

MEMORANDUM

Agenda Item No. 11(A)(3)

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

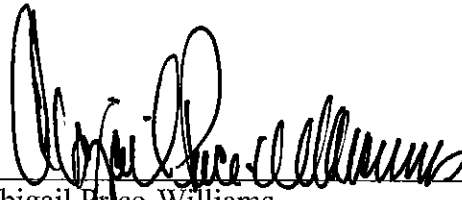
DATE: September 4, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution urging the State Attorney for the Eleventh Judicial Circuit of Florida and the Florida Department of Corrections to recommend that probationers, and require that pre-trial diversion and Intervention Program participants, perform community service hours cleaning up trash and waste at County-owned properties and rights-of-way as part of probationary sentences and pre-trial diversion program conditions; and directing the County Mayor to identify County maintained rights-of-ways and other County-owned properties where community service hours are needed to clean up trash and waste, and to accurately track and document the performance of said hours

Resolution No. R-952-19

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.


Abigail Price-Williams
County Attorney

APW/lmp



MEMORANDUM
(Revised)

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

DATE: September 4, 2019

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County Attorney

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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
- 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)
9-4-19

RESOLUTION NO. R-952-19

RESOLUTION URGING THE STATE ATTORNEY FOR THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA AND THE FLORIDA DEPARTMENT OF CORRECTIONS TO RECOMMEND THAT PROBATIONERS, AND REQUIRE THAT PRE-TRIAL DIVERSION AND INTERVENTION PROGRAM PARTICIPANTS, PERFORM COMMUNITY SERVICE HOURS CLEANING UP TRASH AND WASTE AT COUNTY-OWNED PROPERTIES AND RIGHTS-OF-WAY AS PART OF PROBATIONARY SENTENCES AND PRE-TRIAL DIVERSION PROGRAM CONDITIONS; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO IDENTIFY COUNTY MAINTAINED RIGHTS-OF-WAYS AND OTHER COUNTY-OWNED PROPERTIES WHERE COMMUNITY SERVICE HOURS ARE NEEDED TO CLEAN UP TRASH AND WASTE, AND TO ACCURATELY TRACK AND DOCUMENT THE PERFORMANCE OF SAID HOURS

WHEREAS, illegal dumping in Miami-Dade County is a serious issue that creates a wide range of problems; and

WHEREAS, illegal dumping may pose serious environmental challenges and sometimes occurs on environmentally-sensitive areas, such as wetlands; and

WHEREAS, illegal dumping may also be an economic threat to the County and its residents; and

WHEREAS, illegal dumping is a problem in the County's residential areas, such as when violators illegally dump trash and waste on a resident's otherwise legal bulky waste pickup pile, causing an excess beyond the services included within the annual service fees; and

WHEREAS, illegal dumping is a problem in the County's rural, agricultural areas, where violators illegally dump trash and waste on the right-of-way or even on another person's real property; and

WHEREAS, this Board previously adopted Resolution No. R-1201-17 and directed the administration to create the Miami-Dade County 2017 Illegal Dumping Task Force (“the Task Force”), for the purpose of investigating the causes and effects of illegal dumping in the County, and the applicable laws and regulations, enforcement, and punishment relating to illegal dumping, and to make recommendations to the Board and the County Mayor to better address and combat illegal dumping; and

WHEREAS, the Task Force issued its Illegal Dumping Task Force Report (“the Report”) on October 1, 2018; and

WHEREAS, at its December 4, 2018 meeting, the Board accepted the Report; and

WHEREAS, in an effort to combat the effects of illegal dumping, the Report recommended, among other things, that there be an expansion of the community service programs for criminal probationers so that they can fulfill their court-ordered community service by cleaning up illegally dumped trash and waste; and

WHEREAS, the Report further recommended that the County’s Department of Parks, Recreation and Open Spaces (“PROS”) and the Department of Regulatory and Economic Resources (“RER”) coordinate the identification of areas for cleanup, and that the program should be overseen by the Miami-Dade Police Department (“MDPD”) if a specialized unit is created within MDPD to combat illegal dumping; and

