



## **TOWN COUNCIL MEETING AGENDA**

Wednesday, June 15, 2011, 7:00 p.m.

South Dade Regional Library

10750 SW 211<sup>th</sup> Street

Cutler Bay, Florida 33189

Mayor Edward P. MacDougall  
Vice Mayor Ernest N. Sochin  
Councilmember Peggy R. Bell  
Councilmember Mary Ann L. Mixon  
Councilmember Sue Ellen Loyzelle

Town Attorney Mitchell Bierman  
Town Attorney Chad Friedman  
Town Manager Steven Alexander  
Town Clerk Esther B. Coulson

This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodations to participate in this proceeding should contact the town clerk at (305) 234-4262 for assistance no later than four days prior to the meeting.

### **1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE**

#### **ADDITIONS, DELETIONS AND DEFERRALS**

### **2. PUBLIC COMMENTS**

### **3. PROCLAMATIONS, AWARDS, AND PRESENTATIONS**

- A. Proclamation - Honoring Former Firefighter
- B. Proclamation - Girl Power
- C. Proclamation - GFWC Woman's Club 55<sup>th</sup> Anniversary
- D. Presentation – 2011 Legislative Session – Lobbyist Report

### **4. APPROVAL OF MINUTES**

May 18, 2011

TAB 1

### **5. REPORTS**

#### **A. TOWN MANAGER'S REPORT**

#### **B. TOWN ATTORNEY'S REPORT**

#### **C. BOARD/COMMITTEE REPORTS AND COUNCIL ANNOUNCEMENTS**

### **6. CONSENT AGENDA**

ANY ITEMS SHALL BE REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION OR SEPARATE VOTE IF REQUESTED OR PULLED BY A COUNCILMEMBER OR THE TOWN MANAGER.

- A.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE USE OF UP TO \$1,200 OF UNENCUMBERED PUBLIC WORKS FUNDS WITHIN THE FISCAL YEAR 2010/2011 BUDGET FOR SENIOR TRANSPORTATION TO AND FROM CULTURAL ARTS CENTERS, AND PROVIDING FOR AN EFFECTIVE DATE. (Loyzelle)

TAB 2

- B.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ACCEPTING A SMALL-SCALE ENERGY-EFFICIENCY TECHNICAL ASSISTANCE GRANT AWARD IN THE AMOUNT OF TWENTY THOUSAND DOLLARS (\$20,000.00) TO BE USED TO CREATE A GREEN BUSINESS INCUBATOR IMPLEMENTATION PLAN; APPROVING THE GRANT AGREEMENT, AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE GRANT AGREEMENT NO. ARE 055 AMONG THE TOWN, STATE OF FLORIDA EXECUTIVE OFFICE OF THE GOVERNOR, FLORIDA ENERGY AND CLIMATE COMMISSION AND THE DEPARTMENT OF COMMUNITY AFFAIRS, AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 3

- C.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPOINTING DAVID FEINBERG AS THE RADIO AMATEUR CIVIL EMERGENCY SERVICE (RACES) COORDINATOR FOR THE TOWN; AND PROVIDING FOR AN EFFECTIVE DATE. (Sochin)

TAB 4

**7. ORDINANCES FOR FIRST READING (PUBLIC HEARING NOT REQUIRED)**

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 10-08 RELATING TO TOWN ADVISORY BOARDS; AND PROVIDING FOR AN EFFECTIVE DATE. (MacDougall)

TAB 5

**PUBLIC COMMENTS**

THE PRESIDING OFFICER SHALL HAVE THE DISCRETION TO LIMIT THE LENGTH OF PUBLIC COMMENTS IN THE INTEREST OF TIME IN ORDER TO ALLOW ALL PERSONS WHO WISH TO SPEAK AN OPPORTUNITY TO DO SO.

**8. ORDINANCES FOR FIRST READING OR RESOLUTIONS REQUIRING A PUBLIC HEARING**

**9. ORDINANCES FOR SECOND READING (PUBLIC HEARING REQUIRED)**

- A.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, REENACTING EMERGENCY ORDINANCE 11-04 WHICH ESTABLISHED THE CANDIDATE QUALIFYING PERIOD FOR THE 2011 MUNICIPAL ELECTION FOR THE VICE MAYOR AND COUNCIL SEAT 2 POSITIONS, AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 6

- B. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING THE WATER CONSERVATION AND EMERGENCY WATER RESTRICTION ENFORCEMENT REGULATIONS; PROVIDING FOR PENALTIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

**TAB 7**

**END OF PUBLIC HEARING**

**10. PUBLIC COMMENTS**

THE PRESIDING OFFICER SHALL HAVE THE DISCRETION TO LIMIT THE LENGTH OF PUBLIC COMMENTS IN THE INTEREST OF TIME IN ORDER TO ALLOW ALL PERSONS WHO WISH TO SPEAK AN OPPORTUNITY TO DO SO.

**11. MAYOR AND COUNCIL COMMENTS**

- A. Burglar Alarms (Mayor)**
- B. Community-Wide Garage Sale – Fall Date (Bell)**
- C. 2011 Hurricane Preparedness (Mayor)**
- D. Residency Requirements – Advisory Board Appointments (Mayor)**

**12. OTHER BUSINESS**

**13. ADJOURNMENT**

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TAB 1

**TOWN OF CUTLER BAY TOWN COUNCIL REGULAR MEETING  
MINUTES**

Wednesday, May 18, 2011, 7:00 p.m.

South Dade Regional Library

10750 Southwest 211 Street

Cutler Bay, Florida 33189

**Members Present:**

Vice Mayor Ernest N. Sochin

Councilmember Peggy R. Bell

Councilmember Mary Ann Mixon

Councilmember Sue Ellen Loyzelle

**Also Present:**

Town Manager Steven Alexander

Town Attorney Mitch Bierman

Town Clerk Esther B. Coulson

**1. CALL TO ORDER, ROLL CALL, and PLEDGE OF ALLEGIANCE**

The vice mayor called the meeting to order at 7:00 p.m.; requested that Ms. Coulson call the roll and noted that a quorum was present with Mayor Edward P. MacDougall absent.

Later in the meeting, the vice mayor led in the Pledge of Allegiance to the Flag.

**ADDITIONS, DELETIONS AND DEFERRALS**

The vice mayor noted the changes on this evening's agenda.

**2. PUBLIC COMMENTS**

No-one from the public appeared before the council.

**3. PROCLAMATIONS, AWARDS, AND PRESENTATIONS**

**A. Proclamation- Kyle Senzig, Eagle Scout Awardee**

On behalf of the town council, Councilmember Bell read into the record a proclamation honoring Kyle Sean Senzig, Boy Scout Troup 317 Thunderbird District, on his achievement of attaining the rank of Eagle Scout, the highest rank in boys scouts. The council commended him for his accomplishment.

Kyle Senzig and Steve Senzig, his father, accepted the proclamation with appreciation.

**B. Proclamation- Take Stock In Children (TSIC)**

On behalf of the town council, Councilmember Bell read into the record a proclamation extending appreciation to Ms. Elizabeth Garris, Town of Cutler Bay resident, for devoting her time and energy with the Take Stock in Children program which leads school students to their personal commitment towards success.

Ms. Garris thanked the council for the proclamation.

**C. Presentation- Elizabeth Garris, Opposition of Chickens**

Ms. Garris gave a presentation on “No to Chickens” and cited reasons why chickens should not be permitted in the town. (A copy of her presentation is filed with the supplemental papers to the minutes of this meeting.)

**4. APPROVAL OF MINUTES**

**On motion of Councilmember Bell, seconded by Councilmember Mixon and unanimously carried, the council approved the following minutes as submitted:**

- A.** April 14, 2011- Special Council Meeting;
- B.** April 20, 2011- Council Meeting, and
- C.** April 20, 2011- Local Planning Agency (LPA)

**5. REPORTS**

**A. TOWN MANAGER’S REPORT**

- **Summer Movie Night in the Park**  
Mr. Alexander reported that on June 10, 2011 at 7:30 pm, Summer Movie Night in the Park will be featuring *Shrek the Third* at Cutler Ridge Park.
- **Summer Registration and Learn to Swim Programs**  
Mr. Alexander gave a statistical overview on the number residents who were eligible and registered to participate in the park’s summer and *Learn to Swim* programs.
- **State Road (SR) 5/US1 – Southwest 200 Street/Caribbean Boulevard Roadway Project**  
Mr. Alexander described the intersection improvements planned on US1 (Southwest 200 Street and Caribbean Boulevard) which will commence on May 31, 2011. He explained that staff will continue to coordinate same with the State of Florida Department of Transportation (FDOT).
- **Southwest 216 Street Lighting Project**  
Mr. Alexander announced the recent notification from the Florida Power and Light Company that the entire corridor on Southwest 216 Street lighting project is anticipated to be illuminated by Friday, 27 May, 2011.
- **Regional Water and Sewer Upgrades**  
Mr. Alexander reported that work will take place on the regional upgrades to the water and sewer pump transfer stations on Old Cutler Road and Eureka Drive.

· **Directional Signs – Southwest 188 Street**

Mr. Alexander referenced staff's completion of the installations on informational direction signs along Southwest 188 Street and along the northern boundary of the Pinewood Villas complex. Said signs were intended to help the emergency response team access Pinewood Villas.

· **C-1 Canal**

Mr. Alexander pointed out recent telephone calls and emails to the council from residents living along the C-1 Canal (Black Creek) and surrounding finger canals.

Mr. Alexander explained that the town maintains finger canals through a maintenance contract with the Miami-Dade County Public Works Department. He indicated that town staff is working with the maintenance on the floating debris.

· **MDC Manager Meeting**

Mr. Alexander gave a report of his meeting held with the MDC manager regarding several issues concerning the town and indicated that staff will continue to communicate with the county.

**B. TOWN ATTORNEY'S REPORT**

***Tell us Why Cutler Bay is Special . . . and Win \$1,000***

Mr. Bierman noted the ongoing essay contest which will end on May 25, 2011 for high school seniors residing in the town and referred to the article "*Essay Contest Planned for High School Seniors*" which appeared in the May 17 through 30 , 2011 edition of the Cutler Bay News; a copy of which is filed with the supplemental papers to the minutes of this meeting.

**C. BOARD/COMMITTEE REPORTS AND COUNCIL ANNOUNCEMENTS**

An announcement was made on the Parks and Recreation Advisory Committee tour of all the town's parks scheduled for Saturday, May 21, 2011 at 9:00 a.m. to meet at Cutler Ridge Park, and the public was invited to attend.

The vice mayor reported on his recent his visit with District 8 MDC Commissioner Lynda Bell and MDC's Park and Recreation Department staff to all MDC's parks and town parks within the district.

