

City of Coral Gables City Commission Meeting
Agenda Item H-2
February 10, 2009
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Donald D. Slesnick, II
Vice Mayor William H. Kerdyk, Jr.
Commissioner Maria Anderson
Commissioner Rafael "Ralph" Cabrera, Jr.
Commissioner Wayne "Chip" Withers

City Staff

Interim City Manager, Maria Alberro Jimenez
City Attorney, Elizabeth Hernandez
City Clerk, Walter J. Foeman
City Clerk Staff, Billy Urquia

Public Speaker(s)

Donald L. Tock, Jr., Chief Special Taxing District Division, MDC
Daniel Gelfman, Coral Gables Resident (Kerwood Ct.)
Alfred Aronovitz, Coral Gables Resident
George Freeland, Coral Gables Resident (Hammock Lake)
Steve Rossman, Coral Gables Resident (Banyan Drive)
A. Blackwell Stieglitz, Coral Gables Resident (Schoolhouse Road)
Charles Girtman, Coral Gables Resident
Debbie Augenstein, Coral Gables Resident (Banyan Drive)
Maria Avenarius, Coral Gables Resident (Old Cutler Road)

H-2 [Start: 10:06:43 a.m.] Time Certain

Discussion related to the City's findings regarding incorporating the existing Roving Patrol District into the proposed Guard House Special Taxing District.

Mayor Slesnick: We are going to go to the time certain hearing now, H-2. This is actually a City Manager Item, and I see that there are people here in the audience, but I'm going to explain as we did last time; we are here under City Manager item that has come back to us at our instruction from the Manager. Our purpose here as it says on the agenda is to talk about the roving patrol restriction; this is not a discussion ab initio about gate houses; this is about roving patrol and the requirement that the County rejected as a requirement for considering the tax district.

Interim City Manager Jimenez: This item is a discussion related to the City's findings regarding incorporating the existing Roving Patrol District into the proposed Guard House Special Taxing District. Commission, if you recall at the November 18th City Commission meeting, Hammock Lake Homeowners Association appeared before you to request that the City remove the condition imposed on Resolution 2008-54, requiring that the roving patrol be continued as part

of the City's approval for the purposes, I'm sorry, for the proposed Guard House Special Taxing District. After public discussion, staff was requested to contact the County to determine if both taxing districts could be considered as one, to ensure the continuation of the roving patrol. Staff met with Mr. Donald Tock, who happens to be in the audience, Chief of Special Taxing District Division of Miami-Dade County, who after discussing this matter with County Attorneys indicated that the County could not allow two districts to be considered as one, therefore each district is a stand-alone special taxing district allowing for residents to vote each district in or out. For information purposes, there are one hundred and twenty-three (123) property owners currently being assessed for the roving patrol, and there are seventy-six (76) households that would be assessed for the proposed Guard House Special Taxing District. I don't know if the City Attorney has anything else to add, but those were the discussions with my office.

Mayor Slesnick: Let me phrase the question again. We approved the guard house gate; we tied to that a requirement that the roving patrol be kept; we bundled those together, we sent it to the County; the said well, we don't bundle things like that, I'm not quite sure why, but that's their position, I guess we could ask the County representative why.

Commissioner Cabrera: Hey Don, the audience can't hear you very well; there are members of the audience that can't hear you.

Mayor Slesnick: We bundled them together and they rejected that. Our direction to the City Manager was for this meeting was just to find out how do we...how can we maintain the requirement for the roving patrol and move on?- and is there an alternate way to do that.

City Attorney Hernandez: I don't speak for the County; I can tell you that the representative...

Mayor Slesnick: No, no...

City Attorney Hernandez: No, let me just finish Mr. Mayor; their representative is here and I would ask that the City Commission ask those questions of the County representative; however, with regard to a municipal right-of-way, the City Commission always maintains the control, and whether or not the County allows a condition or not at to their approval, at any time in the future the City Commission can either at the request of the City Manager, or a resident, take up the matter again, and ask that that guard house be removed either for the reasons for a roving patrol, or any other reason because it is a municipal right-of-way. So, my position is that it can come back to you at any time because the County, while they will give their approval for a special taxing district cannot impose on the City the requirement to continue to require the maintenance of it when it's a municipal public right-of-way, but I know that Mr. Tock worked very closely with us and looked to see if there was any way in any other community it had been approved, and apparently not.

Mayor Slesnick: OK. Can this Commission pass an ordinance or resolution which says what our intention is, which is to keep the roving patrol as a condition of having the guard gate, and obviously that becomes an ordinance of the City of Coral Gables.

City Attorney Hernandez: The City Commission can adopt a resolution directed to the residents of the area, what the City Commission cannot do is adopt a condition to impose on the County Commission for their approval. Basically, the County is saying, they are taking a hands off approach on that; we are going to keep these two separately, if you at a later date, City, want to pass a resolution or an ordinance requesting the removal of the guard house, you can do that on a later date, but you can't impose that condition on us.

Commissioner Withers: Can you make, sorry Don, are you finished?

Mayor Slesnick: Yes.

Commissioner Withers: Can you make it as part of the ballot language, the approval of the roving patrol to the ballot for the people voting?

City Attorney Hernandez: Again, I think that that would be a condition, and I would ask you...I think you can, but the County is saying no, so we have a difference of opinion.

Mr. Don Tock: Hello, I'm Don Tock, Chief of Special Taxing Districts.

Mayor Slesnick: Could you pull that right up...

Mr. Tock: I'm not here on behalf of the County Attorney, but I don't believe that what you are intending to do can happen. I think the motive behind this is that you are restricting the right of residents to petition, which if you put it into your ordinance, they can't do, or they must do, you've removed their right as citizens to petition the County. County Attorneys met with your City Attorney, it's been made abundantly clear that there can be no conditions coming from the City, it's simply an approval yes or no on the proposed guard house district. If you do not issue the approval then it will not move forward, that's in your hands to do. To my knowledge there can be no combinations or restrictions placed on whether or not this district can go and that one can in case this happens or that happens. There are options available to residents; they can petition to dissolve the existing roving patrol. I understand that there may be sufficient people on one side that could maybe out vote the other side, if they wanted to go that route, its time consuming, but it's really in the hands of you and your residents as to how they want to approach this.

