

MEMORANDUM

Special Item No. 9

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: May 5, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution establishing County policy for the provision of municipal police and other services for Miami-Dade County; directing the County Mayor to inventory County employees, real property, assets, equipment, contracts, grants and licenses used by the Miami-Dade Police Department; creating a transition plan and draft agreements for the reestablishment of the Miami-Dade County Sheriff's office; and providing for reports to the Board

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.



Geri Bonzon-Keenan
County Attorney

GBK/gh



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: May 5, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Special Item No. 9

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Special Item No. 9
5-5-22

RESOLUTION NO. _____

RESOLUTION ESTABLISHING COUNTY POLICY FOR THE PROVISION OF MUNICIPAL POLICE AND OTHER SERVICES FOR MIAMI-DADE COUNTY; DIRECTING THE COUNTY MAYOR TO INVENTORY COUNTY EMPLOYEES, REAL PROPERTY, ASSETS, EQUIPMENT, CONTRACTS, GRANTS AND LICENSES USED BY THE MIAMI-DADE POLICE DEPARTMENT; CREATING A TRANSITION PLAN AND DRAFT AGREEMENTS FOR THE REESTABLISHMENT OF THE MIAMI-DADE COUNTY SHERIFF'S OFFICE; AND PROVIDING FOR REPORTS TO THE BOARD

WHEREAS, the Miami-Dade County Home Rule Amendment to the Florida Constitution sets forth that Miami-Dade County, through the adoption of the Miami-Dade County Home Rule Charter, may abolish, or provide a method for abolishing, the county constitutional offices in Art. VIII of the Florida Constitution; and

WHEREAS, in 1957, the electors of Miami-Dade County adopted the Miami-Dade County Home Rule Charter and abolished certain constitutional offices including the predecessor offices to the Miami-Dade Office of Tax Collector, Property Appraiser and Supervisor of Elections and delegated the powers and responsibilities of those offices to the Miami-Dade County Manager or such other persons designated by the County Manager; and

WHEREAS, the 1957 Miami-Dade County Home Rule Charter also sets forth that the Board of County Commissioners may abolish county constitutional offices not already abolished in the Home Rule Charter; and

WHEREAS, in 1958, this Board abolished the Miami-Dade Sheriff's Office and created a public safety department headed by a metropolitan sheriff appointed by, and serving at the will of, the County Manager; and

WHEREAS, in 1963, the electors of Miami-Dade County amended the Miami-Dade County Home Rule Charter to establish the metropolitan sheriff as an independent elected position; and

WHEREAS, in 1966, the electors of Miami-Dade County amended the Miami-Dade County Home Rule Charter to abolish the elected office of metropolitan sheriff and provide that the powers and functions of the office are transferred to the County Manager, or such person designated by the County Manager; and

WHEREAS, the powers and responsibilities of the abolished Miami-Dade County Sheriff's Office were exercised by the County Manager or the County Manager's designee from 1966 until the adoption of the "Strong Mayor" amendment to the Miami-Dade County Home Rule Charter in 2007; and

WHEREAS, since 2007, the Home Rule Charter vests the powers and responsibilities of the abolished Miami-Dade County Sheriff's Office in the County Mayor or County Mayor's designee; and

WHEREAS, from 1966 until today, the Miami-Dade Police Department has exercised the powers and performed the duties and functions of the constitutional Sheriff's Office by designation from the County Mayor or County Manager as well as the duties and functions of the municipal police department for unincorporated Miami-Dade County; and

WHEREAS, acting as the successor office to the Sheriff's Office, the Miami-Dade Police Department currently performs the duties assigned by state law to the County Sheriff throughout Miami-Dade County including, processing and serving criminal warrants, executing writs, providing general law enforcement functions, investigative functions, maintenance of the peace, as well as all other such duties assigned to the Sheriff by County ordinance or Florida law; and

WHEREAS, acting as the municipal police force, the Miami-Dade Police Department provides unincorporated areas of Miami-Dade County and contracting municipalities municipal police services including patrol services, target response teams, general law enforcement and investigation; and

WHEREAS, in addition to law enforcement functions, the Miami-Dade Police Department has also been assigned regulatory functions by this Board and the County Mayor; and

