

City of Coral Gables City Commission Meeting
Agenda Item F-7
December 10, 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 Jorge Fors, Jr.

City Staff

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

Public Speaker(s)

Brett Gillis

Agenda Item F-7 [12:25:29 p.m.]

An Ordinance of the City of Coral Gables, Florida amending the City of Coral Gables Zoning Code Article 8, “Definitions,” to include non-profit historic preservation groups under the definition of “aggrieved.” (Sponsored by Vice Mayor Lago and Commissioner Mena)

Mayor Valdes-Fauli: F-7.

City Attorney Ramos: F-7 is An Ordinance of the City of Coral Gables, Florida amending the City of Coral Gables Zoning Code Article 8, “Definitions,” to include non-profit historic preservation groups under the definition of “aggrieved.” Mr. Ceballos this is a public hearing item.

Assistant City Attorney Ceballos: Building on the last item, this also adds certain parties that are aggrieved parties that’s defined under our code. Specifically, we had some different language in there before, whether it would be certain groups or depending on their mission statements of that nature. At the end, I think staff, and everybody has decided to move forward, at least for right now,
City Commission Meeting
December 10, 2019

with only one additional party being the Dade Heritage Trust, but I'm open to your comments and questions.

Commissioner Mena: Question. I know there has been some feedback about possibly having other entities talk about that. My question was the purpose of this as I saw it, was to give as drafted this entity standing to appeal to the Commission after a decision of the Historic Preservation Board, which it clearly and plainly I think states, the question I have is, by defining them as an aggrieved party does that create exposure or potential standing, for example, to bring a lawsuit as an aggrieved party, or things of that nature. I don't know the answer, but the only point I'm trying to make is, I would like to make an amendment to the ordinance as expressed as possible and I'm just brainstorming with you. I'd ask that when this comes back, maybe you can flush this out by then, if my colleagues agree, but for it to be as clear as possible that the only right, if you will, being granted through the entity is to be able to appeal a decision of the Historic Preservation Board through the Commission. Maybe that's by not defining them as an aggrieved party, but just separately stating that or authorizing that. I don't know the answer, but that's an issue that I just thought of as I was preparing for today that I wanted to address.

City Attorney Ramos: We could say nothing here and concede that this party would have standing in a court to further appeal. I don't know that it would hold any water, to be perfectly honest.

Commissioner Mena: That's my concern about doing it that way.

City Attorney Ramos: I like your suggestion better, because maybe not add them to an aggrieved party, but as you mentioned, add them elsewhere.

Commissioner Mena: Correct.

City Attorney Ramos: And just make them an entity that can appeal but that's not considered an aggrieved party.

Commissioner Mena: Correct.

Assistant City Attorney Ceballos: It should be noted that the language that's being proposed is under aggrieved party, but it specifically states, for matters of historic preservation or appeal from a historic preservation board, aggrieved party includes Dade Heritage Trust. So, it's not just a blanket statement.

Commissioner Mena: I'll be honest, I don't – I've never looked into the issue of how they would or would not have standing in a court of law, and so, my gut tells me that if you are defined as aggrieved party you probably have a better position to articulate that you have standing, but I don't know the answer.

City Attorney Ramos: Also, if in fact that party appeals to the City Commission, whether they are defined as aggrieved or not, and wants to appeal the decision of the City Commission to circuit court, whether you define them as an aggrieved party or not, they are going to have standing, because its their appeal from your decision.

Commissioner Fors: I would feel much more comfortable if we just say aggrieved party can appeal and by the way, also Dade Heritage Trust, without defining aggrieved party, as Commissioner Mena was saying.

Commissioner Mena: But that doesn't deal with the issue you just described.

City Attorney Ramos: I don't think there is a way to deal with the issue. I think if you let them appeal to City Commission. In that particular proceeding they are going to be able to appeal to circuit court. Now generally, if you don't want to call them an aggrieved party, because some, I don't know, deck action or some other proceeding that's not going to appeal to the City Commission, could be bolstered by that argument, we could separate. So, it would help a little bit, it wouldn't help all the time.

Mayor Valdes-Fauli: We have a few people that wish to speak, Brett Gillis. Brett have you asked for your house to be designated yet?

Mr. Gillis: Are we going back to this.

Mayor Valdes-Fauli: Of course, I am. You are very committed and then your house is not a historically designated house, I'm offended by that.

