



MIAMI-DADE COUNTY

Miami voters will decide if mayor should have more power. But legal questions loom

BY JOEY FLECHAS
jflechas@miamiherald.com

August 14, 2018 08:24 PM

Updated August 14, 2018 09:23 PM

Miami's political leaders all agreed on one thing Tuesday — a court will likely decide the fate of Mayor Francis Suarez's controversial push to become the most powerful individual in the city government.

Commissioners voted 3-2 to hold a referendum during the November election asking voters if they want the elected mayor to serve as a “strong mayor,” the chief executive who oversees the city’s day-to-day operations. Commissioners Manolo Reyes and Joe Carollo voted no; commissioners Keon Hardemon, Ken Russell and Willy Gort voted in favor.

But the hours of debate that preceded the vote zeroed in on criticisms of the proposal, introduced new questions about how the city might have handled the petition process differently and highlighted several issues that will likely form the basis for a legal challenge.

A key question: Did the pro-strong-mayor political committee organized by the mayor, which gathered enough signatures to force a referendum, meet legal requirements while it circulated petitions?

A majority of commissioners agreed this question wasn’t for them to decide. They approved the wording of a strong-mayor ballot question that was originally proposed Aug. 6. Tuesday’s hearing was a continuation of that meeting, which took a week-long recess when it became clear that with only four commissioners present, an impasse threatened to kill the measure.

Hardemon, the commission chairman who was not present last week, on Tuesday implied that if there are any legal or procedural problems with Suarez’s efforts, the mayor and his supporters will have to deal with it and own it later. Signaling his displeasure with the proposal itself, he cast his yes vote simply to relay the referendum to the voters — warts and all.

“I don’t want to put lipstick on a pig,” he said.



Chairman Keon Hardemon criticized the strong-mayor proposal but said he voted for it to put it before the city's voters.

- cmguerrero@miamiherald.com

His assessment captured the mood surrounding Suarez's quest to push a major piece of his agenda in his first year as mayor. He has cast his proposal as a way to increase accountability in government, to allow voters to elect the top-decision maker in City Hall who would control the city's \$1 billion budget and oversee a workforce of several thousand, from parks employees to the police chief.

But a few commissioners and even Miami-Dade Mayor Carlos Gimenez call the proposal an unprecedented power grab that would create an imbalance in the city government. Under the proposed system, the mayor would be able to hire and fire the city attorney, name a successor who would temporarily step in should the mayor be removed or resign and receive compensation of no less than 75 percent of the county mayor's pay.

Reyes said the plan gives the mayor “absolute power” and he insisted the ballot question should include a number for the strong mayor’s compensation. In the end, the question did not include a figure, but the debate sparked concerns about how much Suarez would be paid should the voters make him a strong mayor.

Under the proposal, the mayor’s compensation hinges on what the county mayor earns. Currently, the county budgets a total compensation package of about \$478,000, which includes a base salary of \$326,000 and additional benefits. But Gimenez only accepts about \$150,000.

Currently the Miami mayor gets \$130,600 in pay and other compensation, and the amount is not tied to the county mayor.

One of the strong mayor committee’s lawyers, Benedict Kuehne, told commissioners Tuesday that the intent was to set a floor for the strong mayor’s salary, equating compensation to salary and arguing that Suarez would not get a raise based on the formula using Gimenez’s \$150,000 salary.

“The change was a mechanism to depoliticize the setting of the mayor’s salary,” Kuehne said, referencing the current system where the commission sets the mayor’s salary.

Reyes disagreed and said the wording leaves it open for the strong mayor to get a hefty raise based on what Miami-Dade budgets for the county mayor’s pay.

The group leading Suarez’s effort, Miamians for an Independent and Accountable Mayor’s Initiative, is a political committee organized by the mayor to collect signatures for the ballot petition, an effort that began in the spring. The petition process has come under increased scrutiny during the last week from opponents and the media, questions that have dogged Suarez, who kept insisting that no matter what, the certification of about 20,000 signatures now forces the city to hold a referendum. That vote could either happen in November or later on during a special election that would cost the city about \$1 million.

