

City of Coral Gables City Commission Meeting
Agenda Item E-1
June 13, 2017
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

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

City Staff

City Manager, Cathy Swanson-Rivenbark
Assistant City Manager, Peter Iglesias
City Attorney, Craig E. Leen
Deputy City Attorney, Miriam Ramos
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Government Affairs Manager, Naomi Levi-Garcia

Public Speaker(s)

Fausto Gomez

Agenda Item E-1 [0:00:00 a.m.]

Personal appearance by Fausto Gomez of Gomez Barker Associates, Inc.,
regarding the 2017 Legislative Session.

Mayor Valdes-Fauli: Now, I'd like to get a report from our lobbying efforts in -- from our --
Madam City Manager.

City Commission Meeting
June 13, 2017

Agenda Item E-1 – Personal appearance by Fausto Gomez of Gomez Barker Associates, Inc.,
regarding the 2017 Legislative Session.

City Manager Swanson-Rivenbark: Yes. And I'm going to ask Naomi Levi-Garcia to come forward to introduce our lobbyist.

Government Affairs Manager Levi-Garcia: Good morning, Mayor, Vice Mayor, and Commissioners. As you know, the Florida Legislature wrapped up its special session just last week and those are still making their way across the Governor's desk. It's been a very tumultuous legislative session. And, Home Rule has come under attack from all angles. But, we've been very fortunate to have Fausto Gomez and Manny Reyes representing the City's interests in Tallahassee. They're here today to present the end of legislation report. And, I'd like to invite them up at this time. If you'd like to follow along, you should have a copy of the memo in your agenda packets.

Fausto Gomez: Good morning, Mr. Mayor.

Mayor Valdes-Fauli: Good morning.

Mr. Gomez: Madam Vice Mayor, Commissioners. Fausto Gomez, with Gomez Barker Associates, and my partner, Manny Reyes, is here with me. And briefly, I just want to say that, as I've done innumerable number of years, I'm pleased to stand before you and report on the legislative session and the accomplishments for the City of Coral Gables. And, Mr. Mayor, if I may take a moment of privilege simply to congratulate you and the Vice Mayor and Commissioner Mena on your recent electoral victories. And, I am sure that myself and our neighbors in Coral Gables look forward to the promise of your leadership for our city. And, I say my neighbors because I've lived in Coral Gables -- or I lived in Coral Gables over half of my life. And as you can see from my age, that's a fairly long time. And, notwithstanding that, my professional, social and familial life is in the City of Coral Gables, and any item that affects the city affects me personally. So, I'm particularly pleased whenever I can stand before you and report successes in Tallahassee. Many and I drafted a memorandum, which is in your packet. And I'll just hit a couple of the highlights on it. Number one, this is probably -- of the 37 years

that I've been lobbying, without a doubt, this is the session that local governments have been attacked the most. If some of the legislation had passed, the super preemption bill, for example, and other things of that nature, your position as City Commissioners would be redundant.

Commissioner Quesada: You know, can I ask you to expand on that a little bit? Our City Attorney had briefed us a few months ago, but I'm looking at -- on your -- the memo you gave to us, the -- I guess Representative Fine and Senator Passidomo -- can you just -- what is super preemption? What would that -- what's the practical impact on us if something like that were to pass?

Mr. Gomez: Commissioner, the super preemption bill essentially said it would eliminate municipal home rule powers as applied to businesses, professions and occupations. So, what that means is that anything that impacts that, you would have to get concurrence from the Legislature, approval from the Legislature prior to you being able to enact an ordinance or resolution or a rule that would impact any business, profession or occupation in the City of Coral Gables.

Commissioner Quesada: Did that have any traction? I know the bill's died, but was it a close call...

Mr. Gomez: It had...

Commissioner Quesada: (INAUDIBLE) or...

Mr. Gomez: It had significant traction, although it died in committee. The Senate bill, frankly, never moved. The House bill had significant traction, because what you had was leadership, particularly in the House of Representatives -- and if you read the memorandum, you'll see many of these bills died in the Senate, died in the Senate, died in the Senate. Okay, particularly, the challenge was philosophical as to what level of government essentially should run affairs both at

the state level and at the local level. And House leadership has not made -- you know, has not been shy in saying that they believe that the Florida House of Representatives, i.e., the Florida Legislature, essentially under the derivation of powers under the US Constitution essentially is the level of government closest to the people and that counties and/or cities are in a large extent dependencies. Now, there's a question which I asked our attorney whether if these bills had passed they were applicable to Miami-Dade County, because of Home Rule Charter. Frankly, our attorney opined one way -- other city attorneys --, because we represent ten or eleven different cities -- have opined other ways. This would be an issue, if it had passed, which would end...

