

**City of Coral Gables City Commission Meeting
Agenda Item G-7
December 10, 2019
City Commission Chambers
405 Biltmore Way, Coral Gables, FL**

City Commission

**Mayor Raul Valdes-Fauli
Vice Mayor Vince Lago
Commissioner Pat Keon
Commissioner Michael Mena
Commissioner Jorge Fors**

City Staff

**City Manager, Peter Iglesias
Assistant City Manager, Ed Santamaria
City Attorney, Miriam Ramos
City Clerk, Billy Urquia**

Public Speaker(s)

Silvia Pinera-Vazquez

Agenda Item G-7 [2:00 p.m.]

A discussion regarding Sec. 58-57 of the City Code relating to sidewalk requirements.

(Sponsored by Commissioner Mena)

Mayor Valdes-Fauli: Call the meeting to order. And the first item, Commissioner Mena, G-7, discussion regarding sidewalks.

Commissioner Mena: So -- well, Commissioner Keon is not here but -- so, this is an ordinance that's come up in the past. We talked about it -- maybe it's been a year, I don't know, roughly. And it's come up -- several residents have brought it up to me as it's impacted them. And basically, this is the ordinance that states that if you do more than \$15,000 worth of work on your house, that you either have to pay to build out a sidewalk or if the City's not ready to do the sidewalk at that time because you're the only house that would have a sidewalk on your street, then they're required to sign a covenant that runs with the land. And I know we talked about this a while back, but we never really took any action and it was brought up to me again recently and I wanted to just have another discussion because the more I thought about it, the more I don't really like that mechanism for addressing sidewalks, whether or not somebody agrees or disagrees with sidewalk, you know, if we're going to do them, I think the City can and should pay for it. And I kind of view this as somewhat of a backdoor tax on residents to pay for the sidewalk when they may or may not even want it. But the bigger problem I have with it is that it -- a couple of things. One is, is it really effective? Because I asked the question yesterday in my pre-agenda and nobody's aware of any time where we've ever actually invoked the covenant to build the sidewalk.

Vice Chair Lago: We've collected the money though.

Commissioner Mena: Right. So, you know, is it ever really going to even happen that way? And you have all this administration, you have these covenants running with the land, which one could argue is somewhat of a cloud on the title of the property. And I -- Evan and I had a healthy discussion about it yesterday. And so, where I am at this point-- and I wanted to hear from all of you is I think at a bare minimum we need to drastically increase the costs associated with it. So, I talked with Peter about it being -- what he referred to as a Level 3 alteration, which is -- he can describe it better than I can, but it's basically renovating about half of your home.

City Manager Iglesias: Fifty percent renovation of the home.

Commissioner Mena: So, that's to me the minimum of what we should do, but I also wanted to open the discussion for the possibility of just frankly getting rid of it all together. Again, I don't - - there's also sort of the inequitable result that you have certain streets where you have a grant or the City's funding the sidewalks, and then you have others where you're requiring certain residents to pay for it. I assume for -- hypothetically speaking, let's say you had covenants for 80 percent of a street or 90 percent of a street, that at that point, the City might go ahead and do the sidewalk and pay for the other 10 to 20 percent because they have critical mass, let's say. So, again, now you have some people are paying for it, some people aren't. This is a tough subject, but I wanted to have the discussion again because, again, I've now -- we sort of forget about it and then three, four months pass and I hear from another resident, you know, what is this? I didn't know this existed. Why am I -- I'm changing the windows on my house or I'm changing the roof on my house and I'm being told I have to sign a covenant or I can't get my permit to do my roof, which has absolutely nothing to do with the sidewalk.

Mayor Valdes-Fauli: They can't get a permit.

Commissioner Mena: Yeah. And I think those are fair concerns. So, I wanted to bring it back. Again, we discussed it a while back. We never really took any action. And I wanted to kind of see what my colleagues thought about it, so with that, I'll sort of open the floor to either them or Ed or whoever. I know we have some comment cards, so...

Assistant City Manager Santamaria: With the permission of the Chair.

Mayor Valdes-Fauli: Please.

