



MIAMI-DADE COUNTY FINAL OFFICIAL MINUTES Miami-Dade Charter Review Task Force

Stephen P. Clark Center
Commission Chambers
111 NW 1st Street
Miami, Florida
September 5, 2025
As Advertised

Juan Fernandez-Barquin,
Clerk of the Court and Comptroller
Board of County Commissioners

Basia Pruna, Director
Clerk of the Board Division

Chester Rodriguez, Commission Reporter
(305) 375-3819



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The Miami-Dade Charter Review Task Force (CRTF/Task Force) convened its fourth meeting at the Stephen P Clark Building, 2nd floor Commission Chamber: 111 NW 1st St, Miami, FL 33128, on September 5th, 2025 at 1:19 p.m.

I. Roll Call

In attendance were the following Task Force members:

- City of Miami Lakes Mayor Joshua Dieguez;
- Ms. Stephanie V. Daniels;
- Mr. Eric Eikenberg;
- Mr. Robert H. Fernandez;
- City of Aventura Mayor Steven D. Losner;
- Former Miami-Dade County Commissioner Dennis Moss;
- Ms. Rebecca Wakefield;
- Vice Chairman Michael Redondo (State Representative for House District 118);
- and - Chairman Dennis Kerbel.

The following Task Force members attended via Zoom:

- Senator Alexis Calatayud; and
- Former City of North Miami Mayor Andre D. Pierre.

Ms. Iris Escarra arrived at 1:36p.m.

In addition to the Task Force members, the following staff members were present:

- Assistant County Attorney (ACA) Michael Valdes;
- Ms. Demetria Henderson, Director of Legislative Affairs, Office of the Mayor;
- Ms. Tivia Rouland Deputy Director of Legislative Affairs, Office of the Mayor;
- Mr. Jorge Damian de la Paz, Director of Policy, Office of the Mayor;
- Ms. Samantha Jacob, Deputy Director of Policy, Office of the Mayor;
- Dr. Carladenise Edwards, Chief Administrative Officer, Office of the Mayor;
- Mr. Felix Jimenez, Inspector General, Office of Inspector General (OIG)
- Ms. Marie Perikles, General Counsel, OIG,
- Mr. Yinka Majekodunmi, Commission Auditor, Miami-Dade Office of Commission Auditor (OIC)
- Ms. Ofelia Tamayo, Director, Internal Compliance Department (ICD);
- Mr. Oren Rosenthal, Attorney, Supervisor of Elections (SOE);
- Mr. Luis Montaldo, General Counsel, Clerk of the Court and Comptroller (COCC); and
- Mr. Chester Rodriguez, Deputy Clerk, Clerk of the Board (COB).

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II. Pledge of Allegiance

Commissioner Dennis Moss led the Pledge of Allegiance.

III. Reasonable Opportunity for the Public to be Heard

Chairman Dennis Kerbel opened the reasonable opportunity to be heard, and seeing no one come forward to speak, the reasonable opportunity to be heard was closed.

IV. Carry Over Discussion – Amendments relating to Constitutional Officers

Chairman Kerbel stated that the carryover items from the last meeting concerned constitutional officers, and since representatives from the administration were present, the discussion would address what to do with the financial administration section of the charter and how to separate audit functions that remained with the COCC from other types of investigations and inspections performed by various offices.

A. Office of Inspector General

Mr. Felix Jimenez provided an overview of the Office of the Inspector General (OIG). He noted the OIG was created on December 16, 1997, by the Board of County Commissioners (Board) to serve as a watchdog over County practices with a mission to detect, investigate, and prevent waste, fraud, mismanagement, misconduct, and abuse of power through independent oversight of county affairs. Mr. Jimenez reported in November 2020, voters supported a charter amendment to establish an independent OIG in the charter. He advised that the office operated autonomously and independently to ensure no interference or influence from external sources.

Mr. Jimenez pointed out that Section 2-1076 of the County Code, based on delegation of powers by the Board, granted the OIG authority to conduct investigations of County affairs, audit and inspect County programs, accounts, records, contracts and transactions, conduct reviews and require reports from County officials and employees. He stated that there were different practices with different oversight entities that were not duplicative efforts but rather oversight that made government function better.

Ms. Marie Perikles explained that the OIG's audit authority did not overlap or duplicate the duties of the COCC/Clerk. She acknowledged that the Clerk was, under provisions of the State constitution and State law, the ex officio auditor of the Board; the recorder and the custodian of all County funds. Ms. Perikles stated that while Florida Statutes provided that local governments may not create or fund any office exercising powers allocated exclusively by the State constitution or general law to constitutional officers, the Clerk's authority to conduct audits was not exclusive.

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Ms. Perikles explained that the Clerk's duties as controller and auditor were entirely statutory under Section 129.025 of Florida Statutes and noted the Clerk as auditor was responsible for ensuring that payments of County funds were authorized expenditures. She advised that the statutes prescribing the Clerk's responsibilities did not define the audit function and stated that Florida courts had interpreted that the authority allowed clerks to conduct pre and post audits of County expenditures to ensure County funds were spent in accordance with law. Ms. Perikles referenced an Attorney General opinion stating that unless specifically defined, audit was variously defined and could include mathematical examination of processes, investigations, weighing of evidence, and determining whether entries were correct.

Ms. Perikles stated that Section 125.01 of Florida Statutes granted the County Commission power to investigate County affairs and inquire into accounts, revenues, and transactions of County departments, offices, and officers, which essentially empowered them to conduct audits. She further noted that Section 218.33 of Florida Statutes allowed local government entities to establish and maintain internal controls to prevent and detect fraud, waste, and abuse, promote compliance with laws and contracts, and support efficient operations. Ms. Perikles cited *State v. Weeks*, which held that the name given to a statutory officer was immaterial if the authority conferred did not conflict with constitutional authority. She argued that the statutory authority of counties to audit records and establish internal controls did not constitute exclusive authority delegated to the Clerk and that these county powers did not diminish or supplant the statutory duties of the Clerk. Ms. Perikles referenced an Attorney General opinion stating that the Clerk as ex officio auditor provided a check and balance system to ensure proper expenditure of public funds.

Ms. Perikles stated that the statutes granting the Clerk audit authority and charter provisions granting the OIG audit authority should be read together to preserve the force of both. The OIG's audit function is supplementary and does not supplant the Clerk's functions. The OIG does not issue financial audits, does not audit county funds financially, and does not conduct pre and post audits of expenditures. The OIG's function is different. Their audits are almost always initiated through complaints, investigations, or oversight assignments where something needs examination from a different perspective.