**6. CONSENT AGENDA**

**By unanimous consent and upon Councilmember Bell's request, the council pulled Item A. from the Consent Agenda for consideration.**

- B. PACE Revised ILA**  
On motion of Councilmember Mixon, seconded by Councilmember Bell and unanimously carried, the council adopted Resolution 11-35 of the Mayor and Town Council of the Town of Cutler Bay, Florida, adopting a revised interlocal agreement among the town and other municipalities relating to the green corridor Property Assessment Clean Energy (PACE) district; authorizing the town manager to take any and all steps necessary to execute the necessary documents to carry out the intent and purpose of this resolution; and providing for an effective date.
- C. Linear Park - Fee Simple Title**  
On motion of Councilmember Mixon, seconded by Councilmember Bell and unanimously carried, the council adopted Resolution 11-36 of the Mayor and Town Council of the Town of Cutler Bay, Florida, authorizing the town manager to take any and all steps necessary to obtain fee simple title to the private linear park generally located north of Southwest 223 Terrace, south of southwest 216 Street, east of Southwest 97 Avenue, and west of Southwest 95 Place as further shown on Exhibit "A," and providing for an effective date.
- D. Caribbean Boulevard Roadway Improvements**  
On motion of Councilmember Mixon, seconded by Councilmember Bell and unanimously carried, the council adopted Resolution 11-37 of the Mayor and Town Council of the Town of Cutler Bay, Florida, relating to professional services; approving the qualified firm to provide design and engineering services to the town for Caribbean Boulevard roadway improvements; authorizing the town manager to negotiate an agreement with Corzo Castella Carballo Thompson Salman (C3TS) Inc., and providing an effective date.
- E. Landscape Maintenance Agreement Amendment**  
On motion of Councilmember Mixon, seconded by Councilmember Bell and unanimously carried, the council adopted Resolution 11-38 of the Mayor and Town Council of the Town of Cutler Bay, Florida, approving an amendment to the landscape maintenance agreement with Groundkeepers, Inc. for additional scope of services within town designated right-of-ways and cul-de-sacs for an annual amount of \$23,292.00; authorizing the town manager to execute an amendment to the agreement, and providing for an effective date.
- D. Town Center South Parking Lot Improvements**  
On motion of Councilmember Mixon, seconded by Councilmember Bell and unanimously carried, the council adopted Resolution 11-39 of the Mayor and Town Council of the Town of Cutler Bay, Florida, authorizing the issuance of an Invitation To Bid (ITB) for the town center south parking lot improvements; authorizing the town manager to negotiate and enter into an agreement with the lowest responsive and responsible bidder, and providing for an effective date.



**A. Charter School Application and Feasibility Study**

The council considered its action to adopt a resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, authorizing the issuance of a Request For Proposals (RFP) for the operation of a municipal charter school within the town; authorizing the town manager to negotiate and enter into a professional services agreement for the preparation of a charter school application and feasibility study; authorizing the town manager to prepare and submit a municipal charter application to the appropriate agencies; amending Resolution 10-65 relating to the Fiscal Year 2010/2011 budget in order to allocate \$160,000 in order to effectuate the intent and purpose of this resolution; and providing for an effective date.

At Councilmember Bell's request, Mr. Alexander gave a report on the short time-frame involved to work towards the August 2011 charter school application deadline date; funding not initially appropriated towards charter school issues, and approximately \$40,000 earmarked for vendors, EdVisions and REM Solutions. He suggested that the council further authorize the transfer of funds in this regard.

The vice mayor requested that Ms. Coulson read the title of the aforementioned proposed resolution into the record.

**On motion of Councilmember Mixon, seconded by Councilmember Bell and unanimously carried, the council adopted, as amended changing the allocation amount from one hundred and sixty thousand dollars (\$160,000) to seventy-five thousand dollars (\$75,000), Resolution 11-34 as previously cited.**

**7. QUASI-JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)**

**8. ORDINANCES FOR FIRST READING (PUBLIC HEARING NOT REQUIRED)**

**PUBLIC COMMENTS**

**9. ORDINANCES FOR FIRST READING OR RESOLUTIONS REQUIRING A PUBLIC HEARING  
Water Conservation and Emergency Water Restriction Enforcement Regulations**

The vice mayor requested that Ms. Coulson read the following title into the record:

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING THE WATER CONSERVATION AND EMERGENCY WATER RESTRICTION ENFORCEMENT REGULATIONS; PROVIDING FOR PENALTIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

Mr. Julian Perez, Community Development Director, gave an overview of the subject proposed ordinance which addresses the emergency aspects and permit restrictions of irrigation and he outlined the methods in which community outreach would be conducted.

After further discussion, Mr. Steve Zarzecki, Town of Cutler Bay resident, volunteered the Concerned Citizens of Cutler Bay organization to assist the town with community outreach efforts on the subject proposed ordinance and addressed his plan to communicate with Mr. Perez.

The vice mayor accepted Mr. Alexander's suggestion for Mr. Peter Kessell, Town of Cutler Bay resident, to meet with Mr. Perez after this evening's meeting on his questions relating to the subject proposed ordinance.

Following further discussion and **on motion of Councilmember Bell, seconded by Councilmember Mixon and unanimously carried, the council approved the enactment of the proposed ordinance as previously cited.** (The second reading will be held on June 15, 2011.)

#### **PUBLIC HEARING**

**By unanimous consent, the vice mayor opened the public hearings.**

#### **10. ORDINANCES FOR SECOND READING Garage Sales - NPO**

The vice mayor requested that Ms. Coulson read the following title into the record, the substance of which is as follows, and called for interested parties to be heard:

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-19 RELATING TO GARAGE SALES; PROVIDING FOR REGULATIONS RELATING TO NONPROFIT ORGANIZATION GARAGE SALES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE.**  
(Mixon)

After discussion and there being no one from the public, the vice mayor, **by unanimous consent, closed the public hearing.**

**On motion of Councilmember Bell, seconded by Councilmember Mixon and unanimously carried, the council enacted Ordinance 11-07, as previously cited, to become effective as provided by law.**

#### **END OF PUBLIC HEARING**

#### **11. PUBLIC COMMENTS**

No one appeared before the council.

## 12. MAYOR AND COUNCIL COMMENTS

- **Town Committees – April 20, 2011**

Reference was made to the April 20, 2011 regular council minutes on the mayor's request for the town clerk to provide information on the tasks for the town's advisory committees to which clarification was provided.

- **"Buy America" Policy – Purchase of Town Supplies**

With respect to the April 20, 2011 regular council minutes, direction was given to the clerk to provide more information on the council's final action on the "Buy America" policy as it relates to the purchase of town supplies.

**Dollar Tree Store Opening**

Councilmember Bell reported on her recent attendance to the new Dollar Tree Store's ribbon cutting opening event near Allapattah and US 1.

- **Theft**

Councilmember Bell referred to a recent email sent to her by a constituent relaying her gratitude on the manner in which her recent stolen jewelry problem was handled by staff even though her stolen items were withheld by the police department for evidence.

- **Community-Wide Garage – Saturday, May 21, 2011**

Councilmember Bell reported that staff is still working on the ability for residents to post and view respective addresses identifying the location of community-wide garage sales, previously sent to the town clerk's office, on the town's website. She announced that the date of the community-wide garage sale will be held on Saturday, May 21, 2011.

- **Old Cutler Roadway Project**

Councilmember Bell referred to an email received on May 5, 2011, from the Voices of Cutler Bay regarding the Old Cutler Road roadway project and voiced concerns on the request made by an anonymous sender.

- **Taste by-the-Bay**

Councilmember Loyzelle referred to the Cutler Bay Business Association's recent Taste by-the Bay event held at the Village of Palmetto Bay; noted the number of people who attended, and acknowledged the hard work of the volunteers.

- **SDCAC**

Councilmember Loyzelle addressed the South Dade Cultural Arts Center's (SDCAC's) soft opening, previous and future events and encouraged the community to visit the center.

Councilmember Loyzelle suggested the allocation of dedicated funding towards a monthly outreach program transporting seniors to and from SDCAC to which the town manager indicated that staff would draft a resolution for the next meeting.

· **Town of Cutler Bay Town Center Sign**

The vice mayor recognized the visibility of the illuminated Town of Cutler Bay Town Center signs from the Florida's Turnpike.

· **Charter School**

The vice mayor reported that efforts are underway in working closely towards a charter school in the town; acknowledged the Education Advisory Committee's hard work, and viewed the potential charter school as the town's major accomplishment.

**13. OTHER BUSINESS**

There was no other business to come before the town council.

**14. ADJOURNMENT**

There being no further business to come before the council, and on motion made, seconded and unanimously carried, the meeting adjourned at 8:14 p.m.

The minutes were approved at the March 16, 2011 Regular Council Meeting.

Signed \_\_\_\_\_  
Esther B. Coulson, Town Clerk

Signed \_\_\_\_\_  
Edward P. MacDougall, Mayor

TAB 2

**RESOLUTION 11-\_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL  
OF THE TOWN OF CUTLER BAY, FLORIDA,  
AUTHORIZING THE USE OF UP TO \$1,200 OF  
UNENCUMBERED PUBLIC WORKS FUNDS WITHIN THE  
FISCAL YEAR 2010/2011 BUDGET FOR SENIOR  
TRANSPORTATION TO AND FROM CULTURAL ARTS  
CENTERS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the South Miami-Dade Cultural Arts Center (the “Center”) is a world-class cultural venue within the Town; and

**WHEREAS**, the Adrienne Arsht Performing Arts Center (the “Arsht Center”) is a world-class cultural venue within the County; and

**WHEREAS**, the Town desires to assist senior citizens by providing transportation to and from any such Cultural Performance Centers within the county in order to afford them the opportunity to enjoy the quality entertainment provided by the Centers; and

**WHEREAS**, the Town Council finds that this Resolution is in the best interest and welfare of the residents of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2. Senior Transportation Funds Allocation.** The Town Council hereby authorizes the use of up to \$1,200 of unencumbered public works funds within the fiscal year 2010/2011 budget for senior transportation to and from the Centers.

**Section 3. Effective Date.** This resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
EDWARD P. MACDOUGALL, Mayor

Attest:

\_\_\_\_\_  
ESTHER B. COULSON  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE TOWN OF CUTLER BAY:

---

WEISS SEROTA HELFMAN PASTORIZA  
COLE & BONISKE, P.L.  
Town Attorney

Moved By:  
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall \_\_\_\_\_

Vice Mayor Ernest N. Sochin \_\_\_\_\_

Councilmember Peggy R. Bell \_\_\_\_\_

Councilmember Mary Ann Mixon \_\_\_\_\_

Councilmember Sue Ellen Loyzelle \_\_\_\_\_

TAB 3





## Office of the Town Manager

Steven J. Alexander  
Town Manager

# MEMORANDUM

To: Honorable Mayor, Vice Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: June 15, 2011

Re: **2011 SMALL-SCALE ENERGY-EFFICIENCY TECHNICAL ASSISTANCE GRANT AWARD**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ACCEPTING A SMALL-SCALE ENERGY-EFFICIENCY TECHNICAL ASSISTANCE GRANT AWARD IN THE AMOUNT OF TWENTY THOUSAND DOLLARS (\$20,000.00) TO BE USED TO CREATE A GREEN BUSINESS INCUBATOR IMPLEMENTATION PLAN. APPROVING THE GRANT AGREEMENT AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE GRANT AGREEMENT NO. ARE 055 AMONG THE TOWN, STATE OF FLORIDA, EXECUTIVE OFFICE OF THE GOVERNOR, FLORIDA ENERGY AND CLIMATE COMMISSION AND THE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE.**

## BACKGROUND AND ANALYSIS

The Small-Scale Energy-Efficiency Technical Assistance Grant is a cooperative effort by the Governor's Energy Office and the Department of Community Affairs. The grant is available to the communities that applied for designation as an Energy Economic Zone Pilot Program. It is intended to provide those communities an opportunity to further these programs, policies, and practices related to the development of energy efficient land-use planning and alternative energy sources. The intended result is a program model that could serve as a guide for other Florida communities in raising awareness of energy efficiency.

