MEMORANDUM

Agenda Item No. 4(D)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: July 14, 2015

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

SUBJECT: Ordinance relating to zoning and signs; providing definitions and standards for illumination relating to signs; providing for digital signs; providing for digital billboards after public hearing; amending Sections 33-84, 33-96, 33-96.1 of the Code creating Section 33-96.2 of the Code

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.

for

R. A. Cuevas, Jr.
County Attorney

RAC/cp

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
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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(D)
7-14-15

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING AND SIGNS; PROVIDING DEFINITIONS AND STANDARDS FOR ILLUMINATION RELATING TO SIGNS; PROVIDING FOR DIGITAL SIGNS; PROVIDING FOR DIGITAL BILLBOARDS AFTER PUBLIC HEARING; AMENDING SECTIONS 33-84, 33-96, 33-96.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CREATING SECTION 33-96.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Sign Code of Miami-Dade County, Florida, codified as Chapter 33, Article VI, Divisions 1-7 of the Code of Miami-Dade County, Florida (the "County Sign Code"), establishes minimum standards for signs throughout the County; and

WHEREAS, as set forth in Section 33-82, the County Sign Code is "applicable . . . specifically in the incorporated areas of Miami-Dade County," and when it is "applicable to a municipality, the municipality shall be responsible for enforcement"; and

WHEREAS, as set forth in Section 33-121.11, municipalities may opt out of the regulations governing proximity of signs to expressways in Division 5 of the County Sign Code, but municipalities are charged with enforcing all other provisions of the County Sign Code, including regulations on digital technology and the standards for variances; and

WHEREAS, this Board desires to establish an orderly process and reasonable regulations to permit the use of modern digital technology for signs in Miami-Dade County,

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

Section 1. All matters set forth in the preamble are found to be true and are hereby incorporated by reference as if set forth verbatim and adopted.

Section 2. Section 33-84 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-84. Definitions.

For the purposes of this article the following words and phrases are hereby defined as provided in this section, unless the context clearly indicates otherwise. Where there is a question as to the correct classification or definition of a sign, the Director shall place said sign in the strictest category and/or classification.

>>(1)<< [[~~(a)~~]] *Sign:* Any display of characters, letters, logos, illustrations or any ornamentation designed or used as an advertisement, announcement, or to indicate direction.

Use of merchandise, products, vehicles, equipment, inflated balloons, or the like as an attention attractor or advertising device, with or without a printed or written message or advertisement, shall be considered a sign.

>>(2)<< [[~~(b)~~]] *Attraction board:* A sign or portion of a sign on which copy is changed periodically, advertising special sales, bargains, etc. Said attraction board may be incorporated into the sign permitted.

>>(3)<< [[~~(c)~~]] *Awning, canopy, roller curtain or umbrella sign:* Any sign painted, stamped, perforated, or stitched on the surface area of an awning, canopy, roller curtain or umbrella.

>>(4) Blank wall. The wall of a building that is free of windows, balconies, railings, articulated facade, decorative grills or gratings, or other architectural elements. Walls constructed on rooftops or as part of a parapet shall not be considered blank walls for the purposes of this article.

[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)<< [[~~(d)~~]] Cantilever: That portion of a building, projecting horizontally, whether it be on the same plane as the roof line or not.

>>(6)<< [[~~(e)~~]] Cantilever sign: Any sign which is mounted on a cantilever. No cantilever sign may extend beyond the cantilever.

>>(7)<< [[~~(f)~~]] Class A (temporary signs): Any sign(s) to be erected on a temporary basis, such as signs advertising the sale or rental of the premises on which located; signs advertising a subdivision of property; signs advertising construction actually being done on the premises on which the sign is located; signs advertising future construction to be done on the premises on which located, and special events, such as carnivals, concerts, public meetings, sporting events, political campaigns or events of a similar nature.

>>(8)<< [[~~(g)~~]] Class B (point of sale sign): Any sign advertising or designating the use, occupant of the premises, or merchandise and products sold on the premises, shall be deemed to be a point of sale sign (class B) and shall be located on the same premises whereon such is situated or the products sold.

>>(9)<< [[~~(h)~~]] Class C (commercial advertising signs): Any sign which is used for any purpose other than that of advertising to the public the legal or exact firm name of business or other activity carried on the premises, or for advertising any service or product or products actually and actively being offered for sale on the premises, or which is designed and displayed solely to offer for sale or rent the premises, or to advertise construction being done, or proposed to be done, on the premises, or to advertise special events, shall constitute a class C sign.

