

Motion seconded by Commissioner Alemán.

Vice-Mayor Arriola restated the motion, which is to let Mr. Kenny work with the collective group for the 2020 Spring Break, but also grant Mr. Kenny permission to issue a 2021 RFLI, because the feedback that Mr. Kenny received from the industry is that 2020 is too short of a window as they are already planning for 2021.

Mr. Kenny added that the City received interest from some very big names; they just could not turn it around in time.

Voice vote: 6-0. Absent: Mayor Gelber.

2:53:34 p.m.

R9 I DISCUSS TERMINATING THE CITY'S CONTRACT WITH COCA-COLA.

Vice-Mayor Ricky Arriola
Deferred from June 26, 2019 - R9 A

ACTION: Discussion held. See action with R9 J.

2:36:48 p.m.

R9 J DISCUSS IMPLEMENTING A TOTAL BAN ON SINGLE-USE PLASTICS ON MIAMI BEACH PENDING THE FLORIDA RETAIL FEDERATION'S LITIGATION AGAINST THE CITY OF CORAL GABLES.

Vice-Mayor Ricky Arriola & Co-sponsored by Mayor Dan Gelber and
Commissioners Michael Góngora, Joy Malakoff, and Micky Steinberg
Deferred from June 26, 2019 - R9 B

ACTION: Discussion held. Item heard in conjunction with Items R9 I and R9 F. Motion to refer to committees (see below) made by Vice-Mayor Arriola; seconded by Commissioner Alemán; Voice vote: 7-0.

REFERRALS:

1. Sustainability and Resiliency Committee – 1) The Office of the City Attorney to propose Ordinance(s) addressing banning single-use plastics (including plastic bags) in Miami Beach. 2) Discuss the environmental and health aspects of having Coca-Cola as the City's major corporate sponsor. 3) Discuss the Coca-Cola sponsorship in light of the City's #PlasticFreeMB branding. **Elizabeth Wheaton to place on the Committee Agenda. Office of the City Attorney, John Woodruff, Elizabeth Wheaton, and Tonya Daniels to handle.**
2. Finance and Citywide Projects Committee – 1. The Office of the City Attorney to discuss potential costs (including damages, costs, and attorney's fees) of enacting legislation banning single-use plastic (including plastic bags). 2. Discuss the economic details of the Coca-Cola sponsorship. 3. Discuss the environmental and health aspects of having Coca-Cola as the City's major corporate sponsor. 4) Discuss the Coca-Cola sponsorship in light of the City's #PlasticFreeMB branding. **John Woodruff to place on the Committee Agenda. Office of the City Attorney, John Woodruff, Elizabeth Wheaton, and Tonya Daniels to handle.**

Mayor Gelber suggested having an open discussion about plastics since the items are related. (See Items R9 F, R9 I, and R9 J.) One option would be instead of trying to resolve the issue from the dais today, during the recess they could refer the issue of plastics to the Sustainability and

Resiliency Committee and they Committee members can come up with some good ideas; but he thinks it is appropriate to discuss now.

Commissioner Góngora stated that this discussion item (R9 F) has been on the Agenda for three or four months, and it keeps rolling over. Other cities, such as Bal Harbour and now Surfside, have come forward with plastic bans. Commissioner Góngora wants to discuss possibly enacting a total ban on plastic, such as is being implemented up and down the coast by other cities. His item is analogous to Item R9 J, which has unanimous sponsorship. Commissioner Góngora thinks it is time for the City Commission to take the next step forward, be leaders on this issue, and enact a total ban on single-use plastics in the City.

Mayor Gelber asked City Attorney Aguila what the Legislature preempts.

Raul J. Aguila, City Attorney, explained that currently he has to advise the City Commission that there is a potential preemption issue on single-use plastic bags, as well as polystyrene, which incorporates plastic utensils. He has been speaking to the City Commission about this on a regular basis. His Office has also been tracking what Surfside and Bal Harbour have done. This City Commission urgently wants to make a legislative statement regarding banning single-use plastics. As he said, there is a case pending on the Third District Court of Appeals where Coral Gables was successful in the trial from court in upholding its plastic bag ban. That case is under appeal in the Third District Court of Appeals. In answering Mayor Gelber, he explained that Miami Beach has a plastic bag ban covering its sidewalk café permits, City special event permits, and City lessees. The theory is that the City regulates those entities contractually, so the ban is incorporated in their leases, sidewalk café permits, and in special events policies. The Commission is talking about, like with polystyrene and plastic straws, going the next step, which would eventually prohibit Citywide businesses from utilizing plastic bags. If that were the direction of this City Commission, he would like to bring back legislation in September. Ideally, he needs to think about the effective date. This Commission has been very prudent in doing an education period and a warning period before starting to enforce its Ordinances banning polystyrene and plastic straws. The position that Bal Harbour and Surfside have taken with regard to their bans is that if it were challenged, then they would repeal the legislation prior to the challenge. He wanted to mention that legislation passed this last session by the Florida Legislation went one step further and says that if a City were to enact a ban on plastic that the State considers preempted under State law, and it is challenged, the City, if they lose in Court, could be responsible for attorney's fees, cost, and damages to the prevailing party. City Attorney Aguila added that anyone could make such a claim.

