

City of Coral Gables City Commission Meeting

Agenda Item E-3 and E-4 Are Related

June 26, 2007

City Commission Chambers

405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Slesnick Donald D. Slesnick, II

Vice Mayor Maria Anderson

Commissioner Rafael "Ralph" Cabrera, Jr.

Commissioner William H. Kerdyk, Jr.

Commissioner Wayne "Chip" Withers

City Staff

City Manager, David Brown

City Attorney, Elizabeth Hernandez

City Clerk, Walter J. Foeman

Deputy City Clerk, Susan Franqui

Public Speaker(s)

Yvonne Dawson - TischlerBise

Susan Schoettle-Gumm – Legal Consultant

E-3

Ordinance on First Reading. An Ordinance of the City Commission of the City of Coral Gables, Florida, amending Chapter 78 of the Coral Gables City Code ("City Code") to add a new Division IV to Article III, Sanitary Sewer System, as the City of Coral Gables Sanitary Sewer Capacity Fee Ordinance; providing a short title; providing findings, intent, authority, and definitions; providing for applicability; establishing a benefit district; providing for imposition of capacity fees; providing for calculation of capacity fees and establishing capacity fee schedule; providing for administration of the capacity fee system and periodic updates of the fees; providing for a service charge; providing for administrative petitions; providing for appeals to the City Commission; providing for judicial appeals; providing for effect on zoning and subdivision regulations; providing for capacity fees an additional and supplemental requirement; providing for alternative collection methods; providing for liberal construction; providing for severability; and providing for an effective date and time.

City Manager Brown: Mr. Mayor, E-3 and E-4 are related and the presentation will be in the same presentation so I should read E-4 into the record.

Ordinance on First Reading. An Ordinance of the City Commission of the City of Coral Gables, Florida, establishing Article 60 of the Coral Gables City Code (“City Code”) the City of Coral Gables Development Impact Fee Ordinance; providing a short title; providing findings, intent, authority, and definitions; providing for applicability; establishing benefit districts; providing for imposition of impact fees; providing for calculation of impact fees and establishing impact fees schedules for police, fire, general government, and parks; providing for administration of the impact fee system and periodic update of the fees; providing for a service charge; providing for administrative petitions; providing for appeals to the City Commission; providing for judicial appeals; providing for effect on zoning and subdivision regulations; providing for impact fees as an additional and supplemental requirement; providing for alternative collection methods; providing for liberal construction; providing for severability; providing for codification; and providing for an effective date and time.

Ms. Jimenez: Thank you Mr. Manager, for the record Maria Alberro Jimenez, Assistant City Manager. Before I ask the consultants to come up and present the following two ordinances for your consideration, I wanted to provide a brief introduction on the subject matter. The State of Florida embraces the concept of impact fees; Florida Statute 163 states, and I quote, *“Impact fees are an important source of revenue for local governments to use in funding the infrastructure necessitated by new growth. As a result more cities and counties State wide have adopted impact fees to address the impact of new development. Impact fees and capacity fees are one time charges applied to off-set the additional capital cost related to new development. They are essentially fees levied to fund expanding capacity of facilities to handle additional demand imposed by new development”*. It is our intent, that prior to the second reading to demonstrate development projects with the various fees that we are proposing today, and also one that we want you to consider in the future, which is entitled, Arts in Public Places, which is scheduled in July. With us today is Yvonne Dawson from TischlerBise, an Economic Planning Consulting Firm, and Susan Schoettle-Gumm, outside counsel. Together they have been involved in developing several impact fee programs for Cities and Counties throughout the State of Florida. Thank you – Yvonne.

Ms. Dawson: Good afternoon Commissioners. Our firm TischlerBise was hired to calculate for the City impact and capacity fees, and how these fees are assessed in new development, to reflect the proportionate share of future capital cost based on increase demand generated by new development. Now, I’m joined today by Legal Consultant, Susan Schoettle-Gumm, PLLC. At TischlerBise the focus of our firm – the focus of our work is impact fees. We’ve conducted over six hundred (600) impact fee studies throughout the country, and we do have a PowerPoint presentation. This slide lists our Florida clients, and you will see that we, along with Susan, we have prepared a study for the City of Miami with which Susan prepared the ordinance – next. This slide presents information on Susan Schoettle-Gumm who is joining me today with her experience in legal practice related to local government, and her responsibility in the area of impact

fees and special assessments – next. To begin, we worked with the City to look at the demographics of the City both to understand what potential development – new development will be coming to the City of Coral Gables to illustrate that indeed there is a need for impact fees and capacity fees, and also to have an understanding of what that might mean in terms of the City’s future capital projects. Then we worked with staff to determine the capital costs related to new development, and they helped us to understand the nature of the current capital facilities and what those costs are in this area of Florida. Then we worked to determine the best method for calculating the fees. We evaluated the need for credit, and then the circumstances that the City has existing debt for capital facilities. We made sure to reflect that - in the fee study - to ensure that new development isn’t paying for the same capital facility two (2) times. We then prepared the fee reports, which I have here, and is provided to the City, which documents the calculation of the impact fee to reflect what future cost are – capital cost are by development type. And now we are at the point of presenting this to you, the Commissioners – next. This slide presents the generic fee formula which is of course described in more detail in the fee report itself. I’m going to go through these slides but of course should there be any questions as we go through, please let me know. So this slide represents the fee formula, which looks at the demand units. Per development unit, so the number of persons per housing unit, on the non-residential side, employees, vehicle chips, the infrastructure units per demand unit, and the dollars per infrastructure unit. So what we’ve done is taken a snapshot of what your current facilities are and what that ratios to serving your current population and then came up with a cost per new unit of development based on your current levels of service and your current capital cost – next. This slide projects future development which is based on your current planning projections for new developments, which of course will be adjusted as market conditions change, but are used for the purposes of looking at what potentially revenues will be generated, and correspondingly what your capital cost are anticipated to be – next. This first slide presents, first: I talked about the capacity fee and then I’ll discuss the impact fees. The capacity fee is for sanitary sewer, and that will be assessed to all new connections within the sanitary sewer district area, and these would be assessed on the basis of meter size, and reflect the cost per gallon of new capacity for pump stations and collection lines. Then these are calibrated to wider meter sizes based on engineering standards.

