

City of Coral Gables City Commission Meeting
Agenda Item E-5 and E-6 are related
August 26, 2014
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason

Vice Mayor William H. Kerdyk, Jr.

Commissioner Pat Keon

Commissioner Vince Lago

Commissioner Frank Quesada

City Staff

Interim City Manager, Carmen Olazabal

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Public Speaker(s)

Perry Adair, Representing Business Improvement District (B.I.D.)

Jorge Alvarez, Representing The University of the Southernmost Florida

Agenda Items E-5, and E-6 are related [Start: 05:55:45 p.m.]

E-5: Zoning Code Text Amendment. An Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code, amending Article 5, “Development Standards”, Section 5-1408, “Common driveways and remote off-street parking”, by providing regulations, restrictions and procedures for the use of remote parking in and near the Central Business District (“CBD”); amending the reference to remote parking in Article 5, “Development Standards”, Section 5-1409, “Amount of required parking” to match the changes to Section 5-1408, providing for severability, codification and an effective date. (Passed on First Reading July 22, 2014)

E-6: Resolution. Resolution of the City Commission of Coral Gables amending Resolution No. 2013-89, known as the fee ordinance, by adding a remote parking fee in accordance with Zoning Code Article 5, “Development Standards”, Section

5-1408, “Common Driveways and Remote Off-Street Parking”, and providing for an effective date.

Mayor Cason: Alright E-5 and E-6. These are Ordinances on Second Reading.

Interim City Manager Olazabal: Craig you usually read them into the record when it is Second Reading.

City Attorney Leen: Yes, I am just trying...It is so much, so many documents. Just give me one moment.

Mayor Cason: Do you want a copy? I have one.

Interim City Manager Olazabal: Would you like me to read them? I can read them.

City Attorney Leen: I should read them under the Code. Sorry. E-5 and E-6 Ordinances on Second Reading, Remote Parking. Zoning Code Text Amendment. An Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code: amending Article 5, “Development Standards”, Section 5-1408, “Common driveways and remote off-street parking”, by providing regulations, restrictions and procedures for the use of remote parking in and near the Central Business District (“CBD”); and amending the reference to remote parking in Article 5, “Development Standards”, Section 5-1409, “Amount of required parking” to match the changes to Section 5-1408; providing for severability, repealer, codification and an effective date. This is a public hearing. There is also a Resolution Remote Parking Fee. A Resolution of the City Commission of Coral Gables amending Resolution No. 2013-89, known as the Fee Ordinance, by adding a remote parking fee in accordance with Zoning Code Article 5, “Development Standards”, Section 5-1408, “Common Driveways and Remote Off-Street Parking”; and providing for an effective date. This will be heard at the same time as the Ordinance, two separate votes.

Commissioner Quesada: I’ll make a motion on E-5.

Mayor Cason: We have one...

Commissioner Keon: Is this on First Reading?

City Attorney Leen: It is Second Reading.

Mayor Cason: Do you want to talk? Jorge Alvarez. It is the one speaker card we have.

Commissioner Quesada: Yes, we had a pretty lengthy conversation at the First Reading, if I recall.

Mayor Cason: Do you have anything new to...

Mr. Alvarez: We still don't have a solution and maybe after you pass this I can just speak briefly.

Vice Mayor Kerdyk: That's alright.

Commissioner Quesada: I'll make a motion on E-5.

Mayor Cason: Yes.

Commissioner Keon: Can we have a discussion before or do you have to make your motion?

Commissioner Quesada: Oh no, go ahead.

Vice Mayor Kerdyk: I'll second it for discussion purposes.

Commissioner Keon: Thank you. I have concerns about the remote parking on lease property unless the lease on the parking runs with the lease on building, because if you have a ten year lease on the building I would rather you have a ten year lease on the parking. The problem with it is public parking, if it is City parking it ties it up and we don't have the flexibility unless we have enough parking, enough additional parking that is not going bother us. The problem is, and you know from seating here, that if you do this, they have a ten year lease on the building, they have a one year lease on parking, after one year whoever they have isn't going to renew their lease or there is not parking available. What is your ability to shut down the use of that building, you are going to tell them shut down your fourth floor?

