

City of Coral Gables City Commission Meeting
Agenda Item I-2
May 30, 2017
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Raul Valdes-Fauli
Vice Mayor Pat Keon
Commissioner Vince Lago
Commissioner Michael Mena
Commissioner Frank Quesada

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Planning and Zoning Director, Ramon Trias
Economic Development Director, Javier Betancourt

Public Speaker(s)

Dan Ingraham, Le Provencal Restaurant
Taciana Amador, Executive Director of the Business Improvement District
Rip Holmes

Agenda Item I-2 [4:32:40 p.m.]

A Resolution of the City Commission of Coral Gables, Florida, adopting a Downtown Sidewalk Café Plan and includes amongst other things City pre-approved sidewalk café locations and furniture, a sidewalk café fee based on square footage, authorizing the City Manager to make administrative changes to the plan as deemed necessary to implement the Business Improvement Overlay District; updating the sidewalk café application fee citywide; providing severability and providing for an effective date. [Both the sidewalk café fee of \$15/\$10 per square foot and application fee of \$250 will be suspended for those restaurants that have been operational during the Streetscape Project for a period of 12 months from the date that the City declares “substantially complete” that portion of the Streetscape Project. This fee suspension is contingent upon a voluntary enforcement of a “No Outdoor Smoking” policy in the city right-of-way].

Mayor Valdes-Fauli: The next one is City Commission downtown sidewalk café plan.

City Manager Swanson-Rivenbark: I'm going to have, not only Ramon Trias, but Javier Betancourt join.

Planning and Zoning Director Trias: May I have the PowerPoint please. Very briefly I'll describe some of the implementation and ideas that we have for the overlay that the Commission approved recently in order to encourage activity in Miracle Mile. One of the ideas was to try to organize outdoor dining in a way that was most effective, given the new sidewalk; and what we've done is we prepared an application which is an attachment to you, and that application has a map, that map shows locations for outdoor dining, and then the action that you need to take that is being requested of you today is, to approve a fee, a fee that would be charged for the use of that space on the sidewalk of Miracle Mile and also to revise the fee for the application slightly. Javier Betancourt can explain that in more detail. The actual application is basically a description of the new regulations that were approved in the overlay, and it's an administrative document that doesn't require your action; and the other dining pre-approved locations, we have both locations for Miracle Mile and for Giralda; and in addition, we have some pre-approved chairs and tables and here the issue that the Vice Mayor was bringing up about the pointed chairs. We are not recommending those, because those may damage the material.

Commissioner Quesada: I want to be clear about something on this. So, I'm assuming this is going to apply also to Giralda as well, as far as the tables and chairs. I want to be clear about something, because I think the message has been communicated just not comprehensively. We had pre-approved chairs and tables, however, if a merchant wants to use a different type of chair or table, same thing if you want to paint your house purple, you've just got to get the Board of Architects to approve it, so it's not previously approved, but it's got to get that approval so it doesn't damage the floor, because I don't want – there is no little confusion as to only allow these five chairs and these five tables, so it's going to be cookie-cutter along the whole way, but that's not the case. You can come in if you want a different chair, get it approved and then move forward.

Mayor Valdes-Fauli: The problem is not aesthetics, the problem is...

Commissioner Quesada: Damaging the tile.

Mayor Valdes-Fauli: Damaging the tile. We have used a very fragile tile for a very high use volume, as opposed to using granite tile, which is what they used in Giralda.

Commissioner Quesada: Correct. So, I just want to be clear, the merchants can still pick whatever they want; it's just got to be something that's not going to damage the tile.

Planning and Zoning Director Trias: Mayor and Commissioner you have done a great job with my presentation (laughter), so I'll just finalize the only two issues. The application fee is proposed to be raised from \$150 to \$250, and it has to do with the additional review necessary from Public Works; and then the annual fee of \$15 per square foot is proposed. There is a break if the applicant agrees not to have smoking to \$10, so that's what's being proposed.

City Attorney Leen: Can I mention something with that. The Commission had raised sort of having maybe non-smoking zones and we looked at that and a bonus program was created essentially. The City Manager discussed it with, I believe the Chamber of Commerce and B.I.D., the local businesses, and this is what we came up with.

