

City of Coral Gables City Commission Meeting
Agenda Item F-1
March 26, 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
Assistant City Attorney, Gus Ceballos
City Clerk, Billy Urquia

Public Speaker(s)

Charles Kline
Paolo Amore
Miguel Diaz de la Portilla
Nestor Machado
David Serviansky
Ira Jacobson

Agenda Item F-1 [0:00:00 p.m.]

An Appeal of a Board of Architects Settlement Agreement entered into by the City of Coral Gables and the Applicant as a result of a Conflict Resolution meeting on February 6, 2019 which approved revised plans (AB-18-04-3802) for the replacement of the entrance features at the main community entrance, located on Cartagena Plaza, and the addition of wing walls and updated signage on the existing pillars on the median and swales of Cocoplum Road, southeast of the intersection

City Commission Meeting
March 26, 2019

Agenda Item F-1 - Appeal of a Board of Architects Settlement Agreement entered into by the City of Coral Gables and the Applicant as a result of a Conflict Resolution meeting on February 6, 2019 which approved revised plans for the replacement of the entrance features at the main entrance, located on Cartagena Plaza.

with Los Pinos Boulevard.

Mayor Valdes-Fauli: And now we go to Item F-1, time certain, 11 am.

City Attorney Ramos: F-1 is an appeal of the Board of Architects settlement agreement entered into by the City of Coral Gables and the Applicant as a result of a Conflict Resolution meeting on February 6, 2019, which approved revised plans (AB-18-04-3802) for the replacement of the entrance features at the main community entrance, located on Cartagena Plaza, and in addition, the wing walls and updated signage on the existing pillars on the median and swales of Cocoplum Road, southeast of the intersection with Los Pinos Boulevard. I need to make several comments with regard to this item.

Vice Mayor Lago: Yeah.

City Attorney Ramos: First of all, the title has remained the same because that's the title that was published. However, Cocoplum II has withdrawn -- in other words, the request -- they're not moving forward with the addition of the pillars at Cartagena -- at the bridge at Los Pinos. So, we're only dealing with Cartagena Plaza. This is a Board of Architects appeal, which means that the scope is limited only to matters of design and aesthetic. In addition, due to the way that this appeal came up in the process procedurally, the appellant has not had the opportunity for a quasi-judicial public hearing. Therefore, I have issued an opinion saying that this Commission should make this a quasi-judicial public hearing and it has. In accordance with that, we've issued a procedural order. The order states as follows: I will make comments, which I'm making now. The presentation will be made by the appellant, limited to twenty minutes total, with five minutes reserved for rebuttal. The presentation will then be made by the applicant, limited to twenty minutes total. Rebuttal by the appellant, if time is reserved. Public comment limited to two minutes per person. And then questions by the City Commission. This procedural order is based on other quasi-judicial hearings that have been heard on Board of Architects appeals and provide the same amount of time. Before we talk about the actual substance, I'd like to mention that

because, again, this is a quasi-judicial hearing, any Commissioner that has had a conversation about the scope of this particular hearing between the March 12 meeting and this meeting should disclose the nature of that conversation and with whom it was had at this time.

Vice Mayor Lago: As I mentioned to you yesterday, Miriam, I had two discussions; one with the HOA president for Phase II, Matt Martinez, and I had a conversation very briefly with the attorney who represents them.

City Attorney Ramos: Understood. And the content of the conversation was regarding this?

Vice Mayor Lago: Was in line with this.

City Attorney Ramos: Anybody else have any conversation...

Commissioner Mena: I have...

City Attorney Ramos: They wish to disclose?

Commissioner Mena: I had a conversation with the attorney for Islands of Cocoplum, and I also had an email exchange with a resident in Phase I, Anna Milton.

City Attorney Ramos: And that email exchange has been made part of the record.

Commissioner Mena: Which I forwarded to you, yeah.

City Attorney Ramos: Anyone else?

