MEMORANDUM

MSC
Agenda Item No. 2E

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

DATE: March 11, 2015

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

SUBJECT: Ordinance relating to Historic Preservation; amending section 16A-10 of the Code, pertaining to owner-initiated petitions for designation; requiring, for a condominium or cooperative property, at least 75 percent of unit owners of the condominium property, or at least 75 percent of ownership interests in the cooperative property, to join in a petition to initiate an historical designation proceeding; clarifying scope of provision governing owner-initiated petitions

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum

MIAMI-DADE COUNTY

Date:

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

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Relating To Historic Preservation; Amending Section 16A-10 Of The Code Of Miami-Dade County

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The proposed ordinance amends Section 16A-10 of the Code pertaining to owner-initiated petitions for historical designation, requiring that for condominiums or cooperative properties, at least 75% of unit owners for condominiums or at least 75% of ownership interests for cooperative properties join in a petition to initiate a historical designation proceeding.

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

Jack Osterholt
Deputy Mayor

Fls02615

MEMORANDUM
(Revised)

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

DATE: December 2, 2014

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

SUBJECT: Agenda Item No. 4(D)

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)
12-2-14

ORDINANCE NO. _____

ORDINANCE RELATING TO HISTORIC PRESERVATION; AMENDING SECTION 16A-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, PERTAINING TO OWNER-INITIATED PETITIONS FOR DESIGNATION; REQUIRING, FOR A CONDOMINIUM OR COOPERATIVE PROPERTY, AT LEAST 75 PERCENT OF UNIT OWNERS OF THE CONDOMINIUM PROPERTY, OR AT LEAST 75 PERCENT OF OWNERSHIP INTERESTS IN THE COOPERATIVE PROPERTY, TO JOIN IN A PETITION TO INITIATE AN HISTORICAL DESIGNATION PROCEEDING; CLARIFYING SCOPE OF PROVISION GOVERNING OWNER-INITIATED PETITIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the County's Historic Preservation Ordinance, Chapter 16A of the Code of Miami-Dade County, Florida, provides that historic designation proceedings may be initiated by petition of the owner(s) of any property; and

WHEREAS, the County's Historic Preservation Ordinance does not provide any requirements relating to the number of owners that must join in the petition, where the subject of the petition is a condominium or cooperative property; and

WHEREAS, under the County's Historic Preservation Ordinance, as written, a small minority of owners in a condominium or cooperative property, even if not in good-standing, may petition the Historic Preservation Board for initiation of designation proceedings for the entire property, without the consent of either the other property owners in the building or the board or association of the condominium or cooperative; and

WHEREAS, in section 33-309 of the County's Zoning Code, zoning applications must be executed and sworn to by the owner, or owners, of at least 75 percent of the property described in the application; and

WHEREAS, with respect to historic preservation, any owner-initiated petitions involving a condominium or cooperative property, should likewise reflect the consensus of at least 75 percent of the owners who are in good standing with the board or association, if any, of the condominium or cooperative; and

WHEREAS, since its passage in 1981, the County's Historic Preservation Ordinance has applied to property located in unincorporated Miami-Dade County and in municipalities that have not adopted their own historic preservation ordinances, as provided in section 16A-3; and

WHEREAS, this Board wishes to clarify the provision of the County's Historic Preservation Ordinance relating to owner-initiated petitions to correctly reflect the scope of the Ordinance,

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

Section 1. Section 16A-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 16A-10. **Designation process and procedure.**

* * *

(IV) *Procedure.*

(a) *Petition of the owner.* The owner(s) of any property in unincorporated Miami-Dade County>>, or in a

[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.

municipality under the jurisdiction of the County's Historic Preservation Board,<< may petition this Board for designation of their property as an individual site, district or archeological zone provided that they appear before the Board with sufficient information to warrant the investigation of the property for future designation and the Board finds that the property may be worthy of designation. The Board shall, based on its findings, either direct the staff to begin the designation process or deny the petition. Nothing in this subsection shall be deemed to restrict the power of the Board to initiate the designation process pursuant to this section.

