



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

December 11, 2017
As Advertised

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**MIAMI-DADE CHARTER REVIEW TASK FORCE
CLERK'S SUMMARY AND OFFICIAL MEETING MINUTES
December 11, 2017**

The Miami-Dade Charter Review Task Force (the Task Force) convened its tenth meeting on December 11, 2017, at the Stephen P. Clark Government Center, Commission Chambers, 111 N.W. 1st Street, Miami, FL 33128, at 6:12 p.m. Upon roll call, the following Task Force members were present: Chair Robert Cuevas, Mr. Forest Andrews, Ms. Alice Burch, Mr. Jeff P. H. Cazeau, Ms. Anna-Bo Emmanuel, Mr. Alfredo Gonzalez, Mr. Paul Hernandez and Mr. Marlon Hill. Vice Chair Maria Lievano-Cruz, Mr. Carlos Diaz-Padron, Mr. Maurice Ferre, Mr. Neisen Kasdin, Mr. William H. Kerdyk Jr. and Mr. Mike Valdes-Fauli were absent. The Commission District 10 seat remains vacant.

Mr. Christopher A. Agrippa, Director, Office of the Clerk of the Board, announced that memorandums were received from Mr. Carlos Diaz-Padron and Mr. Mike Valdes-Fauli that they would be absent.

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

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

Chair Cuevas welcomed Mr. Paul Hernandez to the Task Force, noting he was appointed by Board of County Commissioners' (BCC) Chairman Esteban Bovo.

Mr. Paul Hernandez briefly commented on his first visit to County Hall as well as his professional and political accomplishments. He noted he truly understood his role on the Task Force and looked forward to working with its members.

PUBLIC HEARING FOR MEMBERS OF THE PUBLIC TO SUGGEST CHANGES OR AMENDMENTS TO THE HOME RULE CHARTER IN PERSON, BY EMAIL (SENT TO THE FOLLOWING EMAIL ADDRESS: CHARTER@MIAMIDADE.GOV), FACEBOOK (POSTED TO @MIAMIDADEBCC) AND BY PHONE (BY CALLING 305-375-5775)

Chair Robert Cuevas encouraged residents to suggest potential Charter changes through Facebook Live or Twitter at MiamiDadeBCC or by calling 305-375-5775, noting staff was monitoring these portals and the Task Force looked forward to hearing and addressing their concerns during tonight's (12/11) meeting.

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

Ms. Susan Windmiller, 2103 Coral Way, Miami, President, League of Women Voters of Miami-

Dade County (League), appeared before the Task Force. She indicated that the Clerk of the Courts was charged in Article 8 to approve referendums by citizen petition as to form, noting the League believed it was also important to include legal sufficiency. Ms. Windmiller said this would bring integrity to the process while being more efficient and respectful of the citizens' initiative. A written proposal was submitted to the Clerk of the Board.

Mr. Kenneth Kilpatrick, 5167 NW 29 Avenue, Miami, commented on the need to give additional rights to vulnerable adults in the Citizens Bill of Rights above and beyond what was provided by the State. The definition of a vulnerable adult pursuant to State Statute No. 415.102(28)(29) was submitted to the Clerk of the Board. Mr. Kilpatrick suggested that the Task Force revisit the discussion over proposed changes related to an elected County Mayor or a Manager who was selected by the County Commission, noting the community suffered under a Strong Mayor form of government.

Mr. Frederick Bryant, 1431 NW 2 Avenue, Miami, requested that the Task Force reconsider the proposal related to a Strong Mayor.

Chair Cuevas indicated that the Task Force already considered the issue and that no action was taken to change the current Charter provisions.

Ms. Nicole Tallman reported that there were no social media inquiries from the public at this time in response to Chair Cuevas' inquiry.

Mr. Marlon Hill commented on the importance of the virtual town hall meeting, asking the public to use the hashtag (#) CRTF2017 to take part in and follow the online conversation.

Mr. Hill asked for Mr. Bryant's specific thoughts related to the reason for a change to the Strong Mayor form of government.

Mr. Bryant mentioned he believed a commission without a Strong Mayor allowed more equality, noting possible cronyism issues occurred under that form of government. He asked the Task Force to consider the equality of everyone and not to give so much power to one person. Mr. Bryant said that power should be distributed more equitably across the entire commission, noting people have been left out and neglected.

Mr. Forrest Andrews asked Mr. Kilpatrick to further comment on the Strong Mayor form of government.

