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

MEMORANDUM

Agenda Item No. 11(A)(8)

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

DATE: November 3, 2015

FROM: Abigail Price-Williams County Attorney

SUBJECT: Resolution directing the County Mayor to develop, in consultation with the residents and resident councils, a smoke-free policy for all multi-family Public Housing and Affordable Housing Developments owned and operated by Miami-Dade County

Resolution No. R-1003-15

The accompanying resolution was prepared and placed on the agenda at the request of Co-Prime Sponsors Chairman Jean Monestime and Commissioner Sally A. Heyman, and Co-Sponsors Vice Chairman Esteban L. Bovo, Jr. and Commissioner Juan C. Zapata.

Abigail Price-Williams
County Attorney

APW/smm

MEMORANDUM

(Revised)

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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. 11(A)(8)
11-3-15

RESOLUTION NO. R-1003-15

RESOLUTION DIRECTING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO (1) DEVELOP, IN CONSULTATION WITH THE RESIDENTS AND RESIDENT COUNCILS, A SMOKE-FREE POLICY FOR ALL MULTI-FAMILY PUBLIC HOUSING AND AFFORDABLE HOUSING DEVELOPMENTS OWNED AND OPERATED BY MIAMI-DADE COUNTY, (2) TO SURVEY AND HOLD COMMUNITY MEETINGS WITH THE RESIDENTS, THE RESIDENT COUNCILS AND THEIR ADVOCATES, (3) AS IT RELATES TO THE PUBLIC HOUSING PROGRAM, INCORPORATE SUCH SMOKE-FREE POLICY INTO THE COUNTY'S FISCAL YEAR 2016-2017 PUBLIC HOUSING AGENCY PLAN, ADMISSIONS AND CONTINUED OCCUPANCY POLICY, PUBLIC HOUSING COMMUNITY POLICIES AND PUBLIC HOUSING LEASE, SUBJECT TO THE BOARD'S APPROVAL, (4) TO AMEND LEASES AND COMMUNITY POLICIES FOR COUNTY-OWNED MULTI-FAMILY AFFORDABLE HOUSING DEVELOPMENT TO INCORPORATE SUCH SMOKE-FREE POLICY, SUBJECT TO THE BOARD'S APPROVAL, AND (5) PROVIDE A 30-DAY PUBLIC COMMENT PERIOD REGARDING THE SMOKE-FREE POLICY IN ACCORDANCE WITH APPLICABLE LAWS, REGULATIONS, NOTICES AND THIS RESOLUTION; URGING PRIVATE PROPERTY OWNERS PARTICIPATING IN THE COUNTY'S SECTION 8 HOUSING CHOICE VOUCHER AND SECTION 8 MODERATE REHABILITATION PROGRAMS TO IMPLEMENT SMOKE-FREE POLICIES FOR THEIR MULTI-FAMILY PROPERTIES; AND DIRECTING MIAMI-DADE PUBLIC HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT TO POST THIS RESOLUTION ON THEIR WEBSITE, TO INCLUDE SAME IN THEIR ORIENTATION PACKAGES FOR PRIVATE PROPERTY OWNERS, AND PROVIDE ANY ADDITIONAL INFORMATION TO SUCH OWNERS

WHEREAS, in February 2015, the Centers for Disease Control published its *Vital Signs* report on secondhand smoke, which includes but is not limited to the following findings: (1) one in four nonsmokers (58 million people) in the United States are exposed to secondhand smoke; (2) two in five children (including seven in ten Black children) are exposed to secondhand

smoke; (3) one in three nonsmokers who live in rental housing are exposed to secondhand smoke; (4) secondhand smoke exposure is more common among children ages three to 11, Blacks, people living below the poverty level, and those who rent housing; (5) about 80 million Americans live in multi-unit housing and can be exposed to unwanted secondhand smoke in their home; and (6) people who live in public housing are especially affected by secondhand smoke, including children, the elderly, and people with disabilities; and

WHEREAS, the United States Surgeon General has stated that there is no risk-free level of exposure to secondhand smoke and the best way to keep children and adults safe from secondhand smoke is to ban all smoking indoors; and

WHEREAS, nationwide there are more than 1.2 million families who reside in public housing of which there are approximately 39 percent of the public housing residents who are between the ages of zero to 17 and approximately 15 percent who are 62 or older (the "Vulnerable Population"); and

WHEREAS, this Vulnerable Population represents a population that could be at increased risk to the adverse effects of environmental tobacco smoke, especially those residents who suffer from chronic diseases such as asthma and cardiovascular disease; and

