

**DRAFT**

Attachment **A**

CITY OF CORAL GABLES  
PLANNING DEPARTMENT

City of Coral Gables City Commission Meeting  
2011 SEP 26 PM 2:00 Agenda Item – Truck Ordinance Workshop  
September 13, 2011 @ 1:00 p.m.  
City Commission Chambers  
405 Biltmore Way, Coral Gables, FL

**City Commission**

**Mayor Jim Cason**

**Vice Mayor William H. Kerdyk, Jr.**

**Commissioner Maria Anderson**

**Commissioner Rafael “Ralph” Cabrera, Jr.**

**Commissioner Frank Quesada**

**City Staff**

**City Manager, Patrick Salerno**

**City Attorney, Craig E. Leen**

**City Clerk, Walter J. Foeman**

**Deputy City Clerk, Billy Urquia**

**Public Speaker(s)**

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Pick-Up truck Workshop

Mayor Cason: As we said at the end of the last, well two meetings ago now.

Commissioner Anderson: Two meetings ago, yes.

Mayor Cason: We wanted to hold a Commission Workshop to discuss the question of pick-up trucks. This is not a public hearing so there is no input at this stage from the audience, but just to discuss an issue that I know a lot of us have been getting emails and visits on a question of to amend or not to amend or to amend in what way the series of Ordinances starting in 1960 on pick-up trucks that have been in place now for 51 years, basically. So to decide what, if anything, we are going to do with the Ordinance, whether we are going to send it to Planning and Zoning, which I think is what was done back in 20...

Commissioner Anderson: Five.

Mayor Cason: 2005, when this issue was last discussed, when in fact there were a series of hearings at the Planning and Zoning Board and they came up with two versions which did not make it to the Commission at the time because of the fact that we were in litigation since 2003,

and so we won that as we know. We have established at least in the Third District Court, that we have the right to defend our Ordinances, which may be different from other cities, but we won that and we have established that right. The question that was raised in the dissent of that was whether a part from the legality of it was time to take a look at it for other reasons, the pick-up truck Ordinance. I think that at the last meeting the City Attorney gave us a very hefty, very well-done compilation of not only the history of this Ordinance from 1960 and the definitions that we have gone through on pick-up trucks, and trucks and so on. Also what other cities around the United States have done you have the court decision, plus the minutes of the 2005, it is about 100 page minutes of the zoning discussion at that time. So the purpose of this meeting which I don't expect will be particularly long, is to decide what are we going to do then. I would start with Maria, since she was the one that raised this at the last meeting, I'll start with you.

Commissioner Anderson: Thank you, that was a good summary of the proceedings until now. My desire when I brought this before the Commission, was to take a look at in the light of current day, I believe that it was originally intended as a commercial vehicle Ordinance and I still believe that we shouldn't have commercial vehicles in that Ordinance, I as a fifty-one year resident of this City don't have any desire to damage anybody's city, because it is mine. My whole intent is to put a structure around what I hope it would be thoughtful and reasonable modifications to the Ordinance. I looked through all of the materials and having been reading them for several years, I definitely know what went on when back when Version A with modifications I think was a good start. I think Version A dealt with some stuff that for me was a very good start. I think there are issues of weight that I don't think is appropriate, because I think there might be arguments that trucks that weigh more is not because of the truck itself, but because there may be other features. I would like for us not to look at that. I would like for us to look at dilapidated cars. I think to the heart of the matter we don't allow trucks, well kept trucks, but we allow junky cars, so I would like that. The only other thing I would like to say is, that one of the things I wouldn't want either is those monster trucks, the ones with the large big wheels. What I want for this Ordinance and this truck ordinance, if it were to be modified and it is a decision of this Commission to do that is thoughtful and reasonable, there are a lot of people out there that have very nice trucks, that are for personal use and that is what they are for these days, pretty much, that are law abiding and good residents of the City and actually want to work with us. I know there is a group that has been working. That is all I want, a reasonable review, a fair look at it and hopefully potential modifications at a truck ordinance that we can all live with. That's it.

