



AGENDA ITEM COVER PAGE

File ID: #1017

Ordinance

Sponsored by: Francis Suarez, Commissioner

AN ORDINANCE OF THE MIAMI CITY COMMISSION RESCINDING RESOLUTION NO. 16-0254, ADOPTED ON MAY 26, 2016, IN ITS ENTIRETY, AND RE-ESTABLISHING THE CITY OF MIAMI SEA LEVEL RISE COMMITTEE BY AMENDING CHAPTER 2/ARTICLE XI/DIVISION 18 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, ENTITLED "ADMINISTRATION/BOARDS, COMMITTEES, COMMISSIONS/SEA LEVEL RISE COMMITTEE" CODIFYING THE CITY OF MIAMI SEA LEVEL RISE COMMITTEE, TO STUDY SEA LEVEL RISE AND ITS EFFECT ON THE CITY OF MIAMI AND MAKE RECOMMENDATIONS TO THE CITY COMMISSION, INCORPORATING ALL AVAILABLE INFORMATION ON THE SUBJECT, INCLUDING, BUT NOT LIMITED TO, RECOMMENDATIONS MADE BY THE FEDERAL GOVERNMENT AND MIAMI-DADE COUNTY; STATING THE COMMITTEE'S PURPOSE, POWERS, DUTIES, COMPOSITION, APPOINTMENT QUALIFICATIONS AND REQUIREMENTS FOR MEMBERSHIP; PROVIDING FOR OFFICERS, RULES OF PROCEDURE, MEETINGS, QUORUM, BUDGET, LEGAL AND STAFF SUPPORT, ASSIGNMENT OF PERSONNEL, WAIVERS, AND PUBLIC NOTICE; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.



City of Miami

Legislation

Ordinance

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Final Action Date:

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WHEREAS, the City of Miami ("City") is generally at sea level and abuts the ocean and the river along a considerable length of its borders; and

WHEREAS, over the past fifteen (15) years, the average annual increase in sea level has been roughly 0.27 inches per year; and

WHEREAS, for the last five (5) years, the University of Miami has measured an average annual increase in sea level closer to 0.97 inches per year; and

WHEREAS, the United States federal government projects that sea levels will rise between four (4) feet to almost seven (7) feet by the end of the century; and

WHEREAS, sea level rise will have broad impacts related to City infrastructure, storm surges, public health, insurance rates, the availability of potable water, and socioeconomics; and

WHEREAS, the City must adapt to and mitigate the adverse effects of sea level rise within its jurisdiction; and

WHEREAS, the City Commission has deemed it necessary to create a committee to help mitigate the adverse effects of sea level rise on the City and its residents; and

WHEREAS, the City Commission previously established the City of Miami Sea Level Rise Committee ("Committee") pursuant to Resolution No. 15-0072, later rescinded and superseded by Resolution No. 16-0254 of the City Commission; and

WHEREAS, the City Commission desires to rescind Resolution No. 16-0254, adopted on May 26, 2016, in its entirety and codify the Committee through an amendment to the Code of the City of Miami, Florida, as amended; and

WHEREAS, the City Commission desires that the membership of the Committee otherwise remain unchanged from its previous iteration with all currently appointed members retaining their current membership status;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble of this Ordinance are adopted by reference and incorporate as if fully set forth in this section.

Section 2. Chapter 2, Article XI, Division 18 of the City Code, as amended, is further amended in the following particulars:¹

"CHAPTER 2

ADMINISTRATION

ARTICLE XI. BOARDS, COMMITTEES, COMMISSIONS

DIVISION 18. SEA LEVEL RISE COMMITTEE

~~Secs. 2-1271-2-1300. -- Reserved.~~

Sec. 2-1271. Establishment and purpose.

The "Sea Level Rise Committee" ("Committee") is established to serve in an advisory capacity to the City Commission. The Committee shall recommend changes to the Code of the City of Miami, Florida, as amended ("City Code") and any City of Miami ("City") policies necessary to help the City and its residents adapt to and prepare for the adverse impacts of sea level rise, including impacts related to storm surges, flood damage prevention, infrastructure, public health, water supply and quality, housing, and socioeconomics.

Sec. 2-1272. Composition; appointment and terms of office of members; filling of vacancies.

