

City of Coral Gables City Commission
September 23, 2014
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Vice Mayor William H. Kerdyk, Jr.
Commissioner Patricia Keon
Commissioner Vince Lago
Commissioner Frank Quesada

City Staff

Cynthia Birdsill, Interim Assistant City Manager
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia

Public Speaker

Susan Trevarthen (Weiss Serota Helfman)

I.-1.

A Resolution of the City Commission of Coral Gables, Florida, providing for interpretation of Article 5, "Development Standards," Division 19, "Signs" of the Coral Gables Zoning Code, and providing for an effective date.

Mayor Cason: All right, we'll move on to City Attorney items, starting with I-1.

Craig Leen: Thank you, Mr. Mayor. Item I-1 is a resolution of the City Commission of Coral Gables, Florida, providing for interpretation of Article 5, "Development Standards," Division 19, "Signs" of the Coral Gables Zoning Code and providing for an effective date. What this is about is -- in the three to three and a half years I've been City Attorney, every election cycle we get some disputes over signs. And I'm going to ask Susan to also talk a little bit about this, if you

could, Susan. I've been asked to make interpretations of the Code to try to resolve these issues that have come up with the signs. The main issue is -- and we haven't given a final opinion on this yet. I want to make that clear. And we're actually amending the Code to address some of these issues. But there's a lot of case law addressing how many campaign signs you can have on a given property. Our current campaign law says that you can have one per candidate or per ballot issue, and the idea behind that is that, you know, you might have four different races that are being contested, so you can put them out for four candidates. Well, an issue that came up in the last Presidential election, for example, was that we would have -- the situation where someone would put an Obama sign, a President Obama sign -- campaign sign, and then they would also put a permit. They would put -- let's say, the Republican candidate, Mitt Romney, Governor Romney; they put a sign up for him. And then they put a sign up that says, "Fire Obama." You may have seen those signs. It was difficult, from a constitutional perspective, to determine how to count those signs, because on the one hand, it's one sign per candidate, and two candidates there. On another hand, it's clear that both signs are probably favoring the Republican candidate, so that could be two signs for a candidate. In addition, you could argue the "Fire Obama sign applied to all the candidates that were running against the President, and there's a lot of other candidates, not just democratic and republican ones. So, you know, we were able to resolve that issue. And generally, when you resolve an issue like that, you have to resolve it in favor of more speech, or else you run the danger of violating the First Amendment. So it was important to me, though, that we were able to address those sort of issues, because, you know, one of the main purposes of a sign ordinance is to decrease visual clutter for aesthetic purposes and also for public safety, so people don't drive by and they're looking at a house with 18 signs on it or -- so it doesn't block things, as well. You know, that rule would allow you to have 10 or 12 signs if there were 10 or 12 races, but if one person wanted to put two signs up for one candidate, they couldn't. So there is some case law supporting laws like that, but there's also other case law that I think will be effective in allowing the City to limit the amount of campaign signs that are out there so that people can get their message across, whatever they want to do, because we're in favor of speech; I know that. You've always stated that. But it will also allow for aesthetics so that you can't have a situation where there's 10 or 12 signs, so they'll be limited. So everyone will know what the limit is and everyone will be treated exactly the same, and we

won't have to look at the content of the sign, which we can't do, which is what causes a lot of the issues sometimes. We won't have to do that at all; it'll be clear. No one could even argue that we were doing that. You know, my rule since I've been City Attorney is that whenever I look at these rules and I think Susan will agree, we can't look at the content of the sign when we're making these type of determinations, so -- and certainly, we can't look at the viewpoint. Anyhow, this resolution will help me to do that, and so that's why I brought it before you today. We're also in the process of amending the Sign Code as to campaign signs. Susan, could you make a few comments?

Susan Trevarthen: I'd be happy to. Susan Trevarthen, Weiss Serota Helfman for the City. Good afternoon, Mayor and Commissioners. I've worked with Craig on this resolution and on the pending draft revisions to your Sign Code, which are not intended to do anything other than to address the legal concerns that we have with the Sign Code. We're not talking about policy-driven changes. And what this resolution is, it's the first step to reaffirm the authority that Craig has under the Code of ordinances to interpret your Code consistent with the Constitution. We have extensive experience in other cities where these kinds of anomalies in sign regulations which are difficult to avoid because of the complexity of the law in this area. People use them as an excuse to attack Sign Codes, so I do think it's a good idea to have this resolution. I do think it's a good idea to continue with drafting the revisions to the sign regulations as suggested by Craig. Now, how we would actually deal with the campaign signage question, we would come forward with a draft ordinance; your Planning and Zoning Board would have input; you would have two readings, so we're not presupposing where that would go. But in the interim, Craig would continue to interpret your Code consistent with the First Amendment. And I'd be glad to answer any questions you may have.

Mayor Cason: Sounds reasonable.

Commissioner Quesada: Yeah, sounds reasonable.

Commissioner Lago: Very reasonable.

Mayor Cason: Let's do it. I have a motion?

Commissioner Keon: I'll make a motion.

Mayor Cason: Commissioner Keon makes a motion and Commissioner Quesada seconds it.
City Clerk.

Mr. Foeman: Commissioner Keon?

Commissioner Keon: Yes.

Mr. Foeman: Vice Mayor Kerdyk?

Vice Mayor Kerdyk: OK.

Mr. Foeman: Commissioner Lago?

Commissioner Lago: Yes.

Mr. Foeman: Commissioner Quesada?

Commissioner Quesada: Yes.

Mr. Foeman: Mayor Cason?

Mayor Cason: Yes.