

**City of Coral Gables City Commission Meeting**  
**Agenda Item F-1**  
**August 24, 2021**  
**City Commission Chambers**  
**405 Biltmore Way, Coral Gables, FL**

**City Commission**

**Mayor Vince Lago**

**Vice Mayor Michael Mena**

**Commissioner Rhonda Anderson**

**Commissioner Jorge Fors, Jr.**

**Commissioner Kirk Menendez**

**City Staff**

**City Manager, Peter Iglesias**

**Assistant City Manager, Ed Santamaria**

**City Attorney, Miriam Ramos**

**City Clerk, Billy Urquia**

**Public Speaker(s)**

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Agenda Item F-1[Start 11:14 a.m.]

An Ordinance of the City Commission amending the City of Coral Gables Ethics Code to add Section 2-307, “Prohibition on Campaign/Political Consultants Lobbying” providing for a severability clause, repealer provision, codification, and providing for an effective date. (Sponsored by Mayor Lago)

Mayor Lago: We’ll move onto F-1, Ordinances on Second Reading.

City Attorney Ramos: Yes sir. Ordinance F-1 is an Ordinance of the City Commission amending the City of Coral Gables Ethics Code to add Section 2-307, “Prohibition on Campaign/Political Consultants Lobbying” providing for a severability clause, repealer provision, codification, and providing for an effective date. There were some changes made between first and second reading in accordance with the Commission’s will at the last meeting. One thing that changed was that the period of time is now 24 months instead of 12 months. There is also an additional prohibition not just on campaign consultants lobbying the city, but also on them doing business with the city for 24 months. There is an expressed prohibition that’s been added on pass-throughs, prohibiting pass-throughs; and last time we had a conversation about clerical, it was drafted as primarily

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clerical staff being exempt, and now it is solely clerical staff. I also would like to update the Commission that the Miami Beach ordinance which had been challenged in federal court, that lawsuit has been dismissed by the Judge. The Judge did not reach the merits of the case, but it was dismissed on standing and there are no other challenges to similar ordinances that I'm aware of. This is a public hearing item.

Mayor Lago: Mr. Clerk do we have any speakers?

City Clerk Urquia: Not at this time Mr. Mayor.

Mayor Lago: I have no further comment, if not, I'll entertain a motion.

Vice Mayor Mena: Did we finally include, sorry, you mentioned, it's been a while, sort of remind me the pass-throughs you referenced. Are we including vendors?

City Attorney Ramos: Yes.

Vice Mayor Mena: Okay.

City Attorney Ramos: That's one of the changes.

Mayor Lago: Anybody wants to make a motion?

Commissioner Fors: Is it still retroactive?

City Attorney Ramos: So, the ordinance will be effective starting today. We changed that instead of being retroactive to April, it will start today or tomorrow, but it will apply to this past election cycle. So, it is drafted to start at the election cycle or to capture people who are political consultants in the last election cycle.

Commissioner Fors: Alright. That's the only part of the ordinance I don't feel great about, the retroactive application. I don't know how important it is to Mayor Lago proposing it. For me, what I don't like about it is, I feel like it could be a little reactionary to the recent election, I don't think it is, but I think it gives that impression, it feels that way. Apart from that I'm 100 percent on board with it, but I'm only one vote. I would propose that, for discussion, the retroactive application and discussion on how necessary it is, otherwise we can move forward to a vote, if anybody wants to reconsider the retroactive application.

Commissioner Menendez: Then when would it be in effect from your position?

Commissioner Fors: Just going forward.

Commissioner Menendez: Just going forward.

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Commissioner Fors: Going forward. I was actually surprised to hear it wasn't illegal to make it retroactive, but its not, is that right Madam City Attorney?

City Attorney Ramos: Yes, we don't believe that its illegal.

Commissioner Fors: And why isn't it exactly?

City Attorney Ramos: Why is it that its not or that it is?

Commissioner Fors: That it's not.

City Attorney Ramos: Because the city can regulate who lobbies before them. I know where you're going. Your concern is notice, right, that if you are a political consultant and you want to chose whether you lobby the city and you are a political consultant that you didn't have notice. But in terms of making laws, the Commission has the right to make a law that regulates an industry or regulates who registers as a lobbyist or when you can lobby or how much you are charged, etc., etc.

