

# MEMORANDUM

Agenda Item No. 11(A)(3)

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

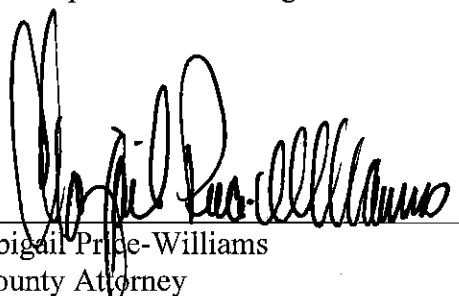
**DATE:** May 17, 2016

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution establishing guidelines for County Commission approvals related to new and existing community redevelopment agencies and directing the County Mayor to deny certain requests from community redevelopment agencies that are deemed approved by law, if not approved within the allowed timeframe

**This item was amended at the 4-14-16 Economic Prosperity Committee to: (1) clarify that community benefits agreements will only be required for new or rehabilitated commercial or residential developments; (2) add a requirement that all entities or contractors receiving grants in the amount of \$200,000.00 or more must also comply with the Living Wage Ordinance; (3) remove the required one-year minimum timeframe for the Inspector General to conduct audits, investigations, monitoring, oversight, inspections, and reviews; (4) require a community redevelopment agency to provide the public a reasonable opportunity to be heard, rather than a public hearing, on projects requiring the agency's approval and to make a finding that a project will substantially benefit, rather than primarily benefit, the residents and business owners within the area; (5) clarify that the one-to-one replacement requirement in Section 2(g) does not apply to structures that were declared unsafe and demolished; (6) delineate County Commissioners' ability to participate in governance of community redevelopment agencies, in accordance with prior resolutions of the Board of County Commissioners; and (7) require the County Mayor or the County Mayor's designee to explain the reason for any County delay in responding to a request by a community redevelopment agency that is made pursuant to Florida Statute Sec. 163.410.**

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

  
Abigail Price-Williams  
County Attorney

APW/smm



**MEMORANDUM**  
(Revised)

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

**DATE:** June 7, 2016

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No.11(A)(3)

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
- Statement of social equity 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. 11(A)(3)  
5-17-16

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

RESOLUTION ESTABLISHING GUIDELINES FOR COUNTY COMMISSION APPROVALS RELATED TO NEW AND EXISTING COMMUNITY REDEVELOPMENT AGENCIES 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 APPROVED 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 Florida Statutes at Part III of Chapter 163, Sections 163.330 through 163.450, as amended (the "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**, counties may also confer powers to a citizen board established pursuant to section 163.356 of the Act; 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 2015-16 annual appropriation from the general fund to community redevelopment agencies totaled \$31,973,561.00; 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 2015-16 total annual appropriation or increase; and

**WHEREAS**, it is anticipated that this 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, this 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 likely further limit the County’s ability to fund much needed countywide services from the general fund, such as projects or programs to alleviate the severe shortage of housing affordable to residents of extremely low, very low, low or moderate income, including the elderly and disabled; and

**WHEREAS**, furthermore, this 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 Section 163.387(3)(b), Florida Statutes, 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**, this 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 this 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**, this Board also adopted Resolution No. R-1382-09, which requires that, prior to this 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**, this Board also adopted Resolution No. R-611-15, which established a policy requiring each community development agency, except those community redevelopment agencies that have been in existence for 10 years or less, to prepare and submit to this Board an assessment of need study that demonstrates that slum or blight still exists within a designated community redevelopment area whenever such community redevelopment agency seeks approval from this Board to extend the life of the community redevelopment agency and the community redevelopment area; and

**WHEREAS**, the Miami-Dade Grand Jury (“Grand Jury”) was convened after an investigation revealed alleged mismanagement of large amounts of public dollars by certain community redevelopment agencies; and

**WHEREAS**, on February 3, 2016, the Grand Jury filed its final report (the “Report”) in which 29 recommendations were proffered, including but not limited to some of the steps already taken by this Board; and