Commissioner Withers: Can I ask you a question right there. So if you are not in the sewer district you wouldn’t have this sewer impact fee?

Ms. Dawson: That’s correct.

Mayor Slesnick: If you are not in the sewer district you already have a sewer impact fee.

Commissioner Withers: No. What I’m saying; if you build a new house and you are not in the sewer district where you can’t hook up to the sewer line, then you will not be assessed this fee.

Ms. Schoettle-Gumm: You wouldn’t be charged this particular capacity, because you are saying the City has another capacity fee.

Commissioner Withers: I understand that, but this impact fee of \$13,952 – you wouldn't be charged just a sewer fee?

Ms. Schoettle-Gumm: Yes sir, and there are going to be some clarifications made in the sewer capacity fee ordinance to make that very clear.

Commissioner Withers: Understood.

Mayor Slesnick: Also, you were asking about a residential house? It's my understanding that there's no residential house that's going to be impacted by this at all, because tear downs and rebuilds do not count as new construction.

Commissioner Withers: Unless we amass new areas.

Mayor Slesnick: Unless there is empty land in new areas.

Vice Mayor Anderson: Are you saying that annexations do not count, is that correct?

Ms. Schoettle-Gumm: Correct, it would be new construction on vacant parcels.

Vice Mayor Anderson: Vacant parcels – not like a tear down, even if it's a new area for us.

Commissioner Withers: If we annex the property south of us and there are vacant lots.....

Ms. Schoettle-Gumm: On vacant lots.

Commissioner Cabrera: And there will be. If he said properties south of us, I think that the Davis/Ponce – High Ponce area has sewers, or at least portions of it.

Mayor Slesnick:same vacant land. That's an important point. I was speaking to someone from a construction company before I came in and they were house builders, and I said I don't think this will affect anyone in this City as far as residential properties because of the way this version is explained to me, whether I agree with it or not. It does not take into account any currently existing residential property, even if you tear it down and rebuild it. So the only thing I see is that this affects commercial property. If this had been in effect before several of our newer developments had started, small as they are, they are still new developments this would have impacted them, if they are not sewers. Well in fact one of them did hitch up, but they were outside the sewers so they had to pay us because it was a new contact.

Ms. Dawson: And so on the residential side our concern is increased demand. We measure demand by persons per housing unit. So, you are correct if it was a replacement of an existing home that would not fall under the impact fee, but should an additional

home be built – exactly, or if you have a new mixed use development which includes multi-family.....

Mayor Slesnick: Not multi-family, I said single family residence.

Ms. Dawson: OK. OK.

Mayor Slesnick: I mean, I'm not sure I even agree with that, but I'm just trying to explain what I understood to be the case.

Ms. Dawson: And this slide summarizes the capacity fee – next. This is the methodology that is used to calculate the impact fee. Looking at the average daily gallons, and multiply that, by the total capital cost per gallon, to reflect cost per pump stations and collection system, plus a cost for new vehicles and equipment, a cost for customer, and then you convert it back to an equivalent residential demand to be used by meter sized – next. This slide represents a summary of the cost and demand variable – next. This slide restates the capacity fee for the downage component as well as the cost per customer – next. That's the sanitary sewer capacity fee. The next slide presents the impact fees. Those are four (4) categories of capital facilities: police, fire, general government, and parks. And you will see that those are delineated by types of residential housing units based on density and non-residential type and size. This is an abbreviated table but within the fee report is an even more extensive table. Then I'm going to go through each one of these categories to present the methodology, and after I'm finished presenting the methodology I will pass it over to Susan to discuss the legal issues related to impact fees and impact fee implementation – next. Go back to the last slide – this slide presents the categories and the categories of capital facilities that are considered within each fee category, and then how those costs are allocated. And in general, for each category, we've looked at the cost of new facilities, land to accommodate more expanded facilities, vehicles and equipment or apparatus in the case of fire. Then, we look at how to allocate those costs. We know that the demand for police and fire and general government are driven both by residential and non-residential, whereas parks, we have the demand as being driven by residential exclusively – next. This slide, and I'll go through this, for each of the categories. This one I'll go through in detail, and we can go over the other ones a little bit quicker. On this slide shows the methodology that we've used to calculate the police impact fee, and we are looking at residential on the left hand side, and then non-residential on the other side. The demand factor as we discussed a bit ago, for residential, is persons per housing unit by housing type, and that's based on your 2000 census calculations. Then that's multiplied by a total capital cost per person, which again as we discussed includes the capital facilities for police stations, land for police stations and then vehicles and equipment. Then on the non-residential side we are looking at vehicle trips that are generated by that development, per 1000 square feet of gross floor area, multiplied by the total capital cost per trip, and then including the same capital facilities based on the cost allocation between residential and non-residential – next. This presents a summary of the demand factors that are used to calculate the fees, and these factors again - persons per housing unit, and then average week day vehicle trip ends that's from the Institute of Transportation Engineers – next. This table presents other non-