City Manager Swanson-Rivenbark: Just to be clear, I did not have that conversation, we'll find out with staff, I believe Javier, did you?

Mr. Betancourt: Yes, we've had those discussions with the B.I.D. and the Chamber, I don't know that it was formally approved by either, but we've had those discussions with them and they seem favorable to this approach versus an outright requirement.

City Attorney Leen: But, the Commission still reserves, the ordinance that creates the overlays and allows for this resolution does allow smoking to be addressed through conditional of approval still, but that's not being – the Commission doesn't lose any of its authority, but a bonus program was decided to be the better way forward.

Mayor Valdes-Fauli: I think we are very much in favor of this. Going back in history my second meeting as a City Commissioner in 1985, May 8, 1985, somebody had the audacity to suggest that they have two outdoor tables outside of a Miracle Mile restaurant, and the Commission opposed it like you cannot believe, they don't want naked people in Miracle Mile, we don't South Beach, we don't want people with snakes wrapped around them walking around Miracle Mile, and it was a big fight, a very, very big fight and we finally passed it, the restaurant is still there and Miracle Mile is still there, and it has not been attempt on people's morals or ethics, and I hope that we approve this. I'm very much for it. The restaurant is a Tai restaurant on the north side of Miracle Mile and still there. Do I hear a motion?

Vice Mayor Keon: So moved.

Mayor Valdes-Fauli: Oh, it's a public hearing, I'm sorry, do I hear a motion?

Vice Mayor Keon: Can I ask one question? What is the width, what is the width of open sidewalk between the storefront and where the café tables will be allowed?- how much space do we have?

Planning and Zoning Director Trias: At this point we are trying to keep ten feet clear right in front of the buildings. Now that has to be flexible because in some cases, on a case-by-case basis we may have to have some flexibility, but that's the idea.

Vice Mayor Keon: You know we really need to try and maintain ten feet that is what accommodates two people walking together...

Planning and Zoning Director Trias: Absolutely.

Vice Mayor Keon:...side-by-side walking down...

Mr. Betancourt: And strollers and other things.

Vice Mayor Keon: Yes. I very much want to see outdoor dining, but I don't want to have to dodge tables to walk next to somebody that you are talking to, to walk down the Mile. So, you need to really try and stick to a ten, a minimum of ten feet.

Planning and Zoning Director Trias: And, the reason I mention that is that in the case of Starbucks, for example, we have to make it a little bit narrower because of some of the existing conditions, but always ten feet is the ideal scenario.

Mayor Valdes-Fauli: Do I hear a motion? – Commissioner Lago seconded and now – wait a second, calm down, and now it has been moved and seconded, I will open it for discussion. Ingraham, Bea Ingraham, 266 Miracle Mile. Yes sir.

Mr. Ingraham: Hi, afternoon ladies and gentlemen haven't been here in a long time. My name is Dan Ingraham, 266 Miracle Mile, Le Provencal Restaurant, I represent myself and my wife, some of you may know I'm a lawyer, but I'm not here as a lawyer. I just found out that you've discussed this with the B.I.D. and the Chamber; somebody forgot to tell the rest of us, but anyway. The streetscape purpose was to improve the Mile and encourage cafes to provide outdoor seating. This plan runs contrary to that. It increases the costs and the regulations on the restaurants, which is going to make it more difficult and probably you'll see less cafes as a result. So you're not, if you are trying to accomplish the original purpose of streetscape you need to rethink this. You have money for cleaning the sidewalks before, you're saving a bunch of money

on the slip and falls that you used to have on the old sidewalks, we should have plenty of money to maintain our sidewalks, and once you figure out how you are going to clean the sidewalks, I'm sure that the merchants that have cafes will want to clean their own areas, because so far you guys haven't been able to do a good job of it. You cleaned it once and we've had those in now for two months, the pavers on the 200 Block and the 100 Block on the south side. After the first cleaning we had a hard time telling what they did. So, we need to come up with a way to clean it, and you need to give us a chance to clean it, and you should consider the fact that if you make it too expensive, Le Provencal Restaurant which has been in the Gables since 1975, is probably going to have to close its outdoor seating, because we only use it in the winter. If you look at it right now, we've got the twelve tables put together into just six tables and we don't use those. The ones that go out there are the hardcore smokers and, I'm going to ask you about that in a minute, and they go out there and smoke and go back it, so we don't use it during the heat of the summer. So, the \$5,000 that I estimate is the cost that I'll have to pay per year for the existing seating I have, which ten feet of it is my property, and I don't think you should charge me for anything for using my property, but I can't see where that's delineated and cut out in the application. If you are cutting it out in the application then fine, I'm happy with that. If you're not, then I'm concerned about that, because I already pay rent for that property.

