MEMORANDUM

Agenda Item No. 4(K)

TO:	Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners	**DATE:**	May 17, 2005
FROM:	Robert A. Ginsburg County Attorney	**SUBJECT:**	Ordinance relating to incorporation; amending Sections 20-20, 20-21, 20-22 and 20-29 of the Code

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Dennis C. Moss and Commissioner Natacha Seijas.

Robert A. Ginsburg
County Attorney

RAG/bw

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

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FROM: Robert A. Ginsburg
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SUBJECT: Agenda Item No. 4(K)

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. 4(K)
5-17-05

ORDINANCE NO. _____

ORDINANCE RELATING TO INCORPORATION; AMENDING SECTIONS 20-20, 20-21, 20-22 AND 20-29 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; INCREASING THE PERCENTAGE OF ELECTORS REQUIRED TO CONSENT TO A PETITION FOR INCORPORATION; REQUIRING MUNICIPAL ADVISORY COMMITTEES CREATED PURSUANT TO SECTION 20-29 OF THE CODE TO REVIEW AND STUDY PETITIONS FOR INCORPORATION; REVISING PROCESS PERTAINING TO INCORPORATION PETITIONS AND CREATION OF MUNICIPAL ADVISORY COMMITTEES; APPLICABILITY TO PETITIONS COMPLETED PRIOR TO EFFECTIVE DATE OF THIS ORDINANCE; REQUIRING CONSENT OF NO LESS THAN TWENTY-FIVE PERCENT OF RESIDENT ELECTORS TO CREATE CERTAIN MUNICIPAL ADVISORY COMMITTEES; 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 20-20 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 20-20. Petition for incorporation initiated by individual or group >>; Creation of Municipal Advisory Committee related to petition<<.

(A) An individual or group of area residents, as an indication of interest in incorporating the area in which they reside, may

[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.

file a >>request for approval of the form of a petition and authorization to circulate such<< petition for incorporation with the Clerk of the Board of County Commissioners.

(1) The petition >>form<< shall >>provide for<< [[~~include~~]] the following information about the proposed municipality:

(a) General description and map of area boundaries, and

(b) Statement of the reason for seeking incorporation.

>>(c) Summary stating the possible implications of incorporation, which shall include a statement as to the anticipated effect of incorporation on municipal taxes.<<

>>(2) The Clerk of the Board of County Commissioners shall report to the Commission that a request to approve the form of a petition for incorporation and authorize the circulation of such petition has been received. The Board of County Commissioners may approve the form of the petition and may authorize the petitioners to circulate the petition for incorporation and obtain signatures of resident electors within the area.

(3)<< [[~~(2)~~]] >>In order for the submitted petition to be complete, the<< [[~~The~~]] petition shall include [[~~the~~]] consent from [[~~ten (10)~~]]>>no less than twenty-five (25)<< percent of the electors residing in the area proposed for incorporation.

[[~~(3) Any resolutions of support for incorporation by the closest existing municipality.~~]]

>>(4) Signed petitions shall be submitted to the Clerk of the Board within 90 days of the date the County Commission approves the form and authorizes the circulation of the petition in order for the petition to receive any further review or consideration by the

County. Petitioners should submit any resolutions of support or opposition, if any exist, from the closest existing municipality within such 90 day period.<<

(B) The Clerk of the Board of County Commissioners shall upon receipt of a petition for incorporation transmit a copy to the Office of >>Strategic Business Management<< [[~~Management and Budget~~]] for determination of completeness in accordance with the requirement of subsection (A)>>(1) and to the Department of Elections for certification as to the sufficiency of signatures on the petition<<. Upon determining that the petition is complete >>and that a sufficient number of valid signatures has been obtained<<, the Office of >>Strategic Business Management<< [[~~Management and Budget~~]] shall notify the Clerk of the Board [[~~and make recommendation to County Manager regarding overall schedule for consideration of petition~~]]>>of such occurrence<<.

>>(C) The Clerk of the Board of County Commissioners shall notify the County Commission that the petition is complete and contains sufficient signatures. Upon notification of the completeness and sufficiency of the petition and upon sponsorship of the County Commissioner whose district comprises the majority of the area proposed to be incorporated by the petition, the Board of County Commissioners may create a Municipal Advisory Committee ("MAC"), which shall carry out the functions set forth in the resolution or ordinance creating the MAC and be subject to the requirements of Section 20-29 of the Code of Miami-Dade County (the "Code"). Notwithstanding the creation of a MAC, the procedures for consideration of a petition set forth in Section 20-20 *et seq.* of the Code shall apply. If the boundaries in the completed petition differ from the boundaries of the MAC study area, the boundaries of the MAC study area shall supplant and be substituted for the boundaries included in the petition; provided, however, 25% of the electors residing within the boundaries as revised to conform to the MAC study area shall have signed petitions indicating their interest in incorporating the area.<<

[[~~(C)~~]]>>(D)<< The requirement of filing a petition for incorporation pursuant to Sec. 20-20 of the Code of Miami-

Dade County (the "Code") and the procedures for such filing contained in Sec. 20-21(A) of the Code shall not apply to incorporation proposals by the County Commission or County Manager. It is provided, however, that a Commission or Manager-initiated incorporation proposal shall be deemed a petition for proposed incorporation for purposes of Section 20-21; 20-22, and 20-23 and shall be required to comply therewith. Notwithstanding Section 20-23A herein, the Board of County Commissioners may hold a public hearing on a Commission initiated incorporation proposal during any regular or special meeting of the Board of County Commissioners.

