

City of Coral Gables City Commission Meeting
Agenda Item F-8
October 9, 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

City Manager, Peter Iglesias
City Attorney, Miriam Ramos
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia

Public Speaker(s)

Gary Resnick
Janna Lhota

Agenda Item F-8 [0:00:00 p.m.]

An Ordinance of the City of Coral Gables, Florida amending the Code of Ordinances of the City of Coral Gables by amending Article II, Chapter 70, Sections 70-19 through 70-75, entitled “City of Coral Gables Cable Television Ordinance” as provided herein; amending Article III, Chapter 70, Sections 70-76 Through 70-91, entitled “Communications Ordinance” as provided herein; providing intent and purpose, applicability and authority to implement; providing definitions; providing for registration for placing or maintaining communications facilities in the public rights-of-way; providing for the requirement of a permit; providing application requirements and review procedures; providing for a performance construction bond; providing for construction methods; providing for

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the preservation of historic property; providing development and objective design standards; providing for fees and compensation; providing enforcement remedies; providing for a repealer provision, severability clause, providing for conflicts and repeal of zoning in progress and providing for an effective date.

Mayor Valdes-Fauli: Another time certain item, F-8. Madam City Attorney.

City Attorney Ramos: F-8, Mr. Mayor, is an ordinance of the City of Coral Gables, Florida amending the Code of Ordinances of the City of Coral Gables by amending Article II, Chapter 70, Sections 70-19 through 70-75, entitled “City of Coral Gables Cable Television Ordinance” as provided herein; amending Article III, Chapter 70, Sections 70-76 through 70-91, entitled “Communications Ordinance” as provided herein; providing intent and purpose, applicability and authority to implement; providing definitions; providing for registration for placing or maintaining communications facilities in the public right-of-way; providing for the requirement of a permit; providing application requirements and review procedures; providing for a performance construction bond; providing for construction methods; providing for the presentation of historic -- preservation of historic property; providing development and objective design standards; providing for fee and compensation; providing enforcement remedies; providing for a repealer provision, severability clause, providing for conflicts and repeal of zoning in progress and providing for an effective date. Present here today is special counsel to the City of Coral Gables in the area of wireless communications, Mr. Gary Resnick. He will walk you through the ordinance and what changes that are being made. We do expect a significant amount of changes between first and second reading, but we wanted to begin the process because this is quite an endeavor. Mr. Resnick.

Gary Resnick: Thank you. Good morning, Mayor, Commissioners, City Attorney, City Manager. I’m Gary Resnick. I’ve had the privilege of representing the City of Coral Gables on communications matters for several years now. If we have the PowerPoint...

City Attorney Ramos: If we could bring up the...

Mr. Resnick: Set up.

City Attorney Ramos: PowerPoint, please.

Mr. Resnick: I actually have hard copies of it if you need...

City Attorney Ramos: Great.

Mr. Resnick: Hard copies of the slides.

City Attorney Ramos: Yep. Pass it down.

Vice Mayor Quesada: Mr. Mayor, always a pleasure to see you.

Mr. Resnick: Nice seeing you, thank you. Okay, so I'm going to give you a little bit of background as to why we need to regulate these facilities that are now seeking access to your public rights-of-way and the Florida Statute that was adopted and became effective last year, in 2017. And then, I'm going to show you a lot of pictures of what these facilities generally look like, and then talk about your ordinance and some of the language and regulations that we've included in the ordinance. And, feel free to interrupt me at any time if you have any questions. Let's see. Alright, so this is the -- an ordinance to implement a Florida Statute known as the Advanced Wireless Infrastructure Deployment Act. It became effective in July...

Mayor Valdes-Fauli: This is the -- you're going too fast.

Mr. Resnick: Okay.

Mayor Valdes-Fauli: Go back.

Mr. Resnick: Alright.

Mayor Valdes-Fauli: Let's start again.