Mayor Cason: OK. Bill? Frank?

Commissioner Quesada: I wanted to have this workshop after Commissioner Anderson brought it up at the last meeting; you know during the campaign, and Jim I don't know if you heard the same thing, there were a lot of residents that said they wanted to allow trucks in Coral Gables.

Again, no one wants the commercial vehicles, no one wants the commercial markings, but what I heard quite a bit of was that people wanted to allow trucks in some format. I don't know about you guys, I have gotten a lot of emails, a lot of phone calls, on the street, wherever I have been people have...Now it is more 50/50 I am hearing both sides of it now, but before I was only hearing predominantly the side of people that want trucks to be allowed. Again, not the monster trucks, but what many residents consider the residential trucks. So I want to discuss this workshop, I want to hear more resident feedback, I want to do what the residents want to do, what we think is in the best interest of the City. You know, I am leaning towards somewhat an allowance with a lot of restrictions on it, I think I have some concerns in terms of upholding of that nature, I don't want us to be subject to another lawsuit. You know, I think what Craig put together for us was very comprehensive was very helpful, and also the comparisons with the other municipalities out there, but I am not sold either way on this. At this point I want to hear, I want to continue listening to residents and hear what you guys have to say as well, so that I can make a thoughtful decision on this. In that same breath I know it has been before Planning and Zoning in the past. I would like to see it go back so that we can have some more public hearings there so that we can really get a gauge of what residents are saying and feeling and their feedback as well. I know we did that...What year was that? Was that in 07?

Commissioner Anderson: 05.

Commissioner Quesada: 05 and I have seen those minutes and I have seen those recommendations, I don't know if things have changed or not, I wasn't in the Commission at that time, I don't know if residents are saying, have changed their mind in the last 5, 6 years. I know some emails we have gotten, that I have been copied on, and I have seen your names copied on it is saying that things are the same or things are different and we have heard everything I think at this point. I am sure we are going to hear a lot more...

Commissioner Anderson: Yes, no you will.

Commissioner Quesada: But I just want to make sure that we are doing something that the residents want, if that is the case. That is where I am leaning right now, I don't know if that is what you guys are thinking as well. Jim what are your thoughts?

Mayor Cason: Well, let me say that I am certainly totally against any commercial vehicle parking in Coral Gables, whether it is a truck, whether it is an SUV, whether it is a van that it is being used for commercial purposes, I am totally against that. I think this should go to Planning and Zoning to get public input and maybe two different sessions like it was done before, and if they give us a recommendation and that recommendation calls for a change, we will have two more possibilities around an Ordinance to discuss it here. I would like to bring up a couple of just points, not decide anything today, because I think what we really want to decide is whether we want to move it to Planning and Zoning, but just a couple of points, some anomalies in the

