

MEMORANDUM

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Agenda Item No. 3(D)

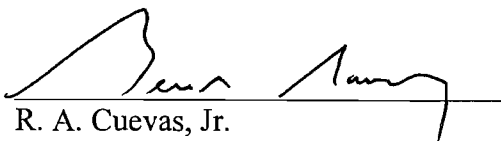
TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: November 9, 2009

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

SUBJECT: Ordinance relating to
Community Councils/Community
Zoning Appeals Boards; providing
for appointment of all council
positions rather than election of
certain positions

The accompanying ordinance was prepared and placed on the agenda at the request of
Prime Sponsor Vice-Chairman Jose "Pepe" Diaz.

for 
R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum



Date:

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

From: George M. Burge
County Manager

A handwritten signature in black ink, appearing to read "G. Burge", written over the printed name of the County Manager.

Subject: Ordinance amending Chapter 20 Article IV and Chapter 33 Article XXXVI of the Code;
providing for appointment of Community Council positions

The proposed amendment providing for appointment rather than election of Community Council positions will result in a positive fiscal impact to Miami-Dade County.

Presently, Community Council Member elections are held each even-numbered year in conjunction with state primary elections. Removing this contest from the ballot would save Miami-Dade County approximately \$20,000 every two years. The bulk of the estimate represents personnel costs associated with assisting candidates prior to and during the qualifying period, accepting and auditing campaign reports, and responding to general candidate inquiries. There are also marginal costs associated with ballot creation and certified mail sent to candidates.

The savings could be significantly greater if the elimination of the Community Council elections shortens the ballot by a page. A one-page reduction to printing and postage costs would save approximately \$345,000, bringing the total possible savings to approximately \$365,000.

A handwritten signature in black ink, written over a horizontal line that serves as a separator between the signature and the title.

Assistant County Manager



MEMORANDUM

(Revised)

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

DATE: September 15, 2009

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

SUBJECT: Agenda Item No. 4 (H)

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
Veto _____
Override _____

Agenda Item No. 4(H)
9-15-09

ORDINANCE NO. _____

ORDINANCE RELATING TO COMMUNITY COUNCILS/COMMUNITY ZONING APPEALS BOARDS; AMENDING CHAPTER 20 ARTICLE IV AND CHAPTER 33 ARTICLE XXXVI OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE"); PROVIDING FOR APPOINTMENT OF ALL COUNCIL POSITIONS RATHER THAN ELECTION OF CERTAIN POSITIONS; MODIFYING THE NUMBER OF COMMUNITY COUNCILS/COMMUNITY ZONING APPEALS BOARDS TO NO MORE THAN FOUR; MODIFYING BOUNDARIES OF COMMUNITY COUNCILS/COMMUNITY ZONING APPEALS BOARDS TO CONFORM TO BOUNDARIES OF COUNTY COMMISSION DISTRICTS; MODIFYING COMMUNITY COUNCIL RESPONSIBILITIES; PERMITTING ELECTED AND APPOINTED MEMBERS CURRENTLY IN OFFICE TO REMAIN IN OFFICE UNTIL RESIGNATION, REMOVAL OR EXPIRATION OF TERM; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Sections 20-40, 20-41, 20-42, 20-43, 20-43.1, 20-43.2 and 20-44 of the Code of Miami-Dade County, Florida, are hereby amended to read as follows:¹

Sec. 20-40. Community Councils; creation and purposes.

There are hereby established and created Community Councils to serve the unincorporated Miami-Dade County. ~~[[Community Councils are established for the following purposes:]]~~

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.

- ~~[[(1) Providing the residents of unincorporated Miami-Dade County with increased governmental accountability, and responsiveness in decision-making processes for the delivery of municipal-type services;~~
- (2) Improving the effectiveness of services by making them more responsive to community desires and needs;
- (3) Retaining efficiencies of services by maintaining economies of scale;
- (4) Maintaining the ability to match unincorporated area needs with available resources; and
- (5) Fostering a sense of community identity, inclusiveness and empowerment.]]

Sec. 20-41. Community Councils; responsibilities.

