

# **M E M O**

## **COMMISSION ON ETHICS & PUBLIC TRUST**

**TO:** Armando Gutierrez, Jr.

**COPY:** Robert Meyers, Executive Director

**FROM:** Victoria Frigo, Staff Attorney

**DATE:** August 17, 2005

**RE:** INQ 05-127 Prohibition of Serving on 2 Boards Simultaneously

**QUESTION:** May a citizen serve simultaneously on two county advisory boards, which have been created by county ordinance and intended to exist longer than one year?

**ANSWER:** NO, simultaneous service is prohibited under Section 2-11.38 of the Miami-Dade County Code, unless the County Commission has established that service on a particular board is a prerequisite or requirement for service on another county board.

According to county attorneys associated with the two boards in question, Historic Preservation Board and Building Better Communities Advisory Board, neither ordinance creating these boards allows for an exception.

For further interpretation of the County Code, please contact the County Attorney's Office:

- Historic Preservation Board—Tom Logue at (305) 375-5067
- Building Better Communities Advisory Board—Gerald Heffernan (305) 375-1352

## Frigo, Victoria (COE)

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**From:** Armando Gutierrez Jr [armandogutierrezjr@hotmail.com]  
**Sent:** Wednesday, August 24, 2005 8:34 PM  
**To:** FRIGOV@miamidade.gov  
**Subject:** RE: INQ 05-127

FYI: Commissioner Barreiro is initiating legislation to allow persons to serve on more than one board.

Thank you for all your help.

Armando

>From: "Frigo, Victoria (COE)" <FRIGOV@miamidade.gov>  
>To: "Armando Gutierrez Jr" <armandogutierrezjr@hotmail.com>  
>Subject: RE: INQ 05-127  
>Date: Wed, 17 Aug 2005 14:54:03 -0400  
>  
>Armando,  
>The link is not that user-friendly, but I could also put a hard copy in  
>the mail or send it to you via fax. Victoria  
>  
>-----Original Message-----  
>From: Armando Gutierrez Jr [mailto:armandogutierrezjr@hotmail.com]  
>Sent: Wednesday, August 17, 2005 2:37 PM  
>To: FRIGOV@miamidade.gov  
>Subject: RE: INQ 05-127  
>  
>  
>Can you send me the ordinance that you told me outlines the exceptions  
>available. Thank you  
>  
>Armando Gutierrez Jr.  
>  
> >From: "Frigo, Victoria (COE)" <FRIGOV@miamidade.gov>  
> >To: <ArmandoGutierrezJr@hotmail.com>  
> >CC: "Meyers, Robert (COE)" <RMEYERS@miamidade.gov>  
> >Subject: INQ 05-127  
> >Date: Wed, 17 Aug 2005 10:56:13 -0400  
> >  
> >Armando: If you have further questions regarding this conclusion,  
>please  
> >feel free to call me at (305) 350-0601 or contact the County  
> >Attorney's Office. Victoria  
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> >COMMISSION ON ETHICS & PUBLIC TRUST  
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> >TO: Armando Gutierrez, Jr.  
> >  
> >COPY: Robert Meyers, Executive Director  
> >  
> >FROM: Victoria Frigo, Staff Attorney

> >  
> >DATE: August 17, 2005  
> >  
> >RE: INQ 05-127 Prohibition of Serving on 2 Boards  
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> >  
> >For further interpretation of the County Code, please contact the  
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>Attorney's Office:  
> >  
> >  
> >\* Historic Preservation Board-Tom Logue at (305) 375-5067  
> >  
> >\* Building Better Communities Advisory Board-Gerald Heffernan (305)  
> >375-1352  
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## Frigo, Victoria (COE)

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**From:** Armando Gutierrez Jr [armandogutierrezjr@hotmail.com]  
**Sent:** Monday, August 08, 2005 3:17 PM  
**To:** FRIGOV@miamidade.gov  
**Subject:** RE: Board Question

Here is a few list of qualifications I presently have.

2004 - Present Vice Chairman ; Miami Dade County Historic Preservation Board  
Appointed by Miami Dade County Commission Chairman Joe Martinez

2004 - Present Trustee ; Dade Heritage Trust  
Nominated by City of Coral Gable Mayor Don Slesnick

2002 - Present Member ; Miami Dade County Historic Preservation Board  
Appointed by Miami Dade County Commissioner Joe Martinez

2002 - Present Member ; Sigma Phi Epsilon Fraternity

2002 - Present Member ; Pi Sigma Alpha Political Science Honor Society

2002 - 2003 State Chairman ; College Republicans of Florida  
Charged with managing 26 university chapters throughout Florida  
Organizing statewide events and efforts. Grew statewide  
Club membership to over two thousand members.

2001 - 2003 Founder & Chairman ; University of Miami College Republicans  
Founded the club and grew it to over 250 members in just one year.

In  
charge of organizing on campus political events, educational  
Forums and republican student university relations.

