

City of Coral Gables City Commission Meeting
Agenda Item E-1
October 13, 2015
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

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

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia

Public Speaker(s)

Laura Russo, Representing Gables Estates Club
Rene Guerra, President, Gables Estates Club
Police Chief Ed Hudak

Agenda Item E-1 [Start: 10:20:38 a.m.]

An Ordinance of the City Commission of Coral Gables, Florida, granting guardhouse operators the authority to request information from individuals driving into communities where a guardhouse is present during certain hours and providing for immunity for actions in accordance with these provisions; providing for a repealer provision, severability clause, codification and providing for an effective date.

Mayor Cason: Do you want to...

City Attorney Leen: Thank you Mr. Mayor. On Item E-1, this is an Ordinance of the City Commission of Coral Gables, Florida, granting guardhouse operators the authority to request

information from individuals driving into communities where a guardhouse is present during certain hours and providing for immunity for actions in accordance with these provisions; providing for a repealer provision, severability clause, codification and providing for an effective date. If I may have one moment there a couple of items I want to read into the record. Now this item has changed from First Reading, although its all within the scope of the title, its not a material change, but it is something you need to be aware of in making the determination today. The first item is that the time of the – the period of time from where this ordinance is effective was previously starting at 11 (p.m.) its not starting at midnight after consultation with our Police Department. The concern about 11 p.m. was that it was early enough that they were concerned there might be stacking and that it would be better to make it later, because they wanted to be clear that if someone is coming in the middle of the night that there may not be any basis for them to be there. Whereas at 11 p.m. the concern was there was still people – it was more of a time of general circulation and that was the concern. Now, I understand that Gables Estates may have an objection to that, so Ms. Sosa is here to talk about that. The second issue I wanted to raise was, the ordinance has been changed in the sense that before it specifically said that a police officer would respond whenever information wasn't given, and the information that's being requested, remember by this Commission's order is only the destination. So what would happen under this ordinance is, if someone drives up to a guardhouse between midnight and 6 a.m., the guardhouse operator has the ability and the right under this ordinance to ask them to open their window, they would provide them, it would either be posted or they would provide them a copy of a flyer that we produced which was in your packet, which indicates what the ordinance requirement are and they could ask for the destination. That was what the Commission asked for. If the person didn't open the window or provide a destination what the ordinance used to say was that the guardhouse operator would contact the Police Department which would respond to the scene and the party was free to leave, the driver was free to leave while waiting for the police. This has now been changed. What it now says is that when someone comes up to the guardhouse and this is in consultation with the Police Department, if someone comes up to the guardhouse, they have a duty upon request to provide, to open their window and provide their destination. If they don't do so that constitutes a municipal ordinance violation. Now under the Code a municipal ordinance violation is punishable obviously through Code Enforcement, its

also punishable by fine of \$500 and imprisonment by up to 60 days. Now I don't think the intent here was to imprison people up to 60 days, but that is a possible sanction. Now the thinking was that an individual probably would not want to commit a municipal ordinance violation and will provide their destination. If they don't however, the way the ordinance is now written is that the gate would have to open and the person would have to be allowed to drive into the area. If the guardhouse operator is concerned because of something they've seen and demonstrates reasonable suspicion, they could call the Police Department at that point, and that would be an added basis for why the Police Department could do an investigation for loitering and prowling, because the person has now committed a municipal ordinance violation, but it doesn't mean they have to, and the police retain full discretion in how to respond. Those are the basic changes. Now Commissioner Keon has requested that the Commission consider the following amendments to the ordinance effectively. She would like, I believe it's the first "Whereas" clause, instead of saying a guardhouse community, pardon me, a community with a guardhouse, let me get the actual item.

Mayor Cason: Does this apply only to communities, gated communities that opt in or to all?