Commissioner Quesada: Yeah. I had a phone call a few days ago with the applicant's attorney for Phase II. And I had an in-person meeting with one of the residents (INAUDIBLE) yesterday in my office.

City Attorney Ramos: Mr. Mayor.

Mayor Valdes-Fauli: Yes. I had a very, very brief conversation with the attorney for Phase II.

City Attorney Ramos: Very well. Thank you all for putting that on the record.

Mayor Valdes-Fauli: But it wasn't directly related to this issue.

City Attorney Ramos: To this item.

Mayor Valdes-Fauli: Yes.

City Attorney Ramos: Very well. I will remind the Commission that at the meeting on March 12, there was a resolution to permit the continued encroachments that have existed in that area since the 1970s, which are the two signs that read Cocoplum. At that time also, the Commission included in that resolution an approval that one sign would read Cocoplum and one sign would read Islands of Cocoplum. That has been determined by the Commission. The only thing...

Mayor Valdes-Fauli: We approved that at the last meeting, yes.

City Attorney Ramos: Correct. The only thing that remains today -- and that's Resolution 2019-83. The only thing that is up today is the design and aesthetic of what those signs will look like, things like what the structure will be made of; cement, stone, metal, et cetera. The size of the signs, the color, the font, things like that. That is what this appeal is limited to today. With that, I appoint you to the item that was included with your materials. It has a settlement agreement. And

attached to that settlement agreement are the renderings that have been submitted by the applicant. That is what is being appealed, the look of those particular renderings. With that, we should have the applicant -- the appellant come up and make the arguments.

Commissioner Quesada: So, are we anticipating Commissioner Keon making it because this was a close item.

City Attorney Ramos: She had a doctor's appt and she said she would get here as quickly as she could. The appointment was...

Mayor Valdes-Fauli: She was...

City Attorney Ramos: At 9:30.

Mayor Valdes-Fauli: I was told that she would be here by 2. And at 2 we have a very contentious issue and I have to leave at ten minutes until 4.

Commissioner Mena: Yeah.

Commissioner Quesada: Okay.

Commissioner Mena: The good thing is this is not the same issue. We already made a decision...

Commissioner Quesada: Yes.

Commissioner Mena: Last time.

Mayor Valdes-Fauli: And this is...

City Attorney Ramos: Correct.

Mayor Valdes-Fauli: An appeal on the...

Commissioner Mena: Just the aesthetics.

Mayor Valdes-Fauli: Aesthetics of the...

Commissioner Quesada: That's true, that's true.

Commissioner Mena: Yeah.

City Attorney Ramos: This is really just how it looks.

Commissioner Mena: Right.

Commissioner Quesada: Okay, so we'll proceed.

Charles Kline: We would have no objection to waiting.

Mayor Valdes-Fauli: No, we're not going to wait, sir. Go ahead. Do you wish to reserve five minutes of your twenty minutes for rebuttal? Okay.

Commissioner Quesada: Mr. Kline, I want to start a little bit with the hot bench a little bit. Did you send your response to us to Mr. Klein?

City Attorney Ramos: Yes.

Commissioner Quesada: Got it. If you can address, right off the bat, the City Attorney's whether you're relying on an old statute or not.

Mayor Valdes-Fauli: Mr. Kline, move over to the microphone.

City Attorney Ramos: I do want to point out that that was relating to the reconsideration of the prior resolution, not to this item.

Commissioner Quesada: I understand, but it's related to the letter that he transmitted to us, what...

City Attorney Ramos: Agreed.

Commissioner Quesada: Thursday, Friday, whenever it was.

