MEMORANDUM

Agenda Item No. 7(G)

(Second Reading 1-22-14)

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

DATE: November 5, 2013

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

SUBJECT: Ordinance relating to the Rules of Procedure of the Board of County Commissioners and County Boards; amending Section 2-1 and creating Section 2-11.39.2 of the Code, to provide a reasonable opportunity for the public to be heard on propositions before the Board of County Commissioners and other County Boards; providing exceptions

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

R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum

MIAMI-DADE COUNTY

Date: January 22, 2014

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

From: Carlos A. Gimenez
Mayor

Subject: Ordinance relating to the rules of procedure of the Board of County Commissioners and County boards; amending Section 2-1 and creating Section 2-11.39.2 of the Code

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The proposed ordinance amends Section 2-1 and creates Section 2-11.39.2 of the Code to provide a reasonable opportunity for the public to be heard on propositions before the Board of County Commissioners and other County boards, as required by recent legislation adopted by the State of Florida (Chapter 2013-227).

Implementation of this ordinance will not have a fiscal impact to the County.

Inson Kim
Director of Policy and Legislative Affairs

Fis1514

MEMORANDUM

(Revised)

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

DATE: January 22, 2014

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

SUBJECT: Agenda Item No. 7(G)

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(G)
1-22-14

ORDINANCE NO. _____

ORDINANCE RELATING TO THE RULES OF PROCEDURE OF THE BOARD OF COUNTY COMMISSIONERS AND COUNTY BOARDS; AMENDING SECTION 2-1 AND CREATING SECTION 2-11.39.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO PROVIDE A REASONABLE OPPORTUNITY FOR THE PUBLIC TO BE HEARD ON PROPOSITIONS BEFORE THE BOARD OF COUNTY COMMISSIONERS AND OTHER COUNTY BOARDS; PROVIDING EXCEPTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, during the 2013 session, the Florida Legislature enacted Chapter 2013-227, Laws of Florida (Senate Bill 50), related to public meetings; and

WHEREAS, Chapter 2013-227 requires members of the public to be given a reasonable opportunity to be heard on a proposition before a board or commission of any state agency or authority or of any agency or authority of a county, municipal corporation or political subdivision; and

WHEREAS, Chapter 2013-227 includes certain exceptions and provides that such opportunity to be heard does not have to occur at the same meeting at which the board or commission takes official action if certain requirements are met; and

WHEREAS, Chapter 2013-227 does not prohibit a board or commission from maintaining orderly conduct or proper decorum in a public meeting; and

WHEREAS, Chapter 2013-227 authorizes a board or commission to adopt reasonable rules or policies in accordance with such law governing the opportunity to be heard, and if a

board or commission adopts reasonable rules and complies with them, the board or commission is deemed to be acting in compliance with Chapter 2013-227; and

WHEREAS, the Citizens' Bill of Rights of the Miami-Dade County Home Rule Charter includes provisions similar to Chapter 2013-227, stating:

> So far as the orderly conduct of public business permits, any interested person has the right to appear before the commission or any municipal council or any county or municipal agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the governmental entity involved; provided, nothing herein shall prohibit the commission or any municipal council from referring a matter to a committee of each of their respective bodies to conduct a public hearing, unless prohibited by law; and

WHEREAS, Miami-Dade County is the most populous county in the southeastern United States and the seventh largest county in the nation by population; and

WHEREAS, this Board has recognized the importance of giving the public a reasonable opportunity to be heard, while acknowledging the size and scope of the government of Miami-Dade County; and

WHEREAS, given the population of Miami-Dade County, this Board would like to structure the reasonable opportunity for the public to be heard as set forth in this ordinance so as to provide all members of the community an opportunity to be heard; and

WHEREAS, this Board would like to structure the reasonable opportunity for the public to be heard as set forth in this ordinance so as not to unreasonably impede the Board from addressing issues of importance to the community; and

WHEREAS, this Board would like to revise its Rules of Procedure in light of these guiding principles and the Legislature's passage of Chapter 2013-227,

NOW, THEREFORE, 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]

Sec 2-1. RULES OF PROCEDURE OF THE COUNTY COMMISSION.

* * *

PART 4. COMMITTEES

Rule 4.01. COMMITTEES.

* * *

(d) Powers of Commission committees. Commission committees and subcommittees are authorized:

(1) To maintain a continuous review of the work and performance of county agencies and, notwithstanding any provision to the contrary in the Code, county boards within the jurisdiction of each committee;

(2) To invite public officials, employees, and private individuals to appear before the committees or subcommittees to submit information;

(3) To request reports from departments and, notwithstanding any provision to the contrary in the Code, county boards performing functions reasonably related to each committee's jurisdiction;

(4) To complete interim projects assigned by the chairperson of the commission;

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[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.

