

**City of Coral Gables City Commission Meeting
Agenda Item H-2
September 11, 2014
City Commission Chambers
405 Biltmore Way, Coral Gables, FL**

City Commission

Mayor Jim Cason

Vice Mayor William H. Kerdyk, Jr.

Commissioner Pat Keon

Commissioner Vince Lago

Commissioner Frank Quesada

City Staff

Interim City Manager, Carmen Olazabal

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Public Speaker(s)

Perry Adair, Representing the Business Improvement District (BID)

Burton Hersh

H-2 [Start: 6:17:46 p.m.]

A Resolution amending Resolution 2013-89 to adjust the maximum Short-Term Meter Rate in accordance with City Code Chapter 74, and providing for severability and an effective date. (Deferred from the August 26, 2014 Meeting)

Mayor Cason: Alright. Now we are going to move to two more items, because we've deferred these for weeks and weeks. First one is H-2, which is City Manager, that's yours.

Interim City Manager Olazabal: H-2 is a Resolution amending Resolution 2013-89, to adjust the maximum Short-Term Meter Rate in accordance with City Code Chapter 74, and providing for severability and an effective date.

Mayor Cason: OK. We have two people who would like to speak on this. First would be Perry Adair and then Burton Hersh. It's been a long day, right?

Mr. Adair: I was just about to say Mr. Mayor, Perry Adair, 121 Alhambra Plaza, Coral Gables, Florida representing the Business Improvement District.

Commissioner Quesada: I saw you at 9 a.m. this morning.

Mr. Adair: Yes sir, it has been quite a day. I'm too old for this.

Commissioner Lago: The clock starts running now, right? It didn't start at 9 o'clock in the morning?

Mr. Adair: Absolutely.

Commissioner Lago: Just worried about the clients.

[Laughter]

Commissioner Lago: We should have made this time certain for you. I'm sorry about that, I apologize. My bad, I'll take – I can't reimburse you, but I'll take...

Mr. Adair: I have two kids in school though, so let's not lose our heads. Here is the situation on the parking fee. The BID by the way, does support an increase in the parking fee and your cover memo it correctly reflects our position that we actually recommend 25 or even 50 cent increase. You had a study done that shows that the parking demand is not really elastic and it's not going to have an impact on people using the parking. The dilemma we have is this: In your cover memo and in your proposed resolution it says that the BID supported an immediate increase in the parking fee, and we did, and we do, but left out the rest of our position that was the basis of our premise, and so we wanted to be clear that we are not completely at odds, because one of the things that the resolution cover memo state, we want to have these funds in case you want to shorten the duration of the work or accelerate the work. It would be ideal if the project plays out that we are accelerating it or shorten it sometime to get behind schedule and you have to accelerate to catch-up, but the idea was we'd like to have more night-time work after hours there, and that would be an acceleration, unless it's somehow built into the contract another way. But the other part we wanted is a portion of that revenue for defraying the assessment to the assessed properties and another component that's not mentioned is that we want, we are recommending that and the reason we want it immediately is, so we'd be able to have some free parking during the project itself. So the staging sequence hasn't been completely devised yet, but they'll be working on different areas as the project goes forward as opposed to tearing up the whole street at one time; and we'd like some of that revenue to go to free parking that will alleviate some of