WHEREAS, the Miami-Dade Police Department is currently funded in the County's Fiscal Year 2021-22 Adopted Budget through revenues generated by the Countywide and UMSA millage rates as well as revenues from fees, grants, contracts and other sources; and

WHEREAS, the County's Fiscal Year 2021-22 Adopted Budget includes funding for the employees, real property, assets, contracts, and licenses currently used by the Miami-Dade Police Department; and

WHEREAS, under the County's Fiscal Year 2021-2022 Adopted Budget, the Miami-Dade Police Department has 3,168 sworn and 1,282 civilian budgeted positions in the Miami-Dade Police Department; and

WHEREAS, on November 8, 2018, the electors of the State of Florida adopted an amendment to the Florida Constitution removing the constitutional grant of authority of Miami-Dade County and other charter counties to: (1) abolish the county constitutional offices of sheriff; tax collector, property appraiser, supervisor of elections, or clerk of the circuit court, (2) transfer the duties and functions of those offices to another officer or office; (3) change the length of the four-year term of office; or (4) establish any manner of selection other than by election by the electors of the county; and

WHEREAS, the 2018 amendment to the Florida Constitution provided that the provision relating to constitutional officers shall not take effect in Miami-Dade County until January 7, 2025, but shall govern with respect to the qualifying for and the holding of the primary and general elections for county constitutional officers in 2024; and

WHEREAS, as a result of the 2018 amendment, the constitutional Miami-Dade County Sheriff's Office will be reestablished as an independent elected position in Miami-Dade County; and

WHEREAS, notwithstanding the reestablishment of an independent elected Office of Sheriff in Miami-Dade County, Art. VIII, s. 6(a) of the Florida Constitution provides that “[t]o the extent not inconsistent with the powers of existing municipalities or general law, the Metropolitan Government of Dade County may exercise all the powers conferred now or hereafter by general law upon municipalities;” and

WHEREAS, the Florida Constitution, Florida law and the Miami-Dade County Home Rule Charter all provide unique authority to Miami-Dade County to exercise all the authority and power of a municipal government for the unincorporated areas of Miami-Dade County; and

WHEREAS, the 2018 amendment to the Florida Constitution did not alter Miami-Dade County's authority to exercise the powers of a municipal government in the unincorporated areas of Miami-Dade County; and

WHEREAS, section 30.15, Florida Statutes, sets forth the general powers, duties and obligations of Florida sheriffs, in their respective counties, in person or by deputies, which includes the authority to: (a) execute all process of the Supreme Court, circuit courts, county courts, and boards of county commissioners of this state, to be executed in their counties; (b) execute such other writs, processes, warrants, and other papers directed to them, as may come to their hands to

be executed in their counties; (c) attend all sessions of the circuit court and county court held in their counties; (d) execute all orders of the boards of county commissioners of their counties, for which services they shall receive such compensation, out of the county treasury, as said boards may deem proper; (e) be conservators of the peace in their counties; (f) Suppress tumults, riots, and unlawful assemblies in their counties with force and strong hand when necessary; (g) apprehend, without warrant, any person disturbing the peace, and carry that person before the proper judicial officer, that further proceedings may be had against him or her according to law; (h) raise the power of the county and command any person to assist them, when necessary, in the execution of the duties of their office; (i) be, ex officio, timber agents for their counties; and (j) perform such other duties as may be imposed upon them by law; and

WHEREAS, the Miami-Dade Police Department currently serves as the municipal police department for the unincorporated areas of Miami-Dade County and the Town of Miami Lakes, Village of Palmetto Bay and Town of Cutler Bay; and

WHEREAS, the City of Aventura, Village of Bal Harbour, Town of Bay Harbor Islands, Village of Biscayne Park, City of Miami, City of Coral Gables, City of Doral, Town of Golden Beach, City of Hialeah Gardens, City of Hialeah, City of Homestead, Village of Indian Creek, Village of Key Biscayne, Town of Medley, City of Miami Beach, City of Miami Gardens, Village of Miami Shores, North Bay Village, City of North Miami, City of North Miami Beach, Florida City, Village of Pinecrest, City of South Miami, City of Sunny Isles, City of Opa-Locka, City of Sweetwater, Village of Virginia Gardens, Town of Surfside, City of West Miami, and Village of El Portal each provide municipal police services within their jurisdictions; and

