# MEMORANDUM

Agenda Item No. 7(I)

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| **TO:** | Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners | **DATE:** | May 3, 2011 |
| **FROM:** | R. A. Cuevas, Jr. County Attorney | **SUBJECT:** | Ordinance amending Chapter 25A of the Code relating to committee deliberations, funding of foundations and non-profit entities |

**This ordinance was amended by the Public Safety and Healthcare Administration Committee to include a provision prohibiting overtime charges to the Public Health Trust for meetings held in Chambers.**

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.

R. A. Cuevas, Jr.
County Attorney

RAC/up

# Memorandum

MIAMI-DADE COUNTY

**Date:** May 3, 2011

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

**From:** George M. Burgess
County Manager

**Subject:** Ordinance amending Chapter 25A of the Code of Miami-Dade County, Florida

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The proposed ordinance amending Chapter 25A provides that no item shall be placed on an agenda of a regular meeting of the Board of Trustees unless the item has been considered by a committee, provides that funding to foundations or not-for-profit entities be made based on a cost reimbursement methodology, and requires that budget approval hearings must be made public, and held in the chambers. There is no charge for use of the Chambers during business hours if the meeting is mandated by the Board of County Commissioners. However, meetings that either start or continue past 4:30 p.m. will incur overtime cost for two to three individuals, which would be billed to the PHT. Overtime rates vary from $50 per hour to $64 per hour depending on the individual assigned. Therefore there is no fiscal impact to the County.

Alina T. Hudak
Assistant County Manager

Fis 2211

# MEMORANDUM

(Revised)

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

DATE: May 3, 2011

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 7(I)

**Please note any items checked.**

_____ **"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**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____ ) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(I)
5-3-11

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 25A OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA RELATING TO COMMITTEE DELIBERATIONS, FUNDING OF FOUNDATIONS AND NON-PROFIT ENTITIES, APPROVAL OF BUDGET REQUESTS AND SUBMISSION OF REPORTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Section 25A-3 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

**Sec. 25A-3. Governing body.**

* * *

(f) Organization, powers and duties of the Board of Trustees. The Board of Trustees shall organize after the members thereof have qualified to serve and shall elect one (1) of its voting members as Chairperson and one (1) of its voting members as Vice-Chairperson and shall designate a Secretary who may or may not be a member of the Board, and such other officers as the Board of Trustees may determine to be necessary. >>In addition:<<

>>(1)<< The Board of Trustees shall hold regular meetings in accordance with the bylaws of the Trust and the Board may hold such other meetings as it deems necessary. The Trust shall hold and televise regular meetings of the Board of Trustees in Commission chambers. The regular

[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.

meetings shall not conflict with the meeting schedule for the Board of County Commissioners or its committees. At the discretion of the Trust, other meetings may be held and televised in the Commission chambers. The Trust shall request use of Commission chambers for regular or other meetings of the Board of Trustees through the Chairperson of the Board of County Commissioners. The Chairperson of the Board of County Commissioners shall have final authority to approve the scheduling of such regular or other meetings of the Board of Trustees in the Commission chambers. >>If any regular, special or other meeting of the Board of Trustees held in Commission chambers shall commence or continue past regular working hours of County staff whereby overtime charges or other expenses are incurred, then the Trust shall not be charged, billed or obligated to pay or reimburse the County for any such overtime charges or other expenses.<<[2] Except as provided by law, all meetings of the Board shall be public and audio recorded and written minutes of the proceedings thereof shall be maintained by he Office of Internal Audit, as such term is hereafter defined. All actions taken at the meetings of the Board shall be promptly and properly recorded. Copies of all minutes and resolutions of the Board shall be forwarded to the Clerk of the Board of County Commissioners no later than then (10) days subsequent to any meeting of the Board of Trustees.

>>(2)<< In exercising the powers and carrying out the duties otherwise provided by this chapter, the Board of Trustees shall have the powers, duties, and responsibilities customarily vested in Trustees and, to the extent not in conflict therewith, shall also have the powers, duties and responsibilities customarily vested in the Board of Directors of a private corporation.

>>(3) As governing body of the Trust, the Board of Trustees shall exercise supervisory control over the operation, maintenance, and governance of all designated facilities and of all functions and activities taking place in connection with the operation of designated facilities.

