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**Office of the Inspector General**

**Miami-Dade County**

# Memorandum

To: The Honorable Carlos Alvarez, Mayor  
  
- The Honorable Chairperson Joe A. Martinez  
and Members, Board of County Commissioners

From: Christopher Mazzella  
Inspector General

Date: February 7, 2005

Re: OIG Review of Miami-Dade Community Councils

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Attached please find the Office of the Inspector General's (OIG) final report reviewing Miami-Dade County's community councils. This review was conducted pursuant to Resolution No. R.1490-02, which requested the OIG, in consultation with the County Manager's Office, to conduct a comprehensive review of the community councils. We based our review, in part, on previous reported studies and statistics, and brought the statistics forward through 2003. We also added numerous statistical fields relating to the number of agenda items approved and withdrawn, and the number of items appealed. For the period reviewed, fifty-eight percent (58%) of zoning items denied by the community councils were appealed to either the Board of County Commissioners or the Circuit Court. The OIG also reviewed the number of community council members that were elected without opposition. For the last two election cycles, 2002 and 2004, one hundred percent (100%) and eighty-seven percent (87%) of the council members were elected without opposition.

For each of the five subject areas reviewed we listed several suggestions that this Board may want to consider. We recognize that these recommendations involve important policy considerations within the sole discretion of the County Commission; these are presented as suggestions and alternatives only.

Lastly, in addition to consulting with the County Manager's Office as the resolution required, the OIG also distributed this report as a "draft" to each community council chairperson. We also provided a "draft" to the County Manager's Office and to the Department of Planning and Zoning. No responses and/or written comments to our draft report have been received by the OIG. As such, what we are presenting to you as the final report is essentially the same draft report that was circulated for comments.

I am available to discuss this report at your leisure and should you have any other questions, please do not hesitate to contact me.

cc: Mr. George Burgess, County Manager  
Mr. Pete Hernandez, Deputy County Manager  
Ms. Diane O'Quinn-Williams, Director, Department of Planning and Zoning  
Mr. Sam Walthour, Director, Team Metro  
Mr. Charles Anderson, Commission Auditor  
Ms. Cathy Jackson, Director, Audit and Management Services

Clerk of the Board (copy filed)

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**I. INTRODUCTION AND SIGNIFICANT FINDINGS**

This report is issued pursuant to the Miami-Dade County Board of County Commissioners' (BCC) Resolution R-1490-02 (Exhibit A) that requested that the Inspector General, in consultation with the County Manager, provide a comprehensive report on the Miami-Dade County Community Councils and to provide recommendations for improving the effectiveness and efficiency of the functions provided by the councils.

The Office of Inspector General (OIG) conducted an extensive review of the Community Councils (see Section V for details) and determined the following significant findings:

- Failures to achieve quorums are costly and frustrating to all involved.
- Community Council (CC) vacancies add to the incidence of no-quorums.
- Current meeting sites of some of the CCs are inadequate.
- The workload of the CCs is not equal, and has the potential to create unequal conditions for applicants.
- A large number of elected members of the CCs were elected "unopposed."

**II. BACKGROUND**

The Miami-Dade County Board of County Commissioners (BCC) created sixteen community councils in September 1996, to serve as local Zoning Appeals Boards in the unincorporated areas of Miami-Dade County. Chapter 33 of the Code of Miami-Dade County (Code) establishes the zoning laws of the unincorporated sections of Miami-Dade County. Additionally, CCs may, at their option, take on a number of advisory (non-zoning) responsibilities with respect to the unincorporated areas.

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The purpose of the CCs is provided in Code Section 20-40, and is noted as follows:

1. To provide the residents of unincorporated Miami-Dade County with increased governmental accountability and responsiveness in decision-making processes for the delivery of municipal-type services;
2. To improve the effectiveness of services by making them more responsive to community desires and needs;
3. To retain efficiencies of services by maintaining economies of scale;
4. To maintain the ability to match unincorporated area needs with available resources; and
5. To foster a sense of community identity, inclusiveness and empowerment.

The CCs, when functioning as Community Zoning Appeals Boards (CZABs), are further “advised” by Section 33-311 of the County Code that:

the purpose of zoning regulations is to provide a comprehensive plan and design to lessen highway congestion; to secure safety from fire, panic and other dangers; to promote health, safety, morals, convenience and the general welfare; to provide light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements with the view of giving reasonable consideration, among other things, to the character of the district or area and its peculiar suitability for particular uses and with a view toward conserving the value of buildings and property and encouraging the most appropriate use of land and water throughout the County.

