

MEMORANDUM

PMPS

Agenda Item No. 2 (C)

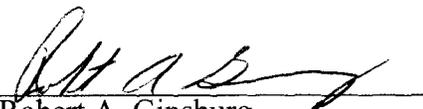
TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: June 18, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance amending Sections
2-1 and 2-8.4 of the Code
relating to bid protests with
regard to the committee
system

The accompanying ordinance was prepared and placed on the agenda by the County Attorney.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE:

FROM: George M. Briggs
County Manager

SUBJECT: Substitute ordinance amending
Sections 2-1 and 2-8.4 of the
Code relating to bid protests and
quasijudicial proceedings with
regard to the committee
system

This ordinance amends sections of the code with respect to the new committee system. It proposes that bid protests be considered in committee before reaching the Board.

The amendments to the Code will not have a fiscal impact to the County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: January 23, 2003

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Substitute No. 2
Agenda Item No. 13 (FF)

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No.

ORDINANCE NO. _____

ORDINANCE AMENDING SECTIONS 2-1 AND 2-8.4 OF THE CODE OF MIAMI-DADE COUNTY FLORIDA TO PROVIDE THAT BID PROTESTS BE CONSIDERED BY COMMITTEE PRIOR TO BEING PLACED ON THE COUNTY COMMISSION AGENDA OR BEING CONSIDERED BY THE COUNTY COMMISSION; PROVIDING SEVERABILITY, INCLUSION IN CODE AND EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section. 1. Sections 2-1 and 2-8.4 of the Code of Miami-Dade County, Florida, are hereby amended as follows¹:

Sec. 2-1. Rules of Procedure of County Commission

* * *

Rule 4.01 Committees

* * *

(h) COMMITTEE DELIBERATIONS. A commission committee may take one of the following actions with respect to each matter referred to the committee for action:

- (1) Recommend favorably;
- (2) Recommend favorably with committee amendment(s);

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- (3) Forward without recommendation, upon unanimous vote of the members of the committee who are present;
- (4) Receive a report;
- (5) Lay the matter on the table resulting in the matter not being placed on an agenda of the county commission >>. The foregoing notwithstanding, a bid protest may not be laid on the table<<; [[øø]]
- (6) Defer or take no action on an item for a maximum of two consecutive committee meetings. Deferral of or failure to act on a matter beyond two consecutive meetings shall cause the matter to be laid on the table, as set forth in the preceding subparagraph. >>The foregoing notwithstanding, deferral of or failure to act on any bid protest beyond two consecutive committee meetings shall cause the matter to be automatically placed on the next available county commission agenda without committee recommendation as an exception to the requirements of subsection (3) above; or<< [[-]] >>;
or
- (7) In the case of a bid protest, recommend unfavorably.<<

(i) COMMITTEE CONSIDERATION REQUIRED. Except as provided elsewhere in these rules, no item shall be placed on a commission agenda or considered by the county commission, unless at least one committee has taken action regarding the item pursuant to section 4.01(h)(1), (2), (3), [[øø]] (4) >> or (7)<< above

* * *

Sec. 2-8.4. Protest procedures.

This section shall govern any protest made by a participant in any competitive process utilized for selection of a person or other entity to construct

any public improvement, to provide any supplies, materials or services (including professional services or management services other than professional services whose acquisition is governed by the Consultant's Competitive Negotiation Act, Section 287.055 F.S., et seq.), or to lease any county property.

The foregoing notwithstanding, the protest procedures contained in this section shall not apply to contracts and purchases involving the expenditure of five hundred thousand dollars (\$500,000.00) or less, and protests thereon shall be governed by procedures established by administrative order approved by the Board of County Commissioners.

A protest hereunder may not challenge the relative weight of the evaluation criteria or the formula specified for assigning points therefor contained in bid, request for proposals ("RFP") or request for qualifications ("RFQ") specifications which have been approved by the Commission.

* * *

(g) The hearing examiner's findings and recommendation >>when issued, together with the recommendation of the County Manager,<< shall be presented to the >>standing committee of the County<< Commission >>having jurisdiction<< [[together with the recommendation of the County Manager]]. Notice thereof shall be mailed to all participants in the competitive process at least five (5) days in advance of such presentation. [[Notwithstanding any other provision of this Code or any prior resolution, the Commission without prior presentation to any committee shall hear the matter.]] The >>committee shall consider the matter and recommend, by majority vote, to the County Commission how the<< matter [[shall]] >>should<< be resolved >>. The committee shall make its recommendation<< on the basis of the record before the hearing examiner and no evidence or issue which was not presented or raised at such hearing shall be considered. >>If the hearing examiner concurs in the County Manager's recommendation, the committee shall not allow presentations by any participants in the competitive process or their representatives at the time the matter is presented to the committee. If the hearing examiner does not concur in the County Manager's recommendation, the participants in the competitive

process and their representatives may make presentations to the committee<< ~~[[Presentations to the Commission by any participant in the competitive process or their representatives if authorized by subsection (h) below shall be]]~~ limited to ten (10) minutes per side. The foregoing time limitation shall be inclusive of all speakers addressing the ~~[[Commission]]~~ >>committee<< on behalf of each side.

(h) >>Thereafter, the matter shall be scheduled before the County Commission at its next available meeting, and the proceedings before the committee, together with the committee's, the hearing examiner's and the County Manager's recommendations, shall be filed with the Clerk of the Board and made available to each Commissioner. In instances where<< ~~[[If]]~~ the hearing examiner ~~[[concurs]]~~ >>has concurred<<in the County Manager's recommendation, a two-thirds (2/3) vote of the Commission members present shall be required to take other than the ~~[[recommended]]~~ action >>recommended by the County Manager<<. Provided however, a two-thirds (2/3) vote shall not be required to reject all bids. ~~[[If the hearing examiner concurs in the County Manager's recommendation, t]]~~ >>I<<he Commission shall not allow presentations by any participants in the competitive process or their representatives at the time the matter is presented to the Commission. ~~[[If the hearing examiner does not concur in the County Manager's recommendation, the participants in the competitive process and their representatives may make presentations to the Commission and the Commission shall decide the matter by majority vote.]]~~

* * *

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby

ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

R.A. Cuevas, Jr.

