




MEMORANDUM  
OFFICE OF THE MAYOR

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**DATE:** July 31, 2007

**TO:** Victor M. Diaz, Jr., Chairman  
Charter Review Task Force

**FROM:**   
Carlos Álvarez  
Mayor

**SUBJECT:** Charter Review Task Force Recommendations

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As long ago as 1885, when the State of Florida granted home-rule powers to Dade County, the Florida Constitution preserved to the people of this County the right to change the structure of their government through the exercise of direct democracy. As Chairman of the Charter Review Taskforce you are continuing in that tradition and I commend you for accepting the responsibility.

Pursuant to your request, I have prepared an inventory of issues and recommendations for the Task Force to consider. The inventory is bifurcated into two sections: Matters of Governance and Matters on Ethics.

Thank you for the opportunity to provide recommendations and good luck.

C: Denis Morales, Chief of Staff  
Members of the Charter Review Taskforce  
Cynthia Johnson-Stacks, Assistant County Attorney  
Joni Armstrong-Coffey, Assistant County Attorney  
Susanne M. Torriente, Assistant County Manager  
Clerk of the Board

## **MATTERS OF GOVERNANCE**

### **I. BOARD OF COUNTY COMMISSIONERS**

#### ***Board Composition***

"The debate over the relative merits of at-large representation versus single district representation has been a feature of American political life since the founding of the republic."<sup>1</sup>

Applied locally, at-large representation would provide for a unified set of representatives with a countywide political view. This is not to say that the at-large system is perfect; inherent in the at-large system is the potential to dilute minority interests. Our current system of single member districts differs from at-large representation by incorporating a greater diversity of views and ethnicities. Just as with the at-large system, however, there are flaws – the single member district system has created a perception of parochialism and corrupt "ward" politics. Balancing these realities forces the Charter Review Task Force (Task Force) to examine whether there is a better system of governance which would allow the citizens of Miami-Dade County to enjoy the benefits of both systems without the pitfalls.

The at-large system and the single member system are not mutually exclusive as methods of representation. Mixed systems exist with both at-large representatives and representatives elected by district.<sup>2</sup> The Jacksonville, Florida, Council consists of nineteen members derived from fourteen council districts and five at-large areas. Each council district elects one council member while the five at-large residence areas follow a similar procedure, electing at-large council members who must reside in their respective residence areas.<sup>3</sup>

*THEREFORE, the Task Force may consider the following recommendation:* that the Board of County Commissioners (Board) composition be expanded to include both single member and at-large district membership.

**AS RECOMMENDED,** at-large members numbered according to the Task Force recommendation would join thirteen single member district members. Under the new system both single and at-large members would be fulltime paid commissioners, subject to a two year residency requirement, from equal areas in Miami-Dade County reconfigured every ten years pursuant to the census.

The at-large members would chair the Board's standing committees with the elected Chairman of the Board designating such appointments. All Board members (both at-large and single member) would elect a Chairman of the Board biennially. No Chairman may serve for more than four years total, either consecutively or non sequentially.

#### ***Board Term Limits***

*The Task Force may consider the following recommendations:* No commissioner shall serve more than a total of eight years in a specific seat. However, should this Task Force adopt the Board Composition recommendation, a district commissioner could serve in an at large seat for an additional eight years or, *vice versa*, an at large commissioner could serve an additional eight years as a district commissioner.

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<sup>1</sup> Edelman, Paul H., In Defense of At-Large Representation: A Positive Approach (2004). Vanderbilt Law and Economics Research Paper No. 04-02; Vanderbilt Public Law Research Paper No. 04-02.

<sup>2</sup> Among cities with populations between 5,000 and 1,000,000 the mixed system is the second most common form of representation (after pure at-large representation) and it accounts for more than half the cities with populations between 250,000 and 500,000. Id. at 4; Municipal Year Book 1998, 40 (Table 5/15).

<sup>3</sup> Charter Laws of the City of Jacksonville, Florida, Section 5.01.

### **Board Member Salaries**

*The Task Force may consider the following recommendations:* All commissioners will serve full time and will receive a salary commensurate with the formula established by the State of Florida for non-chartered counties.<sup>4</sup>

## **II. INITIATIVE, REFERENDUM AND RECALL**

*If we think the people are not enlightened enough to exercise their power with a wholesome discretion, then the remedy is not to take that power from them but, rather, to inform their discretion through education.*<sup>5</sup>

*President Thomas Jefferson.*

The procedure for the petition process is set forth in Article 8 of the Charter. Article 8 instills in the Miami-Dade County electors the power to propose to the Board the passage or repeal of ordinances and to vote on the question if the Board refuses action; moreover, it provides that any member of the Board or the Mayor may be removed from office by the electors of the county, district, or municipality from which he was chosen.

The Home Rule Charter *provides the only method* for citizens to initiate referenda or recall.<sup>6</sup> The Board should not pass a legislative act or administrative rule concerning the initiative amending process without Citizen input since all restrictions touching on the initiative process strengthen the authority and power of the Board and *weaken the power of the citizen.*

The Charter dictates that it should be construed liberally in favor of the citizen-initiative process: "This Charter shall be *liberally construed* in aid of its declared purpose, which is to establish effective home rule government in this county *responsive to the people.*" Charter, § 9.06(A).