Section 20-44 of the Code specifies that the County Manager shall coordinate the activities and schedules of CCs with other County activities to ensure maximum effectiveness and efficiency. The County Manager shall also assign existing County staff positions to provide support for the CCs. Since February 1997, all of the support for the CZAB meetings has been provided by the Department of Planning and Zoning (DP&Z), Zoning Services Division. From February 1997 to March 2002, the support of the non-zoning advisory meetings was provided by the DP&Z, Community Planning Section. Since March 2002, Team Metro has had the responsibility for supporting the non-zoning meetings.

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The support for all of these meetings (zoning and non-zoning) typically involves:

- Providing an Executive Secretary and other administrative personnel
- Preparing advertisements and agendas regarding upcoming meetings
- Copying and mailing agenda kits and/or necessary paperwork
- Preparing Resolutions of CC Board actions
- Preparing annual reports of CC activity

**III. TIME LINE OF COMMUNITY COUNCILS**

The Board of County Commissioners originally created sixteen community councils in September 1996. Before the CCs began their zoning activity in February 1997, CC-1 was dissolved due to the pending incorporation of Sunny Isles Beach. Since then, five more CCs have been dissolved or are no longer functioning because of annexation or incorporation. Below is the list of all six of the dissolved CCs:

|       |                           |                       |
|-------|---------------------------|-----------------------|
| CC-1  | City of Sunny Isles Beach | Incorporated 6/11/97  |
| CC-6  | City of Miami Lakes       | Charter date 12/05/00 |
| CC-13 | Village of Palmetto Bay   | Charter date 09/10/02 |
| CC-3  | City of Miami Gardens     | Charter date 05/13/03 |
| CC-4  | City of Miami Gardens     | Charter date 05/13/03 |
| CC-9  | City of Doral             | Charter date 06/24/03 |

There are ten functioning CCs remaining. The BCC, on May 11, 2004, approved Ordinance 04-101, which modified the configuration and boundaries of these remaining CCs.

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**IV. LEGAL AUTHORITIES GOVERNING COMMUNITY COUNCILS**

Local governments have traditionally held the authority and responsibility for making zoning decisions. Zoning is generally defined as the division of a municipality or other local community into districts, and the regulation of buildings and structures according to their construction and the nature and extent of their use, or the regulation of land according to its nature and uses. Specifically, the Home Rule Amendment of the Florida Constitution (Article VIII, Section 6) provides for Miami-Dade County's home rule authority. Further, Section 4.08 of the Miami-Dade County Home Rule Charter provides the Board of County Commissioners the authority to "provide a board to hear, consider and review appeals from the zoning regulations or decisions of an administrative official, and to take appropriate action." [Section 33-306(b) of the Miami-Dade County Code]

The Florida Legislature enacted the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. 163.3161 (commonly known as the Growth Management Act) to regulate some local rules in zoning decisions. The purpose of the act was "to utilize and strengthen the existing role, processes, and powers of local governments in the establishment of comprehensive planning programs to guide and control future development." [F.S. 163.3161(2)] Under the Growth Management Act, each municipality is required to prepare and adopt a comprehensive plan to manage future growth and development and implement land development regulations to fulfill the goals and objectives stated in that municipality's adopted plan. Miami-Dade County adopted Ordinance No. 75-22, "Comprehensive Development Master Plan", on March 31, 1975. Updates to the Master Plan were adopted in 1988 and 1995. Local zoning action must be in conformity with the Comprehensive Development Master Plan. [F.S. 163.3161(6)]

**A. Elected and Appointed Members**

Section 20-43 of the County Code specifies that each community council shall have seven members, six of whom shall be elected at large within the council area and one of whom shall be appointed by the BCC. The term of office for the six elected council members is four years, with special exceptions. Should a vacancy occur in one of the "elected" positions, the county commissioner(s) whose district encompasses all or part of the council area shall fill the vacant position by the appointment of a qualified individual from a list of names supplied by the council. The person appointed to fill the vacancy shall serve until the earlier of the following: 1) the next state primary election, or 2) expiration of the term of

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office for which the appointment is made. A person elected at such county-wide election shall serve for the remainder of the term.

The term of office for the appointed council member shall also be four years; provided, however, the term expires when the commissioner who appointed that member leaves office. Vacant appointed council member positions shall be filled for the unexpired term in the same manner as for other council members.

**B. Appeals of CZAB Decisions**

The majority of development in Miami-Dade County complies with the Zoning Code and is not required to apply for any type of hearing or relief. The applicants simply apply for the appropriate building permits. When all of the standards of the code are not met for any development activity, relief from the provisions of the zoning code may be sought. This is accomplished either through an administrative action or through a zoning hearing process. As a result of the Omnipoint Holdings litigation, applicants now have the option of requesting relief from the zoning code under the "old" standards of compatibility and other enumerated standards in the code or under the "new" standards including alternative site development options and legal zoning hardship.

