

**NEIGHBORHOOD/COMMUNITY AFFAIRS
COMMITTEE MEETING**

**Transcript of Meeting held before the
Miami Beach Commissioners at City Hall,
Commission Chambers, 3rd Floor, 1700
Convention Center Drive, Miami Beach, Florida,
at or about 10:15 a.m., on July 23, 2019,
reported by MARIA ISABEL SALUM, Registered
Professional Reporter and Notary Public in and
for the State of Florida.**

PRESENT:

**COMMISSIONER MICKY STEINBERG
COMMISSIONER MICHAEL GONGORA
COMMISSIONER JOY MALAKOFF
COMMISSIONER ERIC CARPENTER
COMMISSIONER MARK SAMUELIAN
COMMISSIONER ALEKSANDR BOSKNER**

**ROBERT F. ROSENWALD, JR., ESQ
CITY OF MIAMI BEACH LEGAL DEPARTMENT**

1 MR. ROSENWALD: Good afternoon,
2 Commissioners, Robert Rosenwald, first
3 assistant city attorney with the City of
4 Miami Beach City Attorney's Office.

5 This is a fact finding hearing to
6 consider whether objective evidence
7 towards the enactment of the proposed
8 sidewalk cafe code of conduct, including
9 restrictions that sidewalk cafes not
10 solicit pedestrians from 15th Street on
11 Ocean Drive.

12 The city manager has entered an
13 extensive written evidentiary record into
14 the agenda for today and he expressly
15 incorporates that record into the
16 legislative record for these items.

17 The written record includes
18 declarations from multiple stakeholders,
19 sworn under oath, a plethora of owner use
20 for Ocean Drive sidewalk cafes
21 specifically relevant to soliciting
22 pedestrians and the various scams and bad
23 service that follow at establishments
24 that solicit in this manner, reports of a
25 secret software investigation that was

1 conducted this month by the city
2 manager's office demonstrating the
3 negative impact of sidewalk cafes
4 solicitors on Ocean Drive, and the
5 results of a survey of Ocean Drive
6 sidewalk cafes demonstrating that
7 sidewalk cafe operators feel that they
8 all must solicit pedestrians because if
9 anyone does it, they all must do it in
10 order to remain competitive.

11 Many said that if their neighbors
12 were restricted from soliciting, they
13 would not need to do it either. It's
14 either all or nothing for them.

15 And you will hear the testimony of
16 five Ocean Drive stakeholders today.
17 Commissioners shall be free to ask them
18 questions or to ask me questions, and
19 after the witnesses have testified, each
20 commissioner will have the opportunity to
21 speak and ask questions on this item.

22 I want to introduce you to our court
23 reporter who's here today. She will be
24 taking a transcription of all of the
25 testimony.

1 So, witnesses, before you speak,
2 please state your name, state your
3 address and spell your name for her, and
4 she may stop you and ask you if you're
5 speaking too fast to slow down, so do
6 that for her if she asks.

7 Now, the court reporter will be
8 swearing in the witnesses who will be
9 testifying here today. So our five
10 witnesses, can you please stand up and
11 the court reporter will swear you in.

12 THE REPORTER: Do you solemnly swear
13 or affirm that the testimony you're about
14 to give will be the truth, the whole
15 truth and nothing but the truth?

16 (All witnesses answered in the
17 affirmative.)

18 THE REPORTER: Thank you.

19 MR. ROSENWALD: Your first witness
20 on this item will be John Deutzman.

21 MR. DEUTZMAN: Good morning,
22 everybody. My name is John Deutzman.
23 I'm a member of the Mayor's Panel on
24 Ocean Drive Safety, Security and
25 Infrastructure.

1 Essentially what's been going on for
2 years on Ocean Drive is a bait and switch
3 scam. Two parts. One is the bait. The
4 bait is luring people into their
5 establishments with signs advertising
6 bargains that may or may not be bargains,
7 usually not bargains, and verbal hawking
8 or barking to lure them in. That's the
9 bait. We cut the bait by eliminating the
10 signs.

11 The other thing we need to cut is
12 the verbal inducements into the business,
13 which are generally false and lead to
14 fraud.

