



**MIAMI-DADE COUNTY**  
**FINAL OFFICIAL**  
**Meeting Minutes**

**Board of County Commissioners**  
*Stephen P. Clark Government Center*  
*111 N.W. 1st Street*  
*Miami, FL 33128*

Friday, June 19, 2009  
As Advertised

Harvey Ruvlin, Clerk  
Board of County Commissioners

Diane Collins, Director  
Clerk of the Board Division

Alan Eisenberg, Commission Reporter (305) 375-2510



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**Members Present:** Bruno Barreiro; Jose "Pepe" Diaz; Audrey M. Edmonson; Carlos A. Gimenez; Sally A. Heyman; Barbara J. Jordan; Joe A. Martinez; Dennis C. Moss; Dorrin Rolle; Natacha Seijas; Katy Sorenson; Rebeca Sosa; Javier D. Souto

**Members Absent:** None.

**Members Late:** None.

**Members Excused:** None.

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**Members Absent County Business:** None.

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**1 MINUTES PREPARED BY:**

**Report:** Alan Eisenberg, Commission Reporter (305) 375-2510

**1A ROLL CALL**

**Report:** The following staff members were present: County Manager George Burgess; County Attorney Robert Cuevas; Assistant County Attorney Geri Bonzon-Keenan; and Deputy Clerks Diane Collins and Mary Smith-York.

*Mayor Carlos Alvarez was also present at today's meeting.*

**1B MOMENT OF SILENCE**

**Report:** Chairman Moss called the meeting to order and asked that a moment of silence be observed, followed by the Pledge of Allegiance. He asked that everyone remember the late Officer Giovanni Gonzalez, and his family; a hero who helped protect Miami-Dade County residents from harm.

**1C PLEDGE OF ALLEGIANCE**

**1D SPECIAL ITEMS**

**Report:** County Attorney Robert Cuevas indicated that today's meeting was a special meeting pursuant to the call signed by seven Commissioners, dated June 10, 2009 and filed with the Clerk of the Board on June 15, 2009. He noted there were three items to be considered at today's meeting.

## SPECIAL ITEM NO. 1

**091870 Ordinance**

ORDINANCE AMENDING CERTAIN PROVISIONS OF ORDINANCE NO. 09-23 IN ORDER TO SECURE CREDIT FACILITIES AND RESERVE ACCOUNT CREDIT FACILITY; AND PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE (County Manager)

*Adopted on first reading  
Public Hearing: June 30, 2009  
Mover: Jose "Pepe" Diaz  
Seconder: Barbara J. Jordan  
Vote: 8-4  
No: Heyman, Gimenez,  
Sorenson, Martinez  
Absent: Barreiro*

**Report:** *Chairman Moss stated he would waive the Board's Rules and Procedures to allow the public hearing on this proposed ordinance to be held on June 30, 2009.*

*County Attorney Robert Cuevas read the foregoing proposed ordinance into the record.*

*County Manager George Burgess indicated that a decision was made to postpone the sale of tourist tax funded bonds for the ballpark project until June 29 – 30, 2009, due to pending litigation.*

*Commissioner Gimenez pointed out that this was an ordinance for first reading.*

*County Attorney Cuevas noted the Board of County Commissioners Rules and Procedures provided that there would be no discussion on first reading Items.*

*There being no further questions or comments, the Board proceeded to vote.*

*County Attorney Cuevas noted that Commissioner Sorenson, Chairperson of the Budget, Planning and Sustainability Committee, had requested a waiver of Committee review for this Item and that the waiver was signed by County Commission Chairman Moss. He noted that the Commission should schedule a public hearing at the Board of County Commissioners meeting to be held on June 30, 2009.*

*It was moved by Commissioner Diaz that the foregoing proposed ordinance be scheduled for second reading and set for public hearing before the Board of County Commissioners on June 30, 2009. This motion was seconded by Chairman Moss and upon being put to a vote, passed by a vote of 8-4 (Commissioners Gimenez, Martinez, Heyman, and Sorenson voted no; Commissioner Barreiro was absent).*

*Commissioner Sorenson clarified that she had not requested the waiver but had agreed to the waiver.*