On July 31, 2009 Town staff submitted an application to the Department of Community Affairs to receive designation as an Energy Economic Zone Pilot Community. Although the Town was not selected for this designation, the Energy Economic Zone Pilot Community application made the Town eligible to receive the Small-Scale Energy-Efficiency Technical Assistance Grant.





The Small-Scale Energy-Efficiency Technical Assistance Grant award is \$20,000 and will not require a match. The funds will be used to develop a Green Business Incubator implementation plan that will identify, and assist and promote new local green businesses within the Town's Energy Economic Zone.

## **RECOMMENDATION**

We recommend that the attached resolution accepting the Small-Scale Energy-Efficiency Technical Assistance Grant award, and authorizing the Town Manager to execute the agreement be approved.



**RESOLUTION NO. 11-\_\_**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ACCEPTING A SMALL-SCALE ENERGY-EFFICIENCY TECHNICAL ASSISTANCE GRANT AWARD IN THE AMOUNT OF TWENTY THOUSAND DOLLARS (\$20,000.00) TO BE USED TO CREATE A GREEN BUSINESS INCUBATOR IMPLEMENTATION PLAN. APPROVING THE GRANT AGREEMENT AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE GRANT AGREEMENT NO. ARE 055 AMONG THE TOWN, STATE OF FLORIDA, EXECUTIVE OFFICE OF THE GOVERNOR, FLORIDA ENERGY AND CLIMATE COMMISSION AND THE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town applied for an Energy Economic Zone designation in July of 2009 with the Department of Community Affairs; and

**WHEREAS**, the Energy Economic Zone application submitted in 2009 made the Town eligible to receive a small-scale energy efficiency technical assistance grant from the Executive Office of the Governor and Florida Energy and Climate Commission (the "FECC"); and

**WHEREAS**, FECC has awarded the Town a grant (the "Grant") in the amount of Twenty thousand dollars (\$20,000.00); and

**WHEREAS**, the FECC Grant funds will be utilized to create a green business incubator implementation plan that will identify and provide new green businesses with start-up opportunities; and

**WHEREAS**, the Town Council desires to accept the FECC Grant award in the amount of Twenty thousand dollars (\$20,000.00).

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** That the above recitals are true and correct and are incorporated herein by this reference.

**Section 2. Grant Accepted.** That the Town Council hereby accepts the Grant award of twenty thousand dollars (\$20,000.00) from the FECC to create a Green Business Incubator Implementation Plan to help local green businesses.

**Section 3.** Approval and Authorization. That the Town Council hereby approves the Grant agreement in substantially the form attached hereto as the Florida Energy and Climate Commission Grant Agreement No. ARE 055 (the "Grant Agreement"). That the Town Council hereby authorizes the Town Manager to execute the Grant Agreement on behalf of the Town and to take all actions necessary to implement the Grant.

**Section 4. Effective Date.** That this resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
EDWARD P. MACDOUGALL, Mayor

Attest:

\_\_\_\_\_  
ESTHER B. COULSON  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE TOWN OF CUTLER BAY:

\_\_\_\_\_  
WEISS SEROTA HELFMAN PASTORIZA  
COLE & BONISKE, P.L.  
Town Attorney

Moved By:  
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall \_\_\_\_\_

Vice Mayor Ernest N. Sochin \_\_\_\_\_

Councilmember Peggy R. Bell \_\_\_\_\_

Councilmember Mary Ann Mixon \_\_\_\_\_

Councilmember Sue Ellen Loyzelle \_\_\_\_\_

**ATTACHMENT A  
GRANT WORK PLAN**

**FLORIDA ENERGY AND CLIMATE COMMISSION  
GRANT AGREEMENT NO. AR####**

**STATE OF FLORIDA  
GRANT ASSISTANCE  
PURSUANT TO  
AMERICAN RECOVERY AND REINVESTMENT ACT  
UNITED STATES DEPARTMENT OF ENERGY AWARDS**

**A. PROJECT TITLE:** *[GRANT MANAGER NOTE: Insert Name of grant project]*

Town of Cutler Bay Green Business Incubator Program Implementation Plan

**B. PROJECT LOCATION:** *[GRANT MANAGER NOTE: Insert city or county where project will take place.]*

Economic Energy Zone (US 1 Corridor) in the Town of Cutler Bay, Florida

**C. PROJECT BACKGROUND:** *[GRANT MANAGER NOTE: Provide a summary of the project and the justification supporting the need for the Commission to fund the project. Do not cut and paste project description from application, as this document isn't trying to "sell" an idea to receive an award. Rather, it's a justification of what the Grantee "shall" perform that describes actual activities that will be accomplished. ]*

In 2009, the Town of Cutler Bay submitted an application to participate in the Energy Economic Zone Pilot Program. In its application, the Town demonstrated its commitment to supporting the Energy Economic Zone Pilot Program (EEZ) by aggressively adopting green initiatives while supporting economic development that are responsive to the needs of the community while conserving energy. Through resolutions, ordinances, policies and procedures and Town sponsored events, the Town's elected officials and staff have committed the Town to becoming a model for other municipalities who wish to implement green initiatives including responsible green economic development. The Town of Cutler Bay Green Business Incubator program will allow the Town to further that commitment by providing economic and regulatory incentives (i.e. tax abatement, expedited site and building plan review, expedited building inspections and reduce site plan review fees), business development expertise which includes the preparation and implementation of business plans, and access to a local, regional and national network of contacts. This Green Business Incubator Program Implementation Plan (Plan) will serve as a roadmap for realizing a set of cost effective guidelines to promote green businesses within the EEZ. The Plan will be developed by an outside consultant.

**D. PROJECT OBJECTIVES:** *[GRANT MANAGER NOTE: Provide a list of objectives, in bullet format, expected to be achieved as a result of completing this project. The project can include more or less than three objectives as shown here.]*

Create a Green Business Incubator Program Implementation Plan that:

Objective 1: Identifies potential enterprises, stakeholders, and/or community agencies to participate in the program.

## ATTACHMENT A GRANT WORK PLAN

Objective 2: Develop a sample business plan that will guide the energy economic zone green business incubator entities in the early phases of development and marketing of products and services in a cost effective manner. This sample business plan would be directed towards clean tech industries and include a component of energy efficient structure which will reduce energy use.

Objective 3: Investigate and identify possible economic and regulatory incentives to facilitate the start-up process.

Objective 4: Examine access to local expertise through business and professional networks.

Objective 5: Identify potential markets for the green business incubator entities.

**E. PROJECT DESCRIPTION:** *[GRANT MANAGER NOTE: Provide a detailed description of the work to be performed for the project. Include maps, graphs, charts, etc. to support project activities, if applicable to a deliverable. Project descriptions should consist of a list of major tasks for accomplishing the project with specific sub-activities detailed within each task heading. The project can include more or less than five tasks as shown here. Be sure to identify which Objective(s) from Section D are related to each Task. If specific numbers of items will be "purchased/installed/developed" then state the specific number. If you're not sure of the #, then include a statement such as "a minimum of XX units/systems/whatever will be developed with an aspirational goal of XX units/systems/whatever" if you want to provide an acceptable range of items. Be aware that the budgeted # of units reflected in Section I. must correspond to the minimum # of units. ]*

- **Task 1: Implementation Plan** – The plan will be divided in four (4) sections. Section 1 will be a background including a summary of the literature review. Section 2 will be the program's eligibility requirements including the green businesses, which are targeted for the area. Section 3 will include possible incentives for locating a green business in the Energy Economic Zone and a sample business plan for the green businesses that includes business development techniques to promote the green services and products and components of energy efficient structure and actions which will reduce energy use. Such incentives and techniques may include but are not limited to tax abatement, expedited site and building plan review, expedited building inspections and reduce site plan review fees, startup workshops and classes, startup resources, business plan development, access to mentoring coaches, assistance in finding leased space, purchasing of energy efficient office equipment, programmable thermostats, and operational efficiencies such as double-sided printing. Section 4 of the will include items that will be the monitored to evaluate the success of the Green Business Incubator Program in the Energy Economic Zone.
- **Task 2: Data Inventory/Collection/Evaluation** – The data collected will be retained in the Town's files and will be available to the public and any interested stakeholders. The data will be evaluated for accuracy and applicability to the development of the plan.
- **Task 3 Distribution of the Plan** - This plan will be made available for public inspection at the Town of Cutler Bay's Community Development Department and/or the Town's website.

**F. PROJECT DELIVERABLES/OUTPUTS:** *[GRANT MANAGER NOTE: Using the table format below, identify the month of the project each task will start and be completed (for example, Task #1 might start in month 1 and be completed by month 6 – don't insert specific dates). Identify outputs/deliverables to result from this project (for example, progress reports, draft project report, final project report, manuals, videos, maps, Best Management Practices developed, equipment installed, meetings, etc.) Identify in which months of the project (for example month 12) the outputs/deliverables will be accomplished. The Description of each Activity must reference the related Task # from Section E.]*

## ATTACHMENT A GRANT WORK PLAN

The table below identifies the month of the project each task will start and be accomplished.

No.	Task/Activity Description	Deliverables/ Outputs	Start Month	Deadline Month
1	Literature Review	Identification of potential reports and documents	June 13, 2011	June 20, 2011
2	Data Inventory / Collection / Evaluation	Information that will be used to develop the program	June 20, 2011	July 5, 2011
3	Development of the Implementation Plan	Development of the implementation plan	July 6, 2011	August 8, 2011
4	Distribution of Plan	Documents will be available to the public	August 8, 2011	Ongoing
5				

**G. PROJECT BUDGET:** *[GRANT MANAGER NOTE: Figures should be “right-justified”, no extra spaces between the dollar sign and the amount and decimal points for figures in each row must line up. If no Match is required, reflect N/A in the Total Project Budget row of the Cost Share-Funding column and reflect 0% as the Cost Share Percentage.]*

The budget below summarizes the project by Funding Category. All dollar amounts are rounded to the nearest whole dollar value.

Funding Category	Grant Funds	Cost Share: Matching Funds and Other In-Kind Contributions	
		Funding	Source of Funds
1. Salaries			
2. Fringe Benefits			
3. Travel (if authorized)			
4. Supplies/Other Expenses			
5. Equipment			
6. Contractual Services	\$20,000.00		
7. Indirect (if authorized)			
Total Project Budget	\$20,000.00		
Total Project Cost	\$20,000.00	= Grants Funds + Cost Share	
Cost Share Percentage		= Cost Share / Total Project Cost	

## ATTACHMENT A GRANT WORK PLAN

**H. TOTAL BUDGET BY TASK:** *[GRANT MANAGER NOTE: The description of each Task must correspond to Tasks reflected in Section E. Figures should be “right-justified”, no extra spaces between the dollar sign and the amount and decimal points for figures in each row must line up. If no Match is required, reflect N/A in the Total Project Budget row of the Cost Share-Funding column and reflect 0% as the Cost Share Percentage.]*

The project budget below summarizes the project by Project Task. Project Tasks correspond to the “Project Description” section. All dollar amounts are rounded to the nearest whole dollar value.

