

**City of Coral Gables City Commission Meeting  
Agenda Item I-5  
January 12, 2016  
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  
Parking Director, Kevin Kinney**

**Public Speaker(s)**

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Agenda Item I-5 [3:10:52 p.m.]  
Status update on the Booting Ordinance.

Mayor Cason: Okay, the last item is I-5, which (INAUDIBLE)...

Commissioner Keon: Thank you.

Mayor Cason: Booting.

City Attorney Leen: Yes. And Mr. Kinney...

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Agenda Item I-5- Status update on the booting ordinance

Mayor Cason: Which in my college means something different than I think what they have here.

City Attorney Leen: I'm sorry for the brevity of the title. This is something the City Manager and I are both working on. And really, I'm going to turn it over to Mr. Kinney, except to tell you that we're asking for some guidance from the Commission because you -- what we determined legally you have tremendous authority here. The County Code, even though there's a booting ordinance and a towing ordinance, both say that the City can basically replace it with their own. So, you know, whether you decide you want to go with booting or more with towing or some combination with a warning system, that's why Mr. Kinney's here to advise you and I'm here to implement whatever you tell me in terms of the law, and the City Commission -- I mean, the City Manager in terms of your will and making sure it happens.

Parking Director Kinney: Mr. Mayor, I think this will go pretty quick. The fortunate thing is the condition that kind of brought this discussion forward has been resolved. That parking lot where the booting was occurring is now in our control. Nobody is being booted for not paying for parking. But we do know -- at least in a few situation where there will be more private commercial operations of parking in Coral Gables, that are if not already happening will be happening. So, we know the issue of impounding, whether it's by towing a vehicle or booting a vehicle will likely become more of an issue. Historically private parking operations on parking lots has not happened much in Coral Gables. So, like Craig said, the County has an ordinance on booting and an ordinance on towing. Essentially, it's the way private operators enforce their parking. If you don't pay, we're going to impound you. And at that particular lot where it was happening, we were getting five or six or seven people booted every night. And of course, the assumption of everybody who was booted was that it was the City doing it. And either the police or my enforcement officers were getting called out there five or six or seven times a night and explaining it's not a City lot. There are a lot of options. We probably do have to allow the private operators some way to enforce their requirements -- payment requirements. I can tell you in one situation in -- down near South Miami in the Riviera neighborhood where we wanted a private lot to look more open and available to the public, what we negotiated with the property

owner was they would take the gates down and open the lot up and install a payment mechanism. And rather than having him impound vehicles, we agreed to walk through the lot and we executed the contract with them where if somebody doesn't pay, they get a parking citation. I'm not sure we can require everybody to do it that way, but there are ways that are more customer friendly than having six or seven cars booted on a parking lot. And I think that's just a matter -- now that we have a little bit of time to think about this, it's just, like Craig mentioned, to sit down and try and draft our own impound requirements. Now, booting is very visible and it usually winds up in some kind of confrontational episode right there on the street. Towing, you don't get the confrontational episode there on the street, but you actually make it more inconvenient because then they have to go someplace to get their car. And right now, the County ordinance is that that place where the storage happens only needs to be open from 10 am to 6 pm. Well, most of these impounds are happening in the evenings, so there we're making somebody wait until tomorrow to get their car back. And I should, in full disclosure, let you know the City does impound, but we only impound if somebody's been cited five times and have chosen to ignore all five citations and they're delinquent on all five citations. So, it's essentially a (INAUDIBLE) provision. That's the only time we would impound. Normally, if somebody is in one of our facilities and fails to pay, it's an \$18 parking citation. That's it.

Mayor Cason: If we went to -- allow them to do towing, would they have to use our tower, where we control the charges and they couldn't charge a thousand dollars or some crazy number?

Parking Director Kinney: You could make that requirement. Right now, they have -- the requirement is that the signage has to clearly indicate that you're liable to be towed if you parked here without paying. It has to indicate the company, contact information, address, and the amount of the impound fee. If that signage is on the lot, then there's really nothing that the City can do to -- we can just require that they follow the rules, essentially.

Vice Mayor Quesada: Does -- our towing contract, I forget, it doesn't cost us anything, does it? It does?

Parking Director Kinney: No. And in fact, I believe Police collects an administrative fee that's a minor fee.

Vice Mayor Quesada: Because, you know, what I was discussing with the City Manager, you're absolutely right. People find booting more offensive, but it's actually more convenient to get booted than to get towed to another location. Think about it. You have your car -- whether you have a new car or you have an old car, you don't want someone moving your car to another location and putting it in a lot and you have to wait until the next day and you have to go there. It's a pain in the butt. Rather, if you get booted, you can just sit there, call the City or whatever department and they'll come out and you pay the fine and do whatever you have to do...

