

# Memorandum

MIAMI-DADE  
COUNTY

**Date:** July 11, 2006

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** George M. Bunjee  
County Manager

**Subject:** Mitigation Adjustment Policy Review Task Force  
Report to the Board of County Commissioners

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INLUC  
Agenda Item No. 7(A)

As requested pursuant to Resolution R-342-06 establishing the Mitigation Adjustment Policy Review Task Force (Task Force), the Task Force has met and studied the current policies for the adjustment of mitigation payments made by the Town of Miami Lakes, the Village of Palmetto Bay, and the City of Doral. The Task Force was charged with conducting a study and submitting recommendations to the Board of County Commissioners as to an appropriate policy for the adjustment of mitigation payments paid by the three municipalities and recommending an appropriate formula for determination of the amount, duration, and frequency of mitigation payments. Task Force Vice Chairman Areces appeared before the Infrastructure and Land Use Committee (INLUC) on May 16, 2006 and committed to complete a report by the June INLUC meeting.

This memorandum serves to transmit a draft report prepared by the Task Force. This report was adopted by the Task Force members at their June 19, 2006 meeting and currently is being circulated to the members for signature; a signed version will be provided to you prior to the June 26, 2006 INLUC meeting for your consideration.



Assistant County Manager

## **Mitigation Adjustment Policy Review Task Force Report to the Board of County Commissioners**

The following report is respectfully submitted to the Board of County Commissioners by the Mitigation Adjustment Policy Review Task Force in fulfillment of the charge to submit recommendations to the Board as to an appropriate policy for the adjustment of mitigation payments paid by the Town of Miami Lakes, the Village of Palmetto Bay, and the City of Doral.

### **Findings and Recommendations**

Having reviewed all of the materials presented and heard all of the oral presentations during the course of our meetings, the Task Force finds and recommends to the Board of County Commissioners (BCC) that mitigation should not result in a net revenue transfer to UMSA. The Task Force concludes that the net effect of the incorporation of the municipalities of Miami Lakes, Palmetto Bay, Doral, Miami Gardens, and Cutler Bay results in a net revenue transfer to UMSA, based on the respective Impact to UMSA analyses prepared at the time of incorporation of those five municipalities. Accordingly, the Task Force recommends and concludes that mitigation payments by the municipalities of Miami Lakes, Palmetto Bay and Doral should cease.

If in the future a new area wishes to incorporate, then the County should determine the impact to UMSA by the incorporation of that area and whether or not there is to be a mitigation payment by the area seeking to incorporate.

The Task Force further recommends that the standard that has been used thus far to establish mitigation must be changed in the future to more appropriately reflect the actual impacts to UMSA and include a methodology with objective indicators. In this regard, the Task Force recommends that the County retain an expert in mitigation (fiscal equalization) issues to conduct a study of best practices related to mitigation in the United States and to make recommendations to the BCC. The Task Force further recommends that the BCC take whatever actions are necessary to implement the foregoing recommendations.

### **I. Task Force Overview**

On March 21, 2006 the BCC adopted Resolution R-342-06 establishing the Mitigation Adjustment Policy Review Task Force (Task Force) to advise the BCC on proposed policy regarding the adjustment of mitigation paid by municipalities as a condition of incorporation. Three of the subject five municipalities incorporated since the year 2000 currently make mitigation payments to Miami-Dade County: the Town of Miami Lakes, the Village of Palmetto Bay and the City of Doral. These municipalities have expressed interest in developing a policy regarding the adjustment of their mitigation payments. The Task Force was established in fulfillment of an agreement between municipal, County, and State elected officials regarding the withdrawal of legislation proposed during the 2006 State legislative session that sought to foreclose the County's right to impose mitigation as a condition for incorporation. The agreement was based on the understanding that the issue should be resolved at the local level.

In accordance with criteria outlined in R-342-06, Task Force members meeting specific qualifications were appointed by the Chair of the BCC's Infrastructure and Land Use Committee. Pursuant to the resolution, "Two of the members shall be respected members of the community who serve or have served as Judges or high-level executives of business or industry in Miami-Dade County... The Town of Miami Lakes, the Village of Palmetto Bay, and the City of Doral shall select a person, who shall not hold an elected or appointed public office; those municipalities shall provide the names and contact information of these persons to the Clerk of the Board of County Commissioners... One member shall be a professional economist... One member shall be a professional urban and regional planner." The Task Force members and their qualifications are: Henry H. Harnage (former Judge), Rafael Rodon (business executive), J. Antonio Villamil (professional economist), Guillermo Olmedillo (professional planner), Albert A. del Castillo (Miami Lakes representative), Brian Pariser (Palmetto Bay representative), and Ramiro Areces (Doral representative).

