

City of Coral Gables City Commission Meeting
Agenda Item J-6
December 11, 2018
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 Frank Quesada

City Staff

City Manager, Peter Iglesias
City Attorney, Miriam Ramos
Assistant City Attorney, Stephanie Throckmorton
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia

Public Speaker(s)

Agenda Item J-6 [0:00:00 p.m.]

Update on staff recommendations regarding sidewalk construction and the City's Code of Ordinances.

Assistant City Manager Santamaria: J-6 is in connection to sidewalk construction and repair. Once again, Ed Santamaria, Assistant City Manager, Operations and Infrastructure, for the record. And also, at the October 23 meeting, there was a discussion regarding a proposed increase to the statutory threshold for -- that would trigger sidewalk construction in connection to single-family residential construction projects. We all agreed that the existing thresholds were very low and it

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was triggering the construction of new sidewalks in an excessive number of cases and it was creating an undue burden on property owners. And so, the idea was then to adjust the threshold limits. And the threshold limits that were discussed then were \$40,000, which, again, the Commission opined that was -- were relatively low. The idea was obviously -- in this discussion is to come up with a holistic and comprehensive approach to sidewalk construction and to clean up any issues that we might have in the Code right now as it relates to sidewalk construction. Obviously, the principal arguments for the extension of the City sidewalks network have been discussed in the past. Basically, pedestrians are the most vulnerable users of the public rights-of-way and sidewalks provide safety. Sidewalks also promote accessibility for all members of the public. They're a community amenity that enhances livability and promotes a more active and healthy lifestyle. They also act as a crime deterrent because the more traffic you have on the street, especially foot traffic, the less crime becomes an attractive possibility. And we also have a resolution that was passed by the Commission this year, on October 9, which adopted a zero concurrency requirement for the construction of new sidewalks along collector roads, where the City would fund 100 percent the construction here. So, the areas of the Code where we think the Code should be revisited, Section 58-48, which is in connection to broken, cracked or otherwise damaged sidewalks or a condition requiring repair; 58-48(b), which talks about City sidewalks and City-maintained trees; and also, Section 58-57, which discusses the statutory limits or the threshold limits for -- that trigger construction and also -- that also require covenants for deferment of construction of sidewalks. So, we really want to take a look at these and come up with a plan to address these. First and foremost, even though the current Code holds the abutting property the one responsible for sidewalk repairs for damaged sidewalks, we have a present policy in the Public Works Department which repairs sidewalks at the City's expense in the case that the damage is caused by a City-maintained tree or an act of the City or one of its agents. So, we'd like to include that in the Code. We also recognize that property owners may not have the ability such as we do to repair or reconstruct sidewalks in front of their homes when they're required to. And we'd like to give those folks the ability to enter into an agreement with the City where the City would take on the work and be reimbursed for its direct cost plus a reasonable administrative fee. We want to give folks that ability to do that. We think that that's fair and reasonable and it would be very

effective. So, in connection to 58-57, which is the triggering of construction of new sidewalks by the permitting process and also the taking of deferment covenants, we are proposing two options for your consideration. First and foremost, option number one is to revise the existing Code to eliminate all permit conditions for new sidewalk construction imposed on single-family home projects. In this case, the City would fully fund construction of sidewalks citywide. And we also recommend as part of this to eliminate concurrency requirements citywide for sidewalk construction, which is the case with collector streets. As part of this option, we would develop an implementation plan that would start with construction on collectors, which is already baked into the cake, if you will. And we'll continue on to residential streets in a context sensitive fashion over the next five to ten years, depending on funding. There are existing funds at this time in the mobility fee. However, those funds are not sufficient to fully see this project through, but we think that additional funds are available in other places that we may contribute towards construction of sidewalks citywide. Option number two mostly preserves the existing Code with certain exemptions as noted below. We would replace the value threshold for new side -- triggering sidewalk construction from the existing numbers to a Level III alteration of the property. And that's defined in Section 505 of the Florida Building Code. Level III alterations are when the work area exceeds 50 percent of the area of the existing structure or when an addition is over 30 percent of the existing building area is proposed. And this also would exempt single-family residential properties on collector streets in alignment with the recently-passed resolution having to do with concurrency on collector streets. There's also another consideration here that I think Commissioner Keon has been very keen on, which is the whole process regarding construction around an existing property and the permitting process, not triggering new construction, but existing sidewalks, essentially, that are damaged either before a contractor arrives on the site to do their work or during the construction process. There -- this often becomes a complicated matter in which contractors and property owners are at each other's necks because no one can prove when the damage occurred, et cetera, et cetera, and it complicates the closing of permits. So, in order to clear this up, what we would do is we would require a bond specifically to do the sidewalk repairs. And the amount of that bond would be the cost of replacing the entire area of sidewalk around the existing property and that bond could be returned at the close of permits provided that the