(5) Lay the matter on the table resulting in the matter not being placed on an agenda of the county commission. A report submitted by a county board may not be laid on the table where the ordinance creating the county board requires that a report be submitted to the county commission; [[~~or~~]]

(6) Notwithstanding any provision to the contrary in the Code, to conduct public hearings, unless state or federal law requires the county commission to conduct a given public hearing[[~~.~~]]>>; or

(7) To provide a reasonable opportunity for the public to be heard on propositions not subject to public hearing pursuant to Rule 6.06<<.

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. invocation as provided in Rule 5.05(h)
roll call
pledge of allegiance
special presentations
citizen's presentations
reports of official county boards
>>reasonable opportunity for the public to be heard as provided in Rule 6.06<<
motion to set agenda
commission auditor
office of intergovernmental affairs

2. mayoral vetoes
mayoral reports

3(a). Consent Agenda – commissioner items

3(b). Consent Agenda – department items

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 mayor

13. county attorney

14. items subject to "4-day rule"

15. clerk of the board.

16. items scheduled for Thursday

17. summer recess items

The following items shall be considered consent agenda items and placed in section 3(a) or 3(b) of the agenda, as appropriate:

1. Items approving or ratifying the submittal of grant applications and acceptance of grant awards, as long as required matching funds are appropriated in the County budget, as determined by the Office of Management and Budget

2. Resolutions ratifying contracts executed by the Mayor, as allowed by law or previous action of the Board (non-summer recess items)

3. Resolutions approving in-kind contributions

4. Resolutions making district office fund allocations

5. Resolutions approving namings, renamings or codesignations of federal, state or municipal roads, facilities or properties

6. Items awarding, granting, amending or relating to an award or grant of Targeted Jobs Incentive Fund, Qualified Targeted Industry Business incentives and tax exemption programs

7. Resolutions approving donations of surplus County property, except those donations made for emergency purposes and to foreign governmental entities

8. Resolutions approving the issuance or transfer of certificates of transportation for passenger motor carriers

Notwithstanding any provision herein to the contrary, first or second reading items, public hearing items, quasi- judicial items, and items requiring a supermajority vote of the board shall not be placed in the consent agenda section of the agenda.

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, including consent 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.

* * *

(f) Public Hearings Heard By Committee. When a public hearing relating to an ordinance or resolution is conducted before a commission committee as authorized herein, no additional testimony from the public shall be permitted except by a majority vote of those members present before final action is taken; however, debate by commissioners shall be allowed.

* * *

Rule 5.06. ORDINANCES, RESOLUTIONS, MOTIONS, CONTRACTS.

(a) PREPARATION AND ENACTMENT OF ORDINANCES. The county attorney, when requested, shall prepare ordinances and resolutions.

Ordinances may be introduced and listed by title and shall be read by title only before consideration by the commission on first reading. On first reading of ordinances, there shall be no discussion by either county commissioners, county staff or members of the public>>, except as provided in Rule 6.06<<. On first reading only, the commission may either vote for all ordinances in one vote or may vote separately on any ordinance. At second reading, each ordinance shall be voted on individually.

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PART 6. PUBLIC PARTICIPATION

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Rule 6.02. CITIZENS' PRESENTATIONS; PUBLIC HEARINGS.

(a) CITIZENS' PRESENTATIONS. Any citizen shall be entitled to be placed on the official agenda of a regular meeting of the commission and be heard concerning any matter within the scope of the jurisdiction of the commission. Only commissioners and the mayor may place a citizen on the official agenda. The deadline for placing a citizen on the agenda is noon on Monday of the week preceding the week of the meeting at which said citizen wishes to be heard. No action may be taken by the commission on an item heard as a citizen's presentation unless two-thirds (2/3) of the members present deem that the issue requires immediate commission action.

(b) PUBLIC HEARINGS. Any citizen shall be entitled to speak on any matter appearing on the official agenda under the section entitled "Public Hearings".

(c) PUBLIC DISCUSSION ON AGENDA ITEMS. No [[~~citizen~~]]>>member of the public<< shall be entitled as a matter of right to address the commission on any matter listed on or added to the official agenda which is not scheduled for citizen's presentations[[~~,~~]]>>or a<< public hearing, [[~~discussion or debate~~]]>>except as provided in Rule 6.06<<.

Rule 6.03. REGISTRATION OF SPEAKERS >>FOR PUBLIC HEARING ITEMS<<.

(a) The [[~~office of agenda coordinator~~]]>>Office of Agenda Coordination<< shall prepare appropriate registration cards >>for public hearing items<< which should indicate the speaker's name, the [[~~agenda~~]] >>public hearing<< item on which he or she is speaking, and whether he or she is speaking in favor of or against the proposed item.