Project Task		Grant Funds	Cost Share: Matching Funds and Other In-Kind Contributions	
			Matching Funds	Source
1	Literature Review	2000		
2	Data Inventory / Collection / Evaluation	6000		
3	Development of the Plan	12000		
4				
5				
Totals:		20,000		
Total Project Cost:		\$20,000	= Grant Funds + Cost Share	



## ATTACHMENT A GRANT WORK PLAN

**I. BUDGET DETAIL:** *[GRANT MANAGER NOTE: Number of units for each item must correspond to information reflected in Section E. Provide accurate calculations to justify the cost of each budget line-item (dollars and cents). When reflecting the Sub-Total for each Budget Category, round (only) this figure to the nearest whole dollar value; these sub-totals must correspond to figures reflected in Section G. All figures should be “right-justified”, no extra spaces between the dollar sign and the amount and decimal points for figures in each row must line up. If no costs are requested in a Budget Category, reflect “N/A” in the Sub-Total for that Budget Category. Use additional lines if necessary. For Salary Costs: it is recommended to obtain a copy of the position description for each position funded under the project, especially if that position is NOT identified as administrative in nature for the calculation of 10% administrative cost limitations. For Indirect Costs: if Options 2 or 3 are appropriate, obtain a copy of the Grantee’s Indirect Cost Rate, as approved by their cognizant Federal agency, or obtain a copy of their Cost Allocation Plan.]*

Using the definitions provided below, the detailed, line-item budget clarifies the Budget Summary shown in Section G. Budget Category Sub-Totals have been rounded to the nearest whole dollar value. Up to 10% of grant funds may be used for administrative costs, excluding the cost of meeting reporting requirements of the program. Administrative costs are defined as: allowable, reasonable, and allocable Direct and Indirect costs related to overall management of the awarded grant (including travel). For each budget line-item, the appropriate column identifies if the cost is: 1) Grant or Match, 2) a Direct cost used to calculate Indirect Costs (if approved) and 3) whether the cost is Administrative in nature. A description of what is required for each budget category is as follows:

1. Salaries - Identify the persons to be compensated for work on this project by name (if known), position, and title. Show the hourly cost and total hours to be charged for each person or position. Divide annual salaries by 2080 hours and nine month academic salaries by 1560 hours, to find the hourly rate.
2. Fringe Benefits - Multiply the rate by the total salaries to which fringe benefits apply. If the rate is variable, explain and show calculations.
3. Travel - List trips by their purpose and/or destination. Indicate the number of days for each trip. The Commission will only reimburse for travel at the appropriate State of Florida rate (Section 112.061, Florida Statutes), using the forms referenced in Attachment B, Payment Request Summary Form. Be prepared to provide the Commission with details on costs utilized to calculate the “Amount Budgeted” for each trip.
4. Supplies & Other Expenses - List expendable supplies by category description, unit costs and quantity. List other expenses not included in any of the above categories. Examples would be printing, copying, postage, communications, etc. Non-expendable equipment valued at less than \$1,000 may be listed also. Include only expenses directly related to the project, not expenses of a general nature. For Match only, list costs related to donated real property such as land (not to exceed the fair market value of the property).
5. Equipment - List non-expendable personal property/equipment valued at \$1,000 or more by description, unit cost, and quantity. Computers and data-processing equipment should be described in detail.
6. Contractual Services - Subcontractors should provide the same information required by this budget table, with the following exceptions: (a) when professional services are provided at a pre-existing approved rate or fee shown on the budget; or (b) the subcontract is to be obtained competitively. For either (a) or (b), show an estimated maximum amount.
7. Indirect Costs/Rate – **[Option 1-preferred]** Indirect Costs are not authorized. **[Option 2 – alternative]** If Indirect Costs are authorized, they are allowable only for Match and must be based on a specified authorized rate in consultation with the Commission. The Indirect Cost Rate and the Direct costs upon which the amount of Indirect Cost is calculated must be reasonable, measurable, documented and the Indirect Cost Rate must be consistently applied. Calculations must be shown in Attachment B, Payment Request Summary Form. **[Option 3 – least preferred]** If Indirect Costs are authorized, they must be based on a specified authorized rate in consultation with the Commission. The Indirect Cost Rate and the Direct costs upon which the amount of Indirect Cost is calculated must be reasonable, measurable, documented and the Indirect Cost Rate must be consistently applied. Calculations must be shown in Attachment B, Payment Request Summary Form.

**ATTACHMENT A**  
**GRANT WORK PLAN**

8. Total Budget Category – Show the total of all line-items within a Budget Category.
9. Total Budget - Show the total of all categories.

**ATTACHMENT A  
GRANT WORK PLAN**

<b>1. Salaries</b>								
Salaries (Name/Position)	Hourly Cost (\$)	*	Hours/wk. or % FTE	=	Total Gross Salary (\$)	Grant = G or Match = M	Direct costs used to calculate Indirect Cost? Y/N	Admin. Cost? Y/N
	\$	*		=	\$			
	\$	*		=	\$			
	\$	*		=	\$			
	\$	*		=	\$			
<b>Sub-Totals for Salaries Category</b>					\$			

<b>2. Fringe Benefits</b>									
Name of Employee	Amount Gross Salary (\$)	Approved % per Work Plan or enter "N/A" & provide break- out	Benefit # 1 & Cost	Benefit # 2 & Cost	Benefit # 3 & Cost	Total Fringe Benefits (\$)	Grant = G or Match = M	Direct costs used to calculate Indirect Cost? Y/N	Admin. Cost Y/N
	\$		\$	\$	\$	\$			
	\$		\$	\$	\$	\$			
	\$		\$	\$	\$	\$			
<b>Sub-Total of Fringe Benefits Category</b>						\$			

3. Travel * Cannot exceed cost limitations required by Section 112.061, Florida Statutes							
Name of Employee	Destination	Period of Trip (# of days)	Purpose of Trip	Amount Budgeted	Grant = G or Match = M	Direct costs used to calculate Indirect Cost? Y/N	Admin. Cost Y/N
				\$			
				\$			
				\$			
				\$			
Sub-Total of Travel Category				\$			

**ATTACHMENT A  
GRANT WORK PLAN**

<b>4. Supplies - Other Expenses</b>								
Description	Unit Cost (\$)	*	Quantity	=	Total Cost (\$)	Grant = G or Match = M	Direct costs used to calculate Indirect Cost? Y/N	Admin. Cost Y/N
	\$	*		=				
	\$	*		=				
	\$	*		=				
	\$	*		=				
<b>Sub-Total of Supplies - Other Expenses Category</b>					<b>\$</b>			

<b>5. Equipment</b>								
Description	Unit Cost (\$)	*	Quantity	=	Total Cost (\$)	Grant = G or Match = M	Direct costs used to calculate Indirect Cost? Y/N	Admin. Cost Y/N
	\$	*		=				
	\$	*		=				
	\$	*		=				
	\$	*		=				
<b>Sub-Total of Equipment Category</b>					<b>\$</b>			

6. Contractual Services									
Name of Vendor	Description	Fee/Rate (\$)	*	Quantity	=	Total Cost (\$)	Grant = G or Match = M	Direct costs used to calculate Indirect Cost? Y/N	Admin. Cost Y/N
TBD	Development of Plan	\$	*		=	20,000	G		N
		\$	*		=				
		\$	*		=				
		\$	*		=				
Sub-Total of Contractual Services Category						\$ 20,000			

# ATTACHMENT A GRANT WORK PLAN

7. Indirect Cost (if approved)									
Budget Category included in Base of Indirect Cost Calculations	Total Direct Costs for Budget Category	*	Approved Indirect Cost Rate (%) from Grant Work Plan	=	Total Indirect Cost for Budget Category (\$)	=	Total Indirect Costs for Grant	+	Total Indirect Costs for Match
	\$	*		=	\$	=	\$	+	\$
	\$	*		=	\$	=	\$	+	\$
	\$	*		=	\$	=	\$	+	\$
	\$	*		=	\$	=	\$	+	\$
Sub-Total of Indirect Costs Category					\$	=	\$	+	\$

8. Total Project Budget					
Budget Category	Total Costs for Budget Category	=	Total Grant Costs	+	Total Match Costs
	\$	=	\$	+	\$
	\$	=	\$	+	\$
	\$	=	\$	+	\$
	\$	=	\$	+	\$
<b>Total Project Budget</b>	<b>\$20,000</b>	=	<b>\$20,000</b>	+	<b>\$</b>

**J. MEASURES OF SUCCESS:** In the Final Report, the Grantee shall address how the project objectives were accomplished.

TAB 4

**RESOLUTION 11-\_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL  
OF THE TOWN OF CUTLER BAY, FLORIDA,  
APPOINTING DAVID FEINBERG AS THE RADIO  
AMATEUR CIVIL EMERGENCY SERVICE (RACES)  
COORDINATOR FOR THE TOWN; AND PROVIDING  
FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Radio Amateur Civil Emergency Service (RACES) is an organization of amateur radio operators who volunteer to provide radio communications for State and local governments in times of emergency; and

**WHEREAS**, RACES provides emergency communications for civil preparedness purposes only and is sponsored by the Federal Emergency Management Agency; and

**WHEREAS**, the Town desires to utilize RACES as a means of emergency communications within the Town; and

**WHEREAS**, the Town Council desires to appoint David Feinberg as the RACES coordinator for the Town; and

**WHEREAS**, the Town Council finds that this Resolution is in the best interest and welfare of the residents of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN  
COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**     The above recitals are true and correct and are incorporated herein by this reference.

**Section 2.**     **Appointment.**     The Town Council hereby appoints David Feinberg as the RACES Coordinator for Town.

**Section 3.**     **Effective Date.**     This resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
EDWARD P. MACDOUGALL, Mayor

Attest:

---

ESTHER B. COULSON  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE TOWN OF CUTLER BAY:

---

WEISS SEROTA HELFMAN PASTORIZA  
COLE & BONISKE, P.L.  
Town Attorney

Moved By:  
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall	_____
Vice Mayor Ernest N. Sochin	_____
Councilmember Peggy R. Bell	_____
Councilmember Mary Ann Mixon	_____
Councilmember Sue Ellen Loyzelle	_____



TAB 5

## ORDINANCE NO. 11-

### AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 10-08 RELATING TO TOWN ADVISORY BOARDS, AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Section 3.9 of the Town Charter provides that the Town Council of the Town of Cutler Bay ("Town") may establish town advisory boards or committees ("boards") as well as procedures and regulations governing such boards; and

**WHEREAS**, the town council enacted Ordinance 10-08 providing for such rules and procedures; and

**WHEREAS**, the town council desires to amend Ordinance 10-08 to facilitate the implementation of boards or committees within the town; and

**WHEREAS**, the town council finds that this ordinance is in the best interest and welfare of the residents of the town.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS:**

**Section 1.**     **Findings.**     The foregoing "Whereas" clauses are hereby ratified and incorporated as the legislative intent of this ordinance.

