MEMORANDUM

Agenda Item No. 6(A)

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

DATE: September 9, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance pertaining to zoning and environmental protection

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Jose "Pepe" Diaz, Commissioner Bruno A. Barreiro and Commissioner Rebeca Sosa.

Robert A. Ginsburg
County Attorney

RAG/bw

MEMORANDUM

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

DATE: September 9, 2004

FROM: George M. Burgess
County Manager

SUBJECT: Ordinance pertaining to zoning and environmental protection

This ordinance pertaining to zoning and environmental protection will have a minimal fiscal impact on Miami-Dade County.

Adoption of this ordinance will allow most rock mining activities within the Lakebelt region of the County to occur as a matter of right. As such, there will be no requirement for public hearing regarding an unusual use. The industry will therefore not be required to pay certain application fees, but the loss of revenue will be offset in Public Works, Planning and Zoning, and DERM staff time and opportunity costs.

Fiscal/001604

MEMORANDUM
(Revised)

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

DATE: September 9, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(A)

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(A)
9-9-04

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ZONING AND ENVIRONMENTAL PROTECTION; CREATING ARTICLE XI, SECTION 33-152 ET SEQ. OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO PROVIDE FOR ROCKMINING OVERLAY ZONING AREA; AUTHORIZING ROCKMINING AND ANCILLARY USES, CONTROL OF SUCH USES, AND WAIVER OF RIGHTS-OF-WAY IN OVERLAY ZONING AREA; REQUIRING APPLICATION TO THE BOARD OF COUNTY COMMISSIONERS FOR CERTAIN ANCILLARY USES TO ROCKMINING; AMENDING SECTIONS 33-13 AND 33-314 OF THE CODE; AMENDING SECTION 24-58.9 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO TIME OF COMPLETION OF WORK; 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. Section 33-13 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-13. Unusual uses.

* * *

(e) *Unusual and new uses.* Unless approved upon public hearing, the following unusual uses or uses similar thereto shall not be permitted in any district save and except in those districts that permit such uses without a public

[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.

hearing: Airport; airplane crop dusting field; all zoning applications by State and municipal entities and agencies; amusement rides and enterprises; amusement center (except in BU-1A Zone in which such use is permitted); archery ranges; art galleries and museums (educational and philanthropic) in districts more restrictive than RU-4; auction sales; auto, truck, machinery salvage yards; bathing beach; boat salvage; bombing field, canal excavation, where not a part of C. & S. F. F. C. D. and County secondary canal system; carnivals, circuses; convalescent homes; day camp, day nursery in zone more restrictive than RU-3; dog kennel, dog training track; electric substation; electric power plant; frog farm; garbage and waste dumps; gas distribution system and plant; golf course except in RU-1 and other Districts where the same is a permitted use; golf course clubhouse and incidental uses in all districts more restrictive than the BU-1 District; golf driving range; gypsy camp; heliports; homes of the aged (except group homes and community residential homes where same is a permitted use); homes for dependent children (except group homes and community residential homes where same is a permitted use); hospitals (not animal hospital) in district more restrictive than RU-4; incinerators; Indian village; institutions for handicapped persons (except group homes and community residential homes where same is a permitted use), including but not limited to incidental related facilities such as workshops, sales of products fabricated therein, residential quarters, educational training facilities; infirmary, commissary, or any one (1) or combination of such related incidental facilities; junkyard; kindergarten in zones more restrictive than RU-3; lake excavation and asphalt plant, concrete batching plant, concrete block plant, prestressed and precast concrete products plant, rock crushing and screening plant ancillary thereto or in connection [[~~there~~]]with[[~~;~~]] >>lake excavation(s), excluding those uses expressly allowed in the "Rockmining Overlay Zoning Area" as defined in Section 33-152;<< . . .

* * *

Section 2. Article XI, Sections 33-152 through 33-157 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

ARTICLE XI – ROCKMINING OVERLAY ZONING AREA (ROZA)

Sec. 33-152. Definitions.

The following words and phrases when used in this Article shall have the meaning ascribed to them in this Section:

Asphalt plant shall mean a facility used for the manufacture of asphalt paving products by combining crushed limestone, sand or screening with a heated petroleum binder in a kiln. An asphalt plant includes parking spaces needed for trucks, materials handling equipment, and administrative, control and office buildings. The asphalt manufactured at an asphalt plant consists of more than 80% limestone quarry products, which asphalt is primarily used in highway and parking area paving.