Assistant City Manager Santamaria: Good afternoon, Mr. Mayor, members of the Commission. Ed Santamaria, Assistant City Manager. Yes, this is kind of an uncomfortable position for not only residents and for you, but also, for staff. The Code right now directs that every property that is undergoing a construction project that meets certain thresholds is to construct new sidewalks if

sidewalks are not existing abutting the property. Or at the discretion of the Public Works Director, they are to enter into a covenant that runs with the land to defer the construction of that sidewalk. But that does still make them responsible for construction of that sidewalk should that covenant ever be called in. We agree. And this is something that we discussed previously. And the Level 3 alteration was also discussed back when we had this discussion that that threshold should be raised. There are also other issues in the Code that provide some sticking points for us that we would like to clean up as it relates to sidewalks. And those are outside of the more broad, global discussion regarding sidewalks in the City as to who should pay for their construction, who should be responsible for their maintenance. Those are also things that we need to discuss.

Vice Chair Lago: And I think also if I may I just one more for consideration is where should sidewalks go? Should they only be collector streets? Should every street be considered? Because I get a lot of calls also from residents who tell me, you know, collector streets I completely understand, but very narrow residential streets, there's a concern, you know, that they're going to be required to also put sidewalks.

Mayor Valdes-Fauli: I'm sorry. And those that say that collector streets should have sidewalks don't live in collector streets, you know. And I brought this up in the 90s when I was Mayor the last time and we really wanted to build sidewalks on Granada and Alhambra Circle and Riviera and others, and people don't want sidewalks in front of their homes. They just don't. And we're going to have another rebellion like with bike paths. They make sense. I agree with that. But this is a mature city. It's a city that has a certain infrastructure and a certain structure and people don't want to change it, and that's the way people feel.

Commissioner Mena: Yeah, but my concern is in the interim as this ongoing debate over all these specifics about sidewalks and where and when and how, in the meantime, we're requiring homeowners to sign covenants that run with the land so that they can paint...

Mayor Valdes-Fauli: Take out their tile and -- yeah.

Commissioner Mena: You know, put a new roof or put a tile and -- why?

Assistant City Manager Santamaria: Because it's in compliance with the Code.

Commissioner Mena: No, I understand it's in the Code. You know, I'm not -- this is not a criticism of staff. This is a criticism of the ordinance. We're responsible for either amending or revoking those ordinances and that falls on us. You're required to enforce those ordinances. So, let me be clear about that, but...

Mayor Valdes-Fauli: Why don't we hear from people that wish to speak and then we'll continue...

Commissioner Mena: Sure.

Mayor Valdes-Fauli: The discussion with...

City Manager Iglesias: And I could say one of the problems with any ordinance that provides a cost without any kind of escalation is always a problem. So, when you have an ordinance, you base it on some Code issue or something else where it would be an automatic escalation so that the 15,000 doesn't take care of any escalation in construction cost from, you know, the 1980s, so that's one of the big issues with writing an ordinance like that, that it doesn't -- it's not truly effective just the next year really.

Commissioner Mena: Can you -- just really quick before we hear from (INAUDIBLE), would you just explain sort of how the process works when you get a covenant, when the funds are in play, how -- you know, just very brief description of that so people understand.

Assistant City Manager Santamaria: Well, very briefly. As I mentioned earlier, if you enter into a deferment covenant for the construction of the sidewalk, it's basically a document that gets

recorded and it runs with the land. At that point in time, your only expense is the cost of recording, which is I think \$8 a page or something like that, and so that's it. Now, if it comes to be in the future that there is the right moment for the City to call in that covenant, the City will call in that covenant and will -- the construction of sidewalk will have to be initiated at that time.

Commissioner Mena: And that -- the cost associated with that would be paid at that time?

Assistant City Manager Santamaria: Will be paid at that time, correct.

Commissioner Mena: And the amount of that cost will be also determined...

Mayor Valdes-Fauli: Whatever...

Commissioner Mena: At that time.

Assistant City Manager Santamaria: That's correct. Whatever concrete, you know, the sidewalk costs at that point in time, that's, you know -- so you're asking not to build it now as the Code requires and we're saying, yeah, okay, that's fine, but you have to...

Commissioner Mena: We're sort of asking that too, right?