Commissioner Quesada: If I could just ask you a few follow-up questions. You are the first one who brought up the cleaning. Are you seeing the tiles get dirty in front of your location, because I noticed when I went out the other day for the champagne toast for finishing that area, it looked pretty clean to me, but obviously you are there every day.

Mr. Ingraham: I'm there every day and yes, it's pretty clean, but like I said, since they installed it, it's gotten hot and we don't seat a lot of people out there. I see where a spot of butter was on the...

Commissioner Quesada: Yes, of course, because you are looking at those same spots every day.

Mr. Ingraham: And, that same spot is still there after the cleaners went through and cleaned it. I'm concerned that maybe we need to look at how they clean them and maybe we should be given the opportunity to clean them, because we would do it every week or every day in order to keep them clean. I know next door at Trapalino's their paving area outside their door is already black again. They don't have a lot of indoor seating, they put a lot of people outside in the heat even, and people like Italian, so they sit out there, I'm real happy for it, but you know it's hard for him to keep the pavers clean and I'm sure he would clean them if he was given permission, because we were told to leave them alone, so that's what we've done.

Commissioner Quesada: Got it. So, you said it's roughly about \$5,000, I guess that's the \$15 that's the math that you are doing.

Mr. Ingraham: Yes.

Commissioner Quesada: So, it's about 325 square feet roughly.

Mr. Ingraham: I was using roughly 300 square feet and then I added in the 250 and it's a little short of \$5,000, but...

Commissioner Quesada: Yes, I just want to get a ballpark, because I know your frontage well and the depth, so you can squeeze in and that's 300 square feet, how many tables? - or how many chairs?

Mr. Ingraham: Twenty-four (24) chairs, 12 tables.

Commissioner Quesada: Twenty-four chairs. I just want to get a better idea of what it translates to.

Mr. Ingraham: We are not planning on adding, we are just going stay with what we have.

Commissioner Quesada: If you could squeeze in the maximum amount, what do you think you could get how many chairs?

Mr. Ingraham: Well our permit was only for 24.

Commissioner Quesada: If you were going to squeeze in as many as you want in front of, your store frontage.

Mr. Ingraham: I might be able to get more in there, yes.

Commissioner Quesada: Yes, I think you could, because yours is a little bit deeper, your property. I'm just trying to get a feel.

Vice Mayor Keon: Isn't the property where you have; where you now have your tables in front of Le Provencal is your property.

Mr. Ingraham: Ten feet is my property.

Vice Mayor Keon: Are we charging people when it's on their property? I thought we were charging people when it was on...

Mr. Ingraham: Well it's not clear on the application, so I have to assume yes.

Vice Mayor Keon: Can you make that clear? What are we charging people?

Mr. Betancourt: The proposal is to charge anyone with paved areas, so if you have the pavers in the private right-of-way you will be charged as well.

Vice Mayor Keon: Well, I think you need to look at whether you charge people on their own property as opposed to charging them on city-owned property, which is...

Mr. Betancourt: The public right-of-way.

Vice Mayor Keon:...the space that's in the public right-of-way.

Mr. Betancourt: I believe the rationale was, we are going to use these fees to pay for the maintenance and we are going to be maintaining all the paved areas, both public and private.

Vice Mayor Keon: But, they agreed to the paved areas at our request.

City Manager Swanson-Rivenbark: I understand what you are saying Vice Mayor. I think the issue wasn't maintenance, because we had always budgeted for maintenance, for repair, and for quarterly, but when we went to the Business Improvement District and I may be wrong, and asked them will you take leadership on the daily cleaning, we didn't get a positive feedback, and so, if what you are saying is that the Business Improvement District does want to take the lead on the daily cleaning...

Mr. Ingraham: I don't speak for the Business Improvement District, I'm not a property owner and I'm not a member.

