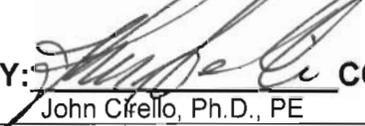
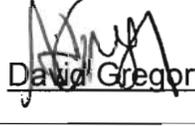


**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Public Hearing for Ordinance Amending the Seminole County Code Requiring Proof of Insurance to be Presented by Firms Applying for a Certificate of Public Convenience and Necessity to Collect Waste

**DEPARTMENT:** Environmental Services **DIVISION:** Solid Waste Management

**AUTHORIZED BY:**  **CONTACT:**  **EXT.** 2022  
John Cifello, Ph.D., PE

<b>Agenda Date</b> <u>9/26/06</u>	<b>Regular</b> <input type="checkbox"/>	<b>Consent</b> <input type="checkbox"/>	<b>Work Session</b> <input type="checkbox"/>	<b>Briefing</b> <input type="checkbox"/>
	<b>Public Hearing – 1:30</b> <input checked="" type="checkbox"/>		<b>Public Hearing – 7:00</b> <input type="checkbox"/>	

**MOTION/RECOMMENDATION:**

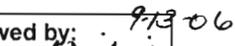
Adopt an Ordinance amending Chapter 235 Seminole County Code to require firms applying for a Certificate of Public Convenience and Necessity to collect waste to provide proof of insurance at County required levels

**BACKGROUND:**

Amendments to Chapter 235 Seminole County Code are proposed. The proposed amendments will provide assurance to citizens and businesses of the responsibility of firms collecting waste pursuant to a Seminole County issued Certificate of Public Convenience and Necessity (COPCN). The proposed amendments require firms to present proof demonstrating insurance coverage when applying for a COPCN to collect waste in unincorporated Seminole County.

The insurance coverage requirements proposed in the Ordinance are consistent with the insurance levels required by Seminole County for firms collecting waste under the terms of the Non-Exclusive Commercial Solid Waste Collection Franchise Agreements.

Attachments:  
Ordinance 06- \_\_\_\_\_  
Economic Impact Statement

Reviewed by: <u></u> 9-13-06
Co Atty: <u></u>
DFS: N/A
Other: _____
DCM: <u></u>
CM: <u></u>
File No. <u>PH130ESS01</u>

# ECONOMIC IMPACT STATEMENT

**DATE:** September 13, 2006

**DEPT./DIVISION:** Environmental Services

**CONTACT PERSON:** David Gregory

**EXTENSION:** x2022

**DESCRIBE PROJECT/PROPOSAL:**

This ordinance establishes the need to provide proof of insurance at County established levels for firms applying for a Certificate of Public Convenience and Necessity (COPCN) to collect waste in unincorporated Seminole County.

**DESCRIBE THE DIRECT ECONOMIC IMPACT OF THE PROJECT/ PROPOSAL UPON THE OPERATION OF THE COUNTY:**

Requiring firms collecting waste to maintain minimum insurance coverage will provide a level of surety to the citizens and local businesses served by these firms.

**DESCRIBE THE DIRECT ECONOMIC IMPACT OF THE PROJECT/ PROPOSAL UPON THE PROPERTY OWNERS/TAX PAYERS/CITIZENS WHO ARE EXPECTED TO BE AFFECTED:**

Currently, there are 17 waste collection firms operating in unincorporated Seminole County under the terms of a COPCN. There are an additional 13 firms operating under the terms of a waste collection franchise. COPCN holders typically collect special wastes (principally construction and demolition debris, but also tires, hazardous waste, or recyclables). Based on the most recent information available from the Florida Department of Environmental Protection, and reports made by the COPCN holders to the Solid Waste Management Division, the firms collected 16 percent of construction and demolition debris generated in Seminole County.

As described below, firms currently operating under the terms of a franchise must maintain insurance levels equal to, or greater than, what is being required of COPCN holders under this ordinance. This ordinance will not affect franchised firms. Based on available information, firms operating under the terms of a franchise collect 84 percent of construction and demolition debris in Seminole County.

The direct impact of requiring insurance will be borne by individual firms. These firms will likely pass any increased costs on to their customers. The incremental increase in cost to obtain insurance as described in the ordinance will depend on the operations and history of each individual firm. A local insurance wholesaler provided a price estimate for a hypothetical C&D collection company operating one (1) truck with 12 roll-offs. The hypothetical company would have to pay in the range of \$750 and higher for general liability coverage (\$1 million coverage with \$1,000 deductible) and \$7,000 to \$8,000 for automobile liability coverage per vehicle (\$1 million coverage). The wholesaler could not estimate workers compensation coverage (\$500,000 limit).