Commissioner Fors: Alright...so that's my stance on it. I don't love the retroactive applicability of it, and I won't mince words, I think one of the reasons because it was a bit of a conspiracy going on, conspiracy theory circulating during the last election. There was one particular campaign consultant who was representing a particular candidate and if that candidate got elected there would be a coalition of folks who had been represented by this consultant. Many of us up here have been represented by him at one point or another, by that company I should say, at one point or another. For that reason, as I've said it here before, whenever something feels reactionary to me a specific claim or theory that I don't agree with, I don't like to do it, because I feel like it impliedly agrees with that theory that was circulating. Other than that, I'm 100 percent in favor of it and in favor of the ordinance, that is, and every measure of it, including increasing the period of time from 12 to 24 months. That's my two cents.

Commissioner Anderson: Just a few comments. I think this ordinance is necessary for our residence to have confidence in the political process, as well as the votes that are submitted by this Commission, to know that we do not have lobbyist promoting a particular individual, and then having special access to that individual going forward. So, I would support the ordinance as written and would make a motion to adopt it as written.

Commissioner Fors: And I want to be clear. Maybe because I'm from the inside looking out – nobody has special access to me; I don't think anybody has special access to anybody in here. So, I guess I'm just being stubborn about that particular point.

Mayor Lago: If I may Commissioner, and I understand your comments, and the last thing I wanted to make it seem as if its reactionary or we are dropping the hammer on anyone. But if it happens today or it takes effect in two years, its going to take effect, because we all believe in the legislation, so that's the truth of the matter. Obviously, I want to move forward with the way the legislation is

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written today, I think its beneficial for the community and it offers transparency. I just want to see how my colleagues feel. We have a very good working Commission and that matters more than anything else. We may disagree on legislation, the Mayor's legislation, but at the end of the day we'll tweak it to find some common ground. So, if my colleagues are not comfortable, obviously you know that Commissioner Anderson and myself are fine with it the way it is, but if my colleagues are not comfortable with it, I don't have a problem tweaking the legislation. I'd rather have the legislation pass than fail, but I feel comfortable with this legislation because it sends a strong message. We just saw what happened in Miami Beach where it was upheld, and I think it sends a strong message on behalf of this Commission as-a-whole and on behalf of the city that we are open for business, but we want things done a certain way.

Commissioner Fors: And I don't want anybody to feel pressure to tweak it just for me.

Mayor Lago: I'm backing you 110 percent.

Commissioner Fors: I can express my point of view and I understand I'm just one vote.

Mayor Lago: And I value your points, they are well taken.

Commissioner Menendez: I want to just add that I think we are all in agreement, like you said Mayor, that its necessary and sends the right message to the community and puts everyone on notice, I think. I think, actually if you look at the item, perhaps the only part that may be considered to be a little bit subjective is when it starts. The rest of it I see very clear, very objective, and if Commissioner Fors feels strongly about it, I'm more than happy to entertain that aspect of it, but the rest of it I think the objectivity is solid and its something we definitely should move forward with. I'm willing to have a discussion on Commission Fors concerns.

City Attorney Ramos: And I'll add two points on that. You don't have a Constitutional right to lobby the Commission, you have a right to speak before them on your personal opinion, but you don't have a Constitutional right to lobby or to do business with the city, as long as we are not being discriminatory, right. So, I wanted to add that to my analysis, but also, just because I think something is legal doesn't mean someone may not challenge it. And so, the Commission needs to know that, certainly making it prospective rather than retrospective, right, it eliminates that potential challenge. Another consideration for you all to have.

Commissioner Fors: Someone challenging it isn't a concern for me. I just, you know, I've given my points. As the attorneys up here know, you learn, there's more to it, its nuanced but in law school they teach you that retroactivity is usually a bad thing. I understand exactly why its not here, but that's where it came from, because I think Commissioner Menendez said put it in a good way, it's the only aspect that could arguably be viewed as subjective, everything else is pretty objective, pretty solid, in my view, and I'm not even saying it, it is subjective.

Mayor Lago: At the end of the day, we either do it today or we do it in two years. So, it's going to happen one way or another, so that's the decision.

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Vice Mayor Mena: I think it will start today no matter what, no?

