

MEMORANDUM

Agenda Item No. 7(G)

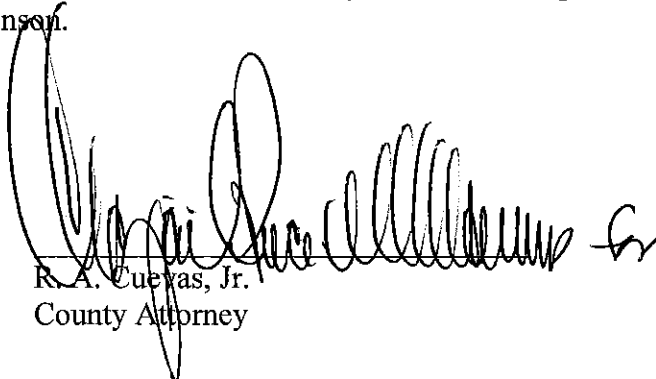
TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: (Second Reading 10-6-15)
June 30, 2015

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

SUBJECT: Ordinance creating Miami-Dade
County Overtown Community
Benefits Advisory Board for
purpose of administering
Overtown Community Benefits
Program; providing for powers
and duties, composition and
organization of board; providing
for qualifications and
appointment of board members

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson.



R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum



Date: October 6, 2015

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

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the printed name.

Subject: Ordinance Creating Miami-Dade County Overtown Community Benefits Advisory Board

The proposed ordinance relating to the Miami-Dade County Overtown Benefits Advisory Board (the "Board") creates Section 2-2203 of the Code of Miami-Dade County and establishes the Board to administer a Community Benefits Program for the development and redevelopment of the Overtown community, to identify and make recommendations of projects in the Overtown area to be allocated funding from such program in order to implement development or redevelopment projects in the Overtown community, to advise the County on the status of projects which have received such funding, and to promote redevelopment in the Overtown area. The Board, which will consist of seven members that will be appointed by the nominating council as outlined in the ordinance, shall serve without compensation and may exercise only those duties specifically granted in the ordinance or necessary in the exercise of the duties enumerated in the ordinance.

Although the ordinance specifies that administration shall provide the nominating council and the Board with adequate staff to perform their duties and utilize the County Attorney's Office for legal services, until the Board is created there is a lack of data that is needed to determine whether or not this legislation would cause a fiscal impact; therefore, existing staff may absorb the functions requested. However, if the Board requires staff support to oversee its ongoing projects, it is possible that an additional staff position(s) will have to be created to lend this support.

A handwritten signature in black ink, appearing to read "Jack Osterholt", written over a horizontal line.

Jack Osterholt
Deputy Mayor

Fls09115

Memorandum



Date: October 6, 2015

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

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the printed name.

Subject: Report Regarding Ordinance Creating and Establishing the Miami-Dade County
Overtown Community Benefits Advisory Board

This report provides information regarding the Ordinance creating and establishing the Miami-Dade County Overtown Community Benefits Advisory Board. The following information is required to be provided to the Board of County Commissioners when considering a new board.

1. Will the establishment of the board create sufficient betterment to the community to justify the Board's delegation of a portion of its authority?

The proposed Overtown Community Benefits Advisory Board is advisory and does not require a delegation of authority from the Board of County Commissioners.

2. Is there another board or agency, public or private, which is already in existence that could serve the same purpose?

No. There is no other board that could serve the purpose. The Overtown Community Benefits Advisory Board will be made up of seven (7) members nominated by the Nominating Council. The Overtown Community Benefits Advisory Board members shall consist of one (1) Overtown community advocate, one (1) real estate developer, one (1) attorney, one (1) accountant, one (1) professional architect, and one (1) resident of Overtown.

3. The costs, both direct and indirect, of establishing and maintaining the board.

As noted in the fiscal impact, the proposed ordinance creates and establishes the Overtown Community Benefits Advisory Board. Should the Overtown Community Benefits Advisory Board require staff support to oversee its ongoing projects, it is possible that an additional staff position will have to be created to lend this support.

4. Is it necessary for the board to enable the County to obtain State or Federal grants or other financing?

No. As proposed and based on the scope, the Overtown Community Benefits Advisory Board is not being created to enable the County to seek state or federal grants or other financing.

