

**City of Coral Gables City Commission Meeting**  
**Agenda Item F-5**  
**September 24, 2024**  
**City Commission Chambers**  
**405 Biltmore Way, Coral Gables, FL**

**City Commission**

**Mayor Vince Lago**

**Vice Mayor Rhonda Anderson**

**Commissioner Melissa Castro**

**Commissioner Ariel Fernandez**

**Commissioner Kirk Menendez**

**City Staff**

**City Attorney, Cristina Suárez**

**City Manager, Amos Rojas, Jr.**

**City Clerk, Billy Urquia**

**Deputy Director Development Services, Doug Ramirez**

**Public Speaker(s)**

**Maria Cruz**

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Agenda Item F-5 [10:09 a.m.]

Discussion regarding Construction Bonds  
(Sponsored by Commissioner Fernandez)

Mayor Lago: F-5.

Commissioner Fernandez: F-5 – I’ve been hearing more and more about this issue over the last probably month. I know staff has as well. When construction is taking place there is a bond that’s taken out with the city in order to address any potential damages to city infrastructure during construction. The issue that has come about from residents is, they were expecting the city to reimburse them, this bond, but apparently in some cases the contractor has been the one who has made the payment on their behalf and the residents are not getting the money back. Obviously, that’s an issue between the contractor and the resident. The reason I put this on the agenda, I wanted to see how we can, I don’t know if its maybe changing the process to require that it be

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submitted by the resident, so that the resident gets the money back, whether its engaging in a PSA campaign so that people are aware that this construction bond is reimbursable and that it goes back to whoever submits the initial bond money. I just want to make sure that residents aren't caught in this process where now they are expecting the city to reimburse them the money, but the money is actually going back to their contractor because it was a loophole in the contract they had with their contractor, and it wasn't really outlined for them. So, I really wanted to have a discussion. We can maybe throw some ideas around or come back and bring it back on another date as we kind of think it through. The City Attorney and the City Manager brought up, in some cases, it's an added burden to residents if we're asking for the resident to make the payment. Some people don't have checks, or they are not going to give their contractor a check for, to turn into the city. So, I kind of wanted to have that discussion. See how we can have some sort of awareness or protection for our residents.

City Manager Rojas: Commissioner, if I may. One of the things we've asked Development Services to do because of this issue is to, number one, add language in all our permit applications concerning the bond, that there is a bond, and depending on who pays the bond is the one that will receive the reimbursement. In addition to that, I've asked them to post in the lobby of Development Services Building that information, and we're going to add that to our E-NEWS and our website, so we can educate the folks. Some of these issues are contractor/owner issues, but the key is that the city will refund the bond deposit to the person that paid, so they would have to come up with proof of payment.

Mayor Lago: Let me step in here one second. I think we're talking about something that works pretty well, but if you want to go down this rabbit hole, you might as well go down it. Madam City Attorney, in a job when a permit is paid and a bond is paid to the city, when the job is completed and there is a CO, that's the only time a bond is released, correct.

City Attorney Suarez: Correct. That's when there can be a request for a refund of the bond.

Mayor Lago: Who gets the bond back?

City Attorney Suarez: Whoever paid the bond. So, the payee of the bond. We return it to whoever paid it.

Mayor Lago: So, if anybody has a problem with the way the bond was returned, that's between the client and the construction company. If the client receives a bond and the contractor is upset about that, there shouldn't be anyone upset, the client paid for the bond. If the client asked the contractor to pay for the bond, and the CO happens, the contractor is refunded the bond. It goes back to the person who paid for it. No one, and correct me if I'm wrong, no one can walk in and procure a bond that was paid for a year ago by somebody else, correct.

City Attorney Suarez: Not paid by somebody else, that's correct.

Mayor Lago: Let me just finish. I do this all the time. So, my point is that I'm all for providing as much notice and statements on permits, and all kinds of things. I think its great, but when you are

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going to go get a permit paid for, when you are going to get your plans approved and you are going to pull that permit, if a bond is required, depending on the work and scope of the project, someone's got to pay for it, either the owner or the contractor. So, its pretty simple. It goes back to the person who wrote the check or put the credit card down.

