

**City of Coral Gables City Commission Meeting**  
**Agenda Item I-3**  
**June 13, 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**  
**Assistant City Manager, Peter Iglesias**

**Public Speaker(s)**

**Maria Magdalena**  
**Mr. Danny Ingraham**  
**Taciana Amador, Executive Director, Business Improvement District**  
**Martin Lynch**  
**Nicholas Sharp**

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Agenda Item I-3 [10:25:36 a.m.]

**Time Certain 9:30 a.m.**

A Resolution of the City Commission of Coral Gables, Florida, adopting a Downtown Sidewalk Café Plan that 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 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, applicable only to areas within the right-of-way 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 at the city right-of-way.]

Mayor Valdes-Fauli: We have Item I-3, which is a resolution on sidewalk cafes downtown and there are a lot of people here and we have to go and serve lunch, and whatever, so if we can take Item I-3 out of order, it was time certain at 9:30 (a.m.) and now it's 10:25, Item I-3, the resolution, I-3.

Unknown Speaker: [Inaudible]

Mayor Valdes-Fauli: We are going to take this one first ma'am, I-3.

City Manager Swanson-Rivenbark: So we are going to ask Javier Betancourt to come forward and Ramon Trias to come forward. This is the sidewalk café ordinance, Mayor, this is the discussion that you want to have the resolution.

Commissioner Quesada: Mr. Mayor real quick, just for the benefit of the audience so people are following the police item agenda, will we be revisiting that afterwards?

Mayor Valdes-Fauli: They have to go to lunch...so Miracle Mile.

City Attorney Leen: Just so everyone understands, the Commission has to take this item because it's been listed as a time certain. I don't think it's going to take that long and then the Mayor can decide.

Mayor Valdes-Fauli: We'll come back.

City Manager Swanson-Rivenbark: In fact sir, the issues that were raised, many of the issues that were raised at the last meeting, including the concern that some restaurants had for us charging on the private right-of-way for the cleaning purposes, we have removed that, and so if Ramon and Javier will together tell how we have improved the resolution based on feedback.

Commissioner Mena: Can we make sure Chief Hudak sticks around, because I still have questions and I want to get back to that discussion. I just want to make sure that he sticks around.

City Manager Swanson-Rivenbark: Of course.

Mayor Valdes-Fauli: Yes. Go ahead.

Planning and Zoning Director Trias: Mayor the last time we made a presentation, I don't think I need to repeat it, but the City Manager is right; the main concern was that the fee was going to include some of the private property and that has been removed, the rest of the application is just the same. I think that unless you have some issues, we will recommend...

Mayor Valdes-Fauli: Please – silence.

Economic Development Director Betancourt: Good morning Mr. Mayor, Commissioners, Javier Betancourt, Director of Economic Development. So again, in the interest of time, I don't think we'll rehash what was discussed in the first meeting, but just to put this in context, as Miracle Mile and Giralda Plaza come to completion...

Commissioner Quesada: Can you speak up a little bit.

Economic Development Director Betancourt: I'm sorry – the merchants are eager to start ordering furniture so that they can start activating their sidewalk areas with outdoor dining. Many months ago we approved the Downtown Overlay District, which provided greater flexibility in terms of outdoor dining and some other operational standards, that district referenced an outdoor dining plan which is what you have before you today. It provides the locations, pre-approved locations for outdoor dining on the Mile and Giralda Plaza, it provides for a public right-of-way fee that will be collected to help maintain this street, which requires an enormous amount of ongoing maintenance and provides for some pre-approved furniture which we will be adding to. We are still conducting some research into appropriate furniture and we will include those as we approve that.

Commissioner Quesada: How many are approved at this point, because at one point we were told five, and I was also told only one, pre-approved furniture of chairs and tables.

Planning and Zoning Director Trias: We are still working on it; we only have one.

Commissioner Quesada: So only one has been approved. I want to be clear about something, because I had asked this question because I've had a lot of questions from merchants on this very question. So let's say I ask to approve "X" chair today and it meets the approval that will hit the pre-approved list that will stay on the pre-approved list for any other merchant to use that same type of chair or table, correct or incorrect?

Planning and Zoning Director Trias: Yes.

Commissioner Quesada: So they don't have to go in – we get that one reapproved if...

Planning and Zoning Director Trias: The idea was to allow the same process that we have now, if you chose to go to that process, which is whatever you want to do, you can take it to the Board of Architects. In addition, in addition, we thought it would be beneficial to have an easier process just like the one you described.

Commissioner Quesada: But what I'm saying is, almost like the painting that we have, the paint that we allow in the City, once we approve one it adds to the list of Benjamin Moore paints that we allow. So in other words, merchants will be able to go online to our website or go to the Building Department and see the pictures of chairs and the names of all the products that are approved as more and more get approved.

Planning and Zoning Director Trias: That's exactly the goal, yes sir.

Assistant City Manager Iglesias: Commissioners there are two issues; one is aesthetics and the other is damage to the....

Commissioner Quesada: That's been clear, there were a few questions to me about that.

Assistant City Manager Iglesias:.... So it doesn't damage the actual pavers, and then of course there is the aesthetic issue, does it fit the area?

Mayor Cason: Commissioners, do you want to listen to the public?- we've got a lot of people here.

City Manager Swanson-Rivenbark: And just to be clear, if its been pre-approved, a piece of furniture has been pre-approved, we will add it to the approved list, I think that was what – excellent suggestion.

Commissioner Quesada: Correct. My biggest concern, and I'm sorry, this will be my last comment before we roll out the merchants to speak on this and anyone else wants to speak on it, and I have a few other points that I want to go through, but I want to let them speak first, so I just want to make sure that its possible for them to be able to get up and operate, because you know, we hear the gripes all the time that it takes forever and a year on top of that to be able to open up and do things; and I want to make it as easy and seamless as quick as possible.

Economic Development Director Betancourt: The Overlay District did provide for an expedited review and approval process for Miracle Mile and Giralda Plaza.

Mayor Valdes-Fauli: The first person to come forth Maria Magdalena, 21 Madera – good morning.

Ms. Magdalena: Good morning.

Mayor Valdes-Fauli: And the issue here is smoking on cafes, and please limit your comments to three minutes, we have ten or twelve people here and they have to get back to the luncheon service.

Ms. Magdalena: I'm just opposed to an ordinance that will prevent me from smoking on the sidewalk. Its very simple. Its getting to the point that the government is telling you how to breathe and how to sit down and how to walk. So its an open space and you are going to enjoy yourself. I don't smoke, actually when I have a drink then I would like to have a cigarette and I don't think that it should be denied to me, because that's part of the enjoyment. Thank you so much.

Mayor Valdes-Fauli: Thank you ma'am. Thank you very much.

