

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Commissioner Mark Samuelian
DATE: June 6, 2018

SUBJECT: REFERRAL TO THE SUSTAINABILITY AND RESILIENCY COMMITTEE TO
REVIEW THE NEIGHBORHOOD IMPROVEMENT PROJECT SEQUENCING.

ANALYSIS

During the May 16th Commission Meeting discussion on item R7 O (see relevant section in the minutes attached), the Commission asked the administration to take steps to bring forward the next planned Neighborhood Resiliency Project as per the Master Plan. The current Commission has not reviewed the Master Project Plan and so the Committee should discuss priorities, decision criteria (eg. current flooding, community receptiveness, etc) and next steps.

Legislative Tracking

Commissioner Mark Samuelian

ATTACHMENTS:

Description

- ▢ After Action Report on May Commission Item R7 O

11:42:56 a.m.

R7 O ~~A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER, PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 2016-166-KB, FOR DESIGN/BUILD SERVICES FOR RIGHT-OF-WAY INFRASTRUCTURE IMPROVEMENT PROGRAM FOR NEIGHBORHOOD NO. 5 LA GORCE, AWARDING THE GROUP 3 NORTH AREA, TO DAVID MANCINI AND SONS INC., WITH THE TOTAL CONTRACT PRICE IN THE AMOUNT OF \$24,002,128; AND AUTHORIZING A TEN PERCENT (10%) OWNER'S CONTINGENCY FOR THE GROUP 3 NORTH AREA WORK IN THE AMOUNT OF \$2,400,213; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A DESIGN BUILD AGREEMENT.~~

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, REJECTING ALL BIDS RECEIVED, PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 2016-166-KB FOR DESIGN/BUILD SERVICES FOR RIGHT-OF-WAY INFRASTRUCTURE IMPROVEMENT PROGRAM FOR NEIGHBORHOOD NO. 5 LA GORCE; AND DIRECTING THE ADMINISTRATION TO REISSUE A NEW REQUEST FOR PROPOSALS FOR THE PROJECT.

Public Works/Procurement

ACTION: Resolution 2018-30312 adopted. Item separated by Mayor Gelber and heard in conjunction with C4 O. Motion made by Commissioner Góngora to reject the current RFP and issue a new RFP; seconded by Commissioner Rosen Gonzalez. Voice vote: 5-2. Opposed: Commissioners Alemán and Arriola. See motions below and direction. **Roy Coley and Alex Denis to handle.**

MOTION 1:

Motion made by Commissioner Góngora to reject the current RFP and issue a new RFP; seconded by Commissioner Rosen Gonzalez. Voice vote: 5-2. Opposed: Commissioners Arriola and Alemán.

MOTION 2:

Motion made by Commissioner Alemán to refer the Resolution regarding the undergrounding for North Bay Road and Alton Road to the Neighborhood/Community Affairs Committee; seconded by Commissioner Rosen Gonzalez. Voice vote: 7-0. **Kathie G. Brooks to place on Committee agenda. Roy Coley and Alex Denis to handle.**

MOTION ON NEW ITEM:

Motion made by Commissioner Alemán to direct the Administration to immediately prepare the next procurement package according to the City's current roll out schedule and consider whether to have it as a design-build or design-bid-build; seconded by Vice-Mayor Steinberg. Voice vote: 4-3. Opposed: Commissioners Góngora, Rosen Gonzalez, and Samuelian. **Roy Coley and Alex Denis to handle.**

City Clerk's Note: On May 20, 2018, Commissioner Góngora requested via email that the after-action reflect that he did not vote as he intended on the motion on the "new item." Commissioner Góngora stated that he was away from the dais when the initial discussion on this item occurred, and as a result voted incorrectly.

REFERRAL:

Neighborhood/Community Affairs Committee to discuss undergrounding for North Bay and Alton Road.

Commissioner Samuelian expressed his desire for some thoughtful discussion on this item.

Mayor Gelber explained that there is a motion to discuss this item at the Finance and Citywide Projects Committee and simultaneously there is an award to the RFP that the City Commission must choose, as it cannot do both. He asked Mr. Coley to introduce the issue to inform the public better on the matter.

Roy Coley, Public Works Director, explained that this is an award of a comprehensive neighborhood improvement project, which is part of the La Gorce Neighborhood Project from 59th Street to 63rd Street on upper North Bay Road. The project includes the replacement of the drinking water system, the waste water system, installing new storm water systems for rainfall, elevating the roads to mitigate against sea level rise, and installing new lighting systems. The reason for the time sensitivity is that the Florida Department of Transportation has a project scheduled that will range from Michigan Avenue to 63rd Street on Alton Road taking place between 2021 and 2023. It is his opinion that the City should not have this area under construction during that time because North Bay Road will be an alternate means to traverse traffic. Time is of the essence. He is asking the City Commission to consider enhancing the blue and green infrastructure in all the City's projects as indicated in the Urban Land Institute (ULI) and Harvard studies.