the disruption on the merchants. So if you go to the cover sheet you'll see that the – and your proposed resolution where we are in a little disagreement with this agreement. It was not part of our support is, we are going to use some of the money for enhanced maintenance, because I think the thinking is that you have a better product there and you are going to have enhanced maintenance cost, could very well be. The dilemma for that area is that for a long time now lots of things haven't been done there and lots of maintenance has been deferred with the very thought that we are going to have the Streetscape Project and it will get done then. But this is what happens to the owners and merchants there, they continue to pay the tax unabated, whatever the property taxes are, which has built into the mix some maintenance which the City has chosen not to do because the Streetscape is coming. Nothing wrong with that decision, but they haven't gotten the services that perhaps maybe they should have gotten because the money went elsewhere knowing this project was coming, and that's fine. That's a policy and priority decision. What we are saying is now you are going to have this extra revenue, don't allocate it to the increased maintenance cost because we haven't gotten the maintenance in the meantime. That's already cooked into the taxes we pay. They also want to allocate cost overruns. No project comes out perfect, you may have some cost overruns; and the third one is, downtown garage development, the current members want to use part of this revenue for that and then the supplement Neighborhood Renaissance Program. Those are all policy choices, all capital investments. The point of our presentation is that this was not the position of the BID when the BID recommended and still supports the increase in the parking revenue. I don't know where we are on the 25 percent and 50 percent or 25 cents or 50 cents issue, that a different ---When I was before you last time on the 26th, at a quarter the increased revenue is \$675,107 in a year, I mean they are all projections, but that's what we think and this is right out of the study. In the one parking lot that's 3B in the study, \$214,183 a year at the quarter increase. So the point is, is that we do support whether it's going to be a quarter or 50 cents. It seems like the market will bear it, that's a policy choice as well, but we were very clear and I'm going to put in the record a July 30, 2014 letter that was sent to all the Commissioners stating what the BID's position. There are a number of revenue things attached to it, but in particular it talks about the parking and what we think it should go to. So if you are inclined to adopt a resolution that's going to pass the parking increase, we would ask that you amend the language of it, so it is clear that in addition to these things that the revenues could go to, they also include the things that the BID had in support when it initially made the support. In particular, the defraying the assessment to the assessed properties and I know that there has been other things talked about too, to address that as well. Free parking during construction and of course we support still the one we are on the same page about the acceleration shortening the duration of the work. The other things, the enhanced maintenance – we don't think this is the right place to capture the enhanced maintenance. Cost overruns – if there are you are going to have to deal with them, maybe this is as good a source of funding as any and maybe it's a good reason to make it 50 cents instead of a quarter. The Neighborhood Renaissance Program, it's a great program, the City is looking great, we have to

say that, but it just wasn't part of our support and let me close by saying that what we had recommended last time is if even the one parking lot, even if the increased revenue from 3B could be earmarked to defray the assessment to the assessed properties that would be a huge help for us. So that was the position. I'm not for a minute saying there is anything sinister about the way the cover memo or the resolution was written, that's not the point, my job...

Commissioner Quesada: You are just being clear on what exactly the intent was. We got it, at least I got it.

Commissioner Keon: There was to remove that "Whereas" clause and it would be OK, right. If we remove the "Whereas" clause, the Business Improvement District has been in support of a medium parking increase, then it wouldn't apply to you at all.

Mr. Adair: But that's not how I fixed the problem. Yes, one way, yes Commissioner.

Mayor Cason: I was looking at a whole range of possible things that extra money could be spent on.

Commissioner Quesada: Let me ask you a question. The conversations I had with Carmen, I thought it was a great, obviously we are having a discussion of whether the construction is going to be daytime or night-time, obviously we want to speed it up as much as possible.

Mr. Adair: Yes.

Commissioner Quesada: I was the first proponent to increase the fees and I had a little push back at first, but obviously we vetted the whole thing and the idea really of day and night construction sounds like a good idea. Obviously, we have to take into consideration the restaurants and the residents and all the noise, of course those are considerations for us to determine, but obviously the additional funding command will help offset those additional cost because what happens is, the Streetscape project goes from a \$19 million if you do day and night, it's going to go above that, which we are going to have to eat, right.

Interim City Manager Olazabal: Right. Yes. I think it was expected on an expedited schedule to increase by 25 or 30 percent it's about \$4 or \$5 million, right?

Commissioner Quesada: Wow!

Interim City Manager Olazabal: I think that was the estimate we received....it's an estimate, we don't have the final project cost, but it is a substantial cost that we may incur.

Mr. Adair: That is not a shocking number for...

Commissioner Quesada: What is the specific request from you guys? Short and simple and to the point.

Mr. Adair: Right. I appreciate that.

Commissioner Quesada: I'm not saying you are not normally.

Mr. Adair: No, I understand completely....

Commissioner Quesada: We are extra special fried this evening.

Mr. Adair: No, I accept it with the love that it was intended. So what I'm saying is rather than strike out our support, we do still support, don't strike that out, but add to the list of things that could be allocated to the reasons that we support, so that later on if this revenue come available we are not so annoyed that wasn't in the resolution. So we say put back in for defraying the assessment to the assessed properties, possibility of free parking, because we don't have the revenue yet, right?- but I'd want it to say that's on the list of possibilities for these things. We are going to have to come back and talk about it.

Mayor Cason: In other words you are saying, put on the menu your options.

