

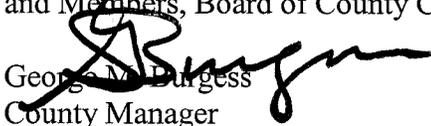


MEMORANDUM

Agenda Item No. 6(G)

To: Honorable Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

Date: June 8, 2004

From: 
George M. Burgess
County Manager

Subject: Ordinance Pertaining to
Public Charter School
Facilities

RECOMMENDATION

It is recommended that the Board of County Commissioners adopt the attached proposed ordinance pertaining to public charter school facilities.

BACKGROUND

The zoning code of Miami-Dade County contains a process by which private schools are approved as special exceptions. In contrast, public schools are approved by the School Board of Miami-Dade County which has the authority to select locations for all public schools. However, the County provides comments about public school locations as required by Section 1013.33, Florida Statutes, providing for review for consistency with the Comprehensive Development Master Plan and applicable land use regulations. The County's review has been conducted for both traditional and charter public schools by the Developmental Impact Committee, in accordance with Resolution R-535-92.

The School Board has a process for approving traditional public schools that involves substantial public input. However, the public charter school process at the School Board does not include the same degree of public involvement. On this agenda is a proposed interlocal agreement between the School Board and Miami-Dade County by which the School Board will delegate land use authority to the County for the approval of public charter school sites through a zoning hearing process, which would accord greater public input and a mechanism for enforcing land use requirements and conditions. The proposed ordinance would provide said process and standards in order to review public charter schools located in unincorporated Miami-Dade County. The School Board will remain responsible for all curriculum and for the approval of the charter for public charter schools.

The proposed ordinance creates no fiscal impact on Miami-Dade County.

Attachment


Assistant County Manager



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: June 8, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(G)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) 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
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(G)
6-8-04

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; ESTABLISHING PURPOSE, DEFINITIONS, REVIEW PROCESS AND STANDARDS FOR APPROVAL OF PUBLIC CHARTER SCHOOL FACILITIES; CREATING ARTICLE XI OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; AMENDING SECTIONS 33-303.1, 33-311 AND 33-314 TO PROVIDE FOR CHARTER SCHOOL FACILITY APPROVAL BY BOARD OF COUNTY COMMISSIONERS AFTER RECOMMENDATION BY DEVELOPMENTAL IMPACT COMMITTEE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Article XI is hereby created in Chapter 33 (Zoning Code), Code of Miami-Dade County, Florida as follows: ¹

>>Article XI. PUBLIC CHARTER SCHOOL FACILITIES

Sec. 33-152. Applicability, purpose and definitions.

Provisions of this article relating to public charter school facilities as defined herein shall be applicable in the unincorporated areas of Miami-Dade County.

The purpose of this article is to provide standards for approval of public charter school facilities, pursuant to agreement with the School Board of Miami-Dade County pertaining to siting of such facilities. Any use proposed for a charter school site other than the charter school facility use provided in this article shall be subject to all other applicable provisions of this Chapter.

As used in this article, the term "public charter school" or "charter school" shall mean an educational institution which is authorized and maintained in accord with the provisions of Chapter 1002, Florida Statutes, as same may be amended from time to time. All such public charter schools shall be additionally authorized locally by the Miami-Dade County School Board through a process established by that entity for the approval of the charter. The terms "child," "student," "pupil," and their plurals are used interchangeably in this article. For purposes of this article, student educational opportunities within a public charter school shall include one or more of the following:

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.

- (a) Kindergarten: preschool programs for children ages four (4) through six (6).
- (b) Elementary school: educational programs for children in grades 1 through 5.
- (c) Middle school: educational programs for children in grades 6 through 8.
- (d) Senior high school: educational programs for children in grades 9 through 12.

Sec. 33-153. Public hearing required in all districts.

The establishment, expansion or modification of a charter school facility is permitted in any zoning district after public hearing upon demonstration that the standards established in this article have been met. Any existing covenant or declaration of restrictions relating to an existing charter school facility shall be modified or deleted only in accordance with the provisions of Article XXXVI of this code.

Sec. 33-154. Limitations on the siting of public charter school facilities.

