MEMORANDUM

Agenda Item No. 7(G)

(Second Reading 9-1-09)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: June 30, 2009

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

SUBJECT: Ordinance relating to the Rules of Procedure; amending Section 2-1 of the Code setting forth consequences of a tie vote on an item considered at committee and County commission meetings

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: September 1, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance relating to the Rules of Procedure; amending Section 2- 1 of the Code setting forth consequences of a tie vote on an item considered at committee and County commission meetings

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The ordinance relating to Rules of Procedure setting forth consequences of a tie vote on an item will not have a fiscal impact on Miami-Dade County.

Jennifer Glazer-Moon
Special Assistant/Director, Office of Strategic Business Management

fis05309

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: September 1, 2009

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

SUBJECT: Agenda Item No. 7(G)

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 Mayor'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(G)
9-1-09

ORDINANCE NO. _____

ORDINANCE RELATING TO THE RULES OF PROCEDURE OF THE BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 2-1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; SETTING FORTH CONSEQUENCES OF A TIE VOTE ON AN ITEM CONSIDERED AT COMMITTEE AND COUNTY COMMISSION MEETINGS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 2-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec 2-1. RULES OF PROCEDURE OF COUNTY COMMISSION.

* * *

PART 4. COMMITTEES

Rules 4.01. COMMITTEES.

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h. COMMITTEE DELIBERATIONS. A commission committee may take one of the following actions with respect to each matter referred to the committee for action:

(1) Recommend favorably;
(2) Recommend favorably with committee amendment(s);
(3) Forward without recommendation, upon the unanimous vote of the members of the committee who are present;

[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.

(4) Receive a report;

(5) Lay the matter on the table resulting in the matter not being placed on an agenda of the county commission; or

(6) Defer or take no action on an item for a maximum of two consecutive committee meetings. Deferral of or failure to act on a matter beyond two consecutive committee meetings shall cause the matter to be laid on the table, as set forth in the preceding subparagraph. >>Notwithstanding any other provision of these Rules of Procedure, whenever action can not be taken because the vote of the committee members on an item has resulted in a tie, and no other available motion on an item is made and approved before the next item is called for consideration or before a recess or adjournment is called, whichever occurs first, the item shall be deemed to be laid on the table, as set forth in the preceding subparagraph; such item shall be reintroduced only in accordance with the renewal provisions of Rule 4.01(r).<<

* * *

(q) RECONSIDERATION. Any committee action taken pursuant to Rule 4.01(h) may be reconsidered only at the same meeting at which the action was taken. >>A motion to reconsider an item resulting in a tie vote is out of order and no such motion may be reconsidered.<<

(r) RENEWAL. Once an item or resolution is laid on the table in a committee, the proposed ordinance or resolution may not be brought before that committee again during the three (3) month period following the date the item is laid on the table (subject to the provisions of Rule 4.01 (q)), unless an application for renewal made by two-thirds (2/3) of the committee members is first submitted to the chairperson of the committee.

Section 2. Section 2-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec 2-1. RULES OF PROCEDURE OF COUNTY COMMISSION.

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PART 7. RULES OF DEBATE

Rule 7.01. RULES OF DEBATE.

(a) QUESTIONS UNDER CONSIDERATION. When a motion is presented and seconded, it is under consideration and no other motion shall be received thereafter, except to adjourn, to lay on the table, to postpone, or to amend until the question is decided. These motions shall have preference in the order in which they are mentioned and the first two shall be decided without debate. Final action upon a pending motion may be deferred until a date certain by a majority of the members present.

(b) AS TO THE PRESIDING OFFICER. The presiding officer, upon relinquishing the chair, may move, second, debate and vote, subject only to such limitations as are by these rules imposed upon all members.

(c) GETTING THE FLOOR, IMPROPER REFERENCES TO BE AVOIDED. Every member desiring to speak for any purpose shall address the presiding officer, and upon recognition, shall be confined to the question under debate avoiding all personalities and indecorous language.

(d) INTERRUPTION; CALL TO ORDER; APPEAL A RULING OF THE CHAIR. A member once recognized shall not be interrupted when speaking unless it be a call to order or as herein otherwise provided. If a member is called to order, the member shall cease speaking until the question of order shall be determined by the presiding officer, and if in order, the member shall be permitted to proceed. Any member may appeal to the commission from the decision of the presiding officer upon a question of order, when, without debate, the presiding officer shall submit to the commission the question, "Shall the decision of the

chair be sustained?" and the commission shall decide by a majority vote.