City Attorney Leen: Mayor can I clarify one point? You know the City, I've given an opinion that I believe the City could regulate smoking on the right-of-way because of the proprietary aspect of it, particularly in the streetscape area where the City has invested so much money. The City hasn't done that here though; it's a bonus program, which basically means its voluntary, and they get a lower rate and the City has not prohibited smoking on the sidewalk, it would just be in the specific areas where that restaurant agrees and pays a lower rate, so there very well may be places where you could still eat in the outdoor dining and also smoke. I have no position on what it should be, but I just want you to understand what it is.

Mayor Valdes-Fauli: Right.

Ms. Magdalena: [Inaudible – off mic]

City Attorney Leen: So the question is, is it voluntary, because the way its voluntary is when you get your outdoor seating permit, you pay less, if you agree, its basically a bonus program; you receive a bonus which is a lower cost if you agree not to have smoking, you don't have to agree not to have smoking.

Ms. Magdalena: So what you are saying is you are taxing me to be able to smoke?

City Attorney Leen: Its not a tax. Its not a tax.

Ms. Magdalena: Its not a tax, but it is a tax.

City Attorney Leen: Its definitely not a tax.

Ms. Magdalena: So then who – so when I go and I say that I want to smoke then if, I have to pay more, is that what you are saying?

City Attorney Leen: No, no, no. I want to be clear, the business when they get their permit for the outdoor seating would pay less than they otherwise would pay if they agree to have a no smoking zone.

Ms. Magdalena: So what do you think is going to happen?- because they are going to try to pay less, right, that voluntary phrase I've heard it many, many times and its not really, its like OK, you pay less so then I'm paying the penalty.

Mayor Valdes-Fauli: Thank you, thank you very much. Jose Hidalgo, Giralda Avenue, Mr. Hidalgo, I think its Hidalgo, 166 or 156 Giralda, OK. Mr. Ingraham, good morning sir, three minutes.

Mr. Ingraham: Good morning. I thought it would be easier if I gave it to you in writing and then I can just skip over most of it and talk about the high points. I apologize, you'll see a paragraph in there about the private property issue and I didn't realize until this morning that you've already modified that and I appreciate your consideration at the last meeting. I started out the first paragraph, essentially what I'm asking is why are you asking restaurants to pay a fee for use of the public right-of-way, where all the merchants on the Mile and Giralda also use the sidewalk for business purposes and are not being asked to pay; egress and access to the parking for their customers its all the same, and if you walk up and down the sidewalks, which I did this morning, you'll see that the dirtiest parts of our new pavers are not anywhere near the restaurant areas. So if we are concerned about cleanliness and I'm jumping several paragraphs together here, we should be concerned about how to keep the sidewalks from getting dirty, or if you are going to want to charge us for maintaining the sidewalks, everybody should be charged, its only fair. Right now you are being unfair and punitive against the restaurants. The restaurants, as I've stated last week, are already clean for cigarettes as well as paper and food and other things that our customers might drop on the ground. But what happens is there are restaurants that don't have outdoor seating and they are carrying their food away and that's ending up on the sidewalk

in front of our restaurant. We clean that up every morning as well, but what you are proposing is for us to pay but not the people that are actually creating the mess. I want you to think about that, if you would please. The next comment, paragraph 2 was about the ordinance itself. All too often we write our ordinances in a very legal format and its to the lay person is very scared. So I thought it would be a good idea for the City to consider asking or making a statement that encourages innovation and encourages people to bring those innovative ideas to the City. There is nothing in the ordinance that says, we encourage you to come to us with new ideas that aren't part of the ordinance and that we'd be happy to consider them and that's what our Boards and City employees are there to do, and that they would consider that. Also, the third paragraph was about the cleanliness of the streets. If you walk up and down the Mile, which I did yesterday and today, you'll see that there is a lot of cigarettes butts and garbage accumulating around the trees, the bushes, and the low spots in the street. These are going to create big problems for cleaning, because you are asking us under the ordinance it says, I have to clean the property adjoining my restaurant on both sides, plus the distance from the front of my seating to the street. I'm perfectly willing to do that, but I have a couple of trees out there that have wood chips in them, and if I go out there and rake up the garbage, I'm also going to rake up all our wood chips. So I'm not sure how I'm supposed to comply with that part of the ordinance and I would like you to consider that. In regards to the umbrellas – I don't have umbrellas and its not an issue for me, but the pre-approved seating areas are almost all under the brand new trees, six foot 8 inches, 4 inches above my head, not his, is the minimum height for the umbrellas, so the maximum height is going to be somewhere above 7 feet and if you walk along that pre-approved seating area and try to figure out how many branches have to be cut off those trees in order to put those umbrellas in, you may need to reconsider where you pre-approve these areas or how you approve the actual furniture for that area. The size of the tables, Mr. Quesada already is bringing that up. Many times when you have a customer come, he brings his family, so a table that's set for two won't work.

Commissioner Quesada: You understand what the response was though, right?

Mr. Ingraham: Yes.

Commissioner Quesada: You'll put it in and get it approved and then from that point on anyone else that wants to use a similar table, its already approved, if they want something special then the City staff has just got to make sure its not going to damage the floors.

Mr. Ingraham: You've addressed that, I've found that suitable, so I'm just jumping over that paragraph. You took care of most everything I had.

Mayor Valdes-Fauli: Mr. Ingraham your points are very, very well taken and I will invite you to come on a one-on-one basis meet with our people, because I think you bring up very, very good points.

Mr. Ingraham: I'll get out of your hair.

Mayor Valdes-Fauli: No, no, no, not getting out of my hair, your points are very well taken and I appreciate you doing this.

Mr. Ingraham: The planters – I don't know how many restaurants have had outdoor seating with planters, but we've had outdoor seating with planters for 30 years, and we've dealt with all the problems associated with keeping plants alive in the planters, and we've also dealt with the new Zika ordinance that was passed by the City Commission last year, which required me to drill holes in the bottom of my planters so the water could seep out, that's going to be in direct conflict to your current ordinance if you pass it the way it stands, and if anybody has noticed there are no stains on the sidewalk, well the sidewalk's gone, but there were no stains on the sidewalk by our restaurant even though we've had plants out there every day for the last 8 years at our current location. What happens is water gets in there during the rain, but the sidewalk is also wet, so there is no staining of the pavers, so maybe you might want to reconsider that.

Mayor Valdes-Fauli: That's a good suggestion.

Mr. Ingraham: Everything else you already addressed. Thank you very much.

Mayor Valdes-Fauli: Thank you very much sir, and I invite you to call us to discuss these issues, because they are very, very valid. Thank you very, very much. The next person is Taciana Amador, Ms. Amador, 212 Miracle Mile.