2001 Internship for United States Senator Bill Nelson  
Washington, DC;  
Dealt with Cuban policy issues and constituent mail responses.

2001 Internship for United States Federal Judge Ursula  
Ungaro-Benages Miami, FL Assisted attorneys with case research and court  
room procedures.

2001 Internship for Miami-Dade County Commissioner Joe Martinez Miami,  
FL Assisted with community outreach programs and legislation research.

### Work Experience

Present Founder & President ; Gutierrez Group, LLC. Miami, FL  
Real Estate Investment Company specializing in affordable housing.

2000 - 2003 President ; AGPNetworks.com  
web site development company to over 50 clients. Incharge of all financial  
and customer related tasks. The business was later sold to a Brazilian  
investor.

1998 - 2000 Chief Technology Officer ; LatinGrocer.com  
In charge of all technology aspects of commerce business. Business grew  
To largest online Latin grocery store delivering products globally.

### Education:

September / 2005 University of Miami (not yet received)  
Miami, FL  
Masters in Public Administration

>From: "Frigo, Victoria (COE)" <FRIGOV@miamidade.gov>  
>To: "Armando Gutierrez Jr" <armandogutierrezjr@hotmail.com>  
>Subject: RE: Board Question  
>Date: Mon, 8 Aug 2005 15:06:56 -0400  
>  
>Mr. Gutierrez,  
>I had a brief opportunity to discuss your issue with Mr. Meyers, our  
>Executive Director.  
>  
>Before responding, he would like to learn something about your  
>qualifications or your particular skills that lead you to participate  
>on both boards.  
>  
>This information will help us clarify any potential conflicts of  
>interest. Thank you,  
>  
>Victoria Frigo  
>Staff Attorney  
>Miami-Dade County Commission on Ethics  
>Direct Number: (305) 350-0601  
>  
>Miami-Dade County is a public entity subject to Chapter 119 of the  
>Florida Statutes concerning public records. E-mail messages are covered  
>under such laws and thus subject to disclosure.  
>  
>  
>-----Original Message-----  
>From: Armando Gutierrez Jr [mailto:armandogutierrezjr@hotmail.com]  
>Sent: Monday, August 08, 2005 2:44 PM  
>To: frigov@miamidade.gov  
>Cc: armandogutierrezjr@hotmail.com  
>Subject: Board Question  
>  
>Dear Ms Frigo,  
>  
>Thank you for all your assistance. The question I have is the  
>following. I currently sit on the Miami Dade County Historic  
>PReservation Board, appointed by Joe Martinez. Recently I was offered  
>another board appointment  
>by Bruno Barreiro, for the Building Better Communities Advisory  
>Committee. I  
>would like to get your opinion on if I would be first allowed to sit on  
>both  
>boards, and in particular I want to make sure that there are no  
>improprieties  
>that I am at all creating. Please advise me. Thank you again and look  
>forward  
>to hearing from you.  
>  
>Armando Gutierrez Jr.  
>305.525.8833  
>  
>  
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>FREE! <http://messenger.msn.click-url.com/go/onm0020047lave/direct/01/>

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<http://messenger.msn.click-url.com/go/onm0020047lave/direct/01/>

## **Frigo, Victoria (COE)**

---

**From:** Armando Gutierrez Jr [armandogutierrezjr@hotmail.com]  
**Sent:** Monday, August 08, 2005 2:44 PM  
**To:** frigov@miamidade.gov  
**Cc:** armandogutierrezjr@hotmail.com  
**Subject:** Board Question

Dear Ms Frigo,

Thank you for all your assistance. The question I have is the following. I currently sit on the Miami Dade County Historic Preservation Board, appointed by Joe Martinez. Recently I was offered another board appointment by Bruno Barreiro, for the Building Better Communities Advisory Committee. I would like to get your opinion on if I would be first allowed to sit on both boards, and in particular I want to make sure that there are no improprieties that I am at all creating. Please advise me. Thank you again and look forward to hearing from you.

Armando Gutierrez Jr.  
305.525.8833

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## NEWS RELEASE

miamidade.gov

MIAMI-DADE  
COUNTY

**For Immediate Release:**  
August 15, 2005

**Media Contact:**  
Victoria I. Arias  
[ariasvi@miamidade.gov](mailto:ariasvi@miamidade.gov)  
305-375-2001

## 21 Appointees Named to Serve on Bond Program Citizens' Advisory Committee

(Miami-Dade County, FL) -- Miami-Dade County has appointed a 21-member ***Building Better Communities Bond Program Citizens' Advisory Committee (CAC)***. The CAC will advise the County on the implementation of the \$2.9 billion bond program.

