

City of Coral Gables City Commission Meeting
Agenda Items E-2, E-4 & E-9 are related
November 15, 2016
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

City Staff

City Manager, Cathy Swanson-Rivenbark
Assistant City Manager, Peter Iglesias
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Historic Preservation Officer, Dona Spain
Interim Development Services Director, Charles Wu
Finance Director, Diana Gomez
Planning and Zoning Director, Ramon Trias

Public Speaker(s)

Craig Coller

Agenda Items E-2, E-4 & E-9 are related [0:00:00 a.m.]

An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to the City of Coral Gables Official Zoning Code, amending Article 3, "Development Review," Division 21, "Art in Public Places Program," Section 3-2103, "Art in Public Places Fund Requirements, Waivers, and Exemptions," Section 2104 "Administration," and Section 3-2105 "Enforcement,"; clarifying the ordinance by utilizing the words "alternative

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Agenda Items E-2, E-4 & E-9 are related – Ordinances of the City Commission of Coral Gables, Florida amending Art in Public Places Program and establishing a new Mobility Impact Fee; and a Resolution amending the Impact Fee Schedule.

options” in lieu of the word “waivers,” modifying procedures of the Art in Public Places Program; providing a repealer provision, severability clause, codification, and providing for an effective date.

An Ordinance of the City Commission of Coral Gables, Florida, providing text amendments to the City of Coral Gables Code by amending: Chapter 2 “Administration,” Article IX “Impact Fees,” revising Impact Fees, establishing a new Mobility Impact Fee; authorizing the City Manager to adjust the impact fees based on Construction Cost Index; providing applicability, providing for severability, repealer, codification and an effective date.

A Resolution of the City Commission of Coral Gables, Florida, amending the Impact Fee Schedule, as authorized by Ordinance No. 2015-17, as amended, providing applicability; providing for an effective date. (For discussion purposes, with adoption scheduled for 12.06.16)

Mayor Cason: Okay, we’re going to do now Item E-2 and Items E-4 and E-9 are related.

City Attorney Leen: Thank you, Mr. Mayor. I will read them into the record. This is a time certain at 10 am. These three items are related. There will be a vote on first reading on item -- pardon me, on second reading, on Item E-2. Item E-4 is an ordinance on first reading, and E-9 is a resolution, which will not be voted on today, but will be voted on at the next meeting. The public hearing is consolidated for all these items, but there will be separate votes on E-2 and E-4 today. Item E-2 is an ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to the City of Coral Gables Official Zoning Code, amending Article 3, “Development Review,” Division 21, “Art in Public Places Program,” Section 3-2103, “Art in Public Places Fund Requirements, Waivers, and Exemptions,” Section 2104 “Administration,” and Section 3-2105 “Enforcement,”; clarifying the ordinance by utilizing the words “alternative options” in lieu of the word “waivers,” modifying procedures of the Art in Public Places Program; providing a repealer provision, severability clause, codification, and providing for an effective date. This is an item on second reading. It’s a public hearing item. Item E-4, an item on first reading -- an ordinance on first reading. It’s an ordinance of the City Commission of

Coral Gables, Florida, providing text amendments to the City of Coral Gables Code by amending: Chapter 2 “Administration,” Article IX “Impact Fees,” revising Impact Fees, establishing a new Mobility Impact Fee; authorizing the City Manager to adjust the impact fees based on Construction Cost Index; providing applicability, providing for severability, repealer, codification and an effective date. Item E-9 is a resolution. It’s not being voted on today. It’s here for discussion purposes, with the adoption scheduled for December 6, 2016. It’s a resolution of the City Commission of Coral Gables, Florida, amending the Impact Fee Schedule, as authorized by Ordinance No. 2015-17, as amended, providing applicability; providing for an effective date. Today, we have our consultant here and also special counsel who worked on this matter. One other issue to raise before I turn it over to the City Manager and the staff is that Item E-2 and E-4 are related, because they both have a -- they both impact open space. E-2, which is the Art in Public Places Program, remember, last time when it came on first reading, there was an incentive program. That’s been changed now based on what was stated at first reading, and now it’s the typical Art in Public Places Program that we presently have, but the option that used to exist to allow a party instead of putting money into the art fund or putting art on their property in their development, now they can -- it used to be that they could purchase land on a list that the City maintained. Now, instead of that, it makes it easier. They can contribute money to the City to a fund that could be used for the purchase of open space. The Commission would still have to approve that, so it’s not an election at will. They would have to -- the developer would have to indicate a willingness to do that, and then would have to come to the Commission and the Commission would have to approve that. In addition to that...

Commissioner Lago: Craig, if I just...

City Attorney Leen: Yes.

Commissioner Lago: May interject just one second, just so my colleagues and us are aware. The option of purchasing land that’s on a list that the City provide has never been used, correct?

City Attorney Leen: That has never been used, as far as I know. That's what we were informed at the last meeting.

Commissioner Lago: And so -- well, go ahead.

City Attorney Leen: So, Item E-4, the reason...

Commissioner Lago: Thank you.

City Attorney Leen: Why they're related is, because Item E-4 relates to impact fees and there's a new Mobility Impact Fee, which the City Manager and staff will talk about in a second. But that will lead to money for the City to use for open space, so that's why they're related.

City Manager Swanson-Rivenbark: Just as clarification. The change in our Park Impact Fees will result in additional open space. It's not the Mobility Fee.

City Attorney Leen: Oh, forgive me.

City Manager Swanson-Rivenbark: Just as clarification.

Commissioner Lago: And we're going to go...

City Attorney Leen: Forgive me.

Commissioner Lago: Excuse me, Mayor, if I may. And we're going to go into further detail. I want my -- I know that you briefed us all, but I want my colleagues to really understand how far we've come in reference to these ordinances and how this will bear fruit over the next ten years.

City Attorney Leen: And I know that they will. They have a presentation. But the point to make -- and forgive me for that -- it is the Park Fee. It's now being applied to residential properties, which will lead to -- pardon me, it's now being applied to commercial properties, so that will lead to more funds, as will be expressed. Lastly, item E-9, the reason that's before you is because that sets the actual fees. So, Item E-4 establishes the fees; Item E-9 sets the fees and allows them to be moved up and down, so...

Commissioner Lago: But I want to be clear, because you mentioned residential...

City Attorney Leen: Yes.

Commissioner Lago: And I want there to be any misconception. This does not apply to residential homes at all.

City Manager Swanson-Rivenbark: It does, sir.

City Attorney Leen: No, it does. It does.

Commissioner Lago: But I'm saying -- but it's not...

City Attorney Leen: It already exists.

Commissioner Lago: It already exists.

City Manager Swanson-Rivenbark: We're not adding...

Commissioner Lago: We're not adding.

City Manager Swanson-Rivenbark: Or increasing a burden on residential.

City Attorney Leen: So, with that...

Commissioner Lago: I just want to make sure that's clear.

City Attorney Leen: It's a public hearing item.

Vice Mayor Quesada: Yeah. That wasn't...

Commissioner Lago: Yeah.

Vice Mayor Quesada: A hundred percent clear to me, so thank you for clarifying that.

Commissioner Lago: We deviated one minute and we added residential there, and I know that phone calls are going to come and Tony, our ombudsman, can help us with this.

City Attorney Leen: So, anyway, so the -- so, with that, I would turn it over to the City Manager.

City Manager Swanson-Rivenbark: And thank you, Mr. City Attorney, for the outline and the preview. We're very excited about all of these items. And most importantly, we're excited, because you, as a Commission, have made it very clear that as a shared value, the preservation and the establishment of additional open space is a critical priority. You've purchased seven properties this past year. You set aside \$300,000 a year for additional open space, monies that we have not utilized yet, but we're still in seeking. But Commissioner Lago actually challenged us to do more, to gain more, because the purchase of \$300,000 in today's per square foot world doesn't buy as much as one would like. And so, it is the coming together, the speaking among departments, the working together through the Impact Fee Ordinance, as well as the Art in Public Places Ordinance, that our processes have become much better. And we would like first, the Historical Resources and Cultural Arts to present the item on Art in Public Places. This was

sponsored by Commissioner Lago, and so we'd like them to present that. And then we would like our consultant to talk about -- through Development Services, to talk about the proposed changes in the impact fees, a requirement that we have on a regular basis to look at our fees, make sure that they're defensible and make sure that they're accomplishing the objectives intended. So, first, we'll go with the Art in Public Places.

Vice Mayor Quesada: So, let me just ask a question before you speak, if you don't mind. This question's for Commissioner Lago and for the Manager. This is a continuation -- I know this is second reading. We had this conversation not at the last meeting, but the previous. And this is a combined conversation, because the title on the agenda isn't as clear -- when I'm looking at the draft ordinance...

Historic Preservation Officer Spain: Are you in Legistar looking at that, on the website looking at it? Because there were...

Vice Mayor Quesada: I looked at -- I just get my packets electronically.

Historic Preservation Officer Spain: Oh, okay.

Vice Mayor Quesada: So, it's what everyone else has.

Historic Preservation Officer Spain: Hopefully -- I know that I was this morning on the City website checking the attachments, and there were, in fact, two ordinances said draft second reading. I don't believe there should have been. I think in an attempt to track what we've done...

Vice Mayor Quesada: I'm looking at the redlined version.

Commissioner Lago: Yeah, there's -- but there's a problem on -- I apologize, Mr. Mayor.

Historic Preservation Officer Spain: The one that we're doing is very simple. It isn't what you...

Vice Mayor Quesada: Because let me just clarify.

Historic Preservation Officer Spain: Reviewed on first reading.

Vice Mayor Quesada: Let me just close this real quick.

Historic Preservation Officer Spain: Okay.

Vice Mayor Quesada: Just if you could quell my concerns. Very straight forward, are we also discussing when it should apply? So, we had had a long conversation -- is that also part of --, because I didn't see it from the title, but I see it in the draft resolution or draft ordinance, my apologies.

Commissioner Lago: Mayor, if I may, to answer the Vice Mayor. That is something that I wanted to discuss today also. I wanted to get...

Vice Mayor Quesada: But that's a part of this conversation? Because it's a two-part conversation.