Ms. Amador: I'm Taciana Amador, the Executive Director of the B.I.D., and I'll be brief to all the restaurants that are here today, you have about a dozen of them, that either may wish to speak or may wish to listen to the comments the others have to make. The comments that I just would like to reiterate, some I mentioned the last time and some of them are questions. One obviously is, there is a major concern as to how the no smoking will be enforced, given that a foot away they could have a retailer next to them and someone could potentially smoke, so enforcement and regulation of the smoking is a concern. The waiver of the one year fee for proffering smoking, we would like for the Commission to consider not only it being offered to all the restaurants on the Mile and Giralda who have had struggles and hardship this past year with construction immediately in front of their door, and will need time to recover from the construction, but not only just making it one year, but potentially considering for it to be two-



year. Again, because they do need the time to recover the losses of their businesses. We would like for there to be more pre-approved options for furniture and I understand that that's something that will be coming down the line, but we also realize that some of these streets are, some of the blocks are near completion and the restaurants would like to have this implemented as soon as they can. So the more options they have that are pre-approved to expedite their process, I'm sure they would be appreciative of; and the last thing is, you may hear additional more concerns, because they called our office and there are quite a few more concerns from the restaurants. I do hope that for the sake of them being able to proceed with the dining permits that the Commission hears them and were able to make some sort of resolution or resolve their concerns today if at all possible. Thank you.

Mayor Valdes-Fauli: Thank you ma'am. Thank you very much. Lillian Gambia – good morning.

Ms. Gambia: Good morning, thank you for the opportunity to talk to you today. We would like to know when you talk about the furniture for outside, we need to be included in the selection of the ones approved, because according to the customers that everybody has and the kind of food we serve, we need to be included in that selection so at the time you have selected a group of furniture we can decide that's convenient for our restaurant or not.

Mayor Valdes-Fauli: OK. Do you want to address that?

City Manager Swanson-Rivenbark: I can speak on the process today. They've identified some of the furniture and then given a process, so that if our restaurants would like different furniture that they can come and get that approved in the process.

Commissioner Quesada: How quickly can we turn that around?

City Manager Swanson-Rivenbark: Who can speak on this process?- the Board of Architects?

Commissioner Quesada: To me in my eyes that's almost the bigger concern, because they may have an idea, they want to try to make a certain event we want to promote, obviously there are a lot of events on that street. I want to make sure we turn it around quickly.

City Manager Swanson-Rivenbark: Understand. So one of the options is, if we call for a Board of Architects, we could have it administratively approved so that you used the paint example, right, so the first three colors on a swatch is pre-approved. If you go to punchier colors then it needs approval. We can create an administrative process for furniture that is not already pre-approved and then the staff would have to refer it to Board of Architects if they are not comfortable with it.

Commissioner Quesada: Can we also create a detailed guideline, for example...

City Manager Swanson-Rivenbark: Of what to consider?

Commissioner Quesada: When they are deciding what furniture to pick, just so that they have a higher likelihood of being approved, basically saying, hey look, if you are going to pick a chair or a table that's got spikes touching the floor, no way its not happening. I think Peter Iglesias told me this earlier. Any kind of chair or table that's got one point of impact on the floor is more likely than not, not to be approved, because its got to scrub the weight out. Its more likely to have almost like a, I don't know how to describe it, almost like a rocking chair style the fact that it spreads the weight out of a longer distance. Again, I'm just giving you an example, I'm not telling you this is what its going to be. I want to make it very clear written out and in pictures so that when the merchants go, OK, we want to get some chairs and tables, OK, we've got to get something that sort of looks and feels this way.

Ms. Gambia: And its permanent furniture because we don't have the storage for that, most of the restaurants we don't have the storage for that.

City Manager Swanson-Rivenbark: It is furniture for outside. The Commission has approved for a two-year period the closing of the street for vehicle traffic, that would allow you to keep your furniture outside at night unless that approval is lifted.

Ms. Gambia: Also we would like to have some comments about now that the street is open, a lot of people are coming to pass with their dogs. We don't have any problems with the dogs coming to the street, but the people needs to have some regulations because when we see the dogs making "pee pee" and "caca" on the street we cannot tell them anything because its nothing regulated by the City to tell them, look the City has this regulation for the street, you cannot do that here, you are going to have to take care of your dog.

Mayor Valdes-Fauli: OK. Madam City Manager will you consider that?

City Manager Swanson-Rivenbark: Yes sir.

Mayor Valdes-Fauli: OK. Thank you.

Ms. Gambia: And also now you are celebrating 10 Giralda Fresco and the street is still very empty on Saturdays. We need your support, we need more advertising, we need to bring more people to the street, because we have suffered one year of damages of not having the street open

or with lights, and now that we are celebrating this event we need strong advertising from the City, from City Hall, from the B.I.D. and from the Chamber, everybody is under the umbrella of Coral Gables and more effort needs to be done.

Commissioner Quesada: Can I speak to that point?

Mayor Valdes-Fauli: Of course.

Commissioner Quesada: I know we had Taciana Amador from the B.I.D. here, Mr. Mena, I think you are the representative of the Commission, is the B.I.D. currently planning any events or anything for Giralda in the near term?- or is there a marketing campaign in order to spread the word, because I think, I'm not sure exactly when we are supposed to be done with Giralda, do we have a better idea of when its completed? Maybe its Javier Betancourt, but I just want to make sure that we are really, and she's absolutely right, we should absolutely be pushing as much as possible just to get the word out there, viral videos, advertising, I don't know anything about marketing, but what I'm saying is let's make sure that we are doing something. So are we doing anything?- what's the plan right now?

Commissioner Mena: Taciana can speak to you a little bit about the marketing efforts which are pretty substantial by the B.I.D., but obviously I think they are looking for as much support as they can get from the City as well.

Commissioner Quesada: Can we get some clarity on exactly what's happened?

Economic Development Director Betancourt: And it's a partnership, I would say the B.I.D., the City, and the Chamber all work cooperatively and we are doing different pieces of the puzzle, but Giralda Fresco, for example is a partnership between the B.I.D. who supplies the entertainment throughout the day, the City rents the furniture, and we both use our marketing channels to get the word out on that. We could always do more and we are always open to ideas, obviously budget is one of the factors that we deal with, so we do as much as we can with what we have, social media obviously is in full gear on getting the word out on that, obviously the weather hasn't been great for a few weeks, so I know that that's affected, but the rain and the humidity.

Ms. Gambia: Only one Saturday it rained, on Saturday it didn't rain.

Economic Development Director Betancourt: But also just the heat and humidity, I know less people want to eat outdoors as it gets hotter, that's just human nature. So Giralda Fresco is one

event, we are working on many others and I'll let the B.I.D. talk about some of the ones they are working.

Ms. Gambia: We don't expect a crowd as Giralda Under the Stars, because its already an established event, but at least we don't expect to see every Saturday the street empty.

Ms. Amador: Well we do have a few events planned. We have been supporting Fresco event as part of our media strategy that was estimated by our marketing committee, they are primarily digital, but they are paid digital; and we've seen great engagement with the ads and the videos and again, supporting the event. I think like Javier mentioned, the weather has played a factor, the heat has played a factor, and getting people used to their big dining in an off season where they are traditionally used to their being dining once a month in the better seasons, I think is always going to be a struggle especially at the beginning. So one of the things that we here at the B.I.D. are working on is a summer series and its been a little difficult to pinpoint some dates just because we are kind of waiting on the end date for Giralda, but we have a music concert series, a summer fair being proposed, potentially some – some interesting activations with a company that has done events throughout Miami and venues that are not typical and venues that are not going to be as beautiful as a Giralda Plaza or Miracle Mile are going to be. So we are excited to bring that forward in the months, potentially July; we want to start in July, but more realistic it will be August and September, so there are quite a few coming online.

