

MEMORANDUM

Agenda Item No. 11(A)(2)

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

DATE: July 2, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving the South
Miami Peafowl Mitigation Policy

Resolution No. R-621-24

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.



Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM

(Revised)

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

DATE: July 2, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(2)

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)(2)
7-2-24

RESOLUTION NO. _____ R-621-24

RESOLUTION APPROVING THE SOUTH MIAMI PEAFOWL
MITIGATION POLICY

WHEREAS, section 5-16 of the Code of Miami-Dade County, Florida (the “Code”), provides that “[i]t shall be unlawful for any person to take any peafowl,” subject to certain exceptions; and

WHEREAS, the Code defines “take” as “taking, attempting to take, hunting, molesting, capturing, or killing any peafowl, their nests or eggs, by any means, whether or not such actions result in obtaining possession of peafowl or their nests or eggs”; and

WHEREAS, on February 1, 2022, this Board adopted Ordinance No. 22-14, which amended section 5-16 to provide that, “[n]otwithstanding the foregoing, a municipality may opt out of this section by adopting a peafowl mitigation plan that provides for humane removal of peafowl, provided that the plan is also approved by action of the Board of County Commissioners,” and that “[s]uch opt-out shall become effective upon the Board of County Commissioners’ approval becoming effective”; and

WHEREAS, on July 5, 2023, the City Commission of the City of South Miami, Florida, adopted Resolution No. 078-23-16011 (the “South Miami Resolution”), a copy of which is attached hereto as Attachment A; and

WHEREAS, the South Miami Resolution adopted the South Miami Peafowl Mitigation Policy (which is attached to the South Miami Resolution) with the “intent to opt-out of Section 5-16 of the County Code”; and

WHEREAS, the South Miami Resolution directed the City Clerk to transmit the South Miami Peafowl Mitigation Policy to this Board for approval; and

WHEREAS, this Board finds that the South Miami Peafowl Mitigation Policy “provides for humane removal of peafowl,” as required by section 5-16(d) of the Code; and

WHEREAS, this Board therefore approves the South Miami Peafowl Mitigation Policy pursuant to section 5-16(d) of the Code,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the South Miami Peafowl Mitigation Policy, a copy of which is attached hereto as part of Attachment A and is incorporated herein by reference.

The Prime Sponsor of the foregoing resolution is Commissioner Raquel A. Regalado. It was offered by Commissioner **Danielle Cohen Higgins** , who moved its adoption. The motion was seconded by Commissioner **Kionne L. McGhee** 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	absent
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 2nd day of July, 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.

A handwritten signature in black ink, appearing to read "CJW", is written over a horizontal line.

Christopher J. Wahl

RESOLUTION NO. 078-23-16011

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA, DECLARING THE CITY'S INTENT TO OPT-OUT OF SECTION 5-16 OF THE MIAMI-DADE COUNTY CODE OF ORDINANCES RELATING TO THE TAKING OF PEAFOWL; APPROVING A PEAFOWL MITIGATION POLICY RELATING TO THE HUMANE REMOVAL OF PEAFOWL THROUGHOUT THE CITY; PROVIDING FOR TRANSMITTAL; PROVIDING FOR IMPLEMENTATION, CORRECTIONS, AND AN EFFECTIVE DATE.

WHEREAS, the City of South Miami (the "City") has experienced an increase in the peafowl population located within the City; and

WHEREAS, peafowl are a non-native and invasive species, not otherwise protected by federal or state law, that compete with indigenous bird species, prey on native species, cause property damage, transmit parasites, create substantial noise pollution, and interfere with traffic in the City; and

WHEREAS, based on the foregoing, the City Commission finds that the proliferation of peafowl within the City creates a significant threat to the health, safety, and welfare of residents and native species; and

WHEREAS, Section 5-16, "Taking of peafowl prohibited; municipal opt-out," of the Miami-Dade County ("County") Code of Ordinances provides that it is unlawful for any person to take, attempt to take, hunt, molest, capture, or kill any peafowl, their nests or eggs, by any means, but allows municipalities to opt out of the prohibition by adopting a peafowl mitigation plan that provides for the humane removal of peafowl, if approved by the County Board of County Commissioners ("BCC"); and

WHEREAS, in accordance with Section 5-16 of the County Code, the City Commission desires to approve the Peafowl Mitigation Policy attached hereto as Exhibit "A" (the "Policy") to

provide residents with additional options to humanely remove peafowl from their private property and authorize City Staff to engage qualified private companies to humanely remove peafowl from City-owned properties and public rights-of-way; and

WHEREAS, the City Commission finds that this Resolution is in the best interest and welfare of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA, AS FOLLOWS:

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

Section 2. **Declaration of Opt-Out.** The City Commission hereby declares its intent to opt-out of Section 5-16 of the County Code by adoption of the Policy.