residential types, and there are some adjustments made for commercial and shopping, and then to summarize the demand cost factors, which again those cost factors are based on your current cost for construction, cost for land acquisition, and for vehicles and equipment, and we come up with a total cost per demand unit – next. This slide presents the proposed impact fees for police, which reflect your cost per development unit for police capital, future police capital facilities by development type, and those are calculated by multiplying the demand factor times the cost factor to then develop each cost by residential housing type and then by non-residential use – next. So what we did based on your current planning projections which we understand certainly are going to change probably on a yearly basis to reflect current market conditions, but what we did was estimate projected revenues and looked at what the City could generate up to one point seven million (\$1.7 million) in revenue for police over a five year period, and then show there what those dollars would be spent towards. The way that we have calculated the fee its based on, we've looked at what your current level of service is and said that going forward in order to be able to keep up that level of service for new development and to not have any diminishing level of service that you would collect these revenues and that these revenues would recoup the cost, your new capital cost based on this new demand, should your development be less than this then you will be generating less revenue, but your capital cost will correspond with that – next. The next slide represents Fire and EMS methodology and I'll go through this a little bit more quickly because it's a very similar format to police. In this case we are looking at the non-residential side, employees per 1000 square feet of gross floor area, again fire stations, land for those stations and in this case apparatus – next. This slide and the next one present the demand factors that are used – next. Then at the bottom of the slide are the cost factors – next. Then this slide presents the proposed impact fee for fire by residential and again by non-residential use, and on the non-residential side it's per gross square foot – next. And again looking at projected revenues of being up to four million (\$4 million) in revenue over the next five years and what those dollars could be spent towards, park facilities, land acquisitions, additional vehicles and apparatus – next. Then for general government we did the same thing we looked at what your current facility space is for general government and calculated a net capital cost per person for government facilities, land for general government facilities and vehicles and equipment. In this case we reflected a credit for existing debt on general government facilities – next. This slide summarizes the input variables – next. On this slide cost factors are presented, less the principle payment credit and again the credit is to ensure that someone is not paying for the same capital facilities two times – next. This slide presents the proposed impact fee again by residential type by non-residential use by square foot – next. Again these are projected revenues based on current planning projections to generate up to four point eight million (\$4.8 million) in the capital facilities for which these dollars can be spent – next. The categories that were looked at are all driven by both residential and non-residential demand from new development; parks we are just looking at residential, and again the demand factor is persons per housing unit multiplied by the total capital cost per person including community park land, park improvements, open space, your facility space, recreation space.

Mayor Slesnick: On a footnote, residential meaning multi-family.

Ms. Dawson: That's correct.

Commissioner Withers: Why don't you include any commercial property, we are trying to put parks downtown and encourage green space downtown, why isn't there an allocation towards commercial development for parks?

Ms. Dawson: We looked at the primary demand driver as being people or residents and so we are able to show the residents in housing. We look at that as being the demand driver for parks.

Commissioner Withers: But if you look at something as cost driven as far as improving your capacity, I guess that's what where you draw your numbers from. Is what its going to cost from this point forward to improve your capacity? If the goal of our City is to improve our capacity of parks downtown, is that funded by the residential park component? – because I'm assuming this money goes into an account and we have to spend it only on parks.

Ms. Dawson: That's correct.

Commissioner Withers: So there is going to be residential monies towards downtown parks?

Ms. Dawson: So long as they are City wide providing amenities that from which anyone can partake of, then that's what qualifies as an illegible park improvement – next. As with the other categories this presents the input variables and we are talking residential so its persons per housing unit, and then the levels of service for each of the park capital components to come up with a total capital cost per person.

Vice Mayor Kerdyk: Let me just revisit that park issue one last time. The fact is we were talking about parks and your answer was that the reason we allocate the numbers to the residential component is that's where the allocation is, it's in the residential location. But we are also building a lot of condominiums downtown, which of course has people living in and so why are we not, again.....

Ms. Dawson: So single family as well as multi-family would pay a residential impact fee. So certainly you would recoup dollars.

Vice Mayor Kerdyk: So they do get it, but not the business.

Ms. Dawson: Not the business, correct – next. This slide presents the gross impact fees for parks by single family as well as by multi-family based on density – next. This slide presents the park impact potential - park impact fee revenue, again looking at what current projections are. The fee study is calculated on your current levels of service and so these are provided to get a sense for what those potential revenues might be, but surely as you move forward projections change based on what the current market conditions are,

but this reflects what we have currently for projections – next. Then this presents a summary of the projected impact fee that I presented individually for each category. And again, this is based on the projections and assuming that the impact fees are adopted as shown here – next. This last item is an optional service charge that the City may choose to adopt and what is shown here reflects the cost of our study on a per unit basis – development unit basis, at the City's option to adopt. This would be in addition to what is already shown in the summary table. Then, the City may also choose to add the cost of administration and Susan will discuss this in more detail, the legislation required that will be related to your actual cost. So this is an option in addition to what's been presented. The next slide I'm going to hand these over to Susan to present who will discuss the legal issues around impact fees.

Ms. Schoettle-Gumm: Good afternoon. Yvonne has taken you very deeply into the detailed data and technical analysis that's behind the impact fees. It's very well documented in the two technical reports that have been submitted to you. I'm going to take you back up to the overall framework for a few minutes here and just talk generally about how impact fees can be used. They can only be extended on capital facilities that provide capacity needed to serve new development. So they cannot be used for maintenance, replacement, and repair, none of those things that relate to maintaining an existing level of service for existing residents. They have to be spent on the type of facility and infrastructure for which they were collected. You can't take a park impact fee and use it to buy a police car, so you have to set up separate accounts and funds and monitor those funds separately and they cannot be co-mingled with other funds in the City. In order to qualify as a capital improvement the projects must have a useful life of at least five years and cost at least ten thousand (\$10,000). So that sets a threshold below which it does not qualify as a capital improvement. So again, they have to be used to provide capacity to accommodate new development or in the case of the capacity fee additional connections to the system. In 2006, the Florida Legislature adopted the first statutory requirements related to impact fees related in the State of Florida. This is Section 163.31801, Florida Statutes. Couple of interesting requirements in that Statute, impact fees must be based on the most recent localized data. So for example, no longer can you take national data on certain issues and use it to calculate an impact fee in Florida, I don't believe that will any longer meet legal muster. So for example, we are using local census data. If the City wanted to choose to develop a park impact fee that would apply to non-residential development, I suggest you collect local data on demand and use of park facilities by non-residential developments. There are some national studies, some of those indicate that there isn't much demand there; some indicate that there maybe, but again, under our statutory framework now you need to develop your own data. Right now your park level of service is based on population, so you would need some additional documentation and data to bridge over to transferring some of that demand to the non-residential uses. It's not done very often, but it can be done, but you need to develop data. Statute requires specific accounting and recording of impact fees and you account for the revenues and expenditures in separate account fund, that's just standard impact fee practice, that's incorporated in the ordinance. It limits administrative charges to actual cost that's why the service charge at TrischlerBise has developed in the technical report that's an option right now for the Commission to consider, is based

