

MEMORANDUM

CCP
Agenda Item No. 1(G)(4)


TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: November 10, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance changing the boundaries of the City of Miami Gardens, Florida, and amending the City's municipal charter to provide for the annexation of certain lands, pursuant to section 6.04(b) of the Home Rule Charter and chapter 20 of the Code; relating to area referred to as Ives Estate, which includes the area generally described as the unincorporated area bounded on the north by NE/NW 183 Street and on the south and east by Interstate 95 (I-95) and on the west by the City of Miami Gardens city limits; providing for reservation to the County of utility tax revenues; providing for County retention of residential garbage and refuse collection and disposal; requiring payment of certain outstanding debt service attributable to the annexation area; providing for County retention of jurisdiction over certain declarations of restrictive covenants; providing for contingent effective date; waiving requirements of section 20-3 of the Code of Miami-Dade County related to City's initiation of boundary change; providing for interdependency

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Vice-Chairman Oliver G. Gilbert, III.



Geri Bonzon-Keenan
County Attorney


GBK/smm



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: December, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No.

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Agenda Item No.

Veto _____

12-1-21

Override _____

ORDINANCE NO. _____

ORDINANCE CHANGING THE BOUNDARIES OF THE CITY OF MIAMI GARDENS, FLORIDA, AND AMENDING THE CITY'S MUNICIPAL CHARTER TO PROVIDE FOR THE ANNEXATION OF CERTAIN LANDS, PURSUANT TO SECTION 6.04(B) OF THE HOME RULE CHARTER AND CHAPTER 20 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; RELATING TO AREA REFERRED TO AS IVES ESTATE, WHICH INCLUDES THE AREA GENERALLY DESCRIBED AS THE UNINCORPORATED AREA BOUNDED ON THE NORTH BY NE/NW 183 STREET AND ON THE SOUTH AND EAST BY INTERSTATE 95 (I-95) AND ON THE WEST BY THE CITY OF MIAMI GARDENS CITY LIMITS; PROVIDING FOR RESERVATION TO THE COUNTY OF UTILITY TAX REVENUES; PROVIDING FOR COUNTY RETENTION OF RESIDENTIAL GARBAGE AND REFUSE COLLECTION AND DISPOSAL; REQUIRING PAYMENT OF CERTAIN OUTSTANDING DEBT SERVICE ATTRIBUTABLE TO THE ANNEXATION AREA; PROVIDING FOR COUNTY RETENTION OF JURISDICTION OVER CERTAIN DECLARATIONS OF RESTRICTIVE COVENANTS; PROVIDING FOR CONTINGENT EFFECTIVE DATE; WAIVING REQUIREMENTS OF SECTION 20-3 OF THE CODE OF MIAMI-DADE COUNTY RELATED TO CITY'S INITIATION OF BOUNDARY CHANGE; PROVIDING FOR INTERDEPENDENCY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, section 6.04(B) of the Miami-Dade County Home Rule Charter and chapter 20 of the Code of Miami-Dade County ("Code") authorize the Board of County Commissioners ("Board") to approve changes to municipal boundaries; and

WHEREAS, on June 19, 2019, the City of Miami Gardens ("City") submitted an application for the annexation of the unincorporated area referred to in the City's application as Ives Estate, adjacent to the City; and

WHEREAS, on November 19, 2020, the Board adopted Resolution No. R-1209-20 directing the County Attorney to prepare the appropriate ordinance and interlocal agreement to effectuate the annexation request; and

WHEREAS, this Board finds that the requirements relating to municipal boundary changes set forth in chapter 20 of the Code, and particularly those contained in section 20-3 related to the initiation of a boundary change request by a municipality, have been fully complied with and satisfied; and

WHEREAS, however, it has been alleged in ongoing litigation that certain things were missing from the City’s boundary change request, such as three certified copies of the City’s resolution and a discussion in “narrative form” of the tax load on the annexation area, and it has also been alleged that it was insufficient for the City to hold its public hearing with mailed notice after the City initially submitted its boundary change request to the County; and

WHEREAS, this Board is satisfied with the information and process provided and finds that such allegations, even if true, are inconsequential, but in an abundance of caution, this Board wishes to waive the requirements of section 20-3; and

