

**Condensed Title:**

An Ordinance of the Mayor and City Commission of the City of Miami Beach, Florida Amending Chapter 110 of The Miami Beach City Code, Entitled "Utilities;" Amending Article III, Thereof Entitled "Stormwater Utility;" Amending Section 110-109 Thereof Entitled "Stormwater Utility Fees," By Amending Appendix A Thereto Entitled "Fee Schedule" To Increase the Stormwater Utility Service Charge Imposed by the City as of October 1, 2009; Providing for Codification, Repealer, Severability, and an Effective Date.

**Key Intended Outcome Supported:**

Ensure well maintained infrastructure.

**Supporting Data (Surveys, Environmental Scan, etc.):** Consistent with prior surveys, the 2009 community survey, storm drainage was identified as areas for improvement, although improved from prior surveys. More than half of residential and business respondents rated storm drainage as fair or poor.

**Issue:**

Shall the Mayor and City Commission approve the amendment to the Ordinance on first reading and schedule a second reading public hearing?

**Item Summary/Recommendation:**

At the September 17, 2008 Budget Hearing, the City Commission approved a rate increase for stormwater. This rate increase was necessary for the issuance of future storm bonds to fund projected additional stormwater construction improvement costs in not-yet-started neighborhood projects in the estimated amount of \$94.5 million. The City Commission approved increase for FY2008/09 was \$1.62 per month for a residential customer, taking the rate from \$5.80 to \$7.42 per month.

In FY2009/10, the Administration is proposing an increase in stormwater fees from \$7.42 to \$9.06 for a residential customer. The increase of \$1.64 or 22 percent over FY 2008/09 rates is necessary to be able to provide bond coverage to issue the first series of additional bonds. The Ordinance amendment only includes a rate increase proposal for FY 2009/10. It is important to note that the component of the rate increase related to the first bond sale that had been anticipated last year for FY 2009/10 was \$2.01, compared to the \$1.64 increase we are recommending.

The Finance and Citywide Projects Committee (FCWPC) met on September 3, 2009 to review the proposed Ordinance amendment, but elected to refer the item to the full Commission for its consideration.

The Ordinance amendment was approved on first reading at the City Commission Budget Hearing of September 10, 2009.

**THE ADMINISTRATION RECOMMENDS APPROVING THE AMENDMENT TO THE ORDINANCE.**

**Advisory Board Recommendation:**

N/A

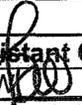
**Financial Information:**

Source of Funds:		Amount	Account	Approved
 OBPI	1	\$2,008,751	427-8000-343710 Stormwater	
	2			
	<b>Total</b>	<b>\$2,008,751</b>		

**City Clerk's Office Legislative Tracking:**

Keith Wilder, ext 6192

**Sign-Offs:**

<b>Department Director</b> FHB 	<b>Assistant City Manager</b> PDW  TH	<b>City Manager</b> JMG 
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## COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

**SECOND READING**

DATE: September 24, 2009

**PUBLIC HEARING**

**SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 110 OF THE MIAMI BEACH CITY CODE, ENTITLED "UTILITIES;" AMENDING ARTICLE III THEREOF, ENTITLED "STORMWATER UTILITY;" AMENDING SECTION 110-109 THEREOF ENTITLED "STORMWATER UTILITY FEES," BY AMENDING APPENDIX A THERETO ENTITLED "FEE SCHEDULE," TO INCREASE THE STORMWATER UTILITY SERVICE CHARGE IMPOSED BY THE CITY AS OF OCTOBER 1, 2009; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

### ADMINISTRATION RECOMMENDATION

The Administration recommends approving the Ordinance amendment on second reading public hearing setting the stormwater rate for FY 2009/10.

### BACKGROUND

At the Special Finance and Citywide Projects Committee (FCWPC) meeting of June 30, 2008, a summary of future stormwater bond funding needs for the Neighborhoods Right-of-Way projects were presented. At that meeting, the additional stormwater funding need of \$94.6 million was identified, based on anticipated scope of work requirements for future stormwater construction across the not-yet-started neighborhood projects. The Committee also requested that the rate be spread over two years.

