

City of Coral Gables City Commission Meeting
Agenda Item D-4
October 14, 2014
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason

Vice Mayor William H. Kerdyk, Jr.

Commissioner Pat Keon

Commissioner Vince Lago

Commissioner Frank Quesada

City Staff

Interim City Manager, Carmen Olazabal

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Public Speaker(s)

Judge Jacqueline Scola

Lyn Kafka, Attorney

D-4 [Start: 9:38:07 a.m.]

Honorable Jennifer D. Bailey and Honorable Jacqueline H. Scola, to speak about the condition of the Miami-Dade Courthouse, at 73 West Flagler Street

Mayor Cason: I'll do D-4. This is Honorable Jennifer D. Bailey and Honorable Jacqueline H. Scola to speak about the condition of the Miami-Dade Courthouse, at 73 West Flagler Street.

Ms. Kafka: I just want to make a quick correction. I'm not Honorable Judge Jennifer Bailey, my name is Lyn Kafka, I'm an attorney and I am citizen of the City Beautiful and I'm here with Judge Scola.

Judge Scola: Good morning, I'm Jacqueline Hogan Scola, I'm a Circuit Court Judge here in Miami-Dade County and also a resident of this fine City; and thank you so much Mayor, City Manager, City Attorney and Commissioners for having us here today. We are here because on

November 4th the citizens of Miami-Dade County will have the opportunity to vote for a bond initiative for a new civil courthouse. If you remember nothing else, I have three important points to make. Number one; there is a desperate need in this County for a new civil courthouse. Number two, the Florida State Constitution provides that the County, the citizens of this County shall provide the cost of construction or lease, maintenance, utilities, and security of facilities for the trial boards and the civil courts are the trial courts, it's not the appellate courts, it's the trial courts; and the third thing I want to impress upon you is that this is going to cost the property owners \$7 per hundred thousand dollar property tax value. The average homeowner will pay \$14 a year additional, that's a little more than a dollar a month, but for what reason. Why do we need a new civil courthouse? Well, for three reasons; number one, our courthouse was built in 1925, everything, plumbing, electrical, parts, the locks on the doors, the seals on the windows, everything is from 1925. The air conditioning system was put in, in the 1950's. It is constantly in need of repair and we've even had to move people off of floors because of the poor air quality because of the air conditioning system. However, there is also poor air quality because there is mold, mildew, and algae. Why you might ask? Well, that has to do with the fact that our building was built and Ms. Kafka is going to show you some of the mold and mildew in our building. There is porous granite from which this building was built. Its 27 stories high and as you all know from living in this County for a while there is constantly intense sun, wind, and rain, the grout between the stones has been driven out, water has been driven in. It pours down the walls constantly because it was built and there is flooding – the seals on the windows also. No, no, the seals also allow rain or lack thereof; there are no seals on the windows. We are constantly repairing the building. Right now several million dollars are being spent on immediate need of the repairs. The façade of the building is being reinforced because actual stones were falling off of the building. If you go there you will see and I think we might have a photograph here. Here's one of them. There are streams and scaffolds around the building because the safety issue for the public, passers-by and also visitors and employees to the building. We have 576 employees in that building. This building was built to accommodate 7 Judges and their staff; there one time also was the City Commission and the County Commission in that building and the Clerk of Court. Now everybody has had to move out, there are only the Clerk of Courts and the Courts. There are 23 courtrooms that have been created from the original 6 or 7; 23 courtrooms that are being shared by 41 judges, magistrates, and hearing officers. There is a constant juggling act. What does this mean?- this means that you the citizens of Dade County, Coral Gables, when you come to this building to have your case tried or to sit on jury service or if you are fortunate enough to be a lawyer like some of our police officers, if you are a professional lawyer, your case will not get tried as quickly. There was one Monday several weeks ago where so many judges were in trial that we had staggered trials. One judge had to start on Monday and no one could start until that judge finished that case; some trials started on Wednesday or Thursday. What is going to happen if this initiative passes? Well, several things. Number one, there are four properties that has been designated as possible places for this new civil courthouse, but the

second thing is this bond initiative will allow us to go forward with getting proposals, hiring engineers and architects. The main pushback we've gotten from this initiative is that this is too much too fast. No one has denied that we need this new civil courthouse. It is imperative that we get a new civil courthouse. This building has been shored up now 132 of the 144 steel beams that support this building have been corroded and/or compromised by this massive water intrusion both from underground, because it is built below sea level and this is one of the beams.

