

**City of Coral Gables City Commission Meeting**  
**Agenda Item K-1**  
**September 11, 2018**  
**City Commission Chambers**  
**405 Biltmore Way, Coral Gables, FL**

**City Commission**

**Mayor Raul Valdes-Fauli**  
**Vice Mayor Frank Quesada**  
**Commissioner Pat Keon**  
**Commissioner Vince Lago**  
**Commissioner Michael Mena**

**City Staff**

**Interim City Manager, Peter Iglesias**  
**City Attorney, Miriam Ramos**  
**City Clerk, Walter J. Foeman**  
**Assistant City Attorney, Gus Ceballos**

**Public Speaker(s)**

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Agenda Item K-1 [9:41:33 a.m.]

**City Attorney Items**

A discussion regarding adoption of a policy establishing procedures for the creation of a new special taxing districts and amendment of existing special taxing districts.

Mayor Valdes-Fauli: City Attorney Items.

City Attorney Ramos: Item K-1 is a discussion regarding adoption of a policy establishing procedures for the creation of a new special taxing districts and amendment of existing special taxing districts. This came up because as the special taxing districts migrated over to the City, we found ourselves in a position where one or two members of a special taxing district might have a particular desire to amend the ordinance to provide for services. But it was difficult for now the City Commission as the governing body of these special taxing districts to know they were speaking with one voice or this was one or two people that wanted a change and how we are going to manage that. So the thought from our office was to step back, create a policy for your consideration and adoption and then that's how we would move forward with changes. The first

part now let Assistant City Attorney Ceballos, who drafted the policy take you through it, but the first part really just talks about the creation, which is essentially the county process. The focus for us is the second part, which is what you all want to happen when we are amending a district.

Assistant City Attorney Ceballos: Good morning Mayor, Commissioners, Assistant City Attorney Gus Ceballos. I believe the City Attorney basically gave you a brief overview of exactly what the policy is before you. The entire first part is basically a copy of the county that is the creation process; the creation process still exists with the county. We have no control over it. We are in discussion about how we would be involved in terms of a letter of support, but that's not really part of this policy. The main purpose of this policy is the second part, which we are addressing the amendment process of the taxing districts once they are transferred over from the county. The first step we had set forth was basically a letter of intent. We increased the percentage of homeowners required to be on this letter of intent from 10 percent to 20 percent. The 10 percent is what the county was particularly using. Once we receive that letter of intent, the City would go ahead and create a petition. The petition would basically delineate the changes and the proposed amendment to the special taxing district. Then that petition would go back out for votes of support from the actual homeowners. We set forth three categories, if you will. The first category if they did not achieve 50 percent support. Basically, the motion would die, nothing to continue. The second option would be if they received anywhere between 50 and 80 percent of the support, these numbers are numbers that we are just proffering. We are welcome to any sort of suggestion that you may have. Basically anything between 50 and 80 percent would follow a very similar procedure to Miami-Dade County, which it would then be set for an election. And the ballots would be sent with mail ballot and you would go through the same procedure you would if you were doing creating a new special taxing district. The third option would be if there was overwhelming support for this modification or this amendment, we are proffering, like I said 80 percent. If there was more than 80 percent support, the election process would not be required. It would come back before the Commission and the Commission could approve it administratively. That is basically the proposed policy. If you have any questions or any suggestions. Also, I should note. I just handed you two minor changes from the item that had been posted when the agenda originally back last week. I'm going to read those into the record. Under 4(b) we've added a subsection 4, which reads, "The election will be conducted by mail ballot by either Miami-Dade County Elections Department or by the City Clerk, as to be determined by the City. Any cost associated with the election would be the financial responsibility of the existing special taxing district regardless if the amendment passes or fails." And one note for further clarification, all the way at the bottom of the document, it says, "this amendment process will be for significant changes of service as determined by the City. Cost recovery is not considered an amendment and any increases in the assessment that are due to increases in the cost of service will not go through an amendment process and will be completed

by the City administratively.” We also have our consultant here today if you have any questions for him as well, I’m sure that he’d be more than happy to answer them.

Mayor Valdes-Fauli: I think it’s very logical and very democratic and I think it allows the people in the community to be heard, and yet it allows the majority, the super majority an opportunity to pass it. Any motion, any comments?