Commissioner Quesada: I thought we agreed to this last time around, I think we were all in agreement with exactly what you are saying. Is the language in the Resolution not clear?

Commissioner Keon: The language in the Resolution is for a one year lease I thought. It is a one year lease, it is not that the lease doesn't run with the lease on whatever the building is or the proprietor is asking for the lease, or in need of the parking.

Mayor Cason: Go ahead tell us what we agreed on last time.

Development Services Director Tompkins: Good evening Jane Tompkins, this is an issue that kind of evolved on the many discussions we had at the Planning and Zoning Board. Initially, we were requiring ownership even for tenants over the discussion with the public and the Planning and Zoning Board that changed to a five year minimum lease and where we finally wound up was a one year lease and that is tied to the Certificate of Use.

Mayor Cason: But didn't we say that if you own the building you have to own the...

Vice Mayor Kerdyk: Yes, that is true.

Mayor Cason: So we took care of that. Now in terms of the lease, we basically said, a number of things, that we were not going to allow parking outside the Gables, that they would come to the Commission for any kind of variance or a waiver.

Vice Mayor Kerdyk: There are several things that we did, but one of them was that 1,000 was the threshold, but if they had to locate parking outside of it, we had to come to the Commission to secure the parking as far as that is concerned.

Commissioner Lago: Within the City boundaries.

Vice Mayor Kerdyk: Inside City boundaries. As far as if they were building in their own building, they had to secure parking within 1,000 feet that they owned. Correct? The one that we didn't address was the one year, the lease for one year. That was something that we went ahead and passed and I have to tell you I have an issue with that, but what I was going to suggest that if we were going to pass this to review it after a year to see how that is working.

Commissioner Lago: The ramifications.

Vice Mayor Kerdyk: The ramifications...

Commissioner Quesada: But how do we police it?- we are not going to be able to police it.

Commissioner Keon: You can't police it.

Mayor Cason: I agree with Commissioner Keon, in that I am worried that once you get the foot in the door, if you get a lease for a year and then what happens if you can't find a new place, or the person that is leasing it to you builds something or they bought a business or something, then

what happens? They are going to say well we can't find anything and what are we going to say, you have to leave the building.

Commissioner Quesada: How common is it?- and actually I think Perry and Jorge are the two guys to answer this question because you guys have been looking for parking spaces. How common is it for a building to have excess parking?

Mr. Perry Adair: There are some people who build excess parking, and we have found some excess parking that we try to make deals with, but there is not a lot excess parking around, but there is some excess parking. Commissioner Keon I understand your concern, that is a legitimate concern, but here is the dynamic problem in real life, so I have a ten year lease in my building and you give me a CO (Certificate of Occupancy) and I go ahead and I move and I operate my business. If I am having my parking offsite under a lease then I can covenant with the City that if that parking is not available that you can take my CO, that is the deal. The dilemma is, your deal is more fool proof, but the problem is this, in real life if you can't find a guy who will give you a ten year lease on the property then there is no way to take advantage of this legislation you are passing. So, you have a legitimate concern, but can you shut them down if you make them covenant with the City that, that is what happens if you don't have the parking you can take my CO. I don't know that there is much to discuss, it won't be pleasant, but that will be what it is.

Vice Mayor Kerdyk: I don't know if any property in the City of Coral Gables has a ten year lease on a parking.

Mr. Adair: Right, that is the dilemma.

Vice Mayor Kerdyk: To me that is just not heard of, it just can't be done.

Mr. Adair: And you might have it for a year and you might have it in another building, or you might have to find a lease somewhere else after a year.

Commissioner Keon: And if you don't what happens?

Mr. Adair: Well if you have covenant with the City, that if I don't have the parking you take my CO, you take my CO, that is...

Commissioner Keon: I mean their issue here is unfortunately you went into a building, leased a building and built it out where you didn't have the parking requirement for the building and then you come and you look for relief.