Cement plant shall mean a facility used for the manufacture of cement and mortar products. The products are manufactured by grinding limestone to a fine consistency and mixing it with certain additives such as silicates, aluminates, and iron oxides and then heating it in kilns to temperatures in excess of 2000° Fahrenheit. This process produces clinker, which is ground by mills with other ingredients such as gypsum to make specific types of cement and mortar products used in concrete manufacturing and masonry/brick construction. A cement plant includes parking spaces needed for trucks, materials handling equipment, and administrative, control and office buildings. The cement manufactured at a cement plant consists of more than 90% limestone quarry products.

Concrete batching plant or ready mixed concrete plant shall mean a facility used for the delivery of limestone aggregate, sand or screenings, cement and water into mixer trucks as part of the concrete manufacturing process. This facility may contain a system of conveyor belts, chutes, storage silos, stockpile areas, water and air systems, and weight scales and meters for the accurate dispensing of the raw materials to produce the desired strength and type of concrete. A concrete batching plant or ready mixed concrete plant facility includes parking spaces needed for trucks, materials handling equipment, and administrative, control and office buildings. The concrete manufactured at a concrete batching plant or ready mixed concrete plant consists of more than 90% limestone quarry products.

Concrete block plant shall mean a facility used for the manufacture of concrete block and contains sufficient ground and/or covered storage for curing the blocks once removed from their molds, as well as materials batching equipment with automated systems for placing the concrete into block molds and transporting the blocks to curing racks and stockpile areas. A concrete block plant includes parking spaces needed for trucks, materials handling equipment, and administrative, control or office buildings. The concrete blocks manufactured at a concrete block plant consist of more than 90% limestone quarry products.

DERM shall mean the Miami-Dade County Department of Environmental Resources Management.

Director of DERM shall mean the Director of DERM or the Director's designee.

Prestressed and precast concrete production plant shall mean a facility used for the manufacture of various concrete products and includes the equipment necessary to deliver concrete into molds and the materials needed to add strength to the final product such as steel reinforcement bars, strands or mesh, or, in the case of prestressed concrete, wire strands in tension. A prestressed and precast concrete production plant manufactures such things as concrete pipe, vaults, and bridge and highway components, requires a large outside storage area for finished product inventory, and includes parking spaces needed for trucks, materials handling equipment, and administrative, control and office buildings. The products produced at a prestressed and precast concrete production plant consist of more than 95% limestone quarry products, excluding the steel reinforcement material.

Rockmining Overlay Zoning Area (ROZA) shall mean that area described as follows: All of Section 6; that part of Section 4, lying northwesterly of the Florida Turnpike and west of Interstate 75, and those parts of Sections 5, 7, 8, 18 and 19 lying northwesterly of the Florida Turnpike, all lying in Township 52 South, Range 40 East; and all of Sections 1 and 2, the east ½ of Section 3, Section 10 less northwest ¼ thereof, and all of Sections 11, 12, 13, 14, 15, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, all lying in Township 52 South, Range 39 East; all of Sections 1, 2, 3, 4, 9, 10, the west ½ of Section 13, all of Sections 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and the west ½ of Section 36, less the Northwest Wellfield area consisting of all lands within a 2,500 ft. distance from each of the

wells, all lying in Township 53 South, Range 39 East; and Government Lots 3 and 4 lying between Township 52 south and Township 53 South; and that part of Section 3 and that part of Section 4 lying north of the Tamiami Trail, SR. 90 (U.S. 41) lying in Township 54 South, Range 39 East; and the East ½ of Section 13, all of Section 24 and the North ½ of Section 25 of Township 54 South, Range 38 East.

Rock crushing and screening plant shall mean a facility comprised of systems used for the automated conveying, crushing, segregation and blending of crushed rock in order to manufacture the basic materials used in construction such as concrete, concrete block, cement, asphalt, road base and many other rock products. A rock crushing and screening plant facility includes portable crushing facilities used primarily for the processing of road base material and parking spaces for trucks, materials handling equipment, and administrative, control and office buildings.

Rockmining shall mean the dredging or excavation of an area for the purpose of extracting subsurface materials. Rockmining shall also include ancillary property uses necessary for the extracting and processing of subsurface materials.

