MEMORANDUM Agenda Item No. 11(A)(22)

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

DATE: October 4, 2011

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

SUBJECT: Resolution directing the County Mayor to review and provide information on the South Florida Water Management District Water Restriction Surcharge imposed by the Water and Sewer Department and examine use of a tiered formula for large water customers

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This item was amended by the Infrastructure and Land Use Committee to delete the requirement that residential and commercial customers with high bills due to a water leak or theft are exempt from the surcharge and delete changing the name of the surcharge to the Miami-Dade County Water Conservation Surcharge.

The accompanying resolution 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

(Revised)

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

DATE: October 4, 2011

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County Attorney

SUBJECT: Agenda Item No. 11(A)(22)

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)(22)
10-4-11

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO REVIEW AND PROVIDE INFORMATION ON THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT WATER RESTRICTION SURCHARGE IMPOSED BY THE WATER AND SEWER DEPARTMENT AND EXAMINE USE OF A TIERED FORMULA FOR LARGE WATER CUSTOMERS

WHEREAS, the South Florida Water Management District ("SFWMD") has the power and duty to protect Florida's water resources and to administer and enforce the provisions of Chapter 373, Florida Statutes and to declare a water shortage when insufficient ground or surface water is available to meet the needs of the users or when conditions are such to require temporary reduction in total use within an area to protect water resources from serious harm; and

WHEREAS, the SFWMD previously issued declarations of water shortage conditions for South Florida including Miami-Dade County based on the region's ongoing drought and the water level of Lake Okeechobee which is operationally controlled by the SFWMD; and

WHEREAS, such declarations of water shortage conditions require Miami-Dade County to further reduce water usage; and

WHEREAS, Miami-Dade County's Water and Sewer Department ("MDWASD"), as authorized by the 20-year Water Use Permit issued by SFWMD, provides potable water to over two million people within Miami-Dade County; and

WHEREAS, this Board has recognized the importance of the efficient use and conservation of water to protect our limited and precious resource by implementing a water

conservation rate structure and approving ordinances relating to water use efficiency standards and mandating permanent year-round landscape irrigation restrictions; and

WHEREAS, MDWASD has fixed operational costs to treat and distribute potable water to over two million people on a daily basis; and

WHEREAS, to comply with the SFWMD water restrictions, to further encourage water conservation and at the same time to recapture "lost" revenues as a result of reduced demand and usage, MDWASD imposes a surcharge on retail customers on water that flows through the "fourth tier" of the water consumption rate structure; and

WHEREAS, the FY 2008-09 Budget contained language identifying this new "surcharge" to the public and this Board voting in favor of the Administration's Budget in the following manner: "[A] South Florida Water Management District (SFWMD) Restriction Surcharge will be added to water retail customers flowing through the fourth tier of the water consumption rate structure to penalize large volume users in accordance with SFWMD strategies;" and

WHEREAS, correspondence from the Board of Directors of the Kendall Federation of Homeowners stated that business and residential consumers of water services from MDWASD were subject to a surcharge for water consumed from the County at a rate that seemed punitive in nature because it approached 25% of the water charge; and

WHEREAS, the Kendall Federation of Homeowners presented the case of a Laundromat business which consumed $4,012.00 in water and was assessed a $975 surcharge identified on the MDWASD bill as a "South Florida Water Management District Water Restriction Surcharge Phase I;" and

WHEREAS, although MDWASD complied with Resolution No. R-1018-94 by holding six public meetings prior to this Board's adoption of the FY 2008-2009 Budget that included the new surcharge, this Board believes many customers may not be aware of the surcharge; and

WHEREAS, this Board is desirous of providing additional information regarding the surcharge to all MDWASD customers; and

[[~~**WHEREAS**, MDWASD has labeled the surcharge on utility bills as a "South Florida Water Management District Water Restriction Surcharge" because it was imposed following SFWMD's water shortage declaration; and~~

~~**WHEREAS**, according to the Executive Director of the SFWMD, the SFWMD did not request this surcharge, has not encouraged Miami-Dade County or any other municipality to place any kind of surcharge on a water bill, and does not get a penny from this surcharge; and~~

~~**WHEREAS**, since the surcharge is imposed by the County and not SFWMD, this Board believes the surcharge should be clearly labeled and renamed as the "Miami-Dade County Water Conservation Surcharge" so that consumers and ratepayers know that if they have a concern with this surcharge; they have to address the Mayor and Commissioners; and~~

~~**WHEREAS**, a $975 penalty surcharge on a $4,012 water bill seems excessive and punitive in nature, particularly for a business that by its very nature is going to consume a substantial amount of water; and~~

~~**WHEREAS**, given the economic climate that we are facing today in our community and in our State with double digit unemployment; the highest foreclosure rate in the nation; and large numbers of small businesses struggling to survive; this Board cannot support a punitive~~

~~surcharge which on its own could cripple small businesses, which are the backbone of our economy; and~~]][1]

WHEREAS, a formula should be developed to account for businesses that by their very nature consume large volumes of water such as a laundromat or a car wash,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the County Mayor or County Mayor's designee is directed to provide information regarding the water restriction surcharge to all customers and to provide a list all of residential and commercial retail customers that have paid the surcharge since FY 2008-2009, indicating the total surcharge paid by every residential and commercial customer to date. This list shall be provided to this Board within 90 days of the adoption of this Resolution. The County Mayor or County Mayor's designee is further directed to[[~~: (a)~~]] examine using a tiered formula whereby businesses that by their very nature consume larger quantities of water are not unduly penalized by the surcharge >>. A report regarding the use of a tiered formula shall be provided to this Board within 90 days of this Resolution.<<[[~~; and (b) exempt residential and commercial customers who have experienced a high water bill due to a water leak or water theft from the surcharge. The name of the surcharge shall be immediately changed to the "Miami-Dade County Water Conservation Surcharge".~~]]

The Prime Sponsor of the foregoing resolution is Senator Javier D. Souto. 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:

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

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 4th day of October, 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.

Henry N. Gillman