Commissioner Fernandez: And again, I don't think that that was the question that was asked. And for those residents who are watching, this is not a rabbit hole that we're going down. This is a problem that we have, and of course a contractor is going to defend contractors. I'm here to represent you and I want to make sure that you don't have these issues going forward. No, no, no, I am talking.

Mayor Lago: Let me respond to you.

Commissioner Fernandez: No. No. Let me finish talking.

Mayor Lago: If I may. You made a comment.

Commissioner Fernandez: You may not. You may not. The issue is not the current issue; we cannot solve the problem for residents who are having it right now, but we can find ways and that's what we were elected to do to prevent the issue from happening again for our residents. Obviously, contractors are not going to want to change the process, because what's happening is, there is no outlined item in a contract with a contractor that stipulates that the bond is going to be returned to the resident. The resident is giving the contractor the money with the expectation that they will be getting that money back. When they ask for the money back from the contractor, what most contractors are doing is saying, go talk to the City of Coral Gables when they know that they have already received that check. So, you know, calling it a rabbit hole, I'm sorry, Mr. Mayor, this is a real problem that real residents are having, and it is not a rabbit hole for us to have a conversation and find a way to ensure that our residents, the ones we represent are not having this problem.

Mayor Lago: You invoked my name, so I just want to respond very quickly. First off, in regard to when I mentioned rabbit hole, was a figure of speech. You can't think that everybody is talking about you, okay, or insulting you. When you pay for a permit and you make that permit, the contractor can never go and pick up that bond, it has to be that of the client. It's not about whether you side with the contractor or the client. In most instances, that I've been involved in, in municipalities, I'm pretty sure I'm going to go 90-plus percent, the contractor does not want to carry a bond, they don't want to pay for something for a year or two years and have that money outlaid, just sitting out there for two years not making any interest, because you don't get paid interest on this bond, correct Madam City Attorney.

City Attorney Suarez: No, there's no interest in that.

Mayor Lago: I want to put it on the record. I know the answer to that question, but I want to put it on the record. So, what they always do, at least in my case is that they say, literally the contractor will say, Madam Client, Mr. Client pay for the bond. They will go and they will pay for the bond, and they have to wait two years till the work is over, and then they get reimbursed that bond. Its  
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not whether you side with the resident, or you side with the contractor. In most cases and if you ask individuals over there next-door in the Permit Department, they'll tell you, the majority of the times it's the contractor, excuse me, the resident or the business owner that pays the bond, that I've seen, that I've seen and that I've been involved in, in my opinion. I don't want to have to pay this money myself. I want to have the resident pay for it. So, what I'm trying to figure out, I was just trying to say is, what is the confusion that we're trying to fix here, because when I've spoken to people they've told me, I don't remember if I paid that bond. You've got to go and speak with Development Services and find out if you paid for that bond or if somebody else paid for that bond, but at the end of the day, that bond would not be released, it will only be provided to the entity that paid for the bond in the beginning, and nobody wants to float a bond that has \$10,000, \$5,000, \$20,000 sitting in escrow and not making any interest, at the end of the day. Madam Vice Mayor you were saying.

Vice Mayor Anderson: So, I'm going to draw on a couple of suggestions here. There are many different stages of a project. You know, you have your final inspection, we have the beginning part, we have notice to owner. There are opportunities to inform residents of the fact that a bond is posted, you can request an offset on your final payment before a no lien affidavit is issued. There are opportunities for residents to enforce their rights with the contractor, because if the contractor included it in the price of the job, the bond, a \$1,000, \$500, whatever it is, okay, at the end of the day, if the contractor is going to get the money back, then you offset it on the final payment. So, there's a couple of points that we can remind, and I know that if you look at the notice requirements, the Ygrene PACE Program is supposed to provide people and does provide people, is several touch points in which you remind people, because people forget. You sign up at the beginning, you forget the day comes that you have to pay for that loan, you know, if the project takes longer, the interest rate changes. So, we can have a touch point at the beginning when you're applying for the permit for the job, the application process, and then at a point, I think for the final inspection, because those are the two most important points. Who's going to pay for the bond and who's going to get the money back and how you are going to get the money back, and an offset on your final payment is the easiest way, I think, for most homeowners and most contractors to address this issue.

