

**CITY OF MIAMI BEACH
NOVEMBER 5, 2019 GENERAL/SPECIAL ELECTIONS
& NOVEMBER 19, 2019 RUN-OFF ELECTION, IF NECESSARY**

**CANVASSING BOARD MEETING
AFTER-ACTION**

October 2, 2019 at 9:00 a.m.

City Attorney's Large Conference Room
1700 Convention Center Drive, Fourth Floor
Miami Beach, Florida 33139

Canvassing Board Members:

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| Honorable Raul Cuervo, County Court Judge | Present |
| Rafael E. Granado, City of Miami Beach City Clerk | Present |
| Judy Hoanshelt, Qualified Miami Beach Elector (Substitute Member) | Present |
| Honorable Eleane Sosa-Bruzon, County Court Judge (Alternate & Substitute Member) | Absent |
| Jimmy McMillion, Qualified Miami Beach Elector (Alternate & Substitute Member) | Present |

Staff to Canvassing Board:

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| Nicholas Kallergis, Senior Assistant City Attorney | Absent |
| Jean Olin, Esq., Outside Counsel | Present |
| Liliam Hatfield, Assistant City Clerk | Present |

1. Welcome

- Introductions made.
- Oaths of Office signed and notarized.
- Identification Badges Distributed.

2. Meeting called to order at 9:05 a.m. by Outside Counsel Jean Olin.

Jean Olin, Outside Counsel, explained that under the City of Miami Beach Municipal Charter there is a General Election held every two years to elect a Mayor and three City Commissioners with a Run-Off Election two weeks after if a candidate does not win the race by 50% plus one vote. Given the number of candidates present in this election cycle, it is reasonable to presume that there will be a Run-Off Election this year. This meeting is to provide an orientation to the Canvassing Board members.

3. Designation of Chairperson

Jean Olin, Outside Counsel, explained that the City Code section is silent on who will be the Chair. However, pursuant to State law, the County Judge is the Chair whenever the Canvassing Board meets. For purposes of today, Judge Cuervo will be designated as the Chair.

MOTION TO DESIGNATE CHAIR:

Motion made by City Clerk/Board Member Rafael E. Granado to designate the Honorable County Judge/Board Member Raul Cuervo as the Chair; seconded by Qualified Miami Beach Elector/Board Member Judy Hoanshelt; unanimously approved.

4. Orientation

Outside Counsel Jean Olin explained that as a Canvassing Board, the members are responsible for formally assessing Election Activities, which encompass Pre-Election, during Election, and Post-Election. Pre-Election activities are the testing of the tabulation equipment and witnessing/authorization of certain openings of Vote-by-Mail ballots. Election Activities are on Election Day with the General Election Day of **November 5, 2019**, and the General Run-Off Election Day of **November 19, 2019**. During the Post-Election Activities, the Board reviews provisional ballots and Post-Election Vote-by-Mail ballots (previously referred to as Absentee Ballots), canvassing, examining questionable provisional ballots and Vote-by-Mail ballots, and reviewing Audit procedures. Under Florida Statutes, there is the ability for an elector or a losing candidate to file a post-Election challenge, which is a lawsuit filed in the Circuit Court, which must be filed ten days within midnight of the last Certification by the Canvassing Board; although the City has not had one for years. It appears that the final duties as a Canvassing Board will be completed at the end of Audit activity as of **November 25**, and the majority of the Canvassing Board members must attend the audit. On that day, City Clerk/Board Member Rafael E. Granado has City Commission responsibilities; therefore, Judge Cuervo must attend, as well as the Qualified Elector or Alternate member. However, if there is an Election Contest, which will have to be filed by December 2, 2019, as Canvassing Board Members, they will be named as an indispensable party, if necessary. However, the City has not had an Election Contest in years.

Judge Cuervo asked who decides that a ballot is questionable.

