

MEMORANDUM

Agenda Item No. 5(E)

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

DATE: November 15, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution closing a portion of
NW 107 Street between NW 12
Court and NW 12 Avenue;
waiving Resolution No. 7606 as
to its petition requirement;
waiving Resolution No. 7606 as
to its signature requirement;
waiving Resolution No. 7606 as
to its requirement for
investigation by the Department
of Transportation and Public
Works; waiving Resolution No.
7606 as to its requirement for a
report and recommendation from
the County Mayor; and waiving
Implementing Order No. 4-41 as
to its fee for review of road
closing petitions

Resolution No. R-1090-22

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime.



Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM

(Revised)

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

DATE: November 15, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(E)

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. 5(E)
11-15-22

RESOLUTION NO. _____ R-1090-22

RESOLUTION CLOSING A PORTION OF NW 107 STREET BETWEEN NW 12 COURT AND NW 12 AVENUE; WAIVING RESOLUTION NO. 7606 AS TO ITS PETITION REQUIREMENT; WAIVING RESOLUTION NO. 7606 AS TO ITS SIGNATURE REQUIREMENT; WAIVING RESOLUTION NO. 7606 AS TO ITS REQUIREMENT FOR INVESTIGATION BY THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS; WAIVING RESOLUTION NO. 7606 AS TO ITS REQUIREMENT FOR A REPORT AND RECOMMENDATION FROM THE COUNTY MAYOR; AND WAIVING IMPLEMENTING ORDER NO. 4-41 AS TO ITS FEE FOR REVIEW OF ROAD CLOSING PETITIONS

WHEREAS, section 336.09, Florida Statutes, grants discretion to the Board of County Commissioners to close roads within their control on their own cognizance, upon request from federal or state agencies, or upon petition by any person; and

WHEREAS, section 336.10, Florida Statutes, requires notice to be made of public hearings for road closings to be included in a newspaper of general circulation at least two weeks before the public hearing; and

WHEREAS, Resolution No. 7606 requires a petition for road closings; investigation by the Department of Transportation and Public Works; a recommendation and report from the County Manager; and signatures by all abutting property owners to the road to be closed; and

WHEREAS, Implementing Order No. 4-41 sets the fee for road closing petitions at \$1,960.00 plus 10 percent of the per square foot ad valorem tax assessed land value of the tax assessed land value of the property adjacent to the right-of-way being closed, or a fee of \$1,200.00 whichever is greater; and

WHEREAS, in 2009, in conjunction with the replatting of the property, the adjacent property owner dedicated NW 107 Street between NW 12 Court and NW 12 Avenue to the County for roadway purposes and agreed to construct the road; and

WHEREAS, the adjacent property owner has suffered financial hardship and is unable to complete the construction of the road; and

WHEREAS, the unimproved dirt path currently constituting NW 107 Street between NW 12 Court and NW 12 Avenue is prone to illegal dumping; and

WHEREAS, reports of illegal dumping have caused District 2 staff to visit the site an estimated 36 times over the past two years to respond to constituent complaints; and

WHEREAS, neighboring residents have reported that criminal activity occurs in the vacant alley; and

WHEREAS, if the road closing is granted, the adjacent property owner intends to fence off the land and incorporate the land into its property; and

WHEREAS, reverting the property to private ownership and enclosing it with fencing will curb the illegal dumping and other potential criminal activity; and

WHEREAS, a public hearing was held in compliance with Resolution No. 7606,

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

Section 1. The alley, avenue, street, highway or other place used for travel known as NW 107 Street between NW 12 Avenue and NW 12 Court is hereby vacated, abandoned, and closed.

Section 2. All rights of Miami-Dade County and the public in and to the same are hereby renounced and disclaimed.

Section 3. This Board waives Resolution No. 7606 as to its requirement that a petition for road closing be filed; as to its requirement that the Department of Transportation and Public Works conduct an investigation of such petition; as to its requirement that the County Manager provide a report and written recommendation; and as to its requirement that all adjacent property owners sign such petition. This Board further waives the fee for road closing petitions contained within I. O. 4-41 and finds that it is in the best interest of the public to do so.

Section 4. It is found that the action will serve a public purpose and benefit the public without violating private property rights.

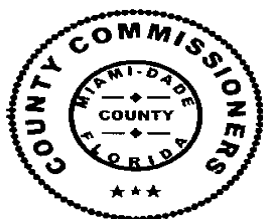
Section 5. The procedure utilized in the adoption of this resolution is expressly ratified and approved.

Section 6. Pursuant to Resolution No. 7606, the Clerk is hereby directed to publish notice of the adoption of this resolution one time within 30 days hereafter in a newspaper of general circulation of Miami-Dade County and the County Mayor or County Mayor's designee shall record the proof of publication of the notice of public hearing of this resolution as adopted and the proof of publication of the notice of the adoption of this hearing in the public records of Miami-Dade County.

The Prime Sponsor of the foregoing resolution is Commissioner Jean Monestime. It was offered by Commissioner **Kionne L. McGhee**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** 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	absent
Eileen Higgins	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 15th day of November, 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

By: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Lauren E. Morse