SPECIAL ITEM NO. 2

**091871 Resolution**

RESOLUTION RELATED TO NEW FLORIDA MARLINS BALLPARK, RELATED PUBLIC INFRASTRUCTURE AND CITY PARKING FACILITIES; APPROVING TERMS OF FIRST AMENDMENT TO THE CONSTRUCTION ADMINISTRATION AGREEMENT BY AND AMONG MIAMI-DADE COUNTY, CITY OF MIAMI AND MARLINS STADIUM DEVELOPER, LLC; AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SUCH AMENDMENT; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE CERTAIN CANCELLATION AND TERMINATION PROVISIONS, IF CERTAIN CONDITIONS ARE NOT SATISFIED (County Manager)

*Adopted*  
*Resolution R-780-09*  
*Mover: Jose "Pepe" Diaz*  
*Seconder: Rebeca Sosa*  
*Vote: 9- 4*  
*No: Heyman, Gimenez,*  
*Sorenson, Martinez*

**Report:** County Attorney Robert Cuevas read the foregoing proposed resolution into the record.

Commissioner Seijas indicated that the language in this resolution did not specifically authorize County administration to take action. She read the last sentence in the paragraph entitled "Recommendation" on handwritten page 1 of the County Managers Memorandum that directed the County Mayor or the County Mayor's designee to exercise certain cancellation and termination provisions if certain conditions are not satisfied.

County Manager George Burgess noted that Section 4 of the resolution on handwritten page 5 indicated that "...the County Mayor or designee shall terminate the Construction Administration Agreement no later than 5:00 p.m. (DST) on July 17, 2009..."

County Attorney Cuevas advised that the wording, as currently written in the resolution, did not automatically provide for cancellation and termination provisions; however, it gave the County the right to cancel or terminate the agreement.

Assistant County Attorney Geri Bonzon-Keenan noted the resolution required the Manger to send written notice of termination if there was no closing. He continued, in order to allow automatic termination, the language on handwritten page 11 would need to be amended to state that the agreement would be deemed automatically terminated if the closing does not happen by July 17, 2009.

Commissioner Seijas indicated her support for the extension; however she noted the automatic termination language needed to be incorporated into the resolution.

Miami-Dade County Mayor Carlos Alvarez pointed out that automatic termination of the agreement would eliminate the need to bring this resolution back before this Board. He mentioned that by leaving it as is, the Commission would retain the flexibility to consider any significant changes.

Assistant County Attorney Bonzon-Keenan noted that bond pricing would occur on June 29 – 30, 2009 and the County Manager would report on the status of the sale on the afternoon of June 30, 2009. She indicated that the closing scheduled for July 17, 2009 would not occur if the sale was unsuccessful. It would be prudent to schedule a special meeting of the Commission to consider this Item on June 30, 2009 Ms. Bonzon-Keenan advised. She noted that by scheduling this meeting today, the Item would not be deemed an add-on and Commission members would have the opportunity to obtain updated information, make an informed decision and address any issues before the scheduled closing and termination date.

Commissioner Seijas suggested waiting until the end of today's meeting to further discuss the necessity for scheduling the special meeting.

Chairman Moss noted that it would be prudent to schedule a special meeting on June 30, 2009 in order to better understand the status of pending litigation and allow discussion so the Commission could make an informed decision.

Commissioner Seijas requested clarification of Force Majeure provisions on handwritten page 12, and asked whether the County agreed to make payments in the event the court invalidated the bond sale.

Assistant County Attorney Bonzon-Keenan noted the only types of events that would suggest that the County was not obligated to fund this project would be a court order invalidating the bonds or prohibiting use of the funds. She noted storms, riots and other acts of God i.e. Force Majeure events, would not be deemed a Force Majeure for purposes of funding and payment of construction costs under Sections 6.2 and 6.7; however, Force Majeure may apply to other obligations under the agreement.

Commissioner Seijas requested assurance that Force Majeure would not prevent the County from selling bonds.

County Attorney Cuevas mentioned that a court order would normally be deemed a Force Majeure that would preclude the parties from meeting their obligations. He noted, in this instance, the County would not have the obligation to fund as a result of the court order precluding the use of the bonds or the money. The County's financial obligation continued under other Force Majeure acts based on agreed upon schedules, advised County Attorney Cuevas.

Commissioner Martinez inquired whether the inclusion of the July 15, 2009 termination date on handwritten page 10 Section H, was a scrivener's error.