Mayor Slesnick: And I'm not going to try to put you on the spot because I appreciate you coming voluntarily to put yourself in front of us, but I don't quite understand your answer, and I'm not saying because of you; you are repeating County policy, but you are saying if we put a restriction, or we put a condition we are restricting the rights of people to petition the County.

Mr. Tock: If you are going to say that the roving patrol must remain then you've taken away the right of the citizens to petition to dissolve that. It's a special assessment for a special benefit and they are able to vote that out if they no longer wish to pay for that service.

Mayor Slesnick: Well, I'm glad you said that that way; I'm going to get back to that in a second, but what you then put us in a position of is, so now we can't do one thing because we restrict the

right of citizens to petition the County, but then our choice is to vote yes or no, and certainly voting no really restricts the rights of citizens to petition their County because then we cut them off at the knees and they cannot go to the County.

Mr. Tock: Well, the County Code is very specific, if it lies wholly or partly in the municipality, you're the first step...

Mayor Slesnick: I appreciate that.

Mr. Tock:...as a representative of your community.

Mayor Slesnick: I appreciate that, but the only thing that was bothering us, I won't speak for everybody, but by majority, the only thing that was bothering the majority was the argument that the roving patrol would be lost to all of the citizens when the gatehouse went in, so we tried to cure that argument by making that a condition. That way the petition of the citizens, the majority of the citizens in this neighborhood actually did go to the County, but if we said no we would be truly restricting the rights of our citizens to petition the County because we would cut them off right there with only one issue bothering the majority of this Commission; and I think that's a very Draconian result. Now, what you said, you said that we couldn't condition this on the non dissolution of the other taxing district that was your words, in other words, we couldn't condition the approval of one taxing district on the fact that they would not vote to remove the other taxing district.

Mr. Tock: No, they couldn't petition to remove.

Mayor Slesnick: OK, we couldn't petition to remove it, that's not my concern, so that right there Madam City Attorney, opens the door for us. I don't care if they do away with the taxing district, I was saying that we adopt a local ordinance that just says they have a roving patrol, I don't care how they have it, they can do away with the taxing district and pay for it out of their own pockets individually, I don't care. The fact is this Commission said that we concerned ourselves with the people in this community that were afraid that the roving patrol would be a victim of the gate, and the gate didn't protect everybody. So all we were looking to do was to try to keep all the citizens assured that there would be a roving patrol. We didn't care if there was a taxing district...to the roving patrol, so why can't we pass along the petition for the gatehouse to the County and us adopt a thing that says that our approval of the gatehouse is there, depends on that community one way or another maintaining a roving patrol, I don't care how.

City Attorney Hernandez: Correct. Right. That's what I had indicated, you can adopt a separate resolution that, you know, basically adopts the condition, but that cannot be part of the document that's forwarded to the County.

Commissioner Cabrera: OK, then what enforcement...

Commissioner Anderson: Back where we started.

City Attorney Hernandez: Right.

Commissioner Cabrera: But then what enforcement does that leave us with if it's not maintained?

Mayor Slesnick: We could close down the gatehouse, the operation of our own ordinance.

Commissioner Cabrera: OK.

Commissioner Withers: Doesn't Gables Estates have a guard house, and it's maintained by, is it Wackenut that does the...

Interim City Manager Jimenez: Yes.

Commissioner Withers: Doesn't the Wackenut guard drive around in his little jeep and patrol the neighborhood?

Mayor Slesnick: They have roving patrol too.

Commissioner Withers: So what's the difference?

Vice Mayor Kerdyk: It's just a complicated issue.

Commissioner Withers: Well, is it defining the role of the person at the guard gate?

City Attorney Hernandez: The difference is that, one, the guard house – the members of the guard house district are also the members of the roving patrol district.

Commissioner Withers: I'm sorry Liz, what did you say?

City Attorney Hernandez: The members of the benefited properties are assessed for the guard house are also the same group that's assessed for the roving patrol. So the same group would be voting on one versus the other. Here you have Group "A" which has a limited number of people that want the guard house, and then you have Group "B" which is that group of people, plus another group of people that are being assessed for the roving patrol. So the question is, can the larger group vote away the roving patrol, and the answer is they can, and the County is saying you should not condition one on the other.

Interim City Manager Jimenez: And Gables Estates is not a special taxing district, it's paid by the association for the guard house and also for the roving patrol.

Mayor Slesnick: Well see, that's the thing; they have a way to pay for the roving patrol; it has nothing to do with the taxing district.

Commissioner Withers: So why don't we do that?

Interim City Manager Jimenez: My understanding is the biggest challenge the residents of this area has is that it's not an established association with dues and fees, so the mechanism – unless they do it themselves...

Commissioner Withers: Why don't we do it through the associations then?

Mayor Slesnick: All I'm saying is put a requirement on the residents to keep the roving patrol; they figure out how to do it. If they stop the roving patrol then we have a right to discontinue the guard house, and we can have them take it down.

Commissioner Cabrera: And make it a separate ordinance; would it be an ordinance or resolution?

Interim City Manager Jimenez: Resolution.

Commissioner Cabrera: Resolution, which is a temporary decision of the City Commission, which could be changed at any point in time.

Mayor Slesnick: Which the citizens could come back and get a future Commission to change.

Commissioner Cabrera: I just wanted the public to understand what a resolution was. Well we've got all these folks that came here to speak today, so we better let them speak; it's a re-election year here.

LAUGHTER

Commissioner Withers: But we are not voting on the guard house, but we are not talking about the guard house.

Commissioner Cabrera: I know, but let them talk; they need to be able to speak.

Mayor Slesnick: Listen, you all have been here before, you all have joined us before; we will be happy to take your testimony, if you have not filled out a card, and thank you very much for being with us and please don't leave.