Chairman Kerbel stated that the CRTF's charge was to determine what to do with terms currently in the charter. He noted that the Inspector General provision specifically referenced audits, and the drafts proposed by constitutional officers would strike the word audit and include a provision stating that the COCC shall have exclusive authority to perform audits as set forth in State law. Chairman Kerbel asked what proposed changes to the language could be made to reflect that the OIG's function was supplemental.

Ms. Perikles recommended that the word audit not be removed because the OIG conducted different types of audits than the Clerk. She stated that as a matter of public policy and common sense, the County commission and County must have ability to review internal processes in more

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than one way and reiterated that the Clerk was charged with certain specific types of audits, including pre and post audits. Ms. Perikles noted that the OIG assessed performance, compliance, internal controls, and whether proposed legislation would be beneficial to the County and maintained that the language was encompassing and there was room for both offices to conduct audits.

Mr. Eikenberg inquired about the purpose of the discussion given that the independent OIG office was established by charter amendment in 2020.

Chairman Kerbel explained that the purpose was to determine the statutory exclusive authority of the Clerk and ensure that no other office was assigned authority that duplicated those exclusive duties.

ACA Michael Valdes explained that the State legislature passed a statute indicating that if any duty or responsibility was assigned to a constitutional officer, the County could not fund an office that duplicated that duty or responsibility. He further advised that the COCC had requested that the charter implement language to ensure duties were not duplicated, and the discussion was intended to determine what position the respective entities had regarding this issue.

Chairman Kerbel asked ACA Valdes for his opinion on whether the OIG was stepping into an exclusive duty of the Clerk.

ACA Valdes stated that based on the broad definition of audit, it was difficult to determine conclusively. He referenced *Alachua County v. Powers* (1977), in which the Florida Supreme Court held that Alachua County could not create an independent county auditing department because the Clerk was designated as the county auditor. ACA Valdes opined that the Clerk was not the only entity allowed to conduct audits, though the 1977 case created ambiguity about whether an in-house County department could perform audit functions.

Chairman Kerbel inquired whether it would be consistent with previous discussion to insert language stating "to the extent not inconsistent with general law" instead of striking the word audit.

ACA Valdes confirmed this approach would address the statute concerning duplication of services by constitutional officers.

Chairman Kerbel asked whether constitutional language or statute had prompted the charter discussion.

ACA Valdes clarified that both constitutional and statutory elements were involved in the auditing issue.

Ms. Perikles informed the CRTF that the Clerk entered into an interlocal agreement with Miami-Dade County on January 7, 2025 and noted one section of the agreement stated that several other departments did not duplicate the Clerk's duties. She agreed with the proposed amendment to add

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qualifying language rather than strike the word audit, stating it would allow for different types of audits and functions. Ms. Perikles provided examples of other Florida counties where both the OIG and Clerk performed different audit functions and emphasized that conducting audits was not an exclusive duty of the Clerk.

Commissioner Moss inquired about the duration of the interlocal agreement.

Ms. Perikles responded that the agreement was for three years.

Commissioner Moss suggested that the charter could include language regarding the County's ability to enter into interlocal agreements.

Chairman Kerbel asked whether the County could enter into an interlocal agreement with a constitutional office through the OIG.

ACA Valdes stated that such an agreement would be permitted under the proposed language already adopted by the Board.

Ms. Wakefield questioned how the charter could affect the scope of the OIG's duties.

Ms. Perikles explained that the OIG would retain ability to conduct investigations, but eliminating the word audit would create issues in their oversight work.

Ms. Escarra asked for clarification on the practical aspects of auditing regarding multiple requests from different departments.

Ms. Perikles clarified that the OIG had not duplicated audits from other departments and had maintained open lines of communication with the Department of Audit and Management and the Commission Auditor to ensure services were not duplicated. She explained that the offices performed different functions and initiated audits from different sources. Ms. Perikles stated that if the commission requested work from the OIG, the office would contact colleagues to avoid duplication, as the OIG had a duty as an independent oversight agency not to perpetuate inefficiencies.

Chairman Kerbel reiterated the OIG's independent authority to conduct audits.

Ms. Perikles confirmed that the OIG had independent authority and could self-initiate audits. She stated that the OIG was complaint-driven and received complaints from citizens, referrals from department directors, and requests from the commission and the mayor's office.

Ms. Escarra questioned whether the same complaint-driven process applied to the Clerk's office.

Ms. Perikles stated that she could not speak for the Clerk's office but confirmed that the OIG accepted information and complaints for reviews and investigations. She stated that she did not believe the Clerk had the same complaint-driven process and that the Clerk was bound by statutory duties to ensure that payments of County funds were made correctly.

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Mr. Montaldo confirmed that the Clerk was allowed to receive constituent complaints. He explained that prior to Amendment 10, the Clerk had always been the auditor and audits were performed by deputy clerks, with the audit section under the finance director at that time. Mr. Montaldo provided an example of an audit of the self-insurance fund that was initiated by a constituent complaint to former Clerk Harvey Ruvin, who ordered an independent audit at the constituent's request.

Chairman Kerbel asked whether the Clerk retained that authority, and Mr. Montaldo confirmed that the Clerk does retain that authority.

Mr. Redondo asked whether adding language referencing general law for auditing would address Ms. Perikles's concerns regarding the OIG's auditing functions.

Ms. Perikles confirmed that such language would address her concerns.

B. Office of the Commission Auditor

Chairman Kerbel asked the Commission Auditor whether he wished to add anything to the OIG's concerns.

Mr. Yinka Majekodunmi stated that Ms. Perikles had expressed the concerns clearly. He provided an overview of the Office of the Commission Auditor (OCA), which was established in 2002 by voters of Miami-Dade County after approval of a Home Rule Charter amendment. Mr. Majekodunmi stated the office was created to conduct financial and legislative research and analysis to assist the Board in their decision-making process by ensuring governmental accountability, transparency, and best use of public funds and noted that the Commission Auditor's duties included reporting to the Board on county departments and external agency operations to assess whether fiscal and legislative policy directives of the commission were being efficiently and effectively implemented.

Mr. Majekodunmi clarified that the word "audit" as a verb was important to any oversight function and was not exclusive to any organization. He stated that striking the word "audit" would create challenges by becoming restrictive in areas where oversight work needed to operate throughout the County, not just in one office. He explained that the OCA did not duplicate services or operations and had a clear understanding of their work scope. Mr. Majekodunmi pointed out that the OCA differed from the OIG in how they received requests, as most of the OCA's requests came from the Board. Mr. Majekodunmi stated the office did not perform pre or post payment audits, but rather focused on core compliance and directives by the Board which may not be financial in nature.

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Mr. Majekodunmi stated that the offices understood how to define the scope of audits and determine where their respective scopes began and ended. In cases where there could be overlapping responsibility, the offices coordinated to hand off engagements to the appropriate entity. He stated that the offices had coordinated effectively for several years by sharing information and working in their respective areas to avoid duplication. Mr. Majekodunmi noted that there were different types of audits, including financial audits, compliance audits, performance audits, and investigative audits. He stated that the word "audit" was properly placed in the OCA's charter section.

