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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(A)

(Second Reading 12-3-13)

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

DATE: September 4, 2013

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

SUBJECT: Ordinance pertaining to incorporation procedures; modifying requirements relating to petitions for incorporation and requirements relating to establishing Municipal Advisory Committees; amending Sections 20-20 and 20-29 of the Code
Ordinance No. 13-113

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Vice Chair Lynda Bell.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum

MIAMI-DADE COUNTY

Date: December 3, 2013

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

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Pertaining to Incorporation Procedures; Modifying Requirements Relating to Petitions for Incorporation and Requirements Relating to Establishing Municipal Advisory Committees; Amending Sections 20-20 and 20-29 of the Code

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The proposed ordinance pertains to incorporation procedures, modifies requirements relating to petitions for incorporation and requirements relating to establishing Municipal Advisory Committees, and amends Sections 20-20 and 20-29 of the Code. Implementation of this ordinance will not have a fiscal impact to the County.

Edward Marquez
Deputy Mayor

Fis0114

MEMORANDUM
(Revised)

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

DATE: December 3, 2013

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

SUBJECT: Agenda Item No. 7(A)

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(A)
12-3-13

ORDINANCE NO. 13-113

ORDINANCE PERTAINING TO INCORPORATION PROCEDURES; MODIFYING REQUIREMENTS RELATING TO PETITIONS FOR INCORPORATION AND REQUIREMENTS RELATING TO ESTABLISHING MUNICIPAL ADVISORY COMMITTEES; AMENDING SECTIONS 20-20 AND 20-29 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; 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 20-20 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 20-20. Petition for incorporation initiated by individual or group; Creation of Municipal Advisory Committee related to petition.

(A) An individual or group of area residents may file a request for approval of the form of a petition and authorization to circulate such petition for incorporation with the Clerk of the Board of County Commissioners.

(1) The petition form shall provide for the following information about the proposed municipality:

(a) General description and map of area boundaries, and

(b) Statement of the reason for seeking incorporation.

(2) The Clerk of the Board of County Commissioners shall report to the Commission that a request to approve the form of a petition for incorporation and

[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.

authorize the circulation of such petition has been received. The Board of County Commissioners may approve the form of the petition and may authorize the petitioners to circulate the petition for incorporation and obtain signatures of resident electors within the area.

(3) In order for the submitted petition to be complete, the petition shall include consent from no less than [[~~twenty-five (25)~~]] >>twenty (20)<< percent of the electors in the area proposed for incorporation. >>Each circulator of the petition shall certify that the circulator has witnessed the signatures of all resident electors signing such petition. Where a circulator certifies that the circulator has witnessed the signatures, but has failed to do so, such failure shall constitute a violation of this Code and upon conviction shall be punished by a fine of not to exceed five hundred dollars ($500.00) or imprisonment in the County Jail for not more than sixty (60) days, or by both such fine and imprisonment.<<

(4) Signed petitions shall be submitted to the Clerk of the Board within [[~~90~~]] >>180<< days of the date the County Commission approves the form and authorizes the circulation of the petition in order for the petition to receive any further review or consideration by the County. Petitioners should submit any resolutions of support or opposition, if any exist, from the closest existing municipality within such [[~~90~~]] >>180<< day period.

* * *

(C) The Clerk of the Board of County Commissioners shall notify the County Commission that the petition is complete and contains sufficient signatures. Upon notification of the completeness and sufficiency of the petition and upon sponsorship of the County Commissioner whose district comprises the majority of the area proposed to be incorporated by the petition, the Board of County Commissioners may create a Municipal Advisory Committee ("MAC"), which shall carry out the functions set forth in the resolution or ordinance creating the MAC and be subject to the requirements of Section 20-29 of the Code of Miami-Dade County (the "Code"), excluding the

requirement of consent of resident electors. Notwithstanding the creation of a MAC, the procedures for consideration of a petition set forth in Section 20-20 *et seq.* of the Code shall apply. If the boundaries in the completed petition differ from the boundaries of the MAC study area, the boundaries of the MAC study area shall supplant and be substituted for the boundaries included in the petition; provided, however, [[~~25~~]] >>20<<% of the electors residing within the boundaries as revised to conform to the MAC study area shall have signed the completed petition indicating their interest in incorporating the area.

* * *

Section 2. Section 20-29 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 20-29. Municipal Advisory Committee—Creation and Limitation of Study Area.

(A) A Municipal Advisory Committee may only be created by ordinance of the Board in accordance with the provisions of this section to study and give advice to the County Commission regarding the creation of a proposed municipality. However, as of the effective date of this ordinance, no Municipal Advisory Committee shall be created by the County Commission, unless no less than [[~~twenty five (25)~~]] >>twenty (20)<< percent of the resident electors in the area to be studied consent to the creation of a Municipal Advisory Committee on a consent form which shall be approved by the Office of Strategic Business Management. The signed consent forms shall be submitted to the Clerk of the Board of County Commissioners. Upon submission of the signed consent forms, the Clerk of the Board of County Commissioners shall submit the signed consent forms to the Department of Elections for certification as to the sufficiency of signatures on the consent forms. Upon notification of certification by the Department of Elections, the Clerk of the Board shall forward to the County Commission the signed consent forms of area residents and the certification of the sufficiency of the consent forms. Following public hearing, the County Commission may create a Municipal Advisory Committee by ordinance. It is provided, however, that where a Municipal Advisory Committee has been established, prior to the effective date of this ordinance, no

consent of resident electors shall be required for the adoption of an ordinance creating a Municipal Advisory Committee involving the same study area. Upon receipt of the Municipal Advisory Committee report, which shall include findings of fiscal feasibility, evidence of desirability, and a plan for the development of a viable community, and upon motion of the district commissioner whose district comprises the majority of the proposed area to be incorporated, the Board of County Commissioners, at a regular meeting of the Board, may schedule the Municipal Advisory Committee report and resolution for consideration by the Planning Advisory Board.

* * *

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: December 3, 2013

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

Prepared by: CHC CJS

Craig H. Coller
Cynthia Johnson-Stacks

Prime Sponsor: Vice Chair Lynda Bell