Mr. Resnick: This is actually the -- I'm going to go through this entire slide. So, this act, this statute is the Florida Advanced Wireless Infrastructure Deployment Act. It was adopted by the Legislature in the beginning of 2017. It became effective July 1, 2017. It basically provides a mechanism for wireless providers and infrastructure providers to install wireless technology in public rights-of-way -- in city and county public rights-of-way. It only applies to county and city rights-of-way. It excluded the Florida Department of Transportation rights-of-way, so they're not covered by the statute. And as indicated, it became effective July 1, 2017. The City has had a zoning in progress in place to allow the City staff and myself an opportunity to create this ordinance, and we've done so with a tremendous amount of input from the City staff, as well as, you know, input from the industry. Just as an FYI, similar leg -- this was an effort by the wireless industry around the country to get access to the rights-of-way for the technology and the infrastructure. They're looking for alternative locations other than private property or other city type property for these facilities. So, similar statutes were passed in a number of states around the country. You have a list there. There is a court challenge to this statute that passed in Texas. It's based on the Texas Constitution. The statute in Texas is very similar to the Florida statute and the provisions in the Texas Constitution are very similar to the Florida Constitution, so we would envision if there's a result in that case that it might have implications for the Florida statute as well. Basically, what the act provides is that the City cannot prohibit, regulate or charge for the collocation of what's known as a small wireless facility in the public rights-of-way, except as authorized by the statute. And, there's basically four types of installations that are going to occur in the rights-of-way and Coral Gables is the subject of a lot of interest by the industry, so a lot of industry members are looking to install these facilities in your public rights-of-way. The first would be a collocation of a small wireless facility on an existing utility pole or

structure that's already in the rights-of-way. The second would be the installation of a new utility pole for the collocation of a small wireless facility. The third would be what's known as a micro wireless facility, and I'm going to show you pictures of all those things. Those would be installed on aerial cable existing over the rights-of-way. And, the fourth would be the installation of a ground mounted small wireless facility for equipment or an equipment cabinet in the rights-of-way. The utility pole, for purposes of the statute and your ordinance, is not just what you think of as an electric utility pole. But it includes communications or electric utility pole, a lighting pole, traffic control pole or signage that's in the rights-of-way. So, if the City owns any of these types of poles or facilities in the rights-of-way, it's potential that there's going to be a request for collocating these facilities on such City property. In addition to the small wireless facilities that are going to be above ground, for the most part, these facilities need to be connected via fiber for backhaul. And so, the industry is also going to be looking to excavate to install fiber, for the most part, underground. Occasionally...

Mayor Valdes-Fauli: Including Miracle Mile, including Giralda and including wherever.

Mr. Resnick: Yeah. So, that's dealt with in this ordinance. But some of -- if there is aerial facilities available, they can install fiber aerial above ground. But for the most part, you're going to get a lot of requests to do excavations in the city to install the fiber necessary for this technology. So, what is a small wireless facility? The statute defines the small wireless facility as a deployment with enclosed or exposed antennas no more than 6 cubic feet in volume and all other associated wireless equipment that's no more than 28 cubic feet in volume. So, we're talking about a relatively small cap to a pole or something attached to the side of the pole -- and I'm going to show you pictures of these -- as well as a potentially large equipment cabinet roughly the size of a large refrigerator that could be installed in the rights-of-way. The statute has very strict time frames to process these applications. A local government has 14 days to review an application for completeness. And if it's not complete, you have to notify the applicant within the specifics as to what it's missing. And then, the application has to be approved or denied within 60 days or it's deemed granted. The parties can, of course, agree to

extend the time frames. There are grounds to deny an application. The City staff can deny an application if it materially interferes with the safe operation of traffic control devices; materially interferes with sight lines or clear zones for transportation, pedestrians or public safety purposes; materially interferes with the ADA or similar federal or state standards; materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual, and if it fails to comply with applicable codes. What are applicable codes under the statute? Those include the uniform building, fire, electric, plumbing, mechanical codes that we all know and the City applies on a regular basis. But, it also includes local codes or ordinances that are adopted to implement the statute. So, this ordinance would be considered an applicable code, so there's grounds to deny an application if it would not comply with the terms of the ordinance. In addition, you can specify objective design standards that are adopted by ordinance for the aesthetics of these facilities. The objective design standards may require that new or replaced poles be of similar design, material and color as existing poles. It may require that the ground-mounted equipment meets reasonable spacing requirements. It can require that the small wireless facilities meet reasonable location context, color, stealth and concealment requirements. In addition, there's a waiver process under the statute and an applicant can apply for the City to have to waive any of the objective standards, and the waiver has to be processed within 45 days. So, your proposed ordinance that's before you and on the agenda implements these provisions of the Act to the full extent that you have authority to do so. It contains new definitions consistent with the Florida statute. It contains a requirement for registration whereby the City will obtain an insurance certificate, security fund in the form of a permanent performance bond that's either going to be cash or a letter of credit, indemnification provisions, warranties whereby the City doesn't warrant the rights-of-way for these facilities, and it deals with abandoned facilities and it also provides for the -- for a performance bond for construction. And then, the ordinance also sets forth the application requirements in great detail. There's about three pages of application requirements and sets forth the procedures for the City staff to process the applications. The ordinance does have a requirement for a pre-application meeting. Before they actually apply, they'll have to come in and meet with staff to talk about what they want to do. I'm going to talk about it a little bit later. There's an FCC order that came