City Manager Rojas: If I may, Vice Mayor. The Development Services Assistant Director wants to make a statement. Go ahead. Clarify the issue of how we are notifying folks.

Development Services Assistant Director: Good morning, Doug Ramirez, Deputy Director Development Services. Currently, we are working on adding some verbiage to the permit application, the very first page of the permit application, where typically the owner or the owner's representative signs authorizing for the work to be done. We've gotten verbiage approved by our Legal Department. Its just a matter now of working with our IT Department to add it to the application. We hope to have it done very shortly. At least there's a touch point at the beginning. At the end what we can do is, we do have automated emails that the system sends out when your permit is about to expire or when your permit – we can add verbiage in there as well, and now we have the owner's information in our system. So, when the permit is applied for at the beginning, at some point before we issue the permit, we have the owner's email information or the owner's representative, some person that is responsible. So, the owner will be notified, and we can also

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tweak the verbiage of the email that goes out at the end and if desired, we could even add it to every single email along the way so that they see it again and again and again. They might get tired of seeing it, but I'd rather they see it more than less, or we can inform them, hey, the bond will be returned to the payee of the bond, not necessarily the owner of the property. That way there's knowledge throughout the process they can't forget.

Mayor Lago: Mr. Director.

Development Services Assistant Director: Yes sir.

Mayor Lago: This is not the first time we do this. I can remember a few years ago, we put in the past certain items on the permit. I can't remember what it was, but it was certain things that we recommended in regard to cleanliness or fencing or you know what it was, that residential work can't happen on Saturdays. It would put certain things on the permit so that people, when they pull their permit, they are reminded, hey listen, there are a list of things that you can and can't do, just add it to the list. But at the end of the day, its clear, whoever pays for the permit has to come back for that permit. You can't give it to somebody else that didn't pay for it. At the end of the day, no contractor, no resident, you just can't pick up somebody else's bond. Now what you could do, if you want to, which I would welcome it, which goes against everything my colleague to my left just said, I would welcome it, 110 percent. See if we can work with our attorney and see if we can only allow residents to pay for the bond, so they are assured that the bond goes to them. I don't want to pay for a bond. I don't want to outlay money for two years, a year-and-a-half, that kind of time, whatever money that is, in certain projects its pretty significant. I'd rather have the resident pay for it, just like what happens when you sign a permit card, you have two options, either the resident pays for it, or the contractor pays for it. But why would you want to have the contractor pay for it when you can benefit from paying for it yourself in one form or another. So, I don't know if that's even allowed, maybe there's a state statute that preempts us from doing that. I don't know. If it's a concern here, at the end of the day, let's make the resident pay for it. Perfectly fine, they just have to hold it for two years.

Commissioner Castro: I received a phone call last week regarding this same matter and it seems to be very important. This person, this resident in specific was raising concerns also about that, there's no procedures and automatically refunding a bond. So, if the resident completely forgets that they paid for a bond, its just going to sit here and it's kind of, it's interesting to me because like how is that even possible, because at the end of the year we need to reconcile our monies, how are we not noticing that there are bonds that are not being returned. We need to work on our procedures that and we'll brainstorm together, so that bonds are automatically refunded or at least are contacted, whoever is paying for the bond. I would feel more comfortable with the resident paying for the bond, because with the same resident that I spoke with, the contractor asked them for the money to pay for the bond and when he came to ask for the bond, they said they couldn't return it the resident, they had to return it to the contractor. That raises major concerns to me. So, let's see how we could improve this process.

Mayor Lago: Quick question. How many bonds do you currently have waiting to be picked up or claimed?

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Development Services Assistant Director: I don't have that exact number.

Mayor Lago: Maybe get that info.

Development Services Assistant Director: We can get the number.

Mayor Lago: Through the Manager's office, I'd love to see how much unclaimed money there is. Just like there's unclaimed money in the federal government, the state, billions of dollars that are unclaimed. Madam Vice Mayor.

