

MEMORANDUM

Agenda Item No. 5(A)

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

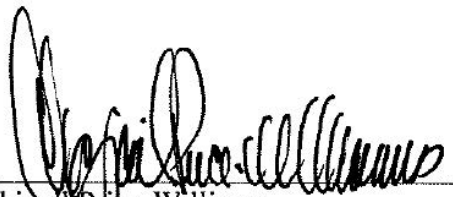
DATE: (Public Hearing 10-20-20)
October 6, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to the
Overtown Community
Benefits Program; amending
article CLI.V of chapter 2 of
the Code; repealing advisory
board and nominating council;
repealing powers, duties,
composition and organization
of board; repealing qualifications
and appointment of board
members; providing for
administration of the program
by the County Mayor; requiring
two-thirds vote of full Board
membership for repeal of or
amendment to article CLI.V
of chapter 2 of the Code

Ordinance No. 20-111

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Chairwoman Audrey M. Edmonson.


Abigail Price-Williams
County Attorney

APW/smm



MEMORANDUM

(Revised)

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

DATE: October 20, 2020

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 5(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
- ☐ 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. 5(A)

10-20-20

ORDINANCE NO. 20-111

ORDINANCE RELATING TO THE OVERTOWN COMMUNITY BENEFITS PROGRAM; AMENDING ARTICLE CLI.V OF CHAPTER 2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REPEALING ADVISORY BOARD AND NOMINATING COUNCIL; REPEALING POWERS, DUTIES, COMPOSITION AND ORGANIZATION OF BOARD; REPEALING QUALIFICATIONS AND APPOINTMENT OF BOARD MEMBERS; PROVIDING FOR ADMINISTRATION OF THE PROGRAM BY THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE; REQUIRING TWO-THIRDS VOTE OF FULL BOARD MEMBERSHIP FOR REPEAL OF OR AMENDMENT TO ARTICLE CLI.V OF CHAPTER 2 OF THE CODE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, on April 16, 2013, this Board adopted Resolution No. R-294-13, authorizing the settlement of a lawsuit between the City of Miami, the Southeast Overtown/Park West Community Redevelopment Agency (the "CRA") and the County related to Blocks 36, 45 and 56 in Overtown; and

WHEREAS, in accordance with the settlement agreement, declarations of restrictions were recorded against the subject properties, which, among other things, required future developers to make payments into a community benefits program to be established within the Overtown/Park West Community Redevelopment Area, for the purpose of development and redevelopment projects in the Overtown area; and

WHEREAS, the declarations provide that the County, as fiduciary, would hold and disburse contributions to the program, and that the composition and structure of the program would be formalized by future action of this Board; and

WHEREAS, on October 16, 2015, this Board adopted Ordinance No. 15-109, originally identified as article CXLXII of chapter 2 and subsequently codified as article CLI.V of chapter 2 of the Code of Miami-Dade County, Florida and amended (“program ordinance”), which formalized the composition and structure of the Overtown Community Benefits Program (the "program"), and additionally, created the Overtown Community Benefits Advisory Board (the "advisory board") to administer the program; and

WHEREAS, to date, funds have been received in the amount of \$1,745,645.00, which are currently being held in the County's Southeast Overtown Park West Trust Fund; and

WHEREAS, the purpose of the advisory board was to administer the program, to make recommendations to this Board of potential projects in the Overtown community to be allocated funding, to monitor proceeds received, to provide status reports to this Board on projects that received funding, and to promote redevelopment in the Overtown area; and

WHEREAS, the advisory board was to be comprised of seven members appointed by a nominating council; and

WHEREAS, although efforts were made by the County and the nominating council to fill such positions, including, but not limited to, repeated advertisement for such board positions in newspapers of general circulation, no responses were received; and

WHEREAS, because the advisory board positions have not been filled, this Board finds that there is no further need for a nominating council or an advisory board, and that the program should be administered by an alternative means in order to effectuate its purpose; and

WHEREAS, replacing the advisory board with the County Mayor or County Mayor's designee as administrator of the program would facilitate the disbursement of the program funds for the intended purpose; and

WHEREAS, to ensure that program proceeds will be efficiently and effectively distributed for the development or redevelopment of projects in the Overtown area, this Board would like to require an affirmative vote of two-thirds of the full membership of the Board of County Commissioners for the repeal of or amendment the program ordinance,

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

Section 1. The above recitals are incorporated in this ordinance.

Section 2. Article CLI.V of chapter 2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Chapter 2

* * *

Article ~~[[CXLXII]]~~>>CLI.V<<

Sec. 2-2202. Creation and Purpose of Overtown Community Benefits >>Program<<[[~~Advisory Board~~]].

There is hereby created and established the Miami-Dade County Overtown Community Benefits ~~[[Advisory Board]]~~ >>Program<< (hereinafter the "[~~Board~~]" >>program<<")~~[[The purpose of the Board is to administer a Community Benefits Program (the "Program")]]~~ for the development and redevelopment of the Overtown community~~[[, to identify and make recommendations of projects in the Overtown area to be allocated funding from such program in order to implement development or redevelopment projects in the Overtown community, to advise the County on the status of projects which have received such funding, and to promote redevelopment in the Overtown area. The Board may exercise only those duties specifically granted in this article or necessary in the exercise of the duties enumerated in this article]]]~~.