Commissioner Lago: Well -- you're correct. It's a two-part conversation, but I wanted to really focus on --, because I think that when you hear the numbers and what staff has been working on and when you really see the mechanism that we're going to hopefully accept today which is going to fund a park strategy for the next ten years -- and you're going to be really impressed by what staff has been -- has put together -- now the main issue is, who does this affect that's already along the process.

Vice Mayor Quesada: Correct. That was the issue that...

Commissioner Lago: And I don't want...

Vice Mayor Quesada: We did not decide at the last...

Commissioner Lago: I don't want to hurt people.

Vice Mayor Quesada: Conversation.

Commissioner Lago: I don't want to hurt people.

Vice Mayor Quesada: Yeah.

Commissioner Lago: And by the way, developers haven't called me. No one has called me. No one's come to see me. I just -- I don't want people to get hurt and feel that we may have under some, you know, circumstances not allowed this to be really publicly flushed out for the individuals who are developing in the downtown area.

Vice Mayor Quesada: No, my concern, if you recall last time -- and I know you and I had a disagreement on this last time, but, again, I haven't spoken to anyone about it either. But my issue is with fairness. Sort of, if I have decided to move forward in a process and, as I'm in the middle of that process, it changes and it becomes more expensive for me or there's additional regulations on top in the middle of the process, I have a problem with that.

Commissioner Lago: I will tell you one thing...

Vice Mayor Quesada: And we had discussed...

Commissioner Lago: I will tell you right now, we have a disagreement now. We didn't have a disagreement then. We had a discussion back then. Now I have a disagreement.

City Manager Swanson-Rivenbark: No, sir. I'm sure it's a friendly...

Commissioner Lago: I'm just kidding.

City Manager Swanson-Rivenbark: Disagreement.

Commissioner Lago: I'm just kidding. Listen...

City Manager Swanson-Rivenbark: But if I can add...

Commissioner Lago: Madam City Manager, I love how you want to...

Vice Mayor Quesada: As long as you...

Commissioner Lago: She wants to play ref. Hold on.

Vice Mayor Quesada: Know you're wrong, we're good.

Commissioner Lago: Guys, it's going to be a long day. Let's not be so serious, okay. The fact of the matter is this, I'm with you and I think that we need to find a way to start -- to have a cut-off date.

Vice Mayor Quesada: Yeah, exactly. That's the conversation.

Mayor Cason: Well, let's...

Commissioner Lago: Whatever the City Commission feels...

Vice Mayor Quesada: I just want to...

Commissioner Lago: Comfortable with, we'll move forward.

Vice Mayor Quesada: I want to have staff do their presentation.

Mayor Cason: Yeah.

Vice Mayor Quesada: I just want to make sure that we -- we're aware of what was being discussed.

Mayor Cason: We're going to have the presentation, and then we'll get into...

City Manager Swanson-Rivenbark: But if I...

Mayor Cason: What's fairness?

City Manager Swanson-Rivenbark: Can, sir. Art in Public Places, the monetary commitment that is required is already here.

Commissioner Lago: Yeah.

City Manager Swanson-Rivenbark: What you're considering is the ability to direct that monetary commitment not to public art, not to art in place or near, but the option of directing that to open space. So, your dollar commitment, in this part of it, it's the impact fees and when they apply that I believe is your fairness argument. But today, we have an Art in Public Places

ordinance that obligates buildings of a certain size, they have to contribute. They have to contribute by a percent. That is already a part of it. We're proposing today on can you allow it directed to a check for open space and not to define a particular area.

Historic Preservation Officer Spain: Yes. That's exactly right. Nothing actually changes in the Art in Public Places ordinance. The fees are not changing. The percentage isn't changing. It's only the ability to not direct it to art, but to direct it to open space.

Commissioner Lago: Which, to me, you know, I have a little bit of an issue with that, because I want to make sure that we continue to foster art and we let people have the option to direct those monies into public art. But again, I just want to -- I can be appealed today with -- you know, I just want to obviously fund our potential park strategy for the next ten to fifteen years. So, let's have a discussion. I want to see the presentation and see what this leads into.

Historic Preservation Officer Spain: Well, as far as the ordinance, there are certain cleanup items. We're changing the word "waiver" to an alternative option because you're really not waiving. You're doing something different. Then we're saying that they can direct the one percent into some of the following, and then we just change the wording so that they would actually have an ability to put it into an open space fund, because there wasn't enough money in individual contribution to actually purchase a park, and so this just gives them the option of doing that. And I believe we're also adding an additional amount of money for the maintenance of the artwork, because we didn't have the maintenance of the artwork included in that, and we think that that's important. And also, the Art Advisory Board was really -- wanted that to go forward. And I believe that's...

City Attorney Leen: And Dona...

Historic Preservation Officer Spain: What else?

City Attorney Leen: It's not a true option. The Commission has to approve it.

Historic Preservation Officer Spain: Yes, that's true. It would come to you anyway. So, if you all were uncomfortable having that provision, they could always just pay the money into the art acquisition fund.

Historic Preservation Officer Spain: Did I miss anything?

Mayor Cason: Anything else we've...

Historic Preservation Officer Spain: I think that's it.

Mayor Cason: Do we have any speaker cards?

City Clerk Foeman: No, Mr. Mayor.

Mayor Cason: So, we'll close the public hearing portion. Any discussion?

Commissioner Keon: I just want to clarify, the only change that is to the Art in Public Places Program is that they can choose whether they contribute the money or the remaining money that may be due based on the percentage of the building or whatever to the Art in Public Places fund or to an open...

Historic Preservation Officer Spain: That's right.

Commissioner Keon: Space fund. And we have provided for the -- we've now included maintenance...

Historic Preservation Officer Spain: That's right.

Commissioner Keon: As well as -- this is any maintenance. I know at one time I think the maintenance was extraordinary maintenance or extraordinary...

Historic Preservation Officer Spain: Yes. No, this is...

Commissioner Keon: Whatever.

Historic Preservation Officer Spain: Any maintenance.

Commissioner Keon: So, now it's just maintenance in general...

Historic Preservation Officer Spain: Yes.

Commissioner Keon: To the fund. So, those are the only changes to the Art...

Historic Preservation Officer Spain: Yes.

Commissioner Keon: In Public Places...

Historic Preservation Officer Spain: That's right. And they can also...

Commissioner Keon: Ordinance.

Historic Preservation Officer Spain: Do art.

Commissioner Keon: Right.

Historic Preservation Officer Spain: They can also do artwork for that amount money.

Commissioner Keon: Oh, yeah, right.

Historic Preservation Officer Spain: Yes. That's it.

Commissioner Keon: Okay. Thank you.

Mayor Cason: Okay.

Commissioner Lago: Let me ask you a question, Dona, if I may. I thought we had discussed about moving -- going from 1 to 1.5 to mimic what the County is currently doing?

Historic Preservation Officer Spain: But we're not doing that.

City Manager Swanson-Rivenbark: The County, as you know, is only government buildings. Ours is private sector developments. The City has an obligation, and also the private sector has an obligation. And so, as we looked at what other cities were contributing, what other private sector was contributing, we did not increase the range. We, instead, expanded the opportunities by including general open space.

Historic Preservation Officer Spain: Yes.

Commissioner Lago: So, basically, what we're doing is we're taking away from art to feed into parks?

Historic Preservation Officer Spain: Not necessarily.

Mayor Cason: No.

Historic Preservation Officer Spain: I mean, that would -- if they want to do the art into the art...

Vice Mayor Quesada: It's either one or the other.

Historic Preservation Officer Spain: Acquisition Fund, they can.

Mayor Cason: Above the one percent.

Vice Mayor Quesada: Potentially, yes.

Commissioner Lago: That's not really -- that's not -- that was never my intent of my ordinance.

City Attorney Leen: Well...

Commissioner Lago: I guess we're going in a different direction.

City Attorney Leen: Well, Mr. Mayor...

Unidentified Speaker: If I may, Commissioner.

Mayor Cason: City Attorney. Let me ask the City Attorney to clarify.

City Attorney Leen: The rate can be set by the Commission. If you wanted it to go back to 1.5, you can set that.

Commissioner Lago: No, it's not the...

City Attorney Leen: You are the sponsor of the item.

Commissioner Lago: It's not the issue -- that's not only -- that's secondary.

Historic Preservation Officer Spain: I understand. I...

Commissioner Lago: My...

Historic Preservation Officer Spain: Totally understand what you're saying.

Commissioner Lago: I've been working on this for close to a year. I have probably about six items today on Commission that I've been working on; some for even three years. I don't have a problem bending, but what are we doing here today? We spent a year working on an ordinance that the purpose was to have one percent continue going into art and then point five...

Historic Preservation Officer Spain: Right.

Commissioner Lago: Into a piggybank, which was going to fund our parks strategy.

Vice Mayor Quesada: In addition to the one percent.

Commissioner Lago: Yeah.

Vice Mayor Quesada: Yeah.

Commissioner Lago: That's not what we're doing today.

Vice Mayor Quesada: And you're saying that the way that this is currently written, it's either/or.

Historic Preservation Officer Spain: So, this is what we can do...

Commissioner Lago: I'm just being clear. I just want to make sure we all know what we're voting on.

Historic Preservation Officer Spain: I just wanted to point out...

Vice Mayor Quesada: No, but hold on. That's what we had discussed...

Commissioner Keon: But I also...

Vice Mayor Quesada: At the last meeting.

Commissioner Slesnick: That was your proposal.

Vice Mayor Quesada: Yeah.

Commissioner Lago: Yeah.

Commissioner Keon: Okay, but I also think that...

Vice Mayor Quesada: Which I think we all were in agreement with.

Commissioner Keon: Included in this is a park impact fee...

Historic Preservation Officer Spain: Right.

Commissioner Keon: To commercial properties in the downtown area that wasn't there before. So, you know, you need to look at, does that impact fee now -- you know, does that bring the cost up to actually give you that additional funds, and is it -- I mean, this is your ordinance and you're sponsoring it.

Commissioner Lago: I just want to be clear.

Commissioner Keon: So, I just want to -- you know, do you think an impact fee is the better way to go or is it a percentage of construction or an impact fee? You'll end up at the same place, I think, or we'll decide here...

Commissioner Lago: Well...

Mayor Cason: So, there's another stream...

