


Date: November 15, 2022

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

From: Daniella Levine Cava
Mayor 

Subject: Fiscal Impact Statement for Ordinance Relating to Changing the Boundaries of the Village of Virginia Gardens and Waiving the Provisions Requiring Mitigation Payment to the County

Supplement
Agenda Item No. 5(H)

The proposed ordinance would amend the boundaries of the Village of Virginia Gardens (Village), to include approximately 1,026.7 acres of the unincorporated municipal services area (UMSA). All the annexation area is within the Commercial, Business or Industrial Area (CBI).

Background

The conceptual basis for mitigation is to lessen the financial impact of annexations or incorporations on the UMSA budget. It is important to bear in mind that, despite recent annexations and incorporations, over 1.2 million people still live in the unincorporated area of the County out of the total 2.7 million residents. Annexations and incorporations are approved locally by the Board per our constitutional home rule charter, whereas the Florida Legislature approves annexation and incorporations in other counties.

The County went through a number of decades with no new annexations or incorporations. Then in 1991, Key Biscayne incorporated followed by Aventura, Sunny Isles Beach and Pinecrest during the 1990s; all wealthy donor areas within UMSA. It became apparent that wealthy areas of UMSA were incorporating and these revenues were no longer available to provide UMSA services. The concern was that if the annexations and incorporations continued among wealthy areas, UMSA would be ultimately left with areas that would require an increase to the millage rate in order to continue to provide UMSA the same level of service.

To address this concern, the Board adopted several policies to safeguard UMSA, where a municipality or proposed municipality would mitigate some of the negative impact to UMSA for that particular area if they chose to annex or incorporate the area. Miami Lakes, Palmetto Bay, Doral were all donor areas and as such all agreed to incorporate and configured their cities with the understanding that mitigation payments would be part of the incorporation. Miami Gardens and Cutler Bay were revenue neutral and therefore made no mitigation payments. Additionally, several annexations were also required to mitigate their respective impact on UMSA. The agreements negotiated as part of these incorporations required mitigation payments in perpetuity. In 2008 the Board allowed the municipalities of Miami Lakes, Doral and Palmetto Bay to phase out the payments after seven years. Additionally, the Board also phased out mitigation payments for annexations in the same format.

Since 2000 the Board has approved 5 incorporations and 20 annexations. Three of the incorporations and five of the annexations required mitigation payments. Below is a breakdown of these annexations and incorporations.

2000 – Miami Lakes incorporated on December 5th; agreeing to contribute the equivalent of one mill of property tax revenues (\$1.45 million for FY 2000-01). The agreement included a clause known as the Most Favored Nations, which provided that should a donor area incorporated under terms more beneficial than those of Miami Lakes, those terms would then be applicable to Miami Lakes as well.

2002 – Palmetto Bay incorporated on September 10th; agreeing to contribute the equivalent of one mill of municipal property tax revenues (\$1.578 million for FY 2002-03)

2003 – Doral incorporated on June 24th. Since the incorporation included a Commercial, Business, Industrial Area (CBI), the Board established a commercial and a residential mitigation; the equivalent of 1.5 mills each of the total taxable value of each of the areas.

Doral initial residential mitigation payment - \$2.9 million

Doral initial CBI mitigation payment \$4.4 million

Thereafter, the required mitigation amount was adjusted by the CPI for the residential area, not to exceed 3% over the previous year and by the tax roll growth for the CBI area multiplied by 1.5 mills.

2006 – Bills were introduced in the Florida Senate and House during the annual session seeking to prohibit a County from using its authority to require payment by certain municipalities as a condition of incorporation. The bills sought to be effective on any municipality formed after January 1, 2000. Both bills were withdrawn by their respective sponsors.

On March 21st, 2006 the Board created the Mitigation Adjustment Policy Review Task Force (R-342-06) to conduct a study and submit recommendations for the adjustment of mitigation payments by Miami Lakes, Palmetto Bay and Doral. The report and recommendations were presented to the Board on July 11th at the Infrastructure and Land Use Committee.

2007 – Florida Legislature passed Chapter 2007-26 providing that "any municipality formed after January 1, 2000, and any municipality formed after July 1, 2007, shall not be required to pay any charge, assessment, tax, fee or other consideration as a condition for allowing the citizens of an area to incorporate and govern themselves."

On April 30th, 2007 the Board adopts resolution no. R-508-07 expressing intent to phase out mitigation for Miami Lakes, Palmetto Bay and Doral.

On July 27th Miami Lakes, Palmetto Bay and Doral filed a lawsuit against Miami Dade County seeking declaratory relief to determine the validity of Chapter 2007-26 of the Laws of Florida.

Miami-Dade County counter-claimed seeking a declaration that the law is unconstitutional on its face because it intrudes upon the County's exclusive constitutional authority to establish methods to create municipalities and amend municipal charters with the County.

2008 – On June 4th, the 11th Judicial Circuit Court Final Summary Judgement granted the County's request to declare Florida section 165.0225 unconstitutional as it violates the County's Home Rule Charter (Case No. 07-23662 CA 20).

On October 7th, 2008 the Board adopted resolution no. R-1067-08, directing the County Mayor to explore resolutions of mitigation payment disagreements with Miami Lakes, Palmetto Bay and Doral

On November 20th, the Board adopted resolutions nos. R-1268-08 and R-1269-08 approving an amendment to the municipal charters of Doral and Palmetto Bay eliminating mitigation payments under certain conditions, which called for a phasing out of such payments beginning in fiscal year 2010-11.

2011 – The Board adopted Ordinance No. 11-19 relating to annexation deleting requirement for mitigation payments from Florida City, Medley, North Miami and Hialeah Gardens. The

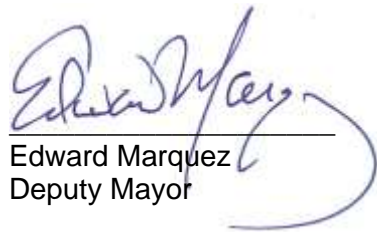
Ordinance allowed mitigation payments to be phased out consistent with the phase-out timetable of previously approved incorporations and annexations. No more than seven payments were made by each municipality into the Municipal Services Trust Fund.

Fiscal Impact

The 2021 preliminary roll taxable value for proposed annexation area generates \$2,769,257 in revenue to UMSA. Miami Dade County spent an estimated \$2,092,784 in the area for services. Therefore, the net revenue loss to the UMSA budget is an estimated \$676,473 if this annexation is approved. Additionally, the County will continue to receive utility tax revenues from the area estimated at \$675,486. It is important to note that the per capita taxable value of Virginia Gardens is \$127,991 which is above the average for the County at \$119,758.

The 2022 preliminary roll taxable value \$1,266,663,001 which is an increase of \$73,926,816 from the 2021 preliminary roll. The Village has reduced its millage rate by 1.07% from 4.9 mills to 4.6 mills. UMSA has also reduced its millage rate by 1 percent to 1.909 from 1.9283. Additionally, if the Village's reduced millage rate of 4.6 mills is applied to property folios in the annexation area the average property owner would pay an additional \$5,516.

Should this ordinance be approved without requiring mitigation, this would create a negative fiscal impact to UMSA. **I strongly recommend that the ordinance and interlocal agreement be amended to include mitigation payments for seven years.**



Edward Marquez
Deputy Mayor