

# MEMORANDUM

Agenda Item No. 5(D)

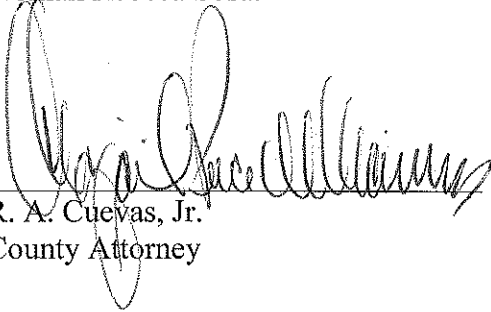
**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** December 16, 2014

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

**SUBJECT:** Ordinance relating to County stevedore licenses and seaport stevedore permits; amending section 28A-6 of the Code, deleting stevedoring needs assessment requirement; increasing license and permit durations; authorizing port director to issue County stevedoring licenses and seaport stevedoring permits; expanding existing stevedoring license and permit issuance criteria

The accompanying resolution was prepared by the Port of Miami Department and placed on the agenda at the request of Prime Sponsor Chairwoman Rebeca Sosa.



R. A. Cuevas, Jr.  
County Attorney


RAC/cp

# Memorandum



Date: December 16, 2014

To: Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

From: Honorable Carlos A. Gimenez  
Mayor 

Subject: Ordinance Amending Section 28A-6 of the Code of Miami-Dade County, Florida

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## **RECOMMENDATION**

It is recommended that the Board of County Commissioners (Board) adopt the accompanying ordinance amending section 28A-6 (6.1-6.7) of the Code of Miami-Dade County (County); providing for modifications to the stevedore permit renewal process enabling stevedoring firms to renew their business permits every three years instead of annually; deleting the stevedoring needs assessment requirement, thereby allowing the PortMiami Director to expand the number of stevedoring providers on port; expanding stevedoring license and permit criteria; and authorizing the PortMiami Director to issue County stevedoring licenses and PortMiami stevedoring permits.

## **SCOPE**

PortMiami is located within District 5 which is represented by Commissioner Bruno A. Barreiro. The impact of this agenda item is countywide, as PortMiami is a regional asset and generates employment for residents throughout Miami-Dade County.

## **FISCAL IMPACT/FUNDING SOURCE**

This proposed ordinance is not anticipated to have a fiscal impact on PortMiami; however, permittees will now be required to pay for three years of stevedoring permit fees at the current PortMiami Terminal Tariff No. 010 annual stevedoring permit rate. Each stevedoring provider shall pay the three year permit fee upfront valued at \$17,400 or, if deemed credit worthy by the Port Director shall pay the fee in annual installments (\$5,800 per year). PortMiami currently has a total of ten stevedoring companies licensed and permitted to do business at the port. Stevedoring licenses will continue to be processed at no charge.

## **TRACK RECORD/MONITOR**

The staff members responsible for monitoring this proposed ordinance are Kevin Lynskey, Deputy Port Director, and Miriam Abreu, Assistant Director, Finance.

## **BACKGROUND**

In an effort to streamline the permit renewal process for stevedoring firms, PortMiami proposes to change the duration of port stevedoring permits and County stevedoring licenses from one (1) year to three (3) years. Under this proposed ordinance, any Port stevedoring permit or County stevedoring license issued by the PortMiami Director after January 1, 2015 shall expire three years after date of permit issuance unless earlier revoked or suspended by the PortMiami Director. Most port permitted stevedoring firms have been permitted and licensed for many years and the information currently required to be submitted annually seldom changes.

Additionally, the proposed ordinance deletes the current stevedoring needs assessment requirement. Under the current ordinance, the PortMiami Director may limit the number of permitted stevedores based on a needs assessment. The recommended ordinance would delete the needs assessment requirement, thereby allowing for the PortMiami Director to permit any qualifying applicant. The issuance of additional

permits may increase the number of available and competing stevedoring providers which could reduce stevedoring costs for the PortMiami's cruise and cargo line customers.

The proposed Ordinance also expands current stevedoring permit issuance criteria in order to address the importance of stevedoring firms having sufficient and suitable equipment to efficiently and safely meet the stevedoring needs of the PortMiami's cruise and cargo line customers. With the adoption of this Ordinance, and the related proposed resolution amending Implementing Order 4-4 and Port Terminal Tariff No. 010, Item 714, stevedoring firms will be required to pay the three (3) year permit fee at the applicable Port Terminal Tariff No. 010 PortMiami stevedoring permit rate. However, stevedoring firms may request that their three-year permit fee be paid in three annual payments, provided that applicants remain obligated for the full three-year fee even if they withdraw or cease using the permit prior to the expiration of the three (3) year term.

**DELEGATED AUTHORITY**

In accordance with Section 2-8.3 of the Code of Miami Dade County, requiring disclosure of delegations of Board authority contained in the body of contracts recommended for competitive award, this item contains no such delegations.



