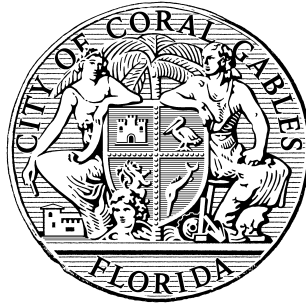


City of Coral Gables

*City of Coral Gables
405 Biltmore Way
Coral Gables, FL 33134
www.coralgables.com*



Meeting Minutes

Tuesday, September 8, 2009

9:00 AM

REVISED AGENDA

City Hall, Commission Chambers

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*

*Patrick G. Salerno, City Manager
Elizabeth M. Hernandez, City Attorney
Walter J. Foeman, City Clerk*

ROLL CALL

Present: 5 - Mayor Slesnick II, Vice Mayor Kerdyk Jr., Commissioner Withers, Commissioner Anderson and Commissioner Cabrera Jr.

INVOCATION

Reverend Arnold Perry from St. Mark's Lutheran Church led the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

Commissioner Rafael "Ralph" Cabrera, Jr. led the Pledge of Allegiance.

LEGISLATIVE SUMMARY

The following minutes summary includes all presentations made, and actions taken which information is supplemented by the following exhibits on file in the Office of the City Clerk, and which are by reference made a part of the record herein: (a) Resolution(s) adopted (Resolution No. 2009-246 through Resolution No. 2009-261); (b) Video; (c) Audio Recording; (d) Minutes Folder with Agenda and background information, including items which were submitted at the meeting.

A. PRESENTATIONS AND PROCLAMATIONS**A.-1. 09-0603**

Presentation of Certificates of Appreciation to Juan Reyes, Justin Bruton, and Issac Silva, in recognition of their heroic efforts at the Biltmore Golf Course, in rescuing a female and her dog out of a submerged vehicle.

[Note for the Record: Mayor Slesnick informed the public that recently, there was a challenging occasion wherein certain employees (namely Juan Reyes, Justin Bruton, and Issac Silva); of the Biltmore Hotel were called upon to go above and beyond the call of duty, thus performing certain acts that they were not accustomed to doing which resulted in the saving of the life of a woman and her dog; Dennis elaborated (General Manager, Biltmore) and Brian Linton (Director of Golf) further elaborated that said employees had acted instinctively without regard to their own lives, in furtherance of saving the life of another and her pet.

More specifically, Brian Linton noted that people in the vicinity of the Biltmore's Golf Shop had received a call regarding a lady whom had driven near the Biltmore's Tennis Shop, whereupon being told by some persons at said facility that her vehicle was in the wrong venue, she later proceeded along the 9th Fairway, to the new bridges along the golf course, wherein there is little room for error, only to end up in the canal; further adding that Juan, Isaac were concomitantly pursuing her in a golf cart and Justin (who was teaching a golf course,) but also joined the rescue effort, only to act unselfishly and spontaneously, jumping into the canal; approaching the car, trying to enter said vehicle, but when all efforts to enter same were unsuccessful, Isaac proceeded to break the window of said vehicle, noted General Manager Dousset, saving both dog and lady; further adding that the aforementioned staff persons were terrific, and that they could not be more proud of them.

Commissioner Anderson in jest questioned Golf Director Brian Linton as to whether the person that he was giving a golf lesson could request another lesson? Mayor Slesnick prefaced his comments, stating that "from our hearts to yours, thank you very much." He further stated that he hopes that the representatives from the Biltmore will take these comments proffered on this great occasion today back and let the staff know how much the City Commission appreciates same].

This Presentation/Protocol Document was Presented and Filed

City Clerk Item No. 1

RESOLUTION NO. 2009-246

Non 09-0628
Agenda

A Resolution of the City Commission ratifying the F.O.P Lodge 7 Collective Bargaining Agreement.

A RESOLUTION RATIFYING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF CORAL GABLES AND THE FRATERNAL ORDER OF POLICE, LODGE NUMBER 7, FOR THE CONTRACT PERIOD FROM OCTOBER 1, 2008 THROUGH SEPTEMBER 30, 2009.

[Note for the Record: Non Agenda/Ratification of Fraternal Order of Police, Lodge Number 7, Collective Bargaining Agreement for FY 2008-2009 Contract): City Attorney Elizabeth Hernandez read the following substantive changes into the public record:

- 1) That lump sum payments for accumulated compensatory time shall be excluded from total earnings for pension purposes beginning September 30, 2009;
- 2) That there shall be no across the board increases for Fiscal Year 2008-2009;
- 3) Merit increases shall be two-and-one-half percent (2.5%) for eligible employees until the maximum of the pay range is reached effective September 30, 2009;
- 4) Employees who are provided a take-home vehicle who reside within 20 miles of the City of Coral Gables or who are K-9 Officers using City cars to transport dogs will not be charged a user fee;
- 5) Employees who are provided a take-home vehicle who reside between 20 and 40 miles from the City of Coral Gables will be charged a take-home vehicle user fee of thirty dollars (\$30) monthly;
- 6) Employees who are provided a take-home vehicle who reside more than 40 miles from the City of Coral Gables will be charged a take-home vehicle user fee of sixty dollars (\$60) monthly;
- 7) That the FOP agrees to work cooperatively with the City to obtain approval of the five percent (5%) member contribution by the State of Florida Division of Retirement on or before September 30, 2009; however, in the event that the State of Florida Division of Retirement does not approve the change to the employee contribution rate on or before September 30, 2009, then there shall be a five percent (5%) across the board reduction in wages effective September 30, 2009; and
- 8) A bargaining member may elect to participate in the DROP, no earlier than the date the employee satisfies the Rule of 70, or attains 25 years of credited service or reaches age 65.