Mr. Kline: It does. It directly relates to our request for consideration. Very simply, the opinion that the current City Attorney has rendered about the section of the Charter that I'm relying on I think is misplaced. The Charter is on your website. It has not changed since 1954. It's there for everybody to see. Except that when the home rule charter that was enacted subsequently and very recently, the City basically adopted the old charter subject to certain revisions that were labeled in a chart. The City Attorney, in her letter, said that her predecessor -- I think it was Ms. Hernandez -- had written an opinion which I have read which says that that charter amendment was nullified by the home rule charter's powers act, okay. The problem with that position is that the very act that she talks about and is verbatim quoted in the opinion of the -- Ms. Hernandez specifically says exactly the opposite with respect to the question that's before the City right now. It says nothing in this act shall permit any changes in special law or municipal charters which affect the distribution of power among elected officials. In other words, if your charter said you cannot lease property for more than 30 years, that was repealed by the Municipal Purposes Act. But if it went on to say the power to lease can only be exercised by four out of five Commissioners, that was not repealed. That's a distribution of powers among the Commission and it was specifically preserved.

So, that charter provision is still in your charter. You've never repealed it. And we and everyone else have a right to rely on it. And I can tell you why you know that it wasn't repealed if you think about it. Miami-Dade County is subject to exactly the same act as you are. Miami-Dade County can pass anything in its city by a majority vote, except when it comes to changing their masterplan. And there they have to have super majority. The Municipal Purposes Act -- or the Municipal Powers Act didn't revoke that provision of their charter or prevent that provision of their charter because that was a distribution of power among city officials. It was not a limitation on the power of the City or the County. The City has the power with respect to City-owned property to lease it, to let private people use it, but you need a four-fifths majority under your own charter.

Commissioner Mena: But this is a public right-of-way, isn't it?

Mr. Kline: That's right.

City Attorney Ramos: Might I respond?

Commissioner Mena: Yes.

City Attorney Ramos: As I said in my email, Ms. Hernandez -- and I believe I gave you the memo -- in 1997, speaking to the Charter Review Committee in no uncertain words said that Section 85 and 86, which were what they were renumbered from 81 were nullified and repealed. It's in black and white. There's no question. In addition, I was here when the charter review process occurred in 2016. But just to confirm, I checked with our former City Attorney, Mr. Leen, to ensure that the restated charter that was adopted by that Charter Review Commission -- actually, which the Mayor served on before he became mayor for the second time -- was in fact the entire charter. And the idea of doing that was because we had had a compiled charter for many years. We wanted to make sure that we had one restated charter that we could rely on when the Charter Review Committee looked at it in order to see what they were going to send out to the voters, and that's exactly what...

Mayor Valdes-Fauli: And it was approved by referendum.

City Attorney Ramos: So, there is an ordinance that approves our restated charter. My position is that this provision is no longer part of the charter. That is my position and the position of the two former city attorneys. In addition to that, there is a Code provision, as you all know, because it's come up several times in our city ordinances that does require super majority vote when we're selling or leasing city land that's worth over one million dollars or for more than ten years.

Commissioner Mena: Right.

City Attorney Ramos: So, that was adopted by ordinance in our Code. This requirement does not exist. In addition to that...

Commissioner Quesada: But you're saying...

City Attorney Ramos: This...

Commissioner Quesada: If I'm hearing -- if I'm understanding -- I'm sorry to cut you off, but I just want to clarify. So, the big distinction here is whether it's City-owned property or it's a public right-of-way.

City Attorney Ramos: Well, that's one distinction. The other one is that this provision no longer exists in our charter, period. It exists in our City Code, but again, right, to your point, this is not City property. The right-of-way is not City property. It is an area that we are stewards of for the public benefit and public use.

Commissioner Quesada: Mr. Kline, why is she wrong?

Mayor Valdes-Fauli: Can we -- can I (INAUDIBLE) something? We're here on appeal on the sign and aesthetics, aren't we?

Vice Mayor Lago: That's right.

City Attorney Ramos: That's correct, sir.

Mayor Valdes-Fauli: Would you limit your comments...

Vice Mayor Lago: And I want...

Mayor Valdes-Fauli: To that, though? Huh?

Vice Mayor Lago: I mean, again, I'll leave it to the three attorneys on the dais, but I think the Vice Mayor brought up a very good point. I wanted to hear clarity on the issue.

