



**SPECIAL MAIL BALLOT ELECTION HELD IN THE CITY OF MIAMI BEACH
FROM JUNE 5, 2023 TO JUNE 27, 2023,
TO DETERMINE WHETHER A MAJORITY OF THE AFFECTED PROPERTY OWNERS
APPROVE THE CREATION OF A SPECIAL ASSESSMENT DISTRICT
TO BE KNOWN AS THE 41ST STREET BUSINESS IMPROVEMENT DISTRICT**

CANVASSING BOARD MEETING

June 27, 2023, at 6:30 p.m.

Office of the City Clerk
1700 Convention Center Drive, First Floor
Miami Beach, Florida 33139

Canvassing Board Members:

Rafael E. Granado, City Clerk - Present

Faroat Andasheva, Senior Assistant City Attorney - Present

Rogelio A. Madan, Development & Resiliency Officer, Planning Department - Present

AFTER-ACTION

The Canvassing Board Meeting was called to order at 6:31 p.m.

1. Welcome

Nick Kallergis, Deputy City Attorney, welcomed everyone to the Canvassing Board Meeting for the Special Mail Ballot Election to consider whether a majority of the affected property owners approve the creation of a Special Assessment District to be known as the 41st Street Business Improvement District. All members of the Canvassing Board are present.

2. Call the meeting to order

Deputy City Attorney Kalleris called the meeting to order.

3. The signing of the Oath of Office

Each member of the Canvassing Board acknowledged that they had signed their Oath of Office.

4. Designation of Chairperson

Motion by Canvassing Board Member Rafael E. Granado to appoint Faroat Andasheva, Senior Assistant City Attorney, as Chair of the Canvassing Board; seconded by Rogelio A. Madan, Development & Resiliency Officer. Approved by acclamation. Vote: 3-0.

5. Update by the Office of the City Clerk

Canvassing Board Member Granado explained that all ballots received have been placed into the "Special Mail Ballot Election to Create the 41st Street Business Improvement District Ballot Box" (Ballot Box).

Canvassing Board Member Granado added that on May 30, 2023, Justin Karr, Nick Kallergis, and Regis Barbou, witnessed Canvassing Board Member Granado close the empty Ballot Box, with the following numbered Rifkin Padlock Seal Locks: 0091050 and 0091049.

On June 27, 2023, at 6:35 p.m., Justin Karr, Nick Kallergis, and Regis Barbou witnessed the Canvassing Board Member Granado open the Ballot Box, having the following numbered Rifkin Padlock Seal Locks: 0091050 and 0091049. Also present to witness the opening of the Ballot Box were Rickelle Williams, Assistant City Manager, and Ira Giller and Amy Mehu representing Middle Beach Partnership, Inc. (the 41st Street Business Improvement District).

Thereafter Rifkin Padlock Seal Locks 0091050 and 0091049 were broken by Canvassing Board Member Granado broken and the Ballot Box was opened.

Canvassing Board Member Granado reported that 45 voted ballots have been received by the Office of the City Clerk.

Deputy City Attorney Kallergis explained the procedures that the Canvassing Board will be following. These procedures were adopted by Resolution 2023-32566 of the City Commission. The 41st Street Business Improvement District Special Mail Ballot Election Procedures (Procedures) were attached to the Resolution that called this Election.

Deputy City Attorney Kallergis stated that the mail package for each Official Ballot contained the following:

- *Envelope 1* - Envelope 1, the outer envelope, was affixed with a mailing address provided by the Business Improvement District (BID). This envelope contained (i) the Official Ballot, (ii) a form affidavit affirming the voter's authority to vote on behalf of the property owner (the "Affidavit"), (iii) an instruction sheet detailing when the Official Ballot must be returned and the date, time, and location of when the Official Ballots received will be opened, (iv) Envelope 2, and (v) Envelope 3.
- *Envelope 2* - Envelope 2, was placed inside Envelope 1, and was stamped and pre-addressed for mailing to the Office of the City Clerk. A return address label printed with the folio number, name of the property owner, and mailing address of the property owner was affixed to Envelope 2.
- *Envelope 3* - Envelope 3 is the Ballot Secrecy Envelope. To preserve the secrecy of the ballot, the property owner was instructed to remove the Official Ballot from Envelope 1 and cast a vote by drawing a circle around the appropriate ballot response. After voting, the property owner was instructed to place the completed Official Ballot inside Envelope 3, seal Envelope 3, and place Envelope 3 into Envelope 2. The property owner was instructed to place the Affidavit inside Envelope 2 and not to place the Affidavit inside Envelope 3, to preserve the secrecy of the ballot. The property owner shall return sealed Envelope 2, containing the Affidavit and a sealed Envelope 3, to the City by (i) mailing the pre-addressed Envelope 2 to the Office of the City Clerk, or (ii) physically bringing Envelope 2 directly to the Office of the City Clerk.

