the result of an intensive study of representation in other metropolitan communities throughout the country, and that we should be able to tell our citizens specifically the ways in which the proposal will benefit them by providing better representation and more direct control of their elected representatives. The Charter Review Board has initiated such a study.

County Manager

Two questions deal with the authority of the County Manager. The first amendment would provide for approval of his appointments of major department heads by the Board of County Commissioners. The amendment on this subject can only compound confusion and destroy any hope of establishing responsibility for administrative action.

It seemingly provides for Commission approval of eight department heads and one division head but is unclear as to the method of appointment of all other department and division heads. The list of major department heads does not include the directors of three departments who are responsible for spending more than one-third of the general county budget. There is also mention of providing for such appointments by Civil Service Rules and Regulations which would deprive the County Manager of any choice in selection of his top aides.

Appointments under this system would be dependent upon obtaining a majority vote of the Commission. The County Manager would undoubtedly find it most difficult to obtain technically trained and experienced professional administrators since the ethics of such government administrators traditionally prevent them from soliciting such political support.

We have heard the argument that top federal employees are subject to Senate confirmation and that this amendment would provide a similar check and balance in our local government. We cannot agree with this since the President of the United States is an elected official who can be removed only by complicated impeachment procedure. The Board of County Commissioners may, by simple majority vote, immediately remove the County Manager at any time it feels his appointments are unwise.

The related proposal which would require affirmative decision by the Board of County Commissioners for reorganization of administrative agencies is, we feel, equally detrimental to the public interest. The practical effect of this amendment would be to encourage administrative employees to pressure County Commissioners to defeat recommendations of the Manager which would eliminate their jobs or reduce the prestige of their agencies. The County Manager has accounted for some \$500,000 in tax savings through administrative changes this past year.

This proposal makes no provision for public hearing on such matters. The Charter already provides an additional safeguard whereby the Board of County Commissioners may overrule the County Manager by ordinance requiring public hearing.

Port Authority Board

The proposal to create a citizen Port Authority Board of five members we believe is particularly dangerous to this community. The scope of the Port Authority's powers goes far beyond its present multi-million dollar airport operation. The Authority may operate seaports, toll roads, and other transportation facilities.

Creation of a civilian authority would remove this operation from continuing supervision and control of our elected officials and place it in the hands of five men who would have no direct responsibility to our voters. All powers of the Board of County Commissioners would be transferred to this Port Authority Board except that the Commission would continue to approve bond issues and the annual budget.

The Port Authority Board would be a self-perpetuating body since it would recommend its own replacements to the Board of County Commissioners which would have power to veto its nominees but could not name another person.

This change in our county government would not remove the Port Authority from politics. To the contrary, it would increase the opportunities for political pressure by placing this operation even further from the control of our voters and by making it virtually impossible to determine whether responsibility for a particular action belongs to the Board of County Commissioners, the Port Authority Board, or the administrative officers.

Metropolitan-Municipal Courts

We believe that the present provision for a Metropolitan Court to assure uniform justice throughout the county is a basic responsibility of the metropolitan form of government.

In studying the Metropolitan Court system, we concluded that there are some administrative changes to be made but these can be accomplished without Charter change.

The proposal to again establish traffic courts in the municipalities is so cumbersome and potentially costly that we do not see any way in which the public could benefit from it.

There are 16 cities with more than 2,500 population in Dade County. To create a traffic court in each, in addition to those needed to serve the unincorporated area where nearly half our people live, will certainly require additional monies which will have to be raised from traffic fines.

We cannot find in this amendment any benefit in terms of convenience or better traffic enforcement to us as citizens. Rather it provides the seeds for destruction of our efforts to establish throughout our area a system of just and uniform traffic enforcement.

These, then, are the reasons why your Metropolitan Charter Review Board believes that these proposals are not in the best interest of the citizens of Dade County.

Respectfully submitted,
Metropolitan Charter Review Board
James I. Keller, Jr., Chairman
J. Abney Cox, Vice Chairman
Harold Rand, M.D., Secretary
J. H. Brock
George A. Frix
William A. Graham
Charles W. Mitcehl
Fred M. Walker"

Chairman Gordon expressed the Board's appreciation to Mr. Keller and the members of the Charter Review Board for their public service and for the presentation of their thoughts on the proposed Charter amendments. He noted a presentation is scheduled with regard to changes in mandatory court appearances, in connection with the Metropolitan Court, and questioned Chairman Keller's reaction to the proposed changes. Mr. Keller stated there has been considerable irritation expressed with regard to some mandatory court appearances and it was his understanding certain appearances would be removed under the proposal to be presented to the Board. He said this will be helpful and should result in greater public support of the Metropolitan Court.

4 (b) The Clerk reported pursuant to advertisement authorized at the meeting of June 19, 1962, a public hearing is scheduled for this session on the following proposed ordinance:

The Clerk read by title the following proposed ordinance:

ORDINANCE AMENDING SECTION 15-28 OF THE CODE OF METROPOLITAN DADE COUNTY, FLORIDA, TO PROVIDE THAT WASTE FEES SHALL CONSTITUTE SPECIAL ASSESSMENT LIENS AGAINST ALL IMPROVED REAL PROPERTY FOR WHICH WASTE COLLECTION AND DISPOSAL SERVICES ARE PROVIDED, OR MADE AVAILABLE; PROVIDING PENALTIES FOR NON-PAYMENT OF WASTE FEES; PROVIDING METHOD OF ENFORCING SUCH LIENS; AND PROVIDING EFFECTIVE DATE

Mr. Melbourne Martin, on behalf of the Dade County Title Insurance Corporations, appeared before the Board in connection with the foregoing proposed ordinance. He noted there was no provision in the proposed ordinance for recordation of a lien or notice of a lien on property. Mr. Martin said those in the title field believe if there is to be a lien on land it should be easily determined from the public records. He urged machinery be set up whereby a register would be maintained in the office of the Clerk of the Circuit Court, whereby a list would be accessible by name and address in alphabetical order so liens may be checked by the abstract companies. Further, the amount and period of time involved should be recorded therein. Mr. Martin said he believed such a system would be simple and workable. He stated it was not his intention to give the impression legal descriptions are not favored; however, to simplify the procedure addresses would be acceptable and would assist the industry. He urged the Board to favorably consider his proposal. Mr. Martin said, although he did not hold himself to be a Constitutional lawyer, he did question the constitutionality of Section "B" of the proposed ordinance.

Mr. George Jahn, representing several abstracting and title insurance companies, said he believed the liens should be based on the method of recording in public records and urged the effective date be placed on a recordable instrument.

Mr. Fred Piccini, Attorney, appeared before the Board and stated he was concerned with the practical aspects of enforcing the proposed ordinance. He expressed the belief that the proposed ordinance, in substance, is illegal; and therefore, would not be upheld in court. Mr. Piccini said it should be made clear that a garbage fee is not a tax. He said the ordinance is an attempt to enforce collection of a fee as a tax, which is contrary to fact, and will not hold up in court. Mr. Piccini said he further believed that the proposed ordinance is in violation of the Constitutional protection afforded by the State of Florida in connection with insuring homesteads. He stated any one of the reasons cited would be strong enough to defeat the proposed ordinance in a court of law. Mr. Piccini said if the proposed ordinance is adopted he would be one of the first to challenge on behalf of each taxpayer, not only by declaratory decree, but for accumulated damages.