Commissioner Keon: (INAUDIBLE) looking at...

Mayor Cason: Of money coming from the impact fee into parks which could...

Historic Preservation Officer Spain: Yes.

Commissioner Lago: But...

Historic Preservation Officer Spain: This was intended to be in addition to that because that's really the main focus of the open space dollars.

Commissioner Lago: I just don't want to take away -- I don't want to take away...

Historic Preservation Officer Spain: So, why don't we do this? Instead of having any part of the Art in Public Places Ordinance be about open space, since we, hopefully, will have the impact fee coming -- maybe that should be voted on first, because once that's voted on, then we could eliminate the ability in the Art in Public Places Ordinance and just take it away and have it only as that part of the --, because then it would all go to art.

Commissioner Lago: To me, that makes sense. Obviously, I defer to my colleagues.

Vice Mayor Quesada: But you know something, it's drafted in an overly complex fashion. For example, you're telling me something that reads different from what I'm seeing in the proposed ordinance. So, I hate to be so specific about it, but page 3 of the draft ordinance, Section 3-2103, Fund Requirements, subsection A, it's three sentences. Just bear with me.

Commissioner Keon: I'm sorry. Repeat the...

Vice Mayor Quesada: Yeah, of course. It's the...

Historic Preservation Officer Spain: I'm on it.

Vice Mayor Quesada: Draft ordinance that has like the redlines on it. The top of the page says City of Coral Gables, Ordinance number blank. And the first whereas, whereas, the City of Coral Gables, through its Art in Public Places ordinance. The second whereas has the million dollar number and the one percent. Let me just -- just follow me. I'm only going to read three sentences.

Commissioner Keon: Okay, go ahead.

Vice Mayor Quesada: On page 3 of that document, it says Fund Requirements. Two funds will be established for the Art in Public Places Program. The first fund will be entitled Historic Public Art Fund and will be funded through payments from budgets of one percent of Municipal Construction Projects. No, this is not the section.

City Manager Swanson-Rivenbark: That exists, sir.

Vice Mayor Quesada: I apologize.

City Manager Swanson-Rivenbark: That's current language...

Commissioner Keon: That's existing now.

City Manager Swanson-Rivenbark: For government projects.

Commissioner Keon: That's existing.

City Attorney Leen: I think you're talking about the part where you can...

Vice Mayor Quesada: I think...

City Attorney Leen: Do the alternative option.

Vice Mayor Quesada: This is written in too complex of a fashion.

City Attorney Leen: Well, can I ask what -- Commissioner, you're the sponsor.

Vice Mayor Quesada: Okay.

City Attorney Leen: What do you...?

Vice Mayor Quesada: His intent...

City Attorney Leen: Yes.

Vice Mayor Quesada: He said it once.

Commissioner Lago: Thank you.

Vice Mayor Quesada: Let me say it again.

Commissioner Keon: Let him speak for you.

Vice Mayor Quesada: He said it once...

Commissioner Lago: I let my attorney speak for me.

Vice Mayor Quesada: Now let me say it as I understood it and I think we all agreed -- I don't think we voted on it last time, but we were all in agreement, if I recall correctly. Currently, it's one percent for Art in Public Places for projects.

Commissioner Lago: Leave it that way.

Vice Mayor Quesada: That doesn't change.

Commissioner Lago: Yeah.

Vice Mayor Quesada: What's -- all he's changing, he is putting an additional burden...

City Attorney Leen: One point five percent.

Vice Mayor Quesada: On developers of half a percent to go towards parks.

Commissioner Lago: Yeah.

Vice Mayor Quesada: That's it, right?

Commissioner Lago: And by the way, just so we know...

Unidentified Speaker: Right.

Commissioner Lago: Mayor, if I may...

Vice Mayor Quesada: That's the way I understood it.

Commissioner Lago: That's exactly what I said five minutes ago.

Commissioner Keon: Okay, but...

City Attorney Leen: Commissioner, what...

Commissioner Keon: What I'm saying also is that we didn't have an impact fee on Commercial Park -- impact fee...

Unidentified Speaker: Right.

Commissioner Keon: On commercial properties does not exist. So, what has been presented and combined with this is the park impact fee. So, I think if we listen to everything, it's -- you know, there will be funds for the parks and for open spaces. It's being done through an impact fee, as opposed to a percentage of...

Vice Mayor Quesada: However...

Commissioner Keon: Cost...

Commissioner Lago: There's two ways.

Commissioner Slesnick: Art in Public Places.

Commissioner Keon: It's just two different ways of doing it.

Vice Mayor Quesada: Would you disagree with me that the way it's currently written, it's an either/or?

Unidentified Speaker: (INAUDIBLE)

Historic Preservation Officer Spain: The way this is...

Vice Mayor Quesada: The way it's currently written.

Historic Preservation Officer Spain: Presented to you, what we're proposing?

Vice Mayor Quesada: Right. So, this is actually very simple. We can make a motion today to say that we don't want it in that fashion. We want it in the fashion as we previously described it, one percent for Art in Public Places, half a percent...

City Attorney Leen: But you could just do that right now.

Commissioner Keon: Why don't we go through the impact...?

Vice Mayor Quesada: Oh, we could do that right now.

City Attorney Leen: You could just say...

Commissioner Lago: There's two ways to skin the cat.

Vice Mayor Quesada: Yeah.

Commissioner Lago: And you got to make the decision which way you want it. You want it like you just mentioned right now, as an impact fee, which Commissioner Keon clearly stated? Or do you prefer to have it as one and point five, which is broken out in two parts, for point five and one for existing Art in Public Places.

City Attorney Leen: I would...

Commissioner Lago: That's your decision. Again, whichever...

Commissioner Keon: Right.

Commissioner Lago: As long as that impact fee still drives and gets me to my end goal of point five, which delivers over the next ten years what I imagine we're going to show now as an extensive amount of monies to continue to buy parks like we did this past year, I'm fine with whichever way my colleagues want to go. I just want to make sure we enact it. And then we'll discuss how we treat everybody fairly and what is the cutoff point.

Mayor Cason: What is the projected income from...?

Vice Mayor Quesada: We've already expressed to you, Commissioner that we're in a hundred percent agreement with...

City Manager Swanson-Rivenbark: Wait, Charles. We're...

Vice Mayor Quesada: The original (INAUDIBLE)...

Commissioner Keon: Okay, no I think you ought to listen to...

City Manager Swanson-Rivenbark: We're talking about two different projects.

Commissioner Keon: I mean, I think we should talk about each one of them and the impact fee so you have -- all of the choices are clearly explained...

Mayor Cason: Yeah, let's...

Commissioner Keon: And all of the options are clearly explained and understood. And then, once we have all of that information, then we can make a decision.

Mayor Cason: But let's talk about...

Commissioner Keon: But I think we need to hear everything...

Mayor Cason: Let's talk about E-4 then...

Commissioner Keon: Before we make a decision.

Mayor Cason: And what the impact fees are, how much you think they'll generate...

City Manager Swanson-Rivenbark: So, we can postpone discussion on E-2.

Mayor Cason: We'll...

City Manager Swanson-Rivenbark: We can present for E-4...

Commissioner Keon: Yeah.

City Manager Swanson-Rivenbark: And then you can...

Mayor Cason: And then we'll come back.

City Manager Swanson-Rivenbark: Bring back...

Mayor Cason: Let's do E-4.

Commissioner Lago: Thank you, ma'am.

Mayor Cason: Go ahead.

Interim Development Services Director Wu: Thank you, Mayor. For the record, Charles Wu, Interim Development Services Director. I'll be introducing -- giving you a five-minute introduction. First, I'd like to talk about the open space discussion. We have a four-prong approach to address open space. The impact fee today is just one of the four prongs. Secondly, we do have the Art in Public Places on the agenda today. Also, we have, in the process to come up with an open space TDR, Transfer of Development Rights, that the Planning and Zoning Board, as of last week, recommended unanimous, and that will be coming before you in the very near future. And the Planning and Zoning director will also put together a parks -- an open space study on the Code requirement. So, that's a four-prong approach. Tonight, you have two items, the Impact Fee Ordinance and the Art in Public Places Ordinance. I just wanted to give you an overview on the open space approach staff wise, so you know we do have a strategy how to address the additional needs for open space. You have two items, E-4 and E-9. E-4 is the City Code amendment to address the changes to the legislation based on the new impact fee study. And E-9, which is for discussion only, is the actual fee changes on impact fees. Again, as a

recap, an impact fee is a one-time payment for system improvements to accommodate new development. It is not to accommodate existing development. It's not to accommodate existing deficiencies. Again, this is to accommodate only new development. The original impact fee was adopted in '07 by the (INAUDIBLE). And about a few months later, we adopted, parallel to that, a University of Miami impact fee component as well. Along with that, we have a sewer capacity fee. So, we have a three-prong update; impact fee, in general, the UM impact fees, and the sewer capacity fees, all lumped today. To recap today, what are we charging? For commercial development, we charge three components: police, fire and general government. For residential development, we have a fourth one, which is parks. And we also have sewer capacity fees. And the adoption of that ordinance, way back in 2007, was done by Tischler-Bise. We're fortunate enough to contract with them again to do this study. We've been doing it for a few months. The City Code requires an update pretty much every three years to look at the graphics, development trends, and it's really good governing practices to update the impact fees on a periodic basis, so we are overdue for one. The major updates are today the categories for single-family, we have four, based on the types: single-family, multifamily low, multifamily medium, multifamily high-rise. Today, we're using five different dwelling unit sizes to be a capture. That is one significant change. For the commercial development, we have a very extensive list, 23 categories. We're now combining them into three for ease of the administration. And we are including a new Mobility Impact Fee. That is to address bike paths, bike facilities, sidewalk extensions, traffic calming, corridor master plan, multimodal transportation plans, et cetera. That is something relatively new that's been adopted in the entire state. Because we do not have a traffic impact fee, what we can do is we can do a Mobility Impact Fee, which is to allow movement of cars, pedestrians, bicycles, et cetera. It's a catch-all. And the update on the University of Miami, they received University of Miami staff input and feedback, and we consolidated that to our overall impact fee analysis as well. In general, police and fire were reduced, because we have a new methodology called the plan based methodology fee. Government, which we now call municipal facilities, have been increased slightly. Park impact fees --, because we have new data, that was adjusted, which could also apply to commercial development. That's a very important note to take. Again, impact fees will now apply to