Mr. Gillis: I'm trying to work with the Historical Department to get a district form, because that's what...

Mayor Valdes-Fauli: But they don't want a district.

Mr. Gillis: That's not true, they do.

City Commission Meeting
December 10, 2019

Mayor Valdes-Fauli: But people living in the district do not want to have their houses designated.

Mr. Gillis: How do you know that.

Mayor Valdes-Fauli: Have his house designated...

Mr. Gillis: I'm willing to do that. I want to do that, but I also want to work toward a district because that's what would preserve more of Coral Gables.

Mayor Valdes-Fauli: That would designate the whole of Coral Gables...

Mr. Gillis: I didn't say that.

Mayor Valdes-Fauli: That's what in effect say. Go ahead.

Vice Mayor Lago: Let's talk about F-7.

Mr. Gillis: So, thank you. I'm here and I wanted to thank Vice Mayor Lago and Commissioner Mena for placing this on the agenda. The title of the proposed ordinance is to include non-profit historic preservation groups under the definition of aggrieved, but the way that I'm understanding this, the way that the ordinance was drafted it will be Dade Heritage Trust and I just don't see them advocating in Coral Gables. I can't remember the last time the Dade as a group came to Commission to advocate. I'm not asking to exclude anybody, you're talking about principals of inclusion, Commission lot, and I would just like you to include the Villagers in Dade Heritage Trust, if possible, in the ordinance, that's my recommendation. I just didn't understand why they would be excluded if we are the ones that are most involved in Coral Gables.

Vice Mayor Lago: As a co-author of the ordinance, I don't have any issues with it, unless Commissioner Mena wants to.

Commissioner Fors: Perhaps one argument, playing devil's advocate for not including them is that, they are more likely to be a true aggrieved party or someone in the association and don't need special designation, because they are not someone like Dade Heritage Trust and would not otherwise need to be made an aggrieved party under the statute, that's playing devil's advocate.

Vice Mayor Lago: That's a good point, but I mean...

Commissioner Fors: I also – are we going to typically allow somebody to be called an aggrieved party and the logical thing is the association here in Coral Gables. I haven't fully evaluated it.

Mayor Valdes-Fauli: I didn't hear you very well.

Commissioner Fors: If we are going to specifically designate a particular group as someone who can appeal, even though they may not be the definition of some aggrieved party, logically let's say, it would be our own association here, not the Dade Heritage Trust, but I understand there's pros and cons to that. At the end of the day, we have aggrieved parties. In every area of the law true aggrieved parties are the ones that can bring appeals and not anybody else.

Assistant City Attorney Ceballos: I would ask that staff make a presentation or at least speak to why they only, particularly, chose to move forward with Dade Heritage Trust. I think they maybe able to answer that question for you.

Commissioner Fors: And my concern with specifically designating historic preservation associated with Coral Gables. I don't have a problem with designating them as a general proposition, but I think the concerns that we need to address is to ensure that somebody cannot go on Sunbiz and form a non-profit association tomorrow just to appeal a particular decision. Maybe have some type of criteria and in the whereas it says we are going to designate them because they've been around x amount of time.

City Attorney Ramos: And that was the idea to do it by name and not like Miami has it, which is a 501(c)3 designated for the purpose of historic preservation, but rather have it be a particular organization or organizations so that that would not happen.

Mayor Valdes-Fauli: And remember these are appeals are from decisions of our City, our Commission designated board. It has studied the matter very, very carefully and I would feel uncomfortable, I know you are talking about the Villagers, in particular, you have someone who has tried to designate a whole district for the City of Coral Gables against the will of the residents being able to appeal the decision of a very well informed, very well considered board appointed by the City Commission.

Commissioner Keon: It's a quasi-judicial board where there are requirements for board members also. So, I feel strongly in support of this preservation board.

Ms. Kara Kautz: So, Dona was very sort of adamant about having the DHT as the organization that was an aggrieved party, because they have a track record, they've been around for a number

City Commission Meeting
December 10, 2019

of years. Their board gets the presentation from both sides before they actually make a decision where they would want to move forward with any sort of action. And I think from my point, its also important that they are professionally paid staff on board. So they, Florida Trust, Dade Heritage Trust, the National Trust for Historic Preservation, they all have paid professional staff where the Villagers or the Historic...I'm sorry, the Historic Preservation Association of Coral Gables are a volunteer organization. So that distinction to me is relative to employees.