The Task Force was charged with conducting a study and submitting recommendations to the BCC as to an appropriate policy for the adjustment of mitigation payments paid by the three municipalities to include any recommendations as to the appropriate formula for determination of the amount, duration, and frequency of mitigation payments. The Task Force held seven meetings during the course of seven weeks. Staff support was provided by Assistant County Manager Roger Carlton; Assistant County Attorneys Craig Collier and Cynthia Johnson-Stacks; Jennifer Glazer-Moon, Director of Office of Strategic Business Management; Sarah Ingle, Assistant Director for Incorporation and Annexation Services; and Budget and Policy Analysts Odell Ford, Cheree Gulley, Robert Kirschbaum, Albert Parjus, and Jason Rodriguez. Staff provided background documentation and additional information requested by the Task Force.

Each meeting was attended by elected officials and staff of the mitigation-paying municipalities, and at each meeting the Task Force provided time for public comment and open dialogue with the municipal representatives and other members of the public in attendance. Each municipality, as well as the County (on behalf of the Unincorporated Municipal Service Area, or UMSA) was given opportunities to make presentations and provide written information for consideration by the Task Force. Audio recordings were made and meeting summaries prepared by County staff for each meeting, and a court reporter under the sponsorship of the City of Doral prepared verbatim transcripts of each meeting.

## **II. Overview of Proceedings**

At the initial meeting of May 5, 2006, the Task Force Chairperson, Henry Harnage explained that he was appointed Chairperson by the Chair of the Infrastructure and Land Use Committee of the BCC through Memorandum submitted to the Clerk of the Board. He discussed their overall charge. The Task Force elected Ramiro Areces as Vice Chairperson. County Attorney Craig Collier provided the Task Force with an overview of the Sunshine Law and the Public Records Law. County staff gave a presentation on the History of Incorporation and Mitigation. The Task Force discussed whether it should limit its study to the mitigation of the three municipalities and not the broader mitigation policy, which was deemed to be a responsibility of the BCC. The Task Force agreed that given the budgetary concern of the municipalities

for the upcoming fiscal year a recommendation needed to be provided to the BCC no later than June 15, 2006. County staff was requested to provide impact to the UMSA budget information for the City of Miami Gardens and the Town of Cutler Bay. Also, a request was made to further clarify how the mitigation payment is spent. The Task Force agreed to hear presentations from the three municipalities. Mr. Carlton noted that since the UMSA budget is impacted by mitigation, for the discussion of the Task Force proceedings, UMSA should be considered as a fourth municipality and should make a presentation demonstrating the impact on its budget given that if mitigation was projected to cease or to be reduced the financial impact would have to be absorbed by the UMSA budget. The Task Force agreed with the concept of UMSA as a fourth municipality at the discussion table and agreed to hear a presentation from County staff, on behalf of UMSA, at its next meeting.

At the meeting of May 11, 2006, the Task Force requested a report from Miami-Dade County detailing the mitigation deposits from the three municipalities into the Municipal Service Trust Fund (MSTF) as well as how these funds were applied. Presentations were made by Mayor Wayne Slaton and Town Manager, Alex Rey of the Town of Miami Lakes, Mayor Eugene Flinn and Manager Charles Scurr of the Village of Palmetto Bay and Mayor Juan Carlos Bermudez and Manager Sergio Purriños of the City of Doral and County Manager George Burgess representing UMSA. The recurring observations from the three municipalities were that mitigation has become a net revenue gain to UMSA due to the incorporation of the City of Miami Gardens and that a portion of the MSTF should be spent on direct services to the municipalities paying mitigation. Task Force members asked the County to provide additional information on handouts provided by the municipalities showing that the incorporation of a low tax base area caused a net revenue gain to UMSA in excess of \$23 million. County Manager Burgess noted that the net gain was not \$23 million because certain projected expenses actually were not eliminated from the UMSA budget after the City of Miami Gardens incorporated. The County Manager asked the Task Force to consider whether the concept of mitigation for each area that incorporates is an action independent of those that follow or whether it is cumulative, and if it is cumulative how then to calculate its impact. He indicated that if mitigation is to be a living formula, the formula has to be independent from the actual calculation and that there should be mutual agreement as to how often the formula should be revisited. The Task Force requested that County staff provide a report demonstrating the actual financial impact of the City of Miami Gardens to UMSA.

