

City of Coral Gables City Commission Meeting

Agenda Item E-4

November 9, 2010

City Commission Chambers

405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Donald D. Slesnick, II

Vice Mayor William H. Kerdyk, Jr.

Commissioner Maria Anderson

Commissioner Rafael “Ralph” Cabrera, Jr.

Commissioner Wayne “Chip” Withers

City Staff

City Manager, Patrick Salerno

City Attorney, Elizabeth Hernandez

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Parking Director, Kevin Kinney

Public Speaker(s)

Rip Holmes, Coral Gables Resident

E-4 [Start: 12:49:24 p.m.]

An Ordinance of the City Commission of Coral Gables providing for text amendments to the code of the City of Coral Gables, Chapter 74, Article III, Division 1, 2, 3, and 4 entitled “Stopping, Standing and Parking”, providing for updates to the parking provisions and procedures, changes to valet parking provisions, enactment of a new Division 5 to provide for a “Parking Replacement Assessment”, containing a repealer provision, a new Division 6 to provide for oversight of public use parking within a private development, and providing for severability, repealer, codification and an effective date.

Mayor Slesnick: Ordinance E-4

Mr. Kinney: Mr. Mayor, Commissioners it seems like a lifetime ago we discussed this, in fact it was in August of 2008 the first time we discussed this, there has been some changes. At that time you had asked that we take it before the Planning Board and that has been done, and there have

been some changes to the ordinance as a result of that, and in addition there has been a new section, Division 6 that has been added that we'll discuss in a minute. I think what I would like to do to start with is just kind of go through since it has been two years and hit the high points. The first 15 pages of this proposed ordinance I would classify mostly as housekeeping; the first big one is most of the ordinance was written in 1958, did not contemplate things like electronic payment and multispace meters, so a lot of the language that's been changed is to recognize technology and how no longer do we have to plop our nickel in and turn a handle. So it just allows for using any form of payment, whether it be debit card, smart card technology, credit cards, bills, coins, so now our ordinance allows any of those forms of payment. Then it specifically, we've amended on page 4, given the ability to create in some of our metered areas permit zones, so that where we have residential areas, or where we have on-street areas where we can have permit and it's OK to have permit that's permitted. Particularly, one example I would give is, when we go west on Biltmore Way, we have a lot of large residential condos, and the on-street metered parking is very likely used, so we do allow some of those residential units to purchase permit parking on the street, and there are meters. Another section that is new is on page 7, we specifically deal with the possibility to administratively void...erroneously issued citations; we issue citations based on County Code, County Code does have an appeal process, but there are situations where there is a clear mistake; the license plate on the citation does not match the description of the vehicle, maybe there was an error in the typing in the license, those situations we should be able to just administratively void, so we codified that. Another section that was changed somewhat was Section 74.140, we specifically talked about issuing meter bags, temporarily allowing private people to use on-street metered space. Typically, that's going to be construction, special events, those types of situations, and if this is passed there will be a specific administrative rule that outlines how that's done. Right now we're charging \$10.00 per space per day for those types of activities, I'll let you know that's probably going up because that is very inexpensive.

Commissioner Cabrera: Can I stay with you on that for one second? We had this discussion once before; I heard the part about the bagging specifically for construction related issues or special events, but as you well know we allow for bagging in restaurants....

Mr. Kinney: Valet.

Commissioner Cabrera: Valet parking, specifically valet parking; will there be a dispensation then for other businesses that wish to pay the additional cost of on-street parking to add to the convenience to their customers?

Mr. Kinney: How broad that administrative rule is and we are going to research that and draft a rule. I will tell you typically just general knowledge long term usage is not something that is encouraged, in fact valet there are certain cities where even valet is not allowed.

Commissioner Cabrera: Yes, but you know the problem then becomes is, you've got, and I'll give you the perfect example, the one that you and I are both familiar with, which is a dry cleaning business.

Mr. Kinney: Right.

