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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Amended
Agenda Item No. 7(H)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: March 6, 2007

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Ordinance amending Sec. 2-94 of the Code and establishing Sec. 2-95 to require the County to enter into a Memoranda of Understanding with the FDLE or other appropriate law enforcement agency

O#07-48

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Carlos A. Gimenez.

Murray A. Greenberg
County Attorney

MAG/bw

Memorandum

MIAMI-DADE COUNTY

Date: March 8, 2007

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance amending Sec. 2-94 of the Code establishing Sec. 2-95 to require County Manager to enter into a Memorandum of Understanding with the FDLE

The fiscal impact of the Ordinance amending Sec. 2-94 of the Code requiring the County Manager to enter into a Memorandum of Understanding with the Florida Department of Law Enforcement (FDLE) cannot be determined at this time. Upon approval of the ordinance, the Miami-Dade Police Department and FDLE will have to determine the resources and commensurate cost of the services provided by the FDLE.

Susanne M. Torriente
Chief of Staff/Assistant County Manager

MEMORANDUM
(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: March 8, 2007

FROM: Murray A. Greenberg County Attorney

SUBJECT: Agenda Item No. 7(H)

Please note any items checked.

_____ **"4-Day Rule" ("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**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 7(H)
3-8-07

ORDINANCE NO. **07-48**

ORDINANCE AMENDING SECTION 2-94 OF THE CODE OF MIAMI-DADE COUNTY AND ESTABLISHING SECTION 2-95 OF THE CODE OF MIAMI-DADE COUNTY TO AUTHORIZE AND REQUIRE THE COUNTY TO ENTER INTO MEMORANDA OF UNDERSTANDING WITH THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT (FDLE) OR OTHER APPROPRIATE LAW ENFORCEMENT AGENCY FOR THE PURPOSE OF REFERRING THE INVESTIGATION OF PUBLIC CORRUPTION MATTERS INVOLVING THE MIAMI-DADE COUNTY MAYOR AND COMMISSIONERS TO THE FDLE OR OTHER APPROPRIATE LAW ENFORCEMENT AGENCY TO SERVE AS THE LEAD INVESTIGATIVE AGENCY; PROVIDING FOR THE MIAMI-DADE POLICE DEPARTMENT TO MAKE ITS PERSONNEL AND FINANCIAL RESOURCES AVAILABLE TO THE FDLE OR OTHER APPROPRIATE LAW ENFORCEMENT AGENCY TO ASSIST IN SUCH INVESTIGATIONS; REQUIRING THE MIAMI-DADE POLICE DEPARTMENT TO INVOLVE THE FDLE OR OTHER APPROPRIATE LAW ENFORCEMENT AGENCY AS A PARTICIPANT IN ANY PUBLIC CORRUPTION INVESTIGATIONS INVOLVING COUNTY EMPLOYEES AND OFFICIALS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, law enforcement agencies throughout Florida routinely enter into memoranda of understanding for the purpose of coordinating the effective use of law enforcement resources; and

WHEREAS, the criminal violation of law by elected officials, including but not limited to, violations of law that constitute public corruption, strikes at the heart of our democratic form of government and undermines the integrity of public agencies; and

WHEREAS, the importance of law enforcement services in criminal matters including public corruption involving public officials especially those that hold elected office, requires that such law enforcement services be performed with the highest integrity and transparency both in fact and appearance; and

WHEREAS, criminal investigations including but not limited to public corruption investigations involving the County Mayor and County Commissioners must be conducted in a manner that ensures the integrity of such investigations in fact and appearance; and

WHEREAS, to insure the integrity of criminal investigations involving the County Mayor and County Commissioners, it would be beneficial to have law enforcement agencies other than the Miami-Dade Police Department act as the lead investigating agency; and

WHEREAS, the integrity of public corruption investigations involving County employees and officials other than the County Mayor and County Commissioners can be safeguarded by requiring the Miami-Dade Police Department to include the Miami-Dade State Attorney's Office, the FDLE or other appropriate law enforcement agencies when MDPD is investigating County employees and officials other than the County Mayor and County Commissioners on public corruption issues,

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

Section 1. Section 2-94 of the Code of Miami-Dade County is hereby amended as follows:[1]

Sec. 2-94. Consolidation of County departments.

