

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Nick Kallergis, Chief Deputy City Attorney

DATE: November 20, 2024 9:20 a.m. Second Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING AND RESTATING THE MIAMI BEACH EMPLOYEES' RETIREMENT PLAN CREATED BY ORDINANCE NO. 2006-3504, AS SUBSEQUENTLY AMENDED, BY CREATING A NEW SECTION 15, "APPLICATION TO CITY MANAGER AND CITY ATTORNEY APPOINTED IN 2024"; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

RECOMMENDATION

The attached Ordinance, which is sponsored by Commissioner Joseph Magazine, has been placed on the November 20, 2024 City Commission meeting agenda for Second Reading/Public Hearing. The Ordinance was adopted at First Reading on October 30, 2024.

BACKGROUND/HISTORY

This proposed Ordinance amends the Miami Beach Employees' Retirement Plan (the "Pension Plan") as it relates to the City Manager and City Attorney.

On July 24, 2024, the City Commission adopted Resolution No. 2024-33223, appointing Eric T. Carpenter as City Manager for the City of Miami Beach, effective immediately.

On October 30, 2024, the City Commission adopted Resolution No. 2024-33341, approving Mr. Carpenter's Employment Agreement for a term of up to three (3) years, commencing retroactively on July 24, 2024, and expiring on July 24, 2027. This Ordinance was drafted to ratify a term in Mr. Carpenter's Employment Agreement as to his pension benefit.

Mr. Carpenter's original request is that he shall be included as one of the more than 400 current employees that are members of Tier B of the Pension Plan.¹ Mr. Carpenter made this request "based upon the more than ten years of service as a City executive and the short duration of the contractual relationship as City Manager."

Following First Reading on October 30th, the Ordinance has been revised to provide that the City Manager may, subject to satisfying certain requirements, elect instead to **purchase** enhanced pension benefits as a member of Tier B of the Pension Plan, in order to offset the financial impact to the City. A separate Resolution approving a corresponding amendment to Mr. Carpenter's Employment Agreement has been placed on the November 20, 2024 City Commission meeting agenda.

Under the City Attorney's Employment Agreement, if the City Commission grants a more favorable pension benefit to the City Manager, the City is required to extend the same pension terms to Mr. Dopico. Accordingly, this Ordinance has been drafted to apply to both the City Manager and the City Attorney.

¹ Based on his date of hire, Mr. Carpenter is currently a member of Tier C of the Pension Plan.

On May 15, 2024, the City Commission adopted Resolution No. 2024-33058, approving the Employment Agreement with Mr. Dopico, for a term of up to four (4) years, commencing retroactively on April 3, 2024, and expiring on April 2, 2028. Section 12 of Mr. Dopico’s Employment Agreement provides, in pertinent part, that “If any other charter officer is granted more favorable pension terms than those accorded to Dopico, Dopico shall be entitled to such more favorable pension terms.”

Based on his date of hire, Mr. Dopico is currently a member of Tier C of the Pension Plan. As described in the chart below, the terms of Tier B are more favorable than the terms of Tier C as to retirement age, the benefit accrual rate (for years of service other than as a Charter Officer), the form of benefit, and cost-of-living adjustments. Accordingly, if the City Commission allows Mr. Carpenter to purchase enhanced benefits under Tier B, then Mr. Dopico will likewise be entitled, under his Employment Agreement, to purchase enhanced Tier B benefits.

The below chart provides detailed benefit information of each Tier of the Pension Plan:

| Tier B | Tier C |
|--|---|
| <ul style="list-style-type: none"> · Age 55 with 5 years of Creditable Service · 3% Multiplier · Annual Cost of Living 2.5% · 50% Spouse/Domestic Partner Survivor benefit | <ul style="list-style-type: none"> · The earlier of age 55 with 30 years of Creditable Service or Age 62 with 5 years of Creditable Service · 2.5% Multiplier · Annual Cost of Living 1.5% · Life Annuity with optional Survivor Benefits |

In addition to the above, for years of service as City Manager, City Attorney, City Clerk, or as an Elected Official, the Pension Plan establishes a 4% multiplier, and earnings shall include total W-2 compensation. For all Charter Officers and Elected Officials, the Pension Plan also provides for a 4-year vesting period; that the member’s “Final Average Monthly Earnings” calculation shall be based on the highest 5-year average annual earnings, or if the member has less than 5 years of service, the average for the member’s period of service.

The below chart provides the eligibility dates for each Pension Plan Tier:

| Classification | Group | Tier A | Tier B | Tier C |
|-----------------------|----------------|-------------------------|---|------------------------------|
| Classified | AFSCME | Hired before 4/30/1993 | Hired on or after 4/30/1993 and before 9/30/2010 | Hired on or after 9/30/2010 |
| | GSA or “Other” | Hired before 8/1/1993 | Hired on or after 8/1/1993 and before 9/30/2010 | Hired on or after 9/30/2010 |
| | CWA | Hired before 2/21/1994 | Hired on or after 2/21/1994 and before 10/27/2010 | Hired on or after 10/27/2010 |
| Unclassified | N/A | Hired before 10/18/1992 | Hired on or after 10/18/1992 and before 9/30/2010 | Hired on or after 9/30/2010 |

ANALYSIS

The Human Resources Department and the City Attorney's Office have engaged the City's outside pension counsel to assist with the drafting of the proposed Ordinance, which is attached as an exhibit to this Memorandum.

The proposed Ordinance provides that the City Manager appointed on July 24, 2024, and the City Attorney appointed on April 3, 2024, may elect, on or before February 28, 2025, to purchase enhanced benefits under Tier B. The amount of the additional employee contributions required to purchase Tier B benefits shall be based on the increase in the actuarial accrued liability of the Pension Plan for the enhanced retirement benefits as reflected in the October 18, 2024 actuarial analysis reports, which are attached to this Memorandum as Exhibits "A" and "B".

Due to limitations in State law, changes to pension benefits can only apply to eligible employees and officers who are employed or hold office at the time the Ordinance amendment is adopted. See Section 215.425, Florida Statutes.

FISCAL IMPACT STATEMENT

Pursuant to Section 112.63 of the Florida Statutes, a statement of the actuarial impact of the proposed change upon the local retirement system must be provided prior to the final adoption of the proposed Ordinance. Separate actuarial analysis reports have been prepared to estimate the impact of this change to the Unfunded Actuarial Accrued Liability (UAAL) and the City's Annual Contribution as to the City Manager (Exhibit "A") and City Attorney (Exhibit "B"), respectively. The additional employee contributions required under this Ordinance are intended to offset the increased cost to the City as estimated in the attached actuarial analysis reports.

Does this Ordinance require a Business Impact Estimate? No
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on: 11/5/2024.
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

See above Fiscal Impact Statement.

CONCLUSION

If the City Commission approves Amendment No. 1 to Mr. Carpenter's Employment Agreement, as proposed, the Office of the City Attorney recommends that the City Commission adopt this Ordinance as revised for Second Reading.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

No

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

City Attorney

Sponsor(s)

Commissioner Joseph Magazine

Co-sponsor(s)

Condensed Title

9:20 a.m. 2nd Rdg, Amend MBERP Ordinance. (Magazine) CA