out the end of September, just a few weeks ago, September 28, that actually prohibits pre-application meetings. So, we're going to revisit that and see if there's a way that we need to modify the ordinance to address that. As I mentioned, the ordinance consistent with the statute provides for a permanent performance bond when they submit their registration. That's a letter of credit or a cash deposit in the amount of \$50,000. That's to guarantee compliance with the ordinance, including potentially restoration of the rights-of-way. The industry -- I just want to point out some issues that the industry has. The industry has an issue with the requirement of the permanent performance bond. So, the ordinance also sets forth the terms for collocating on a City-owned pole. The City is allowed to reserve space on its poles for public safety purposes. If you intend to put up any types of cameras for public safety purposes or other public safety devices, you can reserve space on the poles for that. The maximum fee you can charge pursuant to the statute is \$150 per pole per year. You can provide -- and the ordinance does provide that their attachments cannot compromise the utility pole's finish, functionality or structural integrity. Any make ready work -- if they have to do some work to the poles so that it can accommodate their facilities, it's done at their cost. And you have the discretion to remove poles. So, notwithstanding their attachment or desire to attach to a City-owned pole, if you want to get rid of it, you can remove the pole. The -- of course, of importance to the City, this -- the proposed ordinance consistent with the Florida statute. Preserves historic property and addresses the Miracle Mile and Giralda Avenue project. The statute actually preserves the City's authority to enforce historic preservations regulations that were adopted by the ordinance in effect on April 1, 2017 or where there was an intent to adopt such changes in the Code by April 1, 2017. Your ordinance, with respect to designating historic properties, was adopted many, many years ago and has been amended since. But, you have the authority under your processes to designate historic properties and they're dealt with -- there's a special section in the ordinance that deals with the City's preservation of its historic regulations. So, properties that have been designated as historic cannot be altered or excavated without a certificate of appropriateness per Article 3, Division 11 of the Zoning Code. If a registrant seeks to place or maintain a communications facility in a location in the public rights-of-way that would constitute a material amendment to the City Plan, which has been designated historic, the registrant must obtain appropriate

approvals, including a Special Certificate of Appropriateness, from the City pursuant to the Zoning Code. So, that's -- that procedure is maintained as consistent with what you recently adopted and what the -- that your City Historic Preservation Board adopted. Also, consistent with your ordinance dealing with the Miracle Mile and Giralda Avenue streetscape project, no -- new above-ground small wireless facilities are not allowed in that area, unless waived by the City. Your ordinance does set forth the objective design standards consistent with the Florida statute. These were the result of input from the staff. And of course, it contains the location restrictions where facilities are not going to be allowed in areas where they'll interfere with traffic or pedestrians or adjacent property owners or interfere with drainage or other utilities that the City may have in the rights-of-way. Also, if it's within an HOA -- if the rights-of-way is within an HOA, as defined in the ordinance, they need concurrence from the HOA before they can locate facilities there. It's not allowed in locations where utilities must be underground. That's a bone of contention with the industry. They don't agree with those requirements. And, it's not allowed in locations that would interfere with City capital improvement projects. So, I'm going to show you what some of these facilities look like. That pole there is an example of one of the small wireless facility poles that they've installed for collocation. It got cut off on top. I'll show you other pictures of that.

Mayor Valdes-Fauli: Say that again. I missed that.

Mr. Resnick: The pole is a typical pole that would be used to attach these facilities...

Mayor Valdes-Fauli: Okay.

Mr. Resnick: To. It's about a 50-foot pole. The box that's in front of the gentleman there in the pictures, that's a small wireless facility as well. That's the equipment box that would accompany these antenna facilities. So, talking about the objective design standards, the City staff can waive them. What we've incorporated with respect to the design standards for utility poles is that a replaced pole must be in the substantially the same location and similar to the original pole in

terms of finish, material, size and design. The height is limited to the tallest existing utility pole as of July 1, 2017 within 500 feet. That's actually set by the statute. That's not something that's within the discretion of the City. And if there is no such pole within 500 feet, it's limited to 50 feet. The pole must be designed to be substantially similar to existing poles within the rights-of-way within 500 feet. If there are no such pole, the design of the pole is supposed to be consistent with the City's Mediterranean Design standards.

City Attorney Ramos: Gary, if I could interrupt you for one second.

Mr. Resnick: Sure.

City Attorney Ramos: I just want to announce that Commissioner Mena is on the phone. He's on mute, so his attendance at the meeting is permissible, because there's a quorum in the room. Please proceed.