15 Personally I have observed people
16 being physically chased down the sidewalk
17 and solicited. I have seen crowds of
18 people around menus, blocking,
19 obstructing the sidewalk as they're being
20 made all these various outstanding
21 offers, verbally. I have heard them
22 saying, "Free drinks, free shots" to me.
23 I have heard one guy -- the super star I
24 heard was, "Hey, if you don't like the
25 food or the service, it's on me, it's all

1 free. Come on in here. If you don't
2 like it, I'll pay for it." That was one
3 of the better ones.

4 So I have observed this personally.
5 I would never, in my time here, ever
6 advise that anybody, any resident or
7 friend or person that I care about go to
8 Ocean Drive to eat randomly because of
9 this bait and switch scam that is
10 prevalent. It's a business model. They
11 know what they're doing.

12 I'm the bad guy for bringing this up
13 and so is everybody else, and they think
14 it's outrageous that we would be
15 concerned about their fraud scheme. So
16 that's one thing.

17 The other thing I want to bring up
18 is that I have observed our police
19 department is called frequently to bill
20 skips and bill disputes and they wind up
21 being many times that the customers
22 aren't the bad guys. The businesses are
23 the bad guys. And one I remember
24 distinctly recently was a couple who was
25 disputing the bill and cops had to come.

1 It was a heated dispute. Basically they
2 paid the bill and afterwards, I talked to
3 these people, and they are credible
4 people, and they said, well, "I ordered
5 the two for one special," and they were
6 charged full price. Why were they
7 charged full price? Because one of them,
8 one of the couple, ordered a drink
9 without alcohol, so they were charged
10 more because she ordered a drink without
11 alcohol, which actually cost the business
12 more.

13 So these types of confusing schemes
14 repeat over and over and over again in
15 different forms.

16 One other thing, which we did put on
17 our website a year and a half ago, on the
18 Crime Prevention Group, I should say, a
19 gentleman came, a tourist, in an
20 establishment for these \$9.95 specials
21 and he wound up with a \$320 bill. And he
22 was furious, ranting and raving, cursing,
23 going crazy. The manager, "I'm going to
24 call the police," and him, "Blah, blah,
25 blah, blah." And creating a huge scene,

1 bad impression for our tourists. The
2 stuff is outrageous. The city cannot be
3 in bed with fraudsters, with tricksters
4 and with a carnival circus out there. It
5 has to stop. It has to stop at all
6 costs. Whether we have to arrest
7 everybody on Ocean Drive to do it,
8 whether we have to sue everybody on Ocean
9 Drive to do it, it has to end and it has
10 to end now.

11 Thank you.

12 THE REPORTER: Can you spell your
13 name, please?

14 MR. DEUTZMAN: Yes, I'm sorry.
15 John Deutzman, D-E-U-T-Z-M-A-N.

16 THE REPORTER: Thank you.

17 COMMISSIONER GONGORA: Thank you.
18 That was riveting.

19 MR. DEUTZMAN: Thank you, sir.

20 MR. ROSENWALD: Our next witness
21 will be Jo Manning.

22 MS. MANNING: Jo Manning, 1460 Ocean
23 Drive.

24 I can't top John. That's
25 impossible. I am in complete agreement

1 with everything he says.

2 What I am so upset about is that I
3 really can't walk down my street. I live
4 on Ocean Drive and yet, I hesitate to
5 walk down my street on the west side,
6 which is where I live, because we are
7 attacked. We're attacked by hawkers.
8 You're attacked by these signs. You are
9 pushed and shoved and, you know, I feel
10 for the young people who are out there
11 hawking, nobody has talked about this,
12 and I want to say something -- I have
13 heard and I have some pretty good sources
14 on the street -- that these kids will be
15 fired if they don't do this. It's hard
16 for young kids to get jobs and they do
17 this. It's too bad, but that is
18 something to consider.

19 People who lease these restaurants
20 are really bad actors. They are bad to
21 the street. They are bad for the city.
22 They are bad for residents.