Sec. 33-153. Districts and Locations Where Rockmining Uses Are Permitted.

(1) The boundaries of the ROZA are defined in Section 33-152.

(2) Rockmining uses are permitted in all zoning districts within the ROZA without a public hearing, upon approval of plans by the Department that are in compliance with the specified criteria of this Article, particularly the lake excavation plan criteria enumerated in Section 33-155(5) and Chapter 24 of the Code.

(3) All of the regulations of the underlying zoning districts apply within the ROZA except:

(a) Height restrictions. Notwithstanding the existing height restrictions within the underlying zoning districts imposed by this Chapter, and due to the nature of the uses permitted by this Article and the requirements imposed thereby, none of the height restrictions of the underlying zoning districts apply.

(b) Setback regulations. Within the ROZA, all buildings, structures and equipment shall be setback a minimum of 25 feet from all property lines under different ownership, except that no setback regulation is imposed upon conveyor belts and/or other systems or equipment used for the transportation of raw materials permitted below by Section 33-154(1)(b)(i), provided; however, that such conveyor belt and/or systems or equipment for transportation of raw materials shall not extend across property boundaries without the consent of the adjacent property owner(s).

(c) Off-street parking regulations. Notwithstanding the existing parking regulations within the underlying zoning districts imposed by this chapter and due to the nature of the uses permitted by this Article, the off-street parking area requirements of Section 33-126 of this Code do not apply.

(4) Rockmining uses shall not be permitted in any other area of unincorporated Miami-Dade County, Florida, other than as described in Section 33-153(1) of this Article, unless approved after public hearing pursuant to Section 33-13 of this Code.

Sec. 33-154. Uses Permitted by This Article.

(1) The rockmining uses permitted by this Article include:

(a) All rockmining, including lake excavations; quarrying of raw materials; rock crushing and screening; filling of excavations with rockmining tailings; the erection, maintenance and operation of all types of equipment necessary for the quarrying of raw materials; administrative offices, equipment and tool buildings, and watchman's prefabricated modular buildings necessary for the rockmining uses permitted by this Article.

(b) Uses ancillary to *bona fide* rockmining, provided that the rockmining uses and uses ancillary thereto are under common property ownership, which, for

purposes of this Article, shall consist of fee-simple title or a lease of 25 years or more.

(i) the erection, maintenance and operation of cement plants; concrete batching plants or ready mixed concrete plants; concrete block plants; prestressed and precast concrete production plants; rock crushing and screening plants; asphalt plants but only in areas located outside any wellfield protection area as defined by Chapter 24 of this Code and in areas, as of the date of filing of an application for a certificate of use for such asphalt plant, more than two miles from any RU or EU zoning district boundary; office, control and laboratory buildings attendant to the uses set forth herein; operation of storage facilities for all equipment used in rock mining on premises attendant to the uses set forth herein; conveyor belt and/or other systems or equipment for the transportation of raw materials, repair facilities for the service of all equipment used on the premises and necessary for the service and operation of equipment used in connection with rockmining uses permitted by this Article; and the storage of fuel, oil, and lubricants necessary for the service and operation of equipment used in connection with rockmining uses permitted by this Article and to the extent authorized by Chapter 24 of this Code; and office, control and laboratory buildings required for the operation of the facilities described above.

The 2-mile distance requirement for asphalt plants shall be measured by following a straight line from the nearest structure of the asphalt plant to the nearest point of an EU or RU district boundary, as depicted on a survey prepared and sealed by a Florida-licensed surveyor and/or professional engineer.

(ii) the outdoor storage of vehicles and lake excavation equipment required for the rockmining uses permitted by this Article, subject to the following conditions: the vehicles and equipment shall be maintained in operable condition at all times, except as otherwise provided herein, and further provided that such vehicle and equipment storage areas shall be setback a minimum of 25 feet from all property lines under different ownership and rights-of-way; and the maintenance, repairs or overhaul performed on equipment or vehicles required by the rockmining uses permitted by this Article shall be in accordance with best management practices as approved by DERM.

(c) Uses ancillary to rockmining requiring approval after public hearing provided; however, that such application for public hearing shall be made directly to the Board of County Commissioners pursuant to Section 33-314(C) of this Code:

(i) the erection, maintenance and operation of tile and other concrete products processing and fabrication plants;

(ii) the erection, maintenance and operation of asphalt plants located within any wellfield protection area as defined by Chapter 24 of this Code or within two miles of any RU or EU zoning district boundary in existence as of the date of filing of an application for certificate of use for such asphalt plant.