- (A) Community Councils shall perform the duties and responsibilities of Community Zoning Appeals Boards as set forth in Section 33-306 of the Code of Miami-Dade County.
- (B) Community Councils may, at their option~~[[, perform the following duties and responsibilities:]]~~

~~[[(1) Planning.~~

- ~~[[(a) Compile profiles of their respective community's social, physical and economic conditions to assist them in performing their duties;~~
- (b) Prepare an annual statement of community needs including development patterns and regulations, public facilities and services to assist the Council;
- (c) Make recommendations to the Planning Advisory Board and Board of County Commissioners on proposed Miami-Dade County Comprehensive Development Master Plan amendments that impact each Council's area~~[[; and]]>>.<<~~

~~[[d) Make recommendations to the County Commission on the location and siting of specific public facility and infrastructure projects.~~

~~(2) Protection of persons and property programming.~~

~~(a) Recommend policies to coordinate the Fire Rescue District and Police Department in the enhancement of public safety and protection of property in the council area through improved communications and service needs assessments.~~

~~(3) Budgeting.~~

~~(a) Make recommendations to the County Manager and County Commission on priorities for community facilities and services and on community based organization grants for the council area; and~~

~~(b) Make recommendations to the County Manager and County Commission on revenue needs including unincorporated area property taxes millages and special taxing districts.~~

~~(4) Communication.~~

~~(a) Conduct forums on council area issues to facilitate the exchange of information between residents, property owners, businesses, institutions and County Officials and Administrators;~~

~~(b) Disseminate information about council area related organizations, programs and activities; and~~

~~(c) Coordinate with Miami Dade County's Team Metro in the exercise of that agency's responsibilities within the council area.]]~~

- (C) No member of a Community Council shall appear at any public hearings or meetings before the Board of County Commissioners or any other federal, state, or local board or tribunal, to advocate concerning any zoning application that was heard by, or that could reasonably be expected to be heard by, any Community Council.

Sec. 20-42. Community Councils; configuration.

- (A) There shall be no more than ~~[(10)]~~ (4) Community Councils each of which shall have jurisdiction within its boundary within the unincorporated area. ~~[[Council areas should be large enough to reasonably accommodate local zoning issues without unduly increasing staffing requirements. The boundaries of Community Councils' jurisdiction, to the extent feasible, shall coincide with those of groupings of Census Designated Places/]]~~

- ~~[(B) Each Community Council area shall contain no more than six (6) subareas. The boundaries of these subareas, to the extent feasible, shall coincide with those of existing election precincts. Enclave areas that are fully surrounded by municipal boundaries and are not large enough to be subareas shall be part of the nearest subarea.]]~~

~~[(C)]~~ (B) The boundaries and numerical designations of the Community Councils ~~[[and of the subareas within them]]~~ are ~~[[depicted and]]~~ described in Attachment I attached hereto and incorporated herein by reference [which can be found in the County Clerk's office]. These boundaries may be amended from time to time by resolution of the County Commission after public hearing ~~>>~~, but shall conform to the boundaries of the districts of the Board of County Commissioners ~~<<~~. The names of the Community Councils shall be designated by the respective Community Council.

~~[(D)]~~ (C) Notwithstanding anything in this Code to the contrary, when, as a result of municipal incorporation or annexation ~~>>~~, or consolidation of Community Council areas, ~~<<~~ a Community Council does not have enough members in office to act, the Board of County Commission may by resolution after public hearing, reassign the remaining areas of the affected Community Council to a different Community Council and modify the total number of Councils accordingly.

Sec. 20-43. Community Councils; membership.