WHEREAS, the authority for municipalities in Miami-Dade County to continue to provide municipal police services is unaffected by the reestablishment of the Miami-Dade County Sheriff's Office; and

WHEREAS, the unincorporated municipal service area of Miami-Dade County has an estimated population of 1.2 million residents and, if declared a city, would form the largest city in Florida and one of the largest in the nation; and

WHEREAS, to provide the least disruption to the residents of and visitors to Miami-Dade County and protect the sworn and civilian employees of the Miami-Dade Police Department, this Board desires that all municipal law enforcement powers, duties and functions currently performed by the Miami-Dade Police Department shall continue to be performed in the unincorporated areas of Miami-Dade County by the Miami-Dade Police Department unless exclusively assigned to the constitutional office of sheriff by law; and

WHEREAS, this Board desires that the Miami-Dade County Sheriff shall only exercise those powers, functions and responsibilities authorized by the Florida Constitution and Florida Statutes, explicitly authorized by this Board, or authorized by the governing body of a municipality within the municipality; and

WHEREAS, this Board desires to offer to transfer only those budgeted positions and classifications and all employees who agree to transfer from the Miami-Dade Police Department and only such real property, assets, contracts, grants and licenses currently used by the Miami-Dade Police Department to perform those functions exclusively assigned to the constitutional office of sheriff to the Miami-Dade County Sheriff's Office commencing with its reestablishment on January 7, 2025 in order to perform the required constitutional duties; and

WHEREAS, the potential transfer of only those budgeted positions and classifications and employees who agree to transfer from the Miami-Dade Police Department and only the real property, assets, equipment, contracts, grants and licenses currently used by the Miami-Dade Police Department to perform those functions exclusively assigned to the constitutional office of sheriff will require planning and preparation by the County to adequately address all issues that may arise with such transfers to the Miami-Dade County Sheriff's Office; and

WHEREAS, this Board desires to establish the County policy that: (1) all municipal law enforcement powers, duties and functions currently performed by the Miami-Dade Police Department shall continue to be performed in the unincorporated areas of Miami-Dade County by the Miami-Dade Police Department unless exclusively assigned to the constitutional office of sheriff by law; (2) the Miami-Dade County Sheriff shall only exercise those powers, functions and responsibilities authorized by the Florida Constitution and Florida Statutes, explicitly authorized by this Board, or authorized by the governing body of a municipality within the municipality; (3) the budgeted positions, classifications and employees who agree to transfer from the Miami-Dade Police Department and all real property, assets, equipment, contracts, grants and licenses currently used by the Miami-Dade Police Department to perform those functions exclusively assigned to the constitutional office of sheriff shall be offered to the Miami-Dade County Sheriff's Office commencing with its reestablishment on January 7, 2025 in order to perform the required constitutional duties; and (4) that the County Mayor or County Mayor's designee immediately commence the necessary inventories and research necessary to accomplish this transfer and provide reports to the Board of County Commissioners,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. It is the policy of Miami-Dade County, commencing January 7, 2025, that: (1) all municipal law enforcement powers, duties and functions currently performed by the Miami-Dade Police Department shall continue to be performed in the unincorporated areas of Miami-Dade County by the Miami-Dade Police Department unless exclusively assigned to the constitutional office of sheriff by law, and (2) the Miami-Dade County Sheriff shall only exercise those powers, functions and responsibilities authorized by the Florida Constitution and Florida Statutes, explicitly authorized by this Board, or authorized by the governing body of a municipality within the municipality. To provide for the proper transition of the powers, functions and responsibilities exclusively exercised by the Miami Dade County Sheriff under Florida law, Miami-Dade Police Department budgeted positions, classifications and employees who agree to transfer, and all real property, assets, equipment, contracts, grants and licenses currently used by the Miami-Dade Police Department to perform those functions exclusively assigned to the constitutional office of sheriff shall be offered to the Miami-Dade County Sheriff's Office to enable the immediate performance of the Sheriff's duties.

