

Neighborhood/Community Affairs Committee Meeting
November 19, 2012

Discussion Regarding A Resolution Urging The Florida Legislature To Exempt From Public Records Disclosure Absentee Ballot Requests And Personal Information Included On Such Requests.

*Commission Item R9C, October 24, 2012
(Requested by Commissioner Weithorn)*

City Attorney's Office

ITEM #15




MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Neighborhood/Community Affairs Committee

FROM: Jose Smith, City Attorney 

DATE: November 19, 2012

SUBJECT: Discussion Regarding a Resolution Urging the Florida Legislature to Exempt from Public Records Disclosure Absentee Ballot Requests and Personal Information Included on Such Requests.

Pursuant to a referral by the City Commission of the attached Resolution at the October 24, 2012 City Commission meeting, this matter is submitted to the Neighborhood/Community Affairs Committee for its review and consideration.

The attached Resolution and Commission Memorandum from the October 24, 2012 Commission meeting set forth the State laws and administrative regulations concerning absentee voter information. As a step to curb absentee ballot fraud, the Resolution urges the Florida Legislature to exempt from public records disclosure absentee ballot requests and the personal information which is included in responses to such requests.

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MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Ms. Kathie Brooks, Interim City Manager
Mr. Rafael Granado, City Clerk

FROM: Commissioner Deede Weithorn

DATE: September 7, 2012

SUBJECT: Exempting Absentee Ballot information from the Public Record

On September 6, 2012 the Miami-Dade County Commission passed a resolution sponsored by Chairman Joe A. Martinez urging the Florida Legislature to exclude from public records information pertaining to absentee ballot requests.

Section 101.62 in the Florida Statutes requires that absentee ballot requests be "generally" maintained confidential and exempt from public disclosure. However, this section of the Florida Statutes does make absentee ballot requests available to political parties and party officials; registered political committees; committees of continuous existence; candidates who have filed qualification papers and are opposed in an upcoming election; election officials; canvassing boards; and the voter, who is only entitled to access his or her own absentee ballot request information.

Florida Administrative Code Rule 1S-2.043 requires that each absentee voter's record (available to those listed in FSS 101.62) include the voter's name, address to which the voter has requested the absentee ballot is to be sent, phone number, email address if provided, party affiliation and precinct, with certain limited exceptions such as for law enforcement. Those individuals and entities listed in FSS 101.62 can immediately learn which voters have requested an absent ballot by making public records requests for this information either to a Supervisor of Elections or to the State Division of Elections.

Given the recent cases of alleged fraud in Miami-Dade County, exempting from public disclosure absentee ballot requests and personal information included on absentee ballot requests would be an important step against enabling absentee ballot fraud.

It is Commissioner Deede Weithorn's hope that this Commission will follow the lead of the Miami-Dade County Commission in urging the Florida Legislature to exempt from public records disclosure absentee ballot requests and personal information included on absentee ballot requests.

Thank you,

Alex J. Fernández,
Commissioner Deede Weithorn's Office

We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant

Agenda Item R9c
Date 10-24-12

RESOLUTION NO. 2012-_____

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION
OF THE CITY OF MIAMI BEACH, FLORIDA, URGING THE
FLORIDA LEGISLATURE TO EXEMPT FROM PUBLIC
RECORDS DISCLOSURE ABSENTEE BALLOT REQUESTS
AND PERSONAL INFORMATION INCLUDED ON SUCH
REQUESTS.**

WHEREAS, absentee ballot requests are generally confidential and exempt from public disclosure pursuant to Section 101.62, Florida Statutes; and

WHEREAS, Section 101.62(3), however, provides that certain persons and entities may obtain and use absentee ballot requests for political purposes, including:

- * Political parties and party officials;
- * Registered political committees;
- * Committees of continuous existence;
- * Candidates who have filed qualification papers and are opposed in an upcoming election;
- * Election officials;
- * Canvassing boards; and
- * The voter, who is only entitled to access his or her own absentee ballot request information; and

WHEREAS, Section 101.62 requires each Supervisor of Elections to update and make available information on absentee ballot requests no later than 8 a.m. of each day, including weekends, beginning 60 days before the primary election until 15 days after the general election; and

WHEREAS, Section 101.62 also requires each Supervisor of Elections to transmit to the State Division of Elections absentee ballot request information on a daily basis; and

WHEREAS, Rule 1S-2.043, Florida Administrative Code, sets forth in detail the electronic format to be used for Supervisors of Elections to provide absentee ballot request information to the State Division of Elections; and

WHEREAS, Rule 1S-2.043 requires that each absentee voter's record include the voter's name, address to which the voter has requested the absentee ballot is to be sent, phone number, email address if provided, party affiliation and precinct, with certain limited exceptions such as for law enforcement; and

WHEREAS, candidates, political committees, political parties and committees of continuing existence immediately can learn which voters have requested an absent ballot by making public records requests for this information either to a Supervisor of Elections or to the State Division of Elections; and

WHEREAS, the State Division of Elections posts absentee ballot request information by county on its website, and candidates, political committees, political parties and committees of continuing existence can access such information on a daily basis once the State Division of Elections assigns them a user name and password; and

WHEREAS, candidates, political committees, political parties and committees of continuing existence then can contact voters who have made an absentee ballot request; and

WHEREAS, information on a voter's decision whether to vote by absentee ballot, by early voting, or on the day of the election should not be subject to ready access by these groups and individuals; and

WHEREAS, Miami-Dade County recently has experienced examples of alleged absentee ballot fraud and, on September 6, 2012, the Miami-Dade County Board of County Commissioners passed a Resolution urging the Florida Legislature to exempt from public disclosure absentee ballot requests and personal information included on such requests; and

WHEREAS, exempting from public disclosure absentee ballot requests and personal information included on absentee ballot requests would be an important step in curbing absentee ballot fraud.

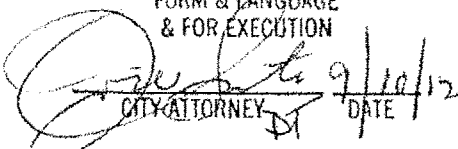
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby urge the Florida Legislature to exempt from public records disclosure absentee ballot requests and personal information included on absentee ballot requests, and further directs the City Administration to include this item in the City's 2013 State Legislative Agenda.

PASSED AND ADOPTED this ____ day of September, 2012.

ATTEST:

Matti Herrera Bower
Mayor

Rafael Granado
City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

CITY ATTORNEY DATE 9/10/12

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