




Office of Policy and Budgetary Affairs

MEMORANDUM

TO:	Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners	DATE:	June 2, 2022
FROM:	Jennifer Moon, Chief  Office of Policy and Budgetary Affairs	SUBJECT:	Additional Information for the Special Meeting Regarding the Transition to the Constitutional Offices

This update has been prepared by the Office of Policy and Budgetary Affairs (OPBA) based on discussions and requests for additional information produced at the May 5, 2022, Special Meeting of the Board of County Commissioners (BCC) to discuss the policies as we transition to the five elected Constitutional Officers.

Since the Special Meeting, and with the adoption of Special Items No. 2, 4 and 5, we have initiated the requested surveys of other counties and the way they interact with the Constitutional Officers or how their transition is proceeding. One of the first meetings we held was with staff from Volusia County as they have already implemented the requirements of Amendment 10. As we have discussed, not only are there differences amongst the various counties in the state, but each Constitutional Office also has unique challenges that must be considered.

Provision of Services

During the consideration of Special Item No. 8, we discussed the similarities between the implementation of Amendment 10 and the transition to a newly incorporated municipality. Since 1991, when the Village of Key Biscayne was incorporated, eight additional municipalities have been created (Aventura, Pinecrest, Sunny Isles Beach, Miami Lakes, Palmetto Bay, Miami Gardens, Doral and Cutler Bay). With each incorporation, lessons were learned regarding the continuity and provision of services. The legislation governing incorporations and practices employed for these transitions may be instructive for the Sheriff transition, as well as for the other Constitutional Offices.

On the effective date of a municipal incorporation, even though there has been significant planning by the Municipal Advisory Committee prior to the incorporation vote and municipal leadership as the municipal charter was developed, the municipality effectively has no resources to provide services. Both

the Miami-Dade County Charter ([Charter](#))¹ and the Miami-Dade County Code ([Code](#))² require a new municipality to contract with Miami-Dade County for local patrol police services for a minimum of three years. This provision exists not only because of a desire to maintain the economies of scale of the Miami-Dade Police Department, but also so that resources are immediately available to address emergencies and other critical services for residents and businesses in the newly incorporated municipality. The Charter also provides for municipalities to contract with other units of government for the “joint performance or performance by one unit on behalf of the other for municipal functions.”³ This provision has been utilized by new municipalities so that zoning, permitting and other municipal functions are available immediately, in advance of the organization becoming fully staffed for those specific functions.

Similar to a newly incorporated municipality, it is likely that the Constitutional Offices cannot be fully staffed to provide services on January 7, 2025. Assuming there are no recounts or other issues, there are fewer than 35 business days between the certification of the 2024 General Election and the start of the term for the Constitutional Officers. During that time, the number of working days are impacted by holidays such as Veterans’ Day, Thanksgiving, and the holiday season. Furthermore, given term limits and the uncertainty of election results, there will be at least four newly elected officials (Supervisor of Elections, Tax Collector, Sheriff and the District 11 Commissioner), but potentially as many as 13 should incumbents up for re-election choose to not run or not prevail. All these factors make it extremely unlikely that a full staff of employees could be hired, and comprehensive negotiations be held between the certification of the General Election and the effective date of the Constitutional Offices. For that reason, the BCC may wish to establish policy that anticipates a period of transition to ensure both the delivery of services continues and existing employees have a sense of job security and stability. From an operational perspective, the most prudent approach may be to ensure that the functions of the Constitutional Offices and their existing structure at the time of the General Election be preserved throughout the transition and into the beginning of the term of the Constitutional Officers. However, there are many structural and other considerations for the BCC, the Administration, Constitutional Officers and the community.

Transition Agreements

When Volusia County, Florida implemented the requirements of Amendment 10 in January 2021, their County Council adopted transition agreements with each Constitutional Office which outlined the duties retained by the County, the transfer of employees, the use of facilities, among other issues. These transition agreements were adopted before the election of the Constitutional Officers. They allowed the County to continue services up to the transition and for the services to be provided by the Constitutional Officers once they took office. Adopting a similar approach ensures that each Constitutional Officer has a continuation of the current level of support as they take office.

Based on OPBA’s preliminary findings, the BCC may consider directing the Administration prepare transition agreements, similar to the “draft transfer agreements” referenced in Special Items No. 2, 4 and 5, so that these critical functions continue. In January 2025, the Property Appraiser will be assessing properties for the 2025 tax roll and the Tax Collector will be processing property tax, vehicle tag, business

¹ Miami-Dade County Charter, Section 6.05 (B)(7)

² Miami-Dade County Code, Section 20-26 (c)

³ Miami-Dade County Charter, Section 6.06

licenses and other important payments. Agreements need to be in place so that the financial activities of the County may continue even though the Clerk’s role is no longer designated by the County. The Supervisor of Elections will be preparing for the average of 20 separate elections scheduled to take place each year. Similarly, the Sheriff’s responsibilities start immediately. These agreements should, at a minimum, be in place for FY 2024-25 but have extension options through the end of FY 2025-26.

