

Memorandum



(Second Reading 01-22-08)

Date:

December 4, 2007

To:

Honorable Chairman Bruno A. Barreiro and
Members, Board of County Commissioners

From:

George M. Burgess
County Manager

Agenda Item No. 7(D)

Subject:

Ordinance Repealing Ordinance No. 01-100 establishing the Redland Municipal
Advisory Committee

Recommendation

It is recommended that the Board of County Commissioners (BCC) approve the attached Ordinance repealing Ordinance 01-100 establishing the Redland Municipal Advisory Committee (MAC).

Scope

This agenda item will affect the area of Redland from continuing to study the feasibility and desirability of incorporating their area.

Fiscal Impact/Funding Source

The accompanying ordinance will not have a fiscal impact on Miami-Dade County.

Track Record/Monitor

Not applicable.

Background

At the November 13, 2007, Government Operations and Environment Committee meeting, the ordinance repealing the Redland, Goulds and PLANT MACs was bifurcated and the ordinance to repeal the Redland MAC was forwarded with a favorable recommendation by the Committee to the BCC. The ordinance to repeal the Goulds and PLANT MACs was forwarded without a recommendation to the BCC and appears as a separate item on this agenda.

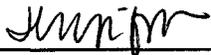
On March 29, 2007 the Government Operations and Environment Committee held an Incorporation/Annexation and Mitigation Workshop to address issues relating to incorporation and annexation. Staff presented policy recommendations for the Committee's consideration. The Committee instructed staff to prepare ordinances implementing the policy recommendations accepted at the committee workshop.

On June 5, 2001, July 13, 2004, and July 27, 2004, respectively, the Board approved the ordinances creating each of these MACs. The MACs were charged with reviewing the feasibility and desirability of incorporating their respective areas. The MACs reviewed fiscal impact of their areas' incorporation on the Unincorporated Municipal Services Area (UMSA) budget, the functions and responsibilities of municipal governments, the obligations of new municipalities to the County and to its municipal residents, and in the case of Redland the MAC developed a pro-forma budget for the proposed municipality.

On November 20, 2001 the Board held a public hearing regarding the proposed incorporation of the Redland area. Based on testimony from Goulds and Princeton area residents regarding boundary disputes with the proposed Redland area incorporation, the Board deferred the proposed incorporation to a no-date certain in order to give the MAC and its neighboring communities the opportunity to resolve the boundary disputes. On January 20, 2004 the Board adopted Resolution R-116-04 directing the County Manager to enter into agreement with the Florida Conflict Resolution Consortium (FCRC) to assess the use of a collaborative process to resolve the boundary issues of incorporation proposals in South Miami-Dade County. The FCRC conducted a preliminary feasibility assessment on the use of a mediated process to resolve the existing boundary disputes. The FCRC report was presented to the Board on May 18, 2004 (Attachment 1).

The Board directed the County Manager to contract with the FCRC to conduct the mediation process. Between August and October 2004; the FCRC focused its mediation efforts on issues between Redland, PLANT, and Goulds MACs. However, in late October 2004 the mediation efforts were placed on hold to allow the PLANT and Goulds MACs time to understand the implications of a petition for incorporation filed with the Clerk of the Board by the Friends of Redland. The petition sought to incorporate boundaries that were part of the mediation process discussion. From November 2004 through May 2005 there was a pause in the mediation efforts, which created an indefinite impasse. The PLANT and Goulds MACs discontinued meetings based on the unresolved boundary disputes. On November 28, 2005 the FCRC submitted a final report identifying a change in the willingness of key parties to engage in a mediated resolution process (Attachment 2). As a result, the existing boundary disputes have not been resolved.

The Redland, PLANT, and Goulds MACs were unable to agree on boundaries throughout the mediation process sponsored by the Board and undertaken by the FCRC; as a result the three MACs should be dissolved.



