



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

**Health, Public Safety & Intergovernmental
Committee**

June 11, 2009

2:00 P.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
Health, Public Safety & Intergovernmental Committee
Meeting Agenda**

June 11, 2009

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

Item Number(s)

| | |
|------|------|
| 2(B) | 2(C) |
| 2(D) | 3(B) |

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



Legislative Notes

Agenda Item: 091630
File Number: 2(B)
Committee(s) of Reference: Health, Public Safety & Intergovernmental Committee
Date of Analysis: June 10, 2009
Type of Item: Study
Prime Sponsor: Commissioner Sally A. Heyman

Summary

This resolution directs the Mayor or his designee to conduct a study as to whether cost savings can be achieved through de-criminalizing certain County Ordinance violations.

Background and Relevant Legislation

When a violation results in jail time for the offender, the Miami-Dade Corrections and Rehabilitation, Miami-Dade Police Department, the Courts, the State Attorney's Office and the Public Defender's Office may incur additional costs.

A cursory review of the Miami-Dade County Code (Code) found the following sections that currently carry a fine up to \$500 and up to 60 days in jail for violations:

- Sec. 21-21.2. Alcoholic beverages and drugs at open house parties;
- Article III. Uniform Trade Standards;
- Sec. 12-8. Payment or offers of payment to candidates for elective office;
- Sec. 26-5. County employees and officials receiving benefits at county facilities;
- Sec. 32-1. Metropolitan Miami-Dade County Water and Sewer System Regulatory Ordinance;
- Sec. 33-112. Entrance features;
- Sec. 24-1. Miami-Dade County Environmental Protection Ordinance;
- Chapter 17A. Vacant Structures Minimum Standards;
- Sec. 17-15. Remedies for enforcement; consent agreements; hindering or obstructing Minimum Housing Enforcement Officer;
- Chapter 28A. Seaport Security and Operations;
- Sec. 26A-2.1. Mosquito control;
- Sec. 26-38. Background checks required for child event workers, park vendors, and programming partner or community-based organization (CBO) employees and volunteers. Any

person who violates this provision or who knowingly or willingly provide false or erroneous information to his/her employer;

- Sec. 2-8.1. Contracts and purchases. Disclosure required of contractors and entities transacting business with Miami-Dade County;
- Sec. 7-6. Motorboat Restricted Zones;
- Sec. 8AA-1. Cable Television Regulations;
- Sec. 30B-4(2), (5), (6), (7), (9), (10), (11) and (22). Transit Agency Rules and Regulations;
- Sec. 8A-147. Check cashing services;
- Sec. 21-122. False or deceptive advertising or promotion prohibited; information required in advertisement or promotion; responsibility of producer to advise public when tickets unavailable;
- Sec. 21-7.1. Use of B-B guns and rifles by child under 16;
- Sec. 20-43. Community Councils; membership - Any person misrepresenting their residency; and
- Chapter 19. Responsible Property Owner and Merchant Act.

Prepared by: Elizabeth N. Owens

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



Legislative Notes

Agenda Item: 2(C)
File Number: 091622
Committee(s) of Reference: Health, Public Safety & Intergovernmental
Date of Analysis: June 9, 2009
Type of Item: Limited Waiver of Conflict of Interest
Sponsor: Chairman Dennis C. Moss

Summary

This resolution grants the Carrie Meek Group a limited waiver of the conflict-of-interest provisions set forth in a lobbying contract with the County.

The Carrie Meek Group, which currently serves as one of the County's federal lobbyists, is requesting the Board of County Commissioners (BCC) to waive the provisions of the lobbying contract which incorporates County-enacted policy prohibiting County lobbyists from representing any client and/or issue that may be adverse to the County without first requesting and obtaining permission from the County. In this instance, the lobbying firm represents Wackenhut Corporation, the defendant of the County's false claim lawsuit. Therefore, the lobbying firm is seeking a limited conflict waiver which would allow the firm to represent, on a limited basis, its client Wackenhut whose interests are adverse to the County and concurrently maintain representation of the County as a lobbyist.

