

City of Coral Gables City Commission Meeting
Agenda Item F-9
February 26, 2019
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, Billy Urquia

Public Speaker(s)

Agenda Item F-9 [0:00:00 p.m.]

An Ordinance of the City of Coral Gables, Florida, amending Chapter 74 -Traffic and Vehicles, Article IV- Bicycles, Skateboards, Scooters, Shared Mobility Devices, and Other Similar Devices of the City Of Coral Gables Code to include additional definitions, requirements for operation of shared mobility devices programs, and additional provisions regarding operation of shared mobility devices; providing for a severability clause, repealer provision, codification, and providing for an effective date.

Mayor Valdes-Fauli: We're going to go on and take the last one before lunchtime, which is the one on scooters.

Commissioner Mena: Which item?

City Attorney Ramos: That is F-9, an ordinance of the City Commission of Coral Gables...

Mayor Valdes-Fauli: F-9.

City Attorney Ramos: Florida, amending Chapter 74 - Traffic and Vehicles, Article IV - Bicycles, Skateboards, Scooters, Shared Mobility Devices, and Other Similar Devices of the City of Coral Gables Code to include additional definitions, requirements for operation of shared mobility devices programs, and additional provisions regarding operation of shared mobility devices; providing for a severability clause, repealer provision, codification, and providing for an effective date. Ms. Throckmorton.

Assistant City Attorney Throckmorton: Mayor, Commissioners, as we spoke at the last meeting, this is the first reading of a comprehensive scooter ordinance that codifies many of the provisions of our memorandum of understanding with our two current operators. There are a couple things in here that are different than our current MOUs that I wanted to point out to you. There is a cap in the ordinance that sets a citywide cap of 300 motorized scooters to be portioned out among one or many vendors, whatever happens after the City's RFP process. It also allows the City to have no programs at all for shared mobility devices. It raises the age of operation from 16 to 18. It also requires a performance bond, and if the Commission would like to, a fee of \$1 per scooter per day, which is something that many other municipalities have implemented. In the past, you all have expressed the desire not to do that. So, it is in this ordinance, but obviously, we're looking for your input on that. It codifies a quicker response time to relocating or rebalancing scooters and provides for reimbursement for expenses that the City takes on in order to enforce this ordinance.

Commissioner Quesada: So, the dollar per day -- I'm looking at it, page 5 of 6, subsection F. Is there any other -- I mean, do we charge taxis like to operate in our city?

Assistant City Attorney Throckmorton: I believe we have annual local businesses taxes for many businesses, so I think this is sort of a way to...

Commissioner Quesada: Would a...

Assistant City Attorney Throckmorton: Calculate that.

Commissioner Quesada: Would a scooter company be required to have a business tax to operate in the City?

City Attorney Ramos: Yeah. This is an additional...

Assistant City Attorney Throckmorton: They do.

City Attorney Ramos: This is in addition to that. A lot of cities have done this. We had initially talked about doing it and the Commission did not wish to go down this route. We're just putting it in here for consideration.

Commissioner Quesada: It's almost like we're -- you know, I'm open either way. I just -- it makes me think like -- if it's not something we've done in the past, it's almost like we're almost discouraging them not to -- you know, we're making it more difficult. But if it's a nominal charge, then we can set some money aside for I don't know, for policing these or whatever else we would need to do, whatever costs we would take on.

Mayor Valdes-Fauli: Yeah. I think we should.

Commissioner Quesada: And that makes sense.

Mayor Valdes-Fauli: Yeah.

Commissioner Quesada: I just -- I'm sort of...

Mayor Valdes-Fauli: It's a nominal charge.

Commissioner Quesada: I don't want to penalize someone for doing it when I think it's worked out well so far.

Mayor Valdes-Fauli: Do you make a -- will you make a motion?

City Attorney Ramos: Well, there's a couple different...

Commissioner Mena: Well...

Assistant City Attorney Throckmorton: Yeah.

City Attorney Ramos: Issues.

Assistant City Attorney Throckmorton: And so beyond that, there's also the idea that our current MOUs don't -- like I said, don't have all of these provisions in them and so the applicability of this ordinance to those MOUs that you all have extended through the execution of an agreement following a procurement process. So, direction from you all as to how this would apply to the current MOUs. Like I said, there's only a little bit of difference. I mean, this codifies most of the provisions we have, just those ones I pointed out, the performance bond, the fees, the response time and the age of riders...