Mr. Adair: Almost, in Dade Medical's spot how we solved it was, we said to the City we won't build out that floor that is requiring the extra parking, unless we can find the parking somewhere, so if we can't find the parking, we can't build out the floor, but we are still paying rent. It is not a pleasant situation but your point is, is of your own creation. I agree, that is on us, but going out and finding parking for a year is a whole different animal then finding it for ten years or whatever term of the lease and the deal we make with the City is you take our CO and I say Dade Medical, it could be anybody who takes advantage of this, because you don't really care if I have my remote parking over here for a year and over here for a year as long as I have the parking. Well that is the dilemma with requiring the solution you want upfront, because it would be very difficult to comply with that, because now another owner says I'll be tied up with you for ten years, I don't want that.

Commissioner Keon: Is this in that Resolution the covenant?

Mr. Adair: I think it is.

City Attorney Leen: Yes, there will be a covenant by the City Attorney that I approve that will have the different requirements, you didn't read that in there?

Commissioner Keon: I didn't read that in there.

Mayor Cason: So the burden on you during that year is to keep looking and if somebody says I am no longer going to rent it to you anymore than you have to find another space.

Mr. Adair: Right, and if we don't the penalty is...

Mayor Cason: Or bits and pieces here and there.

Mr. Adair: Could be, absolutely could be Mayor. Right – could be bits and pieces, yes sir.

Mayor Cason: And what this does is, in unusual cases after the year some special case you could come to us and we would look at the elements of your argument, if you can't find anything and we would at that point discuss.

Commissioner Quesada: I am sorry to cut you off, so if we were to keep it the same we need to work into it a procedural aspect some sort of mechanism that the tenant has to come to us, or the property owner has to come to us in a yearly basis and that has to be worked in somehow.

Rather than seeking out a ten or a fifteen year parking lease which the Vice Mayor is correct, I have never heard of something like that in Coral Gables.

Commissioner Lago: Let me ask you personally, does staff already have a mechanism to ensure compliance so that we avoid what we are discussing right now?

Development Services Director Tompkins: We require certificate of use renewed annually, the proposed Ordinance includes language that the documentation on the lease for the parking would have to be resubmitted annually with that certificate of use.

Commissioner Lago: Reviewing that annually basically ensures what the Vice Mayor said, you know it gives us that safety blanket to ensure that compliance is met.

Mayor Cason: And if you don't find it you are in trouble, if you don't find any other place we will take away the CO. Is that correct?

Development Services Director Tompkins: Right. We also have it in the Ordinance requirement for notice, if the lease is terminated before that year is up. There is a 90 day notice period to the City.

Commissioner Quesada: OK. You think that needs to be in the Resolution, that we amend the Resolution?

Development Services Director Tompkins: No, that is in the Ordinance now.

Commissioner Quesada: It is in the Ordinance. Ok.

Vice Mayor Kerdyk: I do think that we need to put, or at least understand that we need to look at this Ordinance again after one year, because I am going to tell you realistically 1,000 feet to walk is not 500 feet. So I wonder what the burden on the street parking is going to be now that people can't get close to their car and they have to park far away that is something that we can tell over the next year I don't want to change the Ordinance at this point, but I want to make sure that we understand that we do need to revisit it from our standpoint again in a year from now.

Commissioner Lago: I agree with your concern, but I answer it with today we passed the sustainability plan and we are going to address walking, biking, the trolleys. We are going to make us a more pedestrian-friendly City. So you will see, we are going to address those issues.

Vice Mayor Kerdyk: Hit the landscaping too.

[Laughter]

Mayor Cason: We have a motion made by Commissioner Quesada on E-5 first.

Commissioner Lago: I'll second that motion.

Mayor Cason: Commissioner Quesada makes the motion, Commissioner Lago seconds it. City Clerk.

Commissioner Quesada: Yes.

Commissioner Keon: Yes.

Vice Mayor Kerdyk: Yes.

Commissioner Lago: Yes.

Mayor Cason: Yes.

Commissioner Quesada: I'll make a motion on E-6.

Mayor Cason: Commissioner Quesada makes the motion on E-6.

Vice Mayor Kerdyk: Second.