Applications heard by CZABs are listed in the County Code, sections 33-311(A)(1) through (A)(14). Generally, these applications are for special exceptions, unusual and new uses, and specified variances. A "variance" under common law is a relief granted from the literal enforcement of a zoning ordinance, permitting the use of property in a manner otherwise forbidden upon finding that the enforcement of the ordinance as written would inflict practical difficulty or unnecessary hardships on the property owner. According to some zoning ordinances, variances are special exceptions to existing zoning laws to permit nonconforming uses. An "exception" is a departure from the general provisions of a zoning ordinance granted by legislative process under express provisions of the enactment itself. A "special exception" is a valid mechanism that delegates to an administrative board a limited authority to permit enumerated uses that the legislature has determined can be allowed, absent any fact or circumstance negating the presumption. In other words, a special exception is a permitted use to which the applicant is entitled unless the zoning authority determines, according to the standards in the zoning ordinance, that such use would adversely affect the public interest. The County Code provides the standards to be used in granting the specified applications. (See Exhibit 1).

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The decision of the CZAB for the area in which the property is located is final unless appealed to the BCC or the Circuit Court of the Eleventh Judicial Circuit. The appeal must be within fourteen days from the date of posting or filed with the Circuit Court by an aggrieved party or the applicant within thirty days of the transmittal of the resolution of the CZAB action to the Clerk of the BCC.

Pursuant to County Code Section 33-313, the BCC reviews appeals *de novo* and affirms, modifies or reverses the CZAB decision with a majority vote of all members present or with a 2/3rds vote of all members then in office, depending upon the type of appeal.<sup>1</sup> CZAB decisions that may be appealed to the BCC are specified in Section 33-314(B), and are generally as follows:

- Appeals of staff administrative decisions
- Change-of-prefix use variances
- Zoning district boundary changes, including those containing requests for unusual use, new use, variances or special exceptions
- Appeals by the County Manager
- Zoning applications by State and municipal entities
- Site plans in conjunction with the above

Pursuant to County Code Section 33-316, all other remedies should be exhausted before a person or entity, aggrieved by any zoning resolution, order, requirement, decision or determination of an administrative official or by any resolution adopted by a CZAB or the BCC, files a notice of appeal in the Circuit Court. Upon seeking judicial review, the County Code provides for adherence to Rule 9.190(3) of the Florida Rules of Appellate Procedure; judicial review of administrative action and 9.100(b) and (c), which substantially provides that a writ of certiorari is the remedy for review of final quasi-judicial action of commissions and boards of local government. The scope of certiorari review is limited to (a) whether procedural due process was accorded; (b) whether the essential requirements of law have been observed; and (c) whether administrative findings and judgment are supported by competent substantial evidence.

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<sup>1</sup> As of the date of this writing, there is currently pending an ordinance relating to zoning modifying the BCC's vote requirement on certain CZAB decisions. In essence, the proposed ordinance amends BCC vote requirements currently requiring a 2/3rds vote to a majority vote of all members present.

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**V. SCOPE OF REVIEW**

The OIG focused the review on the following areas:

- A) Failure to achieve quorums.
- B) Member vacancies and turnover rate.
- C) Inadequate meeting space.
- D) Workload imbalance, and the potential for unequal conditions for applicants.
- E) Elected members who were elected "unopposed."

The following steps were taken by the OIG:

- Review of memorandum directed to the BCC from the Department of Planning, Development and Regulation, dated 6/30/98 and 11/16/99.
- Review of memorandum directed to the BCC from the County Manager, dated 12/19/00 and 4/10/01.
- Review of 1998 annual report concerning nine CCs.
- Review of 2000 sunset reviews concerning twelve CCs.
- Review of various BCC agenda items concerning the CCs.
- OIG attendance at CZAB meetings and BCC zoning hearings.
- Obtained detailed data from DP&Z, Team Metro, Office of Strategic Business Management, and the Department of Elections.

**VI. FINDINGS AND OIG RECOMMENDATIONS**

**A. Failure to Achieve Quorums - Findings**

Table 1, entitled *Summary of Community Council Meetings*, contains summary data on the number of meetings (zoning and non-zoning) held by each of the CCs, the number and percent of those meetings in which a quorum was not achieved, and the number of zoning agenda items resolved (withdrawn, approved or denied) for the seven years (2/97 thru 12/03) that the CCs have been meeting. Exhibit 2 is attached, and contains greater detail in that it lists the same information, but is broken down by each of the seven years (1997 thru 2003) by each CC.

