

City of Coral Gables City Commission Meeting
Agenda Item F-5
January 24, 2023
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Vince Lago

Vice Mayor Michael Mena

Commissioner Rhonda Anderson

Commissioner Jim Cason

Commissioner Kirk Menendez

City Staff

City Attorney, Cristina Suarez

City Manager, Peter Iglesias

City Clerk, Billy Urquia

Intern with City Attorney's Office, Barbara Rodriguez

Assistant City Attorney, Stephanie Throckmorton

Police Chief, Ed Hudak

Public Speaker(s)

Jessica Keller

Agenda Item F-5 [11:04 a.m.]

An Ordinance of the City Commission amending the City Code, Chapter I-General Provisions, Section 1-7 entitled "Penalties" to include additional penalties for violations of Section 74-3, entitled "Riding of Bicycles upon Pedestrian Sidewalks Generally", providing for repealer provision, severability clause, codification, and providing for an effective date.

Mayor Lago: Moving onto F-5, Ordinances on First Reading. Thank you very much.

City Attorney Suarez: F-5 is an Ordinance of the City Commission amending the City Code, Chapter I-General Provisions, Section 1-7 entitled "Penalties" to include additional penalties for

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*Agenda Item F-5 – Ordinance amending the City Code, Chapter I-General Provisions
Section 1-7 entitled "Penalties"*

violations of Section 74-3, entitled "Riding of Bicycles upon Pedestrian Sidewalks Generally", providing for repealer provision, severability clause, codification, and providing for an effective date. Mr. Mayor, I would like to introduce you to Barbara Rodriguez, she is a third-year law student at St. Thomas University, and she is completing an externship with our office this semester. Also, Chief Hudak is available to answer questions and Barbara will be presenting the ordinance that she helped draft and also Assistant City Attorney Stephanie Throckmorton will also be available for questions.

Mayor Lago: Ms. Rodriguez welcome to the City Beautiful. Thank you for joining us. We are blessed to have you.

Ms. Rodriguez: Thank you. Good morning, Mayor, Commissioners and City Attorney. My name is Barbara Rodriguez, and I am a legal intern in the City Attorney's office. This ordinance we are presenting today has to do with adding a fine for violating Section 74-3 of the City Code, which currently prohibits the riding of bicycles upon the pedestrian sidewalks on Miracle Mile and where posted. The current fine for violating this section is \$35.00, which is the general penalty for violations of Chapter 74. Given that there have been several complaints regarding prohibiting bicycle riding on Miracle Mile on the sidewalks, which violates the City Code, we ask that in order to increase deterrence the city wishes to add a specific increase penalty for this violation. The penalties would be for the first violation is a \$75 fine; for the second violation a \$150 fine; and for the third or subsequent violation a \$250 fine.

Commissioner Cason: Let me ask you, what's the definition of a bicycle in terms of this? Anything with wheels, because there are all kinds of new things. I always watch the program Shark Tank, and I'm always amazed of the new things people come up with to scoot around with, round things, square things. So a bicycle usually has two wheels, but there are things that have one wheel, four wheels, six wheels. So, what is the definition?

Assistant City Attorney Throckmorton: I'm not sure our code has a definition of bicycle, we can verify that, but state law certainly does and there's even been some recent case law defining motorized bicycle versus bicycles, that we can certainly look at. But this would have to do with human powered bicycles which is normally how those are defined by electrical or human power.

Chief Hudak: As long as its pedaled its considered a bicycle.

Commissioner Cason: Anything with wheels.

Chief Hudak: No, if its peddled. So, you can have four wheels and if its peddled or three wheels, its tricycle. If the electric is started by the pedaling it's almost like an assisted motor, its considered a bicycle. If there are no pedals like a scooter its considered a vehicle.

Commissioner Anderson: So, I can maybe help you out with that, because I already asked staff to start working on the scooter ordinance and I understand we have other things with wheels such as rollerblades and skateboards and all the other kinds of fun stuff. We don't want another incident where we have pedestrians coming out with coffee in hand, not seeing the scooter or the bicyclist is coming down Miracle Mile and getting a serious injury. These penalties even have increased pale compared to the amount of pain and suffering that a particular resident had to go through as a result of that. But I'd also like to consider Ponce, because Ponce has high density and a number of store fronts.