A motion was made by Commissioner Anderson, seconded by Vice Mayor Kerdyk, Jr., that this motion be adopted by Resolution Number 2009-246. The motion passed by the following vote:

Yeas : 5 - Commissioner Anderson, Commissioner Cabrera, Jr., Vice Mayor Kerdyk, Jr., Commissioner Withers and Mayor Slesnick II

City Clerk Item No. 2

B. APPROVAL OF MINUTES

B.-1. 09-0623 Regular City Commission Meeting of August 25, 2009

Attachments: [CCMtg August 25 2009 Agenda Item E-1 and H-3 - Ordinance relating to fire protection](#)
[CCMtg August 25 2009 Agenda Item H-6 - Resolution amending Reso 2009-218 i](#)
[CCMtg August 25 2009 Agenda Item D-1 - Marli Lutz Presents CoralGables@Hor](#)
[Meeting Minutes.pdf](#)

A motion was made by Vice Mayor Kerdyk, Jr., seconded by Commissioner Cabrera, Jr., that this motion be approved. The motion passed by the following vote:

Yeas : 5 - Commissioner Cabrera, Jr., Vice Mayor Kerdyk, Jr., Commissioner Withers, Commissioner Anderson and Mayor Slesnick II

City Clerk Item No. 3

C. CONSENT AGENDA

All items listed within this section entitled "Consent Agenda" are considered to be self-explanatory and are not expected to require additional review or discussion, unless a member of the City Commission or a citizen so requests, in which case, the item will be removed from the Consent Agenda and considered along with the regular order of business. Hearing no objections to the items listed under the "Consent Agenda", a vote on the adoption of the Consent Agenda will be taken.

Passed the Consent Agenda

A motion was made by Vice Mayor Kerdyk, Jr., seconded by Commissioner Cabrera, Jr., to Adopt the Consent Agenda. The motion carried by the following vote:

Yeas : 5 - Vice Mayor Kerdyk, Jr., Commissioner Withers, Commissioner Anderson, Commissioner Cabrera, Jr. and Mayor Slesnick II

RESOLUTION NO. 2009-247**C.-2. 09-0521**

Resolution authorizing the execution of an amendment to the agreement between American Traffic Solutions and the City of Coral Gables setting forth conditions for encroachments upon the right-of-way and/or the easement area, consisting of poles, foundations, camera systems and related infrastructure at several locations throughout the City of Coral Gables, Florida.

Attachments: [ATS Resolution](#)
[ATS backups](#)
[C-2 Signed Cover Memo](#)

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE AGREEMENT BETWEEN AMERICAN TRAFFIC SOLUTIONS AND THE CITY OF CORAL GABLES, SETTING FORTH CONDITIONS FOR ENCROACHMENTS UPON THE RIGHT-OF-WAY AND/OR THE EASEMENT AREA, CONSISTING OF POLES, FOUNDATIONS, CAMERA SYSTEMS AND RELATED INFRASTRUCTURE AT SEVERAL LOCATIONS THROUGHOUT THE CITY OF CORAL GABLES, FLORIDA.

[Note for the Record: Vice Mayor Kerdyk reminded his colleagues that this City Commission has been discussing the red light camera system for some time now; further citing that the City Commission had previously passed legislation on November 13, 2007; further noting that legislation was subsequently passed on August 7, 2009; further inquiring of the City Manager through Assistant City Manager Maria Jimenez, as to when will the City Commission see some movement in terms of deployment of the red light camera system in different areas of the City for enforcement purposes?

Assistant City Manager Jimenez pointed out that the City has recently installed an infrared red light system at the intersection of Alhambra Circle and Le Jeune Road; further stating that the item that is before the City Commission (C-2) provides for

conditions to make sure that we institute some of the standard conditions for encroachments into the right-of-way areas].

This Matter was adopted by Resolution Number 2009-247 on the Consent Agenda.

City Clerk Item No. 4

RESOLUTION NO. 2009-248

C.-3. 09-0560

Resolution authorizing the City to enter into an agreement with City College to allow for EMT/Paramedic students to ride on rescue units. (Deferred from 8/25/09 City Commission Meeting)

Attachments: [City College Agreement 82509.pdf](#)
[City College Draft Resolution 82509.pdf](#)
[City College Cover Memo 82509.pdf](#)
[C-3 Signed Cover Memo](#)
[City College Draft Resolution 09-08-09.pdf](#)
[City College Agreement 09-08-09.pdf](#)
[C-3 Signed Cover Memo](#)

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CITY COLLEGE TO ALLOW FOR EMT/PARAMEDIC STUDENTS TO RIDE ON RESCUE UNITS.

This Matter was adopted by Resolution Number 2009-248 on the Consent Agenda.

City Clerk Item No. 5

RESOLUTION NO. 2009-249

C.-4. 09-0561

Resolution authorizing the City to enter into an agreement with the Florida Medical Training Institute to allow for EMT/Paramedic students to ride on rescue units. (Deferred from 8/25/09 City Commission Meeting)

Attachments: [FMTI Agreement 82509.pdf](#)
[FMTI Resolution 82509.pdf](#)
[FMTI Cover Memo 82509.pdf](#)
[C-4 Signed Cover Memo](#)
[FMTI Draft Resolution 090809.pdf](#)
[FMTI Agreement 090809.pdf](#)
[C-4 Signed Cover Memo](#)

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH FLORIDA MEDICAL TRAINING INSTITUTE TO ALLOW FOR EMT/PARAMEDIC STUDENTS TO RIDE ON RESCUE UNITS.

This Matter was adopted by Resolution Number 2009-249 on the Consent Agenda.

City Clerk Item No. 6

RESOLUTION NO. 2009-250**C.-5. 09-0562**

Resolution authorizing the City to enter into an agreement with Technical Career Institute to allow for EMT/Paramedic students to ride on rescue units. (Deferred from 8/25/09 City Commission Meeting)

Attachments: [TCI Agreement 82509.pdf](#)
[TCI Resolution 82509.pdf](#)
[TCI Cover Memo 82509.pdf](#)
[C-5 Signed Cover Memo](#)
[TCI Cover Memo 090809.pdf](#)
[TCI Draft Resolution 090809.pdf](#)
[TCI Agreement 090809.pdf](#)

A RESOLUTION AUTHORIZING THE CITY MANGER TO ENTER INTO AN AGREEMENT WITH TECHNICAL CAREER INSTITUTE TO ALLOW FOR EMT/PARAMEDIC STUDENTS TO RIDE ON RESCUE UNITS.

This Matter was adopted by Resolution Number 2009-250 on the Consent Agenda.