sense. You know we have, it is interesting we have an Ordinance in Coral Gables, which allows for the parking of derelict vehicles. You can park two derelict vehicles if you cover them up, and that has been in the books for a long time, as I was reading through the Ordinances I came across it and I was really shocked that we allow derelict vehicles, but not private pick-up trucks, so I just think that, that is an anomaly that one way or another we want to have the board address what do we do with that Ordinance, as well I was going back looking at pictures of pick-up trucks in the 1960's and in doing that research I discovered that there were some pretty ugly pick-up trucks and that they were all commercial 1960 and in fact I found out that the first time that the industry came up with the pick-up truck for personal use was in 1964, so when this Ordinance was passed originally pick-up trucks were commercial vehicles, I mean a lot of vehicles weren't particularly beautiful in that time, but you know really beauty is in the eye of the beholder. I think some people may wonder why we have Jeeps, Hummers, Suburbans, some enormous cars in Coral Gables and we don't have an Ordinance that goes after sort of ugly vehicles or deteriorated vehicles. All we have done is cover them up and you can keep them in Coral Gables. This year there were over a million pick-up trucks sold from January through August in the United States so obviously there are people out there that must think they are nice, because they are buying them by the millions. I got one emailer saying well there is no way we can ever enforce this if we change the regulations. I disagree with that, in fact I went through and categorized how other cities have handled the pick-up truck question. There are sort of five or six ways that they have done it. One, is by one way or another, covering or disguising or hiding the trucks; or 2005 suggestion was that we have them screened on three sides with the front sticking out that was what was going to come before one of the versions to the committee that and a number of other Ordinances have that in it as well. We have some other cities that have used, form fitting tarps and in fact that is what we do for vehicles, but I mean derelict vehicles, which can be up to two of them on blocks with no wheels, and no paint in your driveway. The last in 2005 they had suggested two other options for cover, one was a rigid cover and a factory made top, so I think there are four ways that some cities have looked at it in terms of covering the vehicles. Another way people have done it is in terms of dimensions, I have seen them in terms of length, I have seen them in terms of height of the body of the truck above the ground which gets at the monster trucks, I have seen in Coral Gables monster cars on oversized wheels so they are here. So again tire size, the number of tires, some cities have said four wheels not six, in other words not the double wheels in the back. Others have looked at the question of curb weight trying to get the concept of what is too big or what is appropriate, so there is another way they have done it and that is on dimensions, and others have been the question of how the vehicles are used. A couple of cities have said well we don't want any vehicles that have debris in it, that has tool boxes, obviously that have signs that they are commercial, any sign that the vehicle has been or is being used for commercial purposes. I could envision a role for Code Enforcement in this, in which a Code Enforcement Officer – you would have a fee in which pick-up truck owners could have their vehicles inspected by Code Enforcement who could

look at all aspects, by talking to the owners – how do you use it?- and what do you plan to use it?- and make a determination of whether this vehicle is being or has been used for commercial purposes which is what we don't want, but that is another possibility; and there could be a possibility of periodic reevaluations or a fee, or even using a fee to hire extra Code Enforcement to go after the other any kind of vehicle being used for commercial purposes. I can envision that as another possibility for the Zoning to consider, and then there are other cities that have looked at limiting the number of vehicles, pick-up trucks that you can have in a driveway or where you park them. We say that you cannot have pick-up trucks in areas zoned residential, which brings back the anomaly that you can actually park a pick-up truck in a church parking lot if the church would allow you because it is not zoned residential; or you can park them in the driveway at the University of Miami at a residence or a faculty home because it is not zoned residential, so we actually have in our Zoning Code now exceptions, but it is where you park the vehicle. Some other cities have said curve side only, or in front of your house, so where you park. Another way people go about it is time, or what time can you park them, I think it is strange that we have said that you can't park them at night when you can't see them. I think it would be more realistic that you can't park them in the day, when you can see them if it is aesthetics you are going after. Some cities say 6 o'clock, 7, ours has varied over the years the time in the evening that you can park and then most cities have had some kind of an exception for hardship for medical need. I know somebody came to see me that was blind with a seeing eye dog that wanted to know if there could be an exception. There could be exceptions for people visiting from outside, if you notify somebody, or you have a relative coming in and then there have been exceptions for government vehicles and rescue vehicles, so I think there are a lot of ways cities have attempted to regulate these sorts of vehicles. So, I think this is obviously going to be one of the number of contentious issues that we are going to have to make a decision. I don't think this is something that should go to a referendum because a referendum at all isn't how you ask the question, and if you say do you think we should park beautiful gorgeous pick-up trucks or just pick-up trucks the way you phrase it will depend on the answer you get. So, I think we have been elected to make tough decisions, this is going to be a tough decision and I do want to have the citizens have a chance to...pros and cons to make their arguments. I think we are going to get a good turnout and I would recommend that we move it...One other point, I would guess we have in Coral Gables about 40 to 50 thousand vehicles, we have 572 pick-up trucks that park outside of a garage at night, so we are talking less then 2 percent of the vehicles in Coral Gables and I think we need to look at whether or not we think and the Commission will do this; and eventually I think the Board will have to look at it, is there any evidence that during the eight years that this pick-up trucks have been in the City the property values have gone down and can tie cause and effect to that. I personally doubt it, but I mean, some of the arguments to be made is that it affects property value, so I think this is going to be a tough thing I don't know...You want to say something