Vice Mayor Anderson: You might want to look at what the Miami-Dade County Clerk is doing. Mr. Barquin has started an unclaimed asset piece, because in some litigation there's money on hand that's being held by the court registry, and it hasn't been dispersed when the case is over. This is similar. You have a matter that's closed, and the monies haven't been released, so there's a notification procedure for folks to make that claim on the money, reminding them its out there. We all forget, you know, and I've had to do unclaimed money requests on behalf of my in-laws, on my father, etc., because some check that was mailed to the correct address but never received was an unclaimed asset. So, for that reason the money had to be claimed through the state process.

Development Services Assistant Director: Earlier this year, we began an outreach when we realized that there was a backlog, I don't have the number, but we knew that there was one there. We started reaching out to the contacts in the permits. We started with the newest ones going backwards and we started with the oldest ones going forward. We've made a dent into it. This year we've refunded over 500 bonds, but a lot of the older permits, nobody is responding. Obviously, some of the contractors might have folded up or left the state, who knows, but nobody is responding. So, we did start an outreach to try and go back to the people, by the way, we have your money, we would like to give it back. We're working on that list. We also, we began – now we're getting a reminder. We set up our InterGov system to send us a reminder when a permit is closed so that we can proactively start working on the refund now, now that it got closed now. We just started doing that now. I don't have the numbers that you asked for at this moment, but overall, I can tell you that we are making the effort to get this money back to the people that it belongs to, and we will continue to work on this with legal and then per your direction.

Commissioner Castro: So, if we work on an automated mechanism that automatically refunds, I don't know what that would look like, probably like in InterGov send a reminder, send an alert, as you're saying when the permit is closed, and then maybe have it trigger a notice or have it trigger mail, you tell me.

Development Services Assistant Director: We did look into also, like someday of automating the payback. Unfortunately, we don't keep the financial information, so if you paid with a credit card, we don't keep that because, obviously, as great as our IT Department is, we can be liable for that information and then somebody could hack it or whatever. So, we don't keep it. It would be really easy if there was a way for us to just return it to the credit card that paid it, whenever it was, but unfortunately, we don't have a way of doing that. So, it requires reaching out, getting a hold of

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somebody, having them show us proof of how it was paid and then once we have some demonstrated proof, then we know who to pay back.

Commissioner Castro: So then can we regulate the way of payment, if we cannot refund the credit card that paid with it, well, can we only accept checks?

Development Services Assistant Director: That would be a legal question.

City Attorney Suarez: I think we can. The concern is that I think that would perhaps cause, its not a legal issue, but it perhaps cause an inconvenience for residents who, in some cases maybe want their contractor or permit expeditor or someone to handle the entire process for them, and so, if you require only checks or if you require that it be only from the resident, I could see that being just a practical concern.

Mayor Lago: And if I may, just another point I think it was important, because we're talking about residents versus contractors. When a contractor pulls a bond or even considers pulling a bond, you have no interest, I don't have an interest in pulling a bond, zero, because by our formula the way that we breakdown the construction of a project is by divisions, and when you look at your insurance as Joe is shaking his head, because he knows very well and so does our other DCM know, you don't include a bond or insurance and you can't make profit on that, that's below the line, that's not top line, that's below the line. So, what ends up happening, that lags in the bottom, you can't put profit on your insurance, and you can't put profit on your bond. So that just sits there, its an expense to the contractor. The bigger question you have here is, if the contractor asks the resident to pay for the bond, to give me the money for the bond, I've never done this, and then they keep that money after. The problem is how do you stop that. How do you stop the contractors to tell the resident, hey, give me the money for the bond, they go to the city, they order the bond, and then the bond sits there for two years and then when its over, the resident has forgotten, the business owner has forgotten, and then they get the bond, the project is sealed, they get the bond and they keep the \$500, \$1,000, the \$10,000, whatever the bond amount may be. Does that happen?

Development Services Assistant Director: Maybe yes.

Mayor Lago: But its never happened to me and I don't know if somebody would do that. That would be stealing from your client, but I've never had an issue and I've been here 12 years. What I have seen is people tell me, Vince, I didn't know that I had gotten a bond, I had forgotten that I got a bond and it just sat there for two or three years, and my response is, go see Doug, sit down with Doug, have a conversation, he can research it for you and you can find out if you have an existing bond on your project. That's the cleanest way of doing things. Madam Vice Mayor.