City Attorney Ramos: Right. Well, what would change was that at the beginning of the ordinance the operative provision says, shall be in place beginning with any election held after April 1, 2021, which would include the last one. So that language would be stricken.

Mayor Lago: And what would take its place is the next election which is in a year and nine months.

City Attorney Ramos: That would be in a year and-a-half.

Vice Mayor Mena: Right, but if somebody starts a campaign tomorrow...

City Attorney Ramos: Right.

Vice Mayor Mena: And they hire somebody, they have a vendor working, that person is immediately foreclosed from lobbying tomorrow, right.

City Attorney Ramos: Correct. Correct. That is correct.

Mayor Lago: That's a good point.

Vice Mayor Mena: That's what I'm saying.

Mayor Lago: That's a good point. Again, these elections are every two years, depending on...

City Attorney Ramos: No, hold on, hold on. No, because the way its drafted is, prohibited from lobbying the City Commission for a period of 24 months following the swearing-in of an elected official for whom the campaign consultant provided services.

Vice Mayor Mena: That doesn't make a lot of sense.

Mayor Lago: So how about I meet you halfway.

Vice Mayor Mena: Because you're saying that if somebody starts a campaign tomorrow and hires a consultant and starts paying them money, you're saying they can lobby until the election?

City Attorney Ramos: So, what I'm saying is it was drafted like that because it was thought to start in April. If we are going to remove the April, we may want to change that language.

Vice Mayor Mena: Yes. I see what you're saying.

Mayor Lago: We have a motion on the floor.

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Vice Mayor Mena: Time out, time out, time out, sorry, sorry.

City Attorney Ramos: It still wouldn't capture someone from....

Vice Mayor Mena: A new person.

City Attorney Ramos: You're right.

Vice Mayor Mena: It would only capture people that worked on the April election, but anybody that starts working on a new campaign tomorrow...

City Attorney Ramos: You're right.

Vice Mayor Mena: Right – has too also be prospective.

City Attorney Ramos: You're right.

Mayor Lago: That's why it was clear just to go retroactive, its clear, you start the moment right there.

Vice Mayor Mena: I hear what you are saying, but I think there is a part of it that's unclear. Retroactive to April means that anybody that worked on Commissioner Menendez', yours or Commissioner Anderson's campaign is foreclosed from lobbying for a period of two years since April.

Mayor Lago: Yup.

Vice Mayor Mena: You're up for election in a year and nine months, whatever it is, if you open your campaign tomorrow and hire a new consultant that didn't work on your April campaign, that person should immediately be foreclosed from lobbying, right.

City Attorney Ramos: So that would need to be changed.

Vice Mayor Mena: The goal of, I think of what you're doing, right.

City Attorney Ramos: So that would need to be changed.

Vice Mayor Mena: But that should be clarified regardless.

Commissioner Fors: But that concern would only work for people that are or would only be applicable for people that are already up here, right,

City Attorney Ramos: Right.

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Commissioner Fors: because if somebody is running a campaign for somebody who is not an incumbent then there is no real reason for stopping them from doing anything, I guess.

City Attorney Ramos: Correct. Well, they couldn't. They couldn't lobby you because you are not here.

Commissioner Fors: Right.

Commissioner Menendez: So, my question is...

Vice Mayor Mena: That begs another question. Is the person foreclosed from lobbying anybody in the city or just the person who hired them?

City Attorney Ramos: So, the way its drafted right now, it's the Commission as-a-whole or the person who hired them one-on-one. So arguably, then this is drafted like Miami Beach and North Miami Beach. They could go to four of you one-on-one, and not to the fifth, but could not come before the Commission.

Vice Mayor Mena: Got you.

Commissioner Menendez: So, my question is, if it stays as-is, do we still need to tweak it?

City Attorney Ramos: Yes.

Commissioner Menendez: And if we decide that we want to entertain removing the retro part, still need to tweak it?

City Attorney Ramos: Right. Regardless we are going to have to tweak it.

Commissioner Menendez: Would your office be able to tweak it and we bring it back later in the Commission meeting?

Mayor Lago: We can do it on the floor right now.

Commissioner Menendez: But I want to make sure the wording is, you're comfortable and your office is comfortable with the wording.