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[2] Committee amendments are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

(4)<< The Board of Trustees shall make, adopt and amend bylaws and rules and regulations for the Board's governance and for the operation, governance, and maintenance of designated facilities. Such bylaws and amendments thereto shall not be valid until approved by the Board of County Commissioners and shall not, without, approval of the Commission, be inconsistent with ordinances of the County. >>Unless otherwise provided in the bylaws approved by the Board of County Commissioners, no item shall be place on an agenda of a regular meeting of the Board of Trustees or considered by the Board of Trustees, unless the item has been considered first by a committee of the Board of Trustees and forwarded after such consideration to the full Board of Trustees as hereinafter provided. A committee of the Board of Trustees may take one of the following actions with respect to each matter before the committee for action:

(i) Recommend favorably;

(ii) Recommend favorably with committee amendment(s);

(iii) Forward without recommendation, upon the unanimous vote of the members of the committee who are present;

(iv) Receive a report;

(v) Lay the matter on the table resulting in the matter not being placed on an agenda of the Board of Trustees; or

(vi) Defer or take no action on an item for a maximum of two consecutive committee meetings. Deferral of or failure to act on a matter beyond two consecutive meetings shall cause the matter to be laid on the table, as set forth in the preceding subparagraph. Notwithstanding any other provision of this section, whenever action can not be taken because the vote of the committee members on an item has resulted in a tie, and no other available motion on an item is made and approved before the next item is called for consideration or before a

recess or adjournment is called, whichever occurs first, the item shall be deemed to be laid on the table, as set forth in the preceding subparagraph; such item shall be reintroduced only in accordance with the renewal provisions of subparagraph (x) of this section.

(vii) An item that has not been considered by a committee may be placed on the agenda of the Board of Trustees if the chairperson of the committee to which the item has been referred requests a waiver in writing and the Chairperson of the Board of Trustees concurs.

(viii) A matter that has not been considered by a committee may be placed on the agenda of the Board of Trustees to meet a public emergency of the Public Health Trust as determined in writing by the Chairperson of the Board of Trustees. Time sensitive matters with little or no financial impact may be placed on an agenda of the Board of Trustees by the Chairperson of the Board of Trustees without having been considered by a committee.

(ix) Any committee action taken pursuant to subparagraph (i) through (vi) of this section may be reconsidered only at the same meeting at which the action was taken. A motion to reconsider an item resulting in a tie vote is out of order and no such motion may be reconsidered.

(x) Once an item is laid on the table in a committee, the proposed item may not be brought before that committee again during the three (3) month period following the date the item is laid on the table (subject to the provisions of subparagraph (ix) hereof), unless an application for renewal made by two-thirds (2/3) of the committee members is first submitted to the chairperson of the committee.

(xi) The following matters may be heard directly by the Board of Trustees: special or citizen's presentations; resolutions recommending to the Commission the naming or renaming of Trust designated facilities; settlements; resolutions related

to contract lobbyist conflict waiver requests; and resolutions expressing intent. In addition, the Trust bylaws, adopted in accordance with this Chapter, may delineate additional matters that may be heard directly by the Board of Trustees without committee deliberation.

(5)<< The Board of Trustees shall be empowered to appoint a Chief Executive Officer of the Trust and to remove such an appointee. There shall be a special Trust Compensation and Evaluation Committee which shall consist of seven (7) voting members including the Chairperson of the Public Health Trust, three (3) Trustees appointed by the Chairperson of the Public Health Trust, the Mayor or a Commissioner designated by the Mayor and the Chairperson of the Board of County Commissioners and a Commissioner designated by the Chairperson, or, alternatively, in the discretion of the Commission Chairperson, two (2) Commissioners designated by the chairperson of the Board of County Commissioners. The special Compensation and Evaluation Committee shall make recommendations to the Trust through the Trust Executive Committee regarding compensation for the Trust Chief Executive Officer. The Board of Trustees shall annually evaluate the performance of the Trust Chief Executive Officer and refer such evaluation to the special Trust Compensation and Evaluation Committee for the compensation recommendation it deems appropriate, based on the Board's performance evaluation of the Trust Chief Executive Officer.