5. Should the board have bonding ability?

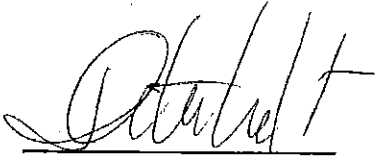
No. Based on the duties of the proposed Overtown Community Benefits Advisory Board, there is no need to have bonding ability.

6. Explain whether the board should have final authority to enter into contracts and spend County funds, or whether its contracts and expenditures must be ratified by the Board?

As proposed, the Overtown Community Benefits Advisory Board would not have authority to enter into contracts or to spend County funds.

7. Is the creation of the board the best method of achieving the desired benefit?

Yes. The creation of the Overtown Community Benefits Advisory Board will provide the Board of County Commissioners with recommendations specific to projects and programs in the Overtown area.



Jack Osterholt
Deputy Mayor




MEMORANDUM

(Revised)

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

DATE: October 6, 2015

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

SUBJECT: Agenda Item No. 7(G)

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. 7(G)
10-6-15

ORDINANCE NO. _____

ORDINANCE CREATING MIAMI-DADE COUNTY OVERTOWN COMMUNITY BENEFITS ADVISORY BOARD FOR PURPOSE OF ADMINISTERING OVERTOWN COMMUNITY BENEFITS PROGRAM; PROVIDING FOR POWERS AND DUTIES, COMPOSITION AND ORGANIZATION OF BOARD; PROVIDING FOR QUALIFICATIONS AND APPOINTMENT OF BOARD MEMBERS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, pursuant to Resolution No. R-294-13, this Board authorized the settlement of the lawsuit between the City of Miami, the Southeast Overtown/Park West Community Redevelopment Agency (the "CRA") and the County; and

WHEREAS, in accordance with the terms of the settlement agreement, the CRA and the County executed and recorded three separate Declarations of Restrictions, including amendments thereto against Blocks 36, 45 and 56 respectively (the "Declarations"), which set forth requirements for development on each Block, as well as providing for payment obligations by any prospective developer selected to develop the properties in accordance with the Declarations (the "Developers"); and

WHEREAS, the Declarations provide that the Developers shall make payments into a community benefits program to be established within the Overtown/Park West Community Redevelopment Area (the "Program"), commencing upon the date that the CRA conveys title to the Developers, such conveyance to occur prior to the commencement of construction on the respective Blocks; and

WHEREAS, the Program funds shall be used solely for development and redevelopment projects in the Overtown area; and

WHEREAS, the Declarations provide that the County will act as the fiduciary by holding and disbursing contributions to the Program, and that the composition and structure of the Program would be formalized by future action of the Board; and

WHEREAS, the Board of County Commissioners desires to delegate defined duties and responsibilities to the Overtown Community Benefits Advisory Board in furtherance of the Program,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. The above recitals are incorporated into this ordinance.

Section 2. Chapter 2, Article CXLXII, of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

Sec. 2-2202. Creation and Purpose of Overtown Community Benefits Advisory Board.

There is hereby created and established the Miami-Dade County Overtown Community Benefits Advisory Board (hereinafter the "Board"). The purpose of the Board is to administer a Community Benefits Program (the "Program") for the development and redevelopment of the Overtown community, to identify and make recommendations of projects in the Overtown area to be allocated funding from such program in order to implement development or redevelopment projects in the Overtown community, to advise the County on the status of projects which have received such funding, and to promote redevelopment in the Overtown area. The Board may exercise only those duties specifically granted in this article or necessary in the exercise of the duties enumerated in this article.

Sec. 2-2203. Powers and Duties of Board.

The Board is advisory only and shall not have the power to commit Miami-Dade County or any of its agencies to any policies, to incur any financial obligation, or to create any liability, contractual or otherwise, on the part of Miami-Dade County or any of its agencies.