Commissioner Quesada: Because here's the -- and Mr. Mayor...

Vice Mayor Lago: No, no. That's why we're listening to it.

Commissioner Quesada: I understood your motion. There is a request for a reconsideration. And there were a lot of letters that went back and forth. I've read through both of them and I hadn't fully made up my mind and I want to hear -- I want to ask him a few more questions on this. I really only have this one last question is -- Mayor, if you will...

Mayor Valdes-Fauli: Yes, go ahead.

Commissioner Quesada: Appease me. Tell me why she's wrong about that. The distinction that she raises, what sticks out in my mind is you're correct if it was on a different piece of property. But because it's on a right-of-way, my leaning is that...

Commissioner Mena: He's still not...

City Attorney Ramos: No, no...

Commissioner Mena: He's still not correct because the charter was changed is what she just told you.

City Attorney Ramos: Right.

Commissioner Mena: (INAUDIBLE)

City Attorney Ramos: And that provision in our City Code would only be triggered if we were leasing property for more than ten years or selling or buying property that's worth over a million dollars.

Mayor Valdes-Fauli: Which we're not doing.

City Attorney Ramos: I'm not sure that any of that qualifies here.

Commissioner Mena: None of that applies here.

Mr. Kline: Alright. My response...

Mayor Valdes-Fauli: It doesn't apply.

Mr. Kline: Is simple. I said in my letter that if it was City-owned property, it would take a four-fifths vote. I still maintain that because the charter has not been amended. It's still there. It's still in your charter.

Mayor Valdes-Fauli: It isn't, sir. We have an...

Mr. Kline: Yeah, that's what she says.

Mayor Valdes-Fauli: Opinion from a former...

Mr. Kline: But when you read the charter preamble, it says it's still there. Now, if we go to the second argument, it's not City-owned property. It was public property. And the City Attorney mixes those two concepts up. The plat of the property is dedicated to the public. Once that dedication is accepted, the only thing the City can do is vacate or partially vacate a dedication. It can't sell it. It can't lease it. It can't allow someone to use it because it has no title to it. It -- (INAUDIBLE) underneath to the center of the road belongs to the adjacent property owner. That is why your encroachment laws, your (INAUDIBLE) require an encroachment to be applied for by the adjacent property owner because he, theoretically, owns the fee title to the land to the center of the road, but he is subject to an easement in favor of the public for right-of-way purposes. And if anybody wants to put an obstruction in that right-of-way, the City has an obligation by virtue of its acceptance of the plat to prevent any obstructions in the right-of-way not to grant rights to people to put in obstructions, but to prevent them. And the only thing they can do with the dedicated right-of-way is vacate it partially or totally, and that's why you get people who say I want my sign to encroach out from my property into the right-of-way. The City looks at it and says, we don't need all that right-of-way. We can vacate it in favor of you, the adjacent property owner. Once it's vacated, then he owns that much further out and can put the sign there. But there's nothing in your encroachment theory or law in any state or any city that I've run into that allows somebody to parachute in that isn't the adjacent property owner and say to the City, I want

you to let me use public -- not city property, public property for a private purpose. You know, I've sent you copies of the...

Commissioner Quesada: Yeah, I received that.

Mr. Kline: The trademark and everything. This is a private purpose.

Vice Mayor Lago: So, Vice Mayor, the issue of...

City Attorney Ramos: If I may respond.

Vice Mayor Lago: So -- yes.

City Attorney Ramos: An encroachment is not a vacation, very simple.

Commissioner Mena: Right.

City Attorney Ramos: And I've already opined in my opinion -- which I've shared with you several times, both publicly and on email, that courts have found that these types of signs do serve a public purpose and it's not a private purpose.

Vice Mayor Lago: Okay. So, we can move on to the appeal. The reconsideration is with the Vice Mayor and with Commissioner Mena. Both of us are not playing a role in this outside -- unless you're willing to reconsider. If not, we're moving forward. We have to make a decision. Or if you can hear from -- I'm more willing to indulge you if you want to listen more from the attorney.

