

City of Coral Gables City Commission Meeting
Agenda Item I-1
September 28, 2016
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

City Staff

City Manager, Cathy Swanson-Rivenbark
Assistant City Manager, Peter Iglesias
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Sustainability Specialist, Matt Anderson

Public Speaker(s)

Abby Corbit, Special Counsel

Agenda Item I-1 [11:18:19 a.m.]

Presentation of Sea Level White Paper

Mayor Cason: We will do Item I-1 now, which was a time certain for 11:00, and then we'll pick up anybody wants to continue the discussion on safety vehicles.

City Attorney Leen: Item I-1 is the presentation of the Sea Level Rise White Paper, and we have Abby Corbit in the audience who is going to be speaking, also Matt Anderson from City staff. I just want to begin and just say a few words to preface it. This White Paper is a very forward looking document that will help this City and cities throughout the State of Florida and the United States. It's an excellent legal document, it also includes administrative and policy analysis that essentially has the blue prints for a plan, which eventually will be enacted by the City of Coral Gables, both through its comprehensive plan, and through policies and even ordinances that are eventually adopted, but the one thing that this does is that it gives a blue print

and sort of a way forward. Now we know Mr. Mayor, and I'm going to turn it over to the Mayor to say a few words as well. We know that and the Commission has stated, and has indicated that there will be a time when sea level will rise, it is going to occur over a course of years, we don't know exactly when it's going to occur, but we do know that its occurring and we know that we need to plan; and the idea behind this paper was to let our residents know that this is happening and that there will be legal implications to that, and that there will be actions that need to be taken to that, and we want to put people on notice as soon as possible, both from a legal perspective, but also from a moral perspective, that was the thinking; and then the other idea behind this paper was to be able to be the leader in this area and let other cities know about it, and so we are going to be publishing this paper to many different jurisdictions. So with that Mr. Mayor, you had raised the idea originally and I'd like to turn it over to you.

Mayor Cason: And the tenants of some of the sea level rise and climate change meetings, I noticed there was very little in the section on legal implication of sea level rise, and I thought it would be very important for us to be a leader in this area and come up with a very comprehensive document, not only to guide the Commissions in the future as to what they need to do in terms of building codes and some day if it gets really bad, a retreat strategy, there is a lot of legal implications and things that need to be discussed. So this is a document that I think is very, very good, a lot of people have contributed to it, is very unique as far as I know in its comprehensiveness, and it's something that the other cities have been asking me when I talk to them and say, we are doing it, can I have it, because they don't have the funds and probably not the focus that we have on sea level rise. So I think this is going to be a great contribution to other municipalities around the country, and it will be a document that should stay on the shelf and be updated as case law changes over the years, and be very useful in guiding us as to the very serious implication of sea level rise in terms of a whole range of issues. So that's the reason behind this.

Vice Mayor Quesada: Mr. Mayor, if it's OK, I know we are behind on time today, but I believe Ms. Corbit put it together, if you can just give us sort of an executive overview for those at home that haven't read it, haven't seen it.

Ms. Corbit: Sure, absolutely. Abby Corbit, Stearns Weaver, nice to see you.

Vice Mayor Quesada: Sorry to put you on the spot if you weren't prepared.

Ms. Corbit: No, no, I was prepared, I was prepared.

City Attorney Leen: She is very prepared.

Ms. Corbit: I've been through this document for several months now, but I will keep it very short, since the Mayor also told me you guys have a busy agenda, and it's a very expansive document. First of all, I do want to say it was definitely a team effort with City staff, other folks in my firm, City Attorney's office, and the mere process of developing this document, hopefully the product itself is very useful going forward, but the process of developing it also got a lot us thinking, also demonstrated, I think what an inter-disciplinary, inter-departmental issue adapting to sea level rise is going to be in the future, so many different departments contributed to this, what really is scratching the surface of trying to identify what are the types of policy options and the legal implications of them. And also, if you have any comments or edits we can create what I'll guess we'll call final version, but really hopefully like the Mayor said, this can be a 2016 version of this document, in the future you guys can build up on this as the science changes, the wall changes, the policy options change, and build on it going forward. So the document does have an executive summary, but because this isn't a technical document or an argumentative document, the summary is not one grand conclusion, rather it's really a roadmap through the document, talking about all the different policy options, talking about the different legal implications and types of things that should be considered and hopefully entices the reader who just wants to look at the simple since it's such a long document. Once you go through the Executive Summary and figure out where in there is something very interested and/or affects their department, for example, if somebody from Public Works reads the Executive Summary they can say, Oh, I'm interested in City infrastructure...and I want to start learning about sea level rise they can jump to section 4 and start reading about that. I can walk through each of the sections briefly if you guys want me to, Mayor Cason?

Mayor Cason: If you could maybe give five minutes to whatever part of this you want to discuss. It will be available, we are going to be handing this out at, I'll be going to Palm Beach's Four-County Compact meeting coming up along with Matt Anderson and others and we are going to be making this available to the municipalities, and then as a result of that, I'm sure we'll get even more feedback for subsequent versions of this.

Ms. Corbit: Absolutely.