solely at this time on the costs you've incurred or will have incurred by the time you get these impact fees up and going. As you move forward, if the Commission wants to expand that, take a look at your internal cost for the accounting, managing the program, reviewing the CIP, and expending the funds, and you can add to those costs, but I recommend that you document them before you increase those service charges. One of the unusual requirements in the Statute is that notice must be provided no less than ninety (90) days prior to the effective date of the impact fees. The way it's proposed in the ordinances before you today, is that ninety day, and actually I think it rolls over an extra day because it was over a weekend, ninety days from the date of advertising of the proposed ordinances in the newspaper. So your fees as proposed right now would be effective for all building permits issued after 8:00 a.m. on September 10th, 2007 – next slide please. Again, to touch on one of the issues raised previously by the Commissioners, all new development – new development is defined as development that increases a demand for facilities, so if you have an existing structure that's demolished and rebuilt – one dwelling unit for one dwelling unit, that demand is already then incorporated into your system, you've already addressed it because the fees are based on your existing levels of service, what you are providing right now. So you are not increasing demand for capital facilities.

Vice Mayor Kerdyk: Even if the square footage increases markedly?

Ms. Schoettle-Gumm: On non-residential it is by square footage, on the residential side again, because this is a population-based approach, again that is something international studies some that show the larger the structure in many instances the persons per household actually goes down, and so there is conflicting data at the national level, so if you wanted to look at whether your population or persons per household varies by structure size again, I would recommend you do a local study on that, because it could be true that I've seen data in other areas that goes the other direction. So this is a very well accepted and widely used approach on the impact fee calculations that we wanted to stay with something that was tried and true.

Commissioner Withers: And on the commercial side it's per square foot?

Ms. Schoettle-Gumm: It's per gross per square foot.

Commissioner Withers: So it has nothing to do with the use in the building?

Ms. Schoettle-Gumm: It does in terms of the land use category that they would go under because again it's going to relate to persons.

Commissioner Withers: The land use and not the zoning?

Ms. Schoettle-Gumm: Correct. It's the use of the structure, and in a multi-use building, say you've got residential, retail on the ground floor, then offices, then condos up above or hotel, in a structure like that you look at each individual use and calculate the fee separately for each component of those uses and then add them up. So for example, we

don't have a mixed use building category, you would look to the multi-family category, the office category, and the retail category and add them up that way.

Commissioner Withers: So a restaurant would be the same as a retail shop?

Ms. Schoettle-Gumm: It would be different.....

Commissioner Withers: If that's what our underlying land use is.

Ms. Schoettle-Gumm: It would be calculated specifically on that proposed use, not on the zoning, so a restaurant would be calculated one rate, retail would be a different rate, and office would be a different rate.

Unknown: She is not saying the land use map, she saying the actual use of.

Commissioner Withers: That's what I'm saying, it's not the land use map; it's the use that we are putting into effect.

Ms. Schoettle-Gumm: Correct; the use of the structure.

Commissioner Cabrera: The ultimate use.

Ms. Schoettle-Gumm: Yes. What's being proposed on the building permit application?

Commissioner Withers: But does it change every year – if a building is changed from one use to another are they subject to a new impact fee?

Ms. Schoettle-Gumm: Typically not, unless there is increase in square footage.

Commissioner Withers: If they are changing from a shop to a restaurant...

Ms. Schoettle-Gumm: They stay in the same shell and are generating no additional impact. Now occasionally that type of change of use will generate and increase in the sewer capacity fees, if they have to come in and get a larger water meter that would be an increase in demand, and typically moving to a restaurant will increase your demand on water and sewer utilities, but on the others typically you are not unless they increase the square footage you are not going to be charged an additional impact fee.

Commissioner Withers: So if I'm a landlord and I'm changing a tenant and it's within what the City of Coral Gables allows me to change that tenant to, there's no increase in the impact fee?

Ms. Schoettle-Gumm: No sir, if there is no increase in square footage.

Vice Mayor Kerdyk: To follow up, you can put in the City of Coral Gables, you can put in a retail space you can put a professional office usage which is an attorney, for instance,

and if you put an attorney in a retail space and then all of a sudden the attorney leaves and you put a restaurant in that space, which is much more high capacity than an attorney's office, then certainly they are going to pay more as a.....

Commissioner Withers: But she said no.

Ms. Schoettle-Gumm: Not on this simple change of tenant, but the sewer – if they impact the sewer they are going to have to come in and ask for an additional meter size.

Mayor Slesnick: So what happens if they ask for an additional meter size?

Ms. Schoettle-Gumm: If they need a larger meter size then they would pay the difference between the prior meter that was existing, and the increase in demand; they just pay the incremental increase in demand; its saying if it's a non-residential building, say its 30,000 square feet, its torn down, and rebuilt with 60,000, they would pay the impact fee just on the additional square footage that's added, not pay again for the original.

Mayor Slesnick: And that's in here.

Ms. Schoettle-Gumm: It's in the ordinance, yes sir.

Mayor Slesnick: About the meter sizes.

Commissioner Anderson: I have a question – who is exempt from these impact fees?

Ms. Schoettle-Gumm: The only exemptions in the ordinances are proposed for governmental uses, in other words, the government owns it and the government uses the land.

Commissioner Anderson: Can non-profits or any other entity other than just governmental be exempt from that or that's the only one.

Ms. Schoettle-Gumm: The other ones that are exempt are governmental, the non-profits generated impact just like everyone else, the governmental there are some difficulties in collecting from other governmental entities as well as somehow you will be collecting from yourself, and its basically a wash, but anyone else outside the government is creating an impact and should contribute through the impact fees; you sure have to build facilities to accommodate their demand.

Commissioner Withers: One last comment – so that impact fee request from a meter change does that set into motion the other impact fees that you have here or just the sewer fee?