City Clerk Item No. 7

RESOLUTION NO. 2009-251**C.-6. 09-0609**

Resolution authorizing an amendment to an existing lease agreement between the City and Robert Maguire, Operator of the Granada Snack Shop (Burger Bob's) providing for a one (1) year extension under the same terms and conditions; further stipulating that said lease agreement shall be reviewed for future renewal consideration on an annual basis.

Attachments: [Granada Snack Shop Resolution](#)
[Granada Snack Shop Concession Agreement](#)
[Robert Maguire Letter](#)
[C-6 Signed Cover Memo](#)

A RESOLUTION AUTHORIZING AN AMENDMENT TO AN EXISTING LEASE AGREEMENT BETWEEN THE CITY AND ROBERT MAGUIRE, OPERATOR OF THE GRANADA SNACK SHOP "BURGER BOB'S", PROVIDING FOR A ONE (1) YEAR EXTENSION UNDER THE SAME TERMS AND CONDITIONS; FURTHER STIPULATING THAT SAID LEASE AGREEMENT SHALL BE REVIEWED FOR FUTURE RENEWAL CONSIDERATION ON AN ANNUAL BASIS.

This Matter was adopted by Resolution Number 2009-251 on the Consent Agenda.

City Clerk Item No. 8

RESOLUTION NO. 2009-252

- C.-7. 09-0621** Resolution authorizing an expenditure of \$45,000.00 from State Forfeited Assets Funds for the Coral Gables Citizen's Crime Watch, Inc. Program.

Attachments: [RESOLUTION - \\$45,000 - CRIME WATCH](#)
[C-7 Signed Cover Memo](#)

A RESOLUTION AUTHORIZING EXPENDITURES IN THE AMOUNT OF \$45,000.00 FROM STATE FORFEITED ASSET FUNDS (FAF) FOR THE CORAL GABLES CITIZENS CRIME WATCH, INC. PROGRAM.

This Matter was adopted by Resolution Number 2009-252 on the Consent Agenda.

City Clerk Item No. 9

RESOLUTION NO. 2009-253

- C.-8. 09-0592** Resolution appointing Carlos Nuñez (Nominated by Commissioner Cabrera) to serve as a member of the Construction Regulation Board, for a two (2) year term, beginning June 1, 2009 through May 31, 2011.

Attachments: [R-2009- Resolution - Carlos Nunez - Construction Regulation Board](#)
[C-8 Signed Cover Memo](#)

A RESOLUTION APPOINTING CARLOS NUNEZ (NOMINATED BY COMMISSIONER CABRERA), TO SERVE AS A MEMBER OF THE CONSTRUCTION REGULATION BOARD, FOR A TWO (2) YEAR TERM, BEGINNING JUNE 1, 2009 THROUGH MAY 31, 2011.

This Matter was adopted by Resolution Number 2009-253 on the Consent Agenda.

City Clerk Item No. 10

RESOLUTION NO. 2009-254

- C.-9. 09-0593** Resolution confirming the reappointment of Carol Brock (Board-As-A-Whole Appointment) by the Senior Citizens Advisory Board, to serve as a member of the said Advisory Board, for a two (2) year term appointment, beginning June 1, 2009 through May 31, 2011.

Attachments: [Resolution Carol Brock as Board as a Whole Mbr \(3\).pdf](#)
[C-9 Signed Cover Memo](#)

A RESOLUTION CONFIRMING THE REAPPOINTMENT OF CAROL BROCK (BOARD-AS-A-WHOLE APPOINTMENT) TO SERVE AS A MEMBER OF THE SENIOR CITIZENS ADVISORY BOARD, FOR A TWO (2) YEAR TERM, BEGINNING JUNE 1, 2009 THROUGH MAY 31, 2011.

This Matter was adopted by Resolution Number 2009-254 on the Consent Agenda.

City Clerk Item No. 11

RESOLUTION NO. 2009-255**C.-10. 09-0598**

Resolution appointing Thomas Korge (Nominated by Commissioner Withers) to serve as a member of the Planning and Zoning Board for a two (2) year term, beginning June 1, 2009 through May 31, 2011.

Attachments: [R-2009- Resolution - Thomas Korge - Planning and Zoning Board](#)
[C-10 Signed Cover Memo](#)

A RESOLUTION APPOINTING THOMAS KORGE (NOMINATED BY COMMISSIONER WITHERS), TO SERVE AS A MEMBER OF THE PLANNING AND ZONING BOARD, FOR A TWO (2) YEAR TERM, BEGINNING JUNE 1, 2009 THROUGH MAY 31, 2011.

This Matter was adopted by Resolution Number 2009-255 on the Consent Agenda.

City Clerk Item No. 12

RESOLUTION NO. 2009-256**C.-11. 09-0599**

Resolution appointing Patricia "Pat" Clarke (Nominated by Mayor Slesnick) to serve as a member of the Pinewood Cemetery Advisory Board for a two (2) year term, beginning June 1, 2009 through May 31, 2011.

Attachments: [R-2009- Resolution - Patricia Pat Clarke - Pinewood Cemetery](#)
[C-11 Signed Cover Memo](#)

A RESOLUTION APPOINTING PATRICIA "PAT" CLARKE (NOMINATED BY MAYOR SLESNICK), TO SERVE AS A MEMBER OF THE PINWOOD CEMETERY ADVISORY BOARD, FOR A TWO (2) YEAR TERM, BEGINNING JUNE 1, 2009 THROUGH MAY 31, 2011.

This Matter was adopted by Resolution Number 2009-256 on the Consent Agenda.

City Clerk Item No. 13

RESOLUTION NO. 2009-257**C.-12. 09-0607**

Resolution appointing Linda Scarcell (Nominated by Mayor Slesnick) to serve as a member of the Coral Gables Advisory Board on Disability Affairs for a two (2) year term, beginning June 1, 2009 through May 31, 2011.

Attachments: [R-2009- Resolution - Linda Scarcell - Disability Affairs](#)
[C-12 Signed Cover Memo](#)

A RESOLUTION APPOINTING LINDA SCARCELL (NOMINATED BY MAYOR SLESNICK), TO SERVE AS A MEMBER OF THE CORAL GABLES ADVISORY BOARD ON DISABILITY AFFAIRS, FOR A TWO (2) YEAR TERM, BEGINNING JUNE 1, 2009 THROUGH MAY 31, 2011.