23 And John says he was going to be the
24 bad guy, so I'm going to be the bad girl,
25 even though I said I would be the good

1 girl, but something has got to be done
2 and the subcommittee I'm on with John,
3 the Ocean Drive Subcommittee has made
4 substantive moves in this direction to
5 stop this.

6 As it is in branding, commissioners,
7 mayor, legal department, consider the
8 kind of brand you're setting out to the
9 world. This is not a good brand. This
10 is crooked. It's wrong and it demeans us
11 all. It brings down the street. It
12 brings down the city.

13 And one anecdote. Years ago, I was
14 at Starbucks across the street from where
15 I live and I started talking to a young
16 man behind me, and he started telling me
17 this was the first time he had been on
18 Ocean Drive. He was here with his
19 girlfriend and they were staying in a
20 hotel in the drive. And he said, "I will
21 never come here again." And I said
22 "why?" He said, "because I'm getting
23 fleeced every night." Turned out, he was
24 a minor executive at Facebook and he made
25 sure that everybody at Facebook knew

1 about this.

2 Thank you.

3 THE REPORTER: Can you spell your
4 name, please?

5 MS. MANNING: First name is J-O, and
6 the last name is M-A-N-N-I-N-G.

7 THE REPORTER: Thank you.

8 COMMISSIONER STEINBERG: When you
9 come up, state your name and spell it for
10 her in the beginning.

11 Thank you.

12 MR. ROSENWALD: Our next witness is
13 Mike Palma.

14 MR. PALMA: Good morning. It is
15 Michael Palma, and the last name is
16 P-A-L-M-A.

17 I'm at 1020 Ocean Drive with Jesta
18 Hotel Group. I'm executive vice
19 president. We own the Clevelander and
20 the Stiles Hotel and the Essex Hotel.

21 I think I'll talk about when we have
22 good girl and bad guy, I'm going to talk
23 from the business perspective. This is
24 not a new situation for Ocean Drive.
25 We've been battling this for years.

1 In 2010, when we came out of our
2 construction, I personally created a code
3 of conduct within the association to try
4 to get voluntary membership. We got
5 some -- we made some headway, but
6 unfortunately there were always certain
7 operators that pushed the envelope and
8 did anything to survive and we lost
9 control.

10 Once the solicitation was taken off
11 the table due to the injunction, it has
12 become an absolute disaster to call it
13 something nice.

14 Bottom line, we have hotel guests
15 weekly, daily, they complain, both at the
16 Essex and Cleavelander, that they can't
17 walk the street for reasons that you have
18 already heard. It has become a street
19 that it's impossible to do regular
20 business. Our cafe is down about 35
21 percent, because I don't allow us to hawk
22 and I don't allow us to treat people that
23 way. We don't do the free stuff, the two
24 for one, the discounted programming.

25 So it's also hurting the regular

1 businesses that are trying to survive.
2 And, in essence, it's created a consumer
3 who is coming to the drive with one thing
4 in mind, "What can you do for me?" In
5 fact, yesterday, we had a consumer again,
6 as always, go to the host and say, "Hey,
7 what can you do for us today? What are
8 you going to give us for free?" So they
9 are basically being taught that Ocean
10 Drive is a discounted area to come and it
11 brings that demographics that most is
12 discounted, and everybody else is
13 suffering as a result.

14 And as Jo and John say, the brand is
15 ultimately the one that suffers the most.
16 And with a huge investment that we have,
17 multi-millions on the property that we
18 own, it's just not sustainable. We need
19 to turn this around. I'm so ecstatic
20 that the commission is finally figuring
21 out a way with the help of the mayor and
22 pushing all you guys to get aggressive on
23 this behavior and what's happening,
24 because it is truly devastating in Ocean
25 Drive. Okay?

1 And I speak on behalf of many good
2 operators as well. Many members on board
3 who both are in favor of this, and we are
4 not going to sit here and be held
5 hostage.