Jennifer Glazer-Moon, Director
Office of Strategic Business Management

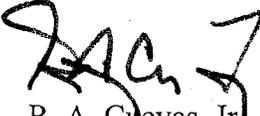


MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: January 22, 2008

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(D)

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. 7(D)
01-22-08

ORDINANCE NO. _____

ORDINANCE REPEALING ORDINANCE NO. 01-100 OF MIAMI-DADE COUNTY ESTABLISHING THE REDLAND AREA MUNICIPAL ADVISORY COMMITTEE; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

WHEREAS, During the Incorporation/Annexation and Mitigation Workshop of the Government Operations and Environment Committee of the Board of County Commissioners, Staff presented policy recommendations for the Committee's consideration to address issues relating to incorporation and annexation; and

WHEREAS, a Municipal Advisory Committee was established in the area of Redland to study the feasibility of incorporation; and

WHEREAS, there are boundary disputes among the Redland, PLANT, and Goulds Municipal Advisory Committees; and

WHEREAS, Resolution R-116-04 of the Miami-Dade County Board of County Commissioners directed the County Manager to enter into agreement with the Florida Conflict Resolution Consortium to assess use of collaborative process to resolve boundary issues regarding South Miami-Dade incorporation proposals; and

WHEREAS, on May 18, 2004 a report prepared by the Florida Conflict Resolution Consortium summarizing its initial assessment as to the feasibility of a mediated process to address boundary issues among incorporations efforts in South Miami-Dade County was presented to the Board of County Commissioners; and

WHEREAS, after discussion of the aforementioned report the Board of County

Commissioners directed the County Manager to contract with the Florida Conflict Resolution Consortium to mediate the boundary disputes among various incorporation efforts; and

WHEREAS, one member of each of the Redland, PLANT, and Goulds Municipal Advisory Committees represented its respective group in the mediation process undertaken by the Florida Conflict Resolution Consortium; and

WHEREAS, on November 28, 2005 the Florida Conflict Resolution Consortium submitted a report noting that no successful mediation resulted from the undertaken process,

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

Section 1. Ordinance No: 01-100 of the Code of Miami-Dade County establishing the Redland Municipal Advisory Committee is hereby repealed in its entirety.

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 be excluded from the Code of Miami-Dade County, Florida.

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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:

Craig H. Coller

**Memorandum**

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

DATE: MAY 18 2004

FROM: George M. Burgess
County Manager

SUBJECT: Consortium Report

Attached please find the Florida Conflict Resolution Consortium report requested by the Board of County Commissioners at the January 20, 2004 meeting. The resolution (R-116-04) requesting this report is also provided for your reference.

Should you have questions, please do not hesitate to contact me at 305-375-5311.

Attachments

Assessment of the Feasibility of a Mediated Process to Address Boundary Issues Among Incorporation Efforts in South Dade County

Summary Report

**Assessment and Report by
The Florida Conflict Resolution Consortium
Rafael A. Montalvo and Patricia S. Plant**

Website: consensus.fsu.edu

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ISSUES

This section of the report presents a brief summary of the issues identified by the interview participants as they relate to boundaries. The purpose of this section is to highlight considerations that will need to be addressed to some degree in any generally acceptable solutions to the boundary issues.

It should be noted that the following issues are not necessarily all involved, or involved to the same degree, in all of the differences between incorporation efforts examined for this assessment.

Preservation of Community Identity and History

For interview participants from several of the communities, the setting of appropriate incorporation boundaries was seen as principally important for its effect on the possibility of respecting and preserving the community's historical identity and indeed, the meaning of its history. From this perspective, boundaries ought to be as closely coterminous as possible with the area commonly and historically known as part of a community.

Preservation of Community Character

For interview participants from some of the communities, the question of boundaries was most directly related to preservation of the community's character either as an agricultural or "agridential" (agricultural residential) area. From this perspective, boundaries ought to be drawn in a way that provides acceptable protection to these characteristics.

