

**MEMORANDUM**

Agenda Item No. 7(A)

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

**DATE:** (Second Reading 1-22-09)  
December 2, 2008

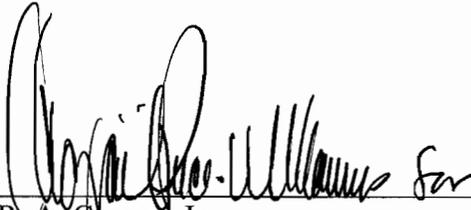
**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Ordinance relating to Rules of  
Procedure regarding Mayoral  
Appointment of Interim or  
Acting Department Directors

**Ordinance No. 09-05**

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro.

  
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R. A. Cuevas, Jr.  
County Attorney

RAC/bw

# Memorandum



**Date:** January 22, 2009  
**To:** Honorable Chairman Dennis C. Moss  
and Members, Board of County Commissioners  
**From:** George M. Burgess  
County Manager  
**Subject:** Ordinance relating to Rules of Procedure regarding Mayoral Appointment of Interim or Acting Department Directors

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The ordinance relating to Rules of Procedure regarding Mayoral Appointment of Interim or Acting Department Directors will not have a fiscal impact to Miami-Dade County.

A handwritten signature in black ink, appearing to read "Jennifer Glazer-Moon".

Jennifer Glazer-Moon  
Special Assistant/Director, Office of Strategic Business Management

fis01409



# MEMORANDUM

(Revised)

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

**DATE:** January 22, 2009

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

**SUBJECT:** Agenda Item No. 7(A)

Please note any items checked.

- "4-Day Rule" ("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
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7(A)  
1-22-09

ORDINANCE NO. 09-05

ORDINANCE RELATING TO RULES OF PROCEDURE OF BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 2-1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO SPECIFY PROCEDURES REGARDING MAYORAL APPOINTMENT OF INTERIM OR ACTING DEPARTMENT DIRECTORS; 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. Article I, Section 2-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**ARTICLE I.  
IN GENERAL**

**Sec. 2-1. Rules of procedure of County Commission.**

PART 1. GOVERNING RULES

\* \* \*

**PART 8.1 MAYORAL APPOINTMENT OF COUNTY MANAGER AND OF DEPARTMENT DIRECTORS OF THE ADMINISTRATIVE DEPARTMENTS OF THE COUNTY, AND COMMISSION DISAPPROVAL.**

**Rule 8.1.01. MAYORAL APPOINTMENT OF THE COUNTY MANAGER AND OF DEPARTMENT DIRECTORS OF THE ADMINISTRATIVE DEPARTMENTS OF THE COUNTY, AND COMMISSION DISAPPROVAL.**

<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.

The authority and powers provided to the Mayor and the Commission under Sections 2.02 C and D of the Miami-Dade County Home Rule Charter >>regarding the appointment of the County Manager and department directors of administrative departments<< shall be exercised exclusively in accordance with the terms and conditions of this rule.

- (a) The Mayor shall utilize the form provided herein to appoint the County Manager or a department director of an administrative department of the County. The Mayor shall personally sign a copy of the form in the place so provided and shall indicate with specificity the position, name, and qualifications of the person appointed. The form shall be as follows:

OFFICE OF THE MAYOR  
MIAMI-DADE COUNTY, FLORIDA

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MAYORAL APPOINTMENT

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To: Honorable Chairperson and Members Board of County  
Commissioners Miami-Dade County, Florida

From: [Signature of Mayor]

\_\_\_\_\_, Mayor

Miami-Dade County, Florida

Pursuant to the authority vested in me under the provisions of Sections 2.02 C and D of the Miami-Dade County Home Rule Charter, I hereby appoint:

[insert name of person appointed]

to the position of:

[insert position to which the person is appointed].

The person's qualifications for this position are as follows:

[insert person's qualifications]

A copy of the person's resumé shall be attached.

- (b) The completed form, together with the resumé, shall be submitted to the Clerk of the Board on or before 4:30 p.m. on the date of

appointment. The Clerk's official date and time recorder stamp on the completed form shall conclusively determine date and time of submission of the form to the Clerk.

- (c) The Clerk shall place appointments by the Mayor >>pursuant to Rule 8.1.01<<, together with the completed form and resumé on the next regularly scheduled Commission agenda under the mayoral reports section of the agenda for Commission consideration.
- (d) Notwithstanding any other rule of the Commission, appointments made by the Mayor >>pursuant to Rule 8.1.01<< shall (1) not be subject to the "4-day rule" as provided in Rule 5.05(c); (2) not be deferred to a future meeting; (3) not require committee review; (4) not be subject to a motion to reconsider, except at the same meeting; or (5) not require publication or public hearing.
- (e) The Mayor shall make every effort to have the nominee attend the Commission meeting at which the appointment is presented. Commissioners may ask such questions as they deem appropriate at that time.
- (f) Any Commissioner may move to disapprove a mayoral appointment made subject to this rule. A motion to disapprove a mayoral appointment shall be stated as follows:  
  
[[~~(f)~~]] "I move that the Mayor's appointment of [insert name of person appointed by the Mayor] as [insert the position to which such person was appointed by the Mayor] be disapproved."
- (g) If a two-thirds (2/3) majority of those Commissioners then in office vote in favor of the motion as stated in subsection (f) above, the appointment shall be deemed disapproved; otherwise, the appointment shall be deemed effective.
- (h) The provisions of this rule shall not be waived under Rule 7.01(n).

