

City of Coral Gables City Commission Meeting
Agenda Item F-10
August 24, 2022
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Vince Lago

Vice Mayor Michael Mena

Commissioner Rhonda Anderson

Commissioner Jorge Fors

Commissioner Kirk Menendez

City Staff

City Attorney, Miriam Ramos

City Manager, Peter Iglesias

City Clerk, Billy Urquia

Deputy City Attorney, Cristina Suarez

Public Speaker(s)

Agenda Item F-10 [4:00 p.m.]

An Ordinance of the City Commission providing for a text amendment to the City of Coral Gables Official Zoning Code by amending Article 14, "Process," Section 14-102.3, "Meetings; Quorum; Required by Vote" to eliminate the requirement of four (4) affirmative votes for recommendations relating to comprehensive plan amendments; providing for a severability clause, repealer provision, codification and providing for an effective date.

Mayor Lago: Moving onto F-10.

City Attorney Ramos: An Ordinance of the City Commission providing for a text amendment to the City of Coral Gables Official Zoning Code by amending Article 14, "Process," Section 14-102.3, "Meetings; Quorum; Required by Vote" to eliminate the requirement of four (4) affirmative votes for recommendations relating to comprehensive plan amendments; providing for a

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severability clause, repealer provision, codification and providing for an effective date. This is a public hearing item.

Deputy City Attorney Suarez: Good afternoon again, Mayor and Commissioners. As you all know, our Planning and Zoning Board is tasked with providing recommendations to you all relating to items within their purview, and it serves as the city's local planning agency as set forth in Florida Statute Sections 163.174. Our Zoning Code requires that for adoption of any motion by the Planning and Zoning Board, that it be done by a four-vote requirement, rather than just a majority. However, that is at odds with state law, which requires there must be a recommendation by the local planning agency, in this case, the Planning and Zoning Board, for consideration of comprehensive plan amendments. Per our Zoning Code, if a motion does not have the necessary four votes, it's not considered a recommendation. So, this proposed ordinance amends that provision of our zoning code, specifically for items related to amendments of the Comprehensive Plan and those cases, the failure to obtain four affirmative votes to amend the Comprehensive Plan shall be deemed a recommendation of denial of such amendment.

Mayor Lago: Okay. Any comments from the public?

City Clerk Urquia: Yes sir, we do, we have one speaker card, Ms. Maria Cruz.

Mayor Lago: Ms. Cruz, great to see you again.

Ms. Cruz: Good afternoon. Maria Cruz, 1447 Miller Road. I'm a firm believer that when something is not broken it does not need to be fixed. I guess because I was a teacher over 40 years, you know if something hasn't been a problem, why should I look at, what could be a problem if it hasn't been a problem, and we are doing this because it could be a problem. Let me tell you how we got here. This is the important part. There was a Planning and Zoning meeting, there was a problem because there were only five people there. So, I've taken the time to look at attendance to Planning and Zoning, okay. I looked at the pandemic, but this year there's been nine meetings. You have one person that has missed one meeting; you have two that have missed two; you have two that have missed three; you have one that has missed four. This is an important board, and if people want to be appointed or are appointed and they cannot make it, they should say so and you should find somebody that can be there. Now, I found a discrepancy because I got this, because the problem was not only that somebody was absent, somebody left, came in and had to leave, so they were left with five people. Okay. Now, that was not the big problem. The big problem is that we do have an outside council that is the person, the attorney that sits with them, and he gave him the wrong answer, because they asked what happens if we don't get four votes. And the answer was, what was read before. They can ask for a continuance, or they can go to the Commission. Actually, he said, they can go to the Commission without a recommendation, but that was the wrong answer, because they said they had to have a recommendation. Okay. So, all this that we are doing now,