Commissioner Cabrera: The fun is about to begin.

Mayor Slesnick: If you have not filled out a card and you want to speak, you can speak; but I can say this again, if you are talking about guard house or no guard house, you are not talking to the issue, we're talking about this condition. We've been here first and we heard everybody about guard house-no guard house, we made a decision, we came back again to talk about the guard house roving patrol, and we made a decision to send it to the Manager, we are back now with the Manager's report and what we are going to do about the roving patrol and guard house, and that's the subject matter. As the back of your cards that you signed indicate, we'd like you to stick to three minutes, and I'd appreciate that. I have these cards, if there are others please let me know. We have Daniel Gelfman.

Mr. Gelfman: Excuse me, would you clarify what I'm allowed to speak to.

Mayor Slesnick: The exact thing that you said up here, the roving patrol and the guard house; whether or not we need to continue to tie the roving patrol to the guard house approval.

Mr. Gelfman: As I recall from the last hearing about this, the President of the Hammock Lakes Association made a vow that they would never request that the roving patrol be eliminated.

Mayor Slesnick: Something like that.

Mr. Gelfman: Yes, something to that effect. If I understand what's going on, and I'm not sure that I really do, I understand that he's now retracted that...

Mayor Slesnick: No, I can't speak for him, but let me say, the reason that we're here is because we tied the guardhouse in our official action to the continuation of the roving patrol; somehow that got defined as a roving patrol special taxing district. So when it went to the County, and the County looked at it that the people want to vote on the guard house, but the City Commission tied it to keeping the roving patrol taxing district, the County said we cannot tie those two questions together. That the people have a right to vote on the guardhouse, but there is no right to put that condition on the vote. So they sent it back to us and then we asked staff, well how can we, if there is a way, how can we guarantee a continuation of the roving patrol despite the fact that the County won't put that on the ballot. As far as the County is concerned they don't care whether the roving patrol stays or goes, they just say that we should put the ballot together on the guard house only; we're trying to stay true to what we said in the beginning and that is tying the guard house to a roving patrol.

Mr. Gelfman: OK, I'll be very brief then. I want the roving patrol. Thank you.

Mayor Slesnick: Thank you. Alfred Aronovitz.

Mr. Aronovitz: I am an attorney representing [inaudible], I have their authorization here in writing. They have no objections to the guard house, but because they are in the minority area...

Mayor Slesnick: Just pull the mike down a little bit. When you all get up if you could just aim the mike.

Mr. Aronovitz: I'm used to pulling them down. Anyhow, they have no objection to the guard house, but they don't want to lose the roving patrol and what's more important they don't want the group having the guard house be eliminated or in any way discharged from the financial obligations of the roving patrol. So its more than a continuation, more than that, I don't really understand the County's position because there are numerous situations that people are not able to raise protest because of standing or some other disabling situation. So that's, I think, if the majority for example, these seventy-six homes can control the balance because they control sixty percent of this taxing district, that it will really put a damper on the status of the special taxing

districts, because when this was initially presented no one anticipated a guard house on the majority area.

Mayor Slesnick: Thank you, that was very helpful, thank you very much.

Commissioner Withers: Don, there is one homeowners association, is that correct?- just one homeowners association?- there's two?- can I get that defined?

Mayor Slesnick: Well, let me ask you this; will someone or two people taking opposite views, and this does not take away from your time, just come up and tell us what are the homeowners associations that are involved?

Commissioner Withers: That would help me a lot.

Mayor Slesnick: And Steve you can make sure he's correct.

Mr. Freeland: My name is George Freeland; I live at 8901 Hammock Lake Court. There are three homeowners associations; there is one for Banyan Drive, there is one for Hammock Lakes I and II, and then there is a Master Homeowners Association.

Commissioner Withers: Can you give me the approximate number of homes on Banyan, Hammock Lakes and...

Mr. Rossman: I think the total area is probably is about...

Commissioner Cabrera: I'm sorry sir; would you tell us who you are?

Mr. Rossman: I'm sorry; I'm Steve Rossman, I live at 5340 Banyan Drive. There are approximately, I believe about one hundred and twenty (120) homes in the area...

Vice Mayor Kerdyk: One hundred and twenty-three (123).

Mr. Rossman: The Banyan Drive area, you can only enter through Banyan Drive; the Hammock Lakes area, you can enter through Schoolhouse Road or Hammock Lake Drive. About seventy (70) homes are on the area that's on the Hammock Lake Drive-Schoolhouse Road area, and about fifty (50) homes on the Banyan Drive area. There are, I agree, three homeowners associations. Originally a homeowners association was set up specifically for the roving patrol for the special taxing district, that was the combined homeowners association, that's the Hammock Lake Banyan Drive Homeowners Association, and that Homeowners Association has a fiduciary duty to preserve and maintain that roving patrol. There is a homeowners association, which I am actually the President of, on the Banyan Drive side for the fifty residents, and then there is another homeowners association that I think George represents on the Schoolhouse Road Hammock Lake Drive, that's the Hammock Lake I and II Association, that's the association that's petitioning to close the roads and build the guard house; the other associations are not. There is also an informal group that provides maintenance for Hammock Lake II, and that's the Hammock Lake II Homeowners group; all we do is hire people to maintain the lake, to keep it

clean on Hammock Lake II, and that jurisdiction overlaps some of us on Banyan Drive who live on Hammock Lake II, and some folks on the other side live on Hammock Lake II, so it overlaps.

Commissioner Withers: So behind St. Thomas Church, that's the fifty homeowners?

Mr. Rossman: Correct, that's the Banyan Drive area.

Commissioner Withers: And none of those fifty will benefit from the guard gate.

Mr. Rossman: No. The guard gate will only benefit those folks where Schoolhouse Road or Hammock Lake Drive; there are homes on Kendall Drive between Schoolhouse and Banyan Drive that will lose the benefit of the patrol as well as all the folks on Banyan Drive.