Commissioner Moss asked what led the OIG and OCA to enter into the interlocal agreement with the Clerk's office.

Mr. Majekodunmi stated that in the initial phase of discussions, the offices wanted to document their collaborative work and intent not to duplicate services, specifically to address confusion around the word "audit." He explained that the goal of the interlocal agreement was to ensure continued handoffs and information sharing when the scope fell outside their respective areas.

Ms. Perikles clarified that the interlocal agreement was entered into between the County and the constitutional offices, not by individual offices, and that the agreement specifically named the OIG, the Commission Auditor, and other offices.

Commissioner Moss asked what led the OIG to want to be part of the interlocal agreement.

Ms. Perikles stated that as the County was preparing for the transition and preparing for an agreement with the Clerk, the OIG participated because the OIG had always maintained a good working relationship with the Clerk and wanted to continue that relationship. She explained that the offices had referred matters to each other and that it was part of what the OIG believed to be their duty to cooperate and ensure that services were not duplicated and that each office's functions were specifically delineated and defined.

Ms. Wakefield asked whether the concern about the word "audit" was a legal issue or a functional issue.

Mr. Majekodunmi explained that in this context, the word "audit" functioned as a verb rather than a type of engagement. He stated that different offices conducted various types of engagements, including audit engagements, review engagements, and compilation engagements. Mr. Majekodunmi distinguished between "audit" as a verb used broadly across organizations and "audit" as a designated role, noting that this distinction may have caused confusion. He provided an example that the County's annual independent audit must be conducted by an independent CPA firm and could be performed by the OCA, OIG, or Clerk. Mr. Majekodunmi stated that

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while scope design and roles were important, "audit" as a verb had never been exclusive in the industry and was fundamental to oversight within any organization.

Chairman Kerbel asked whether adding language stating "consistent with general law" would address the concerns.

Mr. Majekodunmi confirmed that it would.

C. Internal Compliance Department

Chairman Kerbel asked whether the Internal Compliance Department (ICD) had anything to add to the discussion.

Dr. Carladenise Edwards stated that she was in agreement with her colleagues and explained that the COCC provided fiduciary responsibility to ensure taxpayer funds were used as intended and that the COCC was responsible for ensuring the integrity of County expenses. She stated that, similar to corporations, there was a segregation of duties to ensure proper checks and balances. Dr. Edwards explained that when audits were conducted by the OIG, Commission Auditor, or COCC, the administration had a duty to address findings. She stated that the Mayor had charged the Internal Compliance Department (ICD) with preventing issues by testing and auditing preventive controls and ensuring that corrective actions from findings were implemented. Dr. Edwards stated that the word "audit" was a verb and would be difficult to strike from the charter because each office had a responsibility to audit, investigate, and review records, performance, and programs to ensure accountability to taxpayers. She asked Ms. Ofelia Tamayo, Director of the Internal Compliance Department, to provide an overview of the department's duties.

Ms. Tamayo stated that she agreed with the OIG and Commission Auditor and had worked with the Clerk's office during the transition. She explained that the ICD had several divisions, including debt collection for the County, oversight of the County's Enterprise Resources Planning (ERP) system, purchasing card compliance, and a processing and transaction division that conducted reviews. Ms. Tamayo stated that the ICD anticipated risk, protected resources, proposed appropriate levels of internal controls, increased efficiency and effectiveness, and maximized resource use. She explained that the office was proactive, collaborative, and provided complementary oversight. Ms. Tamayo provided an example regarding overtime, explaining that while the COCC reviewed overtime payments to ensure compliance with policy, the ICD reviewed overtime policies to help management achieve goals and minimize overtime expenditures. She stated that the ICD focused on front-end internal controls to minimize risk, increase efficiency in processes, maximize revenues, and follow up on action items. Ms. Tamayo concluded that the ICD complemented the audit work performed by the Commission Auditor and the Office of Inspector General.

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Chairman Kerbel asked ACA Valdes whether there was a definition in State law for the word "audit" that could guide what constituted an exclusive function.

ACA Valdes stated that there was no comprehensive definition provided in Florida Statutes. He explained that there were numerous instances within Florida Statutes that defined different types of audits with specific definitions and noted that Florida Statutes differentiated between prepayment audits, which verified that there was a valid public purpose for expenses before payment was issued; and post-payment audits, which verified that payment was legal and was actually performed. He stated that there were also performance audits that evaluated performance. ACA Valdes stated that there were various ways in which the term "audit" was defined within Florida Statutes, but there was not one all-encompassing definition.

Chairman Kerbel requested Mr. Montaldo input.

Mr. Montaldo provided clarification on why the issue with the term "audit" in the Home Rule Charter had become significant. He explained that prior to the passage of Amendment 10, the term "audit" was defined in many instances because the audit functions were not exclusively in the Clerk's purview as they were after Amendment 10.

Chairman Kerbel asked whether the Clerk had authority to perform all the different types of audits that ACA Valdes had described.

Mr. Montaldo stated that performance audits, for example, were not within the Clerk's purview. He explained that performance audits did not focus on the financial aspects for which the Clerk was responsible but rather related to policy compliance.

Chairman Kerbel noted that the word "audit" appeared to be a generic term that could cover different types of auditing.

Mr. Montaldo stated that the term "audit" had legal significance. He explained that in any document that conferred legal rights, such as the constitution or the charter, terms would ultimately be defined either by the legislature through statute or by the courts through jurisprudence. Mr. Montaldo stated that the Clerk provided case law regarding the audit function and that case law was clear on the audit function. He explained that the Clerk brought the issue to the commission's attention because the charter was a document used by the public to understand how county government functioned, and terms should be clarified so that constituents could understand their rights. Mr. Montaldo stated that in reading the pre-Amendment 10 Home Rule Charter, there were areas where there was confusion, and those areas should be clarified.

Mr. Montaldo recognized the collaborative working relationship with the OIG and Commission Auditor. He explained that investigations and audits were frequently intertwined, especially on criminal matters, and there were times when functions were different but closely connected. Mr. Montaldo stated that when the Clerk signed the interlocal agreement, the Clerk clarified that there was no intention to gain authority over areas where the OIG performed its work. He stated

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that the issue was about clarifying the term "audit." Mr. Montaldo stated that the Clerk would not object to adding language referencing state law. He stated that the Clerk's office did not believe removing the word "audit" would cause confusion and that the Clerk's office was neutral on the issue as long as it did not interfere with the Clerk's constitutional and statutory duties. Mr. Montaldo explained that the legislative enactment regarding duplication of functions was passed to clarify that such duplication would be seen as a waste of taxpayer funds.