City Attorney Leen: So, if I could add...

Mr. Gomez: It would end up in court.

City Attorney Leen: If I could add, what would happen is that -- this particular bill, HB 17 is an existential threat to Coral Gables, because it essentially tries to preempt us over business regulation, there's an argument it would also preempt us over zoning.

Mr. Gomez: Yes.

City Attorney Leen: Because a lot of zoning is uses. So, there's a real concern about that for Coral Gables. So, likely what would happen, if this passed in the future, I would come to you, ask for authority to sue the State. We would raise the Miami-Dade Home Rule Charter, which gives us authority over local matters. It's in the Constitution. It takes precedence over statute, and then we would also argue that based on the municipal home rule amendment to the Constitution, that essentially what the statute is doing violates the equal dignity rule, which is that you have a constitutional provision which says that home rule exists, except where otherwise designated by general law. But, then instead of doing a specific preemption on one topic, which is what they mean, this would be a whole category. So, essentially, if they could do this, they

could also eliminate home rule by statute, which would violate the equal dignity rule. I just went up to a -- I'm going to talk later about a conference I just went to. And, a lot of the city attorneys viewed this the same way. I do think that we have a very good chance in that sort of case, because it is certainly an overreach by the State. And you know, ultimately, it's up to the City Commission. I would bring it to you. Assuming that you authorize going forward, I think it would be -- we would -- I think Coral Gables more than maybe any other city in the state is best situated to bring a case like that because of our zoning code, because we've enforced it for 90 years. You know, different zoning codes, but that sort of clam city aspect for 90 years, and it would undermine that in such a way that it would affect property rights and affect our residents. And it would be something that we would have to -- I would recommend to you that we stand against with a lawsuit.

Mayor Valdes-Fauli: Thank you. Go ahead.

Mr. Gomez: Just to follow up on that. So, what Manny and I spent an inordinate amount of time and political capital doing in Tallahassee is protecting the governing and fiscal authority of Coral Gables. And I'm going to just give you a highlight. The super preemption bill, that bill, you know, which was a very significant House initiative -- never had legs in the Senate; it was a House initiative -- died. Local governmental fiscal responsibility, which, essentially, is an overreach by the state, again, on local government fiscal affairs. You would not be able, for example, to either increase taxes or pass a bond issue if you had not spent down your reserves. That died in the Senate. Local government fiscal transparency, essentially, making requirements with regards to your website, with regards to the placement of all your fiscal documents; that died. Local government ethics, making all of you file Form 6 rather than Form 1 for financial -- you know, the Form 6 on the financial reporting. And in addition to that, establishing a statewide registry for local government lobbyists. You basically have a process where somebody comes to lobby you and they register in the City of Coral Gables. Now, you would have a statewide process around the local government process. That bill died in the Senate. Municipal elections, which the State would preempt the City of Coral Gables from holding your municipal

elections on dates that you believed, were appropriate. The State would now dictate when Coral Gables could hold their municipal elections. That bill died. So, those are just a flavor of -- when Naomi talks about the challenges. That's just a flavor of the challenges that we had. If you're going to go to fiscal then, Frank, you had the Legislature particularly saying we're going to have a budget crisis in Tallahassee in the next two years. We're going to have a \$1.3 billion deficit next year and a \$1.9 billion deficit the year after. And so, therefore, what you looked -- what you had in the budget was trying to reduce the budget by over a billion dollars, and that was successful. And notwithstanding those reductions, I think we did fairly well budget wise. Not only did we maintain the language in the budget that allows ourselves to pay us back from the loans from the Law Enforcement Trust Fund, something that when we began lobbying for the City of Coral Gables, was a priority, and Manny and I crafted the solution in order to pay yourselves back for the \$15 million that Coral Gables lent to Law Enforcement Trust Fund to build the Police Communications Department. We helped secure, you know, \$1.1 million for transportation improvements on Alhambra and 57th Avenue. And, that project was vetted by the City of Coral Gables in December of 2015, and a public hearing was held in March of last year. In addition to that, \$1.3 million for transportation improvements on Riviera Drive and US-1, including aligning the roadway, including traffic signals, including pedestrian signage, roadway lighting. And again, that project was vetted by the City on October 23, 2014, and a public hearing was held in February of '15. And \$4.9 million for transportation improvements from Ponce to 37th Avenue. Now, we know 37th Avenue is not in the City of Coral Gables. We know Coral Gables begins on 38th Avenue, so the majority of the money is going to be spent in the Ponce to 38th Avenue corridor. And again, that project was vetted by the City on October 23, 2014, and a public hearing was held at the Coral Gables Library in February of 2015. Now, why would we focus on these projects? And let me -- because, essentially, we were having difficulty in trying to secure and appropriation for the water project in the City of Coral Gables. The baffle boxes, in particular, which is \$120,000. We had put that into the budgets. At the end, there was a \$40 million reduction in water projects statewide. And, I want to thank Commissioner Lago because I reached out to him, and Commissioner Lago made a couple of telephone calls to try to save that project. When Manny and I saw that with the \$40 million reduction, what we did is we

focused on transportation. These projects have been in the pipeline for a while. The chairmen of the Transportation Appropriations Committees were picking and choosing projects, and we made sure that these three projects were picked and chosen in order for Coral Gables to benefit from these transportation improvements.