Section 3. **Approval of Peafowl Mitigation Policy.** That the City Commission hereby approves the Policy attached hereto as Exhibit “A.”

Section 4. **Transmittal.** The City Clerk is directed to transmit a copy of this Resolution and the Policy to County Mayor Daniella Levine Cava and the members of the County BCC.

Section 5. **Implementation.** The City Manager is authorized to take any and all actions necessary to implement the Policy and the purposes of this Resolution.

Section 6. **Corrections.** Conforming language or technical scrivener-type corrections may be made by the City Attorney for any conforming amendments to be incorporated into the final resolution for signature.

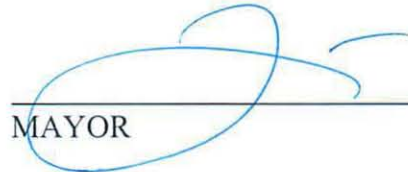
Section 7. **Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this 5th day of July, 2023.

ATTEST:

APPROVED:


CITY CLERK


MAYOR

READ AND APPROVED AS TO FORM,
LANGUAGE, LEGALITY AND
EXECUTION THEREOF



WEISS SEROTA HELFMAN COLE
& BIERMAN, P.L.
CITY ATTORNEY

COMMISSION VOTE:	5-0
Mayor Fernández:	Yea
Vice Mayor Bonich:	Yea
Commissioner Calle:	Yea
Commissioner Liebman:	Yea
Commissioner Corey:	Yea

EXHIBIT A

PEAFOWL MITIGATION POLICY

Subject to the approval of the Miami-Dade County Board of County Commissioners, this Peafowl Mitigation Policy is established pursuant to Resolution No. 078-23-16011. This Peafowl Mitigation Policy shall serve as the City's policy for the humane removal of peafowl throughout the City to address the proliferation of peafowl throughout the City.

A. Removal of Peafowl from Private Property.

Residents and business owners may contract directly with state-certified animal control specialists for the humane removal and relocation of peafowl to address peafowl located on private property. Peafowl, their nests, and eggs may not be harmed or killed in the process of removal and relocation.

B. Removal of Peafowl from City-Owned Property and Public Rights-of-Way.

The City shall establish an annual budget for the removal and relocation of peafowl from City-owned property and public rights-of-way. Peafowl, their nests, and eggs may not be harmed or killed in the process of removal and relocation. The City Manager's Office shall be responsible for administering the funds and coordinating with one or more state-certified animal control specialists for the humane removal or relocation of peafowl.

C. Humane Neutering Program.

The City shall research and investigate options to professionally and humanely sterilize or neuter peafowl in order to manage the peafowl population in the City. Any neutering program implemented by the City will be performed without causing harm or death to peafowl, their nests, or eggs.

City Commission Agenda Item Report

Meeting Date: July 5, 2023

Submitted by: Samantha Fraga-Lopez

Submitting Department: City Manager

Item Type: Resolution

Agenda Section:

Subject:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA, DECLARING THE CITY'S INTENT TO OPT-OUT OF SECTION 5-16 OF THE MIAMI-DADE COUNTY CODE OF ORDINANCES RELATING TO THE TAKING OF PEA FOWL; APPROVING A PEA FOWL MITIGATION POLICY RELATING TO THE HUMANE REMOVAL OF PEA FOWL THROUGHOUT THE CITY; PROVIDING FOR TRANSMITTAL; PROVIDING FOR IMPLEMENTATION, CORRECTIONS, AND AN EFFECTIVE DATE. 3/5 (VICE MAYOR BONICH)

Suggested Action:

Attachments:

[Peacock_Memo.docx](#)

[46S2202-Resolution_Approving_Peafowl_Mitigation_Policy.docx](#)

[Exhibit A - Peafowl Policy.docx](#)



**CITY OF SOUTH MIAMI
OFFICE OF THE CITY ATTORNEY
INTER-OFFICE MEMORANDUM**

To: The Honorable Mayor, Vice Mayor, and Members of the City Commission
FROM: Lillian Arango and Tony Recio, City Attorneys
CC: Genaro “Chip” Iglesias
DATE: July 5, 2023
SUBJECT: Peafowl Mitigation Policy

The accompanying Resolution was prepared and placed on the agenda at the request of Vice Mayor Lisa Bonich.