The CAC was created as part of the bond program approved by voters in last November's election. The committee consists of 13 individuals who are appointed by each of the County Commissioners, three who are appointed by the County Mayor and five who are appointed by the County Manager. The CAC membership roster includes:

- **Elio Alfonso**, Property Manager
- **Jose Andreu**, World Bank
- **Enrique A. Bello**, Licensed Real Estate Broker
- **Barbara Bisno**, Former Assistant U.S. Attorney
- **Joseph E. Bober**, Attorney
- **Esther Smith Fano**, Interim Director, Miami Dade College Hospitality Management Program
- **Robin Reiter-Faragalli**, President, Miami Children's Hospital Trust
- **Guy Forchion**, Assistant Executive Director, Virginia Key Beach Park Trust
- **George Foyo**, President/CEO Greater Miami Chamber of Commerce
- **Fred Frost**, President, South Florida AFL-CIO
- **Sandra Gonzalez-Levy**, Senior VP Corporate Communications Terremark Worldwide
- **Armando Gutierrez, Jr.**, President, Gutierrez Group
- **Wendell James**, Civic Activist
- **George Lindemann**, Civic Activist
- **Jose Antonio Martinez**, Senior Vice President, Beacon Council
- **Jeffrey A. Mishcon**, Former Mayor City of North Miami Beach
- **Ann Pope**, President, Ann Pope Consulting
- **Sylvia Person**, Miami-Dade County Transit Department
- **Alan Rubin**, Consultant, Akerman Senterfitt
- **Juan T. Sanchez**, Pharmaceutical Consultant
- **Reverend Dr. James Wise**, Pastor - Mt. Pleasant Missionary Baptist Church

The first meeting of the CAC is scheduled for August 31, 2005. For more information about the Building Better Communities Bond Program and the Citizens' Advisory Committee contact 305-375-1900 or visit [www.miamidade.gov/build](http://www.miamidade.gov/build).

###



# Historic Preservation Board

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**Logue, Thomas (CAO) Properties**

General Organization Phone/Notes Member Of E-mail Addresses

Name

First: Thomas Last: Logue

Display: Logue, Thomas (CAO) Alias: LOGUE

Address: 111 NW 1st Street Title:

City: Miami Company: Miami-Dade County

State: FL Department: CAO

Zip code: 33128 Office:

Country: Assistant: Ella X1341

Phone: (305) 375-5067

Add to: To Cc Bcc Personal Address Book

OK Cancel Apply Help



Build Better Communities Advisory Board

Untitled Message - Microsoft Word

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Heffernan, Gerald (CAO) Properties

General Organization Phone/Notes Member Of E-mail Addresses

Name

First: Gerald Last: Heffernan

Display: Heffernan, Gerald (CAO) Alias: GTH2

Address: 111 NW 1st Street Suite 2800

City: Miami Company: Miami-Dade County

State: FL Department: CAO

Zip code: 33128 Office: Assistant: Maureen X1303

Country: USA Phone: (305) 375-1352

Add to: To Cc Bcc Personal Address Book << >>

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Page 1 of 1

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## ARTICLE IB. STANDARDS FOR CREATION AND REVIEW OF BOARDS GENERALLY\*

**\*Editor's note:** At the editor's discretion, pursuant to § 11 of said ordinance, §§ 1--8 of Ord. No. 80-136, adopted Dec. 16, 1980, have been codified as Art. IB, §§ 2-11.36--2-11.40.

**Annotations--** CAO's 81-32, 82-16.

**Cross references:** Regulations concerning presentations to Board, matters of local concern and Board positions on candidates, § 2-10.2.

### Sec. 2-11.36. Statement of policy.

It is hereby declared to be the policy of the Board of County Commissioners of Miami-Dade County, Florida, to promote economy, efficiency and improved service in the transaction of the public business by County Boards.

(Ord. No. 80-136, § 1, 12-16-80)

### Sec. 2-11.36.1. Definition of board.

(a) The term "board" is defined to include every agency, authority, advisory board, regulatory board, quasijudicial board, semiautonomous instrumentality, committee, task force or any other citizens' group created and funded in whole or in part by the Board of County Commissioners. The foregoing notwithstanding, this article shall not apply to citizen groups created for specific advisory purposes where such group's existence is limited to a period of less than one (1) year. Except as otherwise provided, "County boards" and "citizens' advisory groups" may only be created by action of the County Commission, and only the County Commission, as a body, may appoint the members of the such boards and groups.

(b) Notwithstanding the provisions of subsection (a) hereof, no board, committee, task force, or other citizens' group created by a County Commissioner for the purpose of advising him or her with regard to issues solely within his or her district shall be deemed a County "board" as that term is defined herein. Such a "district board" shall, however, be governed by Florida's "Government in the Sunshine Law," Section 286.011, Florida Statutes, and the County's and Florida's Code of Ethics Laws, Section 2-11.1 of the Code of Miami-Dade County and Chapter 112, III, Florida Statutes, as those laws may be amended from time to time.