At the Commission Budget hearing on September 8, 2008, the Administration recommended a proposed rate for FY 2008/09 for stormwater of \$9.45 per month. However, the Administration took a further look at the phasing of the projects, with the goal of reducing the impact of the initial rate increases. As part of this review, the 10% operating expense contingency was reduced to 5%, earnings in excess of \$1 million were carried forward as revenues in the subsequent year, the issuance of the first series of bonds was moved from October 2009 to mid 2010 and the second series of bonds to 2012. As a result of these modifications, the revised stormwater rate was lowered for FY 2008/09 to \$7.42 per ERU.

At the September 17, 2008 Budget Hearing, the City Commission approved a rate increase for stormwater. This rate increase was necessary to have the capacity to issue \$39.1million in stormwater bonds in mid FY 2009/10. The approved rate increase was \$1.62 per month, taking the rate from \$5.80 to \$7.42 per month.

**Rate requirements for Additional Stormwater Bonds**

The City hired a rate consultant in 2008 to calculate the potential future rates. The rate calculation had to consider debt service coverage requirements under two conditions. The first condition, termed **the additional bonds test**, required that net revenues available for debt service be no less than 110 percent of the maximum annual debt service of the outstanding plus prospective debt to be issued, for at least 12 months prior to the issuance of additional bonds. The second condition, which must be fulfilled annually, irrespective as to whether issuance of any prospective debt is contemplated, is termed **the rate covenant**. Net revenues available for debt service in each fiscal year must not be less than 110 percent of the principal and interest requirements for such fiscal year to meet the rate covenant. In addition to meeting the two debt service coverage conditions, annual revenues must be sufficient to meet other revenue requirements without resulting in a cash flow deficit. Using information provided by the City and its Financial Advisor, the rate consultant completed a series of pro formas that provide rate increases required to cover debt repayment of a future stormwater bond.

The Administration has identified a future stormwater debt of \$94.6 million required to fund components of the City's Capital Improvement Program, including recently identified hot spot areas where flooding is a major concern. Flooding for purposes of the Stormwater Improvement Program is meant to be for those areas in which private property is negatively affected by stormwater levels or when a roadway is not safely passable by virtue of stormwater elevations exceeding the 5 year event on the road surface for longer than acceptable durations. Those areas that are subject to nuisance flooding, where temporary accumulations of stormwater on a right-of-way are experienced and vehicular movement is not hindered would generally not be considered as part of this program. Nuisance flooding is permitted under the County's stormwater storage criteria up to a 5 year storm event, allowing rainfall water runoff to accumulate up to the crown of the road and up to 15 feet from private properties. These stormwater infrastructure improvements like the water and sewer upgrades are an integral part of the G.O. Bond neighborhood projects.

The Stormwater Enterprise fund is anticipated to need the capacity to issue tax-exempt debt by mid 2009/10 to cover the construction costs of stormwater improvement projects in the amount of \$39.1 million, plus any costs, if required, to refund the line of credit. The second issue of \$55.5 million could be issued in 2012, as the funding is needed to support the last group of stormwater improvement projects. The size of the second bond issue will be better determined after hydraulic modeling of the existing system is completed for the Flamingo and West Avenue neighborhoods.

In order to be able to provide coverage to issue the first series of additional bonds, the Administration proposes a monthly stormwater rate of \$9.06 represents an increase for a residential customer of \$1.64 per month or 22% above the FY 2008/09 rate of \$7.42 per month.

	FY 2008/09 Rate	FY 2009/10 Proposed Rate	Difference From FY2008/09 Rate	% Change
Stormwater	\$7.42	\$9.06	\$1.64	22%

The recommended rate is conservative in the area of needed bond coverage based on the information developed to date. The Administration will continue to work on the bond debt needs and anticipates having more information before it is necessary to actually issue the bonds. If less financing is required and the market substantially improves it may be possible to reduce the rates at that point.