WHEREAS, this Board wishes to change the boundaries of the City in accordance with its annexation request, which provides for the reservation to the County of certain revenues, rights, and responsibilities, as set forth herein,

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

Section 1. The municipal boundaries of the City of Miami Gardens (“City”) are hereby changed, extended and enlarged, and the charter of such municipality is hereby amended by the annexation to the City of the following property (the “annexation area”):

Annexation by the City of Miami Gardens**Ives Estate****Legal Description**

A portion of the East 1/2 of Section 12, Township 52 South, Range 41 East, and a portion of the N.W. 1/4 of Section 7, Township 52 South, Range 42 East, Miami-Dade County Florida, which lies Northwesterly of the Northwesterly Right of Way line of the Tri-Rail Railroad (formerly CSX Railway, formerly the Seaboard Airline Railroad) and Northwesterly of the Northwesterly Right of Way line of State Road No. 9 as shown on the plat thereof recorded in Plat Book 46 at Page 62 of the Public Records of Miami-Dade County, being more particularly described as follows:

BEGINNING at the NW corner of the NW 1/4 of said Section 7; thence run N89°29'12"E, along the North line of the NW 1/4 of said Section 7, for 332.61 feet to a point being also the SW corner of the East 1/2 of the SW 1/4 of the SW 1/4 of Section 6, Township 52 South, Range 42 East, said point lying in the centerline of Miami Gardens Drive as shown on that certain plat of MIAMI INDUSTRIAL DISTRICT SECTION FOUR, as recorded in Plat Book 72 at Page 25 of the Public Records of Miami-Dade County, Florida; thence run S00°43'13"E, along the Southerly extension of the West line of the East 1/2 of the SW 1/4 of the SW 1/4 of said Section 6, for 35.00 feet; thence run N89°29'12"E, along a line parallel to and 35.00 feet South of, as measured at right angles to the North line of the NW 1/4 of said Section 7, for 67.24 feet to a point of curvature of a circular curve to the right; thence run Southeasterly along said curve to the right, having a radius of 602.28 feet, through a central angle of 45°11'20", for an arc distance of 475.02 feet to the point of tangency; thence run S45°19'28"E for 393.47 feet to the point of intersection with a line parallel to and 185 feet Northwesterly of, as measured at right angles to the Southeasterly Right of Way line of the Tri-Rail Railroad; thence continue S45°19'28"E, along the Southeasterly extension of said line parallel to and 35.00 feet South of, over and across said Tri-Rail Railroad, for 185.63 feet to the point of curvature of a circular curve to the left from which the radius point bears S29°22'00"W; thence Southeasterly and Easterly along said curve to the left being also the centerline of Miami Gardens Drive and Access Road as shown on the plat thereof recorded in Plat Book 65 at Page 64 of the Public Records of Miami-Dade County, having a radius of 672.28 feet, through a central angle of 29°50'02", for an arc distance of 350.06 feet to the point of tangency; thence run S89°25'56"W, along said centerline of Miami Gardens Drive and Access Road, for a distance of 513.35 feet to the point of intersection with the Northwesterly Right-of-Way line of State Road No. 9; thence leaving direction run S49°23'42"W, along the Northwesterly Right-of-Way line of said State Road No. 9, for a distance 609.93 feet to a point of curvature of a circular curve to the right; thence continue Southwesterly, along the said curve to the right, having a radius of 2764.93 feet, through a central angle of 22°29'40", for an arc distance of 1,085.52 feet to the point of tangency; thence run S71°53'22"W along the Northwesterly Right-of-Way line of said State Road No. 9 for a distance of 1053.41 feet to the Southeasterly Right of Way line of the Tri-Rail Railroad; thence continue S71°53'22"W, along the Southwesterly extension of the Northwesterly Right-of-Way line of said State Road No. 9 through said Tri-Rail Railroad Right-of-Way, for a distance of 261.32 to the Northwesterly Right-of-Way line of the 100 foot wide Tri-Rail Railroad Right-of-Way; thence run S49°23'22"W, along the Northwesterly Right-of-Way line of the 100 foot wide Tri-Rail Railroad Right-of-Way, for 2077.48 feet to the Southeasterly