(b) On the day of the commission >>or committee<< meeting, a person desiring to speak shall register with the office of the agenda coordinator, at least fifteen (15) minutes prior to the commencement of the discussion on the >>public hearing<< item, at a registration table in the lobby of the commission chambers.

(c) Failure to comply with the registration provisions of this rule shall prohibit a person from speaking on any >>public hearing<< item for which he or she is not properly registered.

(d) In the event that the seats in the commission chambers are filled to capacity, the [[~~office of agenda coordinator~~]]>>Office of Agenda Coordination<< shall provide appropriate overflow seating in an area where the commission >>or committee<< meeting is being monitored on television.

Rule 6.04. ADDRESSING COMMISSION, MANNER, TIME >>FOR PUBLIC HEARING ITEMS<<.

Each person, other than salaried members of the county staff, who addresses the commission >>or a committee<< shall step up to a podium and shall give the following information in an audible tone of voice for the minutes:

(a) Name;

(b) Address;

(c) Whether the person speaks on his or her own behalf, a group of persons, or a third party; or if the person represents an organization; and whether the view expressed by the speaker represents an established policy of the organization approved by the board or governing council;

(d) Compensation, if any;

(e) Whether the person or any immediate family member has a personal financial interest in the pending matter, other than as set forth in (d).

Unless further time is granted by the commission >>or committee<<, the statement >>on a public hearing item<< shall be limited to five (5) minutes. All remarks shall be addressed to the commission >>or committee<< as a body and not to any member thereof. No person, other than commissioners and the person having the floor, shall be permitted to enter into any discussion,

either directly or through a member of the commission, without the permission of the presiding officer. No question shall be asked a commissioner except through the presiding officer.

Rule 6.05. DECORUM.

Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present.

No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. No signs or placards shall be allowed in the commission chamber. Persons exiting the commission chamber shall do so quietly.

The use of cell phones in the commission chambers is not permitted. Ringers must be set to silent mode to avoid disruption of proceedings. Individuals, including those on the dais, must exit the chambers to answer incoming cell phone calls. County employees may not use cell phone cameras or take digital pictures from their positions on the dais.

>>**Rule 6.06. REASONABLE OPPORTUNITY FOR THE PUBLIC TO BE HEARD ON NON-PUBLIC HEARING PROPOSITIONS.**

(a) In addition to and apart from the right to speak on any public hearing item as set forth above and notwithstanding and prevailing over any other provision of the Code to the contrary, members of the public shall be given a reasonable opportunity to be heard as set forth in this rule on any non-public hearing proposition that is before the Commission or a committee pursuant to section 286.0114, Florida Statutes, as such may be amended from time to time.

(b) For purposes of this rule, "proposition" shall mean a general substantive policy issue or matter proposed or offered for consideration or adoption, and shall not include:

(i) Procedural motions on propositions, or

(ii) Individual components, aspects or line items of a proposition.

While a single proposition may be considered multiple times before the Commission and Commission committees as the same or different agenda items, there shall only be one reasonable opportunity to be heard on each proposition during the decisionmaking process as set forth in this rule.

(c) For any non-public hearing proposition that is referred to committee, the reasonable opportunity to be heard shall be before the committee subject to the limitations in (d) below. For any non-public hearing proposition that is not referred to committee and heard only by the Commission, the reasonable opportunity to be heard shall be before the Commission subject to the limitations in (d) below.

(d) The reasonable opportunity to be heard shall not apply to:

1. An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the Commission or a committee to act;

2. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamation;

3. A meeting that is exempt from the Sunshine Law;

4. A meeting during which the Commission or a committee is acting in a quasi-judicial capacity; provided, however, that this provision does not affect the right of a person to be heard as otherwise provided by law;

5. Procedural motions, including, but not limited to, motions to defer an item, recess or adjourn;

6. Ordinances on first reading, except as provided in (m) below;

7. Ordinances on second reading when there was a previous opportunity to be heard at a public hearing at committee or otherwise;

8. Propositions before the Commission when there was a previous opportunity to be heard at committee;

9. A request or direction to the Mayor or other County official that will be brought back before the Commission or a committee when there will be a subsequent opportunity to be heard on the proposition; or

10. Any situation where there has been a previous public hearing or reasonable opportunity to be heard on a proposition, or where there will be a subsequent public hearing or reasonable opportunity to be heard on a proposition.

(e) On the day of the Commission or committee meeting and no less than one-half hour after the publicly noticed time for the meeting to begin, a person desiring to speak on a non-public hearing proposition shall register with the Office of Agenda Coordination in the lobby of the Commission chambers and complete a registration card as set forth in (f) below.

(f) The Office of Agenda Coordination shall make available appropriate registration cards for non-public hearing propositions. Such cards shall be formatted to indicate the speaker's name, the non-public hearing proposition on which he or she is speaking, and whether he or she is speaking in favor of or against the proposition or for informational purposes. Such registration cards shall be in a distinct color or otherwise immediately distinguishable from registration cards for public hearing items.