- (a) New kindergarten, elementary, middle and senior high charter school facilities as well as the expansion of existing charter school facilities shall be prohibited on sites located outside the Urban Development Boundary (UDB), as established in the Comprehensive Development Master Plan.
- (b) Except as provided in subsection (c) below, the following new charter school facilities and the expansion of such facilities shall be located inside the UDB and spaced from the UDB as follows:
 - (1) Kindergarten, Elementary school: at least 1/4 mile inside the UDB
 - (2) Middle school: at least 1/2 mile inside the UDB
 - (3) Senior high school: at least one mile inside the UDB.
- (c) A proposed new kindergarten, elementary, middle, or senior high charter school facility, or the expansion of an existing charter school site, inside but closer to the UDB than indicated in (b) above, may be approved at public hearing, when it is demonstrated that within a one-half mile radius of the outer boundaries of the proposed new charter school or charter school expansion site:
 - (1) that the majority of the lots, parcels or tracts lying within the radius are developed or approved for development; and
 - (2) there are no other lots, parcels or tracts within the radius that are available for development that meet the requirements of subsection (b) above and that meet all the requirements of this article.

Approval of such a site shall require that the majority of the subject site and the proposed buildings' ground floor square footage be located in accordance with (b) above, and that the principal buildings and entrances be placed as far from the UDB as possible.

- (d) For purposes of establishing the distances provided by this section, the applicant shall furnish a certified survey from a registered surveyor, as well as a proposed site plan, which shall indicate that the distance requirements of this section have been met.

Sec. 33-155. Required information.

All public charter school facilities, as defined in this article, shall submit the following applicable information to the Department in accordance with the filing provisions of Article XXXVI of this code for review by the Department and for consideration at public hearing:

(A) Written information

- (1) Total size of the site
- (2) Maximum number of students to be served
- (3) Maximum number of teachers and administrative and clerical personnel
- (4) Maximum number of classrooms and total square footage of classroom space
- (5) Total square footage of non-classroom space
- (6) Amount and location of exterior recreational/play area in square footage
- (7) Maximum number and type of vehicles that will be used in conjunction with the operation of the facility
- (8) Number of parking spaces provided for staff, visitors, and transportation and operation vehicles, and justification that those spaces are sufficient for this facility
- (9) Grades or age groups that will be served
- (10) Days and hours of operation, weekly and annually
- (11) An explanation of any such activities anticipated to be conducted in association with the charter school but typically conducted outside of the hours of operation of the charter school
- (12) Means of compliance with requirements by the Miami-Dade County Fire Department, Miami-Dade County Department of Public Health, the Department of Health and Rehabilitative Services, and any Federal or State regulations applicable to the specific application
- (13) A copy of the charter approved by the Miami-Dade County Public School Board.

(B) Graphic information. The following graphic information shall be prepared by design professionals, such as registered Florida architects and landscape architects:

- (1) A plan indicating existing zoning on the site and adjacent areas
- (2) A site plan indicating the following:
 - (a) Location of all structures
 - (b) Parking layout, automobile stacking area and drives
 - (c) Walkways

- (d) Location of recreation areas and play equipment which shall include surrounding fences and/or walls
 - (e) Any other features which can appropriately be shown in plan form.
- (3) Floor plans and elevations of all proposed structures.
 - (4) Landscape development plan listing quantities, size, and names of all plants in accordance with Chapter 18A of this code.

Sec. 33-156. Charter school within multiple-use facility.

Where a charter school facility is to be operated in a structure simultaneously used as a residence, religious facility or other type of facility, the area which will be specifically used for the charter school facility during the hours of operation shall be clearly defined. As specified in section 33-155 above, the applicant for charter school approval shall additionally provide explanation regarding any activities anticipated to be conducted in conjunction with the charter school, including but not limited to adult education classes, community outreach facilities, and civic building use. Such uses not determined by the Director to be directly associated with the charter school operation shall require approval as otherwise specified within this code.

Sec. 33-157. Physical standards. All charter school facilities shall meet the minimum requirements included herein.