>>**Rule 8.1.02. MAYORAL APPOINTMENT OF INTERIM OR ACTING DEPARTMENT DIRECTORS OF THE ADMINISTRATIVE DEPARTMENTS OF THE COUNTY, AND COMMISSION DISAPPROVAL.**

Notwithstanding any other rule of the Commission, the authority and powers provided to the Mayor and the Commission under Section 2.02 D of the Miami-Dade County Home Rule Charter regarding the appointment of interim or acting department directors shall be exercised exclusively in accordance with the terms

and conditions of this rule. An "interim or acting department director" shall mean a person who has been appointed by the Mayor as a department director of an administrative department of the County for a term of six months or less.

- (a) The Mayor shall utilize the form provided herein to appoint an interim or acting department director of an administrative department of the County. The Mayor shall personally sign a copy of the form in the place so provided and shall indicate with specificity the position, name, and qualifications of the person appointed. The form shall be as follows:

OFFICE OF THE MAYOR  
MIAMI-DADE COUNTY, FLORIDA

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MAYORAL APPOINTMENT

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To: Honorable Chairperson and Members Board of County Commissioners Miami-Dade County, Florida

From: [Signature of Mayor]

\_\_\_\_\_, Mayor

Miami-Dade County, Florida

Pursuant to the authority vested in me under the provisions of Sections 2.02 D of the Miami-Dade County Home Rule Charter, I hereby appoint:

[insert name of person appointed]

to the position of:

[insert position to which the person is appointed].

The person's qualifications for this position are as follows:

[insert person's qualifications]

This appointment shall serve until: [insert date].

A copy of the person's resumé shall be attached.

- (b) The completed form, together with the resumé, shall be submitted to the Clerk of the Board on or before 4:30 p.m. on the date of appointment. The Clerk's official date and time recorder stamp on

the completed form shall conclusively determine date and time of submission of the form to the Clerk.

- (c) The Chairperson of the County Commission may, at his or her discretion, place the appointment by the Mayor of an interim or acting department director, together with the completed form and resumé on the next regularly scheduled Commission agenda under the mayoral reports section of the agenda for Commission consideration.
- (d) Notwithstanding any other rule of the Commission, interim or acting appointments made by the Mayor shall (1) not be placed on a Commission agenda except as provided in Rule 8.1.02; (2) not be subject to the "4-day rule" as provided in Rule 5.05(c); (3) not be deferred to a future meeting; (4) not require committee review; (5) not be subject to a motion to reconsider, except at the same meeting; and (6) not require publication or public hearing.
- (e) In the event the Chairperson of the County Commission places an interim or acting appointment on the Commission agenda, the Mayor shall make every effort to have the nominee attend the Commission meeting at which the appointment is presented. Commissioners may ask such questions as they deem appropriate at that time.
- (f) Any Commissioner may move to disapprove a mayoral appointment made subject to this rule if said appointment is placed on the agenda by the Chairperson. In the event an interim or acting mayoral appointment of a department director is not placed on the Commission agenda by the Chairperson of the County Commission, any Commissioner may appeal the decision of the Chairperson upon a question of order, when, without debate, the presiding officer shall submit to the Commission the question: "Shall the decision of the Chairperson be sustained?" If the question to appeal the decision of the Chairperson is approved by a majority vote, a motion to disapprove the interim or acting mayoral appointment shall be in order. A motion to disapprove an interim or acting mayoral appointment shall be stated as follows:
- "I move that the Mayor's appointment of [insert name of person appointed by the Mayor] as [insert the position to which such person was appointed by the Mayor] be disapproved."
- (g) If a two-thirds (2/3) majority of those Commissioners then in office vote in favor of the motion as stated in subsection (f) above,

the appointment shall be deemed disapproved; otherwise, the appointment shall be deemed effective.

(h) The provisions of this rule shall not be waived under Rule 7.01(n).

(i) At the conclusion of the term of an interim or acting department director, any reappointment of the interim or acting director or of a new department director shall be subject to the requirements of Rule 8.1.01.<<

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: **January 22, 2009**

Approved by County Attorney as to form and legal sufficiency:

APW for

Prepared by:

GKS

Gerald K. Sanchez

Prime Sponsor: Commissioner Bruno A. Barreiro