

# MEMORANDUM

ICI  
Substitute to  
Agenda Item No. 1G7

**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

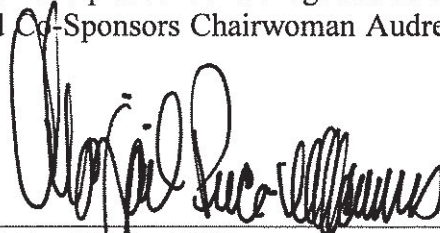
**DATE:** December 10, 2019

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Ordinance relating to community councils and zoning in the unincorporated area; amending sections 20-41 and 33-307.1 of the Code; revising prohibition on certain appearances by Community Council and Community Zoning Appeals Board members before other boards; prohibiting Community Council and Community Zoning Appeals Board members from appearing before this Board or any other County board to advocate on any land use application under certain circumstances; creating section 33-314.1 of the Code; prohibiting members of this Board from advocating before another County board regarding any County land use application;

**This substitute differs from the original version in that (1) the prohibition on appearances by Community Council and Community Zoning Appeals Board members shall not apply to non-voting members who are required by statute or other law to serve as board members, including but not limited to, representatives of the Miami-Dade County School Board and the Homestead Air Reserve Base; and (2) the prohibition applicable to the Board of County Commissioners shall be directory only, and shall not carry with it any penalty.**

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss and Co-Sponsors Chairwoman Audrey M. Edmonson and Vice Chairwoman Rebeca Sosa.



Abigail Price-Williams  
County Attorney

APW/uw

# Memorandum



**Date:** January 22, 2020

**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in cursive script, likely belonging to Carlos A. Gimenez.

**Subject:** Fiscal Impact Statement for Ordinance Relating to Community Councils and Zoning  
Procedures in the Unincorporated Area; Prohibition on Certain Appearances

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The implementation of this ordinance will not have a fiscal impact to Miami-Dade County as the proposed changes would not require additional staffing resources or operational costs.

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*f/* Jack Osterholt  
Deputy Mayor

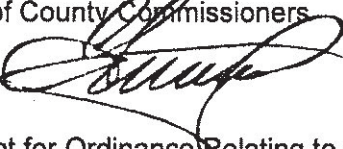
FIS01820 192733

# Memorandum



**Date:** January 22, 2020

**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez   
Mayor

**Subject:** Social Equity Statement for Ordinance Relating to Community Councils and Zoning

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The proposed ordinance relating to Community Councils and Zoning amends Section 20-41 and 33-307.01 of the Code of Miami-Dade County (Code) revising the prohibition on certain appearances by Community Council and Community Zoning Appeals Board members before other boards to advocate on any land use applications. The proposed ordinance also creates Section 33-314.1 of the Code prohibiting members of the Board of County Commissioners (BCC) from appearing before any other board concerning any planning, zoning or other land use application under certain circumstances.

On July 7, 2005, the BCC adopted Ordinance No. 05-139 prohibiting members from appearing before other boards on planning and zoning matters, however the ordinance was then amended to adopt only the zoning applications versus planning applications.

Community Council members serve as of quasi-judicial judges and in some instances, may provide recommendations to the BCC or other County Boards. Regarding land use issues, matters discussed at Community Council are similar to those discussed in any other land use County board. Thus, the proposed ordinance seeks to protect the "impartial judge" nature of those involved in the land use approval process. No specific social equity or benefit can be determined at this time.

A handwritten signature in cursive script, likely belonging to Jack Osterholt.

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Jack Osterholt  
Deputy Mayor

192733



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** January 22, 2020

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No.

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
- \_\_\_\_\_ Statement of social equity 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 present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ ) to approve
- \_\_\_\_\_ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor

Agenda Item No. 4(I)

Veto \_\_\_\_\_

Override \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO COMMUNITY COUNCILS AND ZONING IN THE UNINCORPORATED AREA; AMENDING SECTIONS 20-41 AND 33-307.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PROHIBITION ON CERTAIN APPEARANCES BY COMMUNITY COUNCIL AND COMMUNITY ZONING APPEALS BOARD MEMBERS BEFORE OTHER BOARDS; PROHIBITING COMMUNITY COUNCIL AND COMMUNITY ZONING APPEALS BOARD MEMBERS FROM APPEARING BEFORE THIS BOARD OR ANY OTHER COUNTY BOARD TO ADVOCATE ON ANY LAND USE APPLICATION UNDER CERTAIN CIRCUMSTANCES; CREATING SECTION 33-314.1 OF THE CODE; PROHIBITING MEMBERS OF THIS BOARD FROM ADVOCATING BEFORE ANOTHER COUNTY BOARD REGARDING ANY COUNTY LAND USE APPLICATION; PROVIDING EXCEPTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, in 2005, this Board adopted Ordinance No. 05-139, which amended the County Code to prohibit Community Council members from appearing “at any public hearings or meetings before the Board of County Commissioners or any other federal, state, or local board or tribunal, to advocate concerning any zoning application that was heard by, or that could reasonably be expected to be heard by, any Community Council”; and