Assistant City Attorney Throckmorton: I believe that multiple blocks of Ponce, north and south of Miracle Mile are posted already prohibiting especially where the sidewalks are very narrow there, that it already is posted there, but we can verify with the Parking Director exactly which streets are posted, but I believe it's at least three blocks north and south of Miracle Mile on Ponce are also posted as well.

Commissioner Anderson: Okay.

Commissioner Cason: Does it have to be posted, not posted.

Chief Hudak: If it's not posted – this is a city ordinance so it has to be posted by the city for us to write that citation through the city. This is the only part where it's not, where its restricted within the city where a bicycle cannot be, again, if there is no designated bike lane on the street, they could be on a sidewalk. The only place its prohibited is, I believe its three or four blocks north and south on Ponce, Giralda, and Miracle Mile. So, this is where we would be. I know the question is going to come up, but since December 3rd, I've got two members of the bike unit, Major Baublitz is here as well. We've encountered 40 people on bicycles, we are charting it now. Any bike violations, we have to write them. The reason before you today is because of our computer system, we are able to check one, two, three times if somebody got a warning and we know if it's a habitual offender, it can go up to \$250. It's kind of worth our while as far as what we can do to collect, our employees are taking time to do this. Starting at \$75 is somewhat similar to what the violation of a pedestrian walk against the "white hand" or the "red" is \$77 by the state, so it starts off in that area. We have seen a decrease and I've got two of my subject matter experts out there that people are starting to heed this week for the state, we're actually have an educational process going on about pedestrian bicycle safety on Miracle Mile.

Commissioner Cason: Do these tend to be younger kids or are these delivery people?

Chief Hudak: The delivery people because it's their business have gotten very good at stopping, parking in between the parked cars, running in, running out, similar to the scooters; the scooters now know not to even go on the sidewalk, because they are getting moving citations. The afternoon

shift, I believe, Officer Medina, you've seen some of those on afternoon shift where the kids usually come out, coming to and from school, buzzing around, as Commissioner Anderson said, sometimes it's the motorized skateboards. We haven't had any issues with the rented Bird, because they stop going on there. The personal ones, those would be the citations that we would write under this as well.

Commissioner Menendez: I've received, I'm sure everybody received some e-mails regarding this item, and some of the e-mails try to specify that responding to some bad actors, but it's not really a good actor versus bad actors. Basically, I would imagine any cyclist, if you go where Barnes and Noble is, it's very busy, whether they are careful or not, someone's going to come out of a store, someone's going to come out of their car and it's a formula for an accident, an injury. I think that not long ago there was someone who got hit by a bicycle and did not survive the impact.

Chief Hudak: Correct.

Commissioner Menendez: So, I don't think – and I understand the concern, because this is not an empty bicycle, this is not an anti-mobility issue, it's really just a safety issue for our residents and the folks that visit our downtown. Could you clarify, because we've talked about so many issues. First off, so this affects Miracle Mile.

Assistant City Attorney Throckmorton: So, the current section, so we're not amending the code at all. This is really only seeing the penalty section that applied to that code and so, we'll defer to Barbara as well, but it's riding a bicycle upon pedestrian sidewalks, generally on Miracle Mile and where posted. So where posted, I believe, as the Chief explained, three or four miles, three or four blocks north and south of Miracle Mile on Ponce and Miracle Mile and Giralda are where currently posted and those postings, and I can ask the Parking Director to clarify, prohibits scooters, bicycles and skateboards all at once, that's what the postings are. This code provision is specific to bicycles, but those are the areas that are posted, and this is merely increasing the penalty, the prohibition remain in place.

Commissioner Menendez: And then the first citation dollar amount for anyone.

Chief Hudak: \$75.00.

Commissioner Menendez: \$75.00.

