MEMORANDUM Agenda Item No. 11(A)(11)

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

DATE: July 17, 2008

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

SUBJECT: Resolution dispensing with conflict resolution procedures prior to initiating court proceedings against the Town of Surfside in accordance with Chapter 164 of Florida Statutes

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor the Health and Public Safety Committee.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

RESO\2078

MEMORANDUM

(Revised)

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

DATE: July 17, 2008

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

SUBJECT: Agenda Item No. 11(A)(11)

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. 11(A)(11)
7-17-08

RESOLUTION NO. _____

RESOLUTION DISPENSING WITH CONFLICT RESOLUTION PROCEDURES PRIOR TO INITIATING COURT PROCEEDINGS AGAINST THE TOWN OF SURFSIDE IN ACCORDANCE WITH CHAPTER 164 OF FLORIDA STATUTES

WHEREAS, Chapter 18, Article II of the Miami-Dade County Code prohibits any municipality from opting-out of the Miami-Dade County Fire District ("Fire District"); and

WHEREAS, the Town of Surfside in violation of the Code, passed Resolution No. 2008-1845 directing the Supervisor of Elections to submit to its electors during the November 4, 2008 general election a ballot question asking whether the municipality should withdraw from the Fire District and contract with the City of Miami Beach (Attachment A); and

WHEREAS, the question approved in Resolution No. 2008-1845 violates Section 101.161, Fla. Stat. because it is not a clear and unambiguous statement of what is being put to the electorate; and

WHEREAS, it is illegal for the Town of Surfside to place such a question before the electorate; and

WHEREAS, the Board of County Commissioners of Miami-Dade County is the governing body of the Fire District and any attempt by the Town of Surfside to remove itself from the Fire District constitutes a significant compromise of Miami-Dade County's governance of the Fire District; and

WHEREAS, the timing of the conflict resolution procedures would not permit a judicial decision prior to the date of the requested election and may place in doubt Miami-Dade County's

ability to comply with mandated deadlines for preparation of the fire district's 2009-10 budget and completion of TRIM notices pursuant to Sections 200.065 and 200.069, Fla. Stat.; and

WHEREAS, by Resolution 70-08 this Board approved a similar waiver to pursue legal action against the Villages of Pinecrest and Indian Creek,

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, finds that pursuant to Section 164.1041(2), Fla. Stat., an immediate danger to the health, safety or welfare of the public requires immediate action or significant legal rights will be compromised if a court proceeding does not take place before compliance with the provisions of Chapter 164 of the Florida Statutes. Accordingly, this Board, by a three-fourths vote of Commission members now in office, hereby dispenses with the procedures for conflict resolution as authorized by Florida Law.

The Prime Sponsor of the foregoing resolution is the Health and Public Safety Committee. It was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman
Barbara J. Jordan, Vice-Chairperson

Jose "Pepe" Diaz	Audrey M. Edmonson
Carlos A. Giminez	Sally A. Heyman
Joe A. Martinez	Dennis C. Moss
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

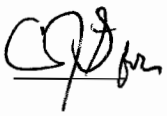
The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of July, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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.



Oren Rosenthal