

1 CHAIRMAN FLANAGAN: Okay. We're --  
 2 MR. BELLIN: But I understand what the real  
 3 problem is.  
 4 MR. BEHAR: If we're going to be hearing  
 5 them in December, doesn't --  
 6 MS. CRUZ: No, that's okay, but I wanted  
 7 you to see what went wrong.  
 8 MS. MENENDEZ: Got it. I understand.  
 9 Thank you.  
 10 MS. CRUZ: That's the point.  
 11 MR. TRIAS: No one is disputing the facts.  
 12 We agree.  
 13 MS. MENENDEZ: Okay.  
 14 CHAIRMAN FLANAGAN: Thank you.  
 15 MR. TRIAS: Thank you very much.  
 16 MS. MENENDEZ: Is it time for a motion?  
 17 MR. BEHAR: I'll make a motion to extend --  
 18 MS. MENENDEZ: To extend it? I second it.  
 19 MR. BEHAR: -- until the next --  
 20 MR. LEEN: Continued.  
 21 CHAIRMAN FLANAGAN: Continued.  
 22 MR. LEEN: Move to continue to the next  
 23 regularly scheduled meeting.  
 24 CHAIRMAN FLANAGAN: Which is December 9th?  
 25 MS. MENENDEZ: Right.

1 MR. LEEN: December 9th? That's correct?  
 2 MR. RODRIGUEZ: Yes.  
 3 MR. LEEN: December 9th.  
 4 CHAIRMAN FLANAGAN: Okay. Motion to  
 5 continue this item to December 9.  
 6 MS. MENENDEZ: Second.  
 7 CHAIRMAN FLANAGAN: Second by Maria. Any  
 8 further discussion by the Board?  
 9 Seeing none. Jill, call the roll, please.  
 10 THE SECRETARY: Marshall Bellin?  
 11 MR. BELLIN: Yes.  
 12 THE SECRETARY: Julio Grabiell?  
 13 MR. GRABIEL: Yes.  
 14 THE SECRETARY: Maria Menendez?  
 15 MS. MENENDEZ: Yes.  
 16 THE SECRETARY: Alberto Perez?  
 17 MR. PEREZ: Yes.  
 18 THE SECRETARY: Frank Rodriguez?  
 19 MR. RODRIGUEZ: Yes.  
 20 THE SECRETARY: Robert Behar?  
 21 MR. BEHAR: Yes.  
 22 THE SECRETARY: Jeff Flanagan?  
 23 CHAIRMAN FLANAGAN: Yes.  
 24 MR. LEEN: And for those at home, that's at  
 25 6:00 p.m., just like every meeting.

1 CHAIRMAN FLANAGAN: Thank you.  
 2 All right. Next item on the agenda --  
 3 we'll go back up -- Item Number 6, "An  
 4 Ordinance of the City Commission of Coral  
 5 Gables, Florida, providing for text amendments  
 6 to the City of Coral Gables Official Zoning  
 7 Code by amending Article 5 ("Development  
 8 Standards"), and by amending Article 8  
 9 Definitions; providing for severability,  
 10 repealer, codification and an effective date."  
 11 MR. LEEN: Yes. Thank you, Mr. Chair.  
 12 This is an item coming from the City  
 13 Attorney's Office. I have Special Counsel  
 14 here, who I will call up in a moment to speak a  
 15 little bit about this item.  
 16 There was a Supreme Court decision that was  
 17 issued a couple of months ago, the Town of  
 18 Gilbert decision, and what that case did, and  
 19 it's a very significant one, that's affected a  
 20 lot of cities throughout the United States, the  
 21 Supreme Court held that restrictions on signs  
 22 in a Zoning Code cannot be content based,  
 23 particularly when they relate to -- and this is  
 24 the way that we look at the decision,  
 25 particularly when they relate to non-commercial

1 signs.  
 2 And the Court didn't directly address that,  
 3 but there's a lot of body of precedent, which  
 4 talks about how non-commercial signs are  
 5 different than commercial signs.  
 6 So when this decision came out, Coral  
 7 Gables is one of the leading Sign Codes in the  
 8 United States, also. It's known for its Sign  
 9 Code, and the purpose of the Sign Code is to  
 10 ensure aesthetically appropriate signs, and  
 11 signs that also promote public safety, and by  
 12 that I mean, we don't allow a lot of signs in  
 13 the right-of-way, for example, because it could  
 14 distract people.  
 15 We have a lot of regulations related to  
 16 signs. Some of the safety regulations also  
 17 relate to permanent signs, and how they're  
 18 installed, and obviously they have to comply  
 19 with the Building Code, and we also have a lot  
 20 of Zoning regulations related to those.  
 21 My purpose today is not to go through all  
 22 of the regulations. Special Counsel will talk  
 23 about them more specifically, based on your  
 24 questions. My purpose today is to mention that  
 25 once this decision came out, I was concerned

1 about our Zoning Code, as many government  
2 lawyers are, regarding their government zoning  
3 codes, because we do have a number of  
4 regulations that look at signs based on what  
5 type of sign it is.

6 And by what type of sign, I mean, we have  
7 signs related to -- pardon me, we have  
8 regulations related to political signs. We  
9 have real estate signs. We have security  
10 signs. We have a lot of categories in our  
11 Zoning Code related to signs.

