



BPS --- December 8, 2009

Agenda Item No. 2F

MEMORANDUM

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

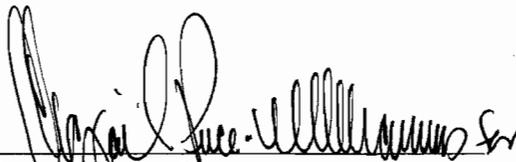
**DATE:** ...

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

**SUBJECT:** Resolution directing the Mayor  
to file an application to amend the  
Comprehensive Development Master  
Plan (CDMP) to rescind Ordinance  
No. 08-44, approving Application 5  
in the April 2007-08 CDMP  
amendment Cycle (the Lowe's  
Application")

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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)

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

**DATE:** January 21, 2010

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

**SUBJECT:** Agenda Item No.

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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.  
1-21-2010

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

RESOLUTION DIRECTING THE MAYOR OR HIS DESIGNEE TO FILE AN APPLICATION TO AMEND THE COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) TO RESCIND ORDINANCE NO. 08-44, APPROVING APPLICATION 5 IN THE APRIL 2007-08 CDMP AMENDMENT CYCLE (THE "LOWE'S APPLICATION"); UPON APPROVAL OF SUCH COMPLIANCE AMENDMENT BY THIS BOARD, DIRECTING THE MAYOR OR HIS DESIGNEE TO PROVIDE A REPORT TO THE STATE OF FLORIDA ADMINISTRATION COMMISSION AND DIRECTING THE COUNTY ATTORNEY TO WITHDRAW THE PENDING APPEAL OF THE STATE OF FLORIDA ADMINISTRATION COMMISSION ORDER DETERMINING THAT ORDINANCE NO. 08-44 IS "NOT IN COMPLIANCE" WITH APPLICABLE GROWTH MANAGEMENT LAWS

**WHEREAS**, on April 24, 2008, this Board approved Ordinance No. 08-44, which approved Application 5 in the April 2007-08 amendment cycle to amend the Miami-Dade County Comprehensive Development Master Plan (CDMP) (the "Lowe's Application"); and

**WHEREAS**, approval of the Lowe's Application provided for expansion of the Urban Development Boundary on the CDMP Future Land Use Map; and

**WHEREAS**, the effective date of Ordinance No. 08-44 was made subject to a final order of the State of Florida Department of Community Affairs or the State of Florida Administration Commission finding the ordinance to be "in compliance" with state growth management laws; and

**WHEREAS**, Ordinance No. 08-44, along with another CDMP ordinance also adopted on April 24, 2008, providing for expansion of the Urban Development Boundary at a different location, thereafter became the subjects of administrative litigation challenging the ordinances' compliance with state growth management laws; and

**WHEREAS**, at the conclusion of the administrative litigation, the Cabinet of the State of Florida, sitting as the State of Florida Administration Commission, found that Ordinance No. 08-44 was "not in compliance" with state growth management laws, found the other ordinance to be "in compliance," found the two ordinances to be severable, and directed that Ordinance No. 08-44 be rescinded to avoid the imposition of state monetary sanctions and to provide a report of such rescission; and

**WHEREAS**, the final order of the Administration Commission provides, consistent with state law, that this Board may elect to make Ordinance No. 08-44 effective notwithstanding the determination of noncompliance, but that in so doing, the County "shall be subject to sanctions pursuant to section 163.3184(11), Fla. Stats.;" and

**WHEREAS**, the decision of the Administration Commission is subject to appellate review in the courts, and as a matter of ordinary course, the County Attorney's Office has invoked judicial appellate review of the Administration Commission's decision as to Ordinance No. 08-44, thereby forestalling the imposition of sanctions; and

**WHEREAS**, in view of substantially changed economic conditions since this Board's approval of Ordinance No. 08-44 in April 2008, and in view of the County resources that must be expended to prosecute an appeal of the Administration Commission's decision, the County's current interests would best be served by this Board's consideration of an application for a

compliance amendment to rescind Ordinance 08-44 and, upon approval of such compliance amendment, a direction to the County Attorney's Office to withdraw the appeal of the Administration Commission's decision,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** that this Board hereby directs the Mayor or his designee to file for consideration by this Board an application for a compliance amendment to the CDMP to rescind Ordinance No.08-44 approving Application 5 in the April 2007-08 CDMP amendment cycle. Upon approval of such compliance amendment by this Board, the Mayor or his designee is directed to provide a report to the State of Florida Administration Commission, and the County Attorney is thereupon directed to withdraw the pending appeal of the Administration Commission's order.

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:

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|---------------------------------|--------------------|
| 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            |                    |

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The Chairperson thereupon declared the resolution duly passed and adopted this 21<sup>st</sup> day of January, 2010. 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.



Joni Armstrong Coffey