

**City of Coral Gables City Commission Meeting**  
**Agenda Item E-1**  
**December 11, 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**  
**City Clerk Staff, Billy Urquia**  
**Eric Riel, Planning Director**  
**Assistant City Attorney Lourdes Alfonsin**  
**Cathy Swanson, Development Director**

**Public Speaker(s)**

**Joe Natoli, Vice President for Business and Finance, University of Miami**  
**Donna Shalala, President, University of Miami**  
**George Volsky**  
**Amanda Quirke**

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E-1 [Start: 10:27am]

Ordinance on Second Reading. An Ordinance of the City of Coral Gables Zoning Code creating a new Division within Article 3, Development Review, Division 20, entitled “Art in Public Places”, providing definitions; establishing policy, establishing an art fund to be used for public art purposes; providing procedures and administration criteria; providing exemptions and waivers; providing for ownership and maintenance; and providing for enforcement for an art in public places program; providing for repeal, providing severability, providing for codification thereof, and effective date, and repealing all Ordinances inconsistent herewith. (Passed on First Reading October 23, 2007).

Mayor Slesnick: Mr. Planning Director, I just want to give the courtesy here, the President of the University has been very patiently waiting for this, and we appreciate her attendance here today, and I don’t want to get anything out of order, but President Shalala, if you would like to just go, I know that you have a....

President Shalala: I’m fine Mr. Mayor.

Mayor Slesnick: Thank you, Mr. Riel.

Mr. Riel: Thank you Mr. Mayor. Good morning. As the City Attorney indicated this item went before the Board October 23<sup>rd</sup> on First Reading and passed five-zero (5-0). There was a separate motion made that this be directed to the Planning and Zoning Board to specifically look at the issue of the exemption regarding educational institutions. The Planning Board heard it on November 14<sup>th</sup>, after two hours of input, Board input, and testimony, I can tell you the Board provided three separate motions and there was a split vote three-three (3-3). By doing that it results in no recommendation being provided to the City Commission. The first motion was for basically to approve the ordinance as presented, which is what the Commission said on October; the second motion was to various text amendments, and allows for a blank exemption for educational institutions; that again was a split vote three-three (3-3). And then the third was for no exemption for educational and that was a three-three (3-3) vote as well. As a result of the discussion though, there was a lot of good input provided by the Board as well as the public, as a result of that the ordinance that you have before you was changed from First to Second Reading, you'll see Exhibit "A" is a clean version of that; Exhibit "B", is a strike out and underline version of that. So staff is recommending approval of the ordinance as attached in "A" and "B"; and as I understand it, there has been some recent changes regarding the language regarding educational institutions, and if I can refer to page seven, it has to do with item number four, which I believe you all have copies in front of you, if not I have copies here available for you.

Mayor Slesnick: Madam City Attorney, will you explain to us about the language of the educational exemption.

Assistant City Attorney Alfonsin: The new language the one that....

Mayor Slesnick: The educational exemption language.

Assistant City Attorney Alfonsin: In the last month the University of Miami and the City have been working together to try and resolve the issue of the University of Miami's exemption. We finally came to an agreement yesterday that would protect the City in the future, and the University of Miami would be happy with. It was agreed upon yesterday at the latest 4:41p.m. in the afternoon, and my original concerns are protected under the new language.

Commissioner Withers: When you say agreed upon, who agreed?

Assistant City Attorney Alfonsin: The University of Miami and Cathy Swanson spoke yesterday afternoon. I was provided a copy of it in order to protect the City in future development of the University of Miami, in other words there would be art work maintained on the property, and if new administration came in, there would have to comply with this exemption and the requirements under the exemption.

Mayor Slesnick: I think Chip, I think Chip, its not that we've agreed to it, but I think that our staff and the University are presenting it as something that they can both live with.