**IDENTIFY ANY POTENTIAL INDIRECT ECONOMIC IMPACTS, POSITIVE OR NEGATIVE WHICH MIGHT OCCUR AS A RESULT OF THE PROJECT PROPOSAL:**

Currently, the three (3) solid waste collection firms operating under the terms of an exclusive Residential Solid Waste Collection franchise are required to maintain insurance at levels higher than what is being requested in the ordinance. The ten (10) solid waste collection firms operating under the terms of a Non-Exclusive Commercial Solid Waste Collection Franchise are required to maintain insurance coverage at the level requested in this ordinance change.

This ordinance will bring all County authorized commercial solid waste haulers (commercial COPCN holders and commercial franchise firms) up to the same level of insurance coverage.

**AN ORDINANCE AMENDING CHAPTER 235, SEMINOLE COUNTY CODE, "SOLID WASTE"; CREATING A REQUIREMENT FOR PROOF OF INSURANCE TO BE PROVIDED BEFORE THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.**

**WHEREAS,** the Board of County Commissioners desires to maintain an efficient solid waste management system designed to meet the needs of all Seminole County residents and businesses; and

**WHEREAS,** the Board of County Commissioners enacted Ordinance 91-16 amending Chapter 235, Seminole County Code, addressing "Solid Waste," authorizing the board to regulate the collection and disposal of waste in the unincorporated County; and

**WHEREAS,** the Board of County Commissioners desires to regulate waste collection and disposal so that the activity is conducted in a manner protective of all Seminole County residents and businesses; and

**WHEREAS,** requiring persons collecting waste materials in Seminole County to maintain reasonable liability insurance coverage serves the public interest,

**NOW THEREFORE,** BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA,

**Section 1.** Sec. 235.52, is amended as follows:

(1) There exists a public need for the services which is not being met by holders of outstanding Certificates of Public Convenience and Necessity;

(2) Proof of ability to serve the proposed Customers of the applicant;

(3) Proof of financial responsibility; ~~and~~

(4) Posting of required bonds or letters of credit; and

(5) For firms requesting to operate commercial collection service, proof of insurance as described below:

(a) **General.** The Certificate of Public Convenience and Necessity (COPCN) holder shall, at the COPCN holder's own cost, procure the insurance required under this Section.

(1) The COPCN holder shall furnish the Director of Environmental Services with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required by this Section (Workers' Compensation/Employers' Liability, Commercial General Liability and Business Automobile). The County, its official, officers and employees shall be additional insureds. The Certificate of Insurance shall provide that the County shall be given not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by the COPCN holder, the COPCN holder shall provide the County with a renewal or replacement Certificate of Insurance not less than thirty (30)

days before expiration or replacement of the insurance for which a previous certificate has been provided.

(2) The Certificate of Insurance shall contain a statement that it is being provided in accordance with Chapter 235 Seminole County Code and that the insurance is in full compliance with the requirements of Chapter 235 Seminole County Code; provided further, that in lieu of the statement on the Certificate of Insurance, the COPCN holder shall, at the option of the County, submit a sworn, notarized statement from an authorized representative of the insurer that the Certificate of Insurance is being provided in accordance with Chapter 235 Seminole County Code and that the insurance is in full compliance with the requirements herein.

(3) In addition to providing the Certificate of Insurance, if required by the County, the COPCN holder shall, within thirty (30) days after receipt of the request, provide the County with a certified copy of each of the policies of insurance providing the coverage required by this Section.

(4) Neither approval by the County nor failure to disapprove the insurance furnished by a COPCN holder shall relieve the COPCN holder of the COPCN's full responsibility for liability, damages and accidents.

b) Insurance Company Requirements. Insurance

companies providing the insurance hereunder must meet the following requirements:

(1) Companies issuing policies, other than Workers' Compensation, must be authorized by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida, to conduct business in the State of Florida. Policies for Workers' Compensation may be issued by companies authorized as a group-self-insurer by Section 440.57, Florida Statutes.

(2) In addition, such companies other than those authorized by Section 440.57, Florida Statutes, shall have and maintain a Best's Rating of "A" or better and a Financial Size Category of "VII" or better according to A.M. Best Company. The Business Auto Policy may be issued by companies who are members of the Florida Joint Underwriting Association in lieu of the Best's Rating.

