

J-01-678-D5
8/9/01

RESOLUTION NO. 01-844

A RESOLUTION OF THE MIAMI CITY COMMISSION, WITH ATTACHMENT(S), APPROVING, SETTING FORTH AND SUBMITTING TO THE ELECTORATE A PROPOSED CHARTER AMENDMENT, AMENDING THE CHARTER OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, KNOWN AS CHARTER AMENDMENT NO. 4, TO AUTHORIZE THE CITY COMMISSION, TO CREATE AND ESTABLISH, BY ORDINANCE, A CIVILIAN INVESTIGATIVE PANEL TO ACT AS INDEPENDENT CITIZENS' OVERSIGHT OF THE SWORN POLICE DEPARTMENT, TO BE (A) COMPOSED OF AN APPOINTEE OF THE CHIEF OF POLICE WHO IS NOT A CITY OF MIAMI POLICE OFFICER, AND EXCLUSIVELY OF A NUMBER OF CIVILIAN MEMBERS TO BE DETERMINED WHO SHALL BE NOMINATED BY THE PUBLIC AND APPOINTED BY THE CITY COMMISSION; (B) ADVISED BY INDEPENDENT COUNSEL WHO IS A COMPETENT MEMBER OF THE FLORIDA BAR WITH AT LEAST SEVEN YEARS MEMBERSHIP IN THE FLORIDA BAR AND IS GENERALLY KNOWLEDGEABLE IN MUNICIPAL LAW, AND APPOINTED BY THE PANEL WITH THE APPROVAL OF THE CITY ATTORNEY AND WITH AUTHORITY TO REMOVE BY THE CITY ATTORNEY; (C) STAFFED WITH PROFESSIONAL PERSONNEL INCLUDING AN "INDEPENDENT COUNSEL," AND OPERATED ON AN ANNUAL APPROVED BUDGET; (D) AUTHORIZED WITH "SUBPOENA POWERS" THAT MAY ONLY BE USED UPON THE APPROVAL OF THE "INDEPENDENT COUNSEL" AND IN "CONSULTATION" WITH THE STATE ATTORNEY OF MIAMI-DADE COUNTY, FURTHER, THE CIP MAY NOT CONFER IMMUNITY AND MUST ADVISE ALL CITY EMPLOYEES APPEARING BEFORE IT THAT NO ADVERSE CONSEQUENCES WILL RESULT FROM THE VALID EXERCISE OF THEIR RIGHT TO BE FREE FROM SELF INCRIMINATION, FURTHER, ALL ACTIONS OF THE CIP SHALL NOT INTERFERE WITH ANY PENDING OR POTENTIAL CRIMINAL INVESTIGATION OR PROSECUTION; AND (E) AUTHORIZED TO (1) CONDUCT INDEPENDENT INVESTIGATIONS OF POLICE MISCONDUCT, (2) REVIEW POLICIES OF THE POLICE DEPARTMENT, AND (3) MAKE RECOMMENDATIONS TO THE CITY MANAGER AND/OR DIRECTLY TO THE POLICE CHIEF, TO WHICH A TIMELY WRITTEN RESPONSE SHALL BE RECEIVED WITHIN 30 DAYS; CALLING AND PROVIDING FOR A SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 6, 2001, FOR THE PURPOSE OF SUBMITTING CHARTER AMENDMENT NO. 4 TO THE ELECTORATE AT SAID REFERENDUM; DESIGNATING AND APPOINTING THE CITY CLERK AS THE OFFICIAL REPRESENTATIVE OF THE CITY COMMISSION WITH RESPECT TO THE USE OF VOTER REGISTRATION BOOKS AND RECORDS; FURTHER, DIRECTING THE CITY CLERK TO CAUSE A CERTIFIED COPY OF THE HEREIN RESOLUTION TO BE DELIVERED TO THE SUPERVISOR OF ELECTIONS OF MIAMI-DADE COUNTY, FLORIDA, NOT LESS THAN 45 DAYS PRIOR TO THE DATE OF SUCH SPECIAL MUNICIPAL ELECTION.

**CITY COMMISSION
MEETING OF**
AUG - 9 2001
Resolution No.
01-844

WHEREAS, on July 19, 2001, by its adoption of Resolution No. 01-725, the City Commission directed the City Attorney to prepare a proposed Charter Amendment to provide for the creation and establishment of a Civilian Investigative Panel, to act as independent citizens' oversight of the Police Department; and

WHEREAS, the proposed Charter Amendment is set forth in its final form in this Resolution; and

WHEREAS, the proposed amendment shall be submitted to the electorate at a Special Municipal Election to be held on November 6, 2001, as called for and provided herein;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Resolution are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. A new Section is proposed to be added to the Charter of the City of Miami, Florida (Chapter 10847, Laws of

Florida, as amended), entitled "Civilian Investigative Panel," in the following particulars:^{1/}

"PART 1
CHARTER AND RELATED LAWS
Subpart A
The Charter

* * * *

Sec. 51. Civilian Investigative Panel.