Community Self-Definition

For some interview participants, the question of boundaries was most directly related to the residents' sense of the community's identity. From this perspective, incorporation boundaries ought to be as nearly coterminous as possible with the area within which residents think of themselves as comprising the community.

Financial viability

For interview participants from all of the communities as well as the cities included in the assessment, boundaries were important for their effect on the future tax base and therefore on the future financial health of a (potential) city. While this relationship may be obvious, it is worth noting here because many of those interviewed expressed the belief that if boundaries for some of the incorporation efforts could be drawn so as provide reassurance about the financial health of a

potential future municipality, this might provide promote additional flexibility with regard to how other issues described above might be addressed.

Autonomy

While this issue is less directly related to the exact placement of incorporation study boundaries than some of the other issues noted here, it was emphasized by interview participants from all of the communities. It was closely related to the preservation of community identity, history, or character as described above. It underlines the fact that for all of the communities involved, the incorporation efforts are in part a way for the community to gain a measure of control over its own future and over the rapid change facing the area as a whole. It is worth noting that a variety of mechanisms for achieving autonomy, other than incorporation, were discussed by participants in the interviews.

Framing and Perception of Differences

This issue was not mentioned directly by the interview participants, but rather emerged from the results of the interviews as a whole. It is clear from the interviews that participants from different communities perceived the same events and issues very differently. These differences stem in part from different community experiences, histories, and cultural factors. The interview participants varied in their views about the nature of the conflict itself and the nature of the processes that will help the groups arrive at resolutions. The differences also stemmed from personal factors. Individuals have different values, different ways of communicating, different ways of dealing with feelings and conflict, and different personal biases: "We do not see things as they are; we see them as we are." Some of these differences have contributed to a high degree of polarization between some groups and individuals. These differences do not have to be resolved in order to address boundaries. However, if the groups are able to develop a common understanding of each others' views, this will significantly enhance their ability to work together more effectively.

Boundary Proposal Overlaps

Participants in the interviews outlined a number of different possible boundaries for each of the incorporation efforts. Some of these were "official" in the sense of having been adopted by the relevant MAC or steering committee, or approved by the Boundaries Commission. Others represented possibilities explored by a particular group, or individual ideas. Given the fluidity suggested by this range of options, it did not seem useful to the assessment team to precisely define the degree of overlap between the proposals of the various groups. The extent and nature of the differences between the various groups is better understood through consideration of the issues outlined above than through a focus on the extent to which any given set of boundary proposals overlap.

FINDINGS

Individuals associated with all of the incorporation efforts expressed the view that their group could exercise at least some flexibility with regard to boundaries. Many believed that this flexibility would be sufficient to meaningfully contribute to a resolution of the differences between their group and other parties.

A cluster of issues having to do community identity, history, character, and autonomy are closely related to the question of boundaries, and are as important as the boundaries themselves for some groups.

A greater range of options for resolution of boundary and related issues was expressed in the interviews than has been expressed by the groups publicly.

The various groups exploring incorporation are at different stages of that exploration. These differences will have to be accommodated in any mediated process.

None of the individuals interviewed believed that all aspects of communications between their group and other groups with competing claims had been constructive. In some cases communication was perceived as markedly negative.

There is a high degree of mistrust and polarization between some of the groups. The absence of effective, positive communication between the groups is contributing significantly to the perceived intensity and polarization of the conflicts.

CONCLUSIONS

Based on the flexibility and options mentioned in the interviews, the assessment team believes it is appropriate to attempt resolution of boundary issues through a mediated process, and that the likelihood of progress justifies the effort that would be required.

A mediated process attempting to resolve boundary issues should frame the issues in a way that promotes discussion and improved understanding of the related questions of community identity, history, character, self-definition and autonomy. The assessment team believes the range of issues and their importance to the parties provides additional possibilities for positive outcomes.

