MEMORANDUM

Substitute
Agenda Item No. 7(B)

(Second Reading 03-21-06)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: November 3, 2005

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Ordinance requiring emergency response plan from gas stations during a local state of emergency

The accompanying ordinance was prepared and placed on the agenda at the request of Chairman Joe A. Martinez, Commissioner Jose "Pepe" Diaz, Commissioner Audrey M. Edmonson, Commissioner Carlos A. Gimenez, Commissioner Sally A. Heyman, Commissioner Barbara J. Jordan, Commissioner Dennis C. Moss, Commissioner Dorrin D. Rolle, Commissioner Rebeca Sosa and Senator Javier D. Souto.

The substitute differs from the original proposal in that it requires the County Manager to propose an administrative order within 90 days that: (a) establishes a grant or loan program to assist qualified applicants in defraying the costs of implementing the ordinance requirements, with recommendations on funding sources and (b) provides for inspection and review standards including provisions for providing expedited post-disaster inspections.

MAG/bw

Murray A. Greenberg
County Attorney

Memorandum

MIAMI-DADE COUNTY

Date: March 21, 2006

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance Amending Chapters 8B and 8CC of the Code of Miami-Dade County Requiring Emergency Response Plan from Gas Stations Located in the Incorporated and Unincorporated Areas for the Provision of Fuel during a Local State of Emergency

---

The proposed ordinance amending Chapters 8B and 8CC of the Code of Miami-Dade County requiring emergency response plan from gas stations located in the incorporated and unincorporated areas for the provision of fuel during a local state of emergency may have a fiscal impact to Miami-Dade County.

In order to implement this plan, the Office of Emergency Management may require additional resources to receive, review, and inspect all Emergency Response Plans submitted from gas stations. In addition, as part of the approval process, inspection of gas stations would be required periodically to make sure that plans submitted are adequate and maintained throughout the five-year year plan period as outlined in the ordinance. Additionally, gas stations would be required to create and implement a plan no later than June 1, 2006 that provides for uninterrupted operation of all fuel pumps within 24 hours following the declaration of a local state of emergency.

The number of businesses that will be impacted and consequently reviewed and monitored is difficult to estimate at this time. If the ordinance is adopted, the department will work with the County Manger's Office and the Office of Strategic Business Management to assess the need for additional resources.

Assistant County Manager

fiscal00406

MEMORANDUM
(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: March 21, 2006

FROM: Murray A. Greenberg County Attorney

SUBJECT: Substitute Agenda Item No. 7(B)

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
Veto _____
Override _____

Substitute
Agenda Item No. 7(B)
3-21-06

ORDINANCE NO. _____

ORDINANCE REQUIRING EMERGENCY RESPONSE PLAN FROM GAS STATIONS LOCATED IN THE INCORPORATED AND UNINCORPORATED AREAS FOR THE PROVISION OF FUEL DURING A LOCAL STATE OF EMERGENCY; PROVIDING FOR MINIMUM CONTENTS OF THE PLAN INCLUDING THE REQUIREMENT OF THE UNINTERRUPTED SUPPLY OF POWER; PROVIDING FOR APPROVAL BY THE DIRECTOR OF THE OFFICE OF EMERGENCY MANAGEMENT; PROVIDING FOR EXEMPTIONS FOR LIMITED PERIODS; ESTABLISHING PENALTIES AND ENFORCEMENT PROCEDURES, AMENDING CHAPTERS 8B AND 8CC OF THE CODE, PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, Hurricane Wilma made landfall in South Florida in the morning hours of October 24, 2005; and

WHEREAS, the hurricane created a serious crisis throughout the region involving the shortage of fuel; and

WHEREAS, fuel is an indispensable commodity, necessary for the transportation and emergency electrical power to serve hurricane victims and rescue and law enforcement personnel; and

WHEREAS, the shortage was the result of a power shortage which rendered inoperable a very large percentage of the gas stations in the region; and

WHEREAS the protection of this community requires that this situation not be repeated and these gas stations provide for an uninterrupted supply of alternate power sufficient to operate the pumps during times of emergency need; and

WHEREAS the Office of Emergency Management through its Director has been charged with the responsibility of performing emergency management functions within the territorial limit of Miami-Dade County; and

WHEREAS the coordinated planning of these efforts on a County-wide basis is in the best interest of the citizens of incorporated and unincorporated Miami-Dade County; and

WHEREAS these measures are essential to the protection of the safety of our community in the event of emergency conditions created by the recently experienced more active hurricane seasons, among others,

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

Section 1. Chapter 8B of the Code of Miami-Dade County is hereby amended by the addition of the following new section:

CHAPTER 8B - EMERGENCY MANAGEMENT

* * *

Sec. 8B-16 Planning related to gas stations.

1. This Section shall apply to gas stations located within incorporated or unincorporated Miami-Dade County. Gas station shall be defined in Section 33-1 (51) of this Code.

2. Gas stations are required to create and implement a plan in place to provide for the uninterrupted operation of all fuel pumps within twenty-four hours following the declaration of a local state of emergency pursuant to this Chapter (the "Gas Station Emergency Plan").