Chief Hudak: Which is consistent with a pedestrian – look, we are trying to harmonize pedestrians, scooters, bicyclists, cars, tractor trailers, all in the same downtown district area. If somebody should not ride on the sidewalk, they are legally entitled to ride on the street, but they don't want to. The same way the pedestrians walking don't want the bikes to ride on the sidewalk. So, the legality of everything is, if everybody stays in their lane, no pun intended, we would be fine, and

if pedestrians would wait for the “white hand” because that starts the traffic back up, because they are going against it. The officers will tell you the same – Officer Medina was on his bike yesterday, day-before-yesterday, sitting waiting to cross the light and people just walk right by us, and I understand, when we start writing these tickets, everybody starts calling you all and calling me, like we have nothing better to do. To your point, Commissioners, we have people get run over all the time; and I’m not a physics professor, but when it comes to cars, bikes never win on those accidents and pedestrians don’t win with bike accidents, and we’ve seen that on the Mile. So, I think the collection of the issue, whatever, I just think we need to have something a little bit more sturdier for our officers to do this, because it isn’t even so much the bike rider or the skateboard. If they are young and nimble to that effect, they’re not going to get as injured as somebody who is looking at their phone, walking out of a bridal shop and they get waffled or they hit the door, those people of that age, my age, may not survive that.

Commissioner Menendez: Commissioner Cason’s point, a question about age. Since I would have imagined a lot of these people, a lot of them are minors, in terms of citation, what’s the procedure, is there a distinction between giving a citation to someone, I guess 18 and older or someone who’s 14 or 15?

Chief Hudak: I was thinking about how we could do this, and if we had a juvenile, okay, I know City Attorney’s office, I really haven’t explained this to them yet. However, we have a process right now, so if one of my officers writes an under 18-year-old driver a ticket or a warning, the parents get a letter personally from me about that. So, I think what we can do on these citations, if we can get this into our new CAD system that you all have approved, we should probably generate letters from my office that says your son or daughter was written a \$75 civil citation from the City of Coral Gables on this and this date, and go to the house, because we can get the address from them. Whether we can collect or not, but we have seen and when my daughters were of that age, there were a lot of their friends parents were getting letters from me, it does make them aware that we’re having those issues for the kids; and I think that would be something that we can look at. Right now, every time an officer writes a citation on our computer system, that letter pops up from our records section. I literally sign them, just to see who it is and they get it, wherever they go, even if they are not in Coral Gables. So, I think we can do something like that as part of the educational process for the kids - the adults...

Commissioner Cason: How often do you get somebody two or three times – how effective is the \$35 versus how much more effective will \$75 be in educating them that they shouldn’t be doing this?

Chief Hudak: How many repeat offenders, Officer de Leon, have you come across on the bikes? The juveniles usually come back, the adults – the other issue we have is like, these are two of my officers on bikes, so they can kind of run them down. It’s not pretty when we have to stop

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somebody buzzing by us on a bicycle. We are not allowed to close arm people, we can try and detain them, but that's really the only way you can stop somebody buzzing by you then it becomes an issue. We had an issue which turned into an officer trying to stop somebody on a bicycle on the sidewalk, we had a physical confrontation outside of Books and Books. Because of that issue and there was litigation and whatnot and claims of abuse by the officer. So the stopping of them, this is why we've talked about increasing the size of the downtown unit with more bikes, more motorcycles, time for patrols down there, because we are able to enforce these things. I will tell you, I just left the state this week and I was amazed how many people wait for the crosswalk lights to let you go. It was unique.

Vice Mayor Mena: So my question is, the logic behind, or presumably part of the logic behind raising the penalty on the first instance in particular is that, that's going to be a bigger deterrent, I presume. Is that true? You know, the innocent person is just like, decided to go for a bike ride today, they don't even realize you can't, maybe they didn't see the sign, whatever. I'd like to have an opportunity for that person to either get a warning or get a more reasonable level like they are now, and then, but I do agree that on the repeat offenders that there should be a stiffer penalty, because now you clearly know.

Chief Hudak: We can start at thirty, whatever it is now, \$35, we can start at \$35 and then go right to \$100, \$200 – I'm okay with, I mean we – I kind of recommended \$75, because the state fine for pedestrian violations is about \$77.

Vice Mayor Mena: Yes.

