

City of Coral Gables City Commission Meeting
Agenda Item F-5
February 26, 2019
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

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

City Staff

City Manager, Peter Iglesias
City Attorney, Miriam Ramos
City Clerk, Billy Urquia

Public Speaker(s)

Craig Coller
Marlin Ebbert

Agenda Item F-5 [0:00:00 p.m.]

An Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code (Zoning Code), Amending Article 3, "Development Review," Division 3, "Uniform Notice and Procedures for Public Hearing," Section 3-302 "Notice," Division 5, "Planned Area Development," Section 3-506 "Application and Review Procedures for approval of plans," Division 6, "Appeals," Section 3-606 "Procedure for appeals," Division 7 "Moratorium," Section 3-708 "City Commission Review and Decision," Division 10 "Transfer of Development Rights," Section 3-1006 "Review and Approval of use of TDRs on Receiver Sites," Division 12 "Abandonment and Vacations," Section 3-1205 "City Commission Review and Decision," Division 15 "Comprehensive Plan Text and Map Amendments," Section 3-1509 "Transmittal

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Agenda Item F-5 - Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code providing for required mailed notice for certain actions pursuant to the Zoning Code, providing for repealer provision, severability clause, codification, and providing for an effective date.

Hearing,” and Article 5 “Development Standards,” Division 6 “Design Review Standards,” Section 5-604 “Coral Gables Mediterranean Style Design Standards,” providing for required mailed notice for certain actions pursuant to the Zoning Code, providing for repealer provision, severability clause, codification, and providing for an effective date. (01 09 18 PZB recommended approval with conditions, Vote 6-0) (Increase mailed notices for certain requests)

Mayor Valdes-Fauli: F-5.

City Attorney Ramos: Item F-5 is an ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official Zoning Code (Zoning Code), Amending Article 3, “Development Review,” Division 3, “Uniform Notice and Procedures for Public Hearing,” Section 3-302 “Notice,” Division 5, “Planned Area Development,” Section 3-506 “Application and Review Procedures for approval of plans,” Division 6, “Appeals,” Section 3-606 “Procedure for appeals,” Division 7 “Moratorium,” Section 3-708 “City Commission Review and Decision,” Division 10 “Transfer of Development Rights,” Section 3-1006 “Review and Approval of use of TDRs on Receiver Sites,” Division 12 “Abandonment and Vacations,” Section 3-1205 “City Commission Review and Decision,” Division 15 “Comprehensive Plan Text and Map Amendments,” Section 3-1509 “Transmittal Hearing,” and Article 5 “Development Standards,” Division 6 “Design Review Standards,” Section 5-604 “Coral Gables Mediterranean Style Design Standards,” providing for required mailed notice for certain actions pursuant to the Zoning Code, providing for repealer provision, severability clause, codification, and providing for an effective date. I’d like to state that this ordinance comes from a direction of the City Commission to have us look at the notice requirements. From time to time we’ve had people complain about notice. I tasked special counsel Craig Coller, who is here to present the ordinance to you, with looking at that and making the revisions and that’s what’s before you today. Mr. Coller.

Mayor Valdes-Fauli: Mr. Coller. Thank you.

Craig Coller: Excuse me.

Mayor Valdes-Fauli: Welcome.

Mr. Coller: Mr. Mayor, members of the City Commission, Craig Coller, outside counsel for the City. Basically, this is the required notice that the City Commission was interested in providing. It's a ten-day mailed notice with three days added for mailing, which was the recommendation from the Planning and Zoning Board. The notice will go out for either zoning resolutions or where there's an ordinance relating to zoning, it'll go out for the first reading for zoning. The notice will be required to be mailed by the applicant so we can get the -- which is currently being done for the Planning and Zoning Board procedures and get the staff from doing that labor of stuffing and sending out envelopes and having the applicant do it. The applicant is going to have to file an affidavit saying that he complied with the provisions of the ordinance. Staff is still going to have that additional work of reviewing the notices to make sure that the form is complete and accurate. So, staff will still have to do that. The courtesy notice will still be retained for master plan items, which is a purely legislative matter. But all these other matters which are considered quasi-judicial, folks within a thousand feet will be getting the mailed notice. That's generally the provisions of the ordinance.

