

MEMORANDUM

Agenda Item No. 11(A)(2)

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

DATE: July 15, 2014

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

SUBJECT: Resolution calling a countywide special election in Miami-Dade County, Florida, for the purpose of submitting to the electors of Miami-Dade County the question of whether to amend the Charter to permit additional uses and facilities at parks subject to Article VII

This item was amended at the 6-9-14 Cultural Affairs and Recreation Committee. Pursuant to Rule 5.06(h) of the Board's Rules of Procedure, a resolution presented to the Board after amendments by a committee should have those amendments be uniquely identified in the amended resolution by underlining and strike-through, or where such approaches would not clearly show the amendments or are not practical, by providing footnotes or comments on the item. Such distinguishing identifiers are not used in this amended resolution, as they would be confusing and impractical and would not clearly indicate the differences between the original and the amended resolution. Rather, the following indicates how this Resolution was amended at the June 9, 2014 Culture and Recreation Committee:

(1) A provision was added to the new subsection (M) to provide that library services could only be provided from recreation facilities already existing in parks as of November 4, 2014;


(2) The following proposed new subsections (N) and (O) were deleted from Section 7.02:

N. Athletic development and training facilities which may include overnight lodging dormitories for athletes and trainers only so long as such facilities are not located in natural or historical resource based parks, are compatible with the surrounding park and do not unreasonably impair the public use of the park; and

O. Campgrounds and limited overnight camping accommodations in cabins/lodges for park patrons only so long as such facilities are located in natural or historical resource based parks, are compatible with the surrounding park and do not unreasonably impair the public use of the park.

- (3) The Miami-Dade County Regional Soccer Park located on NW 58th Street as a park was added as a park exempted from, and not subject to, the restrictions of Article 7; and
- (4) The ballot question shall be modified to conform to the above-stated proposed revisions to Article 7 of the Charter.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Esteban L. Bovo, Jr.



R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM
(Revised)

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

DATE: July 15, 2014

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

SUBJECT: Agenda Item No. 11(A)(2).

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. 11(A)(2)
7-15-14

RESOLUTION NO. _____

RESOLUTION CALLING A COUNTYWIDE SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, TO BE HELD IN CONJUNCTION WITH A GENERAL ELECTION ON TUESDAY, NOVEMBER 4, 2014, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF MIAMI-DADE COUNTY THE QUESTION OF WHETHER TO AMEND THE CHARTER TO PERMIT LIBRARY USES AT PARKS SUBJECT TO ARTICLE VII, TO EXEMPT THE MIAMI-DADE COUNTY REGIONAL SOCCER PARK LOCATED AT NW 58TH STREET FROM THE RESTRICTIONS OF ARTICLE VII, AND TO ADD ADDITIONAL PROTECTIONS FOR PRESERVATION LANDS

WHEREAS, Article 7 of Miami-Dade County's Home Rule Charter ("Article 7") establishes a policy that "[p]arks, aquatic preserves, and lands acquired by the County for preservation shall be held in trust for the education, pleasure, and recreation of the public and they shall be used and maintained in a manner which will leave them unimpaired for the enjoyment of future generations as a part of the public's irreplaceable heritage;" and

WHEREAS, Article 7 implements this policy by restricting the range of permissible uses of, and development in, lands subject to the requirements of Article 7; and

WHEREAS, Article 7 applies to both parks and lands owned by the County as well as to all municipal property, except municipal property owned by Coral Gables, Hialeah, Hialeah Gardens, Miami, Sweetwater and West Miami; and

WHEREAS, as it presently exists, Article 7 prohibits certain desirable uses of and developments in public park land including, for example, the use of public park land for Miami-Dade County public libraries; and

WHEREAS, the Home Rule Charter, at Section 9.07(C), authorizes the Board to propose, at any time, amendments to the Home Rule Charter by resolution, which proposed

amendments shall be voted upon at the next scheduled general election; and

WHEREAS, this Board desires to propose that the voters of Miami-Dade County amend Article 7 of the Miami-Dade County Home Rule Charter to allow the use of public parks for library purposes; exempt the Miami-Dade County Regional Soccer Park located at NW 58th Street from the restrictions contained in Article VII; and provide that the exceptions set forth in Article 7 will not apply to lands acquired or designated for preservation by this Board if the proposed development or use would have an adverse impact on natural resources,¹

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

Section 1. A countywide special election is hereby called and shall be held in Miami-Dade County, Florida in conjunction with a General Election on Tuesday, November 4, 2014, for the purpose of submitting to the qualified electors of Miami-Dade County the proposal for amendment to the Home Rule Charter in the form attached hereto and made a part hereof.