At the May 18, 2006 meeting, County staff provided handouts to the Task Force detailing the accounting of mitigation funds received from Miami Lakes, Palmetto Bay and Doral. Task Force members discussed the two uses of the MSTF as noted in the various municipal documents: (1) to maintain police service in the proximate area of the new municipality and (2) serve as a municipal assistance retainer for services requested by the contributing municipality. The Task Force discussed whether mitigation payments for the three cities should be reduced or eliminated due to the positive fiscal impact of the incorporation of the City of Miami Gardens and whether mitigation should sunset at some point. The first recommendation of the Task Force was adopted requiring that mitigation should not result in a net revenue transfer to UMSA. (See Item III-1 below.)

At the meeting of June 1, 2006, the Task Force reiterated two concepts: (1) there should be no net revenue transfer to UMSA and (2) the Task Force must determine if

it should look at mitigation as it relates to the three municipalities only or should it analyze future mitigation issues. The Task Force noted that there should be objective, performance-based criteria to measure the maintenance of service in proximate areas. The Task Force decided to take a limited systems approach to the issue of mitigation, limiting its analysis to the three cities and using the original estimates that the County presented to the Municipal Advisory Committees (MACs) in the Impact to UMSA analyses. The Task Force decided to use the original Impact to UMSA analyses presented to the MACs, primarily because these were the numbers relied upon by the County and each area seeking to incorporate as they negotiated with each other and agreed to mitigation payments. Equally as important, the Task Force considered the fact that these were the numbers presented to the voters in each area and upon which the voters relied. Task Force members voted 5 to 1 that if the net effect of the five incorporations of Miami Lakes, Palmetto Bay, Doral, Miami Gardens and Cutler Bay resulted in a net revenue transfer to UMSA, mitigation should cease as it pertains to Miami Lakes, Palmetto Bay and Doral and that the County should negotiate mitigation separately with future areas seeking to incorporate. (See Item III-2 below.)

At the June 5, 2006 meeting, the Task Force reviewed the recommendations that it has adopted thus far. Jennifer Glazer-Moon, Director of Office of Strategic Business Management, provided information regarding the Impact to UMSA analyses given to MACs seeking incorporation. She noted that the figures in the analyses are estimates at a point in time and that the true impact to UMSA cannot be seen until the first budget after incorporation has occurred. The estimate in the Impact to UMSA analysis is provided as an overview of revenues in the area and the estimated cost of providing municipal type services to the area. The Task Force debated whether there is a need for continuing with mitigation or whether it should recommend that donor areas pay a declining percentage of the impact to UMSA as mitigation. Additionally, the Task Force recommended a hybrid systems approach. County staff will present at the next meeting first full year financial information following incorporation of the municipalities including Miami Gardens and Cutler Bay.

At the June 14, 2006 meeting, the Task Force received a report from Jennifer Glazer-Moon, Director of the Office of Strategic Business Management which provided comparison figures for the Impact to UMSA of the incorporations of Miami Lakes, Palmetto Bay, Miami Gardens, Doral and Cutler Bay based on the County's current reassessment of impacts to the UMSA budget. The more recent figures provided by the County suggest that it has not received a net revenue transfer as a result of the incorporations to date. Notwithstanding the new information, the Task Force reaffirmed its decision to recommend that the amounts to be used should be those presented to the BCC at the time of incorporation approval (see Item III-3 below). The Task Force decided to use the original Impact to UMSA analyses presented to the MACs primarily because these were the numbers relied upon by the County and each area seeking to incorporate as they negotiated with each other and agreed to mitigation payments. Equally as important, the Task Force considered the fact that these were the numbers presented to voters in each area and upon which the voters relied.

The Task Force also suggested that the standard used to calculate the impact of any future incorporation and the related mitigation payment, if any, must be changed to better reflect the actual impact to UMSA and that it include an appropriate

methodology with objective indicators (see Item III-4 below). The Task Force requested that County staff prepare a draft report for its approval for the June 26, 2006 INLUC Committee meeting.

More detailed meeting summaries prepared by County staff and approved by the Task Force are attached (Attachment A).

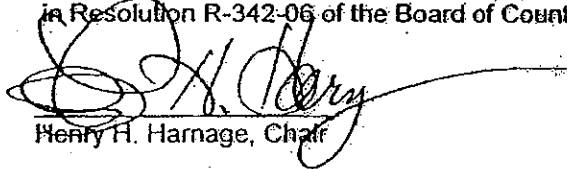
### III. Motions Adopted

The Task Force adopted the following motions, clarified during the Task Force meeting of June 19, 2006, as their recommendations to the BCC:

1. Mitigation should not result in a net revenue transfer to UMSA. (Motion passed unanimously.)
2. Mitigation payments should be expended for two purposes: (1) to maintain police services in the unincorporated area proximate to the municipality paying mitigation and (2) for a municipal retainer. (Motion passed unanimously.)
3. If the net effect of the five incorporations of the municipalities of Miami Lakes, Palmetto Bay, Doral, Miami Gardens, and Cutler Bay result in a net revenue transfer, mitigation shall cease. The figures to be used to determine if there is a net revenue transfer or not are the respective Impact to UMSA analyses as prepared at the time of incorporation of those five municipalities. If in the future a new area wishes to incorporate, then the County would determine the impact to UMSA by the incorporation of that area and whether or not there is to be a mitigation payment by the area seeking to incorporate (Motion passed 5 to 1.)
4. The standard that has been used thus far to establish mitigation must be changed in the future to more appropriately reflect actual impacts to UMSA and include a methodology with objective indicators (Motion passed unanimously.)

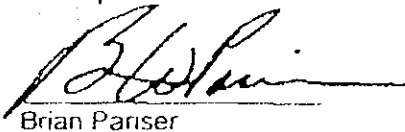
### IV. Task Force Members Ratification

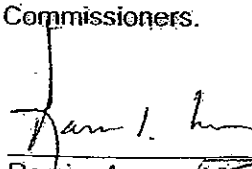
The members of the Mitigation Adjustment Policy Review Task Force respectfully submit the aforementioned recommendations in fulfillment with the charge outlined in Resolution R-342-06 of the Board of County Commissioners.

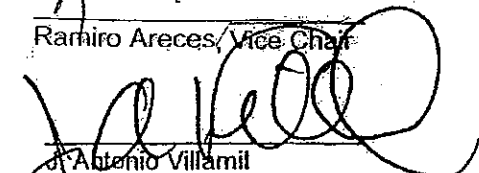
  
Henry H. Harnage, Chair

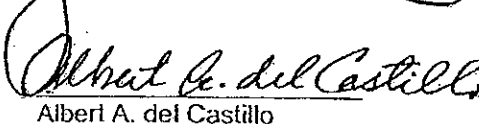
  
Rafael Rodon

  
Guillermo Olmedillo

  
Brian Pariser

  
Ramiro Areces, Vice Chair

  
J. Antonio Villamil

  
Albert A. del Castillo

# Memorandum

MIAMI-DADE  
COUNTY

**Date:** November 14, 2006

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** George M. Burgess  
County Manager

**Subject:** Mitigation Adjustment Policy Review Task Force Report

INLUC  
Agenda Item No. 7(D)

This memorandum serves to provide the staff response to the Mitigation Adjustment Policy Review Task Force Report. While the Task Force recommended the cessation of mitigation payments from the Town of Miami Lakes, the Village of Palmetto Bay, and the City of Doral, there is no objective reason for the Board to make a change in the policy adopted by the Board requiring mitigation be paid by municipalities that choose boundaries that are not revenue neutral.

On July 11, 2006, the final report of the Mitigation Adjustment Policy Review Task Force was presented to the Infrastructure and Land Use Committee. The report urges the Board of County Commissioners to implement the following recommendations:

- Mitigation should not result in a net revenue transfer to the unincorporated municipal service area (UMSA). The Task Force concluded that the net effect of the incorporation of the municipalities of Miami Lakes, Palmetto Bay, Doral, Miami Gardens, and Cutler Bay resulted in a net revenue transfer to UMSA, based on the respective Impact to UMSA analyses prepared at the time of incorporation of those five municipalities. Accordingly, the Task Force recommended and concluded that mitigation payments by the municipalities of Miami Lakes, Palmetto Bay and Doral should cease.
- If in the future a new area wishes to incorporate, then the County should determine the impact to UMSA by the incorporation of that area and whether or not there is to be a mitigation payment by the area seeking to incorporate.
- The standard that has been used thus far to establish mitigation must be changed in the future to more appropriately reflect the actual impacts to UMSA and include a methodology with objective indicators. In this regard, the Task Force recommended that the County retain an expert in mitigation (fiscal equalization) issues to conduct a study of best practices related to mitigation in the United States and to make recommendations to the Board.

While I appreciate the diligent efforts of the Task Force, I disagree with some of its recommendations. Relating to its first recommendation, the Task Force bases its conclusion on a presumption that the fiscal effects of multiple incorporations are *cumulative* rather than *independent*. Both County staff and the Board in considering whether or not to recommend the incorporations of Miami Lakes, Palmetto Bay, and Doral and in determining the levels at which to establish mitigation carefully considered each of these proposals individually with the understanding that each incorporation would have an independent, lasting impact on the remaining unincorporated area. Each of these municipal incorporations represents a unique, perpetually foregone opportunity for the maintenance and enhancement of service delivery to UMSA residents.