Prototypes of such agreements have been successfully drafted and put into practice with each of the recent incorporations. With the newest municipality, the Town of Cutler Bay, the BCC called for the incorporation election in November 2004. In November 2005, the Town Charter was approved by the residents and by February 2006, the Town Council was sworn into office. In July 2006, the interlocal agreements were approved by the BCC for services to begin October 1, 2006. The Transfer of Municipal Services agreement covered the period from November 2005 (the effective date of the Town Charter) through September 30, 2006, for municipal-type services, detailing service standards, transition notice requirements and financial reconciliation procedures. Exhibits to the agreement included what was budgeted for the service as well as anticipated service levels⁴. Using Cutler Bay as a reference point, it took two years from the election to fully convert to the new municipality. To this day, the Town of Cutler Bay continues to contract with the County for certain services contemplated in the initial Municipal Service Agreements.

Once the Constitutional Officers are elected, subsequent agreements may then be negotiated regarding the nature of these offices moving forward. At that point, discussions regarding the provision of back-office support services and ancillary services can begin. These negotiations may take time and the implementation of what is ultimately decided may take even longer. Each Constitutional Office may choose to continue to use the County’s financial and human resources systems, procurement functions, facility management and insurance, but they will be separate financial entities that will require separate financial reporting. The paperwork to create the separate entities can and should begin as soon as possible but cannot be finalized until the officials are in office. Just the effort to create the new entities in the County’s financial and human resources systems and the paperwork to transfer assets and personnel to the new entities will take months to process. Tasks as minuscule as creating a Federal Employer Identification Number and creating individual bank accounts will take time to be completed, even if they are ultimately changed by the Constitutional Officer. The BCC and the Administration may wish to engage professionals who have been through such transitions before and are knowledgeable about the specific determinations that must be made. During the transition and negotiation period, the BCC may wish to keep these entities as currently organized to simplify the management of service delivery.

⁴ [Interlocal Agreement between Miami-Dade County and the Town of Cutler Bay \(R-868-06\)](#)

Budgetary Implications

The effective date of the Constitutional Offices occurs three months into FY 2024-25. The FY 2024-25 Adopted Budget will have to be developed anticipating the cost of the new offices and any agreements drafted delineating the resources budgeted for the Constitutional Offices. Generally speaking, the Constitutional Offices are funded as countywide functions and supported either by the revenues they generate in the case of the Clerk and Tax Collector or by the countywide general fund for the Supervisor of Elections, Property Appraiser and Sheriff.

To maintain the alignment of the County’s expenditures and funding sources, the agreement with the Sheriff needs to delineate the resources dedicated to local patrol and the service levels anticipated specifically for the unincorporated municipal service area (UMSA). These services are funded by the UMSA budget and paid for by the ad valorem taxes generated by the millage rate paid by UMSA property owners and other UMSA-specific municipal revenues. Separate agreements for the provision of local patrol police services were negotiated with the new municipalities detailing the resources that will be assigned and the cost of those resources. These agreements also included provisions regarding the assignment of staff, filling of vacant positions and the provision of optional services such as marine patrol, motorcycle units, school crossing guards and special event assignments⁵. Without such an agreement detailing the specific activities and funding sources, taxpayers throughout the County may end up paying for services dedicated to UMSA. Any shift in funding obligations from the UMSA General Fund to the Countywide General Fund will undoubtedly require an increase to the Countywide millage rate. The value of the police services currently funded out of the UMSA millage is approximately \$400 million, which equates to, at least, an additional mill in the Countywide millage rate, an increase of more than 20 percent.

While, the budgetary implications of the other Constitutional Officers are not as substantial, it is still important that an accounting of the budgeted resources and service levels be prepared so that expectations may be managed. During the negotiating period, the newly elected Constitutional Officers will have an opportunity to assess the County’s services and determine how to proceed. At that point, analyses weighing the financial impact against the service impact of certain decisions can be performed. Decisions can also be made at that time about the distribution of the reserve that has been created for the Constitutional Officers. One option for the BCC and the Administration may be to allocate funds in the Constitutional Officers Reserve for one-time expenditures that all of the Constitutional Offices will incur ranging from the design of new logos and stationary, to new uniforms, to vehicle decaling and furniture and equipment purchases at branch offices.

Participation Agreements

As decisions are made regarding the organization and management of the new entities, agreements outlining the relationship between the County and the Constitutional Offices may be developed. Changes to the County Code may be necessary to allow for procedural adjustments depending upon the County services that will be accessed by the Constitutional Officers, or the services provided by the Constitutional Offices that will be accessed by the County. It is likely that these agreements will continue to be modified with experience and may differ drastically once there is a change in office holder.

⁵ [Local Patrol Services Agreement with Cutler Bay \(R-920-06\)](#)

Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners
Page 5

Next Steps

OPBA will continue our research of the lessons learned and best practices from like counties in Florida for the transition to the Constitutional Offices and ongoing relationship between those offices and the County. Future reports will provide details from the various jurisdictions for your consideration. My team and I appreciate the trust the Board has placed in us and we are available should you have any questions or concerns.

cc: Honorable Daniella Levine Cava, Mayor
Geri Bonzon-Keenan, County Attorney
Gerald Sanchez, First Assistant County Attorney
Jess McCarty, Executive Assistant County Attorney
Yinka Majekodunmi, Commission Auditor
Eugene Love, Agenda Coordinator
Basia Pruna, Director, Clerk of the Board
Office of Policy and Budgetary Affairs