Mayor Valdes-Fauli: Thank you. Comments? I think this is cleaning up, you know, our procedures, et cetera, isn't it? I mean, it's basically...

Mr. Coller: Yes.

Mayor Valdes-Fauli: Yeah. Do I hear a motion?

Commissioner Mena: I had a quick -- just a question.

Mayor Valdes-Fauli: Okay, go ahead.

Commissioner Mena: You know, we get a lot of complaints about notice issues on a variety of different topics and I'm glad we're working to improve this. And I guess my question for you was how did -- in your experience, how does this compare to how other jurisdictions handle this?

Mr. Coller: Well, in comparison to the County, it's generally tracks the County. The County gives a little bit more notice, but the County is a much bigger area, so it's understandable why that notice might need to be longer than say in an area such as Coral Gables, which is more compact, obviously, than the unincorporated area of Dade County. And I think with the additional three days of mailing, that gives you even more notice. There may be some delay going from the Planning and Zoning Board to the first meeting of the City Commission with adding those three days' notice, so the calendar may be such that it might not make a particular City Commission meeting. But generally, I believe this tracks what the County does with requiring notice.

Commissioner Mena: And as far as just sort of certifying compliance, we're basically relying on the affidavit, right? I mean...

Vice Mayor Lago: The affidavit.

Mr. Coller: Right, the affidavit from the applicant that they're doing that, which actually is a process we're doing now for Planning and Zoning Board notice.

Vice Mayor Lago: So what...

Mr. Coller: But I think it's a way to get the staff -- you want the staff to use their talents to evaluating applications and working with applicants. You don't want them doing what I consider more of a menial task of stuffing the envelopes and...

Vice Mayor Lago: But with that question from...

Mr. Coller: Sending them out.

Vice Mayor Lago: Commissioner Mena, I just wanted to ask you, so besides the affidavit, what remedy do we have if you -- for example, we're hearing a project and we hear that a handful of neighbors did not receive notice?

Mr. Coller: Well, then the remedy is -- which is -- well, if it's been properly mailed, the presumption is it's been received. But, if the applicant did not do it in accordance with what the Code requires, which is a thousand feet and it's determined by that...

Vice Mayor Lago: Ten days.

Mr. Coller: By that, then the City Commission should have a deferral, require re-notice at the expense of the applicant. So, that's sort of his punishment, if you would, for failing to do the notice in accordance with the requirements, and I think that we haven't seen -- and Mr. Trias can confirm this. I don't think we've seen a problem at the Planning and Zoning Board for folks to -- that are putting the notices out. So, I think...

Vice Mayor Lago: Well, like one of my colleagues mentioned at the beginning, you know, we've -- this has been an issue where we have certain people that come before the Commission and say I never received notice, or they'll send me an email saying I heard you voted on this item on first reading. Can you give me a little bit more information? I'm not aware of what's going on. Even though I know that we, as a city, go above and beyond in regards to notifications, in the Herald, in emails. But there's still that issue that certain people have stated in the past the for some reason they haven't been...

Mr. Coller: Right.

Vice Mayor Lago: They haven't been properly noticed. So, I just want to make sure that when we have that one person or that handful of individuals that stands up here and says we did not receive notification, I don't want to penalize the applicant and just say, hey, you know, stop the process, defer and spend all that money. There has to be -- we're not going to do it certified mail, correct?

Mr. Coller: No, but...

Vice Mayor Lago: I mean, that would be...

Mr. Coller: But it's...

Vice Mayor Lago: A cost that's prohibitive.