Ms. Schoettle-Gumm: It would just be the sewer capacity fee, because that goes through a separate review process, it's a different department within the City – next slide please. If you can go back one slide please -- Again the optional service charge you may adopt

that by resolution if you choose to you can do that now or you can do it at a late date. There are several critical administrative processes in the ordinances. For example, if you have a developer that comes in and really believes that their impact on facility demand is going to be less than what the averages are, incorporated into the technical report, they can submit a petition to the City Manager, document that, have their evidence that is reviewed by the City, the City may need to hire outside experts to review and analyze that data, and if in fact it appears that they can prove up that their impact is less, then the impact fee should be adjusted and under the ordinance the City Manager has the authority to issue a written determination directing that change. If the developer does not like the City Manager's determination it may be appealed to the City Commission. The Commission reviews that; it looks at the City Manager's determination, reviews all the evidence, and makes its own determination. If the developer is still unhappy with that decision then and only then they go to court. This process allows you to address unique issues that come up, and they do arise, not very often, but they do come up and it provides a process for everybody to sit down and present all their data, and evidence and determine what the best course of action is rather than going directly from, I don't want to pay this impact fee straight into court. So it provides a very good process for dealing with those kinds of issues.

Commissioner Cabrera: Are you aware, and I'm sure you are, but I'd like to discuss it publicly regardless, of the City's looking into Art in Public Places Ordinance that in itself would be an impact fee?

Ms. Schoettle-Gumm: It's technically not an impact fee; its my understanding of what the City is thinking about doing, and I could be wrong about this, but its my understanding that they are considering imposing a requirement that public art be incorporated into all the other development regulatory requirements, and then if a developer choose not to provide the art themselves then they would pay a fee in lieu.

Commissioner Cabrera: So you don't see it as an impact fee?

Ms. Schoettle-Gumm: No sir.

Commissioner Cabrera: OK.

Ms. Schoettle-Gumm: It's really a fee in lieu of meeting a requirement instead of meeting materially you meet it financially.

Commissioner Cabrera: OK. I appreciate that response. OK, then.....

Commissioner Withers: But it is an impact.

Commissioner Cabrera: It is an impact, I know, she knows more than I do.

Ms. Schoettle-Gumm: Technically its not, but it sure feels like an impact fee.

Commissioner Cabrera: Its OK, I understand, and Commissioner Withers made it even more clearly. What about there are times that we have projects that come before us and we – that are purely massive structures and they are going to impact the entire infrastructure of that particular neighborhood, oftentimes we find ourselves requiring that the developer make a contribution towards traffic calming efforts because you are increasing the amount of vehicles in the area and density, and what-have-you. Is that considered by you all an impact fee?

Ms. Dawson: The capital figures that we considered here did not include traffic or transportation.

Commissioner Cabrera: How come?

Ms. Dawson: I'm not sure where the initial discussions began to – it may be that difficulty in areas that are built out, what the main consideration is a transportation impact fee is the ability to add new capacity to your road.

Commissioner Cabrera: I understand. I understand.

Ms. Dawson: So may be that it was determined that there was difficulty in actually, and that is measured usually by additional lanes, so maybe there was difficulty in seeing how that.....

Commissioner Cabrera: But when you are built out like Coral Gables is built out adding additional lanes is not feasible, therefore what we have done, I believe in a sort of band aid approach, is when we've had a major project in the northeast Gables we understand the density issues affecting the impact of the neighborhood, and we are very quick to suggest that they provide some sort of financial resources towards traffic calming. I look at that as an impact fee just as well, and I'm just curious why we are not incorporating – you have the answer.

City Manager Brown: You can't double dip and Dade County has a road impact fee, so we get our monies through the impact fees ordinances of Dade County; you and I met with the County and that fee is the fee that is already being reflected through our impact process so we were not allowed to double dip and do our own road impact fee.

Commissioner Cabrera: Yes, I know, but you know the reality of the meeting we had with the County, we don't get the impact fee money, and I'm going to say that for later in the Commission meeting to tell you about our meetings with the County.

City Manager Brown: But that fee is what pre-empts us from being able to do our own fee because we do – let's go down there and fight for it and submit a yearly set of projects that we are going to be approved for by the County, but that's the fee, Commissioner, it stops us from having it there.

Commissioner Cabrera: We often talk about the same projects creating some challenges for our Fire Department and our ability to provide services and our ability to provide a ladder truck that reaches certain heights, we always bring the Fire Chief here to make sure that's being addressed and here we are addressing it through this impact fee ordinance and I thought traffic was the second issue that we most often discuss because of the, you know the threat and challenges that we then face with that impacted neighborhood. Just curious; I'm sorry to go off on a tangent.

Mayor Slesnick: We won't be completely closed off from that, not in the sense of extra fees, but they have to provide traffic studies and they have to address immediate traffic issues.

Commissioner Cabrera: But you know, you know, there is not a developer in the world that says no to us when they want to get their massive project started, we ask for a few thousand for a measly traffic calming circle or something like that, and they are jumping out of their skin to give it to us because obviously they want to get their project going, and I just thought of a more uniform way to do this tapping into impact fees, but I understand your response. But the reality of the Manager's response is that we don't see that money regardless, even our own County Commissioner from District 7 said, hey, I know the Gables doesn't get that impact fee.

City Manager Brown: We get it, but not on demand where we'd like it to go, we have to submit projects annually, and then those projects are approved by the County at which the County pays it through the impact fee.

Commissioner Cabrera: OK.

Commissioner Anderson: Let me also ask for clarification and think what the Commissioner is talking about also are things that come through our Planning Board process, that we never get to take a chance to look at but has impact are the ones that are as a right, and these are the ones that we are going to have a lot more – reap a lot more benefits from, as a right projects that are built that these impact fees will apply to, is that correct?

Ms. Schoettle-Gumm: Yes.

Commissioner Anderson: Not only do we get, we have the process of the Planning Board but now we are going to be able to reach a wider net as far collecting impact for the infrastructure.

