

**City of Coral Gables City Commission Meeting
Agenda Items G-1, G-2 and J-1 are related
February 25, 2020
City Commission Chambers
405 Biltmore Way, Coral Gables, FL**

City Commission

Mayor Raul Valdes-Fauli

Vice Mayor Vince Lago

Commissioner Pat Keon

Commissioner Michael Mena

Commissioner Jorge Fors

City Staff

City Manager, Peter Iglesias

City Attorney, Miriam Ramos

City Clerk, Billy Urquia

Senior Sustainability Analyst, Matt Anderson

Public Speaker(s)

Jackson "Rip" Holmes

Agenda Items G-1, -G-2 and J-1 are related [9:33 a.m.]

A Resolution of the City Commission of the City of Coral Gables, Florida, continuing the stay of enforcement of Chapter 34, Articles IX and X of the City Code in Response to the conclusion of all appeals in Florida Retail Federation, Inc. Et Al. V. the City of Coral Gables, Florida, continuing enforcement of Sections 2-730, 62-262, And 62-263 of the City Code, and encouraging businesses to continue complying with Chapter 34, Articles IX and X, by not resuming the use of products made with expanded polystyrene or single-use plastic bags.

(Sponsored by Vice Mayor Lago)

A Resolution of the City Commission of Coral Gables, Florida urging the Florida Legislature to amend Section 500.90, Florida Statutes to grandfather-in the City's polystyrene regulations, enacted as Ordinance 2016-08.
(Sponsored by Vice Mayor Lago)

Report and discussion regarding the Florida Supreme Court's ruling in Florida Retail Federation, Inc. et al. v. The City of Coral Gables, Florida.

Mayor Valdes-Fauli: G-1.

City Attorney Ramos: G-1, G-2 and J-1 go together, sir. So, as the Commission is aware, on October 12, the Florida Supreme Court declined to accept jurisdiction of our appeal on the Third District Court of Appeals ruling that the three statutes that preempted our regulation regarding single-use plastic bags and expanded polystyrene were in fact constitutional, thereby declaring our ordinances not compliant with the law. Given this, the court battle essentially has ended. Consequently, we have item G-1, which continues the stay of enforcement of both ordinances, which we had already done in August. But now we want to acknowledge the Supreme Court's decision and I'll need a vote in order to continue to stay enforcement on G-1. I also want to clarify that the portion of the ordinance that has been essentially struck down was the portion that regulated the use of these products by businesses within the City. The City continues to refrain from using expanded polystyrene and single-use plastic bags. In addition, the City continues to make it a requirement of contracting with the City that vendors and contractors not use those items in the fulfillment of City contracts. And the City continues to prohibit the use of those products by special event permittees. Those prohibitions are permitted and not preempted by the applicable statute. Also, the battle will continue in the State Legislature. The City has made part of its legislative agenda for many years getting rid of these preemption statutes, particularly as they relate to expanded polystyrene and plastic bags. You will see G-2, which is a resolution that now specifically urges the State Legislature as an intermediate step to repealing the statutes to grandfather in the City of Coral Gables. Coral Gables was uniquely positioned, as you know. Cities that had ordinances in the books prior to the date of the preemption, January 1, were

grandfathered in. We were in a strange legal posture because we had no notice that the preemption was going to happen, and we also were not grandfathered in. So, I need a vote on G-2. And then I'd also like Mr. Anderson to come up and talk about the incentive programs we have in place, but also ideas for potentially incentivizing businesses to continue to do the right thing. Although at least anecdotally we've seen that businesses are continuing to do this voluntarily.

Senior Sustainability Analyst Anderson: Thank you, Miriam. Yeah, so the incentive programs we currently have in place is we do have our green business program that we partner with the Chamber of Commerce. That is going really, really well. We're actually going to be bringing the University of Miami in front of you guys in the next month or so. We visited their campus and they're trying to go plastic free. And so that program we've been able to continue connecting with businesses and encouraging them to, as part of that -- a baseline requirement of that program is to be as plastic free as possible within the businesses. So, every business that we've had -- we've had six so far that I've have applied and gone through the certification -- have been plastic free. We've also had conversations with the City of Miami Beach. They have a great plastic-free Miami Beach campaign that we've been interested in partnering with them with. So, we've been having those conversations and we're going to move forward with that. And another thing that we've thought about and it's something I wanted to kind of discuss with the City Attorney is if there are businesses that do go back to using plastic bags, if we can somehow incentivize them to have a plastic bag either recycling program or disposal program in place. Because I think that's one of the biggest issues, we see with plastic bags is the disposal process and them ending up in our waterways and those sorts of things. So, that's something that we can explore as well.