Commissioner Mena: And the...

Assistant City Attorney Throckmorton: Or users.

Commissioner Mena: Two things: to your point, I mean, I think you're going to have every...

Commissioner Quesada: Did we lose anyone?

Commissioner Mena: Every company...

(COMMENTS MADE OFF THE RECORD)

Commissioner Mena: In the country probably looking to try to come in on this RFP so -- and probably happy to pay it, so I don't...

Commissioner Quesada: Yeah. That's a good point.

Commissioner Mena: You know, I don't...

Commissioner Quesada: That's a good point. And it's going to take more policing on our part so...

Commissioner Mena: Right.

Vice Mayor Lago: But isn't that...

Commissioner Quesada: That helps cover the cost.

Vice Mayor Lago: My understanding is that's the norm in other cities, correct?

Assistant City Attorney Throckmorton: In most other...

City Attorney Ramos: Correct.

Assistant City Attorney Throckmorton: Municipalities have...

Commissioner Quesada: I hadn't heard that.

Assistant City Attorney Throckmorton: Included those fees.

Vice Mayor Lago: And I -- the comment that you made -- I just started -- it started making me think right now. I said we don't want to defer people from getting involved, but then I remembered what...

(COMMENTS MADE OFF THE RECORD)

Vice Mayor Lago: We had in the -- we had discussed in our briefing. This is pretty much the norm...

City Attorney Ramos: And it's...

Vice Mayor Lago: That other cities are putting...

City Attorney Ramos: And it's very minimal. It's...

Vice Mayor Lago: Yeah.

City Attorney Ramos: A dollar per device per day or 365 per device per year.

Assistant City Attorney Throckmorton: And the City has a cap on...

City Attorney Ramos: That's nominal.

Assistant City Attorney Throckmorton: Of 300, so...

Commissioner Mena: Or whichever is lower.

City Attorney Ramos: Or, right. So, if you're here for less than...

Assistant City Attorney Throckmorton: Per device.

City Attorney Ramos: A year...

Commissioner Mena: Oh, I see what you mean.

Vice Mayor Lago: I think the numbers that we ran...

Assistant City Attorney Throckmorton: It'll be paid...

Vice Mayor Lago: I think the numbers we ran...

Assistant City Attorney Throckmorton: Monthly or annually, depending on how you're operating and how those numbers fluctuate. So, obviously, we have built in that the City staff works with the operator to determine what the proper number...

Commissioner Quesada: Well, it...

Assistant City Attorney Throckmorton: Of scooters to be deployed is. But if there's a citywide cap of 300, the City would never be making more than \$300 per day if 300 scooters were operating.

Commissioner Quesada: So, I just -- simple math. Let's assume the RFP, we end up with one, the fee is -- and they deploy all 300, it just maximizes the highest possible impact on someone, it's a \$109,000 fee. It seems high. But look, if they're all willing to pay and there's no issue, then it's -- I think it's great for us because eventually, if there are 300, we'll probably need to have a dedicated staff person dealing with it on a day to day basis.

City Attorney Ramos: I think it may also lead to real serious companies coming.

Commissioner Mena: Yeah.

City Attorney Ramos: Because there's a lot of these popping up.

Commissioner Quesada: Yeah.

City Attorney Ramos: So, if they're able to absorb the \$109,000 a year that says something about the company.

Commissioner Mena: How did we get the 300?

Commissioner Quesada: Again, I just didn't want it to discourage from coming in, but you're right. You're right when you said we have so many...

Commissioner Mena: Plus we don't have to deploy 300.

Commissioner Quesada: We got to read...

Assistant City Attorney Throckmorton: No. That's...

Commissioner Quesada: Is there two readings?

Assistant City Attorney Throckmorton: That's to be deployed -- that's to be determined with staff. And the 300 number, just...

Commissioner Mena: Yeah.

Assistant City Attorney Throckmorton: To your point, Commissioner Mena, was in discussions with the Assistant City Manager and with Public Works staff. They've previously represented to you all that they think a saturation point is probably somewhere around 250.

Commissioner Mena: How many are out right now? Do you know?

Assistant City Attorney Throckmorton: I believe at the last Commission meeting they said it was about 150 between the two operators, so that's half, you know -- we're operating with half of the 300 cap now.