City Manager Swanson-Rivenbark: So, this is where the discussion came with how could we raise the money to do the daily cleaning, if I may have misunderstood, if the Business Improvement District didn't want to do it, not you individually, but if the B.I.D. did not.

Vice Mayor Keon: I understand that, that maybe the Business Improvement District, but I would think if it's on their own property, one, I think that there are Code Enforcement opportunities to require, just like you paint your roof, you clean your pavers and those sorts of things, as long as

they are instructed as to what materials can be used on those pavers and how those pavers can be cleaned, but I do understand his concern when it's his own property that is currently an outdoor café, because of the shape of the building they have the ability to put tables outside that we shouldn't necessarily...

Mr. Ingraham: In the past, the City has cleaned the sidewalks approximately once a month with a steam cleaner, but we found that to be inadequate and we had to steam clean in between once or twice between when the City did it. So, we've always supplemented the cleaning in order to maintain the area in front of our building in the manner we want it kept and we will be interested in doing the same under the new system with the new pavers, but we don't have any idea what you want us to do yet.

Mayor Valdes-Fauli: OK. We'll have to clear that up. Thank you. Go ahead.

Mr. Ingraham: And following up on that, I had the two questions that I wanted to ask you are about the smoking is the first one. How do you expect us to enforce it or are you going to enforce it, if so, are you going to hire the personnel necessary to come out between 7 and midnight to enforce the non-smoking? - , because as far as I'm concerned I don't have the right to tell people not to smoke on public property, since it's not a law or an ordinance.

City Attorney Leen: Well it's going to be a requirement of your approval; you are going to be proffering in getting a lower fee, you are going to be proffering that you are not going to allow smoking in that area. If you do, then you will get a Code Enforcement violation.

Mr. Ingraham: So what do we do? We don't put ashtrays on the tables, we don't encourage smokers, but if somebody lights up a cigarette we immediately take out an ashtray, because we don't want them to put it out on the pavement, now the pavers.

City Attorney Leen: You would tell them please don't smoke.

Mr. Ingraham: If I don't put out the ashtray and put up my no smoking sign and they still smoke, you know what they are going to do, they are going to make the pavers even dirtier than they would be normally, because they'll throw everything on the --- and I'll give you an example, last weekend Fratellino's had a party, so they made the patio non-smoking, it was Friday or Saturday night or Sunday night, and they had a big party. Well he had a half a dozen people come out three different times from his restaurant go over to the, I call them marbles because two of them went rolling last week, your bollards, is that what you call them bollards?

Vice Mayor Keon: Oh, the seating.

Mr. Ingraham: The marbles that supposed to keep cars from coming up on the sidewalk, and they went over there and they were smoking and just flicking their butts, no ashtrays, no nothing, and they did that all night long. You know what's going to happen if I say no smoking, they are all going to do the same thing. They are going to go out to the bollards or over to the bench around the tree, which they are doing now anyway, and they are going to sit there and smoke and throw all their butts in the bush. We need to think this through. We don't encourage smoking, I'll put "no smoking" which will discourage a few, but the people that go there and smoke they are serious smokers. We have a lot of Europeans that have smoked all their lives that come and eat in our restaurant. I can't ask them not to smoke out there and that's what they'll do, they just walk outside our property and smoke or they'll smoke right outside and just flick it on the ground.

Mayor Valdes-Fauli: You have brought up some very interesting issues.

Commissioner Quesada: That's a good point, the last one.

Mayor Valdes-Fauli: And, let's hear from the other two gentlemen that want to speak.

Mr. Ingraham: Well the only other thing was parking fees.

Mayor Valdes-Fauli: My feeling on this is that we should send it back.

Mr. Ingraham: We would love to have a public hearing.

Mayor Valdes-Fauli: Alright....next time.

Mr. Ingraham: I've been here since 9 o'clock, but that's because I'm retired.

Mayor Valdes-Fauli: Next time that this comes up we'll do it as a time certain so that people can participate, it's very important for us, we put a lot of money in there and it's very important.

Commissioner Quesada: There are some very good practical points. Thank you.

Mayor Valdes-Fauli: Thank you Mr. Ingraham. Thank you. Taciana Amador. Hello Ms. Amador.