3. The Gas Station Emergency Plan shall document the gas station's ability to provide uninterrupted services not later than June 1, 2006 and shall provide, at a minimum:

(a) An alternate source of power to operate the pumps during periods of electrical outage (the "Alternate Source"). The Alternate Source shall be sufficient to operate all pumps during normal business hours and may involve one or more temporary or permanent fuel operated generators.

(b) In the event that the Alternate Source requires the installation of permanent equipment, a schedule showing the purchase or lease of the equipment and providing installation not later than June 1, 2006.

(c) In the event that the Alternate Source requires construction or otherwise the obtaining of a building permit, a schedule for obtaining a permit not later than March 1, 2006 and a certificate of occupancy not later than June 1, 2006.

(d) In the event that the Alternate Source requires the delivery of generators from off-site facilities, evidence of the availability of such generators to the gas station, and for delivery to the site of those generators in reasonably foreseeable disaster conditions.

(e) A maintenance plan for any and all equipment related to the Alternate Source.

(f) Plans for the recall of gas station personnel essential to the task of dispensing essential fuel supplies.

(g) Identification of the owner, manager or person having operational control of the gas station and, if different, emergency contact personnel charged with implementing the Plan.

4. Each owner of a gas station shall deliver the required Gas Station Emergency Plan to the Director not later than February 1, 2006. For gas stations which are not in possession of a certificate of use and occupancy as of the effective date of this Section, the required Gas Station Emergency Plan shall be delivered to the Director not later than 90 days following the date of such certificate and shall provide for implementation within 180 days of submission of the plan.

5. The Director shall review each Gas Station Emergency Plan to determine in his or her discretion whether such plan complies with the requirement of this ordinance and otherwise provides for the protection of public safety by allowing for the distribution of fuel during disaster conditions.

6. The Director shall reject any Gas Station Emergency Plan within thirty (30) days of its submission by notifying the person identified in the plan. The Director shall wherever possible identify the reasons for rejection and provide an opportunity to cure. Failure to notify a rejection shall be deemed approval of the plan.

7. Gas stations shall at all times abide by the provisions of the approved Gas Station Emergency Plan, including any and all deadlines set forth in the approved schedule. The Gas Station Emergency Plan shall be in effect for a period of five (5) years and shall be binding on all subsequent owners and operators of the gas station. A new Emergency Gas Station Plan shall be submitted for approval not later than sixty (60) days prior to the expiration of the plan in effect.

8. In the event of any material change with respect to any of the provisions of the Gas Station Emergency Plan the revisions shall be communicated to the Director in writing, for the Director's approval, wherever possible in advance of the proposed change and in no event later than sixty (60) days following the adoption of the change.

9. Failure to abide by the provisions of this Section shall be punishable by civil fine in the manner established by Chapter 8CC of this Code, with each day of violation constituting a separate offense. The provisions of this Chapter shall also be enforceable through injunctive relief as a means of protection of the public interest through the exercise of the County's police power, and through any other means available at law. To insure compliance, an inspection process and review standards, including provisions for providing expedited post-disaster inspections, shall be set forth in an administrative order to be considered for adoption by this Board within ninety (90) days from the effective date of this ordinance

10. The Director shall be entitled, in his or her discretion, to exempt a gas station from the requirements of this Section based upon criteria to be applied uniformly and approved by resolution of this Board. The criteria may include size, volume and location of the gas station. The County Manager shall make recommendations to this Board for a grant, low interest or interest free program to defray the additional costs of implementing this program by qualified recipients. The recommendation shall identify funding including any available from the State of Florida, FEMA or other federal sources. The criteria for exemption and the recommendations required in this subsection shall be set forth in an administrative order to be considered for adoption by this Board within ninety (90) days from the effective date of this ordinance.

11. This Section shall preempt and supersede any inconsistent municipal ordinance to the same effect.

12. Nothing in this Section shall be interpreted to curtail, impede or otherwise affect the discretionary authority of the County in the exercise of its police power, administrative or regulatory functions

Section 2. Chapter 8CC of the Code of Miami Dade County is hereby amended as follows:[1]

Chapter 8CC

CODE ENFORCEMENT

* * *

Sec. 8CC-10. Schedule of civil penalties.

* * *

Code Section	Description of Violation	Civil Penalty
>>8B-16	Failure to file or abide by Gas Station Emergency Plan	$500.00<<

Section 3. 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 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

[1] Words 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.

Section 5. 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:

Prepared by:

Hugo Benitez

Sponsored by Chairman Joe A. Martinez,
Commissioner Jose "Pepe" Diaz,
Commissioner Audrey M. Edmonson,
Commissioner Carlos A. Gimenez,
Commissioner Sally A. Heyman,
Commissioner Barbara J. Jordan,
Commissioner Dennis C. Moss,
Commissioner Dorrin D. Rolle,
Commissioner Rebeca Sosa and
and Sen. Javier A. Souto