Mayor Gelber asked Mr. Coley to explain the meaning of blue and green infrastructure.

Mr. Coley explained that there are typically three types of infrastructure: gray, blue, and green. Gray is considered engineered structures such as pipes, pumps, and roads. Green is considered vegetation such as grass areas, trees, and things of that nature. Blue are holding ponds, reservoirs, and possibly wet lands. The two studies suggested the City add more of the green and blue areas, yet the contractors were asked to respond to a design criteria that did not include these enhancements. Currently, the City is in a cone of silence with this process. They do not have the ability to go to the potential awardee and ask them for proposals and pricing and how they would enhance blue and green infrastructure hence why they recommend the City approve an award to allow the contractors to be notified to proceed with only the design. After that, the City can then request the contractor with the enhancement costs of blue and green infrastructure enhancements. The City Commission would give the final approval on the designs.

City Attorney Aguila asked Mr. Coley whether his statement was consistent with the City Manager's recommendation in the package to award Group 3.

Mr. Coley stated that awarding Group 3 is an amendment to the City Manager's recommendation to authorize only notice to proceed for design only, and then return to the City Commission for approval.

City Attorney Aguila asked Mr. Coley whether he was amending the City Manager's recommendation on the floor during this meeting.

Mr. Coley answered in the affirmative that he is in fact amending the City Manager's recommendation. He explained that without the amendment, the City could not engage with the contractor due to the cone of silence. The addition of blue and green infrastructure will affect the overall design of the project, it is important that they discuss this with the contractor.

Commissioner Rosen Gonzalez asked whether it would be better to get the blue and green infrastructure design and then award the contract.

Mr. Coley explained that if the City were to take that approach, the project would have to be restarted from the beginning. A great deal of time would be lost.

Commissioner Rosen Gonzalez stated that this is very stressful for Commissioners. Several residents have shared photos with her of streets and businesses being completely flooded. Many residents believe they are worse off now than before. Some are even threatening to sue the City. She is now seeing the Administration rushing ahead with this project when it should pause. She addressed Mayor Gelber and asked him to lead and get a red team to fix this problem. Not all neighborhoods are in bad shape, Sunset Islands I, II, III, and IV are doing fine after the City did its resiliency project, and that is because the City did not raise the roads. She asked the Mayor and City Manager to put a six-month pause on this project.

City Manager Morales expressed his hope that the Administration receives clear direction from the City Commission on this matter. This item was deferred from last month. In fact, The City Commission could have been issuing an RFP for the entire three areas. The City is now focusing on the lowest area, which has the most need for flood protection. There needs to be a decision made today, he believes the City's commitment to move forward on this project is important.

Commissioner Samuelian stated that the red team and ULI had a lengthy discussion about undergrounding in this neighborhood. He asked how the undergrounding would affect the RFP.

Mr. Coley replied that in his opinion, if the undergrounding were to begin today the undergrounding project would take approximately seven to eight years.

Commissioner Samuelian asked whether the RFP included any undergrounding provisions.

Mr. Coley stated that undergrounding utilities is not part of this project.

Commissioner Góngora stated that it is unusual to have a City Manager recommendation modified and amended on the floor during a meeting. He is having serious concerns about the increase in road heights. Residents do not seem to have confidence in this project. He is also concerned about pausing this project, because it will not get them to a final destination. The City Commission needs to decide as to what it is going to do. He would like significant undergrounding work to take place, improve pipes, and avoid future flooding.

Mayor Gelber stated that this RFP only implicates North Bay Road. He asked members of the public who want to speak on the subject to approach the podium.

Alex Heckler, on behalf of David Mancini, spoke in favor of supporting the recommendation of this item. Group 3 is at the lowest level of elevation and in the most need of drainage, water, and wastewater. There has been much misinformation going around and designs are not modeled on modern designs. Both the ULI and Harvard studies recommended that the City not stop.

Sid Feltenstein read the Harvard study and attended the ULI session. He believes both studies were critical of the City, as they believe Miami Beach does not have a plan to live with water. The City needs a plan to know what enhanced green space will do. A model needs to be created and then financed. He cannot imagine going forward without this information. He shared a maxim he uses in his line of work: "If you don't know where you are going, any road will get you there."