(2) Nothing in this Article shall be construed to prohibit uses within the Lake Belt that are otherwise permitted by this Chapter or permitted by zoning action.

Sec. 33-155. Control of Rockmining Uses.

(1) Nothing in this Article shall be construed to modify, amend or supersede any of the provisions of Chapter 24 of this Code.

(2) Rockmining is permitted hereunder after a 10-year rockmining certificate of use issued by Director upon compliance with the terms and conditions of the Plan, as defined in Subsection 3 below, subject to cancellation upon violation of any of the terms and conditions of the certificate of use.

(3) Application for a 10-year rockmining certificate of use shall be made by submittal of at least 3 sets of a 10-year lake excavation plan (the "Plan"), prepared and sealed by a Florida-licensed professional engineer, to the Director. The Plan shall indicate the extent of proposed lake excavation including any lake excavation phase lines, setbacks from property lines and zoned or dedicated rights-of-way, minimum and maximum lake depths, lakes slopes, ancillary uses, as well as any littoral shelves or other mitigation areas.

(4) Upon review and evaluation of the Plan, DERM shall issue to the Director a recommendation stating whether the Plan complies with Chapter 24 of this Code and all conditions included in any permits required by DERM.

(5) Upon review and evaluation of the Plan and the recommendation from DERM, the Director shall issue the 10-year rockmining certificate of use if the Director determines that the Plan is in compliance with the criteria enumerated in this Section, this Article, Chapter 24, and all conditions included in any permits required by DERM. Upon issuance, the 10-year rockmining certificate shall allow the uses permitted by this Article and shall be promptly renewed with the Department, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the terms and conditions. On an annual basis from the date of issuance of the 10-year rockmining certificate of use, a plan prepared and sealed by a Florida-licensed professional engineer shall be submitted to the Director, which plan shall depict the extent of rockmining conducted in the preceding 12 months. Failure to commence the excavation project within 6 months of the date of the original certificate of use issuance shall result in an abandonment of the excavation project.

(a) The construction of the perimeter littoral restoration areas and lake slopes shall be performed as approved by the Director of DERM. In accordance with this requirement, "as built" surveys prepared and sealed by a Florida-licensed surveyor and/or professional engineer shall be submitted to the Department within 180 days of completion of the littoral shelf restoration.

(b) The lake excavation site shall be suitably staked as approved by the Director and Director of DERM; stakes shall be maintained in proper position so that the limits of excavation, slopes, and grade levels may be easily determined.

(c) Access to the lake excavation site shall be restricted and the property shall be suitably posted to meet with the approval of the Director and the Director of DERM; said postings shall denote the rockmining operation and warn the public concerning possible hazards prior to commencement and for the duration of the excavation.

(d) If the lake excavation operation is discontinued, abandoned or time expires under the 10-year rockmining certificate of use, the excavation shall immediately be restored by the construction of the littoral area around the perimeter of the excavated lake, as required by DERM.

(e) No positive drainage of storm water from roads or other source will be allowed to enter the excavation except as allowed under a Class II permit issued by DERM. Retention of pollutants is one criterion for issuance of such a Class II permit.

(f) There shall be no direct connection between a lake excavation and a drainage canal. A system to allow overflows from lakes to canals for flood control purposes may be constructed subject to the approval of the Director and Director of DERM and upon the issuance of all required permits.

(g) To ensure compliance with all terms and conditions imposed, a joint cash or joint surety bond or

substantially equivalent instrument as approved by the Director shall be posted with the Department, payable to Miami-Dade County, in an amount as may be determined by the Director. The bond or equivalent instrument shall be in recordable form so that it may be recorded in the public records of Miami-Dade County and the instrument shall be executed by the property owner and any and all parties who may have an interest in the land, such as mortgagees. The bond amount shall be based on the estimated costs to create the approved perimeter littoral areas and slopes depicted on the submitted Plan and shall satisfy the requirements of the Department.

(h) Upon completion of the lake excavation activities, the property shall be restored and left in a condition acceptable to the Director and the Director of DERM or their respective designee.

(i) If, in the opinion of the Director, the excavation is hazardous to the surrounding area, the hazardous area shall be fenced in, or otherwise protected, by the applicant in a manner acceptable to the Director.