12 Now, based on my review of the Zoning Code  
13 in consultation with Special Counsel, we are  
14 able, I believe, to keep some of those  
15 categories, particularly the ones related to  
16 commercial signs, but some of the other  
17 categories were problematic, because what the  
18 Supreme Court basically said was that if you  
19 have to look at the sign to determine what  
20 regulations apply to it, then that's content  
21 based. And, again, we believe that they were  
22 talking about non-commercial signs.

23 So what do I mean? Well, let's say -- we  
24 had provisions related to campaign signs, and  
25 I'll give you one example. One of our campaign

1 and we were able to resolve every issue that  
2 came up, and we did it to the best of our  
3 ability, consistent with the First Amendment of  
4 the U.S. Constitution.

5 And, in fact, the Commission passed a  
6 resolution based on some of these things that  
7 occurred, that gave me the authority to resolve  
8 these matters and to interpret our Code  
9 consistent with the First Amendment of the  
10 United States Constitution, and we have done  
11 so, in my view.

12 However, the problem with all of that was,  
13 you had to look at the sign to determine how  
14 many of them you could have, and the other  
15 problem with that was, you could have literally  
16 twenty signs on a property, if there were ten  
17 candidates -- pardon me, ten different  
18 campaigns, ten different races, like maybe for  
19 Mayor and for Commissioner and for Governor and  
20 for President, and then, also, with all of the  
21 different ballot initiatives, you could  
22 conceivably have ten or fifteen signs on a  
23 property, but if two spouses wanted to each  
24 have a different sign for president, they  
25 couldn't do it, because then that would be two

1 signs regulation said that you can have one  
2 campaign sign per candidate or ballot position.  
3 Everyone's familiar with that.

4 Well, in the last election, we had some  
5 signs -- and we'll talk about the presidential  
6 election. We had some signs that were for Mitt  
7 Romney, for example, pro Mitt Romney signs, and  
8 then we had some signs that said, "Fire Obama,"  
9 and, of course, I'm making no comment on the  
10 positive or negative aspects of those signs,  
11 purely apolitical.

12 But this was an actual issue that came up,  
13 because, first of all, in looking at those  
14 signs, we had to -- we had to determine, are  
15 these political signs, so we would apply the  
16 campaign sign restrictions in our Zoning Code?

17 Second is, well, the sign related to Mitt  
18 Romney, that's obviously a sign for a  
19 candidate, Mitt Romney, but what about the sign  
20 that says, "Fire Obama"? That's what the sign  
21 said. Is that a sign for Barack Obama, the  
22 president? Is that a sign for Mitt Romney? Is  
23 that a sign for every candidate in the field  
24 other than President Obama?

25 Well, this was a significant legal issue,

1 signs for one race or campaign. So this caused  
2 issues.

3 Now, once this decision came out, the Town  
4 of Gilbert decision, it was my view that we had  
5 to take action related to the Sign Code, to  
6 remove what could be UnConstitutional. I'm not  
7 saying it necessarily is UnConstitutional. Our  
8 Sign Code was not the subject of the Town of  
9 Gilbert case, but one of my jobs as City  
10 Attorney is to ensure that we can have a Sign  
11 Code.

12 And the problem is that if you have a  
13 number of content based restrictions in the  
14 Sign Code, and someone challenges it, they may  
15 challenge the entire Sign Code facially, and  
16 they may potentially have it stricken or at  
17 least that category of signs stricken, which  
18 means we would have no regulations related to  
19 signs, at least until that could be addressed.

20 In addition, it's my view, and I believe  
21 the Commission shares it, and I believe you do,  
22 as well, that we should try to act  
23 Constitutionally, and we should not wait to be  
24 sued and found to be acting UnConstitutionally  
25 by a court. We should always try to act

1 Constitutionally.  
 2 So what we have done here, and I would ask  
 3 Abby Corbett to come up to speak, is we have  
 4 gone through the Zoning Code. We have done  
 5 this in consultation with Staff. We have  
 6 devoted a lot of time to this. We have tried  
 7 to keep the central idea of our Sign Code, that  
 8 we want to have aesthetically pleasing signs,  
 9 that we want commercial signs to go through the  
 10 Board of Architects.

11 All of these things, we have done our best  
 12 to preserve in a way that we believe is  
 13 Constitutional, but for issues that squarely  
 14 fall within the Town of Gilbert decision or  
 15 that -- and, basically, for non-commercial  
 16 signs and temporary non-commercial signs, you  
 17 will find that the Zoning Code has changed its  
 18 approach to those, and that we treat them all  
 19 the same.

20 There's still restrictions, and that's what  
 21 you'll talk about, but they're not based on the  
 22 type of sign it is.

23 And I'm coming to you today to basically  
 24 take the position that I believe we must  
 25 adopt -- that you do not have discretion

1 regarding adopting this.

2 Now, obviously, it can be changed, and, of  
 3 course, you ultimately always have your vote  
 4 and no one can tell you how to vote, but I'm  
 5 telling you, as the City Attorney, I believe  
 6 that we must adopt changes to the Sign Code in  
 7 order for it to be Constitutional.

8 And, also, you have from me a written City  
 9 Attorney Opinion that I issued when the Town of  
 10 Gilbert decision came out, that suspended  
 11 enforcement of portions of our Zoning Code that  
 12 I believe were UnConstitutional based on a fair  
 13 reading of the Town of Gilbert decision.