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Table 1                      Summary of Community Council Meetings                      1997-2003

|                     | NON-ZONING                                |                               |            | ZONING                                    |                               |           |   |            |  |           |  |
|---------------------|---|-------------------------------|------------|---|-------------------------------|-----------|---|------------|--|-----------|--|
|                     | Number<br>of<br>Meetings<br>of<br>COUNCIL | Meetings<br>with no<br>Quorum |            | Number<br>of<br>Meetings<br>of<br>COUNCIL | Meetings<br>with no<br>Quorum |           | Agenda<br>Items<br>Withdrawn<br>or Approved |            | Items<br>Appealed<br>to County<br>Commission |           | Items<br>Appealed<br>to Circuit<br>Court |
|                     |   | Number                        | Percent    |   | Number                        | Percent   | Denied                                      | Commission | Court  |           |  |
|                     |   | Meetings                      | Number     |   | Percent                       | Meetings  | Number                                      | Percent    | or Approved                                  | Denied    | Commission                               |
| (2) NORTH EAST      | 48  | 5                             | 10%        | 51  | 1                             | 2%        | 47  | 6          | 0  | 3         |  |
| (3) NORTH DADE      | 44  | 2                             | 5%         | 53  | 2                             | 4%        | 66  | 26         | 3  | 4         |  |
| (4) NORTH WEST      | 44  | 5                             | 11%        | 48  | 1                             | 2%        | 55  | 10         | 2  | 3         |  |
| (5) C. CLUB LAKES   | 45  | 6                             | 13%        | 57  | 4                             | 7%        | 75  | 9          | 3  | 4         |  |
| (6) MIAMI LAKES     | 27  | 1                             | 4%         | 29  | 0                             | 0%        | 39  | 8          | 2  | 0         |  |
| (7) BISCAYNE SHORES | 44  | 7                             | 16%        | 36  | 5                             | 14%       | 14  | 2          | 1  | 0         |  |
| (8) NORTH CENTRAL   | 52  | 7                             | 13%        | 65  | 3                             | 5%        | 145   | 13         | 7  | 4         |  |
| (9) DORAL           | 47  | 7                             | 15%        | 69  | 4                             | 6%        | 173   | 10         | 5  | 7         |  |
| (10) WESTCHESTER    | 54  | 22                            | 41%        | 86  | 10                            | 12%       | 410   | 40         | 9  | 7         |  |
| (11) WEST KENDALL   | 54  | 3                             | 6%         | 74  | 1                             | 1%        | 254   | 41         | 16   | 3         |  |
| (12) KENDALL        | 53  | 8                             | 15%        | 73  | 2                             | 3%        | 195   | 40         | 12   | 8         |  |
| (13) PALMETTO BAY   | 40  | 4                             | 10%        | 38  | 1                             | 3%        | 37  | 8          | 2  | 3         |  |
| (14) REDLAND        | 46  | 12                            | 26%        | 69  | 2                             | 3%        | 179   | 33         | 29   | 5         |  |
| (15) SOUTH BAY      | 49  | 5                             | 10%        | 67  | 0                             | 0%        | 111   | 18         | 11   | 0         |  |
| (16) FISHER ISLAND  | 34  | 8                             | 24%        | 6   | 0                             | 0%        | 5   | 0          | 1  | 0         |  |
| <b>GRAND TOTAL</b>  | <b>681</b>                                | <b>102</b>                    | <b>15%</b> | <b>821</b>                                | <b>36</b>                     | <b>4%</b> | <b>1805</b>                                 | <b>264</b> | <b>103</b>                                   | <b>51</b> |  |

A review of Table 1 determined that the total number of meetings held by each CC varied from 40 meetings (CC-16 Fisher Island) to 140 meetings (CC-10 Westchester). CC-16 Fisher Island held the lowest number of non-zoning and zoning meetings (34 and 6 respectively) and CC-10 held the most non-zoning and zoning meetings (54 and 86 respectively). Fisher Island had the least number of agenda items (5) and CC-10 had the most agenda items (450) resolved at their zoning meetings.

With respect to no-quorums, on average 15% (102 out of 681) of all CC non-zoning meetings failed to achieve a quorum. The variance ranged from 41% (22 out of 54, CC-10 Westchester) to 5% (2 out of 44, CC-3 N. Dade). The zoning meetings percentage of no quorums was much less. On average 4% (34 out of 822) of all CC zoning meetings were deferred due to lack of quorum. The variance ranged from 14% (5 out of 36, CC-7 Biscayne Shores) to 0% (0 out of 67, CC-15 South Bay). When we considered both types of meetings combined, we found that CC-11 West Kendall had the least percentage of meetings (3%, 4 out of 128) and CC-10 Westchester had the most percentage of meetings (21%, 30 out of 140) that were deferred due to failure to achieve quorums.