Assistant County Attorney Bonzon-Keenan responded that the date for the termination clause was correct; it was to be the earlier of July 15, 2009 or the date that the bond purchase agreement was signed. She noted it was anticipated that the agreement would be signed under the current schedule of financing on July 1, 2009.

Commissioner Heyman noted she supported the June 30, 2009 date in order to discuss and gain a complete understanding of the County's obligations under these new bond issues.

In response to Commissioner Heyman's inquiry, Assistant County Attorney Bonzon-Keenan responded that the County's exposure, considering these amendments, would be minimized due to the addition of the Force Majeure clause. She noted that the County's obligations to continue funding would either be abated or suspended as the result of the Solares and Braman lawsuits, or any other lawsuit that would preclude the County's use or invalidate any of its bond issues.

Commissioner Heyman noted her concern over the County's exposure to pay Wachovia Bank (Wachovia) for the Letter of Credit (LOC) commitment fee in the event that the ordinance was enacted and pending litigation against the stadium was successful.

Assistant County Attorney Bonzon-Keenan noted the closing of the Wachovia LOC commitment was conditioned upon the Commissions' approval and enactment of today's ordinance. If that ordinance was not enacted on June 30, 2009, then the County would not be able to close on the bonds, in accordance with the current financing structure, said Ms. Bonzon-Keenan.

Commissioner Martinez pointed out that Commissioner Heyman was addressing the fee schedule related to Special Item No. 1, which could not be discussed at today's meeting since it was an ordinance on first reading.

County Attorney Cuevas confirmed that the LOC discussion related to the

ordinance that was previously adopted on first reading.

Commissioner Heyman indicated that she would refrain from asking this question until June 30, 2009. She mentioned that she had received notice that the groundbreaking would be on July 18, 2009, and inquired about the County's commitment to this date without the sale of bonds having occurred.

County Manager Burgess noted that the bond pricing scheduled for June 18, 2009 had been moved to June 29 and 30, 2009 and that the County would know whether the bonds were secured by midday on June 30, 2009. He indicated that a shortfall in the pricing would result in staff's recommending termination at the Special Commission meeting scheduled for June 30, 2009. The results of the closings on the bonds priced in June would be available on July 13 & 14, 2009, as well as the pricing on the variable rate component of the refinancing of the sports tax bonds, said County Manager Burgess. He noted the closing on July 14, 2009 was four days prior to the scheduled groundbreaking date, which provided a cushion should any problems arise with the bonds closing. County Manager Burgess said that there would be no groundbreaking on July 18, 2009 if there was a problem with the closing and termination was in order.

Commissioner Heyman inquired whether the County was bound to the changes that were agreed to by the City of Miami (City) and Marlins Baseball at the City's Commission meeting on June 18, 2009.

Assistant County Attorney Bonzon-Keenan responded that this resolution granted authority to the County Mayor and his designee to execute the agreement only after the Commission had received valid executed agreements from both the City and the stadium developer. She noted that receipt of fully executed agreements from all other parties would be necessary prior to the special meeting on July 30, 2009; otherwise, the Commission would have the ability to terminate the current contract.

Commissioner Heyman inquired whether the ordinance and resolutions being considered today had been proffered with the City and the stadium developer.

Assistant County Attorney Bonzon-Keenan indicated that the City Commission approved the same version of the agreement (Special Item 2) that was being considered at today's Commission meeting. She noted that the Marlins approved changes to the Force Majeure clause that were adopted by the City Commission. Today's Item had been approved and executed by the Marlins and there was no authority for the County Mayor to execute this contract until the City and the stadium developer have executed the agreement, said Ms. Bonzon-Keenan.

County Manager Burgess responded to Commissioner Heyman's inquiry about whether general revenue funds were utilized to secure bond funding, noting that the deal was the same as that approved by the Commission.

Commissioner Barreiro asked staff to examine recent bond sales and provide a comparison on rates and fees for similar market transactions.

County Manager Burgess responded that this was a good suggestion; and advised that the report would be prepared and would provide all results up to June 29, 2009.

