MEMORANDUM

PSHA
Substitute to
Agenda Item No. 1(E)1

TO:	Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners	**DATE:**	September 13, 2011
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Ordinance creating a task force on scrap metal and copper wire theft to formulate recommendations to the Board on enforcement of ordinances regulating junk dealers and scrap metal processors

This substitute differs from the original item in that Section 2 has been amended as follows: The City of North Miami has been added and the City of North Miami Beach has been deleted; the member selected by the State Attorney's Office will be from the State Attorney's Office; and the member from the Inspector General's Office will be selected by the Inspector General's Office instead of by the Board of County Commissioners.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Vice-Chairwoman Audrey M. Edmonson, and Co-Sponsors Commissioner Sally A. Heyman, Commissioner Barbara J. Jordan and Chairman Joe A. Martinez.

R. A. Cuevas, Jr.
County Attorney

RAC/up

MEMORANDUM

(Revised)

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

DATE: October 4, 2011

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

SUBJECT: Substitute
Agenda Item No.

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**

Substitute
Agenda Item No.

Approved _____ Mayor
Veto _____
Override _____

ORDINANCE NO. _____

ORDINANCE CREATING A TASK FORCE ON SCRAP METAL AND COPPER WIRE THEFT TO FORMULATE RECOMMENDATIONS TO THE BOARD OF COUNTY COMMISSIONERS ON ENFORCEMENT OF ORDINANCES REGULATING JUNK DEALERS AND SCRAP METAL PROCESSORS, PROPOSED AMENDMENTS, EDUCATION OF BUSINESSES AND THE COMMUNITY ON THE EFFECT OF SUCH ORDINANCES, AND THE PREVENTION OF ILLEGAL SALES OF REGULATED AND RESTRICTED REGULATED METALS

WHEREAS, skyrocketing prices for metals, especially copper, has resulted in a significant increase in the theft of copper, aluminum and other ferrous and nonferrous metals material in Miami-Dade County; and

WHEREAS, such thefts include metals material from light poles which create power outages and endanger the health, safety and welfare of the public particularly the elderly and children; and

WHEREAS, such thefts are economically burdensome on the County since the County is required to expend funds to replace or repair stolen or vandalized street signs and street lights owned by the County; and

WHEREAS, for example, since 2009, the County's Public Works Department has spent thousands of dollars to repair or replace vandalized light poles; and

WHEREAS, such thefts damage or interrupt utilities which endanger the public's health, safety and welfare; and

WHEREAS, such thefts also result in increased costs to businesses and homeowners that have been victimized by thefts and have suffered damages; and

WHEREAS, the economic recession has resulted in many residential and commercial properties in foreclosure which are either unoccupied or under renovation and thus more likely targets for burglars to steal or vandalize personal property that contain ferrous and nonferrous metals material; and

WHEREAS, for example, air conditioning units have been vandalized because they contain copper material; and

WHEREAS, such criminal activity adversely affects the economic recovery in Miami-Dade County by hampering the ability of property owners, banks and mortgage holders to market and sell residential and commercial properties; and

WHEREAS, in 2010, over 800 burglaries of residential properties have been reported to the Miami-Dade Police Department's Northside District alone; and

WHEREAS, the criminal activity also affects the social and economic quality of life of the County's citizens by resulting in unsafe properties, business losses and higher insurance costs; and

WHEREAS, the theft of such metals material may result in its unlawful sale to junk dealers and scrap metal processors also known as secondary metals recyclers;

WHEREAS, on April 5, 2011, the Board approved Ordinance No. 11-17 which created Sections 8A-9 through 8A-9.6 to regulated junk dealers and scrap metal processors; and

WHEREAS, this Board finds that the creation of a task force to formulate recommendations on enforcing and amending ordinances regulating junk dealers and scrap metal processors, educating businesses and the community on the effect of such ordinances, and

preventing the illegal sale of scrap metal and copper wire will promote, protect and improve the health, safety and welfare of the people of Miami-Dade County, Florida;

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

Section 1. Creation.

There is hereby created the Miami-Dade County Task Force on Scrap Metal and Copper Wire Theft ("Task Force").[1]

Section 2. Membership; Appointments; Vacancies; and Qualifications.

The Task Force shall be comprised of twenty one (21) members from the following categories of representatives:

(1) One (1) member of the Miami-Dade County Board of County Commissioners appointed by the Chair;

(2) One (1) selected by each of the following municipalities:

(a) City of Miami,

(b) City of Hialeah,

(c) City of Miami Gardens,

(d) City of North Miami [[~~Beach~~]],

(e) City of Miami Beach, and

(f) City of Medley[[~~.~~]]>>;<<

(3) One (1) selected by the League of Cities[[~~.~~]]>>;<<

[1] The differences between the substitute and the original item are indicated as follows: words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< constitute the amendment proposed.

