

City of Coral Gables City Commission Meeting
Agenda Item F-4
January 22, 2019
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

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

City Staff

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

Public Speaker(s)

Gary Resnick
Hope Calhoun
Janna Lhota

Agenda Item F-4 [12:13:05 p.m.]

An Ordinance of the City of Coral Gables, Florida amending the Code of Ordinances of the City of Coral Gables by amending Article II, Chapter 70, Sections 70-19 through 70-75, entitled “City of Coral Gables Cable Television Ordinance” as provided herein; amending Article III, Chapter 70, Sections 70-76 through 70-91, amending the title of Article III to “Coral Gables Communications Rights-of-Way Ordinance”; providing intent and purpose, applicability and authority to implement; providing definitions; providing for registration for placing or maintaining communications facilities in the public rights-of-way; providing for the requirement of a permit; providing application requirements and review procedures; providing for a performance construction bond; providing for

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Agenda Item F-4 - Personal appearance by Mayor of Doral, Juan Carlos Bermudez.

construction methods; providing for the preservation of historic property; providing development and objective design standards; providing for fees and compensation; providing enforcement remedies; providing for severability clause; providing for conflicts and repeal of zoning in progress; and providing for an effective date.

Mayor Valdes-Fauli: Alright, F-4. Time certain, 11:30.

City Attorney Ramos: F-4 is an ordinance of the City of Coral Gables, Florida amending the Code of Ordinances of the City of Coral Gables by amending Article II, Chapter 70, Sections 70-19 through 70-75, entitled "City of Coral Gables Cable Television Ordinance" as provided herein; amending Article III, Chapter 70, Sections 70-76 through 70-91, amending the title of Article III to "Coral Gables Communications Rights-of-Way Ordinance"; providing intent and purpose, applicability and authority to implement; providing definitions; providing for regulation (sic) for placing or maintaining communications facilities in the public rights-of-way; providing for the requirement of a permit; providing application requirements and review procedures; providing for a performance construction bond; providing for construction methods; providing for the preservation of historic property; providing development and objective design standards; providing for fees and compensation; providing enforcement remedies; providing for severability clause; providing for conflicts and repeals of zoning in progress; and providing for an effective date. This ordinance is before you on second reading. If you remember, we came before you -- I believe it was in November -- on first reading. I have Mr. Resnick, who's our special counsel, specializing in the area of communications law or these types of utilities. He will come before you and present the ordinance. There have been some changes between first and second reading, which we'll address now. And then, I believe there are people from the industry here that would like to speak. It is a public hearing item. And like I said, it is on second reading.

Commissioner Quesada: Mr. Resnick, if you could just focus on the modifications since the last time.

Gary Resnick: Certainly. I'm Gary Resnick, with the law firm of Gray Robinson. Mayor, Commissioners, it's a pleasure to be here again. As the City Attorney indicated, this did come before you -- actually, it was in October for first reading. We had a number of meetings with the industry representatives that are interested in placing these facilities in your rights-of-way both before the ordinance on first reading as well as several meetings, further discussions after first reading to try and resolve the differences. We are at a -- we did make a lot of changes in the ordinance based on input not only from the industry representatives but also from your City staff. City staff was very, very involved in the development of this ordinance and provided a tremendous amount of input and I want to thank them for their participation in this process as well. So, you want to go through revisions of the ordinance from first -- from first reading to now?

Commissioner Quesada: I've been through it, but I just think, for the benefit of the people who haven't gone through it and those watching on TV, if you can walk us through the major...

Mr. Resnick: Alright.

Commissioner Quesada: Salient points.

Mr. Resnick: Alright, happy to do so. A number of revisions also came out of -- there's been further development of ordinances to address these facilities in the rights-of-way under Florida Statute. In addition, the FCC issued an order in September to address these facilities in the rights-of-way. And that order is currently on appeal in the US Court of Appeals for the 9th Circuit but has not been stayed. So, that became effective in January as well. And so, the ordinance was revised to address to some extent changes not only proposed by the industry but also proposed by your staff and changes that we've noticed from other jurisdictions and from requirements of the FCC order. So, the ordinance has two components. The first component of the ordinance amends your cable television ordinance because state law now preempts local franchising of cable television. That really hasn't change from first reading to now, so that whole first provision -- first section of the ordinance is basically the same as first reading and has not gone through many

