

## **City of Coral Gables City Commission Meeting**

**Agenda Item E-3 & E-4**

**August 28, 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**

**Assistant City Attorney, Lourdes Alfonsin**

**City Clerk, Walter J. Foeman**

**Deputy City Clerk, Susan Franqui**

**Assistant City Manager, Maria Alberro-Jimenez**

### **Public Speaker(s)**

**Yvonne Dawson, Consultant, TischlerBise**

**Susan Schoettle-Gumm, PLLC, Legal Consultant, TischlerBise**

---

### **E-3 and E-4 Are Related**

**E-3 – 07-0593**

**Ordinance on Second Reading.** An Ordinance of the City Commission of the City of Coral Gables, Florida, amending Chapter 78 of the Coral Gables City Code ("City Code") to add a new Division IV to Article III, Sanitary Sewer System, as the City of Coral Gables Sanitary Sewer Capacity Fee Ordinance; providing a short title; providing findings, intent, authority, and definitions; providing for applicability; establishing a benefit district; providing for imposition of capacity fees; providing for calculation of capacity fees and establishing capacity fee schedule; providing for administration of the capacity fee system and periodic updates of the fees; providing for a service charge; providing for administrative petitions; providing for appeals to the City Commission; providing for judicial appeals; providing for effect on zoning and subdivision regulations; providing for capacity fees an additional and supplemental requirement; providing for alternative collection methods; providing for liberal construction; providing for severability; and providing for an effective date and time. (Passed on First Reading June 26, 2007).

E-4 – 07-0573

**Ordinance on Second Reading.** An Ordinance of the City Commission of the City of Coral Gables, Florida, establishing Article 60 of the Coral Gables City Code ("City Code") the City of Coral Gables Development Impact Fee Ordinance; providing a short title; providing findings, intent, authority, and definitions; providing for applicability; establishing benefit districts; providing for imposition of impact fees; providing for calculation of impact fees and establishing impact fee schedules for police, fire, general government, and parks; providing for administration of the impact fee system and periodic update of the fees; providing for a service charge; providing for administrative petitions; providing for appeals to the City Commission; providing for judicial appeals; providing for effect on zoning and subdivision regulations; providing for impact fees as an additional and supplemental requirement; providing for alternative collection methods; providing for liberal construction; providing for severability; providing for codification; and providing for an effective date and time. (Passed on First Reading June 26, 2007).

Mayor Slesnick: OK, we are now going back to the oft promised E-3, E-4 and H-4 are all related items; these are ordinance on Second Reading. I'm going to ask the Assistant City Attorney to read E-3 and E-4, and then we will discuss the first one, which would be discussion at all.

(E-3 AND E-4 WERE READ INTO THE RECORD BY ASSISTANT CITY ATTORNEY, LOURDES ALFONSIN).

Assistant City Manager Jimenez: Thank you again, Lourdes; for the record my name is Maria Alberro-Jimenez, Assistant City Manager, good afternoon. Before I ask the consultants to present the following two ordinances and resolution, I wanted to share with the Commission and the audience a couple of things that had taken place since our last June 26<sup>th</sup> City Commission meeting when both ordinances were approved on First Reading. The City held a public meeting on August 21<sup>st</sup> of 2007, to present and discuss Art in Public Places, the Sewer Capacity Fee Ordinance, and also the Impact Fee Ordinance, before you today. On the Art in Public Places will be presented in our next Commission meeting in September. The City sent over seventy-three hundred (7,300) notices to property owners concerning the August 21<sup>st</sup> public meeting, but only twenty were in attendance that night. In addition, this office as well as our consultants had met with the Builders Association of South Florida, representatives from developers, as well as the University of Miami. With that I'd like to bring up our consultant team, and I'd like Cathy to reintroduce themselves and present the following two ordinances for your consideration today. Thank you.

