

MEMORANDUM

Substitute
Agenda Item No. 11(A)(15)

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

DATE: September 3, 2014

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

SUBJECT: Resolution directing the Mayor to negotiate an interlocal agreement with the City of Miami Gardens regarding the City of Miami Gardens performing permitting of Dolphin Stadium and surrounding properties within the City

The substitute differs from the original item in the following ways:

In the original item, the future interlocal agreement would have provided that the County would issue building permits only for the Sun Life Modernization Project, while the City of Miami Gardens would issue all other building permits for the properties included in Appendix C of the City's Charter, including the Stadium Site (for non-Modernization Project activities). In the substitute, the future interlocal would provide that the County would retain all building permits for the Stadium Site (not just for the Modernization Project), and the City of Miami Gardens would process building permits for the Outer Parcels surrounding the Stadium, with certain exceptions.

The reference to a grant "from the General Fund" has been deleted from the title and the body of the original resolution. The substitute provides that the County will give the City of Miami Gardens a grant from "legally available funds" but also authorizes the Mayor to negotiate other terms acceptable to the parties, in lieu of a grant to the City.

Both the substitute and the original item accord the City of Miami Gardens input into the County's zoning and development of regional impact decisions on the stadium and the outparcels. While the original item specifies that the County Commission must approve by 2/3's vote any zoning application or Development of Regional Impact application the City recommends be denied, the substitute item clarifies that only 2/3's vote of the members present are needed for such approval. The substitute also provides that the failure to approve a zoning application or Development of Regional Impact application by a 2/3's vote of members present shall be deemed a denial.

The substitute also states that the following provisions shall be included as part of a future interlocal agreement: the City and County would cooperate to provide joint notices and advertising; that the provisions in a future interlocal agreement related to building permitting for

The Stadium Site would survive any future change to the City's Charter, should one be pursued; and that the future interlocal agreement would not prevent the City of Miami Gardens from modifying its Charter, subject to any required approval by the BCC and resident electors in the City of Miami Gardens, to provide the City with zoning jurisdiction over the Outer Parcels surrounding the Stadium Site.

All of the above terms would be incorporated into a future interlocal agreement between the County and the City of Miami Gardens that would, pursuant to both the original and the substitute items, come back to this Board for approval.

The accompanying substitute was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.



R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM
(Revised)

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

DATE: September 3, 2014

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

Substitute

SUBJECT: Agenda Item No. 11(A)(15)

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 _____

Substitute
Agenda Item No. 11(A)(15)
9-3-14

RESOLUTION NO. _____

RESOLUTION DIRECTING THE MAYOR OR DESIGNEE TO NEGOTIATE AN INTERLOCAL AGREEMENT WITH THE CITY OF MIAMI GARDENS REGARDING THE CITY OF MIAMI GARDENS PERFORMING PERMITTING OF DOLPHIN STADIUM AND SURROUNDING PROPERTIES WITHIN THE CITY; WHERE SUCH INTERLOCAL WOULD INCLUDE A GRANT TO CITY OF MIAMI GARDENS OF MONIES IN AN AMOUNT EQUIVALENT TO A CERTAIN PERCENTAGE OF THE COUNTY'S BUILDING PERMIT FEES FROM SUN LIFE STADIUM MODERNIZATION PROJECT; AUTHORIZING DISTRICT COMMISSIONER AND COMMISSIONER'S STAFF TO PARTICIPATE IN NEGOTIATIONS

WHEREAS, the City of Miami Gardens (the "City") was incorporated in 2003, and as part of that incorporation process, the Board of County Commissioners ("County Commission") placed the proposed City's Charter before the electorate in the area now known as the City of Miami Gardens; and

WHEREAS, Section 9.6 of the City's Charter contained certain pre-agreed conditions required by the County, as a condition of the incorporation of the City; and

WHEREAS, the City's electors approved Section 9.6 as part of their adoption by election of the proffered City Charter; and

WHEREAS, only the electors of the City have the power to approve an amendment to the City Charter pursuant to a duly-called election and other applicable requirements contained in the Miami-Dade County Home Rule Charter and the Code of Miami-Dade County; and

