

MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

RAUL AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber
Members of the City Commission
Jimmy L. Morales, City Manager

FROM: Raul J. Aguila, City Attorney 

DATE: July 17, 2019

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CALLING FOR A SPECIAL ELECTION ON NOVEMBER 5, 2019, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH, FLORIDA, A BALLOT QUESTION ASKING WHETHER CITY CODE SECTION 2-459 SHOULD BE AMENDED TO ALLOW HISTORIC PRESERVATION AND DESIGN REVIEW BOARD MEMBERS WHO ARE ARCHITECTS OR LANDSCAPE ARCHITECTS TO LOBBY CITY PERSONNEL AND AGENCIES, EXCEPT THE BOARD ON WHICH THEY SERVE AND RELATED CITY STAFF, REGARDING LAND DEVELOPMENT APPLICATIONS.

Pursuant to the request of City Commissioner Joy Malakoff, the attached Resolution has been prepared calling for a City of Miami Beach Special Election to be held on November 5, 2019 for the purpose of submitting to the City's voters the following question:

City Code Section 2-459, which prohibits City board members and their associates from lobbying City personnel and agencies, contains an exception allowing lobbying for non-profit entities. Should this Section be amended to include an additional exception allowing Historic Preservation and Design Review Board members who are architects or landscape architects to lobby City personnel and agencies, except the board on which they serve and related City staff, regarding land development applications?

This proposal seeks to amend City Code Section 2-459, in the City's Code of Ethics, by providing for an exception from the prohibition on lobbying by City officials. The exception would be limited to Historic Preservation Board ("HPB") and Design Review Board ("DRB") members who are architects or landscape architects, and would allow those members to lobby City personnel or officials, except for members of the boards (and related City staff) on which they serve. Because the proposed exemption would lessen the stringency of City Code Section 2-459, a public vote is required pursuant to City Charter Section 1.05.

Commissioner Malakoff has proposed this ballot measure as part of her envisioned comprehensive legislative reform towards streamlining and otherwise improving the City's development review process. Commissioner Malakoff believes that the prohibition on lobbying by all board members set forth in City Code Section 2-459, although laudable in concept, has served to discourage qualified design professionals from serving on the HPB and DRB, as such service prevents them from lobbying the City on behalf of their clients. By amending the Code to allow for a limited exception whereby such architect/landscape architect HPB and DRB members may lobby the City--while maintaining the existing prohibition on lobbying members of the board on which they sit, as well as related City staff--Commissioner Malakoff believes that the City will have a greater opportunity to attract qualified design professionals for such City service.

Finally, it should be noted that today is the last regularly-scheduled meeting of the City Commission at which a Resolution may be adopted placing a ballot question on the City's November 5, 2019 ballot.¹

¹ NOTE: Should the City Commission wish, after today's meeting, to place a ballot measure on the November 5, 2019 ballot, such action could be taken no later than September 6, 2019 at a Special Commission meeting (such deadline established by County Charter and County Elections Department).