



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

**Supplemental
Legislative Analysis**

Board of County Commissioners

January 20, 2011
9:30 A.M.
Commission Chamber

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Commission Auditor
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**Miami-Dade County Board of County Commissioners
Office of the Commission Auditor**

**Miami-Dade County Board of County Commissioners
Meeting Agenda**

Supplemental Legislative Analysis

January 20, 2011

Written analyses and notes for the below listed items are attached for your consideration:

Item Number(s)

4D
8F1B
8K1B
12A2

These items are in addition to the items provided in the BCC agenda kit.

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 4(D)
File Number: 110085
**Committee(s)
of Reference:** Board of County Commissioners
Date of Analysis: January 18, 2011
Districts: Countywide
Type of Item: Ordinance
Sponsor: Audrey M. Edmonson

Summary

This ordinance amends sections 8A-203 and 8A-237 of the Code of Miami-Dade County; creates sections 8A-9 to 8A-9.6 of the Code of Miami-Dade County; regulates scrap metal processors and junk dealers; provides recordkeeping and inspection; prohibits any cash transactions and restricts the purchase of certain items; and applies enforcement and penalties.

The proposed ordinance states that this will apply to both the incorporated areas and unincorporated areas, and in the unincorporated areas will be enforced by the County (local law enforcement) and in the incorporated areas will be enforced by the municipalities unless the County is notified by municipalities, in the form of a resolution of the governing council or commission that it is desirous of having the County enter into an Interlocal Agreement.

- What will be the fiscal impact to the Miami-Dade Police Department for enforcing this proposed ordinance?

Background and Relevant Information

Chapter 538 *Secondhand Dealers and Secondary Metals Recyclers* of the Florida Statutes provides for the following:

- Requires secondary metals recyclers to gather more detailed information about the sellers of regulated metals and allowing that information to be stored on an electronic database.
- Expands the definition of regulated metals to include stainless steel beer kegs.
- Increases the penalty secondary metals recyclers face for repeated noncompliance with statutory requirements from a first degree misdemeanor to a third degree felony.
- Increases the penalty for sellers of regulated metals who give false information to secondary metals recyclers to second and third degree felonies based on the dollar amount received by the seller.
- Requires the Department of Revenue to release the names of any registered secondary metals recycler to a law enforcement official upon request.
- Requires all regulated metals be transported to a secondary metals recycler in a motor vehicle.
- Requires payments for all transactions in excess of \$1,000 be made by check.

Additional Information

In August 2010, the Orlando City Council adopted an ordinance (Ordinance 2010-19) which prohibits secondary metals recyclers from entering into cash transactions in excess of \$50 (rather than \$1,000, permitted by state law) with the same seller in a single day and requires any payment to a seller in excess of \$50 to be made by check and mailed to a seller's physical street address.

The Hillsborough County Commission approved an amendment (to the Hillsborough County Secondary Metals Recyclers) to electronically report all purchase transaction information to law enforcement.¹

According to the National Conference of State Legislatures, 25 states introduced scrap metal legislation in 2009. This legislation focused on increasing availability to law enforcement agencies of the records and identities of metal scrap dealers and sellers, and created penalties for metal theft and metal recyclers who purchase stolen property.

- Idaho enacted legislation that requires scrap dealers to have a record of all commercial accounts.
- Indiana enacted a bill that requires a valuable metals dealer to photograph the seller and to record the source of the valuable metal. The law also removes a provision exempting valuable metal transactions under \$100 from reporting requirements.
- Nevada enacted legislation that not only requires metal processors to maintain records of all purchases, but also requires metal purchasers to be licensed.
- Oregon enacted legislation that requires scrap metal businesses to create and maintain certain records of purchase or receipt of metal property or other transactions related to metal property.
- South Carolina law requires scrap metal purchasers to keep records. This law also prohibits unlawful purchase of nonferrous metals and makes it unlawful for a person to possess or transport specified quantities of nonferrous metals under certain circumstances.
- An Illinois law makes subject to seizure any vessel, vehicle or aircraft used in the attempt to steal or the theft of a precious metal or scrap metal.
- A new Texas law amends the Penal Code to punish as a felony theft of tubing, rod, and watergate stems valued at less than \$20,000 and consisting of at least 50 percent aluminum, bronze or copper.
- Utah law now makes a defendant liable for damages caused during the course of committing or attempting to commit theft of regulated metal; the victim also can bring civil action for damages.