Ms. Schoettle-Gumm: Yes, it's a more structured approach than what you've had before because it does cover all the developments coming in for a building permit, and one point somewhat related to the issue you were raising, if for example a developer has some land to donate as a park, for example, there is a process in the ordinances that would provide for appropriate contributions, credits against the impact fee. So for example, if they are going to donate some sort of – some increment of a system improvement through this

other process of negotiation, then they have the opportunity to submit and go through the process of review of that and entering into an impact fee credit agreement with the City that irons all that out to make sure they are not double charged.

Mayor Slesnick: That's one charge we wanted in the ordinance because we had already told a couple of developers that if it applied to them in the future they were going to get credit towards some of the things they had promised us they'd do.

Ms. Schoettle-Gumm: Right. So it has to meet the same criteria on which you could spend an impact fee because essentially you are spending the impact fee on that.

Mayor Slesnick: So traffic calming wouldn't count.

Ms. Schoettle-Gumm: No sir.

Commissioner Cabrera: But then just to stay with you on this park issue, let's say they want to donate land for a park, what about existing land that may be a park and they simply want to donate financial resources for restoration and renovation of park land?

Ms. Schoettle-Gumm: If it's a new all court, new field, new.....

Commissioner Cabrera: Say it's an existing space.....

Ms. Schoettle-Gumm: You can't spend impact fees on maintaining or restoring.

Commissioner Cabrera: That's right. But what if we decided to change the use of that park and enhance it.

Ms. Schoettle-Gumm: If they intensify the use, so for example, its just open park land now and they say let's put three tennis courts in there, that's the kind of thing that could qualify as an impact fee credit.

Commissioner Cabrera: Not just to restore and renovate the existing structure based upon the existing use. Right. OK.

Ms. Dawson: Because you haven't included a component for amenities.

Commissioner Cabrera: Got it.

Commissioner Withers: And the other credits – is there a list of credits available other than just donating of land.

Ms. Schoettle-Gumm: It's any contribution of a system improvement that would otherwise qualify for expenditure of impact fees.

Mayor Slesnick: Police, Fire, sewer.

Ms. Schoettle-Gumm: So if they gave you a police car, a new police car that wasn't replacing one.

Commissioner Withers: If they restored an existing historic building.

Ms. Schoettle-Gumm: Restoration, maintenance – it has to be something you could legally spend impact fees on because in fact that's what you would be doing; it's just sort of a free way process instead of a direct process.

Commissioner Cabrera: Who is going to monitor all of this?

Commissioner Withers: Albert.

Commissioner Cabrera: No, really. Who is going to monitor this? It's got to be a team of professionals.

City Manager Brown: The Finance Department will set up the individual accounts and monitor from year to year those monies that are collected and be responsible. The Public Works Department, once the monies are collected and have come to a point where we can actually do a project, then Public Works will have to go ahead and schedule that project.

Commissioner Cabrera: But have you created a model of how this is going to be administered by the City?

City Manager Brown: Not reduced to writing it, no sir.

Commissioner Cabrera: I'm sorry.

City Manager Brown: Not reduced to writing it yet, we know how it's going to work.

Commissioner Cabrera: Well, I don't know how it's going to work, that's what I'm worried about, we don't do this and then we can't manage it, and then we look like.....

City Manager Brown: We can manage it.

Commissioner Cabrera: Well, OK, you know, I hear you and I appreciate your confidence in your team, but if we move forward with an approval process on this thing, there is going to be a condition that I get a level of comfort with the ability of staff to manage this process because there are all kinds of penalties that we could be facing and/or problematic issues without effectively managing this process; ladies, please correct me if I'm wrong.

Ms. Schoettle-Gumm: Well, someone could come in and – say you spent the money improperly.....

Commissioner Cabrera: Well, a developer would do that.

Ms. Schoettle-Gumm: Yes, and they do, they watch over your shoulder on these a lot, and that's fine, there's not a problem with them doing that because they have an interest in making sure that these funds are spent properly. Once you get the system up and going its really not that difficult, its really more a matter of introducing staff to the concepts and the ideas and making sure that CIP projects are evaluated in relation to the impact fees, and making sure basically look at your CIP, identify all of the project cost related to adding capacity, put your impact fees there first so you avoid the difficult questions, and then fill in with the other money that's less restrictive.

Mayor Slesnick: David, before the second reading could you supply to us a written outline of your.....

City Manager Brown Absolutely, and I'm going to highlight how we do a capital improvement project because basically its going to fold to that process which is added financial insight.

Commissioner Cabrera: Exactly, if you – I'm not doubting your abilities and those of your staff, but this is a major undertaking.

City Manager Brown: You'll have that in second reading.

Mayor Slesnick: I don't think it's just that what Ralph is asking for and that we'd want. We'd like to see who is it that's going to be responsible for applying the fees, calculating the fees, who collect the fees, and then the administration of the fees.

Commissioner Cabrera: It goes back to accountability, that's all.

Ms. Schoettle-Gumm: An item on my last slide might help you a little bit on that, if we can go to the last slide please. There is going to be an annual report to the Commission every year that has to detail the revenues that are brought in by type, by impact fee, and how that money – how we collected money in the past has been spent; that's a public record obviously; that provides you with documentation that assist both them informing the Commission on how that administration process is working as well as providing documentation which you can go back to and refer to over the years. I generally recommend that at least every three years you take a hard look at the data and the information that is fed into the impact fee calculations because things can really change over three years. And also included in the ordinance, in the impact fee ordinance there could be an optional annual inflation rate increase, that would have to come back to the Commission and be adopted as an amendment to the ordinance so you would have a yea or nay say over that kind of increase, but it would allows you to try and keep pace with inflationary increases in the cost of construction, cost of land without the expense of going through an entire update of your whole impact fee calculations. Are there any more questions?

Mayor Slesnick: Thank you, appreciate it. We have some people who have.....

Commissioner Withers: Don, I have a question. Can by the next meeting you apply a percentage?

Ms. Schoettle-Gumm: I believe that's one of the things staff is going to do when they come back with examples; they are going to come back with some examples of three or four different types of projects to say.....

