

MEMORANDUM

Agenda Item No. 11(A)(3)

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

DATE: May 17, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to enact legislation
regulating odors from the
cultivation and processing of
medical marijuana or to allow
local governments the ability to
enact such regulations

Resolution No. R-494-22

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Kionne L. McGhee.



Geri Bonzon-Keenan
County Attorney

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MEMORANDUM

(Revised)

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

DATE: May 17, 2022

FROM: 
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County Attorney

SUBJECT: Agenda Item No. 11(A)(3)

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. 11(A)(3)
5-17-22

RESOLUTION NO. _____ R-494-22

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
ENACT LEGISLATION REGULATING ODORS FROM THE
CULTIVATION AND PROCESSING OF MEDICAL
MARIJUANA OR TO ALLOW LOCAL GOVERNMENTS THE
ABILITY TO ENACT SUCH REGULATIONS

WHEREAS, on November 8, 2016, Amendment 2, entitled “Use of Marijuana for Debilitating Medical Conditions,” appeared on the ballot as a constitutional amendment and passed with 71 percent of the vote; and

WHEREAS, Amendment 2 allows individuals with debilitating medical conditions, as determined by a licensed Florida physician, to use marijuana for medical purposes and allows caregivers to assist with patients’ medical use of marijuana; and

WHEREAS, subsequently, this Board adopted Resolution Nos. R-151-17 and R-888-17, which among other things, opposed state preemption of local government regulation of medical marijuana, including regulations pertaining to land use; and

WHEREAS, in response to Amendment 2, the Florida Legislature revised section 381.986, Florida Statutes, pertaining to the medical use of marijuana and enacted additional local government preemptions pertaining to the local regulation of medical marijuana cultivation, processing, and dispensing; and

WHEREAS, Florida law currently provides that local governments are preempted from regulating the cultivation and processing of medical marijuana; and

WHEREAS, unfortunately, this means that Miami-Dade County and other local governments throughout the state are without the authority to enact commonsense regulations to address negative effects stemming from the cultivation and processing of medical marijuana, including noise and noxious odors that are emitted during such activities; and

WHEREAS, while medical marijuana cultivation, processing, and dispensing facilities undoubtedly serve an important purpose and provide needed medical benefits to persons suffering from certain debilitating conditions, if such facilities are not appropriately regulated, they can pose threats to the safety, security, and wellbeing of the community, particularly to those living in residential neighborhoods in close proximity to such facilities; and

WHEREAS, as recently reported, residents in southwest Miami-Dade have complained about noise and odors emanating from a marijuana cultivating and processing facility located just west of Krome Avenue, near the corner of Southwest 187th Avenue and Grossman Drive; and

WHEREAS, as detailed in local news reports, residents in the area have complained that exhaust fans at more than 30 greenhouses produce constant noise and spread the nauseating odor of marijuana into their residential community; and

WHEREAS, due to the current preemption in state law, Miami-Dade County is unable to appropriately address these complaints stemming from the cultivation and processing of medical marijuana through local regulations; and

WHEREAS, accordingly, the Florida Legislature should either enact appropriate regulations to address odors stemming from the cultivation and processing of medical marijuana, or allow local governments to impose appropriate requirements to ensure the protection and integrity of local neighborhoods; and

WHEREAS, this Board wishes to urge the Florida Legislature to enact legislation amending state law to address this important issue affecting the residents of Miami-Dade County and other local jurisdictions where medical marijuana cultivation and processing facilities are located,

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

Section 1. Urges the Florida Legislature to enact legislation regulating odors from the cultivation and processing of medical marijuana or to allow local governments to enact such regulations.

Section 2. Directs the Clerk of the Board to transmit certified copies of this resolution to the Governor, the Senate President, the House Speaker, the Chair and Members of the Miami-Dade State Legislative Delegation, and the Florida Surgeon General and Secretary of the Florida Department of Health.

Section 3. Directs the County’s state lobbyists to advocate for the legislation described in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2023 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Kionne L. McGhee. It was offered by Commissioner **Kionne L. McGhee** , who moved its adoption. The motion was seconded by Commissioner **Eileen Higgins** 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	absent	Danielle Cohen Higgins absent
Eileen Higgins	aye	Joe A. Martinez aye
Kionne L. McGhee	aye	Jean Monestime aye
Raquel A. Regalado	aye	Rebeca Sosa absent
Sen. Javier D. Souto	aye	

The Chairperson thereupon declared this resolution duly passed and adopted this 17th day of May, 2022. 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

Basia Pruna

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in blue ink, appearing to read "James Eddie Kirtley", is written over a horizontal line.

James Eddie Kirtley