



MEMORANDUM

GOE

Agenda Item No. 3(J)

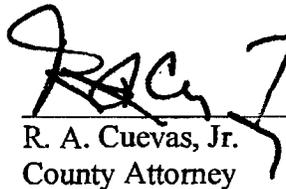
TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: December 9, 2008

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

SUBJECT: Resolution directing County Mayor
or designee to negotiate settlement
agreement to resolve pending dispute
over April 2007-08 Cycle
applications to amend the
Comprehensive Development Master
Plan (CDMP)

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Katy Sorenson.



R. A. Cuevas, Jr.
County Attorney

RAC/cp

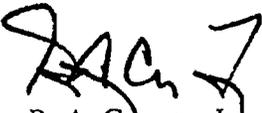


MEMORANDUM

(Revised)

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

DATE: October 7, 2008

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

SUBJECT: Agenda Item No.

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

Agenda Item No.

Veto _____

10-7-08

Override _____

RESOLUTION NO. _____

RESOLUTION DIRECTING COUNTY MAYOR OR DESIGNEE TO NEGOTIATE SETTLEMENT AGREEMENT TO RESOLVE PENDING DISPUTE OVER APRIL 2007-08 CYCLE APPLICATIONS TO AMEND THE COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) AND TO PRESENT SETTLEMENT AGREEMENT TO BOARD OF COUNTY COMMISSIONERS FOR APPROVAL ACCORDING TO PROCEDURES SET FORTH IN SECTION 163.3184, FLORIDA STATUTES

WHEREAS, Applications No. 5 and No. 8 of the April 2007-08 Cycle applications to amend the Miami-Dade County Comprehensive Development Master Plan (CDMP) proposed expanding the Urban Development Boundary (UDB) to add the properties that were the subjects of those applications to the urbanized area and to redesignate the subject properties as follows: for Application No. 5, from "Open Land" to "Business and Office" and "Institutions, Utilities, and Communications"; and, for Application No. 8, from "Agriculture" to "Business and "Office"; and

WHEREAS, on April 24, 2008, this Board adopted Ordinances No. 08-44 and No. 08-45, taking final action to adopt Applications No. 5 and No. 8, respectively, to approve the expansion of the UDB and the redesignation of the subject properties, and to accept restrictive covenants in connection therewith; and

WHEREAS, the Florida Department of Community Affairs (DCA) has issued a Statement of Intent (SOI) and Notice of Intent (NOI) to find the adopted Applications No. 5 and No. 8 "not in compliance" with the applicable laws; and

WHEREAS, pursuant to Section 163.3184(10), Fla. Stat., DCA has commenced an administrative proceeding styled Department of Community Affairs v. Miami-Dade County, Case No. 08-3614GM, before an Administrative Law Judge (ALJ) of the Florida Division of Administrative Hearings, at the conclusion of which the ALJ will issue a recommended order to

the Administration Commission addressing whether the adopted Applications No. 5 and No. 8 are “in compliance” with the applicable laws; and

WHEREAS, various third parties have intervened in the administrative proceeding, both for and against the adopted Applications No. 5 and No. 8, and some of the intervenors have not only adopted DCA’s objections but have also lodged additional objections; and

WHEREAS, in prior matters, such litigation has proved to be complex, costly, and time-consuming, requiring substantial commitment of staff resources and out-of-pocket expenses; and

WHEREAS, in the SOI, DCA recommended, to remedy the alleged lack of compliance, that the County “rescind the Future Land Use Map amendments associated with Ordinance Numbers 08-44 and 08-45”; and

WHEREAS, in a difficult budget year, this Board must make difficult decisions about how to best allocate limited resources; and

WHEREAS, extended litigation in this matter is not in the current best interests of the County, and the Board wishes to avoid the expense, delay, and uncertainty of lengthy litigation and instead desires to proceed through a Settlement Agreement process; and

WHEREAS, section 163.3184(16) of the Florida Statutes sets forth a process for DCA and a local government to enter into a settlement agreement to resolve a dispute concerning whether a CDMP amendment is “in compliance,”

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby directs the County Mayor or designee to negotiate a proposed settlement agreement that would return the subject properties of Applications No. 5 and No. 8 of the April 2007 Cycle applications to amend the Miami-Dade County Comprehensive Development Master Plan (CDMP) to their prior designations of “Open Land and “Agriculture,” respectively, with the Florida Department of Community Affairs and all other parties necessary for a full and final

resolution of the administrative proceeding styled Department of Community Affairs v. Miami-Dade County, Case No. 08-3614GM. This Board further directs the Mayor or designee to present the proposed negotiated agreement to this Board for approval in accordance with the procedures set forth in Section 163.3184, Fla. Stat.

The Prime Sponsor of the foregoing resolution is Commissioner Katy Sorenson. 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-Chairwoman | |
| Jose "Pepe" Diaz | Audrey M. Edmonson |
| Carlos A. Gimenez | Sally A. Heyman |
| Joe A. Martinez | Dennis C. Moss |
| Dorrian D. Rolle | Natacha Seijas |
| Katy Sorenson | Rebeca Sosa |
| Sen. Javier D. Souto | |

The Chairman thereupon declared this resolution duly passed and adopted this 7th day of October, 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.



Dennis A. Kerbel