Section 2. Notice of such election shall be published in accordance with Section 100.342, Florida Statutes.

Section 3. The result of such election shall be determined by a majority of the qualified electors of Miami-Dade County voting upon the proposal. The polls at such election shall be open from 7:00 a.m. until 7:00 p.m. on the day of such election. All qualified electors of Miami-Dade County, Florida shall be entitled to vote at said election. The County registration books shall remain open at the Office of the Miami-Dade County Supervisor of Elections until twenty-nine (29) days prior to the date of such election, at which time the registration books will

¹ Committee amendments cannot be shown by underlining and strike-through as such would be confusing, impractical and would not clearly indicate the differences between the original and the amended resolution.

close in accordance with the provisions of general election laws. The question shall appear on the ballot in substantially the following form:

CHARTER AMENDMENT ALLOWING LIBRARIES IN
PARKS, EXEMPTING PARK FROM ARTICLE 7, AND
PROTECTING PRESERVATION LANDS

ARTICLE 7 CURRENTLY PROVIDES THAT SPECIFIED PARKS SHALL BE USED FOR PUBLIC PARK PURPOSES ONLY AND LIMITS CONSTRUCTION TO CERTAIN ENUMERATED FACILITIES. SHALL THE CHARTER BE AMENDED TO: ALSO PERMIT COUNTY LIBRARY PURPOSES WITHIN EXISTING RECREATION FACILITIES AT PARKS; EXEMPT THE REGIONAL SOCCER PARK ON NW 58TH STREET FROM ARTICLE 7; AND FURTHER RESTRICT DEVELOPMENT AND CERTAIN USE OF PRESERVATION LANDS THAT WOULD ADVERSELY IMPACT NATURAL RESOURCES?

YES

NO

Section 4. The form of the ballot shall be in accordance with the requirements of general election laws.

Section 5. Early voting shall be conducted in accordance with the requirements of general election laws.

Section 6. Absentee paper ballots may be used by qualified electors of Miami-Dade County for voting on this question. The form of such absentee ballot shall be in accordance with the requirements prescribed by general election laws.

Section 7. A sample ballot showing the manner in which the question or proposal aforesaid will appear at this election shall be published and provided in accordance with the applicable provisions of general election laws.

Section 8. This special election on the proposal aforesaid shall be held and conducted in accordance with applicable provisions of the general laws relating to elections and the provisions of the Miami-Dade County Home Rule Charter. The County Mayor or his or her designee, the Finance Director, and the Clerk of the County Commission are hereby authorized and directed to take all appropriate actions necessary to carry into effect and accomplish the provisions of this resolution. This election shall be a nonpartisan election. Election officials in connection with this election shall be appointed in accordance with the provisions of general election laws.

Section 9. This election shall be canvassed by the County Canvassing Board, in accordance with the provisions of Section 3.07 of the Home Rule Charter.

The Prime Sponsor of the foregoing resolution is Commissioner Esteban L. Bovo, Jr. 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:

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

Bruno A. Barreiro
Jose "Pepe" Diaz
Sally A. Heyman
Jean Monestime
Sen. Javier D. Souto
Juan C. Zapata

Esteban L. Bovo, Jr.
Audrey M. Edmonson
Barbara J. Jordan
Dennis C. Moss
Xavier L. Suarez

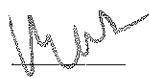
The Chairperson thereupon declared the resolution duly passed and adopted this 15th day of July, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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.



Monica Rizo

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE - 7²

PARKS, AQUATIC PRESERVES, AND PRESERVES

* * *

SECTION 7.02. RESTRICTIONS AND EXCEPTIONS.