Class C signs may be in the form of a billboard, >> kiosk,<< bulletin board, mural, or poster board, or may be affixed flat to a building or painted thereon.

>>(10)<< [[~~(i)~~]] Detached sign: Any sign not attached to or painted on a building, but which is affixed and permanently attached to the ground. Permanently attached as used herein shall mean that the supporting structure of the sign is attached to the ground by a concrete foundation.

>>(11) Digital technology (signs): Electronic technology that allows for changes to sign copy resulting from digital data input. Included in this technology are signs that use series of lights, including light emitting diodes (LED), fiber optics, or other similar technology.

(12)<< [[~~(j)~~]] Director: The Director >>of the Miami-Dade County Department of Regulatory and Economic Resources or successor department, or the Director's designee<< [[~~or his qualified agent~~]].

>>(13)<< [[~~(k)~~]] Directional sign: A sign which guides or directs the public and contains no advertising. The name of the facility (such

as store name), which the sign is giving direction to, may be included when specified conditions in the ordinance are complied with.

>>(14)<< [[~~(l)~~]] Entrance features: Any combination of decorative structures and landscape elements located at the entrance to a development, which identifies or draws attention to the development and/or exercises control of ingress and egress to the development. An entrance feature may include, although not necessarily be limited to, ornamental walls, fences, identifying lettering, logos, works of art, and other decorative structures, earthworks, water bodies, fountains, trees, plantings, and other landscape elements, as well as gatehouses, either singly or in any combination thereof.

>>(15)<< [[~~(m)~~]] Flat sign: Any sign attached to and erected parallel to the face of, or erected or painted on the outside wall of any building, and supported throughout its length by such wall or building.

>>(16) Kiosk sign: A detached, dual-face sign placed within a base and affixed or permanently attached to the ground, similar in dimensions to a bus-shelter sign.

(17)<< [[~~(n)~~]] Marquee: A covered structure projecting from, and supported by the building with independent roof and drainage provisions, and which is erected over a doorway or entranceway as protection against the weather.

>>(18)<< [[~~(o)~~]] Marquee sign: Any sign attached to or hung from a marquee.

>>(19) Mural. Any Class C wall sign painted on, affixed, or secured flat to the facade of a building.

(20) Nits (nt): The unit of measurement for luminance. Luminance is the measure of the light emanating from an object with respect to its size and is the term used to quantify electronic sign brightness. A nit is the total amount of light emitted from a sign divided by the surface area of the sign (candelas per square meter (cd/m^2)).

(21)<< [[~~(p)~~]] Portable sign: Any sign not attached to or painted on a building and not affixed or permanently attached to the ground.

>>(22)<< [[~~(q)~~]] Projecting sign: Any sign which is an independent structure, which is attached to the building wall, and which extends at any angle from the face of the wall. No projecting sign shall extend above the roof or parapet wall in any residential district.

>>(23) Projected Technologies: The projection, through digital technology, of two-dimensional or three-dimensional static or moving images.

(24)<< [[~~(r)~~]] Pylon: A vertical extension of a building, constructed integrally and concurrently with the building, or in connection with

a major remodeling or alteration of a building. To classify as a pylon for sign purposes, the pylon structure must be an integral part of the building structure, extending to ground level. In business and industrial districts only, the material and construction may vary from the materials and type of construction of the exterior walls of the building, but same must be approved by the Director. In all cases, the pylon shall have the appearance of a solid structure.

>>(25)<< [[~~(s)~~]] Pylon sign: A flat sign attached to or painted on the face of a pylon. The outer edge of the sign shall not extend beyond the pylon nor above the roof line.

>>(26)<< [[~~(t)~~]] Roof sign: Any sign which is painted on, fastened to, or supported by the roof or erected over the roof.

>>(27)<< [[~~(u)~~]] Semaphore: Any sign consisting of two (2) dual-face signs extending horizontally from a light standard. Such sign projecting from opposite sides of such light standard, and such signs must be located in the parking lot of a shopping center to identify the location of parking areas. No advertising is permitted on the sign.

>>(28)<< [[~~(v)~~]] Shopping center: An area zoned for business is a shopping center where at least two hundred fifty (250) feet of street frontage has been zoned for commercial purposes under one (1) application and under one (1) ownership, and where it contains at least two (2) tiers of in-front parking, contains two (2) or more retail uses, and is subject to site plan or plot use approval as a condition of the applicable resolution or ordinance.