Commissioner Mena: How is "Restaurant Week" obviously going?

Ms. Amador: "Restaurant Week" is currently going on now, we have over 35 restaurants on board and have always been great and very supportive, and that goes on from now through June 25<sup>th</sup>, the restaurants are offering three course price fixed menus and its three weeks only.

Ms. Gambia: But we already past the first week of "Restaurant Week" and the crowd is very low, so we need stronger advertising. I know if you go to TV, news, the crowd will change in Giralda and Miracle Mile.

Mayor Valdes-Fauli: OK. Thank you very much. Thank you. Martin Lynch. Good morning.

Mr. Lynch: Good morning. Mr. Mayor welcome back, Commissioners, City Attorney, City Manager, City Clerk. I just need some clarification on a few issues, I just want to point them out, bring it up, and we go from there. My biggest thing with this is enforcement. For the life of me, I don't know how you are going to do it. You are putting a lot of onus on us as restaurant owners to enforce this type of no smoking. I'm a non-smoker, I detest it, but you know you can buy them everywhere, you can buy them at Publix, they are everywhere. We used to have them at the

restaurant years ago then we moved them into a room in the restaurant and I would move to that side. I don't know where they are going to move now. I think enforcement is a big thing. If you've got side-by-side restaurants how you going to do it? Sometimes we've got issues, like you know where retailers are shopping...

Mayor Valdes-Fauli: Can I interrupt you because I want to ask the Commissioners a question. I'm not a smoker, so I'm not...convinced that it is best for us to regulate smoking in this area, how do we enforce that? I think we should get rid of the smoking provision altogether and continue with what we have.

Commissioner Quesada: I like the fact that we are trying to prevent it, my concern is and its been raised, and its been spoken today, I'm afraid of them hurting their clientele...

Mayor Valdes-Fauli: Clientele and how are we going to enforce it.

Commissioner Quesada:...because if I'm a smoker and I'm told I couldn't smoke, I would get upset with the establishment.

Mr. Lynch: That's the issue Mr. Mayor. The thing is, you deal with the public once a month, well you deal with them every day, but we are 24/7 with customers and when you have to tell them, listen you can't do this, you can't do that, its harrowing.

Mayor Valdes-Fauli: How would you enforce that?

Commissioner Mena: But isn't the way its structured, isn't the idea behind it to make that your decision as a business owner.

Commissioner Lago: Enforcement falls on restaurants.

Mayor Valdes-Fauli: And they are not going to do it, and they are going to be told to jump in the lake.

Commissioner Mena: I'm not referring to enforcement, but I'm saying the way I understand this to be structured and drafted is that they are going to make a business decision of do we want to have to enforce this and therefore get a discount on the fees or not, and they are concerned that they are going to keep their current clients, they are going to upset their current clients, they'll make a business decision of whether its worth it to them to pay the higher fee.

City Attorney Leen: The City Manager and I discussed this, she has the ultimate authority over implementation, I have the final authority over interpretation, obviously, subject to your oversight. What we talked about was, if you agree to this proffer and you agree to have a no smoking zone, you have to make a good faith effort. So for example, you want to put out ashtrays, you might put a little no smoking sign. If someone is smoking you might ask them politely to stop. Ultimately you can't control what people do, we understand. We are not asking you to evict them, but if it comes to our attention that you are not enforcing it at all in good faith, then you would be required to pay the additional amount going forward, you would not be penalized, but going forward we would basically make a finding that you are not....just pay the additional amount.

Mayor Valdes-Fauli: We are opening the door to ourselves for problems, creating problems with these people, creating problems with the customers, my feeling would be to get rid of this in the resolution.

Mr. Lynch: I also think, City Attorney, that with the enforcement fee whether its 15 percent or 15 square foot or 10 square foot, that you are pitting businesses against each other. You know that one business could have it, the guy beside him could not have it, you are creating friction in the business or businesses, and its not a healthy situation, especially coming off of a year where you are suffering for a year with the construction and things like that. I mean every restaurant in this room today will tell you that – that every restaurant is up for everything, schools, organizations, this, that, the other, like every day of the week. You've got your kids and you'll say, I know Martin from John Martin's, I go ask him for a gift certificate, I know Dan, I know this, but it takes a lot to run a restaurant, it takes a lot to survive in a restaurant and when you've got these types of things it makes it that much more difficult.

City Attorney Leen: Understand.

Mr. Lynch: But my suggestion, I have a suggestion is that you, what you do is, you provide smoking kiosks in the areas like you do at an airport and then its very easy for a restaurant to go and say, I'm sorry you can't smoke here, there is a smoking kiosk at the crossroads, there is a smoking kiosk down there and try it that way. If you wanted the whole clean air thing, something like that might work.

City Attorney Leen: If I could just add. You know there is a policy decision to be made by the Commission whether you want this or not. The way it came up was it came from a Board that had recommended this and some individual Commissioner had expressed an interest and so, we spoke with the business community and came up with the bonus program. I've given an opinion that the Commission could just regulate it and handle it itself or the Commission could do

nothing. Its completely within your discretion. If you did regulate it though, we would want to change, for example, if you were going to prohibit smoking throughout Miracle Mile we would need to rewrite those portions of the ordinance that comply with state law.

Mayor Valdes-Fauli: You can't forbid smoking on Miracle Mile, I mean you can do it, but the enforcement of it would be horrendous.

Commissioner Lago: And I just want to...I know we want to move onto other things, probably a few more speakers. I'm agreeing with the Mayor and I think that Commissioner Quesada brought it up, the last thing I want to do after such a strenuous push forward after 30 years of not doing anything on the Mile, I don't want to put another barrier that hurts the merchants. Maybe we can adopt, excuse me, not adopt, maybe we can address probably bring this up in a year or two years and see how its going. I don't have any facts at all, but I just visual that less and less people are smoking today; less and less people are smoking today and if you are a smoker and you don't realize the detrimental effects of smoking on you, again, no one's going to educate you, you should see it already. So again, I think its something we can discuss in a year.

Commissioner Quesada: This conversation has changed my mind, it really has, so I'm 100 percent agreeing with what you said Commissioner Lago. Let's just make sure that this works well, let's make sure that, want to make sure that Miracle Mile and Giralda and everyone's kicking butt and then we can address...

Commissioner Mena: Can I ask a good question though, if we pull it from this resolution then we are going to the higher price fee, so the end result is everybody is going to pay a higher fee now and the people who would like to pay a lower fee are not going to have that opportunity.