Ms. Swanson: The University and the City staff in discussions agreed together to recommend to you this language that would be added – substituted before “A” and “B”, with new language for your consideration. This meets your instruction in providing an exemption; it meets the intent of the Art in Public Places ordinance, and it allows the University to provide its own plan and to supervise its own implementation, coming back to you every three years to update you on how that plan has evolved through the eyes of the University. So the City staff has agreed to recommend this, the University administration has agreed to recommend this, and now its up to the City Commission should you wish to accept this language, then we will incorporate it as a part of the Second Reading; we have copies for the public if they are wanting to hearing it, but basically they create a campus area master plan, you review it for sufficiency, they come back every three years to update you on that plan.

Commissioner Anderson: And the language for the building permit has been removed completely?

Ms. Swanson: No reference to building permits, no reference to one percent, but this is a great program for the University and the City, and the public is the direct beneficiary.

Vice Mayor Kerdyk: One of the big issues was an issue to me at the last Commission meeting, was the fact that maybe a developer can come back and sue based on the fact that the City was...the University of Miami was going to be exempted, that has been taken care of with this language that has been incorporated, Madam City Attorney?

Assistant City Attorney Alfonsin: Yes.

Vice Mayor Kerdyk: Alright, very good, thank you.

Mayor Slesnick: Mr. Cabrera.

Commissioner Cabrera: Mine was really kind of....first of all I want to commend you for working...

Ms. Swanson: There were a lot of people working together on this.

Commissioner Cabrera: I’m sure, I’m sure there was. I want to commend the entire team, how’s that? You feel a little better about that? But I want to especially commend you. I was just curious, we did this at 4:41 yesterday; we got this wrapped up?

Ms. Swanson: Well, this was a time when Mr. Natoli reviewed the language that was presented to him after we met with our City Attorney’s office on final; he looked at it, signed off on it, we had the Manager look at it and sign off on it, so that as the City administration and the University, we together had the ability to present it to you.

Commissioner Cabrera: OK, thank you very much.

Ms. Swanson: But it was a much longer process than 4:41.

Commissioner Cabrera: Good, I'm unsettled by the 4:41; I would hate for us to wait for the last minute to get this thing done.

Ms. Swanson: We just wanted to close it after the discussions.

Commissioner Cabrera: Got it, got it, thank you so much ma'am, and well done once again.

Commissioner Withers: Cathy, what was the discussion on?- the inclusion or the exclusion of the Lowe Art Gallery itself.

Ms. Swanson: The way that this is presented, the Campus Art Master Plan focuses on the outdoor sculpture garden, the thirty pieces that are there and will grow in the future. The Lowe Art Museum as important as it is as a cultural entity, is not included under this ordinance amendment, but the dollar criteria that needed to be expended against building permit activity has also been removed. So our focus, the University's focus is on that outdoor sculpture garden.

Commissioner Withers: There are thirty-two or thirty-six pieces through 2008 that are going to be...

Ms. Swanson: It's very exciting; they have actually identified sites to receive long term over a total of seventy. So this sculpture garden as significant as it is today has an intention to grow throughout the University campus, and they have identified sites, and selection criteria in order to do that.

Commissioner Withers: You know, the reason why I voted in favor of the exemption the last time was that I felt that based on thirty-some pieces of art, and I have no idea what the appraised value, but I'm assuming let's just put a figure – twenty to twenty-five thousand dollars (\$20,000 - \$25,000) each; I don't know, I have no clue, that's around about a million dollars which would suffice for what, a hundred million dollars in construction?

City Manager Brown: Um huh.

Commissioner Withers: And so my question is, as we move forward on this, do we go ahead and assume that the art is going to increase in value each year so it raises, if that one million goes to one point five million does that then allow a hundred and fifty million dollars in construction, or is that one million dollar value locked in as of today, or do you figure in your appreciation in this?

Ms. Swanson: The value is no longer significant in that the implementation of this new amendment as it relates to the University of Miami. We are not requiring an appraisal; we are not off-setting that with building construction; this is allowing the Commission's instruction to exempt some provisions that allow you ultimately to know that they have an outdoor sculpture garden that is open to the public and grows.

Commissioner Withers: I understand.

Ms. Swanson: It is not – and it was very important in reaching the agreement that we did not look at an appraised value of the art, but the presents of the art on campus, and conceptually your staff agreed to that.