Mr. Resnick: Okay. And tell me if I'm taking too much time. I can go through this...

Mayor Valdes-Fauli: No, no. Go ahead.

Mr. Resnick: Quicker if you...

Mayor Valdes-Fauli: It's very important.

Mr. Resnick: If you'd like. Okay. So, with respect to the collocated small wireless facilities, the 6-cubic foot facility that can be attached to the pole, we require that the cables and wires must be either within the pole or on a shroud on the pole with no exposed cables. The facility must be of a stealth design, meaning that it's going to resemble the pole, not stand out or consistent with other attachments on the pole and cannot extend more than ten feet above the pole. And then, in terms of the cabinets or the ground-mounted small wireless facilities up to 28

cubic feet, they -- we've provided in the ordinance that these must be within 10 feet of the pole. We inserted reasonable spacing requirements consistent with the statute, so that one box is not going to be within 500 feet of another cabinet located in the same rights of way. And, we've inserted some stealth and concealment requirements for those as well, including the Mediterranean design. And that to the extent it makes sense, that those be covered with landscaping. So, these are some other pictures of some of these facilities in other jurisdictions where they've been installed. This is one of the 28-cubic-foot equipment cabinets on the ground. This is a Crown Castle facility obviously. This is an example of a small wireless facility installed on an existing utility pole. You can kind of see the before and after pictures there with the device installed on the pole. This is an example of some small wireless facilities installed in some urban areas. It's basically the box just below the mast of the pole there is the 6-cubic-foot facility installed on the pole there. These are examples of shrouds or equipment cabinets installed, in one case, on a pole; in the other case, within 10 feet of the pole, on the ground. Again, these are pictures of the small wireless facilities installed on tops of poles. These would be similar to the types of facilities that they'd seek to install in Coral Gables, so there'd be the pole and then the -- basically, the antenna cabinet structure located on top of the pole. Again, a picture of a facility installed on a wood pole. This would be a shroud, housing equipment on the side of the pole. Some further examples of some of these facilities installed in various areas. This is a 50-foot pole with a small wireless facility installed on the top that's on the left side. And, then a 32-foot pole with an equipment cabinet installed -- equipment facility installed on top with the equipment on the side of the pole. Those are actually AT&T collocations on Jacksonville Electric Authority poles. Again, more pictures of what some of these will look like. These are on, again, existing electric utility poles. Just further pictures to give you a sense of what these things are going to look like and where they can potentially be located. The small wireless facilities, the 6-cubic-foot facilities, are generally not allowed on the mast arms of light poles or traffic poles. So, if you have traffic lights or electric light poles with a mast arm, like in the picture on the left, the facility would generally not be allowed on the mast arm, but would be allowed on top of the pole itself. Again, pictures -- these are some architecturally designed small wireless facilities that different companies use to install on the pole based on the community and

the designs of the poles in the various communities. You can see they can -- they can basically manufacture these and the design to match pretty much anything from an architectural style, as long as it doesn't reduce the potential for 6 cubic feet for the size of the facilities. Further pictures of some of these designs. Some are obviously more architecturally, I guess, ornate than others. Okay, so I talked in the beginning about the small wireless facility that would be hung from cables. That's a picture of that. Those are very limited in size. Those would be used primarily just by cable companies, but those could be hung on existing cables in the rights-of-way. There's no permitting for those facilities. Those are hung without a permit. That's, again, an example of one of these small wireless facilities. That's on a mast arm. That would not be allowed under your Code, your ordinance. This is a device actually installed by T-Mobile. They basically replaced the cobra head of the light pole with a new cobra head with the antennas hanging down from the cobra head, so it's fairly concealed. It's not very visible. And, this particular installation didn't need an equipment cabinet immediately adjacent, but it is connected via fiber underground. Again, some examples in some other jurisdictions. As in your ordinance, we attempted to require that the -- that poles, if they're going to be in residential areas, be installed in the lot line between houses and not directly in front of somebody's residence. So, what we've required in the ordinance, as well, is that they submit a photo sim showing what the facility will look like after installation. This is just an example of a photo sim that was submitted with a particular application. In the middle is what they actually built, so you can see there's a difference between the sim and the simulation and what they actually constructed. The picture on the right, the locations -- see, each carrier here -- there's basically four general wireless carriers and they're all looking to install facilities in primarily the same area, because what they're trying to do is densify their networks in urban areas. And so, for all four carriers, it's basically the same areas, so that's an example of a couple blocks in downtown, I believe, Houston, with all four carriers wanting to install facilities. And so, each color there represents a different carrier's facilities that were installed in that area. Coral Gables is going to have that same issue. All four carriers are going to want to install in basically the same urban areas of Coral Gables, including some residential areas in Coral Gables and they don't share facilities. So, you're looking at all four carriers seeking to install facilities for each of their own networks

in these various areas of the City. As I mentioned before that they do excavation to install fiber underground, this is from a Sun-Sentinel article in May, where they were doing underground installation, I believe, for an AT&T facility, and they hit a water main, which created a sinkhole, which blocked access to this neighborhood for the weekend. So, the exca -- and you've had issues with excavations in the City destroying or damaging City facilities...