Commissioner Lago: And just to give you little bit of credit -- and I appreciate you mentioning that. When you called me, I reached out immediately to a few state representatives and some of the senators, and they all mentioned the same thing, how quickly we moved in reference to getting in contact with them to ensure that we had good representation; that nobody had reached out to them. I told them that you had made us aware -- I'm not keeping -- I don't think any of us are keeping tabs in reference to what's happening in Tallahassee, so I wanted to appreciate, you know, that you are ensuring the fact that Coral Gables had the proper representation and that we had a voice.

Mr. Gomez: Thank you, Commissioner. Obviously, the Underline has always been a priority for the City of Coral Gables. We have basically -- you've asked that we keep an eye on it. There was a \$5 million appropriation. In particular, Commissioner Quesada, you always have an interest and you've always talked about the interest of the quality of life issues for Coral Gables, from the Congregational Church to the Bach Society, and we focused on those as well to make sure that cultural facilities, cultural museum grants and Culture Builds Florida -- and there's a list of City of Coral Gables entities that are in Coral Gables or provide services to Coral Gables that received funding. Now, I really don't want to take up a significant amount of your time, Mr. Mayor. Commissioners, I just simply, at the end, wanted to talk about medical marijuana, because I know it's going to be an issue. And as you know, we just left a special legislative session that ended last Friday. The regular session of the Legislature, the Governor's priorities had been completely ignored. That was Enterprise Florida, Visit Florida, public school funding. So, there's a overriding issue, which is the Charter School Bill 7049, and so the Governor used that leverage and the Legislature came back into a special legislative session. That special legislative session funded Visit Florida, funded -- let's call it Enterprise Florida, but it funded the

economic development program, which I will talk to your staff about, because I think there's opportunities for Coral Gables to get money for economic development projects that are municipal in nature and that are focused on economic development. And in addition to that, it addressed bringing \$100 or more per FTE for public schools. Then the issue of medical marijuana was discussed and approved. Of particular interest to Coral Gables, I would say, are dispensing facilities. In other words, will Coral Gables allow or not allow medical marijuana dispensing facilities within your corporate boundaries. And, here's sort of the highlights of that. Okay, a medical marijuana dispensing facility cannot be located within 500 feet of a school, private or public, elementary school, middle school or secondary school, okay. Now, you cannot ban a medical -- you cannot ban or place specific limits on a medical marijuana dispensing facility. And, if you're going to allow medical marijuana dispensing facilities within Coral Gables, then you need to treat them just like you treat a pharmacy. However, the law allows you to say we do not want medical marijuana dispensing facilities within the corporate boundaries of Coral Gables. And if you take that posture, then you cannot allow any of those entities within your corporate boundaries.

Commissioner Quesada: And, I believe we -- Commissioner Lago sponsored, maybe a year ago or two years ago, that very item.

Vice Mayor Keon: Yeah.

City Attorney Leen: So, the way that...

Vice Mayor Keon: We already have that legislation.

Commissioner Lago: We already have legislation in place, which limits the boundaries -- excuse me, not limits the boundaries -- limits the locations of potential dispensaries.

City Attorney Leen: So...

Commissioner Lago: And my understanding is I think it's one or two...

Commissioner Quesada: Locations, yeah.

Commissioner Lago: Potential locations...

Vice Mayor Keon: There's like two places.

City Attorney Leen: So, the statute may impact...

Mr. Gomez: Yes.

City Attorney Leen: The underlying regulations, but our underlying regulations have a provision Coral Gables has taken the position --, which I think is a sound one -- that federal law takes precedence over state law. Based on the supremacy clause in the United States Constitution, federal law presently does not recognize marijuana as a legal drug, even for medicinal purposes. Even though there is a -- the Department of Justice has a enforcement criteria in place, which prioritizes certain type of enforcement of marijuana and has essentially allowed medical marijuana to go forward in many states in the union where the state legalizes it -- Florida being one of them now -- nevertheless, it's still illegal under federal law. So, what our Code says is that medical marijuana dispensaries will not be allowed in Coral Gables until the City Attorney opines that medical marijuana is legal under both state and federal law. That's in our ordinance. So, right now, they are not legal in Coral Gables, but we will take a look at the underlying regulations in light of the statute, in the event one day it does become legal.