commercial development. And the purpose is that we do see a need for park open space, for workers and customers in the commercial areas. It's a very interesting concept. We feel very strongly about it, and we think that it's sustainable. In general, what does it mean moving forward? For a 5,000 square foot, it will nominally increase from today's \$12,045 to \$12,975, so it's generally about the same. For commercial development, about 50,000 square feet will increase from \$79,000 to \$164,700. And that's primarily, because we have the new park impact fee and the new mobility impact fee for the commercial components. The new methodology we are changing is that today if you have a tear-down from a single-family house to a larger single-family house, there's no impact fee incurred. It's one for one. The new methodology is if you increase the size by 1,000 square feet, commercial or residential, you will trigger an impact fee calculation, so capture the tear-downs and bigger structures, for commercial and residential, so you want to be fair. One thing of note is that today's Code allows the City to adjust the impact fees based on a construction index. We have in the ordinance that we're allowing the City Manager the option -- and again, just her option to adjust it based on the recognized publications, such as Engineering News Record. So, that is up on the table. And the Manager may decide because of economic times not to adjust it. We've had impact fees for about ten years. We haven't adjusted for the past ten years, and we all know there's a cost inflation for doing construction. This is trying to address that. According to Florida Statute, the impact fee cannot take effect until 90 days after adoption, so we have codified it that way. And consistent with the City Attorney's opinion, subject for discussion, the impact fee will not apply for projects that have received final BOA approval or who have received development agreement approvals. That is subject for discussion, but according to the City Attorney's opinion, that is being consistent with that.

City Attorney Leen: If I can add one thing there. The City Attorney's opinion is not that -- this opinion is not binding on the Commission. You could change the date. But the date that we have essentially chosen as the default date for every Code change, including impact fees, is the final Board of Architects approval. But as indicated in the opinion, the Commission can always indicate a different date if it so wishes, but it'll have to do that in the ordinance.

Interim Development Services Director Wu: Yes. And we'd like clarification on that in terms of the applicability of when the fees apply. An earlier question, how much we project for fees. Particularly for parks, we project, based on the past trends for the two years, that the City can collect about \$21 million estimated within a ten-year period.

Mayor Cason: How much?

Interim Development Services Director Wu: Twenty-one million within a ten-year period.

Mayor Cason: So, two point -- two million dollars a year, roughly.

Interim Development Services Director Wu: Yeah. And that is based on the past development trends. We will give you an update every year, if you'd like.

Vice Mayor Quesada: But that's related to all the new increases in the impact fees or just...

Interim Development Services Director Wu: Yes, all...

Vice Mayor Quesada: Related to parks?

Interim Development Services Director Wu: No, that's just for parks. I have estimates for all...

Commissioner Keon: It's just for parks.

Interim Development Services Director Wu: If you would like.

Mayor Cason: Just the revenue stream from this Mobility Impact Fee that would go to parks.

Interim Development Services Director Wu: No, just strictly parks.

Mayor Cason: Right.

Interim Development Services Director Wu: On commercial and residential, \$21 million for ten years. I can go down the estimates for each type of fees, if you'd like.

Commissioner Lago: Before you do that, I just want to ask you a quick question. How do we fall in line with other municipalities and the County in reference to those impact fees?

Interim Development Services Director Wu: When I did the original analysis, outside the City of Miami, the City of Coral Gables has the most comprehensive array of impact fees.

Commissioner Lago: Okay.

Interim Development Services Director Wu: Period.

Vice Mayor Quesada: Does that mean we're higher or lower or comparable? You're saying comprehensive. That doesn't really answer...

Interim Development Services Director Wu: We have all the categories...

Commissioner Keon: We're higher.

Commissioner Slesnick: But how does that...

Vice Mayor Quesada: Yeah, that doesn't answer my question.

Commissioner Keon: It's higher.

Commissioner Slesnick: Higher or lower per...

Interim Development Services Director Wu: Higher.

Commissioner Slesnick: Higher.

Mayor Cason: Higher.

Commissioner Slesnick: Compared to all the other cities or just Miami?

Interim Development Services Director Wu: And to be fair, the County also charges road impact fees, school impact fees, so that is on top of what we charge. You have to be very mindful of those additional fees coming online.

City Manager Swanson-Rivenbark: On the issue of parks and recreation, we are the only city, I believe, that is recommending that we charge commercial development for parks, open space impact fee. But as a 30-year economic developer, I think it's very relevant, because when you have 100 employees in an office and you want them out of the office and on -- in the community, out in the downtown having those types of open space benefits to them create a better work environment for them, makes us more attractive as a recruitment source for businesses coming in. I think that it's an important provision that other cities are going to follow.

City Attorney Leen: Yes. And we do have legal counsel here who can talk about this, if you'd like. But we believe that there is a nexus and that it's roughly proportional, which is what the legal test is for these impact fees, because the commercial development, as the City Manager eloquently said, leads to a demand and a need for open space and plazas for people to go outside and use these areas. And so, that's why you have impact fees, because there will be a development that will lead to a need, which the City has to meet. And it's not fair to ask the

current taxpayers to have to fund that. You should ask the developer to fund that because they're bringing in the new -- they're causing the impact. So, that's the thinking behind it. We believe that it is legal, and we've given an opinion to that effect.

Commissioner Keon: Okay, but the -- you know, one very important issue related to impact fees is that nexus between the -- who is being charged the impact fee and where the benefit is going to be. There has to be a nexus between these two. You cannot charge an impact fee for parks in the commercial districts of downtown and use that fee to establish a park, you know, south of Sunset in the City of Coral Gables, in a residential community. You have to use the dollars from impact fees in relation to the entity that is creating the impact. So, the impact fee for parks that would be paid by commercial development in our downtown area east of Le Jeune Road would be to fund those types of spaces within the commercial areas, too. Is that correct?

Mayor Cason: Is that space delineated in the ordinance, the space...

Interim Development Services Director Wu: I'd like to clarify...

Commissioner Keon: Well, I don't know how delineated it is, but it is the law regarding impact fees, and it's important that you understand that, where the money can be used and how the money can be used. So, it's the opportunity that we have to be able to eventually purchase properties in the downtown area for open space, for parks or those things where the properties are exceedingly expensive and nobody is going to go out, and purchase them and give them to us as part of any one percent of anything. So, the impact fee is what will do it. That's why the impact fee that is charged to new residential development will go in the residential area, can be utilized in the residential area in conjunction -- within a certain area adjacent to that particular development. You can't just collect impact fees and use them wherever you want. They have to be in -- there has to be a nexus.

City Attorney Leen: It could be under...

Commissioner Keon: So, it's important that we understand that going forward.

City Attorney Leen: Under our Code, they need to be allocated within six years...

Vice Mayor Quesada: So...

City Attorney Leen: And it needs to be used in the area where the impact fee is collected.

Vice Mayor Quesada: It has to be used within six years?

Commissioner Keon: Within six years.

City Attorney Leen: Allocated.

Interim Development Services Director Wu: Allocated.

City Attorney Leen: Allocated...

Commissioner Keon: Allocated.

City Attorney Leen: Within six years, and it needs to be used...

Vice Mayor Quesada: I think we need to alter that...

City Attorney Leen: The legal test is...

Vice Mayor Quesada: Though.

City Attorney Leen: Say again?

Commissioner Keon: No. It's -- I think it's from the time of completion, not from the time it was paid. Isn't it from the...

Vice Mayor Quesada: Yeah, but hold on a second, guys.

City Attorney Leen: Our Code...

Commissioner Keon: Completion of the project?

City Attorney Leen: Our Code says allocated within six years.

Commissioner Keon: Of when?

City Attorney Leen: Of the collection of the fee.

Commissioner Keon: But we -- well...

City Attorney Leen: Diana's -- the Finance director is here. She can tell you (INAUDIBLE)...

Commissioner Keon: But do we collect the fee at the time that they go through permitting, or are they collected at the completion of the project?

Interim Development Services Director Wu: At the time of permitting.

Commissioner Keon: But hasn't there been some discussion on that?

Interim Development Services Director Wu: No. If you get the permit, you have to pay the impact fees.

Vice Mayor Quesada: Okay. Commissioner Keon, Mr. City Attorney, let's just be practical for a second here. We talked about that we're going to have \$21 million if things continue on this trend, pursuant to the study...

Commissioner Keon: Over ten years.

Vice Mayor Quesada: By this company. By how many years?

Commissioner Keon: Over ten years.

Commissioner Lago: For ten years.

Vice Mayor Quesada: Over ten years.

Mayor Cason: (INAUDIBLE) a year.

Commissioner Keon: So, \$2.1 million per year.

Vice Mayor Quesada: Okay, so we got to think about the vast majority of projects get built in our downtown central business district corridor area, right? Logical. Right -- ten years from now, what can you buy for \$21 million in downtown Coral Gables? Not much. It's not much. You can't do much now. So, if we have a restriction that it has to be allocated or identified within six years, that's almost going to defeat the purpose and it's going to cause future commissions to rush to find where to put that money and maybe it's not going to be the best use. What I'm suggesting is we should look at changing that six-year period to a longer period, so

that we have a bigger chunk of money to be able to actually make an impact and buy a piece of property in downtown or whatever location, because that makes more sense.

Commissioner Keon: But I think, though, the -- or you can clarify for me and the Manager can also. I think when you allocate; it's allocated to an open space fund. It isn't necessarily...

Vice Mayor Quesada: Oh, to a fund.

Commissioner Keon: Allocate to...

Vice Mayor Quesada: Okay.

Commissioner Keon: Is it to allocate to a specific...

Vice Mayor Quesada: Is that correct?

City Attorney Leen: It doesn't have to be spent.

Commissioner Keon: Property? It just has to be allocated.

Interim Development Services Director Wu: Allocated to a project.

Commissioner Keon: It doesn't have to be spent.

City Attorney Leen: For a project.

Vice Mayor Quesada: Well, no. Then no...

Commissioner Keon: Oh, okay.

Vice Mayor Quesada: It's not different.