(g) Failure to comply with the registration provisions of this rule shall prohibit a person from having an opportunity to be heard on any item or proposition for which he or she is not properly registered, provided however that if a proposition is discussed that is not listed on the agenda of the Commission or a committee, then a person shall have an opportunity to be heard on the proposition by registering with the Office of Agenda Coordination and completing a registration card as soon as it is announced that the Commission or committee, as applicable, will hear the

proposition. Only in the event that (i) a proposition is being discussed and (ii) there was no advance notice of the proposition being heard shall a person have a right to approach the podium and request to be heard on the proposition.

(h) A person who addresses the Commission or a committee under this rule shall step up to a podium and give the following information in an audible tone of voice:

1. Name;

2. Address;

3. Whether the person speaks on his or her own behalf, a group of persons, or a third party; or if the person represents an organization;

(i) Unless further time is granted by the presiding officer of the Commission or a committee, the statement shall be limit to no more than two (2) minutes subject to the following additional limitations:

1. No more than 10 minutes shall be available in total for all persons speaking in favor of a proposed item or proposition and no more than 10 minutes shall be available in total for all persons speaking against a proposed item or proposition;

2. When more than five (5) persons have registered to speak in favor of an item or proposition, then such persons shall select a representative who shall speak on behalf of the proponents for no more than four (4) minutes and the presiding officer may read into the record the names of the other persons who have registered to speak in favor of the proposition. If the proponents cannot decide on a representative, then the representative shall be the first person that registered with the Office of Agenda Coordination pursuant to subsection (f) above;

3. When more than five (5) persons have registered to speak against an item or proposition, then such persons shall select a representative who shall speak on behalf of the opponents for no more than four (4)

minutes and the presiding officer shall read into the record the names of the other persons who have registered to speak against the proposition. If the opponents cannot decide on a representative, then the representative shall be the first person that registered with the Office of Agenda Coordination pursuant to subsection (f) above.

(j) All remarks shall be addressed to the Commission or committee as a body and not to any particular member thereof. No person, other than commissioners and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Commission, without the permission of the presiding officer. No question shall be asked a commissioner except through the presiding officer.

(k) No person shall be entitled to speak for more than five (5) minutes in total on any one Commission or committee agenda.

(l) The reasonable opportunity for the public to be heard on all propositions except public hearing items shall be provided before the motion to set the agenda for the Commission or committee meeting is entertained, or at the discretion of the presiding officer.

(m) If an ordinance fails on first reading, then an opportunity to be heard shall be provided. If one or more members of the public speak on the ordinance, then there shall be a second vote on the ordinance on first reading, and the failure to adopt the ordinance on first reading is not effective unless it fails on such second vote.

(n) The rules of decorum set forth in Rule 6.05 shall apply to the reasonable opportunity to be heard.<<

Section 2. Section 2-11.39.2 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

Sec. 2-11.39.2. Reasonable opportunity for the public to be heard before county boards.

(a) In addition to the right to speak on any public hearing matter, if applicable, and notwithstanding and prevailing over any other provision of the Code to the contrary, members of the public shall be given a reasonable opportunity to be heard on any non-public hearing proposition that is under consideration by any county board as set forth in this part pursuant to section 286.0114, as such may be amended from time to time.

(b) For purposes of this rule, "proposition" shall mean a general substantive policy issue or matter proposed or offered for consideration or adoption, and shall not include:

(i) Procedural motions on propositions, or

(ii) Individual components, aspects or line items of a proposition.

While a single proposition may be considered multiple times before a board as the same or different agenda items, there shall only be one reasonable opportunity to be heard on each proposition during the decisionmaking process as set forth in this rule.

(c) The opportunity to be heard does not apply to:

1. An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board to act;

2. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;

3. A meeting that is exempt from the Sunshine Law; or

4. A meeting during which the board is acting in a quasi-judicial capacity, provided, however, that this provision does not affect the right of a person to be heard as otherwise provided by law.

(c) Unless further time is granted by the presiding officer of a county board, the statement shall be limited to no more than two (2) minutes, subject to the limitations as set forth

in Rule 6.06 of the Board of County Commissioners Rules of Procedure, as such may be amended from time to time.

(d) A board may adopt additional rules or policies that govern the reasonable opportunity to be heard. In the event that a board does not adopt rules or policies, or adopted rules or policies do not address a particular situation, then the provisions of Rule 6.06 of the Board of County Commissioners Rules of Procedure, as such may be amended from time to time, shall apply.

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: RAC

Prepared by: JMM

Jess M. McCarty

Prime Sponsor: Chairwoman Rebeca Sosa
Co-Sponsor: Vice Chair Lynda Bell