WHEREAS, pursuant to Section 9.6 of the City's Charter, Miami-Dade County (the "County") retained certain jurisdiction, such as jurisdiction for building permits, over the facility

currently known as SunLife Stadium and certain surrounding properties, as described in Appendix C to the City's Charter >> (Appendix C)<<¹; and

WHEREAS, Section 9.6 of the City's Charter also provides that the County retains jurisdiction over the Dolphin Center Development of Regional Impact (DRI) Development Order, which covers the properties described in Appendix C as well as additional properties described in Appendix D of the City's Charter >> (Appendix D)<<; and

WHEREAS, the County believes that, with the exception of the Dolphin Center Development of Regional Impact (DRI), the City has jurisdiction and the authority to issue building permits and regulate zoning on the properties described in Appendix D of the City's Charter; and

WHEREAS, the City wishes to have greater jurisdiction over >>certain properties surrounding Sun Life<<[[SunLife]] Stadium [[and surrounding properties]], as described in Appendix C of the City's Charter, and input into the Development of Regional Impact for properties as described in Appendices C and D; and

WHEREAS, the City recently sued the County and alleges, among other things, that Section 9.6 of the City's Charter is invalid and unconstitutional, and in the alternative, if Section 9.6 of the City's Charter is valid, then jurisdiction over the properties described in Appendix C and Appendix D of the City's Charter transferred to the City as of December >>31<<[[30]], 2012 pursuant to the language of Section 9.6; and

WHEREAS, the County disagrees with the City's interpretation of Section 9.6; and maintains that pursuant to Section 9.6 of the City's Charter, the County has jurisdiction over the

¹ The differences between the substitute and the original item are indicated as follows: Words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< are added.

properties in Appendix C and jurisdiction over the Development of Regional Impact for the properties in Appendix D; and has asserted that, based on Section 6.05 of the Miami-Dade Home Rule Charter, the Board of County Commissioners may not authorize the removal of Section 9.6 of the City's Charter without an amendment to the City's Charter; and

WHEREAS, Section 6.05 of the Miami-Dade County Home Rule Charter provides: "Notwithstanding any provision of this Charter to the contrary, with regard to any municipality created after September 1, 2000, the pre-agreed conditions between the County and the prospective municipality which are included in the municipal charter can only be changed if approved by an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office, prior to a vote of the qualified municipal electors;" and

WHEREAS, ~~[[notwithstanding the different positions of the County and the City, and]]~~ irrespective of the lawsuit, the County Commission, in the interest of continuing its good relationship with the City and encouraging the continued growth of an important municipality within Miami-Dade County, wishes to enter into an interlocal agreement with the City regarding these matters; and

>>WHEREAS, Section 9.6 of the City's Charter provides that, "the City and Miami-Dade County will enter into an Interlocal agreement that includes the provisions of this Section;" and<<

WHEREAS, such an interlocal agreement shall provide that, among other things>>:;<<[[; (±)]]

>>1.<< Miami Dade County will >>continue to<< process >>all<< building permit applications for the >>Stadium Site ("Stadium Site" shall consist of the property so designated on Appendix C of the City's Charter). All permitting, land use and zoning approvals for the

Stadium Site shall remain with Miami-Dade County.~~<< [[properties described in Appendix C that have been submitted to the County as of the effective date of the interlocal agreement and any future building permit applications pertaining to the Sun Life Stadium “Modernization Project” as defined in the Performance-Based Marquee Event Grant Agreement between the County and Sun Life Stadium which was approved by the Board in Resolution No. R-560-14 (hereafter, “Sun Life Stadium Modernization Project”); and (2) the]]~~

>>2. The~~<<~~ County shall give to the City of Miami Gardens a grant from >>legally available funds~~<<[[the General Fund]]~~ in an amount equivalent to thirty percent (30%) of the fees >>collected~~<<[[generated]]~~ for building permits >>on the Stadium Site. The preceding sentence shall not be construed to preclude the County Mayor from exploring alternative terms related to a grant to the City that may be mutually acceptable to both parties, subject to further consideration by this Board.~~<< [[pertaining to the Sun Life Stadium Modernization Project; and (3)]]~~