Commissioner Withers: And hence the seventy to fifty (70-50) vote the majority control of the...

Mr. Rossman: Exactly.

Commissioner Withers: Now the Master Homeowner Association, does it recognize both groups as independent groups?- or does it...

Mr. Rossman: It sort of does by its Board of Directors. There are a certain number of Board members from the other side, and a certain number of Board members from the Banyan Drive side, and the majority is on the other side, yes.

Commissioner Withers: OK, gotcha. Thank you.

Mayor Slesnick: George, you agree, that's accurate description, OK, good, we have agreement. The next person is Steve Rossman.

Commissioner Withers: Sorry, times up Steve.

LAUGHER

Mr. Rossman: Real briefly – historically, the roving patrol was formed by covenant between six hundred and twenty (620) residents, and it was a covenant to maintain this roving patrol; and very frankly, I think, if you remove the clause the requirement, maintain the roving patrol, I think we are on a slippery slope, and I think its going to be very hard to stop, because candidly the representative from the County said, I think they can...once they have the guard house, and I couldn't care less if they have a guard house, once they do that they have the right to dissolve the roving patrol and that's what we are concerned about; and I don't see how the City could stop that; I think that's a County Special Taxing District issue; and I think what the County said will control, and if the majority says to do away with the roving patrol, I think its going to be gone. We were unincorporated; we had the Florida Highway Patrol, and then we voted to be annexed by the City, and very frankly there was a lot of competing talks; we were supposed to be a part of Pinecrest, and we went with the City of Coral Gables because you were proven and true. Both sides promised us Police protection; both sides promised us services, but Pinecrest was brand

new and the City of Coral Gables was an established, well respected, well run City, and we relied on that, and we relied on the promise that we had earlier on with our other neighbors that we would have this roving patrol; and I'm very concerned that if you vote to eliminate that requirement, we'll be on that slippery slope and that roving patrol would be gone; and then we'll have two choices; we'll have a choice to pass a new roving patrol in our limited neighborhood that will probably triple the cost and probably it won't happen, or there will be a tremendous increase in the demand of services from the City of Coral Gables to provide more Police protection in our neighborhood; and I can assure you that's probably what's going to happen. So I would urge you not to remove this restriction.

Mayor Slesnick: Well Steve, I want to address directly your last comment. I think that your first comment is a very pertinent comment about that if the roving patrol went away for the whole group and you all still desired it, it would increase the cost, it would make it less efficient and effective, and it may not even happen, and its something that you all are used to and accustomed to, and it does give you a sense of comfort; and I will say this, thank you for helping protect the citizens of Coral Gables, but on your second part, I don't think the City has any concerns about increased demand; we supply a Police Department for that purpose, doesn't mean we don't appreciate the fact that the roving patrol helps us cover the area better, but believe me when I say, and I say to all the citizens that when you all became Coral Gables citizens, we took on the responsibility of protecting your lives and property and we relish that responsibility, and if we had more calls there we'd respond to them. So I just want to make that clear.

Mr. Rossman: And Your Honor, I really appreciate what you are saying, and I respect that completely, nevertheless, the demands on municipalities, on all governments today are very trying, and they would be even more trying as we go through this recession; and I think that the fact that you have neighbors, people in this community who are voluntarily taxing themselves to provide protection certainly reduces that demand on the City, and that's all I'm saying.

Mayor Slesnick: It's appreciated, but my point is that it's appreciated greatly but not necessary, but appreciated greatly.

Mr. Rossman: Thank you for your time.

Mayor Slesnick: I've never heard you call me Your Honor before; that was shocking, it caught me off guard.

LAUGHTER

Commissioner Anderson: If I might make a quick comment; let's finish the comment...let me just say because it's pertinent. Back in '01 when I was elected, I was asked to go speak to the homeowners group; and there was a perception at the time, and I think it was rightfully so, that when they were annexed they were promised a lot of protection and they felt they hadn't gotten it; whether its true or not there is that feeling, and I think that's why they cling so much to that desire to have their own roving patrol based on that effect. I've spoken with many of them, and they feel that actually would help ease the burden on our existing services in the future; and I

think that was what Mr. Rossman was alluding to. I just wanted to clarify that based on my prior history and knowledge of it. Thank you.

Mayor Slesnick: A. Blackwell Stieglitz, Blacky Stieglitz.

Mr. Stieglitz: Good morning Commissioners. I've been here before; I'm going to comply with the Mayor's comments about sticking to the subject matter, but I am quite disturbed about the observation that you made that the County didn't care whether we kept the roving patrol or not, they just were concerned that these two issues could not be tied together. Well, Coral Gables should care, and it did care when you addressed this situation earlier, and you said that it was your sense that the two issues should be tied together; and I am quite disturbed that the perception real or perceived would be that you now don't care, and that this whole situation where the majority has decided in the Hammock Lake I and II area that they want this gate house, I hear the Mayor saying that somehow it's a constraint on their rights of citizens that you would place this condition on...

Mayor Slesnick: Wait, wait, Blacky, Blacky, that's what the County representative said. I was repeating him, and I certainly do care, and if I haven't made that clear I care very much about the condition that we put on this.

Mr. Stieglitz: Thank you that you do care, and...

Mayor Slesnick: And I care about you personally, OK.

Mr. Stieglitz: OK. Conditions have changed since this...you know, there is an old saying, time allows things to work out; the proponents of this situation, although initially saying they would keep the roving patrol, now say we don't want any such, we don't want to touch that, it's a lightning rod. Another thing that changed is that the County has announced its intention to open up access to the public park down there; and the only access, there are Federal and environmental restrictions prohibit any improvement of access off of Old Cutler; and the only access for the public is off of Old Cutler on Banyan and off of Schoolhouse Road; and to think about throwing a variance there is just unthinkable. The other thing that's changed is, I had a lady pass me a note who's here, she is intimidated by the idea of you lawmakers up here sitting behind your desk, and did not want to speak herself; but she calls my attention that this whole proposition dispensing with the roving patrol is going to level a burden of expense on people who live there in the worst of times. When this whole thing began it was the best of times, and I say to you that you should not as our elected representatives be embracing an idea in these times of throwing our roving patrol just saying, we don't care; and we hear you and we think it will go away but tough, tough; then the burden of our Police protection, which Commissioner Anderson addressed falls on the citizens all over the Gables; and I urge you even at the expense of saying to the guard house people, no in the best interest of the greater Coral Gables, we insist upon the preservation of a tool, a mechanism through which this roving patrol would be preserved; and I urge you some of you who voted the other way the last time, I urge you now to listen to the others who recognize the proposition not to allow this to happen. Thank you.

