



**MEMORANDUM**

**GO**

**Agenda Item No. 2(D)**

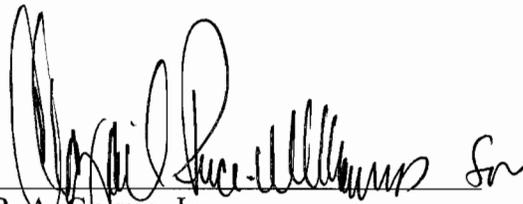
**TO:** Honorable Chairman Dennis C. Moss  
and Members, Board of County Commissioners

**DATE:** November 9, 2009

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

**SUBJECT:** Resolution setting policy for Miami-Dade-County prohibiting County employees from text messaging, emailing and talking on cellular telephones while driving on duty; directing the Mayor or Designee to prepare an implementing order effectuating this policy and providing exceptions

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

**DATE:** December 1, 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  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No.  
12-1-09

RESOLUTION NO. \_\_\_\_\_

RESOLUTION SETTING POLICY FOR MIAMI-DADE COUNTY PROHIBITING COUNTY EMPLOYEES FROM TEXT MESSAGING, EMAILING AND TALKING ON CELLULAR TELEPHONES WHILE DRIVING ON DUTY; DIRECTING THE MAYOR OR DESIGNEE TO PREPARE AN IMPLEMENTING ORDER EFFECTUATING THIS POLICY AND PROVIDING EXCEPTIONS

**WHEREAS**, a study by the Virginia Tech Transportation Institute has concluded that people who send text messages while driving are 23 times more likely to be involved in a crash; and

**WHEREAS**, a test by Car and Driver Magazine found that in some cases, a person's reaction time was harmed more by texting while driving than while driving under the influence of alcohol; and

**WHEREAS**, a study by the University of Utah found that college students using a driving simulator were eight times more likely to have an accident while texting; and

**WHEREAS**, on October 1, 2009, President Obama issued an executive order prohibiting federal employees from texting while driving government vehicles or while driving privately-owned vehicles on official government business; and

**WHEREAS**, 14 states and the District of Columbia have passed laws prohibiting texting while driving; and

**WHEREAS**, the Florida Legislature has not prohibited texting, emailing or talking on a cellular telephone while driving, although this Board has urged the Legislature to pass such legislation, R-864-09; and

**WHEREAS**, while not prohibiting texting, emailing or talking on cellular telephones while driving, the State of Florida has preempted local governments from regulating the use of commercial mobile radio services and other electronic communications devices in motor vehicles; and

**WHEREAS**, such preemption does not extend to County oversight of County employee conduct while on duty,

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

**Section 1.** It is the policy of Miami-Dade County that County employees shall not engage in text messaging, emailing or talking on a cellular telephone, Blackberry, iPhone or other personal wireless handheld device (i) when driving county-owned or county-leased vehicles, or (ii) when driving privately-owned vehicles on official County business. This policy shall not apply to those circumstances, employees and equipment where particular job duties require the use of cellular telephones and other devices while driving as specified by the Mayor or Designee pursuant to section 2.

**Section 2.** Within 120 days of the effective date of this resolution, the Mayor or Designee shall bring to the Board for approval an Implementing Order to effectuate this policy. Such Implementing Order may exempt from the requirements of this policy, in whole or in part, emergency circumstances and particular employees, devices or vehicles where circumstances warrant.

**Section 3.** The Mayor or Designee shall conduct education, awareness and other outreach for County employees about the safety risks associated with texting and talking on

cellular telephones while driving; and encourage voluntary compliance with the County's policy related to text messaging and cellular telephone use while off duty.

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:

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
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 1<sup>st</sup> day of December, 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.

JMM

Jess M. McCarty

5