Chairman Kerbel stated his view that the charter was not a source for the public to determine everything that was allowable or that defined all terms, but rather set parameters for what the County Commission could do through further action. He stated that the CRTF's charge was to determine how much to restrict in the charter regarding what the County Commission could decide later. Chairman Kerbel stated that eliminating the word "audit" was not necessary to avoid duplication and that adding qualifying language could address the issue, as matters could be resolved by the County Commission when they adopted ordinances or resolutions consistent with the charter and state law.

Commissioner Moss asked whether there were potential conflicts that could create problems related to the language.

Mr. Montaldo stated that government functions involved checks and balances that could lead to conflicts, which were sometimes resolved among government officials and sometimes in courts. He stated that he had been with the Clerk's office for 24 years and that each word in the charter was significant. He explained that when important issues arose, each term was examined closely. Mr. Montaldo stated that the Clerk's office sought to clarify terms for the public to the extent possible and that issues would ultimately be resolved through law or by the courts.

Ms. Escarra stated that the discussion brought the CRTF back to Sections 9.10 and 9.11, which were not moved at the last meeting. She stated that the sections would address adding language regarding audits as permitted by law, applicable both to Section 9.10 where the word "audit" had been stricken and would be added back in with reference to general law, as well as Section 9.11.

Chairman Kerbel stated that was his suggestion and questioned whether the line about the COCC having exclusive authority to perform audits was needed, as it sounded too restrictive. He noted that based on the presentations received, there were audit functions that the COCC did not perform.

Vice Chair Redondo stated that to the extent the language could be added referencing consistency with State law, it would address the remaining sentence in Section 9.10.

ACA Valdes proposed specific language for Section 9.11, suggesting the phrase "audits as permitted by law." He proposed that in Section 9.10, the word "audit" be deleted and the phrase "or permitted audits" be inserted after "fiscal analyses." ACA Valdes explained that this

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language would treat audit as a noun when used with "permitted" as opposed to using audit as an adjective.

Chairman Kerbel stated that the language "permitted audit" raised the question of what is actually permitted. He stated that the CRTF would need a final comprehensive review of all constitutional officer sections before voting on amendments.

ACA Valdes confirmed that he had compiled everything approved at the previous meeting and would add what was discussed during the current meeting.

Chairman Kerbel asked Ms. Escarra whether the proposed language was acceptable for her motion.

Ms. Escarra agreed to the language discussed and added that the last sentence in Section 9.10 should be removed.

Ms. Escarra moved to amend Section 9.10 by retaining the word "audit" and adding the qualifying phrase "as applicable to general law," with the County Attorney determining the final specific terminology. Mayor Dieguez seconded the motion; and upon being put to a vote, passed 10-0 (Senator Calatayud, Mr. Granado, Mr. Jimenez, and Mayor Pierre were absent).

D. Office of Management and Budget

Chairman Kerbel asked Dr. Edwards about her proposal regarding the Office of Management and Budget (OMB).

Dr. Edwards clarified that the interlocal agreement was executed by the County in January 2025 and expired on December 31, 2026. She stated that the CRTF's work was important because it would help provide clarity on the respective roles of each office when the interlocal agreement expired.

Chairman Kerbel asked whether the previous motion provided that clarity.

Dr. Edwards confirmed that the Task Force's action provided the necessary clarity.

Chairman Kerbel raised the question of whether there should be an office or department of finance given the changes to the Clerk's role.

Dr. Edwards stated that Section 5.03 of the charter was titled "Financial Administration," but the full text addressed management and budget. She proposed that Section 5.03 be retitled "Management and Budget" with the remainder remaining the same. She stated that subsection A would read: "The Mayor shall serve as the County Budget Officer and shall carry out such duties

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in accordance with state law. The Mayor may delegate any budgetary responsibilities, powers, or duties to the Director of the Office of Management and Budget or such other designee as the Mayor deemed appropriate." Dr. Edwards stated this would eliminate reference to the finance director and replace it with reference to the Mayor and designee for management and budget. She noted that segregation of duties was normal practice in corporations and stated that subsequent sections B, C, and D through H, all referenced budget and that this was the clearest way to address the issue.

Chairman Kerbel asked whether "County Budget Officer" was a term that existed in state law.

ACA Valdes confirmed that the term existed in state law.

Commissioner Moss inquired about the role of the Board as it related to the operation of this office.

ACA Valdes stated that the role was currently performed by the Mayor. He explained that State law provided that it was a role designated by the County Commission or that could be designated by the County Commission. He stated that the charter already set forth those requirements, which were to prepare a budget and present it to the Board, and that Sections 5.03(B), (C), and (D) already addressed this.

Commissioner Moss asked whether the commission could make changes through legislation.

ACA Valdes stated that the Mayor proposed the budget that was presented to the Board and that ultimately the Board reviewed and approved/adopted the final budget. He clarified that the Mayor did not prepare a final budget or had budgetary authority.

Commissioner Moss asked whether the commission could pass legislation directing the Mayor to perform other duties under this office.

ACA Valdes stated that the Board could issue policy directives to the Mayor to include various items in proposed budgets going forward.

Dr. Edwards addressed Section 5.01, which listed departments that should exist. The section stated "there shall be a department of finance," and she recommended it be amended to read "there shall be a department of budget, personnel, planning and law," replacing "finance" with "budget."

Chairman Kerbel stated that since the provision concerned the Mayor's authority to create an office, he questioned whether the charter needed to specify the Director of the Office of Management and Budget. He suggested the language could simply state that the Mayor may delegate to a designee as the Mayor deems appropriate rather than naming a specific department.

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Dr. Edwards responded that Section 5.01 identified which departments should exist, ensuring that a department accountable for budgeting would exist. She stated that Section 5.03 would indicate that the Mayor shall delegate the duties of that department. Dr. Edwards noted that a future mayor might want to use a different name for the office, but the duties would remain in the charter.

Ms. Escarra questioned the change from "finance" to "budget" in Section 5.01 and asked why it was not changed to "management and budget."

Dr. Edwards explained that different entities used different terms. She stated that in her professional experience, she had seen "management and budget" and "planning and analysis," and that different entities used different terms. She noted that at the state level and federal level, there were offices of management and budget, so it was a term familiar in government. Dr. Edwards stated that the term would resonate with the community and others because it was familiar in the government space. She stated that Section 5.01 could be changed from "finance" to "management and budget," and Section 5.03 could reference "management and budget," but noted the Chair's point that this might restrict future mayors who wanted to call it something else.

Ms. Escarra questioned the change from "finance" to "budget" in Section 5.01 and asked why it was not "management and budget."

Dr. Edwards explained that different entities use different terms. She initially opted to use the narrower term "budget," but the language could be changed to better align with state statutes.

