

MEMORANDUM

Agenda Item No. 7(J)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: (Second Reading 7-2-13)
April 2, 2013

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

SUBJECT: Ordinance creating and
establishing the West Kendall
(Section Three) Municipal
Advisory Committee

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Juan C. Zapata.



R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum



Date: July 2, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the printed name.

Subject: Ordinance Creating and Establishing the West Kendall (Section Three) Municipal Advisory Committee

The proposed ordinance creates and establishes the West Kendall (Section Three) Municipal Advisory Committee. Now that the moratorium on incorporation has been lifted, it is expected that additional activities pertaining to incorporation and annexations will increase significantly. As of today, there are five existing Municipal Advisory Committees (MACs), with three currently active MACs requiring staff support. Approval of the creation of additional MACs will require an additional position (\$96,000) to provide adequate support.

A handwritten signature in black ink, appearing to read "Edward Marquez", written over a horizontal line.

Edward Marquez
Deputy Mayor

Fis5213

Memorandum



Date: July 2, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez".

Subject: Report Regarding Ordinance Creating and Establishing the West Kendall Municipal Advisory Committee (Section Three) Pursuant to Section 2-11.37 of the Code

This report provides information regarding the Ordinance creating and establishing the West Kendall Municipal Advisory Committee (Section Three). According to Section 2-11.37 of the Miami-Dade County Code, the following information is required to be provided to the Board of County Commissioners (Board) when the Board is considering a new committee.

1. Will the establishment of the committee create sufficient betterment to the community to justify the Board's delegation of a portion of its authority?

The proposed board is advisory and does not require a delegation of authority from the Board.

2. Is there another board or agency, public or private, which is already in existence that could serve the same purpose?

No. There is no other board that could serve the purpose of the proposed committee. The committee will be made up of members from that community who will study the feasibility and desirability of incorporation.

3. The costs, both direct and indirect, of establishing and maintaining the board.

As noted in the fiscal impact, the proposed ordinance creates and establishes the West Kendall (Section One) Municipal Advisory Committee. Now that the moratorium on incorporation has been lifted, it is expected that additional activities pertaining to incorporation and annexations will increase significantly. As of today, there are five existing Municipal Advisory Committees (MACs), with three currently active MACs requiring staff support. Approval of the creation of additional MACs will require an additional position (\$96,000) to provide adequate support.

4. Is it necessary for the board to enable the County to obtain State or Federal grants or other financing?

No. As proposed and based on the scope, the committee is not being created to enable the County to seek State or Federal grants or other financing.

5. Should the board have bonding ability?

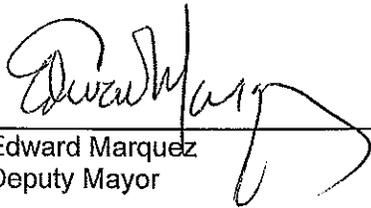
No. Based on the duties of the proposed committee, there is no need to have bonding ability.

6. Explain whether the board should have final authority to enter into contracts and spend County funds, or whether its contracts and expenditures must be ratified by the Board?

As proposed, the committee would not have authority to enter into contracts or to spend County funds.

7. Is the creation of the board the best method of achieving the desired benefit?

Yes. The creation of the West Kendall Municipal Advisory Committee will allow the residents of that area to meet and discuss the possibility of creating a new municipality or remaining part of the unincorporated area through a series of publicly noticed meetings in the community.



Edward Marquez
Deputy Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: July 2, 2013

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

SUBJECT: Agenda Item No. 7(J)

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 Mayor'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(J)
7-2-13

ORDINANCE NO. _____

ORDINANCE CREATING AND ESTABLISHING THE WEST KENDALL (SECTION THREE) MUNICIPAL ADVISORY COMMITTEE; DIRECTING SUCH COMMITTEE TO STUDY THE POSSIBLE CREATION OF A NEW MUNICIPALITY IN THE WEST KENDALL (SECTION THREE) AREA; WAIVING PORTIONS OF SECTIONS 2-11.38 AND 20-29(A) OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR SUNSET OF SUCH COMMITTEE; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Municipal Advisory Committee is being studied for the purposes of determining the feasibility and other issues relating to any possible incorporation of the area; and

WHEREAS, the area proposed to be studied contains portions of commission districts 7 and 11, and the Commissioners for these districts have had a Sunshine meeting and discussed the creation of the proposed municipal advisory committee; and

WHEREAS, the westernmost boundary of the study area is proposed to be the Levee 31N, as other possible boundaries would create gaps in the provision of municipal services, requiring Miami-Dade County to serve areas which are most proximate to a municipality; and

WHEREAS, having the westernmost boundary of the study area be Levee 31N in no way proposes or attempts to promote expansion of the land within the Urban Development Boundary; and