Background and Relevant Legislation

On May 9, 2006, the BCC approved an addendum to an existing agreement with the pool of law firms designated to represent the county's interest before the legislative and executive branches of federal government. The addendum added the Carrie Meek Group as an additional federal lobbyist based on the congressional experience of key personnel regarding federal appropriations.

As a county lobbyist, the firm is required to comply with the provisions of the County's Conflict-of-Interest ordinances and resolutions. The County-enacted policy requires County lobbyists to seek BCC approval to conduct specific lobbying activity which may conflict with county's interest. In such instances the BCC, in its discretion, may take any action regarding a waiver request, including but not limited to the following: (1) grant a waiver and allow the lobbyist, to continue to represent both the County and the other party; (2) refuse to grant a waiver and require the lobbyist to choose between representing the County or the other party, or to discontinue representing the other party; (3) refuse to

grant a waiver and void its contract with the lobbyist; (4) grant a limited waiver and allow the lobbyist to continue to represent both the County and the other party under whatever limitations or restrictions the County, in its discretion, determines to be appropriate.

In this case, the Carrie Meek group is seeking a limited waiver which will allow the firm to receive compensation from the County for lobbying on behalf of the County and simultaneously represent Wackenhut before the County Commission. Presently, the County is seeking compensation from Wackenhut for overbilling and submitting fraudulent invoices regarding security guard services. The County's audit department has recommended that the County refrain from doing further business with the company in light of the company's failure to acknowledge its malfeasance. In addition, the County is supporting a qui tam action (whistleblower lawsuit) filed against Wackenhut by a former company employee. Therefore, representation of the company before the BCC on security guard services would be adverse to the County's position.

Policy Change and Implication

Granting a limited waiver would be consistent with prior action taken by the BCC provided the waiver delineates the specific adverse lobbying activities which will not be waived. Under R-249-03, the BCC granted the below listed County lobbying firms a limited waiver of the conflict-of-interest proscriptions.

Lobbying firm: Ronald L. Book, P.A.
Client: Neptune Fireworks
Lobbying firm: Pennington, Moor, Wilkinson, Bell & Dunbar, P.A.
Client: B.J. Alan Companies, a fireworks retailer
Recommendation: Grant a limited waiver allowing the lobbying firms generally to represent both the County and the fireworks companies, but prohibit the firms from working against the County and on behalf of the fireworks companies regarding fire permit issues.

Lobbying firm: Ronald L. Book, P.A.
Client: The City of North Miami Beach
Recommendation: Grant a limited waiver allowing the lobbying firm generally to represent both the County and the City of North Miami Beach, but prohibit the firm from working on behalf of the city and against the County on legislation allowing cities to charge a surcharge to water and sewer customers located outside a city's boundaries.

Lobbyist firm: Pennington, Moore, Wilkinson, Bell & Dunbar, P.A.
Client: City of Clearwater
Lobbying firm: Gomez Barker & Associates
Client: Cities of Miami Beach; Coral Gables; South Miami; and West Miami
Lobbying firm: Rutledge, Ecenia, Purnell & Hoffman, P.A.
Client; City of Miami Beach
Recommendation: Grant a limited waiver allowing the lobbying firms generally to represent both the County and the various cities, but prohibit the firms from working against the County and on behalf of the cities which would advocate diverting to cities traffic revenue that the County normally receives.

Lobbying firm: Ronal L. Book, P.A.
Client: The Miccosukee Tribe of Indians of Florida
Recommendation: Grant a limited waiver allowing the lobbying firm to represent both the County and the Tribe, but prohibit the firm from working against the County on behalf of the Tribe to the extent the Tribe's legislative goals conflict with the County's position on County versus Tribal jurisdiction over criminal laws.

Lobbying firm: Pennington, More, Wilkinson, Bell & Dunbar, P.A.
Client: The City of Ormond Beach; the City of South Daytona
Recommendation: Grant a limited waiver allowing the lobbying firm to represent both the County and cities, but prohibit the firm from working against the County on behalf of the cities regarding a constitutional amendment to freeze the property tax assessments of senior citizens below certain income thresholds.