Ms. Escarra stated that the language should be more consistent with state statutes.

Chairman Kerbel stated that Section 5.03 would reference "Budget."

Ms. Escarra stated it should reference the "Budget Office."

ACA Valdes noted that Section 5.03 contains provisions that do not relate exclusively to the budget process, such as subsection (D) which addresses competitive bidding requirements.

Chairman Kerbel stated that "Management and Budget" made more sense for Section 5.03 given the broader scope.

Ms. Escarra summarized the proposed changes: Section 5.01 would be amended to say "budget" instead of "finance" in the first sentence; Section 5.03 would have "Management and Budget" in the title; the first sentence would be crossed out; and the following language would be added: "The Mayor shall serve as the County Budget Officer and shall carry out such duties in accordance with state law. The Mayor may delegate any budgetary responsibilities, powers, or

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duties to the Director of the Office of Management and Budget or such other designee as the Mayor deems appropriate."

Chairman Kerbel proposed an amendment to strike the specific reference to the Office of Management and Budget and change the language in the last sentence of Section 5.03 to read: "The Mayor may delegate any budgetary responsibilities, powers, or duties to any such designee."

Ms. Escarra accepted the amendment.

Mayor Joshua Dieguez moved to approve the changes as amended by Chairman Kerbel. Ms. Escarra seconded the motion; and upon being put to a vote, passed 10-0 (Senator Calatayud, Mr. Granado, Mr. Jimenez, and Mayor Pierre were absent).

Chairman Kerbel stated that there was an outstanding issue relating to the SOE.

Mr. Rosenthal stated that the outstanding issue related to who qualified candidates for County Commission and Mayor. He explained that at the previous task force meeting, the CRTF had asked the County Attorney to research whether a particular office was legally required to serve as the qualifying officer. Mr. Rosenthal stated that although this responsibility was previously assigned in the charter to the Clerk, it was no longer appropriate under Amendment 10 changes. He stated that the Clerk had requested that the SOE perform this function, and that the SOE was the qualifying officer under State law.

ACA Valdes stated that the question related to the interaction between State law, which provided qualifying requirements for county officials and county judges; and home rule powers that the County may have regarding the method of election of County commissioners. He stated that with the enactment of Amendment 10, arguments could be made on both sides. ACA Valdes stated that from a practical standpoint, it had always been the Supervisor of Elections office or elections department that conducted qualifications, either through delegation by the Clerk, deputization by the Clerk, or as the established method. He stated that from a practical standpoint and to avoid constitutional versus charter conflicts, it was simplest to memorialize what had always been done in practice, which was that the SOE served as the qualifying officer.

Chairman Kerbel asked whether under State law it has always been the Supervisor of Elections that is the qualifying officer.

ACA Valdes confirmed that in all other Florida counties, the SOE served as the qualifying officer pursuant to State law.

Ms. Escarra asked whether the Supervisor of Elections performed this function for all municipalities within the county.

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Mr. Rosenthal stated that municipalities had their own municipal clerks who served as qualifying officers. He noted that the municipal clerks reported qualified candidates to the SOE, but the task force was not addressing municipal charters.

Mr. Rosenthal further explained that State law addressed qualifying officers and that county-wide offices went to the SOE.

ACA Valdes advised that the change would be made to Section 3.04(A) and explained that the part of the charter that currently read "All candidates for the office of Mayor or County Commissioner shall qualify with the Clerk of the Circuit Court" would be amended to delete "Clerk of the Circuit Court" and replaced with "Supervisor of Elections."

Chairman Kerbel asked whether a similar change was needed regarding initiatives and referenda.

Mr. Rosenthal stated that initiative and referendum processes were not governed by State law in the same manner.

ACA Valdes stated in his review of the initiative and referendum provisions, language had been added relating to the timing of elections to address concerns previously raised by Commissioner Moss. He stated that the language would indicate that elections would be held at the earliest possible time at which the SOE confirmed availability to conduct such election.

Chairman Kerbel stated that the only remaining question was who validated the petition for initiatives and referenda.

Mr. Fernandez moved to approve the amendment to Section 3.04(A) to replace "Clerk of the Circuit Court" with "Supervisor of Elections." Vice Chair Redondo seconded the motion, and upon being put to a vote, passed 10-0 (Senator Calatayud, Mr. Granado, Mr. Jimenez, and Mayor Pierre were absent).

V. Overview of Draft Amendments relating to Constitutional Officers

Chairman Kerbel stated that in the next meeting, the CRTF would go over the amendments relating to the Constitutional Officers.

Ms. Wakefield inquired about the degree of authority the Board would have over constitutional officers.

ACA Valdes explained that the Florida Constitution provided that the duties and powers of constitutional officers were set forth in general law. He stated that general law provided independence for constitutional officers in areas related to procurement, personnel, and various other issues. ACA Valdes stated that there were certain instances in which the Board was

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allowed to direct or have involvement with constitutional officers, but those were set forth in general law. He provided an example that the COCC served as the COB, and in that capacity, the Board was allowed to direct what the COB did, such as taking minutes of meetings, providing vote counts, and transmitting copies of resolutions. ACA Valdes stated that there were other instances in State law where the Board must approve certain contracts that constitutional officers entered into, while constitutional officers had complete authority to enter into other contracts on their own. He concluded that the matter while complicated was largely set forth in State law.

VI. Proposed Technical Amendment Overview

Chairman Kerbel asked whether the Trust members wanted to discuss the proposed technical amendments or wait until the next meeting.

Mr. Eikenberg stated that the technical changes were self-explanatory and moved approval. Mayor Losner seconded the motion; and upon being put to a vote, passed 10-0 (Senator Calatayud, Mr. Granado, Mr. Jimenez, and Mayor Pierre were absent).

Chairman Kerbel requested that staff prepare draft ballot language for the technical amendments to be reviewed at the next meeting. He stated this would help the CRTF understand the total number of ballot questions that would ultimately be presented to voters.

ACA Valdes confirmed that a draft ballot question could be prepared and noted that amendments could be packaged together as the Task Force determined.

Chairman Kerbel requested that staff also prepare draft ballot language for the constitutional officer amendments, since the complete slate of those amendments would be available for review at the next meeting.

VII. Discussion on Amendments regarding the Structure of County Government

Chairman Kerbel noted that given the length of today's meeting and yesterday's budget discussions, he proposed briefly introducing the topic of County structure and conducting a more thorough discussion at future meetings once outstanding business had been addressed.

Chairman Kerbel outlined that the discussion would examine the relationship between the Mayor and the Board under the strong mayor system, the respective powers of each office, and the overall governmental structure. He encouraged Task Force members with specific proposals to submit language to staff for inclusion on future agendas.