Deputy City Attorney Kallergis stated that the ballots received will be opened at today's publicly noticed meeting of the Canvassing Board, pursuant to Section 15 of the Procedures.

- a. Envelope 2 will be opened, and Envelope 3 and the Affidavit will be removed from Envelope 2.
- b. Envelope 2 will be placed in a separate stack.
- c. The Canvassing Board will review the Affidavit to ensure that it is complete and validly executed and notarized. If the Affidavit is not complete or validly executed or notarized, the Affidavit will be stapled to the corresponding Envelope 3 and marked rejected. If the Affidavit is complete and validly executed and notarized, the Affidavit and Envelope 3 will be placed in separate stacks.
- d. If the Affidavit is deemed valid, the corresponding Envelope 3 will be opened, and the Official Ballot will be removed and placed in a separate stack.
- e. Those Official Ballots deemed valid pursuant to Section 15(d) will be counted. The Office of the City Clerk will prepare a tally of "yes" votes, "no" votes, unreturned ballots, and rejected ballots.
- f. The Canvassing Board will review any ballot lacking a clear ballot response to determine, if possible, the voter's intent. The Canvassing Board will use as a guide State Rule 1S-2.027 Standards for Determining Voter's Choice on a Ballot, which is attached to the Agenda as Exhibit A. State Rule 1S 2.027 has examples of when the voter's intent is clear and when it is not. This particular ballot is a one-question ballot, and the voter is instructed to circle "yes" or "no". If for any particular ballot, the voter's intent is unclear then the Canvassing Board must decide whether they can ascertain the intent of the voter, in which case the Canvassing Board by motion and a second, or by acclamation, will make that determination. If the Canvassing Board concludes that the intent of the voter is not clear and cannot be ascertained then the Canvassing Board must vote to reject the ballot. Deputy City Attorney Kallergis commented that he is serving as counsel to the Canvassing Board, so if any member has a question throughout the meeting, they may ask him.

Canvassing Board Member Granado asked Deputy City Attorney Kallergis to explain the procedures for duplicate ballots.

Deputy City Attorney Kallergis stated that pursuant to Section 10 of the Procedures if the Office of the City Clerk receives two or more envelopes referencing the same folio number (duplicate ballots for the same property), the ballots in those envelopes shall be voided, and that property owner will be considered to have not voted.

6. Answer questions regarding State Rule 1S-2.027 Standards for Determining Voter's Choice on a Ballot (See Exhibit A)

The members of the Canvassing Board did not ask any questions regarding State Rule 1S-2.027.

7. Open and process the received ballots

The Canvassing Board unanimously authorized Regis Barbou, Assistant City Clerk, to commence the opening and processing of the ballots. Section 15 of the Procedures was adhered to.

8. Canvass received ballots

The Canvassing Board unanimously determined that two ballot packages referencing the same folio number (duplicate ballots for the same property) had been received. As such, the duplicate ballot package was marked “voided”, “duplicate”, and “rejected”.

During the processing of the ballots, the Canvassing Board found that 4 of the ballot packages received did not have an Affidavit outside the Ballot Secrecy Envelope. Said ballots were placed aside and marked “rejected.”

Deputy City Attorney Kallergis explained that the rules were written primarily to preserve the secrecy of the identity of each voter. This is why the instructions direct each voter to include the affidavit outside of the Ballot Secrecy Envelope. The rules require an affidavit to be completed for each ballot. Deputy City Attorney Kallergis opined that the Canvassing Board, at its discretion, could reconsider the rejection of the 4 ballots packages that contained no affidavit outside of the Ballot Secrecy Envelope. This would require the passage of a motion to reconsider. If the Canvassing Board decides to do this, Deputy City Attorney Kallergis recommends that the Canvassing Board follows a process to safeguard the secrecy of the identity of each voter. The requirement that an affidavit be executed for each ballot stands. The only way one of these 4 ballots gets counted is if there is an affidavit inside the Ballot Secrecy Envelope that is determined by the Canvassing Board to be properly completed. If the Canvassing Board decides to go down this path, it will open the 4 previously rejected ballots and if there is no affidavit then the Canvassing Board needs to reject that ballot. Deputy City Attorney Kallergis recommends that the Canvassing Board, in order to safeguard the secrecy of the identity of the voter, direct either Regis Barbou, Assistant City Clerk, or himself, assuming that the Canvassing Board adopts a motion to reconsider, to 1) Open the Ballot Secrecy Envelope, 2) Examine to see if there is affidavit inside; during this time the ballot must be kept inside the Ballot Secrecy Envelope, and 3) Present the affidavit to the Canvassing Board. If the Canvassing Board accepts the affidavit, then Deputy City Attorney Kallergis recommends that Assistant City Clerk Barbou remove the ballot from the Ballot Secrecy Envelope and place it face down on the table. This procedure will be repeated for the other 3 ballots. Whatever is left at the end, meaning however many of those ballots had properly completed affidavits then those ballots would be shuffled. That keeps the identity of the voter secret from the Canvassing Board, and it keeps the identity of the voter secret from any of the public who are present to observe the Canvassing Board meeting. This is up to the Canvassing Board. If that is something the Canvassing Board is inclined to do, then the first step would be a motion to reconsider the rejection of the 4 ballots for which there was no affidavit outside of the Ballot Secrecy Envelope.