**WHEREAS**, the Report emphasizes among other things that community redevelopment agencies must (1) provide more affordable housing projects within certain redevelopment areas, (2) ensure more citizen participation on the board of commissioners of community redevelopment agencies located within municipalities, (3) timely submit their budgets to this Board for approval prior to expending funds, (4) cap their administrative costs, (5) include statements in their budgets that describe how much money they have spent in the previous year and how much they expect to spend in the upcoming fiscal years on affordable housing, (6) have all community redevelopment agencies’ boards of commissioners, all members of advisory boards established by community redevelopment agencies, and the persons who staff each community redevelopment agency and boards attend mandatory ethics trainings, and (7) undergo yearly audits performed by the County’s Inspector General (“Grand Jury Recommendations”); and

**WHEREAS**, this Board concurs with the Grand Jury’s Recommendations and believes that additional fiscal and other conditions and controls should be considered by this 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:**

**Section 1.** The Board incorporates and approves the foregoing recitals as if fully set forth herein.

**Section 2.** Subject to the requirements of the Act and other applicable laws, the Board establishes guidelines for County Governing Body Approvals pertaining to community redevelopment agencies, certain of which may require amendments to existing agreements, as follows:

**a) Community Benefits Agreements**

All entities or contractors contracting with or receiving grants from a community redevelopment agency >>for new or rehabilitated commercial and residential developments to be constructed within the redevelopment area<<<sup>1</sup> in an amount of \$200,000.00 or more, or such other amount as may be established by this Board, shall enter into a community benefits agreement with the community redevelopment agency which will benefit primarily the residents of the community redevelopment area. To the extent allowed by law, a community benefits agreement shall 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 entity or contractor complies 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.

---

<sup>1</sup> Committee amendments are indicated as follows: Words stricken through and/or [[double bracketed]] are deleted, words underscored and/or >>double arrowed<< are added.

**b) Contract Requirements**

All entities or contractors contracting with or receiving a grant from the community redevelopment agency in an amount of \$200,000.00 or more, or such other amount as may be established by this Board, shall comply with the following Miami-Dade County ordinances contained in the Code, as may be amended, as if expressly applicable to such entities:

- i. Small Business Enterprises (Section 2-8.1.1.1.1 of the Code);
- ii. Community Business Enterprises (Section 2-10.4.01 of the Code);
- iii. Community Small Business Enterprises (Section 10-33.02 of the Code);  
[[and/or]]
- iv. Conflict of Interest and Code of Ethics Ordinance (Section 2-11.1 of the Code)>>; and/or
- v. Living Wage Ordinance<<.

**c) Adoption of Procurement Requirements**

All community redevelopment agencies shall adopt procurement requirements. A community redevelopment agency has the option of adopting procurement requirements that are established by the State of Florida, Miami-Dade County or the municipality in which the community redevelopment agency operates, as modified to reflect that such requirements are applicable to the community redevelopment agency.

**d) Inspector General Review**

The County shall have the right to retain, at its sole cost, the services of an independent private sector inspector general whenever the County deems it appropriate to do so, in accordance with Miami-Dade County Administrative Order No. 3-20. Upon written notice from the County, each community redevelopment agency shall make available to the independent private sector inspector general retained by the County all requested records and documentation for inspection and reproduction. Additionally, the community redevelopment agency shall submit to the County's Inspector General's review in accordance with Section 2-1076 of the Code. The County's Inspector General shall be empowered to review past, present and proposed community redevelopment agencies' contracts, transactions, accounts, records, agreements and programs and [[at a minimum annually]] audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to, project design, specifications, proposal submittals, activities of each community redevelopment agency, their officers, agents and employees, lobbyists, staff and elected officials to ensure compliance with contract specifications and to detect any fraud and/or corruption.

e) **Required ~~[[Public Hearing]]~~ >>Reasonable Opportunity to Be Heard<< and Project-related Findings**

If a community redevelopment agency proposes to fund a >>proposed new or rehabilitated commercial or residential<< project >>and such project amount is above the delegated person's authority for approval thus requiring approval of the community redevelopment agency<<, a ~~[[public hearing must be held]]~~ >>reasonable opportunity to be heard shall be afforded to the public<< and a finding must be made that:

1. The proposed project will ~~[[primarily]]~~ >>substantially<< benefit residents and business owners within the redevelopment area.
2. The >>non-public<< entity or contractor requesting funding will use community redevelopment agency funds to fill in any financial gaps left after all other funding has been provided to the project and that, but for the community redevelopment agency's funding, the project cannot be undertaken.

f) **Recovery of Grant Funds**

All 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.

g) **Safeguards for Residents from Displacement**

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. Further, each community redevelopment agency shall make or provide for 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. >>However, the before-mentioned requirement shall not apply to substandard affordable housing that has been declared unsafe by a governmental entity and subsequently demolished.<< The community redevelopment agency shall ensure that individuals and families who are displaced from affordable housing units have a right of first refusal to return to comparably priced affordable housing units located within the redevelopment area.

**h) Affordable and Mixed Income Housing**

Subject to compliance with Paragraph (g) above, each community redevelopment agency which has a redevelopment plan with a housing component shall serve an income mix of extremely low, very low, low, moderate, and workforce housing up to 140 percent of area median income, as may be defined by the U.S. Department of Housing and Urban Development. Developer incentives may be established by this Board that may assist in accomplishing these housing goals. If, however, this 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 authorized by the applicable community redevelopment plan, priority shall be given to rehabilitation, conservation or redevelopment of housing for extremely low, very low, low or moderate income persons that is authorized by the community redevelopment plan, subject to compliance with the applicable comprehensive development plan for the area.

**i) Reporting on Affordable Housing**

Each community redevelopment agency shall include a statement in its annual budget that describes its expenditures for the provision of affordable housing in the previous year and that are anticipated in upcoming fiscal years, if applicable.

**j) Participation of Commissioners >>, Their<< ~~[[or]]~~ Designees >>, and/or Citizens<< on CRA Boards**

>>In accordance with Resolution Nos. R-1382-09, R-871-11 and R-599-15 and Sections 163.356(2) and 163.357(1)(d) of the Act, the interlocal agreement between the County, the municipality and community redevelopment agency shall authorize this Board to appoint a County Commissioner or their designee to serve as commissioners of the community redevelopment agency. Additionally, if<< ~~[[if]]~~ a community redevelopment agency's board of commissioners is the governing body of a municipality and the board consists of five or fewer members, then the interlocal agreement between the County, the municipality and community redevelopment agency shall authorize this Board, in accordance with Section 163.357>>(1)(c)<< of the Act, to appoint two members ~~[[or designees]]~~ >>, who reside or are engaged in a business within the area of operation of the community redevelopment agency,<< to serve as commissioners of the community redevelopment agency.

**k) Limitation on the Amount of a Tax Increment**

If this Board, in its sole discretion, determines that it is in the County's best interest to establish a redevelopment trust fund for a new community redevelopment area, in accordance with Section 163.387, Florida Statutes, this 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 2/3 vote of the members of this Board.

12

**l) Ethics Training**

All boards of commissioners, all community redevelopment agencies' advisory boards, and the persons who staff each community redevelopment agency or board shall be required to complete a minimum of 4 hours of ethics training to be conducted by the Miami-Dade Commission on Ethics and Public Trust.

**m) Cap on Administrative Costs**

Each community redevelopment agency shall be subject to a cap on administrative costs of 20 percent of its overall budget.

**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 and Resolution Nos. R-871-11, R-1382-09, and R-611-15 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 or Resolution Nos. R-871-11, R-1382-09, and R-611-15, in whole or in part. This Board, in its sole discretion, reserves the right to direct the County Mayor or the County Mayor's designee to engage in further negotiations on any such item proposed for approval by this 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, is denied by operation of this resolution, unless this Board makes a decision on the request prior to the 120<sup>th</sup> day or an extension of time is negotiated for this Board to make its decision on the request. The County Mayor or the County Mayor's designee is directed to timely communicate such denial >>and the reason for the delay<< to the community redevelopment agency 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 17<sup>th</sup> day of May, 2016. 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 S. Smith  
Cynthia Johnson-Stacks