Mayor Cason: Vice Mayor seconds it. City Clerk.

Commissioner Keon: Yes.

Vice Mayor Kerdyk: Yes.

Commissioner Lago: Yes.

Commissioner Quesada: Yes.

Mayor Cason: Yes.

Commissioner Lago: Jorge.

Mr. Alvarez: Yes, Mr. Mayor, Commissioners, Jorge Alvarez 95 Merrick representing the University of Southernmost Florida, we have an interim issue now that this has passed. The universe now expands that you allow with your vote to go over 1,000 feet so we feel that we are going to be able to find additional parking, going over 1,000, but today we are at a situation where we require those 42 spaces in order to build out that third floor. The Parking Director has identified 42 spaces in an unused rooftop lot that hasn't been used for ten years and we propose for this one year period to utilize those 42 spaces to approximately \$50,000 to the City over a year which is unbudgeted. It is found money for the City and in the meantime it allows us to

build out and it gives us time then to come back to the Commission and look for space that is over 1,000 feet.

Commissioner Lago: Where are those 42 spaces?

Mr. Alvarez: Garage six.

Commissioner Lago: Excuse me?

Mr. Alvarez: Garage six. The rooftop of garage six.

Vice Mayor Kerdyk: The dynamics have changed unfortunately, because in my estimation, and I sympathize believe me I want to help him out as best I can, but we have to look at the Miracle Mile Streetscape now. Do we need those parking spaces where at one time we didn't need them? I am concerned that today's vote may have changed that situation.

Commissioner Lago: That is also a big concern for myself, Vice Mayor.

Vice Mayor Kerdyk: Maybe we can do something, give him six months to look further. I don't know.

Mayor Cason: And also we may have some other uses, right now there is space, but as you said, we may not have space depending on what we do in Streetscape and also I would like to have this more carefully thought out with the BID and the Chamber giving up 42 spaces that are basically available for business users. Maybe they don't have a problem which would help me, but for the long term I don't know that we want to foreclose any possible decision.

Mr. Alvarez: In the interim Mr. Mayor, understanding that policy position if we were allowed than, the certificate to begin building out and within the next six months, we would identify space over 1,000 feet and that would allow us to stop the economic bleeding right now and allows you to continue to study this.

Commissioner Lago: Jorge let me get some clarification from staff, just for a moment. Can you clarify to your knowledge, public parking spaces, how often are they leased out for private entities, in the past, in the present.

Parking Director Kinney: In the history of Coral Gables we have done this one time.

Commissioner Lago: One time. And the length of the lease agreement...

Parking Director Kinney: That is what I mean, for a long term it happened once, I do it on a monthly and quarterly permits.

Commissioner Lago: So when you say quarterly we are talking about three months on the average, so it works out. Again, Jorge I want to help, I think it is essential that we have more people in the downtown area, enjoying the Mile, doing business in the Mile, but I need to be extremely careful when it comes to giving public spaces on a long lease term. Specially, as the Vice Mayor stated we have made some serious decisions here today, that are going to impact the parking in regards to the City for the near future.

Mr. Alvarez: Can you do six months?

Mayor Cason: Do you think you will be able to identify a permanent solution for the 42 spaces, if we give you six months and you have to come back again and tell us then that you have spaces.

Mr. Alvarez: Yes, sir. Yes, Mr. Mayor.

Commissioner Lago: I feel comfortable with that, I don't know how my other colleagues feel.

City Attorney Leen: I need to state on the record and Jorge I know you have been looking for this for a while, but the one concern that we have and it has to be stated, is that you are going to have students there and then in six months you are not going to be able to find that solution and we don't want the City to be put in a position where we are under a tremendous amount of pressure to allow those students to continue when there is no longer sufficient parking spaces. So that needs to be raised at the meeting, ultimately it is your determination.

Commissioner Lago: We are putting it on the record, we are being extremely clear.

Mayor Cason: You really have got to find that because...

Mr. Alvarez: Mr. City Attorney, now that we have an expanded universe of over 1,000 with the Commission approval it changes the whole...