Mr. Kilpatrick indicated that the Strong Mayor form of government had an unintended impact upon the strength of single member districts and the commissioners' ability to serve those communities. He said lawsuits for single member districts were initially filed because of a lack of representation and the at-large formula was not working for minority communities, noting the district commissioners did not have enough power to serve their constituents adequately.

Ms. Windmiller commented that the League's recommendations relating to the Strong

Mayor/Professional Manager form of government should be reconsidered based upon there being several new Task Force members who were not part of that conversation. She asked for the opportunity to present the League's position on this issue.

In response to Mr. Andrew's inquiry, Ms. Windmiller reported that the League opposed the Strong Mayor. She said that the County was vulnerable in terms of the Home Rule Charter, noting there was one elected position and other positions that were not elected. Ms. Windmiller indicated that the State Legislature and the Constitution Revision Commission wanted all Miami-Dade County positions to be elected. She said it was hard to defend having appointed positions when there was one elected position, noting it was either all or none. Ms. Windmiller commented that another issue related to whether the Mayor or the Commission were actually in charge of County government, noting this was very unclear for both voters and County employees. She also mentioned equality issues were a concern as noted by Mr. Bryant and Kilpatrick.

Mr. Paul Hernandez commented that the County Commission was able to sponsor legislation impacting residents and administration under the Strong Mayor form of government, noting he did not envision any impact from eliminating the Strong Mayor. He said there was currently a legislative and administrative body functioning together with shared responsibility for the County.

Ms. Windmiller expressed concern over who had the final decision authority with shared responsibility. She indicated that most large metropolitan areas were all moving toward having a professional administrator with professional knowledge, skills, education, training and experience to run the daily business of government operations, according to her research of other government systems and professional associations.

Mr. Hernandez said there were currently checks and balances with the thirteen member County Commission; with the Mayor's executive right to veto; and with the Commission's right to override. He said the electorate would vote into office the person they believed was best suited to do the job and we needed to have faith in that process.

Ms. Anna-Bo Emmanuel pointed out another discussion was warranted, based upon the community comments received at previous meetings.

Mr. Hill asked Ms. Windmiller to comment on what Charter changes were needed related to the vision and accountability that would be inclusive of the entire community.

Ms. Windmiller questioned whether the vision came from the Mayor or the County Commission, noting she was not aware of the County's vision. She said that separation of duties was necessary and it would become clear that the vision was set by the Mayor in collaboration with the Commission. Ms. Windmiller pointed out that there was no citizen input on the budget process until the decisions were already made and long deliberated, noting the citizens did not have any input until the end of that process. She said that a community planning process was non-existent.

In response to Mr. Hill's question whether it was a matter of the Mayor's style or could an administrator do something that a Strong Mayor was supposed to be doing, Ms. Windmiller commented that a professional administrator could orchestrate things with the Commission.

Chair Cuevas indicated that there was no previous sentiment of Task Force members to making any changes to this issue, despite considerable discussion at a previous meeting. He commented that he previously presented a proposal to change the Strong Mayor form of government and questioned whether the Task Force wanted to consider this issue further.

Ms. Burch suggested having the Task Force members present decide whether to set a meeting to reconsider the previous decision making no changes to the Strong Mayor form of government.

Chair Cuevas mentioned his vision was for staff to prepare a draft report by the end of January 2018 of all issues the Task Force considered. He pointed out that the report would then be available for members of the public to provide input.

Mr. Alfredo Gonzalez reported he understood the Task Force would consider all issues and prepare a final document with all supportive recommendations and then add, change or tweak items, as necessary. He noted the public process of holding meetings throughout the community was designed to determine if there were any issues not considered that were important to community residents. Mr. Gonzalez said he preferred having the final document before determining whether to reconsider this item now.

Ms. Burch said that the Task Force was not close to obtaining a majority vote of its members to make changes to the Strong Mayor form of government; that less than half of the voters supported removing the Strong Mayor form of government in 2011; and that it was a problem not having qualifications for a Strong Mayor. She said that reopening the issue was not worth the time.

Mr. Paul Hernandez noted he did not see the need to reopen this decision.

It was moved by Ms. Anna-Bo Emmanuel to determine whether the Task Force wanted to consider having another meeting related to amending the County Charter regarding the Strong Mayor form of government. This motion was seconded by Mr. Jeff Cazeau and upon being put to a vote, the motion failed by a 3-5 vote. Chair Robert Cuevas, Mr. Forrest Andrews and Ms. Anna-Bo Emmanuel voted "Yes"; Ms. Alice Burch, Mr. Jeff Cazeau, Mr. Alfredo Gonzalez, Mr. Paul Hernandez and Mr. Marlon Hill voted "No".