sidewalks around that property are in acceptable conditions. This bond would be borne by the contractor and not the property owner. And so, to clear up the issue or the concerns requiring as to whether the damage was caused by an act of the contractor, we would be requiring contractors to submit, as part of their permit application, preexisting condition photographs. And then at the end of the project, as part of their permit closeout, to submit construction -- post construction photographs. And the inspector that is conducting the right-of-way inspection would have these to refer to. Obviously, in any case whatsoever, would the property owner or the contractor be held responsible for damage that can be attributed to a City-maintained tree or to an act of the City. So, that would take care of that concern. And so, we're looking at guidance from the Commission as to what option you adopt in addressing 58-57 and also as to whether these other items that were discussed are acceptable and that we should be drafting up amendments to the Code to address these.

Mayor Valdes-Fauli: I think you've...

Commissioner Keon: I prefer...

Mayor Valdes-Fauli: Done a fine job.

Vice Mayor Lago: I don't think your opinion has changed since the beginning, right, Commissioner?

Commissioner Keon: No, mine hasn't changed.

Vice Mayor Lago: We're still in the same boat here so...

Mayor Valdes-Fauli: But you've done a fine job addressing the issues and bringing them forth.

Commissioner Keon: Okay, so you want to know whether it's option one or it's option two is what you're asking us to...

Assistant City Manager Santamaria: Correct. Consider both options and see which way we should go.

Commissioner Mena: I can give you sort of part of where I'm at, which is I'd like to see how we proceed on collector streets before committing to a course of action on non-collector streets because I want to see how the process plays out and how the neighborhoods react to it, how the process works, how -- you know. And to me, if I recall correctly when we met on this a month or two ago, we really only have budgeted enough amount to deal with collector streets for the next three years or so.

Assistant City Manager Santamaria: Two to three years. Well, that's...

Commissioner Mena: Well, I guess my question is, if we don't have enough funds budgeted to do more than the collector streets at this point, why don't we just proceed with collector streets and kind of see how it goes and then decide what we want to do on non-collector streets.

Assistant City Manager Santamaria: So, responsibly, to handle a 5- to 10-year plan, we really need to start planning now for it and start making budget commitments moving forward. And the idea is to start with collector streets initially and move forward with that. So, the other thing, as well, is that it still leaves a very open-ended question, which is the existing Code and the requirements of the existing Code, which provide that property owners that are triggered by the limits...

Commissioner Mena: We still have to deal with that. Agreed.

Assistant City Manager Santamaria: We still have to deal with that.

Commissioner Mena: Agreed.

Commissioner Keon: We still have to deal with that. So, I mean, I -- I think in talking with staff yesterday, I think with the multimodal plan that we accepted, one of the policy implications is the construction of sidewalks to enhance mobility and safety so that people are not walking in the streets or not pushing baby carriages in the street. So, it is a long-term policy goal to construct streets throughout the City and we need to establish, you know, what our policy goal is so that you can, you know, begin to budget for and legislate accordingly. So, I mean, it may be that, you know, they would start with the collector streets. But -- and you may find that there were some problems and we would need to go back and revise our policy or look at your policy, but I think in order to move the issue -- that mobility issue forward, you know, we just -- I think the decision is is it the policy of the City of Coral Gables that our residential neighborhoods have sidewalks. Now, I think you're going to carve out some because some of the gated communities, like Cocowalk and Gables Estates and Old Cutler Bay, where there isn't, you know, cut-through traffic and there isn't the volume of traffic that there are on our other city streets that are open, you know, that they -- you -- I mean, there should be something written in that policy that, you know, they can opt out of this and what we are providing are sidewalks on those residential areas where there is, you know, a significant volume of traffic and it is for the safety and the well-being of, you know, people living in those areas as they -- you know, as they're mobile. So, I think...

Commissioner Mena: That's the collector streets, the high volume...

Commissioner Keon: Well, they have a high volume and it's -- they're the ones that would actually be in the, you know, non-gated areas of our city would probably could be the way a policy could flow. But I think what they're asking of us is that we determine what is our policy with regard to sidewalks.