Lobbying firm: Pennington, Moore, Wilkinson, Bell & Dunbar, P.A.
Client: Florida Statutory Teaching Hospital Council
Recommendation: Granting limited waiver allowing the lobbying firm to represent both the County and the Teaching Hospital Council, but prohibit the firm from working against the County on behalf of the Council on any particular adverse issue that may arise.

Lobbying firm: Rutledge, Ecenia, Purnell & Hoffman, P.A.
Client: T-Mobile, a wireless telecommunication company
Recommendation: Grant a limited waiver allowing the lobbying firm to represent both the County and T-Mobile, but prohibit the firm from working against the County on behalf of T-Mobile on the placement of cellular telephone antennas.

Budgetary Impact

There will be little if any budgetary impact if the proposed waiver resolution is passed.

Prepared By: Lauren Young-Allen

**MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 2(D)
File Number: 091075
Committee(s) of Reference: Health, Public Safety & Intergovernmental Committee
Date of Analysis: June 10, 2009
Type of Item: Building Code and Unsafe Structures
Prime Sponsor: Senator Javier D. Souto

Summary

This ordinance creates a section of the Code of Miami-Dade County (Code), establishing guidelines for the classification of structures identified as being used for the production or manufacturing of illegal narcotics or drugs as an unsafe structure.

Background and Relevant Legislation

Marijuana Grow Houses

In 2007, the reported seizures of marijuana from Indoor Grow Eradication sites continued to outpace the seizures from Outdoor Grow Eradication sites. Law enforcement detected marijuana grow houses in 45 of Florida's 67 counties, ranking Florida second only to California in the amount of grow houses. Many marijuana growers have moved from rural fields to sophisticated growing operations in the suburbs of Florida. This cultivation shift has been accompanied by new techniques to vastly increase the drug's potency. This extremely potent form of marijuana contains up to 15 times the amount of THC, the addictive chemical found in marijuana, than marijuana common 20 years ago. Grow house marijuana has a street value of \$4,000 - \$6,000 per pound and can be traded pound for pound for cocaine.

There were 944 marijuana grow houses found in Florida in 2007, housing 74,698 plants. It was twice the number reported by law enforcement agencies in 2006. These figures do not include 22 counties that did not report their grow house statistics to the Florida Department of Law enforcement.

At 26,019, Miami-Dade County reported the most plants seized and destroyed.
(Source: 2007 Indoor Grow Report (February 2008). Florida Department of Law Enforcement)

Marijuana Grow House Eradication Act (Act)

Adopted by the State Legislature July 1, 2008, this Act enhances penalties for people who grow marijuana in homes throughout the state. It makes it a second-degree felony to grow 25 or more plants,

targeting for-profit growers who exploit Florida's current threshold of 300 plants and the federal limit of 100 plants to avoid prison time. The legislation also makes it a third-degree felony to own a house for the purpose of cultivating, packaging and distributing marijuana and a first-degree felony to grow 25 or more plants in a home with children present. Additionally, the legislation creates a new penalty against those who own a house for the purpose of cultivating marijuana, as well as a new penalty for those who live in or are the caretakers of marijuana grow houses. Furthermore, this Act addresses the requirement to store cumbersome grow house equipment in order to preserve it as evidence by allowing a photograph or video recording of the equipment to be considered as evidence in the prosecution of the crime. (Source: Attorney General Bill McCollum News Release; May 1, 2008)

Methamphetamine (Meth) Labs

In 2008, there were a rash of small mom and pop drug lab busts in South Florida, causing alarm for the surge of Meth Labs in Florida. Pharmacies now require products containing pseudoephedrine or ephedrine to be placed behind pharmacy counters, limiting the amount that could be purchased and requires buyers to show photo identification. (Source: nbc6.net - July 8, 2008)

According to the U.S. Drug Enforcement Administration, Missouri led the nation in meth lab incidents with Mississippi and Michigan following second and third respectively. Concerns regarding these labs include the toxic mix of chemicals and potential fires.

