

City of Coral Gables City Commission Meeting
Agenda Item H-4
April 28, 2015
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
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Human Resources Director, Elsa Jaramillo-Velez
Risk Manager, David Ruiz

Public Speaker(s)

Maria Virgo, Representing Arthur J. Gallagher Insurance
George Erickson, Representing Cyber Insurance Consultants

Agenda Item H-4 [1:01:28 p.m.]

Resolution authorizing the renewal of the property and casualty insurance program which includes, but is not limited to property, general liability, automobile liability, public officials errors and omissions, workers compensation, other ancillary lines of insurance coverage and insurance broker fees through Arthur J. Gallagher Risk Management Services, Inc., in the amount of \$2,174,013.35 for the policy period of May 1, 2015 to May 1, 2016.

Mayor Cason: Let's move to H-4.

City Manager Swanson-Rivenbark: And I'll ask Elsa to come up and brief you and we are also requesting action.

Ms. Jaramillo-Velez: This is a resolution for the renewal of our property insurance and casualty insurance, which includes the property, general liability, automobile liability, public official's errors and omissions, workers compensation, and other ancillary lines of insurances. What we have here is a renewal for \$2,174,013.35. This is a two percent reduction from last cycle from last year, and this becomes effective on May 1, 2015. This time it also includes the pumps and the fountains. And we also have with us from Gallagher, Maria Virgo and also George Erickson and our Risk Manager David Ruiz, if you have any questions on this matter.

Commissioner Lago: I do have a few questions. I ask because I don't know, so I just want to get an idea because as one of the main initiatives that the Mayor has proffered over the last four years has really been to upgrade our existing sidewalks, along with Commissioner Quesada; and as you've seen we've really worked and gotten those sidewalks upgraded. I think we are doing close to four miles?

Mayor Cason: Almost 6.7 miles.

Commissioner Lago: 6.7 miles, it's incredible throughout the City. And as you will see, as you've seen by some of the conceptual drawings by Miracle Mile – Miracle Mile hopefully in the near future, as our Public Works Director has shown us, will not be an eyesore and the ADA (Americans With Disability Act) liability that it currently is. My question to you is this, I see that the coverages are property, general liability, is this just building structures? - or this also has to do with sidewalks, because from my understanding is that we've also had some slip and fall issues over the past, where the City has funded and it's been in the tune of close to a few million dollars, from my understanding, over a certain timeframe.

Mayor Cason: Craig, you have any information on that? - is that correct?

City Attorney Leen: I'm sorry...

Commissioner Lago: This is real simple. My question is, we are upgrading the sidewalks throughout the City...

City Attorney Leen: Yes.

Commissioner Lago: We are going to be doing Miracle Mile.

City Attorney Leen: Yes.

Commissioner Lago: We've had certain ADA compliance and slip and fall issues over the past few years, which have amounted to several million dollars in claims that the City has had to pay. With the insurance that we are talking about right now....

City Attorney Leen: I do want to be clear. We have had a number of claims, particularly in terms of like – are you talking about slip and falls on Miracle Mile?- we’ve had several, and they add up. I don’t think its millions of dollars though. I can get you a specific figure if you’d like.

Commissioner Lago: Whatever it is – a few hundred thousand dollars, whatever it may be, it’s still – I thought it was a few million dollars, I apologize, but my question to you is, do you see – does this \$2.1 million encompass these type of sidewalk issues and stuff like that?

Ms. Maria Virgo: Good afternoon, this is Maria Virgo, and I am representing Arthur J. Gallagher and Company, and I would like to answer your question – and yes, there is insurance being carried by the City of Coral Gables. You actually have \$5 million worth of liability insurance...

Commissioner Lago: Under the umbrella, under the umbrella, correct?

Ms. Virgo: Yes. So from a liability standpoint, so to cover slip and falls, you have up to \$5 million worth of liability insurance per claim, per occurrence.

City Attorney Leen: To be perfectly direct, a lot of the claims don’t rise to the point where we would have insurance to cover it, because there is exclusion, basically for the first, it’s \$350,000?

Ms. Virgo: Well we don’t call it exclusion, it’s actually like a deductible, we call it retention because you are self-insurance program and that is \$350,000, is your retention per claim.

Commissioner Lago: My question based on all that information, do you foresee, once we finish Miracle Mile, once we finish six miles of sidewalks that our commitment of \$2,174,000, our policy amount will go down in cost?- once you’ve been able to assess the fact that we have no longer ADA issues, no longer slip and fall issues, which are so grave as they are right now in certain parts of the Mile.

Mr. David Ruiz: David Ruiz, Risk Manager. You raised a good point. That’s certainly something we are going to bring up to the insurance carriers next year, as far as our improvements go. So I do foresee that affecting our claim history in a very good way, because we’ve had, as I’ve alluded to, we’ve had some claims over there on Miracle Mile slip and falls.

