

MEMORANDUM

Agenda Item No. 11(A)(5)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: May 21, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution directing the County Mayor to: (1) work with municipalities in Miami-Dade County that are seeking to create or have requested 45-day anchoring limitation areas in Biscayne Bay; (2) assess, in such manner as the County Mayor deems appropriate, 45-day anchoring limitation areas that municipalities propose; and (3) provide reports to this Board with recommendations if the County Mayor determines it would be appropriate to establish such 45-day anchoring limitation areas

Resolution No. R-456-24

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Micky Steinberg.


Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: May 21, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

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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)(5)
5-21-24

RESOLUTION NO. _____ R-456-24

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO: (1) WORK WITH MUNICIPALITIES IN MIAMI-DADE COUNTY THAT ARE SEEKING TO CREATE OR HAVE REQUESTED 45-DAY ANCHORING LIMITATION AREAS IN BISCAYNE BAY; (2) ASSESS, IN SUCH MANNER AS THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE DEEMS APPROPRIATE, 45-DAY ANCHORING LIMITATION AREAS THAT MUNICIPALITIES PROPOSE; AND (3) PROVIDE REPORTS TO THIS BOARD WITH RECOMMENDATIONS IF THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE DETERMINES IT WOULD BE APPROPRIATE TO ESTABLISH SUCH 45-DAY ANCHORING LIMITATION AREAS

WHEREAS, section 327.4108(2) of the Florida Statutes authorizes counties, but not municipalities, to establish anchoring limitation areas ("ALAs") within their waterways via the adoption of an ordinance, with certain conditions; and

WHEREAS, under state law, once such an ALA is established by a county pursuant to section 327.4108(2), a person may not anchor a vessel for more than 45 consecutive days in any six-month period in the ALA, subject to certain exceptions (referred to herein as "45-day ALAs"); and

WHEREAS, these 45-day ALAs which a county may, in its discretion, establish pursuant to section 327.4108(2) are distinct and apart from the ALAs that were codified by the Florida Legislature in section 327.4108(1), which prohibit overnight anchoring but only in the geographic areas that are specifically listed in section 327.4108(1), including, for example, "Sunset Lake in Miami-Dade County," and "[t]he sections of Biscayne Bay in Miami-Dade County lying between: . . . Rivo Alto Island and Di Lido Island"; and

WHEREAS, on July 19, 2022, this Board adopted Resolution No. R-722-22, directing the County Mayor or County Mayor's designee to conduct a study and make recommendations regarding the establishment of additional ALAs in Miami-Dade County; and

WHEREAS, on December 12, 2023, this Board accepted the County Mayor's report issued in response to Resolution No. R-722-22; and

WHEREAS, the report considered various issues related to anchoring and mooring in Biscayne Bay, including the current regulatory framework, the prevalence of derelict vessels, and the sensitivity of environmental resources, and ultimately identified eleven areas recommended for the establishment of ALAs, seven in the northern part of Biscayne Bay and four in the southern part; and

WHEREAS, in addition to the proposed pilot 45-day ALAs that the County Mayor and County Mayor's designee outlined in their report and may be developing, municipalities may be interested in proposing or otherwise requesting that the County establish additional 45-day ALAs pursuant to section 327.4108(2); and

WHEREAS, on March 13, 2024, the City of Miami Beach, Florida, adopted Resolution No. 2024-32963, which requested that Miami-Dade County establish certain ALAs within the City's municipal limits; and

WHEREAS, because section 327.4108(2) authorizes counties, but not municipalities, to establish such ALAs, this Board wishes to direct the County Mayor or County Mayor's designee to work with municipalities that are seeking to create or have requested ALAs, with the goal of fostering collaboration between the County and municipalities and protecting Biscayne Bay; and

WHEREAS, if a municipality proposes to the County that the County create a 45-day ALA pursuant to section 327.4108(2), and if the municipality would be responsible for the costs of regulatory permits and the costs and staffing for enforcement of the proposed ALA, this Board wishes to direct the County Mayor or County Mayor's designee to assess the proposed ALA in such manner as the County Mayor or County Mayor's designee deems appropriate; and

WHEREAS, this Board further wishes to direct the County Mayor or County Mayor's designee to prepare a written report to this Board with recommendations if, after making such assessment, the County Mayor or County Mayor's designee determines it would be appropriate to establish a 45-day ALA,

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 work with municipalities in Miami-Dade County that are seeking to create or have requested 45-day anchoring limitation areas in Biscayne Bay, with the goal of fostering collaboration between the County and municipalities and protecting Biscayne Bay. If a municipality proposes to the County that the County create a 45-day anchoring limitation area pursuant to section 327.4108(2) of the Florida Statutes, and if the municipality would be responsible for the costs of regulatory permits and the costs and staffing for enforcement of the proposed anchoring limitation area, this Board further directs the County Mayor or County Mayor's designee to assess the proposed anchoring limitation area in such manner as the County Mayor or County Mayor's designee deems appropriate.

Section 2. If, after making such assessment, the County Mayor or County Mayor's designee determines it would be appropriate to establish a proposed 45-day anchoring limitation area, the County Mayor or County Mayor's designee shall prepare a written report to this Board. The report shall identify the municipality that proposed the anchoring limitation area and the boundaries that the County Mayor or County Mayor's designee recommends for the proposed area. In addition, the County Mayor or County Mayor's designee may, in their discretion, make recommendations to this Board with respect to policy, business, or regulatory matters that may be related to the proposed 45-day anchoring limitation area, including, without limitation: (1) whether the proposed 45-day anchoring limitation area has received or is likely to receive the necessary federal, state, and local regulatory permits; (2) how the proposing municipality would be held responsible for the costs of regulatory permits and the costs and staffing for enforcement of the 45-day anchoring limitation area, such as through an interlocal agreement, through a clause in the enacting ordinance that the particular anchoring limitation area shall sunset if the respective municipality does not continue to be responsible for such costs and staffing, or through another mechanism or a combination of mechanisms; and (3) whether the establishment of the proposed 45-day anchoring limitation area could have negative impacts on other areas of Biscayne Bay or the County, with respect, for example, to residents, the environment, or boaters.

Section 3. If the County Mayor or County Mayor's designee prepares a report pursuant to this resolution, the County Mayor or County Mayor's designee shall, pursuant to rule 5.06(j) of the Board's Rules of Procedure, place the completed report on an agenda of the full Board without committee review.

The Prime Sponsor of the foregoing resolution is Commissioner Micky Steinberg. It was offered by Commissioner **Micky Steinberg**, who moved its adoption. The motion was seconded by Commissioner **Oliver G. Gilbert, III** and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	aye		
Anthony Rodríguez, Vice Chairman	aye		
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	aye	Sen. René García	aye
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	aye	Eileen Higgins	aye
Kionne L. McGhee	absent	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 21st day of May 2024. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

CJW

Christopher J. Wahl
Abbie Schwaderer-Raurell