The City Commission shall, by ordinance, create and establish a Civilian Investigative Panel to act as independent citizens' oversight of the sworn Police Department, to be (A) composed of an appointee of the Chief of Police who is not a City of Miami Police Officer, and exclusively of a number of civilian members to be determined who shall be nominated by the public and appointed by the City Commission; (B) advised by Independent Counsel who is a competent member of the Florida Bar with at least seven years membership in the Florida Bar and is generally knowledgeable in municipal law, and appointed by the Panel with the approval of the City Attorney and with authority to remove by the City Attorney (C) staffed with professional personnel including an "Independent Counsel," and operated on an annual approved budget; (D) authorized with "subpoena powers" that may only be used upon the approval of the "Independent Counsel" and in "consultation" with the State Attorney of Miami-Dade County, further, the CIP may not confer immunity and must advise all City employees appearing before it that no adverse consequences will result from the valid exercise of their right to be free from self incrimination, further, all actions of the CIP shall not interfere with any pending or potential criminal investigation or prosecution; and (E) authorized to (1) conduct independent investigations of police misconduct, (2) review policies of the Police Department, and (3) make recommendations to the City Manager and/or directly to the Police Chief, to which a timely written response shall be received within 30 days."

^{1/} Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

The Charter Amendment proposed in this Section shall be known as Charter Amendment No. 4.

Section 3. In accordance with the provisions of the City Charter (Chapter 10847, Laws of Florida, 1925, as amended) and §503 of the Miami-Dade County Home Rule Charter, a Special Municipal Election is called and directed to be held in the City of Miami, Florida, from 7:00 A.M. until 7:00 P.M., on Tuesday, November 6, 2001, for the purpose of submitting to the qualified electors of the City of Miami for their approval or disapproval the measure known as Charter Amendment No. 4.

Section 4. The Special Municipal Election shall be held at the voting places in the precincts designated, all as shown on the list attached hereto and made a part hereof and referred to as Exhibit No. 1 or as may be designated by the Supervisor of Elections of Miami-Dade County, Florida, in conformity with the provisions of the general laws of the State. The Precinct Election Clerks and Inspectors to serve at said polling places on said election date shall be those designated by the Supervisor of Elections of Miami-Dade County, Florida, for such purpose in accordance with the general laws of the State. A description of the registration books and records which pertain to election

precincts wholly or partly within the City and which the City is adopting and desires to use for holding such Special Municipal Election is as follows: all registration cards, books, records and certificates pertaining to electors of the City of Miami and established and maintained as official by the Supervisor of Elections of Miami-Dade County, Florida, in conformity with the provisions of the general laws of the State of Florida, are adopted and declared to be, and shall hereafter be recognized and accepted as, official registration cards, books, records and certificates of the City of Miami.

Section 5. In compliance with Section 100.342, Florida Statutes (2000), the City Clerk is authorized and directed to publish notice of the adoption of the herein Resolution and of the provisions hereof, at least twice, once in the fifth week and once in the third week prior to the week in which the aforesaid Special Municipal Election is to be held, in newspaper(s) of general circulation in the City of Miami, Florida, which notice shall be substantially in the following form:

"NOTICE OF SPECIAL MUNICIPAL ELECTION
TO BE HELD ON
TUESDAY, NOVEMBER 6, 2001
IN THE CITY OF MIAMI, FLORIDA
PURSUANT TO RESOLUTION NO. 01-_____

A Special Municipal Election will be held on Tuesday, November 6, 2001 from 7:00 A.M. until 7:00 P.M. in the City of Miami, Florida, at the polling places in the several election precincts designated by the Board of County Commissioners of Miami-Dade County, Florida, as set forth herein, unless otherwise provided by law, for the purpose of submitting to the qualified electors of the City of Miami, Florida, the following question:

"Shall the City Commission, by ordinance, create an independent Civilian Investigative Panel to investigate misconduct and review policies of the Police Department; composed of a police chief appointee and exclusively of civilian members, nominated by the public and approved by the City Commission; staffed with professional personnel; operated on an annual approved budget; and authorized with "subpoena powers," used only upon its counsel's approval and in "consultation" with the State Attorney's Office?"

Charter Amendment No. 4 provides for the creation, by ordinance of an independent Civilian Investigative Panel, to investigate misconduct and review policies of the Police Department; composed of a Police Chief appointee and exclusively of civilian members, nominated by the public and approved by the City Commission; staffed with professional personnel; operated on an annual approved budget; and authorized with "subpoena powers," used only upon its Counsel's approval and in "consultation" with the State Attorney's Office?".