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Regarding the 2,069 (1805 + 264) resolved agenda items, 103 (5%) CZAB decisions were appealed to the BCC and 33 (32%) of those were reversed or overturned.

Table 2, entitled *Community Council Member Attendance and Repeated Absences* contains data for 2001, 2002 and 2003 for the number of meetings and average attendance for each CC, by type of meeting (zoning and non-zoning). Table 2 also indicates the number of members who had 3 or more consecutive absences, for each CC for the same years. Exhibit 3 is attached and contains greater detail, in that it lists similar information, but reports seven years (1997 thru 2003) for each CC.

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**Table 2 Community Council Member Attendance and Repeated Absences**

| COMMUNITY COUNCIL                                   | Year | Members                                   | Zoning                   |                       | Non-Zoning               |                       |
|---|------|---|--------------------------|-----------------------|--------------------------|-----------------------|
|   |      | with 3 or more<br>Consecutive<br>Absences | Number<br>of<br>Meetings | Average<br>Attendance | Number<br>of<br>Meetings | Average<br>Attendance |
| (2) NORTH EAST                                      | 2001 | 0   | 5                        | 91%                   | 7                        | 86%                   |
|   | 2002 | 0   | 8                        | 89%                   | 7                        | 92%                   |
|   | 2003 | 2   | 10                       | 80%                   | 4                        | 82%                   |
| (3) NORTH DADE                                      | 2001 | 2   | 10                       | 82%                   | 7                        | 75%                   |
| (Dissolved 5/13/03-Inc.<br>Miami Gardens)           | 2002 | 0   | 8                        | 84%                   | 5                        | 83%                   |
|   | 2003 | 1   | 1                        | 71%                   | 3                        | 57%                   |
| (4) NORTH WEST                                      | 2001 | 1   | 10                       | 76%                   | 5                        | 69%                   |
| (Dissolved 5/13/03-Inc.<br>Miami Gardens)           | 2002 | 2   | 8                        | 66%                   | 6                        | 67%                   |
|   | 2003 | 2   | 3                        | 71%                   | 2                        | 71%                   |
| (5) COUNTRY CLUB<br>LAKES                           | 2001 | 0   | 10                       | 81%                   | 6                        | 81%                   |
|   | 2002 | 2   | 11                       | 72%                   | 4                        | 88%                   |
|   | 2003 | 0   | 10                       | 81%                   | 5                        | 86%                   |
| (7) BISCAYNE<br>SHORES                              | 2001 | 1   | 4                        | 83%                   | 6                        | 82%                   |
|   | 2002 | 3   | 6                        | 46%                   | 6                        | 63%                   |
|   | 2003 | 2   | 8                        | 64%                   | 5                        | 69%                   |
| (8) NORTH CENTRAL                                   | 2001 | 1   | 11                       | 84%                   | 8                        | 71%                   |
|   | 2002 | 1   | 8                        | 71%                   | 5                        | 69%                   |
|   | 2003 | 1   | 11                       | 73%                   | 8                        | 80%                   |
| (9) DORAL   | 2001 | 0   | 11                       | 88%                   | 8                        | 80%                   |
| (Dissolved 6/24/03-Inc.<br>of Doral)                | 2002 | 1   | 12                       | 78%                   | 4                        | 77%                   |
|   | 2003 | 0   | 6                        | 86%                   | 4                        | 64%                   |
| (10) WESTCHESTER                                    | 2001 | 1   | 17                       | 85%                   | 8                        | 76%                   |
|   | 2002 | 5   | 12                       | 85%                   | 6                        | 13%                   |
|   | 2003 | 2   | 13                       | 83%                   | 6                        | 42%                   |
| (11) WEST KENDALL                                   | 2001 | 0   | 11                       | 99%                   | 6                        | 97%                   |
|   | 2002 | 0   | 11                       | 99%                   | 8                        | 92%                   |
|   | 2003 | 0   | 12                       | 94%                   | 5                        | 91%                   |
| (12) KENDALL  | 2001 | 1   | 12                       | 87%                   | 7                        | 76%                   |
|   | 2002 | 1   | 10                       | 81%                   | 6                        | 74%                   |
|   | 2003 | 1   | 12                       | 89%                   | 6                        | 77%                   |
| (13) PALMETTO BAY                                   | 2001 | 0   | 9                        | 86%                   | 7                        | 78%                   |
| (Dissolved 9/10/02-Inc.<br>Village of Palmetto Bay) | 2002 | 3   | 7                        | 73%                   | 4                        | 64%                   |
|   | 2003 | 0   | 0                        | 0%                    | 0                        | 0%                    |
| (14) REDLAND  | 2001 | 0   | 11                       | 86%                   | 6                        | 84%                   |
|   | 2002 | 1   | 10                       | 71%                   | 5                        | 67%                   |
|   | 2003 | 1   | 11                       | 86%                   | 5                        | 66%                   |
| (15) SOUTH BAY                                      | 2001 | 1   | 11                       | 87%                   | 7                        | 71%                   |
|   | 2002 | 2   | 13                       | 89%                   | 5                        | 70%                   |
|   | 2003 | 1   | 13                       | 92%                   | 7                        | 77%                   |
| (16) FISHER ISLAND                                  | 2001 | 2   | 1                        | 83%                   | 5                        | 53%                   |
|   | 2002 | 0   | 0                        | 0%                    | 3                        | 57%                   |
|   | 2003 | 0   | 0                        | 0%                    | 4                        | 75%                   |