Mayor Valdes-Fauli: I think we should move on...

City Attorney Ramos: In other words, they voted...

Mayor Valdes-Fauli: To the appeal.

City Attorney Ramos: Against the item, so they cannot make the motion to reconsider.

Mayor Valdes-Fauli: We voted on this already.

Commissioner Quesada: I understand. Procedurally, I understand it. I got it, yeah. The only other person would be Commissioner Keon.

Commissioner Mena: Yeah.

Commissioner Quesada: Got it.

Vice Mayor Lago: So, I'm just telling you, whatever you want to do, I'm, you know...

Commissioner Mena: Yeah, I don't -- I -- one thing -- you mentioned earlier about this four-fifths thing and that people rely on that. I mean, you weren't really relying on that two weeks ago, right? I mean...

Mr. Kline: I'm sorry?

Commissioner Mena: Two weeks ago, when we were here.

Mr. Kline: The four-fifths...

Commissioner Mena: There's this creative legal argument now that's come out in this recent letter that wasn't articulated at the last meeting.

Mr. Kline: I didn't know we were going to get a three-fifths vote.

Commissioner Mena: Well, but you knew there was a vote. You knew there was a vote happening, right? And when the vote concluded, you were disappointed in the result.

Commissioner Quesada: He's being a good advocate.

Mr. Kline: You know, Commissioner Mena, you are absolutely right. I didn't know that we were going to get only a three-fifths vote. But I will say this, that whether the City has the power or not is something that is controlled by its charter. I believe this is still part of your charter. We disagree with the City Attorney. But it doesn't matter, as I've said before, because it's not City-owned property that we're talking about. We're talking about a dedicated right-of-way that belonged to the public. And the City's only obligation is to preserve that property for the use of the public. You can enhance it for the use of the public, but you can't allow private people -- it's not the City that's asking to put a sign there. It's Section II HOA that wants to put a sign there to advertise their homeowner's association. That's a private use...

Commissioner Mena: Well...

Mr. Kline: Of public property.

Commissioner Mena: Well, but that's -- there's been two signs there for 40 years.

Mr. Kline: That's correct.

Commissioner Mena: And those -- and you're now referring to it as an advertisement for a homeowner's association. Right, but there's been two signs there for 40 years that say Cocoplum pursuant to an encroachment agreement.

Mr. Kline: That's right.

Commissioner Mena: Our City Attorney has explained the legal side of this and I understand you disagree and I'm an attorney. I can appreciate that reasonable minds can disagree. But there's now going to be -- there was two issues last time we were here. One of the issues on the interior, the winged walls and all -- pavers and all the things now has gone away, you know. And so, that's no longer an issue and now we're just dealing with a sign on the outside. There's been two signs for 40 years that said Cocoplum. There's still going to be one that says Cocoplum and there's going to be another one that says Islands of Cocoplum. I've never heard anybody articulate that the ones that said Cocoplum were an advertisement -- a private advertisement for Cocoplum. And now there's this new creative legal argument, which I appreciate. But at the end of the day here, there's been two signs for 40 years and we're just changing one of them and they're going to be enhanced.

Mayor Valdes-Fauli: And that was approved...

Commissioner Mena: I truly, truly...

Mayor Valdes-Fauli: By us, yeah.

Commissioner Mena: I appreciate, you know, the sentiment and the argument here, but at the end of the day, I don't see any basis to reconsider what we did at the last meeting. I thought it was a fair result. Again, I think the issue on the interior has gone away. There's no longer going to be any enhancements, winged walls, pavers, et cetera. That's off the table and we're really just talking about changing the wording on a sign and enhancing the signs.

Mayor Valdes-Fauli: And the appeal from the Board of Architects' decision. Please limit your comments to the appeal from the Board of Architects' decision.