changes. Basically, the City is amending its cable ordinance code to address state law and no longer has cable franchising authority, but we did preserve the City's authority as it does exist under state law. Now, cable companies are going to have to comply with the communications rights-of-way ordinance. So, when they're locating cable facilities within the rights-of-way, they're going to have to comply with this communications rights-of-way ordinance the same as any other provider of communication service and company that wants to install communications facilities. So, there was one change in the ordinance in the beginning in the intent -- the intent section to address the fact that the FCC has now acted in this area and to recognize that the City ordinance, to some extent, may need to comply with specific regulations of the FCC order. And we did reserve rights. So, to the extent that any provisions -- and this is a change from first reading. To the extent that any provisions of the ordinance are declared unconstitutional -- I'm sorry, any provisions of the Florida Statute or any provisions of the FCC order are declared unconstitutional or in violation of federal statute, you reserve your rights under the ordinance to basically not comply with those provisions of Florida law or the FCC order. So, that's an addition to the ordinance. I added a new definition. I know the City has a tremendous smart city initiatives. There's a new definition to add smart city technologies, and there's various provisions in the ordinance that preserve and protect the City's smart city initiatives so that they won't be interfered with by the placement of these facilities in the rights-of-way. Based on industry requests, we confirmed that existing facilities in the rights-of-way that are lawfully there, even if they've been issued -- they've been lawfully issued a permit to be located in the rights-of-way or they're otherwise lawfully placed in the rights-of-way, the ordinance does not require a physical change or removal of those facilities unless otherwise they become abandoned or otherwise required to be altered or removed. So, I added that to the ordinance. At the industry's request, we made some minor changes to the registration requirements. Before a company can get a permit to install or maintain these facilities in the rights-of-way, they're going to have to register with the City. We made a few tweaks of the registration requirements, including the insurance requirements, with input from the City's Risk Manager.

Commissioner Quesada: Okay. I'm regretting a little bit to ask you to walk me through each one of these.

Mr. Resnick: I can...

Commissioner Quesada: Because I know it was a 123-page document.

Mr. Resnick: Right, right.

Commissioner Quesada: And I know that we -- everyone's worked tirelessly on it to get there. The spirit of it is essentially the same as what we had before. I don't want you to go through the...

Mr. Resnick: There's some -- so, your interest -- and I think to the residents' interest, there's some beefing up of some provisions that are very important to the City. For example, the City, obviously, has a very important interest in historical preservation, maintaining aesthetics and objective design standards, obviously, maintaining public safety, economic development. You know, you've invested a tremendous amount of money on Miracle Mile to improve economic development and your smart cities initiative. So, the ordinance beefs up provisions to address those things. There's very, very detailed provisions dealing with historical preservation. It involves having to submit applications to that department if the facilities that they're going to install are going to have a material impact on a historic property, including the City plan that was recently designated as historical property in the City. So, that's been beefed up and that department's going to be involved in applications dealing with those issues.

Commissioner Quesada: And really, this comes down to -- you gave us a presentation, a PowerPoint the last time you were here. I don't know if you recall.

Mr. Resnick: Yeah.

Commissioner Quesada: And on there, you showed some before and after of small cell solutions and ground cabinets and shrouds and antenna shrouds. And essentially, the whole point behind this -- I know you're going to agree with me on this. I just -- I want to make that sure everyone at home understands what we're voting on here. It's so that we have more control over where they're placed within our city...

Mr. Resnick: Right.

Commissioner Quesada: Is really the primary intent behind this.

Mr. Resnick: It's...

City Attorney Ramos: While complying with the new state statute that...

Commissioner Quesada: Correct.

City Attorney Ramos: (INAUDIBLE).

Mr. Resnick: Right.

Commissioner Quesada: While maintaining that state statute compliance.

Mr. Resnick: Correct.

Commissioner Quesada: Any other major points before we allow...

