

Memorandum



(Public Hearing 11-30-04)

Date: October 19, 2004

Agenda Item No. 4(AA)

To: Honorable Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

A handwritten signature in black ink, appearing to read "Burgess", written over the printed name of George M. Burgess.

Subject: Ordinance Amending Ordinance No. 99-73 related to Underwriting Pool

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) enact the accompanying Ordinance which amends Chapter 2, Article I, Section 2-10.6 of the Code of Miami-Dade County, Florida ("Section 2-10.6"). The amendments provide for new provisions for suspension or removal of firms from the Underwriting Pool as well as add a representative from the Transit Department to the Manager's Finance Committee (MFC).

BACKGROUND

On June 22, 1999, the Board enacted Ordinance No. 99-73 providing, among other things, that:

- All general obligation, special obligation, and revenue bonds of the County be sold at a public sale by competitive sale, unless waived upon the recommendations of the County Manager and financial advisors with a majority vote of the Board or upon the two thirds vote of the Board, provided that in each case specific findings in favor of the waiver are set forth in writing.
- Reestablished the MFC whose members include a representative from each of the following departments: The County Manager's Office, the Water & Sewer Department, the Aviation Department, the Department of Solid Waste Management, the Seaport Department, and the Office of Strategic Business Management (formerly, the Office of Management and Budget). The MFC assigns firms to negotiated bond transactions.
- Created a new Underwriting Pool divided into two divisions: One division for firms with a minimum of \$250,000 of "capital before haircuts". Capital before haircuts is defined in the Securities Exchange Commission's Focus Report, Form II, Line 3640, filed by underwriters, as net unencumbered capital available for municipal transactions. The second division of the Underwriting Pool is for firms with more than \$5,000,000 of "capital before haircuts".

The amendments to Ordinance No. 99-73 recommended at this time include:

- The addition of a representative of the Transit Department to the MFC

- New provisions for suspension or removal of firms from the Underwriting Pool.

Suspension or Removal of firms from the Underwriting Pool:

Underwriting firms may be suspended or removed from the Pool upon the written recommendation of the MFC to the County Manager, who will then consider the MFC's recommendation before submitting his/her recommendation to the Board.

1. The MFC, the County Manager or the Board shall consider, among other factors, the following in evaluating whether an underwriting firm shall be suspended or removed from the Underwriting Pool:
 - a. Any investigation whether threatened, pending or resolved by any Federal or state authority, including the State of Florida, concerning an underwriting firm's public finance related activities, particularly any Miami-Dade transactions, as evidenced by receipt of a Wells Letter or notice of a Wells Letter received by the firm with respect to a Federal investigation and/or receipt or notice of an investigation from any state, including the State of Florida; or
 - b. Any civil or criminal litigation involving the firm or any of its principals relating to activities as underwriters.
2. An underwriting firm shall be automatically removed from the Underwriting Pool if the underwriting firm:
 - a. Ceases operations due to bankruptcy; or
 - b. Terminates underwriting operation activities.


Assistant County Manager



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: November 30, 2004

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(AA)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor

Agenda Item No. 4(AA)

Veto _____

11-30-04

Override _____

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 2, ARTICLE I, SECTION 2.10-6 OF MIAMI-DADE COUNTY CODE RELATING TO UNDERWRITING POOL TO ADD REPRESENTATIVE FROM TRANSIT DEPARTMENT TO MANAGER’S FINANCE COMMITTEE AND TO INCLUDE NEW PROVISIONS FOR SUSPENSION OR REMOVAL OF FIRMS FROM UNDERWRITING POOL; PROVIDING FOR INCLUSION IN THE CODE AND EFFECTIVE DATE

WHEREAS, Chapter 2, Article I, Section 2.10-6 of the Code of Miami-Dade County, Florida provides regulations and provisions for the sale of municipal bonds, the establishment of the Manager’s Finance Committee, and the establishment of an underwriting pool; and

WHEREAS, this Board desires to accomplish the purposes outlined in the County Manager’s memorandum,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA, that:

Section 1. Chapter 2, Article I, Section 2.10-6 of the Code of Miami-Dade County, Florida, is amended to read as follows:¹

(4) *Manager’s Finance Committee.*

(a) The Manager’s Finance Committee (“MFC”) is hereby established and shall be comprised of a representative of the County Manager’s Office, the Water & Sewer Department,

¹Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

the Aviation Department, the Department of Solid Waste Management, the Seaport Department, the >>Transit Department,<< and the Office of >>Strategic Business<< Management ~~[[and Budget]]~~ and two (2) members from the public sector and one (1) member from the private sector to be selected by the County Manager, all of whom shall be familiar with corporate or municipal public finance. The representative of the County Manager's Office shall serve as voting Co-Chairperson and the Finance Director shall serve as a non-voting Co-Chairperson.

(6) *Underwriting Pool.*

>>(f) Underwriting firms may be suspended or removed from the Pool upon the written recommendation of the MFC to the County Manager, who will then consider the MFC's recommendation before submitting his/her recommendation to the Board. The County Manager shall not be bound by the MFC's recommendation and may recommend to the Board the suspension or removal of an underwriting firm from the Pool without a recommendation from the MFC. Final decisions reside with the Board, which may also suspend or remove an underwriting firm without a recommendation from the MFC or the County Manager.

(g) The MFC, County Manager or the Board shall consider, among other factors, the following in evaluating whether an underwriting firm shall be suspended or removed from the Underwriting Pool:

(1) Any investigation whether threatened, pending or resolved by any Federal or state authority, including the State of Florida, concerning an underwriting firm's public finance related activities, particularly any Miami-Dade transactions, as evidenced by receipt of a Wells Letter or notice of a Wells Letter received by the firm with respect to a Federal investigation and/or receipt or notice of an investigation from any state, including the State of Florida; or

(2) Any civil or criminal litigation involving the firm or any of its principals relating to activities as underwriters.

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(h) An underwriting firm shall be automatically removed from the Underwriting

Pool if the underwriting firm:

- (1) Ceases operations due to bankruptcy; or
- (2) Terminates underwriting operation activities.<<

Section 2. Invalidity. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

Section 3. Insertion in County Code. It is the intention of the Board that the provisions of this Ordinance shall become and be made a part of the County Code. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "Ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. Effective Date. This Ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to
form and legal sufficiency:

RAC

Prepared by:

GTH

Gerald T. Heffernan