Prepared by: Michael Amador-Gil

¹ April 21, 2010 BCC Meeting, Item D-2, carried six to zero.

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 8(F)1(B)
File Number: 102697
**Committee(s)
of Reference:** Board of County Commissioners
Date of Analysis: January 18, 2011

Summary

This resolution declares surplus County-owned property located West of S.W. 190 Avenue and South of S.W. 132 Street, Miami-Dade County; authorizes the sale of same to the highest bidder; authorizes the County Mayor or Mayor's designee to take all actions necessary to accomplish the sale of said property, legally described in the aforementioned County Deed; and authorizes the Mayor to execute said County Deed; and pursuant to Resolution 974-09 (a) directs the County Mayor or County Mayor's designee to record the County Deed in the public records of Miami-Dade County, and to provide a recorded copy of the County Deed to the Clerk of the Board within thirty (30) days of execution and final acceptance.

Background and Relevant Information

This item declares surplus five acres of County-owned land under the jurisdiction of the Department of Environmental Resource Management (DERM) and authorizes the sale of same to the highest bidder.

- Two independent State of Florida certified appraisers valued the 5-acre property at \$160,000 and \$185,000.
- The property is zoned GU-interim use, and is located outside of the Urban Development Boundary line.
- Considered uses: seasonal agriculture and rural residences at a density of one dwelling unit per 40 acres, or one dwelling unit per 20 acres if ancillary to an established agricultural operation, or one dwelling unit per five acres, after such time as drainage facilities become available to protect this area from a one-in-ten year flood event.

Question to DERM staff: Will the County incur any penalties from the sale of this property since it was originally acquired by the County using mitigation funds from the Wetland Trust Fund? *According to staff, there should not be any penalties. DERM acquires land using that source of funds all the time (mostly through the EEL program). In this case, DERM acquired land they thought would be needed for a Federal project that in actuality was not needed once the project scope changed and there is really no good reason for the County to continue ownership of these two (2) parcels. DERM just needs to make sure that proceeds from the sale are placed back into the Wetlands Trust Fund.*

Prepared by: Michael Amador-Gil

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 8(K)1(B)

File Number: 102804

**Committee(s)
of Reference:** Board of County Commissioners

Date of Analysis: January 14, 2011

Type of Item: Resolution Approving a Reimbursement Plan by Miami-Dade County to be Paid Back to U.S. Housing and Urban Development (U.S. HUD)

Summary

This item approves a Repayment Plan by Miami-Dade County to U.S. HUD Regarding Miami-Dade County's Community Development Block Grant (CDBG) Program in the amount of \$3,632,636. According to the Plan, the County will repay U.S. HUD by January 31, 2014.

Background and Relevant Legislation

The Department of Housing and Community Development (DHCD) monitors all activities funded through CDBG, Home Investment Partnership Program (HOME), Rental Rehabilitation (RR) and Emergency Shelter Grant (ESG). One of the previous challenges faced by Miami-Dade County (County) was the need to comply with HUD requirements.

On June 19, 2009, the U.S. HUD Office of Inspector General issued an audit citing the County for failure to report CDBG financial and program information according to federal requirements. Additionally, the audit identified that the County failed to meet national objectives and performance goals and also failed to recapture CDBG funds for cancelled activities that did not meet national objectives in its CDBG Program (U.S. HUD OIG Audit Report No. 2009-AT-1008).

Based on the results of the audit, the DHCD's detailed assessment of reporting requirements, and discussions with U.S. HUD's Miami Office, the DHCD took steps in June 2009 to improve oversight and administration of the CDBG Program.