The limitation on the Board's power extends as well to the powers which the Charter reserves in the citizens. The Commission lacks power to act where the language of the Charter sections implicated neither grant nor imply such authority. The County Commission is not lacking in its ability to amend the initiative, referendum, and recall procedure; it is simply required do so solely by amendment to the Charter itself.

*THEREFORE, the Task Force should consider the following recommendation:* to clarify that the Charter embodies the initiatory petition process in its entirety and that no ordinance or regulation may override the Charter in this regard.

## **III. CONSTITUTIONAL OFFICERS**

The Tax Collector, Supervisor of Elections, and Sheriff are all highly technical positions. There is no way to ensure that the candidates for election to these positions would have the requisite technical skill sets.

Our citizens are better served by the appointment of these constitutional officers from candidates with appropriate qualifications and technical expertise.

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<sup>4</sup> See, County Organization and Intergovernmental Relations, Fl. Stat. 145.031.

<sup>5</sup> Letter from Thomas Jefferson to William Charles Jarvis (Sept. 28, 1820), reprinted in 7 WRITINGS OF THOMAS JEFFERSON 177, 179 (H. Washington ed., 1955).

<sup>6</sup> Article VIII, Section 11(1)(i) of the 1885 Florida Constitution, carried forward by Article VIII, Section 6(e) of the 1968 Florida Constitution, states that the Home Rule Charter "[s]hall provide a method for . . . initiative and referendum, including the initiation of and referendum on ordinances . . ." Section 8.01 of the Charter carries out the constitutional directive and lays out a "procedure" for Dade County electors to initiate passage of or referenda on ordinances.

Unlike elected office holders, these office holders can be easily removed and replaced after appointment. Elected office holders are subject to removal only through scheduled elections, acts of the Governor, or recall whereby the Charter must be further amended to provide for such removal.

Finally, the holders of these highly technical positions should avoid the distractions caused by elections and campaign fundraising. These professionals should hold their offices because of their knowledge in their respective fields, not because of electioneering prowess.

*THEREFORE, the Task Force may consider the following recommendations:* that the Tax Collector, Supervisor of Elections and Sheriff remain administratively appointed positions.

***Property Appraiser – Who is Responsible for Higher Taxes?***

The property appraiser is responsible for identifying, locating, and fairly valuing all property, both real and personal, within the county for tax purposes. The market value of real property is based on the current real estate market. Estimating the market value of property means discovering the price most would pay for the property in its current condition. What is important to remember is that the property appraiser does not create the value. People establish the value by buying and selling real estate in the market place. The property appraiser has the legal responsibility to study those transactions and appraise property accordingly.

*Would a politically elected appraiser do a better job than a professionally appointed appraiser? Would a professionally appointed appraiser be more qualified for the position? Would a politically elected appraiser provide better access and service to his constituency? Which is better for the citizens of Miami-Dade County?*

*THEREFORE, the Task Force may consider the following recommendation:* that discussions occur on the benefits and detriments associated with an elected property appraiser versus a professionally appointed appraiser.

## **MATTERS ON ETHICS**

The following are intended to serve as stimuli for discussion and consideration by the Task Force. The Task Force should discuss and resolve these prompts in the manner most consistent with what the membership considers the obligations and duties as the elected representatives of the people of Miami-Dade County.

### **I. LOBBYIST REFORM DISCUSSION ITEMS**

1. Annual PUBLIC DISCLOSURE of all forms and quantities of payment for services rendered to clients for anyone registered as a lobbyist in Miami-Dade County.
2. No indirect payments to lobbyists registered and working for clients at Miami-Dade County.
3. No paid lobbyist representing Miami-Dade County can represent third party issues before staff, administration, or the Board.
4. No citizen who serves on any Miami-Dade County appointed board, trust, or foundation can, either during their appointed service or for three years after ending such service, lobby staff, administration, or the Board.
5. No lobbyist can represent Miami-Dade County if he also represents another jurisdiction in Florida competing with Miami-Dade County for funds or grants.
6. No lobbyist, person, or corporation that directly or indirectly conducts any business with Miami-Dade County may raise political contributions for any elected person in the Miami-Dade County government or any PAC involved in a Miami-Dade County election or referendum, directly or indirectly, for a one year period before and/or after that election. This should include vendors and suppliers of goods and services, as well as lobbyists.
7. The Board will clearly define who is a lobbyist to prevent professional status from being used to avoid registering as a lobbyist in Miami-Dade County.

### **II. CONFLICTS OF INTEREST**

1. Should the electors of Miami-Dade County vote favorably upon the increased salary provisions, no elected official or employee of Miami-Dade County can serve in a paid capacity in any entity, public or private, that conducts business with or receives funding from Miami-Dade County. No elected official of Miami-Dade County can work for any other government, agency, CBO or NGO that receives any public funding.
2. No elected official of Miami-Dade County can receive any funding, grant, material, or services from any person or entity that is regulated by or does business with Miami-Dade County.