14 And so that's the current state of the law  
 15 for Coral Gables, is that we're only enforcing  
 16 those provisions of the Sign Code that we  
 17 believe are Constitutional, and that we've  
 18 asked Staff to come -- before a Code  
 19 Enforcement matter goes forward related to  
 20 something that might be implicated by the Town  
 21 of Gilbert decision, we've asked them to come  
 22 speak to the City Attorney's Office, to ensure  
 23 they're acting in a Constitutional manner.

24 The Commission has been informed of this,  
 25 and the Commission has been supportive of it.

1 So with that, I would turn it over to Ms.  
 2 Corbett.

3 MS. CORBETT: Good evening. Abby Corbett,  
 4 from Stearns, Weaver. I echo what Craig says,  
 5 that this is sort of a necessity, a little of  
 6 an ugly necessity, a little bit messy, trying  
 7 to figuring out what the Supreme Court and all  
 8 of the other Federal Courts are trying to do,  
 9 square the First Amendment with Sign  
 10 Ordinances, and this is being addressed by  
 11 Planning and Zoning Boards and City Commissions  
 12 across the country right now. Everyone is  
 13 having to deal with this opinion. It's really  
 14 a game changer.

15 And it's not necessarily black and white,  
 16 and like Craig said, we tried to do our best  
 17 here to draw the line and make the changes we  
 18 think are necessary, go no farther than we  
 19 believe is necessary, and then we're going to  
 20 sit back and observe the case law and juris  
 21 prudence as it evolves, and if more changes  
 22 need to be made in the future, we may have to  
 23 tweak things here or there, but certainly --  
 24 you know, even though action does, you know,  
 25 need to be taken under the case law, if you

1 have any questions or suggestions about, you  
 2 know, specific ways we're doing things -- this  
 3 particular red line is a little bit confusing,  
 4 if you're looking at it quickly, because we had  
 5 to move some things around. So it looks like  
 6 entire sections have been deleted, but then  
 7 you'll see it comes right after that. We just  
 8 had to move things around a little bit to  
 9 address some of the issues.

10 But if you all have any questions  
 11 whatsoever, I'm happy to address them.

12 CHAIRMAN FLANAGAN: Anyone on the Board  
 13 have questions?

14 MR. BEHAR: Craig, from what I understand  
 15 you said is, the commercial signs are not  
 16 really being affected.

17 MR. LEEN: Yes.

18 MR. BEHAR: That's correct?

19 MR. LEEN: We're still applying a very  
 20 strict regimen to commercial signs, because the  
 21 Supreme Court has said that commercial signs  
 22 are not subject to the same level of scrutiny  
 23 as non-commercial signs, and aesthetics is a  
 24 permissible basis to regulate commercial signs.

25 But does that mean that courts will

1 continue to say that in the future? We will  
2 have to see. Certainly Coral Gables will argue  
3 that in the future and we believe that under a  
4 fair reading of the Supreme Court precedent,  
5 that we can continue to treat commercial signs  
6 in that way. That is core to our City and our  
7 Zoning Code for decades.

8 MR. BEHAR: Right.

9 MR. LEEN: So we're not going to give that  
10 up without a fight, and we believe that it's  
11 Constitutional, but we always have to tell you,  
12 a lot of that depends on how courts interpret  
13 this decision going forward.

14 MS. MENENDEZ: I have a --

15 MR. BEHAR: Go ahead. Thank you.

16 MS. MENENDEZ: I have a question. On Page  
17 5 of 21 of the Ordinance, am I reading this  
18 right, basically you're outlining, on Section  
19 C, what signs do not require permits?

20 MS. CORBETT: Correct.

21 MS. MENENDEZ: But does the Code still  
22 apply, because I see you referencing the Code  
23 throughout?

24 MS. CORBETT: Yes.

25 MS. MENENDEZ: So what you're basically

1 MS. MENENDEZ: Okay. Thank you.

2 MR. RODRIGUEZ: I just want to make sure I  
3 understand what happened here. In this case,  
4 the City Attorney engaged your law firm as  
5 Special Counsel, and -- with instructions to  
6 review the Code and analyze it, I presume, do  
7 whatever the necessary research was --

8 MS. CORBETT: Yes.

9 MR. RODRIGUEZ: And identify which areas of  
10 the Code, in your opinion -- again, educated  
11 opinion, at this point, because now you've  
12 researched it -- excuse me, and by the way,  
13 this is an area that -- I assume you specialize  
14 in this area, correct?

15 MS. CORBETT: Yes. Yes, sir. Yes. I'm a  
16 litigator, but I also specialize in  
17 Constitutional Law and I've done a fair amount  
18 of First Amendment Constitutional work for the  
19 City, specifically.

20 MR. RODRIGUEZ: Okay.

21 MS. CORBETT: So, yes, the First Amendment,  
22 although it's a constantly changing area, is  
23 something that I do specialize in.

24 MR. RODRIGUEZ: And, then, after doing the  
25 research and analyzing everything, this is your

1 saying is, temporary signs, signs that are not  
2 visible from public right-of-way, et cetera, et  
3 cetera, on this section, does not need a  
4 permit, but there are requirements that still  
5 have to be adhered?

6 MS. CORBETT: Absolutely. You have that  
7 right. And it's similar to the way the old  
8 Section B looked, except we just made it more  
9 clear. The old Section B said, the  
10 requirements of this division apply, except.  
11 They don't apply to all of these other topics,  
12 when, in fact, really, they did apply. So  
13 we're just making that more clear here, when  
14 necessary.