Local Jurisdictions and Enforcement Initiatives

Local jurisdictions in Canada seem to be on the forefront of adopting enforcement initiatives as a means to deter people from setting up Marijuana Grow Houses (known as Marijuana Grow Operations or Grow Ops in Canada), for example:

- In 2002, Niagara Regional Police partnered with the region Fire Services and Municipal Building inspectors to enforce building, natural gas, and electrical code infractions. As of January 1, 2009, the addresses of all Marijuana Grow Operations that were dismantled under the authority of a search warrant are published in an effort to protect future occupants or purchasers of those properties;
- Ontario's Law Enforcement and Forfeited Property Management Statute Law Amendment Act, 2005 allows for a maximum penalty for infractions up to \$50,000 for individuals maintaining a grow house, in addition to requiring that a building is inspected if the local municipality is notified by police that the building houses a grow house.

Comments

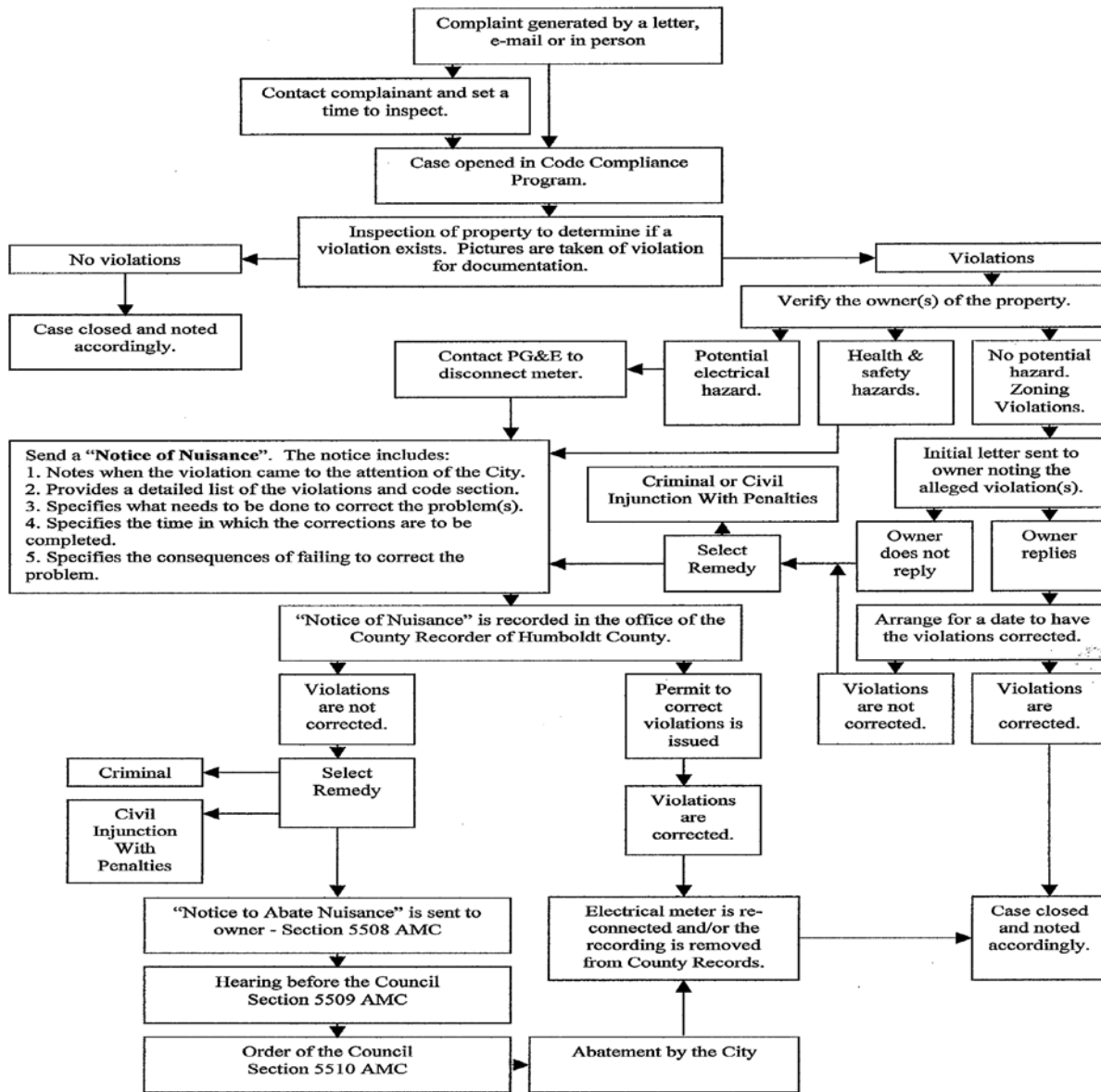
The proposed ordinance does not prohibit or require law enforcement / drug enforcement officers to be present when the building inspector or any other county official inspects the structure or conducts the electrical, plumbing, mold and/or structural engineer inspection on the site. In light of the links to criminal elements and organized crime, the County may want to provide law enforcement during certain inspections when safety may be an issue.