Vice Mayor Quesada: Yeah. We had an issue with AT&T two or three years ago.

Mr. Resnick: I'm sorry, what?

Vice Mayor Quesada: I'm sorry. We had an issue with AT&T a few years ago. It got resolved, but it was a headache for a lot of us.

Mr. Resnick: No. I know we actually had an issue. Not too long ago here, we had to sue an entity that did construction on Miracle Mile in the rights-of-way on a Saturday and damaged the sidewalks and didn't repair them. And so, we actually had to sue them to recover the cost that the City incurred, which we were successful at doing. So, the caveat to the Florida statute and the ordinance is, as I mentioned, the FCC released an order after about two years of proceedings on September 28, and it provides federal regulations for how cities and counties can regulate these facilities and the rights-of-way. Now, the FCC, the Federal Communications Commission, has authority to preempt, to some degree, state and local governance. The FCC order did not expressly preempt state statutes, but -- and what it basically indicated is that it's seeking to be consistent with the states that already passed state statutes, but it does have some specific requirements that may not be consistent with the Florida statute and may not be consistent with the ordinance that we drafted.

Mayor Valdes-Fauli: It would give us the authority to adopt aesthetic standards by ordinance?

Mr. Resnick: It does -- the FCC order does preserve the City's authority over aesthetics. They do have to be adopted by ordinance, as with the Florida statute. It has the same shot clocks or short time frames to deal with applications, but it doesn't have a (INAUDIBLE) remedy, which the Florida statute does have. It also provides that the maximum you could charge for an attachment on your pole is, I believe, \$270, where the Florida statute limits it to \$150. But, the FCC was careful to say they're not preempting more restrictive provisions than state statute. So, it's the FCC's intent that its order wouldn't preempt the \$150 maximum set under the Florida statute or the time frames for the shot clocks set under the Florida statute. So, your ordinance is, for the most part, we believe, consistent with the FCC order as well. We did have -- we did receive industry comments. We had one conference call with -- there's a coalition of industry members working together on this that includes AT&T, Verizon, T-Mobile, Comcast, Crown Castle. I may have left out one of the other entities that's participating in that coalition. So, they're working together. They've provided joint comments on the ordinance. We had one conference call prior to today with the industry, and we're going to take their comments under advisement and there may be, as the City Attorney, mentioned, there may be some further revisions to the ordinance before second reading. And, I'm available to answer any questions you may have.

Vice Mayor Quesada: That was dense.

Mr. Resnick: It's a lot of information, I know, at one time.

Mayor Valdes-Fauli: It's a lot of information, but...

Mr. Resnick: That's why -- the ordinance also, I should mention, your -- you have a Cable Code in your -- currently in your Code that's inconsistent with Florida Statutes, so the ordinance also amends your Cable Code to become consistent with Florida Statutes. Under Florida law, you can no longer require franchises for cable service and it's all now regulated at the state level. So, the changes to your Code implement that portion of the Florida statute.

Vice Mayor Quesada: So...

Mayor Valdes-Fauli: (INAUDIBLE)

Vice Mayor Quesada: I'm sorry. Go ahead.

Mayor Valdes-Fauli: No, go ahead.

Vice Mayor Quesada: So, I guess, really, the million-dollar question is what really can we do?

Mr. Resnick: You can implement your ordinance and your staff will have grounds to deny an application when it comes in in a location or in a manner....

Vice Mayor Quesada: Is that going to end up in a lawsuit...?

Mr. Resnick: That's inconsistent with the ordinance.

Vice Mayor Quesada: Potentially?

Mayor Valdes-Fauli: Well...

Mr. Resnick: There's always the potential for a lawsuit, Commissioner.

Mayor Valdes-Fauli: Let me -- our aesthetic standards are very, very strict and have been upheld by the Florida Supreme Court and by the US Supreme Court. In the '80s or maybe early '90s, we adopted a news rack ordinance regulating the size and the color of news racks. And the Miami Herald and others, the New Times or whatever, they sued us saying that that was an

impairment of their freedom of speech and freedom of press. And they took us up to the Supreme Court. The Florida Supreme Court upheld...