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A review of Table 2 determined that West Kendall CC-11 had the highest attendance for all three years for both types of meetings (zoning and non-zoning). Exhibit 2 indicates that there were quorums at all of CC-11 meetings during those three years. The lowest attendance during 2001 was at CC-4 (zoning) and CC-16 (non-zoning). During 2002 and 2003, the lowest attendance was CC-7 (zoning) and CC-10 (non-zoning). Note that the attendance percentages are calculated by comparing the number of members in attendance with the current number of members for each CC at each meeting, and then averaging for all meetings in a given year. In other words, for CC-10 to have 75% attendance, 3 of the 4 current members must be present. For CC-10 to have a quorum, 100% of its current members, 4 of 4, must be present while a CC with 7 current members would only need 57% attendance (4 of 7) for a quorum. The OIG opines that the attendance reflected in Table 2 is good overall, but stresses the importance of quickly filling "vacant" CC seats for the optimum probability of achieving quorums.

A review of Table 2 also determined that, for the cumulative years 2001-2003, all of the CCs, except for CC-11, have had at least one member that has been absent for 3 or more consecutive meetings. Section 2-11.39 of the Code states that "any board member shall be automatically removed if, in a given fiscal year: (1) he or she is absent from two (2) consecutive meetings without an acceptable excuse; or, (2) if he or she is absent from three (3) of the board's meetings without an acceptable excuse. 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." It is difficult for the OIG to imagine a scenario that could not be acceptable under this broad definition.

Failure to achieve quorums is not only costly for the county, but also the public. The resulting deferral can be critical to anyone having a limited amount of time to present his or her case before a CZAB. There is also a high level of frustration at no-quorums from support staff who have advertised the meeting and prepared, copied and mailed the agenda items, and from support staff who have traveled far to bring equipment and files, and have set up tables, chairs, microphones and recording equipment for the meeting. It is also frustrating for council members that are present and the public who had enough interest to put other plans on hold to attend the meeting. No one involved is pleased when a CC meeting is deferred because of a failure to achieve a quorum.

Exhibit 4 indicates the estimated (budgeted) cost to support the CC meetings for FY 2003-04, as well as the actual cost for FY 2001-02 and FY 2002-03. As can be determined from

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this exhibit, for FY 2003-04 each CZAB meeting is estimated to cost \$7,631 (\$709,700 / 93 meetings), and each Non-Zoning meeting is estimated to cost \$2,337 (\$243,000 / 104 meetings), for a total estimated cost of \$952,700 for both types of meetings. For FY 2001-02 and FY 2002-03, each CZAB meeting actually cost \$4,583 and \$4,765 and each Non-Zoning meeting actually cost \$3,347 and \$3,991, respectively, for a total cost of \$1,547,700 for both years and both types of meetings. Note that costs are incurred even if a meeting is cancelled due to a failure to obtain a quorum.

**OIG Recommendations**

1. The CCs and the BCC should consider it a top priority to fill "vacant" seats quickly so as to minimize the probability of no-quorums.
2. Increase the number of CC members from 7 to 9, while maintaining the requirement of 4 members for a quorum. This increase would greatly enhance the probability that a meeting would occur and not be cancelled because of a no-quorum.
3. The definition of acceptable board member absences, as stated in Section 2-11.39 of the Code, should be narrowed and the attendance requirement strictly enforced.

As can be seen from the above recommendations, the OIG believes that to effectively and efficiently utilize resources it is imperative that CC meetings occur and that the agenda items be resolved and not deferred.