Mr. Adair: That's right.

Mayor Cason: That makes sense to me.

Interim City Manager Olazabal: Free parking was something we were considering. It's a possibility of free parking during construction and valet parking during construction and trying to figure out a system is something we are considering during the construction period.

Mayor Cason: We don't know what's going to happen. We need the discretion and I'm certain, I'm very much in favor of looking at some break on parking or valet or whatever, and perhaps night-time to make this as painless as possible for – but we don't know what's going to happen and I think certainly, let's include it in the menu, don't exclude, let's put it in wherever we have to.

Commissioner Quesada: Do you have proposed language?

Commissioner Keon: I don't think there is anything wrong with it as it is. You know, we just went through a budget process, you can see what the needs of the City are, you can see that the resources are, don't meet the need. Parking does provide, the parking revenue provides money to the General Fund that can be used for the benefit of the City. I think the City's contribution to the project, which is the Streetscape Project, is we've gone through that, we've gone through the assessment, whatever else, I think the City has an obligation to maintain the street once the Streetscape is finished and I think that the likelihood is the revenues that come into the City will be used to do that. I don't think it's appropriate to earmark these funds.

Commissioner Quesada: I don't think the request is to earmark it...hold on a second. Let me direct your attention, everyone's attention to the last "Whereas" clause, which I think you, alluded to earlier.

Commissioner Keon: All you want to do is add a "Whereas" clause?

Commissioner Quesada: No, hold on let me finish. Look at that last "Whereas" clause right before it says, "Now therefore in the resolution, Increased parking fees will increase the City's General Fund by approximately da-da-da more flexibility in being able to absorb the cost and expediting construction for the Streetscape initiative it needed, paying the enhanced maintenance for the downtown and assisting with any additional cost incurred from downtown redevelopment projects".

Commissioner Keon: I think that's perfect.

Commissioner Quesada: I think that covers everything. I think that's broad enough that if we wanted to apply it to valet parking or any other item that comes up, I think it's broad enough, and if not, if you don't think it's broad enough I think the legislative intent, which we'll put it in the record right now, will support any thinking in the future.

Mayor Cason: I think we are far off. I think....

Commissioner Quesada: You haven't told us what your suggestion is.

Mr. Adair: So here's what I would have done. Where it says, the BID has the support of an immediate parking rate increase for the purpose of offsetting the cost to the assessed properties to allow for free parking during construction and to reduce the construction time. That one is already in there. Those first two, I think that should be either, I think that should be added to the laundry list that you were just reading from, so that if it pans out at the time that the revenues are

such that it can be applied to, it's clear that the BID supports it for these reasons that was part of what we talked about, Mr. Adair came in here and said we were missing stuff for our resolution and yes, we think now we are going to allocate some, maybe that it's got use for something else altogether.

Commissioner Quesada: Here's what I would say to that. I would say for as far as in the fourth "Whereas" clause that refers to the Business Improvement District, if that is the intent of your support, if that was the motive behind the support then I think it absolutely needs to be put in because that is what you guys were supporting, so there is more clarity on that. I would have no problem making those additions to the last "Whereas" clause that you just mentioned that laundry list, but also including that it's still at the City's discretion.

Mr. Adair: Of course, it has to be. It's in the General Fund.

Mayor Cason: So you don't have a problem?

Commissioner Lago: Need to have that flexibility that if we are going to use those monies for something else...

Commissioner Keon: We passed an assessment roll; we passed an assessment roll. I think the assessment roll is in place, our counsel told us – I really, I don't think we are going to use those – there are enough other needs for those dollars as opposed to effecting the assessments for commercial properties along that place. So I really wouldn't even give anybody the hope or the thought that that was the intention that those funds may be there for that purpose. I certainly think they can be used...

Commissioner Quesada: To offset parking.

Commissioner Keon:...to offset parking – yes, I think those things, but I think that they already will be, but if that helps you, but I don't think with regard to the assessments, the assessments have been done.

Commissioner Lago: And what Commissioner Keon says right now, why put up the hope in regards to that we could potentially use this \$1.6 million to offset street parking, when we are talking about an increase of probably 30 percent in regards to the overall construction cost of the project to do this on a 24-hour day. Let's be honest with ourselves, I'll put the language there, but someone's going to have to come up with – and we are talking about \$19 million, we are talking about 5 (million) and change, that's not peanuts, so \$1.6 (million) bites into that 5 and

change if the number is 30 percent. Obviously, this comes down to negotiation and design build project, we are going to have to end up negotiating with the contractor.