Assistant City Manager Santamaria: We are.

Commissioner Mena: Because we don't necessarily want a house to build a sidewalk in front of one house and the rest of the street doesn't have a sidewalk because it would look ridiculous.

Commissioner Keon: Well, they don't care. They've said they don't care. They'd like them to go ahead.

Commissioner Mena: I care.

Commissioner Keon: I do too -- and then connect them.

Commissioner Mena: I care.

Commissioner Keon: But I think it's a long time before...

Commissioner Mena: Yeah, I think that would look...

Commissioner Keon: They get connected.

Commissioner Mena: Absurd.

Assistant City Manager Santamaria: But that's what...

Commissioner Keon: Yeah, I think it's -- yes.

Assistant City Manager Santamaria: That's what the Code says.

Commissioner Mena: Again, I understand.

Assistant City Manager Santamaria: We first ask to build a sidewalk. If there is an objection, we'll say, okay, please enter into a sidewalk -- into a covenant that runs with the land for -- to defer the construction.

Mayor Valdes-Fauli: Okay.

Assistant City Manager Santamaria: And that's the way the process works.

Commissioner Mena: And again, to your knowledge, we have never actually come back with that covenant and said, okay, here we are five years later, ten years later, ready to build the sidewalk.

Assistant City Manager Santamaria: I am looking into that right now. But since the -- I believe it was 1982, around then when this ordinance was amended to include that. I believe since then, I don't -- as far as I know, no one has ever called in a covenant.

Mayor Valdes-Fauli: That's 36 years.

Assistant City Manager Santamaria: No one has ever called in a covenant.

Mayor Valdes-Fauli: Okay, let me call the first person to speak and then stick around.

Assistant City Manager Santamaria: Oh, absolutely.

Mayor Valdes-Fauli: Silvia Pinera-Vazquez. Good afternoon.

Silvia Pinera-Vazquez: Good afternoon. I just happened to stay long from my morning presentation because I saw this. I agree with you, Mayor. I don't think that the City of Coral Gables is a city that every street should have sidewalks. It depends on the residents and the collector streets. I live on a collector street. I know that many of us don't want sidewalks. More importantly because I've actually experienced this covenant thing before with -- that I had a drop off with the City Attorney. My question is once the covenants are in and if you guys pass some sort of -- removing the covenants, what happens to the covenants that are already existing? I assume that they would be voided, right?

Commissioner Mena: It would be my -- that would be my recommendation if we went that route.

Mayor Valdes-Fauli: Right.

Ms. Pinera-Vazquez: Alright. And then the other -- the only other thing I want to let all you know, because this actually came up since now I have met so many neighbors, not by choice but because of default.

Mayor Valdes-Fauli: Some of them are very nice.

Ms. Pinera-Vazquez: And it's been very good. Actually, it's been the best experience of this whole process, I have to tell you, to be honest with you, especially the elderly neighbors. And there is an elderly woman that lives on Alhambra Circle that when we knocked on her door, her biggest concern was that she had to replace her roof because it had leaks. And she kept saying to me, but I don't understand, they want me to do a sidewalk. And she didn't really get -- grasp the whole covenant thing. I mean, it's a really legalistic term. And she doesn't understand why she has to build a sidewalk. And she's of limited means. I mean, you can tell she's lived in that house for generations. So, to a certain extent, it also -- people are trying to fix their houses to make them livable and they get scared that they're going to have to put out more money because you don't have no idea how much it's going to cost. So, to a certain extent, there's a sort of -- I don't want to use the word discrimination because that's really strong, but it doesn't benefit people of lesser means who have lived in the Gables for years, our elderly and just want to stay there living and fixing their house without having to build sidewalks and someone coming on their door and saying, oh, you have to do the sidewalk. That's it.

Mayor Valdes-Fauli: And also, it doesn't make sense, you know, that -- no, you don't have to build a sidewalk, but you have to sign a covenant. Okay, and what am I agreeing to? You're agreeing to sometime in the future, if we decide to do it, you have to build it at your own expense. But when, how...

Ms. Pinera-Vazquez: How much.

Mayor Valdes-Fauli: When did pass, 39 years ago, that doesn't make any sense. It makes us look ridiculous.