Commissioner Withers: So your department staff agrees with this concept.

Ms. Swanson: Absolutely.

Commissioner Withers: But the City Managers office...?

City Manager Brown: We agree with it because the instruction from this Commission at the last meeting was to come back with a program that would allow the University to for all intents and purposes, be exempt from the ordinance itself, but also have some kind of program or rationale that would provide for an Art in Public Places program to resemble that of the original ordinance, and that's what we've done.

Commissioner Withers: Let me jump over to the private sector a second; if you have a development like what Ralph Sanchez is building, and they actually have art in there that is appraised with a certain value, and they've met their Art in Public Places requirement, and they want to do the next phase, does the value of that art appreciate, or do they have to put new art in?

Ms. Swanson: City Attorney, do you want me to answer or do you want to answer that question?

Assistant City Attorney Alfonsin: You can answer the question, Cathy.

Ms. Swanson: If you pledge in this process a piece of art to meet your requirements of an Art in Public Places, related to the private sector, not related to the University of Miami, that piece has already been pledged; you can't go back and say, gosh it increased a hundred and fifty percent (150%) and therefore I do not have a future commitment to meet for new construction; that's already been pledged and set aside, so new development will require a new commitment to the Art in Public Places.

Commissioner Withers: This is where I have a problem: if someone is building a hundred million dollar development, and they put up two million dollars worth of artwork, they are only required to put up one million dollars worth of artwork, do they not...does that credit of the additional million not carry forward to future development?

Ms. Swanson: I'm sorry, in your scenario regardless of the numbers there is a one million dollar requirement and they have fulfilled it with a two million dollar commitment then at the time we would work with the City Attorney's office for acknowledging that as a future credit for development; it's the one million that they needed to do that they would not be able to...

Commissioner Withers: But if that one million...let's say it was a one million dollar piece of art that appraised two years later at two million dollars, it would still be the one million dollars when its locked in?

Ms. Swanson: Yes sir.

Commissioner Withers: OK. The other question I have as far as the insurance: UM is obviously not a problem because some of these pieces are on loan, and I'm assuming that they would insure them, but our intent is not to accept any pieces from developers that are leased from artists?

Assistant City Attorney Alfonsin: That's correct.

Commissioner Withers: They have to be owned.

Assistant City Attorney Alfonsin: They have to be owned.

Commissioner Withers: If they are put in the public right-of-way, are we named as the insured or is the developer named as the insured?

Assistant City Attorney Alfonsin: The City would be named as insured. If they place monies in the fund rather than have artwork on their project, it would then belong to the City.

Commissioner Withers: No, I'm asking if they donate a piece of art and because their site won't accommodate it, but is put in the City's right-of-way, I'm assuming there is going to be a situation like that.

Commissioner Cabrera: Liability....I can tell you from an insurance standpoint, liability is going to fall upon us.

Commissioner Withers: I'm talking about if it gets hit by a bus and it gets destroyed.

Ms. Swanson: In that scenario in order to meet their commitment and they are having it off-site, the City becomes the owner.

Assistant City Attorney Alfonsin: The City becomes the owner.

Commissioner Withers: And so the title of the piece will then become the City's, and it's the City's responsibility to maintain it.

Ms. Swanson: And the cost of that is included in the Art in Public Places program; lighting, installation, insurance, maintenance, is all a part of that piece so that...

Assistant City Attorney Alfonsin: It would be all a part of the one percent.

Commissioner Withers: Are we required to replace that piece, or do we have the option to take those proceeds and use them elsewhere for another piece?

Assistant City Attorney Alfonsin: I don't believe that you can replace an original piece of art; have the artist recreate, it would be the City's choice because it belongs to the City at that point; so we could recreate the same piece, or acquire a new piece that would still meet the one percent.

Ms. Swanson: Now, if the bus hit it on the private sector side...