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the extra meeting that we had to have, the inconvenience to the board members, to the public, etc., etc., etc., was because somebody made a mistake. One mistake. I have asked, I don't know how many people that have been around for a long time. Nobody remembers a time when they couldn't come up with four votes, because you know what, as a teacher would tell you, when you tell them, you won't leave until this is done, they would have found a way to get the four votes, if they had been told they had to have had four votes, but they were not. So, I think we are jumping the gun. I think we are trying to fix something that doesn't need to be fixed. I think what needs to be fixed is attendance. If people are there and the attorney is there should know the answers, and then you wouldn't have a problem. I think to make this vote that important Comprehensive Plan, to make it just a majority like any other board is ridiculous. This is not any other board. This is not any other committee. This is serious enough that it should be a stringent vote and its very clear, you need four votes one way or the other. You're not telling them they have to agree. They can vote no, or they can vote yes. So, what's the issue? One time.

Mayor Lago: So, can you clarify a little bit.

Deputy City Attorney Suarez: One point I want to clarify is the amendment actually does not make it just a majority. It says that if they do not have the four votes for a Comp Plan Amendment, it goes up with a recommendation of denial. So, you cannot get with three votes, you cannot get a recommendation of approval. Just want to clarify that nuance.

Mayor Lago: I think that gives you.

Ms. Cruz: I think that's a little better than what I thought, but still.

Mayor Lago: I agree with you. I agree with you, because what ends up happening is people don't show up and somebody get by with an approval with three votes.

City Attorney Ramos: So, attendance aside, I think...

Mayor Lago: I'm sorry, Madam City Attorney, I think it's important because attendance is important.

City Attorney Ramos: Agreed.

Mayor Lago: We got to show up. We got to show up.

City Attorney Ramos: A 100 percent.

Mayor Lago: And I was on that board, you know Commissioner Anderson was on that board, she was my appointee on that board. That board is important, not only to the city, but it's important to our daily business.

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Ms. Cruz: Yes, but you know what the other problem...

City Attorney Ramos: Without a doubt.

Ms. Cruz: Mayor, excuse me. You know what the other problem is? I do not know of any board, okay, except when somebody doesn't reach out. If you sit on a board and I've sat on a few, and somebody says, oh, Maria called that she wants her absence excused – excused. Well, you know there are some boards, there has to be a reason to be excused.

Mayor Lago: And I agree with you, but there is also, you have to understand too, people are not being paid, so it's kind of...

Ms. Cruz: But if you want it.

Mayor Lago: I know. I know. I have to have a little bit of leniency on that front when you're asking a professional who has a very busy schedule a mother, someone who is taking care of an elderly person and they still make time to provide the city with their much-needed service, acumen, and they may have to miss a meeting, and it happens, it happens. Look what happened today.

Ms. Cruz: Listen, but I'm going to tell you, it's not summer – March, one meeting in March, one meeting in April, one meeting in June, one meeting in August, that's not summer.

Commissioner Menendez: No, but the incident you mentioned.

Ms. Cruz: I know, but the problem is it reflects the whole thing, okay, it reflects the fact that – If you don't go to the Parks meeting, I'm sorry, if you do not go to Anti-Crime, but this is important. If you cannot make most of the meetings you should say, goodbye.

Mayor Lago: All of our 30-plus boards are important, they are, because they are important. Look what happened today. Parks is bringing a recommendation in regard to quality standards. I know what you're saying, but I think what the City Attorney gave us a good safety valve that you can't walk in there, present a project with three people and get a positive recommendation. You're not going to. So, how can we – what else can we do to make sure that any project that's going before the Planning and Zoning Board receives the appropriate review. What do we need to do?

City Attorney Ramos: Mayor, I just want to make two points. One with regard to the evening of the initial meeting. It's my understanding from Mr. Collar that that meeting was extremely contentious. Even if he had said the exact thing that he should have said, and he has owned up to that and apologized publicly for that.

City Attorney Ramos: You know him as well as we do.

Mayor Lago: Its fine. We all make mistakes.

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City Attorney Ramos: Exactly.