Vice Mayor Lago: Thank you, Matt.

(COMMENTS MADE OFF THE RECORD)

Vice Mayor Lago: Yes, thank you, Mayor. First off, I would like to thank Miriam for assisting and putting together these resolutions. We worked very hard on them. And I know that many of

us are dismayed in regard to the outcome, but this is I think a step forward that we're going to continue to really set the trend in regard to sustainability and environmental stewardship. I've spoken to a lot of restaurants, a lot of restaurants, especially now being involved in the BID and spoken to a lot of other elected officials that were very troubled by the court's findings in regard to how these findings affected our Home Rule and preemption. I think in the future we're sending a strong message to the Governor and to the State House and to the Senate that the City of Coral Gables going to continue to lead on these issues, that even though we may have lost today temporarily, but the future is bright. And what I mean the future is bright, you're seeing at the state level that they're moving mountains in regard to Everglades restoration, certain things that haven't been seen in years. And I think that this kind of tone that you're seeing from a lot of state legislatures in the past that were reluctant to addressing environmental issues, excuse me, sends a strong message not only at the state and the federal level, but also at the local level that they will support environmental and sustainability issues. So, I ask for your support today on this issue. I think Matt and his team are doing a wonderful job in instituting these green initiatives, in instituting a lot of these -- you know, speaking to businesses, speaking to restaurants. And when I walked into a lot of these restaurants and some of them came up to me and started talking to me about the latest in regard to plastic bags and polystyrene, all of them said this effort laid the groundwork for us to be able to continue in our efforts. They're going to continue to not serve with polystyrene, to not use plastic bags. And I think that we've sent a strong message. And I think that -- and I look forward to this being reconsidered in the near future, but I think we as a City need to send the message that we're going to do everything in our power voluntarily to continue in these positive efforts.

City Attorney Ramos: Vice Mayor, I also remain optimistic regarding the Governor.

Vice Mayor Lago: Yeah.

City Attorney Ramos: As you know, he's been a steward of environmental initiatives, and in fact, vetoed the straw preemption that the Legislature attempted to pass the last session, so...

Vice Mayor Lago: And he also ended those significant leases for the sugar industry, which was a big move and hadn't been done in years. So, there's a lot of positive things that are moving in the right direction. Yes, we did take a step back today, but I'll be -- you know, I'm very honest with you. But I think our efforts show leadership. So, I commend the City. I commend staff. I commend this Commission for their efforts, and we move forward. We move forward. I think -- I don't want to speak for Matt. Matt can tell us a little bit, but I would -- I'm -- I think over 90 to 95 percent of businesses are going to continue in this direction because where we spend our dollars and the message that we send by spending those dollars in certain businesses are critical and send that message that if you're a steward of the environment, we're going to support your business.

Senior Sustainability Analyst Anderson: And to add on to that, in the conversations I've had with Mark Trowbridge, the President of the Chamber of Commerce, he's indicated the same thing as the same conversations he's having. And I also wanted to add, since we found out about this ruling, I did share it with all my counterparts throughout the state and the feedback we've received from the other cities is commending...

Vice Mayor Lago: Incredible.

Senior Sustainability Analyst Anderson: Commending our leadership, thanking us for that and them continuing to support us in everything we're working on.

Vice Mayor Lago: Matt, thank you.

Mayor Valdes-Fauli: Thank you, Matt.

Vice Mayor Lago: Thank you for bringing up Mark, by the way, because he's played an incredible role along with the Chamber and the BID to really getting the message out there.

Senior Sustainability Analyst Anderson: Yeah.

Vice Mayor Lago: So, thank you.

Senior Sustainability Analyst Anderson: It's really a partnership amongst the City, the Business Improvement District and the Chamber and all these entities working together to continue to promote sustainability on all fronts throughout the City. So, it's a great partnership.

Mayor Valdes-Fauli: Thank you, Matt.

Commissioner Keon: Yeah.