Mayor Valdes-Fauli: Can I tell you a story?

Vice Mayor Lago: Yeah. I'm just trying to...

Mayor Valdes-Fauli: No, no. I know.

Vice Mayor Lago: I just want to make sure because this will happen. It will happen. I promise you, it will happen.

Mayor Valdes-Fauli: The day after Irma I went around North Gables knocking on doors, looking at people picking trees, whatever. And an irate neighbor came and lunged at my car basically and said, I had no notice that a hurricane was coming. And I said, you know, it was on Facebook. It was on mailings. It was in the newspaper.

Vice Mayor Lago: The Neighbors section.

Mayor Valdes-Fauli: Everybody knew, the neighbors, everybody knew that a hurricane was coming and the way to prepare. They said, yes, but nobody knocked on my door to tell me that a hurricane was coming. There will always be people that don't live in this world and you know, they will complain that they didn't get notice.

Vice Mayor Lago: No, and I...

Mayor Valdes-Fauli: And there's nothing we can do about that.

Vice Mayor Lago: And I agree with you, but there's certain issues that us as a body have to face; for example, like a rezoning...

Mayor Valdes-Fauli: I agree.

Vice Mayor Lago: A change in land use that it's very time sensitive, that it's sensitive to the community and I want to make sure. And I know that Commissioner Mena started the discussion, but I want to make sure that we have an answer of some sort...

Commissioner Mena: Yeah, sure.

Vice Mayor Lago: That we can speak to that person and say...

Mayor Valdes-Fauli: I agree.

Mr. Coller: You know, the presumption is that when it's been mailed, it's been received. As long as the applicant has done it in accordance with the provisions of the Code, then that's all that's required. He doesn't have to do certified mail return receipt requests.

Vice Mayor Lago: But the mechanism -- it's up to the Commission. If one person or a handful of individuals or a dozen say...

Mr. Coller: If you feel uncomfortable, you can always...

Commissioner Mena: Right.

Mr. Coller: Defer the item, of course.

Commissioner Mena: Right.

Mr. Coller: Exactly.

Commissioner Mena: Are you -- I'm just going to kind of throw a crazy question out there. But...

Mr. Coller: I'll try to be ready for it.

Commissioner Mena: Do you know if there's -- are there cities out there that have looked into and/or invested in some sort of like technology where residents can, you know -- we have residents, for example, that sign up for our eNews, right, where people could like voluntarily sign up for some sort of...

City Attorney Ramos: I actually have the answer to that.

Commissioner Mena: Notice software...

City Attorney Ramos: I met with someone...

Commissioner Mena: You know.

City Attorney Ramos: I met with someone last week who is starting a pilot program for software through a grant. And what it is is you check the municipalities you wish to follow and then you check the types of items you're interested in.

Commissioner Mena: Right.

City Attorney Ramos: Zoning, public safety or whatever. And you get an email that says in Coral Gables this type of item that you said you were interested in...

Vice Mayor Lago: Is forthcoming.

City Attorney Ramos: Is coming on Tuesday.

Commissioner Mena: Right.

City Attorney Ramos: Come.

Commissioner Mena: Right.

City Attorney Ramos: It's just in its initial stages. We're supposed to be coming on -- they're bringing us on board on their own. They don't need our consent. It's just...

Commissioner Mena: Just for a -- I just -- for a variety -- one, you have sort of the sustainability side of it, right, so you know...

Vice Mayor Lago: Less paper.

Commissioner Mena: The amount of paper we're mailing out for these kind of notices -- obviously, notice is really important and we take it seriously, so we have to do it. But if there was a digital way in the future to do this -- which I think it's inevitable there will be -- I think that would be great. It also gives you, to your point and to Commissioner Lago -- Vice Mayor Lago's point, it's certified, right, because email -- you can check if somebody got it or not. You know, as lawyers now, we deal with service issues via email and federal court filings, you know, via the computer so, you know, it can be done. It's just a matter of having the software that enables people to get it. I mean, going a step further -- and this sounds like this is a pilot so it's still in its infancy, but if you speak to them, you know, if there was a way for even using people's address to be able to determine who's within X amount of feet, right. So, if I'm registered with my address and there's a notice for a project within X amount of feet, that I would get an email. And that's, I think, probably a ways away, but I think that's the direction in the long term we should be moving in.