**Section 2.**     **Ordinance 10-08 Amended.**     The Town Council of the Town of Cutler Bay hereby amends Ordinance 10-08 as follows<sup>1</sup>:

(a)     **Establishment of Boards.** Pursuant to Section 3.9 of the Town Charter, the town council shall establish such advisory boards, committees, task forces, and bodies (the "boards") as it may deem advisable. All boards so established shall report their findings to the town council. Unless otherwise provided by law, all boards shall serve at the pleasure of the town council. Appointees may be removed from his or her appointive position upon: (i) the written notice of the town council member that sponsored the appointee; or (ii) by subsequent motion of any member of the town council and upon vote of removal by a supermajority of the members of the town council. A newly established board shall commence within one hundred (100) days of having been established. A board that does not commence within this timeframe shall be automatically dissolved.

(b)     **Appointment to Boards.** The town council shall determine how many board members shall serve on a board. If a board has at least five (5) board members, each town council member shall have the right to appoint an individual to the board. A town council

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<sup>1</sup> Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from first reading.

member shall make his or her appointment within ninety (90) days after establishment of a board, a vacancy of that board, or upon being sworn into office. If a town council member fails to make his or her appointment within the ninety (90) days, any member of the town council may bring forth a nominee for town council consideration. If a board has more or less than five (5) members, the town council shall determine the method in which the board members will be selected. No council member shall hold any appointive office on any board. However, town council members may serve as an ex officio, non-voting member or council liaison to the board if approved by the town council. ~~Except for a citizen who was appointed to more than one board prior to the effective date of this ordinance, no citizen may serve on more than one board at a time.~~ The town council shall determine the term of the board members serving on a board. ~~However, in no case may t~~The term of a town council member's board appointee ~~extend~~ may be extended up to ninety (90) days beyond the town council member's term of office, without action of the town council. However, the former councilmember appointee shall vacate his or her seat immediately upon the newly elected, reelected, or appointed town council member making his or her appointments. Upon the newly elected, ~~or~~ reelected, or appointed town council member(s) taking office, he or she shall have the right to appoint board members to all seats vacated by the expiration of the previous town council member's term. The town shall post notice of a vacant board position to give residents an opportunity to serve on the board and such notice shall be posted two weeks prior to the appointment being made.

(c) **Board Terms.** When establishing a board, the town council shall establish a definitive term and goal for the board. The board shall be automatically dissolved upon the expiration of the term or upon delivery of the board's final report to the town council, whichever occurs first. In its sole discretion the town council may extend the term of the board.

(d) **Board Qualifications.** The town ~~clerk~~ Manager shall provide relevant background information related to prospective board appointees. This information shall be provided prior to the meeting in which appointment of the prospective board appointees are being considered. The background information may include, but are not limited to, a resume, a list of qualifications, a statement by the prospective appointee and/or any other relevant information. Furthermore, all prospective appointees shall make themselves available to the town council for the meeting in which their appointments are being considered.

(e) **Board Member Financial Disclosure Requirements**  
In accordance with Section 7.2 of the Town Charter and the Miami-Dade County Code, appointed board or committee members shall disclose, on a form provided by the town clerk, any interest in real estate or other business(es) except as otherwise provided by law. Members should complete and file their financial statements with the town clerk within thirty (30) days upon being appointed and shall re-disclose annually before July 1 the following year.

(f)(e) **Board Reports.** Unless otherwise provided by the town council, board reports which are presented to the council shall include the following components:

(1) *Name.* The name of the board making the report, a listing of officers, an attendance table including members and any other person(s) who attended the meetings,

all agendas, minutes, staff reports, and any other documents that were reviewed by the board. This information may be compiled in a separate document.

(2) *Methodology.* The report shall include a description of the way in which the board undertook its charge.

(3) *Facts found.* The report shall include the facts uncovered or information obtained.

(4) *Recommendations.* The report shall include the recommendations of the board, preferably in a form suitable for framing of a motion for the town council to consider.

(5) *Signatures.* All members of the board who concur with the report must sign the report. The chair may sign the report only if a majority of the members of the board approve the report and authorize the chair~~man~~ to sign. Those members who do not concur with the report shall be listed as dissenting members. The dissenting members may submit their own report(s) in the same format as presented above.

~~(g)(f)~~ **Notice of Meetings and Agendas.** At least forty-eight (48) hours' notice shall be given to the public and board members of board meetings. The public shall be notified of board meetings by a posting at town hall by the town clerk. The town council, town attorney, and the town manager shall be provided notice of the meeting by email from the town clerk. The public notice shall advise of the potential for attendance of one or more town council members at the meeting of the board. The town clerk shall notify board members of board meetings by telephone, U.S. mail, facsimile, electronic mail or hand delivery. A written agenda shall be prepared and distributed by the town clerk for each board meeting. Special board meetings may be called by the chair~~man~~ or by a majority of the board members. All board proceedings shall comply with F.S. § 286.011(the "Sunshine Law"). Written minutes shall be promptly prepared and kept of all board meetings and shall be submitted to the town clerk who shall be responsible for the preservation of such minutes.

~~(h)(g)~~ **Board Absences.** Unless otherwise provided by the town council, members of boards who are absent from three (3) regularly scheduled meetings of the board in any one calendar year shall be automatically removed from the board. Each board shall determine which meetings are considered as the "regularly scheduled meetings." Board members who are removed through this process may be reappointed by the town council member that appointed the board member. Board members appointed at large may be reappointed by the town council.

~~(i)(h)~~ **Board Discipline.** A board has no power to discipline its members for improper conduct related to its proceedings. Any such incident of misconduct shall be reported, in writing, to the town clerk, who shall disseminate the reported information to each member of the town council ~~manager~~. This shall not diminish the authority of the board chair~~man~~ to maintain order at meetings.

~~(j)(i)~~ **Quorum.** Unless otherwise provided by the town council, a majority of the board members shall constitute a quorum. No business shall be conducted unless a quorum is present,

other than by a workshop committee of the whole process which may be invoked when a quorum fails to attend a regular meeting. Any ~~vote action~~ by the ~~committee of the whole~~ workshop shall be preliminary and non-binding and shall be subject to subsequent ratification by a quorum of the board at a duly held meeting.

(k)(j) **Board Rules of Procedure.** A board may adopt rules of procedure governing its conduct which do not conflict with either the fundamental parliamentary procedures of Roberts Rules of Order or with this section. Each board shall appoint a chairperson, vice chairperson and secretary who may engage in discussions, make motions and vote on items before the board in the same manner as other board members. A newly established board shall select a provisional chairperson, vice chairperson, and secretary at its first meeting for a term of ninety (90) days after which the board shall elect permanent officers to serve for a full term of one (1) year or until removed by action of the board or until the officer leaves the board. This section shall prevail over any conflicting provision of Roberts Rules of Order.

~~(k) **Liaison.** A liaison to a board shall act as a conduit between the town council and the board. The liaison shall report to the town council on the activities of the board and advise the board as to the priorities, goals and desires of the town council and the constituency. A liaison may take an active role in the discussions and debates of the board as well as introduce relevant topics for board discussion.~~

(l) **Applicability.** The provisions of this ordinance shall apply to all existing boards as well as all boards established subsequent to the adoption of this ordinance.

**Section 3. Severability.** If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

**Section 4. Conflict.** All Sections or parts of sections of the code of ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this ordinance are repealed to the extent of such conflict.

**Section 5. Inclusion in the Code.** It is the intention of the town council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the code of the Town of Cutler Bay; that the sections of this ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "ordinance" shall be changed to "Section" or other appropriate word.

**Section 6. Effective Date.** This ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

PASSED AND ADOPTED on second reading this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
EDWARD P. MACDOUGALL, Mayor

Attest:

\_\_\_\_\_  
ESTHER B. COULSON  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE TOWN OF CUTLER BAY:

\_\_\_\_\_  
WEISS SEROTA HELFMAN PASTORIZA  
COLE & BONISKE, P.L.  
Town Attorney

Moved By:  
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall \_\_\_\_\_

Vice Mayor Ernest N. Sochin \_\_\_\_\_

Councilmember Peggy R. Bell \_\_\_\_\_

Councilmember Mary Ann Mixon \_\_\_\_\_

Councilmember Sue Ellen Loyzelle \_\_\_\_\_

TAB 6

## ORDINANCE NO. 11-06

### AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, REENACTING EMERGENCY ORDINANCE 11-04 WHICH ESTABLISHED THE CANDIDATE QUALIFYING PERIOD FOR THE 2011 MUNICIPAL ELECTION FOR THE VICE MAYOR AND COUNCIL SEAT 2 POSITIONS, AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, on March 30, 2011, the Town Council of Cutler Bay (the "Council") enacted Emergency Ordinance 11-04 to accommodate a request made by the Miami-Dade County Supervisor of Elections Office in order to establish the qualifying dates for the 2011 Municipal Election for the Vice Mayor and Council Seat 2 positions; and

**WHEREAS**, pursuant to Section 4.4 of the Town Charter, an emergency ordinance shall be automatically repealed ninety (90) days after adoption; and

**WHEREAS**, the town council desires to reenact Emergency Ordinance 11-04 as a regular ordinance in order to prevent the ordinance from being automatically repealed; and

**WHEREAS**, the town council finds that this ordinance is in the best interest and welfare of the residents of the town.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS<sup>1</sup>:**

**Section 1. Findings.** The foregoing "Whereas" clauses are hereby ratified and incorporated as the legislative intent of this ordinance.

**Section 2. Emergency Ordinance Reenacted.** The town council hereby reenacts Emergency Ordinance 11-04, attached as Exhibit "A," as a regular ordinance.

**Section 3. Severability.** If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

**Section 4. Conflict.** All sections or parts of sections of the code of ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this ordinance are repealed to the extent of such conflict.

**Section 5. Effective Date.** This ordinance shall be effective immediately upon adoption on second reading.

---

<sup>1</sup> Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.



PASSED on first reading this 14<sup>th</sup> day of April, 2011.