Commissioner Cabrera: Some members of the Commission have a problem with that because I've received a response as well, if a dry cleaning business can do it why can't my business do it. Well, a dry cleaning business typically the customer base is there 5 to 7 minutes, another type of business that customer base could be there an hour to possibly even two hours depending upon the type of business that is employing this bagging for parking purposes. So, I was just curious given the fact that you know quite well that a business like a dry cleaning business that would only have the customer come in and out that 5 to 10 minute timeframe, if it would be more suitable than not, and maybe this doesn't even address the issue, so I am stretching this change then I apologize, but I was hoping that staff was going to actually consider this matter at some point in time.

Mr. Kinney: It definitely is a consideration. I'm speaking with that company and others, and even their attorney. How we typically deal with a dry cleaner's is a classic example is, we do install 12 minute meters in front of the dry cleaners, we'll do that. The issue on Alhambra at that location is that we have this huge construction project, so the bank, the dry cleaners, and even the phone store, and I told them up front, this is on a temporary basis because of the problems created by the construction. Now in drafting that administrative regulation and sending it through whatever approval process, I'm going to need to, I will have to consider that, and I'm not at this point absolutely sure how we are going to draw these lines, how we decide yes, this is a use that's allowed and no this is...

Commissioner Cabrera: It's hard, it's hard.

Mr. Kinney: It's just that what I can tell you, is typically leasing out on a long term basis is not something – I'll give you the other example that is giving me difficulty. There is a medical facility coming in downtown, they have asked me to consider allowing them to have three spaces as patient drop off.

Commissioner Cabrera: On Giralda?

Mr. Kinney: Yes – and that's another rough situation. I understand why they need patient drop off, so I don't know how that's all going to play out.

Commissioner Cabrera: You've got limited spaces....well you lost a bunch of on-street parking because of the streetscape, I'll call it a streetscape to be kind to everyone, instead of a rat infested

neighborhood, I'll call it a streetscape, and then you lost parking to that; you lost parking to ingress and egress and you've lost parking to the bank that has 12-minute parking along Giralda.

Mr. Kinney: They have short term spacing.

Commissioner Cabrera: Yes sir. So now you are contemplating parking for drop off and pick-up, that's interesting. Wow. I bet you wished you had those old parking spaces back, I know you can't comment.

Mr. Kinney: We lost 9 related to the 55 Merrick....

Commissioner Cabrera: Oh, you were going to lose more, you were going to lose 13 and we were able to figure out that – you guys were able to tinker with it and only lose 9.

Mr. Kinney: Well on the north side they haven't done the streetscape yet, so I haven't seen what the impact was.

Commissioner Cabrera: Oh, you'll lose at least 6 to that north side, it's amazing. An area that typically has no problems with on-street parking, we are creating problems for on-street parking, but that's another issue all to itself.

Mr. Kinney: But that is something in this administrative regulation that I'm going to have to see how we draw those lines. The last thing I would point out in that first 15 page section, that is kind of a housekeeping thing is, we've had discussions at this level about the large parking facilities that basically sit empty at night, and there is a provision that allows a valet company to approach me using those vacant facilities. If I can confirm that there is space available, they can use that for valet parking and that is something we've discussed before. The second big section is the one where we spent most of our time talking about and what you asked me to take to the Planning Board, and that is just the parking replacement assessment, and it's in three sections. The first section being just when we lost spaces on the street, we have right now a process where there is an assessment and it's an annual fee...

Commissioner Cabrera: And it's for perpetuity.

Mr. Kinney: Yes – and there are some people that are paying \$55.00 a space and some people paying \$1,500.00 a space or \$2,000.00 a space. So over time it seems like there are some inequities there. The proposal I put forward is that when as a result of a development we lose an on-street space there is a onetime fee and the number we had discussed last time, and this would be a number that you would approve in the fines and fees resolution was \$25,000.

Commissioner Cabrera: And then that would be one fee for the remainder, until the end of the world, until 2012.

Mr. Kinney: Til that facility was redeveloped, if that site was redeveloped, torn down and started over then that agreement would disappear because the streetscape would be redone.

Commissioner Cabrera: That seems reasonable.

Mr. Kinney: And then there were some people who testified at that time and at the Planning Board that they felt that was unfair in this one situation where we are requiring them to make changes on-street, and the compromise that was reached at that time was, if it's solely because you are meeting a streetscape, then there would be a fifty percent....