15 You know, you don't have to get a permit  
16 for a temporary non-commercial sign, but you  
17 better make sure you comply with 1909, which  
18 puts a limit on the number of signs for  
19 temporary, non-commercial signs, and that's  
20 probably the biggest effect this will have,  
21 practically speaking, is changing the number of  
22 yard sale type or campaign yard signs that  
23 people put up.

24 It doesn't have to be for a campaign, any  
25 sort of non-commercial sign.

1 work product of -- along with, I presume, the  
2 City Attorney or somebody from your Staff?

3 MR. LEEN: I would like to say something  
4 about that, because, you know, often, when you  
5 hire Special Counsel, and she is the Special  
6 First Amendment Counsel for the City, there's  
7 different ways that they can approach it.

8 They can give you an iron clad opinion,  
9 "Look, we've taken everything out of this Code.  
10 There's nothing in here that's going to cause  
11 any legal challenge." That's a hard thing to  
12 say, but they could do that, but that may leave  
13 us with a Zoning Code that does not allow us to  
14 restrict commercial signs, because you could  
15 read the Town of Gilbert decision, although you  
16 don't have to and we don't, but you could read  
17 it to apply to commercial signs, as well.

18 If we did read it to apply to commercial  
19 signs and if we did believe that you could no  
20 longer regulate for aesthetics for commercial  
21 signs, then the Sign Code would be much shorter  
22 and we would not be able to put many  
23 regulations in there.

24 I don't want her to give an opinion -- I  
25 don't want her to feel like she has to give an

1 opinion that if a court ended up disagreeing  
2 with us, "Oh, well, that's your fault." I  
3 didn't ask her for that sort of opinion.

4 I asked her for her best judgment as to  
5 what we could retain, because we're Coral  
6 Gables, and because we have a Sign Code that  
7 regulates aesthetics for commercial signs, and  
8 we want to continue to maintain that, and I  
9 believe she's given me that, and I've also --  
10 I'm putting my name on this, too. It doesn't  
11 mean I can guarantee you we would win a case,  
12 but it's my best judgment.

13 MR. RODRIGUEZ: And I'm sorry if I -- I'm  
14 not asking for any kind of guarantee. See, I  
15 feel like I'm trying to, you know, fulfill my  
16 obligation to the citizenry of Coral Gables,  
17 and I am -- without having done -- first of  
18 all, without having the expertise you have,  
19 without having done the research and analysis  
20 that you have, I'm ill equipped to go through  
21 this in detail, if I was inclined to want to do  
22 so, and so I'm just trying to understand the  
23 process.

24 MR. LEEN: Sure.

25 MR. RODRIGUEZ: And it sounds like, to me,

1 likely to do, and also the needs of the City.

2 MR. RODRIGUEZ: All right. Thank you.

3 CHAIRMAN FLANAGAN: Craig?

4 MR. LEEN: Yes.

5 CHAIRMAN FLANAGAN: Does this take away the  
6 size limitation of campaign signs?

7 MS. CORBETT: It alters them.

8 MR. LEEN: No.

9 CHAIRMAN FLANAGAN: Because as I read it,  
10 it looks like you can have a maximum of ten  
11 square feet of signage, maybe like no more than  
12 two. There's something about a bonus sign.

13 MS. CORBETT: That's right.

14 CHAIRMAN FLANAGAN: So, I guess, the first  
15 part of the question, do I understand that  
16 correctly?

17 MS. CORBETT: You do.

18 CHAIRMAN FLANAGAN: Okay. And I think the  
19 regulation now -- what's the limitation on a  
20 campaign sign now?

21 MR. LEEN: It's 22 by 28; isn't it?

22 MS. CORBETT: Yes, and it depends on the  
23 district. Right now it depends on where you  
24 are. There's a different size in Commercial  
25 Districts. So you could put those big campaign

1 that the process that was followed is not only  
2 adequate, it's about -- you know, about as good  
3 as we can do. I'm not asking for guarantees.  
4 I'm just trying to -- and the thrust of my  
5 question is, what was done, and I think you've  
6 answered that.

7 MS. CORBETT: Yeah, I think we have.

8 Another way of putting it, the amorphous  
9 nature of this, is that what the Supreme Court  
10 does is, they apply different levels of  
11 scrutiny to different types of restrictions,  
12 and when you get nine Justices in the Supreme  
13 Court, you get nine different opinions. You  
14 know, however many judges you have, you get  
15 that many different opinions.

16 In fact, that happened in the Town of  
17 Gilbert. It's a very fractured court. So even  
18 among the Supreme Court Justices, who are much  
19 better lawyers than me, they can't seem to get  
20 on the same page about this. So it's not black  
21 and white. We've drawn the line in the smoke  
22 the best way we know how, keeping in mind, you  
23 know, what we think the Constitution requires,  
24 the current case law requires, what future  
25 judges, you know, in our jurisdiction might be

1 signs --

2 CHAIRMAN FLANAGAN: What about like  
3 residential?

4 MS. CORBETT: I think it's 22 by 24.

5 MR. BEHAR: 22 by 28.

6 MS. CORBETT: But you could put,  
7 essentially, an unlimited number, depending on  
8 -- as long as you comply with the one candidate  
9 per, you could theoretically --

10 CHAIRMAN FLANAGAN: Right.

11 MR. LEEN: 22 by 28, I believe. Can I get  
12 a confirmation? I believe it's 22 by 28.

13 CHAIRMAN FLANAGAN: All right. Four square  
14 feet, give or take.

15 MS. LEEN: What would happen was -- this is  
16 where, for example, we had a back and forth. I  
17 wanted there to be one sign -- you know, one  
18 campaign sign per property, and the concern  
19 was, well -- you know, you could rotate the one  
20 sign with different individuals, but the  
21 concern was, well, is that really going to  
22 satisfy scrutiny, to have one sign? It is a  
23 time, place and manner restriction, so it  
24 might, but, you know -- so I asked her, "Well,  
25 what would be the minimum signs you would be

1 comfortable with," because we don't want to  
2 have ten signs, either.