City Attorney Leen: I just want to be clear with the Commission, if after the six months you don't have it, I am going to give the legal opinion that you cannot continue to operate your use until you find the additional parking spaces. I just want to be clear about that.

Mayor Cason: You are clear with that.

Mr. Alvarez: Yes sir.

Mayor Cason: We give you six months, six months from today, you come back the next Commission meeting and you tells us you found the spaces.

Mr. Alvarez: And in the interim, I guess we will do two quarters if it is easier for you. However you decide.

Parking Director Kinney: Just in the interest of full disclosure on a monthly basis we already do permit parking for the University, I think it is...

Mayor Cason: 80 spaces.

Parking Director Kinney: 80 spaces, and I don't know if this is replacing some of those or an addition.

Mr. Alvarez: Just to clarify those are for Dade Medical employees at the corporate office. So, it is a whole separate entity.

Parking Director Kinney: It is no different than we treat other business, but it is a monthly basis.

Mayor Cason: Don't come back later and say, we really had some problem.

Mr. Alvarez: We are on the record, what I need to know about how this happens operationally with staff, that we will do this month-to-month or however it works, that we are allowed our zoning to get this out and begin the construction.

Parking Director Kinney: We actually have a draft lease

City Attorney Leen: I drafted a lease, Commissioner Quesada had raised the issue with me, I drafted that lease. We have it ready.

Mayor Cason: Do you need a motion or do we just give them guidance?

Commissioner Lago: We give guidance.

Commissioner Quesada: I am sorry.

City Attorney Leen: For the lease for the parking remember, they wanted a lease prepared for six months in the event the Commission decided to approve the parking spaces. I have prepared that lease.

Mayor Cason: OK.

Commissioner Quesada: So, do we need a motion to move forward on that or is there a consensus?

Mr. Alvarez: Well we need direction to staff to...

Mayor Cason: Anybody not agree with this, we give you six months when you will find permanent parking for the 42, and then we have the flexibility to use it for whatever needs might occur.

Interim City Manager Olazabal: We probably do need one more clarification, the Remote Parking Ordinance says that it has to be a one year lease so if you are telling us that you are going to do a six month lease and then we are going to come back, then we need authorization to allow the use with that six month lease and then evaluate at six months, I think that was what was going to be your point, but the Ordinance...

Mr. Alvarez: My point is that we be allowed to begin the construction now, based on this action.

Mayor Cason: And you are certain that you are going to find the parking.

Mr. Alvarez: Yes, sir. We will make it happen.

Commissioner Quesada: Just to be clear I will make a motion. To direct staff...

Commissioner Keon: Craig is looking up what the lease says.

City Attorney Leen: Just one moment.

Commissioner Quesada: While we are waiting for him to review it, I know one of the largest property owners on Miracle Mile is here. He just flew in and if we can give him a moment to say a few words, I'll ask the Mayor.

Mayor Cason: On the parking?

Commissioner Quesada: No, not on the parking, on what we just voted on, on the Streetscape.

Mayor Cason: Well we have something else I want to get to before that, we still have another E-7 that we want to get to E-10.

Commissioner Quesada: I think he just wanted 30 seconds.

Mayor Cason: Let's finish this though.

Commissioner Keon: So you needed a lease that is reviewable in six months, can you do that, can you have a 1 year lease reviewable in six months?

City Attorney Leen: We could for example do a one year lease which allows for us to terminate in six months, we could structure it that way, if the Commission is OK with it? So it would meet the Ordinance, but it would also allow you to opt out of it.

Commissioner Keon: Do you need a Resolution to that affect?

City Attorney Leen: Just direct it.

Mayor Cason: Consensus everybody?

Commissioner Quesada: Yes.

Mr. Alvarez: And Madame City Manager that is enough then for us to get whatever paperwork we need to begin construction.

Interim City Manager Olazabal: I think we are going to get an interpretation from the City Attorney's Office that is the one the lease...

City Attorney Leen: Yes, that would be sufficient and I will include language that allows the Commission to opt out.

Mr. Alvarez: Thank you everyone.

Mayor Cason: Thank you.

[End: 6:15:32 p.m.]