~~[[Except as provided in subsection (E),]]~~ >>Each<< Community Council[[s]] shall have ~~[[seven (7)]]~~ >>nine (9)<< members, ~~[[six (6) of whom shall be elected at large within the council area and one (1)]]~~>>all<< of whom shall be appointed by the Board of County Commissioners as follows:

~~[(A) *Elected Council Members.*~~

- (1) ~~Elected Council Members shall, for at least six (6) months prior to qualifying, have been resident electors of the council area for which they are qualifying, and, for at least three (3) years prior to qualifying, resident electors of Miami Dade County. Additionally, each elected Council Member seeking to represent a subarea shall, for three (3) months prior to qualifying, have been a resident elector of the separate subarea of the council area for which the Member is qualifying. At the time of qualifying candidates shall submit proof of residency for the prescribed period to the supervisor of elections. Proof of residency shall establish that the qualifying candidate has met the residency requirements for the required period. Any person misrepresenting their residency shall, upon conviction, be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the County jail or both, at the discretion of the court. No Council Member shall be employed by Miami Dade County or be a member of the County Commission.~~
- (2) ~~The term of office of Community Council members shall be for four (4) years. It is provided, however, that when a Community Council has been modified to establish new subareas or at large areas, in the initial election of Council Members, those members representing even-numbered subareas shall serve a two-year term and those members representing odd-numbered subareas or at large areas shall serve a four-year term so as to create staggered terms. Thereafter all Council Members shall serve four-year terms. When a subarea is dissolved and is replaced by an at large area, the at large representative shall serve until expiration of the~~

~~term of office that was provided for the dissolved subarea. It is further provided that when a Community Council consisting of one (1) subarea is created in the initial election three (3) seats shall be designated as two-year terms and three (3) seats shall be designated as four-year terms so as to provide staggered terms. Thereafter, all Council members shall serve four-year terms.~~

- (3) ~~All elections for Community Council Members shall be non-partisan. The initial general election for Council Members shall be held at the time of the 1996 General Election. Subsequent elections of Council Members shall be held in each even numbered year, in conjunction with state primary elections. The terms of Council Members shall commence on the second Tuesday next succeeding the date provided for the state general election.~~
- (4) ~~All candidates for Community Councils shall qualify with the Clerk of the Circuit Court no earlier than the 72nd day and no later than noon of the 70th day prior to the date of the election at which he or she is a candidate, in the manner provided by law or ordinance. Each candidate shall pay a filing fee of one hundred dollars (\$100.00).~~
- (5) ~~All elections for Community Councils shall be canvassed by the County Canvassing Board as provided under the election laws of this state.~~
- (6) ~~The election ballot for the Council Member of each council area shall contain the names of all qualified candidates for election for Council positions from each subarea and shall instruct the electors to cast one (1) vote for the subarea position for which an election is being held. The candidate receiving the greatest number of votes shall be duly elected to that Council Seat. If there is a tie vote among the two (2) candidates receiving the greatest number of votes, there shall be a run-off election.~~

~~The ballot for any run-off election for a Council Seat shall contain the names of the two (2)~~

~~candidates for the Council Seat who received the most votes. The ballot shall instruct electors of the council area to cast one (1) vote for each subarea position. The candidate for each Council Seat receiving the most votes in such run-off election shall be duly elected to that Council Seat. Provided, however, where there are fewer than six (6) subareas in a council area the number of persons to be elected from each subarea shall be as follows:~~

- ~~(a) Where there are five (5) subareas the electors of the entire council area shall elect one (1) member from each subarea and one (1) member at large.~~
- ~~(b) Where there are four (4) subareas the electors of the entire council area shall elect one (1) member from each subarea and two (2) members at large.~~
- ~~(c) Where there are three (3) subareas the electors of the entire council area shall elect two (2) members from each subarea.~~
- ~~(d) Where there are two (2) subareas the electors of the entire council area shall elect three (3) members from each subarea.~~
- ~~(e) Where there is one (1) subarea there shall be six (6) members elected from the subarea.~~

~~Where there is more than one (1) position available in a subarea for election, the candidates with the largest number of votes shall be elected to those positions. In the event that a subarea election has positions for both expired and unexpired terms, the candidates elected with the least number of votes shall fill the positions for the unexpired terms. It is provided, however, where the number of persons qualifying for a Community Council election is equal to the number of positions both for expired and unexpired terms the candidates filling the unexpired terms shall be determined by lot.~~