Jaime Robinson, lifelong Miami Beach resident, highlighted the deficiencies in planning the Hibiscus project. This project taking place on North Bay Road is now experiencing the same problem. She wants the money earmarked for this neighborhood to be provided to this neighborhood.

Jane Kahn Jacobs, lifelong Miami Beach resident, stated that she expects the elected officials to listen to experts in the field. This is not the time to vote on awarding contracts. She wants a review of the storm water and other corroded pipes. She urged the City Commission to study the Harvard report.

Joy Malakoff stated that she served four years on the City blue ribbon panel ex-officio on sea level rise. She believes she is knowledgeable on the subject. She lives north of 59th Street, and asked the City Commission to listen to the people who live in the area. She believes the City should go forward with this part of the project. She agrees that the blue and green projects will help in the future. The City is on the right path, and should not continue putting off the project.

Nancy Bernstein stated that her street does not flood. Her street used to flood a decade ago, but since the gutters and drainage system were cleaned up there has not been any flooding. She wants the City to rethink the green and blue projects. She concluded by saying that her trust in her elected officials is changing.

Glenna Norton disagreed with the project taking place on half the street. If it is to be done, it needs to be done on the entire street. The City needs experts with training, knowledge, and goals.

Bruce Bender stated that he lives on 59th Street and Alton Road and has had four floods since moving in. He has done everything humanly possible to stop the flooding, but it is still happening. He has time stamped photos of a foot of water everywhere on and around his property. He is desperate and does not know what else to do.

David Mancini addressed Commissioner Rosen Gonzalez and stated that Sunset Harbour Islands I and II are failing because the roads were not elevated. He clarified that all the undergrounding projects have been stopped by residents; this is because of the

necessary easements that residents continually refuse. When this City Commission allows residents to dictate its projects that is when the trouble begins.

City Attorney Aguila restated that the recommendation has been amended to award the RFP for Group 3 north area to David Mancini and Sons with a contractor price of \$24 million and contingency further authorizing the Administration to issue a notice to proceed for design only with the final project design subject to and contingent upon prior City Commission approval authorizing the awards of Groups 1 and 2 at a later date.

Commissioner Alemán stated that before the City Commission starts talking about options and what they will do, she believes this conversation warrants a much lengthier discussion.

Mayor Gelber stated that he wants everyone present to know the options; the City needs to get this right.

Discussion held.

Commissioner Alemán stated that this is the most important issue the City is currently facing. It is the City's future. She shares everyone's concerns that we all want to protect our property values and have our City thrive. We need to remind ourselves of that. There is nothing wrong with the current system, only that the times have changed. This City relies enormously on its pumps. Without the pumps, North Bay Road would be in a great deal of trouble. Nature has gotten stronger, and as such, we need to be better prepared. Some people have stated that the City does not have a plan when it comes to sea level rise, and that is not true; the City does have a strategy, which is incremental.

Mayor Gelber stated that the RFP is trying to catch up with the green and blue requirements from the ULI study.

Commissioner Alemán would like to award Group 3 today and include funding for above and below ground improvements. There are funds for the above ground portion, but the undergrounding portion is another issue.

City Attorney Aguila stated that undergrounding takes much longer to complete as Mr. Coley stated previously. To do an undergrounding project, they must first determine the special assessment district and they would additionally need an estimate from FPL.

Commissioner Alemán stated that the undergrounding that took place in other neighborhoods was approximately \$20,000 per house. Any other undergrounding project should be around the same price.

Discussion continued.

Commissioner Góngora asked whether the City Commission has ever used this mechanism when there is an RFP for vote to provide funds, but instead the City Commission gives the Administration notice to proceed and go with an RFP and do enhancements and design changes.

City Attorney Aguila stated that he does not recall any instance when this has happened.

Commissioner Góngora stated that if the RFP comes before the City Commission and it needs enhancement and design changes, the proper legal vote is to reject the RFP and start over with something entirely new. He wants to move forward with this project, but he finds it incredibly imperfect. The Administration stated that the Group 3 project would cost \$24 million, but now that it needs enhancements and design changes, it will not be \$24 million, and it will be much more. He believes the contractors do not want to redo a proper RFP and incorporate the comments addressed so far. He does not want to gamble \$24 million, he wants to move forward with this project, but it must be done correctly. He does not want the neighbors to have to come back to the City Commission to complain further. He has no problem, however, in beginning the process of a special taxing district so long as the neighbors want it.

Commissioner Rosen Gonzalez stated that the pause she is requesting is not specifically for this project. Her worry is that the City is arbitrarily picking neighborhoods to do these resiliency projects. The current plan does not include blue and green areas; it is now incomplete. One cannot simply agree to add blue and green infrastructure to the swales and claim it is done. A study needs to be done. She asked how much money has been spent on the project so far.

