

MEMORANDUM

Agenda Item No. 11(A)(3)

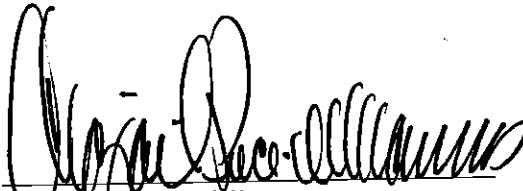
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: December 17, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution directing the
County Mayor to provide
a report relating to sewage leaks
and spills caused by excavating
contractors and the permitting
process for excavating in the
right of way, including what
is authorized or preempted by
statute in the permitting process
and the County's issuance of
citations for noncompliance
with the statute

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



Abigail Price-Williams
County Attorney

APW/smm



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: December 17, 2019

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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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ 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)
12-17-19

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO PROVIDE A REPORT RELATING TO SEWAGE LEAKS AND SPILLS CAUSED BY EXCAVATING CONTRACTORS AND THE PERMITTING PROCESS FOR EXCAVATING IN THE RIGHT OF WAY, INCLUDING WHAT IS AUTHORIZED OR PREEMPTED BY STATUTE IN THE PERMITTING PROCESS AND THE COUNTY'S ISSUANCE OF CITATIONS FOR NONCOMPLIANCE WITH THE STATUTE

WHEREAS, there are tens of thousands of miles of underground utilities and pipes located in Miami-Dade County's streets and right of ways, including gas, electric, cable, telecommunications and drainage; and

WHEREAS, the underground utilities include over 14,000 miles of water and sewer pipes; and

WHEREAS, a consequence of economic development in Miami-Dade County is the frequent excavation in streets and right of ways to install additional underground infrastructure; and

WHEREAS, prior to excavating in a right of way, the developer or excavating contractor is required to obtain a Utility Permit from the government agency that has jurisdiction over the right of way; and

WHEREAS, Chapter 556 of the Florida Statutes is the Underground Facility Damage Prevention and Safety Act (the "Act"); and

WHEREAS, the Act establishes a notification system that provides member operators (“operator”), as defined in the Act, an opportunity to locate their underground facilities and identify their facilities with paint and other marking devices, and further provides access to excavating contractors and the public to provide notice of their intent to engage in excavation or demolition activities; and

WHEREAS, notwithstanding the purpose of the Act which is to prevent injury to persons or property and the interruption of services resulting from damage to an underground facility caused by excavation or demolition operations, the County’s water and sewer pipes were broken or damaged by excavating contractors approximately 500 times in each of the past two years which caused environmental, social and economic harm to the County; and

WHEREAS, the Legislature has preempted local governments from regulating any subject matter addressed in the Act; and

WHEREAS, the Act authorizes local governments to issue a citation with a \$500 civil penalty plus court costs when an excavator commits a noncriminal infraction listed in section 556.107, Florida Statutes; and

WHEREAS, this Board has urged the Legislature to repeal the preemption to enable local governments to have control over the paint and other marking devices used to identify the utilities and over the penalties for noncompliance with the statute; and

WHEREAS, this Board seeks a report from the County Mayor or County Mayor’s designee relating to sewage leaks and spills as a result of excavating contractors damaging sewer pipes and information relating to the permitting process for excavation in the right of way,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board directs the County Mayor or County Mayor's designee to provide a report relating to sewage leaks and spills caused by excavating contractors. The report shall include the following details during the past two years: (1) location of breaks; (2) number of breaks; (3) frequency of breaks; (4) whether there have been electrical outages due to the breaks; (5) which breaks have caused environmental impacts into the Bay; (6) contractors that have caused the breaks; and (7) any other information that the Department deems relevant regarding the sewer breaks. Additionally, the report shall detail the permitting process for excavating in the right of way, including what is authorized or preempted by statute in the permitting process and the County's issuance of citations for noncompliance with the statute. The County Mayor or County Mayor's designee shall provide the report to this Board within 120 days of this resolution and shall place the completed report on an agenda of the Board pursuant to Ordinance No. 14-65.

The Prime Sponsor of the foregoing resolution is Commissioner Eileen Higgins and the Co-Sponsor 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:

Audrey M. Edmonson, Chairwoman

Rebeca Sosa, Vice Chairwoman

Esteban L. Bovo, Jr.

Jose "Pepe" Diaz

Eileen Higgins

Joe A. Martinez

Dennis C. Moss

Xavier L. Suarez

Daniella Levine Cava

Sally A. Heyman

Barbara J. Jordan

Jean Monestime

Sen. Javier D. Souto

The Chairperson thereupon declared this resolution duly passed and adopted this 17th day of December, 2019. 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.



Henry N. Gillman