3 So I believe you told me you thought it was  
4 three or four.

5 MS. CORBETT: Yeah. To further my point to  
6 Mr. Rodriguez earlier, I read a bunch of cases  
7 where that exact issue comes up, how many signs  
8 can you restrict people to in their front yard,  
9 and there are court -- it's not necessarily  
10 binding courts on us, but Federal Courts in  
11 other jurisdictions and around the country, who  
12 said all over the place, but, you know, three  
13 is not enough or, you know, two is enough. I  
14 never saw one that said -- that suggested that  
15 one would have been enough.

16 MS. MENENDEZ: But are we saying per  
17 candidate or are we saying --

18 MS. CORBETT: So that's the existing Code.  
19 The existing Code says one per candidate or  
20 issue, which essentially means there's no  
21 aggregate cap.

22 What we've done now is, we've thrown away  
23 the distinction between political signs and any  
24 other temporary non-commercial sign. Now all  
25 temporary non-commercial signs have to be

1 treated the same, meaning they're subjected to  
2 this 1909, which has different restrictions on  
3 size, et cetera, and the total number you could  
4 have of any of those types of signs is two or  
5 there's a bonus sign, which, during campaign  
6 season, you can put up a third temporary  
7 non-commercial sign.

8 It doesn't have to be a campaign sign,  
9 because then we would be telling people what  
10 the content of it is; but two, or depending on  
11 the time period, three total number of signs.

12 MS. MENENDEZ: We're restricting number --

13 MS. CORBETT: Yes.

14 MS. MENENDEZ: -- regardless of whether  
15 it's the same candidate or individual  
16 candidates?

17 MS. CORBETT: Correct. Correct. There's  
18 an aggregate cap on temporary non-commercial  
19 signs.

20 MS. MENENDEZ: Wow.

21 MS. LEEN: We're doing two things, because  
22 right now, with the campaign signs, it's only  
23 during a certain period around an election.  
24 According to the express wording of the Code,  
25 during other times, there was no provision for

1 any non-commercial signs.

2 So that's why, when I went to you, I said,  
3 "Well, all of these cases seem to relate to  
4 campaigns. So could we have one sign during  
5 the year" -- because there's a lot of case law  
6 saying you have to be able to express yourself  
7 to some extent on your property -- and then  
8 expand it during a campaign, and that's where  
9 the bonus sign came in.

10 We ended up, I think, determining that you  
11 could have two signs -- well, it's by square  
12 footage, but it would be about two signs, and,  
13 then, during a campaign, you could have the  
14 third sign. It could be anything, because we  
15 can't -- remember, we can't regulate based on  
16 content anymore, only on whether it's  
17 non-commercial or not.

18 So any non-commercial sign could be placed  
19 there, but you could have three signs during  
20 that time period, to give you more ability to  
21 express.

22 Now, this is one area where you don't have  
23 to agree with us. You could say, "Well, maybe  
24 we should allow two bonus signs during that  
25 time period or maybe three." What we can't

1 say, though, is that you have to look at the  
2 sign to determine how many you would have.

3 So, for example, you can no longer base it  
4 on which candidates are being supported. So  
5 you can't say one per candidate or one per  
6 ballot initiative anymore.

7 CHAIRMAN FLANAGAN: Are we still regulating  
8 the size of non-commercial signs in a  
9 Residential District?

10 MS. CORBETT: So it depends on what type of  
11 non-commercial sign you're talking about.  
12 There are non-temporary -- most of what we're  
13 talking about now are temporary signs people  
14 put in their yards for a temporary period of  
15 time.

16 Of course, if somebody wants to do a big  
17 installation of a real sign on their front  
18 yard, even if it's in a Residential District,  
19 they're going to have to get a permit for that.  
20 You know, there's going to be criteria.

21 Now, the question of what's temporary and  
22 what is not temporary is another amorphous  
23 concept that the Code has never really defined  
24 and we have not attempted to do so. That's  
25 going to remain, you know, a separate issue,

1 but it depends on the type of sign, basically.  
2 CHAIRMAN FLANAGAN: So let's talk about  
3 temporary non-commercial in a Residential  
4 District. Do we still regulate the maximum  
5 size?

6 MS. CORBETT: Yes. They're all grouped  
7 together, everything you just described. Any  
8 temporary non-commercial sign is governed under  
9 1909, which is governed by similar restrictions  
10 to the old campaign restrictions, but slightly  
11 tweaked.

12 MS. MENENDEZ: How about real estate signs?

13 CHAIRMAN FLANAGAN: 19 -- sorry. Hold on.  
14 1909?

15 MS. CORBETT: Yes.

16 CHAIRMAN FLANAGAN: Give me one second.

17 MS. MENENDEZ: Real estate signs are still  
18 forty square inch?

19 MS. CORBETT: Yes. We did not change real  
20 estate signs. Our position is that real estate  
21 signs are commercial. They express the sale of  
22 a property; therefore, they're expressing a  
23 commercial message, and we believe we can  
24 defend that.