Chairman Moss mentioned that the special meeting on June 30, 2009 would

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*provide the opportunity to address this Item and kill the deal if necessary.*

*There being no further questions or comments, the Board proceeded to vote.*

SPECIAL ITEM NO. 3

**091813                      Resolution**

RESOLUTION SUPERSEDING RESOLUTION NUMBER R-320-09 AND DECLARING SURPLUS COUNTY-OWNED PROPERTY LOCATED AT N.W. 7 STREET BETWEEN THEORETICAL NW 15 AVENUE AND NW 16 AVENUE; WAIVING ADMINISTRATIVE ORDER 8-4 AS IT RELATES TO REVIEW BY THE PLANNING ADVISORY BOARD; APPROVING THE CONVEYANCE OF SAME TO THE CITY OF MIAMI IN ACCORDANCE WITH F.S.125.38; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTIONS NECESSARY TO ACCOMPLISH THE CONVEYANCE OF SAID PROPERTY; AND AUTHORIZING EXECUTION OF A COUNTY DEED FOR SUCH PURPOSE (General Services Administration Department)

*Adopted*  
*Resolution R-781-09*  
*Mover: Jose "Pepe" Diaz*  
*Seconder: Rebeca Sosa*  
*Vote: 11- 2*  
*No: Gimenez, Sorenson*

**Report:** County Attorney Robert Cuevas read the foregoing proposed resolution into the record.

County Manager George Burgess responded to Commissioner Sosa's question that the County owned Lots 3 & 4, and they would convey ownership of these small lots to the City of Miami (City). He noted that these parcels would become a portion of the site where a parking garage would be erected.

County Manager Burgess responded to Commissioner Jordan's inquiry about the recent discovery that the County owned these lots. He said that these lots were part of ongoing negotiations and the Commission had already approved agreements relating to their conveyance with conditions. He noted this Item removed the reverter clause and released some of the conditions in order for the garage financing to be secured.

In response to Commissioner Jordan's inquiry about the rationale behind the County challenging the City to provide proof of ownership, County Manager Burgess noted the County discovered ownership through the course of these negotiations. He mentioned that the County was conveying these two small parcels to the City that were needed to be assembled for the parking garages and the City was also conveying ownership of the Orange Bowl footprint (Baseball Stadium Site) to the County.

Commissioner Jordan noted that she was not objecting to the conveyance; however, indicated that there was insufficient disclosure to the Commission about ownership of the lots.

County Manager Burgess indicated that the conveyance had been presented to the Commission on a previous agenda and today's action was for a modification.

Chairman Moss mentioned that he was previously aware of the necessity for the County to transfer the land and that the transfer was part of the overall package. He noted the modification to remove the reverter clause would eliminate a cloud on title.

Assistant County Attorney Bonzon-Keenan responded affirmatively to Commissioner Gimenez's statement that the foregoing resolution would convey the land, since it had no reverter clause. In response to Commissioner Gimenez's question about the need to rush the conveyance, Assistant County Attorney Bonzon-Keenan mentioned that the initial agreements provided that the County's conveyance of Lots 3 & 4, to the City, would occur simultaneously with the City's conveyance of the baseball stadium site from the City to the County. She noted the City would convey the site once the County released the restrictions on the property and exempted out ten feet from the property line.

Assistant County Attorney Bonzon-Keenan responded to Commissioner Gimenez's question whether there was a reverter clause in the footprint conveyance from the City to the County. She noted that the reverter clause was approved as part of Special Item 2.

Commissioner Gimenez stated there was a reverter clause from the City conveyance to the County but not from the County to the City.

County Manager Burgess indicated the County conveyed these two lots to the City in 1946 without recording the deed and today's Item was to ensure

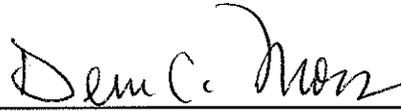
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*conveyance as initially intended.*

*Ms Wendi Norris, Director, General Services Administration, noted after the County conveyed these lots to the City when the Orange Bowl was built, it was discovered that title remained with the County. She further noted that in order to satisfy the title issues, the City of Miami was requiring that these lots be properly conveyed. Ms. Norris described the two lots being 13,000 square feet (50 x 130 feet).*

*There being no further questions or comments, the Board proceeded to vote.*

**ADJOURNMENT**



\_\_\_\_\_  
Dennis C. Moss, Chairman

ATTEST: HARVEY RUVIN, CLERK



By: \_\_\_\_\_  
Diane Collins, Deputy Clerk