corner of Tract 1-A of that certain Plat of MIAMI INDUSTRIAL DISTRICT SECTION ONE, as shown on the plat thereof recorded in Plat Book 62 at Page 6 of the Public Records of Miami-Dade County, Florida; thence leaving direction run Northeasterly along a curve to the left being also the Easterly boundary of said Tract 1-A, having a radius of 507.06 feet, through a central angle of $24^{\circ}14'32''$, for an arc distance of 214.54 feet to the point of tangency; thence run $N00^{\circ}46'20''W$, along the Easterly line of said Tract 1-A and the Easterly line of Tract 2-A of that certain Plat of MIAMI INDUSTRIAL DISTRICT SECTION TWO, as shown on the plat thereof recorded in Plat Book 63 at Page 25 of the Public Records of Miami-Dade County, Florida, for 801.43 feet to the point of intersection with the centerline of NW 176th Street; thence run $N89^{\circ}43'56''E$, along the centerline of NW 176th Street, for 470.68 feet to the point of intersection with the centerline of NW Miami Court, as shown on said Plat of MIAMI INDUSTRIAL DISTRICT SECTION FOUR; thence run $N00^{\circ}44'59''W$, along said centerline of NW Miami Court, for 2,360.00 feet to the point of intersection with the North line of the NE 1/4 of the said Section 12 being also the centerline of Miami Gardens Drive as shown on said Plat of MIAMI INDUSTRIAL DISTRICT SECTION FOUR; thence run $N89^{\circ}43'56''E$ along the North line of the NE 1/4 of said Section 12 being also the centerline of Miami Gardens Drive, for 1,669.38 feet to the **POINT OF BEGINNING**.

The annexation area encompasses an area described by Resolution No. 2018-02-3315, adopted by the City, which resolution is attached hereto as Exhibit A and made a part hereof by reference. A map depicting the annexation area is attached hereto as Exhibit B and made a part hereof by reference. In the event of any inconsistency between the boundaries of the annexation area as described by the legal description and the map identified as Exhibit B, the boundaries of the annexation area as described by the legal description shall prevail.

Section 2. Pursuant to section 20-8.2 of the Code, this ordinance shall be effective only upon the condition and with the reservation that the County shall forever continue to collect and receive all utility tax revenues accruing within the annexation area in the same manner as though the annexation area remained a part of the unincorporated area of the County.

Section 3. Pursuant to section 20-8.4 of the Code, this ordinance shall be effective only upon the condition and with the reservation that the County shall either forever continue to collect and dispose of all residential waste within the annexation area in the same manner as though such annexation area remained part of the unincorporated area of the County, unless the authority to

collect such waste is delegated by the County to the governing body of the municipality throughout a 20 year interlocal agreement which provides for collection services, and a 20 year interlocal agreement which provides for disposal services in substantially the form approved by the County's Resolution No. R-1198-95. Nothing herein shall be deemed or interpreted to modify the current provisions in the City's Charter related to the City remaining a part of and receiving services from the Miami-Dade Solid Waste Collection Service Area.

Section 4. Pursuant to section 20-8.8 of the Code, as a condition of the annexation, the Board shall retain jurisdiction over the modification or deletion of declarations of restrictive covenants accepted by either the Board or a Community Zoning Appeals Board in connection with a Comprehensive Development Master Plan application or zoning application, regardless of whether such declaration provides for the modification or deletion by a successor governmental body.

Section 5. The City shall execute a duly authorized interlocal agreement acceptable to the County wherein it agrees, among other things, to the above-mentioned requirements referenced in sections 2, 3, and 4 above, and to pay to the County the annexation area's prorated share of the Stormwater Utility Revenue Bonds debt service estimated at \$30,550.00 per year until fiscal year 2028-2029 or as provided in the interlocal agreement. The City has represented that it will enter into said interlocal agreement with the County, substantially in the form included in Resolution No. R-_____, (hereinafter, the "Interlocal Agreement"). In exercising the County's discretion to approve this annexation, the County has relied upon all of the representations in the Interlocal Agreement, including, but not limited to, those representations related to the above-mentioned requirements.

