

MEMORANDUM

Agenda Item No. 7(F)

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

DATE: (Second Reading 7-1-14)
April 8, 2014

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

SUBJECT: Ordinance relating to
membership on County Advisory
Boards and Community
Councils; amending Section
2-11.36.1 to establish process
for removing County Advisory
Board members from a County
board for failure to file required
financial disclosure and
amending Section 20-43.2 to
clarify that elected and appointed
Community Council members
may be removed from office for
failure to file required financial
disclosure and providing for
certain notifications
Ordinance No. 14-62

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



Date: July 1, 2014

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

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the name in the "From:" field.

Subject: Ordinance relating to membership on County Advisory Boards and Community Councils; amending Section 2-11.36.1 to establish process for removing County Advisory Board members from a County board for failure to file required financial disclosure and amending Section 20-43.2 to clarify that elected and appointed Community Council members may be removed from office for failure to file required financial disclosure and providing for certain notifications

This proposed ordinance amends sections 2-11.36.1 and 20-43.2 of the Code of Miami-Dade County and provides for the establishment of a process for removing County Advisory Board members for failure to file required financial disclosure, clarifying that elected and appointed Community Council members may be removed from office for failure to file required financial disclosure. Implementation of this ordinance will not have a fiscal impact to the County.

A handwritten signature in black ink, appearing to read "Jack Osterholt", written over a horizontal line.

Jack Osterholt
Deputy Mayor

Fis7014



MEMORANDUM

(Revised)

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

DATE: July 1, 2014

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

SUBJECT: Agenda Item No. 7(F)

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. 7(F)
7-1-14

ORDINANCE NO. 14-62

ORDINANCE RELATING TO MEMBERSHIP ON COUNTY ADVISORY BOARDS AND COMMUNITY COUNCILS; AMENDING SECTION 2-11.36.1 TO ESTABLISH PROCESS FOR REMOVING COUNTY ADVISORY BOARD MEMBERS FROM A COUNTY BOARD FOR FAILURE TO FILE REQUIRED FINANCIAL DISCLOSURE AND AMENDING SECTION 20-43.2 TO CLARIFY THAT ELECTED AND APPOINTED COMMUNITY COUNCIL MEMBERS MAY BE REMOVED FROM OFFICE FOR FAILURE TO FILE REQUIRED FINANCIAL DISCLOSURE AND PROVIDING FOR CERTAIN NOTIFICATIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Chapter 2, Article 1B. of the Code of Miami-Dade County, Florida sets forth standards for the creation and review of County boards; and

WHEREAS, a Board is defined in Sec. 2-11.36.1:

(a)...[t]o include every agency, authority, advisory board, regulatory board, quasijudicial board, semiautonomous instrumentality, committee, task force or any other citizens' group created and funded in whole or in part by the Board of County Commissioners. The foregoing notwithstanding, this article shall not apply to citizen groups created for specific advisory purposes where such group's existence is limited to a period of less than one (1) year. Except as otherwise provided, "County boards" and "citizens' advisory groups" may only be created by action of the County Commission, and only the County Commission, as a body, may appoint the members of the such boards and groups.

(b) Notwithstanding the provisions of subsection (a) hereof, no board, committee, task force, or other citizens' group created by a County Commissioner for the purpose of advising him or her with regard to issues solely within his or her district shall be deemed a County "board" as that term is defined herein...

WHEREAS, service on a County board is a privilege and no person should serve on a County board who does not file required financial disclosure; and

WHEREAS, there should be a process for removing members of County Boards for failing to file financial disclosure; and

WHEREAS, the Code of Miami-Dade County relating to removal of elected and appointed members of Community Councils should be clarified to express that the failure of such members to file financial disclosure constitutes malfeasance, which is an existing ground for removal of such persons from office and provide a process for notifications regarding the failure to file financial disclosure,

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

Section 1. Section 20-11.37 of the Code of Miami-Dade County, Florida, is hereby amended as follows:¹

Sec. 2-11.37. Membership on boards.