Commissioner Cabrera: See that's the kicker, that's the kicker, these developers come in here and they want to do the right thing and then all of a sudden we get involved and we make these demands of them for these streetscape bump-outs, and they end up having to pay us an ungodly amount of money for perpetuity, and we end up taking out a bunch of on-street parking spaces. There has to be at some point some sort of a compromise, there just doesn't seem to be. The only time there is a compromise is when it gets brought to a Commissioner's attention, and that Commissioner reacts to the request and then staff...I don't mean that as a dig at you or the Public Works Director – Public Service.

Mr. Kinney: Staff has to...[inaudible]...and I get to voice my opinion, but obviously I don't always...

Commissioner Cabrera: But developer after developer and architect after architect tells me that this is a common place issue where we impose all these on-street streetscape demands of them and then they have to pay on top of that an ungodly amount of money forever and ever.

Commissioner Withers: Can I ask him to maybe come back in the next two months or three months, whatever it is, I'm sure there are some people where the meter is running right now on them, that are paying \$800.00 a month or....

Mr. Kinney: This summer we sent out some brand new people that are right now on...

Commissioner Withers: And I don't know, maybe we don't want to do this, maybe we do, maybe if we stayed at \$25,000 use that amount, maybe we take a look at the folks that haven't reached that...

Commissioner Cabrera: Give them a break.

Commissioner Withers: Yes, give them a lump sum number right now and say; let's say someone has paid \$10,000 toward the \$25,000, so instead of having to worry about billing and tracking and all that we just clear the decks.

Mr. Kinney: We actually allowed that in the ordinance, we said that if you are in the annual payment system, if you wish to just buyout all you have to do is pay whatever price that you guys set, and you can buyout. If you want to give them some credit for past payments...

Commissioner Withers: Well, I mean we might, I'm sure ten years ago it wasn't a \$25,000 cost.

Commissioner Cabrera: I think that would be fair.

Commissioner Withers: You know just to see.

City Attorney Hernandez: Yes, but the value has also gone up, they got the break of doing it ten years ago.

Commissioner Cabrera: Especially with the loss of parking, the value continues to go up; we go out of our way to lose on-street parking.

Mr. Kinney: That deals with the section on the right-of-way and where we lose spaces on the right-of-way. Then we go into two sections where I would say are classic payment in lieu situations. I gave you a lot of documentation, some of it is probably more than you needed, but we actually looked at some local Miami Beach and the City of Miami and they have classic payment in lieu where somebody can come in and they just could pay for all the spaces that are required to build. We then very narrowly, very restrictive – the first section of payment in lieu relates to small developments, and here we were focusing on somebody on the Mile who's redeveloping their property and what they really wanted to do triggers parking requirement, whether its 5 spaces or 7 spaces. Say they want to put 1,000 square feet of office upon the second floor it would trigger possibly 3 spaces. What we've done is in those situations where really you have no ability to provide parking you can buy down your requirement up to 15 spaces. So here we are not talking about large development; office that would be up to 4,500 square feet, 15 spaces would amount up to 4,500 square feet. So that one is clearly targeted at the small developments that don't have the ability to provide parking, and we actually see several of those, and the City is on occasion tried to deal with that in various ways, whether it's a variance, whether its creating this agreement that we are not really – don't really have the authority to create, but I have people buying space out of one of our garages in perpetuity just because they couldn't provide the parking that was required. So this just formalizes that and gives everybody who is out there doing small development, if somebody is adding 300 square feet to make their space function better, but they can't put one space in, they can buy that space.

Vice Mayor Kerdyk: So they buy the space and they have a space in one of our garages?

Mr. Kinney: No, their right is to use the public parking system; they are using the public parking system.

Vice Mayor Kerdyk: So how does that work? So I buy a space, I do a development or I add on to one of my buildings; 4,000 square feet, I need another 13 parking spaces. So my 13 parking spaces I give you a check for how much money for my parking spaces?

Mr. Kinney: If you guys say \$25,000 that would be....

Vice Mayor Kerdyk: So \$25,000 – I'm going to write a \$325,000 check.

Mr. Kinney: Yes.