Vice Mayor Anderson: So, I have a couple of questions for legal, but as a lawyer what I would do is, I would require a discount on my contract for the bond, because I know that the bond is going back to you. On the back end here, we have this problem with unclaimed assets and there are some similar procedures in state government as far as how unclaimed assets are dealt with, and I'd ask that we consider that if its not claimed by the contractor, can we by default then reimburse the

homeowner, given a certain period of time you don't claim it. Okay. And then what do we do if still the homeowner doesn't claim it, you know. What do we do with those unclaimed funds?

City Attorney Suarez: So, Vice Mayor, we have a code provision that addresses these bonds, and it currently states that if its not claimed within a certain period of time after the closeout of the permit and final inspection, it essentially is basically forfeited to the city. We can look at that if there are any changes that need to be made there, but that's what it currently states, that it is forfeited to the city for the administrative cost and services to the city.

Vice Mayor Lago: Alright. So, if you wouldn't mind circulating that to all of us so we can read it and be familiar, I'd appreciate it.

Commissioner Fernandez: So, the issue that has arisen with the residents that have approached me is exactly what the Mayor was stating. Where the contractor has asked for the money, they put the money on the bond and then they've kept the monies. So as far as investment, its 100 percent return for that contractor and that's where, I think, we need to have some sort of projection. Mr. Clerk, what I would like to do is put this on the agenda maybe the second October meeting, so that everybody has time to really talk to staff and maybe we can have a little more fruitful conversation as to potential options that we can have and that gives staff and the City Attorney's office enough time to properly vet what the process is, maybe in other municipalities and how we can tweak ours to add some protections for residents.

City Clerk Urquja: I have a member of the public requesting to speak on the item, Mrs. Maria Cruz.

Mrs. Cruz: Mrs. Maria Cruz, 1447 Miller Road. I'm so glad that this came up. Bonds are not necessarily for big buildings for thousands of dollars. When I moved my septic tank to the front, I had no idea that I had a bond, and all of a sudden, I got a check in the mail from the Septic Tank people, and I called them and I said, what is this money about. Oh, when you signed there was a bond, and we just got it back. Okay. We have to remember that we have a large population of people that are not in the building business, that are not attorneys, that rely on the person that's going to be doing their work for them. They come in and they say, how much money do I need to give you, and they give them the money, okay. They don't sit down and say, okay, this is for this, this is for that, this is okay. I have an idea, and I've discussed it before, I'm going to bring it up again. We have issues with permits that are not closed. My idea is that perhaps we should start thanking the owner for closing the permit. You know something to the effect that, you know, thank you very much for making sure your permit is closed. If there is a bond it is reimbursable, whoever paid for it needs to come and claim it. Do not force the owners to pull the permits and to bring the money for the bond, because you have a whole bunch of people that are not going to do that. They rely on the person or the contractor or whoever is doing it for doing that process, and there is nothing wrong with doing that. But if you thank them for making sure the permit is closed and you relay the message that you know, if there's a bond, the bond is reimbursable now, whoever paid should come and claim it, and that would make it easier for them.

City Clerk Urquja: That's it, Mr. Mayor.  
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Mayor Lago: If you would be so kind next time when you bring this back, there was a comment made about, we have a lot of existing permits that are open. Will you provide the Commission with the exact number of permits that are open as per the system.

Development Services Assistant Director: Of course, I'd be happy to do that.

Mayor Lago: The understanding was that you, along with other members previously had addressed a lot of the existing open permits that was attacked.

Development Services Assistant Director: We have, and we continue to.

Commissioner Castro: I believe its 60-something left.

Mayor Lago: 60-something, but that was...

Development Services Assistant Director: In the old system.

Mayor Lago: In the old system.

Development Services Assistant Director: Yes.

Mayor Lago: So, I remember that Surami had addressed a lot of that, there was like 7,000, 8,000 permits and you guys went and attacked that for a long time.

Development Services Assistant Director: It has been a monumental effort and in the old system we're down to very few numbers. In the current system, of course, new permits, there's quite a few more.

Mayor Lago: I congratulate you on that effort.