6 I'm going to end by a quick note.
7 Marlo Courtney, who was on the chair
8 before I took over, we sent him out to
9 all the members about the shopper program
10 and to get them ready and engaged and he
11 wrote back -- and I won't name the
12 cafe -- he said, "Hey, two weeks ago a
13 friend, a couple from New Delhi stayed at
14 one of our hotels, decided to walk at
15 Ocean Drive and stopped at a certain cafe
16 for two cocktails and an appetizer. They
17 were shocked to receive a bill for \$350,
18 which they paid, but said they would
19 never return to Ocean Drive."

20 This is an example of people who get
21 abused but do not complain to staff or
22 management. They simply pay and never
23 return, and then tell all their friends.
24 So that is enough right there.

25 That happens every day. We don't

1 hear about it, we don't know about it, we
2 only see it on the decline of the street,
3 on the sales, on the people that are
4 coming. Okay?

5 Thank you so much for what you guys
6 are doing. I appreciate it and on behalf
7 of the association, we support it 100
8 percent.

9 MR. ROSENWALD: Our next witness is
10 Amy Mehu, Ocean Drive manager.

11 MS. MEHU: Amy Mehu, City Manager's
12 Office, City of Miami Beach. It's A-M-Y,
13 M-E-H-U.

14 For the past four years, I have been
15 working with the city administration with
16 Ocean Drive businesses as the Ocean Drive
17 manager.

18 In the past four years, we have gone
19 through several iterations of the Ocean
20 Drive's panel or task force and I have
21 heard personally the many complaints that
22 come through from the residents and from
23 our tourists telling us how bad their
24 experience on Ocean Drive was, walking
25 along Ocean Drive, feeling like they're

1 accosted by the managers or the staff
2 alongside the sidewalk cafe area.

3 We even received e-mails. I
4 personally receive e-mails, phone calls,
5 requests, letting us know, not for any
6 action, but just as a heads-up that they
7 have been harassed by somebody, bait and
8 switch, into coming into the cafe and
9 told they are being offered one thing and
10 being sold another thing. And we're
11 constantly having to battle the
12 perception that Ocean Drive businesses
13 are up to no good.

14 I have personally gone out to Ocean
15 Drive in my role here in the city and I
16 have seen where the staff will stop
17 hawking when I'm walking through. And
18 then when I go out there for my personal
19 time, they will continue to hawk. So
20 they are aware of their behavior and they
21 are choosing to stop it when they see
22 staff or when they see code compliance,
23 and not because there is a particular
24 rule, they are just aware that their
25 behavior is obnoxious and it's not

1 becoming of our area.

2 And that's pretty much all of that.

3 MR. ROSENWALD: Can you talk just
4 for a second about how relatively narrow
5 the sidewalks on Ocean Drive are which
6 negatively multiply the effects of
7 hawking?

8 MS. MEHU: So right now we have a
9 five foot pedestrian path that needs to
10 be maintained by the sideway cafe areas.
11 Because of the size of the sidewalk
12 cafes, we are only down to five feet of
13 pedestrian path. It's not even five
14 plus. And what happens is, it's a single
15 file line comfortably or two people
16 walking side by side and the only way
17 they have is along that sidewalk and with
18 people standing outside the cafe
19 footprint, hawking and being intrusive to
20 your personal space, it becomes a bit
21 uncomfortable, very uncomfortable for
22 people walking along the sidewalk, and
23 they are having to detour going into
24 either the parked cars or into traffic to
25 get around people who are hawking them in

1 the sidewalk cafe area.

2 And frequently, I'm getting
3 complaints for meetings that have nothing
4 to do with Ocean Drive businesses being
5 told, "I can't even walk down Ocean
6 Drive." They are going through the park
7 just to avoid walking down Ocean Drive
8 and being accosted by the service.

9 MR. ROSENWALD: And your final
10 witness today is Manny Villar from the
11 code compliance office.

12 MR. VILLAR: Good morning. Manny
13 Villar with the code compliance
14 department. I'm here to speak about
15 several factors that affect the code
16 compliance department in regards to this
17 issue. The code compliance department
18 has witnessed an increase in the amount
19 of solicitation by these -- by the
20 various business establishments ever
21 since the injunction was implemented back
22 in 2015. We have seen a significant
23 increase in this type of activity on
24 Ocean Drive and other areas of our city,
25 key areas.

