

MEMORANDUM

Agenda Item No. 11(A)(14)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 19, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution directing the County Mayor to conduct a study and make recommendations regarding the establishment of additional anchoring limitation areas in Miami-Dade County pursuant to Florida Statute; to identify legally available funds for such study or, to the extent that there are insufficient legally available funds within the Fiscal Year 2021-2022 County budget to fund such study, to include funding in an amount sufficient to complete the study in the County Mayor's proposed Fiscal Year 2022-2023 County budget; and to provide a report

Resolution No. R-722-22

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator René García, and Co-Sponsors Commissioner Sally A. Heyman, Commissioner Eileen Higgins and Senator Javier D. Souto.



Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 19, 2022

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Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(14)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(14)
7-19-22

RESOLUTION NO. R-722-22

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO CONDUCT A STUDY AND MAKE RECOMMENDATIONS REGARDING THE ESTABLISHMENT OF ADDITIONAL ANCHORING LIMITATION AREAS IN MIAMI-DADE COUNTY PURSUANT TO FLORIDA STATUTE; TO IDENTIFY LEGALLY AVAILABLE FUNDS FOR SUCH STUDY OR, TO THE EXTENT THAT THERE ARE INSUFFICIENT LEGALLY AVAILABLE FUNDS WITHIN THE FISCAL YEAR 2021-2022 COUNTY BUDGET TO FUND SUCH STUDY, TO INCLUDE FUNDING IN AN AMOUNT SUFFICIENT TO COMPLETE THE STUDY IN THE COUNTY MAYOR'S PROPOSED FISCAL YEAR 2022-2023 COUNTY BUDGET; AND TO PROVIDE A REPORT

WHEREAS, Miami-Dade County is known for its beautiful waterways, in particular Biscayne Bay, and residents and visitors of the County enjoy riding boats and other vessels on our waters; and

WHEREAS, the past two years have seen a substantial increase in the number of vessels anchored or moored in County waters; and

WHEREAS, while an increase in vessel activity is beneficial to the County economy, the County also needs to ensure that vessel activity does not pose a threat to public safety or the environment; and

WHEREAS, as part of the 2021 session of the Florida Legislature, chapter 2021-192 of the Laws of Florida was enacted, which, among other things, amended section 327.4108 of the Florida Statutes to authorize counties to establish anchoring limitation areas within their waterways under certain conditions; and

WHEREAS, for example, an anchoring limitation area must be “adjacent to urban areas that have residential docking facilities and significant recreational boating traffic” and “[b]e less than 100 acres in size”; and

WHEREAS, in addition to other statutory restrictions, “[t]he aggregate total of anchoring limitation areas in a county may not exceed 10 percent of the county’s delineated navigable-in-fact waterways”; and

WHEREAS, under state law, once such an anchoring limitation area is established, a person may not anchor a vessel for more than 45 consecutive days in any six-month period in the anchoring limitation area, subject to certain exceptions, including in the event of certain mechanical failures, certain weather conditions, or certain special events; and

WHEREAS, violation of this time limitation is a noncriminal infraction that state or local law enforcement may enforce by issuing a uniform boating citation to the operator of the vessel; and

WHEREAS, when law enforcement enforces this time limitation, a vessel owner or operator must be given an opportunity to provide proof that the vessel has not exceeded the time limitation; and

WHEREAS, the regulations governing anchoring limitation areas under section 327.4108 also do not apply to: vessels owned or operated by a governmental entity for law enforcement, firefighting, military, or rescue purposes; construction or dredging vessels on an active job site; vessels actively engaged in commercial fishing; and vessels engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets; and

WHEREAS, as part of a county’s establishment of an anchoring limitation area, the county must provide notice to the Florida Fish and Wildlife Conservation Commission (“FWC”) “at least 30 days before introducing an ordinance to establish the anchoring limitation area,” and FWC will in turn provide notice to the public on its website and through an e-mail distribution list; and

WHEREAS, chapter 2021-192 also “grandfathered-in” the following anchoring limitation areas in Miami-Dade County that had already existed in state law: (1) Sunset Lake; and (2) the sections of Biscayne Bay lying between (a) Rivo Alto Island and Di Lido Island, (b) San Marino Island and San Marco Island, and (c) San Marco Island and Biscayne Island; and