Commissioner Keon: Then it's...

Mayor Cason: That's your point.

Commissioner Keon: Projects?

Vice Mayor Quesada: That's my point.

Mayor Cason: The point is we wouldn't necessarily have identified a project within six years.

City Attorney Leen: What do you do...?

Vice Mayor Quesada: Right.

City Attorney Leen: Diana could talk...

Commissioner Lago: That's the issue...

City Attorney Leen: About this.

Commissioner Lago: Go the route of an impact fee; we'd be forced to spend those monies...

Commissioner Keon: Well, we -- let her finish.

Finance Director Gomez: So, the way that it is and has been is that it has to be appropriated for use or expended within the six years. We appropriate in one-year lag all of the available funds,

and then we assign them to projects when the projects are identified. But -- so appropriated for use is what we do. We don't --, so once it's appropriated, we've met the...

City Attorney Leen: We've met our Code provision.

Finance Director Gomez: Code requirement.

Commissioner Keon: Okay.

Finance Director Gomez: Where it may not have been assigned to a project yet.

City Attorney Leen: There is a...

Commissioner Keon: So, could it be appropriated to an open space fund in the downtown? Is that appropriated?

Finance Director Gomez: It's appropriated for a use in any project that would be an allowable use project.

Commissioner Lago: But let me ask you a quick question. Why would we...

Commissioner Keon: It's not specific.

City Attorney Leen: But we...

Commissioner Lago: But why would we...

City Attorney Leen: I'm sorry.

Commissioner Lago: One second. Just give me one second. Why would we force ourselves, force our hand over the next ten years to only be able to allocate these funds to the downtown area...

Finance Director Gomez: Right.

Commissioner Lago: Where the purpose of this might -- the purpose of why I came up with this ordinance -- and I've been dealing with this over the past year -- is to find a mechanism to feed our residential neighborhoods that are dying for -- who all the residents come up to me and say we are interested in more open space.

Mayor Cason: This won't do it because...

Commissioner Lago: Of course --, but don't get me wrong -- excuse me, Mayor. Don't get me wrong. I would love to have a nice, big swath of land in the downtown area where the business community can come, they can enjoy their lunch. They can have a sit-down; we can have events. But we have something similar to that already. We have obviously Ponce Circle Park, which is very difficult to get to, but I would love to have something more in the downtown CBD area.

City Manager Swanson-Rivenbark: And so...

Mayor Cason: But I guess what you're saying is that if it has to be into a delineated area downtown, if it's a downtown project that generates the money, that isn't going to do your residential, because there's...

Vice Mayor Quesada: Correct.

Mayor Cason: Not that much new residential building there.

Interim Development Services Director Wu: If I could clarify one thing.

Mayor Cason: It's going to be much bigger.

Vice Mayor Quesada: So, Madam City Manager, can you clarify for us what are the vehicles that we have to achieve this goal other than an impact fee?

City Manager Swanson-Rivenbark: Okay, so there -- Charles briefly touched on it. We're also coming to you with a transfer of development rights for open space. We think that's incredibly important and it is not going to be targeted to a geographic area. So, if a developer wants to -- just like the historic incentives, if you're going to preserve and not build, you can transfer that. If you're going to preserve an open space area and you want to use those development rights elsewhere, you can do that. Commissioner Lago, your concern about will we meet the needs of residents as a part of this, absolutely. Because what it does is it allows us to meet the needs of the daytime population that is happening within the core, including the number of residential apartments, but it doesn't require us to take that money and put it into the residential. We can preserve the monies that we already have, the monies that you have allocated, the monies that you have for Art in Public Places and direct those to resident only.

Commissioner Lago: Well...

Vice Mayor Quesada: So...

Commissioner Lago: While I appreciate your explanation and I understand where you're coming from, I don't want to handcuff myself to being able to use these funds in any shape or form that -- by the way, we may not be here next year, so...

Commissioner Keon: Yeah, but I...

City Attorney Leen: But look, there's a legal component to this. I just need to say something. So, the...

Commissioner Keon: Yeah.

City Attorney Leen: And we have special counsel here who can speak as well, if he'd come up. But the -- remember, impact fees, it's very well-established law. You do -- our Code says appropriate or expend, which I think is very similar to allocate, but may be treated differently. The issue, though, is at some point we have to spend them. We can't just appropriate them. We have to spend them or at some point they're going to be able to come and get them back.

Vice Mayor Quesada: But that is correct if we are to follow the procedure of an impact fee. Is it possible, Madam City Manager and Ms. Gomez, similar to what we have in Art in Public Places Fund, can we have a vehicle that is a public parks fund?

Commissioner Lago: Point five percent, which is what the discussion that we've been having since last year.

Vice Mayor Quesada: And therefore, a future Commission can decide whether King's Bay needs a park...

Commissioner Lago: Yeah.

Vice Mayor Quesada: Or other areas, where they're not -- you're never going to see big developments...

Commissioner Keon: Yeah, but I think...

Vice Mayor Quesada: And allow future administration and future Commission to decide whether to have a park or not.

City Attorney Leen: We...

Vice Mayor Quesada: Adding to the first question is, is that allowable or not? Let's just start with that.

City Attorney Leen: We've said that -- my office has said that you can do that if it's an option, if it's an election.

Vice Mayor Quesada: If it is an option -- what does that mean? Define it.

City Attorney Leen: If they are choosing to -- that's why we had that whole incentive program. They're choosing to put money into a general parks program, the developer.

Vice Mayor Quesada: So, the developer will have the option of either doing A or B, and what are A or B? B is putting it into that fund. What is A?

Mayor Cason: More art.

City Attorney Leen: A would be arts fund.

Mayor Cason: More art.

Commissioner Keon: The art fund or...

Vice Mayor Quesada: But then that goes back to what Dona proposed today and what we have written in the ordinance, which is contrary to the intent of what we agreed on at first reading, which is contrary to the initial item.

City Attorney Leen: But to achieve your intent, all you have to do is change it to 1.5 percent and say point -- up to point five percent can be put into a parks fund.

Commissioner Keon: But it has to be at the discretion of the developer.

City Attorney Leen: Yeah.

Commissioner Keon: You can't require that it go there.

Vice Mayor Quesada: And that -- what is that, a state statute requirement?

City Attorney Leen: No, that's an interpretation.

Commissioner Keon: That's impact fee -- that's law.

Vice Mayor Quesada: Interpretation of what?

City Attorney Leen: Well, because I was concerned that if you just required them in the Art in Public Places ordinance to pay the money into a general fund, you're doing an unlawful impact fee for parks.

Vice Mayor Quesada: But isn't that what we're doing...

Commissioner Lago: Already with one percent?

Vice Mayor Quesada: Now?

Commissioner Keon: No.

Vice Mayor Quesada: How is that different from what we're currently doing and saying you have to give one percent to art or put it in the fund? That's a requirement, is it not?

City Attorney Leen: There's a County Code provision that allows for an Art in Public Places Program. It -- that program allows us to establish our own program. We've established our own program.

Vice Mayor Quesada: And that's only specific to art.

City Attorney Leen: And so, we're relying on essentially the fact that the -- basically, the County Home Rule power that's been...

Vice Mayor Quesada: But that County Code, pursuant to the Home Rule power that you just expressed...

City Attorney Leen: Yes.

Vice Mayor Quesada: Is specific to art.

City Attorney Leen: Yes. It is specific to art.

Mayor Cason: Is there a way to lengthen the period of time in which we can accumulate the money where downtown -- what is the -- what would be a mechanism to do that? Because...

Vice Mayor Quesada: Yeah, but you know what happens, Mr. -- I apologize for interrupting. But what ends up happening is we're going to have all this money for downtown Coral Gables -- and I really understand Commissioner Lago's point and I agree with him a hundred percent. Then, all of a sudden, you have other areas where there isn't any kind of development.

Mayor Cason: Well, but there might...

Vice Mayor Quesada: And now we can't -- now we're going to be in restraints or we're going to have a huge bucket of cash to do stuff in downtown Coral -- you're shaking your head, so please clarify as soon as I'm done.

Interim Development Services Director Wu: I can clarify one thing first.

Vice Mayor Quesada: Sir, let me just finish my thought. We're going to have a huge bucket of cash for downtown Coral Gables and maybe areas around Sunset Place area that are Coral Gables, but that we won't have the money for other locations. Please don't respond to my question. You keep shaking your head no.

Finance Director Gomez: Because he's going to respond the same...

Vice Mayor Quesada: Please explain.

Interim Development Services Director Wu: I can try to answer that.

Finance Director Gomez: He's going to respond the same thing.

Interim Development Services Director Wu: The ordinance says -- and whenever you charge impact, you have to decide the benefit district. For instance, the County, they carved out the areas to decide which benefits where they derived the impact fee from (INAUDIBLE) in that

district. We have a city and we -- because the size of our city is not as large as, for instance, the County and the City of Miami, the entire city is the benefit district. So, wherever fees are collected, as long as you spend it within that district, you're fine.

Finance Director Gomez: Right.

Interim Development Services Director Wu: The question is...

Finance Director Gomez: Anywhere in the City.

Interim Development Services Director Wu: Anywhere in the City. The question is...

Finance Director Gomez: Regardless of where it's collected.

Interim Development Services Director Wu: For the benefit of the rational nexus, whether you want to do, as a policy, that from the downtown impact fee parks, you want to spend downtown. That's a call you can make and direct City Manager.

Vice Mayor Quesada: Okay.

Interim Development Services Director Wu: But again, it's the entire city.

Mayor Cason: That solves it.

Commissioner Lago: We can do that.

Vice Mayor Quesada: Well, you shake your head and we don't know these things.

Finance Director Gomez: I know.

Vice Mayor Quesada: Explain it to us.

City Manager Swanson-Rivenbark: No. We're trying to (INAUDIBLE)...

Interim Development Services Director Wu: And the second thing I want to clarify...

City Manager Swanson-Rivenbark: Go ahead.

Vice Mayor Quesada: Okay, that clarifies it.

Interim Development Services Director Wu: It was that we talked about we don't have enough money for a downtown park. Again, impact fee is not to address current deficiencies.

Vice Mayor Quesada: I'm sorry?