City Attorney Leen: It would apply to all, although they don't have to request the information, that's up to them whether they would request the information. So the first "Whereas" clause says, "the residents of a gated community in the City of Coral Gables." She would like it to say, "Whereas the residents of gated communities in the City of Coral Gables." The second change is that she would like there to be a review of this ordinance in a year, in one year, as to how effective its been. In addition, she would like the City to offer to provide education or presentation to guardhouse operators or homeowners associations regarding this ordinance. Obviously, we cannot give them legal advice, but we can tell them what the ordinance requires, my office can do that, certainly the Police Department or the Director of Public Safety could be involved in that as well. The last thing she wanted you to consider is the following language, and my understanding is that there may be, from before the Commission was very specific regarding wanting the destination to be requested. I always view that as a specific destination. Of course someone can say, we are going to drive around and that's the most specific destination they can give, they are allowed to then proceed and if the guardhouse operator believes that's suspicious

they can call the police. However, she wanted to make that clear in the ordinance, so what she is requesting is that in Section, pardon me, Section 38-12, after mentioning, provide the destination, she wants it to also include this information within that paragraph, “a driver need not provide a specific address to comply with the requirement to provide a destination. It is sufficient for the driver to state a general destination, including that the driver intends to drive around the neighborhood.” That’s for your consideration, but she asks that it be provided, she’s obviously out of town and I know she can hear us, but I wanted to make sure that, that was put on the record in case there are technical difficulties.

Commissioner Lago: That was her request.

City Attorney Leen: That was her request, its up to the Commission whether to include that or not.

Mayor Cason: One other suggestion is that the language that they are going to handing out some material be in Spanish as well, because I don’t know if the guards all speak Spanish, but a lot of people that may come up only speak Spanish, so we ought to make sure that the language is covered. I like the first three, I don’t particularly agree with somebody coming at midnight and say, I just want to drive around your neighborhood. I mean you can’t say anything, if you are going to be sightseeing you do it during the day, but that for me would be very suspicious. If you can’t say that I’m going to my friend’s house or to this address or visit Juan Gomez or whoever, I think its suspicious.

Commissioner Lago: I agree with you Mayor, but I think the main issues here is just to get the window down if we have an issue of a heavily tinted window, and number two, to buy not only our officers, but the officers that are working for this community at that point some time to get to the location where this person would be entering.

Mayor Cason: Certainly that but you had some comments you wanted to make about discrimination.

City Attorney Leen: Yes. Obviously the City is completely against any form of discrimination or profiling, illegal profiling. One reason why we made this legally, in my opinion, you could

require more of a driver coming through the guardhouse. The reason why is because the findings you are making is that there is a remedial purpose to be able to ask these questions, because there is no real reason why someone should be driving around a neighborhood between midnight and 6 a.m., you can't really see anything, so the concern is that if you can't provide a valid destination what would be your legal basis for being there. So my view was you could request also the name and why the person is there. Now this Commission – and originally when we proposed a draft, we also said that if the guardhouse operator believed that the information received was suspicious, there was reasonable suspicion they did not have to open the gate, they could call the police. The concern of this Commission, which is a justified concern always, is that guardhouse operators are not trained police officers and you are concerned that and I was concerned as well when we discussed it, that we didn't want this to be used as a profiling mechanism. So what happened was the Commission took away all the discretion, so its mechanical in its application. The guardhouse operator ask them to open the window, ask them to provide a destination, assuming they do those two things, there is no municipal ordinance violation. If they don't do those two things there is no discretion. So that's what removes the opportunity for profiling. Obviously, the Commission is against it, but we don't completely control the guardhouse operator, we don't control them at all, they are not our agents. So that was the concern to remove all discretion from the guardhouse operator.

Commissioner Lago: Craig just one question on my part. Go ahead Commissioner Keon.

Commissioner Keon: Thank you...ask Craig to not demand, if someone does not have a specific destination. You know my concern is over people's privacy, you know someone may be coming to meet somebody at their home at that hour of the night for whatever reason, you know whether somebody is out of town, whatever. I don't know. They are entitled to their privacy as to where they are going, if they don't want to provide you with a specific destination, but I think then if you have a concern there is a...in the area that you could call. I think that's something...[inaudible]...with the neighborhood association...concern over people's privacy that may be coming in and may be going to meet somebody for whatever reason and...the opportunity to allow them to...

Mayor Cason: Let me ask Laura Russo, you are going to be speaking.