Also, I can only describe the conclusion of the Task Force that the mitigation payments of Miami Lakes, Palmetto Bay, and Doral now constitute a profit to UMSA as mistaken. In basing its analysis on the "Impact to UMSA" worksheets contained in the Miami Lakes, Palmetto Bay, Doral, Miami Gardens, and Cutler Bay incorporation reports, the Task Force considered this information as representing the actual impact on the UMSA budget of the incorporations in question. These figures instead present a *snapshot in time* (considerably in advance of incorporation) indicating the current *level of effort* for a given area for the purpose of determining whether or not mitigation will be needed. These figures are neither a budget nor a budgetary projection; nor can they represent the actual impact of incorporation on the UMSA budget because this cannot be known until the time at which the municipality is separated from UMSA.

The actual impacts of the incorporation of last five municipalities are known and were presented by staff to the Task Force during its deliberations. This information illustrates actual impacts on the UMSA budget in the first fiscal year following incorporation and demonstrates that, should these incorporations be considered cumulatively, their combined impact on the unincorporated area remains negative.

I am pleased that the Task Force, in its second recommendation, recognizes that negative impacts of incorporation are unacceptable and should be mitigated. Furthermore, I agree with the Task Force that our current approach to mitigation, including the manner in which we determine its necessity and calculate the depth of need, should be studied further to see if any better alternative approaches can be found. As directed at the July 11, 2006 Infrastructure and Land Use Committee meeting, staff is preparing recommendations related to managing the negative impacts of incorporation and annexation; these recommendations will include new and/or refined mitigation-related policy initiatives for the Board's consideration.

With regard to the Task Force's recommendation that the mitigation payments of Miami Lakes, Palmetto Bay, and Doral should cease, I appreciate the urgency with which these municipalities seek its resolution. I also am eager to see the matter put to rest. Should it be determined that the first recommendation of the Task Force be implemented, there are at least two options that may be considered. The Board may wish to consider a multi-year phase-out process to minimize the negative impact to the UMSA budget of approximately \$12.5 million for all mitigation payments, including those made as a result of annexations. A three-year phase-out process beginning in either FY 2006-07 or preferably FY 2007-08 would closely parallel the planned phase-out of specialized police services billing. Based on a staff analysis conducted to determine the point at which the combined impact of all post-2000 incorporations might become positive to the County (presuming the acceptability of a combined impact approach and applying reasonable growth assumptions) it was determined that such an effect could occur within the next six to eight years. The suggested three-year phase-out accelerates this timeframe in the interest of identifying a workable compromise. Implementing this policy may require amendment of the pre-agreed conditions of incorporation contained within each affected municipality's charter, pursuant to Section 5.05 of the County Home Rule Charter and Section 20-26A of the County Code, the latter of which states that a municipality "shall request the County's approval of the proposed amended charter language indicating language to be added and deleted and stating the ballot question, prior to calling an election on the question of amending the municipal charter." Both the proposed amended charter language and corresponding ballot question may require approval by a two-thirds vote of the BCC.

Should the Board wish to continue mitigation payments there is a second option that would partially address the mitigation payment concern of the City of Doral, which by far makes the largest such payment. A concern does exist in the minds of some that mitigation policy is not consistent among the three municipalities currently making a payment. The Board may wish to consider adjusting the City of Doral mitigation payments to reflect the same methodology used for Miami Lakes and Palmetto Bay.



Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners  
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Currently, Miami Lakes and Palmetto Bay make mitigation payments based on an original calculation of one mill of property tax revenue for the first year of the municipality's existence, escalated by CPI for each subsequent year. Doral's mitigation payment is based on 1.5 mills for the residential area for the first year, escalated by CPI for each subsequent year. For the City's commercial, industrial and business (CBI) area, the City must pay the equivalent of 1.5 mills each year. If this adjustment were in place, the City's mitigation payment would be reduced by \$3.412 million, from \$8.770 million (\$3.221 million residential and \$5.549 million CBI) to \$5.358 million (1 mill of initial year taxable value adjusted annually by CPI). Just as with the first option, implementation of this policy may require amendment of the municipal Charter. Additionally, implementing an adjustment to Doral's mitigation payments may require amendment of Ordinance 05-73 regarding 100% mitigation for commercial, business or industrial areas. Finally, the Board should consider including mitigation payments made by municipalities as a result of annexations in any mitigation payment phase-out.

It is recommended that the BCC, through the Infrastructure and Land Use Committee, schedule a workshop to discuss in more detail the Task Force's recommendations as well as these mitigation alternatives.



Assistant County Manager

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