(Ord. No. 80-136, § 2, 12-16-80; Ord. No. 88-120, § 1, 12-20-88; Ord. No. 91-46, § 1, 4-16-91; Ord. No. 94-42, § 1, 3-17-94)

### Sec. 2-11.37. Creation of new boards.

(a) All County boards created after the effective date of this article shall be created only by ordinance. Such ordinance shall set forth the board's purpose, function, power,



responsibility, jurisdiction, membership requirements and restrictions, terms and conditions of appointment to or removal from the board, and the specific staff support, if any, to be provided to the board. The ordinance shall also provide for an annual report, either oral or written, to the Board of County Commissioners.

(b) After passage on first reading of an ordinance creating a new board and prior to the public hearing held on said ordinance, the County Manager shall submit to the Board of County Commissioners, a report setting forth the following information concerning the proposed new board:

(1) Whether the establishment of the board will create sufficient betterment to the community to justify the Board of County Commissioners' delegation of a portion of its authority.

(2) Whether another board or agency, either public or private, which is already in existence could serve the same purpose.

(3) The costs, both direct and indirect, of establishing and maintaining the board.

(4) Whether the board is necessary to enable the County to obtain State or federal grants or other financing.

(5) Whether the board should have bonding authority.

(6) Whether the board should have final authority to enter into contracts and spend County funds, or whether its contracts and expenditures must be ratified by the Board of County Commissioners.

(7) Whether the creation of a new board is the best method of achieving the benefit desired.

(c) The public hearing shall be held no earlier than six (6) weeks after passage on first reading of the ordinance creating said board.

(Ord. No. 80-136, § 3, 12-16-80)

### **Sec. 2-11.38. Membership on boards.**

All members of County boards shall be permanent residents and electors of Miami-Dade County unless the Board of County Commissioners, by a two-thirds vote of its membership, waives this requirement, and should have reputations for integrity and community service. In addition, all board members should have demonstrated an interest in the field, activity or sphere covered by the board. Each board shall include at least one (1) person whose livelihood does not depend on the area regulated, administered or dealt with by the board.

Unless the Board of County Commissioners by two-thirds vote of its membership waives the residency requirement, any member of County boards who ceases to be a resident of Miami-Dade County during the term of his or her office shall immediately advise the Clerk of the Board of County Commissioners. Upon being advised by the Clerk of such circumstances, the Board of County Commissioners shall declare the position to be vacant and shall promptly fill the same pursuant to the provisions of Section 2-11.38.1.

The primary consideration in appointing board members shall be to provide the board with the needed technical, professional, financial, business or administrative expertise. The membership of each board should be representative of the community at large and should reflect the gender, racial, ethnic and cultural make-up of the community.

No member of any County board shall become a candidate for elective political office during his or her term. Should any member of a County board qualify as a candidate for elective

political office, such qualification shall be deemed a tender of resignation from such board. No person shall serve on more than one (1) County board simultaneously, provided, however, a member of a county board is not prohibited by this paragraph from simultaneously serving on another county board, if the County Commission has established that service on a particular board is a prerequisite or requirement for service on another county board.

Any Commissioner who has nominated a citizen to a County board as that term is defined in Section 2-11.36 of the Code of Miami-Dade County may at any time, with or without cause, request the Board of County Commissioners to remove said board member from his or her position on a County board and recommend a different person to fill the position.

(Ord. No. 80-136, § 4, 12-16-80; Ord. No. 89-55, § 1, 6-20-89; Ord. No. 92-141, § 1, 11-17-92; Ord. No. 93-68, § 1, 7-15-93; Ord. No. 93-104, § 6, 10-19-93; Ord. No. 93-114, § 7, 10-21-93; Ord. No. 96-179, § 1, 12-3-96; Ord. No. 04-57, § 1, 3-16-04)

**Annotation--** CAO 81-1.

### **Sec. 2-11.38.1. Process of appointment.**

(a) Vacancies occurring on any board shall be advertised in publications of general circulation. Twice a year advertisements shall appear setting forth a list of all County boards; any special qualifications necessary for membership on the board; and the County telephone number to call for additional information.

(b) Prior to its making appointments to County boards, the Board of County Commissioners shall be furnished a list setting forth the qualifications and demographic background of all new candidates for membership, along with a list of the qualifications and demographic backgrounds of the present members of the board to which an appointment is being made.

(Ord. No. 80-136, § 5, 12-16-80)

### **Sec. 2-11.38.2. Term of office.**

(a) The terms of office of the members of each board shall be staggered.

(b) No board member shall serve more than eight (8) consecutive years on any one (1) board. The provisions of this section shall not apply to current board members. Nothing set forth in this subsection above shall prohibit any individual from being reappointed to a County board after a hiatus of two (2) years.

(c) Additionally, notwithstanding any other provision of the Code or of any resolution, the term of every board member nominated by a Commissioner shall automatically expire when:

- (1) The nominating Commissioner leaves office; or
- (2) The nominating Commissioner's term of office expires.

The provisions of this subsection shall be applicable to the terms of County Commissioners which expired in October 1998, and thereafter.