Commissioner Withers: No, I'm talking about if the bus hit it...and I'm sorry to go through all this, but I've been in situations where this has happened; if we accepted a piece from a developer, they put it in a public right-of-way, the City owns it at this point, and its maybe in front of their property, it was their hand selected piece, they like the piece because it compliments their property, and this is what they wanted. The piece is now removed, destroyed for whatever reason; who controls what genre or whatever goes back into that piece?

Ms. Swanson: The City of Coral Gables does.

Commissioner Withers: And it's clear in this?

Assistant City Attorney Alfonsin: Yes.

Mayor Slesnick: Let us go on to some of the public comment now, but first why don't we do this?--; let me have a motion if I can on Second Reading on the ordinance which is E-1 – 07-0966.

Commissioner Anderson: I'll move it.

Commissioner Cabrera: Second.

Mayor Slesnick: Been moved by Ms. Anderson seconded by Mr. Cabrera. Now what I'd like also is a motion to amend said ordinance with the language which has been handed to us which was presented to us by staff and the University concerning the collection of art at the University and their exemption.

Ms. Anderson: I'll move that as well.

Commissioner Cabrera: Second.

Mayor Slesnick: Been moved by Ms. Anderson and seconded by Mr. Cabrera to amend it with this. What I'll like to do if there is no further questions on this we'll take a roll call vote on the amendment to add this language to the ordinance, but we will not vote on the ordinance obviously until all the discuss has been had. But actually what we'll do is let the University present first and then we'll vote on that; I don't want them to...I'm trying to move it along, but I don't want you to think that your presentation is superfluous. Joe do you want to set up how you are going to do this; Mr. Joe Natoli.

Mr. Natoli: Joe Natoli, 10 Edgewater Drive, Coral Gables, and we will be very brief. First of all let me just thank the City for their help with the Republican Presidential Debate on Sunday night;

that was wonderful, great exposure for the City of Coral Gables, and for the University of Miami, and the University covers most of the expenses related to events like that, but there are a lot of impacts including to your staff, so we very much appreciate the help. And we further appreciate all the good work that was done in recent days, and particularly yesterday arriving at language that is very acceptable to the University and to the City, so we thank the staff very much for their efforts. I think the language recognizes the spirit of the University's commitment to art in public places that has existed in the past and that we are absolutely committed to in the future, and it provides a mechanism for you all to review that from time to time to make sure that we perform properly. I personally am not an expert in art, but I'm fortunate that the President of the University of Miami is, and so with that I'd like to give you over to President Shalala.

Mayor Slesnick: Welcome President Shalala.

President Shalala: The actual expert is behind me; thank you very much. Seven years ago when I came to the University, I started an Art in Public Places program at the University; we actually had one before, there were a number of pieces. We now have as you've heard a Master Plan for the art on the campus; seventy sites identified. That was worked out with the leaders of the Lowe Art Museum some of our art specialists and Lizz Plater-Zyberk, to identify property places to place art. It allows us when donors come along to show them a number of different sites. We actually have twenty-eight pieces for the queue that we are getting; they are being given to us in a variety of different ways; all of them very long term commitments. In some cases for tax reasons they loan them to us, but they are giving them to us in their wills, which we of course can't reveal or put signs up that says, we'll get this one when the donor dies. Most recently Marty Margolis has given us a major piece, and he intends to give us at least one more piece; Norman Braman has committed to finding an appropriate piece for the campus; Ellis Ciscernos, a major philanthropist in town has given us a piece which is at the new Nursing School Building. We are working on a brochure so that visitors on campus, including our neighbors who I walk with every weekend, and look at the art because we all walk our dogs on the campus, we will have a brochure for everyone so it will be a walking destination as well; and of course our campus, with just a couple of exceptions when we had a presidential debate, is open to the public all the time, so this will give us an opportunity to demonstrate our commitment to art, but an appropriate place for the art. We maintain the art; it is very expensive; we've just painted the large piece in front of the Lowe, it cost us five thousand dollars (\$5,000) for that paint; the question about very specialty paint in some cases require that, in other cases somebody goes out and just scrub it. But we don't really take that into account if it's a great piece and it passes our very stringent rules we are happy to have it. We appreciate the negotiations that took place, the good will on behalf of the City Manager and the City Attorney and everybody else that was involved, it was a wonderful partnership, and I thank you very much Mr. Mayor.