Because of the importance of the issues related to financial viability, any mediated process should have the flexibility and technical support needed to explore the tax base and revenue implications of alternative boundary options.

Because the differences between some parties may be less difficult to resolve than the differences between others, some parties may reach resolution of their differences before others.

Much of the progress in a mediated process will come from mediator-assisted work within each group to develop and assess options. The assessment team believes the process will also require some opportunities for representatives of the groups to meet and engage in joint problem-solving in order to develop the common understandings necessary to the long-term viability of an agreement. Some of this joint problem-solving may take place in meetings involving all parties, while some may take place in meetings of a subset consisting of two or three of the parties.

Because of the current polarization between some parties, a mediated process should make available to the parties significant levels of assistance to help them prepare constructively for joint meetings.

There is a high likelihood that a mediated process can result in mutually acceptable agreements that resolve or narrow many of the issues between the various groups.

There is a lower probability that a mediated process can resolve all of the issues between all of the groups.

Issues not resolved in the mediated process may need to be resolved by another decision-making method. Commission action or non-binding arbitration may be options.

PROCESS RECOMMENDATIONS

Recommendation:

The County should consider convening a mediated negotiation to address boundary issues among incorporation efforts and cities in South Dade County.

Process Scope and Characteristics

If a process is convened, the assessment team recommends that it include the following scope and characteristics.

- The mediated process may be used to address any of the issues outlined in this report that may be outstanding at the time the process is convened. The process should be open to participation by any of the incorporation efforts or cities named in this assessment.
- The process should address the range of issues associated with boundaries as described in this report.
- The process should have clearly defined groundrules to guide discussion, consideration of options, and decision-making.
- The process should provide the parties the support they need to participate effectively in the mediated negotiations, and to reach clear, informed decisions regarding potential agreements. This support may include technical assistance to evaluate the financial implications of boundary options, and may also include other assistance to help groups internally prepare to participate in the various stages of the negotiations.
- The process should be flexible enough to accommodate the early resolution of some issues, and should not require parties to participate longer than necessary to resolve their differences. It should also not require parties to participate longer than necessary to conclude that their differences are not resolvable by mutual agreement.
- The process should be under the direction of neutral facilitators/mediators.

Process Components

The mediated process should include the following types of activities.

- Mediator work throughout the process with each group to develop and assess options, and prepare for joint meetings.

RECOMMENDATIONS

- Joint meetings among all parties to develop common understandings of interests, priorities, and options.
- Meetings between subsets of the parties to develop or ratify agreements.
- Technical support to assess the tax-base and revenue implications of alternative boundary options.

Example Sequence of Process Steps

The following sequence of steps is intended to illustrate how the mediated process contemplated in this report might unfold. Once convened, a mediated process is likely to differ in detail, but not in substance, from what is described here.

- Parties designate representatives to participate in the mediated process.
- Consultation between the mediators and each of the groups to prepare for the first round of joint meetings and to help each group develop an approach to discussing its interests and priorities with other groups.
- **First round joint meeting(s)** to develop joint process expectations, and to develop a common understanding of the priorities, interests, and criteria of each group. This round would probably involve meetings of all parties.
- Consultations between the mediators and each of the groups to develop a common list of options to be discussed at the second round of meetings.
- **Second round joint meeting(s)** to review and develop a common understanding of the options. This round may involve meetings of all parties as well as meetings of subsets of the parties.
- Consultation between the mediators and each of the groups, as well as work within each group, to evaluate the options. Assistance from county staff to evaluate the fiscal implications of each option.
- **Third round joint meeting(s)** to explore potential agreement on options. This round would probably emphasize meetings of subsets of the parties.
- Additional consultation between the mediators and each of the groups, as needed, to explore, finalize and ratify agreements.
- **Fourth round joint meeting(s)** to publicly memorialize any agreements that may have been reached.

APPENDIX A

Draft list of individuals contacted in person or by phone for this assessment.