Ms. Dawson: Good afternoon Commissioners, I'm Yvonne Dawson from the firm TischlerBise and I'm joined today by Susan Schoettle-Gumm, our legal consultant. I'm here today to present an abbreviated version of the presentation that you heard on First Reading of the Capacity and Impact Fee Studies that was completed for the City. What I'm going to do is review the fee amounts for the different categories; discuss changes that were made since you've last seen in the report; and then coming to talk to you is Susan who is going to discuss changes to the

ordinance, and then go over in some detail the results of the meeting with the development community and with the University of Miami. As you know, impact fees are a mechanism by which new development teams supports its share of capital cost for public facilities, needed to accommodate that new development -next. Our firm has conducted over six hundred (600) impact fee studies throughout the country including a number in Florida – next – this is a list of our Florida clients – next. Here’s some information on Susan and her experience in local government and especially her specialty in impact fee work – next. The process was that we began by looking, and working with the Planning Department in analyzing demographics, and the projections of new involvement that would be occurring. We also work with different departments to determine what are your current capital costs; we looked at different methods and what would be the most appropriate method to calculate those fees; we evaluated the need for credits where an individual might already be paying for capital facilities through some other means such as a bond; we prepared the Fee Report and as I mentioned we made some changes which, I’ll discuss since the last plat hearing; and then now at the stage of public station, as I mentioned we had two meetings, the development committee and with the University of Miami; and then we are now at the point of decision by elected officials.... next. This presents a generic fee formula; the factors that you are looking at are the demand units per development units, which would be the number of persons per household, or number of employees per thousand square fee, for example; the infrastructure unit per demand unit, the square footage for example, and then the dollars per infrastructure unit – next. This slide presents the Planning Department’s projections and other population employment and housing over the next through 2025 obviously projections do change, but these are used purely for the purpose of trying to get a sense for what potential revenue expenses related to new growth might be – next. This slide – in the previous presentation, I walked through the methodology for each of the key components, for this presentation I’m just presenting the total amounts, and so the past two fees include costs related to pump stations and distribution lines, excuse me collection lines – next. And then, I have here a summary of the revisions that we made. Two things happened since the last hearing; we revised the park impact fee downward to reflect the fact that the County has some dedicated dollars through its Bond Program for park improvement that are specifically designated for Coral Gables.

Vice Mayor Kerdyk: How much did that go down?

Ms. Dawson: An example is that for the multi family, low-rise park impact fee reduced slightly from three thousand nine hundred ninety-two dollars (\$3,992) to three thousand nine hundred thirty-one dollars (\$3,931); it’s a slight revision but we wanted to make sure that that was reflected – next. The next revision was to General Government Impact Fee, and we are now to serve new development, so some examples are, and again the impact fee in this case went down; so for multi family, low-rise General Government impact fee, is reduced from one thousand eight hundred and sixty-five dollars (\$1,865) to eight hundred and seventy-three dollars (\$873); commercial shopping from twenty-five thousand to fifty thousand gross square feet, reduced from one dollar thirty-seven (\$1.37) to sixty-four cents (0.64c) per square feet; office – ten thousand to twenty-five thousand gross square feet, reduced from one dollar ninety-nine (\$1.99) a square foot to ninety-three (0.93c) per square foot – next. So this is a summary of the revised proposed impact fees, I abbreviated the schedule slightly so within the full report it’s a little more broken out, especially for commercial shopping and office. So, as I mentioned there are