Interim Development Services Director Wu: It's not to address current deficiencies. It's to address the needs of new development.

Vice Mayor Quesada: Okay.

Interim Development Services Director Wu: So, that's a very important con...

Vice Mayor Quesada: But that wasn't the intent behind the original creation of this.

Interim Development Services Director Wu: No. Impact fees were always...

Vice Mayor Quesada: What's happened is you guys have...

Interim Development Services Director Wu: To support new developments. That's how it could sustain (INAUDIBLE)...

Vice Mayor Quesada: I understand that, but we're speaking past each other.

Interim Development Services Director Wu: Okay.

Vice Mayor Quesada: You guys are the ones who decided to pick the impact fee as the vehicle to achieve this goal when the original intent was not to be restrained in that sense, so that's why we're speaking past -- I understand where we're at.

City Manager Swanson-Rivenbark: So, Charles, let me go ahead and -- so, sir, I appreciate what your concerns are regarding downtown. We have eight commercial districts and we often don't stop and think about them. The industrial district is a district that is in desperate need of park space. The South Dixie Highway Corridor, the North Ponce Corridor, the Flagler Street, which is us as well, the Eighth Street, and so the Shops of -- you know, across from the Shops of Sunset, the San Remo area. That is us as well. As new development positions to come forward, that impact fee could grab that money and make sure that it is spent not in the downtown, but in over eight commercial districts that are citywide. So, you would be able -- if the money is generated within that eight -- that district, it has to be spent within that district, which I believe will benefit the City unilaterally.

Vice Mayor Quesada: You know, you're -- but your comments sort of raise concern for me again, because the same thing I was saying before.

Commissioner Keon: It is.

Vice Mayor Quesada: Are we going to end up in a situation where we have all these funds just for downtown, but nothing for the residential areas? But I think I speak for all of us, residents

have come to me nonstop, and I'm sure all of us. They're so happy with the new pocket parks in their neighborhood.

Commissioner Keon: Yeah.

Vice Mayor Quesada: It's been nonstop.

Commissioner Lago: That's why...

Vice Mayor Quesada: And they're over the moon on them.

Commissioner Keon: Right.

Vice Mayor Quesada: Which is why when Commissioner Lago first brought this up; I was like, tremendous idea. I love it.

Commissioner Lago: Can I interject just one issue, Vice Mayor? And I was going to talk about this later, but this weekend I went with my family and some -- and another friend of mine that lives on San Amaro. He's got three young boys, and we ended up going to the park -- it's not even a park. It used to be an empty swath of land. Okay, now we spruced it up a little bit. I think its Durango Park.

Commissioner Keon: Yeah.

City Manager Swanson-Rivenbark: Yes.

Commissioner Lago: Durango. And we probably there for about two or three hours. We had a little picnic. We were relaxing. We were playing soccer, football. And then the neighbors brought their kids over. And before you knew it, we had about 15, 20 kids playing in Durango

Park as we sat on the benches and just enjoyed the afternoon. It was spectacular weather. There was a gentleman that walked up while we were sitting there and he said -- he goes, you know; I've lived in this neighborhood for over 50 years. My mother lives down the street. And I used to play, you know, around here. And it's great to see all these young kids back in the neighborhood. You can see that the neighborhood's transitioning. I live two blocks away from that park. We never had an empty space, except for University of Miami. We would end up using some of the fields. But this is an opportunity to have a park completely done, have shade. It's welcoming. All the residents are using it. So, that's why when I started working on this ordinance a year ago and I brought it to the Commission and we've been tweaking it, I just want to see something done which is going to be here in perpetuity, which is going to feed why everybody wants to move into the City of Coral Gables. But what we're missing -- and again, we addressed it like no other Commission has in the past last year, like we mentioned, when we purchased seven parks. But I want to make sure that when we're long gone, that there's still something feeding our Parks Master Plan idea and concept. So, if you want to move and this Commission wants to move forward in reference to an ordinance -- in reference to this ordinance using the impact fees, I don't have an issue with it. I'm flexible. But I want to make sure that we have some leeway, so that we can use some of these monies in the neighborhoods.

Mayor Cason: Let me ask a question about the TDRs for open space. Could that be used to supplement -- if the money went into downtown, we found an area and brought open space for the purpose that we discussed, could that third device -- revenue stream go to a broader set of districts?

City Manager Swanson-Rivenbark: Absolutely. And so, it's a cafeteria plan. It is not one solution. It is multiple solutions to secure open space. It is the Art in Public Places, if you want to direct it. It is the impact fees in the eight commercial districts. It is the transfer of development rights for open space, which would allow a developer to build more in their location if they negotiate for us for the, in perpetuity, securing of that open space in locations. We think that that, in addition to your ongoing financial commitment to purchase land, all four of

those citywide will show tremendous benefit for the residents in the securing of the impact -- of the open spaces, some of which will be dedicated in residential areas, some of it will be dedicated in commercial areas. But all four will help that.

Mayor Cason: Any idea of the revenue stream from the TDRs? Any...

City Manager Swanson-Rivenbark: Excuse me, any idea...

Mayor Cason: Of the revenue stream. I mean, do you have a ballpark figure of what you would expect over ten years?

Interim Development Services Director Wu: It's really a market driven -- we have some information about the historic TDRs we can pull for you upon second reading, but it's an interesting concept. We'll have to see how the market bears that. (INAUDIBLE) for it to work. And I guess there's a market value to those air rights.

City Attorney Leen: So, Mr. Mayor, I have to add something. So, the -- I spoke with special counsel. I just want to be very clear on the record what impact fees are for. An impact fee has to be spent within a reasonable amount of time and there are certain statutory and Code provisions. We can't just hold it forever or they have a right to have it returned to them. Even if we appropriate it, at some point, we have to spend that money, and I want to discuss that with the -- with staff. Number two...

Vice Mayor Quesada: So...

City Attorney Leen: But number two...

Vice Mayor Quesada: I'm sorry.

City Attorney Leen: The second issue that's important is the money had to benefit the development that is paying the impact fee. Now, special counsel has informed me that based on the study, he believes that the district can be broader than simply the commercial district. It may even be able to be the whole city. I'd like him to speak briefly, because I need to put that on the record, so he can explain -- Craig, please come up and speak about this.

Vice Mayor Quesada: Actually, before he speaks, I'm going to ask the Mayor, if it's okay with the rest of the Commission and with the Mayor -- obviously, you run the meeting -- if we can table this item until a little later in the meeting, because I have a lot of technical questions I want to ask that I need to resolve. And I think if I speak to you guys one on one, we can move it quicker and we have a lot of residents waiting for the next item as well as a lot of people from the University of Miami waiting for the next item. And this is a -- there are no outsiders on this one. This is staff and us.

Mayor Cason: Yeah.

Vice Mayor Quesada: So, I want to make sure we can keep that moving, if it's okay with everyone else.

Commissioner Keon: But I'd like to hear from Craig Collier, because I think the information that he needs to provide us with regard to the legal implications of impact fees and...

Vice Mayor Quesada: Absolutely.

Commissioner Keon: The requirements is important...

Mayor Cason: Let's do that and then we'll...

Commissioner Keon: For everyone to hear so we know when we're asking the other questions, you know, what is required. Because our practice may not be in accordance what is currently as lawful...

Vice Mayor Quesada: And I don't disagree.

Commissioner Keon: As we would like it to be.

Vice Mayor Quesada: I just think this is going to get highly technical.

Commissioner Keon: Well, I don't think...

Vice Mayor Quesada: It should take...

Mayor Cason: Go ahead and tell us...

Vice Mayor Quesada: A little bit longer.

Craig Coller: I'll do my best to make it nontechnical.

Commissioner Keon: That's not technical.

Mr. Coller: Craig Coller, special land use counsel for the City. I think, at some point, it would be very helpful to have the consultant do his PowerPoint, because I think part of the issue with parks was they -- the Parks did a study on how commercial use -- utilizes the parks, and they really went through and looked at, well, where are they using the parks. And so, the concept is, yes, there has to be a benefit to the burden, which is what we're talking about. And it doesn't have to be right next to it. In fact, the County has three park impact fee districts. So, it can be larger than just merely, well, I have to have that park right next to my building. That's not the

requirement. Obviously, the closer the park is to the building, the better you are, but it's not a specific requirement. So, I believe that there is some flexibility. And I think the consultant can explain at the appropriate time when you want to get into this a little bit more. I think he's got a small -- short PowerPoint presentation about the study that was done with regard to commercial development.

Commissioner Lago: So, there is flexibility, and hopefully, the consultant can give us a little bit more information in reference to the extent of that flexibility.

Mr. Coller: Right. I think he can assist us with that.

Commissioner Lago: So, you feel comfortable with the flexibility that he just mentioned.

Commissioner Keon: Well, why don't we -- can he speak or you don't want to...

Vice Mayor Quesada: Yeah, no, that's fine. I just didn't want this to go on for another hour and keep a room...

Commissioner Keon: No.

Vice Mayor Quesada: Full of people waiting.

Mr. Coller: Well, I don't know how long his PowerPoint presentation is, but...

Interim Development Services Director Wu: We have an eight-slide PowerPoint. We have a detailed PowerPoint if you have more questions, but...

Vice Mayor Quesada: Well, I saw the PowerPoint. My question is, if it's an impact fee, are we going to be limited in time and scope?

Commissioner Keon: Yes.

Vice Mayor Quesada: Yes.

Interim Development Services Director Wu: It will be prudent to spend...

Vice Mayor Quesada: Yes.

Interim Development Services Director Wu: It within...

Vice Mayor Quesada: Which is contrary to the intent of the original item, as phrased by Commissioner Lago and as previously agreed to by the Commission at the first reading...

Commissioner Lago: Right.

Vice Mayor Quesada: Which is my problem.

Mayor Cason: So, the question is there...

Vice Mayor Quesada: Which if it's...

Mayor Cason: A way to skin that cat -- is there something else we could do to make -- open the time period more, in addition to the geographic flexibility, the time flexibility to spend...

Vice Mayor Quesada: Correct.

Mayor Cason: The money.

Vice Mayor Quesada: If we could...

City Manager Swanson-Rivenbark: So, Mr. Mayor...

Vice Mayor Quesada: If that could be answered in the affirmative, then we're done.