WHEREAS, the effects of smoking can cause respiratory illness, heart disease, cancer, other adverse health effects and death for those living in neighboring residences; and

WHEREAS, Miami-Dade County (the "County"), which is a "public housing agency" as defined in the United States Housing Act of 1937 (42 U.S.C. § 1437 *et seq.*, as amended), is the owner and operator of 12 public housing asset management projects (which include a total of 9,314 units) subsidized by United States Department of Housing and Urban Development ("HUD"); and

WHEREAS, HUD also provides subsidy to the County to administer such programs as the Section 8 Housing Choice Voucher and Section 8 Moderate Rehabilitation programs; and

WHEREAS, in addition to these federally subsidized housing programs, the County also owns other multi-family affordable housing developments, which are rented to low and moderate income families and individuals; and

WHEREAS, the County, as a landlord and the administrator of the before-mentioned housing programs, owes a duty to the families and individuals who participate in these programs to ensure that the housing units in which live, whether publically or privately owned, are decent, safe and sanitary and provides protections for the public's health; and

WHEREAS, on May 29, 2012, HUD published Notice PIH-2012-25 (the "HUD Notice"), which strongly encourages public housing authorities ("Housing Authorities" or "Housing Authority") to implement smoke-free policies in some or all of their public housing units; and

WHEREAS, as of September 2014, over 500 Housing Authorities in over 30 states have adopted smoke-free policies; and

WHEREAS, on June 1, 1992, this Board approved Administrative Order No. 8-6, which was later replaced with Implementing Order No. 8-6, setting forth the County's policies concerning smoking in County-owned or leased facilities, and County-owned or operated vehicles; and

WHEREAS, on February 4, 2014, this Board also adopted Resolution No. R-145-14, which extended the County's smoking prohibitions to the use of electronic cigarettes and other nicotine dispensing devices, subject to the exceptions set forth in the Florida Clean Indoor Air Act; and

WHEREAS, although Implementing Order No. 8-6 and the Florida Clean Indoor Air Act prohibit smoking in all enclosed indoor workplaces, there is currently no legislation that makes provisions for smoking in multi-unit housing, whether publically or privately owned; and

WHEREAS, in accordance with the HUD Notice and 24 C.F.R. § 903.7(e), Housing Authorities opting to implement a smoke-free policy in their public housing sites should update their Public Housing Plans, which must include the Housing Authority's statement of operation and management and the rules and standards that will apply to their projects when the Housing Authority implements their smoke-free policy; and

WHEREAS, HUD also encourages Housing Authorities to revise their lease agreements to include the non-smoking provisions and to ensure that there is consistent application among all properties and buildings in their housing inventory in which non-smoking policies are being implemented; and

WHEREAS, on May 19, 2015, the Board adopted Resolution No. R-453-15, which approved the County's Fiscal Year 2015-2016 Public Housing Agency Plan, but the plan does not currently include a plan to implement a smoke-free policy; and

WHEREAS, this Board wishes, as it relates to public housing, to incorporate a smoke-free policy into the County's Fiscal Year 2016-2017 Public Housing Agency Plan, the Admissions and Continued Occupancy Policy, the public housing community policies, and the public housing lease for all public housing developments, excluding single-family public housing developments owned and operated by the County; and

WHEREAS, this Board also wishes to amend the leases and community policies for the County-owned multi-family affordable housing developments to include the County's smoke-free policy; and

WHEREAS, this Board understands that it is important to work closely with the residents, their resident councils and their advocates prior to the implementation of a smoke-free policy, and therefore, this Board wishes to direct the County Mayor or the County Mayor's designee to survey, meet, consult with and receive comments from the residents, their resident councils and their advocates; and

WHEREAS, this Board further recognizes that the County's smoke-free policy will not apply to privately-owned housing that are subsidized through programs such as the Section 8 Housing Choice Voucher and Section 8 Moderate Rehabilitation programs; and

WHEREAS, in September 2010 and October 2012, HUD published notices that provide guidance on the adoption of smoke-free policies for owners of project-based Section 8 housing; and

WHEREAS, notwithstanding that the County cannot impose its smoke-free policy on private property owners participating in such programs as the Section 8 Housing Choice Voucher and Section 8 Moderate Rehabilitation programs, this Board wishes to urge these owners to adopt smoke-free policies for their multi-family properties for the betterment of their residents; and