Commissioner Anderson: Thank you first of all for your very thorough research, I want to add two things, first of all whatever happens we have to remove subjectivity if that were to come to it, if we were to decide to modify this and move forward, we have to give the Code Enforcement to remove the subjectivity and give them more guidelines, that would be my point of view. So, to make it as clear and as simple as possible would be my goal if we choose to do that, and another things just from personal experience I have lived through this war before and it never came to us. I took the brunt of an 03, 04 discussion about it. I want to say that there may be people on both sides of the issue and in the end what I encourage you all to do, and I think you all are people of integrity is you are going to have to dig deep within yourself and decide whether you, yourself as an elected official are going to have to do that because you are going to hear from both sides and both sides very vigorously, you are going to hear, but in the end as they say you are going to have to pull that trigger on your own. I want to encourage you to have that in mind because it is going to be a warm climate, so I just wanted to give you that from my point of view from experience and thanks for the opportunity.

Vice Mayor Kerdyk: The reason I had originally recommended this go to Planning and Zoning was the fact is that we are going to be able to certainly vet this many, many times. It is going to go twice to Planning and Zoning at least and it is going to come back to the Commission for at least one reading. So there is going to be a lot of opportunities for everybody to chime in. I am probably one of the most conservative as far as this goes up here, so I am always willing to listen to anything, but you know I have my thoughts too on it and I think I am going to wait until I see the Planning and Zoning recommendations before I opine.

Commissioner Quesada: You mentioned the derelict vehicles, it is something I have looked at the subjectivity aspect of it, it's tough, do you have any idea of what you are thinking for the language of it yet?- or is it still too soon?

Mayor Cason: No, I mean there are so many possibilities, if the recommendation were to make a change one of them would be alright, cover pick-up trucks like derelict vehicles.

Commissioner Quesada: No, I am not saying pick-up trucks, forget pick-up trucks. I am saying...

Commissioner Anderson: The subjectivity in general.

Commissioner Quesada: The subjectivity in general related to you know beat-up cars, clunkers that are sitting next to a house. I would also want to send it to Planning and Zoning.

Commissioner Anderson: Sure. I think we all do.

Vice Mayor Kerdyk: I think is non moveable. What is the criteria now? What is considered a derelict car?- is that your question? There is a criteria there that says basically is not moveable.

Mayor Cason: Here is an example we have them from Illinois, we have them from Vermont we have 7 or 8 dilapidated, junk car Ordinances. It has been very difficult because we just cover ours up. Others say things like hazardous, dilapidated, general state of deterioration, threat to public health safety, damage, visible not repaired within "X" number of days from an accident, damaged more than "X" number of dollars. I mean, it is a very difficult thing since beauty is in the eye of the beholder. What is an ugly vehicle? What is a dilapidated vehicle? The only thing we have done is say we'll cover it up and we don't have to make a decision.

Commissioner Quesada: Craig do you have our current Ordinance in front of you?

City Attorney Leen: Yes.

Commissioner Quesada: Can you read it to us please?

City Attorney Leen: It is Section 34-77 through 34-83. There are several definitions, the definition of an abandoned vehicle is any motor or other vehicle in a wrecked, junked, maintained on cement blocks, flat tires, partially dismantled, not registered or insured, or abandoned condition on public or private property in the city. Dilapidated means decayed, deteriorated, or fallen into partial ruin, especially through neglect or misuse. And then there is the definition for junk motor vehicle. Junk motor vehicle is an inoperable motor vehicle which is incapable of being propelled or driven by its own engine; a wrecked motor vehicle is one which has property damage the cost of repair of which exceeds the sum of \$500.00; a stripped motor vehicle in which parts have been removed; a dilapidated motor vehicle which has fallen into partial ruin, especially through neglect or misuse; and/or an unlicensed motor vehicle where there is no current license tag.