Commissioner Mena: I'd like to have a discussion on that, but on second reading. I...

Assistant City Attorney Throckmorton: Okay.

Commissioner Mena: That's the only part of this that to me, I just feel like it's an arbitrary number and it's double what we're seeing out there right now, so it's not an insignificant increase.

City Attorney Ramos: I think it would be helpful to have that input now so we could...

Assistant City Attorney Throckmorton: Draft...

City Attorney Ramos: Reflect it at the next...

Commissioner Mena: Yeah. I just -- unfortunately, I don't see any of the usual suspects here...

City Attorney Ramos: Mr. (INAUDIBLE) was here earlier.

Commissioner Quesada: Yeah.

Commissioner Mena: To give us data, but...

Commissioner Quesada: He...

Commissioner Mena: But I...

Commissioner Quesada: He told me he had to run out.

Assistant City Attorney Throckmorton: But I will say I believe at the last Commission update that Mark Brown gave you that there were about 75 and 79, I think, between the two operators, so about 150 is what's currently operating and that...

Commissioner Mena: I'd also like to retain as much...

Assistant City Attorney Throckmorton: Discretion.

Commissioner Mena: Control...

Assistant City Attorney Throckmorton: Well...

Commissioner Mena: As we can.

Assistant City Attorney Throckmorton: If you...

Commissioner Mena: In other words -- if -- you know, I understand they're cool with 300. They'll be...

Assistant City Attorney Throckmorton: Sure.

Commissioner Mena: Cool with 5, but...

Assistant City Attorney Throckmorton: That's the max -- maximum...

Commissioner Mena: That's not our role here.

Assistant City Attorney Throckmorton: Allowed.

Commissioner Quesada: No, no. There's a lot of control in that.

City Attorney Ramos: There's catch-all language.

Assistant City Attorney Throckmorton: Yes. The cap is...

Commissioner Quesada: You should read the -- yeah.

Assistant City Attorney Throckmorton: Not at all set that that's what should be operating at the time. That's a maximum allowable.

Commissioner Mena: Right.

Assistant City Attorney Throckmorton: The cap is, of course, able to be modified by the City Manager, at his or her discretion. And any -- the amount that are deployed at any one time have to be done in agreement with Public Works staff. So, if Public Works determines that 50 is the appropriate number for Coral Gables, that's what would be deployed (INAUDIBLE).

Commissioner Quesada: Well, here's the thing and it says it, City Manager or designee reserves the right to eliminate any and all shared mobility device programs at any time for any reason, so it's very strong in our favor that...

Commissioner Mena: Good.

Commissioner Quesada: We can control it.

Assistant City Attorney Throckmorton: The 300 was a -- sort of the upper limit that we thought would ever, ever operate in the City at this time, given the dynamics of the city now, given the status of the Legislature, where they can be ridden or not, but that's the maximum that the City at this point would ever allow, consider operating and so I wanted to codify that at this moment.

Commissioner Quesada: So moved.

City Attorney Ramos: Did we talk about the performance bond?

Assistant City Attorney Throckmorton: So, the applicability of the performance bond and the fee requirements to our current MOUs. The performance bond is something that a lot of municipalities are instituting to allow the City to retain that in case there is damage to our rights-of-way from operation of these vehicles. So, that's one thing, whether or not we want to apply that to our current MOUs. Those have been extended...

Commissioner Quesada: What would we use that for? We -- I mean, so -- okay, I see it's \$50,000. I'm looking at it. What's the point? I mean, it's not like a construction project.

Assistant City Attorney Throckmorton: No. It would be if there's damage to...

Commissioner Quesada: Why would we draw against it?

Assistant City Attorney Throckmorton: Damage to our rights-of-way.

City Attorney Ramos: If they start to make holes in the tile in Miracle Mile.

Vice Mayor Lago: This gives you...

Assistant City Attorney Throckmorton: They crash into City buildings when they're being deployed.

Vice Mayor Lago: It gives you coverage -- additional coverage above and beyond...

Commissioner Quesada: Yeah, okay.

Vice Mayor Lago: We use it...

Commissioner Quesada: Okay.

Vice Mayor Lago: We use it...

Commissioner Quesada: Okay.

Vice Mayor Lago: We use it on all the construction projects. But again, that also raises the cost of doing business too.