Outside Counsel Jean Olin explained that a ballot is legal and lawful if it is executed by a Qualified Elector, defined as a permanent resident of Miami Beach, and properly registered to vote in the City. There are Statutory requirements of what must be contained for a Vote-by-Mail Certificate, which contains the actual ballot, to be inserted in a Secrecy Envelope, then in goes in an Outer Mailing Envelope, which has an Affidavit from the voter, attesting to the fact that he/she is a Qualified Elector, voted, signed it, and dated it. Per State Statute, if the Elector does not sign, then that Vote-by-Mail ballot is illegal and may not be counted. Regarding the Canvassing Board members duties, whether Vote-by-Mail or provisional ballot, it is primarily discretionary; their main role is to determine that compliance has taken place with regards to the essential requirements of law and that the sanctity and integrity of the ballot has been maintained. As to the signature in the Outer Mailing Certificate, if a voter fails to sign, then that vote shall not be counted. Other than failure to sign a Vote-by-Mail ballot, minor irregularities are within the discretion of the Canvassing Board to "Accept" or "Reject." If fraud can be shown that is an absolute ground for rejection of a ballot.

Ms. Olin explained that City Clerk Granado is a member of the Canvassing Board, pursuant to the City Code. Technically a member of the City Commission is a member of the Canvassing Board; however, if a member of the City Commission is not qualified to be a member of the Canvassing Board, because pursuant to law, one may not sit on a Canvassing Board if one is running with opposition, or if one is an active participant in anyone's candidacy, and none of the Commission members felt they could satisfy that requirement. Judy Hoanshelt, a long-term City employee, was designated by City Clerk/Board Member Rafael E. Granado under the City Code, to serve as a Substitute Member of the Board.

The Canvassing Board membership is comprised of

Honorable Raul Cuervo, County Court Judge;
Rafael E. Granado, City of Miami Beach City Clerk/Board Member; and
Judy Hoanshelt, Qualified Miami Beach Elector.

Honorable Eleane Sosa-Bruzon, County Court Judge is the Substitute Member; and Jimmy McMillion, Qualified Miami Beach Elector is the Alternate Member.

Ms. Olin explained that the Substitute Member and Alternate Member can attend the Canvassing Board meetings but may not participate and certainly not vote, unless they are replacing a Canvassing Board Member in their official capacity.

SUNSHINE LAW

Ms. Olin added that pursuant to the Sunshine Law, two or more Canvassing Board members may not engage in discussions (verbal or non-verbal) on any matter that could reasonably/potentially come before the Canvassing Board outside of a publicly noticed meeting. Ms. Olin added that when it doubt, Canvassing Board members should contact her for clarification.

PUBLIC RECORDS LAW

The Public Records Law is applicable to all Canvassing Board members. The Public Record's law states that any documents made or received in the course of official business, as Canvassing Board Members, is a public record. Individual notes, unless they are intended to perpetuate knowledge, are not deemed a public record.

NAME BADGES

A new State Statute requires that each member, substitute member, and alternate member of the Canvassing board and all clerical help must wear identification badges during any period in which the county canvassing board is canvassing votes or engaging in other official duties. The identification badges should be worn in a conspicuous and unobstructed area and include the name of the individual and his or her official position.

5. Review Canvassing Board Schedule

Outside Counsel Jean Olin added that the role of the Canvassing Board during the Pre-Election activities is to observe. Pursuant to State Statute, the testing of the tabulating equipment may be attended by a single member of the Canvassing Board.

MOTION TO ATTEND THE LOGIC AND ACCURACY TESTING

Motion made by City Clerk/Board Member Rafael E. Granado for Qualified Elector Judy Hoanshelt to attend the October 16, 2019 Logic & Accuracy Test, and for Rafael E. Granado to attend the November 14, 2019 for the Logic & Accuracy Test for the Runoff, if necessary. Mr. Granado explained that he will not be able to attend on October 16, 2019 due to the Commission Meeting. Motion seconded by Judy Hoanshelt. All in favor.

Outside Counsel Jean Olin, reviewed the Municipal Canvassing Board Schedule Pre-Activities for the November 5, 2019 Miami Beach General and Special Elections and the November 19, 2019 Run-Off Election, if needed.

City Clerk/Board Member Rafael E. Granado announced that there is a Canvassing Board Meeting on November 4, 2019 at 1:00 p.m., which requires a majority, and both him and Judy Hoanshelt will attend; therefore, Judge Cuervo does not need to attend.