(j) The perimeter of an excavated lake shall be consistent with the littoral shelf requirements of the approved Plan and the Class IV permits issued by DERM.

(k) If a lake excavation is proposed to be excavated in phases, a separate phase plan shall be submitted with the initial Plan. The phase plan shall delineate the area to be excavated in each phase and the time frame projected to close out each phase of the excavation project.

(l) Grading, leveling, and sloping of banks and perimeter littoral shelves shall occur on a progressive basis as the project develops and excavation progresses.

Sec. 33-156. Minimum Landscaped Open Space, Mitigation Areas and Littoral Zones.

Notwithstanding any provisions of Chapter 33 or Chapter 18A (Landscaping Code) of the Code and due to the nature of the uses authorized by this Article and the requirements for these uses set forth in Chapter 24 and by other state, regional, and federal agencies, the mitigation areas and littoral zones provided for under all of the foregoing shall be deemed to constitute compliance with the landscaped open space requirements for the uses authorized by this Article. The timing of the installation of any required mitigation and littoral areas shall be governed by the permits issued by DERM pursuant to Chapter 24 of this Code.

Sec. 33-157. Zoned Rights-of-Way.

Notwithstanding any provisions of Section 33-133, upon approval of the Director and the Director of the Public Works Department, rights-of-way within the areas described by Section 33-153 may be waived and/or a dedication shall not be required, as long as the affected properties are utilized for the uses permitted under Section 33-154 of this Article and are not needed for access to non-rockmining properties that are otherwise landlocked. Previously dedicated rights-of-way may be abandoned in accordance with the procedures set forth pursuant to Chapter 28 of this Code.

Section 3. Section 33-314 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-314. Direct applications and appeals to the County Commission.

* * *

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

(1) Upon application for, hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Development Impact Committee Executive Council or its Chairman in the discharge of its duties as

defined in Sections 2-114.1, 2-114.2, 2-114.3, 2-114.4 and Chapters 28, 33-303.1(D)(3), 33E, [Section] 33G-6, 33H, 33I and 33J and 33K of the Code. The Board of County Commissioners shall also hear and decide appeals or other matters as provided by Sections 2-114.2, 2-114.3, and 2-114.4 of the Code.

* * *

>>(12) Applications for uses ancillary to *bona fide* rockmining pursuant to Section 33-154(c) of this Article.<<

* * *

Section 4. Chapter 24 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 24-58.9. Time of completion of work; extension of completion time and new permits for incomplete work.

(A) All work authorized by a permit issued pursuant to this article shall be completed within the time periods set forth in the permit in accordance with the following schedule, unless another period of time is permitted as set forth in the resolution granting approval of the permit by the Board of County Commissioners:

Class I and Class IV short form permits ..... 2 years

Class I and Class IV short form permits for which a public hearing has been requested pursuant to Section 24-58.2(I)(B)(1) ..... 2 years

Class I and Class IV standard form Permits ..... 3 years

Class I short form permits for trimming, cutting, or any other alteration of mangrove tree(s)..... 3 years

Class I short form permits for trimming, cutting, or any other alteration of mangrove tree(s), for which a public

hearing has been requested pursuant to Section 24-58.2(I)(B)(1) ..... 3 years

Class I standard form permits for trimming, cutting, or any other alteration of mangrove tree(s) ..... 3 years

Class IV short form permits for rockmining..... [[~~5~~]]>>10<<years

Class IV short form permits for rockmining for which a public hearing has been requested pursuant to Section 24-58.2(I)(B)(1) ..... [[~~5~~]]>>10<<years

Class IV standard form permit for rockmining .... [[~~5~~]]>>10<<years

Class II permits ..... 1 year

Class II permits for which a public hearing has been requested pursuant to Section 24-58.2(I)(B)(1) ..... 1 year

Class III permits ..... 1 year

Class III permits for which a public hearing has been requested pursuant to Section 24-58.2(I)(B)(1) ..... 1 year

Class V permits ..... 120 days

Class VI permits ..... 1 year

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

Section 7. 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: RAG

Prepared by: CHC PST

Craig H. Coller/Peter S. Tell

Sponsored by Commissioner Jose "Pepe" Diaz,
Commissioner Bruno A. Barreiro and Commissioner Rebeca Sosa