



MIAMI BEACH

NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE MEETING

SUPPLEMENTAL MATERIAL

CITY MANAGER'S LARGE CONFERENCE ROOM, 4TH FLOOR, CITY HALL

AUGUST 31, 2010 2:30PM

Neighborhoods/Community Affairs Committee
Commissioner Jerry Libbin, Chairperson
Commissioner Edward L. Tobin, Vice-Chairperson
Vice-Mayor Jorge R. Exposito, Member
Commissioner Michael C. Góngora, Alternate

SUPPLEMENTAL MATERIAL FOR ITEM # 1

D ISCUSSION REGARDING WHETHER THE CITY SHOULD HAVE A GENERAL STANDING RULE TO WAIVE CERTAIN FEES, SUCH AS PARKING AND OTHER, RELATED TO RECONSTRUCTION OF PRIVATE PROPERTY DAMAGED DUE TO A SEVERE STORM EVENT OR SIMILAR NATURE EVENT. *(Returning from July 29, 2009 Neighborhoods/Community Affairs Committee Meeting - Referral originally requested by Mayor Matti Herrera Bower, July 15, 2009 Commission item C4H)*

Kevin Crowder, Economic Development Division Director

C: Mayor and Members of the City Commission
Hilda M. Fernandez, Assistant City Manager
Jorge Gomez, Assistant City Manager
Jose Smith, City Attorney
Robert Parcher, City Clerk
Alex Rey, Building Department Director
Greg Tindle, Code Compliance Director
Barbara Hawayek, Customer Service Manager
Dolores Mejia, Special Projects Administrator



MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida, 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Neighborhoods/Community Affairs Committee Members

FROM: Jorge M. Gonzalez, City Manager

DATE: August 31, 2010

SUBJECT: **Discussion Regarding Whether The City Should Have a General Standing Rule to Waive Certain Fees, Such as Parking and Other, Related to Reconstruction of Private Property Damaged Due to a Severe Storm Event of Similar Nature Event.**

BACKGROUND

This is a follow-up to the item previously brought to this Committee regarding development of post-event mitigation and assistance for businesses following certain severe storm events. The Committee met the month following a 50-year storm event that caused widespread flooding throughout the City. The damage caused by the storm, which occurred on June 5, 2009, did not qualify as a "disaster" and/or "emergency" as defined by applicable local codes, state statutes, or federal regulations. The backup material presented to the Committee at that time is attached as Attachment 1.

A complicating factor of last year's June 5th storm event is that the event itself was highly localized with only portions of Miami and Miami Beach being affected. The majority of Miami-Dade County, as well as other municipalities, were not affected by the heavy rainfall that portions of Miami Beach experienced, making the event an isolated event that affected relatively few people. In addition, in the affected areas, although there was property damage, the damage did not overwhelm the ability for people to care for themselves, meaning that the population was able to continue to provide itself food, water, and shelter. Given the fact that individuals remained able to mitigate and address the damage from local flooding on their own, usually via self resources or at times with private insurance, the event did not qualify as a "disaster" or "emergency" at a state or federal level.

Notwithstanding, an interest was expressed by the Committee for staff to perform some additional research. The Committee requested that staff further analyze the June 5th event and determine what local mitigation measures, including emergency measures, could have been considered should the City Commission be interested in providing post-event mitigation to businesses affected by a similar event in the future. The Committee also limited the discussion of potential post-event mitigation and assistance to damage and problems connected to weather-related events such as storms or similar natural causes. The Committee directed the Administration to return to the committee with a limited list of potential scenarios that an ordinance might cover and under what conditions, and that if the Committee is satisfied with that list, the Administration would then be directed to develop an ordinance for consideration by the City Commission.

It is very important to consider that any assistance provided by the City due to a local event that does not receive a federal or state emergency declaration, will be paid for solely by the City. As such the fiscal impact of such an ordinance could be considerable, depending on the nature and impact of the event.

POST-EVENT MITIGATION/ASSISTANCE

Should the City want to consider having a separate policy to address post-event mitigation and assistance not covered under a state or federally-declared emergency, any criteria that triggers the implementation of the assistance should be objective and have defined benchmarks. It would also be suggested that any program developed be designed to address impacts that affect more than one property.

The following is provided for discussion purposes.