The table below projects increases from FY 2011 through FY2013/14 primarily due to the second debt issuance; however, the Ordinance amendment only includes a rate increase proposal for FY 2009/10. As with this year, we will refine these on an annual basis.

Stormwater Proposed Fees	Current Rate	FY2010	FY2011	FY2012	FY2013	FY2014	Cumulative Increase
Monthly Charge	\$ 7.42	9.06	10.33	\$ 12.39	\$ 12.76	\$ 13.02	\$ 5.60
% Fee Increase		22%	14%	20%	3%	2.0%	75%
Monthly Increase		\$ 1.64	\$ 1.27	\$ 2.06	\$ 0.37	\$ 0.26	\$ 5.60

The Finance and Citywide Projects Committee (FCWPC) met on September 3, 2009 to review the proposed Ordinance amendment, but elected to refer the item to the full Commission for its consideration.

The Ordinance amendment was approved on first reading at the City Commission Budget Hearing of September 10, 2009. The Ordinance amendment only includes a rate increase proposal for FY 2009/10. It is important to note that the component of the rate increase related to the first bond sale that had been anticipated last year for FY 2009/10 was \$2.01, compared to the \$1.64 increase we are recommending.

**CONCLUSION:**

The Administration recommends approving the Ordinance amendment on second reading and setting the stormwater rate for FY2009/10.

JMG/TH/FHB

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 110 OF THE MIAMI BEACH CITY CODE, ENTITLED "UTILITIES"; AMENDING ARTICLE III THEREOF, ENTITLED "STORMWATER UTILITY," AMENDING SECTION 110-109 THEREOF ENTITLED "STORMWATER UTILITY FEES," BY AMENDING APPENDIX A THERETO ENTITLED "FEE SCHEDULE," TO INCREASE THE STORMWATER UTILITY SERVICE CHARGE IMPOSED BY THE CITY AS OF OCTOBER 1, 2009; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City owns and operates a Stormwater Utility System ("System"), which is currently funded by a stormwater utility service charge; and

**WHEREAS**, a Capital Improvement Program (the "Program") has been developed to implement stormwater improvements for the System; and

**WHEREAS**, it is necessary to finance the Program through the issuance of Stormwater Revenue Bonds; and

**WHEREAS**, in 2000, the Series 2000 Stormwater Revenue Bonds were issued to continue the improvement of the System; and

**WHEREAS**, the schedule of rate increases proposed herein will provide sufficient revenues for the payment of principal and interest on the proposed Stormwater Revenue Bonds; and

**WHEREAS**, the rate increases proposed herein include funding for additional costs for operation and maintenance of the System; and

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, as follows:**

**SECTION 1:** That Appendix A to Section 110-109 (c) of Article III of Chapter 110 of the Miami Beach City Code is hereby amended as follows:

**APPENDIX A**

**FEE SCHEDULE**

\* \* \*

**Chapter 110. Utilities**

Article III. Stormwater Utility

\* \* \*

110-109(c) Stormwater utility service charge effective with billings on or after the following dates shall be as follows;

October 1, 2000	\$3.25
October 1, 2001	\$4.00
October 1, 2002	\$5.50
October 1, 2003	\$5.80
October 1, 2004	\$5.80
October 1, 2005	\$5.80
October 1, 2008	\$7.42
<u>October 1, 2009</u>	<u>\$9.06</u>

**SECTION 2. CODIFICATION**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article" or other appropriate word.

**SECTION 3. REPEALER**

All ordinances or parts of ordinances in conflict herewith are and the same are hereby repealed.

**SECTION 4. SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity or constitutionality, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity or constitutionality of the remaining portions of this Ordinance.