(3) If, during the period which an insurance company is providing the insurance coverage required herein, an insurance company shall: 1) lose its Certificate of Authority, 2) no longer comply with Section 440.57, Florida Statutes, or 3) fail to maintain the Best's Rating and Financial Size Category, the COPCN holder shall, as soon as the COPCN holder has knowledge of any such circumstance, immediately notify the

County and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this section. Until such time as the COPCN Holder has replaced the unacceptable insurer with an insurer acceptable to the County, the COPCN holder shall be deemed to be in material default of its COPCN.

(c) **Specifications.** Without limiting any of the other obligations or liability of the COPCN holder, the COPCN holder shall, at the COPCN holder's sole expense, procure, maintain and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this subsection. Except as otherwise specified in this section, the insurance shall become effective prior to the commencement of work by the COPCN holder and shall be maintained in force until the COPCN termination date. The amounts and types of insurance shall conform to the following minimum requirements.

(1) Workers' Compensation/Employers' Liability.

(A) The COPCN holder's insurance shall cover the COPCN holder and its subcontractors of every tier for those sources of liability which could be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, where

appropriate, coverage is to be included for any other applicable Federal or State law.

(B) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(C) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be:

**LIMITS**

<u>\$500,000.00</u>	<u>(Each Accident)</u>
<u>\$500,000.00</u>	<u>(Disease Each Employee)</u>
<u>\$500,000.00</u>	<u>(Disease Policy Limit)</u>

(2) Commercial General Liability.

(A) The COPCN holder's insurance shall cover the COPCN holder for those sources of liability which would be covered by the latest edition of the standard General Commercial Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida, by the Insurance Services Offices, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medial Payment and the elimination of coverage for Fire Damage Legal Liability.

(B) The COPCN holder shall maintain separate limits of coverage applicable only to the work performed hereunder. The minimum limits to be maintained by the COPCN holder (inclusive of any amounts provided by an Umbrella or Excess policy) shall be those that would be provided with the attachment of the Amendment of Limits of Insurance (Designated Project or Premises) endorsement (ISO Form CG 25 01) to a Commercial General Liability Policy with amount specified for each project:

	<u><b>LIMITS</b></u>
<u>General Aggregate</u>	<u>\$1,000,000.00</u>
<u>Personal Injury &amp; Advertising Limit</u>	<u>\$1,000,000.00</u>
<u>General Liability Per Occurrence Bodily Injury &amp; Property Damage</u>	<u>\$1,000,000.00</u>

(3) **Business Automobile Liability.**

(A) The COPCN holder's insurance shall cover the COPCN for those sources of liability which would be covered by Part IV of the latest edition of the standard Business Auto Policy (ISO Form CA 00 01), as filed for use in the State of Florida, by the Insurance Service Office, without the attachment of restrictive endorsements. Coverage shall include owned, non-owned and hired autos.

(B) The minimum limits to be maintained by the COPCN holder (inclusive of any amounts provided by an Umbrella or Excess policy) shall be per accident combined single limit for bodily injury liability and property damage liability. If the coverage is subject to an aggregate, the COPCN holder shall maintain separate aggregate limits of coverage applicable to claims arising out of or in connection with the work under Chapter 235 Seminole County Code. The separate aggregate limits to be maintained by the COPCN holder shall be a minimum of three (3) times the per accident limit required and shall apply separately to each policy year or part thereof.

(C) The minimum amount of coverage under the Business Automobile Liability shall be:

	<u>LIMITS</u>
<u>Bodily Injury and Property</u>	<u>\$1,000,000.00</u>
<u>Damage Liability Combined</u>	
<u>Occurrence</u>	

(d) **Coverage.** The insurance provided by the COPCN holder pursuant to this section shall apply on a primary basis and any other insurance or self-insurance maintained by the County or the County's officials, officers or employees shall be excess of and not contributing with the insurance provided by or on behalf of the Contractor.

(e) **Occurrence Basis.** The Workers' Compensation Policy, Commercial General Liability and the Business Auto Policy

required herein shall be provided on an occurrence rather than a claims-made basis.

(f) **Obligations.** Compliance with the foregoing insurance requirements shall not relieve the COPCN holder, its employees or agents of liability from any obligations hereunder.

**Section 2. Codification.** It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Seminole County Code, and that the word "ordinance" may be changed to "section", "article", or other appropriate word or phrase and the sections of this Ordinance may be renumbered or relettered to accomplish such intention; providing, however, that Sections 2, 3 and 4 shall not be codified.

**Section 3. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 4. Effective date.** This Ordinance shall take effect on October 1, 2006, and upon the filing a copy of this Ordinance with the Florida Department of State by the Clerk of the Board of County Commissioners.

**ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2006.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA**

\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida.

\_\_\_\_\_  
CARLTON HENLEY, Chairman