

# MEMORANDUM

EPC  
Agenda Item No. 2(B)

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**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** April 16, 2015

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

**SUBJECT:** Resolution establishing guidelines relating to the approval of new Community Redevelopment Agencies and Interlocal Cooperation Agreements and redevelopment plans pertaining to such agencies as well as extending life of existing agencies and approval of amendments to redevelopment plans and interlocal agreements; and directing the County Mayor to deny certain requests from community redevelopment agencies that are deemed approved by law if not made within the allowed timeframe

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava.

  
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R. A. Cuevas, Jr.  
County Attorney

RAC/cp




# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** May 5, 2015

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

**SUBJECT:** 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 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

Agenda Item No.

Veto \_\_\_\_\_

5-5-15

Override \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

RESOLUTION ESTABLISHING GUIDELINES RELATING TO THE APPROVAL OF NEW COMMUNITY REDEVELOPMENT AGENCIES AND INTERLOCAL COOPERATION AGREEMENTS AND REDEVELOPMENT PLANS PERTAINING TO SUCH AGENCIES AS WELL AS EXTENDING LIFE OF EXISTING AGENCIES AND APPROVAL OF AMENDMENTS TO REDEVELOPMENT PLANS AND INTERLOCAL AGREEMENTS; AND DIRECTING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO DENY CERTAIN REQUESTS FROM COMMUNITY REDEVELOPMENT AGENCIES THAT ARE DEEMED APPROVED BY LAW IF NOT MADE WITHIN THE ALLOWED TIMEFRAME

**WHEREAS**, the Florida Legislature during its 1969 Legislative Session enacted the Community Redevelopment Act of 1969 which is presently codified in the Florida Statutes at Part III of Chapter 163, Sections 163.330 through 163.450, as amended ("Act"); and

**WHEREAS**, the Legislature made the following findings and declarations as set forth in Section 163.335 of the Act:

(1) It is hereby found and declared that there exist in counties and municipalities of the state slum and blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime, constitutes an economic and social liability imposing onerous burdens which decrease the tax base and reduce tax revenues, substantially impairs or arrests sound growth, retards the provision of housing accommodations, aggravates traffic problems, and substantially hampers the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of slums and blight is a matter of state policy and state concern in order that the state and its counties and municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, and consume an excessive proportion of its revenues because of the extra services required for police, fire,

accident, hospitalization, and other forms of public protection, services, and facilities.

(2) It is further found and declared that certain slum or blighted areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this part, since the prevailing condition of decay may make impracticable the reclamation of the area by conservation or rehabilitation; that other areas or portions thereof may, through the means provided in this part, be susceptible of conservation or rehabilitation in such a manner that the conditions and evils enumerated may be eliminated, remedied, or prevented; and that salvageable slum and blighted areas can be conserved and rehabilitated through appropriate public action as herein authorized and the cooperation and voluntary action of the owners and tenants of property in such areas.

(3) It is further found and declared that the powers conferred by this part are for public uses and purposes for which public money may be expended and police power exercised, and the necessity in the public interest for the provisions herein enacted is declared as a matter of legislative determination.

(4) It is further found that coastal resort and tourist areas or portions thereof which are deteriorating and economically distressed due to building density patterns, inadequate transportation and parking facilities, faulty lot layout, or inadequate street layout, could, through the means provided in this part, be revitalized and redeveloped in a manner that will vastly improve the economic and social conditions of the community.

(5) It is further found and declared that the preservation or enhancement of the tax base from which a taxing authority realizes tax revenues is essential to its existence and financial health; that the preservation and enhancement of such tax base is implicit in the purposes for which a taxing authority is established; that tax increment financing is an effective method of achieving such preservation and enhancement in areas in which such tax base is declining; that community redevelopment in such areas, when complete, will enhance such tax base and provide increased tax revenues to all affected taxing authorities, increasing their ability to accomplish their other respective purposes; and that the preservation and enhancement of the tax base in such areas through tax increment financing and the levying of taxes by such taxing authorities therefor and the appropriation of funds to a redevelopment trust fund bears a substantial relation to the purposes of such taxing authorities and is for their respective purposes and concerns. This subsection does not apply in any jurisdiction where the community redevelopment agency validated bonds as of April 30, 1984.