(Ord. No. 80-136, § 6, 12-16-80; Ord. No. 93-104, §§ 5, 7, 10-19-93; Ord. No. 93-114, §§ 6, 8, 10-21-93; Ord. No. 99-04, § 1, 1-21-99)

### **Sec. 2-11.38.3. Uniform rule for filling of open vacancies on boards that remain**

**unfilled for thirty days.**

Notwithstanding any other provision of the Code or of any resolution, if a vacancy on any County board which is subject to individual commissioner appointment remains unfilled for more than thirty (30) days, it may thereafter be filled by action of the County Commission.

(Ord. No. 95-94, § 1, 6-6-95)

**Sec. 2-11.39. Attendance requirement.**

Notwithstanding any other provision of this Code, any board member shall be automatically removed if, in a given fiscal year: (i) he or she is absent from two (2) consecutive meetings without an acceptable excuse; or, (ii) if he or she is absent from three (3) of the board's meetings without an acceptable excuse. A member of a County board shall be deemed absent from a meeting when he or she is not present at the meeting at least seventy-five (75) percent of the time. An "acceptable excuse" is defined as an absence for medical reasons, business reasons, personal reasons, or any other reason which the board, by a two-thirds vote of the membership, deems appropriate. By a two-thirds ( 2/3) vote of the members of the full Board of County Commissioners, the provisions of this section may be waived.

(Ord. No. 80-136, § 7, 12-16-80; Ord. No. 93-69, § 1, 7-15-93; Ord. No. 94-129, § 1, 6-21-94; Ord. No. 97-195, § 1, 11-4-97)

**Sec. 2-11.39.1. Quorum.**

Notwithstanding any other provision of the Code or of any resolution, a quorum for all County Boards shall consist of a majority of those persons duly appointed to the board, provided that at least one-half ( 1/2) of the full board membership has been appointed. It is expressly provided, however, that the quorum requirement for any board created or established pursuant to section 20-40 or section 33-306 of this Code (Community Council or Community Zoning Appeal Board) shall be four (4) members.

(Ord. No. 97-195, § 1, 11-4-97)

**Sec. 2-11.39.2. Application of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.**

Notwithstanding any other provision of the Code or of any resolution, the Board of County Commissioners may by resolution determine that the members of designated county boards are exempt from the provisions of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (Section 2-11.1 of the Code) as the same may be amended from time to time. Resolutions adopted under the authority of this section shall be effective for 2003 and thereafter.

(Ord. No. 03-74, § 1, 4-8-03)

**Sec. 2-11.40. "Sunset" review of boards.**

Commencing with calendar year 2001 the initial board program category shall be reviewed and every year thereafter in the following manner:

- (a) By February 1, 2001 and by February 1 each year thereafter, each board's chairperson shall submit a report, approved by the board, to the County Manager



setting forth the following information concerning the board:

- (1) Whether the board is serving the purpose for which it was created.
  - (2) Whether the board is serving current community needs.
  - (3) A list of the board's major accomplishments.
  - (4) Whether there is any other board, either public or private, which would better serve the function of the board.
  - (5) Whether the ordinance creating the board should be amended to better enable the board to serve the purpose for which it was created.
  - (6) Whether the board's membership requirements should be modified.
  - (7) The cost, both direct and indirect, of maintaining the board.
  - (8) Whether the County board is meeting performance measures developed to determine their effectiveness in achieving stated goals.
- (b) By March 15, 2001 and by March 15, each year thereafter, the County Manager shall deliver to the Board of County Commissioners the report submitted by the chairperson of each board, pursuant to subsection (a) of this section, together with the recommendation or comments that the County Manager submits.
- (c) By April 15, 2001 and by April 15 each year thereafter, the chairperson shall make an oral presentation to the Board of County Commissioners should it be the desire of the Board. Said presentation shall be based upon the report set forth in subsection (a) above. The Board of County Commissioners shall evaluate the chairperson's report, the County Manager's recommendations and any other information it deems relevant to determine whether the board shall continue in its present form.
- (d) The Board of County Commissioners shall determine whether to abolish, continue, consolidate or modify the board.
- (e) At the conclusion of this review process, affected County departments must follow up on the Board of County Commissioners' action and, if necessary, prepare the appropriate legislation to abolish, consolidate or modify a board if it is not continued in its present form.
- (f) Reserved.
- (g) The following board categories shall be reviewed in the following years and every other year thereafter:
- (i) 2001: Policy Formulation, General Government, Internal Support, Culture and Recreation, and Physical Environment
  - (ii) 2002: Protection of People and Property, Transportation, and Health and Human Services
- (h) All existing and newly created boards shall be administratively placed in the appropriate program category under subsection (g) above.
- (i) Any proposed Miami-Dade County ordinance or resolution creating a board must be accompanied by a report from the County Manager's Office setting forth the following information concerning the board:
- (1) Whether there is a need for the proposed board.
  - (2) Whether the purpose of the proposed board could be accomplished

in any other manner.