Mr. Gomez: Well, that -- from my reading of it -- and I'm not an attorney -- essentially, if you banned them outright, you're on solid, legal ground. If you basically say, I can allow one, then if

you allow one, then you have to -- you cannot disallow others and you have to treat them just like a pharmacy. So, with that...

Commissioner Lago: I believe what happened with the legislation that we proffered was that we limited it based on school location, other instances. And, I think that we may need to come back and review this topic, because what you mentioned right now is a bit concerning. Because, if we're allowing for one or two locations in the City as a result that it's not near a school or an ALF, or whatever the items that control the locations. I don't remember what they were at this point -- at this moment. I think that maybe we should review this and revisit it and have a discussion of whether we're going to allow it or not. I'm in favor of not allowing dispensaries in the City. Or, maybe we need to tighten up or ratchet down a little...

Mayor Valdes-Fauli: Let's look at it.

Commissioner Lago: Bit on the ordinance.

Mayor Valdes-Fauli: Alright.

Commissioner Quesada: Well, let's have the City Attorney look at it again, and we'll...

Mayor Valdes-Fauli: Yeah.

Commissioner Quesada: And we'll revisit what we passed.

Mayor Valdes-Fauli: Go ahead, Mr...

Mr. Gomez: And in the interest of time, Mr. Mayor, I just wanted to focus a little bit on your plastic bag. Commissioner Quesada, in particular, had asked a question about that and I know Commissioner Lago's interested in it. I just wanted to let you know that the first plastic bag bill

that was taken to Tallahassee, Manny and I took it. It was on behalf of the Town of Cutler Bay. We had Senator Bullard file that bill and Representative Kionne McGhee filed the bill. The first year, the bill was not heard. The second year, the bill was heard in one committee in the Senate, not passed, and put to the side. The third year, now the bill is being sponsored by Senator Jose Javier Rodriguez from Coral Gables and Representative Richardson from Miami Beach. The bill -- they filed it. It was heard in one committee in the Senate and not heard at all in the House. The bill has never been heard in the House of Representatives. It has only had one committee hearing in the Senate. Usually, when it has four committees of reference in the Senate that essentially means that it's really not going anywhere, as policy. There's an understanding in Tallahassee that until the final decision is rendered with regards to the plastic bag issue and the polystyrene issue in Coral Gables, that things are being held in abeyance waiting for the decision with regards to the appeal. And so, you have the business forces, whether it's the Florida Chamber of Commerce, Associated Industries of Florida, the Retail Federation, et cetera, et cetera, et cetera, et cetera, okay, where everybody's sort of waiting with baited breath on the court decision that Coral Gables is now taking the lead in those issues, and I congratulate you for doing that. But -- so, we're very, very aware of the plastic bag issue. We're very aware of the other environmental issue because, frankly, it's our firm -- that ones who've taken that bill up there initially and we continue to monitor that, just like it's our firm -- and I'm really glad to report that, finally, after all these years, the sober house issue appears to be on its way to resolution. And, you all remember from -- certainly, I've spoken to prior Commissions, sober house issues are residential facilities that are drug and rehab homes that can be placed in residential areas without any control by the city, and -- because they're covered under the American Disabilities Act. And again, it was our firm that took it up there initially. And finally, after a serious numbers of years, I believe that we now have the protections necessary for residential neighborhoods, necessary with regards to sober homes. So, with that, I close. I'll be glad to answer any questions you may have. And, I particularly want to thank you, Mr. Mayor, for joining me with Senator -- the chairman of the Appropriations Committee, when he was in Coral Gables the other day.

Mayor Valdes-Fauli: Delighted.

Mr. Gomez: And you joined me for -- with him for a period of time.

Mayor Valdes-Fauli: Delighted. Thank you very much, Mr. Gomez. Are there any questions for him? Comments?

Commissioner Quesada: Just one small thing. Thank you, as always. You guys have always done a great job. Whoever hyperlinked the documents and the bills -- I don't know if it was you or Naomi or the Clerk's office -- please continue to do that. It's very easy for us on the computer.

Mayor Valdes-Fauli: Yeah.

Commissioner Quesada: I was just reviewing the bills and who shot things down and who approved things, so thank you.

Mr. Gomez: Great, thank you.

Commissioner Lago: Great work.

Mr. Gomez: Thank you.

Mayor Valdes-Fauli: Thank you very much. Great work. Thank you.