Mr. Resnick: Right.

Mayor Valdes-Fauli: Our ordinance based on our severe strict historical standards of beauty, safety and aesthetics in Coral Gables. So, we do have strong standards to uphold and I think it behooves us to uphold it.

City Attorney Ramos: And, we believe that what we have put in place right now complies with the statute.

Mr. Resnick: Right.

City Attorney Ramos: That is our belief. We have a good faith basis for that. And, there will be some tweaks made to make sure we comply with that FCC order, which we just received.

Mr. Resnick: Right. And yeah, there may be changes to the Florida statute as well. It just was - it was adopted and became effective in 2017. There -- some of the provisions of the -- the Florida statute is 19 pages. It's not -- it's internally inconsistent. You know, it was adopted through the sausage making process. It changed at every committee meeting to, you know, appease a certain state senator or certain state representative.

Mayor Valdes-Fauli: It is a very...

Mr. Resnick: But -- so...

Mayor Valdes-Fauli: To have six or seven providers each putting up its own refrigerator in corridors or in whatever, it would be very, very bad for the standards of Coral Gables. It would be terrible.

Mr. Resnick: Right. So, as your City Attorney mentioned, we believe that the provisions that we've inserted in your ordinance to protect your historic preservation, to protect your design standards, to protect the character of your neighborhoods is consistent...

City Attorney Ramos: As well as the streetscape.

Mr. Resnick: Along with the -- right, the entire City plan, the historic City plan -- is consistent with the Florida statute. I know the industry objects to a lot of the conditions and requirements in your ordinance, and I'm sure you're going to hear from them directly. But we understand Coral Gables. We understand your intent and your desire here to preserve your community and - so we believe we've come up with a decent compromise that would allow the technology, because this is going to provide advanced wireless services to your residents and to your businesses, but in appropriate locations and in appropriate designs.

Mayor Valdes-Fauli: Okay. Well, please stick around.

Mr. Resnick: Thanks.

Mayor Valdes-Fauli: We have...

Commissioner Keon: Can I ask a question?

Mayor Valdes-Fauli: Sure, of course. Of course, I'm sorry.

Commissioner Keon: Does every -- so every provider would have to have their own -- that box or unit on the ground too?

Mr. Resnick: Potentially. It depends on the technology they use. But, each small wireless facility generally needs an equipment cabinet. Some technologies may not...

Commissioner Keon: But, they need a -- and is it -- how many -- is it like one cabinet per antenna...

Mr. Resnick: Yes.

Commissioner Keon: Or whatever?

Mr. Resnick: Yes. Unfortunately, the providers do not share, at this point, technology. And under the statute...

Commissioner Keon: Right. They'll have to...

Mr. Resnick: We cannot mandate that.

Commissioner Keon: Right.

Mr. Resnick: And so, the statute really hamstrung, to a large extent, the City's authority. So, currently, it's my understanding that they're not sharing the technology, so each -- potentially, each small wireless antenna device would need its own cabinet.

Commissioner Keon: Its own cabinet.

Mr. Resnick: There are some technologies where they do not need that where they can provide the backhaul either via wireless or have fiber buried underground to serve several antenna devices without a cabinet for each device. So, the -- it's going to really be up to each carrier to determine their own network needs and when are they going to need these cabinets. And they haven't told us. We've asked them several times what their network needs may be in the city and what type of facilities and where they anticipate deploying these facilities, but they have not told us yet.

Commissioner Keon: Do we have -- when we did the Mile, didn't we -- did we run enough line to be able to pull, fiber optics?

City Manager Iglesias: Commissioner, we do have for us, but I don't -- this would be quite a number of pulls.

Commissioner Keon: An additional -- okay, so it'll be beyond -- we only have to meet our capacity.

City Manager Iglesias: That is correct.

Commissioner Keon: Not to meet anything else.

City Manager Iglesias: This is beyond what we envisioned at that time. So, this is mul -- this -- these are every carrier providing its own pole and its own facility, which is -- which would be...

Commissioner Keon: It's the cabinets that are really problematic. It really isn't the antennas that are on poles or whatever else. I don't think they're -- people would really notice them. It's the cabinet that's on the -- you know, on the ground that...

Vice Mayor Quesada: Actually, I have to -- since the Mayor stepped out of the meeting, I'm running the meeting now as the Vice Mayor and we do not have a quorum, so we're pausing the meeting...

City Attorney Ramos: You're absolutely right.

Vice Mayor Quesada: Until either Commissioner Lago or the Mayor return, so we will be in recess until that moment.

City Attorney Ramos: I didn't realize he'd left.