This Matter was adopted by Resolution Number 2009-257 on the Consent Agenda.

City Clerk Item No. 14

RESOLUTION NO. 2009-258

- C.-13. 09-0622** Resolution appointing Sandy Mannis (Nominated by Commissioner Anderson) to serve as a member of the Coral Gables Advisory Board on Disability Affairs, for a two (2) year term beginning June 1, 2009 through May 31, 2011.

Attachments: [R-2009- Resolution - Sandra Mannis - Disability Affairs](#)
[C-13 Signed Cover Memo](#)

A RESOLUTION APPOINTING SANDRA MANNIS (NOMINATED BY COMMISSIONER ANDERSON), TO SERVE AS A MEMBER OF THE CORAL GABLES ADVISORY BOARD ON DISABILITY AFFAIRS, FOR A TWO (2) YEAR TERM, BEGINNING JUNE 1, 2009 THROUGH MAY 31, 2011.

This Matter was adopted by Resolution Number 2009-258 on the Consent Agenda.

City Clerk Item No. 15

Presentation of Boards and/or Committees minutes requesting no action from the City Commission:

- C.-14. 09-0557** Economic Development Board Meeting of August 5, 2009

Attachments: [EDB. 9.08.09 Commission cover.pdf](#)
[EDB Minutes 8.5.09.pdf](#)

This Matter was approved on the Consent Agenda.

City Clerk Item No. 16

- C.-15. 09-0594** Senior Citizens Advisory Board Meeting of August 3, 2009

Attachments: [Min 08-03-2009 draft.pdf](#)
[Cover Sheet.Minutes 08-03-09.pdf](#)

This Matter was approved on the Consent Agenda.

City Clerk Item No. 17

- C.-16. 09-0596** Parks and Recreation Advisory Board Meeting of August 14, 2009

Attachments: [Cover Sheet.Minutes 08-14-09.pdf](#)
[Min 08-14-09.draft.pdf](#)

This Matter was approved on the Consent Agenda.

City Clerk Item No. 18

C.-17. 09-0597 Library Advisory Board Meeting of August 19, 2009

Attachments: [LB Cover Sheet 8-19-09](#)
[Library Minutes 8-19-09](#)

This Matter was approved on the Consent Agenda.

City Clerk Item No. 19

Pulled from Consent Agenda

RESOLUTION NO. 2009-259

C.-1. 09-0554 Resolution authorizing Fritz and Franz Bierhaus to sell alcoholic beverages at the plaza located at 60 Merrick Way from Friday, October 2, 2009, through Monday, October 12, 2009, during the OKTOBERFEST event, subject to Florida Department of Professional Regulation requirements.

Attachments: [Oktoberfest Special Events Application & Permit 2009.pdf](#)
[Resolution for Oktoberfest 2009.pdf](#)
[C-1 Signed Cover Memo](#)

A RESOLUTION AUTHORIZING FRITZ AND FRANZ BIERHAUS TO SELL ALCOHOLIC BEVERAGES AT THE PLAZA LOCATED AT 60 MERRICK WAY FROM FRIDAY, OCTOBER 2, 2009, THROUGH MONDAY, OCTOBER 12, 2009, DURING THE OKTOBERFEST EVENT, SUBJECT TO THE STATE OF FLORIDA DEPARTMENT OF PROFESSIONAL REGULATION REQUIREMENTS.

Mayor Slesnick addressed City Manager Salerno, noting that as we approach Oktoberfest again, this Commission has been told by the residents of the neighboring condominiums how much they are distressed over the noise and the lateness of the hour for said event; further reiterating that the City Commission has talked about the hours for said event before, as well as the noise level; further inquiring of the City's Parks and Recreation Director, Fred Couceyro, as to whether this was public property? Whether this is part of the leasehold or not? Whereupon Mr. Couceyro replied that this is public property and it is why they come to special events.

Mayor Slesnick further informed his colleagues that he had passed by Fritz and Franz Bierhaus on a previous night and there was outside music and drinks being served on the public property at approximately 10:45 p.m. Mayor Slesnick further inquired as to whether approval for such activities was done on a regular basis or do we just allow for that to happen?- Mr. Couceyro replied that they needed to have a permit. Mayor Slesnick further stated that there was a live band out there and it was very noisy, and it was getting into the later hours; and he thought there were going to either conform to the rules or not do it at all.

Mr. Couceyro further explained that regarding the Oktoberfest event, that the City has worked on this quite a bit; it has worked on same with our uniform division, namely Major Hudak; further stipulating that under this permit, the weekends will be when the live music will be, on Sundays, live music will not be outside past 8 o'clock on Fridays and Saturdays not past 11, which is an hour beyond what the Ordinance says; further stating that Major Hudak talked to the area owners, asking them what were the issues. Finally in response to Mayor Slesnick's inquiry, Mr. Couceyro added that there is a beneficiary, which is Dolphin Aid, the same one as last year.

Mayor Slesnick finally instructed the City Administration to further look into them using the City's public property on other nights.

A motion was made by Commissioner Anderson, seconded by Vice Mayor Kerdyk, Jr., that this motion be adopted by Resolution Number 2009-259. The motion passed by the following vote:

Yeas : 5 - Commissioner Withers, Commissioner Anderson, Commissioner Cabrera, Jr., Vice Mayor Kerdyk, Jr. and Mayor Slesnick II

City Clerk Item No. 20

D. PERSONAL APPEARANCES

None

City Clerk Item No. 21

E. PUBLIC HEARINGS**E.-1. 09-0595** Board of Adjustment Appeal - Application No. 8701-Z.

Nelson De Leon, AIA; Applicant, has filed an appeal to the Coral Gables City Commission from a decision of the Board of Adjustment at its regular meeting of August 3, 2009, wherein it denied an application for variances for the property located at 475 South Dixie Highway pursuant to Ordinance No. 2007-01, as amended and known as the "Zoning Code" (Board of Adjustment Vote: 5-0)

1. Grant a variance to allow the tenant "Starbucks Coffee" located at 475 S. Dixie Hwy, Coral Gables, to have two (2) signs versus only one (1) sign permitted per street level, per street right-of-way frontage, as stipulated by Section 5-1904 of the Coral Gables "Zoning Code."