- (7) ~~The County Commissioner or Commissioners whose district encompasses all or part of a Community Council shall fill any vacant Council positions, by the appointment of an individual meeting the qualifications provided in subsection (1) above from a list of one or more names supplied by the Community Council. A person appointed shall serve until the earlier of the following: (1) the next state first primary election; or (2) expiration of the term of office for which the appointment is made. This limitation on term length shall apply to any person appointed by either a Community Council or a County Commissioner, whether appointed prior to or after the effective date of this ordinance. A person elected at such county-wide election shall serve for the remainder of the unexpired term. It is provided, however, in the event there is an insufficient number of Community Council Members in office to constitute a quorum, the County Commissioner or Commissioners whose district encompasses all or part of a Community Council, shall appoint a sufficient number of members necessary to constitute a quorum. Further, should any Community Council fail to supply a list of one or more names for any vacant Council position within ninety (90) days from the date such position becomes vacant or that the names supplied within such time period are not acceptable to the appointing County Commissioner or Commissioners, the County Commissioner or Commissioners whose district encompasses all or part of a Community Council shall appoint an individual meeting the qualifications set forth in subsection (1) above to fill such vacancy. In the event any Council Member no longer resides in a Council subarea for a subarea position or Council area for an at large position, that person shall be deemed to have tendered their resignation from such Council; provided, however, any Council Member who, as a result of a modification to the configuration of a Council subarea pursuant to Section 20-42, is no longer qualified to be an elected member of such Council, shall be permitted to complete the term of office commenced prior to the subarea boundary modification.~~

~~(B)~~>>(A)<< Appointment and term of Council Members.

- (1) The County Commissioners shall appoint ~~one (1)~~>>nine (9)<< member>>s<< to each Community Council ~~[[following each election of Council Members]]~~>>in the manner provided herein<<. ~~[[Each appointed Community Council Member shall have been for at least six months prior to appointment a resident elector of the Council area, and, for at least three (3) years, a resident elector of Miami-Dade County.]]~~ No appointed Council Member shall be employed by Miami-Dade County or be a member of the County Commission. ~~[[These members shall be appointed by the County Commissioner(s) whose district(s) include the boundaries of all or part of the Community Council area.]]~~ Appointments shall be confirmed by a majority of the Board of County Commissioners.
- (2) The term of each appointed Council Member shall be four (4) years; provided, however, the term of each member expires when the Commissioner who appointed that member leaves office. Each member shall hold office until a successor has been duly appointed, qualified and confirmed. ~~[[Vacant Council Member positions shall be filled for the unexpired term in the same manner as other appointed Council Members.]]~~
- >>(3) Each County Commissioner whose Commission district comes within the boundaries of a Community Council area shall nominate an equal number of Community Council members to the Community Council, subject to approval by the Board of County Commissioners. In the event an additional position remains on the Community Council after all County Commissioners for the area have submitted their nominations to the Board of County Commissioners, the County Commissioner who has the responsibility for the remaining nomination shall be determined by lot. In the event a position becomes vacant it shall be filled by the County Commissioner who initially nominated the vacating member, subject to approval of the Board

of County Commissioners. In the event any Council Member no longer resides within the boundaries of a Community Council area, that person shall be deemed to have tendered his or her resignation, but may remain in their position until such time as the position has been filled.<<

- (C) ~~[[Organizational meeting.]]>>Elections of Chair and Vice-Chair.<< [[The first organizational meeting of each Community Council shall take place on the 30th day, or as soon thereafter as is practical, after the date of the general election. In the event of a tie vote for one (1) or more Council seats in the general election such Community Council shall meet on the 30th day, or as soon thereafter as is practical, after the date of the run-off election. At the organizational meeting, or as soon thereafter as is practical, e]]>>E<<ach Community Council shall elect a chair and vice-chair from its members who shall serve a one-year term.~~
- (D) *Reimbursements of expenses.* All Council Members shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the performance of their official duties, upon approval of the County Commission.
- (E) *Reassignment of Community Council Members.* When, as a result of >>municipal<< incorporation>>,<< or annexation>> or consolidation of Community Council areas<<, [[subareas]] >>Community Council areas<< or portions thereof are reassigned to a different Community>> Council area or are consolidated into a new Community Council area<<[[, elected or appointed]] Council Members who continue to reside in the unincorporated area[[, whether at large or subarea representatives representing the reassigned areas,]]shall serve as additional members to the reassigned Community Council. The reassigned Council Members shall serve until [[the next first state primary election]]>>resignation, removal, or expiration of the member's term<<.
- (F) Community Councils shall have the following nonvoting members when acting as Community Zoning Appeals Boards:

- (1) A representative appointed by the School Board of Miami-Dade County, who may attend those meetings at which a Board considers a zoning action that would, if approved, increase residential density on the property that is the subject of the application.
- (2) A representative appointed by the commanding officer of the Homestead Air Reserve Base, who may attend those meetings at which a Board considers a zoning action that, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation.

Sec. 20-43.1. Community Councils; recall.

Any elected member of a Community Council ~~[[or any member appointed by the Community Council pursuant to Section 20-43(A)(7)]]~~ may be removed from office by the electors of the Council area. The procedure for removal by electors shall be as follows:

- (1) The person proposing the exercise of recall shall submit the recall petition to the Clerk of the Circuit Court for approval of the form of the petition. Recall petitions shall be submitted for approval during the months of January and June only.
- (2) The person or persons circulating the recall petition shall, within sixty (60) days after approval of the form of the petition, obtain the valid signatures of electors in the council area in numbers at least equal to ten (10) percent of the registered voters in the council area on the date on which the recall petition is approved, according to the official records of the County Supervisor of Elections. Each signer of a petition shall place thereon, after his or her name, the date and the signer's place of residence or precinct number. Each person circulating a copy of the petition shall attach to it a sworn affidavit stating the number of signers and the fact that each signature was made in the presence of the circulator of the petition.

- (3) The signed petition shall be filed with the Clerk of the Circuit Court which shall within thirty (30) days after filing order a canvass of the signatures thereon to determine the sufficiency of the signatures. If the number of signatures is insufficient or the petition is deficient as to form or compliance with this section, the Clerk shall notify the person filing the petition that the petition is insufficient and has failed. The Clerk shall certify the petition if the number of signatures is sufficient and the petition if sufficient as to form and compliance with this section.
- (4) The Board of County Commissioners must provide for a recall election not less than forty-five (45) days nor more than ninety (90) days after certification of the petition.
- (5) The question of recall shall be placed on the ballot in a manner that will give the elector a clear choice for or against the recall. The result shall be determined by a majority vote of the electors voting on the question.
- (6) If the majority is against recall the Community Council member shall continue in office under the terms of the member's previous election or appointment. If the majority is for recall, the member shall, regardless of any defect in the recall petition, be deemed removed from office immediately.
- (7) No recall petition against an elected Community Council member shall be certified within one (1) year after the member takes office nor within one (1) year after a recall petition against the member is defeated.
- (8) Any vacancy created by recall in a Community Council shall be filled for the remaining term by appointment in the manner prescribed for filling vacant positions.

Sec. 20-43.2. Community Councils; removal.

Any elected ~~[[or-appointed]]~~ member of a Community Council may be removed from office for cause by resolution of the Board of County Commissioners. The following events shall be deemed sufficient cause for removal: malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or indictment for crime. >>Any appointed member may be removed without cause.<< Any vacancy created by removal ~~[[in]]~~>>of<< a>>n appointed<< Community Council >>member<< shall be filled for the remaining term by appointment in the manner prescribed for filling vacant positions.

Sec. 20-44. Community Councils; organization; new member orientation; annual orientation workshop.

- (A) The County Manager shall assign existing County staff positions to provide support for the Community councils, to the fullest extent feasible. Such staff may include: a Community Council Administrator, an Administrative Assistant, clerical staff and others as the County Manager deems needed. ~~[[Team Metro shall develop strong linkages to each Community Council.]]~~
- (B) The County Manager shall coordinate the activities and schedules of Community Councils with other County activities to ensure maximum effectiveness and efficiency. The County Manager may limit the total staff time available to each Community Council.
- (C) Within parameters recommended by the County Manager and approved by the County Commission, Community Councils shall be empowered to establish their own procedures for conducting their business~~[[and to select from the activities described in Section 20-41(B) those in which it wishes to engage]]~~. It is provided however that zoning procedures shall be adopted pursuant to Sections 33-308 of the Code. It is further provided that no ~~[[zoning or non-zoning]]~~ meeting of a Community Council or Community Zoning Appeals Board shall extend beyond 11:00 p.m.
- (D) Prior to serving on a Community Council, a Community Council member appointed ~~[[or-elected]]~~ to a Council after the effective date of this ordinance shall attend a New

