



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Government Operations
Committee

March 09, 2010
9:30 A.M.
Commission Chamber

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Commission Auditor
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Miami, Florida 33128
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**Miami-Dade County Board of County Commissioners
Office of the Commission Auditor**

**Legislative Notes
Government Operations Committee
Meeting Agenda**

March 09, 2010

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

Item Number(s)

| |
|-----|
| 1F6 |
| 2A |
| 2G |
| 3A |
| 3B |

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analyses prepared by:
Michael Amador-Gil, Legislative Analyst

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



Legislative Notes

Agenda Item: 1(F) 6
File Number: 100458
Committee(s) of Reference: Government Operations Committee
Date of Analysis: March 4, 2010
Type of Item: Resolution
District: Countywide

Summary

This resolution approves the application of The American Green Cross, Inc. for ten (10) Certificates of Public Convenience and Necessity to operate ten (10) wheelchair vehicles for nonemergency medical transportation service to individuals requiring this type of transportation. The company is located at 2500 N.W. 79 Avenue, Suite 237, Miami, Florida 33122.

Pending Lawsuit (Wage Theft Allegations)

A search of the company by the Office of the Commission Auditor found the following:

On January 14, 2010, a complaint was filed against the principal(s) of *The American Green Cross, Inc.* in the United States District Court Southern District of Florida for overtime wage violations.¹

According to the docket information for the case, an order was filed by the judge on March 1, 2010 setting trial and pre-trial schedule, requiring mediations and referring certain motions to the judge. All motions to amend pleadings or join parties are due by May 28, 2010. All discoveries are to be completed by September 13, 2010. The mediation is to be completed and report filed by September 24, 2010.

The President of the company is Mr. Fidel Ferreiro.

Prepared by: Michael Amador-Gil

¹ Civil Docket No. 1:10-cv-20124-CMA. This is an action brought under the Fair Labor Standards Act

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

Agenda Item: 2(A)
File Number: 093306
Committee(s) of Reference: Government Operations Committee
Date of Analysis: March 4, 2010
Type of Item: Ordinance
Prime Sponsor: Vice-Chairman Jose "Pepe" Diaz

Summary

This ordinance amends Chapter 20 Article IV and Chapter 33 Article XXXVI of the Code of Miami-Dade County as follows:

- Modifying the number of community council members from seven (7) to nine (9);
- Community Council members will be elected at large, and the Board of County Commissioners (BCC) will appoint members;
- The composition of elected and appointed members of the expanded nine-member board is left for determination by the BCC;¹
- Modify the number of community council boards to no more than four (4) versus the current configuration of ten (10);
- Each Community Council area will contain no more than six (6) subareas;
- The BCC will provide by resolution the initial boundaries of the subareas for each Community Council, may be amended from time to time, and will conform to the boundaries of the districts of the BCC;
- In the initial election of Community Council members pursuant to the revised community Council boundaries as set forth in the proposed ordinance, those members representing even-numbered subareas will serve a two-year term and those members representing odd-numbered subareas will serve a four-year term to create staggered terms; and
- If there is an insufficient number of appointed positions on a Community Council to afford to the BCC an equal number of nominees, responsibility for nominations will be determined by lottery.

According to Planning and Zoning staff, the reconfiguration of the boundaries was completed with the GIS Contiguous Commission District data.

On May 4, 2009, the County Manager, provided Vice-Chairman Diaz a report of active County Advisory Boards, Community Councils and Task Forces. The report included the number of meetings within the

¹ The original ordinance provided that all Council Members be appointed. The Government Operations Committee amended the proposed ordinance on November 9, 2009, retaining the election of Community Council members.

calendar year, percentage of quorum, funding sources, and annual cost to maintain the boards.² Since then, there has been an interest by Vice-Chairman Diaz in curbing the cost of Community Councils.

Highlights

Each member of BCC whose commission district comes within the boundaries of a Community Council (CC) area will nominate an equal number of CC members. The proposed ordinance mentions that in the event that an additional position remains on the CC after all BCC members have submitted their nominations to the BCC, the BCC member who has the responsibility for the remaining nomination will be determined by a lottery.

- The lottery scenario would apply only to Northeast CC 1, 2,3,4,5 and CC Central 10, 11.

Background and Relevant Information

Community Councils are generally understood to be groups of people that work with their local government and other public bodies to determine, coordinate, express and represent the views of the community it represents. Furthermore, CCs may consider several of the following factors when deciding on council-related matters: (1) constraints on the local economy and government budgets; (2) demands for greater government transparency and accountability; and (3) desires to involve communities (stakeholders and beneficiaries) in decisions, among many others factors.

CCs in Miami-Dade currently:

(1) make zoning and land use decisions;

(2) serve as advisory liaisons from their communities to the Board of County Commissioners (BCC) and County staff, relaying relevant information and recommendations on selected concerns of the council area; and

(3) make recommendations to the BCC on capital, programming and operational priorities for municipal services such as police, parks, fire and roadway maintenance in their area as well as relaying other concerns and needs of local residents.