1st ISSUE FOR CONSIDERATION: 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?

PRESENTATION: Five to ten minute presentation by the Clerk of Courts, Harvey Ruvin, on this

issue.

Mr. Luis G. Montaldo, 6221 SW 79 Street, South Miami, representing Miami-Dade Clerk of Courts (COC) Harvey Ruvin, noted he was ill and not able to attend. He mentioned that Clerk Ruvin would appear before the Task Force at a later date, if desired. Mr. Montaldo pointed out that Clerk Ruvin believes the COC should be a neutral arbiter and serve in a non-partisan capacity. He said Clerk Ruvin strove to be neutral in every decision he made to ensure no partisan issues arose. Mr. Montaldo said the COC was the keeper of the records and wanted to eliminate any potential perceived conflict of interest.

Mr. Montaldo stated that the COC appreciated the League of Women Voters' input on the initiative and referendum petition process. He said that Article 8.01 needed to be amended, noting the COC should not be the party to determine legal sufficiency of the petition form. Mr. Montaldo said the initiative and referendum petition process was frustrating and confusing to the public as evidenced when the COC accepted new petitions and inquiries. He indicated that the COC believed he should not be the person to determine the legal sufficiency of the petition form, noting it created the potential for a conflict, caused confusion, and removed the COC from a neutral position.

Mr. Montaldo said the COC believed the legal sufficiency determination process should be performed at the beginning of the process. He noted the COC suggested the Board of County Commissioners continue to approve the petition form for legal sufficiency; however, to do so at the inception in order to prevent petitioners from expending time, effort and resources prior to approval. Mr. Montaldo said the COC provided suggested draft language that he thought would be helpful to the Task Force and presented that language to the Clerk of the Board for distribution. He suggested adding a disclaimer under Article 8 which further clarified that it was the petitioner's responsibility to adhere to all applicable County, State and Federal law regarding the process.

DISCUSSION AND VOTE: On whether any of the foregoing Charter provisions should be amended.

In response to Chair Cuevas' question regarding whether there was a current Charter requirement that the COC approved petitions for legal sufficiency, Mr. Montaldo indicated there was not.

Mr. Alfredo Gonzalez expressed concern that the COC only reviewed the petition form for compliance, noting that it should be reviewed for legal sufficiency earlier in the process before the general public began signing the petitions.

It was moved by Mr. Alfredo Gonzalez that the Board of County Commissioners review initiative and referendum petitions for legal sufficiency at the beginning of the process. This motion was seconded by Mr. Marlon Hill.

Chair Cuevas provided a historical perspective over the process and its changes. He noted the current intent was to get the County Attorney's Office out of the front end of the process and

to let the petitioners prepare their own item and the ballot question. Chair Cuevas said that any legislative item was subject to legal challenge and court review, noting there were no guarantees in the legal process. He mentioned the County Attorney's Office reviewed all legislation for legal form and sufficiency; however, doing so did not preclude someone who was opposed to that policy from bringing a challenge or a judge to rule against it. Chair Cuevas said this proposal would not guarantee that a petition would be found legal even if approved upfront.

Mr. Hill concurred with Ms. Windmiller that government should be accessible and accountable. He said it was important that the petition language be reviewed earlier in the process.

Mr. Montaldo commented that the COC's recommendation was based upon his experience dealing with the public with previous petitions.

In response to Mr. Paul Hernandez' inquiry about the process used, Assistant County Attorney Oren Rosenthal indicated that an applicant would obtain the petition form from the COC that was prepared by the Supervisor of Elections pursuant to the County Code. He said that the COC conducted an initial review of form sufficiency; that the results were presented to the Board of County Commissioners; and that the item was placed on the next Board meeting agenda for public hearing.

Mr. Hernandez suggested that detailed information be given to petition applicants to help them throughout the process.

Mr. Montaldo reported that the COC provided information to the public related to the petition process, as well as the Section 1223 disclaimer.

Mr. Jeff Cazeau stated that the County Attorney represented the Board of County Commissioners and not the public, noting this change would allow the County Attorney to determine legal sufficiency for outside individuals who he/she did not represent. He said it was prudent to anyone submitting a petition to have their own legal counsel review the documentation. Mr. Cazeau pointed out this change would not guarantee there would not be a future legal challenge.

Mr. Gonzalez pointed out that moving the process up would eliminate a lot of wasted time for both the County and the petitioner.

Mr. Cazeau said this assumed the petitioner agreed with the County Attorney's Office.

Mr. Gonzalez noted they may not agree and the litigation would be at the beginning of the petition process before it was distributed to the public and signatures collected.