PASSED AND ADOPTED on second reading this \_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
EDWARD P. MACDOUGALL, Mayor

Attest:

\_\_\_\_\_  
ESTHER B. COULSON  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE TOWN OF CUTLER BAY:

\_\_\_\_\_  
WEISS SEROTA HELFMAN PASTORIZA  
COLE & BONISKE, P.L.  
Town Attorney

Moved By:  
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall \_\_\_\_\_

Vice Mayor Ernest N. Sochin \_\_\_\_\_

Councilmember Peggy R. Bell \_\_\_\_\_

Councilmember Mary Ann Mixon \_\_\_\_\_

Councilmember Sue Ellen Loyzelle \_\_\_\_\_

## **EMERGENCY ORDINANCE NO. 11-04**

**AN EMERGENCY ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ESTABLISHING THE CANDIDATE QUALIFYING PERIOD FOR THE 2011 MUNICIPAL ELECTION FOR THE VICE MAYOR AND COUNCIL SEAT 2 POSITIONS; PROVIDING FOR NOTIFICATION TO THE SUPERVISOR OF ELECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council of Cutler Bay recently appointed individuals to fill vacancies in the Vice Mayor and Councilmember Seat 2 positions until the next scheduled countywide election; and

**WHEREAS**, the Miami-Dade County Mayor has recently been recalled and the next scheduled countywide election to fill the County Mayor vacancy is on May 24, 2011; and

**WHEREAS**, it is necessary to establish the qualifying period for the 2011 Municipal Election to be held in the town for the purpose of electing qualified candidates to fill vacancies in the Vice Mayor and Councilmember Seat 2 positions; and

**WHEREAS**, in accordance with Section 2.4 of the Town Charter, the town may modify any aspect of the qualifying period for an election by ordinance if such modification is necessary to accommodate a request by the Miami-Dade County Supervisor of Elections office; and

**WHEREAS**, the Miami-Dade County Supervisor of Elections office has requested that the town modify its qualifying period for the 2011 election in order to help facilitate the efficient and orderly conduct of the election; and

**WHEREAS**, given the short time-frame in which the next scheduled countywide election will take place, it is necessary to enact this ordinance as an emergency ordinance in order to afford candidates the opportunity to qualify and run for the Vice Mayor and Councilmember Seat 2 positions; and

**WHEREAS**, the town council finds that this ordinance is in the best interest and welfare of the residents of the town.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS:**

**Section 1. Findings.** The foregoing "Whereas" clauses are hereby ratified and incorporated as the legislative intent of this ordinance.

**Section 2. Emergency Declared.** Pursuant to Section 4.4 of the Town Charter an emergency hereby exists for the adoption of this ordinance as described in the recitals set forth above which are incorporated herein.

**Section 3. Qualifying Period.** The candidate qualifying period shall begin at ~~12:00 p.m. (noon)~~ immediately following 8:00 p.m. on March 30, 2011 and end at 12:00 p.m. (noon) on April 8, 2011.

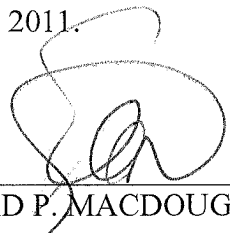
**Section 4. Notification of the Supervisor of Elections.** The town clerk is hereby authorized to notify the supervisor of elections regarding the qualifying dates for the election.

**Section 5. Severability.** If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

**Section 6. Conflict.** All sections or parts of sections of the code of ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this ordinance are repealed to the extent of such conflict.

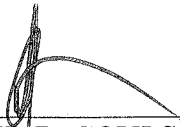
**Section 7. Effective Date.** This ordinance shall be effective immediately ~~upon~~ adoption on second reading.

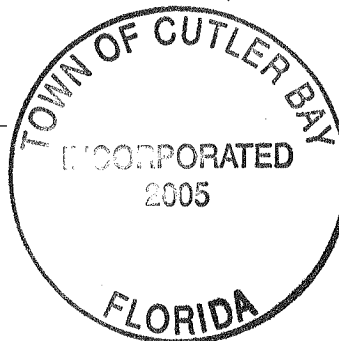
PASSED AND ADOPTED on this 30<sup>th</sup> day of March, 2011.



EDWARD P. MACDOUGALL, Mayor

Attest:

  
\_\_\_\_\_  
ESTHER B. COULSON  
Town Clerk



APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE TOWN OF CUTLER BAY:

  
\_\_\_\_\_  
WEISS SEROTA HELFMAN PASTORIZA  
COLE & BONISKE, P.L.  
Town Attorney

Moved By: Councilmember Bell  
Seconded By: Councilmember Mixon

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall	<u>Yes</u>
Vice Mayor Ernest N. Sochin	<u>Absent</u>
Councilmember Peggy R. Bell	<u>Yes</u>
Councilmember Mary Ann Mixon	<u>Yes</u>
Councilmember Sue Ellen Loyzelle	<u>Yes</u>



**Office of the Town Clerk**

Esther B. Coulson, CMC  
Town Clerk

March 31, 2011.

Lester Sola, Supervisor of Elections  
Miami-Dade Elections  
2700 Northwest 87 Avenue  
Doral, Florida 33172

Dear: Mr. Sola:

**RE: MAY 24, 2011 COUNTYWIDE ELECTION**

At its March 30, 2011 special meeting, the Town of Cutler Bay Council enacted Ordinance 11-04 establishing the candidate qualifying period for the 2011 Municipal Election for the vice mayor and council seat 2 positions beginning 8:00 p.m. on Wednesday, March 30 and ending at noon, Friday, April 8, 2011. Additionally, the council adopted Resolution 11-20 authorizing that an election be held to fill the remaining term of the respective positions. Copies of the respective documents are attached.

Yours sincerely

Esther B. Coulson  
Town Clerk

Enclosures

Cc: Town Council  
Zeida E. Reyes, Elections Coordination Manager



TAB 7



## Office of the Town Manager

Steven J. Alexander  
Town Manager

# MEMORANDUM

To: Honorable Mayor, Vice Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: May 18, 2011

Re: **WATER CONSERVATION AND EMERGENCY WATER RESTRICTION  
ENFORCEMENT REGULATIONS ORDINANCE**

## REQUEST

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING THE WATER CONSERVATION AND EMERGENCY WATER RESTRICTION ENFORCEMENT REGULATIONS; PROVIDING FOR PENALTIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

## BACKGROUND AND ANALYSIS

In the past five years, the south Florida region has experienced several severe droughts requiring the South Florida Water Management District (SFWMD) to implement Water Conservation and Emergency Water Restrictions. These droughts have severely impacted Lake Okeechobee, the Everglades ecosystem, and the overall natural environment of the region. As a result, policymakers, water managers, scientists, county and local governments, and community organizations in our state and region have worked very diligently to develop laws and policies to conserve and protect our water resources during severe droughts.

One of the proactive actions taken by local governments in the region is to adopt water conservation and emergency water restriction measures ordinances. The basic intent of these ordinances is to serve as educational and regulatory tools to guide the application of water restrictions adopted by the SFWMD and Miami-Dade County. The educational component allows code compliance officers and police officers to work directly with residents to inform them on the importance of water conservation, and the impacts that severe droughts can have on our environment and economic base that depends on the availability of potable water for their daily operations. The regulatory component is an essential piece of the ordinance because it allows the local government to ensure that emergency water restrictions set forth in the SFWMD's "Declaration of Water Shortage" and the "Water Shortage Plan" (Chapter 40E-





21, Florida Administrative Code) are enforced consistent with the requirements set forth in these documents.

### **Purpose and Benefits of Adopting Water Conservation Measures**

The purpose of adopting water conservation measures is to protect our water supply and to assure that there will be water available in our region to support the natural environment, commercial interest, and the general public needs. The implementation of a water conservation and emergency water restriction ordinance will produce both water and financial savings to our residents.

The water savings would be reflected on a reduction in the number of gallons per day consumed by residents. (Note: An estimated 50 percent of the water consumed in Florida is used for outdoor irrigation. Fifty (50) percent of the irrigation water is lost to evaporation and transpiration.) The financial savings will be reflected in two major areas: (1) the monthly water bills; and (2) reduction in the utility's financial commitment to capital projects designed to upgrade or maintain the water supply facilities system short-term operations.

### **SFWMD Declarations of Water Shortage**

It is important to note that the SFWMD enforcement of water use restrictions is only for consumptive use permit holders, such as farms, nurseries, golf courses, and recreational areas. The enforcement of non-permit holders, such as residential uses is the responsibility of Miami-Dade County and its municipalities.

The water restrictions measures adopted by the SFWMD in 2011 began with a "Declaration of Water Shortage Warning" (Executive Order No. 2011-031-DAO-WS) on March 10, 2011. The warning is issued when the District determines that there will be a serious water shortage, and prior to a "Declaration of Water Shortage" and associated restrictions. This warning and associated declaration applies to all users that use surface and groundwater for daily use and are located within the geographical boundaries of the SFWMD. This Declaration also gives authority to the SFWMD Executive Director to modify the water shortage warning if the drought situation worsens.

This lack of rainfall has led to a rainfall shortage of 6.69 inches which represents one of the driest period experienced by the region in last 80 years. A copy of the May 2, 2011, Water Shortage Watch Briefing, prepared by the SFWMD is provided in Exhibit A. On March 14, 2011, the SFWMD Executive Director issued a Modified Phase I Water Shortage Restrictions (Executive Order No. 2011-042-DAO-WS). This order applies to all agricultural and nursery water uses withdrawing surface and groundwater, excluding the Florida aquifer, within a portion of the South Dade Water Use Basin located in Miami-Dade County.

On April 14, 2011, the SFWMD Governing Board issued a final order of concurrence with the Executive Director's declaration of water shortage

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restrictions within a portion of the South Dade water use basin.

The restrictions don't apply to the following users:

1. Car and boat washing, pressure cleaning of paved surfaces, decorative fountains and water-based recreation (e.g. swimming pools and water slides).
2. Users of 100 percent reclaimed water are exempt.
3. Low-volume irrigation, including the use of drop and micro jet systems that apply water directly to plant root zones, is not restricted but is encouraged to be reduced.

### **Town of Cutler Bay Proposed Water Conservation Measures**

The Town's proposed water conservation and emergency water restriction enforcement regulation ordinance addresses the education, coordination and regulatory components of water conservation. It is modeled after the very successful Palmetto Bay program.

The educational component will be carried out through direct communication with our residents and business community. The Town will use readily available resources such as the webpage, community meetings (residents and business community), and one-on-one meetings with residents to address questions and/or concerns associated with the intent of the ordinance. Town staff will work directly with Miami-Dade County (Department of Environmental Resources Management "DERM" and Miami-Dade Water Sewer Department "WASD") and SFWMD staff to ensure that water restrictions are implemented consistent with the requirements set forth in the "Declarations of Water Shortage Restrictions" and Water Shortage Plan". The adoption of this ordinance will further support several elements of the Town's Growth Management Plan (Future Land Use Element, Infrastructure Element, Conservation Element, Intergovernmental Element, and Recreation and Open Space Element).

The ordinance also contains provisions for violating the water restrictions, which were directly modeled after the Palmetto Bay ordinance. The penalties apply to all water restrictions phases (Phase I, II, Modified Phase II, Phase III or Phase IV water restrictions) adopted by the SFWMD. The proposed water violation fee schedule contemplates,

- (1) first offense as courtesy warning;
- (2) second violation \$50.00 fee;
- (3) third violation \$125.00 fee;
- (4) fourth violation \$250.00 fee; and
- (5) fifth and subsequent violations, a fine not to exceed \$400.00 fee.

### **LIST OF EXHIBITS**

Exhibit A - South Florida Water Management District. Water Shortage Watch Briefing. Report for May 2, 2011.



