

7. DISCUSS OPTIONS TO ADDRESS DRONES OR OTHER AIRCRAFT THAT ENGAGE IN ILLEGAL ACTIVITY.

Applicable Area:

MIAMI BEACH

COMMITTEE MEMORANDUM

TO: Public Safety and Neighborhood Quality of Life Committee Members

FROM: Eric Carpenter, City Manager

DATE: November 6, 2024

TITLE: DISCUSS OPTIONS TO ADDRESS DRONES OR OTHER AIRCRAFT THAT ENGAGE IN ILLEGAL ACTIVITY.

RECOMMENDATION

The Administration recommends continuing to research legislation related to Small Unmanned Aerial System activity adopted by governing bodies in similar and surrounding jurisdictions and exploring additional measures legally allowed under the direction of the City Commission.

BACKGROUND/HISTORY

At the July 24, 2024 City Commission Meeting, at the request of Commissioner Laura Dominguez, the Mayor and City Commission approved a referral (C4 O) to the Public Safety and Neighborhood Quality of Life Committee ("PSNQLC") to discuss options to address drones or other aircraft that engage in illegal activity.

ANALYSIS

The ownership and use of sUAS (Small Unmanned Aerial System) – aka Drones – has grown exponentially over the past several years. The technology is used primarily in two fashions: first, by hobbyists in both the photography and videography space, and secondly, for commercial purposes leveraging the various capabilities of drones. Other uses based on the systems' capabilities include life safety, search and rescue, and law enforcement. The Federal Aviation Administration (FAA) regulates the National Airspace and has federal rulemaking authority for the use of sUAS. Commercial uses are regulated under 14 CFR Part 107.

Over the three-day Memorial Day Weekend Air and Sea show, the Police Department partnered with the FAA and a technology provider that monitors and tracks sUAS activity over a defined geographic area. More than 160 sUAS were observed flying within the area designated with a Temporary Flight Restriction (TFR), which was designated from Government Cut to 41st Street. Several sUAS operator ground control stations were contacted, and the FAA initiated administrative investigations into those individuals.

Pursuant to Florida law, the authority to regulate the operation of unmanned aircraft systems (drones) is vested in the State of Florida, except as provided within the Federal regulations. Specifically, the City may not enact (or enforce) any ordinance or regulation relating to the design, manufacture, testing, maintenance, licensing, registration, certification, or operation of an unmanned aircraft system, including airspace, altitude, flight paths, equipment, or technology requirements; the purpose of operations; and pilot, operator, or observer qualifications, training, and certification. As such, a City ordinance regulating the frequency or height (altitude) of drone flights would be unauthorized as such matters are preempted to the State.

Notwithstanding the foregoing, the City is permitted to enact an ordinance relating to nuisances,

voyeurism, harassment, reckless endangerment, property damage, or other illegal acts arising from the use of unmanned aircraft systems if such laws or ordinances are not specifically related to the use of an unmanned aircraft system for those illegal acts. Such an ordinance could be appropriately tailored to allow the City to address any local safety concerns so long as such regulation applies equally to both manned and unmanned aircraft.

The Miami Beach Police Department's ability to take enforcement action on a sUAS operator is limited to the Florida State Statute 860.13 "Operation of aircraft while intoxicated or in a careless or reckless manner." This is subject to the ability of responding officers to not only observe the violations as they occur, but also to physically locate the operator with the ground control station of the sUAS in question.

The Administration is conducting research with the assistance of the FAA regarding what, if any, actions have been taken by other governing bodies within their legislative authority to mitigate illegal sUAS activity within their jurisdictions.

FISCAL IMPACT STATEMENT

Financial impact is unknown and dependent on the direction provided by this committee and the full City Commission.

CONCLUSION

The Administration is prepared to explore additional measures pursuant to guidance from the Public Safety and Neighborhood Quality of Life Committee and the full City Commission.

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

Police/Legal

Sponsor(s)

Commissioner Laura Dominguez

Co-sponsor(s)

Condensed Title

Options to address illegal drone/aircraft activity.



COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Vice Mayor Laura Dominguez

DATE: July 24, 2024

TITLE: REFERRAL TO THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE TO DISCUSS OPTIONS TO ADDRESS DRONES OR OTHER AIRCRAFT THAT ENGAGE IN ILLEGAL ACTIVITY.

RECOMMENDATION

BACKGROUND/HISTORY

ANALYSIS

Please place on the July 24, 2024 agenda a referral to the Public Safety and Neighborhood Quality of Life Committee to discuss various options to mitigate the potential impact of drones or other aircraft, whether manned or unmanned, engaging in illegal conduct in the City of Miami Beach.

The City of Miami Beach is home to over 81,000 residents who rightly expect, and deserve, to be safe and secure in their City. That safety and security, which is essential to residents' well-being and quality of life, extends to all areas of the City, including the beaches.

In addition to the City's residents, Miami Beach also welcomes thousands of tourists, day-trippers, and other individuals to its beautiful City. Many residents and visitors, including sunbathers, surfers, kiteboarders, swimmers, parasailers, and persons simply desiring to enjoy the fresh air, sun, and soothing sound of the waves, enjoy reveling in the City's stunning beaches and vibrant coastal atmosphere. However, the sheer number of people on the City's beaches also attracts other, less desirable, activity including illegal food/drink vendors, aerial advertisers, and persons flying aircraft (including drones) over the beach and in close proximity to beachgoers and/or watersport participants.

While the Federal Aviation Administration ("FAA") has primary jurisdiction with regard to aircraft, including drones, the State also (subordinately) regulates the use of drones with regard to prohibitions on flying drones in or around certain critical infrastructure and a general prohibition on capturing images of privately owned property and property owners when they have a reasonable expectation of privacy.

Unfortunately, local governments have a limited role in regulating unmanned aircraft, since State law provides that "[e]xcept as otherwise expressly provided, a political subdivision may not enact or enforce an ordinance or resolution relating to the design, manufacture, testing, maintenance, licensing, registration, certification, or operation of an unmanned aircraft system, including airspace, altitude, flight paths, equipment or technology requirements; the purpose of operations; and pilot, operator, or observer qualifications, training, and certification." Nonetheless, State law

also provides that such preemption is not intended to limit the authority of a local government to enact or enforce local ordinances relating to nuisances, voyeurism, harassment, reckless endangerment, property damage, or other illegal acts arising from the use of unmanned aircraft systems if such laws or ordinances are not specifically related to the use of an unmanned aircraft system for those illegal acts.

Accordingly, I would request that the City Attorney's Office be prepared at Committee to discuss any available legal option(s) to mitigate aircraft, whether manned or unmanned, flying over the City and endangering residents, visitors, or their property, engaging in voyeuristic conduct, creating a nuisance, and/or partaking in other illegal acts.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

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

FINANCIAL INFORMATION

N/A

CONCLUSION

N/A

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

Office of Vice-Mayor Laura Dominguez

Sponsor(s)

Commissioner Laura Dominguez

Co-sponsor(s)

Condensed Title

Ref: PSNQLC - Options to Address Drones/Other Aircraft that Engage in Illegal Activity.
(Dominguez)