City Attorney Leen: The City Manager has told me she is going to make it look really nice and we are going to bring it up to the Four County Compact and we are presenting a poster there as well, I think Matt Anderson.

Mr. Anderson: Matt Anderson, Sustainability Specialist with the City of Coral Gables. Yes, we are going to have a poster on display throughout the entire two-day conference where attendees during break time can come over and ask questions. The idea is maybe if they want to receive a copy of it, we do have a few copies there and then we can share it electronically with all the

municipalities, and to echo what Mayor Cason is saying, a lot of my colleagues have also reached out to me asking for a copy of the document as well, because they think it's going to be a very valuable resource for them. So, I think it's something very forward thinking on our behalf and it aligns with a lot of the other sea level rise initiatives we've done with regards to public outreach engaging our community, putting together...maps, doing the vulnerability assessment. This Commission and this City has committed a lot of resources to this topic, and I think it's something that other cities are noticing and it's something that we should definitely be commended for.

Ms. Corbit: I think Mr. Anderson described it best to me that this document really a roadmap going forward of the types of issues, it scratches the surface. I don't mean to say that it's comprehensive in its depth, but in its scope we hope it gets you guys started and thinking about these issues. It's kind of hard to explain it in five minutes or less, because it's such an expansive issue, but I think that really demonstrates the most important point of the whole thing, which is this is the type of issue that if the current projections come to fruition it's going to impact every aspect of what the City does and what our residents experience, and every type of legal issue you can possibly imagine crops up when you start at least legal issues related to local government and property rights start to crop up when you talk about different regulatory tools. I was just thinking this morning, I was just listening to the other items before me, many things are related to sea level rise, it was expressly mentioned for one project, but even land acquisitions, I have a whole section that was put together on land acquisitions, conservation easements, how that can be an important tool, other market based incentive tools can be very powerful and effective like transfer development rights, and then of course sometimes there's the hammer, the regulatory tools, whether it be something strong like down zoning or something like transfer of development rights.

Mayor Cason: When in certain circumstances we stop providing services, because they are too expensive or we can't and when people stop paying taxes, and when do people that know the sea level is rising have an obligation to tell, for example realtors, clients who come in from Argentina never heard of it, that by the way here's what the scientific evidence says, be aware of it. So there are a lot of things in terms of notification, that moral part of what you are saying as well as the legal.

Ms. Corbit: Absolutely – that's another theme that runs throughout is this idea of notice and how notices, as you said from a moral or public policy perspective, but also from a litigation risk perspective, the more informed people are the more it informs the reasonable investment backed expectations which is important from a constitutional taking perspective or Harrods's Act perspective, substantive due process, and that's another big section. If I was walking you all the way through, one of the key places to start would be this gathering actionable and reliable data,

which you all have already started to, at least on the City infrastructure side with the Hazen Sawyer vulnerability assessment you've commissioned, and the paper talked some about the possible uses of a broader private real estate vulnerability assessment of the community at large that can be used to help establish overlay zones and some of the most vulnerable districts. Some people think vulnerability is more just about elevation and that's a key aspect of it, other aspects are what make the neighborhood vulnerable, like the quality of infrastructure and the area, the nature of improvement on land.

Mayor Cason: So this would be a living document, over the years it would be, obviously changed as case law changes. It will be available where on the City website for people to get it.

Mr. Anderson: We have a website, we created coralgables.com/sealevelrise that we've been placing all the resources that the City has been, that we have been doing, from the presentations we've had for the community to any documents that are shared, any good resources out there that you can go to. I'll have a copy of this paper there as well right under where the most updated light our map is currently located.

Mayor Cason: It would also be useful to provide this to local law schools, because I'm sure you'll get a lot of feedback.

Vice Mayor Quesada: Well, I was going to say, it reads like a law review article, so if there is a way to publish it in a law journal of some sort, because I know there is a lot of non-legal aspect to it as well, but it reads like a law review article, and another thing I want to say is, if it's OK if Ms. Corbit and Mr. City Attorney can share it with the other neighboring municipalities. I think the County, I think Miami Beach, I think City of Miami, because it's a group effort, it really is, maybe there is something in there they haven't considered yet, so I would ask through the City Attorney if you could reach out to some of those other municipalities, or you guys figure it out. I just want to make sure maybe you have been meeting with someone in their department they are dealing with it, because I think it's very important for all of South Florida to be working together.

City Attorney Leen: What we are going to be asking the Commission to do is to do a motion adopting, essentially accepting the plan, authorizing staff and the City Attorney's office to amend it as things occur, so we don't have to come back every time.

Vice Mayor Quesada: So moved.

Commissioner Lago: Second.

Mayor Cason: Vice Mayor makes the motion to do that, Commissioner Lago seconds.

City Attorney Leen: Indeed and then as part of that we would also make it widely available.

Vice Mayor Quesada: The only modification is I would say that, as part of my motion is a requirement that you at least reach out to County, Miami Beach, Miami, the neighboring municipalities, if you haven't already.

Mayor Cason: We've actually shared it with Alaska already.

Mr. Anderson: It's gone around the world already but...