1 I want to talk a little bit about
2 the resources it takes to enforce this
3 type of activity, because it's very
4 difficult, obviously. When they see the
5 code officers approaching the area, they
6 stop the activity, they behave and they
7 wait until either we move on or -- you
8 know, so it's very challenging and I've
9 had to implement several other methods of
10 enforcement, such as undercover
11 operations and other tactics to deal with
12 this type of activity, which has been an
13 increase of use and resources for our
14 department.

15 I want to talk about the fact that
16 if we separate the aggressive hawking or
17 solicitation from another type of
18 solicitation, it becomes very difficult
19 and challenging because it makes us
20 subjective and, obviously, when officers
21 are trying to enforce or investigate
22 these type of activities, once they are
23 aware that code enforcement is onto them
24 or inspecting the business operation,
25 they are going to change their tactics

1 and make it very difficult for us to
2 enforce this type of activity.

3 We've also noticed that it kind --
4 this activity becomes a competition
5 between businesses. If you have -- and
6 they also work in teams. So in the past,
7 when we have been working on these type
8 of issues and there are several members
9 of a sidewalk cafe conducting this type
10 of activity, aggressive solicitations or
11 hawking, it triggers other cafes to feel
12 that they need to compete with them to
13 attract the business and that -- you
14 know, usually there's a chain of events
15 and it kind of moves down the street and
16 before you know it, it's much more
17 prevalent and they are hawking or
18 soliciting much more aggressively.

19 I also want to mention that several
20 of our key stakeholders have mentioned
21 that hawking has a detrimental and
22 adverse effect on the visitor experience,
23 which obviously we're very concerned
24 about and for that issue, we need to be
25 very careful on how we proceed on this

1 matter.

2 MR. ROSENWALD: Thank you.

3 THE REPORTER: How do you spell your
4 last name?

5 MR. VILLAR: My last name is
6 V-I-L-L-A-R --

7 THE REPORTER: Thank you.

8 MR. VILLAR: -- from the code
9 compliance department.

10 MR. ROSENWALD: Commissioners,
11 before I open it up for your own comments
12 and questions, there's just a couple of
13 more points.

14 We considered as part of this code
15 of conduct the option of having a limited
16 number of permits or a lottery for a
17 limited number of permits in order to cut
18 down on the number of restaurants that
19 were soliciting pedestrians as they went
20 by, in an attempt to lessen the problem
21 and thereby meet our interests, and we
22 elected not to go in that -- down that
23 road for a number of reasons. The first
24 was that we conducted a survey of all of
25 the Ocean Drive sidewalk cafes and every

1 one of the sidewalk cafes that answered
2 the survey when they were asked the
3 question, "If there was a permit, would
4 you want it," they all said, "Yes, we
5 would all need to have it, because in
6 order to remain competitive, if one
7 person is allowed to do it, we all have
8 to be able to do it. And, in fact, if
9 our neighbor has one person outside, we
10 need to have two people outside and if
11 the neighbor has two people, we need to
12 have three." And we got responses to as
13 many as four to five solicitors at any
14 one time will be soliciting if we would
15 issue a permit or a lottery.

16 Also, that scheme wasn't something
17 that we recommended because it was not
18 consistent with the direction of your
19 image for Ocean Drive that while we
20 allowed lotteries and permits for
21 things -- fully protected first amendment
22 speech like sidewalk -- I'm sorry, like
23 street performers and artist vendors,
24 where we want to encourage community
25 involvement and where visitors like to

1 see some of that, the hawking by the
2 sidewalk cafes is not enjoyed by anyone.
3 It's inconsistent with the direction that
4 we have gotten and it is not fully
5 protected first amendment speech. It is
6 less protected commercial speech.