Mayor Valdes-Fauli: [Inaudible]...trying to designate.

Mr. Gillis: Where are you getting this information?

Mayor Valdes-Fauli: Getting this information by the applications that came before the Historic Preservation staff that you want to designate a whole district.

Mr. Gillis: That is the Historic Preservation Board issued direction to the staff to do that, we are trying to assist them.

Vice Mayor Lago: I'm ready to move forward. I mean I agree with you guys. You made it very clear...

Mayor Valdes-Fauli: With the Commission?

Vice Mayor Lago: I appreciate your involvement and everything you do for the City, but I think your comments are on point.

Ms. Kautz: And this doesn't preclude local organizations from partnering with Dade Heritage Trust to then present an appeal.

Vice Mayor Lago: I'll make the motion.

Mr. Gillis: May I ask one more thing. What about including Florida Trust and the National that would also meet those requirements then. Because my concern is, I live in this community, so I have the opportunity to be part of different organizations, my concern is just that Dade Heritage Trust is limited resources. So, when this matter came up, for instance with 333 Catalonia, I didn't see them showing up here to advocate for that, so why would they do it in the future?

Vice Mayor Lago: You could always take it in your hands to notify Dade Heritage Trust of the issue within the allotted time and they could be the entity that comes forward. I think that makes sense, simple – less layers, less bureaucracy and you move forward.

Mayor Valdes-Fauli: Thank you Mr. Gillis.

Vice Mayor Lago: I'm going to make a motion to adopt F-7.

City Attorney Ramos: Vice Mayor does your motion include Commissioner Mena's suggestions about changing that.

Vice Mayor Lago: Yes.

Mayor Valdes-Fauli: Does anyone wish to speak?

Mayor Valdes-Fauli: Andrea England you wish to speak?

Vice Mayor Lago: Oh, sorry, I didn't know we had additional speaker cards.

Mayor Valdes-Fauli: Andrea England is not here. Go ahead you made a motion.

Commissioner Mena: I'll second.

Mayor Valdes-Fauli: OK. Its been moved and seconded we approve it as written.

Commissioner Mena: The understanding being you'll come back to us with proposed language that addresses that issue.

City Attorney Ramos: Between first and second, we will make those changes, not as written. Its with the changes, with the amendment.

Mayor Valdes-Fauli: Will you call the roll?

Commissioner Mena: Yes

Commissioner Fors: Yes

Commissioner Keon: Yes

Vice Mayor Lago: Yes

City Commission Meeting
December 10, 2019

Mayor Valdes-Fauli: Yes
(Vote: 5-0)

Mayor Valdes-Fauli: Thank you very much. We'll take a break until quarter to two.

[End: 12:37:00 p.m.]

[The Commission resumed the item at 3:32:01 p.m.]

City Attorney Ramos: Need a clarification on the Historic Preservation Board item, Mr. Ceballos, if you want to come up. As you recall, we are going to redraft the second one regarding the aggrieved party Dade Heritage Trust, like Commissioner Mena suggested, but that is going to require a full redraft, including a different section, so we think we are going to have to bring it back on First.

Vice Mayor Lago: Fine.

City Attorney Ramos: If you'd like those to go to Planning and Zoning together, in other words,

Assistant City Attorney Ceballos: Especially if we want to try them together, is really the main question, because there are so many changes that I'd like to redo the whole entire ordinance.

Vice Mayor Lago: Me personally, if I'm allowed to give my two cents on that issue. I think just follow the process, the standard process. I want it to go to Planning and Zoning and then come through First Reading.

Assistant City Attorney Ceballos: Because there are two different ones. There is the 72 hours and then there is the inclusion of the Dade Heritage Trust and the other language changes. The issue is right now, we move it forward, one of them is going to have to come back for First Reading again.

Vice Mayor Lago: Let me ask Commissioner Fors if he's obviously...

Assistant City Attorney Ceballos: But basically, you'll have two running – you'd have two going to Planning and Zoning, then coming back to you for Second Reading, while the other one is coming to you on First Reading.

Commissioner Fors: Whatever is easier. The one that I sponsored addresses something that rarely occurs, so I don't think there is any urgency whatsoever.

City Commission Meeting
December 10, 2019

City Attorney Ramos: So, we'd rather have them run together then.

Mayor Valdes-Fauli: Thank you.

Vice Mayor Lago: Thank you Gus. I appreciate it.

[End: 3:33:16 p.m.]