(3) The cost both direct and indirect of creating and maintaining such a board.

(4) A clear statement of the mission, desired outcomes and strategies for accomplishing such outcomes, and performance measures to assess whether such outcomes are being achieved. Such outcomes specified shall be measurable, concrete and specific.

(5) A date when the ordinance creating the board shall be repealed, contingent upon the completion of a review by the County Manager and the Board of County Commissioners prior to said repeal date, to determine its effectiveness in achieving stated goals and to revise or modify program components for the full achievement of said goals. No board shall be created whose date for repeal is greater than five (5) years from the effective date of the enacting ordinance.

(j) Any and all boards created pursuant to state or federal law shall be exempt from the requirements of Sec. 2-11.40.

(Ord. No. 80-136, § 8, 12-16-80; Ord. No. 95-93, § 1, 6-6-95; Ord. No. 98-113, § 1, 7-21-98; Ord. No. 01-20, § 1, 1-23-01)

**Sec. 16A-5. Historic Preservation Board--Created and established.**

There is hereby created an Historic Preservation Board, ("the Board"), as a governmental agency of the County government in and for Miami-Dade County, Florida. The Board is hereby vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archeological, paleontological and architectural resources in Miami-Dade County, Florida, as prescribed by this chapter under the direct jurisdiction and legislative control of the Board of County Commissioners.

(Ord. No. 81-13, § 5, 2-17-81; Ord. No. 03-38, § 6, 3-11-03)

**Cross references:** Standards for creation and review of boards, commissions, etc., §§ 2-11.36--2-11.40.

Florida. The Board is hereby vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archeological, paleontological and architectural resources in Miami-Dade County, Florida, as prescribed by this chapter under the direct jurisdiction and legislative control of the Board of County Commissioners.

(Ord. No. 81-13, § 5, 2-17-81; Ord. No. 03-38, § 6, 3-11-03)

**Cross references:** Standards for creation and review of boards, commissions, etc., §§ 2-11.36--2-11.40.

#### **Sec. 16A-6. Same--Members.**

The Board shall consist of thirteen (13) members appointed by the Board of County Commissioners. The Board of County Commissioners should attempt to appoint architects, realtors, archeologists, historians, art historians, lawyers or other individuals from the business, financial and other segments of the community who, by virtue of their profession or business, have demonstrated concern for historic preservation. The **Historic Preservation Board** shall contain not less than one architect; one real estate agent or attorney at law; and one historian or architectural historian. The term of office of membership shall be four (4) years for each member. Any vacancy occurring on the Board shall be filled by the County Commission for the remainder of the unexpired term, at the earliest possible date. Members shall be eligible for reappointment. Members of the Board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their official duties, as shall be determined and approved by the County Commission. Members of the Board shall be governed by Section 2-11.36, et seq. of the Code.

(Ord. No. 81-13, § 6, 2-17-81; Ord. No. 03-38, § 7, 3-11-03)

#### **Sec. 16A-7. Same--Organization.**

The members of the Board shall annually elect a Chair who shall serve at the pleasure of the Board and such other officers as may be deemed necessary or desirable. The County Manager shall provide adequate professional staff for the Board, including but not limited to representatives from the departments of community and economic development, building and zoning, and planning Office of Historic Preservation which shall be deemed the staff of the Board. The Office of Historic Preservation shall have a professional Director. The **Historic Preservation Board** shall be consulted regarding the selection of the Director. The Chair or his or her designee shall serve on any board reviewing candidates for the position of Director. Minutes of each Board meeting shall be kept and prepared under the supervision and direction of the Board, and copies of such minutes shall be filed with the Clerk of the County Commission.

(Ord. No. 81-13, § 7, 2-17-81; Ord. No. 03-38, § 8, 3-11-03)

#### **Sec. 16A-8. Same--Rules and regulations.**

The Board shall make and prescribe such rules and regulations reasonably necessary and appropriate for the proper administration and enforcement of the provisions of this chapter. Such rules and regulations shall conform to the provisions of this chapter and shall not conflict with the Constitution and General Laws of the State of Florida, and shall govern and control procedures, hearings and actions of the Board. No such rules and regulations shall become effective until a public hearing has been held upon the proposed rules and regulations, and any amendments or modifications thereto, and the same have been approved by the County

Commission and filed with the Clerk of the Commission. Upon approval by the Commission, such rules and regulations shall have the force and effect of law within Miami-Dade County, Florida. The Board shall prescribe forms for use by applicants in compliance with the provisions of this chapter. The Board may authorize any one (1) of its members to administer oaths and certify to official acts.