Vice Mayor Quesada: We'd be doing everything right and the neighboring municipalities are not, and it really won't.

Ms. Corbit: In some ways it's tailored in some ways to this City.

Vice Mayor Quesada: It might give them ideas.

Commissioner Lago: It would be great to disseminate to as many people as you can, as many agencies as possible, as many cities, because the effort again, that the Mayor has made in reference to getting this out there, has spent his own time and his own money, it's pretty incredible. We are not talking about just having a few meetings here in City Hall; we are talking about he's travelled nationally, internationally to really get this completed. So we've got to give you credit.

Commissioner Slesnick: When is your meeting in Palm Beach?

Mayor Cason: It's in a couple of days.

Mr. Anderson: Its next week, October 5th and 6th.

Mayor Cason: And also, I reached out to "Resiliency Dialogue" – we were one of the five cities that the White House asked to get involved, the only coastal city.

Commissioner Lago: There is a Resiliency Conference that I was invited to and I'm going to attend next week, are you going to go?

Vice Mayor Quesada: I'm sure this exists already, but is there any type of county group where all the municipalities get together and discuss this regularly?

Mr. Anderson: Yes. We are actively involved in that.

Commissioner Lago: Matt brought it to us, Matt brought it to us at one point, and I think we discussed it about a year and-a-half ago, right?

Mr. Anderson: Yes, we signed on as a partner last year and its part of the Four County Climate Compact, which Broward, Palm Beach, Miami-Dade and Monroe, and we actively participate in both the regional effort and on the Miami-Dade side.

Mayor Cason: And Key West.

Commissioner Lago: How is this looked upon – we are the leaders when it comes to this, right?

Mr. Anderson: I've seen bits and pieces of documents like these out there, but nothing near this comprehensive covering of...

Mayor Cason: Because at Key West we had one person who spoke two and-a-half days on legal, so that's what we discussed. Why don't we look more comprehensively at this, pull something together it would be a...of wealth for other municipalities and to us, because there are so many things that we are going to have to do as the sea level rise in terms of infrastructure, roads, buildings.

Mr. Anderson: And to that point too, this document is going to provide us when we make those decisions that are identified in here, it's going to help us make an informed, educated decision that's been thoroughly researched. So we are going to be appropriately allocating money appropriately to be able to deal with this issue.

Mayor Cason: And Peter Iglesias has also contributed to this.

Assistant City Manager Iglesias: The University of Miami and FIU are going after a multi-university hundred million dollar grant, looking at the effects of sea level rise with the infrastructure, and they will be looking at those effects in South Florida. If they receive the grant we are going to assist them with that grant, we are going to assist them in obtaining the grant and we also are providing this paper to them to help with that.

Commissioner Keon: Will this be bound in some way? How will we present this?

Mayor Cason: What we've done with some of the earlier documents, we've had them on CD's, we can have them on a thumb drive, we can have them bound, we've mailed – how long the lectures for examples...to a lot of municipalities and given them out in New Hampshire to the 40 coastal Mayors. I would say any and all these ways we can – bound would be great.

Commissioner Keon: Even if it's not book binding bound, but bound in some way that it is easy to refer to. I read this the other night, actually it took me about an hour, I took it to bed, I sat and read it you know.

Mayor Cason: You didn't fall asleep.

Commissioner Keon: No, I didn't fall asleep...anyway it took over an hour to read it and the discussion on the management and flood plains I thought was particularly good, because we think so often of sea level rise as only an issue of affecting coastal communities, and the affect that it has only on coastline and we know that the effect is far more than just coastlines, will probably the first affected in some ways, but the flood plains that are being created as a result of it are devastating throughout the country, so it's not just here its countrywide and worldwide that we are looking at it, and I don't think there has been a lot of discussion with regard to flood plains. It's always been how high our water rises from the ocean and not in places like this where it comes up beneath or places where there is tremendous flooding in rivers and in all of this, so it's a really great thing. Now you will write a forward on this, I would imagine.

Mayor Cason: Yes, we'll write a forward as to why this document is being produced and I would say also in the resolution we should have another revision coming after its been disseminated, anything that comes back from people that would help strengthen it, we add it and then make that sort of the final one until a number of years where we find something new, case law or whatever else.

City Attorney Leen: Yes, we can add that, but we can treat this as the final one for now, so we can start to distribute it. And then the other thing, based on what was just said, it would be useful I think, if you include in the motion in the resolution that the City is urging that other cities do something similar. That's what we did with the autism resolution and many cities have adopted it, so you may be able now to send it to a number of cities and have them adopt it as well or something similar.

Vice Mayor Quesada: So amended.

Commissioner Lago: Second.

Mayor Cason: The Vice Mayor made the motion to include all that and Commissioner Lago seconded it – City Clerk.

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Mayor Cason: Yes

(Vote: 5-0)

Mayor Cason: Thank you.

Assistant City Manager Iglesias: Let me say Mayor that it's a big issue to be able to modify later, because FEMA really has not addressed the issue yet, and I expect that they will, which affects our coastal construction.

Mayor Cason: OK. Thank you.

[End: 11:36:29 a.m.]