Mr. Frederick Bryant mentioned that the non-partisan process worked fine. Hearing no further questions or comments, the Task Force proceeded to vote.

Upon being put to a vote, the vote passed by a 5-3 vote of members present. Mr. Forrest Andrews, Ms. Alice Burch, Mr. Alfredo Gonzalez, Mr. Paul Hernandez and Mr. Marlon Hill voted "Yes"; Chair Robert Cuevas, Mr. Jeff Cazeau and Ms. Anna-Bo Emmanuel voted "No".

Following the vote, Assistant County Attorney Rosenthal mentioned that the Task Force previously voted to make the Clerk of the Circuit Court position non-partisan in Section 3.03 of the County Charter. He indicated that the Fifth District Court of Appeals filed an opinion on December 8, 2017 in the case Orange County Florida v. Rick Singh, Individually, Scott Randolph, Individually, Jerry Demings, Sheriff of Orange County, Rick Singh, Orange County Property Appraiser, Scott Randolph, Orange County Tax Collector (Case No. 5D16-2509, 5D16-2511) which found that making the Clerk of the Circuit Court non-partisan would violate Article 6, Section 1 of the Florida Constitution.

Assistant County Attorney Rosenthal said that this was the first case with such findings; that it was not final; and that it was subject to rehearing and reconsideration by the Fifth District and ultimate appeal to the Florida Supreme Court. He indicated he previously advised there was no case law prohibiting such action; however, noted this new case law existed. Assistant County Attorney Rosenthal advised that there was no requirement to reconsider the Task Force's recommendation given the non-final nature of the opinion.

2nd ISSUE FOR CONSIDERATION: WHETHER THE CHARTER SHOULD BE AMENDED AS RELATES TO ELECTION AND COMMENCEMENT OF TERMS OF THE MAYOR AND COUNTY COMMISSIONERS, AND, IF SO, WHAT THOSE AMENDMENTS SHOULD BE?

PRESENTATION: Five to ten minute presentation by the County Attorney's Office as to the Current Charter provisions on this issue.

Assistant County Attorney Oren Rosenthal noted the method of electing County Commissioners and the County Mayor was within the Task Force's purview to address. He commented on the case Miami-Dade County v. the Young Democratic Club of Florida from 1958 which upheld the ability of the County Commission to be elected on a non-partisan basis, noting it was within the County's Charter to set forth how and the manner in which those individuals were elected. Assistant County Attorney Rosenthal advised there were provisions in the Charter (Section 3.06 B, Page 25) addressing the manner of elections which incorporated general State law into the Charter as to whether or not, or how to conduct elections when the Charter or the County Code was silent.

Assistant County Attorney Rosenthal advised that the proposal submitted by Mr. Forrest Andrews was to codify in the County Charter provisions which existed in State law and could be changed by State law; however, these provisions would never change and make a permanent decision for Miami-Dade County if placed in the Charter, even if State law changed.

DISCUSSION AND VOTE: On whether any of the foregoing Charter provisions should be amended.

Mr. Andrews indicated that a runoff election was triggered when no candidate received a majority of the votes. He noted the County Charter did not address a situation when a candidate in a runoff election was unopposed and in such an event, should a runoff election continue to be held or not. Mr. Andrews said State law was silent as to whether votes should be counted for a candidate in a runoff election who withdraws, becomes disqualified or dies before the election, noting his proposal provided clarity to this situation.

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

It was moved by Mr. Forrest Andrews that language be added to Section 3.01 B of the County Code as follows: "The names of unopposed candidates for Mayor and County Commissioners shall not appear on the runoff election ballot and a runoff election shall not take place. Each unopposed candidate shall be deemed to have voted for himself or herself. No votes cast in favor of any candidate who withdraws or becomes disqualified or deceased prior to any election shall be counted. In the event that no candidate has qualified for Mayor or County Commissioner, a vacancy shall be deemed to have occurred, and shall be filled as provided by this Charter for the filling of a vacancy." This motion was seconded by Mr. Alfredo Gonzalez, and upon being put to a vote, the motion passed unanimously by all members present.

3rd ISSUE FOR CONSIDERATION: WHETHER THERE SHOULD BE A PROCESS FOR ESTABLISHING THE COUNTY MAYOR'S COMPENSATION?

DISCUSSION AND VOTE: On whether any of the foregoing Charter provisions should be amended.

Ms. Nicole Tallman reported that there was no specific proposal for amendment presented on this issue other than for the item to be added to the agenda as a discussion item.