Chief Hudak: Of which we get a small fraction of through the whole disbursements, we being the city. I'm fine with starting because they do give them warnings, hey, we don't see it again, we can document the fact that they were given a warning. Start at \$35 then you can jump it to \$100, and you can jump it to \$200, because if it's a delivery person, I don't want to take...

Vice Mayor Mena: Listen, I've seen Uber Eats on vespas kind of doing three point turns on the sidewalk, unless you have a guy standing right there, you can't catch everybody, right.

Chief Hudak: It does – and the bike officers will tell you, they know when I eat lunch in my car around the Mile because after I drive around a couple of times and I go down the alleys – and again, we've increased the fines on the alleyways, because it is that much of an issue. I think we can start off lower.

Vice Mayor Mena: Yes. So, my gut is to, again, a first time and again, you're telling me that you guys don't have a problem tracking this.

Chief Hudak: No. Once the officers actually stop – so what we started doing when we started to address the issues last time is the officers that are working take a different signal which is 13 bike violations, so we are charting specifically. So once that officer puts the information of the individual that they stop, because they have to provide identification, then its already in the system and our system has the name. So if they were to run it, they would come up, they got stopped on such and such a day by this officer. We have everything in our records.

Vice Mayor Mena: So, my gut would be to make the first violation that you currently have at \$75, leave it at the same \$35.

Assistant City Attorney Throckmorton: \$35.

Vice Mayor Mena: And then for repeats you have it escalate, just because again, I don't think the objective of this is to severely penalize the first time, sort of innocent offender, if you will, but when people already know and they are still doing it anyways, then I think you have more standing to have a stiffer penalty.

Assistant City Attorney Throckmorton: Understood. And currently the code doesn't have an escalating plan at all, so its only \$35. So, I'm hearing \$35, \$100, and \$250, is that what I heard?

Vice Mayor Mena: Yes, that's fine.

Commissioner Menendez: So, what were the numbers?

Vice Mayor Mena: So, what was it that was proposed? - \$75 and then what?

Assistant City Attorney Throckmorton: \$75, \$150, \$250.

Vice Mayor Mena: Okay. So do \$35, \$100, \$200.

Commissioner Menendez: Yes, I like that better.

Vice Mayor Mena: Then I guess my other question is, little kids, right, with parents, talking about now little kids, not high school kids, we are talking about little kids.

Chief Hudak: I don't see us –

Vice Mayor Mena: We're not ticketing. It's the discretion of the officer at that point.

Assistant City Attorney Throckmorton: Officers will always retain their discretion.

Commissioner Menendez: We're very sensitive to the...

Chief Hudak: Yes.

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Commissioner Anderson: We're not going after tricycles and little bikes with training wheels.

Vice Mayor Mena: And the scooter thing, by the way, the geo-fencing they put in place is very effective.

Chief Hudak: Yes.

Assistant City Attorney Throckmorton: Yes.

Chief Hudak: Very much so.

Vice Mayor Mena: And by the way, as an aside, I haven't seen scooters around that much lately, is that like done.

Assistant City Attorney Throckmorton: We only have one company currently operating, one has left the city in the pilot program, so we're looking at the RFP process.

Vice Mayor Mena: That's their own sort of business decision.

Assistant City Attorney Throckmorton: Yes, business decision made by the corporate company, but yes, we only have one company operating. I believe we increased their amount of scooters, but we are nowhere near the total.

Vice Mayor Mena: I don't want to sidetrack this. General observation.

Assistant City Attorney Throckmorton: The geo-fencing has been effective.

Vice Mayor Mena: Yes, it has been. I'll just point that out, so you're not going to see scooters, at least not the rental scooters whizzing on Miracle Mile, if somebody owns a scooter that's different, obviously but, they'd be subject to the same. That's a vehicle, right?

Assistant City Attorney Throckmorton: So, we're working with Commissioner Anderson on amending the code violations of the scooters on sidewalks, as well as the other wheeled instruments, skateboards, etc.

Commissioner Anderson: So, the Bird scooters, we never had an incident with. The ones we were having problems with were the Spin, the geo-fencing wasn't apparently working all the time, but I've never had a complaint about a Bird reach me.

Vice Mayor Mena: Spin also tweaked that the last...

Assistant City Attorney Throckmorton: They did, and they are the ones who left the city.