City Attorney Ramos: Sure. It makes sense.

Vice Mayor Lago: I agree.

City Manager Iglesias: And if we can -- most cities notice 500 feet. We're noticing 1,000, so we're noticing four times the area of most cities, so I think we're doing fairly well.

Vice Mayor Lago: Can you do me a favor, if my colleagues agree? I'd like to make sure that we put this on our eNews once this passes today, that we put this on eNews, that we put this in the Neighbors section as a critical ordinance that was passed by this Commission to ensure that everyone is aware of what's happening on this Commission.

Mayor Valdes-Fauli: Alright.

City Manager Iglesias: We'll put it in...

Vice Mayor Lago: And I want to make that point. And if you have any input and you think we can do -- and there's technology like Commissioner Mena mentioned out there and like the City Attorney did that we're not aware of, all hands on deck. Send it to us. We want to make it as easy as possible for someone to come before us and for us to do our job representing this community.

City Attorney Ramos: This is on first reading...

Commissioner Quesada: The hard part...

Mayor Valdes-Fauli: We have...

City Attorney Ramos: So we should do it after the next meeting.

Mayor Valdes-Fauli: We have...

Vice Mayor Lago: Oh, exactly.

Commissioner Quesada: You know, the hard part is -- I mean, we have people that sign up for our newsletter. We could easily blast them every agenda that ever comes out, but I know what's going to happen. Ninety-five percent of the things they're not interested in, so maybe they miss it.

Vice Mayor Lago: Or they don't read it.

Commissioner Quesada: Or they get too many emails from us related to every agenda, to every board. Maybe if we itemize -- we have the technology now. It's almost like when you get those annoying spam emails and when you go to opt-out it tells you, what do you want to opt out of? Marketing, advertising, or like a realtor sends it to you, it tells you like Brickell location or Coral

Gables location. Maybe we can set something up like that with IT to say oh, anything Planning and Zoning related, you can opt out or only get those types of email or agendas that have that.

Mayor Valdes-Fauli: Okay. We have...

Commissioner Quesada: It's an IT question.

Mayor Valdes-Fauli: Marlin Ebbert. You wish to speak on this issue. Welcome again.

Marlin Ebbert: Since I happen to be here, I do have a comment on this. Marlin Ebbert, 6510 San Vicente Street. This has been a problem for the 30 years that I've lived here, is notice. And I -- what I noticed is that the way you publicly notice in a periodical is the Miami Business Review. Now, I don't know anybody, anyone that gets the Miami Business Review delivered to their home. You know, and when you have things in Sunday's Neighbors, that's a very nice page, but it's usually pretty much fluff. If you look at -- through the rest of Neighbors, there's the City of Pinecrest -- the Village of Pinecrest, the City of South Miami. They have actual notices all throughout Neighbors, but we do not. We use the Miami Business Review. So, and, but people do not get those mailings. I know that. Whether your addresses are wrong, whether your labeling is wrong, I'm glad you're putting it on to the applicant now, rather than the City, so maybe it will improve. But the Miami Business Review is not the way to be the periodical.

Mayor Valdes-Fauli: Thank you. Thank you, Marlin. Alright, do I hear a motion?

Vice Mayor Lago: So moved.

Mayor Valdes-Fauli: Second?

Commissioner Mena: Second.

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

Commissioner Mena: Yes.

Commissioner Quesada: Yes.

Vice Mayor Lago: Yes.

Mayor Valdes-Fauli: Yes.

(Vote: 4-0)