Additional Information

The following is a list of previous Action Plans approved by the Board of County Commissioners and their respective amendments (reflecting agency recaptures and reallocations):

R-1222-07	Resolution approving the Five-Year Consolidated Plan for 2008 - 2012 including the FY 2008 funding recommendations
R-489-08	Resolution authorizing the Mayor to amend the FY 2008 Action Plan to reflect the reallocation of FY

	2000, 2002, 2003, 2004, 2005, 2006, 2007 and 2008 Community Development Block Grant Funds, in the amount of \$4,726,901.10 and HOME and HODAG funds in the amount of \$4,601,699.49
R-491-08	Resolution authorizing the Mayor to amend the FY 2007 Action Plan to reflect the reallocation of \$5,950,464 of Community Development Block Grant Funds
R-1127-08	Resolution approving the FY 2009 Action Plan funding recommendations
R-914-09	Resolution amending the FY 2009 Action Plan to reflect the reallocation of FY 2000, 2002, 2003, 2004, 2005, 2006, 2007, 2008 and 2009 Community Development Block Grant Funds, in the amount of \$4,713,093.22 and HOME and Rental Rehabilitation funds in the amounts of \$5,475,940.79
R-1284-09	Resolution approving the FY 2010 Action Plan funding recommendations
R-1285-09	Resolution amending the FY 2009 Action Plan to reflect the reallocation of FY 2002, 2003, 2004, 2005, 2006, 2007, 2008 and 2009 Community Development Block Grant Funds, in the amount of \$3,428,313.91 and HOME funds in the amount of \$500,000
R-111-10	Resolution authorizing the Mayor to amend the FY 2007, 2008, and 2009 Action Plans to reflect the reallocation of Community Development Block Grant Funds (CDBG) funds in the amount of \$555,000, and also amending the same Action Plans to include refinancing guidelines for CDBG and Home Investment Partnerships Program (HOME) affordable housing projects
R-489-10	Resolution authorizing the Mayor to amend the FY 2010 Action Plan to reflect the reallocation of FY 2008, 2009 and 2010 Community Development Block Grant Funds, in the amount of \$2,528,920 and home investment partnership funds in the amount of \$200,000
R-980-10	Resolution authorizing the Mayor or Mayor's designee to amend the FY 2010 Action Plan to reflect the allocation of FY 2010 Community Development Block Grant Funds, in the amount of \$2,770,870

Source: County Executive Office, January 7, 2011

Comments

The memorandum states that *"The payment will be made from the reserve set aside for community redevelopment studies and that staff does not anticipate the creation of any CRAs this fiscal year"*

- Will this impact the proposed expansion of the boundaries for the 7th Avenue CRA currently pending BCC approval?

Additionally, there are two proposed CRAs pending approval, the 79th Street Corridor and Goulds/Cutler Ridge.

- Will this impact the pending CRAs?

Prepared by: Mia B. Marin

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
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Legislative Notes

Agenda Item: 12(A)2

File Number: 102844

Committee(s) of Reference: Board of County Commissioners

Date of Analysis: January 18, 2011

Type of Item: Resolution Approving the Second Amendment to the Naranja Lakes Development Agreement and Settlement Agreement of the Lawsuit Between Miami-Dade County, Naranja Lakes Construction LLC and Solo Construction Corporation

Summary

This resolution recommends that the Board of County Commissioners (BCC):

- Adopt the Second Amendment to the Naranja Lakes Redevelopment Agreement; and
- Authorize the Settlement Agreement between Miami-Dade County, Naranja Lakes Construction LLC and Solo Construction Corporation in the amount of \$400,000 payable to Solo Construction.

Background and Relevant Legislation

On January 11, 2011, the Naranja Lakes Community Redevelopment Agency (CRA) Proposed FY2010-11 budget FY2010-11 was approved at the Internal Management and Fiscal Responsibility Committee meeting.

The proposed FY2010-11 budget for the Naranja Lakes CRA is \$4,328,535.

Each CRA is required to submit an annual budget to the Board of County Commissioners for approval.

The following provides the approved budget for Naranja Lakes CRA for the last three years:

Naranja Lakes CRA

Approval Date	Item Number	Fiscal Year	Resolution Number	Budget Amount
12/1/2009	092862	2009-2010	1361-09	\$6,146,744
12/2/2008	083117	2008-2009	1326-08	\$7,068,989
1/10/2008	073519	2007-2008	26-08	\$12,425,665

The Administrative Expenditures for FY2010-11 for the Naranja Lakes CRA is as follows:

CRA	Administrative Expenditures	Total Increment Revenue	Percentage of Administrative Expenditures
Naranja Lakes	\$176,000	\$944,168	18.6%

The administrative expenditures for this CRA's budget falls within the 20% cap as prescribed by each CRA in their interlocal agreements with Miami-Dade County.