When establishing this Committee for the first time after codification by Ordinance, the committee members were originally appointed pursuant to Resolution No. 16-0254 shall remain on the Committee.

(a) Composition and Qualifications. The Committee shall consist of nine (9) voting members who shall be City residents, work in the City, own a business in the City, or own real property in the City. All voting members shall be invested in the City and serve without compensation. In addition:

(1) At least one (1) member shall possess an expertise in civil engineering or architecture with a focus on infrastructure;

¹ Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

(2) At least one (1) member shall possess an expertise in community and real estate development;

(3) At least one (1) member shall possess an expertise in one (1) or more of the following areas: climatology, geophysics, coastal management, oceanography, or coastal ocean science;

(4) At least one (1) member shall possess an expertise in emergency management;

(5) At least one (1) member shall possess an expertise in economics; and

(6) At least one (1) member shall possess an expertise in advocating for vulnerable low-income communities.

(b) Appointment of Voting Members. The nine (9) members shall be appointed to the Committee as follows:

(1) Each of the five (5) City Commissioners shall appoint one (1) voting member to be ratified by majority vote of the City Commission;

(2) The Mayor shall appoint one (1) voting member to be ratified by majority vote of the City Commission;

(3) The City Manager shall appoint one (1) voting member to be ratified by majority vote of the City Commission;

(4) The City Commission at-large shall appoint two (2) members; and

(5) No alternates shall be appointed.

(c) Automatic Waiver for Special Counsel to the City and Local Government Employees. Any appointee contemplated in Subsection (b) above [Appointment of Voting Members] who may be currently serving as special counsel to the City by performing basic non-litigation legal services for the City may continue to do so and receive an automatic waiver from the Commission to sit on the Committee and continue assisting the City pursuant to City Code Sections 2-612 and 2-614, as amended. Similarly, any appointee contemplated in Subsection (b) above [Appointment of Voting Members] who may be currently employed by Miami-Dade County, Florida, or any municipality therein may receive an automatic waiver from the Commission to sit on the Committee and continue his or her government employment pursuant to City Code Section 2-884, as amended.

(d) Term of Voting Members. The voting members shall serve for a two (2) year term, but may continue to serve beyond the two (2) year term until a successor has been appointed and qualified. Membership shall be limited to three (3) full, consecutive terms; however, this limitation shall not prohibit any individual from being reappointed to the Committee after a hiatus of two (2) years. Likewise, the limitation of membership to three (3) full, consecutive terms may be waived for a particular voting member by a unanimous vote of the members of the City Commission to permit the voting member to be reconsidered annually for an additional one (1) year term.

(e) Minimum Attendance Requirements. Voting members should attend each meeting. Any voting member who is absent from more than three (3) meetings in a given calendar year shall automatically be deemed to have vacated his or her position, except that absences allowed pursuant to Sec. 2-886(d) of the City Code shall not be counted. A voting member shall be deemed absent from a meeting when he or she is not present at the meeting at least seventy-

five percent (75%) of its duration. Nevertheless, the provisions of this subsection may be waived by a four-fifths (4/5) vote of the members of the full City Commission pursuant to Sec. 2-886(c).

(f) Removal. The City Commission shall have the power to remove any member by majority vote without a finding of cause. The voting members appointed by the Mayor and the City Manager may also be removed by the appointing official without a finding of cause subject to ratification by majority vote of the City Commission.

(g) Resignation. Voting members may resign by submitting a signed letter of resignation to the City Clerk. The City Clerk shall immediately notify the appointing official of the vacancy. It shall be the obligation of each voting member to notify the City Clerk if he or she ceases to meet the qualification criteria set forth in Subsection (a) above [Composition and Qualifications].

(h) Vacancies. In the event a vacancy occurs on the Committee, whether automatically, by vote of the City Commission, or by resignation of the member, the City Commission may, by majority vote, appoint a qualified person to fill the remaining term of the vacant position. The appointment may be made at the next regularly scheduled meeting of the City Commission or as soon as practicable thereafter. All such appointments shall be consistent with the membership requirements stated in Subsection (a) above [Composition and Qualifications].