25 You know, there are some municipalities who

1 5-1909, as proposed, actually doesn't limit --  
2 if we say it limits the size of a sign, I guess  
3 that would mean, can be no more than ten square  
4 feet?

5 MS. CORBETT: Yes. So basically there's  
6 two things going on. There's two per building  
7 lot or tenant space or three, depending on the  
8 time of year, and then a total of ten square  
9 feet.

10 CHAIRMAN FLANAGAN: Right.

11 MS. CORBETT: Which if you do the math, and  
12 you're thinking of a typical campaign sign,  
13 and, again, this doesn't have to be a typical  
14 campaign sign, or it could be a  
15 campaign-looking sign but it says, "Jesus  
16 Saves," or something else, you know, it doesn't  
17 matter what it says, the math works out to  
18 about ten square feet would be sufficient to  
19 have a couple of these typical signs.

20 CHAIRMAN FLANAGAN: My train of thought on  
21 this is, I can see this becoming a huge problem  
22 during an election season, because as somebody  
23 sits and reads this Code, and some campaign  
24 manager, and I'm going to go with the political  
25 signs, because it's just easier to talk about,

1 feel differently than that. There's different  
2 lawyers who take different positions, but we  
3 feel like that's a defensible position.

4 MS. LEEN: And here was my thought, and  
5 ultimately it's subject to your review and the  
6 Commission's, but I felt that the real estate  
7 signs are unique to Coral Gables, these smaller  
8 real estate signs, and it's something I felt we  
9 should not give up, unless the Commission  
10 wanted to, not because of a decision that  
11 didn't directly address those.

12 And, to me, they are commercial signs. So  
13 I felt like we could restrict them, and we've  
14 had that restriction for a long time. So that  
15 was my thinking, but that, you could -- really,  
16 what we're providing to you is the minimum that  
17 we think we could defend and that we feel  
18 comfortable with defending, that still  
19 maintains the character of our Sign Code, but  
20 you could make it more permissive.

21 I don't want to say that you can't make it  
22 more permissive. I would not make it less  
23 permissive.

24 CHAIRMAN FLANAGAN: Okay. Going back to  
25 temporary non-commercial signs, the Section

1 they're going to say, "Oh, we can have ten  
2 square feet."

3 And so they may start printing these very  
4 large campaign signs. A supporter is going to  
5 go put that in their yard, and then somebody  
6 else is going to have a ten square foot sign,  
7 and a resident of the Gables is going to say,  
8 "Oh, I've got to have that in my yard," and now  
9 they've got twenty square feet.

10 So I think we end up opening a very large  
11 Code Enforcement problem for the residents who  
12 really don't know any better.

13 MS. CORBETT: Yeah, you could have one of  
14 those. Under this drafting, you could have one  
15 such sign on your property, and if you guys  
16 don't agree with that, you know, it doesn't  
17 have to -- as long as we treat --

18 MS. LEEN: My understanding is that square  
19 footage is preferable to the number of signs.  
20 I think that's fair to say. Because square  
21 footage gives more flexibility.

22 What was the thinking behind that?

23 MS. CORBETT: Yeah. Well, we're doing  
24 both. We have both, but flexibility is the  
25 reason, because otherwise you're essentially

1 restricting -- and, by the way, campaign signs  
2 do vary. I used to work in political  
3 campaigns. There's the standard ones. There's  
4 ones that are a little smaller. There's ones  
5 that are a little bigger. There's the huge  
6 ones, which would not satisfy our restrictions,  
7 the billboard looking ones, but if you think --  
8 if somebody put one ten-foot temporary sign up  
9 temporarily, and that troubles you, then, you  
10 know, we can certainly --

11 MS. LEEN: We could put a maximum sign  
12 size.

13 MS. CORBETT: Yes. We can change this.  
14 This doesn't have -- it can be per sign. It  
15 can have a maximum.

16 MR. BEHAR: Let me tell you, I agree with  
17 Jeff, and it would bother me to see a ten  
18 square foot sign, when today we have no more  
19 than four square feet.

20 MR. LEEN: That's a good point.

21 MS. CORBETT: Yeah.

22 MR. BEHAR: Okay. I think that we limit  
23 the number of signage. I don't know if we  
24 could, you know, really do that, not to exceed  
25 a total, because you could have two candidates

1 running in an election, and you may want to  
2 have two signage there, but ten square feet, to  
3 me, would be just a little bit too much.