Mr. Resnick: Just we maintain what the City had already done with respect to the Miracle Mile project and we did attempt to balance the City's interest in preserving its historic preservation and aesthetics with the industry's interest in locating these facilities in the rights-of-way. We think the

ordinance does a good job of balancing that, but I -- and I know that the industry still has a number of objections to the ordinance notwithstanding the fact that we made a lot of changes based on our meetings with the industry. They've been sent to you in recent correspondence that you've received from various industry attorneys. I know they're here to make presentations to you as well with respect to their objections. I can address those afterwards, but we believe that the ordinance, as drafted, is defensible under the Florida Statute as well as under the FCC order and would not recommend any further changes based on the points raised by the industry in their letters that you received this week.

Commissioner Quesada: Well, thank you for assisting us, preparing this to protect our historical nature of our city.

Mr. Resnick: Right. And I could answer any questions -- any other questions either now or after the industry folks make their presentation.

Commissioner Keon: You know, I think it's important for the public to understand that we no longer have franchise agreements with any of these companies and we can't control them. And so, when you have bad service or they don't answer, there's not a lot we can do about it. Call your state legislature -- legislators. And so, what we can control is where they -- is the -- is working with them on the use of our rights-of-way is about all that we can do now with these telecommunication companies.

Mr. Resnick: Correct.

Commissioner Keon: So that the public, you know, truly understands that this is a state legislative issue and it's not a local issue.

Mr. Resnick: Right. So, I'll -- if there's other questions or if there's further questions after the industry make their presentations, I'm happy to answer any other questions. Thank you.

Vice Mayor Lago: We have one speaker card -- Hope Calhoun -- on this issue. Please come forward. Thank you.

Commissioner Keon: There's more there.

Vice Mayor Lago: There's two?

Commissioner Keon: There's another one there.

Vice Mayor Lago: Oh, I didn't even notice that. Okay, perfect.

Hope Calhoun: Good afternoon.

Vice Mayor Lago: Good afternoon.

Ms. Calhoun: Good afternoon. My name is Hope Calhoun. I am an attorney. I do represent Crown Castle. I sent correspondence over, I think, Friday afternoon. You may have received it. It listed some objections that we have. Crown Castle works with a lot of other telecommunications providers. We're kind of an industry group. We review these right-of-way ordinances as they come up. Our concerns are obviously, as was stated, the balance of each city's -- each municipality's right under the statute to regulate its rights-of-way while still respecting and understanding our need to provide services to your residents. So, that's always a concern for us. Because when your residents complain, they call us. And so, we want to make sure that we're able to provide services to them, again, while still respecting your rights-of-way. So, I'm not going to go through everything we put in the letter because our letters, I think, are pretty detailed. But our concern overall -- I'll just go through a few things. Our concerns are really about -- number one, we disagree with Mr. Resnick about compliance with state and federal regulations. Again, that's in what we provided and I'll go over that briefly. We also have concerns with just basic

practical application of the ordinance. Over the years that we've been doing this -- a year and a half or so that we've been doing this, we find that once municipalities adopt these regulations, what happens is we all step away, right. The lawyers step away. The Commission steps away. The City Attorney steps away. Mr. Resnick steps away. And then our on-the-ground people so to speak have to interact with your engineering department or your right-of-way department to enforce this ordinance. And so, what we have found is once everybody else is gone, there's still a lot of subjective criteria or language in place. So, we're asking for time to work out some of that subjective language so that there's clarity, and I'll give you an example of that as I talk. And then, again, we would like to still communicate with your City Attorneys, Mr. Resnick and your in-house staff, to clarify things that we don't believe, again, are necessarily compliant with state or federal regulations. So, again, I'm not going to bore you by reading everything that we've previously sent in writing, but we do recognize that Coral Gables is a very unique place. I think I've said that already and we just want to make sure that we're able to provide services to your residents.

Commissioner Quesada: I apologize and you can continue. Just do you have a copy of the letter you can pass to me?

Ms. Calhoun: I do.

Commissioner Keon: It was emailed.

Commissioner Quesada: I'm sorry?

Commissioner Keon: It's in your email.

Commissioner Quesada: No, but it'd be nice if I had a copy also.

Ms. Calhoun: Can I give it to you when I...

Commissioner Quesada: Yeah, please finish.

Ms. Calhoun: I wrote on it.

Commissioner Quesada: Please.

Ms. Calhoun: So, I...

Commissioner Quesada: Yeah, please finish up.

