

MEMORANDUM

Agenda Item No. 11(A)(41)

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

DATE: October 6, 2015

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

SUBJECT: Resolution rescinding Resolution No. R-256-10 which requires the Commission Auditor to submit quarterly reports regarding directives adopted by the Board of County Commissioners and requests by a Commission committee, subcommittee or individual Commissioner; requiring the County Attorney to utilize the database maintained by the Clerk of the Board to monitor such directives and requests and demand compliance by the Mayor in the form of a memorandum in the event that a directive or request is still pending after the due date; requiring the County Attorney to submit a copy of all memoranda to the Mayor pursuant to this resolution to the Board of County Commissioners; directing the Mayor to respond to the County Attorney within specified timeframe and copy the Board of County Commissioners and the Clerk of the Board

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Juan C. Zapata.


R. A. Cuevas, Jr.
County Attorney

RAC/smm



MEMORANDUM

(Revised)

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

DATE: October 6, 2015

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

SUBJECT: Agenda Item No. 11(A)(41)

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)(41)

10-6-15

RESOLUTION NO. _____

RESOLUTION RESCINDING RESOLUTION NO. R-256-10 WHICH REQUIRES THE COMMISSION AUDITOR TO SUBMIT QUARTERLY REPORTS REGARDING DIRECTIVES ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS AND REQUESTS BY A COMMISSION COMMITTEE, SUBCOMMITTEE OR INDIVIDUAL COMMISSIONER; REQUIRING THE COUNTY ATTORNEY TO UTILIZE THE DATABASE MAINTAINED BY THE CLERK OF THE BOARD TO MONITOR SUCH DIRECTIVES AND REQUESTS AND DEMAND COMPLIANCE BY THE MAYOR IN THE FORM OF A MEMORANDUM IN THE EVENT THAT A DIRECTIVE OR REQUEST IS STILL PENDING AFTER THE DUE DATE; REQUIRING THE COUNTY ATTORNEY TO SUBMIT A COPY OF ALL MEMORANDA TO THE MAYOR PURSUANT TO THIS RESOLUTION TO THE BOARD OF COUNTY COMMISSIONERS; DIRECTING THE MAYOR TO RESPOND TO THE COUNTY ATTORNEY WITHIN SPECIFIED TIMEFRAME AND COPY THE BOARD OF COUNTY COMMISSIONERS AND THE CLERK OF THE BOARD

WHEREAS, Section 2.02(A) of the Home Rule Charter provides that the Mayor shall be responsible for, among other things, carrying out the policies adopted by the Board of County Commissioners (the "Board"); and

WHEREAS, the Board frequently establishes policies by adopting ordinances or resolutions which direct the Mayor or Mayor's designee to perform certain actions ("Directives"); and

WHEREAS, the Board also issues Directives to the Mayor or Mayor's designee which are not contained in resolutions or ordinances; and

WHEREAS, Commission committees and subcommittees make requests (e.g., for reports) of the Mayor or Mayor's designee regarding, among other things, matters reasonably related to each committee's jurisdiction ("Requests"); and

WHEREAS, individual Commissioners, from time to time, make Requests of the County's administration pursuant to Section 5.09(B) of the Home Rule Charter; and

WHEREAS, since 2003, the Clerk of the Board has maintained a database which includes, among other categories of information, the due date and the status of Directives and Requests from the Board, Commission committees, subcommittees and individual Commissioners ("Directives Database"); and

WHEREAS, the Directives Database also links each Directive or Request from the Board, Commission committees, and individual Commissioners to the appropriate agenda item; and

WHEREAS, to ensure that Directives are being completed in a timely manner, the Board adopted Resolution No. R-256-10 because, among other reasons, certain Directives were not being completed on time; and

WHEREAS, Resolution No. R-256-10 directs the Commission Auditor to utilize the Directives Database maintained by the Clerk of the Board to track and submit a quarterly report to the Board; and

WHEREAS, the Board believes that Resolution No. R-256-10 has not achieved the desired results in that, among other things, the quarterly reports are voluminous documents which frequently, due to the timing of the reports, do not notify the Board in a timely manner regarding the status of Directives and Requests; and

WHEREAS, the intent of Resolution No. R-256-10 has not been achieved in that a large number of Board Directives and Requests remain pending after the due date; and

WHEREAS, the Board believes that it is of the utmost importance that the Directives and policies of the Board, which is the legislative and governing body of the County, be complied within a timely manner; and

WHEREAS, the Board wishes to repeal Resolution No. R-256-10 and establish a different procedure to ensure compliance with Directives and Requests from the Board, Commission committees, subcommittees and individual Commissioners; and

WHEREAS, the Board believes that the Office of the County Attorney, as legal counsel to, among others, the Commission is better suited to ensure compliance with the Directives and Requests from the Board, Commission committees, subcommittees and individual Commissioners; and

WHEREAS, the Board believes that the County Attorney should utilize the Directives Database maintained by the Clerk of the Board to track Directives and Requests, and, on behalf of the Board, demand compliance by the Mayor via written memorandum when a Directive or Request remains pending after the due date,

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

Section 1. Resolution No. R-256-10 is hereby rescinded.

Section 2. Utilizing the Directives Database maintained by the Clerk of the Board to track Directives and Requests, the Office of the County Attorney shall, on behalf of the Board, demand compliance by the Mayor whenever a Directive or Request is still pending after the due date. The County Attorney shall issue such notice to the Mayor via written memoranda within 10 calendar days after the Clerk's Directives Database reflects that, as of the due date, a Directive or Request is still pending. The County Attorney shall utilize the form of memorandum attached hereto as Attachment A for such demand, provide a copy to the Board, and direct the Mayor to respond to the memorandum within 15 calendar days of receipt.

Section 3. The Mayor shall send his or her response to the County Attorney's Office, and copy the Board of County Commissioners and the Clerk of the Board.

Section 4. This resolution shall be implemented within 30 days after the effective date of this resolution.

The Prime Sponsor of the foregoing resolution is Commissioner Juan C. Zapata. 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:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of October, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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.

GKS

Gerald K. Sanchez

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Memorandum  MIAMI-DADE
COUNTY

Date:

To: Honorable Carlos A. Gimenez, Mayor

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

Re: Demand for Compliance

Pursuant to Resolution No. R-_____, the Office of the County Attorney, acting as counsel to, among others, the Board of County Commissioners (“Board”) has been directed to issue to you a memorandum whenever a directive to you from the Board (“Directive”) or a request to you from a Commission committee, subcommittee or individual Commissioner (“Request”) is still pending after the due date. Accordingly, on behalf of the Board, the County Attorney’s Office demands that the following Directives and/or Requests which are past due be completed and that you issue a response to this memorandum within 15 calendar days of receipt:

(Directives and Requests)

cc: Honorable Chairman and Members, Board of County Commissioners
Christopher Agrippa, Division Chief Clerk of the Board
Eugene Love, Agenda Coordinator

Attachment A