MEMORANDUM

Agenda Item No. 7(F)
(Second Reading 12-4-12)

TO: Honorable Vice Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners

DATE: October 23, 2012

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

SUBJECT: Ordinance relating to Rules of Procedure; amending Sec. 2-1 of the Code, regarding the invocation; providing procedures regarding prayer before county commission and committee meetings

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The accompanying ordinance was placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz and Co-Sponsors Commissioner Lynda Bell, Commissioner Esteban L. Bovo, Jr., Vice Chairwoman Audrey M. Edmonson, and Commissioner Rebeca Sosa.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: December 4, 2012

To: Honorable Vice Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Related Rules of Procedure of the County Commissioner amending Section 2-1 of the Code of Miami-Dade County

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The proposed ordinance establishes procedures regarding prayer before County Commission and committee meetings and requires the Clerk of the Board to establish a database that will store information on all religious organizations in the County. The Clerk of the Board is in the process of researching the possibility of accessing databases regarding listings of religious assemblies.

There will be a one-time fixed cost of $22,000, which is inclusive of labor and start-up costs associated with the development of a computer application that replicates the information obtained from outside databases and provides reporting capabilities. In addition, an annual recurring cost of $4,000 for technical support and maintenance is required. If the database information provider agrees to share the information with the County at no cost, then the total cost is as indicated above. However, if the database information providers do not agree to share the information with the County at no cost, there will be an additional cost to the County that is difficult to quantify at this time.

Edward Marquez
Deputy Mayor

fis1313

MEMORANDUM
(Revised)

TO: Honorable Vice Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners

DATE: December 4, 2012

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

SUBJECT: Agenda Item No. 7(F)

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. 7(F)
12-4-12

ORDINANCE NO. _____

ORDINANCE RELATING TO RULES OF PROCEDURE OF THE COUNTY COMMISSION; AMENDING SECTION 2-1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, REGARDING THE INVOCATION; PROVIDING PROCEDURES REGARDING PRAYER BEFORE COUNTY COMMISSION AND COMMITTEE MEETINGS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Miami-Dade County Board of County Commissioners ("the Board") is an elected legislative and deliberative public body, serving the citizens of Miami-Dade, Florida; and

WHEREAS, the Board wishes to continue a tradition, followed by legislative bodies throughout the United States, of solemnizing its proceedings by allowing for an opening invocation before each meeting for the benefit of the Board; and

WHEREAS, the Board desires to adopt this formal, written policy to clarify and codify its invocation practices; and

WHEREAS, such invocations before deliberative public bodies have been consistently upheld as constitutional by American courts, including the United States Supreme Court; and

WHEREAS, the Supreme Court acknowledged in *Holy Trinity Church v. United States,* 143 U.S. 457, 471 (1892), that the American people have long followed a "custom of opening sessions of all deliberative bodies and most conventions with prayer...,"; and

WHEREAS, in *Marsh v. Chambers,* 463 U.S. 783 (1983)(hereinafter "*Marsh*"), the United States Supreme Court validated the Nebraska Legislature's practice of opening each day of its sessions with a prayer by a chaplain; and

WHEREAS, this Board intends to adopt guidelines that are consistent with the guidance provided by the United States Supreme Court in *Marsh*; and

WHEREAS, the Board intends to adopt a policy that does not proselytize or advance any particular faith, or show any purposeful preference of one religious view to the exclusion of others,

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

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

CODE OF MIAMI-DADE COUNTY
CHAPTER 2. ADMINISTRATION
ARTICLE I. IN GENERAL

Sec. 2-1. Rules of Procedure of County Commission.

* * *

PART 5. CONDUCT OF MEETINGS; AGENDA

* * *

Rule 5.05 Agenda.

(a) *Order of business.*

(1) There shall be an official agenda for every meeting of the Commission, which shall determine the order of business conducted at the meeting. The order of business for Tuesday meetings shall be as follows:

1. roll call
Invocation >>as provided in Rule 5.05(g)<<
pledge of allegiance
special presentations
citizen's presentations
reports of official county boards
motion to set agenda
commission auditor
office of intergovernmental affairs

[1] 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.

2. mayoral vetoes
   mayoral reports

3. consent agenda

4. ordinances for first reading

5. public hearings, which shall be scheduled for 9:30 a.m.

6(a). chairperson of the board of county commissioners

6(b) policy matters for discussion by the board

7. ordinances for second reading

8. departments

9. additional departmental items

10. authorities, boards, councils and trusts

11. county commissioners

12. county manager

13. county attorney

14. items subject to "4-day rule"

15. clerk of the board.

Items shall be considered in the order in which they are placed on the agenda unless a majority of the commissioners determines to deviate from the printed agenda or in the discretion of the chairperson, certain matters should be taken out of order to help eliminate logistical concerns or exigent circumstances which would impede the proper functioning of the commission. During a commission meeting, commissioners may identify certain items for individual consideration (i.e., the "pull list"). Agenda items not selected for individual consideration may be approved in a single vote.

The commission shall not take action upon any matter when it is first presented to the commission in a report or reports made by the County Commissioners

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>>(g) *Invocations before the County Commission and Committees.*

(1) It is the policy of the Board to allow for an invocation, which may include a prayer or a short solemnizing message, to be offered before its meetings for the benefit of the Board.

(2) Although the invocation shall be listed in the agenda, it shall not be considered an agenda item for the meeting or part of the public business.

(3) No member or employee of the Board or any other person in attendance at the meeting shall be required to participate in any invocation that is offered.

(4) The invocation shall be voluntarily delivered by an eligible individual selected by members of the Board on a rotating basis. Eligible individuals shall be selected in the following manner:

(a) The Clerk of the Board shall compile and maintain a database of the religious congregations with an established presence within Miami-Dade County.
(b) The database shall be compiled by referencing the listing of religious assemblies, including houses of worship, in phone books published for Miami-Dade County, research from the Internet, and consultation with local chambers of commerce. A religious assembly can confirm its inclusion by specific written request to the Clerk of the Board.
(c) The database shall be updated, by reasonable efforts of the Clerk of the Board, January of each calendar year.
(d) Every reasonable effort shall be made to ensure that no individual is scheduled to offer an invocation at more than three meetings in any calendar year.

(5) No invocational speaker shall receive compensation for his or her service.

(6) Any invitation extended shall specify that the opportunity to offer a legislative invocation shall not be exploited to convert others to any particular faith, to advance any particular faith, or to disparage any other faith or belief.

(7) Neither the Board nor the Clerk of the Board shall engage in any prior inquiry, review of, or involvement in, the content of any prayer to be offered by an invocational speaker.

(8) This policy is not intended, and shall not be implemented or construed in any way, to affiliate the Board with, nor express the Board's preference for, any faith or religious denomination. <<

Section 2. 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.

Section 3. 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 4. 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:

Prepared by:

Bruce Libhaber

Prime Sponsor: Commissioner Jose "Pepe" Diaz
Co-Sponsors: Commissioner Lynda Bell
Commissioner Esteban L. Bovo, Jr.
Vice Chairwoman Audrey M. Edmonson
Commissioner Rebeca Sosa