(Ord. No. 81-13, § 8, 2-17-81)

### **Sec. 16A-9. Same--Powers and duties.**

The Historic Preservation Board shall have the following enumerated powers and duties:

- (1) Adopt or amend rules of procedure.
- (2) Designate individual sites, districts and archeological and paleontological zones.
- (3) Issue or deny certificates of appropriateness and certificates to dig.
- (4) Approve historical markers and issue certificates of recognition for individual sites and designated properties in a district.
- (5) Recommend zoning and building code amendments to the proper authorities.
- (6) Establish guidelines for preservation and criteria for issuance by staff of regular certificates of appropriateness.
- (7) Promote the awareness of historic preservation and its community benefits.
- (8) No actions of this Board will supersede or be construed as superseding the authority of the Board of County Commissioners.
- (9) Review and update the historic survey for its quality and professional merit, and validate the findings of the survey as bona fide and sincere.
- (10) Implement the authority of this chapter and fulfill the tasks set forth for this Board by the County Commissioners in this chapter and other ordinances.
- (11) Record and maintain records of the Board's actions and decisions.
- (12) Follow and abide by the laws of the United States of America, the State of Florida and Miami-Dade County.
- (13) Provide an annual report to the Board of County Commissioners.
- (14) Review and make recommendations to the Office of Historic Preservation regarding any grant proposals reviewed by the Office of Historic Preservation, including but not limited to Community Development Block Grants.

(Ord. No. 81-13, § 9, 2-17-81; Ord. No. 03-38, § 9, 3-11-03)

**Annotation--** CAO 84-8.



## MEMORANDUM

Agenda Item No. 7(B)

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

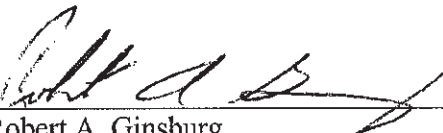
**DATE:** April 5, 2005

**FROM:** Robert A. Ginsburg  
County Attorney

**SUBJECT:** Ordinance Establishing  
Building Better  
Communities Citizens'  
Advisory Committee

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The accompanying ordinance was placed on the agenda at the request of the General Obligation Bond Subcommittee.

  
Robert A. Ginsburg  
County Attorney

RAG/bw



# MEMORANDUM

(Revised)

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

**DATE:** April 5, 2005

**FROM:** Robert A. Ginsburg  
County Attorney

**SUBJECT:** Agenda Item No. 7(B)

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 Manager'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

Approved \_\_\_\_\_ Mayor \_\_\_\_\_ Agenda Item No. 7(B)  
Veto \_\_\_\_\_ 04-05-05  
Override \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

ORDINANCE ESTABLISHING BUILDING BETTER COMMUNITIES CITIZENS' ADVISORY COMMITTEE FOR THE PURPOSE OF ADVISING THE MAYOR, THE BOARD OF COUNTY COMMISSIONERS AND THE COUNTY MANAGER ON THE BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM; CREATING COMMITTEE MEMBERSHIP; PROVIDING DUTIES AND STAFFING; AND PROVIDING SEVERABILITY, INCLUSION IN CODE, AND EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. To support the Building Better Communities General Obligation Bond Program ("Bond Program"), as approved by the electorate on November 2, 2004, Chapter 2 of the Code of Miami-Dade County, Florida shall be amended to include a new Article entitled "Building Better Communities Citizens' Advisory Committee" that will read as follows:

**(a) Authority and Purpose**

There is created and established pursuant to the Home Rule Amendment and Charter of Miami-Dade County, as amended, an advisory committee of Miami-Dade County to be known as the Building Better Communities Citizens' Advisory Committee ("Advisory Committee"). The Advisory Committee is established solely for the purpose of advising the Mayor, the Board of County Commissioners ("Commission") and the County Manager regarding the Building Better Communities General Obligation Bond Program ("Bond Program"). The Advisory Committee may exercise only those duties specifically granted in this Article or necessary in the exercise of the duties enumerated in this Article.

**(b) Advisory Committee**

(1) *Membership and Appointment.* The Advisory Committee shall be comprised of twenty-one (21) members. The Mayor shall appoint three (3) members, each Commissioner shall appoint one member and the remaining five (5) at-large members shall be selected by the County Manager.

(2) *Qualifications.* Each member shall be a resident of Miami-Dade County; shall possess an outstanding reputation for civic pride, integrity, responsibility and business or professional ability; and shall have no financial interest, direct or indirect, in any of the programs or projects that are part of the Bond Program. The membership of the Advisory Committee should generally reflect the geographic, ethnic, racial and gender make-up of the County.

(3) *Term.* Mayoral appointed and District members of the Advisory Committee shall serve until the respective appointing authority, Mayor or Commissioner, leaves office, or until resignation, whichever occurs first. All such members may be re-appointed or may continue to serve until resignation or their successors have been appointed.

The five (5) at-large members selected by the County Manager shall hold office for a term of five (5) years, or until resignation, whichever comes first and may be re-appointed for up to two (2) additional five (5) year terms.

(4) *Vacancies.* The Mayor and each Commissioner shall appoint or re-appoint a member within forty-five (45) days of taking office or in the event of their appointee's resignation. All at-large member vacancies shall be filled by the County Manager within forty-five (45) days of the resignation of the member.