reductions from the last one you saw in the General Government and park category – next. And just to recap, the Capital components that are considered in each of the fee categories are essentially building, land, and vehicles, and equipment; and the demand drivers for those are for Police, Fire and General Government is both residential and non-residential, and in parks residential – next. This slide presents the Police impact fee, and there are no changes here, and again this is abbreviated, the full version is included in the Fee Report – next. This slide presents its development projections than what potential impact fee revenue the City might receive, and those projections are up to one point seven million (\$1.7M), some of which will go towards new station **state**; the acquisition of additional land and the purchase of additional patrol cars and equipment – next. This slide presents Fire and EMS, and again there are no changes on this slide – next. And again, these are projected impact fee revenue, so projected up to four million (\$4M), again for fire facilities, land acquisition, and vehicles and apparatus – next. So there are provisions here to the General Government impact fee, as I mentioned the reduction for a more conservative projection of General Government state needs, and that provides as our revenue projection, so projected to generate up to two point two million (\$2.2M) in revenue – next – next. OK, and then the parks impact is reduced slightly to reflect that dedicated dollars through the County Bond Program – next. This slide presents the projected impact fee revenue for parks and what those different capital components projected you would need to acquire in the park area – next. And then this summarizes projected fee revenue again, if some of the projections pulled, this is for the impact fee component as well as for the estimated impact fee revenue projection – next. And then this last piece before I hand it over to Susan is a calculation of the optional service charge, which basically allows the City to recoup dollars related to conducting this impact fee study; and now I'm going to pass it over to Susan who is going to address legal issues and changes to the ordinance as well as meetings we had with the development community.

Ms. Schoettle-Gumm: Good afternoon Commissioners, I am Susan Schoettle-Gumm let me just mention on the optional service charge, I believe there is a resolution on your agenda later this afternoon for you to have the opportunity to consider whether you want to adopt that service charge. Right now that service charge, because of requirements in the Florida Statutes, they require it to be based on actual cost; right now it's based only on the cost of getting you to this point, creating this study, and as you move forward you could analyze the actual cost of your administration of the impact fee system, and add to that as you update it, but that would be on your agenda later this afternoon – next slide. I'm going to briefly review the ordinances. The proposed ordinances as they are set forth now impose the impact fees on all the building permits issued after 8:00 p.m. on September 10<sup>th</sup>, 2007, which perhaps the fee would be applicable only on building permits issued for development within the existing sewer districts. And that was an issue we discussed on First Reading, and some changes had been made to the sewer capacity ordinance to clarify that issue. The fees are applicable only to development generating an increase demand for public facilities. There is a petition process in both ordinances to address unusual circumstances, unique land uses or situations where there is particular development that believes it generates a lesser impact than the averages that are incorporated into the impact fee calculations. I mentioned the optional service charge; there is also an optional annual inflation modification. If the Commission chooses to do that you can look at a source publication such as the Engineering News Record, and apply an average inflation rate to update the fees annually as an incremental update, in between or triennial totally in the impact fee systems. Under reports and reviews you will receive an annual report from the City Manager and from staff that details

the fees that have been collected, by each type of impact fee, how much interest was earned on those funds, and how that money had been expended, and that report would also identify any areas where they believe – staff may believe that the ordinance needs to be modified, the cost may be increasing at an unusual rate, maybe they want you to come back and look at the impact fee calculations before the three year time period, things like that; its an annual opportunity for the City to take a look at the system and sort of see where things stand and determine if they think any changes need to be made – next slide. Modifications to the ordinances since you saw them for First Reading; I incorporated the TischlerBise impact fee recommendations related to incorporating the additional bond credit for the parks, and the most conservative approach on the General Government square footage. We also deleted the nursing home category from the list of land uses and I'll discuss that in more detail when I talk about some the issues that the University of Miami has raised; it alerted us to an issue that lead TischlerBise recommending deleting that category; and I had also clarified the language on the petition process knowing that there are some developers out there that are concerned about that process and trying to provide more clarity, and provide a couple of more areas of more flexibility for the City. What I incorporated in the ordinance there is that the petition process, that determination has to be based on comparison of the data that's submitted by the petitioner, compared to the data that is in the staff report that is submitted to the City Manager; and so you are looking at evidence in data, not assumptions, not quite so fancy, but actual evidence in data, that determination has to be made on. It also must reflect the permit change in demand; so for example if you – one of the petitions I dealt with some years ago was a gas station that believed because the population in its area was low, it wasn't generating the same traffic impact as gas stations in other areas. We denied that petition because they had no real evidence that their ultimate trip generation rate was going to be lower, and in fact since then that gas station has expanded twice; they built there in anticipation of future development. That's why I mean when I say it has to be based on a permanent characteristic. One thing that I did different in your ordinance than any of the other ones I've done, was I allowed for the opportunity for the City to enter into an agreement with the petitioner. So, say for example, you have something that's not incorporated into a deed restriction. So, for example, elderly housing that restricts by deed restrictions that there could be no children living there. Florida courts have determined that in that case it is not appropriate for that kind of development fee required for a schooling type fee; if no children can live there they can not generate an impact on schools. You have some developers that may not have deed restriction, but that might have such long term characteristics that the City and that entity can enter into an agreement that says, we agree with you that your demand characteristics, even though they are not permanently enforceable via a deed restriction, might warrant us looking at you differently. You can enter into an agreement with them that says, as long as this policy or this characteristic stays the same, you get the reduced rate, but if for example you change that policy ten years from now, you would come back in and pay the difference between the impact fees that were due in the beginning. That process is at the option of the City, you would not be required to do that, but I added that in to try to provide the City with more flexibility knowing that you have some unusual developments within the City of Coral Gables, and as I said I've not done that anywhere else, but I thought it was more in keeping to give you the opportunity to deal with some unique circumstances. In particular some issues raised by the University of Miami, for example their on campus Police Force.