2. Grant a variance to allow the tenant "Starbucks Coffee" to have a cabinet sign vs. cabinet signs are prohibited, as stipulated by Section 5-1902 (D) (4) of the Coral Gables "Zoning Code."

Attachments: [Notice of Appeal - Brd of Adj](#)
[09 08 2009 Brd Adj Attachment Packet](#)
[E-1 Signed Cover Memo](#)

A RESOLUTION OF THE CITY COMMISSION GRANTING THE APPEAL FILED BY NELSON DE LEON, ARCHITECT/APPLICANT, APPLICATION NO. 8701-Z, THEREBY REVERSING THE DECISION OF THE BOARD OF ADJUSTMENT, TO ALLOW SIGNAGE FOR EXISTING TENANT, NAMELY "STARBUCKS COFFEE", COMMERCIAL PROPERTY LOCATED AT 475 SO. DIXIE HIGHWAY, LEGALLY DESCRIBED AS BEGINNING 632.3 FEET SOUTHWEST OF NORTHEAST CORNER OF BLOCK 36-A SOUTHWEST 50 FEET SOUTHEAST 100 FEET NORTHEAST 50 FEET NORTHWEST 100 FEET TO POB CORAL GABLES RIVIERA SECTION 2, REVISED PB/PG:28/18, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

[Note for the Record: The verbatim transcript for Agenda Item E-1 is available for public inspection in the Office of the City Clerk and in Legistar].

A motion was made by Commissioner Anderson, seconded by Commissioner Cabrera, Jr., that this motion be adopted by Resolution Number 2009-260. The motion passed by the following vote:

Yeas : 3 - Commissioner Withers, Commissioner Anderson and Commissioner Cabrera, Jr.

Nays : 2 - Vice Mayor Kerdyk, Jr. and Mayor Slesnick II

City Clerk Item No. 22

ORDINANCES ON SECOND READING

None

ORDINANCES ON FIRST READING

- E.-2. 09-0564** Ordinance amending Chapter 74 of the Code of the City of Coral Gables, Florida, entitled "Traffic and Vehicles" in particular, Section 74-352, entitled "Use of Image Capture Technology" by providing further clarification; Section 74-353, entitled "Definitions" by adding definitions for further clarification; Section 74-356, by changing the title from "Ninety-Day Notice; Introductory Period" to "Thirty-Day Notice; Introductory Period"; thereby increasing the notification period from ninety (90) days from the adoption of the Ordinance (on November 12, 2007) to thirty (30) days following the notification from the Police Chief indicating that the red light camera system is operational at the initial location established; Section 74-359, entitled "Vehicle Owner Responsibilities" by providing further clarification; providing for a severability clause, repealer provision; codification, and provision for an effective date. (Passed on First Reading September 8, 2009)

Attachments: [E-2 Signed Cover Memo](#)
[E-2 Proposed Ordinance with Indicated Changes](#)
[E-2 Proposed Ordinance](#)

[Note for the Record: Following City Manager Salerno's reading of the title to the Ordinance on First Reading to Agenda Item E-2 into the public record, Assistant City Manager Maria Jimenez informed the City Commission that the purpose of said proposed legislation is to provide further clarification to Chapter 74 (more particularly Section 74-356 of the City Code), thereby changing the title reference from "Ninety-Day Notice; Introductory Period" to "Thirty-Day Notice; Introductory Period; further increasing the notification period from ninety (90) days from adoption of the ordinance (passed and adopted on November 12, 2007) to thirty (30) days following the notification of the Police Chief, indicating to the City Manager that the red light camera system is operational at the initial location established; further stating that the City's vendor, namely American Traffic Solutions, LLC is in the process of completing installation of equipment at the Le Jeune Road and Alhambra Circle intersection; further stipulating that the proposed language contained in said location is consistent with other practices at other municipal locations, and that the Administration is recommending same.

Questions, Comments, Inquiries and Concerns from the City Commission:

Commissioner Cabrera acknowledged having seen the installation at Alhambra and Le Jeune, pointing out that said installation is being applied to vehicles that are east/westbound; however, he has not seen any vehicles that are being monitored that are traveling in the eastbound direction. Chief Naue responded that said installation will be applied to vehicles that are proceeding westbound. Commissioner Cabrera further inquired of Mrs. Jimenez through City Manager Salerno, as to whether there are other potential sites for installation of said equipment?-whereby Police Chief Naue mentioned locations at Ponce de Leon, Bird Road, and US-1; Assistant City Manager Maria Jimenez added, more particularly on US-1 and Riviera, as well as US-1 and Grand Avenue.

Commissioner Withers acknowledging that the red light camera system initiative started as a result of violators running red lights, etc.; further inquiring of Assistant City Manager Jimenez as to how will the vendor/Police Department, through the installed equipment address those violators whom are engaged in either stacking or blocking intersections?-further inquiring as to whether same fines will be imposed for stacking, blocking as for traffic enforcement?-whereby Police Chief Naue stated that what will trigger enforcement activity will be those violators who are going through intersections, once the light turns red.

Mayor Slesnick inquired if people are stalled in an intersection, will that activity by itself trigger enforcement?

Commissioner Cabrera noted that on Le Jeune one does not have a median; further adding that on Le Jeune and South Dixie Highway, if one had a median in the right of way it would be much easier for a camera installation; in the absence of a media, the camera installation would have to be either on the eastern or western side of the sidewalk, or on private property. Therefore, one has to either look for a City right-of-way, or the County shall enter into an easement agreement with private owners to install the equipment. Assistant City Manager Maria Jimenez stated that the biggest challenge on Le Jeune and South Dixie Highway is the Department of Transportation (DOT) right of way.

Mayor Slesnick addressed the matter of aesthetics, stating that he had noticed in other municipalities wherein other installations have been done in a dark colored green, however in Coral Gables it has been done in a bright white. Assistant City Manager stating that the color, she believed was silver gray; further stating that she can approach the vendor/company regarding said matter.

Commissioner Cabrera pointed out that typically the aforementioned installations have been the same color as the foliage. Generally when said installations have been on medians they have been green. Mrs. Jimenez stated that this company has done other installations, and that she will approach the company regarding this issue of aesthetics].