(e) PRIVILEGE OF CLOSING DEBATE. The commissioner sponsoring or moving the adoption of an ordinance, resolution or motion shall have the privilege of closing the debate.

(f) METHOD OF VOTING. Voting shall be by machine, roll call, voice vote, or paper ballot. Upon every roll call vote the names of the commissioners shall be called alphabetically by surname, except that the names shall be rotated after each roll call vote, so that the commissioner who voted first on a preceding roll call shall vote last upon the next subsequent matter; provided, however, that the presiding officer shall always cast the last vote. The clerk shall call the roll, tabulate the votes, and announce the results. The vote upon every ordinance shall be taken by roll call or machine vote. The vote upon any resolution, motion or other matter may be by voice vote provided that the presiding officer or any commissioner may require a roll call or machine vote to be taken upon any resolution or motion. Board appointments may be made by paper ballot which clearly identify the commissioner voting.

(g) EXPLANATION OF VOTE; CONFLICTS OF INTEREST. Upon any roll call, there shall be no discussion by any commissioner voting, and the commissioner shall vote yes or no. Any commissioner, upon voting, may give a brief statement to explain his or her vote. A commissioner shall have the privilege of filing with the clerk a written explanation of his or her vote. Any commissioner with a conflict of interest on a particular matter shall refrain from voting or otherwise participating in the proceedings related to that matter and shall leave the commission chambers until the consideration of that matter is concluded. Any such commissioner who does not leave the chambers shall be deemed absent for purposes of constituting a quorum, counting the vote, or for any other purpose.

(h) TIE VOTES. Whenever action cannot be taken because the vote of the commissioners has resulted in a tie, >>and no other available motion on an item is made and approved before the next item is called for consideration or before a recess or adjournment is called, whichever occurs first, the item shall be removed from the agenda and shall be reintroduced only in accordance with the renewal provisions of Rule 7.01(l)<< [[~~the status quo shall continue in effect and the proposed ordinance, resolution or motion that produced the tie vote shall be removed from the agenda without prejudice to its reintroduction on a de novo basis at a later~~

~~time; provided that~~]] >>Notwithstanding any rule of procedure to the contrary,<< in zoning and other quasi-judicial matters when action on a resolution results in a tie vote, such resolution shall be ~~carried over to the next regularly scheduled meeting for the~~ consideration of such quasi-judicial matters unless the commission designates a different time for such reconsideration.

(i) VOTE CHANGE. Any commissioner may change his or her vote before the next item is called for consideration, or before a recess or adjournment is called, whichever occurs first, but not thereafter.

(j) NO MOTION OR SECOND. If an agenda item fails to receive a motion or second, it shall be removed from the agenda and shall be reintroduced only in accordance with the renewal provisions of Rule 7.01(l).

(k) RECONSIDERATION. An action of the commission may be reconsidered only at the same meeting at which the action was taken or at the next regular meeting thereafter. A motion to reconsider may be made only by a commissioner who voted on the prevailing side of the question and must be concurred in by a majority of those present at the meeting. >>A motion to reconsider an item resulting in a tie vote is not in order, and no such motion shall be reconsidered.<< A motion to reconsider shall not be considered unless at least the same number of commissioners is present as participated in the original vote, or upon affirmative vote of two-thirds (2/3) of those commissioners present. Adoption of a motion to reconsider shall rescind the action reconsidered.

(l) RENEWAL. Once action is taken on a proposed ordinance or resolution, neither the same matter nor its repeal or rescission may be brought before the commission again during the six (6) month period following the said action (subject to the provisions of Rule 7.01(k), unless application for renewal by seven (7) commissioners is first submitted to the presiding officer.

(m) ADJOURNMENT. A motion to adjourn shall always be in order and decided without debate.

(n) SUSPENSION OF THE RULES. No rule of procedure adopted by this board shall be suspended except by an affirmative vote of two-thirds (2/3) of the commissioners present.

Section 3. 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 4. 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 5. 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

Prime Sponsor: Commissioner Joe A. Martinez