Mayor Slesnick: Where is the nursing home language?

Ms. Schoettle-Gumm: It should be shown in the red line strike through; it would be in – if you look at one of the fee categories... [inaudible]...

Mayor Slesnick:...E-3 or E-4

Ms. Schoettle-Gumm: E-4 – the impact fee but not the sewer one.

Mayor Slesnick: E-4 – I looked for that, but I didn't see it.

Ms. Schoettle-Gumm: It should have shown as a strike through, basically the last line of any of the fee charts, on mine its on page 10, but that's my....

Mayor Slesnick: And you said this was language brought by the University of Miami, a nursing home issue; what was the issue and what did you do? And why did you do it?

Ms. Schoettle-Gumm: The issue there, I think, on mine it's on the bottom of page 9; but yours was printed all here so I'm not sure what page it printed on. What happened was the University of Miami requested that the ITE category for the University college be used as a specific calculation for the University of Miami, and in looking at that, for the calculation of these fees other than police, what we are really looking for is data on employees, not generation rates; and in looking at that ITE cautioned against using the employee's data, and ITE for the University because the sample size is so small; and when we looked at that further we discovered that the nursing home employee data suffered from the same problem of smaller sample size that made the data not as good, so we recommend deleting that category. Now, if the nursing home comes in, they can certainly go through the petition process and develop their employee data for you.

Mayor Slesnick: Now I found it, its not structured....[inaudible]

Ms. Schoettle-Gumm: Yours is different from mine, I'm sorry; mine has the strike through.

Mayor Slesnick: I found the bubble, and we didn't do it by employee, we did it by bed.

Ms. Schoettle-Gumm: No, but the calculation is by employee; the data of the fee is the calculation of the fee per demand unit is based on employees.

Ms. Swanson: So the employees per bed.

Ms. Schoettle-Gumm: That's how ITE relates – that's how they came up with that unit, it's the background data its employees not just...

Mayor Slesnick: OK, so explain exactly – sub category you've got lodging per room, thats employees per room...

Ms. Schoettle-Gumm: That's how ITE classify the data that they use employees to feed into identifying the demand generated at the average by per bed or per room.

Mayor Slesnick: Thank you.