Ms. Kafka:....sitting in water, constantly there is water because the columns are below the water level and there are constant pumps which are running, which pump the water out and you can see the corrosion on the columns, 132 of 144 structural columns in that building are corroded.

Judge Scola: We have had emergency reports prepared by engineers. They have said to us that this building is safe right now so long as we do not have a major wind incident – not even a hurricane. If there is a major wind incident we have to evacuate to the...not even a security guard can stay in the building because they cannot guarantee the safety of the building. They say they feel certain that we will be OK for 5 to 10 years, but the important thing to note is that even if this initiative passes and we can begin taking bids, hiring, starting construction, it would take between 5 and 10 years to build a new building. Now what are we going to do with the folks that are in this building if this initiative does not pass? In order to repair this building properly we have been told by the engineers, the experts who know that everyone would have to move out of the building long term until repairs can be done, but even if we move out, get it fixed, and move back in, we have over stressed this historic monument, this jewel of our County's history. It's not fair to the citizens of this County. I want to point out that the judiciary does not own this building, the County owns this building. We have no say-so over what happens to this building. No one is suggesting that this building should be torn down or not used, but again that is not our decision to make. We the judiciary simply wants to deliver justice as everyone in this County are entitled to. There are three branches of government in this state; there is the Executive, there is the Legislative, and there is the Judiciary, all three co-equal branches of the government. It is essential to our court system that we have a proper dignified safe place to work. We have as I said, 576 employees who work in this building regularly, 3,600 people pass through this building every day. My particular courtroom that I'm assigned to has hardware on the door that is so old that constantly the lock is being stuck and people can't get out. If there is a fire it's a hazard. It is really a safety issue. Our stairwells if there is a fire, again only one person can pass. I'm not a big person as you can see, and when I'm going up the stairs in the morning, because I take the stairs every day, if someone else is coming down they have to lean against the wall to let me pass. It's really outdated and to continue to overuse this building would destroy this building even further. Now it's important also to tell you that if this bond initiative is passed, there will be, we've been guaranteed by the Commission an oversight board to make sure that this money is monitored and used properly, that's been the second aspect of the pushback that we have seen. People are still

upset and angry about the Marlin Stadium, the soccer stadium, and what have you, but the citizens of this County need to understand this is not a private enterprise, this is government, this is public, this is for the use of the citizens of this County. There are 27 floors in this building also, I do want to point out; nine and-a-half of these floors are not able to be used right now. Why? – the 27th, 26th, and 25th used to be the jail. There is a special elevator that goes up to the jail, the ex-jail, and it is crank elevator so there is not a functional elevator. Fire Marshalls will not let us use that elevator and that's the only way you can get up there. Further, there is algae, mold, mildew, up there, wind coming through the windows, it's ridiculous. The 23rd and 22nd floors were used by our legal staff at one time, Office of General Counsel, and the rain intrusion was so great. We have pictures; we have trash cans that are sitting on the ledges of the windows.

Ms. Kafka: This is where those attorneys were working on the 23rd floor, this is the 23rd floor. They were removed off of the 22nd floor about a month and-a-half ago, because of the mold problem, the County did remediate that problem and they moved back in last week, but we did find out last week that the 9th floor also has mold and all of those employees were moved off of the 9th floor last week. We don't know when they will be able to move back on.

Judge Scola: And so we've had to allocate them – I have someone sitting in my conference room in my office and the staff is not able to sit together and work, which is truly an important efficiency issues for the court. There are termites, of course there are termites all over the County, we have massive termite infestation, and there have been sightings of rodents. We have a mosquito infestation because of the water. This building is in horrible shape. If anyone is interested in more information about this there is a website set up by lawyers who are trying to support this initiative. It is called buildingblocksforjustice.com. I believe there are links to videos, folks in the courthouse have taken videos. There is one particular one that is my favorite that was put to music from....a very dramatic music and it's raining inside the office and they are walking around with umbrellas. No one should have to work in these conditions and these are not just judges and lawyers, these are members of the Clerk's office and up until this week, we had files stored in the basement where this massive flooding occurs on a regular basis. They had to wear masks and boots.