Ms. Calhoun: So, a couple of things. Just -- let's just -- again, I'm not going to make you go through -- permanent performance bonds, which are found in Section 70-79 of your ordinance, it's our position that the requirement of performance bonds is in conflict with State Statute Section 202.24, which specifically states that City's can't exact additional funds. I have worked with other jurisdictions and they have removed the performance bond requirement because we have construct -- they have construction bonds in place, so that's just an example of things we can speak to further with your staff and Mr. Resnick to maybe change so that a specific tax which we think is not consistent with -- is that a copy for him so I don't have to give him...

Commissioner Quesada: Yeah, it is.

Ms. Calhoun: So I don't have to give you the one I wrote on.

Commissioner Quesada: No, no, no, no. It's okay.

Ms. Calhoun: Alright, so that we think it's compliant with state statute, so we wouldn't -- the City wouldn't be requiring extra funds that we don't think they should be or exacting funds. Another section, 70-80(a) speaks about the City -- it says that the -- excuse me. The language in the

ordinance states -- it's section -- subsection A of 70, sub 80 -- the City may issue a blanket permit to recover certain activities such as routine maintenance, and then it goes on to talk about extensive repair activities and so forth. And again, State Statute 337, which we are regulated by, specifically provides that authority -- that an authority, such as yourselves, cannot require approval for routine maintenance. So, again, language that we'd just like to clarify, maybe remove, so that's clear once everybody's gone, once we're all gone, how do -- how to enforce this type of language. So, I mentioned briefly a practical application and how that can be difficult. So, page 83 of your ordinance, Section 70-80 subsection (b)(2) speaks -- specifically states, in addition, a registrant shall not disrupt trees or tree roots from placing or maintaining a communications facility in the right-of-way. There's no definition of destructing a tree or tree roots. So, if my -- if Crown Castle's person comes in and submits a permit, if it's kind of arbitrary, a staff person can just come in and say what you're asking for is going to disrupt a tree or a tree root, but we don't know what that means. So, then we get held up in the implementation in our process, again, providing your residents with services because that term isn't defined, and then we have to go to your City Attorney's to figure out, well, if they're doing this, is that destructing? What's that definition? Again, just an example of language we'd like to further clarify and tweak so that we can all have an understanding of what disrupting means, so that, again, goes to practical application of the ordinance.

Mayor Valdes-Fauli: I'm sorry, disrupting a tree root means disrupting a tree root. What's wrong with that definition?

Ms. Calhoun: So, when we do work in the right-of-way, for example, and if we have -- we are going to have to perform work, obviously, in the right-of-way, so...

Mayor Valdes-Fauli: But we don't want you destroying our trees.

Ms. Calhoun: But it doesn't say destroy. It says disrupt. We understand destroy. Destroy is simple. Destroy is clear. We would never want to do that either, but disrupt -- does disrupt mean

that we can't dig around it? Does it mean that if we -- and I'm not an arborist or a landscape person -- but if we remove a portion of a root is the tree going to die because of that? We don't...

Commissioner Mena: I think that's where the process...

Mayor Valdes-Fauli: Possibly.

Commissioner Mena: Our arborist or landscape people will make that determination. I know you reference it as arbitrary, but to us, it's not. It's the opinion of professionals on our staff who we trust to make those assessments because...

Mayor Valdes-Fauli: And we would...

Commissioner Mena: We're not equipped...

Ms. Calhoun: Sure.

Commissioner Mena: To make them on their behalf.

Ms. Calhoun: But I don't make those decisions either on behalf of my client.

Commissioner Mena: No, the City does.

Mayor Valdes-Fauli: We would trust you to make those decisions, but we probably wouldn't trust a crewman from or crewwoman from wherever digging and wanting to get the job done as fast as possible because it's going to rain and that they will destroy a root or disrupt a root.

Ms. Calhoun: Right. So, again...

Mayor Valdes-Fauli: I'm all for this.

Ms. Calhoun: So, I understand that. But again, so, just in the conversation we're having now, we talked about interchangeably destroy versus disrupt. So, I think that that's an example of something where we could maybe get better clarification in writing. I'm sure your City staff is very capable of determining what's good and what's bad. But what happens if there's a disagreement about that? There's no opportunity to have that further discussion if he says -- I assume it's a male -- or if he says it disrupts, then all works stops in that particular area, for example. But what if it doesn't have to disrupt? We still don't know what that means.