7 We also conducted a sidewalk cafe
8 secret shopper program over the course of
9 July. We hired investigators to go in
10 and measure the amount of the effect of
11 soliciting on Ocean Drive and to connect
12 whether there was a connection to the
13 scams in the bait and switch that we have
14 heard talked about. And even with
15 advance warning that we were coming, as
16 you heard today, the results of the
17 secret shopper program were pretty
18 conclusive. The hawking was extensive.
19 It was pervasive. It was annoying. Our
20 investigators observed pedestrians trying
21 to steer around the people who were
22 soliciting them, trying to run away from
23 them and having the solicitors follow
24 them down the street, in some cases
25 yelling things at them. We observed --

1 our investigators observed some
2 restaurants with up to five solicitors at
3 any one time lined up along the sidewalk,
4 which you heard is very narrow, so you
5 really can't avoid them in that case.
6 And as a result, our investigators also
7 suffered various scams. One of the scams
8 was that the tip was added onto the bill,
9 but it wasn't -- when the part to sign
10 came, that wasn't noted and an additional
11 tip was asked for.

12 Another one of our investigators
13 found that he was offered a 30 percent
14 discount to go into the store, but when
15 they got into the sidewalk cafe, when
16 they got that bill, the 30 percent
17 discount did not appear anywhere on the
18 bill.

19 Those incidents that I'm talking
20 about in summary are fully documented in
21 the evidentiary record and the reports
22 show that have been loaded into the
23 agenda on Lotus, for which you all have
24 reviewed for today.

25 At this point, I will just open it

1 up to give your own thoughts and
2 observations about this problem. You can
3 ask me any questions if you want. You
4 can ask any of the witnesses any
5 questions that you want.

6 I'll just turn it over to
7 Commissioner Steinberg to take over.

8 COMMISSIONER STEINBERG: Thank you.

9 Commissioners, who would like to go
10 first?

11 COMMISSIONER GONGORA: Thank you,
12 first of all, for that very thorough
13 presentation, thank you and to the many
14 witnesses that came here today to provide
15 your testimony as to this very serious
16 problem.

17 One of the things that I liked was,
18 aside from the testimony, was that the
19 city really went the extra mile here to
20 actually engage an investigator that
21 corroborated independently what we all
22 know and provided this excellent report
23 to us, which was very helpful.

24 I can tell you personally this has
25 been one of my big issues over the years.

1 I understand, you know, as an attorney,
2 people's rights of free speech and all of
3 that, but there's a point when that right
4 impedes on my ability to peacefully enjoy
5 the sidewalk and more importantly on the
6 mind of our residents and visitors'
7 ability to enjoy a peaceful experience.

8 If you look at other cities with
9 upscale kind of classy sidewalk cafes,
10 there's no people screaming or grabbing
11 you on the street and trying to solicit
12 you for two for one specials.

13 I notice that there were many
14 witnesses who provided affidavits and
15 testimony live today, that similarly have
16 been physically touched. As I've walked
17 by, I have menus shoved in my face. I
18 have people call me over. And it really
19 is an unpleasant experience, and it needs
20 to stop.

21 So I'm glad to see that this is here
22 today and I'm going to be fully
23 supporting it.

24 COMMISSIONER STEINBERG: Very well
25 said, Commissioner Gongora.

1 Commissioner Samuelian?

2 COMMISSIONER SAMUELIAN: Thank you,
3 Madam Chair.

4 I want to thank all those who have
5 testified. I want to particularly give a
6 shout to Jo Manning on the day before her
7 birthday to come with us to do this, so
8 thanks for doing that.

9 I just briefly want to touch on my
10 personal experience with this issue, the
11 impact that it's having on the city and
12 the range of policy and other approaches
13 that we have taken.

14 When I was elected in November 2017,
15 my first official meeting with the city
16 manager and city attorney, I broached
17 this topic, because I viewed this as one
18 of the most critical issues that the city
19 had to address, these deceptive practices
20 on public property.

21 I personally have experienced this
22 kind of bad behavior. For example --
23 and, in fact, my declaration is included.
24 I was told that I would be receiving a 25
25 percent discount at this operator at

1 Ocean Drive, but then at the end of the
2 meal, while the discount was provided, I
3 was added a 20 percent service charge
4 that I was not aware of. So I really was
5 not receiving the discount that was put
6 to me.

