


MEMORANDUM

November 15, 2006

TO: The Honorable Chair and Members of The School Board of Miami-Dade County, Florida

FROM: Rudolph F. Crew, Superintendent of Schools 

SUBJECT: WITHDRAWAL OF AGENDA ITEM F-3

AUTHORIZATION FOR THE SUPERINTENDENT TO FINALIZE NEGOTIATIONS AND EXECUTE A JOINT USE AGREEMENT WITH THE CITY OF MIAMI GARDENS FOR ALL PARK SITES AND SCHOOL SITES LOCATED WITHIN THE CITY OF MIAMI GARDENS

The attached Agenda item is being withdrawn from the November 21, 2006 Agenda to resolve outstanding issues with the City of Miami Gardens concerning implementation of the Jessica Lunsford Act.

RFC/RD:aj
M595

Attachment

cc: Superintendent's Cabinet
Ms. Ana Rijo-Conde

Office of School Facilities
Rose Diamond, Chief Facilities Officer

**SUBJECT: AUTHORIZATION FOR THE SUPERINTENDENT TO FINALIZE
NEGOTIATIONS AND EXECUTE A JOINT USE AGREEMENT
WITH THE CITY OF MIAMI GARDENS FOR ALL PARK SITES
AND SCHOOL SITES LOCATED WITHIN THE CITY OF MIAMI
GARDENS**

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

As a result of the recent incorporation of the City of Miami Gardens (City), District and City staff have been working on a Joint Use Agreement (Agreement) that would allow District use of any park site, and for the City to use recreational facilities at any school site located within the City, as mutually agreed to by the parties.

It is currently anticipated that the following park and/or school locations will be included in the Agreement, as of its commencement date:

Barbara Hawkins Elementary and Carol City Middle Schools – the City will continue to use the recreational facilities on the combined school campus as Risco Park, consisting of the school's three baseball fields (two of which are lighted), eight basketball courts, two lighted tennis courts, one small storage building, the concession/restroom building and 100 parking spaces. The City will pay its proportionate share of maintenance and utility costs.

Vista Verde Vacant School Site – the City will continue to use this future school site as a portion of the adjacent City-owned Vista Verde Park, consisting of the lighted basketball court, lighted path, restroom/shelter, and all other existing recreational amenities located on the future school site. The City will be responsible for all maintenance and utility costs.

Norland Middle School – the City will continue to use and maintain the school's baseball field as an extension of the adjacent City-owned Norwood Park.

North County Elementary School – the City will continue to use the school's field to supplement the recreational needs of the adjacent City-owned Buccaneer Park, and will pay the cost of field lighting.

Miami Carol City Senior High School/ Miami Carol City Park – the Board will continue to use the adjacent Miami Carol City Park site to supplement the recreational needs of Miami Carol City Senior High School.

**ITEM WITHDRAWN
(11/15/06)**

Miami Norland Senior High School – the Board will continue to use the adjacent North Dade Optimist Park site to supplement the recreational needs of Miami Norland Senior High School. The District will be responsible for site maintenance during its period of use.

It is recommended that the proposed Agreement be authorized under, substantially, the following terms and conditions:

- A 40 year term, with two five-year options thereafter, at the mutual agreement of the parties;
- as a condition of entering into this Agreement, certain school sites and park sites, as described above, shall be included as part of this Agreement, effective with the commencement date;
- subsequent to the commencement date, park sites or school sites may be added to this Agreement upon receipt of a written request from one party to the other. The party receiving the request shall review same, and shall have the sole authority to grant or deny the request, said approval not to be unreasonably withheld;
- other than in the event of damage or destruction, subsequent to the commencement date, individual park sites or school sites may be deleted from this Agreement upon receipt of no less than 90 days advance written notice;
- in the event park sites or school sites are added to or deleted from this Agreement, the Agreement shall be amended to reflect the revised listing of school sites and park sites, and the revised list shall remain in effect until such time as it may be further revised;
- the District will have use of the individual school sites and all parking and recreational facilities located thereon, during regular school hours on regular school days, unless otherwise agreed to by the parties. The District will have use of individual park sites during these same school hours. In addition, the District, at its sole option, shall use the school sites, or portions thereof, as required for special school events and functions, intramural sports, extracurricular athletic activities and summer school. The City shall have use of the individual school sites at all other times;
- the City will have use of the individual park sites and all parking and recreational facilities located thereon, during regular park hours, other than during the District's period of use. In addition, the City, at its sole option, shall use the park sites, or portions thereof, as required for special park events and functions;
- should either party desire use of a school or park site, or a portion thereof, during a time other than its regular period of use, it will request said use through the Park and Recreation Director and the school administrator, with a minimum of 48

hours advance notice. In addition, either party may request use of portions of school or park sites not covered by this Agreement, on an infrequent and as-needed basis, by making such a request to the Park and Recreation Director or school administrator, respectively, with a minimum of 72 hours advance notice. In the event facilities not covered by this Agreement are used, the requesting party agrees to be bound by all terms and conditions of this Agreement, including supervision and liability. Approval of said requests shall not be unreasonably withheld;