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.

Sec. 2-2203. ~~[[Powers and]]~~ >>Functions, Responsibilities, and<< Duties of ~~[[Board]]~~ >>Program Administrator<<.

~~[[The Board is advisory only and shall not have the power to commit Miami Dade County or any of its agencies to any policies, to incur any financial obligation, or to create any liability, contractual or otherwise, on the part of Miami Dade County or any of its agencies.]]~~

The ~~[[Board]]~~ >>program administrator shall be the County Mayor or County Mayor's designee who<< shall >>administer the program for the County and shall<< have the following ~~[[powers,]]~~ functions, responsibilities, ~~[[jurisdiction,]]~~ and duties with respect to the ~~[[Overtown Community Benefits Program]]~~ >>program<<:

- (a) To monitor all proceeds received into the ~~[[Program]]~~>>program<< which proceeds shall be separated and utilized strictly for Overtown development and redevelopment projects, including but not limited to rehabilitation of commercial buildings and business facade improvements~~[[, subject to the prior approval of the Board of County Commissioners]]~~; and
- (b) To establish a process for acceptance of grant applications for development and redevelopment projects. Such projects shall, at a minimum, require applicants to: i) demonstrate that the entity is in good standing and not in default of any of its obligations to any governmental entities; ii) demonstrate that the funding requested is not the sole source of funding for the potential project; iii) describe with adequate specificity the project for redevelopment or development in the Overtown area and the public purpose that will be served by such project; and iv) provide any other relevant information to demonstrate the viability and worthiness of the project, including any relevant experience of personnel who will be undertaking and operating the project; and
- (c) ~~[[To make recommendations to the Board of County Commissioners as to the projects in the Overtown area proposed to receive funding, as well as the recommended amount to be allocated to each such project]]~~>>To submit bi-annually to the Board of County Commissioners a report summarizing the recipients and projects in the Overtown

area which were allocated or distributed funding, as well as the amount allocated or distributed to each such recipient for each such project<<; and

- (d) To review and monitor performance and ~~[[program]]~~ achievements related to the ~~[[Program]]~~ >>program<<; and
- (e) To submit bi-annually to the Board of County Commissioners a report summarizing ~~[[and evaluating all programs and activities undertaken by the Board during the previous fiscal year, as well as]]~~ the status of the completion of projects which have received funding; and
- (f) To participate in citizen outreach efforts relating to the availability of funds and to assist in informing the community of accomplishments of the >>program<<~~[[Program; and~~
- (g) ~~To promulgate rules consistent with this article for the conduct of its meetings and the discharge of its responsibilities; provided, however, the Board shall not create or establish any subcommittees to address the work of the Board]].~~

Sec. 2-2204. ~~[[Governing Board.]]~~>>Repeal or Amendment, Supermajority Vote Required.

This article shall only be repealed or amended upon the affirmative vote of two-thirds of the full membership of the Board of County Commissioners.<<

~~[[a) **Composition and appointment.** The Board shall consist of seven voting members appointed as follows:~~

- (i) ~~Seven members shall be appointed by the County Commission from persons nominated by the Nominating Council as established herein. The Nominating Council shall select each nominee by individual majority vote. The Nominating Council shall submit to the Clerk of the Board of County Commissioners a list of nominees which is equal to one nominee plus up to two additional nominees for each Board vacancy for which a recommendation is being made. The Clerk of the Board of County~~

~~Commissioners shall prepare a ballot containing the list of such nominees, and shall place the list of nominees on the next available County Commission agenda. The County Commission shall select and appoint the Board from the list of nominees submitted by the Nominating Council.~~

- (ii) ~~The Board shall include one owner of a business in the Overtown community, one Overtown community advocate, one real estate developer, one attorney who is a member of the Florida Bar, one accountant with a certified public accountant designation, one professional architect and one resident of Overtown.~~
- (iii) ~~There shall be a Nominating Council comprised of five members who will be appointed as follows:~~
 - (1) ~~one member shall be the County Commissioner from District 3, or designee;~~
 - (2) ~~one member shall be the Executive Director of the Southeast Overtown/Park West Community Redevelopment Agency, or designee;~~
 - (3) ~~one member shall be a resident of the Overtown community appointed by the County Commissioner from District 3;~~
 - (4) ~~one member shall be the President of the Miami Dade Chamber of Commerce; and~~
 - (5) ~~one member shall be the Executive Director of the Miami Dade Economic Advocacy Trust.~~
- (iv) ~~The sole purpose of the Nominating Council shall be to solicit, screen, interview and recommend for appointment the best qualified candidates for the Board. The Nominating Council shall solicit recommendations from the public to fill vacancies on the Board by providing the public with notice of the availability of such positions. The Nominating Council shall review all recommendations at a meeting, which shall be advertised two weeks prior~~