Discussion held.

Ms. Olin added that if Judge Cuervo is unable to attend, she must be notified so they can contact Alternate Member Judge Sosa-Bruzon.

City Clerk/Board Member Granado explained that on November 5, 2019 at 5:00 p.m. all members of the Canvassing Board are required to attend. On November 8, 2019 all members are needed at 10:00 a.m. On November 4, 2019 Judge Cuervo is not required to attend; however, he must attend on November 12, 2019, as Clerk Board Member Granado will not be able to attend.

Outside Counsel Jean Olin clarified that all future Canvassing Board meetings will take place at the Office of the Supervisor of Elections (Miami-Dade County Elections Department), 2700 NW 87th Avenue, Miami, Florida 33172. Election Pre-Activities for both the General and the Run-Off Elections, they need Judge Cuervo present at 5:00 p.m. After the non-final Election results come in, there is a possibility that there may be a need for all the members of the Canvassing Board to order a recount. This would be necessary if a candidate is defeated/wins or any of the six ballot measures has been rejected/approved by one half of 1%

or less, then there will be an automatic machine recount, which is done within 48 hours, and they require a formal motion and a vote by the Canvassing Board. If a recount is ordered, Canvassing Board members may have to attend additional meetings and all members must attend. If the results on any race are one-half of a percent or less, and there is a machine recount made necessary, the process under the Election Code is that after results come in, if there is further a defeat or winning of a candidate or an approval or rejection of a ballot measure by ¼ of a percent or less, then that will fall into a manual recount. If that occurs, the Elections Department will inform the Canvassing Board; and the Canvassing Board will need to have a motion for a manual recount, which is limited to undervotes.

Alternate Member McMillion announced that he plans to attend all meetings.

6. Establish criteria for acceptance of Vote-by-Mail ballots and designate Canvassing Board Member to act on behalf of the Board, if necessary

See #5 & #7

7. Review State Rule IS-2.027 Standards for Determining Voter's Choice on a ballot (See Exhibit A)

Outside Counsel Olin explained that this Rule is an Administrative Rule enacted by the Department of State pursuant to a requirement governing manual recounts. The Statute dealing with manual recounts states that the duty of the Canvassing Board is to determine the clear intent of the voter in casting his/her vote. The Department of State is responsible for creating guidelines as to how the Canvassing Board determines what is clear voter intent. The Canvassing Board acts with discretion, and if it complies with the substantial compliance of the law, discretion will be upheld. There is a legal presumption that the Canvassing Board will act correctly. In addition, the Canvassing Board members are to review the entire ballot for consistency and "Accept" or "Reject" them. Post- Election, members will be advised by the Miami-Dade Elections Department of any problems with the signatures in the Vote-by-Mail or provisional ballots. The most common issues with Vote-by-Mail ballots encountered are lack signature, someone signing that is not the qualified elector (signature not matching what is on file at the Miami-Dade County Elections Department), and signatures not in close proximity to the signature line. She added that the Elections Department will send out a Cure Affidavit to the voter who did not sign or whose signature does not match. That Affidavit must be reviewed by the Canvassing Board members when submitted to the Elections Department, to make sure the signatures match or not, but if the Identification is a photo ID, even if the signature does not match, under the law, that vote can still be accepted.

The final Post-Election activity is the selection of a precinct and race for Post-Election Audit. The purpose is mandatory under the State law and the majority of members must attend. Since City Clerk/Board Member Granado will not be able to attend due to Commission Meeting duties on November 12, 2019, Honorable Judge Cuervo and Alternate Member Judy Hoanshelt must attend.

City Clerk/Board Member Granado reviewed the Canvassing Board member schedule dates and hours with the Canvassing Board members.

Outside Counsel Jean Olin explained, since this is the first time Judge Cuervo participates in the Canvassing Board, that as Chair, he can allow public participation at any Board Meeting by Sunshine Law, which allows attendance by the public.

8. Open the meeting for public comment:
No public comment.
9. Adjourn the meeting
Meeting adjourned at 10:42 a.m.