Commissioner Lago: Because I gave it some thought; I thought that eventually everybody is going to pay the \$15.

Mayor Valdes-Fauli: Let's finish with the public input and then we'll discuss it among ourselves, if you don't mind.

Mr. Lynch: A guy like me, the fee hurts me in a way, because you know why, because we started this back in 1989 when the City Manager was here, the Mayor was here at the time, some of you guys are "whipper-snappers" so you don't remember, but at that stage we had the 4,000 square feet and 200 seats to operate a restaurant with a liquor license. Now-a-days you can set it up on the corner and get your liquor license, so I'll be paying double what a regular restaurant 25-foot space is doing and I just want to point that out. Thank you very much for your time.

Mayor Valdes-Fauli: Thank you very much.

Vice Mayor Keon: I do like the ideas that you brought up about how creating a smoking kiosk or somewhere along the Mile that there is by those planters that there are ashtrays, because I know copper 49, is that...

Commissioner Quesada: 29 – don't pretend you don't know.

Vice Mayor Keon: Copper 29, they can't smoke inside so I'm sure they walk outside and at least if they are sitting at a table and there is an ashtray, its going to go into the ashtray. Whereas when they walk out of some of the places that don't have outdoor whatever, seating or whatever, there is no ashtray and its going to go in the planters and along the sidewalks.

Mr. Lynch: All I'm saying, if you had a kiosk type situation its easier if you have to talk to the customer and say, we've got this available for your smoking rather than go out....

Vice Mayor Keon: I don't think they should regulate smoking at your restaurant...

Mr. Lynch: Thank you very much for your time Mr. Mayor, I appreciate it.

Vice Mayor Keon: I do think you should do it for the other merchants along the Mile so when somebody walks out of the shop because they want to have a cigarette, they are waiting for somebody, they are not throwing their cigarettes butts on the ground.

City Manager Swanson-Rivenbark: Mr. Mayor if I can ask a question. So the City Attorney is correct when the Property Advisory Board and the Economic Development Board met they came up with the idea that we should prohibit smoking and so through staff discussion and the direction of the City Attorney it was, how can we incentivize. If it is the decision of the Commission to remove the smoking reference, remember in here we say one year free because of the pains the troubles that the restaurants have gone through this year, so that we are not charging this year, but in the next year we would be charging, if it is the direction of the Commission to remove the reference of the smoking then I'm sure the City Attorney can revise the resolution...

Mayor Valdes-Fauli: [Inaudible]

City Attorney Leen: If it is removed one question would be, if a restaurant does want to prohibit smoking, it is still our right-of-way, are we going to allow that, let's say its completely voluntary.



Vice Mayor Keon: Would you include smoking kiosks or someplace for people to put their cigarettes butts?

City Manager Swanson-Rivenbark: We looked at some of the pictures online about those, not sure how we would solve that, so let us continue to work on it. I'd rather not have it mandated.

Commissioner Lago: I'm not a big fan of the kiosk, maybe we can do like one of the corners, but having some sort of glass enclosure where people are sitting there smoking.

Vice Mayor Keon: An ashtray or someplace where you can dispose....

City Attorney Leen: One last thing, I promise. So in terms of the language, I'll take out the reference to smoking, I'm going to move the amount of the \$15 for everyone, I'll put that it will come back in a year regarding the smoking issue and do you want there to still be encouragement that people...just one year they'll come back. OK.

Mayor Valdes-Fauli: Alright. The next is Nicholas Sharp, Threefold Café.

Mr. Sharp: Good morning everybody, thanks for the opportunity to speak. Several of my points already obviously have been covered to some degree from various other people. I'll apologize in advance if my tone drifts a little bit, that obviously as a restaurant owner this has been quite a process. Originally been told that construction would last for three months, at the moment we are up near fourteen months and Giralda is not finished. We've had four separate promises of completion dates, four, and we are still not there, and as of this moment the plan that's online is wrong. It won't be finished when it says it will be online and we don't even have a date. To directly answer Mr. Quesada's question about marketing, excluding the Giralda El Fresco, which only impacts a tiny number of businesses and its one day a week, what's being done on marketing is nothing, because no firm opening events for Giralda that have been planned and there is zero by anybody has been spent on marketing as of this moment. Giralda at the moment is expected to be done in July, nothing is planned, nothing. We sent a letter following up from meetings that we had in September with City staff and with the City Manager over one month ago, the letter was sent from the B.I.D. for a new subcommittee for Giralda that's being set up, over one month ago, no response. In that letter we asked for very specific things following up from previous meetings. We asked for financial support for a launch event, a big launch event, so that everybody in Miami hears and knows about Giralda Plaza, which will be unanimous, you talk to anybody that say, its going to be a beautiful street, its going to be an amazing space. No one in Miami knows. Talk to a thousand people in Wynwood, not one person will know about Giralda Plaza, we are a month and-a-half away from opening. We need to get better at this. We are a year over what it should have taken and still we haven't done any planning for a grand

opening. Its not good enough. There are businesses on the street that are suffering very significant financial losses. We also ask for a contribution to the Giralda Subcommittee for a marketing allocation to come directly from the City to help kick-start a marketing and a PR campaign and to schedule events out over the first year or two to make sure that the street is a success and also to help out the business as-a-whole, not just for restaurants, the entire street to get things off the ground and to get going. So that addresses the marketing issue. Regarding the Café Plan – I want to just really quickly run through the smoking link has already been removed and I did have several points on that. I do further to the gentleman earlier, have a general discussion and just clarified that this fee that we are talking about, a \$15 per square foot is in relation and will be used to clean the street, only the restaurants are paying, and only the restaurants that chose to have an outdoor dining permit will be paying, because a lot of restaurants that won't be having an outdoor dining permit because they can't afford the furniture and because from a business point of view they don't need additional seats. Most restaurants are struggling to fill the seats that they already have and don't need an additional 40 or 50 seats out the front that now they are paying additional rent on that they can't fill. So, I'd ask that you consider the basis of the fee and if its sustainable and if its really what you want to do. Further to Taciana from the B.I.D.'s point, I would ask that its waived for two years, OK, to give us time to get our businesses back up and running to where we can actually fill those seats that are out the front. If I can't fill the seats its just additional rent. If I'm moving people from inside to outside it adds no value to us. So we ask for two years to give us a chance to build our businesses back up please. The permit process, when I read the application, there is a section in there that says you have some kind of initial meeting, but I would ask that this is very, very clear and very, very streamlined. We are talking about putting outdoor tables and chairs on an area that's already been approved to have outdoor tables and chairs. I shouldn't need architects, I shouldn't need site plans, I shouldn't need building elevation. This is the furniture that we plan to use with whatever description is needed to explain what it is, can we do it?- yes or no. It shouldn't cost me thousands of dollars to get an architect to draw pictures so that I can have outdoor chairs and tables, if that's the intention all along. The types of furniture, also to clearly say what we can and can't do. It does concern me that if we are here now, although this process worried if tables and chairs, which restaurants have very expensive timber floors, we are worried that they are going to harm the pavers, we are worried that they are going to harm the bricks. I mean if it was intended to be used for outdoor dining, I expect that the pavers are going to be able to take tables and chairs in the normal course of business. So just clarification of what we can and can't do and let us get this going and streamlined and fast. The umbrellas – the current proposal includes only umbrellas that sit in the middle of the tables. I'd ask that you consider allowing us to use also free-standing umbrellas, maybe some certain standard is required and obviously safety concerns, but free-standing as well as the small ones that are going to sit in the middle of the tables be allowed, which gives you more flexibility to also cover shade, the one's in the middle of the table only cover when the sun's above your head. The current plan has no bus stations or waiter