Section 2. Section 20-21 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 20-21. Initial consideration of petition for proposed incorporation.

(A) >>Upon creation of a MAC pursuant to Section 20-20(C) of the Code and receipt of the final resolution and report of the MAC created to study the issues involved in the incorporation petition (the "Municipal Advisory Committee or MAC report")<< [[~~After receiving the Office of Management and Budget's determination that the petition is complete~~]], the Clerk of the Board of County Commissioners shall >>submit the MAC report to the Board of County Commissioners<< [[~~schedule for public hearing the proposed petition for incorporation at a regular meeting of the Board of County Commissioners.~~]] >>Upon receipt of the MAC report and only upon motion of the district commissioner whose district comprises the majority of the area proposed to be incorporated, the Board of County Commissioners, at a regular meeting of the Board of County Commissioners may schedule the petition for consideration by the Planning Advisory Board in accordance with all applicable requirements. The provisions of this section shall apply to petitions filed prior to and subsequent to the effective date of this ordinance. No MAC in existence prior to the effective date of this ordinance shall fulfill the requirements of this Section. No petitions having had their initial public hearing pursuant to Sec. 20-21(C) prior to the effective date of this ordinance

shall receive further consideration by the County Commission or any county established board, unless and until the provisions of this section and Section 20-20(C) have been met.<<

* * *

Section 3. Section 20-22 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 20-22. Planning Advisory Board's consideration of petition for incorporation.

* * *

(B) The Director of the Office of >>Strategic Business Management<< [[~~Management and Budget~~]], upon receipt of [[~~recommendations of~~]] >>comments and information from<< other departments, shall prepare a report on the petition containing the following information:

(1) Summary of petition,

(2) Socio-economic profile of area,

(3) Development profile of area, [[~~and~~]]

>>(4) Any Municipal Advisory Committee Report, and<<

[[~~(4)~~]]>>(5)<<Other information outlined in Section 20-23(B)(1).

The report shall be transmitted to the Planning Advisory Board.

(C) The Planning Advisory Board, upon receipt of a petition and appropriate County department staff review and comment shall:

(1) Create a five-member committee of the Planning Advisory Board appointed by its chair for the purpose of studying and making a recommendation to the full Board on the petition. The chair of the Planning Advisory Board shall designate a chair for such

committee. In making its report and recommendation to the full Board the committee shall utilize the guidelines set forth >>in<< subsection (4).

(2) Conduct a properly advertised public hearing within the area proposed for incorporation.

(3) Require additional information from appropriate County departments as needed.

(4) Make written recommendations with respect to the petition >>and any Municipal Advisory Committee Report <<which shall include the following:

(a) An analysis of the issues outlined in Section 20-23(B);

* * *

(E) The Director of the Office of >>Strategic Business Management<< [[~~Management and Budget~~]] shall forward the petition and recommendations of the Planning Advisory Board >>as well as the Municipal Advisory Committee Report, << to the County Manager for review and recommendation. The County Manager shall transmit >>the Manager's recommendation<< the petition, the recommendation[[s]] of the Planning Advisory Board >>, as well as the Municipal Advisory Committee Report,<< [[~~and County Manager~~]] to the Clerk of the Board of County Commissioners.

* * *

Section 4. Section 20-29 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 20-29. Municipal Advisory Committee--Creation and Limitation of Study Area.

(A) [[~~Following public hearing, a~~]] >>A<<Municipal Advisory Committee may be created by ordinance or resolution of the Board >>in accordance with the provisions of this section<< to study and give advice to the County

Commission regarding the creation of a proposed municipality. >>However, as of the effective date of this ordinance, no Municipal Advisory Committee shall be created by the County Commission, unless no less than twenty-five (25) percent of the resident electors in the area to be studied consent to the creation of a Municipal Advisory Committee on a consent form which shall be approved by the Office of Strategic Business Management. The signed consent forms shall be submitted to the Clerk of the Board of County Commissioners. Upon submission of the signed consent forms, the Clerk of the Board of County Commissioners shall submit the signed consent forms to the Department of Elections for certification as to the sufficiency of signatures on the consent forms. Upon notification of certification by the Department of Elections, the Clerk of the Board shall forward to the County Commission the signed consent forms of area residents and the certification of the sufficiency of the consent forms. Following public hearing, the County Commission may create a Municipal Advisory Committee. It is provided, however, that where a Municipal Advisory Committee has been established by resolution, prior to the effective date of this ordinance, no consent of resident electors shall be required for the adoption of an ordinance creating a Municipal Advisory Committee involving the same study area. It is further provided that where a Municipal Advisory Committee is established by resolution after obtaining the consent of the resident electors as required by this subsection, no further consent shall be required to create by ordinance a Municipal Advisory Committee involving the same study area. The provisions of section (E) of this section shall not apply to Municipal Advisory Committees created as required by Section 20-20 and 20-21 of the Code of Miami-Dade County.<<

(B) In the event a Municipal Advisory Committee is created where part of the study area is outside the sponsoring Commissioner's district, such area shall automatically be excluded from the Municipal Area Committee's consideration.

(C) The restriction set forth in Paragraph (B) may be waived by the Commissioner(s) whose district the study area comes within by filing a memorandum with the Clerk of the Board indicating consent to all or part of the study area.

(D) This section shall apply to existing as well as to all future Municipal Advisory Committee's created after the effective date of the ordinance from which this section derives.

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 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:

Cynthia Johnson-Stacks
Craig H. Coller

Sponsored by Commissioner Dennis C. Moss\
Commissioner Natacha Seijas