



Joseph M. Centorino, Inspector General

TO: Honorable Mayor and Members of the City Commission
FROM: Joseph Centorino, Inspector General
DATE: October 21, 2020
PROJECT: City Boards and Committees Membership Inspection Report as of May 22, 2020
OIG Audit No. 20-16

The Miami Beach Mayor and City Commission appoints individuals to the various City boards and committees as vacancies arise. The Office of the City Clerk monitors the appointments by swearing them in upon completion of the required paperwork, tracking their termination dates, etc. in adherence with the City Code and their departmental Standard Operating Procedures. The City of Miami Beach Office of the Inspector General (OIG) performed an inspection as of May 22, 2020 of the rosters of City boards and committees and compliance with selected sections of the City Code regarding committee service.

Upon request, OIG staff received a listing of membership on all Miami Beach boards and committees as of May 22, 2020, which also individually contained any applicable membership requirements, and the names of the City liaisons, chairpersons and vice chairpersons, etc. and so on. In addition, the Office of the City Clerk provided its departmental Standard Operating Procedures and the detailed package that is provided to all newly appointed members.

Based on a review of the documentation provided, it was determined that there are 38 different boards and committees ranging alphabetically from the Ad Hoc Anti-Bullying Task Force to the Youth Commission. Of these, the following three were created specifically by the Mayor, which are subject to slightly different requirements from the other 35 boards and committees: Mayor's 41st Street Committee, the Mayor's General Obligation Bond Oversight Committee and the Mayor's Panel on Ocean Drive.

These 38 boards and committees contained a total of 371 voting member positions, 334 of which are currently filled (90.03%) with 37 vacancies (9.97%). There were an additional 20 advisory and/or ex officio (non-voting) member positions that were created to serve on these boards and committees per City Code Section 2-22(15), of which two were vacant (10%) as of May 22, 2020.

Compliance with the City Code sections listed below regarding boards and committees was tested and the following results were obtained:

1. City Code Section 2-22(2) states "*All agencies, boards and committees shall appoint a chairperson and a vice-chairperson, or a chair shall be appointed by the mayor in cases dealing with a mayor's board or committee.*" It was subsequently determined that nine

chairpersons and nine vice-chairpersons of boards and committees were not listed on the Office of the City Clerk's records. The affected boards and committees include the following: Affordable Housing Advisory Committee, the Board of Adjustment, the Committee for Quality Education in Miami Beach, the Design Review Board, the Historic Preservation Board, the Housing Authority, the Human Rights Committee, the Personnel Board, the Planning Board, the Program for Public Information Committee and the Transportation, Parking and Bicycle – Pedestrian Facilities Committee.

The Office of the City Clerk should promptly determine whether their omission represents a reporting error or whether the corresponding boards and committees have not yet selected the required individuals to fulfill the designated roles. Based on the outcome, corrective action should be taken so that each board and committee has selected the required chairpersons and/or vice chairpersons and it has been properly conveyed and recorded by the Office of the City Clerk.

Management Response (Office of the City Clerk):

The Office of the City Clerk concurs with the recommendations in Finding 1. The Board and Committee database has been updated to show all Chairs and Vice-Chairs. The Office of the City Clerk will now perform monthly checks of this information.

2. City Code Section 2-22(4) states *"Members of agencies, boards and committees shall be affiliated with the city; this requirement shall be fulfilled in the following ways:*
 - a. *An individual shall have been a resident of the city for a minimum of six months; or*
 - b. *An individual shall demonstrate ownership/interest for a minimum of six months in a business established in the city for a minimum of six months, or*
 - c. *An individual shall be a full-time employee of such a business (for a minimum of six months); provided further that such employee must be based in an office or other location of the business that is physically located in Miami Beach (for a minimum of six months). Notwithstanding the requirements set forth herein the qualified full-time employee of a business must be approved by a four-sevenths 4/7ths) vote of the Mayor and City Commission."*

The supporting documentation was requested for all 371 voting members concerning City Code Section 2-22(4) from the Office of the City Clerk. In response, a system report was provided listing all members' contact information, which included reported addresses. If a reviewed member's address was located outside Miami Beach's boundaries, then OIG staff was to notify the Office of the City Clerk and a separate query would be run concerning the member's reported business address.

Efforts to verify this information encountered difficulties. For example, the Office of the City Clerk did not maintain documentation verifying a member's address (recent utilities bill, executed lease, etc.), which would be especially helpful when the member is a renter and not an owner. Consequently, supporting documentation should be maintained to help ensure the individual's compliance with City Code Section 2-22(4).

Furthermore, it is recommended that the Office of the City Clerk should email and/or mail a standardized form annually to each member verifying that their reported information remains unchanged, and that they are still in compliance with the City Code, as a condition of their continued service.

Management Response (Office of the City Clerk):

The Office of the City Clerk agrees with the intent of the first recommendation in Finding 2 but disagrees with the proposed solution.

City Code Section 2-22(4) states:

Members of agencies, boards and committees shall be affiliated with the City; this requirement shall be fulfilled in the following ways:

- a. An individual shall have been a resident of the City for a minimum of six months; or
- b. An individual shall demonstrate ownership/interest for a minimum of six months in a business established in the City for a minimum of six months, or
- c. An individual shall be a full-time employee of such a business (for a minimum of six months); provided further that such employee must be based in an office or other location of the business that is physically located in Miami Beach (for a minimum of six months). Notwithstanding the requirements set forth herein the qualified full-time employee of a business must be approved by a four-sevenths (4/7ths) vote of the Mayor and City Commission.