>>(29)<< [[~~(w)~~]] Wall: For sign purposes, that portion of the building's exterior, horizontal surface on the same plane, regardless of vertical or horizontal indentations, and including the surface of parapets and pylons projecting from the building. For sign purposes, there shall be considered to be only four (4) planes to any building and it shall be the prerogative of the Director to determine which portion of odd-shaped buildings, such as buildings of hexagon or octagon design, to which flat signs may be affixed, with such location to be so determined as to prevent a grouping of signs which can be viewed from one (1) direction.

>>(30)<< [[~~(x)~~]] Wall sign: Any sign painted on or attached to and erected parallel to the face of, or erected and confined within the limits of, the outside wall of any building and supported by such wall or building and which displays only one (1) advertising surface.

>>(31)<< [[~~(y)~~]] City of Miami Urban Core shall mean the geographic area commencing at Biscayne Bay and the North side of NE 18th Street; thence West along the North side of NE 18th Street to the East side of NE 2nd Avenue; thence North along the East side of

NE 2nd Avenue to the South side of NE 36th Street; thence East along the South side of NE 36 Street to the West side of Biscayne Boulevard; thence North along the west side of Biscayne Boulevard to the North side of I-195; thence West along the North side of I-195 to the East side of N. Federal Highway; thence North along the East side of N. Federal Highway to the North side of NE 39th Street; thence West along the North side of NE 39th Street to East side of NE 2nd Avenue; thence North along the East side of NE 2nd Avenue to North side of NE 40th Street; thence West along the North side of NE 40th Street to West side of N. Miami Avenue; thence South along West side of N. Miami Avenue to the North side of NW 25th Street; thence West along the North side of NW 25th Street to the East side of the theoretical extension thereto of NW 1st Court; thence North along the East side of the theoretical extension of NW 1st Court to the North side of NW 27th Street; thence West along the North side of NW 27th Street to the West side of NW 2nd Avenue; thence South along the West side of NW 2nd Avenue to the South side of NW 19th Street; thence East along the South side of NW 19th Street to the West side of NW 1st Avenue; thence South along the West side of NW 1st Avenue to the North side of NW 16th Street; thence West along the North side of NW 16th Street to the West side of NW 3rd Avenue; thence South along the West side of NW 3rd Avenue to the North Side of the Dolphin Expressway; thence West along the North side of the Dolphin Expressway to the East side of I-95; thence North along the East side of I-95 to North side of NW 20th Street; thence West along the North side of NW 20th Street to the West side of NW 14th Avenue; thence South along the West side of NW 14th Avenue to the South side of the Dolphin Expressway; thence East along the South side of the Dolphin Expressway to the East bank of the Wagner Creek Canal; thence South 300 feet along the East bank of the Wagner Creek Canal; thence East running parallel 300 feet to the South of the Dolphin Expressway to the West side of NW 7th Avenue; thence North along the West side of NW 7th Avenue to the South side of the Dolphin Expressway; thence East along the South side of the Dolphin Expressway to the West side of I-95; thence South along the West side I-95 to the South side of SW 8th Street; thence East along the South side of SW 8th Street to the East side of S. Miami Avenue; thence North along the East side of S. Miami Avenue to the South side of the Miami River; thence East along the South side of the Miami River to the East side of Brickell Avenue; thence North along the East side of Brickell Avenue to the North side of the Miami River; thence East along the North side of the Miami River to Biscayne Bay; thence North along the Biscayne Bay shoreline to the point of

beginning, as shown on the City of Miami Urban Core map shown below.

* * *

[[~~(z) Mural. Any Class C wall sign painted on, or affixed or secured flat to the facade of a building.~~

~~(aa) Blank wall. A blank wall means the wall of a building that is free of windows, balconies, railings, articulated facade, decorative grills or gratings, or other architectural elements. Walls constructed on rooftops or as part of a parapet shall not be considered blank walls for the purposes of this article.~~]]

Section 3. Section 33-96 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-96. Illumination >>; variances<<.

>>(a) All signs shall be static and shall not include digital technology, except as expressly provided for in this code. This section does not allow digital technology signs in any particular location or zoning district; digital technology signs may only be permitted as specifically authorized in other sections of this chapter. All static signs shall conform to subsection (b) below. All digital technology signs shall conform to subsection (c) below.

(b) *Static Signs.*<< [[~~Except as provided in Section33-96.1, signs~~]] >>Signs<< illuminated by flashing, moving, intermittent, chasing or rotating lights are prohibited. Signs may be illuminated by exposed bulbs, fluorescent tubes, interior lighting, or by indirect lighting from any external source. Indirect lighting, such as floodlights, shall not shine directly on adjacent property, motorists or pedestrians. Illumination shall be such that it will provide reasonable illumination and eliminate glare and intensity which might pose safety hazards to drivers and pedestrians. Revolving and rotating signs shall be illuminated by internal lighting only.