City Attorney Ramos: I'm sure one of us could handle it. This would be a long meeting.

Commissioner Fors: I missed, I'm sorry, go ahead. I missed why it would need to be tweaked anyway.

Vice Mayor Mena: Because if you start a campaign tomorrow and you hire somebody to run your campaign who did not work in the April election.

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Commissioner Fors: They already have quote/unquote special access.

Vice Mayor Mena: They can lobby you from now until April of 23. Its not really the spirit of what I think the goal of this thing is, right.

City Attorney Ramos: For incumbents it would not be from the swearing in.

Mayor Lago: That's exactly well stated. For an incumbent it would not be from...it would be from the moment that you hire the individual. It has to be very clearly delineated in the legislation. I don't have a problem, like Commissioner Mena says, let's have our City Attorney work on it for a few hours, see what comes back, and we'll come back to this item, not a big deal, we'll come back to F-1 and F-2.

Commissioner Fors: Okay.

City Attorney Ramos: F-2, I think we can go forward with.

Mayor Lago: By the way, just so you know, for procedural reasons, there is a motion on the floor by Commissioner Anderson.

City Attorney Ramos: There is a motion on the floor, do you want to withdraw your motion?

Commissioner Anderson: Yes, I'll withdraw my motion.

Mayor Lago: Out of respect I wanted to make sure.

Commissioner Anderson: Not a problem.

City Attorney Ramos: We can do F-2 though, because it's not really related.

[Note for the record: The item was resumed at the end of the meeting]

Mayor Lago: So, I think we have one item, and it's my item, the lobbying ordinance.

City Attorney Ramos: F-1 – yes. The Deputy City Attorney has added a bunch of language and we are ready to go through it, and then Mayor, don't forget the four condo associations.

Mayor Lago: Yes, we are going to do that. So, let's just go through.

City Attorney Ramos: I'll read like this; I promise.

Mayor Lago: This is 30 seconds. So where are we right now on the draft?

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Deputy City Attorney Suarez: So what we added language to account for when an incumbent begins to campaign and hires a political consultant, and so, what the language says, you all have the new version, but it basically says, prohibited from lobbying the City Commission for a period commencing upon the retention of such campaign political consultant by an incumbent and elected official or upon the swearing in, if a newly elected official and shall end 24 months following the swearing in of any elected official, and then if a campaign political consultant is retained by an incumbent elected official who is not re-elected then the prohibition period shall end with respect to that incumbent upon the swearing in of the new elected official, and we put that in each of the three sections.

Mayor Lago: This is a very collegial Commission and I want to use it as an example. I wrote this piece of legislation, some of my colleagues wanted it to be tweaked, I am more than willing to have it tweaked. At the end of the day, I think in a year and-a-half or in six months, we get to the end goal, I think its beneficial. At the end of the day, we are making progress. So, I'm perfectly fine with the way it's written.

Deputy City Attorney Suarez: One other open point though is...

City Attorney Ramos: April 1<sup>st</sup> – it still shows as April 1<sup>st</sup>.

Mayor Lago: It's still retroactive.

City Attorney Ramos: We just need direction if we want to move that April 1<sup>st</sup> and keep the rest.

Mayor Lago: Commissioner Fors is not happy and I'm willing to work on that, if he can meet me in the middle.

Vice Mayor Mena: The only thing I didn't like about the retroactivity is just a fairness issue that people that worked on your three campaigns didn't have the opportunity to choose, right, like I'm not going to work on Commissioner Anderson's campaign or Mayor Lago's campaign.

Mayor Lago: And I'm fine with that. Listen, I'm the first one that's going to be T'd up, I'm the first one next.

Commissioner Fors: I'm fine with the removal of retroactivity and the way...

Vice Mayor Mena: It would start immediately?

City Attorney Ramos: It would start tomorrow of going forward, it wouldn't apply to people that were campaign consultants in the April election.

Mayor Lago: Would anybody make a motion?

Commissioner Anderson: I'll move it.

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Vice Mayor Mena: Second.

Vice Mayor Mena: Yes  
Commissioner Menendez: Yes  
Commissioner Anderson: Yes  
Commissioner Fors: Yes  
Mayor Lago: Yes  
(Vote: 5-0)