

MEMORANDUM

Agenda Item No. 5(C)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: June 2, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to restoration of right-of-way after public work or construction; amending section 2-103.1 of the Code; requiring that certain roads, sidewalks, curbs and gutters removed, damaged or destroyed during construction be replaced with same material; directing that Public Works Manual include specifications that infrastructure removed, damaged or destroyed in right-of-way be replaced with same material

This item was amended at the 4-20-20 Chairwoman's Policy Council Committee to clarify that the ordinance permits and does not prohibit the use of improved or upgraded materials for the restoration of roads, sidewalks, curbs and gutters within an existing right-of-way located within unincorporated Miami-Dade County, or in right-of-ways located within municipalities that are maintained by the County, which is removed, destroyed, or damaged by construction or public work.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez and Co-Sponsors Chairwoman Audrey M. Edmonson, Commissioner Sally A. Heyman, Commissioner Eileen Higgins, Commissioner Dennis C. Moss, Vice Chairwoman Rebeca Sosa and Senator Javier D. Souto.



Abigail Price-Williams
County Attorney

APW/uw

Memorandum



Date: June 2, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in blue ink, appearing to read "Carlos A. Gimenez", written over the name and title in the "From:" field.

Subject: Fiscal Impact Statement for Ordinance Relating to Restoration of Right-of Way after Public Work or Construction

The implementation of this ordinance will have a fiscal impact to Miami-Dade County that is difficult to determine. To the extent that future restorations require the use of materials that is more expensive than what would otherwise be required to properly repair the right-of-way, restoration cost would be higher. However, as noted in the social equity statement, such repairs using a material that is durable would reduce the incidences of replacement or future repairs therefore, reducing future maintenance costs. Any additional cost associated with the implementation of this ordinance would be supported by the funding source identified to perform the initial project.

A handwritten signature in blue ink, appearing to read "Jennifer Moon", written above the name and title in the signature block.

Jennifer Moon
Deputy Mayor

FIS04420 200526

Memorandum



Date: June 2, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in blue ink, appearing to read "Carlos A. Gimenez".

Subject: Social Equity Statement for Ordinance Relating to Restoration of Right-of Way after Public Work or Construction

If implemented, the proposed ordinance would benefit the community as it would ensure a cohesive aesthetic appearance throughout the community. Also, using a material that is durable would reduce the incidences of replacement or repairs therefore, reducing disruptions to commuters.

A handwritten signature in blue ink, appearing to read "Jennifer Moon".

Jennifer Moon
Deputy Mayor

SE04420 200526



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: June 2, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 5(C)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☒ 6 weeks required between first reading and public hearing
- ☒ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(C)
6-2-20

ORDINANCE NO. _____

ORDINANCE RELATING TO RESTORATION OF RIGHT-OF-WAY AFTER PUBLIC WORK OR CONSTRUCTION; AMENDING SECTION 2-103.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING THAT CERTAIN ROADS, SIDEWALKS, CURBS AND GUTTERS REMOVED, DAMAGED OR DESTROYED DURING CONSTRUCTION BE REPLACED WITH SAME MATERIAL; DIRECTING THAT PUBLIC WORKS MANUAL INCLUDE SPECIFICATIONS THAT INFRASTRUCTURE REMOVED, DAMAGED OR DESTROYED IN RIGHT-OF-WAY BE REPLACED WITH SAME MATERIAL; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, construction or public work within an existing right-of-way commonly involves the destruction and loss of use of roads, sidewalks, curbs and gutters, thereby disrupting the day-to day life of our residents, including the elderly and disabled, and adjacent private property owners; and

WHEREAS, construction and public work within the right-of-way also commonly involves cutting pavement which may degrade the pavement structure, such as making pavement rougher and creating discontinuities in the pavement structure; and

WHEREAS, when pavement on roads, sidewalks, curbs and gutters is replaced with material different than the original pavement what typically results are disjointed right-of-way projects that look sloppy to our County residents and visitors; and

WHEREAS, replacing cut pavement of one material with a different material, for example replacing concrete with asphalt, also lessens the durability of our County right-of-ways; and

WHEREAS, less durable right-of-ways lead to increased replacement and repairs which cause more inconvenience for our residents and visitors and increased safety hazards; and

WHEREAS, section 2-103.1 of the Code of Miami-Dade County, Florida, requires any person, corporation, partnership, association, County department or other legal entity performing any construction or public work within an existing right-of-way to restore the right-of-way, including sidewalks, curbs and gutters, landscaping to their preexisting condition; and

WHEREAS, this Board desires to require that pavement in the right-of-way removed, damaged or destroyed during construction or public work be replaced with the same type of material as that which existed before the construction or public work was started,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-103.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-103.1. Construction of public utilities or works in public rights-of-way; construction of paving and drainage on private property—Permit required; effect of installation of County facility; exemption.

* * *

- (b) Whenever any person, corporation, partnership, association, County Department or other legal entity performs any construction or public work within an existing right-of-way located within unincorporated Miami-Dade County, or in right-of-ways of roads or streets located within municipalities that are maintained by the County, the right-of-way, including sidewalks, curbs and gutters, and landscaping, must be restored to their legally permissible preexisting condition, including any aesthetic enhancements thereto and any adjacent private property damaged during construction, within: (a) 30 days of completion of the construction or public work in that right-of-way or within 30 days of damage to the affected property or area, which ever occurs first; or (b) within 15 days of completion of the construction or public work in the right-of-way or within 15

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

days of damage to the affected property, which ever occurs first, if such right-of-way is located within the Rapid Transit Zone as identified in chapter 33C or within an urban center or urban area district as identified in chapter 33. Prior to the time such construction work begins, the contractor, by posting the construction site, shall inform the local community of the requirement to restore the right-of-way within the applicable time period as well as any affected adjacent private property and the fines that could be imposed for each failure to do so. >>In restoring the roads, sidewalks, curbs and gutters in the right-of-way as required by this section, the person, corporation, partnership, association, County Department or other legal entity that performed the construction or public work shall replace the removed, destroyed, or damaged roads, sidewalks, curbs and gutters in the right-of-way with the same material as that which existed before the construction or public work was started.<< >>Nothing herein prohibits the use of improved or upgraded materials for the restoration of roads, sidewalks, curbs and gutters within an existing right-of-way located within unincorporated Miami-Dade County, or in right-of-ways located within municipalities that are maintained by the County.<<² All work to be done pursuant to this Section shall be performed in compliance with the Public Works Manual. Any entity failing to restore the right-of-way to its preexisting condition or better within the time permitted shall be subject to a civil fine of five hundred dollars (\$500.00) per violation per day until such time as the right-of-way is restored, as well as five hundred dollars (\$500.00) per day for each affected adjacent private property until it is restored.

Section 2. The Public Works Manual shall provide specifications that the restoration of roads, sidewalks, curbs and gutters within an existing right-of-way located within unincorporated Miami-Dade County, or in right-of-ways located within municipalities that are maintained by the County, which is removed, destroyed, or damaged by construction or public work shall be replaced with the same material as that which existed before the construction or public work was started.

² Committee amendments are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word “ordinance” may be changed to “section,” “article,” or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Eduardo W. Gonzalez

Handwritten signatures of GBL and EWG. The signature GBL is above the signature EWG, which is written over a horizontal line.

Prime Sponsor: Commissioner Joe A. Martinez
Co-Sponsors: Chairwoman Audrey M. Edmonson
Commissioner Sally A. Heyman
Commissioner Eileen Higgins
Commissioner Dennis C. Moss
Vice Chairwoman Rebeca Sosa
Senator Javier D. Souto