Ms. Kafka: This is an employee who is working in the basement. You can't see it, but right here it says, shock-danger, because as you can see in the other columns, there is water that's open there and there is also electrical cords going in and out there. This man, Pedro I think was his name, worked here on a daily basis and he had rain boots by his chair because on the days that it rained when he came to work, he would have to wear the rain boots because it could be calf high water. It still does when it rains the water comes up through the cracks in the basement and it can be almost up to your knees if the rain is really bad.

Judge: Scola: Another important point since you are making this ADA Month in Coral Gables, you would be interested to know that this building has several million dollars-worth of ADA compliance issues. As you see, this is an elderly woman with a walker trying to traverse the courthouse stairs because due to construction the sidewalks are closed and in order to get to our ADA ramp you have to walk all the way around the building, I guess in the street to get there and she didn't have the energy to do that. We have one out of our 23 courtrooms that is ADA compliant, but the lift in there that accommodates a witness in a wheelchair or would be broken on a regular basis. So we constantly have to look around the country for the parts to repair anything that does break in this building. I am happy and I'm sure Ms. Kafka is to field any questions that anyone here might have and also we are open for tours. If you folks or anyone here or anyone who might watch this on the Coral Gables television is interested in a tour of the courthouse, please come down, you will see for yourself the horrible conditions that the fine folks who work every day for our government, for our court system working in that building have to work under the horrific conditions. It's unthinkable.

Commissioner Quesada: I don't have a question; I just want to make a comment. I'm an active attorney and quite a bit of it is actually trial work, and I've actually appeared before you several times, so it's kind of weird that you are presenting to us, the other way around. It's a unique experience for me.

[Laughter]

Commissioner Quesada: It's interesting, I was in trial about a month ago before Judge Cinnamon and I've had 15 or 16 trials in the courthouse since I started practicing, and for all of you who maybe don't have the experience, I'm probably in that courthouse at least once a week, at least once a week, sometimes 4-5 times, depending on what's going on with a client and cases, but it's very difficult to get a trial, it's impossible. It takes minimum – great case, clear, ready-to-go trial, it takes a year-and-a-half, at least if you are lucky, if you are lucky, that's because there is an incredible amount of volume, number one; number two is, I didn't realize there were 27 floors, because when you go to the courthouse, first of all, if you go above the 6th floor all the courtrooms get very small, and then you realize that you always end up – I'm always on the 11th or 12th floor, it always turns out that way. I didn't realize that we weren't using 9 floors and I didn't realize it was because of all the damage, but you are absolutely right, I have seen the puddles and what's very interesting. You showed a picture of the files that are wet when they have to raise them up, when you go to the Clerk's office that's where everything is stored. Whatever kind of practice you are in; those are where the official records are stored. If that gets damaged, I mean it can be incredibly difficult for a system continuing moving forward. So I understand the need for this. I see it, I walk in the stairwells, I see all the problems. You see the mold. If you go to one of the restrooms you feel how dated it is, and it's difficult because I also

practice in federal court, which is beautiful, which is spectacular and it feels like it's always empty because everything there is done basically in the electronic filing and documents. Its civil court – a motion could come in the morning you could have 100-150 people in your courtroom in the first half-an-hour of the day, maybe I'm exaggerating a little bit there, in the first hour of the day. So there are a lot of people that come through there, it's a lot of movement. I see the need for it. The columns are shocking as well.

Judge Scola: Well, I hope you will pass that on to your friends and your family members, your neighbors. Two other points I want to make, speaking of going to the restrooms. There are 7 public restrooms – 7. A few weeks ago I tried a tobacco trial, we brought in 150 jurors. When we took a break where were those 150 jurors supposed to go to take a break? You have to wait in line, take a number. In a major metropolitan area such as ours, it's absurd. If you go to Jacksonville, if you go to Palm Beach, if you go to Tallahassee even there are beautiful new dignified adequate courthouses. We don't want a Taj Mahal, we want an adequate courthouse.