WHEREAS, within these “grandfathered-in” anchoring limitation areas, a person may not anchor a vessel at any time during the period between one-half hour after sunset and one-half hour before sunrise, subject to certain exceptions; and

WHEREAS, to promote public safety and protect the environment, it may be appropriate to establish additional anchoring limitation areas in Miami-Dade County; and

WHEREAS, this Board therefore wishes to direct the County Mayor or County Mayor’s designee to conduct a study and make recommendations regarding the establishment of additional anchoring limitation areas in the County consistent with the provisions of section 327.4108, Florida Statutes,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board directs the County Mayor or County Mayor’s designee to identify legally available funds in the Fiscal Year 2021-2022 County budget to conduct a study and make recommendations regarding the establishment of additional anchoring limitation areas in Miami-Dade County. As part of the study, the County Mayor or County Mayor’s designee shall, to the extent necessary and appropriate, coordinate with other organizations and governmental entities, including the Florida Fish and Wildlife Conservation Commission and the municipalities in Miami-Dade County that border Biscayne Bay. The study shall include, at a minimum, the following information:

- Data and analysis with respect to the factors set forth in subsection (2) of section 327.4108, Florida Statutes, for establishing anchoring limitation areas;

- Review of existing state and local regulations and policies that may relate to the anchoring of vessels, including but not limited to the County's Comprehensive Development Master Plan, the County's Manatee Protection Plan, and the Code of Miami-Dade County, including whether the County Mayor or County Mayor's designee's recommendations as to the establishment of additional anchoring limitation areas would further or support any particular County regulations and policies;
- Data and analysis with respect to whatever additional factors the County Mayor or County Mayor's designee finds appropriate to assess when considering whether the County should establish anchoring limitation areas;
- The boundaries of the recommended anchoring limitation areas, should the County Mayor or County Mayor's designee recommend that additional anchoring limitation areas be established;
- The criteria relied upon to determine the recommended anchoring limitation areas and the policy justifications for the recommended anchoring limitation areas;
- Resources needed for the enforcement of the recommended anchoring limitation regulations, including consideration of the ability of state and municipal law enforcement to assist the County with enforcement;
- The expected fiscal impact of establishing, implementing, and enforcing the recommended anchoring limitation areas, including the cost of permitting, installing, and maintaining the signs and buoys required by subparagraph (2)(a)3. of section 327.4108; the County Mayor or County Mayor's designee shall also recommend potential funding sources to address the expected fiscal impact; and

- In the alternative, if the County Mayor or County Mayor’s designee does not recommend establishing additional anchoring limitation areas, the reasons why the County Mayor or County Mayor’s designee does not recommend establishing additional anchoring limitation areas.

Section 2. To the extent that there are insufficient legally available funds within the Fiscal Year 2021-2022 County budget to fund the study required by section 1 of this resolution, this Board directs the County Mayor or County Mayor’s designee to include funding in an amount sufficient to complete the study in the County Mayor’s proposed Fiscal Year 2022-2023 County budget.

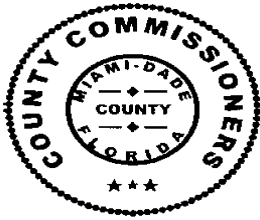
Section 3. The County Mayor or County Mayor’s designee shall prepare a written report containing the findings of the study and the recommendations required by section 1 of this resolution, and shall place the completed report on an agenda of the full Board without committee review pursuant to Ordinance No. 14-65 within 365 days of the effective date of this resolution.

The Prime Sponsor of the foregoing resolution is Senator René García, and the Co-Sponsors are Commissioner Sally A. Heyman, Commissioner Eileen Higgins and Senator Javier D. Souto.

It was offered by Commissioner **Rebeca Sosa** , who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

	Jose “Pepe” Diaz, Chairman	aye
	Oliver G. Gilbert, III, Vice-Chairman	aye
Sen. René García	aye	Keon Hardemon aye
Sally A. Heyman	aye	Danielle Cohen Higgins aye
Eileen Higgins	aye	Joe A. Martinez aye
Kionne L. McGhee	aye	Jean Monestime aye
Raquel A. Regalado	aye	Rebeca Sosa aye
Sen. Javier D. Souto	aye	

The Chairperson thereupon declared this resolution duly passed and adopted this 19th day of July, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

Basia Pruna

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

CJW

Christopher J. Wahl