(6) It is further found and declared that there exists in counties and municipalities of the state a severe shortage of housing affordable to residents of low or moderate income, including the elderly; that the existence of such condition affects the health, safety, and welfare of the residents of such counties and municipalities and retards their growth and economic and social development; and that the elimination or improvement of such condition is a proper matter of state policy and state concern and is for a valid and desirable public purpose.

(7) It is further found and declared that the prevention or elimination of a slum area or blighted area as defined in this part and the preservation or enhancement of the tax base are not public uses or purposes for which private property may be taken by eminent domain and do not satisfy the public purpose requirement of s. 6(a), Art. X of the State Constitution; and

**WHEREAS**, all powers arising pursuant to the Act are conferred upon counties with home rule charters, which counties in turn are authorized to delegate certain such powers to municipalities within their boundaries; and

**WHEREAS**, pursuant to the Act, the Miami-Dade County Board of County Commissioners (the "Board"), as the governing body, created or delegated to certain municipalities the power to create 14 community redevelopment agencies, including Miami Beach City Center, Southeast Overtown/Park West, Omni, Midtown Miami, South Miami, North Miami Beach, Homestead, Florida City, North Miami, N.W. 7<sup>th</sup> Avenue Corridor, Naranja Lakes, West Perrine, 79<sup>th</sup> Street Corridor and Opa-locka community redevelopment agencies; and

**WHEREAS**, the County's Fiscal Year 2014-15 annual appropriation from the general fund to community redevelopment agencies totaled \$30,699,982.00; and

**WHEREAS**, it is anticipated that the County's total annual appropriation to community redevelopment agencies over the next 10 years will either remain at the same level as the County's Fiscal Year 2014-15 total annual appropriation or increase; and

**WHEREAS**, it is anticipated that the Board will likely continue to consider legislation that would lead to the creation of additional community redevelopment agencies or modify the arrangements with existing community redevelopment agencies; and

**WHEREAS**, therefore, the Board should cautiously consider approving new community redevelopment agencies, redevelopment plans, and related interlocal cooperation agreements, as well as extending the life of existing agencies and approving amendments to existing redevelopment plans and interlocal cooperation agreements (“County Governing Body Approvals”), as such approvals may have a significant impact on the County’s general fund which is overburdened with demands for countywide services that the Act was intended to address, including among other demands, a severe shortage of housing affordable to residents of low or moderate income, including the elderly; and

**WHEREAS**, furthermore, the Board should establish guidelines for all community redevelopment agencies that set greater controls over or condition County Governing Board Approvals, while still honoring the original purposes of such agencies; and

**WHEREAS**, efforts to implement controls over contributions to community redevelopment agencies are not new; and

**WHEREAS**, prior to 1994, the Act required taxing authorities to annually appropriate 95 percent of the tax increment; and

**WHEREAS**, a 1994 amendment to the Act creating applicable provisions of Florida Statutes Section 163.387 gives Miami-Dade County the authority to enact an ordinance establishing a redevelopment trust fund for a new community redevelopment area that limits the amount of funding each taxing authority is required to annually appropriate to between 50 percent and 95 percent of the tax increment; and

**WHEREAS**, a 2006 amendment to the Act creating Florida Statutes Section 163.387(3)(b) gives governing bodies, such as Miami-Dade County, the ability to have alternate provisions in an interlocal agreement that deviate from the requirements of state law pertaining to the redevelopment trust funds; and

**WHEREAS**, this 2006 amendment would include authority for taxing authorities, by agreement with the appropriate parties, to reduce the percentage of the annual appropriation to less than 50 percent of the tax increment; and

**WHEREAS**, the Board adopted Resolution No. R-871-11, which requires an interlocal cooperation agreement between a community redevelopment agency, the County, and if applicable, a municipality or taxing authority, to contain a provision requiring the community redevelopment agency to submit timely budgets for approval by the Board prior to the community redevelopment agency borrowing money, advancing funds or incurring indebtedness proposed to be repaid from or secured by the community redevelopment agency's tax increment financing funds; and

**WHEREAS**, the Board adopted Resolution No. R-1382-09, which requires that, prior to the Board's approval of an interlocal cooperation agreement or an amendment to an existing interlocal cooperation agreement between a community redevelopment agency, the County, and if applicable, a municipality or taxing authority, such interlocal cooperation agreement shall include a provision that permits at least one County Commissioner to serve as a commissioner of the community redevelopment agency; and