**B. Member Vacancies and Turnover Rate**

Table 3, entitled *Community Council Vacancies and Turnover*, contains summary data on the number of meetings (zoning and non-zoning) held by each CC, the number and percent of those meetings in which there was a "vacant" seat (less than seven CC members) and the number of appointments to previously vacant elected seats, for the seven years (2/97 thru 12/03) that the CCs have been meeting.

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Table 3 Community Council Vacancies and Turnover 1997 thru 2003

| COMMUNITY COUNCIL      | Number of Meetings | Meetings with one or more Vacant seats |         | Number of Appointments to Elected Seats |
|------------------------|--------------------|--|---------|---|
|                        |                    | No.                                    | Percent |   |
| (2) NORTH EAST         | 99                 | 30                                     | 30%     | 16                                      |
| (3) NORTH DADE         | 97                 | 5                                      | 5%      | 3                                       |
| (4) NORTH WEST         | 92                 | 2                                      | 2%      | 2                                       |
| (5) COUNTRY CLUB LAKES | 102                | 29                                     | 28%     | 7                                       |
| (6) MIAMI LAKES        | 56                 | 4                                      | 7%      | 2                                       |
| (7) BISCAYNE SHORES    | 80                 | 30                                     | 38%     | 15                                      |
| (8) NORTH CENTRAL      | 117                | 7                                      | 6%      | 4                                       |
| (9) DORAL              | 116                | 62                                     | 53%     | 8                                       |
| (10) WESTCHESTER       | 140                | 70                                     | 50%     | 9                                       |
| (11) WEST KENDALL      | 128                | 26                                     | 20%     | 13                                      |
| (12) KENDALL           | 126                | 17                                     | 14%     | 12                                      |
| (13) PALMETTO BAY      | 78                 | 1                                      | 1%      | 3                                       |
| (14) REDLAND           | 115                | 23                                     | 20%     | 5                                       |
| (15) SOUTH BAY         | 116                | 42                                     | 36%     | 7                                       |
| (16) FISHER ISLAND     | 40                 | 9                                      | 23%     | 11                                      |

A review of Table 3 determined that 24% (355 out of 1503) of all of the meetings held by CCs, during 1997 thru 2003, had at least one “vacant” seat. The variance between CCs ranged from 1% (1 out of 78, CC-13 Palmetto Bay) to 53% (62 out of 116, CC-9 Doral). A close second to the Doral Council was the Westchester Council, which held 49% of its meetings with at least one “vacant” seat. Table 3 also reports the number of members, other than the BCC appointee (1 of 7), who have been appointed rather than elected to their council seats. These figures represent the number of elected seats that have not been filled through the electoral process, either because no one was qualified or ran for the seat, or due to the resignation or removal of a member mid-term.

It is our conclusion that when a CC sub-area seat remains “vacant” for a period of time, the interests of that specific area are not represented in either zoning or non-zoning matters. Even if the council as a whole has good attendance, the sub-area may not be well served.

As the number of current members on a CC decreases, there is a corresponding increase in the percentage of members that must attend a meeting in order for there to be a quorum. When there are just seven members, 57% (4 out of 7) must attend for there to be a quorum. When there are only six members, 67% (4 out of 6) must attend. If there are five members, then 80% (4 out of 5) must attend, and if there are only four members, then 100% of the

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members must attend. It should be noted that CC-10 Westchester has had only four members for many months.

Section 20-43(A)(7) of the Code stipulates that should any CC fail to supply a list of names for any vacant council position within ninety days from the date such position becomes vacant, the county commissioner or commissioners whose district encompasses all or part of the CC shall appoint a qualified individual to fill such vacancy.

**OIG Recommendations**

1. The county manager should institute an ad campaign to increase the pool of interested and qualified candidates for membership by notifying the public of the requirements and service done by CC members.
2. Section 20-43 of the County Code could be amended to allow the BCC to appoint a replacement for a vacant CC seat within 60 days of such vacancy, unless the county commissioner or commissioners whose district encompasses all or part of a CC area has already made such an appointment.

The OIG acknowledges that vacant seats on CCs are sometimes unavoidable due to relocation of members and other reasons, and that because vacancies add to the incidence of no-quorums, the filling of these vacancies with qualified replacements should be a high priority of the Community Councils and the Board of County Commissioners.

**C. Inadequate Meeting Space**

The OIG has determined that some of the CC meeting sites have the following deficiencies:

- The meeting sites are too small for the number of public in attendance, especially when there are controversial agenda items.
- At some of these meeting sites seating is uncomfortable for adults, such as when a meeting is held in a middle school library.
- The audio system is often not adequate for the size of the meeting space and the public and the court reporter has trouble hearing comments.
- There are no video monitors to allow the public to view the exhibits displayed concerning an agenda item.