WHEREAS, the Miami-Dade County Code currently has in place certain safeguards with respect to inclusion of the Urban Development Boundary within a proposed new municipality by requiring any incorporation of any area outside of the Urban Development Boundary to be governed by Section 2-116.1.2 of the Code of Miami-Dade County, which requires the location of the Urban Development Boundary and permitted land uses outside the

Urban Development Boundary to be governed by the Miami-Dade County Comprehensive Development Master Plan; and jurisdiction for any amendments to the Urban Development Boundary shall be processed in accordance with procedures for applications located in the unincorporated area; and that municipal land use decisions outside the Urban Development Boundary line shall be consistent with the Comprehensive Development Master Plan,

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

Section 1. The West Kendall (Section Three) Municipal Advisory Committee (the “Committee”) is hereby created as follows:

A. Purposes.

- (1) To review the possible incorporation of the area known as West Kendall (Section Three) generally described by the following boundaries:

North: Kendall Drive

South: SW 152 Street

East: The Florida Turnpike (between SW 88 Street and SW 104 Street (generally known as the “Calusa” area)

--and--

SW 137 Avenue between SW 104 Street and SW 152 Street

West: Levee 31N

(the “Study Area”). It is provided, however, that the Committee as established herein may expand or contract the Study Area within the boundaries of District 11 or any Commission District, as long as the commissioner of such other district files a written consent with the Clerk of the Board agreeing to the study of any expanded area.

B. Duties and Responsibilities; Sunset.

- (1) The Committee shall prepare an advisory report that shall:
 - a. make findings of whether it is feasible or not to incorporate the Study Area; determine whether there is a desire to incorporate the Study Area; and propose a plan for the development of the Study Area as a viable municipality, as required by Section 20-29 of the Code of Miami-Dade County.
 - b. address any concerns of members of the Board of County Commissioners regarding incorporation of the area and the manner in which those concerns may be alleviated in the event the area studied by the Committee is incorporated as a new municipality; and
- (2) The committee shall conduct no less than two duly advertised public hearings at which the residents of the area shall have the opportunity to express their views and concerns regarding the proposed incorporation of the West Kendall (Section Three) area.
- (3) Prior to the first public hearing, the committee shall become familiar with written materials concerning incorporation presented by the Office of Management and Budget.
- (4) The committee's responsibilities shall terminate upon submitting its report to the Board of County Commissioners or within twenty-four (24) months of the effective date of this ordinance, whichever date is earlier.

C. Composition and appointment of members.

The Committee shall consist of seven (7) members who are resident electors of the Study Area. Based on the percentage of current population in each Commission district within the Study Area as compared to the current population of the total Study Area, Commissioners, by

filing a written memorandum to the Clerk of the Board of County Commissioners, shall appoint the number of members as stated below:

District 7: 1 member

District 11: 6 members

If a Study Area is contracted as required by Section 20-29 of the Code because a Commissioner does not consent to the inclusion of any portion of his or her district in the Study area, the number of members any Commissioner is entitled to appoint will be modified proportionately. Upon such occurrence, the Mayor or the Mayor's designee shall then determine the percentage of population in the Study Area in each Commission district as compared to the population of the total Study Area, as revised, compute the number of appointments per Commissioner, and shall notify each affected Commissioner of how many appointments are to be made based on the revised Study Area. Alternatively, should the Study Area be expanded as authorized by this ordinance, the number of appointments to be made by any Commissioner shall be determined utilizing the procedure set forth above for contraction of the Study Area.

(The source of population numbers utilized herein are based on the: U.S. Census Bureau, Census 2010 and Miami-Dade County, Regulatory and Economic Resources Department, Planning Research Section, December 2012 and only includes population numbers inside the Urban Development Boundary.)

The district commissioner who previously made appointments to a seat shall fill any vacancy in that seat by filing a written memorandum to the Clerk of the Board of County Commissioners.

The members of the committee shall select officers from the membership as desirable or necessary.

Section 2. The provisions of Section 2-11.38 of the Code of Miami-Dade County that prohibit simultaneous board service on more than two County boards and membership on certain listed County boards and service on this Committee are waived; provided, however, no member of the Planning Advisory Board may be a member of this Committee.

Section 3. The provisions of Section 20-29(A) of the Code of Miami-Dade County that prohibit the creation of a municipal advisory committee unless at least twenty-five (25) percent of the resident electors in the area to be studied consent in writing to the creation of a municipal advisory committee are hereby waived.

Section 4. 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 5. 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 6. 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:

JAC
CJBCAC

Prepared by:

Craig Coller
Cynthia Johnson-Stacks

Prime Sponsor: Commissioner Juan C. Zapata