Commissioner Mena: Or you put it somewhere that he says it doesn't disrupt.

Mayor Valdes-Fauli: Yeah.

Ms. Calhoun: So, there are -- right, so we have to -- in providing services to our residents, we have to be in certain locations, so that's a part of the conversation we had with your staff, but we have to be at this particular intersection or in this particular right-of-way because of -- we need to provide service in this spot. So, if he says, well, you can't do it here because you might disrupt, there should be some opportunity to figure out what that means before we try to implement. No disrespect to your staff, obviously, but it's just a matter of implementing.

Mayor Valdes-Fauli: That is cured...

Commissioner Mena: So would the process...

Mayor Valdes-Fauli: By...

Commissioner Mena: Yeah.

Mayor Valdes-Fauli: Meeting with our arborist.

Commissioner Mena: Yeah.

Mayor Valdes-Fauli: I don't see any problem.

Commissioner Mena: Madam City Attorney, what would the process be there?

City Attorney Ramos: Look, we could get into each of these, right, and talk about them for two hours at a time. We've had...

Commissioner Mena: No, but I think it's a good example.

City Attorney Ramos: Right, I agree. We've had four meetings. We clarified a lot of things. We changed language to make the industry feel more comfortable, but there's certain things that we agreed to disagree on. At this point, that's where we're at.

Commissioner Mena: Right.

City Attorney Ramos: What would be the process in this particular case? Exactly what you articulated. Mr. Dannemiller or someone from his staff would come out and would discuss it and we would try to work a way around it without disrupting the tree root. If there's no other place that we could put it, then we'd have to consider how we would address it. If you want to speak, Gary, go ahead.

Ms. Calhoun: So, then what does that mean for our permitting process?

Vice Mayor Lago: So, is there like...

Mr. Resnick: I mean, this is just one particular example...

Vice Mayor Lago: Is there like a mechanism, like a dispute resolution mechanism?

Ms. Calhoun: Not in the ordinance currently.

Mr. Resnick: Actually, this is just one...

Vice Mayor Lago: Is there a...

Mr. Resnick: Particular example.

Vice Mayor Lago: Is there a reason why that's not in the ordinance?

Ms. Calhoun: Just for that particular -- there are -- just to be fair, there are provisions that do provide dispute resolution or waiver provisions, but for this one, I don't believe that there is.

City Attorney Ramos: Can you also talk about the premeeting, Gary?

Mr. Resnick: Yes. First of all, a lot of these practical issues would be resolved at a premeeting. The ordinance requires, unless it's prohibited by a specific law, a premeeting between an applicant seeking to place facilities in the rights-of-way and the applicable City staff. So, that -- and the idea is not to delay, but to resolve issues like this, like Crown Castle might be having with respect to some of the provisions of the ordinance. But with respect to -- just one particular example. But with respect to trees and tree roots, the ordinance references your existing Code, which already addresses that. So -- and you already have a process under your Code when somebody is going to come in, a developer or somebody working in the rights-of-way or whatever is going to be coming in and disrupting -- or wants to remove trees, change trees, destroy trees, destroy tree roots, move

tree roots, whatever. There's already an existing process in your Code, so this ordinance only references that process. It doesn't create a new process. So, whatever...

Commissioner Mena: Right, so it would be the existing process.

Mr. Resnick: Right, and your City arborist -- if they're going to do work, they have to identify in their application trees that they intend to remove, destroy, damage, otherwise impact. If they do identify such trees in their application, then your arborist -- your Public Works Department would overall receive the application. They could get your arborist involved and determine whether the application should be granted or not. There's a process for that.

Ms. Calhoun: So, again, we agree to -- well, we disagree. I don't know how that would work and that's fine, but again, things that we're just trying to clarify before I recognize that there's a Code -- other Code provisions in place for it, but again, nothing specifically -- again, the words were used in exchange -- interchangeably, rather, that is, destroy, disrupt, remove and we're not necessarily talking about any of that. This particular language says disrupt.

Commissioner Mena: I think it's the word in the agreement. I mean...

Ms. Calhoun: The language says disrupt.

Commissioner Mena: Well, that's -- and it's not destroy, it's disrupt.