Commissioner Withers: What a five million dollar project, is that one percent or two percent.

Ms. Schoettle-Gumm: That's one of the items staff is going to bring back to you.

Commissioner Withers: And also just one comment, I'm assuming that what this will do David, is a lot of times when we see a developer generously maintaining a median across from their building or something like that, some of those is more objective those types of issues.

City Manager Brown: It's more objective, it's more consistent, and it sets a set of guideline in place for the developer knows what's its going to cost to build a building, what the impact to the surrounding area is going to be, and what the impact is going to cost him, and it will be by calculation, and it won't be subjective circumstance based on that project. It's going to be a lot cleaner way and I think the developer will be happier knowing his impact in advance rather than us negotiating his impact.

Commissioner Cabrera: I don't think the developers are going to be happier, but they are going to happy knowing what the financial responsibility is going to be.

City Manager Brown: And they'll know that in advance.

Commissioner Cabrera: They will know that in advance, but they are not going to be happy with this.

Vice Mayor Kerdyk: But the big key is what Commissioner Anderson says, those as of right that we get a crack at as opposed to just having the ones that come in front of us.

City Manager Brown: Just so you'll recall, the Commission asked us as an administration to bring back the impact fee and we've been holding Arts in Public Places until we got the impact fee together, so the plan from now on out is to bring Arts in Public Places to you on the 17th of July first reading, and then bring both of them back for your consideration will all the requirements you've asked on second reading on August 28th.

Mayor Slesnick: Thank you all. We have some speakers who have signed up. Let me take this opportunity to remind people that if they wish to speak on any item we have speaker cards that we are utilizing ask that you sign up. We also would remind you that the rules of speaking are on the back and we have three minutes per speaker. Also we put a

footnote in now that if you are here to speak on the metal roofs we are going to proceed on a continuation of a hearing for the first time so if you spoke on the first time your comments are there, they are on the record and they will be part of that transcript, that you feel that there's a new item you need to speak to then that's fine, but your comments are already on our transcript and we as you know have heard them. Now we are on to this use fee and we have Ms. Truly Burton, Miami Lakes, Florida, 15225 N.W. 77th Avenue, representing the Builders Association of South Florida.

Ms. Burton: Thank you Mr. Mayor, it's a pleasure to be here.

Mayor Slesnick: Good to see you again.

Ms. Burton: Thank you very much. Governor Affairs Director for the Builders Association of South Florida, pleasure to be here again. I have three minutes, OK. I did submit a letter for the record expressing our concerns in detail so I'll only hit the highlights here, especially with three minutes. I was very pleased to have.....

Mayor Slesnick: I believe I forwarded to most everybody; does that include the Clerk's office? – OK, its there.

Ms. Burton: I did. OK, great – thank you very much. This is the first time I've had the opportunity to hear a presentation about impact fees. Ms. Gumm does have reputation in the City of Miami and I'm glad that some of these questions that I did not have answers to at that time some of them have been resolved. As reference, our main focus for the past three years has really been on affordably priced housing. All we saw today in the paper that a medium house – the median price of a home in Miami-Dade County is four hundred thousand dollars (\$400,000), that goal of buying whether it's a house or condominium, a townhouse, some first time buyer dream is really slipping further away and that's what my concern is here with this particular ordinance today. Whether you build – whatever remaining single family land there is that would probably boost you to about fourteen thousand dollars (\$14,000) if you were to build a single family home; for a condominium or other multi family would be about eight thousand (\$8,000), but I would urge you also to remember that this body is not the only entity that levies impact fees. The School Board is asking for eighty four hundred dollars (\$8,400) for their impact fee, whether its on a multi family home, whether that's fourteen thousand (\$14,000), or a single family that would be up to twenty two thousand (\$22,000), its an extremely high price to pay especially with the stoke of a pen, its just an extremely difficult thing for the housing market, which as you all know is pretty flat right now. Our concern further is not that it might be another forty of fifty dollars (\$40-\$50) a month to qualify, but when you take a four hundred thousand dollar (\$400,000) house or even a three hundred thousand (\$300,000) townhouse and you add fourteen or fifteen thousand dollars to it then those folks can no longer qualify. The key points in my letter that I wanted to point out especially in lieu of some of the definitions that Ms. Gumm was very specific saying about capital improvements particularly in the sewer ordinance, two definitions are troubling to us that relate to system improvements and system improvement costs that indicate that furnishings, parking, landscaping and vehicles as part of a sewer system

improvement just does not seem to be a capital cost. I don't understand how that's putting sewer pipes in the ground, getting the site plan, getting the site ready for that, digging a ditch and putting it in; just does not make any sense to our folks. So that is one of our concerns about capital improvement. Also Commissioner Withers, I had the same issue regarding parks, back to that ordinance, the intensity and density of commercial development, I think, is enhanced by parks, it's a beautiful City to begin with, and having single family homes shoulder sixty seven hundred dollars (\$6,700) worth of park fee, which goes really to land acquisition, seems inordinate, and I would respectfully ask that that be revisited. Finally, if any future fee is adopted there are several provisions in there that have not been included that had been included in all the previous County impact fees. First of all a phase-in – this is a very hefty fee, given how high that fee is the County has typically phased their impact fees in which have been much lower, either two or three years, given how expensive these fees are, I would recommend and request five years for that. Second, on the effective date, while it is a ninety day effective day, actually from the first reading which is today, it establishes an effective date that relates to when an application is submitted. I would respectfully ask you to all to consider that rather when a building permit is issued, I would ask that you take a look at that and move that clock back so that any application that is submitted after that do under the existing fees, anything that's – application that is submitted after that have that in position of the fees.

Mayor Slesnick: Thank you very much.

Ms. Burton: Again, first time we've seen the fee. I thank you very much for your time and your attention. If you have any questions, please let me know.

Mayor Slesnick: And by the way, we've noted, I saw staff taking notes of your questions and they will be addressed.

Ms. Burton: Thank you so much, Mayor. Mr. Zeke Guilford, 400 University Drive, representing Sunrise Senior Housing.