- in the event use of school or park facilities by the other party creates a cost to the property owner, beyond that which would normally be borne by that entity (e.g. paper goods, janitorial services, field lighting, staff time, etc.), the requestor agrees to reimburse the other party for same;
- either party may place the other in default. If the defaulting party fails to cure said default within 30 days of receipt of written notice, or does not provide the other with a written response within 30 days after receiving notification, indicating the status of the resolution of the violations and providing for a schedule to correct all deficiencies, the party placing the other in default shall have the right to terminate this Agreement, without penalty, upon 10 days additional written notice to the other;
- other than in the event of default, which default is not cured, this Agreement may be cancelled by either party, without penalty, with one year advance written notice to the other party;
- the City may, in addition to its own utilization of a school site, designate other not-for-profit parties to provide recreational services and programs on the site (such as a local Optimist Club), after first receiving written authorization from the District. In this eventuality, the City shall be responsible for all use, maintenance, risk management, supervision and other terms and conditions as outlined in this Agreement, as if the City were utilizing the school site, and shall require the not-for-profit party to provide it with liability insurance, naming the Board as an additional insured;
- the City may seek use of a school site, from time to time, for special City sponsored events and functions (City Events). In that event, the City is to make written application to the Board at least 45 days in advance of the proposed City Event, indicating the nature of the event, event duration, impact on the school's use of the school site and any other relevant information. The District shall respond with all due haste, and approval of such City Event shall not be unreasonably withheld. The City stipulates that it shall remove all refuse or debris generated by any City Event and shall repair all damage to the school site, and the school site shall be made safe and usable for the school prior to the District's next period of use. The City shall cause any vendors, operators or providers of services occupying the school site, to maintain a policy of General Liability Insurance from an insurance company licensed to do business in Florida and with an A.M. Best's rating of "B+" or better, with a single limit of no less than one

million dollars (\$1,000,000), without interruption during the event. A Certificate of Insurance shall be provided to the Board a minimum of ten (10) days prior to the event, and the Certificate shall name THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA as an additional insured;

- the Board and City may, at any time, construct additional recreational or educational facilities on their own sites, and shall have the right to construct additional recreational improvements on the other parties sites, at its sole cost and expense, subject to prior written approval of the other party. Responsibility for Maintenance, Utilities and for Damage or Destruction for the new improvements will be established prior to initiating any construction on the other parties land;
- other than for cause, should the Agreement be cancelled or a school site or park site be deleted from this Agreement, the deleting or canceling entity shall reimburse the other party for any capital costs expended on the deleting/canceling parties lands, as amortized over a 10 year period;
- unless specified to the contrary, the City shall keep all recreational facilities and equipment located on the park sites, and the District shall keep all recreational facilities and equipment located on the school sites, in a safe, clean and working condition at all times;
- unless otherwise agreed to by the parties, the City and the District shall each pay for the electricity, water and sewer and other utilities consumed on their respective properties;
- the Board and City each covenant and agree to indemnify, hold harmless and defend the other, from and against any and all claims, suits, actions, damages or causes of action arising from or in connection with the use and occupancy of the park and school sites during the term of this Agreement, for any personal injury, loss of life or damage to property sustained in or about the park or school sites, to the extent of the limitations included within Section 768.28, Florida Statutes;
- the Board and City each shall be in full compliance with all state and local laws, ordinances, statutes, regulatory and code requirements, including The Jessica Lunsford Act;
- in the event one or more park sites or school sites should be destroyed or so damaged by fire, windstorm or other casualty to the extent the facilities are rendered untenable or unfit for the purposes of the other party, either party may immediately discontinue such use of the impacted site on a temporary basis, by so notifying the other in writing. However, if neither party shall exercise the foregoing right to discontinue use within 45 days after the date of such damage or destruction, the property owner shall cause all recreational improvements to be repaired and placed in a safe, secure and useable condition and compatible for school and community recreational use, within 180 days from the date of said damage or destruction, or other reasonable period of time as mutually agreed to

by the parties. Should the facilities not be repaired and rendered tenantable within the aforementioned time period, then one party may, at its sole option, place the other party in default;

- notwithstanding any other provision of this Agreement, upon the termination or cancellation of the Agreement for cause, or upon the expiration of this Agreement or any extension thereof, the City and Board agree, at the other parties sole option, to remove any improvements or facilities constructed by the City on a school site or by the Board on a park site, and to restore the area to the same or better condition as existed before the commencement date of this Agreement, within 90 days of said termination, cancellation or expiration, or other reasonable period of time agreed to by the parties. In the event the Board or City elect to retain the improvements constructed on their property, the other party agrees to convey title to said improvements, without compensation due the other; and
- for purposes of this Agreement, the Superintendent of Schools or his designee shall be the party designated by the Board to grant or deny all approvals dealing with changing hours of use, authorizing use of a school site by a not-for-profit party, allowing the City to hold City Events on a school site, allowing the City to construct recreational improvements on a school site or any other issues dealing with routine operations at individual school sites, and in addition the Superintendent of Schools shall be the party designated by the Board to grant or deny all other approvals required by this Agreement, including adding or deleting individual school sites or park sites from this Agreement, or to cancel this Agreement, as provided for herein.

The Regional Superintendents for Regional Centers I and II, Associate Superintendent for School Operations, Assistant Superintendent for School Operations, Construction Officer, Maintenance Officer and Director of Advanced Planning, recommend entering into the proposed Agreement. The Agreement will be reviewed by the School Board Attorney's Office and Office of Risk and Benefits Management prior to execution.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to finalize negotiations and execute a Joint Use Agreement with the City of Miami Gardens for all park sites and school sites located within the City of Miami Gardens, under substantially the terms and conditions noted above.

ORM:scj