Ms. Calhoun: But again, as we're having the conversation -- I won't.

Commissioner Mena: It's disrupt...

Ms. Calhoun: So, to be...

Commissioner Mena: Based on Mr. Dannemiller's judgment.

Ms. Calhoun: Exactly.

Commissioner Mena: Which is what we want.

Ms. Calhoun: And if he's gone...

Commissioner Mena: I know you don't want it because you want it...

Ms. Calhoun: Well, no. I'm not saying I don't want that.

Commissioner Mena: Because you want to be efficient...

Ms. Calhoun: No.

Commissioner Mena: And move fast, but we do want that protection.

Ms. Calhoun: And I understand that. I'm not saying that you trust -- I get it. He's great and you trust him. And he's gone tomorrow -- God forbid, I don't want anything to happen to you -- and you have somebody new...

Commissioner Quesada: Just kill him off.

Ms. Calhoun: No, I did not. I did not, in fact. It's the exact opposite. So, again, that's just an example of language that we would like to continue to work through. And speaking of pre-application meeting, the statute -- excuse me, your ordinance specifically speaks to pre-application meetings, which again, we do not believe is consistent with state statute because your ordinance requires that we have a pre-application meeting, which serves to subvert the shot clock that

regulates time for application submittal and then acceptance. Nine and a half times out of ten -- probably ten times out of ten, to be honest, we will have pre-application meetings to talk about where things are going, how they're going and what we're going to do so we don't disrupt your right-of-way. But to require it specifically we believe is in violation of state statute. So, again, I have plenty of examples, as provided in my letter of why this is an issue. I recognize -- and I should have said earlier we do appreciate the time spent with City staff to go over these. We recognize some changes were made. Again, we just don't think it's harmful to allow for additional dialogue as we continue to work through some issues that we still have. Again, you have my correspondence. I can continue to go through what we said before. In the interest of time, I won't do that. I'm happy to answer any other questions that you have. I'm just stopping because I know that someone else from the industry is here who might like to speak. But other than that, I'm happy to answer specific questions about what we presented.

Mayor Valdes-Fauli: Thank you.

Ms. Calhoun: No questions, okay. Thank you.

Mayor Valdes-Fauli: Janna Lhota. Hi.

Vice Mayor Lago: Good afternoon.

Janna Lhota: Hi. Good afternoon...

Mayor Valdes-Fauli: Good afternoon.

Ms. Lhota: Commission and Mayor. I'm Janna Lhota, with offices at 515 East Las Olas, Fort Lauderdale, Florida. I'm here today on behalf of Verizon Wireless Personal Communications. Before I get into my presentation, which will be brief because I know you've had a long morning already, I want to first thank the time and consideration that the City has given us, in particular,

the City Attorney's Office, the City Engineer, outside counsel, for listening to the comments and concerns of the industry. As I'm sure you all can appreciate, wireless is a vital component of today's communication infrastructure. As evidenced by recent data, almost one in two households is wireless only. Our effort to ensure that the City is always able to meet its infrastructure needs is why -- where the comments that you received, at least from our office yesterday are coming from. We want to assure that when your power goes out and your Wi-Fi, which essentially provides you the backbone to your wireless facilities in your home, is no longer there that you still have the network that you need to be able to communicate and to utilize all of those wonderful applications that we all use on our phones on a daily basis. So, with that, I won't go into the specific issues that Ms. Calhoun just brought up. Again, we agree and echo those comments that were brought forth by Crown Castle, as well as T-Mobile. I know they've also provided a letter. I think all of us, since we have been working together as an industry group included in the letter that we sent to you a table of violations or table of issues, which detail specific provisions of the City's proposed ordinance, specific provisions of both federal and state law, as well as some case law that shows why we believe that there is an issue with some of the language that's included in the proposed ordinance. But what I'd like to talk about just for a few moments is kind of the overall picture of the impact of the provisions as applied. The general idea with respect to the deployment of wireless and communication services facilities in the rights-of-way is to assure that the environment is competitively neutral, nondiscriminatory and federal law, as well as the state law, does not create a barrier to entry. When you look at the provisions in there in a vacuum, it appears that on some levels they may be okay. But when you look at them in totality, as implemented, our concern is that effectively there will be a barrier to the provision of future wireless services in the City of Coral Gables. And just briefly, there are provisions in the ordinance that flat-out prohibit the provision of new above-grade utility poles or wireless facilities. These include streets such as Miracle Mile, Giralda, as well as those areas of the City where you have been the Neighborhood Renaissance Program. There's also provisions in the draft ordinance that prohibit the placement of any above-grade facilities where the facilities -- the existing facilities are located below grade or in the future will be located below grade. There's also vio -- there are also limitations on the size of the facilities that can be deployed that we believe are in violation of state