Chairman Kerbel expressed interest in exploring term limits and commissioner salaries, structured to avoid benefiting current office holders. He suggested this had been an obstacle in

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previous attempts and outlined his preliminary view was 12-year term limits for commissioners and salaries set in accordance with State law.

Mayor Losner referenced previous discussions regarding recall percentages and requested staff compile data for each district, including voter numbers, resident populations, and turnout percentages from the 2022 and 2024 elections.

Mayor Losner moved to authorize staff to compile the requested information. Mayor Dieguez seconded the motion; and upon being put to a vote, passed 10-0 (Senator Calatayud, Mr. Granado, Mr. Jimenez, and Mayor Pierre were absent).

Chairman Kerbel established that Task Force members could request information directly from staff, which would be distributed to all members for the next meeting.

Mayor Losner outlined additional topics for future discussion, including requiring special elections for County Commission vacancies exceeding one year, extending district residency requirements from six months to one year with corresponding voter registration requirements, and exploring a structure where each voter would have two commissioners. He described a potential configuration of nine single-member districts with four overlapping districts to maintain 13 total commissioners. Mayor Losner noted that Live Local legislation was significantly impacting population distribution, particularly in the southern portion of the county.

Chairman Kerbel sought clarification regarding whether this would alter the current 13 single-member district structure.

Mayor Losner clarified that the total number of commissioners would remain 13 but with a different configuration.

Commissioner Moss expressed concern about devoting time to structural changes without evidence of significant dysfunction in the current Board operations. He stated he did not object to discussion but questioned the need for changes if the system was functioning adequately.

Chairman Kerbel suggested requesting comparative data on term limits and commissioner salaries from other large counties, similar to the constitutional officer research previously provided.

Ms. Escarra requested previous ballot language regarding term limits and salaries presented to Miami-Dade voters.

Mr. Eikenberg moved that staff gather information on previous ballot language addressing term limits and salaries, plus comparative data from other counties.

Chairman Kerbel proposed a friendly amendment to include information about governmental structures in other major counties regarding single-member districts versus at-large representation.

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Chairman Kerbel noted that Miami-Dade may be unique in specifying commissioner salaries in the charter.

Mr. Eikenberg moved that staff gather and present ballot language addressing term limits and salaries, plus comparative data from other counties, along with the requested information as outlined by Chairman Kerbel, Mayor Losner and Commissioner Moss. This motion was seconded by Ms. Escarra; and upon being put to a vote, passed 10-0 (Senator Calatayud, Mr. Granado, Mr. Jimenez, and Mayor Pierre were absent).

ACA Valdes informed Task Force members that the County Attorney's office was available to assist with legal research and implications for proposed amendments prior to meetings to facilitate efficient discussions. He stated this would allow the office to provide legal guidance at meetings rather than requiring follow-up research.

Chairman Kerbel inquired whether the County Attorney's office would draft proposed language if requested by task force members.

ACA Valdes confirmed that assistance would be provided.

Chairman Kerbel stated that staff should provide available information by the next meeting and anticipated this topic would require at least two additional meetings to address adequately.

Chairman Kerbel confirmed the next meeting would be held on September 17th at 1:00 p.m.

VIII. Other Discussion Items

- None presented.

IX. Adjournment

There being no further business to come before the CRTF, the meeting was adjourned at 3:07 p.m.



Chairman Dennis Kerbel

Charter Review Task Force



BOARD OF COUNTY COMMISSIONERS

Charter Review Task Force

September 5th, 2025

Prepared by: Chester Rodriguez

EXHIBITS LIST

AGENDA ITEM NO.	DESCRIPTION
-	Copy of Miami Dade County Charter Review Task Force Agenda
-	Copy of Exhibit A
-	Copy of Exhibit B
-	Copy of Revised Exhibit B
-	Copy of Response to Charter Review Member Questions Regarding Definition of Audit

Miami-Dade County Charter Review Task Force Agenda
Official Version
Friday, September 5, 2025
1:00 PM
Commission Chambers

- I. Roll Call
- II. Pledge of Allegiance
- III. Reasonable Opportunity for the Public to be Heard
- IV. Carry Over Discussion – Amendments relating to Constitutional Officers
 - A. Office of the Inspector General
 - B. Office of the Commission Auditor
 - C. Internal Compliance Department
 - D. Office of Management & Budget
- V. Overview of Draft Amendments relating to Constitutional Officers
- VI. Proposed Technical Amendment Overview
- VII. Discussion on Amendments regarding the Structure of County Government
- VIII. Other Discussion Items
- IX. Adjournment

Attachments:

Exhibit A: Proposed Technical Amendment Overview

Exhibit B: Proposed Office of Management & Budget Amendment

Update gender terminology (change “he” to “he or she” as was done in other sections) (Sections 1.05; 5.06; 8.02; 9.01; etc.)

SECTION 1.05. FORFEITURE OF OFFICE OF COUNTY ELECTED AND APPOINTED OFFICIALS AND EMPLOYEES.

A. Any member of the Board of County Commissioners who ceases to be a qualified voter of the county or removes himself from the county or the district from which he **or she** was elected, or who fails to attend meetings without good cause for a period of six months, shall immediately forfeit his **or her** office. Any Commissioner who ceases to reside in the district which he **or she** represents shall also immediately forfeit his office.

B. Any elected or appointed county official who holds any other elective office, whether federal, state or municipal, shall forfeit his **or her** county position, provided that the provisions of this subsection shall not apply to any officials presently holding such other office during the remainder of the present terms.

SECTION 5.06. DEPARTMENT OF LAW.

There shall be a County Attorney appointed by the Board of County Commissioners, subject to veto by the Mayor unless overridden by a two-thirds majority of those Commissioners then in office who shall serve at the will of the Board and who shall head the department of law. He **or she** shall devote his full time to the service of the county and shall serve as legal counsel to the Board, Mayor, and all county departments, offices, and agencies, and perform such other legal duties as may be assigned to him **or her**. He **or she** may appoint such assistants as may be necessary in order that his duties may be performed properly. The Board may employ special counsel for specific needs.

SECTION 8.02. RECALL.

6. If the majority is against recall the officer shall continue in office under the terms of his previous election. If the majority is for recall he **or she** shall, regardless of any defect in the recall petition, be deemed removed from office immediately.

7. No recall petition against such an officer shall be certified within one year after he **or she** takes office nor within one year after a recall petition against him is defeated.

SECTION 9.01. ABOLITION OF CERTAIN OFFICES AND TRANSFER OF FUNCTIONS.

B. In the event that other elective officers are abolished by the Board, the Board shall provide that any person duly elected to such office shall if he **or she** so desires remain in the same or similar position and receive the same salary for the remainder of the term for which he **or she**

was elected, and shall provide for the continuation of all duties and functions of these offices required under the Constitution and general laws.

