MEMORANDUM

LUDC
Agenda Item No. 1E1

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

DATE: June 13, 2013

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

SUBJECT: Ordinance relating to zoning and to Rules of Procedure; providing criteria for waiver of zoning hearing fees; providing for exception to committee requirement and for authority to sponsor agenda item; amending Sections 2-1 and 33-309 of the Code

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Vice Chair Lynda Bell.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum

MIAMI-DADE COUNTY

Date:

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

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Relating to Zoning and Rules of Procedure; Providing Criteria for Waiver of Zoning Hearing Fees; Providing for Exception to Committee Requirement and for Authority to Sponsor Agenda Item; Amending Sections 2-1 and 33-309 of the Code

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The proposed ordinance amends Sections 2-1 and 33-309 of the Code and provides criteria for waiver of zoning hearing fees and provides for exception to committee requirement and for authority to sponsor agenda item. The Regulatory and Economic Resources Department reviewed the applications for calendar year 2012 that met the criteria for religious facilities, schools, Habitat for Humanity homes and nursing homes. Based on this review, 32 applications could have applied for the zoning fee waiver totaling $266,000 in lost revenue to the department. As a result, it is estimated that implementation of this ordinance will have a negative fiscal impact to the County of approximately $266,000 per year.

Jack Osterholt
Deputy Mayor

Fis4813

MEMORANDUM
(Revised)

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

DATE: April 2, 2013

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

SUBJECT: Agenda Item No. 4(B)

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. 4(B)

4-2-13

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING AND TO RULES OF PROCEDURE OF COUNTY COMMISSION; PROVIDING CRITERIA FOR WAIVER OF ZONING HEARING FEES; PROVIDING FOR EXCEPTION TO COMMITTEE REQUIREMENT AND FOR AUTHORITY TO SPONSOR AGENDA ITEM; AMENDING SECTIONS 2-1 AND 33-309, CODE OF MIAMI-DADE DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY; INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Section 33-309 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-309. - Community Zoning Appeals Board/Board of County Commissioners Applications for public hearing.

>>(a)<< All hearings before the Community Zoning Appeals Board or the Board of County Commissioners shall be initiated by the filing with the Department an application on forms prescribed by the Director, executed and sworn to by the owner or owners of at least seventy-five (75) percent of the property described in the application, or by tenant or tenants, with owner's written sworn-to consent or by duly authorized agents, evidenced by a written power of attorney, if not a member of the Florida Bar, or by the Director, or by any person aggrieved by an order, requirement, decision or determination of an administrative official when appealing the same, or by anyone desiring an amendment or repeal to the zoning regulations. All properties described in one (1)

[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.

application must be contiguous and immediately adjacent to one (1) another, and the Director may require more than one (1) application if the property concerned contains more than forty (40) acres, or the fee paid for one (1) application would not equal the cost of processing the same. Only applications which the Community Zoning Appeals Board or the Board of County Commissioners are authorized to consider and act upon shall be accepted for filing.

* * * *

>>(b)<< Applications which are to be considered by the Community Zoning Appeals Boards in accordance with this chapter shall be assigned by the Director to the Community Zoning Appeals Board which has jurisdiction based upon the location of the property which is encompassed by the application. In the event that the property which is encompassed by the application is located in more than one (1) Community Zoning Appeals Board's district the application shall be heard directly by the County Commission.

>>(c)<< Whenever any hearing is initiated by the Director or the Zoning Official, pursuant to this section, the County Manager may order that no building permits shall be issued for any construction work on the property involved in the hearing, until the hearing has been finally concluded in accordance with the provisions of this Code. Should the County Manager issue such an order the administrative personnel shall schedule the application for the first public hearing date after appropriate legal notice.

>>(d) *Waiver of fees.*

(1) The Board of County Commissioners may, upon an affirmative vote of two-thirds (2/3) of the members present, waive application and notice fees for any applicant who is determined to meet one of the following categories:

(a) The applicant is a low-income individual or family and presents proof of each of the following:

(i) The applicant's income is equal to or below 200 percent of the then-current federal poverty guidelines prescribed by the United States Department of Health and Human Services for the size of the applicant's household; and

(ii) The applicant's assets do not exceed limitations set forth in state and federal eligibility criteria for the Temporary

Assistance for Needy Families ("TANF") program.