Ms. Pinera-Vazquez: Right.

Mayor Valdes-Fauli: It really doesn't make sense.

Ms. Pinera-Vazquez: That's it.

Mayor Valdes-Fauli: Thank you. Robert Ruano. Mr. Ruano.

Commissioner Mena: He may have left.

Commissioner Keon: I think he's not here.

Mayor Valdes-Fauli: He left. Roberta Neway.

Commissioner Mena: May have also left.

Mayor Valdes-Fauli: She left. Alright.

Assistant City Manager Santamaria: Well...

Commissioner Mena: Look, I just -- let me just say one thing and I think it's important at least for -- that I would like to say, which is I'm not trying to express any anti-sidewalk sentiment here. I think that's a discussion that we can have, where it's appropriate, how it's appropriate. I think a lot of the things that were raised here are important discussions to have. I just really don't like this way of going about it. I never did when we first learned about it -- or I first learned about it at

least -- I forget when it came up like a year ago. And again, it's come up, like I said, every few months, I get a call, did you know that I have to, you know, put a sidewalk?

Mayor Valdes-Fauli: (INAUDIBLE).

Commissioner Mena: And you get it more and more. And I just don't think it's a good way to do it. Maybe it's -- I think you said it's fairly commonplace in other cities, which is a fair point to make.

Vice Chair Lago: But is the threshold a little higher, maybe like a Level 3 finish like you were...

City Manager Iglesias: We do have about ten -- the Level 3 alterations, we probably have maybe about 15 a year which are Level 3 alterations, just to give you some idea if we put it to that level what it would apply to.

Mayor Valdes-Fauli: But the point is that people don't want sidewalks in front of their house.

Vice Chair Lago: No, I'm asking the cities -- other cities.

Mayor Valdes-Fauli: People that don't have them.

Vice Chair Lago: Other cities, do they have such a low threshold like we do?

Assistant City Manager Santamaria: City of Miami, if you came in for a building permit, if I remember correctly, any kind of addition or alteration, it would trigger the covenant.

Vice Chair Lago: But addition is significant.

Assistant City Manager Santamaria: Right. Any type of addition or alteration.

Vice Chair Lago: But a reroof, exterior paint...

Assistant City Manager Santamaria: Yes.

Mayor Valdes-Fauli: Yeah.

Assistant City Manager Santamaria: Yes, it would. And they would -- and City of Miami, there's also a lot of undedicated right-of-way, which was another bone of contention there because people we're saying, oh, well, I'm giving up my property. It was -- no, the right-of-way needs to be dedicated.

Commissioner Mena: You know, that's the other thing. There's no nuance to this. There's no accountability for what street is it. What kind of streets do we want sidewalks on?

Assistant City Manager Santamaria: Well...

Commissioner Mena: This is just every house...

Assistant City Manager Santamaria: Every house citywide.

Commissioner Mena: In Coral Gables...

Assistant City Manager Santamaria: Citywide. That's the way it...

Commissioner Mena: It affects -- you get a covenant or you build a sidewalk.

Assistant City Manager Santamaria: That's the way the Code is written.

Commissioner Mena: And so, it's just so broad and so, to me, unnecessary. And again, I'm all for having the discussion on where to put sidewalks, but let's have it, let's make those decisions and let's pay for it. We're not -- it's not like we're building sidewalks like gangbusters here. I mean, you know, we can fund the building of sidewalks where we determine they're appropriate. And to me when you balance that against sort of how inequitable and how uncomfortable it is to be -- again, as I view it, it's sort of a backdoor tax on our residents that are paying for -- or at least are signing a covenant to eventually pay for something that they may not want and that may have nothing to -- and really has nothing to do with what they're actually doing to their house.

Assistant City Manager Santamaria: Yeah. So, fair point. I'd like to make a recommendation. I think that that it would be very, very easy for staff to put together an amendment that would raise the limits or the parameters to -- that trigger the sidewalk construction to a Level 3 alteration. We can get all that language finalized and cleaned up. It would drastically reduce the number of covenants that we would enter into because there's going to be a lot less. It's not going to be a Silvia's neighbor who is reroofing and because she's doing her roof, it's going to be triggering this covenant requirement. And then as we move forward first, second quarter of next year, I think that we would be at that point, we'd have a little bit of breathing room in terms of the impact to folks and the calls...

