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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Amended
Agenda Item No. 11(A)(10)

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

DATE: February 17, 2009

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

SUBJECT: Resolution urging the U.S. Department of Homeland Security not to deport Lyglenson Lemorin and further urging the Miami-Dade County Congressional Delegation to intervene on Lemorin's behalf

Resolution No. R-126-09

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

RESO\2078

MEMORANDUM

(Revised)

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

DATE: February 17, 2009

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

SUBJECT: Amended Agenda Item No. 11(A)(10)

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 Mayor'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

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Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No.11(A)(10)
2-17-09

RESOLUTION NO. R-126-09

RESOLUTION URGING THE U.S. DEPARTMENT OF HOMELAND SECURITY NOT TO DEPORT THOSE WHO HAVE BEEN FOUND INNOCENT IN A TRIAL AND ARE LEGAL RESIDENTS OF THE UNITED STATES AND FURTHER URGING THE MIAMI-DADE COUNTY CONGRESSIONAL DELEGATION TO INTERVENE ON THEIR BEHALF

WHEREAS, two summers ago, the U.S. Department of Justice arrested and indicted seven men from a religious group in Miami, one of whom was Lyglenson Lemorin, alleging that they had engaged in a terrorist plot to blow up the 110-story Sears Tower in Chicago and federal offices in Miami; and

WHEREAS, the seven men were held in federal custody as the case progressed, but when the case reached trial, the evidence turned out to be thin, with no evidence that the men had any connections to terrorist groups and what little plot there had been had been at the urging of a Federal Bureau of Investigation (FBI) informant; and

WHEREAS, the case has thus far ended in a deadlocked jury, two mistrials, and in December 2007, a jury found Lemorin not guilty in the alleged terrorist plot; and

WHEREAS, the evidence showed that Lemorin distanced himself from the other six defendants months before the arrests and with his wife and three children, had moved to Atlanta; and

WHEREAS, upon Lemorin's acquittal, Lemorin was not released from federal custody, but instead was transferred to detention with the U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE); and

WHEREAS, Lemorin was detained based on terrorism-related deportation charges that were substantially similar to the charges in the criminal case in which he was acquitted; and

WHEREAS, Lemorin was held on deportation charges because he was born in Haiti even though he has been a legal U.S. resident for over two decades; and

WHEREAS, ICE has held Lemorin at a rural Georgia detention center over the past year, separated from his wife and children, while four of the six other defendants in the criminal case are currently free on bond awaiting a third re-trial; and

WHEREAS, in August, 2007, an immigration judge at the Krome Avenue Detention Center conducted a week-long deportation hearing on Lemorin; and

WHEREAS, both the standard of proof and rules of evidence are lower in a deportation hearing than in a criminal trial and double jeopardy does not apply, meaning the immigration judge could still find that Lemorin committed the acts underlying his acquittal in the deportation case and these acts could serve as the basis for Lemorin's deportation; and

WHEREAS, the immigration judge recently issued an order of deportation regarding Lemorin, finding that while Lemorin did not participate in the main activities the group undertook, Lemorin had provided material support to a group he knew had plans for attacks; and

WHEREAS, Lemorin is currently appealing the immigration judge's decision; and

WHEREAS, Lemorin is believed to be the only legal U.S. resident acquitted of terrorism charges and with no prior record to be deported from the U.S.; and

WHEREAS, the circumstances of the Lemorin case appear not only to be unprecedented, but to also set a potentially dangerous new legal precedent; and

WHEREAS, it is one thing to deport a person not legally in the U.S. who commits a crime, but quite another to deport a person who is legally in the U.S., has been acquitted of a crime, and has no criminal record, yet that is what ICE appears to be doing in the Lemorin case; and

WHEREAS, Lemorin also faces possible persecution in Haiti if he is deported,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges the U.S. Department of Homeland Security not to deport those who have been found innocent in a trial and are legal residents of the United States.

Section 2. Urges the Miami-Dade County Congressional Delegation to intervene on such individuals' behalf.

Section 3. Directs the Clerk of the Board to transmit a certified copy of this resolution to Representatives Lincoln Diaz-Balart, Mario Diaz-Balart, Kendrick Meek, Ileana Ros-Lehtinen and Debbie Wasserman-Schultz and the Secretary of the U.S. Department of Homeland Security.

The Prime Sponsor of the foregoing resolution is Commissioner Barbara J. Jordan. It was offered by Commissioner **Barbara J. Jordan**, who moved its adoption. The motion was seconded by Commissioner **Audrey M. Edmonson** and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman	aye		
Jose "Pepe" Diaz, Vice-Chairman	aye		
Bruno A. Barreiro	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	nay	Sally A. Heyman	nay
Barbara J. Jordan	aye	Joe A. Martinez	absent
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	nay		

The Chairman thereupon declared the resolution duly passed and adopted this 17th day of February, 2009. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Kay Sullivan**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Jess M. McCarty