Ms. Russo: Good morning Mr. Mayor, members of the Commission, for the record, Laura Russo with offices at 2655 LeJeune Road. I'm here this morning representing Gables Estates Club. With me here this morning is Mr. Rene Guerra, President of Gables Estates Club, Elaine Sosa, the Administrator, and Captain Urra of G-Force, the security company. With respect to the changes, we are OK with the changes. The idea is someone comes in and says, we are just going to drive around generally, but we want the opportunity then for the window to be rolled down, the picture is taken and we can then, if we believe its suspicious the guardhouse operator can go and follow the driver or can call the police and the police can make a determination. So from our perspective the language that Commissioner Keon want does not upset us in any way. We would like the Commission to consider the 11 p.m. I understand Chief Hudak's concern with stacking, he and I discussed it the other day and we'd like perhaps a trial period and if at any moment traffic stacks at 11 p.m. we understand that it would revert to the midnight time period.

Mayor Cason: Chief you want to address that.

Commissioner Lago: Chief before you address that just want to ask a quick question, come up, it all has to do with you. Let me give you a similar case. When I went to the last DUI check point that we did about a month ago, there was an instance where there is kind of a new trend where you have several different individuals who don't want to lower their window and then they serve the City with some sort of lawsuit. Do you see that potentially being a situation? You've already voiced your opinion in regards to that there are no merits to those lawsuits, but do you think that we may have a similar situation here where a person who does not want to lower their window?

Vice Mayor Quesada: Mr. City Attorney before you respond. Commissioner Keon we are hearing a significant amount of echo coming from your phone. We can hear ourselves through your speaker. Are you on an iphone?

Commissioner Keon: I'm on an iphone and I'm also watching you...

Vice Mayor Quesada: Here's what I suggest.

Commissioner Keon: You can hear it now?

Mayor Cason: No. Its OK now.

Vice Mayor Quesada: That's actually perfect. OK. Thank you.

Commissioner Keon:....

Mayor Cason: City Attorney.

City Attorney Leen: Thank you Mr. Mayor. The answer to your question – there is a concern that someone may try to go through the guardhouse and post a sign saying that they don't have to do that. I don't think that's lawful. In this particular case, what would happen is they would be guilty of violating a municipal ordinance and they would be allowed to drive through. And then the guardhouse operator, if they believe its suspicious to call the police, that's what would happen. So they would not be prevented from entering the area, but first the guardhouse operator would have the opportunity to say, please lower your window, and say the person refuses. And then they would show them the sign, which says you are committing a municipal ordinance violation and then they could inform the police.

Mayor Cason: Chief the question of 11 versus 12.

Chief Hudak: What we found in talking with some other municipalities when they have these kinds of situations it's a little bit more restricted because it may be a private community. If it starts to impede the flow of traffic then we in a public safety situation, we start waving people through because they are public roads. For instance, when you get to – and we looked at all of the different homeowners associations that have guardhouses, three cars at Coco Plum back up into the circle, that impedes traffic, then as public safety we would actually wave them through, if there was any kind of delay. Usually what we see in those situations, if they are checking with the homeowner to see if that person is, that has not been the case, and how it is addressed today in the ordinance before you. So again, 11 o'clock usually we still have a modicum amount of traffic. We think at 12 o'clock is probably better, it also in our shift changes puts more officers on the street in case we have to respond to this. I think the best part of the whole

recommendation is that we continue to monitor what our responses are from the Police Department and report back to you in a year to see what effectiveness or what other causes that we would have to modify our responses to. Again, we are going to handle it like we would any suspicious person call without getting into the profiling issues that the City Attorney has raised. Its based on what information our officers get.

Mayor Cason: Presumably this will only apply to the non-resident lane.

Commissioner Lago: But sometimes they use only one lane.

Mayor Cason: OK, so it could back up. Mr. Guerra.

Mr. Guerra: I'm Rene Guerra, President of the Gables Estates, good morning to you all. The reason that it was requested, this ordinance takes place because in a month we have something like 14 to 15 vehicles, according to our civilian records, of people that show up at the gatehouse, they don't lower their windows, sometimes they are all dark windows and they know that you have to open up the gate right away so that they can go through it and that pulls a great concern. Now we have done security-wise as much as we can. We added the smart plate cameras now to be able to...but this is something that we should be able to know what the intention is of anyone that goes to Gables Estates after 11 o'clock and sometimes we have people showing up at 3 o'clock in the morning, 2 o'clock in the morning. The reason we requested 11 o'clock is because we close our members lane in order to make everybody go near the guardhouse and make sure that our members are safe, that they don't have a problem, that nobody is following them, nobody is hidden in the back seat. 11 o'clock happens to be the time that we close the members lane, but also is a time which there is very, very little traffic in Gables Estates. Our peak hours in Gables Estates are from 7:30 to probably around 9:30 in the morning, we have all these construction workers, we have staff coming in and we have never had a backup into Old Cutler. That hasn't happened, we were very careful in that respect, and we take good care of that. Now having said that, there are a lot of gated communities in Coral Gables and because we have this ordinance, if it passes, doesn't mean that everybody is going to implement that ordinance. In fact, what makes Gables Estates different from the other communities is the fact that we take the ordinance that the City of Coral Gables has in place, and we basically enforce them, and that

