# MEMORANDUM

Agenda Item No. 11(A)(24)

**TO:** Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

**DATE:** May 3, 2011

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

**SUBJECT:** Resolution waiving Section 3.05(7)(B) of Miami-Dade Water and Sewer Department's Rules and Regulations relating to private sewage station serving single-family residences

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

**DATE:** May 3, 2011

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

**SUBJECT:** Agenda Item No. 11(A)(24)

**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)(24)
5-3-11

RESOLUTION NO. _____

RESOLUTION WAIVING SECTION 3.05(7)(B) OF MIAMI-DADE WATER AND SEWER DEPARTMENT'S RULES AND REGULATIONS RELATING TO PRIVATE SEWAGE STATION SERVING SINGLE-FAMILY RESIDENCES

**WHEREAS,** in 2006, the County, through the Miami-Dade Water and Sewer Department (the "Department"), entered into Agreement #19195 with Fontainbleau Lakes, LLC (hereinafter "Fontainbleau Lakes") for the Installation of Water and Sewage Facilities, including water and sewer mains and a private sewage pump station to serve 160 townhomes and 554 apartments; and

**WHEREAS,** the original scope of Fontainbleau Lakes project met the requirements of the Department's Rules and Regulations, including the installation of a private sewage pump station; and

**WHEREAS,** the private sewage pump station was completed in accordance with the applicable building codes and local and state rules and regulations, including the Florida Department of Environmental Protection and Miami-Dade County Department of Environmental Resources Management's requirements; and

**WHEREAS,** all other provisions regarding water and sewer infrastructure specified in Agreement #19195 have been completed and conveyed to the Department; and

**WHEREAS,** for economic reasons, Fontainbleau Lakes subsequently sought to reduce the number of, and change the type of, housing units to be built on the property; and

**WHEREAS,** in 2010, Fontainbleau Lakes informed the Department that it had changed the scope of its project to now include the construction of 232 single-family residences on the same property covered by Agreement #19195 in lieu of building 512 of the apartments and 124 of the townhomes originally planned; and

**WHEREAS,** Fountainbleau Lakes will execute a new Agreement, Agreement #20805, with the Department incorporating, among other things, the change in scope of the project; and

**WHEREAS,** a private sewage pump station is allowed to serve a property when three conditions are satisfied under Section 3.05(7)(b) of the Department's Rules and Regulations; and

**WHEREAS,** one of those conditions specifically excludes single family residences and duplex building units from being served by a private sewage pump station because single family residences are not typically covered by a qualified homeowners' association ("HOA"), which the Department relies on to maintain and operate said stations; and

**WHEREAS,** requiring Fontainbleau Lakes to remove and replace the private sewage pump station with a public pump station is cost prohibitive; and

**WHEREAS,** Fontainbleau Lakes agrees to indemnify the County with regard to the operation and maintenance of the pump station serving the single-family residences to be constructed; and

**WHEREAS,** Fontainbleau Lakes agrees to record a covenant along with the deed of sale for each single-family residence stating that the single-family residence is served by a private sewer collection system and private pump station that are operated and maintained by Fountainbleau Lakes until such time as a qualified HOA is established for the property, which HOA will then take over responsibility for operation and maintenance of the private sewer collection system and private pump station,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** that the Board hereby waives Section 3.05(7)(b) of the Miami-Dade Water and Sewer Department's Rules and Regulations to allow Fountainbleau Lakes LLC to operate and maintain a private sewage collection system and private sewage pump station to serve single-family residential properties under Agreement #20805 subject to Fontainbleau Lakes LLC's agreement to: (1) indemnify the County regarding the operation and maintenance of the private sewage collection system and private sewage pump station, and (2) sign a covenant that runs with the land and record the covenant along with the deed for each single family residence sold stating that the single-family residential property is served by a private pump station that is maintained by Fountainbleau Lakes LLC until such time as an HOA has been established that will take over the operation and maintenance responsibility for the private sewage collection system and private pump station.

The Prime Sponsor of the foregoing resolution is Senator Javier D. Souto. 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:

Joe A. Martinez, Chairman
Audrey M. Edmonson, Vice Chairwoman

| | |
|---|---|
| Bruno A. Barreiro | Lynda Bell |
| Jose "Pepe" Diaz | Sally A. Heyman |
| Barbara J. Jordan | Jean Monestime |
| Dennis C. Moss | Rebeca Sosa |
| Sen. Javier D. Souto | |

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of May, 2011. 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. SED

Sarah E. Davis