**ORDINANCE NO. \_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL  
OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING  
THE WATER CONSERVATION AND EMERGENCY WATER  
RESTRICTION ENFORCEMENT REGULATIONS;  
PROVIDING FOR PENALTIES; PROVIDING FOR  
ORDINANCES IN CONFLICT, CODIFICATION,  
SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, regular droughts and mismanagement of water resources impacts drinking water, agricultural, businesses and landscape maintenance in our community, Miami-Dade County (the “County”) and region; and

**WHEREAS**, water conservation in the Town of Cutler Bay (the “Town”) shall be a proactive strategy to protect the area and regional water resources for the long-term benefit of our environment and sustainable economic development initiatives; and

**WHEREAS**, implementation of water conservation regulations in the Town is paramount to the continued implementation of the Town’s Growth Management Plan (i.e. Conservation Element Goal – “protect and enhance the long-term environmental resources of the Town of Cutler Bay to ensure continued resource availability and environmental quality through prudent management, public education, appropriate regulations and enforcement, and active partnership with governmental and environmental entities.”); and

**WHEREAS**, implementation of water conservation regulations in the Town is consistent with the Town’s efforts to ensure that adequate supply of water is available from the County Water and Sewer Department for residential uses, and to support sustainable economic development in the Town; and

**WHEREAS**, in March 2010, the South Florida Water Management District ( “the District”) adopted year round water conservation measures to better protect our community and South Florida’s water resources, with the start of permanent limits on landscaping irrigation throughout the region; and

**WHEREAS**, on March 10, 2011, the District’s Governing Board issued Order No. 2011-0310-DAO-WS issuing a water shortage warning for all users withdrawing surface or groundwater within the geographical boundaries of the District; and

**WHEREAS**, based on the cumulative assessment of the surface and groundwater availability in the affected basins and climate forecasts, there is a significant potential that sufficient water will not be available to meet the anticipated demands without mandatory restrictions on water usage within the affected basin; and

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<sup>1</sup> Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.

**WHEREAS**, the decline in surface and groundwater levels, the potential for further declines, and the present and projected water demands in the basin, require the imposition of mandatory water shortage restrictions; and

**WHEREAS**, to manage water shortages in an organized and efficient manner, the District has adopted a Water Shortage Plan and a Rule to restrict water use when supplies fall short (See, Section 373.246, Florida Statutes; and Chapter 40E-21, Florida Administrative Code); and

**WHEREAS**, upon the declaration of a water shortage or water shortage emergency by the District, it shall be prohibited to use water in a manner inconsistent with the restriction specified by the District Water Shortage Plan (See, Chapter 40E-21 Florida Administrative Code).

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:**

**Section 1. Findings.** The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

**Section 2. Conservation and Emergency Water Restrictions Regulations.** The Town Council hereby adopts the following Ordinance entitled “Conservation and Emergency Water Restrictions Regulations” to read as follows:

(A) Intent.

The intent of this ordinance is to protect and manage the water resources of the Town from over-utilization during periods of water shortage and allocate available water supplies by assisting the South Florida Water Management District in the implementation of its “Water Shortage Plan” (Sec. 40E-21 Florida Administrative Code).

(B) Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Code Compliance* means a Division within the Town’s Community Development Department responsible for implementing the Town’s Code.

*Department* means the Town Community Development Department.

*Director* means the Town Community Development Department Director.

*District* means the South Florida Water Management District (SFWMD).

*Executive Director* means the Director of the District.

*Even numbered address* means the house address, box number or rural route ending numbers 0,2,4,6,8, or letters A-M. Post Box numbers are not included.

*Governing Board* means the governing body of the District.

*Low-volume irrigation* means the use of equipment and devices specifically designed to allow the volume of water delivered to be limited to a level consistent with the water requirement of the plant being irrigated and to allow that water to be placed with high degree of efficiency in the root zone of the plant. The term also includes water use in mist houses and similar establishments for plant propagation. Overhead irrigation and flood irrigation are not included

*Odd numbered address* means the house address, box number or rural route ending numbers 1,3,5,7,9, or letters N-Z. Post Box numbers are not included.

*Odd numbered day's* means the days whose dates end in the numbers 1, 3, 5, 7, or 9. For purpose of this ordinance the date shall be determined by the day during which a watering period ends.

*Overhead Irrigation* means the use of equipment and devices which deliver water under pressure, through the air, above the level of the plant being irrigated.

*Person* means any person, firm, partnership, association, corporation, company, or organization of any kind.

*Plan* means the District "Water Shortage Plan" authorized in Section 373.246, Florida Statutes. This Plan is adopted under Sec. 40E-21 Florida Administrative Code.

*Water resource* means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

*Water shortage condition* is when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

*Water shortage emergency* means that situation when the powers which can be exercised under Florida Administrative Code, part II, of chapter 40E-21, are not sufficient to protect the public health, safety or welfare or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable uses.

(C) Application of this ordinance.

The provisions of this ordinance shall apply to all persons using the water resource within the geographical areas subject to the water shortage or water shortage emergency as determined by the District, whether from public or privately owned water utility systems, private wells, or private connections with surface water bodies. This ordinance shall not apply to persons using treated effluent or salt water.

(D) Adoption of the District “Water Shortage Plan.”

Chapter 40E-21, Florida Administrative Code, as amended from time to time, is incorporated herein by reference as part of the Town Code.

(E) Declaration of water shortage; water shortage emergency.

The declaration of a water shortage or water shortage emergency within all or any part of the Town by the Governing Board or the Executive Director of the District shall invoke the provisions of this ordinance. Upon such declaration, all water use restrictions or other measures adopted by the District applicable to the Town, or any portion thereof, shall be subject to enforcement action pursuant to this ordinance. Any violation of the provisions of Chapter 40E-21, Florida Administrative Code, or any order issued pursuant thereto, shall be a violation of this ordinance.

(F) Permanent Landscape Irrigation Restrictions

This section shall be applied consistent with the requirements set forth in Section 32-8.2, Permanent Landscape Irrigation Restrictions of the Miami-Dade County Code, as amended from time to time. The provisions of this section shall apply to all users of any water resource within Miami-Dade County, whether from publicly or privately owned water utility systems, private wells, or private connections with surface water bodies. These provisions shall not apply to athletic play areas and public gardens as defined herein and users under water use permits issued pursuant to Chapter 40E-2 and 40E-20 of the Florida Administrative Code.

(G) Enforcement.

Every police officer having jurisdiction in the area governed by this ordinance shall, in connection with all other duties imposed by law, diligently enforce the provisions of this ordinance. The Town’s Code Compliance Division shall also enforce the provisions of this Code. In addition, the Town Manager may also delegate enforcement responsibility for this ordinance to agencies and departments of the Town government, or cities in the service areas governed by this ordinance in accordance with state and local law.

(H) Penalties.

(1) Violation of any provision of this ordinance shall be subject to the following penalties:

*Phase I, II, Modified Phase II, Phase III or Phase IV water restrictions, as determined by the District:*

- (1) First violation - courtesy warning
- (2) Second violation, a fine of - \$ 50.00.
- (3) Third violation, a fine of - \$125.00.
- (4) Fourth violation, a fine of - \$250.00.
- (5) Fifth and subsequent violations, a fine not to exceed -\$400.00.

(2) Each day in violation of this ordinance shall constitute a separate offense. In the initial stages of a water shortage or water shortage emergency, law enforcement officials may provide violators with no more than one (1) written warning. The Town, in addition to the civil sanctions contained in this ordinance, may take any other appropriate legal action, including, but not limited to, emergency injunctive action, to enforce the provisions of this ordinance. The police department may adhere to Section 32-8.1, of the Miami-Dade County Code, which indicates that should the District implement a water shortage plan, and declare a water shortage, the provisions of Chapter 32 of the County Code go into effect, and all police officers may issue criminal sanctions as provided under state law and county code.

(I) Appeals.

Appeals under the Town's civil citation system of citations issued shall be to the Town's Special Master as provided for under the Town's Code. Criminal citations under state law and Miami-Dade County Code, as authorized under Section 32-8.1, shall be heard as provided for under F.S. §§ 373.609, and 373.613 and Rule 40E-21, Part V, Florida Administrative Code of the District.

**Section 3.**     **Severability.**     If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

**Section 4.**     **Conflict.**     All sections or parts of sections of the code of ordinances, all ordinances or part of ordinances, and all resolutions, or parts of resolutions, in conflict with this ordinance are repealed to the extent of such conflict.

**Section 5.**     **Codified.**     This ordinance shall be codified and included in the Code of Ordinances.

**Section 6.**     **Effective Date.**     This ordinance shall take effect immediately upon enactment.

PASSED on First Reading this 18<sup>th</sup> day of May, 2011.

PASSED AND ADOPTED on Second Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
EDWARD P. MACDOUGALL, Mayor

Attest:

\_\_\_\_\_  
ESTHER B. COULSON  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE TOWN OF CUTLER BAY:

\_\_\_\_\_  
WEISS SEROTA HELFMAN PASTORIZA  
COLE & BONISKE, P.L.  
Town Attorney

Moved By:  
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall	_____
Vice Mayor Ernest N. Sochin	_____
Councilmember Peggy R. Bell	_____
Councilmember Mary Ann Mixon	_____
Councilmember Sue Ellen Loyzelle	_____

**EXHIBIT A**

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
WATER SHORTAGE WATCH BRIEFINGS**

**May 2, 2011**

**May 31, 2011**



# WATER SHORTAGE WATCH BRIEFING

*Keeping an Eye on Water Supply*

## Report for May 2, 2011

To keep the public informed about dry conditions impacting much of Central and South Florida, the South Florida Water Management District (SFWMD) is issuing the following briefing.

### District-wide Conditions

Dry conditions have persisted across much of the District's 16-county region since October and resulted in a water deficit that will not end with the start of the wet season, which typically begins by the end of May. Sea-breeze cycle rains will need time to begin alleviating low water levels.

<b>DRY SEASON RAINFALL</b> Oct. 2, 2010 – May 2, 2011	<b>10.27</b> inches
<b>DRY SEASON RAINFALL DEFICIT</b> Oct. 2, 2010 – May 2, 2011	<b>7.74</b> inches below average
<b>LAKE OKEECHOBEE LEVEL</b> May 2, 2011	<b>10.92</b> feet NGVD <b>2.68</b> feet below average
<b>U.S. DROUGHT MONITOR</b>	<a href="#">LATEST REPORT</a> (map)
<b>USGS GROUNDWATER CONDITIONS</b>	<a href="#">LATEST REPORT</a> (map)

### Dry Season Rainfall by Basin (Oct. 2, 2010 – May 2, 2011)

BASIN	RAINFALL	DIFFERENCE
Upper Kissimmee	<b>15.13</b> inches	<b>3.36</b> inches below average
Lower Kissimmee	<b>11.18</b> inches	<b>4.85</b> inches below average
Lake Okeechobee	<b>9.02</b> inches	<b>6.75</b> inches below average
EAA East	<b>8.77</b> inches	<b>7.74</b> inches below average
EAA West	<b>8.03</b> inches	<b>8.71</b> inches below average
Water Conservation Areas 1 & 2	<b>9.91</b> inches	<b>8.95</b> inches below average
Water Conservation Area 3	<b>7.97</b> inches	<b>9.25</b> inches below average
Martin and St. Lucie Counties	<b>10.09</b> inches	<b>11.90</b> inches below average
Eastern Palm Beach County	<b>9.61</b> inches	<b>16.36</b> inches below average
Eastern Broward County	<b>11.30</b> inches	<b>10.74</b> inches below average
Eastern Miami-Dade County	<b>12.13</b> inches	<b>7.97</b> inches below average
East Caloosahatchee	<b>9.55</b> inches	<b>7.37</b> inches below average
Big Cypress Preserve	<b>8.43</b> inches	<b>8.28</b> inches below average
Southwest Coast	<b>10.55</b> inches	<b>6.48</b> inches below average

Click [here](#) for a map of basin locations.