>>(6)<< There shall be a Trust/University of Miami Annual Operating Agreement Negotiating Committee (the "Trust/U.M. Committee"). The Trust Chief Executive Officer and Chairperson shall have responsibility to negotiate the Annual Operating Agreement with the University of Miami and shall submit their recommendations regarding the Annual Operating Agreement to the Trust/U.M. Committee for its review and approval. The Trust/U.M. Committee shall make recommendations regarding the Annual Operating Agreement to the Board of Trustees. The Trust/U.M. Committees shall consist of seven (7) voting members including the Chairperson of the Public Health Trust, the Chief Executive Officer of the Public Health Trust, three

(3) Trustees appointed by the Chairperson of the Public Health Trust, the Mayor, and the Chairperson of the Board of County Commissioners.

[[~~As governing body of the Trust, the Board of Trustees shall exercise supervisory control over the operation, maintenance, and governance of all designated facilities and of all functions and activities taking place in connection with the operation of designated facilities.~~]]

* * *

**Section 2.** Section 25A-4 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

**Sec. 25A-4. Powers and duties of the Trust.**

* * *

(c) Contracts. Except as otherwise provided by this chapter, the Trust, as an agent and instrumentality of Miami-Dade County, Florida, shall be authorized to act for Miami-Dade County in the performance and enforcement of all contracts pertaining to designated facilities and existing on the effective date of this chapter, such contracts as are properly within the powers and duties of the Trust.

* * *

The Trust shall comply with the formal bid requirements of Section >>5.03(D)<< [[~~4.03(D)~~]] of the Charter of Miami-Dade County, Florida, and for such purpose the term "Board" as used in Section >>5.03(D)<< [[~~4.03(D)~~]] shall be construed to be "Board of Trustees" and the term "manager" shall be construed to be "Chief Executive Officer of the Trust."

* * *

>>(l) Trust Funding of Service Providers that are Foundations and Non-Profit Entities. Except as otherwise provided by this Chapter, the Trust shall not pay or provide funding to foundations or non-profit entities unless such funding is provided or paid based on a cost reimbursement methodology. The contract between the Trust and the foundation or non-profit service provider shall obligate the foundation or non-profit to receive

funding on the basis of cost reimbursement methodology, including proper submission of documentation to support reimbursement and appropriate use of public funds and further obligate the foundation or non-profit entity to segregate all funds received from the Trust to ensure that the funds at no time are commingled with the funds of the foundation or non-profit entity. Without limiting any other provisions of the Code, the Miami-Dade Office of Inspector General and the County shall at all times be empowered to conduct audits of any contract between the Trust and foundations or non-profit entities. The Trust shall submit quarterly reports to the Commission committee of jurisdiction for the Trust regarding the funds reimbursed as provided in this section. Such quarterly reports shall include, but not limited to, the amount of expenditures reimbursed by the Trust for each foundation or non-profit entity for each month of the quarter reported, the categories of expenditures reimbursed, the balance of funding remaining under the contract, and such other matters as directed by the Chairperson of the Commission committee of jurisdiction to be included in the quarterly report.<<

* * *

**Section 3.** Section 25A-4 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

**Sec. 25A-5. Financial support for the Public Health Trust.**

* * *

The Trust shall establish a fiscal year which coincides with that of Miami-Dade County, and the County shall provide the Trust with financial support pursuant to the official County budget. The Trust shall timely submit to the Board of County Commissioners a Trust budget request pertaining to operating and capital expenditures, which request shall not be implemented until approved by the Board of County Commissioners. >>The Board of Trustees shall consider and approve its budget request at special meeting of the Board of Trustees to be held in the Commission Chambers. At the special meeting, the only item to be considered shall be the Trust budget request contemplated by this section to be submitted to the Board of County Commissioners. At such special meeting, the Board of Trustees shall hold a public hearing on its budget request. The Board of Trustees shall adopt the budget request by a majority vote of the full Board of Trustees.<<

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**Section 4.** This ordinance shall supersede those provisions of any existing ordinance, resolution or policy in conflict herewith.

**Section 5.** 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 6.** 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 a 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.

**Section 7.** 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: ES

Eugene Shy, Jr.

Valda Clark Christian

Prime Sponsor: Senator Javier D. Souto