City Attorney Ramos: We also need to take --

Mayor Valdes-Fauli: We have --

City Attorney Ramos: A minute to acknowledge Cori Lopez-Castro --

Vice Mayor Lago: Yes.

City Attorney Ramos: Who was involved in this case as Special Counsel from the very beginning. Her entire team at Kozyak Tropin and Throckmorton, as well as the Honorable Raul Quintero, who got involved at the end to try to take us through the Supreme Court. We didn't have the chance, but he was willing to help us there as well. So, I'd like to thank them for their hard work here.

Mayor Valdes-Fauli: We have --

Commissioner Keon: I think -- I have to --

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Mayor Valdes-Fauli: What?

Commissioner Keon: I have to agree with Commissioner Lago that I think we've laid a foundation as to how we respect and how we care about the environment and what we're going to do. And you know, we're willing to put the dollars behind that to defend those things. And I think it's one of those things that we may not see it today, but I believe that we will see it. I believe in time that they will replace polystyrene with something that is biodegradable or at least there will be polystyrenes made that are biodegradable because we know how bad in particular polystyrenes are for the environment. So, I think that -- I think we'll get there, and I think its maybe small steps, but I think it was a very good thing that --

Mayor Valdes-Fauli: Thank you.

Commissioner Keon: We did.

Mayor Valdes-Fauli: We have a gentleman that wishes to speak J. R. Holmes.

Vice Mayor Lago: Mr. Holmes, good morning.

Jackson "Rip" Holmes: Thank you so much. Probably for a lot of people, certainly for me, this was a total freak out to see this -- our pride and joy, this ordinance, go down. And what I really want to share today is what convinced -- what took me across the line as far as the scientists' prediction that Miami Beach will be underwater by the year 2060 -- if you haven't seen this, Google it. There's a group of the most prestigious climate scientists who say of all the cities in the United States, number one under water by 2060 is Miami Beach. So, if you project that forward, I have a good friend who is an oceanographer at the University of Miami who -- doing a mental block on his name, but it'll come to me -- anyways is predicting for Coral Gables maybe 2050 under water. Now, just because we have great scientists making predictions doesn't mean we really truly believe

them. And I'm -- I got to see something before I actually believe it. And what I've seen is the horror to me that we've lost our waves, our surfing waves for the whole state of Florida. I repeat, we have lost our surfing waves for the whole state of Florida. I grew up body surfing on Vero Beach. It was the greatest thing in your lifetime. You go out there and body surf on these rubberized mattresses and you just cannot thank God enough for the great time you're having. Guess what? No more waves. How did it happen? The lifeguards explained to me that the hurricanes have wiped out the sandbars. And so, the sandbars -- you know how a wave is in Hawaii, right? The wave comes in -- the water comes in and then when it hits a sandbar or the coral reef, it gets pushed up into a wave. Well, if there's no sandbar, there's no wave. And the hurricanes have destroyed surfing. The hurricanes have des -- there is no surfing in Florida to speak of. We have little waves here on Miami Beach. So, if that can happen, if our surfing waves have now disappeared, presumably forever, then this prediction that Miami Beach will be underwater by 2060 is unfortunately something I believe. Thank you.

Mayor Valdes-Fauli: Thank you, sir.

Vice Mayor Lago: Thank you, sir.

Mayor Valdes-Fauli: I want to point out to you that you're preaching to the choir. G-1, do I need -- I mean, we do need a motion.

City Attorney Ramos: You need a motion on G-1 and G-2, sir.

Vice Mayor Lago: Do you need separate motions or -- so moved on G-1.

Commissioner Keon: Second.

Mayor Valdes-Fauli: Will you call the roll, please?

Vice Mayor Lago: Yes.

Commissioner Mena: Yes.

Commissioner Fors: Yes.

Commissioner Keon: Yes.

Mayor Valdes-Fauli: Yes.

(Vote: 5-0)

Mayor Valdes-Fauli: G-2.

Vice Mayor Lago: So moved.

Commissioner Keon: Second.

Commissioner Mena: Yes.

Commissioner Fors: Yes.

Commissioner Keon: Yes.

Vice Mayor Lago: Yes.

Mayor Valdes-Fauli: Yes.

(Vote: 5-0)

Mayor Valdes-Fauli: J-1.

Commissioner Mena: There's no motion on that.

City Attorney Ramos: No motion there.

Mayor Valdes-Fauli: Okay.