comes to lunch trucks, if they don't have a City license they would not get in, and we can go on and on, garage sales, etc., etc., and the one that I'm probably most proud of is the one that you are not allowed to work in the City of Coral Gables on Saturday between 9 to 5, no holidays, and during the weekday until 6 o'clock; and we enforce that and that makes our community different from the rest of the other communities. Those ordinances are there, whoever wants to enforce them that's their choice, but we do enforce them and those are good ordinances that the City of Coral Gables has. I think this one is going to be great.

Mayor Cason: Let me ask you about the privacy concerns of Commissioner Keon. Do your guardhouse people in that period of time take down the address, if they give an address and that's enough? I mean is a record kept that...came to see somebody at 3 in the morning.

Mr. Guerra: Well there is a record that we keep, there is a license plate that we take basically through the camera.

Mayor Cason: Right,

Mr. Guerra: And we write it down, aside from the camera.

Mayor Cason: But would you be writing down where they are going?

Mr. Guerra: No.

Mayor Cason: You would have the plate no matter what, so that part of the privacy would be regardless of whether the ordinance passes or not.

Mr. Guerra: Yes, you are correct.

Mayor Cason: Commissioner Keon.

Commissioner Keon: I don't want it to be used in a divorce proceeding or some other proceeding...individuals with a specific address. That is the only thing that people have...concerns that they have...specifically identifying...because what people do in their cars is private in that sense....

Mayor Cason: But I think that Commissioner Keon...

Commissioner Keon: That's the only issue that I have...a specific address that you actually write down and you log then I would say maybe they are entitled to for those reasons.

Mayor Cason: Commissioner Keon, I think they indicated they do not keep any record other than the record they would keep whether the ordinance was passed or not of the license plate.

Mr. Guerra: The only record we keep are the tags of the vehicles that came in.

Mayor Cason: So I don't think it would affect the privacy on that angle. You want to say anything else?

Commissioner Keon: OK. I don't have a problem with that and if you don't put down the address of the person you are going to along with the tag and you put them together, I don't have a problem with that.

Mayor Cason: OK.

Commissioner Keon: If you do identify them and link them together, I think it's a privacy issue.

Ms. Russo: OK. We won't link them together and the idea was just in order to be able to take a look inside the window, as stated at our meeting the last time we were here on First Reading, the idea is just to be able to get a camera.

Commissioner Lago: It's a deterrent.

Ms. Russo: It's a deterrent.

Commissioner Lago: If somebody understands that they have to lower their window there is going to be some sort of facial recognition, they are going to think twice about committing a crime and that's the bottom line.

Mr. Guerra: That's correct.

Ms. Russo: Correct.

Mayor Cason: Mr. Guerra, you have anything else you want to say?

Mr. Guerra: Look we already pride ourselves to train our guards to establish the protocol that they have to follow in regards to that. We are already talking to our off-duty police from the City of Coral Gables to have on site, we have different hours in which we hire off-duty policemen to be there to make sure that this thing is enforced in the right way and that our people learn the proper procedure in order to implement this ordinance; and I do intend to implement the ordinance in a proper way, and we do not keep any logs or anything like that, but we keep the tags, we have to have them.

Mayor Cason: OK. Thank you. Do we have any public comment on this?

City Clerk Foeman: No, Mr. Mayor.

Mayor Cason: We'll close the public hearing. Any other questions? Somebody want to make a motion incorporating, I think the first three things that Pat Keon mentioned she wanted some changes, do you want to reiterate those?