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- All of these sites, because of their distant locations, require staff to transport large quantities of equipment and files to support the meetings.
- All of the above factors may serve to diminish the appropriate formality and decorum for administrative hearings that decide important land use matters directly affecting the property rights of applicants and the quality of life of Miami-Dade County residents.

**OIG Recommendations**

1. County staff could locate adequate County facilities or appropriate commercial facilities to hold CC meetings.
2. Utilize the County Commission Chambers for all community council meetings.

The OIG recommends that CCs be afforded a choice of holding meetings in the BCC chambers. The BCC chambers are well equipped, as to size, decorum, comfort, audio and video equipment, telephones, etc. for these types of meetings. Much of the burden on DP&Z support staff would be reduced as the equipment would already be in place and the DP&Z files would not have to be transported to distant meeting sites. The members of the CCs would still be elected or appointed from qualified citizens of the CC area, and, therefore, the sense of community identity, inclusiveness and empowerment would be maintained. The County could defray much of the costs associated with the public being required to come downtown to attend CC meetings by issuing Metro-rail passes.

**D. Workload imbalance, and the potential for unequal applicant conditions**

It is very apparent, upon the review of Table 1, that there exists a significant disparity of workload between the CCs. CC-16 Fisher Island held only 40 meetings between Feb. 1997 and Dec. 2003, while CC-10 Westchester held 140 during the same period. Zoning issues resolved by CC-16 were 5, while CC-10 resolved 450.

Some council members are required to attend far more meetings and to dispose of far more items than members in other councils. Not only does this result in an imbalanced workload for the council members themselves, but it has the potential to create seriously unequal conditions for applicants before each CC. CC members who have to hear and decide on a large agenda have the potential of giving less time per agenda item. In addition, the

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imbalance results in an inefficient use of staff time and resources. Any meeting, whether it involves a single item or a long agenda, requires staff from DP&Z and the County Attorney's Office, as well as support personnel, advertisement, agenda kit preparation and delivery, and facilities costs.

**OIG Recommendation**

1. Reconfigure the Community Councils to more reasonably distribute the workload, and reduce the potential for unequal conditions for applicants.

This reconfiguration could have the advantage of reducing the number of meetings that staff is required to attend, thereby reducing costs. Fewer and larger CZABs could also provide for greater consistency in decision-making as well as encouraging a broader perspective on zoning matters among council members.

**E. Elected members who were elected "unopposed"**

A review of the elections that occurred during 1996 to fill the "elected" seats of the newly formed CCs determined that 21 out of 82 (25.6%) of these seats were filled "unopposed." Further review of all of the elections involving CC members that occurred between 1997 and present determined that 74 out of 103 (69.2%) of these seats were filled "unopposed." Notably, in 2002 all twenty-nine (29) elected CC positions, and in 2004, 20 out of 23 elected CC positions, were filled without opposition. The OIG draws the conclusion from this statistical analysis that there is not enough interest by individuals, who could otherwise qualify as candidates, in serving as members of the community councils.

Table 4, Elected Community Council Member 1996 through 2004, breaks down by year the number of elected community council members.

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Table 4 Elected Community Council Member 1996 through 2004

| Elected Community Council Members |               |                   |             |
|-----------------------------------|---------------|-------------------|-------------|
|                                   | Total Elected | Elected Unopposed |             |
| Year                              | Number        | Number            | %           |
| 1996                              | 82            | 21                | 25.6        |
| 1997                              | 4             | 0                 | 0           |
| 1998                              | 38            | 25                | 65.8        |
| 1999                              | 1             | 0                 | 0           |
| 2000                              | 33            | 19                | 57.6        |
| 2001                              | 0             | 0                 | 0           |
| 2002                              | 29            | 29                | 100         |
| 2003                              | 0             | 0                 | 0           |
| <u>2004</u>                       | <u>23</u>     | <u>20</u>         | <u>87</u>   |
| <b>Total</b>                      | <b>210</b>    | <b>114</b>        | <b>54.3</b> |

**OIG Recommendations**

1. Should it be the BCC's continued policy to support the authority of community councils to make local zoning decisions, the BCC should make it a top priority to cultivate an interest, by qualified individuals, to serve their communities as members of their community councils.
  
2. If it is determined that enough interest cannot be generated to properly fill the "elected" seats through the electoral process, the BCC may want to amend the Code to increase the number of appointed seats and then to appoint qualified individuals to fill these empty seats.

The OIG recognizes that all of the above recommendations involve important policy considerations within the sole discretion of the County Commission. At your request, these alternatives are presented solely to assure that the Commission is aware of potential options in the event it wishes to make any changes.