Commissioner Lago: It speaks for itself.

Commissioner Mena: I’ll make a motion.

Mayor Valdes-Fauli: It’s been moved and seconded. Will you call the roll please?

Commissioner Lago: Yes

Commissioner Mena: Yes

Commissioner Keon: Yes

Mayor Valdes-Fauli: Yes

(Vote: 4-0)

(Vice Mayor Quesada: Absent)

Mayor Valdes-Fauli: And we go back to the Consent Agenda Item D-3.

Mr. Proctor: Sorry Mayor.

Mayor Valdes-Fauli: Oh, I’m sorry.

Mr. Proctor: Can I address the Board on this item?

Mayor Valdes-Fauli: Yes, please.

Mr. Proctor: I appreciate it. Jerry Proctor, attorney representing Coco Plum Phase I. I’m joined by Hector Fortune who is the President of our association. We appreciate the time and effort of the City staff, the City Attorney’s Office and staff, appreciate the time that the Mayor and Commissioner Lago have given us and we are very appreciative of the standards and they give us a roadmap going forward. We have just a couple comments and questions at this point that we’d like to put forward. Number one, in terms of the overwhelming support part of what Mr. Ceballos mentioned, the 80 percent, we would like to ask the Mayor and Commission to establish something that might be in the 65 percent or two-thirds range for that overwhelming support. It’s very difficult to find property owners and homeowners at certain times of the year,

really any time for certain homeowners. We have absentee owners that do not live in Miami for most or all of the year and we believe we have support for what we are trying to do and if we thought we won't succeed anyway, but we would ask for your consideration of that change. The second comments goes a little bit beyond your report and I put it out respectfully because we don't have much time before the fiscal year starting October 1. We have at the moment historically, off-duty Gables police serving our community 16 hours a day. Because the districts as-a-whole have been assumed by the City, we understand that that is no longer possible that those officers would have to be in an overtime status.

Mayor Valdes-Fauli: The IRS has rules compelling that – yes.

City Attorney Ramos: It's a Fair Labor Standards Act, sir.

Mr. Proctor: Pardon me?

City Attorney Ramos: As well a Fair Labor Standards Act.

Mr. Proctor: We would like to, to the extent possible work with the City and have off-duty police or overtime police, as you might call them, serve, continue to serve as much as possible in these next twelve months while we look at expansion and other things down the road. I don't know how much of that is possible at this point, but we would like to work with the Mayor and Commission, as I said, and I appreciate you giving me the time, we only have three weeks until the beginning of the new era of Gables service and the transition and we'd like the off-duty officers, they know us, they know the City, they are there in case of a true emergency.

Mayor Valdes-Fauli: Madam City Attorney who would they have to meet with and negotiate with to take care of their concerns?

City Attorney Ramos: The consultant, I believe is present, and is understanding of the concerns because we've heard them before.

Mayor Valdes-Fauli: I think the 66 or two-thirds requirement is a logical one, given absenteeism or whatever.

City Attorney Ramos: So if we want it reduce it to 65?

Mayor Valdes-Fauli: So we instruct them to meet with the consultant?

City Attorney Ramos: So two separate issues. The off-duty issue; I don't know if the Finance Director wants to address the Commission about that and what the plan is, I think that's important. On the 65 percent, it would be essentially a motion for reconsideration to your previous motion, because we just passed a policy with 80.

Mayor Valdes-Fauli: Would you make a motion to reconsider it today at two-thirds?

Commissioner Lago: So moved.

Mayor Valdes-Fauli: Second?

Commissioner Lago: These are items that we have been discussing.

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

Commissioner Mena: Yes

Commissioner Keon: Yes

Commissioner Lago: Yes

Mayor Valdes-Fauli: Yes

(Vote: 4-0)

(Vice Mayor Quesada: Absent)

City Attorney Ramos: So, the policy will be amended to show 65 percent instead of 80 percent for a majority, 66 percent.

Mr. Proctor: Thank you.

Mayor Valdes-Fauli: And on the off-duty police and whatever, who is our consultant?

City Attorney Ramos: Sir, if you'd like to introduce yourself.