In response to Ms. Alice Burch's inquiry about the Mayor's compensation, Chair Cuevas reported that compensation was determined by the County Commission and it was not considered a Charter issue.

There was no further discussion about the Mayor's compensation and no suggested changes to the process were made.

APPROVAL OF THE CLERK'S SUMMARY OF MINUTES FOR THE NOVEMBER 28, 2017 CHARTER REVIEW TASK FORCE MEETING

It was moved by Ms. Alice Burch that the meeting minutes from the November 28, 2017 Charter Review Task Force meeting be approved. This motion was seconded by Mr. Paul Hernandez, and upon being put to a vote, the motion passed unanimously by all members present.

SETTING A DATE FOR STAFF TO PROVIDE A DRAFT OF THE AMENDMENTS AND REVISIONS TO THE CHARTER THUS FAR APPROVED BY THE TASK FORCE FOR RECOMEDNATON TO THE COUNTY COMMISSION; AND SCHEDULING A MEETING AFTER RECEIPT OF STAFF'S DRAFT TO CONSIDER AND APPROVE THE WRITTEN RECOMMENDATION THE TASK FORCE WILL SUBMIT TO THE COUNTY COMMISSION.

Chair Cuevas indicated that all proposed Charter issues were discussed by the Task Force and it was now time to direct staff and the County Attorney's Office to prepare a proposed draft report for the Task Force's consideration.

In response to Mr. Marlon Hill's question whether the County Attorney would prepare language for Task Force members' consideration related to Mr. Kenneth Kilpatrick's earlier suggestion pertaining to the Citizens' Bill of Rights, Assistant County Attorney Oren Rosenthal said that this would be prepared if a Task Force member requested such.

Mr. Paul Hernandez posed questions about the nature of the welfare of vulnerable adults, pursuant to State Statute.

Assistant County Attorney Rosenthal indicated that he had not reviewed those provisions; however, the inclusion or exclusion of this from the Charter would not grant the County any more or less power than it already had. He said the County as a Home Rule County had all powers to carry on the local government not inconsistent with State law. Assistant County Attorney Rosenthal clarified that if there was a State law prohibiting the County for acting, the Home Rule Charter would not give the County any greater authority than it already had and leaving it out would not give any less authority than it already had. He advised that this was not one of the areas set forth in the Home Rule Amendment to the Constitution that would allow the County to uniquely differ from State law of general application in this area.

Assistant County Attorney Rosenthal noted the inclusion or exclusion of this from the Charter if it was just a permissive to allow the County to have welfare programs for vulnerable adults could be accomplished whether or not this was in the Charter, provided that it did not conflict with State law of general application. He added that if the proposed amendment required the Board to do something was different and would place an affirmative obligation on the Board to act; however, that would need to be more specific as to what acts the Board should take. Assistant County Attorney stated a permissive section would not change the relationship between the County and State law or alter the County's current authority.

Mr. Hernandez said he did not see what would be accomplished by including such provisions into the Citizens' Bill of Rights.

Ms. Alice Burch questioned how the welfare of vulnerable adults could be placed in the Citizens' Bill of Rights when other citizens needed rights as well.

Mr. Marlon Hill stated that this issue arose at the previous Task Force meeting and was

anticipating the County Attorney's Office to provide some additional guidance. He said he would not pursue the issue if the Task Force was not interested.

There was no further discussion about welfare programs for vulnerable adults and no suggested changes to the process were made.

Chair Cuevas stated that he anticipated receiving the Task Force's Draft Final Report by the end of January 2018 and the Task Force members would then reconvene to review that report and receive public input.

Ms. Nicole Tallman indicated that the report would be finished by the end of January 2018.

Discussion ensued about scheduling the future meeting and the timeline for the final report.

It was determined that the report would be completed and distributed to Task Force members and the public by January 29, 2019, and the next meeting date would be February 12, 2016 at 6:00 p.m. in the Commission Chambers.

Ms. Anna-Bo Emmanuel suggested having one additional public meeting, on February 20, 2017.

Mr. Hill concurred on the need for more public input and questioned whether the Task Force would be able to modify the recommendations based upon those meetings.

Chair Cuevas agreed on the need for additional public input.

Mr. Alfredo Gonzalez suggested leaving two weeks between the meetings in order to provide sufficient time to address concerns brought up at the initial meeting.

It was then decided that the upcoming Task Force meetings to review the Final Draft Report and receive public input would be held on February 12, 2017 and February 26, 2017.

ADJOURNMENT

There being no further business, the Charter Review Task Force meeting adjourned at 7:47 p.m.



Robert Cuevas, Chair