The Board shall have the following powers, functions, responsibilities, jurisdiction, and duties with respect to the Overtown Community Benefits Program:

- (a) To monitor all proceeds received into the Program which proceeds shall be separated and utilized strictly for Overtown development and redevelopment projects, including but not limited to rehabilitation of commercial buildings and business façade improvements, subject to the prior approval of the Board of County Commissioners; and
- (b) To establish a process for acceptance of grant applications for development and redevelopment projects. Such projects shall, at a minimum, require applicants to: i) demonstrate that the entity is in good standing and not in default of any of its obligations to any governmental entities; ii) demonstrate that the funding requested is not the sole source of funding for the potential project; iii) describe with adequate specificity the project for redevelopment or development in the Overtown area and the public purpose that will be served by such project; iv) provide any other relevant information to demonstrate the viability and worthiness of the project, including any relevant experience of personnel who will be undertaking and operating the project; and
- (c) To make recommendations to the Board of County Commissioners as to the projects in the Overtown area proposed to receive funding, as well as the recommended amount to be allocated to each such project; and
- (d) To review and monitor performance and program achievements related to the Program; and
- (e) To submit bi-annually to the Board of County Commissioners a report summarizing and evaluating all programs and activities undertaken by the Board during the previous fiscal year, as well as the status of the completion of projects which have received funding; and

- (f) To participate in citizen outreach efforts relating to the availability of funds and to assist in informing the community of accomplishments of the Program; and
- (g) To promulgate rules consistent with this article for the conduct of its meetings and the discharge of its responsibilities; provided, however, the Board shall not create or establish any subcommittees to address the work of the Board.

Sec. 2-2204. Governing Board.

- (a) ***Composition and appointment.*** The Board shall consist of seven voting members appointed as follows:
 - (i) Seven members shall be appointed by the County Commission from persons nominated by the Nominating Council as established herein. The Nominating Council shall select each nominee by individual majority vote. The Nominating Council shall submit to the Clerk of the Board of County Commissioners a list of nominees which is equal to one nominee plus up to two additional nominees for each Board vacancy for which a recommendation is being made. The Clerk of the Board of County Commissioners shall prepare a ballot containing the list of such nominees, and shall place the list of nominees on the next available County Commission agenda. The County Commission shall select and appoint the Board from the list of nominees submitted by the Nominating Council.
 - (ii) The Board shall include one owner of a business in the Overtown community, one Overtown community advocate, one real estate developer, one attorney who is a member of the Florida Bar, one accountant with a certified public accountant designation, one professional architect and one resident of Overtown.
 - (iii) There shall be a Nominating Council comprised of five members who will be appointed as follows:
 - (1) one member shall be the County Commissioner from District 3, or designee;

- (2) one member shall be the Executive Director of the Southeast Overtown/Park West Community Redevelopment Agency, or designee;
 - (3) one member shall be a resident of the Overtown community appointed by the County Commissioner from District 3;
 - (4) one member shall be the President of the Miami-Dade Chamber of Commerce; and
 - (5) one member shall be the Executive Director of the Miami-Dade Economic Advocacy Trust.
- (iv) The sole purpose of the Nominating Council shall be to solicit, screen, interview and recommend for appointment the best qualified candidates for the Board. The Nominating Council shall solicit recommendations from the public to fill vacancies on the Board by providing the public with notice of the availability of such positions. The Nominating Council shall review all recommendations at a meeting, which shall be advertised two weeks prior to such meeting, and allow comment and input from the public in accordance with a format devised by the Nominating Council, but in no event allowing less than two minutes per speaker. After such meeting, the Nominating Council shall submit a name for each position plus up to two additional names to the County Commission, along with a list setting forth the qualifications and demographic background of each candidate. The Board of County Commissioners shall make the appointments to the Overtown Community Benefits Advisory Board from the candidates recommended by the Nominating Council or request a new list of candidates for any of the vacant positions. In the event that the Board of County Commissioners requests additional candidates, the Nominating Council will devise the process for developing said list.
- (b) **Qualifications.** Each member of the Board shall (i) be a United States citizen, a permanent resident and a duly qualified elector of Miami-Dade County, (ii) have an

outstanding reputation for civic pride, integrity, responsibility and community service, and (iii) comply with the requirements of Chapter 2-11.38 of the Code of Miami-Dade County.