Mayor Slesnick: Let me address one point that Blacky brought up. This is a very embracing Commission; this is the set up of this City Hall; this is how much Commissions' do business, if there is anyone here that doesn't want to speak because we are sitting behind this Dias let us know, we'll come down there, I mean, seriously...

Commissioner Anderson: We'll take the mike down as well.

Mayor Slesnick: We'll come to you, I mean, I don't want anyone not to speak because they feel intimidated; this is the way that City Hall is set up; I don't know too many that are set up differently, we are a lot closer to the citizens here than the County is, or the School Board is, so let us know, we'll make you feel comfortable.

Commissioner Cabrera: Well, at some point in time I'd really like to talk to the folks who were the proponents of the guard house....

Mayor Slesnick: They are coming last.

Commissioner Cabrera: They are coming last, OK.

Mayor Slesnick: They are the proponents so they are coming last.

Commissioner Cabrera: Because the reality is, is that this all came about because a gentleman in the audience made the commentary that the roving patrol would never go away, because that statement was made so broadly, I decided to put a condition on the motion, and therefore I'm sorry for making you all come to City Hall today to have this discussion, but from what I'm hearing especially from you and the City Attorney is that we can impose our own resolution to the effect of a roving patrol, and whether the County decides to continue their position of not accepting it, it really becomes mute because then it becomes our resolution to enforce; and I don't know the rest of you feel, and I want to let more folks speak, but the reality is that was the intention all along to keep the roving patrol, so let's make it a new resolution and then that will ensure that the roving patrol remains, and at the same time if its not abided by then this Commission or future Commissions will have the opportunity to make a decision at that point in time; sounds pretty simple, I don't think its that complicated.

Vice Mayor Kerdyk: I agree with that.

Commissioner Anderson: I agree.

Mayor Slesnick: Charles Girtman.

Commissioner Cabrera: But the guard house issue is not a topic for discussion today.

Mr. Girtman: This one work?

Commissioner Cabrera: Yes sir.

Mr. Girtman: Would everyone behind me that wants this guard gate hear me please. I'd like to address one point that Mr. Blackwell Stieglitz, did I pronounce your name correctly sir?

Mr. Stieglitz: Close enough.

Mr. Girtman: And it went by everybody in this room and I didn't even see anybody move; Dade County is planning as we sit here to expand west Matheson Hammock Park; the expansion of west Matheson Hammock Park will mean an entrance way placed on Schoolhouse Road at the intersection of Banyan, and I don't know if you'll put this guard house there if that expansion happens, I believe. The City of Coral Gables is the only gatekeeper for the protection of Matheson Hammock, Matheson Hammock Marina, Fairchild Gardens, and Matheson Hammock West there. The Mayor has made inquiries about this, Commissioner Cabrera has taken the lead in meeting with Commissioner Carlos Gimenez, who is pushing this, and Dona Lubin has had several meetings with the County, and my listening to these things, the County has tried to fustigate their plans there as much as possible and to keep it from Coral Gables. If an interest is not taken in this expansion of West Matheson Hammock, and that's the area where the people run their dogs, and where the beautiful homes are surrounding there, and where people pull up and put the grill in front of your yard. This whole issue on the guard gate will become mute. Some of you in this room today, I'm especially happy to see Steve Rossman here, because I know when you got a good lawyer that that helps a lot, Steve was at the meeting in October at Fairchild Gardens where they said Commissioner Gimenez basically said, and he said it wasn't broadcast like this, but he was standing talking to us, and said I'm not going to let seventy-five rich people tell me what to do with a County park. So all I can say is, please take a really good interest, Ms. Lubin, Assistant Manager Lubin, the Mayor and Commissioner Cabrera, I know have gotten their fingers in this and they know what this is about. Dade County can ruin this whole thing for us, please take it. Thank you very much for letting me be slightly off subject, but Mr. Blackwell opened the door.

Mayor Slesnick: Charlie, it's good to see you up and around.

Commissioner Anderson: Actually, I want to make a quick comment as far as that. Chip, remember we met on that issue about five years ago; at that time we met in the City Manager's office and Dade County promised us they weren't going to expand the park, we didn't believe them then actually.

Commissioner Cabrera: Well we shouldn't believe them now.

Commissioner Anderson: No, yeah; definitely the services are going to impact us tremendously, it's going to fall on us and on top of that it abuts the residential areas.

Commissioner Cabrera: The intensity is going....

Commissioner Anderson: Intensity – the annoyance factor, two neighbors, so I'm totally in agreement; they promised back in '03-'04, whenever we met in a joint meeting with the City Manager on the same subject that they weren't going to expand, but obviously they reneged.

Commissioner Withers: We have a County guy here, don't we?

Mayor Slesnick: Not sure that's his area.

Commissioner Anderson: So I'm agreeing with you Charlie, I totally feel...

Mr. Girtman: And I appreciate it. On the 19th which I believe is a week from Thursday, at 5:00 p.m., Historic Board has a meeting in this room on Phase I of the expansion, which is the first office building they want to build at Matheson Hammock. So it would behoove you residents of Hammock Lakes to drop in on this meeting. Thank you.

Mayor Slesnick: Thank you. Debbie Augenstein.

Ms. Augenstein: I will be very brief.

Mayor Slesnick: Welcome back after a long absence.