>>(c) *Digital Signs.* Where digital technology is allowed, it shall be provided in compliance with the following:

(1) No auditory message or mechanical sounds shall be emitted from the sign.

(2) The sign shall not display any illumination that moves, appears to move, blinks, fades, rolls, dissolves, flashes, scrolls, shows animated movement, or changes in intensity during the static display period.

(3) All digital signs shall be modulated so that, from sunset to sunrise, the brightness shall not be more than 500 Nits.

Sunset and sunrise times are those times established by the Miami office of the National Weather Service. At all other times, the maximum brightness levels shall not exceed 5,000 Nits. All digital signs shall have installed ambient light monitors and at all times shall allow such monitors to automatically adjust the brightness level of the sign based on ambient light conditions.

(4) The message display shall not change more often than once each eight seconds, with all moving parts or illumination moving or changing simultaneously.

(5) Any digital sign that malfunctions, fails, or ceases to operate in its usual or normal programmed manner shall immediately revert to a black screen and shall be restored to its normal operation conforming to the requirements of this section within twenty-four (24) hours.

(d) *Variances.*

(1) *Use variances.* No variances from the requirements of this section or Section 33-96.1 may be granted, except: where it would not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions herein will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided that the variance will be in harmony with the general purpose and intent of the regulations, and that the same is the minimum variance that will permit the reasonable use of the premises.

(2) *Area Variances.* Notwithstanding the foregoing, area variances from the requirements of Section 33-96.1 (b), (d), and (f), regarding sign size, setback, spacing, distance, quantity, minimum land area, and landscaping may be granted where the applicant demonstrates that the benefit to granting the area variance does not outweigh the detriment to the neighborhood. The Board shall consider the following factors in making this determination: (i) whether the area variance would create an undesirable change in the character of the neighborhood or a detriment to nearby properties; (ii) whether the benefit can be achieved by some other method; (iii) whether the area variance is substantial; (iv) whether the area variance will have an adverse effect on physical or environmental conditions in the neighborhood or district; and (v) whether the alleged difficulty was self-created, provided that the existence of a self-created difficulty shall be relevant to a board's decision but shall not necessarily preclude the granting of the area variance. The applicant shall also demonstrate that granting the area variance maintains the basic intent and purpose of the zoning, subdivision, and other land use regulations, which is to protect the general welfare of the public, particularly as

it affects the stability and appearance of the community and provided that the area variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required for an area variance.<<

Section 4. Section 33-96.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-96.1. >>Digital Point-of-Sale<< [[~~Automatic Electric Changing~~]] Signs.

Subject to the following mandatory conditions, >>Digital Point-of-Sale<< [[~~Automatic Electric Changing~~]] Signs (">>DPSS<< [[~~ACS~~]]"), shall be permitted in BU and IU districts, seaports, airports, sports stadiums, racetracks, and other similar uses as follows:

(a) >>A Digital Point of Sale Sign (DPSS) means a Class B sign on which a sign face is illuminated with digital technology.<< This [[~~provision~~]] >>section<< shall apply to Class B (Point of Sale) signs only.

(b) [[~~An ACS~~]] >>A DPSS<< shall conform to all sign size, placement, setback, and quantity limitations as provided elsewhere in this chapter and shall comply with all building code requirements.

(c) >>Each DPSS shall comply with Section 33-96 of this chapter.<< [[~~Incandescent lamps/bulbs in excess of 9 watts are prohibited in an ACS.~~

~~(d) An ACS shall be equipped with an automatic operational night dimming device.~~

~~(e) The following operating modes are prohibited:~~

~~(1) Flash the condition created by displaying the same message intermittently by turning it on and off, on and off, with rapidity, or any other delivery mode that creates a flashing effect.~~

~~(2) Zoom the look or condition created by expanding a message from a central point to its full size.~~

~~(3) Any signs which use the word "stop" or "danger" or imply the need or requirement of stopping, or which are copies or imitations of official signs.~~

~~(4) Red, green or amber (or any color combination thereof) revolving or flashing light giving the impression of a police or caution light shall be prohibited.~~]]

>>(d)<<[[~~(f)~~]] A minimum of ten (10) acres gross improved land area shall be required for the placement of >>a DPSS<< [[~~an ACS~~]].