Ms. Amador: I wanted to just bring up a couple of points and one of them was, I'm Taciana Amador, the Executive Director of the Business Improvement District, and I wanted to just ask a

couple of questions and one of the points was what Mr. Ingraham brought up was clarification on if the private areas were going to be assessed, the ones where the merchants are already paying rent for that space, and then in essence what ends up happening is paying an additional fee for the dining permit, was clarification on that; and then, I appreciate that we looked at and we did sit down together and looked at the smoking as a proffer for the outdoor dining fee. That did come before our Board as a discussion. What I did have a concern with was that banning the smoking was also contingent upon them having a, I guess, waiver of the first twelve months of the fee. So, I wanted to see if the Commission could take that into consideration that some of these businesses do benefit from having patrons that do smoke and it would help them if they were to have an additional benefit of a waiver, but maybe not necessarily should it be contingent upon them...

Mayor Valdes-Fauli: We've heard that. We want to send this back for discussion. Thank you.

Ms. Amador: Thank you.

Mayor Valdes-Fauli: Thank you. Mr. Holmes, Rip Holmes.

Mr. Holmes: Mayor Valdes-Fauli, Commissioners, thank you very much. I realize today if I didn't know it before, I'm really not up to your level, because you all are able to juggle ten balls at once and I can't. I want to express personal gratitude to the Mayor and to Commissioner Quesada for helping me on an issue of great concern to me. Looking at the streetscape situation, I have two major comments if I may, that is the sidewalks. Number one, as we are entering a new reality with the beautiful street, but which has taken away parking, let's not forget and that's going to hurt people, I want to try to be a part of the solution for the non-restaurants. We know that the sidewalk is advantageous to restaurants who can have sidewalk cafes, but think for a moment, I'll just take an example, because sometimes examples are helpful. My family has a tenant, Alfred Angelo Bridal, OK, so they are not a restaurant. Now if you ever have the time and you went out there you could see that the two parking spaces in front of their store are gone. What's replaced them is beautiful planters and so on, but if you are a merchant and you just lost the two spaces in front of your store, you are in trouble. Now, my gratitude to you for this opportunity to speak is, I'd like to be part of coming up with a plan to help the non-restaurants capitalize or make money off of the beautiful new sidewalk just to break even to catch up with the loss of the parking. Remember one-third of the on-street parking will no longer exist once the streetscape is completed, that's a loss of revenue; and now I'll get to the second point which is, I would urge you not to approve one of the items before you today, which is the \$15 per square foot rent that the City is proposing, but to set that aside, I'm not saying disapprove it, but not put it in your included approved items, because not only am I grateful to Commissioner Keon for saying, wait a second, are we charging rent on people's private property, but also I just think that

we need to look at survivability here. How much rent can these people pay? I'm not saying – you have to recover your cost of cleaning, the City has to do that, that's fine, but people have already lost a ton of money. I just ask you to set that aside, because...

Mayor Valdes-Fauli: Mr. Holmes thank you for coming up before us. We'll defer this item to the next Commission meeting and we are going to have it at a time certain, so you don't have to sit here all day, and we can discuss it at that time. Thank you for your input. Thank you. Do we need a motion to defer this?

City Attorney Leen: I recommend continuing it at the next meeting.

Mayor Valdes-Fauli: What?

City Attorney Leen: Continue it for the next Commission meeting;

Mayor Valdes-Fauli: Yes, let's continue it to the next meeting.

Vice Mayor Keon: I would like to continue it. I really think all of those issues in what role and I'd also like you to weigh in on what the standard should be with regard to Code for the maintenance of the sidewalks that we should expect from the merchants themselves, particularly when it's already on their property. I know when we clean the sidewalks I think you leave those tables in place. Do you bring them in at night or do they stay out?

Mr. Ingraham: [Inaudible – off mic]

Vice Mayor Keon: You take them in – and it's a shame, because you would think that merchants would like clean their windows and clean their floors....

Mayor Valdes-Fauli: Let's put this off till the next Commission meeting.

Vice Mayor Keon:....so maybe you need more meetings with the restaurant owners and the B.I.D. and everybody.

Mayor Valdes-Fauli: So, it's continued to the next meeting.

[End: 4:58:12 p.m.]