A motion was made by Commissioner Withers, seconded by Vice Mayor Kerdyk, Jr., that this motion be approved as an Ordinance on First Reading. The motion passed by the following vote:

Yeas : 5 - Commissioner Cabrera, Jr., Vice Mayor Kerdyk, Jr., Commissioner Withers, Commissioner Anderson and Mayor Slesnick II

City Clerk Item No. 23

E.-3. 09-0608

Ordinance amending Chapter 26, entitled "Emergency Services," in particular, Section 26-1 "Fees for Emergency Rescue Services" and Chapter 30, entitled "Fire Prevention and Protection," in particular, Section 30-6 "Fees for Emergency Rescue Services," of the Code of the City of Coral Gables, allowing for fees to be assessed to all persons transported via City Fire Department vehicle; repealing all Ordinances inconsistent herewith and providing for an effective date. (Passed on First Reading September 8, 2009)

Attachments: [Revised EMS Transportation E-3 Signed Cover Memo](#)
[EMS Ordinance](#)

[Note for the Record: The verbatim transcript for Agenda Item E-3 is available for public inspection in the Office of the City Clerk and in Legistar].

A motion was made by Commissioner Withers, seconded by Commissioner Anderson, that this motion be approved as an Ordinance on First Reading. The motion passed by the following vote:

Yeas : 3 - Commissioner Withers, Commissioner Anderson and Mayor Slesnick II

Nays : 2 - Commissioner Cabrera, Jr. and Vice Mayor Kerdyk, Jr.

City Clerk Item No. 24

E.-4 09-0624

Ordinance amending Chapter 50 of the "Code of the City of Coral Gables," entitled "Pensions", revising the contributions for employees who are not included in any bargaining unit; providing for an effective date; and repealing all Ordinances herewith. (Passed on First Reading September 8, 2009)

Attachments: [Retirement Contribution Ordinance Cover Memo](#)
[Retirement Contribution Ordinance](#)
[Ordinance re Excluded Employees second reading](#)

[Note for the Record: Following City Manager Pat Salerno's reading of the title to Agenda Item E-4 into the public record, Vice Mayor Kerdyk prefaced his remarks by saying that he contributes to the City's Pension Plan; further reiterating that it is only right that the City Commission gives back something; further stating that both he and Commissioner Withers will be contributing five percent (5%) of their gross income in furtherance of same; further inquiring of City Manager Salerno as to a definition for excluded employee; further pointing out that the City is facing dire economic times; noting that he considers Coral Gables as a family, and when things are tough, one has to give in; further reiterating that he is giving part of his salary back, and that he wants to know how the remainder of his colleagues feel about said matter?-further pondering as to whether each of the employees of the affected class will participate in the City's Pension Plan, or should said employees be excluded outside of the Pension Plan?

City Manager Salerno, in referencing the first page of the proposed ordinance, stated :

"Excluded Employee means any employee as defined herein, other than a firefighter, police officer or appointed official, who is not included in any bargaining unit for

collective bargaining purposes.”

Commissioner Anderson stated that the City Manager does not participate in the City’s Pension Plan; further requesting of the Finance Department to refrain from taking the requested percentage from out of her wages, since she doesn’t participate in the City’s Pension Plan.

Commissioner Withers stated that it is incumbent that everyone participate in helping the City get out of financial straits; everyone will get out of this collective effort, what one puts into it; everyone has to share the burden equally.

Mayor Slesnick reminded his colleagues that some months back, that he and Commissioner Cabrera took the liberty of going to the State of Florida’s Pension Plan when they were asked to set an example; further citing the fact that said Plan cost approximately just under ten percent (10%) of their gross salary, as compared to forty percent (40%) of gross salary under the City’s Pension Plan.

In making a motion which was seconded by Commissioner Withers, Vice Mayor Kerdyk provided an amendment to Section 50-25, entitled “Definitions” the proposed Ordinance on First Reading, thereby excluding the words “appointed official” from said section of the proposed legislation].

Following the roll call on the above referenced Ordinance on First Reading, resident George Volsky inquired of the City Commission through the Mayor, as to the financial impact that said legislative initiative would represent?-whereby City Manager Salerno stated that said initiative would represent an estimated \$450,000 contribution to the bottom line of the budget].

A motion was made by Vice Mayor Kerdyk, Jr., seconded by Commissioner Withers, that this motion be approved as an Ordinance on First Reading as Amended. The motion passed by the following vote:

Yeas : 5 - Commissioner Withers, Commissioner Anderson, Commissioner Cabrera, Jr., Vice Mayor Kerdyk, Jr. and Mayor Slesnick II

City Clerk Item No. 25

F. CITY COMMISSION ITEMS

- F.-1. 09-0620** Discussion regarding the adopted policy of unearned annual and sick leave from employees' leave banks.

Commissioner Rafael "Ralph" Cabrera, Jr.

Attachments: [Unearned Annual and Sick Leave](#)

[Note for the Record: The verbatim transcript for Agenda Item F-1 is available for public inspection in the Office of the City Clerk and in Legistar].

This Agenda Item was Discussed and Filed

City Clerk Item No. 26

G. BOARDS/COMMITTEES ITEMS

None

City Clerk Item No. 27

H. CITY MANAGER ITEMS

None

City Clerk Item No. 28

I. CITY ATTORNEY ITEMS**RESOLUTION NO. 2009-261**

Non 09-0629
Agenda

Resolution authorizing the City Attorney to intervene in the Case of Robert Frost HOA, ET AL V Miami-Dade County, ET AL.