[1] 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 Miami-Dade Police Department shall be vested with sole and exclusive responsibility for performance of the powers, duties and functions hereinabove enumerated >>except as otherwise provided by Section 2-95 of the Code of Miami-Dade County<<.

Section 2. The Code of Miami Dade County is hereby amended to create Section 2-95 as follows:

Sec. 2-95. Law Enforcement Services Regarding Investigations of Criminal Violations of Law by the County Mayor and County Commissioner and Investigations of Public Corruption By Non-elected County Officials and Employees.

(a) Upon the execution of a memorandum of understanding (MOU) with the Miami-Dade State Attorney's Office, the Florida Department of Law Enforcement ("FDLE") or other appropriate law enforcement agency, the Miami-Dade Police Department ("MDPD") shall make its personnel and financial resources available to the Miami-Dade State Attorney's Office, the FDLE or other appropriate law enforcement agency to conduct investigations of the violation of criminal law by the County Mayor and/or County Commissioners subject to the limitations imposed herein;

(b) "violation of criminal law" as used herein shall be defined as the violation of any of the laws of the United States, the State of Florida or the Ordinances of Miami-Dade County that provide for a criminal penalty including but not limited to violations of law that constitute public corruption as defined herein.

(c) "Public corruption" as used herein shall be defined to include: (1) a "breach of the public trust" as defined in §112.312(3), Florida Statutes, (2) all of the crimes within the definition of "specified offense" set forth in §112.3173, Florida Statutes; and (3) a violation of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance codified at Section 2-11.1 of the Code of Miami-Dade County.

(d) The term "County Mayor" and "County Commissioners" as used herein shall be defined in the same manner as the term "commissioners" is defined in Section 2-11.1 of the Code of Miami-Dade County.

(e) The term "employees" and "officials" as used herein shall be defined to include:

(1) the following persons as defined in Section 2-11.1 of the Code of Miami-Dade County: (a) "autonomous personnel", (b) "quasi-judicial personnel", (c) "advisory personnel", (d) "departmental personnel", and (e) "employees"; and

(2) the President, Board of Trustees and employees of the Public Health Trust of Miami-Dade County, Florida.

(f) The MDPD Director is hereby authorized and directed to negotiate memoranda of understanding (MOU) with the Miami-Dade State Attorney's Office, the FDLE or other appropriate law enforcement agency that provides for such agency other than MDPD to: (1) serve as the lead investigative law enforcement agency to investigate the violation of criminal law by the County Mayor or Commissioners, and (2) to participate in MDPD public corruption investigations of County employees and officials. Upon completion of such negotiation, the MDPD Director shall present such MOU to the Board of County Commissioners for approval by the Board of County Commissioners and, if approved, for execution by the Mayor.

(g) Upon the execution of an MOU with the Miami-Dade State Attorney's Office, the FDLE or other appropriate law enforcement agency as authorized herein, if MDPD is requested to investigate a violation of criminal law involving the County Mayor or Commissioners or otherwise becomes aware of a possible violation of criminal law involving the County Mayor or Commissioners, MDPD shall refer such matter to the Miami-Dade State Attorney's Office, the FDLE or other appropriate law enforcement agency pursuant to such MOU. In such event, MDPD shall make its personnel and financial resources available to the Miami-Dade State Attorney's Office, the FDLE or other appropriate law enforcement agency pursuant to such MOU, but MDPD shall not be the lead investigative agency responsible for the manner in which such investigation is conducted and concluded.

(h) Upon the execution of an MOU with the Miami-Dade State Attorney's Office, the FDLE or other appropriate law enforcement agency as authorized herein, if MDPD is requested to investigate

otherwise becomes aware of a possible public corruption matter involving County officials or employees, MDPD shall be required to include the Miami-Dade State Attorney's Office, the FDLE or other appropriate law enforcement agency as a participant in such investigation pursuant to such MOU.

(i) The requirements of this section shall only apply to investigations commenced after the effective date of this section.

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 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 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: March 8, 2007

Approved by County Attorney as
To form and legal sufficiency:

Prepared by:

Lee Kraftchick/Eric A. Rodriguez

Sponsored by Commissioner Carlos A. Gimenez