GOULDS
Enid W. Demps, Secretary
Eric E. Coffie
Lewis Canty, Chair
Thomas Carey
Joe Demps
Ken Forbes
Robin Oxford
George Knox
CUTLER RIDGE
Rosa Alvarez
Paul Czekanski
Thomas Martin
Jaime Reyes (Chair)
Nancy McCue
Ed McCue
John Sykes
John Cosgrove
Louise Lockwood
Michael Goosetree
Jackie Shand
Peggy Bell
Mark Parets
Ralph Geronimo
Lana Flyod
REDLANDS
Karen Esty
Forrest Gordon
Colleen Griffin
John Wade
Mike Hatcher
Charlie McGarey
Pat Wade
Arnie Gonzalez,
Don Stephens
Elanore Miller

CARI
William Losner
Roger Alger
PLANT
Daniel Adams (Chair)
Barbara Dodson
Bridget Steele
Sallie Harris
Effie Russell
Gustavo Delahoz
HOMESTEAD
Roscoe Warren, Mayor
Curt Ivey
REDLANDS EDGE
Pamela Gray
Tim and Laurel Collins
Rudolph Griffith
FLORIDA CITY
Otis Wallace, Mayor
OTHER
Rene Infante
John Tranthem
Ed Cohen
Jack Charles
Lydia Walker



**PROCESS REPORT
SOUTH DADE INCORPORATION AND ANNEXATION
BOUNDARIES MEDIATION**

November 28, 2005

Please respond to:

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This report outlines activity in South Dade incorporation boundaries mediation since May of 2004 and summarizes the status of negotiations as of the end of November, 2005.

March - May

During this period, the mediation team conducted an assessment to determine the issues that would need to be addressed in any effort to resolve incorporation boundaries issues in South Dade, and whether the parties would be willing to engage in a process to resolve them. The results of that assessment are available in a separate document entitled *Assessment of the Feasibility of a Mediated Process to Address Boundary Issues Among Incorporation Efforts in South Dade County*.

June - July 2004

During June and July 2004, the mediation team focused on issues between Cutler Ridge and Goulds in order to fully explore the possibility of an agreement that would meet the needs of both parties and still allow the question of Cutler Ridge incorporation to be placed on the November 2004 ballot. The two parties reached agreement in July 2005. This agreement is on record with the County.

August -- October 2004

During August 2004 the mediation team focused on issues between Goulds, PLANT (Princeton, Leisure City and Naranja), Redland, Redland's Edge and, to a lesser extent, the City of Homestead. The team conducted several rounds of meetings with negotiators for each of the incorporation efforts separately, in order to develop a framework for initiating face-to-face negotiations between them. In late August and early September 2004, changes in the position of some parties necessitated additional rounds of discussions. By early October 2004, the mediation team had concluded these discussions, developed a framework for negotiations, and scheduled a meeting to initiate face-to-face negotiations between the parties for October 30, 2004.

In October 2004, the Redland incorporation petition submitted by Friends of Redland in May of 2004 appeared on the Boundaries Commission agenda for October 20, 2004. This prompted the negotiators for Goulds and PLANT to request that face-to-face negotiations be placed on hold to allow them time to fully understand and respond to the petition's implications for them. The mediation team subsequently contacted negotiators for each of the parties in order to explore and assess the implications of the petition from their point of view.

At the end of October 2004, therefore, face-to-face negotiations were placed on hold to allow the Goulds and PLANT negotiators to reach conclusions regarding how they would proceed.

November 2004 – May 2005

From November of 2004 through May of 2005, there was pause in the negotiations. The negotiation team had a variety of conversations with the negotiators from each community during this period. While these conversations resulted in some progress on issues relating to County support for the Goulds and PLANT incorporation efforts, none of these conversations resulted in the resumption of negotiations among the parties.

