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

MEMORANDUM

Amended
Agenda Item No. 7(C)

(Second Reading 9-6-12)

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

DATE: June 19, 2012

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

SUBJECT: Ordinance amending Section 25-2 of the Code; providing for limited solicitation by County Departments at Miami International Airport at the Animal Services Trust Fund and the Friends of Metro Parks Trust Account
Ordinance No. 12-64

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum

MIAMI-DADE COUNTY

Date: September 6, 2012

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

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Amending Section 25-2 of the Code Providing For Limited Solicitation at the Miami International Airport

---

The proposed ordinance amends Section 25-2 of the Code providing for limited circumstances and strict conditions by which the Parks, Recreation, and Open Spaces Department and the Animal Services Department may solicit for donations at the Miami International Airport. As part of this ordinance, the Director of Aviation will establish two locations, where the departments may solicit for funds. Both departments will have the ability to use the locations as long as the Friends of Metro Parks Trust Fund and the Animal Services Trust Fund exist. The implementation of this ordinance will not have a fiscal impact to the County.

Jack Osterholt
Deputy Mayor

Fis7712 (amended)

MEMORANDUM
(Revised)

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

DATE: September 6, 2012

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

SUBJECT: Amended Agenda Item No. 7(C)

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 _____

Amended
Agenda Item No. 7(C)
9-6-12

ORDINANCE NO. 12-64

ORDINANCE AMENDING SECTION 25-2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR LIMITED SOLICITATION BY COUNTY DEPARTMENTS AT MIAMI INTERNATIONAL AIRPORT AT TWO LOCATIONS; PROVIDING FOR INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 25-2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 25-2. Personal conduct.

* * *

25-2.2 *Solicitation of contributions and distribution of materials.*

(a) No person shall solicit alms or contributions of money or other articles of value, for religious, charitable or any other purpose, and receive money or other articles of value, whether in the form of cash, checks, credit or debit vouchers or any other form of negotiable instrument, in the public areas of the Terminal. No person shall conduct or participate in any speechmaking, distributing of pamphlets, books or other written or graphic materials upon the Airport or within its facilities without having delivered a written notice to the Department of his, her or its intent to do so at least five (5) working days prior thereto so that the Department may be fully informed of the activity proposed and take adequate precautions to protect the public health, safety and order, and to assure the efficient and orderly use of Airport property for its primary purpose and function, and to assure equal opportunity for the freedom of expression of others.

(b) The written notice required herein shall state:

---

[1] Words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< shall be added. Remaining provisions are now in effect and remain unchanged.

telephone number of the person furnishing the notice, and, if an organization, the name, address and telephone number of a responsible local officer thereof and the title of such officer.

(2) The purpose or subject of the proposed activity and a description of the means and methods intended to be used in conducting the same.

(3) The date, hours and Airport location desired for the proposed activity and the maximum number of persons proposing to participate therein at any one time or period of time, together with a form of identification card, authenticated copies of which shall be displayed on the outer clothing of each individual participating in the particular activity proposed. Such identification cards shall contain the name of the organization furnishing the notice, the legal name of the individual bearing the card, the signature and title of the official of such organization and the date issued.

(c) The Director shall have the authority to prescribe from time to time restrictions applicable to First Amendment activities at the Airport. Such restrictions shall be subject to the requirements of subsection (d) and may include, but not be limited to, identifying specific locations of First Amendment zones in the Terminal Building and other Airport facilities, limiting the number of persons permitted in such zones, and providing a method for resolving conflicting requests for use of First Amendment zones.

(d) All restrictions prescribed by the Director shall be reasonable and appropriate, and made only after a finding by the Director that the restrictions are necessary to avoid injury, or the likelihood of injury, to persons or property, or to assure the safe and orderly use of the Airport facilities by the public.

(e) Persons having given such written notice to the Director as provided in Section 25-2.2(a) shall be permitted to conduct their activities in or upon the public Airport areas, subject only to the restrictions identified by the Director in a written response sent to the applicant. Such response shall be sent within five (5) working days of the Director's receipt of the applicant's notice.