4 MS. CORBETT: Yeah. I agree.

5 MS. LEEN: I think that's a very good  
6 comment.

7 MS. CORBETT: Yeah. We can do that.

8 MS. LEEN: So we will modify that.

9 MR. RODRIGUEZ: You can have ten square  
10 feet, but no sign can be larger than whatever.

11 MS. CORBETT: Right. And do we want to  
12 talk about that here or --

13 MR. BEHAR: Like not to exceed what we  
14 currently have, which is almost --

15 CHAIRMAN FLANAGAN: What we currently  
16 have --

17 MR. LEEN: Like 28 by 22. You want to  
18 maintain that?

19 MR. BEHAR: Right.

20 CHAIRMAN FLANAGAN: Yeah. I think --

21 MS. LEEN: Okay.

22 CHAIRMAN FLANAGAN: That seems to be a  
23 standard sign size.

24 MS. LEEN: Okay.

25 MS. CORBETT: That's probably okay.

1 MR. LEEN: We could do that.

2 What do you think about the total number,  
3 with the bonus sign?

4 So during an election, under this  
5 provision, it would be three signs.

6 MS. CORBETT: Correct.

7 MR. LEEN: Do you think that that's enough?

8 CHAIRMAN FLANAGAN: I'm fine with that.

9 MR. BEHAR: I'm fine with that, as well.

10 MS. CORBETT: Okay.

11 MR. RODRIGUEZ: Is that Constitutionally  
12 permissible?

13 MS. LEEN: Well, there's not a case, a  
14 binding case, that says whether that is.

15 MR. RODRIGUEZ: In your opinion --

16 MS. LEEN: Yes.

17 MR. RODRIGUEZ: All we're asking for is  
18 your opinion.

19 MR. LEEN: Well, my view is that we looked  
20 at District Court cases. I remember there was  
21 a case that was concerned about two signs. So  
22 we went up to three signs. And my thinking  
23 was, well, three signs, and particularly if you  
24 can rotate them, which you're allowed to do,  
25 that gives you the ability to speak on a number

1 of campaigns and it's something that Coral  
2 Gables would defend.

3 Honestly, we would defend two signs, as  
4 well, even though one District Court, I believe  
5 it was a District Court, disagreed with -- a  
6 Federal District Court, because, remember, when  
7 a Court looks at this, they're also going to  
8 look at, "Well, what are the City's Zoning  
9 Regulations generally," and we have a very  
10 restrictive Zoning Code, and we've done very  
11 well in challenges to our Zoning Code.

12 We generally prevail in the Third District  
13 and I believe that we would have a good case in  
14 the Eleventh Circuit, which is the Federal  
15 Court.

16 MR. BEHAR: And I think our election, local  
17 election, Commission and Mayor, don't happen  
18 during the same time as a presidential  
19 election. I think it happens at a different  
20 time. So it's not like you're going to have,  
21 you know, a major election and local election.

22 So I think that three signage -- if we  
23 could defend the three signs, I would stay with  
24 that. I feel comfortable that's more than  
25 plenty, because, you know -- and based on our



1 elected officials, you do have elections for  
2 three candidates in one -- you know, the two  
3 terms, whatever, and then two in the other. So  
4 I think that may work just fine.

5 MS. MENENDEZ: Plus the Mayor.

6 MR. BEHAR: Well, no, you have two  
7 Commissioners and the Mayor, and then you have  
8 two Commissioners in the second.

9 MS. MENENDEZ: That's true. Got it.

10 MR. WU: Craig, are you saying, and correct  
11 me if I'm wrong, that for the third sign to  
12 occur, Staff cannot read the third sign to see  
13 if it's a candidate, which means --

14 MS. LEEN: You could look to see if it's a  
15 commercial sign, but you're allowed to treat  
16 commercial signs differently, but you can't  
17 look -- for non-commercial signs, it can be  
18 anything, because the law says that you have to  
19 treat religious signs, for example, political  
20 advocacy signs, campaign signs, all the same.

21 MR. WU: So what you're saying is, during  
22 election time, we have an extra sign of free  
23 speech?

24 MS. MENENDEZ: Correct.

25 MR. WU: Okay. And that's important to

1 CHAIRMAN FLANAGAN: Does that also prohibit  
2 basically hand bill posting on cars on private  
3 property or have we thought about that, you  
4 know, when people come around and put stuff  
5 under your windshield wiper or in the doorjamb  
6 of your car and then all of that paperwork and  
7 flyers get littered all over a parking lot and  
8 blows all over?

9 MS. CORBETT: You're talking about E, just  
10 E?

11 CHAIRMAN FLANAGAN: E.

12 MS. CORBETT: Okay. Yeah, and this affects  
13 facilities owned or operated by the City, but  
14 that's what you're talking about, somebody  
15 coming on City property --

16 CHAIRMAN FLANAGAN: I'm saying, people who  
17 do it even in private parking lots. They'll  
18 walk around and start posting cars.

19 MS. CORBETT: E would not affect that. E  
20 is limited only to City property. As for  
21 non-City property, I don't think we've really  
22 addressed that.

23 MS. LEEN: We do have a solicitation  
24 ordinance.

25 MS. CORBETT: Separate in the Code.

1 know, that during election time, we have an  
2 extra sign.

3 MS. CORBETT: Right. Yeah, all three signs  
4 could express a religious message during that  
5 time period, as long as they're truly temporary  
6 and non-commercial.

7 And there are some -- you know, there were  
8 some scattered throughout the Code. There's  
9 some things like security signs, historic  
10 preservation signs, no soliciting signs, tenant  
11 name signs, things that are a little more  
12 amorphous as to whether or not, you know, it  
13 would be a de minimis restriction that a Court  
14 would not care about and that would survive  
15 strict scrutiny or that may be governmental  
16 speech or that may be arguably commercial  
17 speech, arguably non-commercial speech. We  
18 drew the line the best we could on some of  
19 those or each of those, but this certainly  
20 addresses the ones that are clear cut.

21 CHAIRMAN FLANAGAN: Okay. Another  
22 question. Page 6 of 21. I think it's going to  
23 be Section 5-1901, just above 1902, Subsection  
24 E.

25 MS. CORBETT: Yes.

1 MR. LEEN: That doesn't really address  
2 non-commercial speech but does address  
3 commercial, and requires you to register.