stands outside. Some of the restaurants have quite an extensive frontage and will have quite a number of tables and chairs outside, you need to have some form of bus stand. I'm not saying we create benches with dirty dishes and dirty glasses and things in the public right-of-way, but we need to be able to have a stand with cutlery, with menus, with napkins, with cold water bottles to fill people's drinks. We need the ability to be able to do that outside, so hopefully that's a small amendment. I also already know that recorded music is not allowed to be played outside, loud music is allowed, but recorded music isn't allowed. I'd ask that you look at that as well. I'm sure we want an environment with activity and things going outside and there are already a bunch of places around the City that are doing that, so I'm not sure where that one came from, but hopefully that can be looked at. That's all I have. Thank you.

Mayor Valdes-Fauli: Thank you sir. Thank you very much. Christopher Gordon.

Commissioner Lago: He had to leave.

Mayor Valdes-Fauli: OK. Sorry about that. Alright – discussion. I think that it's a good plan, we need to work on it, we need to get the merchants together with the B.I.D. and also with our staff to polish some of these issues that had been brought up, but the ordinance is good, I think, and I will entertain a motion.

Commissioner Quesada: Well let me just, a few quick points. First of all, I commend staff, thank you for getting here. I think this is a great first step, well its not the first step, but I think it will be great once we get an application, just a few small – I want to make a few small amendments based on what we've discussed here today, as well as what some merchants have reached out to me for. I will make a motion, I guess I'll wait till everyone speaks, but what I want to see is the umbrellas as Nick Sharp mentioned, if you've been to any restaurant, either in Coconut Grove or in South Beach or any other city in the country, you see the bigger umbrellas that you can move around are never in the middle of the table, they are next to it, they have a big stand and they can move them around depending on the sun, so I want to see that amendment, if everyone is in agreement for that. The pre-approved furniture, Mr. Sharp also brings up a good point and its funny because we get, I get these comments, I'm sure the other Commissioners as well, whenever you want to get signage on your door or on your business you have to get an architect and it cost thousands of dollars to put up a little sign. I want to be very clear, and I want this to be in the actual ordinance or the resolution, whatever, the resolution, I want to make sure no outside professionals are needed for a merchant to be able to do their, I guess, outdoor dining plan. If you still need some sort of measurements, tell them to submit it on graph paper and each square is a foot so that they can draw where the tables are going to be and the chairs, if we need something like that, so that anyone can do it, but again, just make it as clear as possible. The dogs, was mentioned before, but I just want to say I'm in agreement with that, there should be

some sort of plan to address that. The pre-approved furniture we covered; the recorded music, I want to speak to that point. The recorded music is actually something that, I think I was involved in that one addressing it with staff. I've been in a band my whole life, I played music my whole life, I'm never really good at it, but I enjoy it. My concern with the recorded music is, if you have loud music coming out of one establishment outside, how is that affecting a neighboring establishment? One of the items that I had discussed with staff is, well if you have someone outside playing a guitar or a violin or whatever, if its not amplified it really shouldn't hamper the other businesses, so we were trying to find a way that everyone can have their own kind of entertainment or create their ambience without it bleeding over into a neighboring business. I don't know if you have a better solution than that, but everyone had amplified music outside it could really cause a situation, well that person's music is too loud and its bothering our customers and we were trying to avoid that. I don't know, Nick, you were the one who brought it up, I don't know if you have any ideas how to address that, but we are open to it. Again, we are open to any other thoughts on that. As far as marketing or venture opening, I have a question for staff, have we allocated any City funds toward marketing for the B.I.D. and Miracle Mile, if so, how much and how is it being used?

Economic Development Director Betancourt: We are planning a grand opening with the B.I.D., we have set a tentative date of July 28<sup>th</sup> that's all going to depend on when the project ultimately is completed, we are supposed to get better confirmation this week from the contractor on the final date, and we are planning essentially an enhanced version of what they used to do with "Giralda Under the Stars," so we have outdoor dining, we have entertainment, we want an entertainment that's going to be a big draw, so we are going to be putting in additional dollars to ensure that its high quality entertainment.

Commissioner Quesada: So here's what I want to say about the entertainment and I know we don't typically get into specifics, but I think its important. Something I've always wanted to do on Giralda and I think the timing works out perfectly, Miami Symphony Orchestra. We have been on July 4<sup>th</sup>, we get 20,000 plus individuals, I'm sorry, Greater Miami Symphonic, my apologies. So the same group that presents on July 4<sup>th</sup>, gets a big draw for the City. I think last year it was 28,000 in attendance at the Biltmore and every year we have more than 25,000, just around 30,000. What I would like to do is, if we can reach out to them, have that same group perform at our grand opening, let's get 5 or 10,000 flyers and pass it out with a picture of the finished Giralda and say, this same orchestra is going to be playing at the grand opening, we are going to have an audience of 20,000, we can announce it on the stage there and say, hey, come and enjoy this, then we can also advertise to the individuals that go to Miami Beach, what's the symphony orchestra?- at the New World, make a tremendous attendance. All the people that go to the July 4<sup>th</sup> event are the same type of people that go to the New World event are going to be the same type of people that are going to want to attend Giralda. We could potentially get too

many people to go to Giralda, which would be a good thing because it would spread the word and we can really show off how well its done; the timing can work out because we have the July 4<sup>th</sup> advertise and any New World events in the interim period. Those are my thoughts – Oh, and the two year reprieve that Nick Sharp brought up, I am in agreement with because its us investing in the success of Giralda, again, the financial aspect I'd like to hear from staff on any kind of impact we have, obviously there will be a financial impact, but I am fully in favor of that. Those are my thoughts,

Mayor Valdes-Fauli: Very good.

Commissioner Mena: I just want to say, I agree with you, I think that's important. I think we need to help these merchants get through this time period. One of the points to your question about marketing, to the point you are making about marketing that I think is so difficult is the moving target that keeps being described. Its very hard to plan a grand opening when you don't know when its happening and so, I'm a little upset because I continue to be told that we have specifics, we have a website, it sets forth the dates not barring some sort of delay, its going to be that day. I had heard it was going to open in May and then there was an issue with a pipe that caused a week delay and we had it FedExed from I don't know where.