All members of County boards shall be permanent residents and electors of Miami-Dade County unless the Board of County Commissioners, by a two-thirds vote of its membership, waives this requirement, and should have reputations for integrity and community service. In addition, all board members should have demonstrated an interest in the field, activity or sphere covered by the board. Each board shall include at least one (1) person whose livelihood does not depend on the area regulated, administered or dealt with by the board.

* * *

Any Commissioner who has nominated a citizen to a County board as that term is defined in Section 2-11.36 of the Code of Miami-Dade County may at any time, with or without cause, request the Board of County Commissioners to remove said board member from his or her position on a County board and recommend a different person to fill the position.

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.

>>Regarding those board members that are required to file financial disclosure with the County's Elections Department, the Executive Director of the Miami-Dade County Ethics Commission (the "Ethics Commission") shall notify such members if they have failed to file the required financial disclosure for the previous calendar year by February 1st of each year. The notice shall provide that each such member shall have thirty (30) days from the date of the notice to submit proof to the Ethics Commission that financial disclosure has been filed with the Elections Department within such thirty (30) day period. Such notice shall also provide that these board members will be removed from the membership roster of the board on the thirty-first (31st) day from the date of the notice. A copy of this notice shall be provided to the Mayor or designee, the Clerk of the Board (the "Clerk") and the County Attorney. Notwithstanding any provision of the Code or law to the contrary, such member shall not hold over in office until a successor is appointed to fill the vacancy caused by the removal of such board member pursuant to this section. The provisions of this paragraph pertaining to removal for failure to file financial disclosure shall not apply to (1) any County board whose members can only be removed by the Governor of the State of Florida and (2) Community Council members, whose removal shall be governed by Section 20-43.2. Additionally, removal from office is only one penalty for failure to file financial disclosure. Nothing herein prohibits any appropriate authority from taking other lawful action, including the imposition of fines or criminal sanctions, for failing to file financial disclosure.

Regarding those board members that are required to file financial disclosure with the State Commission on Ethics, the Clerk of the Board of County Commissioners (the "Clerk") shall determine the names of such persons and shall notify such members of County boards who have failed to file their required financial disclosure for the previous calendar year by February 1 of each year. The notice shall provide that each such board member has thirty (30) days from the date of the notice to submit proof to the Clerk that financial disclosure has been filed with the State Commission on Ethics within such thirty (30) days period. Such notice shall also provide that these board members will be removed from the membership roster of the board on the thirty-first (31st) day from the date of the notice. A copy of this notice shall be provided to the Mayor or designee, the Clerk of the Board and the County Attorney. Notwithstanding any provision of the Code or law to the contrary, such member shall not hold over in office until a successor is appointed to fill the vacancy caused by the removal of such board member pursuant to this section. The provisions of

this paragraph pertaining to removal for failure to file financial disclosure shall not apply to (1) any County board whose members can only be removed by the Governor of the State of Florida and (2) Community Council members, whose removal shall be governed by Section 20-43.2. Additionally, removal from office is only one penalty for failure to file financial disclosure. Nothing herein prohibits any appropriate authority from taking other lawful action, including the imposition of fines or criminal sanctions, for failure to file financial disclosure.<<

Section 2. Section 20-43.2 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 20-43.2. Community Councils; removal.

Any elected or appointed member of a Community Council may be removed from office for cause by resolution of the Board of County Commissioners. The following events shall be deemed sufficient cause for removal: malfeasance, >>including failure to file financial disclosure required by law,<< misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or indictment for crime. Any vacancy created by removal in a Community Council shall be filled for the remaining term by appointment in the manner prescribed for filling vacant positions. >>Nothing herein prohibits any appropriate authority from taking other lawful action, including the imposition of fines or criminal sanctions.

The Clerk of the Board of County Commissioners shall determine the names of Community Council members who have failed to file financial disclosure and shall notify such members of County boards who have failed to file their required financial disclosure for the previous calendar year by February 1 of each year, the Board of County Commissioners, the Mayor or designee, and the County Attorney.<<

Section 3. 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 4. 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 5. 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: July 1, 2014

Approved by County Attorney as
to form and legal sufficiency:




Prepared by:

Cynthia Johnson-Stacks

Prime Sponsor: Commissioner Sally A. Heyman