**WHEREAS**, additional fiscal and other conditions and controls should be considered by the Board prior to any County Governing Body Approvals, while still taking steps to (1) ensure that community redevelopment agencies increase the number of affordable housing

opportunities, (2) protect existing neighborhoods from gentrification due to redevelopment activities, (3) ensure greater employment opportunities and economic growth potential for the area's residents and businesses by ensuring that community redevelopment funds are utilized to achieve these purposes, including providing greater employment opportunities for the workforce in the community redevelopment area, and (4) ensure that community redevelopment agencies comply with the County's policies, as reflected by County ordinances pertaining to ethics, auditing, fair labor and small business contracting practices, because of the County's appropriation of funds to such agencies that would otherwise remain general funds,

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

**Section 1.** Incorporates and approves the foregoing recitals as if fully set forth herein.

**Section 2.** Subject to the requirements the Act and other applicable laws, establishes guidelines relating to County Governing Body Approvals, as follows:

- a). All interlocal cooperation agreements shall include a provision that ensures that all entities or contractors contracting with or receiving a grant from a community redevelopment agency in excess of \$100,000.00 shall execute a labor peace agreement with the labor organization(s) that seeks to represent such entities' or contractors' employees to assure that no labor dispute or unrest, such as strikes, picketing or other economic activity, will disrupt the operations being carried out pursuant to the contract or grant agreement with the community redevelopment agency. Further, the community redevelopment agency's obligation to perform any obligations under such grant or agreement, including paying any consideration to the entity or contractor, shall be suspended during the occurrence of a labor dispute or unrest. In the event such an entity or contractor is unable to reach an agreement with a labor organization regarding the terms of a labor peace agreement, any dispute between the entity or contractor and the labor organization shall be resolved by expedited binding arbitration in which the decision shall be rendered within 10 days of the request for arbitration but in any event prior to any labor dispute or unrest, such as strikes, picketing or other economic activity. The entity or the contractor and the labor organization shall equally share the costs of arbitration. The obligations imposed by the community redevelopment agency on the entity or contractor as described herein shall also apply to all assignees and subcontractors of such entity or contractor.



- b). All interlocal cooperation agreements shall include a provision that ensures all entities or contractors contracting with or receiving grants from a community redevelopment agency in excess of \$100,000.00 shall enter into a community benefits agreement which will benefit primarily the residents of the community redevelopment area. To the extent allowed by law, a community benefits agreement should include provisions for hiring the labor workforce for the project financed by the grant or agreement from residents of the community redevelopment area that are unemployed or underemployed. Depending on the worker or employee to be hired, the community redevelopment agency will be required to ensure that such entities or contractors comply with wage requirements, as applicable, established by Miami-Dade County's Living Wage or Responsible Wage Ordinances, pursuant to Section 2-8.9 and 2-11.16, respectively, of the Code of Miami-Dade County, Florida (the "Code") or pay higher wages and benefits, as are feasible.
- c) All interlocal cooperation agreements shall include a provision that ensures that all entities or contractors contracting with or receiving a grant from the community redevelopment agency comply with the following Miami-Dade County ordinances contained in the Code, as may be amended, as if expressly applicable to such entities:
- a) Small Business Enterprises (Section 2-8.1.1.1.1 of the Code);
  - b) Community Business Enterprises (Section 2-10.4.01 of the Code);
  - c) Community Small Business Enterprises (Section 10-33.02 of the Code); and/or
  - d) Conflict of Interest and Code of Ethics Ordinance (Section 2-11.1 of the Code).

Such entities or contractors shall also submit to Miami-Dade County Inspector General Review, pursuant to Section 2-1076 of the Code, and agree to retain an independent private inspector general review, pursuant to Miami-Dade County Administrative Order 3-20.