Eric Carpenter, Assistant City Manager, replied that minimal time has been spent on this project so far, so the costs are minimal.

Commissioner Rosen Gonzalez stated that she would be in favor of rejecting this RFP today. She wants to set a meeting and incorporate blue and green areas. The City needs vision and a complete reevaluation to start over.

Commissioner Góngora agreed and stated that he is afraid that this project is not going in the right direction.

Commissioner Rosen Gonzalez stated that the City Commission needs to give direction of where this project should go.

Commissioner Samuelian stated that there is no doubt the City is in need for a flooding and sea level rise program. It needs to be done right. The mistakes that are made along the way can cause terrible problems in the long run. Doing nothing is not an option, but going about the problem the wrong way is even worse. He believes the City needs to rethink the street raising policy. He is not advocating to stop completely, but to say it must be 3.7 NAVD across the board has been the single most controversial policy that has been causing problems. He wishes people would be excited for this project, but that is not what is happening. People are complaining throughout the City, because residents are not seeing the value of what the City is doing.

Commissioner Arriola stated that he generally leans towards undergrounding utilities. The City has some magnificent homes and it looks very odd to have that in contrast with outdated utility poles. Unfortunately, the City is at the mercy of FPL in terms of undergrounding utilities. FPL does not have undergrounding as a priority. He is unsure why people are pushing for undergrounding at the moment, when it is an impossibility during the next 18 to 24 months, and even after that wait time, the project will still take at least six years. He agrees to issue another RFP to be looked into the Administration during the next 90 days and work with the Florida Department of Transportation to incorporate blue and green infrastructure.

City Attorney Aguila asked whether the procurement process could be expedited to 30 days.

Assistant City Manager Carpenter stated that would not be possible. He explained that a typical RFP, where there is a clearly defined scope, would take from 90 days to six months, even when expedited. An RFP of this magnitude with changing scope will take every bit of six months.

City Attorney Aguila stated that the scope is already there, and they are simply adding blue and green infrastructure.

Vice-Mayor Steinberg asked what the difference is between design-build and design-bid-build projects.

Assistant City Manager Carpenter explained that in the design-bid-build delivery method, the City has full design package and a direct consultant with the City to put out a bid procurement and go with the lowest responsive and responsible bidder. Design-build process hires a design builder that is a team of contract and design consultants that will put the design package together and ultimately give the City a price for the completed project. As an engineer, he prefers the design-bid-build method, but Miami Beach favors the design-build option. The problem with the design-build method is that if the City Commission wants to change the scope of the design, the designer needs to be contacted to amend the design and have a contractor again price the design changes and bring it back to the City Commission.

Discussion continued.

Commissioner Alemán asked that if the City goes forward, how the City would work with the design-build method, and getting public input into the design.

Assistant City Manager Carpenter replied that the first things they would ask the contractor when they sit down and negotiate the final contractual mechanism is for them to provide the City a copy of the public engagement and contractual requirement. There are very few things the City seems to be at odds with the residents, but they can be worked out.

Commissioner Alemán stated that some people are calling this project an experiment. She asked Assistant City Manager Carpenter whether that statement is true.

Assistant City Manager Carpenter stated that water and sewer projects are things the City has done hundreds of times. These projects take place here and throughout the country. Water and sewer repair is what it is; it is not an experiment. The Administration has implemented pipes and pumps in multiple neighborhoods in Miami Beach. The neighborhoods where the new pumps have been installed have been happy with the results. There have been a few challenges with the early projects they have implemented and multiple iterations have gone through even during the 90s. Exfiltration trenches, gravity wells, injection wells, pumped outfalls, and raised streets have all been tried out, and they are building on the lessons learned in the past to make it better. He restated that this project is not experimental as it is using tried-and-true technology.

Mayor Gelber stated that this is very difficult choice, and the truth is that every expert has stated that the City must do something to raise the streets and put in pumps. While the City is busy doing this, it needs to take care of the water needs. These are not easy things to talk about and the City's staff is trying to learn from what has been done in the past. Very few cities are as low lined as Miami Beach, and experts have stated that what Miami Beach is doing will protect the community's assets. If nothing is done, no bank or mortgage lender will provide funds, and property values will tumble in South Florida. He added that currently the only City that has not had a decrease in property values in South Florida has been Miami Beach.

Commissioner Alemán stated that if the City Commission awards Group 3 it already has the mechanisms by which the green and blue infrastructure could be introduced appropriately. She disagreed with the Mayor's statement and highlighted that Miami Beach single-family homes have in fact declined 2% in value during the last two years. She believes the City should continue its current path. This is not only her opinion, but also the opinion of bonding agents she has spoken to.