- (a) Outdoor areas. Outdoor recreation/play areas are not required. Where same are provided the outdoor recreation/play area shall, wherever possible, be located so that the recreation/play area is not immediately adjacent to single family residences or section line roads, nor create incompatible impacts on other immediately adjacent properties. Adequate screening in the form of a wall, fence and/or landscaping shall be provided wherever the outdoor/play area abuts a property under different ownership.
- (b) Signs. Signs shall comply with district regulations as contained in Chapter 33 of the Miami-Dade County Code; provided, however, that the total square footage of all freestanding signs in any residential district shall not exceed six (6) square feet in size.
- (c) Auto stacking. Stacking space, defined as that space in which pickup and delivery of children can take place, may be provided in the form of specified parking stalls and/or areas clear of vehicular drive aisles. Stacking space shall be provided for a minimum of two (2) automobiles for charter schools with twenty (20) to forty (40) children; schools with forty-one (41) to sixty (60) children shall provide four (4) spaces; thereafter there shall be provided a space sufficient to stack five (5) automobiles.
- (d) Parking requirements. Parking requirements shall be as provided in section 33-124(1) of this code.
- (e) Height. The structure height shall not exceed the height permitted for that site by the existing underlying zoning district.

- (f) Trees. Landscaping and trees shall be provided in accordance with Chapter 18A of this code.
- (g) Charter school facilities as described herein shall be prohibited from operating on property abutting or containing a water body such as a pond, lake, canal, irrigation well, river, bay, or the ocean unless a safety barrier is provided which totally encloses or affords complete separation from such water hazards. Swimming pools and permanent wading pools in excess of eighteen (18) inches in depth shall be totally enclosed and separated from the balance of the property so as to prevent unrestricted admittance. All such barriers shall be a minimum of forty-eight (48) inches in height and shall comply with the following standards.
 - (1) Gates shall be of the spring back type so that they shall automatically be in a closed and fastened position at all times. Gates shall also be equipped with a safe lock and shall be locked when the area is without adult supervision.
 - (2) All safety barriers shall be constructed in accordance with the standards established in section 33-12, except that screen enclosures shall not constitute a safety barrier for these purposes.
- (h) Lot coverage and floor area ratio. The charter school facility shall not exceed the lot coverage and floor area ratio allowed by the underlying zoning district.
- (i) Building setbacks. The charter school facility shall comply with the setbacks established in sections 33-17 and 33-18 (a) and (b) of this code for buildings of public assemblage.

Sec. 33-158. Cessation of charter school operation.

The owners of property where a charter school facility is proposed to be located shall, at time of public hearing application, submit a document in a form approved by the Director suitable for recording in the public records and assuring the following:

If the charter school facility is constructed but fails to begin operation and/or the charter school fails after establishment, that the property owner, within 18 months of the facility's failure to begin operation or closure shall cause:

- (a) the facility to be physically removed from the premises, including but not limited to demolition of all buildings, or
- (b) the operation of the charter school facility to be transferred to another charter school operator or the School Board, approved through applicable processes of the Miami-Dade County School Board, or
- (c) the charter school facility to be converted to an allowable use within the zoning district, provided said allowable use has first been authorized through the issuance of the appropriate permits, or

- (d) authorization to be obtained at public hearing by the appropriate zoning board to convert the charter school facility to a use not otherwise allowable within the zoning district.

Sec. 33-159. Plan review standards.