Commissioner Keon: Yeah.

Mr. Resnick: I was going to just -- okay.

Vice Mayor Quesada: So, everyone just hang on for a few minutes.

Mr. Resnick: Okay.

City Attorney Ramos: I thought he was sitting there.

Commissioner Keon: No, he got up.

(BREAK IN AUDIO)

Vice Mayor Quesada: We'll be commencing once again in two minutes. We didn't have a quorum.

Mayor Valdes-Fauli: I thought that if he's on the phone, it counts for a quorum.

City Attorney Ramos: No. The quorum must be present in the room in order for phone attendance to be permitted.

Mayor Valdes-Fauli: Oh, okay. I apologize. Go ahead.

Mr. Resnick: Well, I just wanted to answer whatever further questions you have. I did want to make one point about the FCC order. Even though it's been adopted and released, it's not effective yet. It's not effective until 90 days after -- I'm sorry, after -- 90 days after publication in the federal register, which hasn't occurred. Plus, several cities and local governments and some state governments indicated that they're going to sue to challenge the FCC order, including the City of Seattle, the City of Portland, Oregon, several other cities...

Mayor Valdes-Fauli: On what grounds are they challenging it?

Mr. Resnick: They believe -- well, the FCC actually adopted a fairly unique interpretation of the Federal Telecommunications Act that's not currently the interpretation of the circuit courts of appeals, so they're going to challenge it based on the FCC's interpretation of the Federal Telecommunications Act, its own interpretation of its own authority, as well they believe that some of the requirements in the order, including the time frames, which are similar to the Florida statute and the amount of money that the FCC set as the maximum for attachment to a city- or county-owned pole violate the United States Constitution. So, they're going to challenge it on a variety of grounds.

Commissioner Keon: Is anyone in Florida challenging it?

Mr. Resnick: The Florida statute? Not currently.

Commissioner Keon: No. Is anybody in Florida challenging the FCC?

Mr. Resnick: Not as far as I'm aware today, no.

Commissioner Keon: Okay.

Mr. Resnick: But, as I said, it was only released a couple days -- a couple weeks ago and it's very similar to the Florida statute. So, even if the FCC order were overturned, while it would be guidance as to what's legal and not legal under the Florida statute. The Florida statute...

Commissioner Keon: It's close enough that it doesn't...

Mr. Resnick: Is still...

Commissioner Keon: Make any difference.

Mr. Resnick: Correct. But, I understand that there is going to be an interest in amending the Florida statute in the coming legislative session to clear up some of the varieties of interpretation, so that some of the interpretations that local governments have asserted, including what your ordinance asserts, may be changed by a potential bill that might be filed in the legislature for the next session.

Commissioner Keon: Okay.

Mayor Valdes-Fauli: Thank you.

Commissioner Keon: Thank you.

Commissioner Lago: Thank you.

Mr. Resnick: Thank you.

Mayor Valdes-Fauli: Okay, we have Janna Lhota, Wireless Communications Ordinance, and she represents Verizon. Hello.

Janna Lhota: Good morning. My name is Janna Lhota. I'm an attorney with the law firm of Holland & Knight, with offices at 515 East Las Olas, Fort Lauderdale, Florida. And as the Mayor indicated, I am here on behalf of Verizon Wireless Personal Communications. The ordinance that's before you today, as Mr. Resnick indicated, is seeking to implement recent changes to Florida statutes to help facilitate the deployment of small wireless facilities in the public rights-of-way. Small wireless facilities will not only help assure the continued coverage, but more importantly, the capacity demands that your residents and businesses expect and also help facilitate what we soon see as the next wave of wireless technology development. We're all experiencing and enjoying what we have on our phone now, me, personally, as I used the Pay By Phone app to pay for the parking out in your parking lot. And certainly, 5G and the next wave of technology is something that I think even the City looks to as you seek to become a Smart City in terms of your technology and deployment. As Mr. Resnick indicated, I am part of a larger working industry coalition group that includes not only Verizon Wireless, but T-Mobile, AT&T, Comcast, Crown Castle and Hotwire. We do this in large part to help the cities, so that you're not receiving seven different letters from the industry, but rather one. With this in mind, we did review the draft ordinance that was provided to us as an industry working group, approximately a month ago and provided an annotated draft that include our comments, where appropriate, our objections, suggested revisions and whatnot. We appreciate that we were able to have a call with the City staff, the City Attorney's Office and Mr. Resnick last week. I was the fortunate one that got to, in a robo fashion, as quickly as I could, go through all the comments with the understanding that staff is considering those, hopefully, between first and second reading, for inclusion in the ordinance. One thing I would like to point out on behalf of our client, Verizon Wireless, is that we certainly are aware of the unique and aesthetic considerations that Coral Gables has. We understand what you're seeking to accomplish by this ordinance. We only ask

for still open dialogue between first and second reading in hopes that we can address some of those key provisions of the ordinance that will inhibit deployment and also assure consistency with the state law and, to the extent that it applies, the FCC order. I know it's been a long meeting already. I don't want to necessarily go through individual items since I know we'll be discussing them between first and second reading.