CCs are comprised of six members elected by the community and one appointed by the BCC. All members must be registered voters and reside in the area that they represent.

CCs usually meet once a month to discuss zoning matters and every other month to address non-zoning issues. All meetings are advertised in the "Neighbors" section of the Miami Herald at least 7 days in advance. In addition, meeting notices are posted in the Miami-Dade County Calendar.

Legislative History

The BCC created sixteen community councils in September 1996, to serve as local Zoning Appeals Boards in the unincorporated areas of Miami-Dade County. 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 dissolved or are no longer functioning because of annexation or incorporation. 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.**

² Direct=\$7,686 and Indirect \$88,756 (average for each community council)

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.³

According to Section 33-311 of the County Code of Miami-Dade County, the purpose of zoning regulations is to provide:

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.

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 BCC 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]

Growth Management Act

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. 163.3 161(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. 163.3 161(6)]⁴

³OIG Review of Miami-Dade Community Councils Report, February 7, 2005

⁴ OIG Review of Miami-Dade Community Councils Report, February 7, 2005

The Office of the Commissioner Auditor conducted the following statewide survey to determine if other jurisdictions established a similar CC structure. The survey provides general information on the CCs membership duties and whether members are appointed or elected.

| Jurisdiction | Duties | Appointed or Elected |
|--|--|---|
| Alachua County (Local Planning Agency) | Alachua considers their LPA a CC as this body prepares the Comprehensive Plan; reviews and make recommendations on Land Development Regulations, rezoning, zoning ordinance amendments, special use permits, temporary use permits and special exceptions for the County. | Appointed by the Board of County Commissioners and one (1) appointed by the School Board. |
| Broward County (3 Neighborhood Councils) | The Neighborhood Council reviews and makes recommendation to the Broward County Commission on all proposed amendments to land use issues within their boundaries. | Elected by the Neighborhood Association members within the district boundaries. |
| Duval County (Citizens Planning Advisory Committee) | Jacksonville's more than 500 neighborhoods are divided into six (6) planning districts each with a Citizens Planning Advisory Committee or "CPAC". The primary purpose of the CPAC is to maintain open and effective communication between Jacksonville residents, businesses, neighborhoods, community organizations, educational institutions and city government. (Broad-based public involvement in planning, land use, zoning, transportation, community services, economic development, recreation, schools, police and public safety) | CPAC members are appointed by the Mayor. Members are nominated through a variety of community, civic, or government organizations located in their district. Eligibility for appointment is determined by the Director of the Housing and Neighborhoods Department. The Mayor appoints members for a two-year term. |
| Pinellas County (Local Planning Agency) | Pinellas considers the LPA their CC as their responsible for making <i>recommendations</i> to the Board of County Commissioners regarding development of, or changes to, the Comprehensive Plan. The LPA also reviews amendments to the Land Development Code (including zoning changes), and a variety of other items, to ensure that they are consistent with, and serve to implement, the Comprehensive Plan. | The LPA consists of <u>appointed</u> members selected from the community by the Board of County Commissioners. |
| Hillsborough County | Does not have a CC structure | |
| Palm Beach County | Below is a list of all of the unincorporated community groups that may provide | |

| Jurisdiction | Duties | Appointed or Elected |
|--------------|---|----------------------|
| | <p>feedback to the BCC regarding land use amendments. The groups may attend public hearings if and when an amendment is proposed in their specific area. However, these groups do not serve in an official capacity and are not a recognized group in the Palm Beach County's Comprehensive Plan.</p> <ul style="list-style-type: none"> Coalition of Boynton West Residential Associations (COBWRA is the most active group with the largest unincorporated area), Deer Run Land Owners Association, Acreage Landowners Association, Fox Trail Property Owners Association, Santa Rosa Groves Land Owners Association, Jupiter Farms Neighborhood Association, West Gun Club Road Property Owners Association, and a number of other home owners' associations. | |

Prepared by: Michael Amador-Gil

MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 2(G)
File Number: 100516
Committee(s) of Reference: Government Operations Committee
Date of Analysis: March 4, 2010
Type of Item: Resolution
Prime Sponsor: Senator Javier D. Souto

Summary

This resolution authorizes the Miami-Dade Water and Sewer Department (MDWASD) to provide a one-time lifetime billing adjustment to a quarterly single-family residential customer who disputes a bill that exceeds six (6) times the past year's average **quarterly consumption whether or not the high bill is due to a concealed leak.**

- Customers seeking an adjustment must be in good standing with the Department which is defined as not having water disconnected for nonpayment or the account placed in collection during the previous 12 months.
- The MDWASD will keep track of adjustments to ensure that a quarterly single-family residential customer only receives one lifetime adjustment.
- **The provisions of this resolution will be retroactive to billings rendered as of July 1, 2007.**
- Retroactive adjustments will be given to any quarterly single-family residential customer that received a bill that exceeds six (6) times the past year's average quarterly consumption, disputed the bill and requested an administrative hearing in which the customer did not prevail.