Commissioner Quesada: Hold on, let me jump in here. Commissioners Keon and Lago since you spoke about this. How about if at the end of that last “Whereas” clause the laundry list where it says, “And assisting with any additional cost” -- take a look at what I’m reading.

Commissioner Keon: I am. OK.

Commissioner Quesada:....”And assisting with any additional cost incurred from downtown redevelopment projects and/or any other initiative to” -- here’s my new language, and/or any other initiative to benefit or improve the project or the downtown at the discretion of....

Commissioner Keon: At first I really was kidding when I said you can remove that “Whereas” clause, but in reality if your support is dependent upon the opportunity to reduce assessments and whatever, it truly would be better that you do remove that. It really isn’t essential that as a “Whereas” clause that it be here, it is the intent of the City for these reasons to do this, this is how we want to use it, and I wouldn’t want to vet you or to let anyone or anyone to believe that it would ever be used for that purpose. I really would take it out.

Commissioner Quesada: Actually, I’m a little embarrassed about this, but Cindy just pointed this out to me, the word inter-alia is and others.

Mr. Adair: And others – among others. My point is much more basic than this. So I mean the “Whereas” clause withdrawn was made somewhat in jest, but the point is we are the City’s partners in this thing and what I want to make clear is, when your partner supports something and says, here’s the basis of our support and the resolution recognizes the support, the resolution ought to recognize here are the reasons they gave their support, whether the money goes there or not. You are going make that decision down the road, maybe you decide not to accelerate the project because the cost is too high.

Commissioner Lago: Let me ask you a question.

Mr. Adair: Yes.

Commissioner Lago: Give me your most sincere answer. If I tell you tomorrow that \$1.6 million cannot be allocated in regards to parking, is the BID going to back out from supporting this project?

Mr. Adair: No.

Commissioner Lago: OK. So I mean, I think we are all on the same page. What are we arguing; I think we are arguing semantics here; we are going back and forth.

Mayor Cason: We are trying to get some extra money through this mechanism to apply toward, principally toward the Streetscape project, maybe we'll get some great grants and we won't need to use it, for that we can use it for other things. So I think...

Mr. Adair: Understood.

Commissioner Lago: The faster we pass this, the faster we can implement this increase in regards to the fees, the quicker that hopefully maybe deal with the issue in regards to parking, if that comes up again.

Commissioner Keon: I think the City needs to remain, be allowed to remain flexible in how it uses these dollars to meet the needs of the City.

Mr. Adair: I'm not disagreeing with you Commissioner Keon, I'm making just a very – and this won't be the first time that an elected Board member disagrees with me, believe me so I've learned to live with it. What I'm saying to you is when your partner makes a recommendation based on these things and you say in your resolution the BID supports this, we ought to include the reasons the BID support it, whether the money goes there or not because nobody today is....

Commissioner Quesada: That I don't disagree with.

Mayor Cason: No, we'll put that in. I don't have any problem with that.

Commissioner Quesada: The reason for their support has to be in there.

Mayor Cason: That's your position, so we can put it in and we still have the discretion.

Commissioner Quesada: It doesn't change the end result.

Mayor Cason: Burton you want to speak or your view is covered?

Commissioner Keon: The "WHEREAS" clause in an ordinance or a resolution is what supports the action to be taken, so when you go back, when you say we are taking this action and somebody says, why?- well we are doing it whereas. We are doing it because of these things, so

if you are not going --- so that I can do this, or so that I can fund this, or so that I can help with this, that's what "WHEREAS" clauses mean.

Commissioner Quesada: I understand that and if that's the case and this is not completely reflective of their opinion, it's either add to it to clarify or remove it completely.

Commissioner Keon: But that's what I said.

Commissioner Quesada: OK, we are agreeing with each other.

Commissioner Keon: To me I would remove it in order that we have the flexibility to do what we want and it is not...

City Attorney Leen: Just remember the "Whereas" clauses are findings of fact, ultimately.

Mayor Cason: That's a fact, that was your position.

City Attorney Leen: But it needs to be...

Commissioner Quesada: But it's a deceptive fact because it's only half of what the position is.