Mayor Valdes-Fauli: No, no. Yeah, that's the City Attorney.

Ms. Lhota: Yep. And I just, again, appreciate the opportunity to come here and for us to continue to work together to bring Coral Gables into the next level of technology. Thank you very much.

Mayor Valdes-Fauli: Thank you very much. When you say that you're here to help us or the industry is here to help us, I -- as you could tell from the discussion this morning, Commissioner Lago's concerns, Commissioner Keon's concerns, my concerns, to a lesser extent, but they expressed it much better than me. Our -- the aesthetic standards and historic property standards in Coral Gables are very, very important to us. And, I dread to think that each one of these -- of your clients or the consortium is going to dig Miracle Mile, dig Giralda, each one of them and destroy our \$24 million beautification effort. I dread to think about six refrigerator-sized boxes - - six of them in our public right-of-way. I am very, very concerned about the industry. I'm very concerned about the statutes our legislature has without any regard for localities or cities and I look forward to our City Attorney getting together with you and your, you know, colleagues. But the protection of our aesthetic standards are very, very important for us. Very important for us, and we're going to fight you to the hilt in order to preserve it. And once we prevailed in the Florida Supreme Court, which was affirmed by the -- or (INAUDIBLE) the US Supreme Court, because that is part of the history, nature, et cetera of Coral Gables.

Ms. Lhota: I understand. I -- and I think Mr. Resnick did a good job of pointing out a lot of the different types of small wireless facilities. One thing that is important is that -- again, I'm

speaking on behalf of Verizon Wireless -- is that we are sensitive to the unique aesthetic considerations. In that regard, we have worked with cities where they have historic areas with the specific type of light standard or pole to mimic that pole. I will also say that you -- 28 cubic feet is probably the exception, but not the rule when it comes to accessory equipment. You saw in many of the examples that were provided where the accessory equipment and the antennas were actually much smaller. However, I would be not serving certainly the consortium or my client if I wasn't clear that every wireless provider does have different technology, and in fact, different technology depending upon the particular area that it's serving. The one thing that the ordinance does provide is it does provide a kind of a 30-day window where the City can add on that time to kind of negotiate with the provider with respect to the particular location, whether or not it should be shifted, whether or not there's any dialogue in terms of if there's something else that can be done. One thing I will tell you is right now this draft -- ordinance as drafted probably provides more aesthetic standards than I've seen, I think, in any other city that we've had the experience of dealing with Mr. Resnick, and certainly, across the board. So, they certainly have done a good job on your behalf in terms of trying to make sure that the character of the infrastructure you have in the right-of-way is carried through with the new small wireless facilities that come to you.

Mayor Valdes-Fauli: Thank you.

Ms. Lhota: So -- and we appreciate certainly your comments as well.

Mayor Valdes-Fauli: Thank you very much. Madam City Attorney, any other comments or is there a motion in order?

City Attorney Ramos: Nothing further, sir. We will be bringing this back on second reading probably in November or December to give sufficient time for (INAUDIBLE) to go through all the comments.

Vice Mayor Quesada: I don't think we -- I don't think we voted on that. So move.

City Attorney Ramos: There has been no vote yet.

Mayor Valdes-Fauli: I know, I know. But I said is a motion in order. That's what I said.

City Attorney Ramos: A motion is in order to pass this...

Mayor Valdes-Fauli: Okay.

City Attorney Ramos: On first reading, sir.

Commissioner Keon: I think Commissioner Quesada -- Vice Mayor, you made the motion, yes?

Vice Mayor Quesada: Yes.

Mayor Valdes-Fauli: Oh, you did?

Commissioner Keon: Okay.

Vice Mayor Quesada: Right now...

Mayor Valdes-Fauli: Okay.

Vice Mayor Quesada: Yeah.

Mayor Valdes-Fauli: Right now.

Commissioner Keon: I second it.

Mayor Valdes-Fauli: Second.

Commissioner Keon: Yes.

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

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Commissioner Mena: Yes.

Vice Mayor Quesada: Yes.

Mayor Valdes-Fauli: Yes.

(Vote: 5-0)

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

Mr. Resnick: Thank you.