Local Definition of Emergency that would prompt post-event Mitigation/Assistance:

The following are the thresholds that would be suggested to constitute any local action:

- Types of emergencies that could be considered for post-event mitigation/assistance could include:
 - significant, localized flooding;
 - tornado;
 - lightning strikes that cause other impacts (fire, etc.); and
 - sinkholes.
- Within the geographical area being considered for post-event mitigation/assistance, at least five (5) individual separately-owned properties must report significant damage due to a weather related event, such as a storm or similar natural cause. For purposes of this section, significant damage is defined as the ground floor being flooded by a weather event to a depth of six inches or greater; and/or structural or electrical or mechanical or plumbing damage significant enough to warrant a closure of all or a portion of the building by the Building Official or Fire Marshal; and
- Within the geographic area being considered for post-event mitigation/assistance, a higher than normal volume of vehicles must be stranded and require either physical tows or be abandoned on the side of the road due to the road(s) being impassible. For purposes of this example, "higher than normal volume" is defined as 150% of the normal volume; and
- At least 50% of the previous shift staffing complements for certain departments, including Police, Fire, Public Works, and Parking must be held over to address the issues connected with the event. This staff would be added to the normal shift complement so that there is 150% of the regular shift working the event. For purposes of this section, holdover staff, call back staff, and call in staff will all be included in the calculation of 50% of the previous shift staffing complement.

As noted, all of the above would be needed to trigger any mitigation/assistance.

Potential Mitigation/Assistance:

Should such a program be developed, any post-event mitigation/assistance would be for a specific geographic area encompassing all or a portion of the City, and the mitigation/assistance would be provided in some instances during the first 72 hours after the event and for other purposes up to ten (10) business days after the event. During this period, the following assistance might be made available:

- Towing of Cars in the Right of Way
 - Determine a grace period after water recedes before cars are towed out of the right-of-way. This grace period would vary depending on the affected area and would incur costs associated with a road closure.
 - Authorize the reimbursement of tow costs for affected vehicles, if the owner's vehicle insurance does not reimburse the owner for the tow. This would result in

*Neighborhoods Committee Memorandum
August 31, 2010
Post Storm Business Mitigation Program*

costs to the City.

- Contractors and Repairs
 - There are currently protocols in place that allow for expedited emergency repairs and after-the-fact permitting.
 - Authorize the waiver/reimbursement/discount of parking rates and rentals at metered spaces, lots, and garages after the event for contractors hired to effect repairs determined to be a direct result of the local emergency (Contractor rate is \$50/day). This concept would need to be further developed to determine for how long this would be permitted and what impacts this might have on busier lots and garages.
- Parking Meters
 - Authorize courtesy waiver of citations issued to affected vehicles connected to the event, upon request and substantiation.
 - Provide Hang Tags for access to meters upon proof of eligibility/proof of financial interest. Define who is eligible (owners, employees, etc.).
 - Determine the appropriate time limitation for these two options.
- Access
 - Authorize restricted access to the affected areas, if appropriate, to protect life and property.
- Code Compliance
 - Allow Temporary Signage in affected areas, primarily to direct customers to the business and provide information about the business. This may require an amendment to the sign code.
- Business Assistance
 - Reach out to the Small Business Development Center, the Small Business Administration and SCORE to identify resources to assist business recovery.
- Communication
 - Implement an alert system to inform stakeholders in areas likely to be affected that a localized event is expected and to recommend actions that may be taken.

This is offered as discussion points to address a very narrow situation. It should be kept in mind that should a "disaster" and/or "emergency" occur that affects the general area, it is likely that a declaration would be issued by the Governor.

Should the Committee direct the Administration to return to the Committee with an ordinance creating the mitigation/assistance program, staff will prepare additional information related to any anticipated administrative and operational challenges, as well as the fiscal and staff resource impacts of such a program.

JMG/HF/JGG/kc

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City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Neighborhoods/Community Affairs Committee Members

FROM: Jorge M. Gonzalez, City Manager

DATE: July 29, 2009

SUBJECT: Discussion Regarding Whether the City Should Have a General Standing Rule to Waive Certain Fees, Such as Parking and Other Related To Reconstruction of Private Property Damaged Due to a Severe Storm Event or Similar Nature Event

On June 5, 2009, the City experienced what has now been classified as a 50 year storm. While the flooding was severe and resulted in property damage, including vehicles and real property, the damage did not reach the level of what has been traditionally defined a "disaster" or "emergency". A "disaster" or "emergency" is defined under State law (F.S. 252.34, attached as Attachment 1) as follows:

- "Disaster" means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States.
- "Emergency" means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

A "disaster" and/or "emergency" is significant enough that many individuals have difficulty in providing for themselves and require outside assistance in the delivery of basic services, such as shelter, food, and water. The Governor will typically declare a state of emergency, which is typically followed by the President of the United States, qualifying the City to receive federal and state funds for its efforts in addressing the "disaster" and/or "emergency".