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO INTERVENE IN THE CASE OF ROBERT FROST HOA, ET AL V MIAMI-DADE COUNTY, ET AL; (CASE NO. 09-055601 CA 05) (LOURDES ACADEMY LITIGATION), MORE PARTICULARLY, TO ENGAGE REPRESENTATIVES FROM MIAMI-DADE COUNTY REGARDING CONVERSATIONS, ARTICULATING THE CITY OF CORAL GABLES, POSITION IN CONNECTION THEREWITH, ALONG WITH USAGE OF OUR CITY'S NAME AS AN AFFECTED OR INTERESTED PARTY IN SUPPORT OF THE ROBERT FROST HOMEOWNERS ASSOCIATION (HOA) POSITION THAT THE DEVELOPMENT ORDER IS INCONSISTENT WITH THE SPECIFIC PROVISIONS OF THE MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT PLAN (CDCP), AND INCONSISTENT WITH THE ZONING CODE PROVISIONS REGULATING NON-PUBLIC SCHOOLS; FURTHER SUPPORTING ROBERT FROST HOA'S INITIATIVE TO SEEK INJUNCTIVE RELIEF TO RESCIND THE DEVELOPMENT ORDER, THEREBY REQUIRING LOURDES ACADEMY TO ABIDE BY MIAMI-DADE COUNTY'S COMPREHENSIVE PLAN AND THE ZONING CODE'S PROVISIONS, REGULATING NON-PUBLIC SCHOOLS.

[Note for the Record: City Attorney Hernandez informed the City Commission that she had distributed to them a memorandum in connection with a request for authorization to intervene in the Lourdes Academy litigation; further requesting permission to initiate Conflict Resolution procedures under Section 164.1052, Florida Statutes regarding governmental disputes; further reminding the City Commission of the factual background to said matter as articulated in a April 22, 1964 letter from the diocese to the Dade County Building and Zoning Department, that the school had provided assurances that the location for the school Lourdes Academy (5525 S.W. 84th Street) would be used in a manner consistent with the adjacent properties; that its student growth would be limited to between 500-600 students; further stipulating that less than half of the six acres were proposed to be used, thereby leaving a substantial open area to the north and south; also stipulating that the location of the school's building would be set back 100 feet from both S.W. 84 Street and also from S.W. 54 Avenue. As a consequence thereof, many neighbors initially supported said application, and the Dade County Zoning Appeals Board approved same on April 28, 1964; further noting that from 1964 through the 1990s, Lourdes Academy grew far beyond the original projected number to more than 800 students; further adding that on June 3, 2009, the County's Zoning Board voted in favor of the schools requested zoning application. The neighbors appealed same by filing two cases, Robert Frost HOA, et al v Miami-Dade County et al (Case No. 09-394), which is a petition for

writ of certiorari; and Robert Frost HOA et al v. Miami-Dade County (Case No. 09-055601, a complaint for declaratory and injunctive relief; further pointing out that this case is inconsistent with the specific provisions of the Miami-Dade County Comprehensive Master Plan and pertinent provisions of the Florida Statutes requiring consistency; further stipulating that the development order is contrary to sections of the Miami-Dade County Zoning Code, which regulate nonpublic schools (i.e. focusing on the size of said schools, regulating the amount of outdoor recreational space per student, as well a sparking and classroom size).

City Attorney Hernandez recommended to the City Commission that they adopt the decisions as articulated in her September 3, 2009 memo, to initiate the Conflict Resolution Process, thereby engaging conversation with the Miami-Dade County to resolve said dispute, pursuant to a request from one of our City Commissioners, namely Commissioner Withers; further explaining that the first step is to put Miami-Dade County on notice; secondly, is to designate a representative(s) from the County to meet with designated City representatives; further stipulating that the Miami-Dade County has typically provided a waiver to affected governmental entities in matters of this nature; further explaining that the City has to prioritize its caseload, regarding the subject of whether the City shall seek the services of outside counsel in matters such as this.

Questions, Comments, Inquiries and Concerns from the City Commission: Commissioner Anderson stated that she will not be supporting this measure, talking about expansion of schools into neighborhoods; further reiterating that she has been careful in her discussion about such matters.

Commissioner Withers stipulated that Lourdes Academy is a good school, however, it should have paid closer attention to its Master Plan; further stating that he has initiated certain action as a preventive measure in anticipation of the potential magnitude of said issue once annexation measures are effectuated.

Commissioner Cabrera stated that the City has failed to be proactive on this matter (i.e. Davis Ponce annexation matter); further stipulating that had said matter been within the City limits of the City, he would feel strongly about said matter.

Vice Mayor Kerdyk and Commissioner Withers both expressed a reluctance regarding the engagement of outside counsel to resolve said dispute. Mayor Slesnick stated that ultimately, it's at the discretion of the City Attorney; adding that even the expenditure of hours by the City Attorney notwithstanding said engagement of outside counsel has a financial impact].

A motion was made by Commissioner Withers, seconded by Vice Mayor Kerdyk, Jr., that this motion be adopted by Resolution Number 2009-261. The motion passed by the following vote:

Yeas : 3 - Vice Mayor Kerdyk, Jr., Commissioner Withers and Mayor Slesnick II

Nays : 2 - Commissioner Anderson and Commissioner Cabrera, Jr.

City Clerk Item No. 29

J. CITY CLERK ITEMS

None

City Clerk Item No. 30

K. DISCUSSION ITEMS

Mayor Slesnick: Ms. Anderson.

Commissioner Anderson: Want to thank staff; I asked a question last time about the Merrick House security, and I got a memo, appreciate that. For tonight, I want to really strongly encourage that we set up properly, so that people as they are coming in to speak in public hearings, because I think we are going to get a little more than just a few, to maybe tables guiding them to the right spot, with the speaker cards, should they wish to speak. The last thing we need besides people who are coming to us with concerns is to get them angry because they can't find a speaker card, or they feel like they've been...and if we could get some extra chairs for maybe outside, however that is. I just want to make sure that we are prepared and that there is no confusion as to what people need to do should they wish to exercise their right to speak at a public hearing; and that's all for me. I'll save it for tonight or not.

Mayor Slesnick: Mr. Cabrera.

Commissioner Cabrera: The Manager's office forwarded to my office a letter from the University of Florida Warrington College, anyway University of Florida Warrington College of Business Administration, and it came directly from the Research Demographer, Scott Cody, and it has to do with the preliminary estimate of the permanent population of our area as of April 1, 2009; and it was produced by their office under contractual agreement with the State of Florida, and it's one factor that they use in determining the distribution of State revenue sharing funds. So they sent us this letter and the letter specifies according to the University of Florida, the "Gator Nation", that our numbers are about 45,501 folks, so we've had a population change since 2000 - Oh, we have a new jingle now; you all think you are doing this to make me angry, I've taken drugs today for tonight...(laughter)...so I'm in the first level of drug induction because its injectables, so I'm good, I'm good for the whole day, I'm good till midnight tonight.

