

MEMORANDUM

Agenda Item No. 10(A)(7)

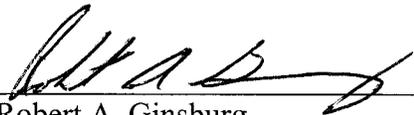
TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: July 13, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Resolution directing County
Manager to prepare an airport
zoning ordinance related to
M.I.A. and the siting of
educational facilities

The accompanying resolution was prepared and placed on the agenda at the request of Commissioner Jose "Pepe" Diaz.



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

(Revised)

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

DATE: July 13, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 10(A)(7)

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. 10(A)(7)
7-13-04

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MANAGER TO
PREPARE AN AIRPORT ZONING ORDINANCE RELATED
TO MIAMI INTERNATIONAL AIRPORT AND THE SITING
OF EDUCATIONAL FACILITIES FOR THE JULY 27, 2004
BOARD OF COUNTY COMMISSIONER'S MEETING

WHEREAS, Miami-Dade County continues to experience rapid population growth and a corresponding need for school construction on an expedited basis; and

WHEREAS, section 333.03, Florida Statutes, requires the passage of an ordinance that prohibits educational facilities in an area (i) extending 5 miles from either end of any runway and (ii) one-half the length of the runway from the runway centerline; allowing for exceptions when certain findings are made; and

WHEREAS, this Board recognizes the importance of balancing the need for school construction on an expedited basis with the need to maintain safety near airports; and

WHEREAS, this Board included in its state legislative package passage of a bill that would exclude Miami-Dade County from the airport school zoning mandates contained in section 333.03; and

WHEREAS, the Florida Legislature passed a bill, CS/SB 2572, during the 2004 regular session, that would exclude a class of counties that included Miami-Dade County from the airport school zoning mandates contained in section 333.03; and

WHEREAS, the Governor on July 1, 2004 vetoed CS/SB 2572 (see attached letter),

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Directs the County Manager to prepare a draft airport zoning ordinance for first reading on the July 27, 2004 Board of County Commissioner's meeting related to Miami International Airport and the siting of educational facilities. The draft ordinance should balance the need to provide maximum flexibility in quickly siting educational facilities with the need to maintain safety and avoid incompatible uses near the Airport. The draft ordinance should also comply with the state airport zoning mandates related to educational facilities in section 333.03, Florida Statutes, but not contain provisions related to educational facilities over and above those that are required by state law.

Section 2. Directs the County Manager to consider and if appropriate determine and set in the draft ordinance an appropriate distance from Miami International Airport within the five (5) mile airport school zone that the Board could make findings for the siting of all educational facilities to avoid the need to make findings on a case-by-case basis.

The foregoing resolution was sponsored by Commissioner Jose "Pepe" Diaz and was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to vote, the vote was as follows:

Dr. Barbara Carey-Shuler, Chairperson	
Katy Sorenson, Vice-Chairperson	
Bruno A. Barreiro	Jose "Pepe" Diaz
Betty T. Ferguson	Sally A. Heyman
Joe A. Martinez	Jimmy L. Morales
Dennis C. Moss	Dorin D. Rolle
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 13th day of July, 2004. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency *JMM*

Jess M. McCarty

STATE OF FLORIDA

Office of the Governor

THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001

www.flgov.com
850-488-7146
850-487-0801 fax



JEB BUSH
GOVERNOR

July 1, 2004

Ms. Glenda E. Hood
Secretary of State
Florida Department of State
R. A. Gray Building
500 South Bronough Street
Tallahassee, FL 32399

Dear Secretary Hood:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of Florida, I do hereby withhold my approval of Committee Substitute for Senate Bill 2572, enacted during the 36th Session of the Legislature of Florida convened under the Constitution of 1968, during the Regular Session of 2004, and entitled:

An act relating to airport zoning . . .

This bill allows Miami-Dade County to circumvent the existing process for local government approval of school construction within airport flight paths. Although Florida law prohibits construction of schools within airport flight paths and certain noise zones, section 333.03, Florida Statutes, allows exceptions – provided certain local actions are taken. Specifically, the local government must make findings addressing health and safety concerns and the airport's governing body must conduct a noise study. Based on the legislative scheme embodied in section 333.03, these exceptions to the county's existing airport zoning regulations need not be made on a facility-specific (case-by-case) basis but instead may simply identify those areas within the flight path that the community deems appropriate for placement of schools. Indeed, section 333.03 speaks of "airport zoning regulations" in general and the creation of exceptions thereto.

The state's overarching policy presumes the paramount importance of protecting our children and teachers by forbidding construction of schools under flight paths. At the same time, the law recognizes that local governments are best equipped to make the final decision and therefore allows counties, upon certain findings of fact and noise studies, to permit school construction under flight paths. A process therefore exists by which Miami-Dade can approve school construction under flight paths. The state should not circumvent that process. Such would be bad policy and an invitation for others to seek similar such exemptions.

2004 JUL - 1 PM 5:12
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA
FILED



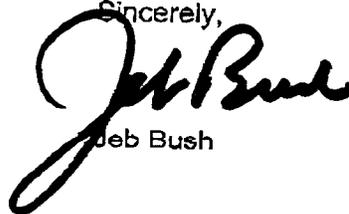
Governor's Mentoring Initiative
BE A MENTOR. BE A BIG HERO
1-800-825-3786

6

Ms. Glenda E. Hood
July 1, 2004
Page Two

For these reasons, I therefore withhold my approval of Committee Substitute for Senate Bill 2572 and do hereby veto the same.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeb Bush". The signature is written in a cursive, flowing style with a large initial "J".

Jeb Bush