Ms. Augenstein: Thank you, thank you. I am really here to thank you so much for your wisdom in looking at this issue, just a couple of points of information that when – oh I'm sorry, I live on the Banyan Drive side; when we looked at the homeowners issue the impact on the Banyan Drive side, were we to lose the roving patrol, its about two and-a-half times of what we are paying now, which is approximately nineteen hundred dollars; the informal polling we did made it impossible, it would not pass. So we will lose the roving patrol, we will not be able to have it on our side. So thank you very, very much for looking at this issue, all of you, the Commission, the City Attorney, and Interim City Manager.

Mayor Slesnick: Thank you Debbie. Maria Avenarius, did I get that right?

Ms. Avenarius: My name is Maria Avenarius, and I'm not an attorney, and I get intimidated by you, but I'm just going to say that I live at 9300 Old Cutler Road; everybody talks about Hammock Lakes I and II, but nobody thinks about Old Cutler. I live in that house for the last twenty years; and every time there is an accident or there is construction or something you have to go through the back, because Old Cutler is a disaster, it is an absolute disaster; and I cannot see myself going through a guard house; I have an entrance in the back of my house too, so they are going to tax me too for that, and I don't want to pay anymore taxes that I'm paying already. So it's simple; I live in Old Cutler and its four houses that we have another entrance in the back, but you have to think about Old Cutler, it's the main street; everybody goes through the back when something happens on Old Cutler, that's the way it goes. So what's going to happen when you have a guard there and you have five thousand cars stuck on Old Cutler, that's what I want to know? You have to think about the people on Old Cutler please.

Mayor Slesnick: Thank you Maria. Ofi Fernandez.

Ms. Fernandez: Good morning; I'll be very brief since apparently Commissioner Cabrera has come up with some sort of solution here, where if you are going to pass...I'm here to speak on behalf of the roving patrol and to find a way to keep it, and if you've found a solution and there

is going to be an ordinance with enforcement power, then I'm all for it, even though I do want to state for the record that I think the guard house is not a great idea, you are carving up a neighborhood within a neighborhood. So I'm opposed to the guard house philosophically, but if you found a way to solve the roving patrol issue, then I thank you.

Mayor Slesnick: Thank you. We have saved George Freeland for the last; he is representing the people who have brought this petition to us.

Mr. Freeman: I'd like to congratulate the City Attorney and Interim City Manager, I think your proposed solution is an excellent one, I'm sure that many people here believe as I do that its an excellent solution. I'm the only person here that speaks to you on behalf of an organized group. I represent the fifty-five families that have already voted on this issue. These are hard working families that have contributed to this City in so many different ways from donating to common causes and charities, to working with you, to running the businesses that employ the citizens of Coral Gables. These families have spoken in a united way that is unheard of in today's society. Ninety percent of the people that voted want safety in their neighborhood. The second group of people that you've heard from today, the people that represent Banyan Drive; you've heard from several people that are against it, because they are worried about the roving patrol. In fact there is actually a big split of opinion within the Banyan Drive community. You talk to Mr. David Popum, he actually circulated a petition to eliminate the roving patrol on behalf of the Banyan residents, but this is neither here nor there. What I'd like to do is I'd like to get everybody who lives in Hammock Lakes I and II to stand up please. You can see that this is a very big issue; if any of you are against the roving patrol and want it eliminated please sit down. So the thing that I object to here to today is that there is a presumption that we have some ulterior motives. If you really look at the roving patrol it cost nineteen hundred dollars (\$1,900) a year; that works to five dollars a day to have one of the City's finest in front of your home, and I think most people, and my fellow neighbors would agree with me, that to have one of our City's finest in front of your home for five dollars a day is well worth it; and I reiterate again when I said to people before, and I personally and everybody that I know are not against eliminating the roving patrol; this is just seeking additional safety. So I ask you today to move forward on the basis that you presented, I think it's a fair and just conclusion; and I think at the end of the day as you well know this is going to go before the County and then the voters are going to vote on it, and if at the end of the day the voters vote against it then the guard gate is not going to happen, but I think today we are only talking about beaurocracy that is upending and stifling the will of the people. So thank you very much for your time and we hopefully will get your support.

Commissioner Cabrera: I wanted just to make sure we understand is, because I really need help from staff. We go ahead and pass a resolution today to maintain the roving patrol, and if in fact they are successful in maintaining the guard house through the County's legislative process, do we have the ability to then enforce, that if in fact the guard house stays the roving patrol must stay, and if the guard house is...not the guard house but the roving patrol is eliminated could we then as a body then rescind the guard house?

Interim City Manager Jimenez: I need to defer to the City Attorney for that.

Mayor Slesnick: Before you answer the Commissioner's question, let me just add to the question. We need to pass a resolution or ordinance or whatever sending the question of the gatehouse to the County, period, period; and secondly, our action would be that separate and totally a part from that, separate and totally a part is that we understand that if in fact the guard house is constructed and operated at Schoolhouse Road-Hammock Lakes, that there will be as there is today a roving patrol and it would be continued, however it may be continued; we don't care if it's a taxing district, whatever, but however the roving patrol would be continued it is continued for the whole area, the greater good; if that ever discontinues this Commission or our following Commissions will at that moment reconsider the approval of the continuation of the guard house.

Commissioner Cabrera: OK, but see this is the part...

Mayor Slesnick:...or will automatically discontinue that.

Commissioner Cabrera: You said that much better than I did. The part that I'm having a hard time with is, if Miami-Dade County government approves the guard house, what right would we then have if they don't maintain the roving patrol from the removal of that, the request to remove the guard house?