- (c) **Term.** Three of the County Commission appointments to the Board shall be for an initial term which begins on the day of appointment and expires three years thereafter. Two of the County Commission appointments to the Board shall be for an initial term which begins on the day of appointment and expires two years thereafter. Two of the County Commission appointments to the Board shall be for an initial term which begins on the day of appointment and expires one year thereafter. The Nominating Council shall determine the respective initial terms of the members. The term of any Board member appointed or re-appointed pursuant to this article after the initial terms shall be for a term of three years each. The foregoing notwithstanding, the term of any Board member appointed or re-appointed pursuant to this article shall be subject to automatic expiration provided in Section 2-11.38.2 of this Code. Each Board member shall be permitted to serve no more than two consecutive and complete terms of three years each, but, in no event, more than the maximum number of years provided in Section 2-11.38.2 of this Code.
- (d) **Vacancies.** In the event of a vacancy during the term of a Board member, the Nominating Council shall convene and submit its recommendation(s) to fill such vacancy within 90 days of the vacancy notification. The County Commission shall fill the Board vacancy by designating a new member within 60 days of submission of such recommendation by the Nominating Council. In all other respects, vacancies shall be filled in the same manner that initial appointments are filled.
- (e) **Unexcused Absences.** Any Board member shall be automatically removed if, in a given calendar year, he/she (i) incurs two unexcused absences from Board meetings; or (ii) is absent from three consecutive Board meetings; or (iii) is absent from more than fifty percent of all the Board meetings held during a year. A member shall be deemed absent when he/she is not present at the meeting for at least seventy-five percent of its duration.

- (f) ***Conflict of Interest and Code of Ethics Ordinance.*** The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (the "Conflict of Interest Ordinance"), Section 2-11.1 of the Code of Miami-Dade County, Florida, shall be applicable to the members of the Board. Moreover, neither members of the Board nor their employers nor corporations in which they hold an ownership stake may obtain, seek or bid on projects which are funded by the Program during the Board member's term on the Board or for two years after said individual leaves Board membership. Any person who is in doubt as to the applicability of this Ordinance to himself or herself may request the Ethics Commission to render an opinion on such applicability, including the applicability of this provision.
- (g) ***Organization and Procedure.***
- (i) The Board shall elect one of its members as chairperson and one of its members as vice-chairperson and both shall serve as officers for a term of two years. The members shall also elect such other officers as the members may determine to be necessary and such officers shall also serve a term of two years. The Board shall hold regular meetings no less than four times per year and such other meetings as it deems necessary. A majority of the members of the Board shall constitute a quorum. All meetings of the Board shall be public and the Board shall maintain written minutes of all proceedings that shall be promptly prepared and recorded by the Clerk of the Board.
- (ii) The Board shall make and adopt bylaws, rules and regulations for its own governance, provided that such bylaws, and any amendments thereto, are consistent with federal and state laws and county ordinances, rules, regulations, policies and procedures.

Sec. 2-2205. Compensation.

Members of the Overtown Community Benefits Advisory Board shall serve without compensation.

Sec. 2-2206. Staff Support and Counsel.

The Mayor or the Mayor's designee shall provide the Board and the Nominating Council with adequate staff to perform their duties. The Board shall utilize the County Attorney's Office for legal services.

Sec. 2-2207. Applicability of Federal, State and County Laws.

The Board shall be regulated by Chapter 286 of the Florida Statutes (Sunshine Law), Chapter 119 of the Florida Statutes (Public Records Act), Chapter 112, Part III of the Florida Statutes (Code of Ethics for Public Officers and Employees), Section 2-11.1 of the Miami-Dade County Code (Conflict of Interest and Code of Ethics Ordinance) and Article IB of the Miami-Dade County Code (Standards for Creation and Review of Boards Generally).

Sec. 2-2208. Modifications and Term.

It is the intent of the County Commission to create by this article a Board that may be modified or revoked in whole or in part by duly enacted ordinance of the County Commission. This Board shall be subject to the sunset review of boards provision set forth in Section 2-11.40 of the Code.

Section 3. 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 4. 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 5. 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.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

APW

Prepared by:

DS/DA

Debra Herman

Prime Sponsor: Commissioner Audrey M. Edmonson