

MEMORANDUM

Agenda Item No. 11(A)(5)

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

DATE: September 16, 2008

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

SUBJECT: Resolution approving an
amendment to the City
of Miami Lakes charter

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



R. A. Cuevas, Jr.
County Attorney

RAC/bw



MEMORANDUM
(Revised)

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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)(5)
9-16-08

RESOLUTION NO. _____

RESOLUTION APPROVING AN AMENDMENT TO THE
CITY OF MIAMI LAKES CHARTER ELIMINATING
MITIGATION PAYMENTS TO MIAMI-DADE COUNTY AND
THE "MOST FAVORED NATIONS CLAUSE" AS IT APPLIES
TO MITIGATION UPON CERTAIN CONDITIONS

WHEREAS, Section 6.05 of the Miami-Dade County Home Rule Charter requires an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office to approve the amendment of any pre-agreed condition contained in a municipal charter of a municipality prior to a vote of the municipality's electorate; and

WHEREAS, in the Incorporation/Annexation and Mitigation Workshop of the Governmental, Operations and Environment Committee of the Board of County Commissioners, the Town of Miami Lakes, the Village of Palmetto Bay and the City of Doral discussed the phasing out of mitigation payments to the County, which were voted upon by the electors as a pre-agreed condition contained in their respective municipal charters; and

WHEREAS, the Board expressed its intent to phase out mitigation through the adoption of Resolution No. R-508-07; and

WHEREAS, the Board being duly advised, acting in furtherance of the County's Home Rule powers, desires to phase out mitigation payments made by the City of Miami Lakes in an orderly manner, as set forth in this resolution upon certain conditions; and

WHEREAS, Section 9.3 of the Town of Miami Lakes' charter provides: "For the reasons outlined in the Report and subject to calculations, decreases and CPI adjustments set forth in the Report, the Town shall annually contribute municipal property revenues into a Municipal Service Trust Fund ("MSTF"); and

WHEREAS, the Report referenced in the Town of Miami Lakes' charter entitled Miami Lakes Municipal Advisory Report/Conceptual Agreement provides for the following "Most Favored Nation Clause":

Both parties agree that if a subsequent incorporation of any donor area is approved, without conditions outlined in this agreement, including but not limited to the contribution of at least 55% of the surplus funds to the MSTF, and those terms would be beneficial to the City of Miami Lakes, the terms under this Memorandum of Understanding will immediately be replaced with the terms granted to the subsequent new city.

WHEREAS, the Board desires to approve the modification of the Town of Miami Lakes' charter to eliminate all future payments of its mitigation obligation after payment of mitigation for fiscal year 2006-2007 in the amount of \$1,762,013 so long as the Town, as part of the modification, eliminates the above referenced "Most Favored Nations Clause" as it applies to mitigation,

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

Section 1. The Board of County Commissioners by an affirmative vote of two-thirds (2/3) of its members approves a ballot question which authorizes an amendment to the Town of Miami Lakes Charter to eliminate all future payments of its mitigation obligation after payment

of mitigation for fiscal year 2006-2007 in the amount of \$1,762,013 and delete the municipality's charter provision relating to "most-favored-nations-clause" as it applies to mitigation, which would eliminate Miami Lake's right to obtain the benefit of terms or arrangements pertaining to mitigation enjoyed by municipalities incorporated subsequent to the incorporation of Miami Lakes.

Section 2. This resolution shall be effective only upon the Town of Miami Lakes voluntary dismissal with prejudice of the appeal to the Third District Court of Appeal in *Town of Miami Lakes v. Miami-Dade County* Case No.3D08-1724 and *Town of Miami Lakes v. Miami-Dade County* Case No.07-30357(CA31) and approval by the County Attorney of the form of the Town of Miami Lakes' ballot question consistent with the provisions of this resolution.

The Prime Sponsor of the foregoing resolution is Commissioner Natacha Seijas. 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
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairman thereupon declared the resolution duly passed and adopted this 16th day of September, 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.



Craig H. Coller / Cynthia Johnson-Stacks