WHEREAS, section 948.031, Florida Statutes, provides in pertinent part that, “Any person who is convicted of a felony or misdemeanor and who is placed on probation or into community control may be required as a condition of supervision to perform some type of community service for a tax-supported or tax-exempt entity, with the consent of such entity;” and

WHEREAS, section 948.031 specifically authorizes community service to be performed by doing maintenance work on any property or building owned or leased by any state, county, or municipality or any nonprofit organization or agency, or on any state-owned, county-owned, or municipally owned road or highway, or landscaping or maintenance work in any state, county, or municipal park or recreation area; and

WHEREAS, in criminal courts in Miami-Dade County, community service hours are often requested by the State Attorney and required by the sentencing court as a condition of probation; and

WHEREAS, community service hours are often required by the State Attorney as a condition of pre-trial diversion or intervention programs for both non-violent felonies and misdemeanors, which allow for the dismissal of less serious charges in exchange for the successful completion of specified conditions, including but not limited to the performance of community service; and

WHEREAS, on some occasions the place where the community service hours are to be performed is specified at the time of sentencing or placement into a diversion program; and

WHEREAS, on other occasions where the location of the community service hours are not specified, the probation officer or probation supervisor may designate the location for performance of the community service; and

WHEREAS, this Board agrees with the recommendations in the Report requesting an expansion of the community service programs for criminal probationers and offenders so that they can fulfill their court-ordered community service hours by cleaning up illegally dumped trash and waste to lessen the effects of illegal dumping,

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

Section 1. Urges the State Attorney for the Eleventh Judicial Circuit of Florida, whenever possible, to recommend to the Court upon sentencing of criminal probationers that the probationers be required, as a condition of their probation, to perform community service hours cleaning up trash and waste on County maintained right-of-ways and other County-owned properties, including areas designated by the Mayor or Mayor's designee, such as PROS, RER, and MDPD.

Section 2. Urges the State Attorney for the Eleventh Judicial Circuit of Florida, whenever possible, to require as a condition of pre-trial diversion or pre-trial intervention offered by the State Attorney, that pre-trial program participants perform community service hours cleaning up trash and waste on County maintained right-of-ways and other County-owned properties, including areas designated by the Mayor or Mayor's designee, such as PROS, RER, and MDPD.

Section 3. Urges the Florida Department of Corrections, whenever possible, to require that probationers perform community service hours cleaning up trash and refuse on County maintained right-of-ways and other County-owned properties, including areas designated by the Mayor or Mayor's designee, such as PROS, RER, and MDPD, when court-ordered sentences do not specify where required community service hours are to be completed.

Section 4. Directs the Mayor or the Mayor's designee to facilitate the performance of community service hours referenced in sections 1, 2 and 3 above, including but not limited to the designation of responsible staff members, such as within PROS, RER, and MDPD, to identify the

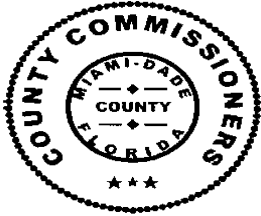
locations in greatest need for cleanup in real-time and to accurately track and document the performance of community service hours.

Section 5. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Honorable Katherine Fernandez Rundle, the State Attorney for the Eleventh Judicial Circuit of Florida, and Mark S. Inch, Secretary of the Florida Department of Corrections, as well as Sunny Ukenye, Circuit Administrator for Probation Services at the Miami Circuit Office of the Florida Department of Corrections.

The Prime Sponsor of the foregoing resolution is Commissioner Jose "Pepe" Diaz. It was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

| | | |
|----------------------|--------------------------------|---------------------------------|
| | Audrey M. Edmonson, Chairwoman | aye |
| | Rebeca Sosa, Vice Chairwoman | aye |
| Esteban L. Bovo, Jr. | aye | Daniella Levine Cava aye |
| Jose "Pepe" Diaz | aye | Sally A. Heyman aye |
| Eileen Higgins | aye | Barbara J. Jordan aye |
| Joe A. Martinez | aye | Jean Monestime aye |
| Dennis C. Moss | aye | Sen. Javier D. Souto aye |
| Xavier L. Suarez | aye | |

The Chairperson thereupon declared this resolution duly passed and adopted this 4th day of September, 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: Linda L. Cave
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to be "DS", written over a horizontal line.

David Sherman