Mayor Valdes-Fauli: Those of you...

Assistant City Manager Santamaria: You would get.

Mayor Valdes-Fauli: Who are here 39 years from now are going to get to discuss it again.

Assistant City Manager Santamaria: So, but that's -- and that's where I'm going to, Mr. Mayor. After that, after we get that cleaned up so it kind of relieves some of the pressure on everyone...

Commissioner Mena: Is the...

Assistant City Manager Santamaria: My point is that we should have...

Commissioner Mena: Is the juice worth the squeeze there, Ed? Like...

Assistant City Manager Santamaria: Well...

Commissioner Mena: It's a lot of administration. It's a lot of -- to get what?

Assistant City Manager Santamaria: Well, Peter says that...

Commissioner Mena: How many houses are having a Level 3 alteration? How much...

Assistant City Manager Santamaria: Peter says there are only 15.

Commissioner Mena: And how many times are you even eventually going to call in the covenant? So, we're talking about a few -- a couple thousand dollars for the sidewalk?

Assistant City Manager Santamaria: My thinking is that we really need to look at this complicated issue and get the direction from you as to...

Commissioner Mena: Which is why I put it as a discussion item today and I haven't made a proposal yet. I want to hear from my colleagues and then kind of decide where to go with it from here.

Assistant City Manager Santamaria: And the reason I...

Commissioner Mena: But that's how I would sort of set the table is at a minimum you do what Ed is suggesting...

Mayor Valdes-Fauli: I...

Commissioner Mena: Or you go a step further and just get rid of it, which is kind of where I'm at with it.

Mayor Valdes-Fauli: The preference would be we'll get rid of it, and then if in the future we want to impose sidewalks, we either tax the neighbors that would be affected or we do it ourselves.

Commissioner Fors: I agree, a hundred percent.

Commissioner Keon: I would get rid of it.

Mayor Valdes-Fauli: That's my preference.

Commissioner Keon: I would get rid of it. And the only -- you know, I think that where you would want to build a sidewalk, I mean you can make some determinations that are to connect parks to a street. I mean, so maybe in front of a park you have a sidewalk, but you can make those decisions. And when we do that, the likelihood is we're going to do it anyway and it's our right-of-way, and we could go in and notice people and you could go ahead and do it.

Mayor Valdes-Fauli: Will you make a motion that we get rid of it?

Commissioner Keon: And so, I would truly, I would get rid of it. And we have the ability through a special assessment -- if people in a neighborhood choose to have sidewalks put in on their street, they can go through a special assessment process where the City upfronts the cost, they put in the sidewalk and then it's paid for over a period of time and it's on their tax bill. That exists, and I think maybe sometimes...

Assistant City Manager Santamaria: Right now, it's 50/50.

Commissioner Keon: Is it 50/50? Okay, so it would -- alright, yes, but usually we upfront it. I thought that we upfronted it...

Assistant City Manager Santamaria: We do.

Commissioner Keon: And then the remain...

Assistant City Manager Santamaria: Yes.

Commissioner Keon: We paid for it.

Assistant City Manager Santamaria: Yes, (INAUDIBLE).

Commissioner Keon: And then 50 percent of that cost is divided among the residents to go ahead and do that. But I would get rid of it.

Mayor Valdes-Fauli: Make a motion.

Commissioner Keon: I'll make a motion to get rid of it.

Mayor Valdes-Fauli: Is there a second?

Commissioner Keon: Well, I don't know.

Commissioner Mena: So -- well, I wanted...

Commissioner Keon: I think it's his discussion.

Commissioner Mena: To hear...

Commissioner Keon: Why don't you finish.

Commissioner Mena: I'd like to hear from the Vice Mayor.

Commissioner Keon: Let him finish.

Commissioner Mena: And Commissioner Fors as well...

Commissioner Keon: Let him finish.

Commissioner Mena: If they have anything to add but...

Commissioner Keon: Let him finish.