Parking Director Kinney: And you can make requirements that they have to be able to respond within a certain timeframe.

Vice Mayor Quesada: But the general public finds it so much more offensive to get booted, yet it's actually more convenient to get booted. I mean...

Mayor Cason: And the person there who takes it off is going to get the verbal abuse from the -- Why did you do this to me? I was just three minutes. I was taking care of my sick mother. You're going to...

Vice Mayor Quesada: But it's better to get booted than to have to go out to a lot.

Mayor Cason: Yeah, yeah.

Vice Mayor Quesada: So, I mean, it makes me want to say that we should only do booting and not do any towing because it's more convenient, but people find that to be more offensive.

Commissioner Keon: Yeah, but you know, booting is -- I think it also becomes kind of predatory.

Vice Mayor Quesada: And towing isn't?

Commissioner Keon: I think they both are.

Vice Mayor Quesada: They're taking your car.

Commissioner Keon: I think they both are. I wouldn't like to see either one. I don't want to...

Vice Mayor Quesada : But we have to do something.

Commissioner Lago: What about a sticker?

Commissioner Keon: Well, yeah, you can put that sticker on your -- that huge sticker on your...

Commissioner Lago: (INAUDIBLE) put stickers on the window which are extremely difficult to remove.

Commissioner Keon: On like your passenger side, you know, your driver's side window. There's places that put those huge stickers on your window that...

Vice Mayor Quesada: Can't get them off.

Commissioner Lago: Very...

Commissioner Keon: You can't get them off.

Parking Director Kinney: County Code right...

Commissioner Keon: So you're very careful where you park.

Parking Director Kinney: Yeah, County Code right now says that that sticker has to be easy to peel off. That's what the Code says. I'm not saying...

Commissioner Lago: I think "easy to peel off" is up for interpretation.

Commissioner Keon: But you know, I...

Vice Mayor Quesada: But the duct tape affixing it doesn't have to be.

Commissioner Lago: Well, there's glue...

Commissioner Keon: But the only places...

Vice Mayor Quesada: Yeah.

Commissioner Keon: You know, I think the issue is in parking lots and it's in private parking lots that are not attended.

Parking Director Kinney: Well, I would say there's even two levels in the parking lots. We have the bank parking lot or the medical office parking lot...

Commissioner Keon: Right.

Parking Director Kinney: Where there's never public parking available, and they have the signs up and they have somebody from -- that's going shopping at Ross parks in the medical office

parking lot. They have a guard out there, and as soon as they see the person walk across the street, they call the towing company and they come out and tow. We don't get a lot of complaints about that because it's hard to deny that you were using somebody else's property. But there are going to be more and more -- or I don't know. We actually have some control on how many have occurred, but more private lots that are operated as parking enterprises, commercial parking operations.

Commissioner Keon: I mean, why can't you just require that they have the -- you know, the -- where you take a ticket and on your way out, you know, you pay whatever the -- how much it is.

Parking Director Kinney: Most of these are going to be small lots, like the one we just did with the post office.

Commissioner Keon: Well, then they could...

Parking Director Kinney: And that doesn't...

Commissioner Keon: Contract with us and we'll (INAUDIBLE) for them.

Mayor Cason: Well, two options you could have -- at the very least, you ought to have a sign that says if you don't pay, you're going to get booted, if you go the booting way. But the other thing is, in the middle of the night when they happen, is that private operator going to have somebody around to come out and take the boot off it when they come back from the bar at 1 o'clock? Probably not.

City Attorney Leen: Well, just -- Mr. Mayor, there were three things that came up in the discussions that I was going to work into the ordinance, if it's okay with you. One, which the City Manager mentioned, was having the pay stations be a different color so it's clear that if it's a private pay station it's not a City pay station. And that issue has largely been resolved because

it's not the same lot, but people could still make -- you know, the lot where the problem was occurring is now controlled by the City, but that could happen elsewhere. People might think it's a City lot and think the City's doing it. So, that's one thing we're going to do, put that in there, if you're okay with that. Number two is, you could include a provision that requires the lot to be attended, you know, by someone. You could impose that sort of requirement on someone wanting to do business here. That could help a lot of these issues to make sure that someone pays before they leave if they forget. And then the third thing is you could have very serious penalties if they wrongfully boot or tow someone, I mean, very serious penalties; \$500 fines, imprisonment, I mean, whatever you want to do, but you can do it. So, I mean, that's another way to stop this sort of predatory booting. In fact, we could create -- you could create an ordinance against predatory booting if it's done without, you know, not in the right time or if there's any sort of thing about it that's incorrect, you can seriously penalize it, which might make people less likely to do it.