WHEREAS, the Florida Department of Health ("Health Department"), through the Centers for Disease Control, were awarded over $3.3 million in grant funds to be used, in part, to cover smoke-free initiatives in public housing, including providing smoke-free and/or designated smoking area signage, forms and notices related to the smoke-free policy, cessation services and subsequent nicotine replacement therapy, and other services a Housing Authority may need to implement a smoke-free environment; and

WHEREAS, the Health Department has advised the County that the grant funds must be expended over the course of the grant period, which ends on September 30, 2017; and

WHEREAS, the Health Department has offered to assist the County, at no cost to the County, with the implementation of its smoke-free policy by providing some or all of the services allowable under the grant; and

WHEREAS, this Board wishes to take advantage of this opportunity before the grant period ends,

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

Section 1. The foregoing recitals are incorporated in this resolution and are approved.

Section 2. This Board directs the County Mayor or the County Mayor's designee to develop, in consultation with the residents and, where applicable, resident councils, a smoke-free policy for all multi-family public housing and affordable housing developments owned and operated by the County. Such policy shall not apply to any single family public housing sites owned and operated by the County. The smoke-free policy shall include, but not be limited to the following:

a) An introduction that explains the policy's purpose, which can include information about the dangers of secondhand smoke;
b) Clear, consistent definitions of important terms, such as "smoking," "premises," and "common area," to help ensure that the policy is interpreted, implemented, and enforced in ways that effectively protect the entire housing community;
c) Information on which areas must be smoke-free, such as common areas, units (new and/or existing), outdoor areas (including patios and balconies), and setbacks from entrances;
d) Information on designated areas where smoking will be allowed;
e) Information on which public housing developments are exempt from the policy;
f) Description of who must comply, such as residents, guests, employees and business visitors;
g) A disclaimer that the County is not acting as a guarantor of the policy;
h) Information on enforcement, i.e., who will enforce the policy; how the policy will be enforced, the responsibilities of the County (post warning signs, consistently enforce the policy), and the responsibilities of residents (notify guests and visitors, report violations);
i) An effective date for the implementation of the smoke-free policy; and

j) Information for residents on local smoking cessation resources and programs, including those offered by the Health Department.

Additionally, the County Mayor or the County Mayor's designee shall survey and hold community meetings with all residents, resident councils and their advocates concerning the proposed smoke-free policy. The County Mayor or the County Mayor's designee shall also review HUD Notices and published guidelines, including but not limited to HUD's publications "Change is in the Air: An Action Guide to Establishing Smoke-Free Public Housing and Multifamily Properties" and "Smoke Free Housing: A Toolkit for Owners/Management Agents of Federally Assisted Public and Multi-family Housing", and incorporate any additional recommendations suggested by HUD into the County's smoke-free policy.

Section 3. As it relates to the public housing program, this Board directs the County Mayor or the County Mayor's designee to incorporate the smoke-free policy into the County's Fiscal Year 2016-2017 Public Housing Agency Plan, the Admissions and Continued Occupancy Policy, the public housing community polices and the public housing lease, subject to approval of this Board. The County Mayor or the County Mayor's designee is further directed to amend the leases and community policies for the County-owned multi-family affordable housing developments to incorporate the smoke-free policy, subject to the Board's approval. The County Mayor or the County Mayor's designee is directed to place legislative items seeking approval of the before-mentioned plan, policies and leases no later than April 2016. However, prior to placing any legislative items seeking approval of the before-mentioned plan, policies and leases, the County Mayor or the County Mayor's designee shall provide a 30-day comment period in accordance with applicable laws, regulations, HUD Notices or, where no such requirement exists, this resolution.

Section 4. This Board also urges all private property owners participating in the County's Section 8 Housing Choice Voucher and Section 8 Moderate Rehabilitation programs, to implement smoke-free policies for all of their multi-family properties. This Board directs the Miami-Dade Public Housing and Community Development Department to post a copy of this resolution on their website, include it in the orientation packages provided to private property owners, and to provide such owners with any additional information concerning the benefits of adopting smoke-free policies.

The Co-Prime Sponsors of the foregoing resolution are Chairman Jean Monestime and Commissioner Sally A. Heyman, and the Co-Sponsors are Vice Chairman Esteban L. Bovo, Jr. and Commissioner Juan C. Zapata. It was offered by Commissioner **Jean Monestime**, who moved its adoption. The motion was seconded by Commissioner **José "Pepe" Diaz** 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	**absent**	Daniella Levine Cava	**aye**
Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**nay**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Dennis C. Moss	**aye**	Rebeca Sosa	**nay**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**aye**
Juan C. Zapata	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of November, 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.

Terrence A. Smith