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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(5)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: March 16, 2010

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

SUBJECT: Resolution urging the U.S. Congress to pass the Community Access Preservation Act, H.R. 3745, or similar legislation ensuring the public continued access to public, educational and governmental cable television channels

Resolution No. R-304-10

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Carlos A. Gimenez.

R. A. Cuevas, Jr.
County Attorney

RAC/up

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: March 16, 2010

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

SUBJECT: Agenda Item No. 11(A)(5)

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 Manager'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)(5)
3-16-10

RESOLUTION NO. R-304-10

RESOLUTION URGING THE U.S. CONGRESS TO PASS THE COMMUNITY ACCESS PRESERVATION ACT, H.R. 3745, OR SIMILAR LEGISLATION ENSURING THE PUBLIC CONTINUED ACCESS TO PUBLIC, EDUCATIONAL AND GOVERNMENTAL CABLE TELEVISION CHANNELS

WHEREAS, public, educational and governmental cable television channels ("PEG channels") provide an important link between residents and their communities and government; and

WHEREAS, PEG channels connect residents with their local government in much the way C-SPAN connects people to the activities of Congress; and

WHEREAS, current federal law is silent as to the basic requirements for PEG channels; and

WHEREAS, funding and broadcast of PEG channels traditionally was negotiated as part of the negotiation of local franchise agreements between cable companies and local governments; and

WHEREAS, in recent years, however, 23 states including Florida have enacted new telecommunications laws that govern PEG channels and other aspects of cable television franchises; and

WHEREAS, as a result of the passage of these recent statewide telecommunications laws, some PEG channels now face significant broadcast and funding challenges; and

WHEREAS, some franchised cable operators now carry PEG channels differently than commercial channels, while others carry them in reduced resolution, place them in less desirable

channels or place them in higher priced cable subscriptions where they are not accessible to all cable customers; and

WHEREAS, in some cases, operators are refusing to provide closed captioning for PEG channels unless a special request is made; and

WHEREAS, these various limitations on public access to PEG channels run counter to the fundamental purposes of PEG channels to provide public access to the community and local government; and

WHEREAS, Representative Tammy Baldwin (D - Wisconsin) has filed the Community Access Preservation Act (the CAP Act), H.R. 3745, for consideration during the 111th Congress to address the broadcast and funding challenges PEG channels now face; and

WHEREAS, the CAP Act would address the challenges PEG channels face by:

1. Allowing PEG fees to be used for any PEG-related purposes;
2. Requiring PEG channels to be carried in the same manner as local broadcast channels;
3. Requiring the FCC to study the effect state video franchise laws have had on PEG channels;
4. Requiring cable operators to provide the support required under state laws or the support historically provided for PEG channels, whichever is greater; and
5. Making cable television laws and regulations applicable to all landline video providers; and

WHEREAS, unlike many of the state laws recently passed, the CAP Act does not assume a "one size fits all" PEG channel structure, and instead leaves and in some cases restores the decision to negotiate PEG channels to local communities; and

WHEREAS, this Board supports passage of the CAP Act because it would ensure that cable providers deliver PEG Channels to subscribers without additional charges through

channels with the same quality, accessibility and placement as local commercial television stations on the lowest price tier available to cable subscribers,

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

Section 1. Urges Congress to pass the Community Access Preservation Act, H.R. 3745, or similar legislation.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the members of the Florida Congressional Delegation.

Section 3. Directs the County's federal lobbyists to advocate for the legislation set forth in Section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2010 Federal Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Carlos A. Gimenez. It was offered by Commissioner **Jose "Pepe" Diaz**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman **aye**
Jose "Pepe" Diaz, Vice-Chairman **aye**

Bruno A. Barreiro	**absent**	Audrey M. Edmonson	**aye**
Carlos A. Gimenez	**aye**	Sally A. Heyman	**aye**
Barbara J. Jordan	**aye**	Joe A. Martinez	**absent**
Dorrin D. Rolle	**aye**	Natacha Seijas	**aye**
Katy Sorenson	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of March, 2010. 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: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Jess M. McCarty