**WHEREAS**, Ordinance No. 05-139 does not preclude Community Council members from appearing before this Board to advocate regarding zoning matters over which the Community Councils do not have jurisdiction, or to advocate regarding other types of land use applications, such as applications to amend the Comprehensive Development Master Plan (CDMP); and

**WHEREAS**, there is a concern relating to such matters because Community Council members, who serve in the role of quasi-judicial judges, should not appear in any zoning matters before this Board or any other County board in the role of an advocate; and

WHEREAS, in addition, while CDMP applications are not quasi-judicial, Community Council members nonetheless play a role in the decision-making process by providing a recommendation to this Board and, therefore, should not also assume the role of advocate in such proceedings; and

WHEREAS, similarly, members of this Board should not be appearing before the Community Councils or any other board to advocate concerning County land use applications, except in very limited circumstances where the County Code or this Board expressly authorizes such appearances,

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

**Section 1.** Section 20-41 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 20-41. Community Councils; responsibilities.**

- \* \* \*
- (C) No member of a Community Council shall appear at any public hearings or meetings before the Board of County Commissioners or any other federal, state, or local board or tribunal, to advocate concerning any ~~>>planning, <<zoning>>, or other land use~~ application that was heard by, or that could reasonably be expected to be heard by, ~~>>the Board of County Commissioners, << any Community Council>>, or other County board<<. >>The above-referenced prohibition shall not apply to non-voting members who are required by statute or other law to serve as board members, including, but not limited to, representatives of the Miami-Dade County School Board and the Homestead Air Reserve Base (HARB), <<<sup>2</sup>~~

<sup>1</sup> 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.

<sup>2</sup> The differences between the substitute and the original item are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

**Section 2.** Section 33-307.1 of the Code of Miami-Dade County is hereby amended to read as follows:

**Sec. 33-307.1 Community Zoning Appeals Board; prohibition of members appearance.**

- (A) No member of a Community Zoning Appeals Board may appear on behalf of a third person before another Community Zoning Appeals Board or before the County Commission sitting in its capacity as the zoning authority pursuant to Chapter 33, Code of Miami-Dade County.
- (B) No member of a Community Zoning Appeals Board shall appear at any public hearings or meetings before the Board of County Commissioners or any other federal, state, or local board or tribunal, to advocate concerning any >>planning,<< zoning>>, or other land use<< application that was heard by, or that could reasonably be expected to be heard by, >>the Board of County Commissioners,<< any Community Council>>, or other County board<<.
- (C) >>The above-referenced prohibitions shall not apply to non-voting members who are required by statute or other law to serve as board members, including, but not limited to, representatives of the Miami-Dade County School Board and the Homestead Air Reserve Base (HARB).
- (D)<< Violation of this section shall constitute grounds for removal pursuant to § 20-43.2.

**Section 3.** Section 33-314.1 of the Code of Miami-Dade County is hereby created to read as follows:

>>**Sec. 33-314.1 Board of County Commissioners; prohibition of members appearance.**

No member of the Board of County Commissioners shall appear at any public hearings or meetings before any Community Council, Community Zoning Appeals Board, or any other federal, state, or local board or tribunal, to advocate concerning any planning, zoning, or other land use application that was heard by, or that could reasonably be expected to be heard by, the Board of County Commissioners or any other County board. Notwithstanding the foregoing, members of the Board of County Commissioners shall

not be precluded from serving on other boards, such as the Regional Planning Council, when duly appointed or authorized by the Code.<<>>This provision is directory only, and shall not carry with it any penalty.<<

**Section 4.** 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 5.** 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 6.** 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:

JPK

James Eddie Kirtley

Prime Sponsor: Commissioner Dennis C. Moss  
Co-Sponsors: Chairwoman Audrey M. Edmonson  
Vice Chairwoman Rebeca Sosa