In a "disaster" and/or "emergency" situation, the City functions differently as the focus of the City government becomes one of stabilizing the situation and returning the City to normalcy. Regular rules regarding the enforcement of ordinances, pulling of repair permits, and other regulatory functions are relaxed as a practical response to the situation. In addition, many of our normal services are not offered as staff is diverted to providing shelter, food, and water to our residents. Once the situation normalizes, services and procedures return to normal.

Notwithstanding, the City did receive at least one formal request for assistance from an affected property owner. This request is attached as Attachment 2. The affected property owner did meet with City staff and with the Mayor to discuss his request. However, since the June 5th event did not meet the definition of a "disaster" or an "emergency," the Administration is limited in the assistance that can be provided. As the main request centered around a waiver of Parking meter fees and a waiver of Parking citations incurred by the property owner's contractors, the

main response was provided by the Parking Department. The business owner was offered the approved rate for meter rental for construction, which is \$5 per day, per meter for a total cost, in the specific case, of \$50 per day.

However, due to the damage to the property, and because the damage was due to an act of nature, the business owner has requested relief beyond what can be legally provided by the Administration.

This presents two separate issues:

1. Should a certain level of authority be delegated to the City Manager, or designee, to waive Parking fees, and other fees, such as Building permits, related to reconstruction of private property damage due to a severe storm event or similar nature event?
2. Should a refund of the Parking meter fees paid (if any), as well as a refund of any Parking fines paid (if any) be processed to the specific property owner?

It should be noted that both issues above will require an action of the City Commission. In addition, for item number 1, the waiver of the fees may require an offsetting payment from the City's General Fund.

In addition, if the desire is to pursue an ordinance that will allow for the City Manager to authorize the fee waivers noted above, guidance from the Committee is requested for the following:

1. How should a "severe storm event or similar nature event" be defined?
2. What is the appropriate level of waiver, is it a full or partial waiver?
3. How should the waiver process be started, i.e., should it require action of the City Commission, or should the City Manager have the ability to act based on an established criteria?
4. How should such a process be communicated to the public?
5. What is the funding source that will be utilized to address the fee waivers?

The Administration is prepared to create a process for addressing individual hardship for property damage should this be something that the City Commission would like to explore.

Attachments

JMG/TW


252.34 Definitions.--As used in ss. 252.31-252.60, the term:

(1) "Disaster" means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States. Disasters shall be identified by the severity of resulting damage, as follows:

(a) "Catastrophic disaster" means a disaster that will require massive state and federal assistance, including immediate military involvement.

(b) "Major disaster" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance.

(c) "Minor disaster" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance.

(2) "Division" means the Division of Emergency Management of the Department of Community Affairs, or the successor to that division.

(3) "Emergency" means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

(4) "Emergency management" means the preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters. Specific emergency management responsibilities include, but are not limited to:

(a) Reduction of vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural, technological, or manmade emergencies or hostile military or paramilitary action.

(b) Preparation for prompt and efficient response and recovery to protect lives and property affected by emergencies.

(c) Response to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency.

(d) Recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.

(e) Provision of an emergency management system embodying all aspects of preemergency preparedness and postemergency response, recovery, and mitigation.

(f) Assistance in anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

(5) "Local emergency management agency" means an organization created in accordance with the provisions of ss. 252.31-252.90 to discharge the emergency management responsibilities and functions of a political subdivision.

(6) "Manmade emergency" means an emergency caused by an action against persons or society, including, but not limited to, enemy attack, sabotage, terrorism, civil unrest, or other action impairing the orderly administration of government.

(7) "Natural emergency" means an emergency caused by a natural event, including, but not limited to, a hurricane, a storm, a flood, severe wave action, a drought, or an earthquake.

(8) "Political subdivision" means any county or municipality created pursuant to law.

(9) "Technological emergency" means an emergency caused by a technological failure or accident, including, but not limited to, an explosion, transportation accident, radiological accident, or chemical or other hazardous material incident.