Commissioner Keon: Okay, but I think you also need to ask with regard to the fee that you're charging for the Art in Public Places, that fund, if there is not some legal requirement that we -- how we use and expend that fund also and in what period of time we do that.

City Attorney Leen: Well, I believe...

City Manager Swanson-Rivenbark: Mr. Mayor, my suggestion is, because of the issues that you've raised, allow staff some time. We can use that time while you're presenting your next item and then we will be better (INAUDIBLE)...

Mayor Cason: So, here's what we're going to do.

City Manager Swanson-Rivenbark: To answer your questions.

Mayor Cason: We're going to pick up E-1, and then we're going to have lunch and do our executive session. Then we're going to come back. You all will have worked out some of your technical -- and the answers that you need to get, and then we will pick up again on E-2.

Vice Mayor Quesada: Okay, just to be clear. I think the Commission is in agreement. We just need to make sure that the procedural vehicle is the right way...

Commissioner Keon: Right, how do we do it?

Vice Mayor Quesada: So it gives us the flexibility we need, and that's it.

Commissioner Keon: And also, if the -- what our practice is today with regard to the Art in Public Places fund or, you know, giving it into some sort of a planned fund of some sort. Is the practice that is currently used by the City; are you comfortable with that legally? So, you can talk about that too also, because I think...

City Attorney Leen: Well, can you meet with Diana and talk about it?

Commissioner Keon: When you meet, you can talk about that too, because we need an answer to that also. Thank you.

Mayor Cason: Okay, so we'll pick up E-1 now. After that, we'll have lunch, executive session, come back and continue this discussion. If you're not ready, we'll do some other items and --, but sometime this afternoon, we'll get around to this.

Commissioner Keon: We'll get there.

(ITEMS TABLED)

Commissioner Lago: You want to push my items that we were discussing before in reference to the fees?

Mayor Cason: City Manager did you...

Commissioner Keon: We have to go back to the fee item.

Mayor Cason: On E-2 and E-4 -- the reason I didn't bring it up was I thought you might want...

Commissioner Keon: I'd like them to come back. I'd like them -- I think they dealt with...

Commissioner Lago: Can we have a -- can we have just a quick discussion amongst ourselves? I think Commissioner Keon wanted to maybe delay it.

Commissioner Keon: On the fee?

Commissioner Lago: Yeah.

Commissioner Keon: No, I'm okay with the fee. I mean, I'd like to hear to the rest of the presentation on the fee, the impact fee ordinance.

Vice Mayor Quesada: Can I just summarize...

Mayor Cason: Summarize your concerns.

Vice Mayor Quesada: Sort of what I discussed outside of the Commission chambers during the break?

Commissioner Keon: Yeah. Are we going to go back to this ordinance? We're going back to that now?

Vice Mayor Quesada: I just want to just summarize...

Commissioner Keon: Okay.

Vice Mayor Quesada: What I discussed.

Commissioner Keon: Okay.

Vice Mayor Quesada: For everyone's benefit.

Commissioner Lago: Can I just say one thing?

Vice Mayor Quesada: Yeah.

Commissioner Lago: Sorry, Vice Mayor. Because one of the -- all the issues I wanted to talk about was also improving recycling. I want to include on the next Commission meeting to go back to discuss improved recycling and enhanced community aesthetics. That will be another one of my Commission items.

Mayor Cason: Okay.

Commissioner Lago: Exclude the 25 miles an hour. We didn't get to it. I don't want -- and I know that people -- we've been here a long day. I don't want staff and...

Mayor Cason: So, we'll bring that next time.

Commissioner Lago: We'll bring that back.

Vice Mayor Quesada: So, real quick, on items...

Commissioner Lago: Thank you.

Vice Mayor Quesada: E-2, E-4 and E-9...

Commissioner Keon: E-2, E-4, E-9.

Vice Mayor Quesada: What I had discussed with staff outside the chambers, I just want to be clear, is what Commissioner Lago had originally brought forward was to increase from one percent to one and a half and that additional half percent go to parks.

Commissioner Lago: Yes.

Vice Mayor Quesada: And that was the original intent. That's what we sort of discussed and agreed upon in the Commission at the last meeting. And obviously, what we were presented today was an either/or scenario, which Dona had mentioned sort of an alternative, that the developer either chooses Art in Public Places or the parks program, which is contrary to the original intent of what we were discussing. So, what I suggested or what was discussed is what I said is, look, we want to be able to apply the same way Art in Public Places is applied with the one percent, we want to create a similar program just for park monies and park space, identical; a carbon copy. Now, I'm told that, because of the County Code and the Home Rule Charter, the specific Code in the County Code that allows for Art in Public Places -- and it's only specific to Art in Public Places, so that is why -- one of the reasons why it was created through the impact fee was that was an easier way to achieve that goal. However, the limitation, as I heard from Mr. Craig Coller and our expert -- I apologize. I didn't get your name -- is that if it's through an impact fee, yes, it has to be allocated and spent within six to ten years, which is -- goes back to the practical concern that I had if we ever wanted to buy a park in downtown Coral Gables, because of the price, we'd never be able to accumulate enough funds to get to that point; problem number one. And then problem number two is that we would not be able to use it in areas outside of these certain designated locations. One thing I was still unclear with is Charles had stated that the district that it could have used is the entire city. However, I think I heard something different from Cathy. So, just in case you're not confused enough, what I suggested to try to bring it all together and to resolve the problem is to try to treat it exactly like Art in Public Places, which I think is how we originally thought it was going to work. What --, because Dona told us it's either an A or a B scenario, which is Art in Public Places -- either deliver a piece of art that we agree with or you give us one percent into a general art fund. Well, how

about -- this was my suggestion that I got no response to, because I said it and I had to run back into the meeting, and they weren't sure yes or no. I don't know; I didn't hear the rest of it -- was, well, then maybe we put an additional burden on a developer to build more park space on their property, and if they don't want to do that, they give half a percent into a park fund, which would achieve the goal that I think we all had thought this was. I explained that to Cathy, and Cathy said, I think we need to think about it some more and we should defer it to the next meeting.

City Manager Swanson-Rivenbark: Well, and actually, because Commissioner Lago, you've been so strong on this issue, I did research -- there are other cities that have public dedication of land or fees in lieu of. It's the Art in Public Places type of form that you're talking about where they either buy art -- buy land or incorporate it in their development, or they donate to a fund. And so there are several cities that we see that have done that, and we can work with the City Attorney's Office. So, it's possible that in addition to the Art in Public Places, in addition to the impact fees, in addition to the transfer of development rights for open space, in addition to the Code changes, that we also model that with the public dedication of land or fees in lieu of for parks and recreation.

Mayor Cason: So, you would come back to us at...

City Manager Swanson-Rivenbark: Sure.

Mayor Cason: The next...

City Attorney Leen: The one thing...

Mayor Cason: One or a future one?

City Attorney Leen: I would suggest...

Vice Mayor Quesada: Because the goal is to put the least amount of restriction on the...

City Attorney Leen: I think that's great. I mean, we can put that together, and I have some ideas to how we could do that. But the -- one thing you might do is the impact fee ordinance is on first reading. You could always adopt that for purposes of first reading, so that they could all come back to you on second reading next time.

Vice Mayor Quesada: No. I don't feel comfortable with that.

Commissioner Lago: Why don't we just hold off, Craig. I think that maybe we can just have a little bit further discussion and see what we get. I just want to add one last item.

City Attorney Leen: The only reason I raise it -- and obviously, we'll do whatever you say -- is, because there's a lot of components to the impact fee ordinance and we now have a -- we now have evidence in the record, competent and substantial evidence supporting those impact fees. It doesn't just relate to parks. It relates to a host of things.

Commissioner Keon: It's all the fees.

Vice Mayor Quesada: Got it.

City Attorney Leen: So, I would -- I think we're going to have to do that anyway. We're going to have to go forward with the impact fee ordinance.

Mayor Cason: You can always stop them on second if you don't want it.

Vice Mayor Quesada: Okay, that's fine.

City Attorney Leen: At some point.

Commissioner Lago: Can I just add one...

Mayor Cason: And that's E-4, right?

Commissioner Lago: One thing really quickly? I think that staff -- and maybe if he wants to speak now, he may. I want to make sure that staff does -- you know, has an opportunity to reach out and understand projects that are in the pipeline and the concerns of architects, engineers, developers, really under...

Vice Mayor Quesada: That's the second aspect of it.

Commissioner Lago: I know, I know. But I mean, I just still want to make sure that we have -- we take that into consideration. I want to know how many projects will be affected, you know, what are we looking at. Is it -- are we going to -- is the jumping off point going to be the Board of Architecture? Is it going to be conceptual Board of Architecture? That's what I kind of want to understand. Is it going to be City Commission approval?

Vice Mayor Quesada: You've jumped to issue number two on this. I was just trying to put to bed issue number one.

Commissioner Lago: I was going to be nice. But if you're going to talk, you got to use air quotes first. Air quotes.

Vice Mayor Quesada: Issue number one, I think, pursuant to staff recommendation after we've had this discussion, you know, I'll -- I have no problem moving it for the time being and we can address -- I think it's clear what the entire intent of the Commission is here and what we want to achieve. So, if you guys want us to move it on first reading, fine, and then I will move on the other items to defer on the one issue that we've been discussing this morning.

Mayor Cason: Alright, so you want...

Vice Mayor Quesada: But I still want to have a conversation on the second issue.

Mayor Cason: We're talking about E-9? You're talking about making a motion...

City Attorney Leen: This is E-4.

Vice Mayor Quesada: I'm going to make a motion on E-9.

City Attorney Leen: E-4, E-4.

Vice Mayor Quesada: First reading.

City Attorney Leen: No, it's E-4. E-9 is the resolution. I would not vote on that right now.

Vice Mayor Quesada: Okay.

City Attorney Leen: E-4...

Vice Mayor Quesada: So, it's E-4.

City Attorney Leen: Is the ordinance on first reading.

Mayor Cason: Alright, so do we have a motion...

Vice Mayor Quesada: Got it.

Mayor Cason: On E-4?

Vice Mayor Quesada: So moved.

Mayor Cason: Vice Mayor makes the motion.