Section 2-22(4) of the City Code further requires that "members of agencies, boards, and committees shall be required to demonstrate compliance with the City affiliation requirements of subsections 4(a) and (b) by executing an affidavit, in a form prepared by the Office of the City Clerk, stipulating that they have met either (or both) of the affiliation requirements in subsections 4(a) and/or (b). Each agency, board, and committee member covered by the requirements of subsections 4(a) or (b) shall file the original affidavit with the Office of the City Clerk prior to being sworn in as a member.

The Office of the City Clerk must adhere to the City Affiliation Affidavit requirement as mandated by the City Code. The Office of the City Clerk should not be collecting recent utilities bills, executed lease, etc. from newly appointed agency, board, and/or committee members as recommended by the Office of the Inspector General to verify compliance with the City affiliation requirements. Such collection of personal information will be deemed intrusive, will become a public record, and does not satisfy the requirements of the City Code to demonstrate compliance with the City affiliation.

Second Recommendation

The Office of the City Clerk agrees in part with the second recommendation in Finding 2. The Office of the City Clerk will, every June/July, provide a newly created Yearly City Affiliation Affidavit to each agency, board, and/or committee member to ensure they are still in compliance with the affiliation requirement of the City Code.

The Office of the City Clerk, however, does not have authority to comply with the recommendation that the appointment of any agency, board, and/or committee member who does not timely complete (within thirty days) the newly implemented Yearly City

Affiliation Affidavit may be revoked. The City Code only gives the City Clerk the authority to remove members for excessive absences.

3. City Code Section 2-22(8) states *"All agencies, boards and committees shall be supported by a City department"*. Testing verified that a City liaison was properly listed in the Office of the City Clerk's provided records for all 38 boards and committees.
4. City Code Section 2-23 states *"a. No person shall be appointed or elected to, or serve on, more than one agency, board or committee of the city, whether such agency, board or committee is now existing or hereafter created or constituted under the state constitution, act of legislature, the Charter of the city, or any ordinance or resolution of the city commission. Any person appointed or elected to and accepting appointment or election to more than one agency, board or committee, whether appointive or elective, shall be deemed to have forfeited forthwith all appointment or election to any and all prior agencies, boards or committees in which he shall have been a member. b. This section shall apply to city employees who are appointed or elected to city agencies, boards or committees which pertain to city personnel or city pension funds, nor shall this section prohibit a city agency, board or committee member from serving on another city agency, board or committee when such service by persons holding a particular board membership is required by law or by contract, nor shall this section prohibit a person from serving on more than one agency, board or committee when such other membership is on an agency, board or committee designated as ad hoc, which is defined as an agency, board or committee which is created to carry out a specified task to be accomplished within a stated time period, not to exceed one year, at which time it automatically ceases to exist, or when such other membership is on an agency, board or committee created by the mayor as a mayor's board or committee"*.

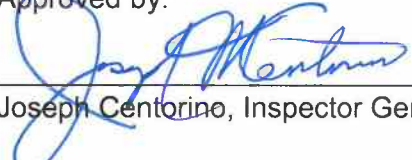
Initial testing determined that there was a total of 19 individuals who served as members of more than one board or committee concurrently. Closer review found that seven of these individuals served either in a non-voting advisory role or as an Ex-Officio member for one of the bodies and another five served on a mayor's board or committee which is exempt from City Code Section 2-23. The remaining seven members' names were furnished to the Office of the City Clerk to determine whether they were compliant.

The Office of the City Clerk responded as follows, which was accepted by the OIG:

- a. Three individuals serve on ad hoc committees, either the Ad Hoc Anti-Bullying Task Force or the Program for Public Information Committee. OIG staff verified this statement but determined that these two ad hoc committees had existed for more than one year in apparent contradiction to City Code Section 2-23, as they had been extended up to a year at a time via adopted City Resolutions. Although a formal legal opinion had not been received from the City Attorney's Office, the City Clerk maintained that the City Attorney is involved in the creation of ad hoc committees and this is a long-standing practice.

- b. Three individuals serve on either the Housing Authority or the Audit Committee that were created by State Statute and not by City Ordinance, so are not deemed to be committees of the City.
- c. The position that one individual holds on the Affordable Housing Authority is for "One citizen who actively serves on the local planning agency (i.e. Planning Board) pursuant to Florida Statute §163.74." As such, he must serve on the Planning Board to qualify for the position he holds on the Affordable Housing Advisory Committee. The City Commission last appointed him to serve as the Planning Board's representative on the Affordable Housing Advisory Committee on January 16, 2019.

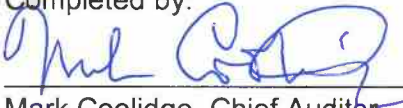
Approved by:



Joseph Centorino, Inspector General

10/23/2020
Date

Completed by:



Mark Coolidge, Chief Auditor

10-23-2020
Date

cc: Jimmy L. Morales, City Manager
Rafael Granado, City Clerk