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Jack Osterholt, Deputy Mayor



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** December 16, 2014

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

**SUBJECT:** Agenda Item No. 5(D)

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 Mayor'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. 5(D)  
12-16-14

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO COUNTY STEVEDORE LICENSES AND SEAPORT STEVEDORE PERMITS; AMENDING SECTION 28A-6 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; DELETING STEVEDORING NEEDS ASSESSMENT REQUIREMENT; INCREASING LICENSE AND PERMIT DURATIONS; AUTHORIZING PORT DIRECTOR TO ISSUE COUNTY STEVEDORING LICENSES AND SEAPORT STEVEDORING PERMITS; EXPANDING EXISTING STEVEDORING LICENSE AND PERMIT ISSUANCE CRITERIA; 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 28A-6 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 28A-6. Licensing and permits for stevedores.**

*28A-6.1. Miami-Dade County stevedore licenses.* No person~~[[5]]~~ shall act as a stevedore within Miami-Dade County, Florida, unless such person is a natural person and has first obtained a stevedore license from the ~~[[Board]]~~ >>Director<< after examination. The application for a stevedoring license shall be made by a natural person only and shall be submitted under oath to the Director for consideration by the County ~~[[Manager. The County Manager shall present the application with his recommendation to the Board]]~~. No person shall employ a stevedore to perform services as such within Miami-Dade County, Florida, unless such stevedore is licensed by the ~~[[Board]]~~ >>Director<<. The issuance of a Miami-Dade County stevedore license shall not entitle the holder thereof to perform stevedoring services at or with the Port of Miami absent

<sup>1</sup> 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.

the issuance of a stevedore permit to the licensee or the firm by which the licensee is employed.

\* \* \*

*28A-6.3. Application for County stevedore license and Port of Miami stevedore permit.*

- (a) Each application for a County stevedore license or Port of Miami stevedore permit shall be filed together with a personal character form furnished by ~~[[the County Manager~~ ~~ø€]]~~ the Director and completed and sworn to by the applicant. If the person applying for a stevedore permit is a corporation or other non-natural person, the personal character form shall be completed by the chief executive officer of the entity on behalf of the entity.
- (b) The applications for the County stevedoring license and the Port of Miami stevedore permit shall require the applicant to report in writing any affiliation, as an employee, partner, associate, officer, trustee, director or owner of greater than a twenty (20) percent share (directly or indirectly) of or any person, corporation, partnership, joint venture, association, firm, business trust, syndicate, municipal or other governmental body which may directly or indirectly be involved with the shipment or handling of freight. If so affiliated, the application must be accompanied by a written list of such affiliations and the names and addresses of persons or members of any such corporation, partnership, joint venture, association, firm, business trust, or syndicate. The name and address of each person holding a controlling financial interest in the corporation, partnership, joint venture, association, firm, business trust, or syndicate, according to the definition of "controlling financial interest" contained in Section 2-11.1(b)(8), Code of ~~[[Metropolitan]]~~ Miami-Dade County, shall be provided by the applicant.
- (c) All stevedore permit holders shall keep all ownership and controlling interest information current over the course of the stevedore permit. A stevedore permit holder shall notify the ~~[[d]]>>D<<irector~~ in writing ~~[[, with a copy to the County Manager,]]~~ of any change in the identity of persons holding a "controlling financial interest" in the permit holder contemporaneously with the occurrence of such change, and state in its notice whether the underlying

transaction was approved by the Committee on Foreign Investment in the United States ("CFIUS) pursuant to 50 U.S.co App. SS2170, if applicable, and if so, the date of such approval. The port director shall have the authority to request that a background investigation of such persons be performed by the Miami-Dade Police Department.

*28A-6.4. Procedure for obtaining County stevedore license and/or Port of Miami stevedore permit.*

- (a) A County stevedore license application may be obtained at the office of the Director, where, upon completion, it shall be returned. The Director shall forward stevedore license applications, other than applications for stevedore license renewal, to the Miami-Dade Police Department for the purpose of conducting a criminal background check. The Miami-Dade Police Department shall process the application and return it to the Director with a memorandum indicating either that the applicant has passed or failed the criminal background check.
- (b) A Port of Miami stevedore permit application may be obtained from the office of the Director, where, upon completion, it shall be returned. The Director shall forward such applications, other than applications for stevedore permit renewal, to the Miami-Dade Police Department for the purpose of conducting a criminal background check. Following processing, the Miami-Dade Police Department shall return it to the Director with a memorandum indicating either that the applicant has passed or failed the criminal background check. ~~[[The Port Director, in making his determination as to the issuance or denial of the permit, shall, in addition to the criteria set forth in subsection (c) below, make findings as to the need or lack of need for such permit.]]~~
- (c) ~~[[The County Manager and t]]~~ >> T << he Seaport Director shall, after examination, issue stevedore licenses and permits, respectively, to competent and trustworthy persons ~~[[in such numbers as they deem necessary for the efficient operation of the county waterfront and Port of Miami facilities]].~~ The criteria for issuance shall ~~[[, in the case of a permit in addition to the needs determination contained in subsection (b) above,]]~~ include, but shall not be limited to, the following:

- (1) The physical ability of the port, the waterways, and the Miami River facilities, respectively, to handle the vessel(s), passengers, freight or support services necessary therefor, which may be proposed by the applicant, including plans (if any) approved by the Board for proposed facilities expansion;
- (2) The total and peak quantities of passengers or freight;
- (3) The frequency of dockings;
- (4) Special demands upon or savings to the County;
- (5) The inability or refusal of license or present permit holders, respectively, to adequately serve new or existing business;
- (6) The financial strength of the applicant, including the ability to secure insurance, indemnity and performance bonds;
- (7) The pendency or entry of any proceeding, judgment or order of any court or regulatory body respecting the ability of the applicant, its affiliates, and/or its principals or operating offices to conduct a stevedoring business;
- (8) The experience of the applicant, its affiliates, principals or operating officers;
- (9) Efficient operation of the port, having due regard for the business of the port, harbor and channels; ~~[[and]]~~
- (10) The applicant's work-related safety record over the last five (5) years, including, without limitation, the frequency or severity or both of work-related accidents, injuries or deaths; and citations, judgments, consent decrees, notices of violation or rulings issued by OSHA and other regulatory agencies~~[[ -]]~~ >>; and<<
- >> (11) The applicant's ownership or possession of, or access to, sufficient and suitable stevedoring equipment to efficiently handle the stevedoring needs of vessels calling the Port.<<



\* \* \*

*28A-6.6. Duration; grounds for suspension or revocation.*

~~[[A]]~~ Miami-Dade County stevedore license~~>>s<<~~ or Port of Miami stevedore permit~~>>s<<~~ issued by the ~~[[Board or]]~~ Director~~[[, respectively,]]~~ ~~>>~~after January 1, 2015,~~<<~~ shall expire ~~[[on January fifteenth annually.]]~~ ~~>>~~three years from the issuance of same unless earlier revoked or suspended by the Director. All County stevedoring licenses or Port stevedore permits issued on or before January 1, 2015, shall expire no later than January fifteenth of 2015.~~<<~~ Upon expiration, a license or permit may be renewed by the Director when all the applicable requirements and procedures set forth in Sections 28A-6.1 through 28A-6.8 and Port of Miami Tariff No. 010, as amended, have been met. Failure of any person to timely file an application for renewal of a Miami-Dade County stevedore license or a Port of Miami stevedore permit shall cause the same automatically to lapse. In the event that a license or permit lapses, the holder may petition the ~~[[County Manager or]]~~ Director~~[[, respectively,]]~~ for reinstatement of such license or permit. For good cause shown, the ~~[[County Manager or]]~~ Director~~[[, respectively,]]~~ may reinstate such a license or permit to renewal status. A stevedore license or permit shall be subject to suspension or revocation upon a determination by the ~~[[Mayor or Designee]]~~ ~~>>~~Director~~<<~~ that ~~>>~~(i)~~<<~~the frequency or severity or both of work-related accidents, injuries or deaths, or citations, judgments, consent decrees, notices of violation or rulings issued by OSHA or other regulatory agencies, warrants a suspension or revocation~~>>~~, or (ii) the Director otherwise deems the existing license or permit holder no longer meets the applicable qualification requirements or criteria for issuance set forth in this Chapter~~<<~~. The ~~[[Mayor or Designee]]~~ ~~>>~~Director~~<<~~ shall provide notice of suspension of [or] revocation to the license or permit holder by certified mail ten (10) days before the license or permit is revoked or suspended.

*28A-6.7. Transfer of Miami-Dade County stevedore license or Port of Miami stevedore permit.*

- (a) No stevedoring licenses or permits shall be transferable except as follows: When a licensee or permittee shall have a bona fide sale of the business which he is so licensed or permitted to conducted, he may obtain a transfer of such

license or permit to the purchaser of the said business only if the application of the purchaser shall be approved by the Director~~[[and the Board under the same procedures provided for in Sections 28A-6.1 through 28A-6.6]]~~>> upon a finding that the prospective purchaser meets the required qualifications set forth in this Chapter<<.

- (b) Immediately and automatically upon the death of a holder of a stevedore license or permit, the license or permit shall terminate; however, any insurance, bond, covenant, indemnity, guarantee or monetary obligation to Miami-Dade County arising from the stevedore business at or prior to such death shall remain in full force and effect and shall be binding upon the estate, any beneficiary, devisee, heir at law, creditor or personal representative (as those terms are defined in Chapter 731, Florida Statutes, and particularly Section 731.201 [thereof]).
- (c) Where a holder of a Port of Miami stevedore permit is the only permit holder employed with a stevedore firm on the port, but has no "controlling interest" (as defined in Section 2-11.1(b)(8), Code of Metropolitan Miami-Dade County) in the firm, and the permit holder ceases to hold such permit, then the Director shall give a preference in issuing the next available permit to a natural person who is also employed by said stevedoring firm and who files an application and qualifies pursuant to Sections 28A-6.1 through 28A-6.7.

**Section 2.** 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 3.** 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 4.** 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:

APW

Prepared by:

SBB

Steven B. Bass