>>3. Except for the Stadium Site,~~<< the City~~>>via the City or a City-approved private provider,~~<< will issue building permits~~>> for the Outer Parcels (as defined hereunder)~~<<[[, other than permits pertaining to the Sun Life Stadium Modernization Project,]]~~ in accordance with the County’s regulations and the County’s fees, and receive all revenue from such permits >>issued by the City for the Outer Parcels. The County shall process all building permits for current uses of the Outer Parcels that support the current uses of the Stadium Site (e.g., parking lot maintenance), but if the Outer Parcels are ever developed, the City shall process all building permits for the Outer Parcels. The Outer Parcels consist of those properties in Appendix C referred to as “Dolphin Center East One,” “Dolphin Center East Two,” and “Dolphin Center West.”~~<<[[for the properties described in Appendix C; and (4)]]~~

>>4. Miami-Dade County will<< agree that the City will have the opportunity to provide input into and the ability to >>challenge<<[[~~appeal~~]] the County's Comprehensive Development Master Plan policies and Development of Regional Impact (DRI) decisions for the properties described in Appendix C and Appendix D of the City's Charter>>.<<[[~~and (5) the~~]]

>>5. The<< County will prepare, in consultation with the City, and consider an ordinance establishing a process for the City [[~~Council~~]] to issue a recommendation to the County Commission for any zoning application for properties described in Appendix C or any Development of Regional Impact application for properties described in Appendix C or Appendix D, and if the City [[~~Council~~]] recommends denial of such an application, the County Commission may only approve such an application by a two-thirds (2/3's) vote >>of members present, and failure to approve such an application by a two-thirds (2/3's) vote of members present shall be deemed a denial, however, this shall not prevent the Board of County Commissioners from deferring an application to another day.<<[[~~and (6) the interlocal agreement shall automatically terminate upon the passage by the electorate of the City Charter Amendment as set forth below, or upon the striking of Section 9.6 through judicial process; and~~]]

~~WHEREAS, the City of Miami Gardens has adopted Resolution No. 2014-125-2104 placing a ballot question before its electors for the November 4, 2014 General Election that seeks to amend the City's Charter to remove Section 9.6 in its entirety ("City Charter Amendment") subject to a two-thirds vote of the Board of County Commissioners approving such an amendment and election, and that ballot question will be presented to this Board for approval in a separate resolution,]]~~

>>6. The City and the County shall cooperate to provide joint notices and advertising of any zoning application for properties described in Appendix C or Development of Regional Impact application described in Appendix C or Appendix D in order to prevent duplication of effort and fees.

7. In the event that Section 9.6 of the City of Miami Gardens' Charter is modified or deleted, the provisions of the interlocal agreement that are related to building permits on the Stadium Site, as described in more detail in subsections 1 and 2 of this whereas clause, shall survive and be binding on all parties.

8. This interlocal agreement shall not prevent the City of Miami Gardens from modifying Section 9.6 of the City's Charter, subject to any required approval of the Board of County Commissioners and resident electors in the City of Miami Gardens, to provide the City with zoning jurisdiction over the Outer Parcels.<<

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

Section 1. The above recitals are incorporated into this item.

Section 2. This Board directs the Mayor or the Mayor's designee to negotiate an interlocal agreement, which shall contain the provisions in the above recitals, between Miami-Dade County and the City of Miami Gardens. The Mayor or the Mayor's designee shall prepare this interlocal agreement for placement on the agenda of the appropriate County Commission committee within sixty (60) days of the date of this resolution and/or of the next available meeting of the Board of County Commissioners, subject to the applicable Rules of Procedure of the Board of County Commissioners.

Section 3. This Board hereby authorizes the County Commissioner for the district in which the subject property is situated and the respective Commissioner's staff to participate in the negotiations of the interlocal agreement and any potential settlement of the lawsuit, provided that such participation does not waive any requirement that the agreements be presented to this Board for approval.

The Prime Sponsor of the foregoing resolution is Commissioner Barbara J. Jordan. 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 3rd day of September, 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.



Craig H. Coller
Cynthia Johnson-Stacks
Abbie Schwaderer-Raurell