Section 6. It is the intention of the Board, 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 in Appendix B – Ordinances Changing Municipal Boundaries. 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 7. The provisions of this ordinance are interdependent upon one another, and the entire ordinance shall be deemed invalid if any of its provisions are declared invalid or unconstitutional. If any of the sections of this ordinance are found or adjudged to be illegal, void or of no effect, the entire ordinance shall be null and void and of no force or effect.

Section 8. This ordinance shall be effective only upon the condition and with the reservation that the City and the County execute the Interlocal Agreement, substantially in the form included in Resolution No. R-_____, and that such Interlocal Agreement remain in effect.

Section 9. This Board finds that the requirements relating to municipal boundary changes set forth in chapter 20 of the Code, and particularly those contained in section 20-3, have been fully complied with and satisfied for this municipal boundary change. Notwithstanding the foregoing, due to allegations made in ongoing litigation, in an abundance of caution, this Board hereby waives the provisions of section 20-3 of the Code for this municipal boundary change, including, but not limited to, the following: that a municipality file with the Clerk of the Board three duly certified copies of the municipal resolution, that the municipality's report discuss the tax load "in narrative form," and that the municipality initiates a request after public hearing.

Section 10. 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:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Abbie Schwaderer-Raurell
James Eddie Kirtley

Prime Sponsor: Vice-Chairman Oliver G. Gilbert, III

RESOLUTION NO. 2018-02-3315

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO PURSUE AN ANNEXATION OF UNINCORPORATED MIAMI-DADE COUNTY FOR THE CITY, LOCATED EAST OF THE CITY LIMITS ALONG NW 1ST AVENUE, NW 176TH STREET, NW MIAMI COURT, NE 181ST STREET AND NE 5TH AVENUE, TOTALING APPROXIMATELY 134.41 ACRES MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; AS WELL AS, PRESENT RECOMMENDATIONS AS TO PROCEED WITH ANNEXATION; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on December 11th, 2013, the City Council adopted Resolution Number 2013-279-1975 authorizing the City Manager and City Attorney to initiate the required steps to annex certain property from NW 2nd Avenue south of NW 171st Street to I-95 ("Proposed Annexation Area") into the City of Miami Gardens' ("City") jurisdiction, and

WHEREAS, the City Manager is undertaking this course of action, pursuant to Section 6.04 of Miami-Dade County's Home Rule Charter and Section 20.3 of Miami-Dade County's Code entitled "Initiation of Boundary Changes by a Municipality", and

WHEREAS, the City of Miami Gardens' annexation relates to a commercial/industrial area known as the "Miami Industrial District - Section Four (4) per Plat 27-15 and North Dade Industrial Tract per Plat 65-64 (Exhibit #1 and #2)", and

WHEREAS, the Proposed Annexation Area is bounded north by NW 183rd Street between NW Miami Court & NE 2nd Ct; bounded on the west by NW Miami Court between NW 183rd Street and NW 176th Street and NW 1st Avenue between 176th Street and approximately NW 172nd Street; bounded on the east by NE 5th Avenue from NE 181st Street to NW 176th Street and East Drive between NW 177th Street to

approximately 134.41 acres more particularly described on Exhibit "A" attached hereto; and to present recommendations as to proceed with Annexation.

Section 3: EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON JANUARY 10, 2018.



OLIVER GILBERT, III, MAYOR

ATTEST:



RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, CITY ATTORNEY

SPONSORED BY: MAYOR OLIVER GILBERT, III

Moved by: Robinson
Seconded by: GILBERT

VOTE: 7-0

Mayor Oliver Gilbert, III	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Vice Mayor Erhabor Ighodaro, Ph.D.	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilwoman Lisa C. Davis	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilman Rodney Harris	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilwoman Lillie Q. Odom	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilwoman Felicia Robinson	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilman David Williams Jr	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)

EXHIBIT B

Miami - Dade County Miami Gardens Annexation Area



Legend

- Miami Gardens Annexation Area
- North Miami Beach
- Unincorporated Miami-Dade
- Miami Gardens

This map was prepared by the Miami-Gladstone Technology Department, November 2016. It is a preliminary map and should not be used for public purposes. It may be subject to change without notice. The information on this map is for informational purposes only and does not constitute a warranty of accuracy or liability for any damages. All rights reserved. © 2016 Miami-Gladstone Technology Department.