The Tax Increment Financing Committee (comprised of County administrative staff to provide increment financing recommendations) reviewed the CRA budget and provided a recommendation for Board of County Commissioners' approval on November 8, 2010.

Currently, there are twelve (12) approved CRA's: 7th Avenue, City of Homestead, City of Miami Beach, City of Miami, Omni, City of Miami Midtown, City of North Miami, City of North Miami Beach, City of South Miami, Florida City, Naranja Lakes, and West Perrine.

Additionally, there is legislation seeking to declare an additional geographical area within Miami-Dade to be included in the N.W 7th Avenue Corridor Community Redevelopment Area (Legis-star item no. 102740).

Furthermore, there are two (2) proposed CRA's waiting for approval: 79th Street Corridor and Goulds/Cutler Ridge.

The CRA approval process includes the following steps:

- Adopting the Finding of Necessity (FON);
- Establish CRA Board;
- CRA Board to develop Community Redevelopment Plan (CRP);
- CRA along with the local planning advisory boards approve CRP;
- Public Hearing;
- County approval; and
- Creation of Redevelopment Trust Fund (CRATF) to facilitate the increase in real property tax revenues into the targeted area.

Second Amendment

The second amendment between Miami-Dade County, Naranja Lakes Construction LLC, and Solo Construction Corporation contains the following terms:

- Parties will attempt to negotiate new milestones and other terms for the Redevelopment Agreement;

- In the event that parties are unable to agree on a new Amended Redevelopment Agreement within 6 months, the parties shall have no obligation to pursue Phase II of the Redevelopment Agreement;
- The County, in exchange for the appropriate releases of claims and liens, will release the Letter of Credit that is currently in place for Phase I issued by Naranja Lakes in lieu of a payment and performance bond for the Project;
- Naranja Lakes CRA will not perform any work or enter into any construction contracts related to Phase II without first having provided the County with a form of security;

Solo Construction Corporation

According to the Small Business Development Violation Report, as of January 14, 2011, Solo Construction Corporation has one (1) outstanding wage violation for failure to meet CSBE Subcontractor goals. The date of the violation was on February 4, 2008 and the make-up amount is \$2,451,556.

- What is the status of the make-up amount?

On page 2 of the Second Amendment to the Redevelopment Agreement, it states:

“The CRA, County and Developer agree to attempt to renegotiate the Redevelopment Agreement in order to remove certain milestones and make certain adjustments to Phase 2. Should the parties fail to agree on a new amended Redevelopment Agreement with new milestones on or before July 1, 2011, the parties agree to delete Phase 2, and any other obligations from the Redevelopment Agreement, and to release each other from any obligations in connection with Phase 2”

- What Developer is the County/CRA going to negotiate with for Phase 2?
- If Phase 2 is deleted, what happens to funding set aside for Phase 2?

Comments and Questions

Naranja Lakes CRA

The Naranja Lakes CRA Proposed FY2010-11 Budget reflects significant total tax increment revenue (UMSA Tax Revenue and County Tax Revenue) loss from total tax increment revenues received in FY2009-10 (See below).

	FY2009-10 Actual	FY2010-11 Proposed	Percentage Change
UMSA Tax Increment Revenue (TIR)	\$563,155	\$281,487	-50.0%
County Tax Increment Revenue	\$1,362,855	\$662,681	-51.4%
Total	\$1,926,010	\$944,168	-51.0%

Source: Naranja Lakes CRA FY2010-11 Proposed Budget, Exhibit A, Tax Increment Revenues (UMSA and County).

Additional Information

The Miami-Dade FY2010-11 Adopted Budget, Volume 1, page 89, projects that the property tax roll is expected to drop an additional five percent in FY2011-12, remain flat in FY2012-13 and grow by three percent in subsequent years.

- Based on projected forecasts, how will this CRA sustain itself?
- Will the rates affect the CRA's ability to gather sufficient revenues in the future?

Prepared By:

Mia B. Marin