Update names throughout, for example “Dade County” to “Miami-Dade County” and dated Park names in Article 7 (§§ 1.05; 5.08, 7.02, 7.03, 9.06)

CITIZENS’ BILL OF RIGHTS

(B). The foregoing enumeration of citizens’ rights vests large and pervasive powers in the citizenry of Miami-Dade County. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the County. The orderly, efficient and fair operation of government requires the intelligent participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.

(C). Remedies for Violations. A citizen may bring a cause of action alleging a violation of this Article filed in the Miami-Dade County Circuit Court pursuant to its general equity jurisdiction and if successful, shall be entitled to recover costs as fixed by the Court. The Commission on Ethics and Public Trust may also enforce the provisions of this Article and may impose any penalty authorized by County Code not otherwise prohibited by a collective bargaining agreement, for a violation of this Article. Any penalty imposed by the Commission on Ethics and Public Trust pursuant to this subsection may be enforced in the Miami-Dade County Circuit Court.

SECTION 1.05. FORFEITURE OF OFFICE OF COUNTY ELECTED AND APPOINTED OFFICIALS AND EMPLOYEES.

C. Any appointed official or employee of Miami-Dade County who qualifies as a candidate for election to any federal, state or municipal office shall immediately take a leave of absence from his or her county position until the date of the election and shall, if elected, immediately forfeit his or her county position. If the candidate is not elected, he or she shall immediately be reinstated to his or her former position.

SECTION 5.05. DEPARTMENT OF PERSONNEL.

C. Except as provided herein, Chapter 30255, General Laws, 1955, as it exists on the effective date of this Charter, shall remain in effect until amended or changed by ordinance of the Board of County Commissioners adopted by two-thirds vote of the members present after recommendation from either the Personnel Advisory Board or the County Mayor.

SECTION 5.08. BOARDS.

B. The Board of County Commissioners may by ordinance provide for the expansion of the City of Miami Water and Sewer Board to an agency countywide in scope and authority, with the power to

acquire, construct and operate water and sewer systems within the incorporated and the unincorporated areas of Miami-Dade County, which agency shall be known as the Miami-Dade Water and Sewer Authority. The Miami-Dade Water and Sewer Authority shall have the responsibility to develop and operate a countywide water and sewer system for the purpose of providing potable water, sewage collection and disposal and water pollution abatement to the citizens of Miami-Dade County.

C. Miami-Dade County shall retain all its powers, including but not limited to that of eminent domain, in relation to the creation of a county-wide water and sewer system.

SECTION 7.02. RESTRICTIONS AND EXCEPTIONS.

In furtherance of this policy parks shall be [...] in their present state, such as Matheson Hammock Park, Greynolds Park, Redlands Fruit and Spice Park, Castellow Hammock Preserve, Crandon Park, Trail Glades Park, Charles Deering Estate Park, Pine Shore Pineland Preserve Park, Old Cutler Hammock, Chapman Field Park, Tamiami Pinelands, Wainright Park, Larry and Penny Thompson Park, Whispering Pines Hammock Preserve, Mangrove Preserve, Camp Owaissa Bauer Park, Fuchs Hammock Park, Black Point Park and Marina, Simpson Park, E.G. Sewell Park, A.D. Barnes Park, Virginia Key, mangrove preserves, and all other natural or historical resource based parks do not lose their natural or historical values, any structure, lease, license, renewal, extension, concession or use in any of this class of public parks or in aquatic preserves and preservation lands must be approved by an affirmative vote of two-thirds of the voters in a County-wide referendum.

N. [...] No park facilities, golf courses, or County lands acquired for preservation shall be converted to or used for non-park offices, purposes, or uses. The County, the municipalities, and agencies or groups receiving any public funding shall not expend any public money or provide any publicly funded services in kind to any project which does not comply with this Article. No building permit or certificate of occupancy shall be issued for any structure in violation of this Article. The restrictions applying to parks in this Article shall not apply to the Dade County Youth Fair site at Tamiami Park and to any expansion of Florida International University onto no more than 64 acres therein upon the relocation of the Miami-Dade County Fair and Exposition, Inc. No County funds shall be used for the University's expansion and for the required relocation of the Miami-Dade County Fair & Exposition, Inc. The restrictions applying to parks in this Article shall also not apply to Zoo Miami Metro Zoo, Tamiami Stadium, Haulover Fishing Pier, the Miami-Dade County Auditorium, Phillip and Patricia Frost Museum of Science the Museum of Science, the Gold Coast Railroad Museum, Vizcaya Museum and Gardens, Trail Glade Range, Marlins Park the Orange Bowl, the Commodore Ralph Munroe Miami Marine Stadium, the Miami Seaquarium, Curtis Park track and stadium, Fairchild Tropical Botanic Gardens, the Miami-Dade County Regional Soccer Park on NW 58th Street, and mini and neighborhood parks except that no mini or neighborhood park may be leased or disposed of unless a majority of the residents residing in voting precincts any part of which is within 1 mile of the park authorize such sale or lease by majority vote in an election.

SECTION 7.03. ENFORCEMENT AND CONSTRUCTION. All elections required by this Article shall be held either in conjunction with state primary or general elections or as part of bond issue elections. The provisions of this Article may be enforced by a citizen alleging a violation of this Article filed in the Miami-Dade County Circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the Court. The provisions of this Article shall be liberally construed in favor of the preservation of all park lands, aquatic preserves, and preservation lands. If any provision of this Article shall be declared invalid it shall not affect the validity of the remaining provisions of this Article. This Article shall not be construed to illegally impair any previously existing valid written contractual commitments or bids or bonded indebtedness.

SECTION 9.07. AMENDMENTS. A. Amendments to this Charter may be proposed by a resolution adopted by the Board of County Commissioners or by petition of electors numbering not less than ten percent of the total number of electors registered in Miami-Dade County at the time the petition is submitted. An initiative petition to amend this Charter shall be submitted, together with proposed ballot language, to the Clerk of the Circuit Court, who shall without delay approve as to form a petition for circulation in one or several copies as the proposer may desire. Initiatory petitions shall be certified in the manner required for initiatory petitions for an ordinance.

SECTION 9.06. EFFECT OF THE CHARTER.

(7) Nothing in this section shall be construed to limit or restrict the power and jurisdiction of the Railroad and Public Utilities Commission Florida Public Service Commission or of any other state agency, bureau or commission now or hereafter provided for in this Constitution or by general law and said state agencies, bureaus and commissions shall have the same powers in Miami-Dade County as shall be conferred upon them in regard to other counties

Inconsistent capitalization of County, hyphens, and use of the thousand separator in numbers (for example, 1500 in 7.01 and 7.02(B) versus 1,000 in 7.02(C), Countywide and County-wide, etc.)