Mayor Slesnick: Madam President, thank you; and Madam President, thank you very much for continuing to lead a great University, we are proud of our hometown University. Mr. George Volsky to speak.

Mr. Volsky: George Volsky, 1008 Alhambra Circle. First I'd like to ask for some correction in City documents. On the minutes of October 23, 2007 meeting, I spoke and in the minutes I was identified as speaking for the Coral Gables Gazette, this is not true; I spoke as Chairman of the



Coral Gables Cultural Council; I think you know that my connection with the Gazette is purely history, you know what history means, Mr. Mayor. So with this and also I would like to say I have certain knowledge about the issue at hand because as I mentioned before some thirty years ago I was instrumental in drafting the County's Art in Public Places ordinance, which is in force now, and which incidentally the City is in violation of. That work took me, with the help of the City Attorney, the County Attorney, and Parker Thompson, three years – three months, I'm sorry. This City spent three years and the whole County ordinance comprises two pages. This City spends three years, countless works, and its ten pages of a lot of words which do not result in reality. I'm referring Mayor, to a statement – a discussion a few moments ago when Mr. Withers asked City Attorney whether the art which is incorporated into the work of a developer belongs to the City, it does not, it belongs to the developer; it states it quite clearly. Now can you imagine if the developer decides to paint in a patio, accessible to the public of a development, a mural on the wall, that mural belongs to the building itself; it can deteriorate and the City cannot take it away. According to the wording of this, and I think the City Attorney is wrong, if a developer decides to use his own money for public art, this belongs to that developer or that company that does it. Now, there are certain things, which incidentally let me tell you, there was a discussion here before about some sculptures that were installed; Mr. Withers expressed concern about damage that those sculptures could suffer and damage that could occur when children could be in a way harmed. Well, what happened is, and I'm really offended when Mr. Keys spoke; as you recall some – about two or three months ago, Mr. Mayor, Parker Thompson wrote you a letter asking you to consider returning those several sculptures....

Mayor Slesnick: Mr. Volsky, Mr. Volsky, we are on Art in Public Places, E-1.

Mr. Volsky: Yes, well this has to do with Art in Public Places sir.

Mayor Slesnick: Well, you have about a minute to go, so...

Mr. Volsky: Pardon.

Mayor Slesnick: Chose your words, you have about a minute to go.

Mr. Volsky: No, I'm sorry, I'm sorry Mr. Mayor, this is a very important – you will not cut me off...

Mayor Slesnick: Mr. Volsky, we have a three to four minute limit, I'm asking you to – you've got about another minute, Mr. Volsky, that's it.

Mr. Volsky: No. I'm sorry, I'm sorry, I have the right to speak, this is a very important issue and this ordinance is so full of inconsistencies that I have to point out to you because you were asked by whomever to vote on something which is simply not true. Well, I'll be very specific; on the first "whereas", page one, "Coral Gables has a proud history of incorporating public art in the landscape of the City to create both function and beauty, including numerous fountains and plazas". I have two fountains in front of my house they are not working, they are not working. The only public art that has been incorporated into the landscape are three sculptures of the seven which we, Parker Thompson and I, have donated to the City; and Mr. Keys installed it not only

badly, but spread mulch one [inaudible] of mulch on a sculpture; this work maybe eighty thousand dollars (\$80,000), to cover the beds. Second item – it says here in verse one, two...on page one, “the City of Coral Gables, with the support of the Miami-Dade County Art in Public Places professionals, now wishes to develop a more formal Art in Public Places program to assist in the maintenance of the historic public art through Municipal Construction Project Funding...”, something like this doesn’t exist in the County. Going further along – the major failing of this project is that it leaves the selection of art, even by public developers in your hands. Now my question, and the question of every art in the City, what knowledge does this body have in deciding which is good, which is bad?- and this has not been explained. On page eight – annual priorities and inventories – “the Historic Preservation Board or their designee as determined by the City Manager shall submit to the City Commission an annual inventory...”, inventory of what?- it doesn’t say, it doesn’t say; and then it says that you will make all the decisions. In conclusion...