Commissioner Keon: E-4 is the impact fee.

Commissioner Slesnick: Second.

City Attorney Leen: Yes.

Mayor Cason: Commissioner Slesnick seconds.

City Attorney Leen: On first reading.

Mayor Cason: Alright, City Clerk.

Vice Mayor Quesada: Yes.

Commissioner Slesnick: Yes.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Mayor Cason: Yes.

(Vote: 5-0)

Commissioner Lago: Thank you for your support.

Mayor Cason: So, a motion to defer on E-2.

City Attorney Leen: I don't think you -- you don't need to move...

Commissioner Keon: Well, I'd like to give some direction on E-2.

City Attorney Leen: It can just be con...

Commissioner Keon: I mean, I think it's just the...

City Attorney Leen: Oh, I'm sorry.

Commissioner Keon: Did you just give some direction on E-2, which was...

Vice Mayor Quesada: So...

Commissioner Keon: To come back. Is that...

City Attorney Leen: It can just be continued.

Vice Mayor Quesada: Correct, to come back on E-2, and I believe it's also E-9.

City Attorney Leen: E-2, E-4 and E-9 could just be continued by unanimous consent to when staff is ready.

Vice Mayor Quesada: Yes.

City Manager Swanson-Rivenbark: E-4, I understand has been approved on...

Mayor Cason: You just approved E-4.

City Manager Swanson-Rivenbark: First reading.

Mayor Cason: On first reading.

City Manager Swanson-Rivenbark: E-2, I would recommend that you do defer it then, since that was second reading and you want some additional look at it. It's appropriate for us to defer that item.

City Attorney Leen: I would continue it, though, because we've already started the...

Mayor Cason: Continue it, so...

City Attorney Leen: Public hearing.

Mayor Cason: We just agree to continue it.

Commissioner Lago: That's perfectly fine.

Mayor Cason: Alright, so we're going to continue it.

Commissioner Keon: We have to make a motion to...

Commissioner Lago: A motion...

Commissioner Keon: Continue E-2.

Mayor Cason: Alright, make a mo...

Vice Mayor Quesada: So moved.

Commissioner Keon: Make the motion.

Vice Mayor Quesada: Oh, second.

Mayor Cason: Commissioner Keon makes the motion to continue, and the Vice Mayor seconds it. City Clerk.

Commissioner Slesnick: Yes.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Vice Mayor Quesada: Yes.

Mayor Cason: Yes.

(Vote: 5-0)

Commissioner Keon: Can I ask a question with regard to E-2 as just, you know, further guidance as you look into this issue? Is the inclusion of -- we did talk about the inclusion of parks in commercial projects in the downtown area -- or obviously, it wouldn't necessarily be in the downtown area. It could be anywhere that the inclusion of open public space, plaza space -- I know that we have a discussion with -- I think it's -- there is a project on Valencia that's coming forward with a -- it has a park like area in it. And could you talk about what the regulations would be that that would be -- that the developer would -- that would satisfy a requirement for a park space that, you know, if it's open from dawn to dusk -- I mean, there may be a gate on it or something, but if it's open from dawn to dusk, does it qualify? But if you could include those kinds of issues in your -- in consideration of this item.

City Manager Swanson-Rivenbark: Yes, we can.

Commissioner Keon: Thank you.

Mayor Cason: Okay, let's do F-4.

Vice Mayor Quesada: So -- but hold on a second. I think it's...

Commissioner Keon: And what about the timing of this.

Vice Mayor Quesada: The timing aspect was the second part of that conversation.

City Attorney Leen: Right.

Vice Mayor Quesada: So, what I had wanted to do -- I know we're running short on time. I had asked Ramon if he could answer two questions for us, which was, you know, what is the process -- just very Cliff's Notes version of the process that a developer goes through. You know, they submit their plan. They go to the Development Review Committee, or DRC. I want to know what -- sort of what are the main steps and where are the big fees that are paid by the applicant. Because, really, there are two paths. One, there is the path that it needs Commission approval, and there's the path that's as-of-right that doesn't need Commission approval.

Planning and Zoning Director Trias: Right.

Vice Mayor Quesada: And I...

Commissioner Lago: Because when you talk about -- we've had this discussion before. Mixed use projects -- and Ramon, you know, please interject -- have to come to the Commission.

Vice Mayor Quesada: I understand that.

Commissioner Lago: So what...

Vice Mayor Quesada: But we still have situations that are not mixed-use projects.

Commissioner Lago: I know, I know. But again, there's always that -- there's that misconception from a lot of the residents that are paying attention in regards to these issues. They say, oh, but, you know, that project went before the Commission. It had to have asked for a variance or had to be not as of right. No, that's not the case. If it comes before us, that's not the case.

Vice Mayor Quesada: Okay, fine. But I'm just -- this has nothing to do whether we have to approve the project or not. I'm just trying to think of -- for example, in my mind, and the projects that have to come before the Commission, whether they're asking for variances or mixed use or whatever, if we have already voted in favor of a project -- so when is the Board of Architects final approval occur? Doesn't that occur after ours?

Planning and Zoning Director Trias: Yes.

Commissioner Lago: Yeah.

Vice Mayor Quesada: So, okay. So, can we name a project that has been approved by us, but does not have final Board of Architects approval? Agave's one, is it not?

Mayor Cason: Agave.

Planning and Zoning Director Trias: Yes, at this point.

City Attorney Leen: Although, Agave...

City Manager Swanson-Rivenbark: But Agave is a different...

Commissioner Lago: (INAUDIBLE)...

City Manager Swanson-Rivenbark: Story because it has a development agreement.

City Attorney Leen: Development agreement.

Vice Mayor Quesada: No problem. What about like the project...

Mayor Cason: Ramiro (phonetic).

Commissioner Keon: Ramiro (phonetic).

Vice Mayor Quesada: Near Sunset Place.

Mayor Cason: Ramiro (phonetic).

Planning and Zoning Director Trias: Vice Mayor, if I could answer your first question. There are two meetings or two times that every project goes through. The first one's at DRC, the Development Review Committee, and the second one is the preliminary Board of Architects. The time...

Vice Mayor Quesada: Any major fees paid at any one of those?

Planning and Zoning Director Trias: The major fee, yes, is paid at the Board of Architects.

Vice Mayor Quesada: Which --, but there are a lot of meetings with the Board of Architects. I'm told there's a conceptual and then there's the final. Where does that occur?

Planning and Zoning Director Trias: There are two meetings. There's preliminary and then there's final. And preliminary has a very hefty fee. Now, DRC, the fee is relatively minor. It's either \$100 or \$10,000. The fee at the Board of Architects is \$2.67 per a thousand in construction costs, so it's a significant fee. Now, that fee is applied later on to some of the building permits and so on, but that is the...

Vice Mayor Quesada: Got it.

Planning and Zoning Director Trias: First commitment of significance.

Vice Mayor Quesada: Got it. And when does that -- and so, obviously, that occurs prior -- say it's a project that has to get City Commission approval, whether it's mixed use or whether it's...

Planning and Zoning Director Trias: Or not.

Vice Mayor Quesada: Or not.

Planning and Zoning Director Trias: All projects.

Vice Mayor Quesada: Or a variance or whatever it is, every other circumstance, that meeting occurs prior to the Commission approval or post Commission approval?

Planning and Zoning Director Trias: Prior. The preliminary occurs prior.

Vice Mayor Quesada: Alright, so...

City Attorney Leen: Wait, wait. There's just one correction. With major projects, there are certain fees that are so large, because they're nonrefundable, that the building official and I have allowed them to be paid at the second. And the City Manager on -- we've consulted her as well.

At the final Board of Architects, because there's legal issues when they're so large and when they're nonrefundable, if you make them pay them at the preliminary.

Planning and Zoning Director Trias: And to add to that, the issue there is that the applicant is trying to get a change of zoning or change of land use, so at the moment that they go to preliminary Board of Architects, they don't know yet whether the Commission is going to approve the change. So, that's when the City Attorney has explained we waive the fees.

Vice Mayor Quesada: So, my position is that if a developer has paid that significant fee or there's been a Commission approval of a project -- I don't know how many there are out there pending in that state -- I think it's fundamentally unfair that we charge them an additional amount after that. And there could be ten, there could be one, there could be none right now. I don't know. But if you -- if I have been forced to pay a large, nonrefundable fee and now I'm told after the fact a new law was passed...

Mayor Cason: I agree.

Vice Mayor Quesada: And I got to pay an additional half percent, to me, it just seems unfair. But again, as I mentioned before -- I haven't spoken to any developers about this. I don't know what projects are pending or not, so...

Mayor Cason: Could you let us know about -- I agree with you.

Commissioner Lago: Yeah, I don't...

Mayor Cason: I don't think we should stick it to them.

Commissioner Lago: Have an issue with it. I want to...

Planning and Zoning Director Trias: We can provide that information. It's not too many, but (INAUDIBLE).

Mayor Cason: Okay. Let us know by the next time, but I agree with you. I don't think we should stick them with some new rule.

Vice Mayor Quesada: But that's my position with that.

Mayor Cason: I agree with you, and I -- so, let us know how many there are by next meeting.

Planning and Zoning Director Trias: Sure.

City Manager Swanson-Rivenbark: On first blush, I would say if they're already here, they've already gone through preliminary and they paid a significant dollar, those could be grandfathered. But moving forward after the ordinance is in effect...

Commissioner Lago: Of course.

Mayor Cason: Yeah, yeah.

City Manager Swanson-Rivenbark: You might want it at final Board of Architects.

Mayor Cason: Alright. You'll come back with a recommendation.

City Manager Swanson-Rivenbark: They will have gone through your approval.

City Attorney Leen: I do...

City Manager Swanson-Rivenbark: It's an appropriate time...

City Attorney Leen: Think the City Manager's approach makes a lot of sense. Remember, the final Board of Architects is just a default. The Commission can make whatever caveats they want, such as what the City Manager just suggested.

Mayor Cason: Okay.

Assistant City Manager Iglesias: And by the way, the final Board of Architects is when we grandfather the plan in for the Building Code.

Vice Mayor Quesada: Got it.

Mayor Cason: Alright, thank you.

Commissioner Lago: Thank you, Dona.