Mayor Gelber thinks that he and all his colleagues are interested in exploring such a ban. Miami Beach's advantage is that they have a superb Legal Department, which most cities do not since most other cities rely on outside counsel. Mayor Gelber would be very grateful if the Office of the City Attorney could come with a proposed Ordinance(s) that could be referred to and discussed at the Sustainability and Resiliency Committee that would move Miami Beach closer to goal line. Mayor Gelber does not want enact an Ordinance that is solely symbolic, that does not work. **Raul J. Aguila to handle.**

Commissioner Steinberg stated that these are already standing items at the Sustainability and Resiliency Committee. Probably the reason these items are in front of the City Commission today is because the Committee did recommend going forward. Now that there is consensus to move the item forward, perhaps, they can be more hopeful that something will happen.

City Attorney Aguila is stated that he committed to this issue, and he accepts the challenge to bring something back in September that works. The Office of the City Attorney is tracking the preemptions carefully, and Elizabeth Wheaton forwarded a letter sent by the County, putting on notice that polystyrene and plastic bag bans was preempted, which is the first step prior to a challenge. The

challenge comes from the Florida Retail Federation, a huge conglomerate that lobbies on behalf of entities opposing plastic bans. City Attorney Aguila will come back in September with something the Commission can agree on.

Mayor Gelber added that the folks that lobby against the banning of single use plastic and plastic bag adopted by cities are generally the Florida Retail Federation and Publix. It was their push against such legislations that resulted in the State preemption on plastic bag bans. When Mayor Gelber was a member of the Florida Legislature, those entities lobbied him against these bans. Mayor Gelber suggested that the City ought to go to local hoteliers and urge them to go to Florida Retail Federation to notify them that Miami Beach hotels do not support preemption and back bans on single use plastics. Local hoteliers can communicate with the Florida Retail Federation and explain that they are not representing them when they create a preemption that destroys beaches and infiltrates stormwater systems.

Raul J. Aguila, City Attorney, stated that even though the Coral Gables case is on appeal, the Publix stores in Coral Gables have agreed to use paper bags instead of plastic bags, although the Ordinance has not been enforced.

Discussion held.

Vice-Mayor Arriola is concerned about the risks associated with adopting this type of legislation, due to potential damages that could be imposed against the City. One possible solution could be imposing a future effective date on such legislation. By doing this, parties would not incur damages until the law becomes effective, and the parties could not sue the City until the law is in effect.

City Attorney Aguila agrees that the damages would be minimal, but he is concerned that the City would be sued upon passing such legislation, since a prevailing plaintiff could be awarded attorney's fees and costs. He agrees that by following Vice-Mayor Arriola's suggestion, the damages claim would be negligible. He added that doing something successful comes when they actually make the Ordinance effective versus the education and warning campaign that they do prior to that. City Attorney Aguila wants to explore this further.

Vice-Mayor Arriola explained that they are trying to craft legislation, and because this is winding itself through the courts and they do not know when that will ultimately be resolved or if they can change legislation in Tallahassee, they need to give themselves time so that this could be an effective legislation. He asked if they could craft legislation to take effect upon the earlier of a certain date or the resolution of the case cited.

City Attorney Aguila agreed that this is the best track to go on, and he agrees that it is the direction he is headed in.

Discussion continued.

Commissioner Góngora asked if this is open for public input.

Mayor Gelber would like to refer this to the Sustainability and Resiliency Committee and the Finance and Citywide Projects Committee because they have a great deal to unravel on this. The Commission is not acting today, and they all agree that the Commission needs to do all they can do. He wants to refer all these items to committees and asked if the Coca-Cola issue should also be bundled with the other issues. (See item R9 I.) Mayor Gelber took a moment to announce that the City began a program at South Pointe Elementary where they gave all the kids a packet of non-plastic cutlery that they can use. The students then had a rally, and all the kids at South Pointe Elementary are now keeping track of all the plastic that they are not using. This August, the City will

give every child in the City's feeder pattern schools a package of plastic free utensils and straw, along with curriculum to help the students track how the amount of plastic they are not using. As an incentive, the City committed to ice cream parties and tree plantings. Mayor Gelber added that it is not easy to convince adults to change behavior, but children are great. The PTAs have been tremendous supporters of this initiative. Mayor Gelber announced that the City is about to bring a major sponsor to fund the program; the sponsor will be allowed them to place their insignia on the plastic free utensil cases. He urged the City Commission to go to the schools when they hear about it.