Commissioner Quesada: But you know something, it's not even about the beauty of it. I agree we all deserve it as a community, but it's also having the access to the legal system, because when you have a system where it takes incredible time – when it takes a year-and-a-half or two years to get to trial. For example, I do a lot of real estate litigation; there is a dispute over deposit. Now market conditions change, it's going to take two years to get to trial so therefore everybody is going to be damaged because the market conditions change. Those are things that, it's almost like a violation of due process because it takes so long to get through the system and that's due because of the building can't handle.

Judge Scola: And justice delayed is justice denied – and access to the courts due process is vitally important, and thank you Commissioner so much for pointing that out.

City Attorney Leen: Mr. Mayor if I could say something very quickly.

Mayor Cason: Yes.

City Attorney Leen: I do go to that court as well. We often are in that court, not too often thankfully, but occasionally we are, and that's where the rule of law really is dispensed and where people go to be treated justly before the law and it is very sad the condition of that building. It really is inexcusable.

Judge Scola: And when I do jury greeting which judges do often, I tell the jurors, especially because we have a diverse community that comes from many countries around the world where they don't have justice, where they don't have a fair court system, this is the only country where

the citizens of the community get a trial by their peers. Other countries have jury trials; there is a jury of judges, or there is a jury of lawyers, or there is a jury of experts, but here every kind of dispute is entitled to have people from every walk of life who have a vested interest in their community and in their court system making sure that justice is done. Those folks get to sit on the jury and make the decisions and they do a great job. It's unfair to make them sit in these conditions. In my courtroom there is only enough room for the defense table, the plaintiff's table, 18 jurors for selection and then 7 jurors to sit there during the trial. I had a visiting judge from Romania the other day, my bailiff had to give up his seat so that that judge could sit there because there is inadequate space there and many of the courtrooms have pillars in the middle of the courtroom so the judge and the jury are weaving and bobbing to see the exhibits, to watch the witness. It's really not the way it should be done in the United States or in a sophisticated modern community like Miami.

Mayor Cason: Judges thank you very much -- very convincing, very thorough.

Commissioner Quesada: So let me ask you a question. What are you asking for today?

Ms. Kafka: We are asking you to vote for the initiative which will be on the November 4th ballot or I believe early voting starts on Monday, vote for 168 for the courthouse.

Judge Scola: And the alternative is to put us in trailers or to have split sessions. Criminal court in the Justice Building will be in the morning, civil court in the afternoon, then we'll really have a backlog. That is not an acceptable alternative.

Commissioner Quesada: Is it possible to use some of the County court locations?- or they are so backed up as well that?

Judge Scola: They are totally packed too.

Ms. Kafka: There are no courtrooms that are available in outside courthouses and there are no jury courtrooms and no jury pool facilities in any of those. In fact all of the satellite courthouses like here in Coral Gables, if there is going to be a jury trial they have to go to this courthouse for their jury, because that's the only place.

City Attorney Leen: And Mr. Mayor, I'd like to say for the record. Normally we do not have for like ballot initiatives or things like that, people come before the Commission. The issue here and the reason why I thought this should go on the agenda is because it relates to the courthouse, which does affect our City directly and regardless of what happens in this ballot initiative something needs to be done about that building, whether it be by the voters or by the county, but

something has to be done because it affects the citizens of Coral Gables as much as anyone else in the county.

Judge Scola: Well we thank you for your generous time and attention.

Vice Mayor Kerdyk: Thank you very much.

Mayor Cason: Thank you.

Commissioner Lago: Just one quick thing – more importantly than everything, you stated here. I want to mention again the website where we can find further information. I think it was buildingblocksforjustice.com.

Judge Scola: Buildingblocksforjustice.com.

Commissioner Lago: And that's essential because the individuals – we can vote on it, we can support it, but at the end of the day I think we need the residents to get on the Internet and make sure that they are properly aware that this is going to be on the November ballot.

Judge Scola: Absolutely. Thank you so much.

Commissioner Lago: Thank you.

Commissioner Quesada: Thank you very much.

Mayor Cason: Thank you – appreciate it.

[End: 10:03:03 a.m.]