



# **MIAMI-DADE COUNTY FINAL OFFICIAL MINUTES Charter Review Task Force**

Stephen P. Clark Government Center  
Commission Chambers  
111 N.W. First Street  
Miami, Florida 33128

November 28, 2017  
As Advertised

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MIAMI-DADE CHARTER REVIEW TASK FORCE  
CLERK'S SUMMARY AND OFFICIAL MEETING MINUTES  
NOVEMBER 28, 2017

The Miami-Dade Charter Review Task Force convened on November 28, 2017 at Doral City Hall, 8401 NW 53 Terrace, Miami, Florida, 33166 at 6:05 p.m. Upon roll call, the following Task Force members were present: Mr. Forrest Andrews; Ms. Alice Burch; Ms. Anna-Bo Emmanuel; Mr. Alfredo J. Gonzalez; Mr. Marlon Hill; Mr. Mike Valdes-Fauli; Vice Chair Maria Lievano-Cruz; and Chairman Robert Cuevas. Mr. Jeff P. H. Cazeau, Mr. Carlos Diaz-Padron; Mr. Maurice Ferre; Mr. Luis E. Gonzalez; Mr. Neisen Kasdin; and Mr. William H. Kerdyk Jr. were absent (Commission District 10 seat remains vacant).

In addition to the Task Force members, the following staff members were present: Assistant County Attorney Oren Rosenthal; Ms. Patricia Flor, Senior Policy Analyst, Office of the Mayor; Mr. Christopher A. Agrippa, Director, and Ms. Cindy White, Deputy Clerk, Office of the Clerk of the Board.

Chairman Cuevas called the meeting to order and led the Pledge of Allegiance.

City of Doral Mayor Juan Carlos Bermudez welcomed the Task Force members to the City and thanked them for their service. He recalled issues discussed when he was a member of a previous Charter Review Task Force and stressed to the members the importance of the task assigned to them at this time. He hoped the recommendations presented to the Board of County Commissioners by the Task Force would be given fair and due consideration.

Chairman Cuevas welcomed Mr. Forrest Andrews, the new Task Force appointee from the Miami-Dade Legislative Delegation.

**PUBLIC HEARING FOR MEMBERS OF THE PUBLIC TO SUGGEST CHANGES OR AMENDMENTS TO THE HOME RULE CHARTER**

Chairman Cuevas opened the floor for public input.

Ms. Belinda Leon, 5850 NW 111 Avenue, spoke on behalf of the Internal Review Panel Working Group, and asked that favorable consideration be given to reinstituting the Independent Review Panel (IRP), now known as the Independent Community Panel, and that the Charter be amended to include a provision that would guarantee the continued existence and funding of the civilian oversight group.

Ms. Susan Windmiller, 2103 Coral Way, spoke on behalf of the Miami-Dade County League of Women Voters and made the following requests: that Article 8, Section 8.01, be amended to require form petition approval also include legal sufficiency; and that Section 9.08, Article 9, be amended to require Task Force proposals/recommendations go directly to a ballot vote in lieu of being approved by the Board of County Commissioners. She also informed the Task Force that the State of Florida's Constitution Revision Commission was looking into Home Rule authority, with many proposals aimed at preempting the County Commission's authority. She stressed the importance of County Charter changes being determined by the voters/residents of the County, not by the State.

**1<sup>st</sup> ISSUE:** CONTINUED DISCUSSION OF WHETHER THE CHARTER SHOULD BE AMENDED AS RELATES TO THE CITIZEN PETITION PROCESS FOR REFERENDUM AND FOR INITIATIVE TO PASS OR REPEAL ORDINANCES, OR TO AMEND THE CHARTER, AND, IF SO, WHAT THOSE AMENDMENTS SHOULD BE?

#### DISCUSSION AND VOTE

In response to Vice Chairwoman Lievano-Cruz' request for clarification on the notarization requirement, Assistant County Attorney Rosenthal explained Section 8.01, Subsection 2, of the Charter required the petition gatherers to provide a sworn affidavit attesting to the number of signatures; and that the collected signatures had to be notarized, as clarified in Section 12-23 of the Code of Miami-Dade County. He noted the Task Force could address that issue by excluding the notary requirement on the affidavit; however, the enabling ordinance presently required notarization of the affidavit and one signature per page.