(5) *Modified applicability of Conflict of Interest and Code of Ethics Ordinance.* The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (the "Conflict of Interest Ordinance"), Section 2-11.1 of the Code of Miami-Dade County, Florida, shall be applicable to the members of the Advisory Committee only in the manner and to the extent provided in the next sentence. It is declared to be the intent of the Commission, as expressed in this subsection, to provide that the Conflict of Interest Ordinance shall not operate to preclude individuals from serving as Advisory Committee members on the basis of interests relating to

Miami-Dade County when such interests do not conflict, directly or indirectly, with the Bond Program.

(6) *Organization and Procedure.* The members shall elect a chairperson and a vice-chairperson and both shall serve a term of two (2) years. The members shall also elect other officers as the members determine to be necessary and such officers shall also serve a term of two (2) years

The Advisory Committee shall hold regular meetings no less than four (4) times a year and such other meetings, as it deems necessary. A majority of the members of the board of directors shall constitute a quorum. All meetings of the Advisory Committee shall be public and the Advisory Committee shall maintain written minutes of all proceedings that shall be promptly prepared and recorded. Copies of all minutes and resolutions of the Advisory Committee shall be forwarded to the Clerk of the Board of County Commissioners no later than thirty (30) days subsequent to any meeting of the Advisory Committee.

(7) *Compensation.* Members of the Advisory Board shall serve without compensation.

**(c) Duties of the Advisory Committee**

The Advisory Committee shall have the following duties, responsibilities, and functions.

(1) To review and monitor performance and program achievements related to the Bond Program.

(2) To periodically advise the Mayor, the County Commission and County Manager, and assist in informing the community regarding the Building Better Communities General Obligation Bond Program's accomplishments on projects as approved by the electorate on November 2, 2004.

(3) To assist in the preparation of quarterly reports to the Mayor and the County Commission, and annual written report to the community describing the progress of the Building Better Communities General Obligation Bond Program. The Advisory Committee may also periodically provide advice, by either a written resolution or oral presentation, as may be requested by the County Commission, at regularly scheduled Commission meetings in accordance with the terms of this Ordinance.



(4) To advise on the use of any surplus bond project funds or unspent allocations derived from those projects specifically identified in Resolution Numbers R-912-04, R-913-04, R-914-04, R-915-04, R-916-04, R-917-04, R-918-04, and R-919-04, and set forth in informational pamphlets and media releases distributed by the County to the public prior to said election.

(5) To participate, along with County staff, in citizen outreach efforts relating to the Bond Program.

(6) To promulgate rules consistent with this Ordinance for the conduct of its meetings and the discharge of its responsibilities.

(7) To comply with all laws and regulations of the United States, the State of Florida, and Miami-Dade County, including, but not limited to, the laws relating to the keeping of records including the preservation of all audit rights.

(8) Any member shall be automatically removed if, in a given calendar year; (i) he/she is absent from three (3) consecutive meetings or, (ii) he/she is absent from more than 50% of all the committee meetings held during a year. A member shall be deemed absent when he/she is not present at the meeting for at least 75% of its duration.

#### **Section 6. Modifications and Term**

It is the intent of the Board of County Commissioners to create by this article and for the purposes set forth in this article, an Advisory Committee that may be modified or revoked in whole or in part by duly enacted ordinance of the Commission.

#### **Section 7. Staff and Counsel**

The County Manager and the County Attorney shall provide such staff support to the Advisory Committee as may be necessary to accomplish its purpose. The Advisory Committee shall be provided meeting facilities and pre-approved expense reimbursement as the Commission or the County Manager may deem necessary to accomplish the Committee's purposes.

Section 2. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this Ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.


Section 4. This Ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

Prepared by:

Gerald T. Heffernan

RA6  





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**What is the Citizens' Advisory Committee?**

The Citizens' Advisory Committee (CAC) was created by the Board of County Commissioners to provide the residents of Miami-Dade a means to participate in the implementation of the Building Better Communities Bond Program. The 21-member CAC serves as an advisory group to the Board of County Commissioners, Miami-Dade County Mayor and the County Manager on the projects that are included in the bond program. Each County Commissioner appoints one member to the CAC, while the County Mayor appoints three members and County Manager appoints five members.

## Historic Preservation

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## Welcome to the Office of Historic Preservation Website

The Office of Historic Preservation helps identify, protect, enhance, and perpetuate properties of historical, architectural, archaeological, paleontological, cultural, and aesthetic merit in Miami-Dade County.

By working with the Historic Preservation Board, the public, and other civic, municipal, state and federal agencies and organizations, such properties are safeguarded through regulation.

Restoration, rehabilitation, and reuse of such properties are encouraged through financial incentives.

Date Last Edited : Tue Jan 11 10:38:29 2005

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*Sections 16A-5 - 16A-9*

*See 2-11.36 ~ 2-11.40*