(4) One (1) >>from the Miami-Dade Office of the State Attorney<< selected by the Miami-Dade Office of the State Attorney[[.]]>>;<<

>>(5) One (1) selected by the Miami-Dade County Inspector General's Office; and<<

[[~~(5)~~]]>>(6)<< One (1) representative from each of the following County departments appointed by the Mayor or the Mayor's designee:

(a) Miami-Dade County Police Department, and

(b) Miami-Dade County Public Works Department.

[[~~(6)~~]]>>(7)<< The following representatives shall be appointed by majority vote of the Board of County Commissioners:

[[~~(a) One (1) representative from the Miami-Dade County Inspector General's Office,~~]]

[[~~(b)~~]]>>(a)<< Five (5) representatives from the scrap metals industry each possessing at least five (5) years experience in the scrap metals industry[[,]]>>;<< and

[[~~(c)~~]]>>(b)<< Four (4) representatives from the community with an understanding of the impact of copper wire and scrap metal theft on neighborhoods.

[[~~(7)~~]]>>(8)<< *Vacancies.* Vacancies shall be filled in the same manner by which the original members were appointed.

[[~~(8)~~]]>>(9)<< *Qualifications of Members.* Each member of the Task Force shall be a permanent resident and duly qualified elector of Miami-Dade County, unless the Board of County Commissioners waives this requirement by a two-thirds (2/3)

vote of its membership. No applicant shall be selected for the Task Force if he or she has ever had in any jurisdiction any prior charge, indictment, citation, prosecution, plea of guilty or nolo contendere of a felony, misdemeanor, or ordinance violation, for larceny, theft, possession of or dealing in stolen goods or any crime related to scrap metal processors or junk dealers, regardless of whether adjudication was withheld. The members of the Task Force shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the discharge of their duties.

Section 3. Organization.

(1) The Task Force may establish, adopt, and amend bylaws, rules, and regulations for its own governance.

(2) A chairperson and a vice chairperson shall be selected by the Task Force at its first meeting. The chairperson and vice chairperson shall serve at the will of the Task Force.

(3) The chairperson shall preside at all meetings at which he or she is present. The vice chairperson shall act as chairperson in the absence or inability of the chairperson.

(4) In order to transact any business or to exercise any power vested in the Task Force, a quorum consisting of a majority of those persons duly appointed to the Task Force shall be present, provided that at least one-half (1/2) of the full Task Force membership has been appointed.

(5) The Task Force may appoint committees to accomplish its tasks. Members of a committee may consist of members of the Task Force and/or other persons with specialized knowledge that would benefit the committee.

(6) The Mayor or the Mayor's designee shall supply such support staff to the Task Force as may be necessary to fulfill its purpose. The staff shall maintain and keep the records of the Task Force; prepare in cooperation with the chairperson, the agenda for each meeting; be responsible for the preparation of such reports, minutes, documents, or correspondence as the Task Force may direct; and generally administer the business and affairs of the Task Force, subject to budgetary limitations.

(7) The County Attorney's Office shall provide legal counsel, as needed, to the Task Force.

Section 4. Meetings.

The Task Force shall meet no less than every 90 days. Additional meetings may be held at the discretion of the Task Force.

Section 5. Powers and duties.

The purpose of the Task Force is to provide non-binding written recommendations to the Board of County Commissioners on:

(1) Enforcement of ordinances regulating junk dealers and scrap metal processors, including Sections 8A-203, 8A-237, and 8A-9 through 8A-9.6 of the Code of Miami-Dade County, Florida;

(2) Proposed amendments to ordinances regulating junk dealers and scrap metal processors;

(3) Methods of educating local businesses and the community on the effect of ordinances regulating junk dealers and scrap metal processors; and

(4) Methods of preventing the illegal sale of regulated metals and restricted regulated metals as defined in Sections 8A-9.1 and 8A-9.4 of the Code of Miami-Dade County, Florida.

(5) The Task Force is advisory only and shall not have the power or authority to commit Miami-Dade County or any of its agencies or instrumentalities to any policies, incur any financial obligations or to create any liability, contractual or otherwise, on behalf of Miami-Dade County or any of its agencies or instrumentalities.

Section 6. Reports.

The Task Force shall submit its first written recommendations to the Board of County Commissioners no later than 180 days from the effective date of this ordinance and shall submit written recommendations to the Board of County Commissioners every 180 days thereafter.

Section 7. Applicability of County rules and procedures.

The Task Force shall at all times operate under the Florida Open Government laws, including the "Sunshine Law," public meeting laws and public records laws and shall be governed by all State and County conflict of interest laws, as applicable, including the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1 the Code of Miami-Dade County.

Section 8. 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 9. 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.

Section 10. 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.

Section 11. This ordinance shall stand repealed three (3) years from its effective date.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency.

Prepared by:

Joni A. Mosely

Prime Sponsor: Vice-Chairwoman Audrey M. Edmonson
Co-Sponsors: Commissioner Sally A. Heyman
Commissioner Barbara J. Jordan
Chairman Joe A. Martinez