- (a) Scale. The scale of proposed public charter school facilities shall be compatible with the scale of surrounding proposed or existing uses and shall be made compatible by the use of buffering elements.
- (b) Compatibility. The design of public charter school facilities shall be compatible with the design, kind and intensity of uses and scale of the surrounding area.
- (c) Buffers. Buffering elements shall be utilized for visual screening and substantial reduction of noise levels at all property lines where necessary.
- (d) Landscape. Landscape shall be preserved in its natural state insofar as is practicable by minimizing the removal of trees or the alteration of favorable characteristics of the site. Landscaping and trees shall be provided in accordance with Chapter 18A of this code.
- (e) Circulation. Pedestrian and auto circulation shall be separated insofar as is practicable, and all circulation systems shall adequately serve the needs of the facility and be compatible and functional with circulation systems outside the facility.
- (f) Noise. Effective measures shall be provided to keep noise at acceptable levels.
- (g) Service areas. Wherever service areas are provided, they shall be screened and so located as to be compatible with the adjacent properties.
- (h) Parking areas. Parking areas shall be screened and so located as to be compatible with the adjacent properties.
- (i) Operating time. The operational hours of a public charter school facility shall be compatible with the activities of other adjacent properties.
- (j) Industrial and commercial. Where schools are proposed in or adjacent to, industrial or commercial areas it shall be clearly demonstrated in graphic form and otherwise, how the impact on the commercial or industrial area has been minimized through site design techniques and/or operational modifications.
- (k) Fences and walls. Outdoor recreation and/or play areas shall be enclosed with fences and/or walls.

Sec. 33-160. Certificate of use.

The certificate of use shall be automatically renewable annually by the Department upon compliance with all terms and conditions including maintenance of the facility in accordance with

the approved plan and adopted zoning resolution. Said certificate of use is subject to cancellation upon violation of any of the conditions contained in this article or upon notification from the School Board of revocation of the charter of the public charter school.

Sec. 33-161. Previously approved public charter schools.

It is not the intention of this article to require any changes in any public charter school facilities already in existence at the time of the effective date of this article, so long as said uses have been legally established in accordance with existing regulations and are operating under a previously issued certificate of use. Any charter school lawfully established prior to the effective date of this article and any charter school established pursuant to this article, which ceases operations for 18 months or longer, shall be re-established only upon approval after public hearing in accordance with this article. Any expansion or modification of the previous approval for any charter school lawfully established prior to the effective date of this article and any charter school established pursuant to this article shall only be approved after public hearing in accordance with this article.

With the exception noted above, all public charter school facilities shall comply with the requirements of this article.

Sec. 33-162. Enforcement.

The provisions of this article shall be enforced by the Director and Team Metro through the provisions of Chapters 8CC, Chapter 18A, Chapter 33 and Chapter XXX of this code.<<

Section 2. Section 33-311 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-311 Community Zoning Appeals Board – Authority and duties.

- * * *
- (3) *Special exceptions*>>(for all applications other than public charter schools)<< *unusual and new uses*. Hear applications for and grant or deny special exceptions>>, except applications for public charter schools<<; that is, those exceptions permitted by the regulations only upon approval after public hearing, new uses and unusual uses which by the regulations are only permitted upon approval after public hearing; new uses and unusual uses which by the regulations are only permitted upon approval after public hearing; provided the applied for exception or use, including exception for site or plot plan approval in the opinion of the Community Zoning Appeals Board, would not have an unfavorable effect on the economy of Miami Dade County, Florida.
- * * *

Section 3. Section 33-303.1 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-303.1 Developmental Impact Committee.

* * *

- (1) Duties of the Developmental Impact Committee. The Developmental Impact Committee shall perform the following duties:

* * *

- >>(19) Review and make recommendations to the Board of County Commissioners on all applications for public charter school facilities and all applications for expansions or modifications to existing public charter school facilities.<<

* * *

Section 4. Section 33-314 of the Code of Miami-Dade County, Florida is hereby amended as follows:

* * *

- (C) The County Commission shall have jurisdiction to directly hear other applications as follows:

* * *

- >>(12) Hear application for and, upon recommendation of the Developmental Impact Committee, grant or deny those special exceptions for public charter school facilities permitted by the regulations only upon approval after public hearing, provided the applied for special exception, in the opinion of the Board of County Commissioners, is found to be in compliance with the standards contained in Article XI and Section 33-311 (A)(3) of this code.

- (13) Applications for public charter school facilities and expansions or modifications to existing public charter school facilities.<<

Section 5. 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 6. 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 7. This ordinance shall become effective only upon the later of the following: (1) ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, only upon an override by this Board, or (2) the effective date of an agreement between Miami-Dade County and the School Board of Miami-Dade County ("School Board") under which the School Board delegates to Miami-Dade County authority to regulate the siting of public charter schools.

Section 8. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

JAC

Joni Armstrong Coffey