Elizabeth Wheaton, Environment and Sustainability Department Director, explained that the current kit is made out of wheat straw, which is a bio product from wheat, and they selected this product because it does not have a hard case. Some of the feedback received with the bamboo utensils was that it had splinters. The City did not want that issue. Additionally, the parents wanted a harder case that could be washable. The City went with the wheat straw case with a fork and a spoon, and a silicone straw that is soft. The package is easily washable.

Mayor Gelber stated that the approximate cost is about \$20,000 to supply the entire feeder pattern. The City will have a major local sponsor who is also plastic free.

Item R9 I

Vice-Mayor Arriola is in favor of referring Item R9 I to both the Sustainability and Resiliency Committee and the Finance and Citywide Projects Committee. As sponsor, he explained that they are branding the City as #PlasticFreeMB, yet they have a situation where their major corporate sponsor delivers its products in plastic bottles. How do they reconcile the two? How do they resolve banning plastic straws but not plastic bottles? He wants to try to be as intellectually pure as he can be, but also fair for what has been traditionally a good partner of the City, and that is the Coca-Cola Corporation. He had conversations with representatives of the company about possible solutions. No matter what they do as the City, whether it is banning plastic straws or plastic bags, it is merely a drop in the ocean, to use an appropriate metaphor. They are not doing enough, but are trying to use the international limelight that Miami Beach has to change consumer behavior, the State Legislature and the Federal Government's behavior, and corporate America's behavior. If they can make the Coca-Cola company part of the solution, that would be a better course than terminating the contract. They talked about innovative things the corporation is exploring and they may be able to bring to the City in other ways to achieve the goals they all want, which is a more sustainable environment, free of pollution, and cleaner oceans. That is what the discussion should be about more than anything else.

Percy L. Wells, Vice President, Corporate Development and Government Relations for Coca-Cola Beverages Florida, LLC (Coke Florida) clarified that he worked for Coca-Cola beverages Florida, which is the independent franchise for the State. They own the distribution rights, produce products in the State, and sell it. He retired from the Coca Cola Company after 25 years last July, and then joined Coca Cola Beverages Florida. The contract and agreement the City has is with them, not the Coca-Cola Company. However, they work closely together in research and development. His colleague Begonia will share more about the contract and plastics, but he just wanted to introduce himself. When he heard about the issue, he wanted to share the importance of the relationship they have had over years. This is something they do not take lightly. The Coke system works closely with research and development. They are at the forefront of development of how they use plastics. Their products are not single-use plastics; they are fully 100% recyclable, including the cap and label. Their packaging is what drives recycling in the community, as it is valuable. They are working on ways to have better sustainability and recycling, because if they can get that package back, it can be reused for carpets, for clothing, and other items they produce. They work closely with the recycling industry.

Begonia (no last name given), Coca Cola Beverages Headquarters in Miami, South Florida, and Tampa office, wanted to clarify different plastics. Not all plastics are created equal. She explained that in the current language in the Bill to ban plastic, PET (*made entirely from plant materials*) which is what their bottles are made of, is not on there. These are bottles created in partnership with recycling facilities that love their packaging, because they have been design to work seamlessly in their recycling stream. Just as they know that a can is 100% recyclable, this PET bottle is 100% recyclable. Not only that, but they work with engineering, so the bottle is made 30% of plant based biomaterial, which means less material used, less CO2 used in the development, and frankly they cannot even get enough of them back, as they have to compete with the textile, shoe, clothing and carpeting industry to get back some of that recycled PET. She showed shirts made out of the same material, so a great deal of fabric, such as polyester is made out of recycled PET. It is a valuable commodity and they do not like to see it in the trash or on the streets either. They want to help residents and tourists understand that recycling is the key and they want to make sure that this stays in the supply chain. It is a circular economy and they can continue to support recycling facilities and recycling infrastructure in Florida, which is very important. Without this material recycling might not be able to continue to grow and to remain strong in Florida. There is a difference between this and a straw, a stirrer, or a plastic bag. Additionally, different materials have different pros and cons. Paper cups actually have plastic lining on them and are not recyclable; same thing with boxed water or other products inside a box, such as aseptic carton, which is paper, aluminum, and plastic glued together and is not recyclable. Recycling facilities have a hard time working with those. They understand every package anyone creates will have some weight, but to them is to be able to offer consumers packages that are 100% recyclable, so that recycling can continue and therefore creating less waste. Packaging and sustainability have been a focal point of Coca-Cola and the beverage industry for a long time. They are committing as an industry millions of dollars to support recycling infrastructure, education of consumers, so they understand this is a valuable resource and not throw it away on the streets. They also have volunteer activities throughout the year doing coastal clean ups, and these are not the items usually seen on the beach. They know City residents do not want to litter; they want to be able to have the ability to recycle items. They appreciate the Miami Beach partnership that has had great results and great programs, such as the recyclable bins along Lincoln Road and in City Hall, educational programs, and entertainment programs for residents. They want to continue to grow that partnership and maybe work together to focus this partnership towards more sustainability, educating the public on recycling, as well as reducing waste, which are common goals.