By order of the Commission of the City of Miami, Florida.

CITY CLERK

A list of City of Miami polling places follows:

(Insert list of City of Miami Polling Places.)"

Section 6. The official ballot to be used at said Special Municipal Election shall be in full compliance with the laws of the State of Florida with respect to absentee ballots and to the use of the mechanical voting machines or the Computer Election System, and shall be in substantially the following form, to wit:

"OFFICIAL BALLOT
SPECIAL MUNICIPAL ELECTION
TUESDAY, NOVEMBER 6, 2001
FOR APPROVAL OR DISAPPROVAL OF
THE FOLLOWING QUESTION:

Charter Amendment to create
an independent Civilian
Investigative Panel, for
citizens' oversight of Police
Department.

 YES
(For the Measure)

 NO
(Against the Measure)

"Shall the City Commission, by ordinance, create an independent Civilian Investigative Panel to investigate misconduct and review policies of the Police Department; composed of a police chief appointee and exclusively of civilian members, nominated by the public and approved by the City Commission; staffed with professional personnel; operated on an annual approved budget; and authorized with "subpoena powers," used only upon its counsel's approval and in "consultation" with the State Attorney's Office?"

Section 7. Electors desiring to vote in approval of said Question described above, shall be instructed to punch

straight down with the stylus through the hole next to the word "YES" within the ballot frame containing the statement relating to the Question. Electors desiring to vote to disapprove the Question, shall be instructed to punch straight down with the stylus through the hole next to the word "NO" within the ballot frame containing the statement relating to the Question.

Section 8. The City Clerk shall cause to be prepared absentee ballots containing the Question set forth in Section 6 above for the use of absentee electors entitled to cast such ballots in said Special Municipal Election.

Section 9. All qualified electors of said City shall be permitted to vote in said Special Municipal Election and the Supervisor of Elections of Miami-Dade County, Florida, is requested, authorized, and directed to furnish, at cost and expense of the City of Miami, a list of all qualified electors residing in the City of Miami as shown by the registration books and records of the Office of said Supervisor of Elections and duly certify the same for delivery to and for use by the election officials designated to serve at the respective polling places in said election precincts.

Section 10. For the purpose of enabling persons to register who are qualified to vote in said Special Municipal Election to be held on November 6, 2001, and who have not

registered under the provisions of the general laws of Florida and Chapter 16 of the Code of the City of Miami, Florida, or who have transferred their legal residence from one voting precinct to another in the City, they may register Monday through Friday, from 8:00 A.M. to 5:00 P.M. at the Miami-Dade County Elections Department located at 111 Northwest 1st Street, Miami, Florida, within such period of time as may be designated by the Supervisor of Elections of Miami-Dade County, Florida. In addition to the above place and times, qualified persons may register at such branch offices and may also use any mobile registration van for the purpose of registration to vote in the herein described Special Municipal Election during such times and on such dates as may be designated by the Supervisor of Elections of Miami-Dade County, Florida.

Section 11. WALTER J. FOEMAN, the City Clerk of the City of Miami, Florida, or his duly appointed successor, is designated and appointed as the official representative of the Commission of the City of Miami, Florida, in all transactions with the Supervisor of Elections of Miami-Dade County, Florida, in relation to matters pertaining to the use of the registration books and the holding of said Special Municipal Election.

Section 12. The City Clerk shall deliver a certified copy of this Resolution to the Supervisor of Elections of Miami-Dade

County, Florida, not less than forty-five days prior to the date of the herein Special Municipal Election.

Section 13. It is the intention of the City Commission that, if the Charter Amendment set forth in this Resolution is approved by the electorate at the Special Election on November 6, 2001, the provisions of the Charter Amendment shall become and be made a part of the Charter of the City of Miami, Florida, as amended, which provision may be renumbered or relettered and that the word "Resolution" may be changed to "section", "article", or other appropriate word to accomplish such intention.

Section 14. This Resolution shall become effective immediately upon its adoption and signature of the Mayor^{2/}


^{2/} If the Mayor does not sign this Resolution, it shall become effective at the end of ten calendar days from the date it was passed and adopted. If the Mayor vetoes this Resolution, it shall become effective immediately upon override of the veto by the City Commission.

PASSED AND ADOPTED this 9th day of August, 2001.


JOE CAROLLO, MAYOR

In accordance with Miami Code Sec. 2-36, since the Mayor did not indicate approval of this legislation by signing it in the designated place provided, said legislation now becomes effective with the elapse of ten (10) days from the date of Commission action regarding same, without the Mayor exercising a veto.

ATTEST:


for: Walter J. Foeman, City Clerk

WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS 



ALEJANDRO VILARELLO
CITY ATTORNEY

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