



Agenda Item No. 11(A)(33)

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

DATE: June 5, 2012

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

SUBJECT: Resolution urging the Florida
Legislature to repeal the state
preemption of local governments'
ability to address abandoned
shopping carts

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/cp



MEMORANDUM

(Revised)

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

DATE: June 5, 2012

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

SUBJECT: Agenda Item No.11(A) (33)

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)(33)
6-5-12

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
REPEAL THE STATE PREEMPTION OF LOCAL
GOVERNMENTS' ABILITY TO ADDRESS ABANDONED
SHOPPING CARTS

WHEREAS, shopping carts left in the right-of-way and on other public and private property has been a persistent problem in Miami-Dade County for several decades; and

WHEREAS, abandoned shopping carts are a nuisance to property owners at or near where they are left and are harmful to the image and appearance of our community; and

WHEREAS, in 1997, this Board passed Ordinance No. 97-213, which:

1. Required stores that use shopping carts to affix an identification sign to the shopping cart with the name, address and phone number of the store; and
2. Provided that County Public Works & Solid Waste Management staff would pick up shopping carts found on public property, collect them, store them and provide notice to the owner, who could then retrieve them and pay the fees to cover the costs of removal and storage; and
3. If shopping carts were not retrieved by the store owner, then the store owner was responsible for the cost of retrieval, storage and disposal; and

WHEREAS, under Ordinance No. 97-213, each store owner, and not County taxpayers, was responsible for the cost of retrieving and storing that store's shopping carts, providing an incentive for each store owner to keep its shopping carts on the store premises; and

WHEREAS, Ordinance No. 97-213 was successful and showed tangible results in improving the problem of abandoned shopping carts in Miami-Dade County; and

WHEREAS, during the 1998 session, however, the Florida Legislature passed SB 1944, Chapter 1998-396, Laws of Florida, which among other provisions, preempted local governments from imposing a fee, fine or cost against the owner of a shopping cart found on public property; and

WHEREAS, the law was targeted at Miami-Dade County's shopping cart ordinance, as it was the only ordinance of its kind in the State of Florida at that time; and

WHEREAS, as a result of SB 1944, County taxpayers now must bear the cost of retrieving and storing shopping carts left in the public right-of-way and on other public property, rather than store owners; and

WHEREAS, this Board would like to regain the ability to address the issue of abandoned shopping carts,

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 repeal the state preemption of local governments' ability to address abandoned shopping carts.

Section 2. 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 3. Directs the County's state lobbyists to advocate for the issues identified in Section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2013 state legislative package when it is presented to the Board.

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:

- | | |
|-------------------------------------|----------------------|
| 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 5th day of June, 2012. 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. JMM

Jess M. McCarty

5