>>(e)<<[[~~(g)~~]] With the exception of airports or seaports, the subject >>DPSS<< [[~~ACS~~]] shall be located only on a major or minor roadway as depicted on the adopted Comprehensive Development Master Plan Land Use Plan map.

>>(f)<<[[~~(h)~~]] A detached >>DPSS<< [[~~ACS~~]] shall be surrounded by a minimum of twenty-five (25) square feet of landscaped area. A plan indicating such landscape area shall be submitted to the Director at the time of building permit application.

>>(g)<<[[~~(i)~~]] The content of the >>DPSS<< [[~~ACS~~]] shall be limited solely to the promotion of products or services offered on the premises. The only fixed message shall be the name of the company possessing a valid Certificate of Use [[~~and Occupancy~~]] for the subject premises.

>>(h) A DPSS on which 30% or less of the sign face is illuminated with digital technology shall not be subject to the minimum land area, landscaping, and roadway placement criteria set forth in subsections (d), (e), and (f) above.<<

[[~~(j) The applicant for an ACS shall file of record a declaration of use, on a form prescribed and approved by the Director, which will govern the operation of the ACS and contain penalties for abatement and removal of the ACS for violations of the declaration of use and the provisions herein.~~]]

Section 5. Section 33-96.2 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

>>Sec. 33-96.2 Digital Billboards; Special Exception.

(a) Where static billboards are permitted in accordance with both the Code of Miami-Dade County and any applicable municipal code, a digital billboard may be permitted only after public hearing and provided that all of the conditions in the chart below are met. This section only authorizes illumination with digital technology and does not provide any new or independent authorization for billboards.

(1) Districts Permitted:	BU-1A, BU-2, BU-3, IU-1, IU-2, IU-3 and IU-C Zones or their municipal equivalents.
(2) Location:	Along a highway designated as "Multi-lane Divided Access Controlled" or "U.S. Route Multilane Highway" on the Florida Department of Transportation's Official

	Transportation Map of Florida, 2015 Edition, as of February 2015, which shall be kept on file with the Department of Regulatory and Economic Resources.
(3) Minimum Setbacks:	From the Right-Of-Way Line: 15 feet From the Interior Property Line: 5 feet
(4) Illumination:	Digital, as governed by Section 33-96 of this Code.
(5) Minimum Spacing to Another Billboard (Digital or Static):	One (1) mile.
(6) Prohibitions:	Such signs shall be prohibited on property designated historical. Such signs shall be prohibited within 5,000 feet of the property line of an airport as identified in Articles XXXV, XXXVII, XXXVII, XXXIX, and XL of this chapter and within the inner and outer safety zones or equivalent designations of any such airport.
(7) Height:	Total sign height shall not exceed 60 feet from normal or average grade to top of sign.
(8) Size:	Sign face area shall not exceed 14 feet by 48 feet (672 square feet). Digital images shall be confined to the digital sign face.
(9) Additional setbacks:	• No billboard sign shall be erected or converted to a digital billboard within six hundred (600) feet of the property line of an existing residential use or residentially-zoned property. • No billboard sign shall be erected or converted to a digital billboard within 30 feet of an existing building. • No billboard sign shall be erected or converted to a digital billboard within one hundred (100) feet of any church or religious facility, school, cemetery, public park, public reservation, public playground, State or national forest.
(10) Orientation	Away from all residential uses and residentially zoned property
(11) Landscaping:	Trees shall be planted along all property lines at a maximum average spacing of thirty (30) feet on center. Said trees shall be of a species typically grown in Miami-Dade County which normally mature to a height of at least twenty (20) feet and shall have a clear trunk of four (4) feet, an overall height of twelve (12) feet and a minimum caliper of two (2) inches at time of planting.

(12) Other Conditions:	The proposed digital billboard structure shall be required to meet all other requirements of this code and the Florida Building Code.<<

>>(b) *Variances.* Notwithstanding the provisions of Section 33-121.15 or other provisions of this chapter to the contrary, variances from the requirements of this section shall only be approved in accordance with the use variance standards set forth in Section 33-96(d)(1) of this article, except that variances of subsections (a)(3), (5), (6), (7), (8), (9), (10) and (11) above, regarding setbacks, spacing, distance, orientation, height, size, and landscaping, may be approved in accordance with the area variance standards set forth in Section 33-96(d)(2).<<

Section 6. 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 7. 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 8. 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:

APW

Prepared by:

Abbie Schwaderer-Raurell
Dennis A. Kerbel

Prime Sponsor: Commissioner Jose "Pepe" Diaz