MEMORANDUM

Agenda Item No. 11(A)(1)

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

DATE: September 21, 2010

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

SUBJECT: Resolution urging the Florida Legislature to prohibit talking, texting or otherwise using mobile phones and and other wireless communication devices while driving unless operated with a hands-free device

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

R. A. Cuevas, Jr.
County Attorney

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MEMORANDUM
(Revised)

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

DATE: September 21,2010

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

SUBJECT: Agenda Item No. 11(A)(1)

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. 11(A)(1)
9-21-10

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO PROHIBIT TALKING, TEXTING OR OTHERWISE USING MOBILE PHONES AND OTHER WIRELESS COMMUNICATION DEVICES WHILE DRIVING UNLESS OPERATED WITH A HANDS-FREE DEVICE

WHEREAS, in the fall of 2001, Miami-Dade County became the first county in the State of Florida to pass an ordinance restricting the use of mobile phones while driving; and

WHEREAS, shortly thereafter in the spring of 2002, the Florida Legislature preempted the Miami-Dade ordinance, along with all local government regulation of mobile phones and other wireless communication devices (collectively "mobile phones") while driving; and

WHEREAS, it is estimated that over 234 million people in the U.S. currently use mobile phones, compared with less than 5 million in 1990; and

WHEREAS, increased use of mobile phones has led to a substantial rise in the number of people who use these devices while driving; and

WHEREAS, dangers associated with using mobile phones while driving are two fold:

1. Drivers may become so absorbed in their mobile phone conversations that their ability to concentrate on driving is impaired; and

2. Drivers may take their eyes off the road while dialing, texting and reading or writing emails; and

WHEREAS, these dangers have the potential to jeopardize the safety of vehicle occupants, other drivers and pedestrians; and

WHEREAS, a 2003 study at the University of Utah concluded that drivers talking on mobile phones exhibited greater impairment than drivers that were intoxicated; and

WHEREAS, eight states and the District of Columbia currently prohibit the use of mobile phones while driving unless a hands free device is used; and

WHEREAS, texting while driving is generally considered to be even more dangerous than talking on a mobile phone while driving; and

WHEREAS, 30 states and the District of Columbia currently ban texting while driving, with 11 of the 30 states passing bans on texting while driving in 2010; and

WHEREAS, Florida is one of only six states that has preempted local governments from regulating talking and texting while driving while at the same time imposing no statewide regulation of talking on mobile phones or texting while driving; and

WHEREAS, bills have been filed in the Florida Legislature each year over the past decade that would ban talking or texting or both while driving, but none of these bills have passed; and

WHEREAS, 18 separate bills were filed for consideration during the 2010 state legislative session that took various approaches to prohibiting persons from talking, texting or otherwise using wireless communication devices while driving except when using a hands-free device, but none of these bills passed; and

WHEREAS, Florida should join the other 30 states that ban texting while driving and the other eight state that ban talking on mobile phones while driving unless a hands free device is used,

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

Section 1. Urges the Florida Legislature to prohibit all persons from talking, texting or otherwise using mobile phones and other wireless communication devices while driving except when using a hands-free device.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, and the Chair and Members of the Miami-Dade County State Legislative Delegation.

Section 3. Directs the County's state lobbyists to advocate for the passage of the legislation set forth in Section 1 above, and directs that the 2011 State Legislative Package be amended to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Joe A. Martinez. 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 21st day of September, 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.

Jess M. McCarty