

MEMORANDUM

Agenda Item No. 11(A)(10)

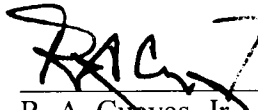
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: September 20, 2011

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

SUBJECT: Resolution urging the Florida
Legislature to increase the penalties
for the illegal purchase of scrap
metals; opposing state preemption
of local scrap metal ordinances

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Audrey M. Edmonson.



R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM

(Revised)

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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. 11(A)(10)
9-20-11

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
INCREASE THE PENALTIES FOR THE ILLEGAL PURCHASE
OF SCRAP METALS; OPPOSING STATE PREEMPTION OF
LOCAL SCRAP METAL ORDINANCES

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 in Miami-Dade County; and

WHEREAS, such thefts include copper wire and other metals from light poles which lead to street light outages and endanger the health, safety and welfare of the public particularly the elderly and children; and

WHEREAS, on the evening of September 7, 2011, a woman was hit by a car and badly injured while crossing N.W. 7th Avenue at 59th Street in a 40-block stretch of N.W. 7th Avenue where street lights were not working because copper wire had been stolen from the light poles; and

WHEREAS, such thefts not only endanger the health and safety of the public, but also are economically burdensome on the people of Miami-Dade County because the County is required to expend funds to replace or repair stolen or vandalized street lights and signs owned by the County; and

WHEREAS, since 2009, the Miami-Dade County Public Works Department has spent thousands of dollars to repair or replace vandalized light poles; and

WHEREAS, thefts of copper wire and other metals also result in increased costs to businesses and homeowners; and

WHEREAS, many unoccupied residential and commercial properties in foreclosure become targets for burglars to steal or vandalize copper and other metals; and

WHEREAS, air conditioning units are particularly susceptible to being vandalized because they contain copper wire; and

WHEREAS, this 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 foreclosed residential and commercial properties; and

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

WHEREAS, this criminal activity also has the potential to lead to higher property insurance costs; and

WHEREAS, the theft of copper and other metals sometimes results in its unlawful sale to secondary metals recyclers and scrap metal processors also known as secondary metals recyclers; and

WHEREAS, on April 5, 2011, the Board approved Ordinance No. 11-17 which regulated secondary metals recyclers and scrap metal processors; and

WHEREAS, the Board currently is considering an ordinance that would create a task force to formulate recommendations on enforcing and amending ordinances regulating secondary metals recyclers 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; and

WHEREAS, current state law, section 538.26, Florida Statutes, prohibits secondary metals recyclers from:

- Purchasing regulated metals between the hours of 9 p.m. and 6 a.m.;
- Purchasing regulated metals at a location other than the recycler's registered place of business;
- Knowingly or intentionally purchasing regulated metals property from any seller who presents such property for sale at the registered location of the secondary metals recycler when such property was not transported in a motor vehicle, unless the seller can prove ownership of the regulated metals property; and

WHEREAS, the first or second offense for violating section 538.26 is only a first degree misdemeanor, punishable by up to one year imprisonment and a fine of up to \$1,000, while the third or subsequent offense is a third degree felony, punishable by up to five years imprisonment and a fine of up to \$5,000; and

WHEREAS, these penalties need to be increased to more effectively deter the purchase of illegal scrap metal; and

WHEREAS, bills were filed for consideration during the 2011 session that would have increased state regulation of secondary metals recyclers, SB 622 by Senator Alan Hays (R – Umatilla), SB 1528 by Senator Thad Altman (R – Melbourne), and HB 343 by Representative Larry Metz (R – Eustis), but these bills did not pass; and

WHEREAS, in addition to increasing state regulation of secondary metals recyclers, these bills also would have preempted local ordinances adopted after March 1, 2011; and

WHEREAS, this Board supports increased state regulation of secondary metals recyclers, but opposes any bill that would preempt local government's ability to address local issues,

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

Section 1. Urges the Florida Legislature to increase the penalties for the illegal purchase of scrap metals.

Section 2. Opposes state legislation that would preempt local scrap metal ordinances.

Section 3. Directs the Clerk of the Board to transmit certified copies of the resolution to the Governor, Senate President, House Speaker, and the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 4. Directs the County's state lobbyists to support the legislation set forth in Section 1 above, oppose any preemption of scrap metal ordinances as set forth in Section 2 above, and authorizes and directs that the 2012 state legislative package be amended to include this item.

The Prime Sponsor of the foregoing resolution is Vice Chairwoman Audrey M. Edmonson. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of September, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Jess M. McCarty