Commissioner Lago: That's happened three times.

Commissioner Mena: Three times its happened, exactly.

Commissioner Lago: And I know that our Assistant City Manager, Mr. Iglesias has briefed me on this several times, I actually visited the site and I know a lot of all of you also visited a lot, but the issue is that the subcontractor ran it over, not once, not twice, but three times...

Commissioner Mena: And I guess the question, I don't know if this question is for Peter, but is there some penalty to them for doing this, for continuing to make the same error and for causing delays that are affecting our businesses?

Assistant City Manager Iglesias: The pipe is a custom pipe and its all being done at the contractor's expense.

Mayor Valdes-Fauli: But what about not doing it.

Commissioner Mena: Exactly, we know have a delayed opening date for all of these restaurants that are being impacted, so I had heard that this happened once and how I hear its happened three times.

Commissioner Lago: That's a discussion that basically entails liquidating damages in our industry. The fault that you have in reference to this pipe is that you can't proceed installing the pavers because the pavers abut to this pipe and basically finish at the pipe, we are depending until the pipe arrives, and the pipe is on the way, right?

Assistant City Manager Iglesias:...We are trying to repair a section there are no liquidating damages for this contract is based on the overall contract date.

City Attorney Leen: Yes. So we reserved all our rights, we'll look at what happens when they actually reach substantial completion and then Mr. Iglesias and I are going to discuss that, what we are going to do. Obviously, we'd still like them to move as quickly as possible, so that's still an open question what we are going to do, but we've reserved all our rights, and obviously we'll brief the individual Commissioners and we would come to the Commission as-a-whole.

Commissioner Mena: When will the website be updated with a new date so that at least they have some general idea of what the new date is?

Assistant City Manager Iglesias: The website was updated to June and it will be updated to – we'll get a better date this week as to when that pipe will be. Everything in this job is custom and its not something that you can just call up and say, give me a 24 inch pipe, its custom made and its custom fabricated.

Mayor Valdes-Fauli: Why would we have a pipe custom made to go under a street?

Commissioner Lago: This doesn't go under the street.

Mayor Valdes-Fauli: But why would we have a pipe custom made.

Commissioner Lago: I'll show you a picture of it here because I actually have one, a neighboring business sent it to me, because they've keeping up to date in regards to this issue.

Mayor Valdes-Fauli: Go ahead.

Commissioner Lago: It's the grill, it's the grill that goes, the catch basin.

Assistant City Manager Iglesias: It's a special grill, it's a custom grill that goes on that pipe and so you have multiple companies fabricating parts for that pipe and the pipe manufacturer taking

those components and custom fabricating that pipe. Its not the normal pipe that manufacturer would provide, it's a much more aesthetically pleasing design, however, it does deal with...

Mayor Valdes-Fauli: Thank you – any other comments for the Commission.

Commissioner Mena: The last point I had.

Mayor Valdes-Fauli: Maybe we should get on with it.

Commissioner Mena: It's the first time I think I've spoken today.

Mayor Valdes-Fauli: Go ahead.

Commissioner Mena: I also had a concern about the point that was made about the maintenance fee only applying to the restaurants that have the outdoor café, its sort of equivalent to what you would call CAM, in a private setting, with a landlord and a tenant where you have common area maintenance fees, and this to me, again, if these fees are being used to clean the entire streetscape Mile, why is it that only some of the tenants are being required to pay a fee for that?

Mayor Valdes-Fauli: That's a good point.

City Manager Swanson-Rivenbark: Just so that you know Commissioner Mena, we had actually reached out to the B.I.D. before and we are thrilled that they are coming forward with a new election which may deal with maintenance in the future. We had suggested that they be responsible with an assessment for all of the maintenance, they were not comfortable doing that, so we came up with two pieces; one is, increasing the parking, on-street parking and the surrounding area to help offset it; and in addition to that, so a big chunk of it will come from parking fees and then also these sidewalk cafes almost as a user charge, but the goal was, we had budgeted for quarterly repair, but not the daily sweeping which has not begun yet, and we felt that I actually had talked about it since I got here, and it was not moving anywhere from the Business Improvement District standpoint, so then we went to this option, but a significant amount of money is also coming from Parking fees that would be increased exclusively to pay for the cleaning, the sidewalk cafes as one revenue source and the Parking as a second revenue source.

Commissioner Lago: Here's a picture.

Commissioner Mena: Oh, thank you. I understand there is addition streams of revenue to help fund the maintenance, which is a good thing, but the portion that corresponds to tenant we are

still seeing only corresponds to these limited tenants, not to every tenant which hypothetically would lower the fees for everybody.

City Manager Swanson-Rivenbark: You all have the authority and the City Attorney will correct me if I'm wrong, where you can mandate an assessment district in the streetscape area for X number of cents per square foot to pay for it. Normally we do, I'm sorry...

Commissioner Lago: No, I apologize, I shouldn't interrupt.

City Manager Swanson-Rivenbark: Normally when we do assessment districts, we do like one folio one vote type of application. We did not get traction with, this is of course before you became a B.I.D. Board member, but we did not get traction on the B.I.D. working on an assessment district for cleaning the street on a daily basis.

Commissioner Lago: I agree with Commissioner Mena's comments in regards to being fair. Why don't we just request from staff that they look into, for example, South Miami, look into Miami Beach, and other streetscape projects that have happened over the last ten or fifteen years and how they've structured this type of maintenance and where the monies are derived from.

Mayor Valdes-Fauli: That's a very good idea.

Vice Mayor Keon: I think though that there is an additional amount of maintenance that is created by food being spilled on the sidewalk that is related to food, an area where people are eating, as opposed just an area where people are walking, I think it stains and the things that come from having when you take your kids out to dinner and they spill half their food on the floor or you drop cutlery on the floor and it has butter on the knife, those kinds of things are not ordinary use, that's extraordinary use and it stains more heavily. So it's my understanding that some of it was related to the staining or whatever that can occur because its outdoors, the restaurateurs can tell you that far better than I could.

Speaker: [Inaudible – off mic]

Vice Mayor Keon: Not your outdoor dining, but the City part of it. You have to clean everyday?

Speaker: Yes

Commissioner Quesada: You need to use the microphone if you are going to speak.



Speaker: Sorry. The ordinance requires us to clean the areas that we have seating in, which of course we do every day; anybody that has a decent restaurant will keep their areas maintenance and clean.

Vice Mayor Keon: You do a particularly good job of that.

Speaker: Well thank you, we try, as too our neighbors and many others. And we are also...the ordinance required to clean the adjoining areas, fortunately for me I've got a restaurant on one side, so I've got to clean in front of Snow's Jewelers and then it says we've got to clean from the front of our seating to the street, so I'm cleaning a large area of the sidewalk every day. Now I didn't need the ordinance to do that wanting to have a good restaurant, we do that every day anyway.

Vice Mayor Keon: So its already in the ordinance that they are responsible, the restaurants are responsible to clean where the sidewalk café would be?