Assistant City Attorney Throckmorton: It does.

City Attorney Ramos: Right.

Vice Mayor Lago: So, I just want to -- so you know. But it's a good ability to cover ourselves.

Assistant City Attorney Throckmorton: I believe...

Vice Mayor Lago: Let me...

Assistant City Attorney Throckmorton: I believe the 50,000 number -- I mean, you could also relate it to the cost of Code Enforcement officers, police officers, you know.

Vice Mayor Lago: Let me ask this just one question of my colleague, Commissioner Mena. I think you and I are the ones that live in areas where possibly people are using these scooters the most. Do you get -- are you -- you don't see any issues at all in your neck of the woods?

Commissioner Mena: No, it's not...

Vice Mayor Lago: I don't have any issues either. That's why I was wondering.

Commissioner Mena: No.

Vice Mayor Lago: I mean, once in a...

Commissioner Quesada: You don't see them?

Vice Mayor Lago: I do, I do.

Commissioner Quesada: I see them right in front of the university.

Vice Mayor Lago: No, I do. I see them all the time. But I'm just saying I don't...

Commissioner Quesada: And on the other side, on the sidewalk.

Vice Mayor Lago: They're refreshing them enough...

Commissioner Mena: Right.

Vice Mayor Lago: They're refreshing them enough in the sense of -- and again, I can't even remember who the provider is that's doing it in my neighborhood.

Commissioner Quesada: Yeah.

Vice Mayor Lago: But the point is that they're refreshing enough that -- I mean, I see them tip over once in a while, but...

Commissioner Quesada: Yeah.

Assistant City Attorney Throckmorton: They should be...

Vice Mayor Lago: It's not an issue.

Assistant City Attorney Throckmorton: Rebalanced.

Vice Mayor Lago: It's not an issue. Like I don't see them in the middle of the street. I don't...

Assistant City Attorney Throckmorton: They should be rebalanced daily. That's codified as part of this and as part of our MOUs for the current operators. And this codifies that there has to be a response within two hours during business day -- during regular business hours if there are complaints or they've been staged inappropriately or parked inappropriately.

City Attorney Ramos: So, if you adopted this version, you would be including the performance bond, you would be including the revenue sharing, and you would be capping at 300, at the Manager's discretion. The additional question then is do we want to apply these now to our current agreement.

Assistant City Attorney Throckmorton: The current agreements are written through the execution of an agreement following a formal procurement process or formal competitive...

Vice Mayor Lago: I don't...

Assistant City Attorney Throckmorton: Solicitation. So, it will...

Vice Mayor Lago: I'm of the belief now -- I mean, I think it's just more work.

Commissioner Mena: I would maintain the status quo...

Vice Mayor Lago: Yeah.

Commissioner Mena: Until...

Vice Mayor Lago: Maintain it.

Mayor Valdes-Fauli: Okay.

Assistant City Attorney Throckmorton: So, these provisions would become effective immediately, but we would not apply them to our current two memorandums of understanding.

Vice Mayor Lago: No, apply them to the RFP.

Commissioner Keon: Right.

Assistant City Attorney Throckmorton: Yes.

Commissioner Keon: I think it's after the...

Assistant City Attorney Throckmorton: The two current...

Commissioner Keon: RFP.

Assistant City Attorney Throckmorton: Ones.

Commissioner Keon: After the procurement process.

Assistant City Attorney Throckmorton: Yeah, the two pilots.

Commissioner Keon: No.

Mayor Valdes-Fauli: Okay. Do I hear a motion?

Commissioner Quesada: So moved.

Mayor Valdes-Fauli: Come on.

City Attorney Ramos: It's a public hearing item. I'm not sure if anybody wants to speak.

Commissioner Mena: Did you have...

Mayor Valdes-Fauli: No, no.

Commissioner Mena: Okay.

Mayor Valdes-Fauli: Come on. Okay. Will you call the roll, please?

City Clerk Urquia: I'm sorry. Who seconded?

Commissioner Keon: Commissioner Mena.

Commissioner Mena: Yes.

Commissioner Quesada: Yes.

Commissioner Keon: Yes.

Vice Mayor Lago: Yes.

Mayor Valdes-Fauli: Yes.

(Vote: 5-0)

Mayor Valdes-Fauli: We're going to take an hour break and then continue.