(f) If the Director notifies the applicant that his application is denied, the County Attorney's office shall within five (5) days of such denial file an appropriate action in a court of competent jurisdiction and venue for a judicial determination as to whether the proposed activity described in the complaint may be prohibited, naming the applicant as a party defendant. Dade County shall exert every reasonable effort to have the issue heard on its merits without delay and as quickly as legally possible. The burden of showing that the proposed solicitation may be prohibited shall rest with the County.

(g) If the issue for judicial determination is not heard and decided on the merits by the court within ten (10) days from the date the complaint is filed, then the

applicant shall be entitled to engage in the activities described in the application, subject only to those restrictions imposed on all other applicants as to time, place and manner of activities, so as to avoid injury to persons or property and to assure the safe and orderly use of the Airport facilities by the public. The applicant may continue to engage in such activities for so long as it may take to reach a final, nonappealed judicial determination. All parties shall thereupon abide by the ruling of such determination.

(h) No person, while engaging in the activities provided for herein, shall seek to delay a person from whom a donation or contribution is sought, or to obstruct, or unreasonably interfere with access to or egress from any airline, concession or washroom facilities or premises, including, but not limited to, passenger concourses, escalators and elevators, nor shall such person in any manner assail, coerce, threaten or physically disturb any member of the public, County, airline or concession employee or any other person for any reason. The activities provided for herein shall not intrude upon or take place in any location or area reserved or zoned for a particular use, including, but not limited to, washrooms, offices, seating areas, baggage claim areas, ticketing areas, restaurants, lounges, concessions, areas devoted to business enterprises and passenger concourses and gate holding areas. No person shall engage in the activity hereunder without first identifying the organization he or she represents in connection with such prospective donation.

(i) No person, while engaging in the activities provided for herein, shall affix any matter, written or graphic, to any Airport structure or facility, nor shall any such matter be left unattended at any location at the Airport except in baggage lockers for a period not exceeding twenty-four (24) hours upon payment of the prevailing fee.

(j) The Director is empowered to wholly or partially restrict the activities provided for herein in the event of emergencies, including but not limited to, strikes affecting the operation of the Airport, aircraft or traffic accidents, riots or civil commotion, power failures, hurricanes, or other conditions tending to disrupt the normal operation of the Airport.

(k) All persons engaged in activities permitted under Section 25-2.2 of the Code shall wear and display identification, approved by the Department, identifying such person and the organization such person represents. In no case shall any person in any activity under this section attempt to identify himself or herself as a representative of the County of the Department. (Ord. No. 75-113, § 2, 12-2-75; Ord. No. 90-1, § 1, 1-16-90; Ord. No. 95-41, §§ 41, 42, 3-7-95)

>>(l) Solicitation by County Departments is permitted in limited circumstances, and in strict accordance with the following conditions:

(1) The Airport Director shall establish, by issuance of an operational directive, two locations at which the Parks Department

and the Animal Services Department may solicit for donations. After issuance of such operational directive, those locations may not be changed except with the express approval of the Board of County Commissioners, unless such change is directed by the Transportation Security Administration, Department of Homeland Security, or Federal Aviation Administration.

(2) These locations established in such operational directive may not exceed 10 square feet of floor space. Static or video displays and unmanned collection boxes shall be permitted at such locations. No other solicitation methods shall be permitted at such location.

(3) The authorization will remain in effect so long the departments maintain the Animal Services Trust Fund, and the Friends of Metro Parks Trust Fund, respectively. Nothing herein shall allow any third party, including any affiliated fund-raising foundation, to solicit donations at Miami International Airport on behalf of any County Department, and all solicitation contemplated herein must be done directly by the County. All solicitation content must be approved in advance by the director of the Department soliciting for donations and also by the Airport Director.

(4) In the event that a Court of competent jurisdiction determines that the spaces contemplated in Section (i) above are public or quasi-public spaces such that the County would be required to allow solicitations from third parties at such locations, this Section shall automatically sunset and be of no further effect.

(5) Nothing contained herein shall be deemed to limit the ability of the Airport to display or provide advertising, promotional, or educational information at the Airport related to Miami-Dade County, at such locations as may be deemed appropriate and as otherwise authorized by law. <<

* * *

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: September 6, 2012

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

David M. Murray

Prime Sponsor: Commissioner Sally A. Heyman