Commissioner Keon: That's why I'm saying to you. I'm not comfortable in including it because I don't think that that will be factual, so I would remove it.

Mr. Adair: But it is factual, it is precisely what our position was.

Commissioner Keon: Fine – but what you are looking for factually is then not reflected in the "NOW THEREFORE", which is what we are going to do, so you have to....

City Attorney Leen: May I make a suggestion?

Mayor Cason: Craig...?

City Attorney Leen: May I make a suggestion? Why don't you just remove the clause; you made it very clear on the record what the intent of the last "WHEREAS" clause is, seems like you are satisfied with that. Why don't we just....

Commissioner Keon: Then I will move to remove the clause.

Mr. Adair: I don't know what to tell you. You'll decide what you think is best. I want to be clear we support the parking increase. I thought the request was very straightforward because not a dime of this is coming out of the General Fund for any of these things and maybe it will come out of the General Fund for none of these things. There is nothing about this that says, those laundry list that you have, you can spend this money on whatever you wanted, without regard to what this says, so when you say the including of the "WHEREAS" clause is going to tie your hands in some way, that wasn't your quote, I'm paraphrasing it, that's not true, because the monies goes to the General Fund. This not even allocated the things you list in here, so the factual finding that that was our support changes nothing about your flexibility of what to do with the money – nothing.

Mayor Cason: Craig, do you have any opinion?

Commissioner Keon: The action is tied to the "WHEREAS" clause. Go ahead Craig. Go ahead.

City Attorney Leen: Ultimately, the action you look at the sections, but everything is in the "Whereas" clauses and we are incorporating them into the section. One other thing we can do. I can just amend this. You know, I can move maybe the last "WHEREAS" clause into the sections and then we can put the reasons in the above "WHEREAS" clauses. It would be clear that the sections...

Commissioner Quesada: No, but here's the problem. Commissioner Keon is still going to have an issue with it because the basis for their support includes an item, which is offsetting the assessment which won't change anything. So the only way that she's going to feel comfortable with their additional language is, if their additional language does not mention offsetting the assessment amount.

City Attorney Leen: Or if it mentions it that we put that we don't agree to that.

Commissioner Lago: At the discretion of the Commission.

City Attorney Leen: Of course.

Commissioner Keon: If you are going to put it as a "WHEREAS" clause...but we don't agree with you and so...

Mr. Adair: That drafting solution that your attorney is telling you solves exactly the concern that you have, because it's a factual setting forth these are the reasons for our support, not that we

think the other things aren't good ideas, but then if you get into the – after the “WHEREAS”, where it could be spent it, you can leave the language...

Commissioner Quesada: I'm going to make a motion to approve this based on the amendment that the City Attorney just recommended.

City Attorney Leen: I understand your intent. I'm going to move this last “Whereas” clause into the sections and the prior “Whereas” clause allowed the reasons, but I'll make it clear that you are not agreeing to that last one.

Commissioner Keon: Then Whereas the City does not agree to.

City Attorney Leen: It's still a finding of fact.

Mayor Cason: Burton do you want to speak or is that sufficient?

City Attorney Leen: Thank you.

Mayor Cason: Quickly please yes, because we have one more thing.

Mr. Burton Hersh: I'll be very fast and actually our attorney has advised we are not to say anything stupid, so I'll try to do that. (Laughter). If you were to really, if you were to have Donald Shue who is a guru of parking in the entire world, Donald Shue would tell you that even \$2 is too cheap for parking on Miracle Mile, maybe \$2.50 is too cheap, and the reason is because there was a study actually done in 2006 in Manhattan which charges \$24 an hour for street parking.

Mayor Cason: But none of this precludes us from coming back and looking at another increment later on.

Mr. Hersh: OK.

Mayor Cason: I think right now if we need more money we can always come back, if it doesn't affect the businesses.

Mr. Hersh: I'm done then.

Mayor Cason: Thank you. So we have a motion by Commissioner Quesada.

Vice Mayor Kerdyk: Second.

Mayor Cason: The Vice Mayor seconds it.

City Clerk

Commissioner Keon: Yes

Vice Mayor Kerdyk: Yes

Commissioner Lago: Yes

Commissioner Quesada: Yes

Mayor Cason: Yes

(Vote: 5-0)

[End: 6:41:21 p.m.]