



HPSI -- October 15, 2009
Agenda Item No. 2N

MEMORANDUM

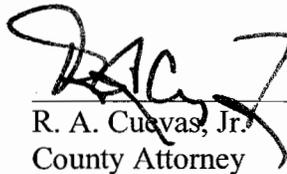
TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE:

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

SUBJECT: Resolution setting a policy
related to County contract
lobbying firms; prohibiting
any County contract lobbyist
or lobbying firm from representing
any person or entity in a lawsuit or
other legal action against the County

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.



R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM
(Revised)

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

DATE: November 3, 2009

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

SUBJECT: Agenda Item No.

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Agenda Item No.

Veto _____

Override _____

RESOLUTION NO. _____

RESOLUTION SETTING A POLICY RELATED TO COUNTY CONTRACT LOBBYING FIRMS; PROHIBITING ANY COUNTY CONTRACT LOBBYIST OR LOBBYING FIRM FROM REPRESENTING ANY PERSON OR ENTITY IN A LAWSUIT OR OTHER LEGAL ACTION AGAINST THE COUNTY; PROVIDING PENALTIES

WHEREAS, on November 11, 1999, the Board approved Resolution No. 1236-99, which provided that no County contract lobbyist or subconsultant shall represent any client and/or issue that may be adverse to the County without first requesting and obtaining permission from the County; and

WHEREAS, on May 9, 2000, the Board passed Ordinance No. 00-64, which provided that no person or entity, whether an individual, firm, partnership or corporation, which received compensation from the county for lobbying on behalf of the county or any of its agencies or instrumentalities at either the state, national or municipal level shall represent any entity in any forum to support a position in opposition to a position of the county unless the Board grants a specific waiver for a specific lobbying activity; and

WHEREAS, Ordinance No. 00-64 further provides that the failure of any county contract lobbyist to comply with its provisions shall result in either or both of the following:

- (1) That lobbyist's contract with the county is voidable by the county;
- (2) A prohibition, for a period of up to three years, as determined by the Board of County Commissioners, on the lobbyist's entering into a lobbying contract with the county; and

WHEREAS, the County's lobbying contracts provide, among other things, that the contract lobbyist must advise the County of any position in opposition to a County position that the contract lobbyist Consultant or any employee, partner, or subcontractor desires to take and request a waiver of such conflict before the Board of County Commissioners prior to taking such a position, and further states that:

A position in opposition to a County position may take the form of an adverse policy position or fiscal impact on the County, either direct or indirect. A position in opposition to a County position is not limited to a position that conflicts with an express provision of the legislative package adopted by the Board of County Commissioners. It may also arise in other areas. Not every County interest can be anticipated or enumerated in the County's legislative package, and issues arise and change over the course of the legislative process. It is incumbent on the Consultant and its employees, partners, and subcontractors to remain mindful of the County's policy and fiscal interests and positions vis-a-vis other clients. If an actual or perceived conflict arises, the Consultant and/or subcontractor must advise the Director of the Office of Intergovernmental Affairs immediately in writing and seek a waiver of the conflict before the Board of County Commissioners prior to representing the adverse interest or position; and

WHEREAS, the County's lobbying contracts provide that the Board may take, in its sole discretion, any action regarding a waiver of request, including but not limited to the following:

- (1) Grant a waiver and allow the lobbying firm to continue to represent both the County and the other client on all issues, including the issue on which a conflict or potential conflict exists;
- (2) Refuse to grant a waiver and require the lobbying firm to choose between representing either the County or the other party, requiring the lobbying firm to entirely give up its representation either of the County or the other party;
- (3) Refuse to grant a waiver and void the County's contract with the lobbying firm;

(4) Grant a limited waiver and allow the lobbying firm to continue to represent both the County and the other party under whatever limitations or restrictions the County, in its sole discretion, determines to be appropriate; and

WHEREAS, lobbying firms under contract with the County have recently filed conflict waiver requests pursuant to the above-referenced provisions,

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

Section 1. This Board sets a policy related to County contract lobbyists and lobbying firms; prohibiting any County contract lobbyist or lobbying firm from representing any person or entity in a lawsuit or other legal action against the County. "Lawsuit or other legal action against the County" as used in this resolution means any lawsuit, administrative action, enforcement action, or other adversarial proceeding or hearing, including appeals, in which the County or any officer or employee of the County is a named party, but does not include bid protests, or actions to influence the County to take one position or another prior to a final decision being reached by the County.

Section 2. The failure of any county lobbyist to comply with the provisions of this resolution shall result in either or both of the following:

1. That lobbyist's contract with the county being voidable by the county.
2. A prohibition, for a period of up to three years, as determined by the Board of County Commissioners, on the lobbyist's entering into a lobbying contract with the county.

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The Prime Sponsor of the foregoing resolution is Commissioner Barbara J. Jordan. 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:

Dennis C. Moss, Chairman	
Jose "Pepe" Diaz, Vice-Chairman	
Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of November, 2009. 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.

JAM

Jess M. McCarty

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