Mayor Cason: That is our definition.

Commissioner Quesada: Age is so subjective. I am curious do we enforce it?

Mayor Cason: I don't know.

Vice Mayor Kerdyk: Yes, they do enforce it.

Mayor Cason: I think during the campaign I visited a house that somebody pointed one down the street that was covered up on blocks and said that it had been there for a long time, but it was legal.

Vice Mayor Kerdyk: Actually that is a very good point, whatever the discussion is, whether it is the truck Ordinance or looking at aesthetic values of other cars we need to have Code Enforcement as part of this discussion. I mean that is a very important ingredient, Mr. City Manager, would you make sure that they are part of this whole discussion and process because they see it from another standpoint. They are out there on the street, they can probably offer

advice on how to deal with the car Ordinance or how much they are enforcing it now. They know, they know what is going on.

Mayor Cason: And they know how it is use too. They know whether it is a commercial vehicle or not. So my suggestion would be if we want to go this way is do we send it to a Planning and Zoning and give them a couple of months to hold some hearings, or whatever enough time that they think they need. And then come to us with a recommendation for change, not for change, whatever they want to come to the conclusion and then we can take a look at that when it gets to us.

Commissioner Anderson: I am for that, I will gladly make that motion, I will make the motion to take it to the Planning and Zoning Board, ask for their recommendations and for them along with staff to bring back a recommendation to us and on a separate motion request to the Manager is while this is waiting the enforcement issue on the pick-up trucks, I would like to delay it as long as until we have clarity on it. I wouldn't want to enforce that.

Mayor Cason: Do you want to make it one motion?

Commissioner Anderson: No, I want to keep that separate, the first one is just for us to send it to the Planning and Zoning Board, I think the Manager can probably take care of that.

Mayor Cason: Do I have a second on that?

Commissioner Quesada: Yes, I'll second. Do we need to make a motion?

City Attorney Leen: Yes, if you look at the notice it does say that legislative action may ensue. So you can make a motion.

Mayor Cason: OK. So this is proposed by Commissioner Anderson, second by Commissioner Quesada. City Clerk.

Commissioner Anderson: Yes.

Vice Mayor Kerdyk: Yes.

Commissioner Quesada: Yes.

Mayor Cason: Yes.

Mayor Cason: OK. And your second motion is that we...

Commissioner Anderson: I don't think that we need to make a motion, I just wanted to see if we could get agreement that enforcement would be delayed until after.

Mayor Cason: Right now I think it's until November 8.

Commissioner Anderson: But in case the proceedings go further.

Mayor Cason: OK. Well if there is nothing else then the meeting is adjourned.

Commissioner Quesada: One last thing, how much clarity do we need to give the Planning and Zoning Department? How much direction?

Commissioner Anderson: I think for me, hopefully they'll get the notes and maybe the tape.

Mayor Cason: This has been transcribed.

Commissioner Quesada: OK. Well then, just so that I am clear, as to what I am looking for is determination of recommendation from them as to whether they believe that the truck Ordinance should stay the same or if altered in which way, whether it is related to length, weight, height, bed cover or any other reasonable non subjective means possible.

Mayor Cason: And I suggest we give them a copy of the book that we have and any other information that we come up between any of us would like to send.

City Attorney Leen: Yes, I will prepare a book for them and I also sit with that Board, so I will make sure that they know your thoughts, what you have said at this meeting and they will get the book in advance so that they can take a look at it.

Mayor Cason: And then they can have one or more public hearings and ask people to show up and make their points in a reasonable way.

Vice Mayor Kerdyk: They won't have to ask too much.

Commissioner Anderson: Yes, that will be easy.

Mayor Cason: OK. This meeting is adjourned. Thank you.