History.--s. 1, ch. 74-285; s. 19, ch. 81-169; s. 22, ch. 83-55; s. 16, ch. 83-334; s. 7, ch. 84-241; s. 10, ch. 93-211; s. 31, ch. 2001-61.

From: drewchesler@gmail.com [mailto:drewchesler@gmail.com] **On Behalf Of** Drew Chesler
Sent: Thursday, June 11, 2009 2:46 PM
To: Wakefield, Rebecca
Subject: Re: Flooding on Alton Road

June 11, 2009

Re: IMMEDIATE HELP

Dear Rebecca,

Thank you for taking my call on behalf of the Mayor. As you are aware from our phone call both the head of Parking and the Assistant were "out to lunch" when one of the plethora of ticketing events took place and I made my daily call to no avail to the head of parking. My wife and I pay for parking decals and still get ticketed nearly every week and its gotten out of control. The below is far more serious than my wife and I continuing to support the City of Miami Beach in any way we can. Right now we need YOUR help and that of the Mayor. I do not want to leave this to chance to the PArking Dept. who have grossly mismanaged this blocks ticketing for the last several years. I would like a Memo from the Mayors office down the chain of command on a very simple issue to help us with:

Over the course of my 38 years here in this area, I have lived through many hurricanes, floods and a few tornadoes.

My properties here in South Beach have been the subject of flooding even when most sections of the City have not flooded and I have painstakingly worked and tried to assist former administrations and even this one in improving flood control, with very little of our guidance and advise taken at all. I am very familiar with flooding and spent over a decade of my life working as an expert in flood control contracted by Federal and State Governments and Private landowners.

My business is temporarily shut down and this block a disaster zone. I have no official capacity to declare it this notwithstanding the fact that my properties traverse 95% of the entirety of 14th avenue between Alton Road and West Avenue. We have over \$1,000,000 in damage to the properties and my business impaired temporarily. We are going to re-open and will be getting a series of emergency permits for work.

In the meantime, we have lots of ER Emergency Response work and my workers and contractors are being ticketed three to four times per day and further my wife and I who both lost our vehicles simply parked in metered parking are also getting tickets and I want you to know that we pay for decals all the time and still get tickets. My request to you is simple:

- 1.) For the 1200 block of 14th Street EAST of the Alley only and on both sides of 14th street that special AMNESTY BAGS be used for the next 90 days allowing my staff, contractors and others associated with Gold's Gym reconstruction project to park their unticketed.
- 2.) Mayor, in the past several years, I have paid out millions of dollars out of my pocket to repair flood damages of which insurance companies have paid peanuts less than 9% and in several instances in the past, it has been largely due to negligence. This one was way too much for the system. I have nothing but good intentions with the City and very much would like to share some thoughts and ideas that are proven in the realm of flood control. This will be quite revealing to you and not science fiction either.
- 3.) Mayor, this is a question? Has this been declared a disaster area either State or Federal? Please advise.
- 4.) Last but not least, in years past I have reached out to Mayors and City Officials and no one has ever really cared in the past so my expectations are based upon a decade plus of Apathy at the Government level. I wanted to share this with you as my businesses are icons of the local community and frankly the only International Name in Fitness that is in Miami Beach. We service a good chunk of this local community. It would be very helpful for the City to provision some relief from:

- a.) the Water Department - in terms of ameliorating costs during a period of time that is acceptable
- b.) Public Works - who is in dire need of both a comprehensive plan and serious input and also real funding to
- c.) Someone in the city other than Mike Alvarez needs to do more than slap Bank of America on the wrist for their negligence in managing the flood control area which has a deep water injection well and storm drains which I have been mentioning for years in emails and verbally and letters to the City and only once has the City done anything and then just forgets about it like we were not important as Citizens of the community. Bank of America has neglected their obligation as stewards of the land to clear professionally every month the right of way and does no proper weed control other than mowing the lawn which hurts. The City needs some guidelines for Drainage Easements and I would be happy to assist you if you would like to learn as its easy to do.

Thank you for reading and please get back to us IMMEDIATELY on putting SPECIAL BAGS on the 20 meters or so that are near Gold's Gym for 90 days.

Here are some photographs for you and your staff to view on our JUNE 5, 2009 DISASTER FLOOD RECOVERY PROGRAM:

CLICK HERE: http://web.me.com/enchesler/Site/Golds_Flood.html

Regards,
Drew Chesler
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Mae West - "I like restraint, if it doesn't go too far."