Assistant County Attorney Rosenthal also pointed out the one signature per page was enacted by County ordinance; however the Charter required the sworn affidavit. Therefore, the Task Force could address the issue by recommending allowance of multiple signatures per page in lieu of one signature per page; or address it by amending the sworn affidavit provision. He clarified the sworn affidavit provision was done to match the State constitutional provision petition process.

Assistant County Attorney Rosenthal further clarified, the sworn affidavit was a Charter provision and the signature per page was required by County ordinance. It was also clarified that there could be one sworn affidavit for the entire collection of signatures.

Ms. Anna-Bo Emmanuel presented an amendment to require one sworn affidavit for the entire collection of signatures.

Assistant County Attorney Rosenthal clarified the motion would be to add the amendment requiring one sworn affidavit for the entire collection of signatures to the current proposal submitted by former Task Force member Zichella that prohibited paying a signature gatherer for each signature they obtained.

The foregoing motion was seconded by Mr. Marlon Hill.

Mr. Gonzalez requested a straw vote be taken, or the vote on the motion be bifurcated, as he was not supportive of having one sworn affidavit per the entire collection of signatures.

Following discussion on bifurcating the motion, Chairman Cuevas clarified the first vote would be taken on the proposal submitted by former Task Force member Zichella to prohibit paying a signature gatherer for each signature they obtained.

Vice Chairwoman Lievano-Cruz stressed the need for clarification that petition gatherers could get paid, just not per signature, and what the form of payment would be.

Mr. Gonzalez spoke in support of Zichella's proposal.

Ms. Emmanuel presented a motion to accept former Task Force member Zichella's Charter revision proposal to prohibit paying signature gatherers per each signature obtained. This motion was seconded by Mr. Gonzalez, and upon being put to a vote, passed 7-1 (Vice Chairwoman Lievano-Cruz voted No).

The Task Force proceeded to discuss the second part of the motion related to the sworn affidavit.

Ms. Emmanuel presented a motion to require one sworn affidavit for the entire collection of petition signatures.

Assistant County Attorney Rosenthal indicated the motion would be drafted and presented to the Task Force at the next scheduled meeting.

A discussion ensued regarding the signature per page and sworn affidavit requirement's at which point Assistant County Attorney Rosenthal concluded that the Task Force's proposed solution was to maintain one signature per page; however, the sworn affidavit would be notarized at the end of the signature collection process for all signatures collected on a specific date. He advised, ultimately, the Task Force would have to decide whether to recommend an amendment to Section 12-23 of the ordinance or to the Charter.

Chairman Cuevas opined there should be a limit on the amount of signatures notarized in the affidavit.

Assistant County Attorney Rosenthal also pointed, should technical issues arise and there was one affidavit for multiple signatures, it could possibly result in all those signatures being nullified.

Mr. Valdes-Fauli commented on the possibility of having a sworn affidavit for a certain amount of signatures.

Ms. Burch stressed the need to look at the issue from the citizen's point of view and read a statement from a commenter who said "people should be able to sign a petition anywhere they want without the petition circulator or anyone else being present to witness it. The elections department already is legally required to only accept petition signatures that are valid and not those that aren't valid, or are fraudulent. So it's an unnecessary burden or expense for petition circulator's to have to witness every petition signature and pay to have it notarized."

At this time, Chairman Cuevas asked if a motion would be presented on the sworn affidavit portion and suggested the members consider the option of one sworn affidavit cover a certain amount of signatures.

Ms. Burch presented a motion to require a sworn affidavit be filed for every 25 petition signatures. This motion was seconded by Mr. Valdes-Fauli.

Vice Chairwoman Lievano-Cruz expressed concern with specifying a certain number of signatures; opined the Charter was fine as it currently stood on this issue; and that the ordinance should be amended, not the Charter.

Ms. Burch indicated she concurred with comments made by other members and would withdraw her motion in order for this matter to be included in the Task Force final report and include a recommendation for a review of the ordinance for possible amendments.

Following discussion on whether or not this matter should be placed in the Task Force report in lieu of making a separate recommendation, Assistant County Attorney Rosenthal clarified the Task Force could pass a motion that instructed staff to include in the Task Force report a provision which stipulated the Task Force reviewed the issue as it related to 8.01(2) of the Charter and found the issue was better addressed by ordinance change rather than Charter change; to account for the affidavit and notary requirement to address more than one single petition with a signature.