In furtherance of this policy parks shall be used for public park purposes only, and subject to the limited exceptions set forth in this Article, there shall be no permanent structures or private commercial advertising erected in a public park or private commercial use of a public park or renewals, expansions, or extensions of existing leases, licenses, or concessions to private parties of public park property, unless each such structure, lease, license, renewal, expansion, extension, concession or use shall be approved by a majority vote of the voters in a County-wide referendum. Nothing in this Article shall prevent any contract with federally tax-exempt not-for-profit youth, adult, and senior cultural, conservation and parks and recreation program providers. To ensure aquatic preserves, lands acquired by the County for preservation, and public parks or parts thereof which are nature preserves, beaches, natural forest areas, historic or archeological areas, or otherwise possess unique natural values in their present, such as Matheson Hammock, Greynolds Park, Redlands Fruit and Spice Park, Castellow Hammock, Crandon Park, Trail Glades Park, Deering Estate Park, Pine Shore Park, Old Cutler Hammock, Chapman Field, Tamiami Pinelands, Wainright Park, Larry and Penny Thompson Park, Whispering Pines Hammock, Mangrove Preserve, Owaissa Bauer Park, Fuchs Hammock, Black Point Marina, Simpson Park, Sewell Park, Barnes Park, Virginia Key, mangrove preserves, and all other natural or historical resource based parks do not lose their natural or historical values, any structure, lease, license, renewal, extension, concession or use in any of this class of public parks or in aquatic preserves and preservation lands must be approved by an affirmative vote of two-thirds of the voters in a County-wide referendum. No park shall be designed to be used beyond its appropriate carrying capacity and to the extent required by law all parks and facilities and permitted special events and concessions operating in the parks shall be fully accessible to persons with disabilities. Nothing in this Article shall prevent the maintenance of existing facilities, the maintenance, operation, and renovation of existing golf course and marina restaurants at their existing square footage by government agencies or private operators, provided such private operators are chosen as a result of

² 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.

competitive selection and their initial contract terms are limited to no more than ten years, or the construction, operation, maintenance, and repair by government agencies or private operators of or issuance of temporary permits for >>the following, provided that there be no adverse impact to natural resources on lands acquired or designated for preservation by the Board of County Commissioners<<:

A. Appropriate access roads, bridges, fences, lighting, flag poles, entrance features, picnic shelters, tables, grills, benches, irrigation systems, walls, erosion control devices, utilities, trash removal, parking and security and fire facilities for the primary use of the park system;

B. Food and concession facilities each not in excess of 1500 square feet of enclosed space, with any complementary outdoor or covered areas needed to service park patrons;

C. User-participation non-spectator recreation and, playground facilities, golf courses and golf-course related facilities, and bandstands and bandshells containing less than 1,000 spectator seats and athletic facilities, sports fields and arenas containing less than 3,000 spectator seats;

D. Facilities for marinas, sightseeing and fishing boats, visiting military vessels, and fishing;

E. Park signage and appropriate plaques and monuments;

F. Rest rooms;

G. Fountains, gardens, and works of art;

H. Park service facilities, senior, day care and pre-school activities, small nature centers with not more than one classroom;

I. Film permits, temporary fairs, art exhibits, performing arts, concerts, cultural and historic exhibitions, regattas, athletic contests and tournaments, none of which require the erection of permanent structures;

J. Advertising in connection with sponsorship of events or facilities in the park, provided however all such facilities and uses are compatible with the particular park and are scheduled so that such events do not unreasonably impair the public use of the park or damage the park;

K. Programming partnerships with qualified federally tax exempt not-for-profit youth, adult, and senior cultural, conservation, and parks and recreation program providers;

L. Agreements with cable, internet, telephone, electric or similar service providers or utilities, so long as any installations are underground or do not adversely impact natural resources, or parks facilities and uses[[:]] >>; and<<

>>M. Use of recreation facilities in existence as of November 4, 2014 for the provision of library services to the public by the Miami-Dade County Public Library System, so long as such library uses and services are compatible with the surrounding park and do not unreasonably impair the public use of the park.<<

No park facilities, golf courses, or County lands acquired for preservation shall be converted to or used for non-park offices, purposes, or uses. The County, the municipalities, and agencies or groups receiving any public funding shall not expend any public money or provide any publicly funded services in kind to any project which does not comply with this Article. No building permit or certificate of occupancy shall be issued for any structure in violation of this Article. The restrictions applying to parks in this Article shall not apply to the Dade County Youth Fair site, Metro Zoo, Tamiami Stadium, Haulover Fishing Pier, the Dade County Auditorium, the Museum of Science, the Gold Coast Railroad Museum, Vizcaya Museum and Gardens, Trail Glade Range, the Orange Bowl, the Commodore Ralph Munroe Marine Stadium, the Seaquarium, Curtis Park track and stadium, Fairchild Tropical Gardens, >>the Miami-Dade County Regional Soccer Park on NW 58th Street,<< and mini and neighborhood parks except that no mini or neighborhood park may be leased or disposed of unless a majority of the residents residing in voting precincts any part of which is within 1 mile of the park authorize such sale or lease by majority vote in an election.