Budgetary Impact

According to the County Manager's memo, there is an estimated impact of \$17,500 for programming modifications to the current Unsafe Structures automated enforcement system. The modifications to the system are needed to separately track these cases which have different timelines.

The following is Arcata, California's flowchart displaying the Code Compliance process for Marijuana Grow Houses.

Code Compliance - Sequence For Illegal Marijuana Grow Houses Based on Arcata Municipal Code



(Source: City of Arcata Municipal Code)

Prepared by: Elizabeth N. Owens

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Legislative Notes

Agenda Item: 3(B)
File Number: 091649
Committee(s) of Reference: Health, Public Safety & Intergovernmental
Date of Analysis: June 9, 2009
Type of Item: Hurricane Shelter Agreement
Sponsor/ Requester: Dept. of Emergency Management & Homeland Security

Summary

This resolution authorizes the County Mayor to execute a 10-year agreement with the County School Board to use school facilities as evacuation centers in the event of a hurricane, tropical storm, flooding, severe weather events, environmental hazards, or declared emergencies (such as riots or mass immigration) that cause numbers of residents to be displaced from their homes.

Under the agreement, (1) the School Board will provide and designate which evacuation centers will accommodate the general population, pets, special needs persons or first responders' families; (2) the County and the School Board both will agree to hold each other harmless and to indemnify each other against personal injuries or property damage that may occur from the use of the facilities subject to the limitations of state law governing sovereign immunity; and (3) the County will reimburse the School Board for staff wages and emergency meals not covered by FEMA, and for missing, damaged or stolen items following the use of the facilities.

The term of the 10-year agreement is to begin June 1, 2009. The Board of County Commissioners' (BCC) authorization, if granted, would be retroactive to June 1st which coincides with the beginning of hurricane season.

Policy Change and Implication

Historically, the County has used schools as emergency evacuation shelters under a verbal agreement with the School Board. This resolution establishes formal written policies and procedures for using public school facilities as shelters. The proposed agreement expressly incorporates the terms and conditions for using school facilities as shelters, and each party's respective liabilities and duties. Essentially, the resolution establishes a formal process encompassing factors routinely considered in the decision-making process which evolved through experience and practice.

Budgetary Impact

The proposed pending agreement does not specify a dollar amount to be appropriated in a reserve account which will be allocated when necessary for emergency shelter expenditures, nor the allocation formula that FEMA may use to reimburse covered costs. Therefore, the item does not address standards for reimbursing the School Board for staff wages and emergency meals in instances when the County's emergency reserves will only fund a portion of the total ultimately needed as a result of extraordinary natural or man-made disasters.

For instance, for Fiscal Years ending in 2004 and 2005, which constituted a 2-year period in which the County faced multiple hurricanes, the County issued supplemental emergency appropriations from the General Fund to reflect the extraordinary or unplanned events which occurred after the budgets were adopted. The Adopted FY Budget Ordinance for those years were adjusted to reflect actual year-end expenditure which, in those instances, totaled millions of dollars above the budgeted amount. Because the County was exposed to higher than anticipated emergency funding, the County was required to issue supplemental appropriations to comply with the County Charter which requires supplementals when expenditures exceed budgeted appropriations.

Given the current budget constraints, the County should consider incorporating procedures and policies which addresses dramatic increases in expenditures related to evacuation shelters which will not be offset by federal recovery funding.

Prepared By: Lauren Young-Allen