Ms. Schoettle-Gumm: It's in the background of the fee calculations, not necessarily how you apply it to a new unit of development. The sanitary sewer capacity fee ordinance, as I mentioned earlier or clarified applies only to new development within the existing sewer districts; and I've attached maps of the sewer districts as exhibits to the ordinance to make it clear exactly where it applies, and where it does not. I also added similar language on clarifying on petition determinations in the sewer capacity fee ordinance just for consistency – next slide please. Because it's such a critical legal requirement, I want to briefly review the restrictions on how you spend impact fees and capacity fees. They may be spent only on system improvements, in other words you can't spend them on small localized improvements that will not serve generally the population of the City. They must be spent only on the type of infrastructure to which they were collected. Park impact fees can only be spent on park improvements; sewer capacity fees can be spent only on sewer improvements. The fees have to be accounted for separately and not co-mingled, and interest earned on each account must stay within that account. The fees must be expended or appropriated within six years and a quarter of the time collected, so that's why that annual report helps you keep track of everything, and generally you look at as the first fee in is the first fee out; you don't have to track it penny by penny, but as you spend money you just assume that whatever you spend was the first money in, was the oldest money that get spent first. Capital projects must have a useful life of at least five (5) years and cost at least ten thousand dollars (\$10,000); they must provide capacity needed to provide service or a level of service to new development or connections; in other words you can't use this money to repair, replace or maintain your capital facilities; you must use other lawfully available funds in the City for those needs – next slide. Some of the concerns that were expressed at First Reading: we had questions about the impact of the fee on reconstruction and redevelopment; and we discussed with you a little bit about if you replace an existing dwelling unit with another dwelling unit, even if its larger, there is no additional impact fee charge. Redevelopment is the same thing, unless they increase the size of the redevelopment, or it changes the land use category such that the impact generated is increased. There is also a dominimous standard incorporated into the ordinance; if you expand a non-residential use equal to or less than a thousand gross square feet (1,000gsf) its assumed to really generate an insignificant increase demand on facilities who don't have to deal with that on the impact fees. There were questions about how the fees would be expended, and I think after we went through the definition of system improvement, capital improvement, and the fact that the fees can only be spent on projects that are in your adopted CIP, and made all the requirements that I discussed related to the previous slide, these are standard and widely used restrictions on expenditures of impact fees.

Vice Mayor Kerdyk: Let me ask you a question regards to the park fee. If you are getting the park fee out to multi family dwelling, that could be used in a single family location though, the park fee that you get, because we are looking at this as the City as a whole, we are not segregating it out in different areas.

Ms. Schoettle-Gumm: Correct, correct. The district – the benefit district for all of these impact fees, except for the sewer is that its just in the sewer district, is the City itself, and how we incorporated into the ordinance and the methodology making sure that legal requirements are

complied with on that, is they must be a class of park facilities that will generally serve the City. So for example, you wouldn't do a top lot in a neighborhood that's going to have a very small service area, but basketball courts, tennis courts; those active recreation facilities that provide a draw for the larger area are the type of park facilities that the impact fees can be spent on.

Commissioner Withers: If we build parking...

Ms. Schoettle-Gumm: Don't go there...

Mayor Slesnick: That's another discussion.

Ms. Schoettle-Gumm: Alright. One of the other issues raised was a request for delay in implementation of the fees, or phase-in implementation. That is something that is at the discretion of the City Commission; however, we would like you to consider that delay simply means that there is more development occurring without you collecting the impact fees for which you have less revenue to construct the needed facilities to provide capacity for them. A phase-in also conflicts with a periodic update to the impact fee. So for example, I think one of the developers requested a three year phase-in; well, in the ordinance you are required to take a whole new look at the impact fee in three years, so three years you would just be reaching the level of fees that we are recommending you adopt today, and you'll already be kicking in to another update, and that will conflict with your annual inflation increase that you have the option to look at. So, if you delay the inevitable, it's what a delay does, it doesn't really help the City in a timely way. If I could briefly discuss some of the issues that were specifically raised by the University of Miami? I was first contacted by Fishbine on August 8<sup>th</sup>, requesting me to discuss with him and look at some issues that the City of Miami, sorry the University of Miami was concerned about. Then we met with the University of Miami on August 23<sup>rd</sup>, I believe they asked for the meeting and we scheduled it as quickly as we could; and we had a very productive meeting, I believe; went over a lot of issues – next slide please. One of the first requests that the University of Miami had was that we use the University college land use category in the ITE trip generation manual. TischlerBise looked at that reviewed it and I believe you have the letter in your file, in your packet, I'm sorry; and August 20<sup>th</sup> letter from Maria Jimenez, Assistant City Manager – to Maria from TischlerBise looking at these issues in more detail. I'm going to briefly discuss them here. All of the proposed impact fees, except for the Police Impact Fee, are calculated using population and employee data, not trip generation. So the issue I mentioned earlier about the deletion of nursing homes because it didn't have a sufficient sample size to warrant use of ITE data for employees, that's where we discovered that issue is when we looked at the specific data on the University category. So although there is trip generation data in ITE for University colleges, the data on employees ITE itself cautioned against using that data because of the small sample size; and through the process of developing this it was anticipated that the University of Miami could use the petition process to raise and deal with any unique issues and characteristics they have. One question asked of us was, have we not done impact fees anywhere for the Universities, and in fact I have – TischlerBise have done a number of them – TischlerBise has done over six hundred impact fees across the country, and not once has a university raised these issues in the way the University of Miami has. So, we were questioned why we did not come to them in advance. It is not standard practice to go out and identify unique land uses as developing a general program like this. The petition process is seen as a mechanism