Member Orientation Seminar conducted by the Department of Planning and Zoning, the Commission on Ethics, ~~[[Team Metro]]~~ and the County Attorney's Office. The seminar shall include~~[[, but shall not be limited to,]]~~ review of the Comprehensive Development Master Plan and issues related thereto, review of zoning regulations, ~~[[incorporation and annexation issues, workforce and affordable housing issues]]~~ and applicable laws, rules and regulations pertaining to duties and responsibilities of Community Council members.

- (E) All Community Council members shall attend an Annual Community Council Workshop organized and conducted by the Department of Planning and Zoning, the Commission on Ethics~~[[, Team Metro]]~~ and the County Attorney's Office. The Workshop shall include~~[[, but shall not be limited to,]]~~ review of the Comprehensive Development Master Plan and issues related thereto, review of zoning regulations, ~~[[incorporation and annexation issues, workforce and affordable housing issues]]~~ and applicable laws, rules and regulations pertaining to duties and responsibilities of Community Council members.
- (F) Notwithstanding Section 20-43.2, failure of any ~~[[elected or appointed]]~~ member of a Community Council to attend an annual Community Council Workshop shall be deemed sufficient cause for removal.

Section 2. Sec. 33-306 of the Code of Miami-Dade County, Florida, is amended to

read as follows:

**Sec. 33-306. Community Zoning Appeals Boards—
Establishment.**

- (a) There are hereby established multiple Community Zoning Appeals Boards whose boundaries shall coincide with the boundaries of Community Councils established pursuant to the Code of Miami-Dade County. The Community Councils shall serve as Community Zoning Appeals Boards and shall have jurisdiction over zoning applications as provided in this chapter. Each member shall be a qualified elector of Miami-Dade County, with an outstanding reputation for civic interest, community welfare, integrity and responsibility; provided, no member shall be employed by Miami-Dade County, or be a member of the County

Commission. The ~~[[seven (7)]]~~ >>nine (9)<< members of each Community Zoning Appeals Board shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the performance of their official duties, upon approval of the County Commission.

* * *

Section 3. Sec. 33-307 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-307. Community Zoning Appeals Boards--Term of office.

The term of office of the members of each of the Community Zoning Appeals Boards shall be the terms established as members of Community Councils. ~~[[In the event a vacancy should occur on a Community Zoning Appeals Board the appropriate Community Zoning Appeals Board may fill the vacancy for the remaining board member's term by appointment pursuant to Section 20-43(A)(7) of the Code.]]~~

Section 4. Section 33-308 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-308. Community Zoning Appeals Board--Organization.

The Director shall serve as secretary for the Community Zoning Appeals Boards, shall be in attendance at all meetings as an advisor and be permitted to propound questions and give evidence; provided, the Director shall have authority to designate a staff member of the Department to act in the Director's stead. Meetings of the Community Zoning Appeals Boards shall be held, where practical, in the area of each Community Zoning Appeals Board's jurisdiction at a time and place determined by the Director. Each Community Zoning Appeals Board shall elect a Chair and a Vice-Chair from its members, each of whom shall serve until a successor is elected. Rules and regulations for the Community Zoning Appeals Boards shall be adopted by the County Manager and approved by the County Commission. The Chair, or Vice-Chair, or Acting Chair, may administer oaths and compel the

attendance of witnesses in the same manner prescribed in the Circuit Court. No action shall be taken on any matter before the Community Zoning Appeals Boards unless a quorum of ~~[[four (4)]]~~ >> five (5) << members is present, and only upon not less than a majority vote of all members present and voting provided however that any approval or denial of any application or portion thereof pursuant to Chapter 33 shall require not less than three (3) votes. When there is an insufficient number of votes to either approve or deny an application, the result shall be deemed a tie vote.