7 I hear from our community members, I
8 hear them say, we don't want to go there,
9 because of the aesthetics, they can't
10 walk and enjoy the environment. I hear
11 it online in preparation for a recent
12 ordinance. I just spent a little time on
13 TripAdvisor and Yelp and I saw the
14 horrible things people were saying and it
15 really has a detrimental impact.

16 I think a lot of people have
17 testified about that impact. I would
18 just touch on a couple. One, people are
19 not coming back. Residents can't enjoy
20 their streets. We have a situation where
21 good business operators are challenged.
22 And the image of the city is both a
23 negative image and financial, because
24 it's impacting our bottom line to the
25 tunes of millions of dollars.

1 We have tried so much. We have
2 passed ordinances related to menus. We
3 have passed statements of policy. We are
4 trying so many different things. We are
5 now looking at funding mystery shoppers
6 to address this. We are looking at
7 electronic means so when the poor
8 customer doesn't have the ability to
9 complain that they can communicate via
10 electronic means. We are trying
11 everything, but that still is not enough.
12 We need this code of conduct for the good
13 of our residents, visitors and good
14 businesses.

15 COMMISSIONER STEINBERG: Thank you,
16 Commissioner. Very well said.

17 Ms. Malakoff?

18 COMMISSIONER MALAKOFF: This item,
19 the code of conduct, and what's happening
20 on Ocean Drive is critical to the City of
21 Miami Beach. The reason it's so critical
22 is that it's not part of the City of
23 Miami Beach's brand. It's not the image.
24 It is not the image we want to tell the
25 world, because we are not that type of a

1 city with a honky-tonk beautiful street.
2 The street is beautiful. The Art Deco
3 District is beautiful. It's known
4 internationally.

5 And yet, when I walk down Ocean
6 Drive, I am solicited. I find hawking.
7 I find my path is so blocked, even though
8 there's supposed to be a five foot, you
9 know, available pathway, that the mostly
10 ladies that are out there with their
11 menus and so forth, block part of that
12 path.

13 In fact, the last couple of times
14 I've gone to Ocean Drive, I've walked on
15 the other side of the street to avoid
16 that. It's just terrible.

17 I can't tell you of any really
18 specific people who -- of my friends who
19 have been there and have seen the bait
20 and switch happen to them, because my
21 friends who live -- residents who live in
22 Miami Beach, long time residents, who
23 used to go to the cafe restaurants, they
24 used to be on Ocean Drive, a lovely place
25 to go for a quiet dinner, et cetera,

1 those kind of restaurants, they hardly
2 exist anymore on Ocean Drive. My friends
3 no longer go to Ocean Drive restaurants.

4 They go to Lincoln Road. They go to
5 Sunset Harbor. They go to other parts of
6 the beach, but because of the hawking,
7 because of the solicitation, they find
8 that they are completely uncomfortable,
9 as I do. I do not feel comfortable going
10 there.

11 I am very concerned, particularly
12 about the reviews on social media, the
13 comments on social media and how they
14 affect all of our tourists, all of our
15 visitors, including those from France,
16 from Japan, from India, from China. I
17 mean, social media is everywhere. It's
18 not just the United States. It's not
19 just the folks coming in from the
20 northeast.

21 And I think that we need to be very,
22 very strict on this code of conduct. We
23 need to stop the bait and switch. We
24 need to stop the specials. We need to
25 stop the unusual tips that are being

1 added to the checks. And I think that we
2 need Ocean Drive so residents can again
3 enjoy the ambiance and enjoy the art deco
4 architecture, and not be bothered by
5 hawkers and solicitation.

6 As far as issuing permits, to me
7 that's just out of the question, because
8 everybody will want a permit. It's very
9 competitive. If one restaurant or cafe
10 has somebody soliciting with menus
11 saying, "We have two for one specials,"
12 the restaurants on both sides will want
13 to do the same.

14 Permits will not work because every
15 sidewalk cafe will want it. It just
16 shouldn't be. The sidewalk should be
17 open to the public, period.