Vice Mayor Kerdyk: Wish I had it. Write a \$325,000 check, then I can park 13 people in the parking garages, right?

Mr. Kinney: That fund that you help set up is to develop – I mean, it specifically says that, that money has to be used to develop the public parking system. What you have the right to do then....

Vice Mayor Kerdyk: What do I have the right to do?

Mr. Kinney:...is to park in the garages, but you are still going to pay the monthly fee.

Vice Mayor Kerdyk: So I'm just paying \$25,000 for the right to build the space, I don't get any...

Mr. Kinney: To build your development without the parking.

Vice Mayor Kerdyk: And this is going into a segregated account and it's going to be used....

Mr. Kinney:...to develop the public system. Now the third section and this is the one where I think we had most of our discussion last time, is what I would say is our limited...

Vice Mayor Kerdyk: Can I just follow up with this because I'm thinking what Commissioner Cabrera is saying. So realistically by doing it, I understand the theory behind it, but the fact is then you are really not encouraging people, you are going to have more people parking on the streets because they don't have a designated spot to go to, because they are going to have to end up paying the fee monthly anyway...

Commissioner Cabrera: And then there is not enough on-street parking and you risk the chance by being mugged by a rat.

City Attorney Hernandez: But what this is trying to – we are trying to accomplish pleading a variance, a hardship and then they are being granted hardship variances, and the City is not able to fund for parking garages or anything.

Commissioner Anderson: Then actually we'll be out of parking.

City Attorney Hernandez: Yes.

Commissioner Anderson: Then actually that would tax the system.

Mr. Kinney: And the scope of this is very specific, we are not talking about citywide, the CBD...

Commissioner Cabrera: Just the downtown area. Yes, we are taking away the parking, yeah baby, we are focusing.

Mr. Kinney: Where we have availability....

Vice Mayor Kerdyk: I understand what you are doing, I got it. I've got to mull it over.

Mr. Kinney: OK, that's fine. But then the next section I think is, and I said it's the one where we had the most discussion, and where I had the most discussion with the Planning Board, and that is we are not doing a true payment blue where somebody can come in and buy 200 spaces, but where there's a development we do want to give some leeway for developers to build appropriate, so we are giving them the ability up to ten percent, up to 500 spaces, so a maximum of 50 spaces that they could buy down. When I first brought it to the Commission, we had a 50 cap, but the major change that came from the discussion from the Planning Board was not to just give them a 50 cap as a developer, but to phase it in, and they were the ones who suggested let's go 10 percent. So if you have the requirement of 200 spaces, you may be able to buy down 20, if that makes your development work better, but you are not allowed to buy the cap of 50; 10 percent is the max. So that's the discussion that I had with the Planning Board and the recommendation that they had on that issue. I will tell you that typically where there is a payment in lieu system, they don't put caps, but we're just starting this, so this is a baby step; and we are not interested in somebody with a large development coming in and plopping down a \$5 million dollar check and saying, "*build me a garage*", I mean, we really aren't there, that's not something that....

Commissioner Withers: Well, we also talked at some point that if the City was building a new parking garage, 800 spots, we would actually sell, condominiumize a 100 of those to maybe someone in the neighborhood.

Mr. Kinney: And I think that's a possibility and I would say that we should even look at existing facilities, and I'm not in favor of basically leasing out facilities long term, because our primary interest is the short term parkers, but there are facilities that we have that have some vacant spaces.

Commissioner Withers: Right. So let's say we've had one that we've had an inventory of 100 for the past five years, and it looks like we are going to have it for the next five years, so we wanted to take 10 of those spots and sell it to a building next door for \$250,000 to be put into the fund to maybe build parking somewhere else.

Mr. Kinney: And I think those types of deals are possible. Right now as it exist that would be something that would come back to you because it would basically be a long term contract, and I can think of a couple of locations where we have capacity to maybe encourage development or to maybe help someone that is not spaced, but that's kind of negotiated on a case by case basis, and we would have to evaluate our facility and decide whether we could afford....

Commissioner Withers: I mean, look, this Commission has always if someone wants to develop a piece of property a lot of times we require them to replace whatever parking they are removing and then adding some; would there be a problem with whatever we require them to add that we would just go out and sell?