4 CHAIRMAN FLANAGAN: Okay.

5 MS. CORBETT: We did not address that. I  
6 think that's in the City Code. Is that right?

7 MR. LEEN: Yes.

8 MS. CORBETT: And we did not tweak that.

9 CHAIRMAN FLANAGAN: Okay.

10 MS. CORBETT: We did tweak a couple of  
11 other minor things in the City Code, which is  
12 Attachment B to what you have or we're  
13 proposing suggestions, but, yeah, E relates to  
14 property owned by or operated for the City.

15 So if you had any concerns about that --

16 CHAIRMAN FLANAGAN: Okay. One more. On  
17 Page 9 of 21. It's probably going to be  
18 Section 1903, Subsection E probably -- D on  
19 that page.

20 MS. CORBETT: Okay.

21 CHAIRMAN FLANAGAN: "A vehicle displaying a  
22 name and telephone number with letters no more  
23 than four inches in height."

24 I think, if I read it correctly, does that  
25 allow a vehicle to be parked on private

1 property, say, in a Single Family District,  
2 with name and telephone number, with letters no  
3 more than four inches in height? Does that  
4 cause a conflict with no parking of commercial  
5 vehicles?

6 MS. CORBETT: Yeah. I'm not sure we  
7 addressed this one. I'm not sure I can answer  
8 that.

9 MS. LEEN: I see what you're saying, and  
10 we'll take a look at that.

11 CHAIRMAN FLANAGAN: Okay.

12 MR. LEEN: There is the provision related  
13 to commercial vehicles and how long you can  
14 park them in the City, which was commonly known  
15 as the Truck Ordinance, but had other  
16 provisions, as well, and it still exists in our  
17 Code, and generally applies to commercial  
18 vehicles.

19 You can't park them overnight in the City  
20 outside. They have to be -- there's only, I  
21 think it's like two hours you can do it, during  
22 certain hours during the day, and typically the  
23 way that's enforced is, we would allow  
24 commercial vehicles during the day and not  
25 after a certain hour, so that people can have

1 recommendation?

2 MS. MENENDEZ: I'll move it.

3 MR. PEREZ: I'll second it.

4 MR. WU: Mr. Chair, did you open public  
5 comment?

6 MR. LEEN: Yes, public comment.

7 CHAIRMAN FLANAGAN: I'm sorry.

8 MR. LEEN: Thank you.

9 CHAIRMAN FLANAGAN: We'll open the floor  
10 up. Any public comment?

11 Seeing none, we'll close the public  
12 hearing. I heard a motion and a second.

13 Anybody have further discussion?

14 Jill, if you'll call the roll, please.

15 THE SECRETARY: Julio Grabiell?

16 MR. GRABIEL: Aye.

17 THE SECRETARY: Maria Menendez?

18 MS. MENENDEZ: Yes.

19 THE SECRETARY: Alberto Perez?

20 MR. PEREZ: Yes.

21 THE SECRETARY: Frank Rodriguez?

22 MR. RODRIGUEZ: Yes.

23 THE SECRETARY: Robert Behar?

24 MR. BEHAR: Yes.

25 THE SECRETARY: Marshall Bellin?

1 work done to their house.

2 CHAIRMAN FLANAGAN: That, as I read it, it  
3 seemed that it would allow that 24 hours a day.

4 MS. CORBETT: Yeah. I don't know the  
5 history behind it, but to answer your literal  
6 question, Section 11-D does, in fact, exclude  
7 from the restriction letters that are no more  
8 than four inches in height, yes.

9 CHAIRMAN FLANAGAN: Is that something we  
10 can look at, though?

11 MS. CORBETT: Meaning, you're concerned  
12 about that? Yeah, we can talk about that.  
13 That's not --

14 CHAIRMAN FLANAGAN: Right. I mean, I don't  
15 know that anybody is going to like --

16 MS. LEEN: I think we should look at it.  
17 We'll look at it in conjunction with the  
18 restrictions on commercial vehicles.

19 CHAIRMAN FLANAGAN: Thank you.

20 MR. LEEN: And ensure that we're not -- the  
21 intent was not to modify that.

22 CHAIRMAN FLANAGAN: Anybody else?

23 MR. BEHAR: No.

24 CHAIRMAN FLANAGAN: All right. No further  
25 comments? Anybody want to make a

1 MR. BELLIN: Yes.

2 THE SECRETARY: Jeff Flanagan?

3 CHAIRMAN FLANAGAN: Yes.

4 MS. LEEN: Thank you very much.

5 MS. CORBETT: Thank you.

6 CHAIRMAN FLANAGAN: Thank you.

7 Next item on the agenda is Item 8, "An  
8 Ordinance of the City Commission of Coral  
9 Gables, Florida providing for text amendments  
10 to the City of Coral Gables Official Zoning  
11 Code, Article 5, "Development Standards,"  
12 Division 14, "Parking, Loading, and Driveway  
13 Requirements," Section 5-1410, "Shared parking  
14 reduction standards" creating provisions for  
15 shared parking reductions as a part of a mixed  
16 use site plan or planned area development;  
17 providing for a repealer provision, providing  
18 for a severability clause, providing for  
19 codification, and providing for an effective  
20 date."

21 MR. TRIAS: Thank you, Mr. Chairman.  
22 I have a brief PowerPoint. Great. Thank  
23 you.

24 What we are presenting to you today is an  
25 issue that has been discussed multiple times in