City Attorney Leen: Yes. So the first three changes were, a change to the "Whereas" clause to make it more general to gated communities, as opposed to just one. The second change was to have a review after one year. The third is to allow for education or presentation to homeowners associations and guardhouse operators by City staff. Obviously this would be general, we can't give specific legal advice, it would be their opportunity to avail themselves to that. We would come out and speak to them about it if they would like, those were the three requests.

Mayor Cason: Someone wants to make a motion, we need to discuss the hours, make a motion with the hour 11 to 12.

City Attorney Leen: When you do your motion approving it, you could put your stipulations in there, if you want to change it to 11.

Vice Mayor Quesada: So moved with the amendments mentioned by the City Attorney with the changing of the hour from 11 to 12 p.m., I'm sorry 12 to 11.

Commissioner Lago: I'll second the motion.

Mayor Cason: Commissioner Lago seconds. City Clerk. Do we have any discussion?

City Attorney Leen: Can I ask one clarification point. What about the language that...

Mayor Cason: Spanish.

City Attorney Leen: Also Spanish would be included as part of this. There was language that Commissioner Keon provided regarding the specific address, are you including that in your motion or not?

Mayor Cason: No specific address, right?

Commissioner Slesnick: No.

Mayor Cason: No specific address.

City Attorney Leen: I want you to know my opinion, my interpretation of the ordinance is that a destination could be, if you don't have a specific destination, it would be, I'm going to be driving around. So I do think the ordinance and when we talk to you about it, we could educate on that. However, if you want to make that specific you would need to add that clause as well.

Commissioner Slesnick: I would prefer to not to have a specific address.

Mayor Cason: Certainly nothing written down.

City Attorney Leen: Would you prefer to add this language to the ordinance, a driver need not provide a specific address to comply with the requirement to provide a destination. It is sufficient for the driver to state a general destination, including that the driver intends to drive around the neighborhood. I don't think that's legally required, but you could add it.

Vice Mayor Quesada: How about if we ask him to give a specific address, however require him not to record the specific address.

Mayor Cason: Which is what you've agreed, is that correct?

Vice Mayor Quesada: Commissioner Keon is that OK with you or no?

Commissioner Keon: [Inaudible]

Vice Mayor Quesada: And Commissioner, I think we are all agreeing with you.

Ms. Russo: Just so you know there is no recording of the address. The guards all know the addresses of Gables Estates. The request for destination is in case there is a made up address, so they would know that if someone said, 47 Arvida Parkway, there is no 47 Arvida Parkway that would alert someone. The address is not written down, its not recorded. The idea is more than anything to deter, to be able to give the camera a second or two to take the picture, because they do have cameras that do take pictures of the tags, but also be able to see if in fact, another concern was could there be a member that's in the car being taken to their house and we'll be able to get the demeanor of the driver and what's going on.

City Attorney Leen: But what happens if they say, let's just be specific, so someone drives up they say, what's your destination?- they say, I don't have a specific destination, I want to drive around. What do you want to occur there?

Mayor Cason: Alert you to call the police.

Ms. Russo: Right – exactly. You open the gate.

City Attorney Leen: So that would not be a municipal ordinance violation, but that might provide suspicion for you to call the police.

Ms. Russo: Especially at 2 o'clock in the morning.

City Attorney Leen: OK. So, I will do what the Commission has directed me. What I understand...

Vice Mayor Quesada: As an attorney it gives me some pause.

City Attorney Leen: I understand. Tell me why.

Vice Mayor Quesada: And I think maybe this is more appropriate for the police offices in the room that, isn't it generally, I guess its for an arrest where criminal activity is afoot. Maybe I'm going too far.

City Attorney Leen: It could be a sign of loitering and prowling. That's the whole purpose, one of the purposes of the ordinance is to prevent that. That is one of the purposes.

Vice Mayor Quesada: To prevent loitering and prowling, so then we are about to legislate something that if you do not provide a destination of where you are going that creates a trigger to call the Police Department. We are legislating that.

City Attorney Leen: You always have the right. First of all, we are not putting anything in there about requiring you to call the Police Department, that's purely the discretion of the guardhouse operator as they have today, and its clearly the discretion of the Police Department how to respond.

Vice Mayor Quesada: I guess we are advising them, we are not instructing them. We are advising them that if they not provide their address that your guard should be up, you should be...