* * *

Section 5. Section 33-311 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-311. Community Zoning Appeals Board--Authority and duties.

- (A) Except as otherwise provided by this chapter, the Community Zoning Appeals Boards and Board of County Commissioners shall have the authority and duty to consider and act upon applications, as hereinafter set forth, after first considering the written recommendations thereon of the Director or Developmental Impact Committee. Provided, however, no such action shall be taken until notice of time and place of the hearing at which the Community Zoning Appeals Boards will consider the application has been first published as provided in Section 33-310. The Community Zoning Appeals Boards are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and

encouraging the most appropriate use of land and water throughout the County. The Community Zoning Appeals Board and Board of County Commissioners or any of their members may inspect the premises and area under consideration. The Community Zoning Appeals Boards shall have authority over the following zoning applications except where the Board of County Commissioners has direct jurisdiction.

* * *

~~[(9) Hear and make recommendations to the Board of County Commissioners on applications for developments of regional impact and related requests, including requests for modifications thereof and substantial deviation determinations pursuant to Section 380.06(19), Fla. Stat., as amended, as provided by Section 33-314 except an application for modification or elimination of a condition or restrictive covenant that is not a substantial deviation, where such application does not contain a request for any other action under this chapter requiring a public hearing apart from modifying the DRI development order.]]~~

* * *

Section 6. Section 33-313 of the Code of Miami-Dade County, Florida are hereby

amended as follows:

Sec. 33-313. Appeals to Board of County Commissioners.

Any appealable decision of the Community Zoning Appeals Board may be appealed by an applicant, governing body of any municipality, if affected, or any aggrieved party, including neighborhood, community and civic associations, whose name appears in the record of the appropriate Community Zoning Appeals Board by filing with the Department a petition in a form prescribed by the Director and a written statement specifying in brief, concise language the grounds and reasons for reversal of the ruling made by the Community Zoning Appeals Board, together with a fee for the processing of the appeal, as provided by Administrative Order No. 4-40, as amended from time to time, within the fourteen (14) days provided by Section 33-312 hereof, whereupon, the Director shall transmit to the County Commission

the appeal papers, and the decision and record of the Community Zoning Appeals Board. If the ground for reversal is a failure to provide notice as required by Section 33-310, the name of the appellant need not appear in the record. If the decision of the Community Zoning Appeals Board is for approval and has not been appealed within the fourteen-day period, the County Manager pursuant to Section 33-314(B)(8) or the Director may appeal such decision within four (4) additional days in the manner aforesaid, except that a fee will not be required. Upon the taking of an appeal, the County Commission shall conduct a de novo hearing and shall consider why the decision of the Community Zoning Appeals Board should or should not be sustained or modified. By resolution, the Board shall either affirm, modify or reverse the Community Zoning Appeals Board's decision and such action of the County Commission shall be by a majority vote of all members present except that a two-thirds (2/3) vote of all members present shall be required to reverse any Community Zoning Appeals Board decision denying a request for zoning action~~[[or to approve any Development of Regional Impact or modifications thereof, substantial deviation determination or related request pursuant to Section 33-314 where a Community Zoning Appeals Board's recommendation is for denial]]~~. No appeal shall be heard or considered until notice has been provided in accordance with the provisions of Section 33-310(c), (d), (e) and (f). With respect to appeals arising from the Downtown Kendall Urban Center District a two-thirds (2/3) vote of all members present shall be required to reverse any Community Zoning Appeals Board decision denying a request for zoning action for a development proposed within the Center or Edge Sub-Districts of the Downtown Kendall Urban Center District. For any application for a development proposed within the Core Sub-District of the Downtown Kendall Urban Center District pursuant to Section 33-311 shall be decided by a majority vote of all members then in office.

Section 7. Section 33-314 of the Code of Miami-Dade County, Florida are hereby

amended as follows:

Sec. 33-314. Direct applications and appeals to the County Commission.