City Attorney: The special taxing district is a mechanism that is available only to the County to tax, to collect, and to pay for this; they are using City property to build it. The City under the Home Rule Powers Act always maintains its control and ultimate decision making as to the final destiny of what City lands are used for. Will there be litigation?- quite possibly; I can't tell you and assure you that a resident of one of the organizations would not file a lawsuit, or the County may not be compelled to file a lawsuit, no one can ever give you a hundred percent assurances of issues of that matter; however, with regard to the ownership of the public right-of-way where this is going, its my position that under the Home Rule Powers Act, under our responsibilities, we own and we direct how that is used, and that is why the County needs our consent to build on our right-of-way. So as far as I'm concerned, if you adopt a resolution which expresses the intention of the Commission today, that if the roving patrol is ever removed, the City Commission will reconsider the issue of its consent for the guard house that protects the City Commission in its decision, and it also protects the homeowners that wish to continue with the roving patrol, that doesn't mean that you are tying your hands at a future date, it just means that you will bring it back up and you will reconsider it.

Commissioner Withers: But I would assume that the County would no longer collect the funds for the roving patrol?- it would have to be collected by the association.

City Attorney Hernandez: I believe that what you are doing is, if you adopt a resolution you are saying, if the roving patrol goes away as far as we are concerned the guard house goes away, that issue of who would collect it would be addressed at a later date.

Mayor Slesnick: I guess Commissioner Withers was asking if the citizens voted to do away with the taxing district...well let me ask you this though, a vote to do away with the taxing district doesn't that route come through here too?

Interim City Manager Jimenez: No.

City Attorney Hernandez: No.

Mayor Slesnick: Why? They have to come here to approve it.

City Attorney Hernandez: No, no.

Mayor Slesnick: What are we doing here; they have to come here to go to the County...

City Attorney Hernandez: Because it's the use of the right-of-way; if they wish to abandon the use of the right-of-way then they...they just need to have it removed and brought back to its original state.

Mayor Slesnick: I'm dropping back; drop back with me a step. To go on the County ballot they have to come through us first...

City Attorney Hernandez: For consent.

Mayor Slesnick: Isn't that true of getting rid of the taxing district?

City Attorney Hernandez: No. They just have their vote to remove the taxing district.

Commissioner Withers: Would they have to remove the taxing district on the roving patrol in order to move forward with the taxing district on the guard house?

Interim City Manager Jimenez: No.

City Attorney Hernandez: No. They are separate; the County is not allowing the two to be merged.

Commissioner Withers: So they could in effect have two taxing districts at one time?

City Attorney Hernandez: That's what they will have.

Mayor Slesnick: And if they vote to do away with the one taxing district, our resolution will still stand and you're right, they would have to figure out how they are going to collect the money for the roving patrol.

Commissioner Withers: That was my point. It would have to be a collection by the homeowners to the Master Homeowners Association.

Mayor Slesnick: Let me ask though; if a taxing district desires to go out of existence and vote to dissolve themselves, that does not come through the City Commission?

Mr. Tock: No, I don't believe so, no. The Code reads that you have to prove the creation of it...

City Attorney Hernandez: Period.

Mr. Tock:...It's subject to the petitioning and mail ballot vote of the effected residents to dissolve.

City Attorney Hernandez: Right.

Mayor Slesnick: OK, I don't quite understand why, but OK. Thank you and thank you Madam City Attorney.

Commissioner Cabrera: I've got one last question; I was wondering...no, no, not from you sir thank you; I was just wondering what was the rationale given by the person that wanted to do away with the roving patrol, I think Mr. Freeland mentioned someone in the Banyan Bay area that was interested in doing this; would you mind coming up here? Thank you sir.

Mr. Freeland: There are some people that pay for it and some people that do not, and so from what I've heard from some of my neighbors is there is some frustration that some people pay for it and others don't and get the free benefit.

Commissioner Cabrera: OK, that makes sense.

Ms. Fernandez: Excuse me, I live on the Banyan Drive side, everybody for St. Thomas Episcopal Church and the Larson property pays for the roving patrol.

Commissioner Cabrera: Thank you Ms. Fernandez.

Ms. Augenstein: Actually that's not exactly true; sorry I was on those Boards for a number of years. There is one street which is called 98th Street, it is now called Banyan Trail, that was eliminated from our original special taxing district, because this was when we were with the County; this goes back before we were annexed, they petitioned the County that they could not afford, the individual homeowners could not afford the special taxing district, so the County eliminated that one street which is at the very end. So 98th Street does not pay, but I will tell you what Mr. Popum's letter said, this was highly interesting, and to my knowledge he got no interest, it said that the reason...he moved there approximately three years ago, and understood that we had the Florida Highway Patrol – yes we did, that was before we were annexed by Coral Gables; since then he had not seen one Highway Patrol Officer, this is true, but what he does see is Coral Gables Officers going around, that is our roving patrol. So he sees them, he also was petitioning Coral Gables because of the amount of tax dollars we pay to build us for taxes of two hundred thousand, this is his calculation, a guard house on Banyan Drive, that was the letter, and he expected us to petition you with his letter for our guard house just based on our tax base and the fact that he never saw the Highway Patrol Officers.

Commissioner Cabrera: OK. Thank you Ms. Augenstein.

Mayor Slesnick: How many houses on 98th Street?

Ms. Augenstein: I think there are ten; eight or ten, eight.

Commissioner Cabrera: So how do we craft this motion?

Mayor Slesnick: I think we take it in two. The first motion would be to approve the petition of Hammock Lakes to construct a guard house, we can pick up the language from the last one, period, and to send it to the County with our approval, asking that a special taxing district election be set; and I mean, have the City Attorney pick up the language from the last one and have it circulated so that you all...

Commissioner Cabrera: So I move that the process already undertaken to create a guard house be adopted and that Miami-Dade County then take it up as a decision with the City of Coral Gables approval, is that clearly enough?- and based upon prior language of approval, is that clear enough?

Mayor Slesnick: Madam City Attorney do you understand the gist of this?

City Attorney Hernandez: I would ask the Commissioner to please rephrase it, I'm sorry.

Commissioner Cabrera: I'd love to rephrase it; what I'm trying to do is rephrase it the same way we had it last time, and I don't recall the motion.

Commissioner Anderson: Minus the condition that was placed on it.

Interim City Manager Jimenez: Right. I was going to suggest that you just rescind the condition that was imposed.