Commissioner Góngora stated that everyone has ideas on what strategy Miami Beach should take. The discussion of undergrounding utilities is nothing new to this City Commission. He does have some concerns with some of his colleagues who want to move forward at all costs. No City Commission has ever chosen to have an RFP come before the City Commission only to have it amended to ask the City Commission to trust the Administration in redrafting the RFP after the fact. He cautioned the City Commission again that the \$24 million cost is not actual given that the project needs to undergo enhancements and design changes.

MOTION 1:

Motion made by Commissioner Góngora to reject the current RFP and issue a new RFP; seconded by Commissioner Rosen Gonzalez. Voice vote: 5-2. Opposed: Commissioners Arriola and Alemán.

MOTION 2:

Motion made by Commissioner Alemán to refer the Resolution regarding the undergrounding for North Bay Road and Alton Road to the Neighborhood/Community Affairs Committee; seconded by Commissioner Rosen Gonzalez. Voice vote: 7-0.

1:32:05 p.m.

NEW ITEM:

Commissioner Alemán motioned to direct the Administration to immediately prepare the next procurement package according to the City's current roll out schedule and consider whether to have it as a design-build or design-bid-build; seconded by Vice-Mayor Steinberg. **Roy Coley and Alex Denis to handle.**

Mayor Gelber called for a vote.

Some members of the Commission voted in the affirmative, but there was confusion by some members of the Commission that a vote was being taken.

Commissioner Rosen Gonzalez asked Commissioner Góngora whether he heard the motion.

Commissioner Alemán restated the motion.

Commissioner Góngora stated that he is unclear as to what the Commissioner is asking for.

Vice-Mayor Steinberg explained that the City Commission does not want to pause, but move forward with the best process and have all the information on whether to proceed with a design-build or design-bid-build in incorporating green and blue infrastructure.

City Clerk Granado stated that although the vote took place, Commissioners Góngora and Samuelian had not yet voted.

Commissioner Rosen Gonzalez objected to the vote as it was unclear what was going on at the time. There is still confusion on the green and blue infrastructure, and whether there is green impermeable infrastructure underneath the raised roads. She does not believe David Mancini is the expert authority on this. Someone like Rem Koolhaas should be overseeing this, not Lanzo Construction. Do not bring C quality to an A quality City. We cannot continue starting projects in neighborhoods without clear vision.

Commissioner Alemán asked whether there would be a new vote.

Mayor Gelber stated that the vote should be redone as it went by fast, and people were unclear as to what was going on.

Mayor Gelber stated that this item would queue up the next project, which is what the City Commission had been talking about previously.

Commissioner Samuelian stated that he has not seen the Master Plan with the project priorities. The priorities have not been discussed by this Body and he would like that discussion to take place.

Commissioner Alemán addressed Commissioner Samuelian and stated that if he has not looked at the Master Plan in the six months since being elected – shame on him. This is the most important plan this City has ever seen. The motion she made is to go forward with the plan.

Commissioner Samuelian replied to Commissioner Alemán, with all due respect, that he has dedicated a great deal of time to the Master Plan, and even so, he is not clear as to what the priorities are. Before agreeing on the next project, he would like the City Commission to go over the Master Plan.

Mayor Gelber explained that this item is simply queueing up the next project. There will be ample time to weigh in on it. The world needs to know that we are not stopping what we are doing. He will support the Commissioner's motion.

Commissioner Samuelian offered an amendment that he would like to proceed with the next project, and have the City Commission simultaneously discuss the Master Plan and its priorities so that everyone on the City Commission has a context of the big picture.

Commissioner Alemán rejected the amendment, but invited Commissioner Samuelian to make a separate motion. The City Commission needs to send a clear message to the world that Miami Beach is committed to resiliency.

Commissioner Arriola stated that the City is doing a pause by another name. It can be called requesting a study or issuing a new RFP.

MOTION ON NEW ITEM:

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City Clerk's Note: On May 20, 2018, Commissioner Góngora requested via email that the after-action reflect that he did not vote as he intended on the motion on the "new item." Commissioner Góngora stated that he was away from the dais when the initial discussion on this item occurred, and as a result voted incorrectly.

Handouts and Reference Materials:

1. Resolution drafted by Commissioner Rosen Gonzalez
2. Email from Commissioner Góngora, dated May 21, 2018, entitled "Question."
3. Email from Raul Aguila dated May 21, 2018 to Commissioner Michael Góngora, Diana Fontani and Debora Turner RE: Question regarding correcting a vote.