Assistant City Manager Santamaria: If I could add that collector streets are an excellent start, but there are also streets that, for example, might lead to some place like Betsy Adams Park, where

there are no sidewalks around that and they are not collector streets, but you really want to provide a safe path to that park. And so, that's part of the plan as well, to kind of triage all the City streets and determine which are going to give us the greatest return in terms of pedestrian safety and address those first and then move all the way down.

Commissioner Keon: So, it is a long-term policy. I mean, it's -- you know, you're not going to start funding and building these sidewalks, you know, in next year's budget. And it may be, you know, 20 years before you get all of the sidewalks in these areas of the City. But in order to get there, we need to establish, you know, a public policy with regard to sidewalks. So, I think that's what they're asking us for.

Mayor Valdes-Fauli: And we have to be serious about it too.

Commissioner Keon: Absolutely.

Mayor Valdes-Fauli: I can -- I look at you and I think of whoever it was sitting in that seat 20 years ago discussing exactly the same issue.

Commissioner Keon: Right. And it's -- you know, so -- and we...

Unidentified Speaker: I think it was Commissioner Kerdyk.

Commissioner Keon: We don't -- yeah. And we don't establish those long-term policies so that they can begin to budget for them so if there are grant funds available that become available over time, we have the policies in place to be eligible to receive those funds. So, it's really, you know, a determination on policy with regard to safety and mobility in our residential neighborhoods. And I mean, I think you can come back with something with regard to the gated communities, you know, because they're different.

Commissioner Mena: Why?

Commissioner Keon: Well, they're different because of the volume of traffic in the gated communities. Generally, you know, there's no cut-through traffic, you know. It's destination traffic. It's either you're going to someone's home or you're going home, or you're going to do a repair, you're going to visit or you're going home yourself.

Commissioner Mena: But at that point, then you should establish an objective volume criteria. I wouldn't...

Commissioner Keon: Well, but I mean...

Commissioner Mena: Single out gated communities.

Commissioner Keon: No, but I think it's where you're going to start if you're going to look at, you know, where -- how do you prioritize where you start to spend public dollars on sidewalks. And because it is a safety issue also, it's -- you know, you would start where you have more volume and that volume generally is where you have cut-through traffic.

Commissioner Mena: Listen, to me, if we're prior -- I'm just giving...

Commissioner Keon: I mean, I don't know.

Commissioner Mena: This is just my opinion. To me, if you're prioritizing, we already did that with collector streets, so I can see talking about schools and park...

Commissioner Keon: Right.

Commissioner Mena: Areas. It makes sense to me. As far as the philosophical discussion on sort of long-term versus short-term planning and giving them that direction, if you're asking me right now whether I think every single street in Coral Gables should have sidewalks on both sides of the street, I'm not ready to make that commitment to you. So, if that's the...

Commissioner Keon: Right -- no. But -- and that's...

Commissioner Mena: If that's the question...

Commissioner Keon: The discussion. So, that's the discussion.

Assistant City Manager Santamaria: So, that's why I mentioned the context sensitivity in this plan that we would be adopting. It would definitely be considered what the context is for sidewalks on a particular street. I don't know if that assuages your concern, but that's -- we've considered that.

Commissioner Keon: It doesn't mean on both...

Commissioner Mena: I think this...

Commissioner Keon: Sides of every street.

Commissioner Mena: Well, and I think...

Commissioner Keon: It could be on one side.

Commissioner Mena: Well, that's part of the discussion we've had in the past, though, yeah.

Commissioner Keon: Right. But that's why there is a need for implementing administrative orders that accompany legislation and policy so that it is very clear what the intent is when we're no longer here when we do long-term planning, you know.

Commissioner Mena: Oh, I hear you. Look, I agree with that, and I think that's a good thing. At the same time, if somebody sitting in this seat 20 years ago felt one way about something and I feel differently, I'm going to -- we're going to do what we think we got to do.

Commissioner Keon: No, absolutely.

Commissioner Mena: Right.

Commissioner Keon: In 20 years, you're going to change that policy...

Commissioner Mena: Right.

Commissioner Keon: Because conditions change...

Commissioner Mena: Right.

Commissioner Keon: And you certainly can. But in order for them to move forward, we need to give them, you know, a policy perspective to work toward. So, I mean, I...

Commissioner Mena: I'm also..

Commissioner Keon: We're not ready to decide that. We can continue to talk about it.

Commissioner Mena: It's not about ready. I'm ready. If you want my decision now, I just told you what it was.