Suarez’s political opponents seized on problems with the petition. The mayor said he wouldn’t be surprised if someone sued to block the referendum.

“Anytime something of this magnitude is advanced, it is fraught with people combing through documents trying to create issues that are not real issues,” he said. “And this is no different. Unfortunately, this holds true to that dynamic.”



Miami City Commissioner Joe Carollo at the city commission meeting Aug. 14, 2018.

C.M. GUERRERO - cmguerrero@miamiherald.com

Among those parsing documents was Carollo, who spoke on several issues that have fueled controversy and could resurface in a legal challenge :

- About 40 percent of the signature collectors were not registered voters in Miami-Dade, a violation of county law. The committee's attorneys argue that this requirement is unconstitutional, and they simply referred to the county rules as a guide.

- Miami City Attorney Victoria Mendez issued a last-minute opinion Monday stating the county elections department should review the petitions to make sure they comply with the county law and that circulators were registered voters.
- The petition included a summary of the proposed charter changes in English, Spanish and Creole, using the phrase “*fiscal municipal*” in Spanish to refer to the city attorney. In Spanish, the word “*fiscal*” is widely used to refer to a prosecutor, not a municipal attorney.
- Suarez has said he would keep his current employment as an attorney at Greenspoon Marder in addition to his responsibilities as strong mayor. When questioned how he would balance the jobs, he said he would likely appoint a chief operating officer to help the daily duties of managing the city. Suarez said that person could be current City Manager Emilio Gonzalez, which leaves critics wondering: Why make a change at all?

The strong mayor initiative, now fraught with opposition, might not have been dogged by potential legal pitfalls if the city had its own law governing the process for collecting signatures for a ballot petition. Emails and public documents obtained by the Miami Herald show City Clerk Todd Hannon tried to create that law earlier this year, but Suarez’s office tried to stop it.

The city attorney’s office drafted an ordinance creating a ballot petition process for Miami, which Hannon wanted to sponsor as an item on the Feb. 22 agenda. The evening before a draft agenda was supposed to be published, the mayor’s chief of staff asked the city’s agenda coordinator to remove the ordinance, according to the emails.

The ordinance was shelved and never resurfaced.

Suarez said he did not instruct the agenda coordinator to remove the ordinance. During the hearing, Carollo asked Suarez’s chief of staff, Joseph Ruiz, if he told the agenda coordinator to take the item off the agenda. Ruiz said no.

But emails show he made the request of another person in the same office — a point he chose not to clarify for Carollo.

When asked about the email after the meeting, Ruiz said in an interview with the Herald that members of his office, plus the mayor, reviewed a draft of the legislation and identified what they considered “legal issues” with the language.

“We took a look at it quickly. We didn’t think it was ... the mayor addressed some other legal issues,” Ruiz said. “There was an ask. There wasn’t a directive at any point. And how it unfolded



Miami City Attorney Victoria Mendez gives an opinion at the commission meeting on Tuesday, August 14, 2018.

- cmguerrero@miamiherald.com

from there, I don't know.”

Suarez later said he could not recall his conversation with his chief of staff. He said he read the ordinance for the first time Tuesday morning and questions the legality of the proposal.

“I felt the ordinance is flawed, and I would never personally support it,” Suarez said.

Hannon, the sponsor of the item, said he simply never followed through on getting that item before the commission.

“It was me just not following up,” he said.

Under this pall of skepticism and uncertainty, the strong mayor question is now slated to go to a vote. Miami voters will see this question on the November ballot:

Shall the Miami Charter be amended to change to a strong mayor-commission form of government; replace city manager with the mayor; mayor serves as nonvoting, non-member commission chair; grant mayor power to appoint and remove city attorney, city clerk, police and fire chief, department directors and employees; change filling mayoral vacancy and pay formula; adopt state recall procedure; provide other mayoral and commission powers and changes; and make effective immediately?