Commissioner Slesnick: Are there other parking lots that the City has where -- I mean, with surface parking in Coral Gables where cars are being booted besides like the back of Seasons 52?

City Manager Swanson-Rivenbark: They're not the City's. They're private land.

Commissioner Slesnick: No, and that's what I mean, the private parking lots.

City Manager Swanson-Rivenbark: Yes.

Commissioner Slesnick: I just -- the last person I saw, I came out behind Seasons 52 and a lady had two children with her in the car and her car was booted. It's just very difficult if you have children and your car is towed, how are you going to get the kids that are supposed to be in car seats that are under 4 and pick up your car and...

Vice Mayor Quesada: You can't do it.



Commissioner Slesnick: It's just very difficult. I don't like either one of them. But is there a way of writing on the pavement or some way identifying that your car will be towed or -- I mean...

Parking Director Kinney: Well...

Commissioner Slesnick: Do we have regulations against...

Parking Director Kinney: Even the current code says that it has to be clearly visible. The tow away letters...

Commissioner Slesnick: No, I...

Parking Director Kinney: On the sign have to be two inches. The -- or have to be four inches and then information about impounding has to be in two-inches letters and they have to be visible.

Vice Mayor Quesada: Maybe here's an idea -- I've seen the sign and I've noticed that, you know, it's funny after we negotiate our first towing contract for the City, when I first got elected, I started noticing the signs in parking lots. What if when you -- so we have two different options in the City, one is pay by phone. Maybe we can implement something through pay by phone that if you pay by phone it'll tell you if you don't pay you'll get towed or booted, whatever it is and we have some sort of option that way through the phone when you pay that way.

Commissioner Slesnick: But that's public.

Vice Mayor Quesada: But some private lots do that as well. And...

Parking Director Kinney: Yes, some operators have that.

Vice Mayor Quesada: And -- some operators and maybe something -- it'll be a requirement we impose on them if you have a private lot. Or sometimes you have to go to the machine, you print out the ticket and we have to put it clearly on the ticket. Yeah, you can park until 3:53 pm, and then on the other side, you will be towed or you will be booted, if you're not in compliance.

City Attorney Leen: That could definitely be done. You have a lot of authority over what you require, and I wouldn't understate that. You can require anything that has a public purpose and...

Vice Mayor Quesada: In addition to the signage. I think it would get to that point that no matter how you're paying, how you're walking out of there (INAUDIBLE) on notice.

Parking Director Kinney: Well, I think there's three locations. One is obviously there has to be a sign that clearly indicates what the rules are. The pay station, there should be information on the pay station that if you don't put a valid ticket on your dashboard you could be impounded. And then even the ticket that's printed out, we could require information on the ticket that says, you know, if you don't follow the rules, you could be impounded.

Commissioner Keon: We enforce parking seven days a week now?

Parking Director Kinney: Yes.

Commissioner Keon: The same hours seven days a week?

Parking Direction Kinney: Nine to twelve.

Commissioner Keon: Do -- the private lots, do they enforce them nine to twelve?

Parking Director Kinney: Well, I should qualify that. Our off-street, all of our off-street facilities are 24 hours a day.

Commissioner Keon: Are 24 hours a day.

Parking Director Kinney: And that's typically the case with private lots. I mean, the biggest -- or the most -- now that we've taken care of this one issue on Aragon, the two places where we see the most impounds on a private lot are the SunTrust bank on Miracle Mile and the medical offices across Andalusia from Ross.

Mayor Cason: So, there's only two types of parking we have to look at. One would be future parking lots, which we don't have any private ones, where we could set up some standards. You have to have a gate or whatever we want so that you don't have to tow or boot. Those are the options. The problem would be that the existing lots, as you say, SunTrust and others, that I don't know if we can require them ex post facto to go in and put in gates, and that would be difficult, I think.

Commissioner Keon: I don't know, but you see that at the Publix too. I mean, a tremendous amount of people park at the Publix on Le Jeune here...

Parking Director Kinney: Yes.

Commissioner Keon: And walk across the street or walk everywhere.

Parking Director Kinney: Publix has historically had a policy of not to tow..

Commissioner Keon: Just leave it, right, right, right. Yeah, no, you see them not do anything about it, but yeah.

Parking Director Kinney: But at the other locations, I think the agreements with the tow companies are the tow companies watch the lot and they tow because they get to make money.

Commissioner Keon: But you know, there is a difference from a -- the problem with the lot on Aragon is that it was a parking lot that was a pay-for-use parking lot, right, that SunTrust, you never pay to use it. You go in, you use it if you go to SunTrust.

Parking Director Kinney: But even after hours, they enforce the tow away.

Commissioner Keon: Right, and so, you know...

Parking Director Kinney: So it sits empty all night.