Section 2. The County Mayor or County Mayor's designee shall create an inventory listing all real property, assets, equipment, contracts, grants and licenses currently used by the Miami-Dade Police Department and all budgeted positions and employees of the Miami-Dade Police Department currently used to perform those functions exclusively assigned to the constitutional office of sheriff. Such inventory shall, at a minimum, identify whether such real property, asset, equipment, contract, grant or license is used exclusively for the provision of those functions exclusively assigned to the constitutional office of sheriff or for municipal services or

both and whether such budgeted position is filled or vacant. For all filled budgeted positions, such inventory shall also include the date of employment, the current salary and benefits, and the current rank or position held of the employee filling the position. For all real property, assets, equipment, contracts, grants and licenses, such inventory shall include the date acquired by the County, the current fair market value, the remaining term of any contract or useful life of such asset or equipment, as applicable, and any restrictions on the transfer to a successor office. The County Mayor or County Mayor's designee shall transmit this inventory, as a report to the Board, detailing the methodology used to create the inventory and any incomplete portions of the inventory by June 15, 2022. Such report shall redact all information that is exempt from disclosure under Florida's Public Records Law but shall provide an opportunity for members of the Board and other authorized individuals to review such information upon request. The County Mayor or County Mayor's designee shall update the report and inventory at least every two months thereafter until January 7, 2025 and transmit such updates to the Board. The report, and any updates thereto, shall be placed on an agenda of the full Board without committee review pursuant to Ordinance No. 14-65.

Section 3. The County Mayor or County Mayor's designee shall create draft transfer agreements, in consultation with the County Attorney's Office, to be offered to the Miami-Dade County Sheriff's Office to effectuate the transfer of positions and job classifications of the Miami-Dade Police Department and all employees who agree to transfer to the Sheriff's Office under the terms of the transfer agreements as well as the transfer of all real property, assets, equipment, contracts, grants and licenses currently used by the Miami-Dade Police Department to perform those functions exclusively assigned to the constitutional office of sheriff. Such draft agreements shall also provide, at a minimum, for: (1) the financial transition to the Miami-Dade County

Sheriff's Office of any accounts necessary to perform the functions of the office, including the budget, funding and financial processes for the newly reestablished office; (2) the transfer of positions, job classifications and employees of the Miami-Dade Police Department necessary to perform those functions exclusively assigned to the constitutional office of sheriff to the Miami-Dade County Sheriff's Office including provision for the transfer of leave balances, positions and benefits; (3) the transfer of real property by lease agreement or otherwise and provision for the utilities and maintenance of such property necessary to perform those functions exclusively assigned to the constitutional office of sheriff to the Miami-Dade County Sheriff's Office; (4) the transfer of assets, equipment, and licenses by lease agreement or otherwise as well as the maintenance of such assets and equipment necessary to perform those functions exclusively assigned to the constitutional office of sheriff to the Miami-Dade County Sheriff's Office; (5) the transfer of grants and contracts of the Miami-Dade Police Department necessary to perform those functions exclusively assigned to the constitutional office of sheriff to the Miami-Dade County Sheriff's Office, where appropriate; and (6) the provision of administrative and other services for the operation of the Miami-Dade County Sheriff's Office by employees of Miami-Dade County, as appropriate. The proposed draft agreements shall be presented to the Board as a report on or before January 15, 2023. Such report shall also include a description of any outstanding issues that may exist as of the date of the report. The County Mayor, or County Mayor's designee, shall update the draft agreements as directed by the Board of County Commissioners at least every three months thereafter until January 7, 2025, and transmit such updates to the Board. The report, and any updates thereto, shall be placed on an agenda of the full Board without committee review pursuant to Ordinance No. 14-65 along with an agenda item recommending either the approval of the draft transfer and operating agreements or such further action as may be directed by the Board.

Section 4. Immediately upon the certification of the General Election in 2024, the County Mayor or County Mayor’s designee shall present any draft agreements approved by the Board of County Commissioners to the Sheriff-elect for Miami-Dade County and shall present any proposed amendments to the draft transfer and operating agreements to the Board of County Commissioners for approval prior to December 27, 2024.

The Prime Sponsor of the foregoing resolution is Commissioner Raquel A. Regalado. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Jose “Pepe” Diaz, Chairman	
Oliver G. Gilbert, III, Vice-Chairman	
Sen. René García	Keon Hardemon
Sally A. Heyman	Danielle Cohen Higgins
Eileen Higgins	Joe A. Martinez
Kionne L. McGhee	Jean Monestime
Raquel A. Regalado	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of May, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Oren Rosenthal