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

MEMORANDUM

Agenda Item No. 7(G)

(Second Reading 5-17-16)

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

DATE: February 17, 2016

FROM: Abigail Price-Williams County Attorney

SUBJECT: Ordinance relating to Rules of Procedure of the Board of County Commissioners; amending section 2-1 of the Code, relating to public participation to provide that those persons who either support or oppose a particular public hearing item or non-public hearing proposition but do not wish to use their allotted time may express their support or opposition by stating specified phrase; providing that members of the public who wish to express their support or opposition by stating specified phrase without stepping up to the podium may do so under certain circumstances; requiring presiding officer to make specified statement and take stated action in the event a member of the public states his or her support for or opposition to a particular public hearing item or non-public hearing proposition without stepping up to the podium

Ordinance No. 16-52

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

APW/lmp

Abigail Price-Williams
County Attorney

Memorandum

MIAMI-DADE COUNTY

Date: May 17, 2016

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

From: Carlos A. Gimenez
Mayor

Subject: Fiscal Impact For Ordinance Relating to Rules of Procedure of The Board of County Commissioners

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The proposed Ordinance relating to the Rules of Procedure of the Board of County Commissioners, amending Section 2-1 of the Code of Miami-Dade County, relating to public participation and providing those persons who either support or oppose a particular public hearing item or non-public hearing item proposition but to not wish to use their allotted time may express their support or opposition by stated specified phrase. The same would apply to those persons who do not wish to come to the podium but who wish to stand and express their support or opposition by stated phrase. The implementation of this ordinance will not have a fiscal impact to Miami-Dade County.

Edward Marquez
Deputy Mayor

Fis02716 160266

Memorandum

MIAMI-DADE COUNTY

Date: May 17, 2016

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

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Relating to Rules of Procedure of the Board of County Commissioners; Amending Section 2-1 of the Code, Relating to Public Participation

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This ordinance amends Section 2-1 of the Code relating to public participation to provide that those persons who either support or oppose a particular public hearing item or non-public hearing proposition but do not wish to use their allotted time may express their support or opposition by stating specified phrase; providing that members of the public who wish to express their support or opposition by stating specified phrase without stepping up to the podium may do so under certain circumstances; and requiring the presiding officer to make a specified statement and take stated action in the event a member of the public states his or her support for or opposition to a particular public hearing item or non-public hearing proposition without stepping up to the podium.

No specific social equity burden, as described in Ordinance No. 15-83, as a result of this proposed amendment to the Board's Rules of Procedure can be determined. However, this change could expedite the public hearing process by reducing the wait time for those who wish to speak on public and non-public hearing items, which could in turn incentivize members of the public to participate in Board meetings.

MEMORANDUM

(Revised)

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

DATE: May 17, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(G)

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 ____, 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(G)
5-17-16

ORDINANCE NO. 16-52

ORDINANCE RELATING TO RULES OF PROCEDURE OF THE BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 2-1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO PUBLIC PARTICIPATION TO PROVIDE THAT THOSE PERSONS WHO EITHER SUPPORT OR OPPOSE A PARTICULAR PUBLIC HEARING ITEM OR NON-PUBLIC HEARING PROPOSITION BUT DO NOT WISH TO USE THEIR ALLOTTED TIME MAY EXPRESS THEIR SUPPORT OR OPPOSITION BY STATING SPECIFIED PHRASE; PROVIDING THAT MEMBERS OF THE PUBLIC WHO WISH TO EXPRESS THEIR SUPPORT OR OPPOSITION BY STATING SPECIFIED PHRASE WITHOUT STEPPING UP TO THE PODIUM MAY DO SO UNDER CERTAIN CIRCUMSTANCES; REQUIRING PRESIDING OFFICER TO MAKE SPECIFIED STATEMENT AND TAKE STATED ACTION IN THE EVENT A MEMBER OF THE PUBLIC STATES HIS OR HER SUPPORT FOR OR OPPOSITION TO A PARTICULAR PUBLIC HEARING ITEM OR NON-PUBLIC HEARING PROPOSITION WITHOUT STEPPING UP TO THE PODIUM; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 2-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

CODE OF MIAMI-DADE COUNTY
CHAPTER 2. ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 2-1. RULES OF PROCEDURE OF COUNTY COMMISSION

[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.

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PART 6. Public Participation

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Rule 6.04. ADDRESSING COMMISSION, MANNER, TIME FOR PUBLIC HEARING ITEMS.