Commissioner Lago: Well Vice Mayor, instead of asking for some sort of destination, why can't we just say that's its required that you lower your window?

City Attorney Leen: I was concerned about that. I have a concern about that.

Commissioner Lago: No, but there is no profiling. You have to lower your window,

City Attorney Leen: I have a concern about that because the purpose of lowering the window is to ask a question. I feel like once you get to lowering the window, well why are you just having them lower the window?

Commissioner Lago: Why you are having them lower the window because a lot of people in this community have excessively tinted windows, which is against the law already.

City Attorney Leen: There is a lot of legal grounds absolutely, I'm not trying to embarrass you, there is a lot of legal grounds....

Commissioner Lago: They are already breaking the law by having tinted windows over 20 percent, I think it is – 28 percent. So you have a lot of individuals in this community that have excessively tinted windows, the people who are responsible for making sure that they have some sort of facial recognition at the guard gate are incapable of doing their job. To me, the issue of stating, and I don't know how the other Commissioners feel, but stating the destination, I agree with Commissioner Keon, that's not a huge priority for me, I would prefer not even to know where you are going, because its obvious where you are going. You are going into – there is a purpose, if you are going to Coco Plum or you are going to Gables Estates, or you are going to, excuse me, Old Cutler Bay, you are obviously going into Journeys End, excuse me, you are going into a development which only has one way in and one way out. Unless you are some sort of tourist that's completely lost and there is an alternate route to get out of that development. So I would deviate...

Vice Mayor Quesada: At the same time, no one's ever going to say, I'm coming in to case a house that I'm going to rob later. They are not going to say that.

Commissioner Lago: But again, the whole point, we know what the point is. The point is just to have some sort of facial recognition and see...

Vice Mayor Quesada: Its to give the guard an opportunity to assess the person.

Commissioner Lago: I'll give you a quick example of where this happens every day. When you drop off my daughter in school, there is a security guard in front and he basically requires that you lower your window every single time to say hi, and the reason is because some people have tinted windows and some people don't.

Mayor Cason: Chief did you have something you wanted to say on this?

Chief Hudak: I mean there are some concerns about what Commissioner Quesada has brought up from the Police Department if we get a call on it, and these are discussions that we had. If there

is an undercover operation and an unmarked police officer not from our jurisdiction is going to drive through, they are going to abide by the laws of the road or the county, not necessarily our ordinance, and they probably will not identify themselves, that's no indication that we may be following somebody in there. So there are other issues that came up. I would believe our response would be to whatever that security guard articulates to our call-takers and then we would handle it how we thought it was suspicious. So I don't want anybody to think that just because somebody did not tell where they were going, they would have to dispel the officer's alarm for the fear for everyone else, not the security guard.

Vice Mayor Quesada: So then I think the way we remedy this from a legal perspective and a perception perspective is, we are not requiring the guard to call the police officer, but we are just giving them the advice that, if they don't want to tell you where they are going, using your best judgment, take into account any other factors anything else they said, to help you make the determination whether to call the police or not.

Mayor Cason: Or give you a false address.

Chief Hudak: And I think, they have the plate-smart, the license plate recognition. That information by law can only come to law enforcement, so they are tied to us, so a law enforcement officer would know and as they continue to monitor, if someone comes in there with a stolen car, we are going to get alerted, not necessarily the security guards or the homeowners association.

Commissioner Lago: Is that instant notification?

Chief Hudak: Instant notification. The idea and I know you heard the director talk about this when we look at the geo-fencing of the City with cameras, its tying in all of these license plate readers directly to the police department, so we know to respond and intercept or try to identify the individual.

City Attorney Leen: Mr. Mayor, if I could add something. The reason why I think its important to have the destination, not only because I think it serves the purpose of the ordinance, but that's a clear test. So you are having them open the window and they have to open it enough to be able

to answer a question and those are the two tests. So just have them open the window and look at them, I was concerned about that. I feel like there should be a specific reason to open the window is to ask this question, to receive the information and response. We've already said that if they give a general response, they can still proceed and if they don't respond or open the window, you can notify the police that a municipal ordinance violation has just occurred. So there is a lawful basis to call the police and to let them know.