Ms. Cruz: Anybody can make mistakes.

City Attorney Ramos: Exactly. And he has apologized and taken responsibility, but the point is, he did not feel that anything...

Mayor Lago: That has a lot of value for me when somebody makes an apology and they say, listen, I made a mistake. But what I don't like is when somebody doesn't own up to their mistake and it continues.

City Attorney Ramos: He absolutely did, and he did it publicly.

Mayor Lago: And he's a gentleman, he's a gentleman.

City Attorney Ramos: But I would like to say that he has told me he didn't think anything he could have said at that meeting was going to sway anybody's vote. That night everybody was entrenched, regardless. My concern is, and it's our job to look into the future, and I understand Ms. Cruz' point about when something isn't broken, but this could happen again and it's going to put our city in a difficult predicament, because what if the second time there would not have been four votes in favor of the motion, we would had to make a decision about how we proceeded to the City Commission to allow the property owner to move forward with their application, which they have a right to do, and at the same time not violate state law. So, I'm trying to avoid liability in the future by bringing a solution that I think is palatable.

Mayor Lago: And I think that what you said, requiring that there are four votes in favor, if not, you won't get a recommendation. I think that...

Ms. Cruz: That's a little different.

Mayor Lago: Ms. Cruz, that that gives you...

Deputy City Attorney Suarez: In fact, the recommendation is denial.

Mayor Lago: Denial.

Deputy City Attorney Suarez: It is a recommendation.

Commissioner Menendez: And they won't even bring the projects knowing that they don't have the proper number of board members, perhaps as well, but this reminds me of something we talk about earlier in the day that somebody said, oh, it's never going to happen again, or that's never happened. Well, here's a perfect example, something nobody anticipated happened.

Mayor Lago: Its true.

Commissioner Menendez: So, we learn, we make changes, we adjust so that going forward that situation, if it does occur again, we're prepared. So, I think we are providing clarity, just in case. It doesn't undo what happened then, but I guess we learn as we go along.

Mayor Lago: Yes.

Ms. Cruz: Yes, but I like what the Mayor just said. Instead of saying, that three means no, it requires four to approve. That's what you said. No, no, that's not what he said.

Deputy City Attorney Suarez: I can redo the language, okay.

Commissioner Menendez: Go ahead.

Deputy City Attorney Suarez: So, in the event that four votes, this is already in there, in the event that four votes are not obtained an applicant may request a continuance or allow the application to proceed to the City Commission without a recommendation. The additional language that this ordinance inserts is, except for items related to an amendment to the Comprehensive Plan. It is provided that the failure to obtain four affirmative votes to amend the Comprehensive Plan shall be deemed a recommendation of denial of such amendment.

Mayor Lago: Done. That is iron-clad. Couldn't get it any more clearer than that.

Commissioner Menendez: I think it's fair.

Mayor Lago: I think that's exactly what you...

Ms. Cruz: That's exactly what I wanted.

Mayor Lago: Done.

Ms. Cruz: Yes.

Mayor Lago: So, without any further comments.

Ms. Cruz: Please, please encourage people to attend important boards.

Mayor Lago: Of course. We do.

Commissioner Menendez: I'll make a motion.

Commissioner Anderson: Second.

Mayor Lago: Go ahead. Go ahead.

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Deputy City Attorney Suarez: And Mayor this will go – sorry, since this is an amendment to the Zoning Code, it will go to Planning and Zoning in between first and second.

Mayor Lago: No problem. Perfect. We have a motion. We have any further comments?

City Clerk Urquia: No sir.

Mayor Lago: We have a motion and a second.

City Clerk Urquia: I'm sorry, who seconded.

Mayor Lago: Commissioner Anderson.

Commissioner Fors: Yes

Commissioner Menendez: Yes

Commissioner Anderson: Yes

Mayor Lago: Yes

(Vote: 4-0)

(Vice Mayor Mena: Absent)