Vice-Mayor Arriola explained that they are not talking about recycling; they are talking about biodegradability. When they compare one thing to another, the problem is that the plastic bottles do not biodegrade, which is the problem. Paper will disappear into the environment within a year. If they are going to go down this route, be prepared to be challenged. Coca-Cola as a company produces 200,000 plastic bottles per minute; that is a problem. It is a problem that this company will have to solve, because our oceans are swimming in plastic. He suggested cautiousness as they discuss at the Committees.

Begonia added that glass or aluminum, even though they are great packages, have a higher CO2 footprint than PET. They understand different packages having different uses, for example, being able to reseal them or be able to take them to the beach without them breaking, and they need to understand what the CO2 footprint of each of these is. The paper cups or paper boxes are not biodegradable as they have aluminum and plastic in them. They are working as an industry to try to address this.

Vice-Mayor Arriola stated they are going the wrong route. At the Finance and Citywide Projects Committee, they will have to discuss not only the environmental aspect, but as a City, they want to promote health and wellness. They have as a major corporate sponsor a product that contributes

to diabetes, which they have an epidemic in the country. They will have to address that, in addition to the economics of this deal and whether or not it is good for the City.

Percy L. Wells stated that they certainly understand and appreciate the concerns with these issues. Begonia makes valid points, but he suggested and offered that they allow their company, Coca-Cola Beverages Florida, as well as Coca-Cola Company to collaborate on something that will work for the City. Unfortunately, packaging is an important commodity that is being used across the globe, and they have the responsibility to make sure that what they produce has the best return on the community investment. They will love to talk with the City about it.

Vice-Mayor Arriola stated that it is a better approach, because if they talk about partnerships, how do they both make themselves better. That is better than just trying to defend plastic bottles. That is not going to be a winning strategy, and he advises Coca-Cola not to go that route.

Mr. Wells stated that, to be transparent, he does not think Begonia was defending but simply sharing the facts about what they deal with every day.

Mayor Gelber added that the items would be referred to the Sustainability and Resiliency Committee and the Finance and Citywide Projects Committee. He thinks it will be an opportunity to elevate their knowledge of these issues. By the way, he thinks one of the things they probably do better in the City is their recycling efforts. They also do a great deal of beach cleanups in the City and they do find plastic bottles are there.

Motion to refer to the Sustainability and Resiliency Committee and the Finance and Citywide Projects Committee by Vice-Mayor Arriola; seconded by Commissioner Alemán. Vote taken.

10:27:55 a.m.

R9 K DISCUSSION AND REFERRAL TO THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE ANTI-BULLYING TASK FORCE RECOMMENDATIONS.

Commissioner Michael Góngora

ACTION: Discussion held. Item referred. Motion to approve the concept plan and refer the item to Neighborhood/Community Affairs Committee made by Commissioner Góngora; seconded by Commissioner Steinberg; Voice vote: 7-0. **Eric Carpenter to place on the Committee Agenda. Michael Smith to handle.**

Commissioner Góngora suggested the creation of the Anti-Bullying Task Force Committee, and as someone who has seen bullying throughout his life, he thought this was an important topic for the City to tackle. The Anti-Bullying Task Force members got together and issued recommendations and a comprehensive report that will take some time to complete. This will set them further on their course. He suspects the Commission will have to refer the implementation to Neighborhood/Community Affairs Committee, but today they want to set it. Commissioner Góngora introduced Task Force members Danila Bonini and Scott Bader.

Motion to approve the concept plan and refer the item to Neighborhood/Community Affairs Committee made by Commissioner Góngora; seconded by Commissioner Steinberg.

Scott Bader stated their recommendations are very strict; it can be integrated with MB Kindness. They recognized the Parks and Recreation Department as they are using their template. They thanked Wendy Rich-Goldschmidt from the Miami Beach Police Department, who is the City the Task Force liaison, with her help in navigating the process.