Mayor Slesnick: Thank you.

Mr. Volsky: ...I commend you for exempting the University of Miami from this project. The University of Miami as I said it before, the University of Miami arts project is the only one that exist; it says try to maintain the cultural life of this City, which this Commission since – you became Mayor, Mr. Mayor, has really been not been very successful. I want to show you [inaudible – off mike]...

Mayor Slesnick: Well, we are sorry we didn’t build it to your specifications, Mr. Volsky.

Mr. Volsky: I want to show you something, this is what the City should have had; this is Wynwood which is competing with Coral Gables, before as you know, this City was a place – a mecca for art, now it is not; [inaudible]... now we miss the boat. In other words, as presented...

Mayor Slesnick: Thank you, Mr. Volsky.

Mr. Volsky: This is the conclusion – this project – the only good thing about it is that the University of Miami is not part of it, otherwise it would be a big “boggle” and you will be very sorry; and whatever is said you still have to comply with the County’s because you are in the least bit in the County’s....

Mayor Slesnick: You are being repetitive; you totally said it before. Thank you. We have Amanda Quirke, is it Quirke, I can’t read this; you are passing. Thank you Amanda, but we do have your appearance on the record here. Amanda, is it Quirke, yes, thank you.

Commissioner Cabrera: Would it be inappropriate just to as Ms. Quirke, is she in favor of this ordinance, or opposed to it.

Ms. Quirke: [Inaudible – off mike]

Commissioner Cabrera: Thank you.

Mayor Slesnick: Thank you. Now we are closing the public hearing, and what I'd like to do is go back to what I had asked before; we're just going to vote right now on the amendment to the ordinance, and then we will discuss the whole ordinance, if there is further discussion to be had. Is there any further discussion on the amendment which was the specific language presented to us by staff and the University about their exemption?

Commissioner Withers: I just have one question, Don; when it says significant art, what is significant?

Vice Mayor Kerdyk: How would you define it differently?

Commissioner Withers: I don't know; I mean, someone has thirty pieces of art that might be....

Mayor Slesnick: Well, you know what, the word isn't even needed, and it's just actually a collection of art of at least thirty sculptures.

Commissioner Withers: OK, I'll feel a lot more comfortable that...than us...

Mayor Slesnick: Let's take the word "significant" out.

Commissioner Withers: Than try to determine what significant means.

Mayor Slesnick: It's an adjective that isn't needed in an ordinance anyways.

Commissioner Cabrera: So it will say; it will read, a report of the campus art Master Plan demonstrating changes to the collection of art.

Mayor Slesnick: Where are you, is there two times; yes; the collection of art; it's also up here, OK.

Commissioner Cabrera: So the word significant is addressed in paragraph four (4), as well as 4(b).

**Mayor Slesnick: 4(b); remove it. So for the University of Miami, after it's readjusted, we now to refer to a permanent collection of art, and a collection of art on campus. We appreciate the significance of it. Mr. Clerk, on the amendment.**

**Commissioner Cabrera: Yes**

**Vice Mayor Kerdyk: Yes**

**Commissioner Withers: Yes**

**Commissioner Anderson: Yes**

**Mayor Slesnick: Yes**

**(Vote 5-0)**

Mayor Slesnick: No, further discussion or questions about this ordinance.

Commissioner Withers: Yes, I had a chance to discuss with the City Attorney; the ordinance does not address, and I don't know how the Commission feels, if a developer in lieu of giving us cash would want to donate a piece of art, we could use and put in the public right-of-way, as opposed to them supplying a piece of art putting on their property. Would we accept that art in lieu of a financial contribution, or would we have to say no, we want the money? From what I see, it doesn't address a donation a donation of just art in lieu of money.

Assistant City Attorney Alfonsin: No, the ordinance does not address a gift of art.

Mayor Slesnick: Don't know why it wouldn't, I mean...

Commissioner Cabrera: Want it to?

