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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Substitute
Agenda Item No. 11(A)(5)

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

DATE: February 18, 2015

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

SUBJECT: Resolution urging the Florida Legislature to pass HB 581, SB 852, or similar legislation that would provide a public records exemption for video footage obtained from police officer body-worn cameras when necessary to protect privacy rights

Resolution No. R-177-15

The substitute differs from the original item in that the substitute identifies House Bill 581 and Senate Bill 852, which were recently filed on the issue that is the subject of this item.

The accompanying resolution was prepared and placed on the agenda at the request of Co-Prime Sponsors Commissioner Sally A. Heyman and Chairman Jean Monestime.

RAC

R. A. Cuevas, Jr.
County Attorney

RAC/cp

MEMORANDUM

(Revised)

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

DATE: February 18, 2015

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

SUBJECT: Substitute Agenda Item No. 11(A)(5)

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**

Substitute
Agenda Item No. 11(A)(5)
2-18-15

Approved _____ Mayor
Veto _____
Override _____

RESOLUTION NO. R-177-15

RESOLUTION URGING THE FLORIDA LEGISLATURE TO PASS HB 581, SB 852, OR SIMILAR LEGISLATION THAT WOULD PROVIDE A PUBLIC RECORDS EXEMPTION FOR VIDEO FOOTAGE OBTAINED FROM POLICE OFFICER BODY-WORN CAMERAS WHEN NECESSARY TO PROTECT PRIVACY RIGHTS

WHEREAS, on December 2, 2014, this Board passed Resolution No. R-1078-14, directing the Mayor or designee to conduct a study and prepare a report on the benefits and concerns associated with police officer body-worn cameras specifically as they pertain to Miami-Dade County; and

WHEREAS, Senate Bill 248 ("SB 248") and House Bill 57 ("HB 57"), both entitled the "Police and Citizen Protection Act," have been filed for consideration during the 2015 session of the Florida Legislature by Senator Chris Smith (D – Fort Lauderdale) and Representative Shevrin D. "Shev" Jones (D – West Park), respectively; and

WHEREAS, SB 248 and HB 57 would require all uniformed Florida law enforcement officers primarily assigned to patrol duties to be equipped with body-worn cameras while performing their duties; and

WHEREAS, some footage recorded by police officer body-worn cameras could fall under Florida's Public Records Law, Florida Statute section 119.011, and be subject to disclosure to the public; and

>>**WHEREAS,** House Bill 581 ("HB 581") and senate companion bill, Senate Bill 852 ("SB 852") have been filed during the 2015 session of the Florida Legislature by Representative

David Santiago (R – Deltona) and Senator Miguel Diaz de la Portilla (R – Miami), respectively; and

WHEREAS, HB 581 and SB 852 would provide a public records exemption for police body camera audio and video recordings within the interior of a private residence, within a hospital or healthcare office, at the scene of a medical emergency, and showing children at school; and<<[1]

WHEREAS, when Florida's Public Records Law was enacted in 1909, the Legislature may not have contemplated the advances in technology that would allow for police officers to be equipped with body-worn cameras; and

WHEREAS, the Office of Community Oriented Policing Services in the United States Department of Justice released a report entitled Police Officer Body-Worn Cameras: Assessing the Evidence ("DOJ Report"), analyzing the perceived benefits and concerns related to officer body-worn cameras; and

WHEREAS, a perceived concern identified in the DOJ report is that body-worn cameras create privacy issues, both for police officers and civilians; and

WHEREAS, due to the nature of police work, police officer body-worn cameras might record video inside civilians' homes, where there is a heightened expectation of privacy; and

WHEREAS, police officer body-worn cameras might record civilians engaging in activities unrelated to a police investigation, but involving sensitive privacy issues, such as medical emergencies; and

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[1]The differences between the substitute and the original item are indicated as follows: Words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< are added.

WHEREAS, unlike many traditional surveillance methods, body-worn cameras can simultaneously record both audio and video and capture close-up images that allow for the potential use of facial recognition technology; and

WHEREAS, the possibility of the news media possessing and dispensing such sensitive footage magnifies the privacy concerns associated with that footage being subject to public disclosure; and

WHEREAS, as civilians become aware of these privacy issues, witnesses and victims could become reluctant to cooperate with police investigations; and

WHEREAS, the cooperation of witnesses and victims with police officers is of the utmost importance in ensuring the safety of the public and providing an effective criminal justice system; and

WHEREAS, the residents of Miami-Dade County and this state would be best served if Florida's Public Records Law was amended to properly balance the legitimate interest of government transparency with the protection of privacy rights,

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

Section 1. Urges the Florida Legislature to pass >>HB 581, SB 852, or similar<< legislation >>that would provide<< [[~~providing~~]] a public records exemption for video footage obtained from police officer body-worn cameras when necessary to protect privacy rights.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, >>Senator Miguel Diaz de la Portilla, Representative David Santiago,<< and the Chair and >>remaining<< Members of the Miami-Dade State Legislative Delegation.

Section 3. Directs the County's state lobbyists to advocate for the passage of the legislation as set forth in Section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2015 State Legislative Package previously approved by the Board to include this item.

The Co-Prime Sponsors of the foregoing resolution are Commissioner Sally A. Heyman and Chairman Jean Monestime. It was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Jean Monestime** and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	**aye**		
Esteban L. Bovo Jr. Vice Chairman	**aye**		
Bruno A. Barreiro	**aye**	Daniella Levine Cava	**aye**
Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**absent**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Dennis C. Moss	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**aye**
Juan C. Zapata	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 18th day of February, 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: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. MP

Matthew Papkin