18 COMMISSIONER MALAKOFF: Thank you.

19 COMMISSIONER STEINBERG: Yeah, I
20 think you get the sense from the dais, I
21 think we are all at our wit's end. We
22 know that there is absolutely a negative
23 experience and it's impacting everybody
24 on Ocean Drive. We know that there are
25 issues with bait and switch. We know

1 that there are issues with fraudulent
2 tips and we know that the aggressive
3 hawking has caused serious issues.

4 I personally witnessed a family
5 walking with little children and the
6 aggressive hawking actually scared the
7 child. So I mean, this is unacceptable.
8 I think you have a sentiment up here that
9 we need to move forward and with that,
10 anybody else have anything they would
11 like to add, because I think we are going
12 to move this forward to a favorable
13 recommendation.

14 MR. ROSENWALD: Just a few more
15 points. Very quickly. That
16 aggressive -- aggressive solicitation was
17 also considered and the fact of the
18 matter is that the code of compliance has
19 a very difficult, if not impossible, time
20 enforcing that. It's hard to tell when
21 they are being aggressive, unless they
22 stand right there. They have actually
23 had to do undercover operations in order
24 to try and bust these places doing
25 aggressive solicitation, and that means

1 pulling people from other districts of
2 code compliance officers who have other
3 things to do in order to try and enforce
4 this. And they found, even with that
5 extra effort, that it was ineffective,
6 and so we also did not recommend just
7 prohibiting aggressive solicitation.

8 COMMISSIONER MALAKOFF: Any
9 solicitation.

10 COMMISSIONER STEINBERG: I will tell
11 you, I find all hawking is aggressive.

12 COMMISSIONER GONGORA: Just to make
13 a thorough motion rather than moving it.
14 Based upon the evidence presented through
15 the live testimony, the affidavits
16 attached, the investigator's report, the
17 experiences of the commissioners on this
18 spot and the legal argument presented, we
19 find there's a compelling need in our
20 city to stop this aggressive hawking,
21 that a lottery system would not work, it
22 would be impossible to enforce and,
23 therefore, our city needs this code of
24 conduct to move forward.

25 COMMISSIONER STEINBERG: Do I hear a

1 second to this motion?

2 COMMISSIONER MALAKOFF: Second.

3 COMMISSIONER STEINBERG: Seconded

4 it. All in favor?

5 (All members answered "aye".)

6 COMMISSIONER STEINBERG: Counsel,
7 you have a favorable recommendation from
8 the Commission.

9 MR. ROSENWALD: Thank you so much
10 for your time.

11 I would be remiss if I didn't thank
12 our intern, Bethany Blakeman, who is with
13 us here today who did a lot of work on
14 this project. She's a UM law student,
15 going into, I believe, her second year of
16 law school, and she did a great job and I
17 want to thank her.

18 MR. DEUTZMAN: What the
19 investigators uncovered there, one
20 example, the 30 percent they added,
21 that's fraud, you go to jail for that.
22 Somebody has to go to jail.

23 COMMISSIONER STEINBERG: Thank you
24 all for coming in and for testifying. We
25 appreciate it.

1 With that, meeting adjourned.

2 (Thereupon, the meeting was

3 concluded at 10:50 a.m.)

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1 CERTIFICATE OF REPORTER

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3 STATE OF FLORIDA :
: SS.4 COUNTY OF MIAMI-DADE :
5

6

7 I, MARIA ISABEL SALUM, Registered
8 Professional Reporter, do hereby certify that
9 I reported in shorthand the proceedings in the
above-styled cause before the Commissioners,
at the time and place as set forth; that the
foregoing pages, numbered from 1 to 37,
inclusive, constitute a true and correct
record.

10

11 I further certify that I am not an
12 attorney or counsel of any of the parties, nor
related to any of the parties, nor financially
interested in the action.13 WITNESS my hand and Official Seal in the
14 City of Miami, County of Miami-Dade, this 29th
day of July, 2019.

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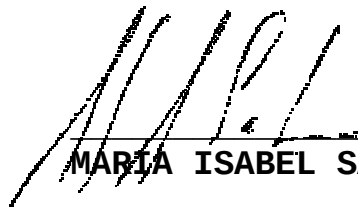
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MARIA ISABEL SALUM