Vice Mayor Mena: Exactly, so it doesn't matter anyway.

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Commissioner Anderson: So Matt Anderson, we worked together at the corrals where they park them, so I haven't seen the array of scooters thrown all over sidewalks like I have in the past, I don't know if anybody else has, so I think we've made progress there.

Vice Mayor Mena: One last quick point, observation. We have, if I'm not mistaken, bike racks on Miracle Mile, so the idea there is people can ride on the street and then park their bike there. Parking the bike there obviously is not a problem.

Chief Hudak: Not a violation.

City Attorney Suarez: You can walk your bike.

Assistant City Attorney Throckmorton: Walk your bike.

City Attorney Suarez: If you're going to a particular location.

Commissioner Cason: Quick question. Definition of this is pedestrian sidewalk. What's the difference between a sidewalk and a pedestrian sidewalk?

Assistant City Attorney Throckmorton: That has been in the code since time in memoriam, so I'm not sure that its defined anywhere in our code, but we can certainly amend that.

City Attorney Suarez: And in any event, the riding of bicycles is prohibited upon Miracle Mile and then other sidewalks were posted. So its not allowed on Miracle Mile and then where staff has posted, which is certain blocks on Ponce.

Assistant City Attorney Throckmorton: Pedestrian sidewalk is a term.

Commissioner Cason: Not a particular legal term or anything, just a...

Assistant City Attorney Throckmorton: Not that I'm aware of.

Commissioner Menendez: Who else would be walking on a sidewalk, that's my concern.

Assistant City Attorney Throckmorton: Pets.

Commissioner Anderson: In the Underline you'll have a bike path separated from the pedestrian sidewalk.

Mayor Lago: Thank you.

Commissioner Cason: I'll make a motion.

Assistant City Attorney Throckmorton: So, with that amendment, just to clarify with the amendment.

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Commissioner Cason: The amounts that Mike mentioned.

Commissioner Menendez: I'll second.

City Attorney Suarez: Its \$35, \$100, and \$200.

Mayor Lago: Thank you Chief. Thank you.

City Clerk Urquia: Mr. Mayor, we have a member of the public requesting to speak through Zoom, its Ms. Jessica Keller.

Mayor Lago: Ms. Keller, good morning, the floor is yours.

Ms. Keller: Good morning. Are you able to hear me?

Mayor Lago: Yes ma'am.

Ms. Keller: Excellent. I'm glad to see that this ordinance was toned down. Thank you for talking through that, really appreciate it. I'm interested in visiting the Mile with my family and you did talk about riding in the street is a little bit scary for some of us. I'd also like to make a suggestion that you include the existing fine on the sign. It might be helpful when people are making decisions whether they are going to break the law or not. That's all. Thank you.

Mayor Lago: Thank you.

City Clerk Urquia: Mr. Mayor, my office also received additional comments on the web. It says, as a cyclist when riding in downtown Coral Gables to shop or dine, the sidewalk is the only safe zone. It makes no sense to punish cyclists when due to the lack of bike infrastructure, the sidewalk is the only option. The City Beautiful has a Bicycle Master Plan to ensure safety of riders. Time to take it off the shelf. The city should be encouraging the use of bikes with their numerous benefits and ensuring the safety of cyclists instead of punishing them. That was from Christine Rupp. This ordinance is unnecessary, the few riders riding too fast on the sidewalk are usually delivery people. A \$35 ticket would discourage them from riding on the sidewalk. When Miracle Mile was redesigned, it excluded bicycle infrastructure and was designed so that bike riders had to ride on the most dangerous street in the city or ride on the sidewalk. The city should be looking for a way to accommodate bike riders instead of penalizing them for riding the only safe place they can on the sidewalk. That was from John Swaine. From Ms. Roberta Neway: Please do not increase the penalties for biking on pedestrian sidewalks. If someone is riding recklessly, ticket them, but if a rider or riders are being careful give them a warning, explaining that riding bikes is prohibited in this location. I realize that the city has signage, but as there are no designed bike lanes, people tend to assume its okay to ride on the sidewalk. Its side enough and there is little pedestrian traffic. And lastly, a message from Ms. Deborah Swaine: If the desired outcome is to stop a few bad actors

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from riding recklessly on the sidewalk, it would seem to us that focusing enforcement of the current penalties on those few bad actors would be more effective than punitively increasing penalties on families and children trying to safely access destinations on Miracle Mile.