for addressing those as they come in, and I think – there's that process and there is some other legislative process the Commission may want to consider as well. So it's not that the system can't accommodate those unique uses, you just don't go out in a proactive way and deal with those in advance, that's just not the standard practice. You had requested use of their 2007 regional traffic study concurrency analysis, that was provided, I believe on the 10<sup>th</sup> of August to TischlerBise; they had an opportunity to briefly review it, and again it was not apparent that the data on employee projections by building was there. You may in fact have that data, a lot of times that is information that is fed into developing trip generation rates, so they may have that information that in the future can be fed into the system and used to address their issues, but again that study did not provide those specific data needed for calculation of these proposed impact fees – next slide please. University of Miami stated their belief that the University generates less demand for Police facilities, park facilities, and general government facilities. Also, they did not express any real concerns about the proposed fire impact fee. They felt that they generated the same demands for fire facilities as other developments. So, as I understand it as of right now there are no real concerns about that; I'm sure they will let us know when they speak to you later. The University does provide some on campus patrols, provides some recreational facilities, and some general administrative support to the student population. These are the kind of issues that can be analyzed, can be looked at, could be used to modify the fee calculations or the fee amounts that will be posted on the University of Miami, but we need the data in evidence on which to base that.

Commissioner Withers: Can I ask you a question?

Ms. Schoettle-Gumm: Yes sir.

Commissioner Withers: Why are we going through the University of Miami now? I thought that was the whole petition process where people come to us and petition once we pass the ordinance. Why are we doing all this now?

Ms. Schoettle-Gumm: I'm just trying to update you on what occurred and what was discussed in our meeting last week; just providing you some information.

Commissioner Withers: But I mean, if I'm out there watching this, and I'm a developer, I'm going to say, well why didn't I have a chance to come in and meet with these folks before this ordinance was put in place?– I just don't think it's appropriate that we are discussing a specific – I don't know how the rest of the Commission feels.

Ms. Schoettle-Gumm: That's fine; I was just trying to provide some background.

Commissioner Withers: I understand that, I mean, as we go deeper into this, I think...

[Inaudible].

Commissioner Withers: Well we are here to discuss the ordinance, aren't we?

Vice Mayor Kerdyk: No doubt about it, but...

Commissioner Withers: I'll continue on.

Ms. Schoettle-Gumm: If it's the pleasure of the Commission.

Mayor Slesnick: At the last meeting the University of Miami raised objection...

Commissioner Withers: Are we going to decide on these today?

Ms. Schoettle-Gumm: We are not recommending any changes to the proposed ordinances...the petition process.

City Manager Brown: The petition process is in place.

Commissioner Withers: We are going to hear it again; we are going to hear the same petition process when they come back.

Mayor Slesnick: [Inaudible]

Commissioner Withers: Aren't we supposed to have an ordinance in place for thirty days before.

Ms. Schoettle-Gumm: I'm almost done.