Commissioner Withers: I think it should; I mean, if someone has a nice piece and it doesn't fit on their development, but it would fit somewhere nicely in the City, why not accept that...?

Mayor Slesnick: You make that motion?

Commissioner Withers: I don't know how everybody else feels.

Commissioner Cabrera: You know what, it's so vague. Would you feel uncomfortable if we drafted some sort of language that said that this would be done on a case-by-case basis?

Commissioner Withers: That's how it's going to be probably done anyway because it has to go to the Cultural....

Assistant City Attorney Alfonsin: It would have to go through the Art Advisory Panel, the Cultural Development Board, as well as the Commission.

Commissioner Cabrera: Now what happens – OK now let's walk through this one; we get a piece of art given to us by a developer, we decide to put it in the public right-of-way, you know then the liability falls squarely upon us; liability, maintenance, and everything else associated; would there be some sort of an additional monies paid along with the piece of art to ensure that the maintenance and the liability issues are addressed?

Commissioner Withers: That's covered.

Assistant City Attorney Alfonsin: Well not if it's a gifted piece of art; if it's a gift of art the maintenance and the insurance would have to be covered by the City, as opposed to if they fund the one percent (1%), it would be included in the one percent (1%).

Commissioner Withers: But there is a fund; you are taking the money and the money is being set aside in a general fund for the maintenance, I'm assuming, of all public art, not just a specific piece, I'm assuming.

City Manager Brown: If they are paying cash.

Commissioner Withers: Yes, others paying in cash – I'm assuming if someone gives us a million bucks, we are not going to go out and buy a million dollar piece of artwork, we are going to go out and buy a five hundred thousand piece of artwork, and have some money set aside for future maintenance and insurance and things like that.

Assistant City Attorney Alfonsin: That's correct.

Commissioner Withers: That would be the prudent thing to do.

Mayor Slesnick: I think too, that we could consider a proposed gift along with if there is money with it to maintain it too, I mean, that would be part of the consideration.

Commissioner Withers: So we can add cash or...

**Mayor Slesnick: OK. Commissioner Withers moves to amend the ordinance to provide for a gift of art that is obviously evaluated and assessed and then decided by the City and instead of in lieu of cash with an accompanying consideration of the cost of maintenance and whether or not that's included in the gift, I mean, I think we can turn it over to the City Attorney to craft the language and bring it back to us to ensure that the language is as the intent of the amendment.**

**Commissioner Withers: And in that agreement with the artist or with the developer, there really has to be something saying that if that piece is destroyed, or damaged, or whatever, that we remain the sole source on whether we want to replace it or...doesn't have to be like-kind, it could be of our own...**

**Mayor Slesnick: Is there a second to Commissioner Withers?**

**Commissioner Anderson: I would second that.**

**Mayor Slesnick: OK, Mrs. Anderson seconds that; any other discussion on that? Mr. Clerk, would you call a roll on the amendment?**

**Vice Mayor Kerdyk: Yes**

**Commissioner Withers: Yes**

**Commissioner Anderson: Yes**

**Commissioner Cabrera: Yes**

**Mayor Slesnick: Yes**

**(Vote 5-0)**

**Mayor Slesnick: Any further discussion, comments. Mr. Clerk, would you call the roll on the ordinance?**

**Commissioner Withers: Yes**

**Commissioner Anderson: Yes**

**Commissioner Cabrera: Yes**

**Vice Mayor Kerdyk: Yes**  
**Mayor Slesnick: Yes**  
**(Vote 5-0)**

Mayor Slesnick: Thank you all, and thank you University of Miami for working with us, and thank you to property owners who have worked with us, and developers, thank you Ms. President. One thing, Madam President before you leave, Madam President, I just wanted to while you are here I think, is it not true that this year we celebrate an anniversary at the Convocation Center at the Ryder? Yes, this is, what is this?- the fifth, I think...

President Shalala: Fifth.

Mayor Slesnick: The fifth anniversary, so congratulations on five anniversaries of having a great place for sports, and entertainment there. Thank you.

[End: 11:04 p.m.]