Each person, other than salaried members of the county staff, who addresses the commission or a committee shall step up to a podium and shall give the following information in an audible tone of voice for the minutes:

(a) Name;

(b) Address;

(c) Whether the person speaks on his or her own behalf, a group of persons, or a third party; or if the person represents an organization; and whether the view expressed by the speaker represents an established policy of the organization approved by the board or governing council;

(d) Compensation, if any;

(e) Whether the person or any immediate family member has a personal financial interest in the pending matter, other than as set forth in (d).

Unless further time is granted by the commission or committee, the statement on a public hearing item shall be limited to five (5) minutes. All remarks shall be addressed to the commission or committee as a body and not to any member thereof. No person, other than commissioners and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the commission, without the permission of the presiding officer. No question shall be asked a commissioner except through the presiding officer.

>>Any person who either supports or opposes a particular public hearing item, but does not wish to use his or her allotted time when called upon to speak may express his or her support or opposition by stepping up to the podium, complying with the requirements of Rule 6.04, identifying the public hearing item the person wishes to

address, and stating either "I waive in support" or "I waive in opposition." Notwithstanding any provision to the contrary, any person who is called upon to speak and wishes to state his or her support for or opposition to a public hearing item without stepping up to the podium may do so by: (1) standing up wherever he or she may be in the audience; (2) stating his or her name; (3) identifying the public hearing item the person wishes to address; and (4) stating either "I waive in support" or "I waive in opposition" in an audible tone of voice. Any person who states his or her support or opposition as provided for in the preceding sentence shall comply with the rules of decorum set forth in Rule 6.05, and be required to fill out a registration card, prior to stating his or her position, which includes, among other things, the person's name, address and the public hearing item the person wishes to address. Whenever a person has elected to waive his or her right to speak in support or opposition to a public hearing item without stepping up to the podium, the presiding officer shall thereafter state the person's name and address as they appear on his or her registration card, repeat what the person stated (*i.e.*, the public hearing item addressed and whether the person waived in support or opposition) and, at the appropriate time, give that person's registration card to the Clerk of the Board.<<

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RULE 6.06. REASONABLE OPPORTUNITY FOR THE PUBLIC TO BE HEARD ON NON-PUBLIC HEARING PROPOSITIONS.

(a) In addition to and apart from the right to speak on any public hearing item as set forth above and notwithstanding and prevailing over any other provision of the Code to the contrary, members of the public shall be given a reasonable opportunity to be heard as set forth in this rule on any non-public hearing proposition that is before the Commission or a committee pursuant to section 286.0114, Florida Statutes, as such may be amended from time to time.

(b) For purposes of this rule, "proposition" shall mean a general substantive policy issue or matter proposed or offered for consideration or adoption, and shall not include:

(i) Procedural motions on propositions, or

(ii) Individual components, aspects or line items of a proposition.

While a single proposition may be considered multiple times before the Commission and Commission committees as the same or different agenda items, there shall only be one reasonable opportunity to be heard on each proposition during the decision-making process as set forth in this rule.

(c) For any non-public hearing proposition that is referred to committee, the reasonable opportunity to be heard shall be before the committee subject to the limitations in (d) below. For any non-public hearing proposition that is not referred to committee and heard only by the Commission, the reasonable opportunity to be heard shall be before the Commission subject to the limitations in (d) below.

(d) The reasonable opportunity to be heard shall not apply to:

1. An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the Commission or a committee to act;

2. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamation;

3. A meeting that is exempt from the Sunshine Law;

4. A meeting during which the Commission or a committee is acting in a quasi-judicial capacity; provided, however, that this provision does not affect the right of a person to be heard as otherwise provided by law;

5. Procedural motions, including, but not limited to, motions to defer an item, recess or adjourn;

6. Ordinances on second reading when there was a previous opportunity to be heard at a public hearing at committee or otherwise;

7. Propositions before the Commission when there was a previous opportunity to be heard at committee;

8. A request or direction to the Mayor or other County official that will be brought back before the Commission or a committee when there will be a subsequent opportunity to be heard on the proposition; or

9. Any situation where there has been a previous public hearing or reasonable opportunity to be heard on a proposition, or where there will be a subsequent public hearing or reasonable opportunity to be heard on a proposition.

(e) On the day of the Commission or committee meeting and no less than one-half hour after the publicly noticed time for the meeting to begin, a person desiring to speak on a non-public hearing proposition shall register with the Office of Agenda Coordination in the lobby of the Commission chambers and complete a registration card as set forth in (f) below.

