

MEMORANDUM

Agenda Item No. 14(A)(4)

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

DATE: April 20, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution establishing County policy that zoning-hearing newspaper notices be published in community newspapers that may better reach areas affected by a zoning application than the newspapers that the county currently uses for such notices; and to provide a report

Resolution No. R-385-21

This item was amended at the 4-15-21 County Infrastructure, Operations and Innovations Committee to provide that publication of hearing notices includes internet publication to the extent permitted by Florida law and to require that the report on the implementation plan be presented to the Board prior to implementing the policy.

The accompanying resolution 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/uw



MEMORANDUM

(Revised)

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

DATE: April 20, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 14(A)(4)

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
Veto _____
Override _____

Agenda Item No. 14(A)(4)
4-20-21

RESOLUTION NO. _____ R-385-21

RESOLUTION ESTABLISHING COUNTY POLICY THAT ZONING-HEARING NEWSPAPER NOTICES BE PUBLISHED IN COMMUNITY NEWSPAPERS THAT MAY BETTER REACH AREAS AFFECTED BY A ZONING APPLICATION THAN THE NEWSPAPERS THAT THE COUNTY CURRENTLY USES FOR SUCH NOTICES; AND TO PROVIDE A REPORT

WHEREAS, section 1.02 of the Miami-Dade County Home Rule Charter authorizes the Board to establish its own rules of procedure for adoption of ordinances and resolutions, subject to charter requirements governing the adoption of ordinances; and

WHEREAS, section 33-310 of the Code of Miami-Dade County (“Code”) requires that certain types of notices be disseminated to the public in advance of zoning hearings held by this Board or the Community Zoning Appeals Boards; and

WHEREAS, such notices include mailed notices, newspaper advertisement notices, and notices posted at the site of the property that is the subject of the zoning application; and

WHEREAS, newspaper notices are typically published in the Daily Business Review and, because section 33-310 had required publication of one notice in the “newspaper of largest circulation,” in the Miami Herald; and

WHEREAS, this Board recently adopted Ordinance No. 21-8, which amended section 33-310 to require only a single newspaper advertisement, in a “newspaper of general circulation”; and

WHEREAS, the requirements for publication of legal notices of County affairs are also governed by chapter 50, Florida Statutes, which requires that a newspaper used for that purpose:

- be “printed and published periodically once a week or oftener”;

- “contain[] at least 25 percent of its words in the English language”;
- be “entered or qualified to be admitted and entered as periodicals matter at a post office in the county where published”;
- be “for sale to the public generally”;
- be “available to the public generally for the publication of official or other notices”;
- “customarily contain[] information of a public character or of value to the residents or owners of property in the county where published, or of interest to or of value to the general public”;
- be “in existence for 1 year [at the time of publication]”;
- be “entered as periodicals matter at a post office in the county where published” for at least 1 year at the time of publication; and
- provide proof of publication of each legal notice by uniform affidavit; and

WHEREAS, historically, the County has published its general legal notices in the Daily Business Review, dating back to 1965, when the Board adopted Resolution No. 10505, selecting the Miami Review and Daily Record (as it was then known) as a more cost-effective outlet for publication of legal notices; and

WHEREAS, thereafter, the Eleventh Judicial Circuit Court designated the Miami Review and Daily Record for placement of certain court notices pursuant to Court Administration Order No. 74-1, and the County has generally continued to follow the Court’s designation of an official paper for publication of its legal notices; and

WHEREAS, newspaper notices of zoning hearings need not be published in the official court newspaper, but may instead be published in any newspaper meeting the requirements of chapter 50, Florida Statutes; and

WHEREAS, this Board has selected newspapers other than Daily Business Review for certain legal notices, such as in Resolution No. R-290-20, which selected the Miami Times after a competitive process to publish certain delinquent tax lists, improvement liens, and special assessment liens; and

WHEREAS, one purpose of zoning-hearing newspaper advertisements is to reach the largest number of residents who are potentially affected by or interested in a zoning application and inform them that the applicable zoning board will consider the application at a public meeting, which will allow for the public to comment on the application; and

WHEREAS, revising the newspapers that are used for legal zoning notices is appropriate because communities that are most directly affected by a zoning application may be better reached by newspapers that enjoy greater readership in their areas; and

WHEREAS, publishing zoning-hearing newspaper notices in newspapers that better serve particular areas of the County could result in better public awareness of, and participation in, the County's zoning-hearing process; and

WHEREAS, in 2012, this Board adopted Ordinance No. 12-25, creating article CXXVIII of chapter 2 of the Code, which codified the preexisting Miami-Dade County Community Periodical Advertising Program and provided procedures to select community newspapers that would "provide news and information about Miami-Dade County's programs and services, and other public service announcements to the poor, elderly and disadvantaged citizens who cannot afford to buy a mainstream newspaper"; and

WHEREAS, article CXXVIII provides reasonable standards by which to determine what community newspapers may be appropriate for publication of zoning-hearing newspaper notices, provided that such newspapers also meet the statutory requirements for legal notices,

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

Section 1. The foregoing recitals are approved and are incorporated herein by reference.

Section 2. It is the policy of this Board, subject to all applicable competitive bidding and other procurement requirements, to, whenever possible, publish required zoning-hearing newspaper notices in newspapers that serve particular areas of the County where such newspapers may better reach communities affected by a zoning application than the newspapers that the County currently uses for such notices. >>For purposes of this policy, publication includes internet publication on a newspaper website to the extent permitted by Florida law.<<¹ To be selected, the newspaper must meet the requirements of Florida law, including but not limited to, chapter 50, Florida Statutes, for publication of legal notices, and those standards set forth in the Miami-Dade County Community Periodical Advertising Program, codified in article CXXVIII of chapter 2 of the Code to the extent the standards are consistent with state law requirements for legal notices. Applications by newspapers seeking to publish zoning-hearing notices shall be processed in accordance with article CXXVIII.

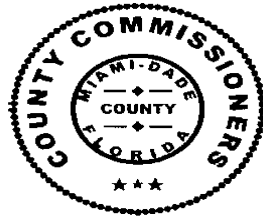
Section 3. >>Prior to implementing this policy, the<< [[The]] County Mayor or County Mayor's designee shall prepare a report describing the implementation >>plan<< [[of this policy]], shall provide the report to this Board within 180 days of the effective date of this resolution, and shall place the completed report on an agenda of the Board pursuant to Ordinance No. 14-65.

¹ Committee amendments are indicated as follows: Words stricken through and/or [[double bracketed]] are deleted, words underscored and/or >>double arrowed<< are added.

The Prime Sponsor of the foregoing resolution is Vice-Chairman Oliver G. Gilbert, III. It was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman	aye		
Oliver G. Gilbert, III, Vice-Chairman	aye		
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 20th day of April, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



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

HARVEY RUVIN, CLERK

Melissa Adames
By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Dennis A. Kerbel