Several events in April of 2005 seemed to offer the possibility resuming negotiations: the Redland incorporation effort appointed new spokespeople to represent it in the negotiations; the Goulds and PLANT negotiators indicated their willingness to explore a resumption of negotiations; and the Redland's Edge negotiators indicated renewed willingness to explore alternative boundaries.

The mediation team therefore met with the Goulds and PLANT negotiators, and held discussions with the negotiators from each of the other communities, in order to explore on what terms negotiations might be resumed. Two major issues emerged from these discussions. The first is the potential role in the negotiations of the so-called "uncontested area" east of US 1 (an area surrounding PLANT and extending east to Biscayne Bay). The PLANT negotiators asked for a clarification of whether this area might be "on the table" for the negotiations. The second issue is a potential new "starting line" for negotiations between Goulds and Redland representatives. The Goulds negotiators requested that the Redland negotiators propose a revised boundary line to demonstrate good faith and provide a new starting point for negotiations.

June 2005 – November 2005

During this period the mediation team explored the issues that were raised in the April and May conversations: 1) whether Goulds or Redland negotiators would be willing to offer as a starting point a new boundary line different from those that had been publicly discussed, and what the rationale might be for such a boundary; and 2) whether any of the unincorporated areas east of US 1 might be on the table for the negotiations.

Productive discussions took place between PLANT representatives and Commissioner Sorensen's office regarding the unincorporated areas east of US 1. None of the groups, however, were willing to offer a different boundary or rationale for a boundary in advance of face-to-face negotiations.

The following paragraphs summarize the current stance of each party relative to the negotiation (not their position on substantive issues) at the end of November 2005.

Goulds

Negotiators for Goulds remain unwilling to engage in negotiations under current conditions. In their view, these conditions include concerns about the good faith of Redland negotiators, the ongoing litigation related to the Redland incorporation petition, and insufficient progress on the issues they outlined in the April and May 2005 discussions.

Homestead

The mediation team has not asked the City of Homestead to engage in any discussions of boundaries issues since early 2005, pending clarification of the position of other parties.

PLANT (Princeton, Lelsure City and Naranja)

The chair of the PLANT MAC has expressed a willingness to engage in negotiations with Redland, and continues to explore issues related to incorporation effort boundaries, such as those related to areas east of US 1 outside of any current MAC boundaries. He has also expressed a willingness to engage in discussions with Redland's Edge representatives.

Redland

Negotiators for Redland have remained willing to engage in negotiations, although they highlight a number of difficulties in the way of reaching agreement. They have indicated, however, that if agreement is reached in the negotiations, such an agreement should serve as the basis for resolving all issues related to the boundary between Goulds and Redland, including issues related to the Friends of Redland petition.

Redland's Edge

The group exploring Redland's Edge incorporation has elected to pursue its goals in a way that no longer poses a boundary conflict between Redland's Edge incorporation or community building activities and the Goulds incorporation effort. It continues to express a desire to explore common interests with the PLANT incorporation effort.

Summary of Status as of November 28, 2005

As of November 28, 2005, negotiations are at an impasse, as they have been since October of 2004. In the time since then, there has been discussion of conditions under which negotiations might resume, and there have been changes in the positions of various parties that would make negotiations likelier to succeed. Fundamentally, however, mediated negotiations are a voluntary process. Progress cannot be made until all key parties are willing to participate.

Prospects for Future Agreements

Some circumstances in South Dade have changed since May 2004, notably the initiation of litigation by representatives of Redland in an effort to move their incorporation activities forward. Nevertheless, the substantive and relationship issues in the dispute, and their importance to the communities involved, continue to be those outlined in the initial *Assessment* report. What has changed is the expressed willingness of key parties to engage in a mediated resolution process.

If all parties were to choose to resume negotiations, the mediation team continues to believe that a resolution of the central issue, the boundary between the Goulds and Redland incorporation efforts, is possible in a way that would ultimately be acceptable to both parties. Other issues related to incorporation effort boundaries should also be resolvable, once the central issue is settled.