(f) The Office of Agenda Coordination shall make available appropriate registration cards for non-public hearing propositions. Such cards shall be formatted to indicate the speaker's name, >>address,<< the non-public hearing proposition on which he or she is speaking, and whether he or she is speaking in favor of or against the proposition or for informational purposes. Such registration cards shall be in a distinct color or otherwise immediately distinguishable from registration cards for public hearing items.

(g) Failure to comply with the registration provisions of this rule shall prohibit a person from having an opportunity to be heard on any item or proposition for which he or she is not properly registered, provided however that if a proposition is discussed that is not listed on the agenda of the Commission or a committee, then a person shall have an opportunity to be heard on the proposition by registering with the Office of Agenda Coordination and completing a registration card as soon as it is announced that the Commission or committee, as applicable, will hear the proposition. Only in the event that (i) a proposition is being discussed and (ii) there was no advance notice of the

proposition being heard shall a person have a right to approach the podium and request to be heard on the proposition.

(h) A person who addresses the Commission or a committee under this rule shall step up to a podium and give the following information in an audible tone of voice:

1. Name;

2. Address;

3. Whether the person speaks on his or her own behalf, a group of persons, or a third party; or if the person represents an organization[[;]]>>.<<

(i) Unless further time is granted by the presiding officer of the Commission or a committee, the statement shall be limited to no more than two (2) minutes subject to the following additional limitations:

1. No more than 10 minutes shall be available in total for all persons speaking in favor of a proposed item or proposition and no more than 10 minutes shall be available in total for all persons speaking against a proposed item or proposition;

2. When more than five (5) persons have registered to speak in favor of an item or proposition, then such persons shall select a representative who shall speak on behalf of the proponents for no more than four (4) minutes and the presiding officer may read into the record the names of the other persons who have registered to speak in favor of the proposition. If the proponents cannot decide on a representative, then the representative shall be the first person that registered with the Office of Agenda Coordination pursuant to subsection (f) above;

3. When more than five (5) persons have registered to speak against an item or proposition, then such persons shall select a representative who shall speak on behalf of the opponents for no more than four (4) minutes and the presiding officer shall read into the record the names of the other persons who have registered to speak against the proposition. If the

opponents cannot decide on a representative, then the representative shall be the first person that registered with the Office of Agenda Coordination pursuant to subsection (f) above.

(j) All remarks shall be addressed to the Commission or committee as a body and not to any particular member thereof. No person, other than commissioners and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Commission, without the permission of the presiding officer. No question shall be asked a commissioner except through the presiding officer.

(k) No person shall be entitled to speak for more than five (5) minutes in total on any one Commission or committee agenda.

(1) The reasonable opportunity for the public to be heard on all propositions except public hearing items shall be provided before the motion to set the agenda for the Commission or committee meeting is entertained, or at the discretion of the presiding officer.

(m) The rules of decorum set forth in Rule 6.05 shall apply to the reasonable opportunity to be heard.

>>(n) Any person who either supports or opposes a particular non-public hearing proposition ("proposition") but does not wish to use his or her allotted time when called upon to speak may express his or her support or opposition by: (1) stepping up to the podium; (2) complying with the requirements of subsection (h); (3) identifying the proposition the person wishes to address; and (4) stating either "I waive in support" or "I waive in opposition." Notwithstanding any provision to the contrary, any person who is called upon to speak and wishes to state his or her support for or opposition to a particular proposition without stepping up to the podium may do so by: (1) standing up wherever he or she may be in the audience; (2) stating his or her name; (3) identifying the proposition the person wishes to address; and (4) stating either "I waive in support" or "I waive in opposition" in an audible tone of voice. Any person who states his or her support or opposition without stepping up to the podium as provided for in the preceding sentence shall comply with the rules of

decorum as provided in subsection (m), and be required to fill out a registration card, prior to stating his or her position, which includes, among other things, the person's name, address and the proposition the person wishes to address. Whenever a person has elected to waive his or her right to speak in support or opposition to a proposition without stepping up to the podium, the presiding officer shall thereafter state the person's name and address as they appear on his or her registration card, repeat what the person stated (*i.e.*, the particular proposition addressed and whether the person waived in support or opposition) and, at the appropriate time, give that person's registration card to the Clerk of the Board.<<

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: May 17, 2016

Approved by County Attorney as
to form and legal sufficiency: APW

Prepared by: GKS

Gerald K. Sanchez

Prime Sponsor: Commissioner Dennis C. Moss
Co-Sponsor: Commissioner Sally A. Heyman