>>(b) *Petition of the owner in a condominium or cooperative property.* Where a condominium or cooperative property is the subject of a petition brought before the Board pursuant to subsection (a) above, the petition must be in writing and sworn to by at least 75 percent of the unit owners of the condominium property, or at least 75 percent of the ownership interests in the cooperative property. In addition, the petition must provide the Board with evidence that the petitioning owners are in good-standing with the board or association, if any, of the condominium or cooperative property, and must also provide a statement indicating the position of said board or association, if any, as to whether designation of the property should be initiated.<<

[[~~(b)~~]]>>(c)<< *Directive of the Board.* The Board shall, upon recommendations from staff or the acceptance of petitions pursuant to part (IV), subsection (a) >>or (b)<< of this section, direct staff to begin the designation process by preparing a designation report, pursuant to part (III) of this section and any other standards the Board may deem necessary, and submitting this report according to the procedures described herein.

[[~~(c)~~]]>>(d)<< *Notification of owner.* For each proposed designation of an individual site, district or archeological zone, the Board is encouraged to obtain the permission of the property owner(s) within the designated area, and is responsible for

mailing a copy of the designation report to the owner(s) as notification of the intent of the Board to consider designation of the property at least fifteen (15) days prior to a public hearing held pursuant to this section.

[[~~(d)~~]]>>(e)<< *Notification of government agencies.* Upon filing of a designation report, the Secretary of the Board shall immediately notify the appropriate building and zoning department, the appropriate public works department and any other County or municipal agency, including agencies with demolition powers, that may be affected by said filing.

[[~~(e)~~]]>>(f)<< *Notification of a public hearing.* For each individual site, district or archeological zone proposed for designation, a public hearing must be held no sooner than fifteen (15) days and within sixty (60) days from the date a designation report has been filed with the Board. Owners of record or other parties having an interest in the proposed designated properties, if known, shall be notified of the public hearing by certified mail to the last known address of the party being served; however, failure to receive such notice shall not invalidate the same as such notice shall also be perfected by publishing a copy thereof in a newspaper of general circulation at least ten (10) days prior to the hearing. Owners shall be given an opportunity at the public hearing to object to the proposed designation.

[[~~(f)~~]]>>(g)<< *Requirement of prompt decision and notification.* Within seven (7) days of a public hearing on a proposed individual site, district or archeological zone, the Board shall by written resolution state its decision to approve, deny or amend the proposed designation and shall direct the Secretary of the Board to notify the following of its actions with a copy of the resolution:

(1) The appropriate building and zoning department,
(2) The County Clerk,
(3) The appropriate municipal clerk when necessary,

(4) Owner(s) of the affected property and other parties having an interest in the property, if known,
(5) The appropriate planning department,
(6) The appropriate public works department, and
(7) Any other County or municipal agency, including agencies with demolition powers, that may be affected by this action,
(8) Miami-Dade County Property Appraiser.

[[~~(g)~~]]>>(h)<<[[~~(f)~~]]*Amendment or rescission.* [[~~(f)~~]] The Board may amend or rescind any designation provided it complies with the same manners and procedures used in the original designation.

[[~~(h)~~]]>>(i)<< *Moratorium.* Upon the filing of a designation report by the staff, the owner(s) of the real property which is the subject matter of the designation report or any individual or private or public entity shall not:

(1) Erect any structure on the subject property.
(2) Alter, restore, renovate, move or demolish any structure on the subject property until such time as final administrative action, as provided by this chapter, is completed.

[[~~(i)~~]]>>(j)<< *Recording of designation.* The Board shall provide the Clerk of the Circuit Court with all designations for the purpose of recording such designation and the Clerk of the Circuit Court shall thereupon record the designation according to law.

Section 2. 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 3. 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 4. 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:

James Eddie Kirtley

Prime Sponsor: Commissioner Sally A. Heyman