(i) Waiver. The City Commission shall have the power to waive any of the requirements of Subsection (a) above [Composition and Qualifications] by four-fifths (4/5) vote of the members of the full City Commission, or a unanimous vote of the quorum that exists because of either abstentions or vacancies resulting from resignation, death, suspension, or physical incapacitation.

Sec. 2-1273. Officers and Subcommittees.

(a) At the initial organizational meeting, the members of the Sea Level Rise Committee shall select and designate a Chairperson and Vice-Chairperson from among the members of the Committee who shall serve at the pleasure of the Sea Level Rise Committee. The Chairperson shall reserve the right to appoint an executive committee and to delegate tasks to various subcommittees of the whole.

(b) Subcommittees. The Chairperson may establish subcommittees from time to time. Decisions of all subcommittees are subject to ratification by majority vote of the full Committee, or a unanimous vote of the quorum that exists because of either abstentions or vacancies resulting from removal, resignation, death, suspension, or physical incapacitation.

Sec. 2-1274. Meetings, parliamentary authority, rules and regulations.

(a) Procedure. The Committee shall adopt its own order of business, rules of procedure, and bylaws to govern its meetings, and actions, not inconsistent with the provisions set forth herein, which shall be filed with the City Clerk. Until the Committee adopts its own rules of procedure, it shall follow Robert's Rules of Order (current edition) except that the provisions set forth herein shall control in case of conflict.

(b) Notice and Public Participation. All meetings and workshops of the Committee, and any of its subcommittees, shall be noticed and open to the public as required by the State of Florida's Sunshine Law. In addition, the public shall be encouraged to submit oral and written comments to the Committee.

(c) Minutes. The minutes of each meeting and workshop shall be taken by applicable staff and promptly made available by the City Clerk. Such records shall be open to public inspection. Copies of minutes of all Committee meetings shall be furnished to the Mayor, City Commissioners, City Attorney, and City Manager.

(d) Quorum. A minimum of fifty percent (50%) plus one (1) of the Committee's total voting members shall constitute a quorum for the purpose of convening any meeting. An affirmative vote of not less than fifty percent (50%) plus one (1) of the voting members present at any meeting is required for any action to be taken by the members.

Sec. 2-1275. Powers.

(a) The Committee shall have the power to:

- (1) Hold public hearings to receive public and expert input;
- (2) Review any and all available information pertaining to sea level rise, including but not limited to its adverse impacts related to storm surges, flood damage prevention, infrastructure, public health, water supply and quality, housing, and socioeconomics;
- (3) Request reports regarding the above from City Departments through the City Manager's Office or designee;
- (4) Comment on and request reports from City Departments through the City Manager's Office or designee regarding updates to City infrastructure that may relate to the City's ability to adapt to sea level rise and its adverse impacts, including but not limited to roads, transportation, solid waste facilities, storm water facilities, and buildings;
- (5) Comment on and request reports from City Departments through the City Manager's Office or designee concerning changes to the City's zoning code and other land development, flood damage prevention, or historic or environmental preservation regulations that may relate to the City's ability to adapt to sea level rise and its adverse impacts;
- (6) Inventory City infrastructure, including but not limited to roads, transportation, solid waste facilities, storm water facilities, buildings, and communities and residencies most at risk from sea level rise and its adverse impacts;
- (7) Identify areas of the City most at risk from sea level rise and its adverse impacts;
- (8) Identify applicable resilient design standards and best practices for adaptation, mitigation, and other considerations related to sea level rise and its adverse impacts;
- (9) Recommend appropriate sea level rise projections to be used in City infrastructure projects and planning;
- (10) Recommend, from time to time, matters pertaining to the City's ability to adapt to sea level rise and its adverse impacts to be considered by the City's Planning, Zoning and Appeals Board; the City's Historic and Environmental Preservation Board; or other relevant City boards, committees, or commissions;
- (11) Recommend any changes to the City Code, policies, guides, and standards, including but not limited to the matters listed herein, necessary to help the City and its residents adapt to and prepare for the adverse impacts of sea level rise;
- (12) Undertake joint investigations or alliances regarding the above with educational, academic, not-for-profit, and other governmental entities and offices;
- (13) Subject to City Commission approval, which approval shall not be unreasonably withheld, engage experts who, as independent contractors, will provide analyses,

reports, recommendations, and other resources, which shall be paid from funds available to the Committee; and

(14) Prepare an annual budget to be presented to the City Commission for approval.

