

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 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 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 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 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 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 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 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 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 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