Mayor Slesnick: ....The only thing I've seen is that they have opposed the ordinance; they oppose coverage by the ordinance, and so in an effort to talk out the differences we asked them to...

Commissioner Withers: Well, they are opposed to Police portion; they are opposed to the parks portion.

Mayor Slesnick: In the beginning they wanted exemption from the ordinance.

Commissioner Withers: They wanted exemption from the entire ordinance...

Ms. Schoettle-Gumm: Directly to me they did not requested exemption from the ordinance.

Mayor Slesnick: At the last meeting they got requested exemption, but in the alternative of being exempted they should have certain modifications, and the alternative certain modification is the petition. I don't know where their request is today...

Commissioner Withers: Where they are headed.

Mayor Slesnick: Yes, this is just a report of the meetings that came about.

Commissioner Withers: I guess I just feel that if the University of Miami is going to petition us for relief, they shouldn't use our City dollars and our reporters, and our study people to report their commission; they should present it to us themselves.

Commissioner Cabrera: And I agree with you, but I think we are getting a heads up.

Ms. Schoettle-Gumm: That's what I was trying to do is just let you know the issues that have been raised and what are the discussions recovered. There are a number of options available to the Commission on how you approach that, but we are recommending no changes to the ordinances or fee schedule as proposed to you today. Just one last point; the University of Miami was asking for a new land use category to be inserted into the ordinances into the impact fee ordinance at this time, and I had to inform them that my opinion, my recommendation that that kind of change to the fee schedule, I would recommend that you then go through the entire ninety day notice under the Florida Impact Fee Act again, because that would be a new fee not previously incorporated into the fee schedule; there are other changes to the ordinance that I believe fall within the parameters of notice of changes to ordinances, but inserting a new land use category, at this time I would have to recommend to you not to create a procedural ....case in your ordinance and due the 90 day business plan that is one of the things they are going to ask you about, and that is all I have to talk to you about today. I am here to answer questions..

Mayor: Why don't we go ahead and have other presentations and wait for the questions.

Commissioner Cabrera: Let me ask you, I have a general question, and I am going to kind of put you on the spot, but I know the answer already.

Ms. Schoettle-Gumm: Do you want to tell me what the answer is.

Commissioner Cabrera: Well if you would like me to I would, but I would like to give you a chance to respond. You know there has been a rumor circling around the community since your first presentation under first reading that some how some way the efforts of your firm would reap a financial reward based upon these impact fees. Are you with me?

Ms. Schoettle-Gumm: I missed the something financial reward?

Commissioner Cabrera: The financial income that you receive from this exercise would be tied into the impact fees themselves. Like a percentage off?

Ms. Schoettle-Gumm: That we would be paid from the future impact fee collection.

Commissioner Cabrera: I wanted to stop that rumor. That is a pretty good deal though, isn't it?

Ms. Schoettle-Gumm: No absolutely not.

Commissioner Cabrera: Correct you are paid a fixed fee. For your services.

Ms. Schoettle-Gumm: Yes.

Commissioner Cabrera: Let the record reflect this.

Ms. Schoettle-Gumm: And the only that shows up is in the calculations of the optional service charges which the committing makes a decision.

Commissioner Cabrera: Right.

Commissioner Anderson: Just to clarify you all are paid a fee for your services.

Commissioner Cabrera: Exactly.

Ms. Schoettle-Gumm: Impact fees are completely separate, you can collect hundreds of millions of dollars in impact fees.

Commissioner Anderson: You wouldn't see it.

Ms. Schoettle-Gumm: Exactly.

Commissioner Cabrera: That is my point.

Commissioner Anderson: You wouldn't have an offshore account somewhere

Commissioner Cabrera: I would like to become employed by you, on a consultant basis.

Ms. Schoettle-Gumm: I have not heard that rumor before that is a new one.

Commissioner Cabrera: We hear a lot of that stuff. You know.

Ms. Schoettle-Gumm: Absolutely, it is completely separate.