SECTION 7.01. POLICY.

Parks, aquatic preserves, and lands acquired by the County for preservation...and in parks along the Ocean or the Bay the public's access to and view of the water shall not be obstructed or impaired by buildings or other structures or concessions which are in excess of 1,500 square feet each. Adequate maintenance shall be provided.

B. Food and concession facilities each not in excess of 1,500 square feet of enclosed space, with any complementary outdoor or covered areas needed to service park patrons;

C. User-participation non-spectator recreation and, playground facilities, golf courses and golf-course related facilities, and bandstands and band shells containing less than 1,000 spectator seats and athletic facilities, sports fields and arenas containing less than 3,000 spectator seats;

Inconsistent use of number parentheticals in Section 6.05 compared to the rest of the document either remove them or add them to all of the numbers in the Charter

1. An incorporation committee composed of a minimum of five (5) electors from the proposed area of incorporation will initiate the process by filing with the Clerk of the Circuit Court an initiatory petition on a form prescribed by the Clerk for such purpose. The form shall identify the names and addresses of the Incorporation Committee members and describe the proposed incorporation area. The form of the petition shall prominently state that a budgetary analysis and a copy of the proposed charter will be distributed to the electors within the area and made available, as required by this section. Within seven (7) days of receipt of the form, the Clerk will determine if the form is acceptable and if it is acceptable shall approve the form of petition and provide the Incorporation Committee the total number of the electors within the proposed incorporation area and the number of required signatures which shall be equal to twenty percent (20%) of the electors in the proposed incorporation area and shall notify the Board of County Commissioners... During such ninety (90) day period, the incorporation committee shall hold at least three public hearings on the proposed municipal charter, in three different locations in the area proposed to be incorporated, notice of which shall be mailed to all electors within the area proposed for incorporation.
2. (a) No later than ninety (90) days from the date of approval of the above form by the Clerk, the Board of County Commissioners shall review the appropriateness of the petition for incorporation and proposed municipal charter and recommend any changes to the...
3. The Incorporation Committee will have six (6) months from the date by which the Board was required to have reviewed the incorporation petition to obtain signatures equal to twenty percent (20%) of the electors in the proposed incorporation area, with signatures on

a petition provided by the Clerk. The petition shall require the name, address and signature of the elector and such signatures shall be notarized.

4. The signed petitions will be submitted to the Supervisor of Elections, who shall have thirty (30) days to canvass the signatures contained therein.

5. Upon certification of the sufficiency of the signatures on the petition, the Supervisor of Elections shall present the petition to the Board of County Commissioners at their next regularly scheduled meeting. After conducting a public hearing at such meeting, the Board of County Commissioners shall decide whether or not to call an election to authorize the creation of a city and approve a municipal charter for the proposed municipality. If the Board decides to call an election to authorize the creation of the municipality and approve the municipal charter, such election shall occur no sooner than ninety (90) and no greater than one hundred twenty (120) days from the date the Supervisor of Elections certifies the signatures.

6. During the sixty (60) days following the certification of the petition, the Board shall complete a budgetary analysis in cooperation with the Incorporation Committee of and on the proposed incorporation area and schedule at least one public hearing prior to the incorporation election.

SECTION 5.03. ~~FINANCIAL ADMINISTRATION~~ >>MANAGEMENT AND BUDGET<<

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~~ >>The Mayor shall serve as the County Budget Officer and shall carry out such duties in accordance with state law. The Mayor may delegate any budgetary responsibilities, powers, or duties to the Director of the Office of Management and Budget or such other designee as the Mayor deems appropriate.<<

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 Chairperson²⁶ 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.

EXHIBIT**SECTION 5.01. DEPARTMENTS.**

There shall be departments of ~~finance~~ >>budget<<, personnel, planning, 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.

SECTION 5.02. ADMINISTRATIVE PROCEDURE.

The Mayor shall have the power to issue and place into effect administrative orders, rules, and regulations. The organization and operating procedure of administrative departments shall be set forth in regulations, which the Mayor shall develop, place into effect by administrative orders, and submit to the Board.

SECTION 5.03. FINANCIAL ADMINISTRATION >>MANAGEMENT AND BUDGET<<

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~~ >>The Mayor shall serve as the County Budget Officer and shall carry out such duties in accordance with state law. The Mayor may delegate any budgetary responsibilities, powers, or duties to the Director of the Office of Management and Budget or such other designee as the Mayor deems appropriate.<<

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.

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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.

Response to Charter Review Member Questions Regarding Definition of Audit

- *General.* The Clerk and Comptroller is the auditor of all County funds. Art. V, § 16, Fla. Const. (“duties of the clerk of the circuit court” include “serving as ... auditor ... of all county funds.”); Art. VIII, § 1(d), Fla. Const. (similar); § 129.09, Fla. Stat. (“Any clerk of the circuit court, acting as county auditor...”); *Ray v. Wilson*, 29 Fla. 342, 10 So. 613, 614 (Fla. 1892) (“the clerks of the different counties shall audit all accounts against their respective counties in the same manner as prescribed for the comptroller to audit accounts against the state”); *W and F Ltd. v. Dunkle*, 444 So. 2d 554, 558 (Fla. 4th DCA 1984) (“The taxpayers look to the clerk’s audits to shield them from the kinds of misuse of public funds that have recently surfaced in other Florida communities and in other jurisdictions.”).
- *All County Accounts.* All County accounts must at all times be subject to the Clerk & Comptroller’s inspection and examination. § 136.08, Fla. Stat.
- *Prepayment Audits.* “The clerk has the authority and responsibility to perform the auditing functions both as an arm of the board in auditing the records of constitutional officers and as a watchdog of the board in the case of pre-auditing accounts of the board in determining legality of expenditure.” *Alachua Cnty. v. Powers*, 351 So. 2d 32, 37 (Fla. 1977). The “legality of expenditure” concerns whether “the funds are spent for a public purpose ... the funds are spent in conformity with county purchasing procedures or statutory bidding procedures, [and] the expenditure does not overspend any account or fund of the budget as finally adopted and recorded in the office of the clerk.” *Id.*
- *Postpayment Audits.* “Postpayment audits to verify the legality of payments that have been made are necessary to effectively carry out the clerk’s duty to ensure that County funds are expended only as authorized by law. Verification of the legality of payments already made – a process which tests the soundness of existing internal controls – is directly related to ensuring that future payments are legal.” *Brock v. Bd. of Cnty. Comm’rs of Collier Cnty.*, 21 So. 3d 844, 847 (Fla. 2d DCA 2009) (Florida Supreme Court originally accepted jurisdiction to consider the Second DCA’s *Brock* decision and then dismissed the case which left the Second DCA’s *Brock* decision as-is as legal precedence in Florida).