## **Water Shortage Orders and Conservation Measures**

### **Water Shortage Order – Landscape Irrigation**

- [Modified Phase II restrictions](#), effective March 26, limit landscape irrigation to two days per week throughout the District.
- Landscape irrigation using reclaimed water is not restricted under the order.
- Irrigation times vary by area:
  - For Broward, Glades, Hendry, Martin, Miami-Dade, Monroe, Okeechobee, Palm Beach and St. Lucie counties. Also for portions of Osceola County within the SFWMD boundaries, the Town of Windermere in Orange County and cities within Lee County except Cape Coral – [Just the Facts](#)
  - Charlotte, Highlands and Polk counties – [Just the Facts](#)
  - Toho Water Authority Service Area (Osceola County) – [Just the Facts](#)
  - The City of Cape Coral – [Just the Facts](#)
  - Collier County, including the City of Naples – [Just the Facts](#)
  - Orange County except the Town of Windermere – [Just the Facts](#)
  - Unincorporated areas of Lee County – [Just the Facts](#)

### **Water Shortage Order – Golf Courses**

- [Modified Phase I restrictions](#), effective March 26, require a 15-percent cutback for golf course irrigation in Broward, Collier, Glades, Hendry, Lee, Martin, Miami-Dade, Monroe, Okeechobee, Palm Beach and St. Lucie counties.

### **Water Shortage Order – Lake Okeechobee Service Area (LOSA)**

- A [water shortage order](#), effective March 26, requires a 15-percent reduction in surface water withdrawals for all agricultural, nursery and diversion and impoundment users within LOSA.
  - LOSA includes portions of Okeechobee, Glades, Hendry, Lee, Martin, Palm Beach and St. Lucie counties, and the Everglades Agricultural Area and portions of the Southern Indian Prairie Water Use Basin.

### **Water Shortage Order – Agricultural and Nursery Water Users in South Miami-Dade County**

- A [water shortage order](#), effective March 26, places Phase I restrictions on agricultural and nursery water users within the South Dade Water Use Basin. Users will limit the times and hours of irrigation operations.

### **Water Shortage Order – Southern Indian Prairie Water Use Basin**

- An [operational order](#), effective March 26, allows for District operation of certain bypass structures in the southern Indian Prairie Water Use Basin to implement the LOSA order.

### **Water Shortage Order – Permitted Water Users in Broward and Palm Beach Counties**

- A [water shortage order](#), effective March 26, places Phase I restrictions on agricultural, nursery and diversion and impoundment permittees that use or divert surface and ground water in these counties.

- Withdrawals from surface waters by specified users will be reduced 15 percent.
- Agricultural and nursery operations will limit the hours of irrigation.

### **Other Actions**

The District continues to closely monitor water levels. Links to more information about water shortage orders and warnings, current weather and water conditions and water-saving tips can be found at [www.sfwmd.gov/waterwatch](http://www.sfwmd.gov/waterwatch).

### **Emergency Operations**

- The SFWMD's Emergency Operations Center is currently at a Level 2 activation to monitor and plan activities associated with the 2011 Water Shortage.

# # #

**Media inquiries can be directed to:**

**Randy Smith**

South Florida Water Management District

Office: (561) 682-2800 or Cellular: (561) 389-3386



# WATER SHORTAGE WATCH BRIEFING

*Keeping an Eye on Water Supply*

## Report for May 31, 2011

To keep the public informed about dry conditions impacting much of Central and South Florida, the South Florida Water Management District (SFWMD) is issuing the following briefing.

### District-wide Conditions

Persistent rainfall in the wet season over the next few months is needed to replenish groundwater, canal and lake levels. Through the end of May, rainfall has remained below average across much of the District's 16-county region. Meteorologists have predicted drought conditions will extend into the beginning of the wet season.

<b>DRY SEASON RAINFALL</b> Oct. 2, 2010 – May 31, 2011	<b>12.44</b> inches
<b>DRY SEASON RAINFALL DEFICIT</b> Oct. 2, 2010 – May 31, 2011	<b>9.18</b> inches below average
<b>LAKE OKEECHOBEE LEVEL</b> May 31, 2011	<b>10.14</b> feet NGVD <b>3.00</b> feet below average
<b>U.S. DROUGHT MONITOR</b>	<a href="#">LATEST REPORT</a> (map)
<b>USGS GROUNDWATER CONDITIONS</b>	<a href="#">LATEST REPORT</a> (map)

### Dry Season Rainfall by Basin (Oct. 2, 2010 – May 31, 2011)

BASIN	RAINFALL	DIFFERENCE
Upper Kissimmee	<b>16.61</b> inches	<b>5.00</b> inches below average
Lower Kissimmee	<b>12.98</b> inches	<b>6.27</b> inches below average
Lake Okeechobee	<b>10.53</b> inches	<b>8.28</b> inches below average
EAA East	<b>11.37</b> inches	<b>8.77</b> inches below average
EAA West	<b>10.50</b> inches	<b>10.15</b> inches below average
Water Conservation Areas 1 & 2	<b>12.32</b> inches	<b>10.60</b> inches below average
Water Conservation Area 3	<b>10.07</b> inches	<b>11.09</b> inches below average
Martin and St. Lucie Counties	<b>11.72</b> inches	<b>13.76</b> inches below average
Eastern Palm Beach County	<b>12.00</b> inches	<b>18.33</b> inches below average
Eastern Broward County	<b>13.02</b> inches	<b>13.77</b> inches below average
Eastern Miami-Dade County	<b>13.84</b> inches	<b>10.91</b> inches below average
East Caloosahatchee	<b>12.15</b> inches	<b>8.13</b> inches below average
Big Cypress Preserve	<b>11.81</b> inches	<b>8.65</b> inches below average
Southwest Coast	<b>13.37</b> inches	<b>7.00</b> inches below average
Click <a href="#">here</a> for a map of basin locations.		

## Water Levels at Key Locations (as of May 31, 2011)

LOCATION	WATER LEVEL	KEY LEVELS OF CONCERN	
Lake Istokpoga	37.97 feet	37.00 feet	Water Supply Cut-off
WCA-1	13.72 feet	14.00 feet	Regulation Zone C
WCA-2A	10.18 feet	10.50 feet	Regulation Zone C
WCA-3A	6.97 feet	7.50 feet	Regulation Zone C
C-23 Canal	17.56 feet	14.00 feet	Water Supply Cut-off
C-24 Canal	17.02 feet	14.00 feet	Water Supply Cut-off
C-25 Canal	14.92 feet	14.00 feet	Water Supply Cut-off

## Water Shortage Orders and Conservation Measures

### Water Shortage Order – Landscape Irrigation

- [Modified Phase II restrictions](#), effective March 26, limit landscape irrigation to two days per week throughout the District.
- Landscape irrigation using reclaimed water is not restricted under the order.
- Irrigation times vary by area:
  - For Broward, Glades, Hendry, Martin, Miami-Dade, Monroe, Okeechobee, Palm Beach and St. Lucie counties. Also for portions of Osceola County within the SFWMD boundaries, the Town of Windermere in Orange County and cities within Lee County except Cape Coral – [Just the Facts](#)
  - Charlotte, Highlands and Polk counties – [Just the Facts](#)
  - Toho Water Authority Service Area (Osceola County) – [Just the Facts](#)
  - The City of Cape Coral – [Just the Facts](#)
  - Collier County, including the City of Naples – [Just the Facts](#)
  - Orange County, except the Town of Windermere – [Just the Facts](#)
  - Unincorporated areas of Lee County – [Just the Facts](#)

### Water Shortage Order – Golf Courses

- [Modified Phase I restrictions](#), effective March 26, require a 15-percent cutback for golf course irrigation in Broward, Collier, Glades, Hendry, Lee, Martin, Miami-Dade, Monroe, Okeechobee, Palm Beach and St. Lucie counties.

### Water Shortage Order – Lake Okeechobee Service Area (LOSA)

- [Modified Phase III restrictions](#), effective May 19, require a 45-percent reduction in surface water withdrawals for all agricultural, nursery and diversion and impoundment users within LOSA.
  - LOSA includes portions of Okeechobee, Glades, Hendry, Lee, Martin, Palm Beach and St. Lucie counties and the Everglades Agricultural Area.

## **Water Shortage Order – Agricultural and Nursery Water Users in South Miami-Dade County**

- A [water shortage order](#), effective March 26, places Phase I restrictions on agricultural and nursery water users within the South Dade Water Use Basin. Users will limit the times and hours of irrigation operations.

## **Water Shortage Order – Southern Portion of the Indian Prairie Water Use Basin**

- An [operational order](#), effective March 26, allows for District operation of certain bypass structures in the southern portion of the Indian Prairie Water Use Basin.
- A [water shortage order](#) requires a 15-percent reduction in surface water withdrawals for all agricultural, nursery and diversion and impoundment users.

## **Water Shortage Order – Permitted Water Users in Broward and Palm Beach Counties**

- A [water shortage order](#), effective March 26, places Phase I restrictions on agricultural, nursery and diversion and impoundment permittees that use or divert surface and ground water in these counties.
  - Withdrawals from surface waters by specified users will be reduced 15 percent.
  - Agricultural and nursery operations will limit the hours of irrigation.

## **Other Actions**

The District continues to closely monitor water levels. Links to more information about water shortage orders and warnings, current weather and water conditions and water-saving tips can be found at [www.sfwmd.gov/waterwatch](http://www.sfwmd.gov/waterwatch).

## **Emergency Operations**

- The SFWMD's Emergency Operations Center is currently at a Level 2 activation to monitor and plan activities associated with the 2011 Water Shortage.

## **Navigation**

- These locks on the north shore of Lake Okeechobee remain closed:
  - S-135 at J&S Fish Camp in Martin County
  - S-193 at Taylor Creek in Okeechobee County
  - G-36 at Henry Creek in Okeechobee County
  - S-127 at Buckhead Ridge in Glades County
  - S-131 at Lakeport in Glades County

## **Recreation**

- An emergency order on April 26 prohibits building fires on certain District lands open for recreation.
  - The order covers 13 of the District's 16 counties. Polk, Osceola, and Orange counties are exempt from the ban because of recent rainfall.
  - The ban, which only applies to land managed by the District, means no fires in grills, fireplaces or fire rings until further notice.

# # #

**Media inquiries can be directed to:**

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South Florida Water Management District

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**EXHIBIT B**

**TOWN OF CUTLER BAY**

**WATER CONSERVATION COMPLIANCE REPORT**

**JUNE 3, 2011**



# Water Conservation Compliance Report

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