Commissioner Lago: And the reason why I bring it up because we are spending significant money in regards to the residential areas and also commercial areas, and it’s going to pay dividends in the near future. We are having that front cost now, its beautifying the streets anyways and its making quality of life even better, but at the end of the day it’s going to pay dividends in the near future, financially so. Just wanted to make sure that instead of next year having to pay \$2,174,000, that we would see a reduction because we don’t have certain issues.

Mr. Ruiz: Well the argument is going to be made, presented by me as far as the improvements go, in fact, I even presented it this past time, but we left with the insurance carrier with Brit Insurance, we certainly will look into the claims history data also to support the notion that we are getting less claims on Miracle Mile should our claims experience be affected in a positive way.

City Attorney Leen: I do think it's important to note though that this policy is not one that covers day-to-day items. It really is a significant deductible, exclusion, whatever you would like to call it, but it's not intended to cover the day-to-day slip and falls, that's generally covered through our general revenues.

Commissioner Lago: I know that, but it still covers a portion of it and I've seen myself, I've seen some pretty significant accidents occur on Miracle Mile where, especially with elderly individuals who have fallen, because the difference in grade elevation is pretty significant currently because of the trees and the situation that we have on the Mile.

City Attorney Leen: One other thing it does is the City – and I'd like to say this as well, I think I've said it in the past, at least to some of you individually. The City obviously has for torts sovereign immunity; it both has sovereign immunity for discretionary acts and then for non-discretionary operational acts like maintaining a sidewalk, it has caps on liability of \$200,000 per person, and \$300,000 per incident. So our caps actually are below the \$350,000 amount. What that allows us to do as a City is, we do have the option to settle claims that are above \$300,000 when there some sort of catastrophic incident that occurs or someone gets very hurt and the City decides it wants to pay that claim. In addition, there is always the risk, and it does happen, it is a risk, and it can be a substantial one, that there will be a huge claim against the City, potentially through no fault of its own, it just may occur. Sometimes these things occur and there has to be some demonstration of fault, but it could just be a City employee who made a mistake...

Mayor Cason: Like the street sweeper incident.

City Attorney Leen:...and it could be a huge liability and what happens there is, those claims you are allowed to go to the State Legislature and ask the State to basically do an exception to the sovereign immunity caps and those claims can go \$10-\$20-\$30 million, there is no cap on those sort of claims, which is one of the reasons why it's useful to have a policy like this. Of course this policy has a maximum amount too; I think you said of \$5 million.

Commissioner Lago: Can you do me a favor for next year...?

Ms. Jaramillo-Velez: Yes – Oh absolutely!

Commissioner Lago:...I know that in the budget you do a great job showing us how the unfunded has transpired over the last 10 or 12 years; you show us a chart which shows us where

we are and where we have been. Can you do me a favor, can you also show me what our policy amounts have been over, let's say the last five years, and see where we are trending?- because if we are spending so much money on infrastructure, again, the goal is to have a safe environment for the residents and the business community and for the visitors, but I'd also like to see if we can get some pay-back in reference to how much we are spending. If we can save \$50,000, \$100,000, it shows that we are moving in the right direction.

Mayor Cason: Yes – we've been saving money – one of the biggest items in the past was workman's comp and we had some incidents there that really jacked up that price. How does that trend?

Ms. Jaramillo-Velez: That's right. That's right. There were two big cases, two big experiences, Maria can tell you about them, and that's why we pay a little more in insurance, that's what we did at one time. We also need to take into account the market or if we have a big hurricane or something that hits our way, so while we will take all these things in account, we also need to be open to the mindset that something like can happen. You want to tell them about...

Ms. Virgo: Well, I do want to say, I've been serving the City now for 24 years, so I have seen the history of the claims move, the movement of it, and I can you that the City has been extremely proactive on safety and loss control issues, and the perfect example of the sidewalks, fixing those sidewalks as you get those calls. So I have seen the frequency and severity of your liability workers comp claims go down, so much so that in the last few years we have been able to get reductions in rates from your liability carriers, even though your exposures have gone up, meaning number of employees, or revenue, etc., number of properties, we have been able to get the reductions based on your loss history.

Mr. David Ruiz: Let me further add to, we are rolling out an online safety program for the departments. We were able to get Brit Insurance to provide that for the City at no cost to the City, so we are going to be very active with safety, we are going to give out certificates, we are going to keep track of the folks that attend the safety trainings, we are taking it very seriously. Also, as far as workers comp, unfortunately our third party administrator, they can't really formulate the data the way I would like, as far as trending. They are going to have a big change in their database where I can trend actually what departments are incurring the inordinate amount of losses, what the pluses and losses are, so we can better target where our safety training should go.

Ms. Virgo: Your third party administrator is John Eastern, and they were chosen about six or seven years ago, and we are working with them together with David to crunch your data to a more applicable way that you can actually not only see the type of injuries they are having, but where they are happening, what they are causing, so that we can actually pinpoint exactly where

the education of the employees needs to go from a workers comp standpoint specifically. We found throughout other clients, we have a lot of public entity and non-profit and religious clients throughout the state, that when you empower an employee with information on how they can help their employer reduce frequency and some claims, it's a very powerful message and that's what we are doing here through the education process.