Vice Chairwoman Lievano-Cruz presented a motion instructing staff to include a provision in the Task Force report which stipulated the Task Force reviewed the issue as it related to 8.01(2) of the Charter and found the issue was better addressed by ordinance change rather than Charter change; to account for the affidavit and notary requirement to address more than one single petition with a signature. This motion was seconded by Ms. Burch, and upon being put to a vote, passed by a vote of 7-1 (Chairman Cuevas voted No).

Vice Chairwoman Lievano-Cruz commented on the legal sufficiency issue discussed at the last Task Force meeting to which Chairman Cuevas responded that he asked Clerk Harvey Ruvin to speak on the issue.

Mr. Christopher Agrippa, Director, Clerk of the Board Division, indicated Clerk Ruvin would be available to speak to the Task Force on December 11, 2017.

**2<sup>nd</sup> ISSUE:** WHETHER THE CHARTER SHOULD BE AMENDED AS RELATES TO COUNTY GOVERNANCE, PREEMPTION AND MUNICIPAL AUTHORITY, AND IF SO, WHAT THOSE AMENDMENTS SHOULD BE?

**PRESENTATION:**

Assistant County Attorney Rosenthal explained the relationship between the County and its municipalities was solely within the Home Rule powers under the constitutional Home Rule amendment for Miami-Dade County. He explained the provisions contained in Article 6 of the Charter related to the creation and abolishment of municipalities within the County and pointed out there were 2 methods for creation of a municipality; one being through a Board of County Commissioner's ordinance process and the other is through an initiative process.

Assistant County Attorney Rosenthal clarified the proposals before the Task Force today related to the relationship between county power and municipal power within municipalities; that in non-charter counties, municipal law controlled within municipalities to the extent it conflicted with county law; and that in charter counties, the charter would provide which law prevailed. He read provision 6.02 which related to municipal powers and pointed out that Section 1.01a of the Charter contained provisions for general grants of power to the county.

**DISCUSSION AND VOTE:**

Ms. Burch pointed out she proposed Option 3 which was to add the following language to section 6.02: "the municipal governing body makes the ultimate determination as to whether a particular municipal law or regulation for a higher standard under this section." She opined that conflicts between the county and a municipality could be easily resolved if the municipal governing body could make the determination if it was a higher standard or not.

Vice Chair Lievano-Cruz opined the Charter should not be changed as it related to municipalities powers.

Mr. Gonzalez expressed concern with giving more power to municipalities when the Task Force's purpose was to deal directly with the County Charter.

With regards to Mr. Hill's comment that the issue was how to resolve conflicts, not whether a municipality could make a determination, Assistant County Attorney Rosenthal explained there was a dispute resolution process between local governments provided for by State law which was a lengthy and complex process. He pointed out the County preferred to resolve issues with a municipality without going through the process.

A discussion ensued on the four options proposed, whereby Assistant County Attorney Rosenthal opined Option 2 created a functional divide between the municipality and the county.

Ms. Burch pointed out there were currently 36 municipalities in Miami-Dade County and consideration should be given to the time invested by County Attorney's and the expense to the taxpayers, which should be kept at a minimum. She pointed out conflicts were inevitable and opined the Charter should state that municipalities may govern in certain instances.

Ms. Burch presented a motion to accept Option 3. The motion died due to lack of a second.

In response to Vice Chairwoman Lievano-Cruz' question on whether or not the County had the authority to step in to assist a municipality having financial problems, Assistant County Attorney Rosenthal explained any financial emergency issues experienced by a municipality were dealt with at the State level and the County did not have the ability to intervene. He pointed out, both constitutionally and under the County's Charter, if a municipality failed and was abolished, their obligations and assets would go back to the County. He also clarified Section 6.03 was the only mechanism in the Charter that allowed for the abolishment of a municipality.

**3<sup>RD</sup> ISSUE:** WHETHER THE CHARTER SHOULD BE AMENDED AS RELATES TO REGULATION OF UTILITY FRANCHISES AND COUNTY OPERATION OF UTILITIES, AND IF SO, WHAT THOSE AMENDMENTS SHOULD BE?