Commissioner Cabrera: That's a different motion altogether. OK, then I'll move that we rescind the condition of a roving patrol in conjunction with the guard house as approved by the City Commission, how's that?- is that clear enough Madam City Attorney?

City Attorney Hernandez: No, because I don't want someone then to go back and attach...I think that what we are asking City Commission to do is adopt the approval of the guard house special taxing district and that's it; we are asking for that approval, and then we'll adopt a separate resolution expressly stating the intention.

Commissioner Anderson: It's an affirmative motion for the guard house.

City Attorney Hernandez: It's an affirmative motion approving the guard house.

Commissioner Cabrera: And no rescinding of the roving patrol?

Mayor Slesnick: Well, we'll get to that in a minute. OK, So the motion is we are voting on approving the petition from Hammock Lakes Homeowners Association to proceed to the County to request a vote, an election on a taxing district to construct a guard house.

City Attorney Hernandez: Correct.

Commission Cabrera: That's my motion; thank you for verifying it.

Mr. Stieglitz: [Inaudible – off mike]...Mr. Mayor...

Mayor Slesnick: Please go ahead.

Mr. Stieglitz: OK. I point out to you that at the time this agenda item came up, you said we weren't supposed to talk about the guard house...

Mayor Slesnick: We are just reaffirming what...

Mr. Stieglitz: The agenda item on the City's agenda said you were just discussing the roving patrol...

Mayor Slesnick: Exactly.

Mr. Stieglitz: And here we are here now listening to a proposal that you approve the guard house. I think that's misleading...

Mayor Slesnick: It's not a proposal; we are readopting what we did before.

Mr. Stieglitz: It's a slippery slope.

Commissioner Cabrera: Well, why don't we do this, why don't we go ahead...can't we just simply address the issue of the roving patrol and rescind that resolution and/or ordinance, was it done as an ordinance or resolution?

Interim City Manager Jimenez: A resolution.

Commissioner Cabrera: OK. Can we rescind that resolution? I really didn't want to talk about the guard house.

Interim City Manager Jimenez: You approved the guard house back in April of last year with a condition, if I may read the resolution?- A resolution approving creation of a special taxing district by Miami-Dade County for Hammock Lakes, Coral Gables, Florida for the purpose of providing for twenty-four hour stationary security guard service subject to compliance with applicable Miami-Dade County requirements; approving construction of a guard house facility, a road closure with an emergency access gate, operations of traffic control devices requiring execution of interlocal agreement between the City and Miami-Dade County; this is the portion that I suggest we rescind, further including the following condition that a roving patrol program

be continued as part of the City's concurrence with said special taxing district. That condition is the condition that the County is not accepting.

Commissioner Cabrera: So why couldn't we then take that section that reads, further including the following conditions that a roving guard program be continued as part of the City's concurrence with said special taxing district, why can't I just move to rescind that section of the ordinance?- is that acceptable to you?- of the resolution, I beg your pardon; so therefore, I'm now going to move to rescind the following: I move that we rescind the section of Resolution No. 2008-54 that reads, further including the following conditions that a roving guard program be continued as part of the City's concurrence with said special taxing district. That's the only section.

Mayor Slesnick: May I have a second?

Vice Mayor Kerdyk: I'll second it.

Commissioner Anderson: So by approving this we are essentially approving sending it to the County without that condition of the guard house.

Mayor Slesnick: Right.

Commissioner Cabrera: All we are doing ma'am is just taking that section out.

Commissioner Anderson: I just want to clarify for the record.

Commissioner Cabrera: By the way, and I'm sorry for going off just a little bit off the subject matter; but the resolution further states that there will be allowed specific provisions for unabated access to pedestrians and bike access, so this idea of closing a street while there will be a guard house there, the resolution is very clear how it reads that there be full access through that roadway.

Mayor Slesnick: We have a motion on the floor from Commissioner Cabrera, seconded by Vice Mayor Kerdyk that we remove the language from our prior resolution that put a condition on the guard house requiring the roving patrol, is that clear?

Commissioner Anderson: Yes. May I make a comment?

Mayor Slesnick: Sure.

Commissioner Anderson: I wish it could have been in the affirmative because then I could actually address it better; to the folks that want the guard house I wish you well, I'm going to vote no because philosophically I don't like street closures and for me personally God speed and enjoy that. So I just wanted to clarify that, but I will be voting no to remove that condition because it's stated such in the resolution.

Mayor Slesnick: Any other comments?

Mr. Clerk

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Commissioner Anderson: No

Mayor Slesnick: Yes

(Vote: 4-1)

Mayor Slesnick: Now, I would open the floor to a motion, if it's the desire of the Commission to now require by separate resolution the continuation of the roving patrol in order for a guard house to be maintained on City property at that location.

Vice Mayor Kerdyk: I'll make the motion.

Mayor Slesnick: Vice Mayor Kerdyk makes that motion, can I have a second?

Commissioner Anderson: What is the motion please?

Vice Mayor Kerdyk: The continuation of the roving patrol.

Commissioner Anderson: OK.

Mayor Slesnick: The motion is by resolution that we are requiring the combined homeowners associations, the combined homeowners associations, you understand that Madam City Attorney?- to continue the roving patrol as a function of...

Commissioner Cabrera: An integral part of the guard house.

Mayor Slesnick:...is an integral part of the guard house operation, and that if at all the roving patrol is discontinued that our permission to use City property for a guard house will be considered for revocation, how's that?

Vice Mayor Kerdyk: That's good.

Commissioner Withers: Yes, that's fine.

Mayor Slesnick: Seconded by Mr. Withers.

Commissioner Cabrera: Who made the motion?

Vice Mayor Kerdyk: I did.

Mayor Slesnick: Vice Mayor.

Commissioner Cabrera: He's not only a Mayor; he's a motion-maker.

Mayor Slesnick: OK. Got it? Questions?

Mr. Clerk

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

Mayor Slesnick: OK. That concludes that item. Thank you very much.

[End: 11:09:30 a.m.]