Mr. Kinney: Well that's actually...

Commissioner Withers: We win both ways that way.

Mr. Kinney: There is a brand new section that came up as a result of exactly that issue; overtime the Commission has required certain private developers to add 50, 100, 300 spaces, but there's never – and they are for public use, but there's never been a definition or control of such a place to define what that public use is. So the new section 6 or Division 6 in this ordinance specifically defines what public use is, our rights to allocate those spaces, what the owners rights are on rates, what we require for operational standards, and what our audit rights are. As these have been negotiated in the contract, right now we have, I would say, limited control over of what happens to those spaces. We would like in the future when that happens to have more control.

Commissioner Withers: Got you.

Vice Mayor Kerdyk: I have one last question and then I want to meet with you between First and Second Reading, because I have a lot of questions, but I want to give you the scenario. In our Central Business District is what we are talking about. We have a provision in our Central Business District that allows you to build 1.45 F.A.R. without providing parking, so listen to me through this scenario; I have a 10,000 square foot lot, I build 1.45 F.A.R., I have built 14,500 square feet without having to provide parking per our Code. Say I want to build that building at 18,000 square feet instead of the 14,500 square feet, that's a difference of 3,500 square feet. Now the way the Code exists now, I have to go back and provide the parking for the whole 18,000 square feet of parking, if I exceed that 1.45 threshold of F.A.R. In this analogy that you give me, can I go and just purchase the difference, the 18,000 subtract the 14,500 square feet, the 3,500 square feet divided by 300 for fun, which would be approximately 12 spaces, or do I have to go back and buy the 60 spaces for the difference of what the 18,000 square feet?- that is an issue. Tell me...

Mr. Kinney: That I have to talk to Martha....

Vice Mayor Kerdyk: Yes, you better figure that one out between First and Second Reading, because that's what's going to end up happening.

Commissioner Withers: Exactly.

Mr. Kinney: Martha and I will talk about that one.

Vice Mayor Kerdyk: Alright. I want to meet with you because there are about three or four other issues I have. Do we need a motion? I'll make a motion.

Commissioner Anderson: Second it.

Mayor Slesnick: Oh, that's right. OK. Well that's OK. We have a motion by Vice Mayor Kerdyk and a second by Commissioner Anderson; we have one public comment, Rip Holmes, 920 Sevilla.

Mr. Holmes: Thanks for letting me speak to you again, my day to oppose development. The people who have been here for the past 12 years, 10 years, 9 years, whatever, have had headaches along the way, and one of the biggest headaches has been developers wanting to shake lose the requirement of parking. There are some funny stories which I won't engage in; one of them involves Bill Kerdyk...

Vice Mayor Kerdyk: Not as a developer, I'm sure, but go ahead.

Mr. Holmes: Going nose to nose with a former Mayor, two Commissioners, check it out, and Bill Kerdyk rising up in his chair, they won an issue over the Mayor and the two other Commissioners because he rose up in his chair and said, "*we've got to have parking*", and I didn't even intend on mentioning that scenario, but I will carry this spirit forward, we have to have parking, and I had a chance to talk with Brad Rosenblatt and Director Kinney outside. The idea that you take a "Mom and Pop" entrepreneur who says, hey I want to do something with my place, and I want to add something, but my God I cannot, it's impossible for me to put a parking garage in my one little store, can't do it; and what City Attorney Hernandez said, well they get into the hardship thing, why not pick up the \$25,000 from them and everybody goes home happy. I can buy that, but even Director Kinney in our discussion admitted that the idea that we want to open any time of gate for developers to start shaking it out their requirements for parking, I oppose and I hope you will. Thank you.

Vice Mayor Kerdyk: Thank you.

Mayor Slesnick: Thank you. OK, we have a motion and a second, and any further -- Rip, Rip, you deserve a response from me, I'm going to vote yes on this to get it to Second Reading and in between I know Vice Mayor Kerdyk has already asked for a meeting with the Parking (Director)

and the City Manager, I will do the same because I do not feel yet comfortable with this and I'm going to need to before I vote on the second time, OK.

Mr. Clerk

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Commissioner Anderson: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

[End: 1:17:40 p.m.]