Commissioner Menendez: Mayor, I have a question for the Chief, real simple. If someone or family or whoever, resident, decides to ride their bike from their home to Miracle Mile for lunch, for coffee, when they get to Miracle Mile, if they get off their bike, once they at Miracle Mile and they walk their bike to the café, whatever it is, the shop, that's not a violation of what we're doing. So they can actually ride from their home to that destination and then walk their bike to their end, wherever they are going to be.

Chief Hudak: Yes.

Commissioner Menendez: I just wanted to make that clear.

Vice Mayor Mena: The reality is the tenor, if you kind of like sparce through the letters and the feedback we got. Its really a complaint there's a lack of bicycle infrastructure, in terms of bike paths and things like that, and I understand that. I think we talked about that in the past, we want to do more there, but I appreciate somebody saying I don't want to ride on the street, on Miracle Mile, I get it. But I don't think anybody can also with a straight face say that it's a safe and logical idea to have bicycles riding on the sidewalk with pedestrians. That's a bad idea, and that's the whole point. That's why its not allowed. So to me, this is not intended to be anti-bicycle, I think its just a safety issue for everybody, including the people on the bicycle. The criticism about the last of infrastructure and that maybe it should have been done on Miracle Mile, okay, I hear you, probably fair on some level, and we are going to try to do better with that as we move forward, but that has nothing to do with allowing bicycles on the sidewalk in our highest pedestrian traffic areas, in terms of sidewalks in the city. That's a recipe for an accident, it's a bad idea. I think most people acknowledge that. So, I think again, we're going to focus on repeat offenders here and I think that's more or less from the comments I received, I think a reasonable compromise with the understanding that people want to see more in terms of infrastructure generally.

Chief Hudak: Correct. I think if you look at it in the harmonization thought process of doing that. We put bollards up around the parking spaces to protect the people that are sitting out or walking along the sidewalk. When you take, and I'm not disagreeing with the infrastructure for the bicycles, when you put them on the other side of the bollards in that walk area, the people that are at greatest risk for injury are both bicyclists riding inappropriately, but also pedestrians that are coming out not expecting or expecting not to have to share any of the sidewalk in that area with somebody on a bicycle. I think its very much of an issue, but that's the idea, and not the idea to take kids off tricycles or anything else like that. That's not the way we operate, but we just need this tool.

Commissioner Anderson: Couple last comments, because we are working on bicycle infrastructure trying to add it on to Andalusia, we're working with Dover Kohl. It does take a while to come through with the best circulation pattern back and forth through the Mobility Hub, and I do frequently bike, and I frequently walk on the Mile with my dogs, without my dogs, you've got dining going on there and we've had some serious injuries that have occurred as well. It would be unthinkable to me to ride the bicycle on the Mile. I go a half a block away, a short block, and ride on Andalusia and cut through on the other streets, whether its Salzedo, or Ponce or other, and then walk it the rest of the way, whether it's a half a block. You're only going to be doing usually a half a block walk, you can do that and everybody will be safe.

Commissioner Menendez: It's sort of what people do with their cars. You leave your house, you drive to Miracle Mile for dinner, for lunch, you park your car, you walk to the restaurant. So, there's a parallel in terms of what you just described.

Commissioner Anderson: Correct.

Chief Hudak: I've seen people on bikes walk their dogs on a leash, riding down the Mile, two dogs on a leash. That's just stupid.

Commissioner Cason: The rope between the bike and the dog.

Chief Hudak: Holding onto that.

Commissioner Anderson: On the Mile – interesting, interesting.

Chief Hudak: On the Mile. On the Mile.

Mayor Lago: Do we have a motion?

City Clerk Urquia: Yes sir, we do.

Commissioner Menendez: Yes

Commissioner Anderson: Yes

Commissioner Cason: Yes

Vice Mayor Mena: Yes

Mayor Lago: Yes

(Vote: 5-0)