- (A) The County Commission shall have jurisdiction to directly hear the following applications:

- (1) Applications for development approval of Developments of Regional Impact ("DRI"), modification thereof or substantial deviation determination or modification thereof, including applications for modifications to restrictive covenants related thereto~~[[, after hearing and recommendation by the Community Zoning Appeals Board or Boards having jurisdiction over the area encompassed by the entire Development of Regional Impact]]~~. Where an application substantial deviation determination or for development approval of a DRI, modification thereof or substantial deviation determination also contains a request for any other action under this chapter requiring a public hearing or where there is pending on any property an application of or development approval for a DRI and an application for any other action under this chapter requiring a public hearing (related requests), except applications for essentially built out determinations, all such applications shall be heard in their entirety by the Board of County Commissioners~~[[after hearing and recommendation of the Community Zoning Appeals Board or Boards having jurisdiction over the area encompassed by the application or applications]]~~. Where an application requests a modification or elimination of a condition or restrictive covenant not constituting a substantial deviation, and where such application does not contain a request for any other action under this chapter requiring a public hearing apart from modifying the DRI development order, then such application shall be heard directly by the Board of County Commissioners after recommendation of the Developmental Impact Committee. Where practicable, all such items shall be acted upon at the same public hearing. Hearings pursuant to this subsection shall be noticed in the same manner as applications filed before the Community Zoning Appeals Boards. The procedural requirements of Section 33-311(F) and

33-311(G) shall apply to hearings held pursuant to this section.

* * *

- (3) When as a result of municipal incorporation or annexation, a Community Zoning Appeals Board (CZAB) does not have enough members in office to hear and decide zoning applications, the Board of County Commissioners shall hear and decide all zoning applications in the remaining jurisdiction of the CZAB. Zoning actions advertised for hearing before the Board of County Commissioners shall be heard and decided by the board, and neither the subsequent appointment ~~[[or election]]~~ of additional CZAB members, nor the reconfiguration of the affected CZAB, shall divest the board of jurisdiction to hear such advertised applications. If prior to the mailing of the final notice of hearing pursuant to Section 33-310, new members of the affected CZAB have been appointed ~~[[or elected]]~~, or the affected CZAB has been reconfigured, such that the CZAB has enough members to act, applications within the CZAB's jurisdiction shall be heard and decided by that CZAB upon notice pursuant to Section 33-310.

Section 8. 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 9. 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 10. 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:

GHS for RAC

Prepared by:

CAC

Craig H. Collier

Prime Sponsor: Vice-Chairman Jose "Pepe" Diaz

"ATTACHMENT I"

Community Councils- 4 Boards

Community Council North:

- Commission Districts 6,12,13

Community Council Northeast:

- Commission Districts 1,2,3,4,5

Community Council Central:

- Commission Districts 10, 11

Community Council South:

- Commission Districts 7,8,9

"ATTACHMENT I"

Community Councils- 4 Boards

Community Council North:

- Commission Districts 6,12,13

Community Council Northeast:

- Commission Districts 1,2,3,4,5

Community Council Central:

- Commission Districts 10, 11

Community Council South:

- Commission Districts 7,8,9

**NORTH
CZAB**

Jose "Pepe" Diaz

**NORTHEAST
CZAB**

**CENTRAL
CZAB**

**SOUTH
CZAB**

Dennis C. Moss

Katy Sorenson

NORTH : Commission District 6
Commission District 12
Commission District 13

NORTHEAST : Commission District 1
Commission District 2
Commission District 3
Commission District 4
Commission District 5

CENTRAL : Commission District 10
Commission District 11

SOUTH : Commission District 7
Commission District 8
Commission District 9

Audrey M. Edmonson, 3
Barbara J. Jordan, 1
Bruno A. Barreiro, 5
Carlos A. Gimenez, 7
Dennis C. Moss, 9
Dorin D. Rolle, 2
Joe A. Martinez, 11
Jose "Pepe" Diaz, 12
Katy Sorenson, 8
Natacha Seijas, 13
Rebeca Sosa, 6
Sally A. Heyman, 4
Sen. Javier D. Souto, 10

***Proposed Community Councils
and Commission Districts
"Attachment I"***



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Miles