Mr. David Ruiz: And the other thing we are doing too, we are formalizing SOP, Standard Operating Procedures. I'm in a process of getting Public Works to finalize a few more. We want to keep these things kind of standardized, so this way people know exactly what they should be doing with regards to their different paths that they have, they put them at potential risk. The problem with SOP's, one department has this, one department has that, we are trying to standardize where it applies to various departments.

Mayor Cason: How are we doing in comparison with other cities of our size? Are we in good shape?- I'm sure there is more we can do, but are we pretty good as it goes?

Ms. Virgo: You are extremely proactive and the City of Coral Gables has always been extremely proactive, it's because you have such a high retention of \$350,000 per claim. It hasn't always been \$350,000, that was a choice that was made by the City in order to save dollars a few years ago, and you were able to make that decision because you had a position which David is now a part of, which is the Risk Management position. So when you fair against the other cities, I can tell you that our client base alone, you are in a much better position from a frequency and severity standpoint, considering that you have high risks, you have the Fire Department, you have the Police Department, you have the Public Works, you have all that and that's all within your own.

Mr. George Erickson: I would like to just add. My name is George Erickson, and I haven't had the opportunity to meet a lot of you, but my firm Cyber Insurance Consultants is the independent insurance consultant that does advise and counsel the City, and have been doing so since about 1999 on matters related to these renewals. This has been a particular easy renewal this year. You have a letter from my firm with the recommendations. Just to emphasize a couple more things. We represent a lot of municipalities throughout the State of Florida, and I would echo what Maria said, the City is in very good shape right now, compared to what we see with a lot of other Florida municipalities. A few years back, and unfortunately I think about my letter, maybe it doesn't show enough history in it, especially since it formally had been written to a lot of Commissioners who hadn't been here a long time, and I think you would all benefit from some of that history. Three-four years back, it was a desperate attempt to keep coverage in place for the City, and it was being placed at rates which we were astounded by how high they were compared to other municipalities, and it has finally now come down to, what I think had been over – in just the liability workers comp alone, they've been over half-a-million dollars in annual

premium reductions in the past couple of years. So in relation to the comment before about, can we see stuff more reduction next year, we would love to see that if the market will bear it, but in large measure that is based on the actual losses that occur, and so that's assuming the loss has actually occurred, then maybe we could have more, they'll be another year of positive losses to show the insured, but unfortunately they love the fact that all these efforts are being made, but they want to see the actual results and unfortunately the results were bad for several years and there were some really catastrophic losses and when you have multiple catastrophic losses they get a little scared that it's going to trend, and so they are worried the next one's coming right behind it, and no matter how many times David goes out and does inspections and everything, it's not going to prevent that \$3 million incident that nobody can predict. That's a huge cultural issue and I think that, that's being addressed, but that really has to improve in long term results, which I think are now starting to be finally realized and those ridiculously high premiums from a few years ago are going away. I know it seems like a large number, but it is actually looking much better than it did.

Mayor Cason: Great. Any questions? Do we have a motion?

Commissioner Lago: I'll make the motion.

Mayor Cason: Commissioner Lago makes the motion.

Vice Mayor Quesada: Second.

Mayor Cason: The Vice Mayor seconds.

City Clerk

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Commissioner Lago: Yes

Mayor Cason: Yes

(Vote: 5-0)

Mayor Cason: Thank you.

City Attorney Leen: Mayor Cason, I just want to supplement what was said by – we have a Litigation Report that I have, which Miriam has been tasked, the Deputy City Attorney. It's being revamped; it should be helpful for each of you to look at. There is a public version, so that

we can report to the public and to you, and then there is a confidential version that includes that is exempt under the Public Records Laws, because these are active litigation. So what we are proposing to do and you should see this next month is that the City Manager and each of you will receive both versions of the report. One of them will be put into the public record as well; and then we'll be setting up meetings with each of you just to give you a briefing, if you have any questions on any of the cases we can brief you on them, let you know about them. What you will find is that this City does not have a lot of active litigation – look I'm telling you as a City Attorney, it seems very well run to me. I came from a – and I don't want to say anything negative about the County, I used to be a County Attorney and think highly of the County, but it's a much larger County too. The thing that I always think about when I came here was, I used to be the head of Civil Rights Litigation at the County. I had like 50 civil rights cases while I was there and oversaw a section of 8 attorneys. All we did was civil rights cases, either involving the County or the police or different county employees. I still have not been able to appear in a case in Coral Gables in a civil rights matter, which is my area of expertise, which is a great thing, but I must admit, I remember when I started and I said, give me all your civil rights cases and they are like, there are none. I go, really. And we have not actually appeared in a case, in a litigated case involving a false arrest or excessive force or anything like that in Coral Gables. I think it's amazing – and I say that obviously anything can happen and so you know, God willing that will continue, but it's really impressive. So I think when you see the Litigation Report you are going to be very impressed with the City.

Mayor Cason: Thank you.

[End: 1:19:32 p.m.]