OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(A)

(Second Reading 10-4-11)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 19, 2011

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

SUBJECT: Ordinance related to surplus property; amending Section 2-11.2.1 of the Code

Ordinance No. 11-75

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Lynda Bell, and Co-Sponsors Vice Chairwoman Audrey M. Edmonson and Commissioner Rebeca Sosa.

R. A. Cuevas, Jr.
County Attorney

RAC/up

Memorandum

MIAMI-DADE COUNTY

Date: October 4, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Ordinance related to surplus property donated to community based organizations to be used for intended purposes for a specified time period

---

The proposed ordinance requires that prior to the approval of sale, donation, or other disposition of surplus property to a community based-organization (CBO), the subject organization shall specify to the Board of County Commissioners the intended use of such property. In addition, the organization cannot resell the property at a profit without County approval, for no less than three (3) years. The proposed ordinance will not have a fiscal impact to the County.

Office of the Mayor

Fls5811

MEMORANDUM
(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: October 4, 2011

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

SUBJECT: Agenda Item No. 7(A)

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 Manager'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. 7(A)
10-4-11

ORDINANCE NO. 11-75

ORDINANCE RELATED TO SURPLUS PROPERTY; AMENDING SECTION 2-11.2.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING SURPLUS PROPERTY DONATED TO COMMUNITY BASED ORGANIZATIONS TO BE USED FOR INTENDED PURPOSES FOR A SPECIFIED TIME PERIOD; PROHIBITING THE SALE OF SUCH PROPERTY AT A PROFIT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Section 2-11.2.1 of the Code of Miami-Dade County provides for the orderly disposition of County surplus consistent with the requirements of State law; and

WHEREAS, surplus property is often donated to community based organizations; and

WHEREAS, it is in the best interest of the County that community based organizations use such surplus property for the purposes intended and not resell or otherwise transfer such property for a certain time period once such organizations receive it,

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

Section 1. Section 2-11.2.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 2-11.2.1. Disposition of County surplus property.

[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.

(a) *Definitions.* For the purposes of this section, the following definitions shall be effective:

(1) *Surplus property* shall mean property classified as surplus pursuant to Section 274.05, Florida Statutes.

(2) *Property* means all tangible personal property owned by Miami-Dade County of a nonconsumable nature.

(3) *Eligible community based organization* means a not-for-profit agency, group, organization, society, association, corporation, partnership or individual that provides a community service designed to improve or enhance the well-being of the community of Miami-Dade County at large or to improve or enhance the well-being of certain individuals within this community that have special needs. An eligible community based organization shall be tax exempt under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1954 and otherwise be a qualified recipient of surplus property pursuant to Section 274.05, Florida Statutes.

(4) *Retired county animal* means an animal that has been withdrawn from County service, following a determination by a licensed veterinarian under contract with the County that the animal no longer meets the criteria for service to the department that employed the animal.

(b) *Sale, donation or other disposition of surplus property.* To the extent not inconsistent with state or federal law, surplus property may be sold, donated or otherwise disposed of only in the manner set forth in this section. Within the reasonable exercise of its discretion and having consideration for the best interests of the County, the value and condition of the surplus property, and the probability of such property being desired by the prospective bidder to whom offered, the County shall offer surplus property in the following order of preference: first, to the Parks and Recreation Department at no cost for use in the Department's preventative programs; and thereafter, to other County departments and agencies at no cost for use in Miami-Dade County. The County shall thereafter offer

such surplus property by sale or donation to other governmental units located within Miami-Dade County for use in Miami-Dade County or shall have the discretion to offer the property to eligible community based organizations by sale or donation. Any surplus property not accepted by the Parks and Recreation Department or by other County departments or agencies and which is determined to be without commercial value shall be offered for sale or donation to eligible community based organizations. The types of surplus property which shall be offered to the Parks and Recreation Department hereunder at no cost are: step vans (one (1) ton and up), dump trucks, trash trucks, buses, water trucks, tractor trailers, low boy trailers, flat bed trucks, bulldozers, front-end loaders, backhoes, road rollers, trenchers, chippers, graders, large four-wheel drive vehicles, farm tractors, root pruners, cranes, garbage trucks, boom trucks, bucket trucks and large riding lawn mowers. Surplus property to be offered to eligible community based organizations by sale or donation pursuant to this section >>predominantly shall<< [[~~must be intended to~~]] be used by such organization in Miami-Dade County. The offer shall disclose the value, condition, and intended use of the surplus property. >>Prior to the County Commission approving a sale, donation or other disposition of surplus property to a community based organization, the organization shall specify to the County the intended use of such property. The community based organization shall predominantly use such property for the intended use, and shall not resell such property at a profit or otherwise transfer such property without County approval for no less than three (3) years from the date of receipt of the surplus property. The three year requirement may be waived administratively by the Mayor or designee upon a showing that it is in the best interest of the County. Agreements between the County and a community based organization shall include a reverter clause in the event surplus property is not used for the stated purposes within the three (3) year time period. The community based organization shall notify the County when it disposes of the surplus property.<<

In the event that the surplus property is not otherwise disposed of by operation of this section it shall be disposed of in the manner set forth in Section 274.06, Florida Statutes. The process for disposition of a retired county animal pursuant to Section 274.06, Florida Statutes, shall

be as follows: upon receipt of a written certification from a licensed veterinarian under contract with the County that the animal no longer meets the criteria for service to the County, the County Manager or designee may make such humane disposition of the retired county animal as the Manager or designee deems appropriate, including without limitation allowing a current or former Miami-Dade County employee who handled the animal to adopt the animal, provided that anyone who adopts a retired county animal signs an affidavit releasing the County from any liability for the acts of the retired county animal; the Manager or designee shall prepare a retired animal custody affidavit memorializing the disposition of each retired county animal. Any and all proceeds derived from the sale of surplus property determined to be without commercial value shall be placed by the county in a restricted fund for the benefit of organizations which provide social and human service within the County and eligible community based organizations. Funds derived from this source shall not be used as an offset or to reduce funds made available to these organizations from other County sources.

(c) *Exception for Emergency Purposes.* Notwithstanding the foregoing, the Board of County Commissioners may waive the procedure set forth in subsection (b) above by 2/3 vote of the members present and upon a finding of an emergency situation, as declared by the President of the United States, the Governor of the State of Florida, the Mayor of Miami-Dade County or the Board of County Commissioners.

Section 2. 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 3. 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 a 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 4. 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: October 4, 2011

Approved by County Attorney as to form and legal sufficiency:

Prepared by:

Jess M. McCarty

Prime Sponsor: Commissioner Lynda Bell
Co-Sponsors: Vice Chairwoman Audrey M. Edmonson
Commissionner Rebeca Sosa