- d) All interlocal cooperation agreements shall include a provision that ensures that each community redevelopment agency shall examine projects that it proposes to fund to make a finding, after a public hearing, that the residents and business owners within the redevelopment area primarily benefit from the projects funded by the community redevelopment agency and that the entity or contractor requesting funding has exhausted other funding sources and that, but for the community redevelopment agency's funding, the project cannot be undertaken.
- e) All interlocal cooperation agreements shall include a provision that ensures that community redevelopment agencies shall include in their contracts or grant agreements a "clawback" provision that will require the community

redevelopment agency to “clawback” or rescind and recover funding from any entity or contractor to which it provides funding which does not substantially comply with the provisions of its agreement with the community redevelopment agency by demanding repayment of such funds in writing, including recovery of penalties or liquidated damages, to the extent allowed by law, as well as attorney’s fees and interest, and pursuing collection or legal action, to the fullest extent allowable by law, if feasible.

- f) All interlocal cooperation agreements shall include a provision that requires that in the event the community redevelopment agency funds a redevelopment project authorized by the agency’s redevelopment plan that may displace persons (including individuals, families, business concerns, nonprofit organizations and others) located in the community redevelopment area, the community redevelopment agency shall prepare plans for and assist in the relocation of such persons, including making any relocation payments under the Act and applicable laws and regulations. Also, the interlocal cooperation agreement should provide that individuals and families who are displaced from affordable housing units shall have a right of first refusal to return to comparably priced affordable housing units located within the redevelopment area. Further, the community redevelopment agency shall be required to make at least a “one-for-one” replacement of each affordable housing unit demolished pursuant to a redevelopment project to ensure that such demolished unit is replaced by a new comparable, affordable housing unit.
- g) In accordance with Section 163.387, Florida Statutes, and if the Board, in its sole discretion, determines that it is in the County’s best interest to establish a redevelopment trust fund for a community redevelopment area, the Board shall determine the amount to be funded by each taxing authority annually, however, the approval of any ordinance establishing payment in an amount greater than 50 percent of the tax increment shall require a two-thirds vote of the members of the Board.
- h) In accordance with the Act, community redevelopment plans or amended community redevelopment plans may provide for the rehabilitation, conservation or redevelopment, or a combination thereof, of housing for low or moderate income persons, including the elderly and disabled. Subject to compliance with Paragraph f above, each community redevelopment plan which has an affordable housing component shall include mixed-income housing projects. Such projects shall include a minimum 20 percent extremely low income (30 percent of area median income or less), 40 percent not to exceed moderate-income households (120 percent area median income or less), and 40 percent may be sold at market rate. Developer incentives shall be established by the Board to accomplish these housing goals. If however, the Board adopts guidelines for mixed income housing, such projects shall comply with the adopted guidelines. Further, each community redevelopment agency shall ensure that prior to funding any non-housing project, priority shall be given to rehabilitation, conservation or

redevelopment of housing for low or moderate income persons, subject to compliance with the applicable comprehensive development plan for the area.

**Section 3.** No item shall be placed on a County Commission or committee agenda seeking a County Governing Board Approval until such time as all of the terms set forth in Section 2 of this resolution are fully considered, negotiated and addressed in the item, unless the County Mayor or the County Mayor's designee recommends in writing that it is the best interests of the County to waive the requirement of this resolution, in whole or in part. The Board, in its sole discretion, reserves the right to direct further negotiations on any such item proposed for approval by the Board.

**Section 4.** Any Board decision required by Section 163.410 of the Act to be made within 120 days of the request for such decision, including any request for a County Governing Body Approval, which is deemed granted by the Act if not made within such timeframe, shall be deemed denied by operation of this resolution, unless the Board makes a decision on the request prior to the 120<sup>th</sup> day from the date of request or an extension of time is negotiated for the Board to make its decision on the request. The County Mayor or the County Mayor's designee is directed to timely communicate such denial to the community redevelopment agency or municipality that made the request.

The Prime Sponsor of the foregoing resolution is Commissioner Daniella Levine Cava. 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:

Jean Monestime, Chairman

Esteban L. Bovo, Jr., Vice Chairman

Bruno A. Barreiro

Daniella Levine Cava

Jose "Pepe" Diaz

Audrey M. Edmonson

Sally A. Heyman

Barbara J. Jordan

Dennis C. Moss

Rebeca Sosa

Sen. Javier D. Souto

Xavier L. Suarez

Juan C. Zapata

The Chairperson thereupon declared the resolution duly passed and adopted this 5<sup>th</sup> day of May, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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.



Terrence A. Smith  
Cynthia Johnson Stacks