~~to such meeting, and allow comment and input from the public in accordance with a format devised by the Nominating Council, but in no event allowing less than two minutes per speaker. After such meeting, the Nominating Council shall submit a name for each position plus up to two additional names to the County Commission, along with a list setting forth the qualifications and demographic background of each candidate. The Board of County Commissioners shall make the appointments to the Overtown Community Benefits Advisory Board from the candidates recommended by the Nominating Council or request a new list of candidates for any of the vacant positions. In the event that the Board of County Commissioners requests additional candidates, the Nominating Council will devise the process for developing said list.~~

- (b) ~~**Qualifications.** Each member of the Board shall (i) be a United States citizen, a permanent resident and a duly qualified elector of Miami-Dade County, (ii) have an outstanding reputation for civic pride, integrity, responsibility and community service, and (iii) comply with the requirements of Chapter 2-11.38 of the Code of Miami-Dade County.~~
- (c) ~~**Term.** Three of the County Commission appointments to the Board shall be for an initial term which begins on the day of appointment and expires three years thereafter. Two of the County Commission appointments to the Board shall be for an initial term which begins on the day of appointment and expires two years thereafter. Two of the County Commission appointments to the Board shall be for an initial term which begins on the day of appointment and expires one year thereafter. The Nominating Council shall determine the respective initial terms of the members. The term of any Board member appointed or re-appointed pursuant to this article after the initial terms shall be for a term of three years each. The foregoing notwithstanding, the term of any Board member appointed or re-appointed pursuant to this article shall be subject to automatic expiration provided in Section 2-11.38.2 of this Code. Each Board member shall be permitted to serve no more than two consecutive and complete terms of three years each.~~

- (d) ~~**Vacancies.** In the event of a vacancy during the term of a Board member, the Nominating Council shall convene and submit its recommendation(s) to fill such vacancy within 90 days of the vacancy notification. The County Commission shall fill the Board vacancy by designating a new member within 60 days of submission of such recommendation by the Nominating Council. In all other respects, vacancies shall be filled in the same manner that initial appointments are filled.~~
- (e) ~~**Unexcused Absences.** Any Board member shall be automatically removed if, in a given calendar year, he/she (i) incurs two unexcused absences from Board meetings; or (ii) is absent from three consecutive Board meetings; or (iii) is absent from more than fifty percent of all the Board meetings held during a year. A member shall be deemed absent when he/she is not present at the meeting for at least seventy-five percent of its duration.~~
- (f) ~~**Conflict of Interest and Code of Ethics Ordinance.** The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (the "Conflict of Interest Ordinance"), Section 2-11.1 of the Code of Miami-Dade County, Florida, shall be applicable to the members of the Board. Moreover, neither members of the Board nor their employers nor corporations in which they hold an ownership stake may obtain, seek or bid on projects which are funded by the Program during the Board member's term on the Board or for two years after said individual leaves Board membership. Any person who is in doubt as to the applicability of this Ordinance to himself or herself may request the Ethics Commission to render an opinion on such applicability, including the applicability of this provision.~~
- (g) ~~**Organization and Procedure.**~~
 - (i) ~~The Board shall elect one of its members as chairperson and one of its members as vice-chairperson and both shall serve as officers for a term of two years. The members shall also elect such other officers as the members may determine to be necessary and such officers shall also serve a term of two years. The Board shall hold regular meetings no less than four times per year and such other meetings~~

~~as it deems necessary. A majority of the members of the Board shall constitute a quorum. All meetings of the Board shall be public and the Board shall maintain written minutes of all proceedings that shall be promptly prepared and recorded by the Clerk of the Board.~~

- (ii) ~~The Board shall make and adopt bylaws, rules and regulations for its own governance, provided that such bylaws, and any amendments thereto, are consistent with federal and state laws and county ordinances, rules, regulations, policies and procedures.~~

~~Sec. 2 2205. Compensation.~~

~~Members of the Overtown Community Benefits Advisory Board shall serve without compensation.~~

~~Sec. 2 2206. Staff Support and Counsel.~~

~~The Mayor or the Mayor's designee shall provide the Board and the Nominating Council with adequate staff to perform their duties. The Board shall utilize the County Attorney's Office for legal services.~~

~~Sec. 2 2207. Applicability of Federal, State and County Laws.~~

~~The Board shall be regulated by Chapter 286 of the Florida Statutes (Sunshine Law), Chapter 119 of the Florida Statutes (Public Records Act), Chapter 112, Part III of the Florida Statutes (Code of Ethics for Public Officers and Employees), Section 2-11.1 of the Miami-Dade County Code (Conflict of Interest and Code of Ethics Ordinance) and Article IB of the Miami-Dade County Code (Standards for Creation and Review of Boards Generally).~~

~~Sec. 2 2208. Modifications and Term.~~

~~It is the intent of the County Commission to create by this article a Board that may be modified or revoked in whole or in part by duly enacted ordinance of the County Commission. This Board shall be subject to the sunset review of boards provision set forth in Section 2-11.40 of the Code.]]~~

Section 3. 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 4. 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 5. 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 20, 2020

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:

Debra Herman
Monica Rizo Perez

Prime Sponsor: Chairwoman Audrey M. Edmonson