law. You couple that with the reservation on the placement of facilities on City poles. So, if you can't place the utility pole, you turn to a City pole, and the top third space is reserved flat-out in the ordinance for the City. You couple that with the provision in the draft ordinance that limits the distance separation between ground-mounted equipment, the accessory equipment that serves the wireless by 500 not between just an individual carrier, but all carriers. We believe that, as applied, you effectively have a prohibition of wireless services in the future. Certainly, the first person may be able to collocate, but the second person in is not going to be able meet, at a minimum, the 500-foot distance separation requirement. Now, I understand that there's language in there that the City has a policy that it is -- it will allow all wireless providers, but we believe this ordinance as implemented will create issues. And I'll just add two other points just to prove this. The ordinance does provide language that you can't excavate in areas of right-of-way that has been restored for a period of four years. You couple that with the discussion with respect to the placement of facilities in the swale and the issue with respect to existing landscaping, again, taking into account everything else I've just said, we believe that there is a real issue with the ability to deploy small wireless which we believe is vital to the densification of the wireless network in the City to provide the coverage and the capacity needs and demands that your residents, businesses and the City's facilities require for the coming near term and our future. Again, I do appreciate staff in taking time to listen to us. If you don't have a copy of my letter -- I know I sent it yesterday with a copy of the table of violations. I do have extras. And again, I do appreciate your time and consideration in listening to our concerns.

Mayor Valdes-Fauli: Thank you. Thank you very much, Ms. Lhota. I would like to comment on what I believe our responsibility is, which is the preservation of our environment, the preservation of our city beauty, the preservation of our history, the enhancement of our facilities to our residents, and I think that aesthetics is very, very important. What you provide is very important, too, but we just cannot allow you to dig up Miracle Mile or Giralda, were the two you mentioned, where we just spent \$24 million on a very successful renovation project. We have to be responsible to our residents and what -- of things we have to be responsible for. We were sued in the past for First Amendment by a publication because we wanted to regulate the size, look and color of

newsstands. And we prevailed in the Supreme Court because it said our standards are so consistent and so historical and traditional that they should prevail over some other criteria. I would take your comments in hand and we will be reasonable, just like you assure us that your clients will be reasonable in the enforcement of this regulation. I'm very much for the regulation the way it stands. I take your comments to heart, but our responsibility is with the residents of Coral Gables.

City Attorney Ramos: Any additional questions of Mr. Resnick?

Commissioner Mena: I -- yeah, I -- well, either for Ms. -- I think more for you, actually. Have you had an opportunity to review the letters and the alleged violations and are you...

City Attorney Ramos: We have. In fact...

Commissioner Mena: Comfortable that we're in compliance?

City Attorney Ramos: A very similar chart was provided to us after first reading and we had a long meeting. We went through them and we addressed the ones we felt we could address and others we feel comfortable in our legal position. So, it's absolutely been gone through thoroughly by both special counsel, Cristina and myself.

Commissioner Mena: Okay. Thank you.

Mayor Valdes-Fauli: Anything else?

Commissioner Quesada: I move to approve the item.

Mayor Valdes-Fauli: Second?

Commissioner Keon: Second it.

Mayor Valdes-Fauli: It's been moved and seconded. Will you call the roll, please?

Commissioner Quesada: Yes.

Commissioner Keon: Yes.

Vice Mayor Lago: Yes.

Commissioner Mena: Yes.

Mayor Valdes-Fauli: Yes.

(Vote: 5-0)

Mayor Valdes-Fauli: Thank you very much. Appreciate it. The last item I have here is...

Commissioner Quesada: Mr. Resnick, thank you. A pleasure as usual.

Mayor Valdes-Fauli: Thank you, Mr. Resnick.

Vice Mayor Lago: Thank you.