Vice Mayor Kerdyk: We might be here till midnight.

Commissioner Cabrera: You can't make me angry. So this is a nice letter and I've lost my train of thought. Whatever you want to do with it, I don't care...its not that interesting, it's OK...Don, it's my speaking time, OK, I don't want to do it, I don't want to do it. I also want to take this time to thank Dan Keys, Dan's not with us today, he's probably out there working; Dan got a very nice letter from Robert and Carol Leon, and Bob and Carol they had requested some assistance with some Maleluca trees that were creating all kinds of problems in their neighborhood, and the Public Service Department handled that issue very promptly and very professionally, and I'm very thankful to Mr. Keys for doing that. So Dan, if you're out there watching, thank you so much for following up on that issue; and on a more serious note, at this juncture I really would like to have some sort of public forum regarding the Biltmore Hotel. I have seen letters that have gone from the City Attorney's office to the Biltmore, I have seen letters from the Biltmore to us, and I think the time has come that we address this issue in a public forum and have transparency to all of this, because quite candidly I can't really talk to any of you about it, and I figure that in some point in time this is going to come to some sort of a head, and I'd like to see us working as a group together, and I want the public to have the benefit of whatever process we are going to engage in; and so I don't know if its too soon to request this, but I'd literally like to have a forum on this item as early as the next City Commission meeting, and I don't know how the rest of you feel about it.

Mayor Slesnick: Try to do it next one or maybe the first one in October, right after we get through the rest of what we are going through.

Commissioner Cabrera: You know why I kind of think its important now because this could have an effect on the budget.

Mayor Slesnick: It does and we are having that...that's fine next meeting.

Commissioner Cabrera: How do you all feel?

Commissioner Withers: I'm ready for that.

Commissioner Cabrera: Good - having said that and enjoyed you all company, I look forward to spending some more time with you today beginning at 5:00 o'clock; it would be good quality time between the five of us, and if you're interested in the drugs that I'm taking, I can make them available to you, meet me by the parking lot in two hours, just kidding, just kidding.

Vice Mayor Kerdyk: I'm fine Mayor.

Mayor Slesnick: Mr. Withers.

Commissioner Withers: Two real quick issues; City Manager I don't where we are, and I usually would ask you this off line here, but maybe we could get an update on the University of Miami's overpass, pedestrian overpass, that's fallen off of the radar screen.

Commissioner Cabrera: Can I tell you where we are?- they posted it, the County has postponed the...I saw an engineer who actually presented to us, in one of those presentations we went to high school, I got the impression that they for now have postponed it because of budget cuts, but that was a long time ago that I saw her and there may have been some changes, that's the only contact I've had, Chip.

Commissioner Anderson: That's a shame, huge shame; those kids they cross anywhere they want.

Mayor Slesnick: Mr. Manager, while we are checking into that, you weren't here, but the County tried to push a design, which a majority of this Commission did not agree with and we voted that we wanted their Mediterranean option, and they never reported back to us what they did with that, not once.

Commissioner Cabrera: What we got instead was a giant trolley...

Mayor Slesnick: Literally, the last time we saw them was here, we took a vote, told them what we wanted, and we walked out the door, the last time I ever heard or saw them.

Commissioner Withers: This Thursday you are all invited Dooley Mack at their expense is going to be hosting a topping off party at the new Municipal/Museum/Community Building, and you are all welcome to attend. That's all I have.

Mayor Slesnick: Well you brought up something that kind of tickled me. I have to tell you we sat here last time and we had some discussion about the museum, and someone started talking about we were hiding behind the term municipal building, and I didn't understand; I figured, well it's a municipal building, but I didn't know if somebody had changed the name the museum or what it was, and I couldn't understand what was going on why we were talking about municipal building, and you know, yes, it's a municipal building; and so I drove by what we have properly called the old Police and Fire Station for a long time, and I looked up and we had just steam cleaned, sand blasted, whatever, the front of the building, and all of a sudden you could read the words that had been there since the 1930's where it says, "Municipal

Building”, and I think some people must have thought we engraved those words in the last few days or something like that, because all of a sudden you could read it. So I thought that was kind of funny. Anyway we will be back here at 5:01 p.m. for the budget meeting. By the way just to point out to the Commission, we have on loan for us to test out a speaker system its green, yellow and red lights, which will be run by the Clerk. As you know from an e-mail I sent you all so that you know, we had a request by one person to have an extended period of presentation. I said that was not possible because everyone deserved the same right to have their three minutes, the County did two minutes by the way, but we are doing three; then I allowed that person if they had four eligible people to speak in the audience that bundled their time and gave it to him, he could have the fifteen minutes based on the fact that they were giving up their time...

Commissioner Anderson: And they had to be present too.

Mayor Slesnick:...they had to be present, otherwise they had the right to speak, they have to be present, so he could do that. So these machines on the desk that are used off and on were loaned to us by the same company that does the other one, just for us to test out; they actually have a lot of components which we wouldn't use otherwise because we don't vote electronically and so forth...

Commissioner Cabrera: Is that what this is?

Mayor Slesnick: Yes, it's a voting...because we need a...and there is actually a smaller version without the voting and just the speaking; I don't know whether that's worth it or not, because I've never had a problem looking right or left and recognizing who wants to speak, in fact many times we speak as we desire without stepping on each other's toes, and I think that works too.

Commissioner Cabrera: We've never really had a problem with that.

Mayor Slesnick: We've never had a problem with that.

Commissioner Anderson: I like the idea of the time, just equalizes...

Mayor Slesnick: It also is kind of unfair to the Mayor, whoever the Mayor is, to have to sit here with his stop watch and have somebody say you are looking at your watch....with that.

Commissioner Withers: See you at 5:01 p.m.

City Clerk Item No. 31

ADJOURNMENT

[Note for the Record: There being no further business on the Regular City Commission Meeting Agenda. The Commission of the City of Coral Gables adjourned its meeting at 11:28 am on August 25, 2009. The next regular meeting of the City Commission has been scheduled for September 22, 2009, beginning 9 a.m.]

DONALD D. SLESNICK
MAYOR

ATTEST:

WALTER J. FOEMAN
CITY CLERK