Commissioner Keon: So it's very clear to somebody that they're not supposed to be parking there.

Parking Director Kinney: Right.

Commissioner Keon: The same thing with the medical offices, you know. It's very clear that you're not supposed to be parking there if the signs say it's towed. I mean, I'm more concerned with the parking lots that are charging for parking and because the time has expired, those -- they boot and they tow.

Parking Director Kinney: And in South Miami, that's why we negotiated the agreement with that property owner that we would actually do the enforcement. Now, we keep the enforcement revenue, but he's not so concerned with getting an impound so he makes \$65 because those are his customers that are parking in the lot. He just wants to make sure they're paying.

Commissioner Keon: That they're paying the meter or they're paying...

Parking Director Kinney: Right.

Commissioner Keon: The fee to pay, right.

Parking Director Kinney: But in other situations...

Commissioner Keon: Yeah.

Parking Director Kinney: The way it was happening on 300 Aragon...

Commissioner Keon: Right.

Parking Director Kinney: It was pretty clear that the six or seven vehicles a night that you got \$65 from, that was a goal. That was -- they were trying to get that money.

Commissioner Keon: They were trying to get that money. So, I would think -- I would rather have a provision that doesn't allow towing or booting in that type of lot, if we have any type of private lot that is being used as a parking enterprise where people are paying to park.

Mayor Cason: Yes, we could then have -- since none of those are even built -- we just took over the only private one. So, before anybody else can build a commercial parking lot, they have to maybe have gates or something else. No towing.

Parking Director Kinney: Well, we have already -- we have one that's been authorized. It was actually kind of a government to government agreement with the US Postal Service.

Commissioner Keon: Right.

Mayor Cason: Okay, but...

Parking Director Kinney: But that one we know...

Mayor Cason: But that's not a commercial...

City Attorney Leen: But that one -- I think he mentioned this -- or you mentioned this earlier about how he's going to do three warnings before they tow, which I thought was -- what an ideal, you know, solution to the extent that we could require that.

Commissioner Slesnick: Per car?

City Attorney Leen: Yeah.

Parking Director Kinney: I think he's kind of gotten the message that we don't want to see a lot of people impounded.

Mayor Cason: So, maybe that's the way to do it. Any future commercial lots have to have X, Y and Z, but no towing, no booting...

Commissioner Keon: Right.

Mayor Cason: So they can collect their money and then the SunTrust and the others, as long as they have the signs telling what's going to happen if you do it, they can...

Commissioner Keon: Yeah.

Mayor Cason: Tow or boot.

Commissioner Keon: You know, that's...

Mayor Cason: That separates the...

Commissioner Keon: That's your foolishness if you park in a place that says no parking.

Mayor Cason: Does that sound doable to you?

Parking Director Kinney: Yeah. I think that gives us enough information to start drafting.

Commissioner Keon: I don't want to see people towed or booted for having their parking, you know, expired.

Parking Director Kinney: Yeah, no, I understand.

Commissioner Keon: In any -- you know, whether it's private or public or at all.

Parking Director Kinney: No, I mean, we operate -- obviously, I like enforcement because I need it for everything to work, but an eighteen dollar fine is good enough.

Commissioner Keon: Right. You don't have to put people through booting and whatever else. So, going forward, maybe you can decide what is the best way to manage that, and then maybe requiring that the entrance to any of those lots have a pay station with a gate or whatever, that you take a ticket when you go in and -- like in our garages and you pay on your way out for whatever the period of time is that you're there.

Mayor Cason: So, no need to tow or boot.

Commissioner Keon: There's no need to tow or boot and people pay on their way out.

Parking Director Kinney: For that kind of investment, you probably need a certain size. Really small ones that might...

Commissioner Keon: Then they should contract with us to manage their lot.

Parking Director Kinney: I wouldn't mind that at all.

Commissioner Keon: So, there you go.

Mayor Cason: Is that enough guidance for the attorney?

City Attorney Leen: Yes. Is it enough for you?

Parking Director Kinney: Yeah. I can...

City Attorney Leen: Yeah, we're going to work together. We'll get this done for you. It'll come up at a future meeting.

Vice Mayor Quesada: Are we still paying the servicing fee to the County for the collection of the fines?

Parking Director Kinney: The Manager and I have just begun that conversation.

Vice Mayor Quesada: Okay.

Parking Director Kinney: But yes. I mean, we are still -- essentially, the revenue share between us and the County on all parking violations...



Vice Mayor Quesada: Can we get out of that?

Parking Director Kinney: Is 50-50.

Vice Mayor Quesada: Can we get out of that?

Parking Director Kinney: We've just begun the conversation.

Vice Mayor Quesada: Okay, got it.

[End: 3:30:20 p.m.]