**SECTION 5. EFFECTIVE DATE**

This Ordinance shall take effect on the 1<sup>st</sup> day of October, 2009.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2009

ATTEST:

\_\_\_\_\_  
ROBERT PARCHER, CITY CLERK

\_\_\_\_\_  
MATTI HERRERA BOWER  
MAYOR

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney  
9/3/09  
Date



# MIAMI BEACH

## CITY OF MIAMI BEACH

### NOTICE OF PUBLIC HEARINGS

**NOTICE IS HEREBY** given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Thursday, September 24, 2009**, to consider the following:

**5:05 p.m.**

An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Entitled "Standards Of Conduct"; Amending Section 2-482, Entitled "Registration"; Amending Section 2-482(A) And 2-482(F) Thereof, To Respectively Increase The "Per Issue" And Annual Lobbyist Registration Fees; And Also Amending Appendix "A" Thereto, Entitled "Fee Schedule."

Inquiries may be directed to the City Clerk's Office at (305) 673-7411.

**5:05 p.m.**

An Ordinance Amending Article XI, Entitled "Dangerous Intersection Safety," Of Chapter 106, Entitled "Traffic And Vehicles," Of The Miami Beach City Code, By Amending Section 106 - 490, Entitled "Penalties" To Amend The Fines For Violations.

Inquiries may be directed to the City Manager's Office at (305) 673-7010.

**5:05 p.m.**

An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 106, Entitled "Traffic And Vehicles," By Amending Article II, Entitled "Metered Parking," By Amending Division 1, Entitled "Generally," By Amending Section 106-55, Entitled "Parking Rates, Fees, And Penalties;" By Amending Parking Meter Rates North Of 23<sup>rd</sup> Street.

Inquiries may be directed to the Parking Department at (305) 673-7275.

**5:05 p.m.**

An Ordinance Amending Chapter 110 Of The Miami Beach City Code, Entitled "Utilities;" Amending Article III Thereof, Entitled "Stormwater Utility," Amending Section 110-109 Thereof Entitled "Stormwater Utility Fees," By Amending Appendix A Thereto Entitled "Fee Schedule," To Increase The Stormwater Utility Service Charge Imposed By The City As Of October 1, 2009.

Inquiries may be directed to the Public Works Department at (305) 673-7080.

**5:05 p.m.**

An Ordinance Amending Chapter 110 Of The Miami Beach City Code Entitled "Utilities," Amending Article IV, Entitled "Fees, Charges, Rates And Billing Procedure Thereof;" Amending Division 2 Thereof, Entitled "Rates, Fees And Charges;" By Amending Section 110-168 (C) Thereof, Entitled "Sanitary Sewer Service Charge," To Provide Additional Sanitary Sewer Service Charge Fees; And Also Amending Appendix A To Chapter 110, Entitled "Fee Schedule" To Increase The Water Rates And Sanitary Sewer Service Charges Imposed By The City Pursuant To Sections 110-166 (A) And (B), 110-168 (A), And Providing A Submetering Fee In Section 110-170(A); Amending Section 110-170 To Be Entitled "Submetering" To Create Provisions For Submeters.

Inquiries may be directed to the Public Works Department at (305) 673-7080.

**5:05 p.m.**

An Ordinance Amending Chapter 86 Of The Miami Beach City Code Entitled "Sales," By Amending Article III Thereof, Entitled "Nonprofit Vending And Distribution," By Amending Division 2, Entitled "Permit," By Amending Section 86-174, Entitled "Processing Fee," To Add A \$50.00 Permit Application Fee.

Inquiries may be directed to the Finance Department at (305) 673-7466.

**5:05 p.m.**

An Ordinance Amending Chapter 102 Of The City Code, Entitled "Taxation," By Amending Division V Therein, Entitled "Local Business Tax," Amending Section 102-379 Therein, Entitled "Schedule Of Taxes"; Said Amendment Providing For A \$15.00 Business Tax Receipt Application Fee.

Inquiries may be directed to the Finance Department at (305) 673-7466.

**INTERESTED PARTIES** are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk  
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305) 673-7218 (TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #559