

MEMORANDUM

**HCD
Substitute**

Agenda Item No. **1(F)1**

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

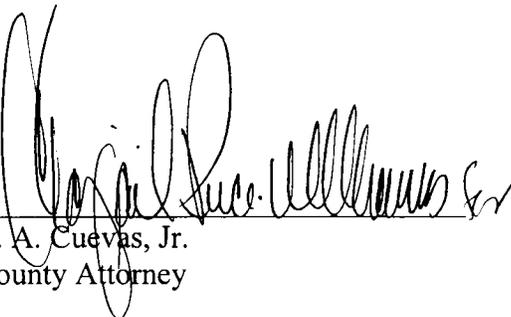
DATE: **October 13, 2010**

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

SUBJECT: Ordinance relating to
County Boards; amending
Section 2-11.38 of the Code to
provide that certain prohibitions
therein shall not apply to persons
who serve on the Miami-Dade
County Expressway Authority
which is designated as a state
agency by Florida Law

This substitute differs from the original in that the substitute ordinance pertains to members of the Miami-Dade County Expressway Authority (MDX), while the original ordinance pertains to members of all County Boards that are deemed state agencies pursuant to Florida law, including the MDX. Additionally, the substitute ordinance specifically references the provisions of the County Board ordinance that would be inapplicable to MDX board members.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.


R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum



Date: April 20, 2010
To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners
From: George M. Burgess
County Manager
Subject: Ordinance amending Section 2-11.38 of the Code of Miami-Dade County to provide that prohibitions and restrictions of such code section shall not apply to public entities

The ordinance amending Sections 2-11.38 of the Code as it pertains to appointments on County boards, provides that any prohibitions and restrictions shall not apply to public entities that are designated as state agencies will not have a fiscal impact to Miami-Dade County.



Jennifer Glazer-Moon,
Special Assistant/Director of the Office of Strategic Business Management

Fis04710



MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss **DATE:** November 4, 2010
and Members, Board of County Commissioners

FROM: R. A. Cuevas, Jr. **SUBJECT:** Agenda Item No.
County Attorney *RACJ*

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.
11-4-10

ORDINANCE NO. _____

ORDINANCE RELATING TO COUNTY BOARDS;
AMENDING SECTION 2-11.38 OF THE CODE OF MIAMI-
DADE COUNTY TO PROVIDE THAT CERTAIN
PROHIBITIONS THEREIN SHALL NOT APPLY TO
PERSONS WHO SERVE ON THE MIAMI-DADE COUNTY
EXPRESSWAY AUTHORITY WHICH IS DESIGNATED AS A
STATE AGENCY BY FLORIDA LAW; PROVIDING
SEVERABILITY, INCLUSION IN THE CODE, AND AN
EFFECTIVE DATE

WHEREAS, Section 2-11.36.1 of the Code of Miami-Dade County defines the term
“County Boards” broadly, so that a public entity that is designated as a state agency by Florida
law would be included in the definition of a County Board; and¹

WHEREAS, Florida Statute Section 348.0003 provides that “any county...may... form
an expressway authority, which shall be an agency of the state, pursuant to the Florida
Expressway Authority Act”; and

WHEREAS, the Miami-Dade County Expressway Authority, which was created
pursuant to Section 2-128 et seq., as amended, is an agency of the state pursuant to Florida law
and is a County Board, pursuant to the Code of Miami-Dade County, Florida; and

WHEREAS, members of the Miami-Dade County Expressway Authority, which is an
entity designated as a state agency by the Florida Legislature, should not be subject to certain
provisions of Section 2-11.38 of the Code of Miami-Dade County,

¹ The changes in the substitute, which are generally described in the attached memorandum, include numerous other
stylistic changes, which if shown in as double-underlined and double-overstricken would hinder the readability of
the substitute and would thus be impractical.

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

Section 1. Section 2-11.38 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:²

Sec. 2-11.36.1. Definition of board.

- (a) The term "board" is defined to include every agency, authority, advisory board, regulatory board, quasijudicial board, semiautonomous instrumentality, committee, task force or any other citizens' group created and funded in whole or in part by the Board of County Commissioners. The foregoing notwithstanding, this article shall not apply to citizen groups created for specific advisory purposes where such group's existence is limited to a period of less than one (1) year. Except as otherwise provided, "County boards" and "citizens' advisory groups" may only be created by action of the County Commission, and only the County Commission, as a body, may appoint the members of the such boards and groups.

- (b) Notwithstanding the provisions of subsection (a) hereof, no board, committee, task force, or other citizens' group created by a County Commissioner for the purpose of advising him or her with regard to issues solely within his or her district shall be deemed a County "board" as that term is defined herein. Such a "district board" shall, however, be governed by Florida's "Government in the Sunshine Law," Section 286.011, Florida Statutes, and the County's and Florida's Code of Ethics Laws, Section 2-11.1 of the Code of Miami-Dade County and Chapter 112, III, Florida Statutes, as those laws may be amended from time to time.

* * *

² 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.

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Sec. 2-11.38. Membership on boards.

All members of County boards shall be permanent residents and electors of Miami-Dade County unless the Board of County Commissioners, by a two-thirds vote of its membership, waives this requirement, and should have reputations for integrity and community service. In addition, all board members should have demonstrated an interest in the field, activity or sphere covered by the board. Each board shall include at least one (1) person whose livelihood does not depend on the area regulated, administered or dealt with by the board.

Unless the Board of County Commissioners by two-thirds (2/3) vote of its membership waives the residency requirement, any member of County boards who ceases to be a resident of Miami-Dade County during the term of his or her office shall immediately advise the Clerk of the Board of County Commissioners. Upon being advised by the Clerk of such circumstances, the Board of County Commissioners shall declare the position to be vacant and shall promptly fill the same pursuant to the provisions of section 2-11.38.1.

The primary consideration in appointing board members shall be to provide the board with the needed technical, professional, financial, business or administrative expertise. The membership of each board should be representative of the community at large and should reflect the gender, racial, ethnic and cultural make-up of the community.

No person shall be eligible to serve on a County board if, at the time of appointment to the County board, the person has filed a lawsuit against the County that is pending at the time of appointment and that challenges a policy set by the Board of County Commissioners, unless the Board of County Commissioners by two-thirds (2/3) vote of its membership waives this requirement. No person sitting on a County board may file a lawsuit against the County that challenges a policy set by the Board of County Commissioners without relinquishing his or her seat on the County board unless the Board of County Commissioners by two-thirds (2/3) vote of its membership waives this requirement.

No member of any County board shall become a candidate for elective political office during his or her term. Should any member of a County board qualify as a candidate for elective

political office, such qualification shall be deemed a tender of resignation from such board. No person shall serve on more than two (2) County boards simultaneously, unless the Commission has by unanimous vote approved the appointment after being advised of all other County board(s) upon which the person sits, provided, however, a person serving on any one of the following boards shall not serve on any other County board simultaneously except as provided by ordinance: Community Council; Community Zoning Appeals Board; Planning Advisory Board; Citizens' Independent Transportation Trust; Housing Finance Authority; Independent Review Panel; Industrial Development Authority; Health Facilities Authority; Educational Facilities Authority; Commission on Ethics and Public Trust; Environmental Quality Control Board; The Children's Trust; and the Public Health Trust. Notwithstanding the foregoing, a person is prohibited from serving on a County board where such service would violate federal or state law, the Miami-Dade County Home Rule Charter or county ordinance.

Any Commissioner who has nominated a citizen to a County board as that term is defined in section 2-11.36 of the Code of Miami-Dade County may at any time, with or without cause, request the Board of County Commissioners to remove said board member from his or her position on a County board and recommend a different person to fill the position.

>>Notwithstanding any of the foregoing:

1. None of the provisions of this section prohibiting a County Board member from becoming a candidate for elective political office while serving on a County Board shall apply to members of the Miami-Dade County Expressway Authority, and

2. None of the provisions of this section prohibiting a County Board member from serving on more than two County Boards simultaneously shall be applicable to persons because of their membership on the Miami-Dade County Expressway Authority.<<

Section 3. 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.

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Section 4. 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 5. 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:

APW
CJS

Prepared by:

Cynthia Johnson-Stacks

Prime Sponsor: Commissioner Sally A. Heyman