Vice Chair Lago: No, I mean listen, like -- we've been talking about this for some time and, you know, I don't want to rush. I want to have a sit-down discussion. I think Commissioner Mena put this on as a discussion item. I think it's a situation that needs to be addressed. But moving forward, I think it's a little bit of -- like what Commissioner Mena mentioned before, it's a hidden tax that gets pegged on to somebody who's making a significant investment not only in their property but also in this community because it's raising the property values for all of it. But I also want to be honest with you. When you talk about certain areas, like we were mentioning before on collector streets, there's sidewalks that just come to an abrupt end on a property.

Commissioner Mena: Right.

Vice Chair Lago: And that needs to be addressed somehow, some way, especially when you're talking about areas like in my neighborhood where you have a park that's -- there's no sidewalk, so people, especially the elderly and mothers who are bringing their children to the park, they have to walk in the middle of the street. And I'm with you 110 percent. If you want to make a motion to get rid of this, I agree. It's not equitable. I'm more than willing to do that. But I think that we...

Mayor Valdes-Fauli: And we can deal with those issues on a case by case basis.

Commissioner Mena: To give you...

Vice Chair Lago: No, but I...

Commissioner Mena: To give you an example...

Vice Chair Lago: But I think -- but I just want to be -- I want to put that on the record.

Commissioner Mena: Yeah.

Vice Chair Lago: I don't -- I'm not...

Mayor Valdes-Fauli: (INAUDIBLE).

Vice Chair Lago: There's certain areas -- go ahead, no, no.

Mayor Valdes-Fauli: No, no, I'm sorry. Go ahead.

Vice Chair Lago: No, no. I'm just...

Mayor Valdes-Fauli: I was going to say a motion has been made. Is there a second?

Commissioner Keon: Well, I -- it wasn't really -- I mean...

Mayor Valdes-Fauli: What?

Commissioner Keon: I'd let Commissioner Mena make his motion.

Commissioner Mena: You...

Commissioner Fors: I have nothing to further add. I mean, I'm on the exact same page as you are with it, which is at an absolute minimum.

Commissioner Mena: Yeah.

Commissioner Fors: Increase it to a...

Vice Chair Lago: Level 3.

Commissioner Fors: To a Level 3 restoration/renovation and consider -- have staff study the potential unintended consequences, but leave on the table the possibility of removing it altogether.

Commissioner Mena: And we have -- I was telling staff yesterday, my -- on my street, there's a sidewalk, except for one house. So, it's like the inverse ridiculous situation, right? There's one - - like the sidewalk ends on either side of the property, and it's not a corner house. It's like in the middle of this block. So, look, are there things like that that I think should be cleaned up? Yeah. I think to me something like that on any street is a no-brainer, like you shouldn't have this bizarre situation where 90 percent of the houses have a sidewalk and one doesn't or vice versa. But I just don't see that this is the answer. So, Miriam, what, as far -- if we wanted to...

Vice Chair Lago: Prepare something.

Commissioner Mena: Prepare something for next meeting to...

City Attorney Ramos: So, you would either direct...

Commissioner Mena: Actually take a vote on...

City Attorney Ramos: So, you would either direct us to prepare an ordinance amending this ordinance to talk about the Level 3 alteration or prepare an ordinance revoking this ordinance.

Commissioner Mena: I would -- my motion would be...

Mayor Valdes-Fauli: Revoke it.

Commissioner Mena: To direct you to prepare an ordinance revoking it.

Mayor Valdes-Fauli: Yes.

Commissioner Mena: And then we can discuss it more at the next meeting. And if anybody has any follow-up thoughts and they want to revisit this discussion, let's have it.

Vice Chair Lago: I think it's perfect.

Mayor Valdes-Fauli: Alright.

Commissioner Keon: I second it.

City Attorney Ramos: And that'll be sponsored by you?

Commissioner Mena: Yes.

Commissioner Keon: Okay. I'll second it...

Mayor Valdes-Fauli: Alright.

Commissioner Keon: To direct staff.

Mayor Valdes-Fauli: Will you -- all those in favor, say "aye."

The Commission (Collectively): Aye.

Mayor Valdes-Fauli: Okay. Opposed, likewise.