Canvassing Board Member Rogelio Madan suggested if that is what the Canvassing Board decides to do, the ballots should be placed in a folder because the ballots are double-sided (English and Spanish) and some ballots had both sides circled.

Canvassing Board Member Granada suggested that Assistant City Clerk Barbou looks inside the Ballot Secrecy Envelope to see if there is an affidavit. If there is no affidavit, the ballot gets put away and remains rejected. If there is an affidavit, Assistant City Clerk Barbou removes the affidavit for the Ballot Secrecy Envelope, but not the ballot.

There was unanimous support from the Canvassing Board to follow the procedures suggested by Charter Board Member Granada.

Canvassing Board Chair Faroat Andasheva stated that since the intent behind this requirement is to protect the voter's identity and if the Canvassing Board makes sure that the voter's identity is safeguarded, then Chair Andasheva would like to make a motion to reconsider the rejection of the 4 ballot packages received that did not have an Affidavit outside the Ballot Secrecy Envelope. Chair Andasheva expressed that the right to vote is precious and voters should have their votes counted.

Canvassing Board Member Madan stated that as the Chair, Ms. Andasheva cannot make a motion. Canvassing Board Member Madan stated that he would make the motion as stated by Chair Andasheva.

Canvassing Board Member Madan made a motion to reconsider the rejection of the 4 ballot packages received that did not have an Affidavit outside the Ballot Secrecy Envelope, seconded by Chair Andasheva. Vote: 3-0.

Canvassing Board Member Granado stated that he is putting away the duplicate ballot.

Deputy City Attorney Kallergis added that the duplicate ballot is clearly void, under the rules.

Canvassing Board Member Granado asked what should they mark the 4 ballot packages received that did not have an Affidavit outside the Ballot Secrecy Envelope, as they had been stamped "rejected."

Deputy City Attorney Kallergis suggested waiting until the Canvassing Board decides that the requirement of the affidavit has been satisfied. Deputy City Attorney Kallergis added that if the affidavit requirement is not satisfied, the ballot remains rejected.

Assistant City Clerk Barbou opened the Ballot Secrecy Envelope for each of the 4 ballot packages previously rejected. The Canvassing Board found that each of the 4 ballot packages contained affidavits inside the Ballot Secrecy Envelope. Each affidavit was examined by the Canvassing Board and was unanimously found to be complete and validly executed and notarized. The Canvassing Board agreed that the 4 ballots therein should be counted. Green dots were placed on the 4 Envelope 2s and Envelope 3s (Ballot Secrecy Envelope), indicating that the ballots contained therein had been accepted.

Deputy City Attorney Kallergis directed that the 4 ballots will remain inside the Ballot Secrecy Envelope.

To preserve the secrecy of the voters' identity the 4 Ballot Secrecy Envelopes were shuffled by Chair Andasheva.

9. Tabulate and certify results by the Canvassing Board

The Canvassing Board proceeded to publicly count the votes cast. The results are as follows:

Shall 41st Street Business Improvement District be created for a term of 10 years, with estimated annual budget of \$195,246, to stabilize and improve properties abutting West 41st Street/Arthur Godfrey Road, between Alton Road on the west and Indian Creek Canal on the east, through promotion, management, marketing, and other similar services, which District shall be funded by special assessments against benefitted properties, with assessments increasing by 5% every two (2) years?

34	YES VOTES
9	NO VOTES
18	UNRETURNED BALLOTS
1	REJECTED BALLOTS ¹

The Canvassing Board members signed the Official Election Certification of the Canvassing Board. See Exhibit "A"

See [LTC 291-2023](#) – Official Election Certification of the Canvassing Board – Creation of a Special Assessment District to be known as the 41st Street Business Improvement District.

Clerk's Note:

The number of benefitted properties within the proposed District is 62. A "yes" vote of the owners of a simple majority (32 votes) of the affected properties is required to approve the proposed District. A property owner who failed to return an Official Ballot to the Office of the City Clerk within the allotted timeframe was considered to have voted "no" to the creation of the District. As a result, the creation of the District has been approved.

A Resolution requesting the City Commission to adopt the Official Election Certificate of the Canvassing Board will be included via Supplemental Agenda for consideration during the June 28, 2023 Commission Meeting.

10. Adjourn the meeting

The meeting was adjourned at 8:00 p.m.

Name Badges – Florida Statute 102.141(9) 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 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 their official position. All members of the Canvassing Board, as well as Assistant City Clerk Barbou, wore their identification badge while engaging in their official duties.

¹ Duplicates of the same ballot have been counted as one rejected ballot.