Mr. Guilford: Mr. Mayor, Commissioners, for the record, Zeke Guilford, 400 University Drive, representing Sunrise Senior Housing. I'll be very quick Mr. Mayor, our concern is that in the category presented in the ordinance there is nothing for senior living. Nowhere does it fit, nowhere do we have assisted living, basically the one that it would probably fit under is nursing homes, so I would ask that staff take a look at that and basically put that into the ordinance as well. Thank you.

Mayor Slesnick: Thank you. Mr. Rip Holmes, 5101 Collins Avenue, Miami Beach.

Mr. Holmes: Thank you. Mr. Mayor, as you know I have property on Miracle Mile. I have to apologize to you; I was outside for a minute meeting the new City Architect and sleeping at the switch, I suddenly realized that this is a pretty major initiative. These impact fees I was told by one of the presenters that it doesn't affect the little people like me, thank God, more for developers. I want to apologize to you for being critical right now, but I think it's always better to not mutter under your breath, just get out there and

say something. I view this, I'm sure I'll live to regret what I'm about to say, the legislature just imposed a cap on government spending, which was taxing people sometimes into business debt, and now we have an impact fee coming up, could well be warranted, this could be a totally legitimate undertaking, I don't know, but the timing seems to me to be perhaps more than coincidental, and what bothers me is that it could be argued that recently we lost four million dollars (\$4 million) in this Country Club project. Commissioner Cabrera very courageously said he was going to bring it up; it was going to be thoroughly aired, that hasn't happened. So why is it that we are rushing into collecting more money for the City instead of examining how we just lost four million dollars (\$4 million)?

Commissioner Cabrera: Mr. Holmes, it's on the agenda today.

Mr. Holmes: Why did it take that long to get there? And why is this vote going to be taken before that discussion which happened several months ago has been analyzed?

Mayor Slesnick: Mr. Holmes, thank you. If you are sticking to the impact fee, please.

Mr. Holmes: Well, I'm saying, if I were on the Commission I would vote to defer this because it seems to me to be a very major undertaking, it could ultimately, I might vote in favor of it, but I think it's rushed.

Mayor Slesnick: Thank you. Close the public hearing. Any more comments from the Commission? Can I have a motion; this would be on E-3.

Commissioner Anderson: Make a motion.

Mayor Slesnick: It's been moved by Ms. Anderson and seconded by Mr. Kerdyk.

Commissioner Cabrera: Mr. Mayor, may I read into the record comments here that I received, and normally I don't do this but this happens to be a major developer in our City with perhaps one of the largest projects underway, and as a courtesy to him I'd like to go ahead and read this. This comes from Mr. Sanchez and the subject is impact fees, and I think it was circulated amongst the entire Commission. He writes us and says, "Tomorrow you are going to be discussing an issue that could hurt the Coral Gables economy greatly. I agree that the City needs funds, but I caution you on slapping too much of a fee right upfront, especially in this terrible real estate market. These fees could discourage a lot of new construction in our City. I believe that the City must implement impact fees it should do so carefully and not at all one time. Please remember we have an impact fee in final discussions for Art in Public Places and according to the City Manager that would be between one percent and one and a half percent of the total construction costs. I believe that whatever the decision is on how much to charge it should be done in stages. Say for the first year, impose one third of the total approved, and then the following two years increase it by the same percentage. That will help developers see if the real estate market rebounds, and also gets everybody used to the fees." So Mr. Sanchez wrote that and again, I want to enter that as public record.

Mayor Slesnick: OK. There's a motion and a second. Just to remind the public who may be watching and is not familiar with what we are doing, we are voting on an ordinance on first reading. This will come back to us as we've heard the Manager say on the 24th of August or 25th.

City Manager Brown: 28th.

Mayor Slesnick: The 28th of August for second reading and in between that time there had been questions and observations made by the Commission which will be addressed by staff, there have been questions and observations made by a couple of members of the audience which will be addressed by staff – Mr. Kerdyk.

Vice Mayor Kerdyk: Can I just ask the City Manager one question? How long have we been working on this impact fee since the first time that.....

City Manager Brown: Nine months.

Vice Mayor Kerdyk: Nine months since you started presenting it to us – nine months.

City Manager Brown: We as a staff started putting it together nine months ago.

Commissioner Cabrera: Well you started presenting it to us nine month ago, you've been working with us for at least nine months on this, that's just a fact; I'm not trying to scream any kind of a yawn here, that's factual, you've just bored me to death with this impact fee issue. But seriously, the conditions are really important to me, so if I'm going to approve this today it has to be with not only the conditions that we set forth, but Mr. Guilford had the condition on senior housing, Ms. Burton brought up some very important points that we've not addressed, so I'm going to need to make sure that when we come back on second reading.....

City Manager Brown: We would have addressed them all.

Commissioner Cabrera: OK. And then you are going to provide between first and second reading.....

City Manager Brown: The management plan.

Commissioner Cabrera: Yes sir, thank you so much.

Mayor Slesnick: Any other comments. Mr. Clerk. This is on E-3.

Mr. Clerk

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Commissioner Anderson: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

Mayor Slesnick: E-4 – we have a motion.

Commissioner Anderson: I'll move it.

Vice Mayor Kerdyk: Second.

Mayor Slesnick: It's been moved by Ms. Anderson seconded by Mr. Kerdyk. Any further discussion by the Commission? Mr. Clerk.

Commissioner Cabrera: Same points.

Mayor Slesnick: Commissioner Cabrera just asked that the same points be amended to E-4 as E-3 that we've all mentioned. Mr. Clerk.

Mr. Clerk.

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Mayor Slesnick: Yes

(Vote: 5-1)

Commissioner Cabrera: In the meantime, Mr. Mayor, some of these handouts, are they recyclable?

Mayor Slesnick: Yes. We should give them back to Ms. Jimenez. Maria, why don't you collect the packages? We will take a five minute, and I will be back here at let's say six minutes at twenty five after to start the hearing on metal roofs.