Mr. Winkkeljohn: Good morning, my name is Paul Winkkeljohn from Governmental Management Services.

Mayor Valdes-Fauli: Why don't you negotiate with him or discuss it with him and bring it to us at the next City Commission meeting, which is two weeks from now and we will discuss it then. We look very favorably and we want to do the right thing and there is a change, so we'd love to please discuss it.

City Attorney Ramos: So from a legal standpoint, we definitely cannot have off-duty officers, we can have overtime officers, in terms of how we are addressing it so that you are fully covered. I wanted the Finance Director to address.

Finance Director Gomez: Good morning. So on Thursday we do have a public hearing that sets the rate. We have already set the maximum rate that can be charged, so that is set, we cannot change that, we can only go down from there, we cannot increase it. We have been working with the budget to make sure that what is the maximum amount of hours for overtime of police officers that we can provide and we cannot increase the money via the amount that we are assessing in order to give them more hours. As I sent in that memo that I sent out earlier, last week I think it was, currently the county is providing eight hours of off-duty police officers and nothing more, that's a change that the county had recently made. We will be providing six hours of overtime officers and then ten hours of private security, because the ordinance as it reads right now requires sixteen (16) hours of security coverage. So we are enhancing services in that we are going to provide 16 hours per day as required by the ordinance. It's just six of those would be at the overtime rate and then the rest of them would be with the security guards, because we can fit that into the budget at that hybrid solution. If the process increases changes that Phase I wants to increase the assessment for the subsequent year, we can then charge more in order to cover more of the hours with overtime. We just can't do it at this point. The increase would double, even more than double the current assessment. We could after we transition put an election out there to say, do you want to absorb that cost?- and then we can start and they know that they would have to increase next year to even cover this year's overages. So, there are things that we can do after we transition. It's just right now the best 10-1 cut-over, we feel that the best is to provide the 16 hours of services with the hybrid of security guard as well as overtime police...

Mayor Valdes-Fauli: Why don't you discuss it with him, with them and then bring it to the next City Commission.

Finance Director Gomez: We have.

Mayor Valdes-Fauli: OK.

Mr. Hector Fortune: Suggestion just to comment. Is there any way that the homeowners association can contract the police officers directly, therefore avoid...we were paying regular rates, all of a sudden with less than 30 days were notified that we are losing our protection when we have to use private security for half the time and our rates are going up 50 percent. So, we understand that there are federal laws and it's not anyone's particular fault, but we are in this predicament. So, there's a way that we can as a homeowners association receive the funds and pay the police directly?

Mayor Valdes-Fauli; I think you can do that, yes.

Mr. Fortune: And avoid this. Any solution like that we'd love to for you to support.

City Attorney Ramos: So we looked at that option. The problem is that it's essentially still City dollars paying for a City employee. So it doesn't pass the FLSA test, the Fair Labor Standards test. If the homeowners association on their own wants to hire off-duty officers with their money, not with the special taxing district's money, they of course have every right to do that as can anyone for a private event, for example, but we cannot use them as a pass-through. We looked at different options and unfortunately the law just doesn't let us do it.

Mr. Fortune: But the homeowners are paying for this protection. It's being charged to each homeowner, you guys are basically a conduit for collecting the money. It is our money, its not City money.

City Attorney Ramos: Once it came over to the City from the County, we become the employer of – we are the employers of those Coral Gables police officers and we are then duty bound to pay them overtime not off-duty under the Fair Labor Standards Act, because now it's the same employer. Even if we pass the money through you and you pay them, we are still the same employer, that's the issue.

Mayor Valdes-Fauli: Why don't you instead of negotiating it here, why don't you get together and come before us at the next meeting and we'll take it up early in the meeting.

City Attorney Ramos: I just want to make clear though sir that there is really not room for negotiation.

Commissioner Mena: Not much negotiation.

City Attorney Ramos: We can talk about hours, we can talk about amending the ordinance going forward to have them have more services, if that's what they wished, but in terms of negotiating what they want, unfortunately I haven't found a way for them to do this.

Mayor Valdes-Fauli: OK. Thank you.

Unidentified Speaker: Try and keep what we have.

Mayor Valdes-Fauli: Thank you.

[End: 9:55:18 a.m.]