(b) The subject property is totally exempt from ad valorem taxation, and the applicant presents proof of each of the following:

(i) The property that is the subject of the application is totally exempt from ad valorem taxation because said property is used for educational, literary, scientific, religious, charitable, or governmental use, as set forth in a certified statement from the Miami-Dade County Office of the Property Appraiser. If the exempt status of the property has not been determined for the current year at the time the applicant seeks a fee waiver, the applicant may rely on the exemption granted for the immediately preceding year, provided the applicant also submits a sworn written statement that there has been no change in ownership and use of the property since January 1 of the immediately preceding year; and

(ii) The purpose of the application is to further those uses that qualify the property for ad valorem tax exemption and is not solely for the purpose of enhancing the value of the property or raising revenue; and

(iii) Payment of the fee would substantially impair the applicant's ability to perform the uses that qualify the property for ad valorem tax exemption.

(c) The applicant presents proof that he or she would suffer an extraordinary financial hardship if required to pay the fee, or the applicant is a not-for-profit corporation and presents proof that payment of the fee would substantially impair the applicant's ability to perform the uses that qualify it for not-for-profit status.

(2) The application for fee waiver shall be submitted to the Department on a form approved by the Director. The Director shall prepare a recommendation as to whether the applicant satisfies the criteria set forth herein and shall, as soon as practicable, present the application and recommendation to the Board of County Commissioners for consideration.<<

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

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

* * * *

Rule 4.01 Committees.

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(j) *Exceptions to Committee Requirement.*

* * * *

(2) Quasi-judicial items, special taxing districts, ordinances for first reading, items approving or ratifying submittal of grant applications and acceptance of grant awards, district office fund allocations, special presentations, namings, renamings or co-designations of County roads, facilities or properties, approvals of namings, renamings or co-designations of federal, state or municipal roads, facilities or properties, citizens' presentations, bid protests, settlements, options to renew contracts, >>applications for waiver of zoning fees,<< resolutions recommending the acceleration and deceleration of Building Better Communities General Obligation Bond Program funding of projects using unspent bond proceeds, including interest earnings and premium funds, resolutions urging an entity or person to take stated action, resolutions taking a position or seeking direction from the Board on legislation or administrative action at the federal, state or local level, resolutions related to contract lobbyist conflict waiver requests and resolutions expressing intent shall be heard directly by the county commission, items, awarding, granting, amending or relating to an award or grant of Targeted Jobs Incentive Fund, Qualified Targeted Industry Business incentives, property or utility tax exemptions in enterprise zones, or Brownfield Economic Development Initiative Loan Funds or similar incentives and tax exemption programs; provided, however, any such item relating to an award of Community Redevelopment Agency funding or Community Development Block Grant funding or other funding

administered by the Public Housing and Community Development department, or successor department, shall not be excepted from committee review by this subsection (j)(2). On such items, the public shall have the same rights to participate and be heard at the county commission as they would have received had the item been heard in committee.

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Rule 5.05 Agenda.

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(b) *Authority to sponsor or present items on agenda.*

(1) Anything to the contrary notwithstanding, matters may only be presented or sponsored by a county commissioner, a commission committee, the county attorney and the clerk of the commission, except that the Mayor shall be able to present or sponsor: (1) reports which do not amend any policy established by the County Commission; (2) mayoral appointments; (3) solicitations for the purchase of goods and services, leases, construction contracts and debt obligations; (4) contracts for the purchase of goods and services and amendments thereto; (5) grant applications, grants and sub-grants; (6) leases of non-County-owned property and amendments thereto; (7) debt obligations and amendments thereto; (8) construction contracts and amendments thereto; (9) labor agreements and amendments thereto; (10) special taxing districts initiated by petition; (11) certificates of public convenience and necessity; (12) certificates of transportation; (13) quasi-judicial items >><u>and applications for waiver of zoning fees</u><<; (14) other matters where the presentation or sponsorship by the Mayor is required by the Home Rule Charter or state or federal law; and (15) leases and licenses of County-owned property and amendments thereto if the Mayor first provides written notification to the Commissioner of the District wherein the County-owned property that is to be leased or licensed is located of the matter and the District Commissioner does not agree to present or sponsor such lease or license or amendment thereto within ten (10) days of the written notification. Any Commissioner or commission committee may present or sponsor any item which the

> Mayor is authorized to present or sponsor pursuant to the preceding sentence, except as provided otherwise in the Home Rule Charter, or state or federal law. Additionally, the committee chairperson of jurisdiction may, upon the written request of the Mayor or his or her designee, submit an item for placement on a committee or Commission agenda. Such an item shall, if requested by the committee chairperson of jurisdiction, be placed on the appropriate agenda, in accordance with the applicable rules of procedure, as an item sponsored by the committee of jurisdiction.

* * * *

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.

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:

Prepared by:

Dennis A. Kerbel

Prime Sponsor: Vice Chair Lynda Bell