Commissioner Cabrera: While the rumor starters probably are not watching this commission meeting it really does and we get to hear this and then we are told that you all are throwing us under the bus and you are going to drive major income from all of this, I wanted an opportunity to clear the air.

Ms. Schoettle-Gumm: No I appreciate you bringing it up, I really do.

Commissioner Cabrera: Well thank you for putting up with me on it.

Ms. Schoettle-Gumm: That is all right, I wanted to make sure I was hearing you correctly because that is an allegation I had not heard before, directed at me anyway.

Commissioner Cabrera: I was trying to be politically correct.

Ms. Schoettle-Gumm: Thank you.

Commissioner Cabrera: Thank you.

Ms. Schoettle-Gumm: I appreciate it. I really do appreciate you bringing that up because I do want to clear up those kinds of things. That is absolutely not the case.

Commissioner Cabrera: Thank you.

Ms. Schoettle-Gumm: Thank you.

[Inaudible]

Santiago Echemendia: On behalf of Amance works, we are supportive of the impact fee ordinance there is one section that we have a number of questions on, specifically as you all know it is going to settle with a sixty-six hundred dollar (\$6,600) fee ninety-two percent (92%) of which is for land acquisitions. The basis for the land acquisition number is University Baptist Church that is at \$3.7 Million an acre. When we looked at that we realized that twenty-five percent (25%) of that \$3.7 Million Dollars is for land the other 75% is for building, we are talking about buying vacant for parks we are not talking about buying ... and therefore we think to use the \$3.7 million dollars that is based on land plus the building is an erroneous figure to use relative to buying vacant land for parks. Moreover you have 52 sites of vacant land apparently very small parcel are identify in your reports as land for possible acquisitions for park sites it is vertically impossible in your report you can't tell that these properties are located, I would submit to you that the other side of the equation is understanding where these properties are going to be bought and are they sufficiently large, and will it make sense from an open land parks perspective, I mean if this were **rennet** lots that are tied to an abutting property; if 20 to 30 of these 52 parcels are those types of parcels and it is identify in your reports that they are very small parcels what is that really adding to our open space. And so I submit to you that it is worth looking at the parks component a little more thoroughly that that portion could be, we are not suggesting that you defer the entire ordinance, but maybe at least the parks component we would appreciate a backup defer or at the very least, if we got some..., I think that the answer to the question is that the consultants in looking at University Baptist Church did in fact include the buildings and not just the land, and therefore that \$3.7 million dollar figure is faulty. Lastly

Mayor Slesnick: Are you talking about the chart you are reading?

Santiago Echemendia: That is a chart that we prepared, I am not going off the chart, I am telling you that your consultant...

**Mayor Slesnick: I am trying to figure out what you are saying with this chart.**

Santiago Echemendia: I'll let Amanda due that in a second, since she prepared the chart, I am just giving you kind of a global. The issue that jumps out at me is that the \$3.7 million dollar figure is not the correct figure, it should be 25% percent of \$3.7 million dollar figure, of the \$3.7 million dollars, because you are not buying improved land you are buying vacant land which has been identified as 52 parcels in your report. Lastly you had in your **...** report it talks about a recreational facility needs assessment that study is going to be undergone by your Planning Department and what it does is, it identifies the for recreation facilities within certain radii we are suggesting that if you planning department is spending time and effort in that endeavor which

they are doing pursuant to the year report shouldn't you to adopt the parks provision wait until that is adopted by the City Commission to maybe due them in concert it would seem that that action would be a little more educated and informed than it would be taking an action today on just the parks and technique component. With that let me have Amanda just amplified a little bit more on numerical issue and some of the other issues.

Amanda: Amanda (SOMETHING) 1441 Brickell, just I cast out this chart because it has some dollar figures that maybe would put a little more perspective as to what kind of modifications we are looking at according to the data and as Santiago was saying we were hoping that it would at least replicate portion of the Ordinance for a couple of reasons one being that the property is assessed for \$3.7 Million per acre SOMETHING there was another component