City Manager Swanson-Rivenbark: Today property owners are responsible for maintaining and cleaning the sidewalks citywide.

City Attorney Leen: There's an ordinance; there's an ordinance that says it now. When we've been agreeing to these restrictive covenants, in certain instances the City, Cristina, what did we agree to in the restrictive covenants? There is a legal obligation, just to be clear, the City has a non-delegable duty to maintain the sidewalk because it's a public right-of-way. By Code and this has been around for a while, by Code there is an ordinance that says that the adjoining property owner has that duty, so it's a shared duty, but visa vie the City, it's the property owners duty. The City could by Code require the property owner by sending a notice, you've got to maintain the sidewalk; and in addition there is a provision in our Code which allows a third party to sue, just so you all know, an adjoining property owner if the sidewalk is not maintained correctly, but the City still has a duty to maintain that sidewalk as well that case law indicates its non-delegable, but we also have restrictive covenants.

Assistant City Attorney Suarez: Craig they are licensed agreements for the private sidewalk area.

City Attorney Leen: Pardon me, license agreements, forgive me.

Assistant City Attorney Suarez:...For the private sidewalk areas and the license agreement, the language in the license agreement just says that the property owner is responsible for maintenance as per the applicable City Code, but we've been explaining to property owners and we've been notifying them that they are responsible for daily sweeping etc., but the City will be

responsible for what we are calling routine, I'm sorry, periodic excessive maintenance including repairs to pavers and replacement of pavers as needed.

Mayor Valdes-Fauli: Thank you.

Assistant City Manager Iglesias: We will be doing the pavers and there is also going to be required, I think for this type of product, more extensive cleaning, it maybe once a month, it maybe twice a month and the City will be doing that more extensive cleaning.

Mayor Valdes-Fauli: Thank you very much.

City Attorney Leen: Just to correct for the record, its not a restrictive covenant, it's a license agreement.

Vice Mayor Keon: I also would like to speak to his point about having crustations outdoor. I think you need to have a place near the front of your restaurant where you can have water, pitchers of water, and you can have those items also.

Mayor Valdes-Fauli: You need to have water?- what do you mean?

Vice Mayor Keon: Well if you go to – restaurants that I've gone to where you sit outside when there are enough tables, there usually is a bussing station that's up against the front of the restaurant where they keep napkins and cutlery, pitchers of water and some other items, menus that they use strictly for those people that are eating outdoors. Its not the kind of bussing station that you have inside the restaurant where there would be many more tables, but outside you would also have that available so they are not going in and out of the door all the time and it takes them much longer to bus and take care of their tables. It exists now all over.

Mayor Valdes-Fauli: I don't think it does, does it? I haven't seen it anywhere.

Vice Mayor Keon: I have seen it everywhere. Do you have outdoor dining?- do you have a bussing station?

Speaker: No, we don't have a bussing station, but if you go and look at Frapalino's, he has a lot of customers that sit outdoors, because he has a smaller dining room. He has outdoor bussing area and if you look, you'll see its very decorative and quite a few. All the restaurants keep that like that, not like an indoor one where you have dirty dishes.

Vice Mayor Keon: No, its not to clear tables with, but it is to hold menus, its things to service the outdoor the same way you have the inside to service the inside, if you only have two or three tables you probably don't need it, but if you have multiple tables you would need it, and if you go to the restaurants in the Grove you see them like out on the patios or outside.

Commissioner Quesada: You see it everywhere. I forgot to mention that one, I'm in favor of that as well. We just have to strictly enforce that it can't be unkept and there can't be...

Vice Mayor Keon: Its not a place for dirty dishes and whatever else.

Mayor Valdes-Fauli: You want to make it part of your motion?

Commissioner Quesada: Yes, I do.

Mayor Valdes-Fauli: Alright, Commissioner Quesada has made a motion, including this and excluding the smoking part, is there a second?

Commissioner Quesada: I'm sorry, one additional item I want to add that came from the comments that were handed out to us. I also want to make sure that in our preamble to the ordinance that it encourages people to be innovative and feel comfortable presenting their ideas for the City's consideration. Doesn't necessarily mean its going to be approved, but again, there could be other situations that none of us have thought of that may be great for the City that we don't anticipate. Again, it's a broad statement and its still something that has to be approved, but I just want to encourage others to bring new innovative ideas.

City Attorney Leen: Can I restate the motion Commissioner?

Commissioner Quesada: Yes.

City Attorney Leen: So the motion is first, you are moving this resolution as written, except that you are removing the references to smoking, so its in the two whereas clauses. If you go to page 2, it's the top two whereas clauses, there is language being removed regarding smoking; the \$10 per square foot in the first one, and then also that, I guess now the period of time, there was going to be a time period where we weren't going to charge that now would just not be charged, and now its going to be extended to two years instead of just one year...

Commissioner Quesada: Correct.

City Attorney Leen:....it is not tied to smoking, OK. Then in addition to that there will be a section 5, which says the City will review the issue of smoking and dining areas in one year. In addition to that, we would allow those umbrellas, free-standing umbrellas; no outside professionals needed for outdoor dining plan; a plan to address dogs as referenced; the symphony idea, I assume that's a direction to staff...

Commissioner Quesada: Yes, that doesn't need to be in the ordinance.

City Attorney Leen: And then the two year reprieve which we've already discussed and then you want a line in the preamble about how business owners can present ideas or tenants can present ideas; and I would remind that the City Manager has the ability to adopt administrative regulations related to this, if she thought it was worthwhile, address those ideas or bring them to you, whichever way is best. Say that last one.

Vice Mayor Keon: Allowing outdoor bussing stations.

Commissioner Quesada: Correct.

City Attorney Leen: Allowing outdoor bussing stations in an aesthetically appropriate way.

Commissioner Quesada: Correct – and staff needs to come up with a plan on how to control the aesthetics of it. They have to come up with an outline of the kind of things that they do not want to see at the location.

Commissioner Lago: Is it adjacent to the establishment, is it more on the sidewalk, where does it have to be located? I want it to be more uniform....I don't want restaurants for the bussing station...

Mayor Valdes-Fauli: I would hate staff to spend months studying this with three or four people coming up with a 17 page pamphlet what can and cannot be done, I would hate to see that frankly.

City Attorney Leen: You are delegating the staff the authority to implement this.

Mayor Valdes-Fauli: Right.

Commissioner Quesada: And if anything, if we don't like it in the future we'll bring it back.

City Attorney Leen: It's a resolution you can amend it.

Mayor Valdes-Fauli: Is there a second? – alright, will you call the roll please.

Vice Mayor Keon: Yes

Commissioner Lago: Yes

Commissioner Mena: Yes

Commissioner Quesada: Yes

Mayor Valdes: Fauli: Yes

(Vote: 5-0)

Mayor Valdes-Fauli: Thank you very much and thank you for your patients and being here.  
Thank you.

[End: 11:34:37 a.m.]