(b) The City Manager shall retain sole authority to execute contracts and agreements subject to the limitations of City Charter and City Code. However, the City Manager may delegate to the City's Office of Sustainable Initiatives the authority to execute contracts on behalf of the Committee consistent with the limitations of City Charter and City Code, subject to Committee approval.

(c) Any resolution of the Sea Level Rise Committee recommending changes to City policy to the City Commission shall be placed on the next feasible City Commission agenda as a discussion item.

Sec. 2-1276. Annual budget.

(a) Procedure. Upon the effective date of the enactment of the ordinance from which this division derives, the Committee shall establish a fiscal year which coincides with that of the City. Within sixty (60) calendar days following the effective date of the enactment of the ordinance from which this division derives, the Committee shall submit to the City Commission, in a form acceptable to the City Manager, a mandatory annual budget for adoption and ratification by majority vote of the City Commission. Nothing contained herein shall be construed to prohibit the Committee from submitting a supplemental budget to the City Commission for approval. All expenditures shall comply with City procedures for acquisition of goods and services.

(b) Expenditures. No expenditure shall be made in any given year without approval by the City Commission of the Committee budget for that year. In addition, the following shall apply:

- (1) Expenditures shall primarily be made for the engagement of experts and consultants to provide analyses, reports, recommendations, and other resources or to implement programs to help the City and its residents adapt to and prepare for the adverse impacts related to sea level rise.
- (2) No more than ten percent (10%) of the Committee's budget shall be used to reimburse voting members or City employees for attendance at various conferences, seminars, and events. Voting members of the Committee shall comply with the State of Florida's Sunshine Law when attending such conferences, seminars, and events.

(c) No Conflicts of Interest. Voting members of the Committee shall comply with the Conflict of Interest provisions of the City Code, the Conflict of Interest and Ethics Ordinance of Miami-Dade County, and all other laws that may apply when preparing the annual budget and expenditures of the Committee.

(d) No Deficiencies. No provision contained in this division shall be construed to violate the Anti-Deficiency Act, as set forth in Sections 18-500-18-503 of the City Code, as amended.

Sec. 2-1277. - Annual and quarterly reports.

(a) Annual Report. The Chairperson shall submit an annual report to the City Manager on January 15 of each year pursuant to Section 2-890 of the City Code, as amended.

(b) Quarterly Report. The Committee shall submit reports to the City Commission, and present the findings and recommendations of said reports at a meeting of the City Commission, on at least a quarterly basis.

(c) Copies. Copies of the Committee's reports shall be made available online.

Sec. 2-1278. Legal counsel.

The Office of the City Attorney shall provide an attorney to serve as legal counsel to the Committee and shall provide legal advice on all matters considered by the Committee.

Sec. 2-1279. Liaison(s) to board and assignment of staff.

Notwithstanding any provisions to the contrary contained in this Code, the City Manager shall designate the administration's liaison(s) to the Committee, at least one (1) of which shall be from the City's Office of Sustainable Initiatives. It shall be the duty of the City Manager to provide administrative support to the Committee, which shall include the services of an individual to maintain committee correspondence, post meeting notices with the City Clerk, file reports, and perform all other necessary support functions. In addition to any administration liaison(s) assigned to the Committee, the City Manager shall designate representatives from the Departments of Public Works, Building, Planning and Zoning, and the Office of Capital Improvements and Transportation to attend Committee meetings. Upon the Committee's request, the City Manager may also participate in deliberations of the Committee and may offer technical and policy advice.

Sec. 2-1280. Inapplicability of sunset provision.

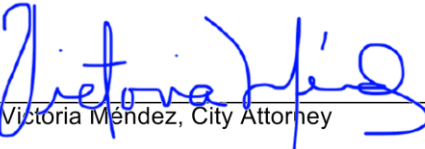
The Committee shall not be subject to the provisions of Section 2-892 of the City Code, as amended.

Secs. 2-1281-2-1300. Reserved.

Section 3. If any section, part of a section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 4. This Ordinance shall become effective immediately after final reading and adoption thereof.²

APPROVED AS TO FORM AND CORRECTNESS:


Victoria Méndez, City Attorney 10/3/2016

² This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten (10) days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.