Legislative History

On September 21, 2004, the Board of County Commissioners, through Resolution 1164-04, adopted legislation to protect customers from expensive water bills caused by undetected water leaks. The policy authorized MDWASD to grant customers a one-time lifetime adjustment to quarterly bills. In order to qualify for any adjustment, the customer will be required to make necessary repairs to the leak(s). The difference between Resolution 1164-04 and the proposed resolution is that the proposed legislation states that a single-family residential customer will receive a onetime billing adjustment *whether or not the high bill is due to a concealed leak*. Resolution 1164-04 only allowed the customer to receive a onetime adjustment as a result of a concealed leak.

Customers may seek a 50% credit once they receive the one-time lifetime billing adjustment.

Questions

1. What is the fiscal impact to MDWASD if this item is approved?
2. How many customers would qualify for the one-time lifetime billing adjustment since 2007?
3. How many customers have taken advantage of this credit since 2004?
4. What system(s) are in place to detect customers with high water bills?

Prepared by: Michael Amador-Gil

MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 3(A)
File Number: 100427
Committee(s) of Reference: Government Operations Committee
Date of Analysis: March 4, 2010
Type of Item: Resolution
District: Countywide

Summary

This resolution approves the execution of a **Locally Funded Agreement (LFA)** between Miami-Dade County and the State of Florida Department of Transportation (FDOT) to enable the **County** to obtain raster imagery and aerial photography totaling \$869,925.95. FDOT will pay \$300,000 to share the cost of obtaining similar services mentioned above. The total cost of the project is \$1,169,925.95.

FDOT will retain a consultant to perform the raster imagery and aerial photography services. According to the LFA, the County will retain the same consultant.

Background and Relevant Information

The County has used these services in the past to provide enhanced support to 3-1-1, 9-1-1, citizens, and businesses that depend on the County's Geographic Information System. On **November 28, 2006**, the Board of County Commissioners (BCC), through Resolution 1318-06, approved a similar contract totaling \$1,199,999. On January 23, 2003, the BCC, through Resolution 69-03, approved a Joint Participation Agreement between the County and FDOT for similar services totaling \$1,127,999.77. Resolution 69-03 was revised from the original in that the service for Infrared Digital Orthophotography for mapping and geographic analysis was optional. **The total project cost was reduced by \$228,000.**

According to Enterprise Technology Services Department staff, the proposed resolution differs from Resolution 1318-06 since this year's scope of work covers a larger area to satisfy the requirements of the Office of the Property Appraiser. The project that was approved in FY 2006 covered 926 square miles. This year's project covers 1,171 square miles. All other specifications and deliverables are the same. Negotiations reduced the price by \$30,000.

The Office of the Property Appraiser utilizes high resolution photography to obtain accurate measurements, translating to a more accurate assessment roll.

Prepared by: Michael Amador-Gil

MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 3(B)
File Number: 100360
Committee(s) of Reference: Government Operations Committee
Date of Analysis: March 4, 2010
Type of Item: Resolution

Summary

This resolution approves the execution of a Settlement Agreement and Mutual Release of All Claims between Miami-Dade County and Unitech Builders Corp. (Unitech), totaling \$247,598.00 for work performed in connection with the renovation of the South Miami-Dade Dade Government Center. This settlement includes the negotiated amount for a claim in the amount of \$192,348.00, and the release of liquidated damages erroneously assessed in the amount of \$55,250.00.

On June 22, 2005, a contract award for the South Miami-Dade Government Center Americans with Disabilities Access Contract was awarded to Unitech. The Office of Americans with Disabilities Act Coordination (ADA) competitively bid this project. **The original project duration was 450 calendar days, and the Contractor was issued a Notice to Proceed (NTP) to commence work on August 1, 2005. The original substantial completion date was October 25, 2006.**

On October 12, 2006, via Resolution R-1202-06, **Change Order No. 1** was approved by the Board of County Commissioners (BCC) extending the contract time to 630 calendar days and increasing the value to \$3,372,369. This change order incorporated the County's request to increase the scope of work which included upgrading the area by creating narrower ADA compliant walkways, improving security lighting, waterproofing walls, and repairing damage to the landscaping caused by Hurricanes Katrina and Wilma in 2005.

Questions

1. Was this project originally engineered for ADA compliance?
2. Which department was responsible to ensure that the scope of work included ADA requirements?
3. Why weren't the additional issues mentioned in the accompanying background presented to the BCC earlier?

Comments

According to the Department of Small Business Development's History of Violations Report dated March 1, 2010, Unitech has an **open** violation for failure to obtain DBD approval of workforce plan by 25% project completion for **project no. AD0094** dated October 25, 2006.

Project No. AD0094 was awarded to Unitech with a 10% CWP goal which required two (2) persons be hired within the Designated Target Area. On October 15, 2006, Unitech was issued a Notice of Violation for failing to submit a CWP workforce plan. On June 22, 2007, Unitech was assessed a fine of \$1500 per required CWP position (2) or \$3,000.

During settlement negotiations with General Services Administration (GSA) staff, Unitech agreed to have GSA deduct the \$3,000 from any funds that would be payable to them through the settlement, transferable to SBD.

Prepared by: Michael Amador-Gil