Mayor Cason: And I think we've dispelled the notion of any privacy because your license plate, you are going to collect any way no matter what if its going to a divorce lawyer or anybody else, its going to go to you, if you find something suspicious about it right away. If you don't ask for an address its just logical, you come in and say, I don't know where I'm going or you give a fake address or say, I'm not going to tell you, then it alerts the guard to take the next steps, it just seems to be logical.

Vice Mayor Quesada: OK. So, I propose the motion incorporating Commissioner Keon's amendments and the amendments that the City Attorney mentioned. Just to clarify one last time, as part of my motion allowing the guard gate or instructing the guard gate operator to ask for the address and he is not directed to, he is not required to call the police, but combination of all the factors and his judgment as security guard he may call the police department, if he or she sees fit. That is the motion.

Commissioner Lago: Along with the Mayor's incorporation of a secondary language in reference to the documents in Spanish.

Vice Mayor Quesada: So moved. So modified so that the language wouldn't only be in English, but also in Spanish.

Commissioner Slesnick: Are you passing out something when somebody gets to the guard gate?

Mayor Cason: You have an example...

Ms. Sosa: We'll have a sign posted and whatever is handed out will be handed out.

Commissioner Slesnick: See, I'm of the belief that if have something to pass out that person in the car is going to lower their window, so I really am opposed to asking the address.

Commissioner Lago: I'm with Commissioner Keon, excuse me, Commissioner Slesnick, I don't think the address is really that important. I'll move forward to make sure that this ordinance passes, I don't want to stop you here, but I think that we are moving in a direction, if we ask for that address, I'm asking the Vice Mayor who is the only attorney on this panel to really give us his honest opinion that we think that we need to ask for that address. I think you are being a little bit too invasive when you ask somebody, give me the exact address.

Mayor Cason: How about if you don't say exact, you just say where are you going? That's vague enough.

City Attorney Leen: The ordinance says destination; we weren't going to ask for the address, they can just say, what's your destination?

Mayor Cason: Where are you going?- I'm going to see my friend Fred.

Commissioner Lago: By the way, on the document like Commissioner Slesnick mentioned, I think, tell me if you agree, if this ordinance passes today, we should obviously invoke put in the fine print the actual ordinance from the City, because you are going to end up having a multitude of individuals who are going to say, is this City law?- what is this?- is this legal?- please explain. The last thing you want is to have your guard holding up traffic and having stacking issues. The easy answer should be, yes it is, its there, if you have any questions please read the ordinance.

City Attorney Leen: So we would include 38-12 then, the actual paragraph in the notice?

Vice Mayor Quesada: Yes – amended and I would agree with Commissioner Slesnick and Commissioner Lago and then we can assess it next year to determine if we need to ask for the address based on your feedback next year. So not asking for the address, but asking where they are going. One final thought, that's the motion, that is what it is for my motion.

Commissioner Lago: I'll second the motion.

Commissioner Slesnick: English and Spanish.

Commissioner Lago: Yes. I'll second the motion.

Mayor Cason: OK. City Clerk.

Commissioner Slesnick: Yes

Commissioner Keon:

Commissioner Lago: She can't vote.

City Attorney Leen: Yes, she can. She can vote on this quasi-judicial.

Commissioner Lago: Yes, you can vote on this. I apologize, I'm sorry Commissioner Keon.

Commissioner Keon: Yes

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Mayor Cason: Yes

(Vote: 5-0)

City Manager Swanson-Rivenbark: And now that you've voted on it. There is a sample in your packet as to referencing that ordinance and it will be translated into Spanish and we'll make sure that, that...

City Attorney Leen: And I'll add the paragraph specifically as to, maybe underneath it, I'll put the paragraph of what the ordinance says. Also, what I'll do is, I think I have clear direction as to what to put into the ordinance so it will not come back to you, but I will circulate to you just administratively, I'll circulate back to you.

Mayor Cason: And we'll review it a year from now, put it on the agenda a year from now.

Ms. Russo: Thank you very much.

Commissioner Keon: Thank you. One of the concerns I have...instructions to the guard operators and to the homeowners association is, I don't want...[Inaudible]...empower them more than...by this ordinance....

Commissioner Lago: I agree.

Mayor Cason: Thank you.

Commissioner Keon:...see that they are well trained...

[End: 10:58:00 a.m.]