Assistant City Manager Santamaria: As long as we get direction from...

Commissioner Mena: You know, I'm not...

Assistant City Manager Santamaria: The Commission.

Commissioner Mena: Right now, but I'm open to expanding further, depending on how we do with collector streets. That's where I'm at with it. And look, I don't -- we had this discussion even going back to the concurrency vote. And we were really clear at -- I was really clear at that time that that doesn't mean that there's not going to be neighborhood input. We're not going to tie ourselves to a strict concurrency requirement, but we're going to have to deal with people as we go about doing this. And if, frankly, you know, there is a street that pretty unanimously doesn't want it...

Commissioner Keon: It shouldn't be forced on them.

Commissioner Mena: I'm not going to force it down their throat just because of some broader policy consideration.

Mayor Valdes-Fauli: What's the pleasure of the Commission?

Commissioner Keon: Well, I think the other...

Mayor Valdes-Fauli: We've been discussing all over the place, but let's...

Commissioner Keon: Right, but I think the other -- the -- what they need some direction on also is in cleaning up the legislation that's currently on the books with regard to sidewalks is now -- is the issue of is the City going to cover the cost of sidewalks. And if they are, then you no longer

would ask a homeowner that reaches this -- you know, that's either building a home or reaches this level of renovation to construct a sidewalk in front of their house whether there's any other sidewalk there or not, or to have a covenant that will run with their property forever until its satisfied over a -- the implementation of a sidewalk. And I think that's probably the big issue. So, it's if we either, you know, decide that the City will do it or you're going to do it by those, you know, special assessment districts, whatever. And if you're going to do that and you no longer need to have a covenant that runs with someone's property or expect the person to, you know, build a sidewalk where no other sidewalk exists.

Vice Mayor Lago: You know what I'd like to do, if possible?

Commissioner Keon: We could talk about this...

Vice Mayor Lago: I don't know...

Commissioner Keon: A whole lot more.

Vice Mayor Lago: I know. This -- what I'd like to see is -- why don't we call for a Sunshine meeting and we sit down and we have a discussion over this and give it the necessary respect it deserves because this is a pretty big decision.

Commissioner Mena: Yeah, I agree.

Vice Mayor Lago: And I have a lot of opinions in regards to this, and I've listened to my colleagues and I think we should have maybe -- maybe two or three weeks from now, maybe after the new year, we sit down and we have a long discussion about what are the options, and then we bring it back to the Commission and we take a vote.

Commissioner Mena: I agree with you. I think this...

Vice Mayor Lago: There's a lot of angles to this.

Commissioner Mena: A lot of nuances.

Vice Mayor Lago: A lot of things that have moving parts; you know, funding, you know, collector streets versus...

Assistant City Manager Santamaria: Okay.

Vice Mayor Lago: But generally, I'm in favor of a lot of the discussion that we've had today, so...

Mayor Valdes-Fauli: Let's...

Commissioner Mena: And I'm -- look, and I'm sensitive to things that have been mentioned in the past about...

Vice Mayor Lago: Of course.

Commissioner Mena: About disabilities and you know, this is a tough issue. It's not...

Vice Mayor Lago: It's a very, very tough...

Commissioner Mena: Easy to do.

Vice Mayor Lago: Issue and I'm dealing...

Mayor Valdes-Fauli: (INAUDIBLE).

Vice Mayor Lago: And I'm dealing with it every day. So, what I'd like to see is I don't want this to get beyond, you know, next month, so I'd like to, through the Manager -- to make sure that we coordinate with the Commission, you know, beyond January 15. Sometime before that, I'd like to have a meeting...

Mayor Valdes-Fauli: No, let's have it beyond January 15.

Commissioner Keon: Yeah.

Commissioner Mena: I would say like mid to late January.

Commissioner Keon: A workshop.

Mayor Valdes-Fauli: Right.

Vice Mayor Lago: A workshop.

Commissioner Mena: People are traveling and...

Vice Mayor Lago: Fine. Beyond January -- but I don't want it to, you know, bleed into February. And I'd like to be -- I'd like to have this in the first Commission after the workshop in January, okay?

Mayor Valdes-Fauli: Okay.

City Manager Iglesias: Perfect, Vice Mayor.

Mayor Valdes-Fauli: Thank you very much.

Assistant City Manager Santamaria: Happy to do that, sir. Thank you.

Mayor Valdes-Fauli: Thank you.

Vice Mayor Lago: Good work, Ed.