**PRESENTATION:**

Chairman Cuevas presented his proposed Charter amendment under Section 1.01(A)(14)(b) which would add the following language: "Provided however, the county may itself operate, or contract with another entity to operate a light, power or telephone utility to serve Miami-Dade County or any other governmental entity owned or operated facilities within Miami-Dade County without having to comply with the foregoing requirements of the subsection (b)."

#### DISCUSSION AND VOTE:

Chairman Cuevas explained his proposed amendment gave Miami-Dade County the right to bypass procedural requirements and allowed them to contract out directly for utility services.

Assistant County Attorney Rosenthal advised the Charter currently required a two-thirds vote of the County Commission to grant a utility franchise and the proposal exempted the County from going through that process.

Ms. Emmanuel suggested a provision be included that would only permit bypassing the requirements under emergency situations.

Chairman Cuevas noted his proposal was limited to the County providing power to itself or other governmental entities, not to residential customers.

A discussion ensued on who the County could provide the utility service to where it was clarified it could be extended to municipalities and other governmental entities.

Mr. Valdes-Fauli indicated he would be supportive if the proposal was specific to county facilities and other governmental facilities, not to individual residences.

Assistant County Attorney Rosenthal explained the County could generate power at its own facilities; however, once the power transmitted over transmission lines to other facilities it created a utility franchise. He further noted, for the County to create a utility franchise, it was not only subject to state laws and requirements, but also must meet the Charter requirement of a two-thirds vote by the County Commission and a vote of the electors. Therefore, the Chairman's proposal would exempt the County from having to go through the Charter process.

At this time Vice Chairwoman Lievano-Cruz assumed the Chair.

Chairman Cuevas presented a motion to accept his proposal. The motion was seconded by Ms. Burch.

Following further discussion on the reason to eliminate the procedural requirements in the Charter, the Task Force voted on the foregoing motion, which failed due to a 4-4 tie vote. (Ms. Burch, Mr. Gonzalez, Mr. Valdes-Fauli, and Chairman Cuevas voted Yes)(Mr. Andrews, Mr. Hill, Ms. Emmanuel and Vice Chairperson Lievano-Cruz voted No).

Ms. Emmanuel presented a motion to amend Chairman Cuevas' proposal which would allow for the exemption of the process only under emergency situations. The motion was seconded by

Mr. Gonzalez noted a state process would still have to be followed which took time, therefore, he opined the amendment to provide for exemption only under an emergency situation was not feasible.

Mr. Valdes-Fauli announced he had to leave at this time which resulted in the loss of a quorum.

**4<sup>TH</sup> ISSUE:** WHETHER THE CHARTER SHOULD BE AMENDED AS RELATES TO PARKS, AQUATIC PRESERVES AND PRESERVATION LANDS, AND, IF SO, WHAT THOSE AMENDMENTS SHOULD BE?

Due to the loss of a quorum, Chairman Cuevas advised this item would be carried over to the Task Force meeting scheduled for December 4, 2017.

**APPROVAL OF CLERKS SUMMARY OF MINUTES FOR THE NOVEMBER 13<sup>TH</sup> CHARTER REVIEW TASK FORCE MEETING**

It was moved by Ms. Burch that the minutes of the Charter Review Task Force meeting of November 13, 2017 be approved. This motion was seconded by Mr. Gonzalez, and upon being put to a vote, passed unanimously by those members present.

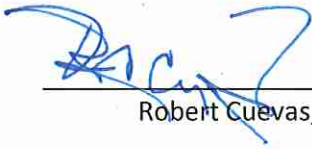
**UPCOMING MEETINGS**

At the request of Mr. Gonzalez to include Community Councils in the Task Force proposal on Forfeiture of Office for County Employees, Assistant County Attorney Oren Rosenthal stated he would prepare a draft proposal to be presented at the next Task Force meeting.

Chairman Cuevas announced Clerk Ruvin would make his presentation to the Task Force on December 11, 2017 and that additional discussion, proposals, and motions on substantive issues would be done at the next two Task Force meetings scheduled for December 4 and 11, 2017. He noted the objective was for the Task Force to be ready to instruct staff to generate their report by January, 2018.

**ADJOURNMENT**

There being no further business to come before the Task Force the meeting adjourned at 7:58 p.m.

  
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Robert Cuevas, Chairman