City Attorney Ramos: If that's the case, then we should start the clock running for the twenty minutes.

Mayor Valdes-Fauli: Yes, start the...

Vice Mayor Lago: Vice Mayor, are you done?

Mayor Valdes-Fauli: Clock.

Commissioner Quesada: Yeah, I am.

Mayor Valdes-Fauli: Go ahead.

Commissioner Quesada: I am not moving to reconsider.

Mayor Valdes-Fauli: Go ahead, sir.

City Attorney Ramos: Are you reserving five minutes, Mr. Kline?

(COMMENTS MADE OFF THE RECORD)

City Attorney Ramos: Mr. Clerk, if you could swear everyone in.

Mayor Valdes-Fauli: Mr. Kline, I ask you to talk on the microphone, so that we can all hear you and so the television can pick you up.

Mr. Kline: Correct.

Mayor Valdes-Fauli: Thank you.

City Clerk Urquia: And those appearing before this board today need to be sworn in, so if you can please rise and stand and raise your right hand.

Commissioner Quesada: Anyone who's going to be speaking.

City Attorney Ramos: Anyone testifying.

City Clerk Urquia: Anyone who will testify...

Vice Mayor Lago: Please rise.

City Clerk Urquia: On this item today. Do you solemnly swear or affirm that the testimony you will offer today will be the truth and nothing but the truth?

Hector Fortun: I do.

Mr. Kline: Mr. Clerk, I'm going to give you, at the end of the hearing, this binder. I will be referring to exhibits in it, and I would like it to be part of the record.

Mayor Valdes-Fauli: Okay, and will you start the clock, Mr. Clerk? Go ahead.

Mr. Kline: And the binder I'm referring to is the affidavit of Hector Fortun. Mr. Amore, please state your name and your address.

Paolo Amore: Paolo Amore, 7230 (INAUDIBLE) Coral Gables, 33143.

Mr. Kline: And do you live in the community known as Cocoplum?

Mr. Amore: Yes, I do.

Mr. Kline: How long have you lived there?

Mr. Amore: Since 2012.

Mr. Kline: What section of Cocoplum are you located in?

Mr. Amore: Section I.

Mr. Kline: Alright. Would you describe just briefly Section I? Where is it with respect to Section II?

Mr. Amore: Section I goes from the gatehouse to the two bridges.

Mr. Kline: And Section II is where, on the other side of the bridges?

Mr. Amore: On the other side of the bridges.

Mr. Kline: Are you a member of the Cocoplum Civic Association, Inc.?

Mr. Amore: Yes, I am.

Mr. Kline: Is that a mandatory association?

Mr. Amore: No, it isn't, voluntary.

Mr. Kline: Alright. And are you familiar with the Cocoplum Homeowners' Association?

Mr. Amore: Yes, I am.

Mr. Kline: And tell us what that does.

Mr. Amore: They represent all the property owners in Phase II.

Mr. Kline: And your civic association, what does it do?

Mr. Amore: We represent most or some of the owners in Phase I.

Mr. Kline: Okay. Now, are you familiar with a homeowners' -- second -- II homeowners association's proposal to put new signs or at least one new sign at Cartagena Circle?

Mr. Amore: Yes, I am.

Mr. Kline: Alright. How long have those signs been there where they are right now?

Mr. Amore: I can remember since I was a kid, so it was maybe 40 years since Cocoplum -- they put the gates up.

Mr. Kline: Alright. What is being proposed by the Section II HOA?

Mr. Amore: They would like to change the south sign and put a crest on it and the wording changed to Islands of Cocoplum.

Mr. Kline: Do you have an objection to the appearance of these signs?

Mr. Amore: Yes, I do.

Mr. Kline: Does the civic association have an objection to the appearance...

Mr. Amore: Yes, we do.

Mr. Kline: Of the signs? Do you have any objections concerning the symmetry?

Mr. Amore: They're not symmetrical. They're totally different. Today, they're symmetrical. Cocoplum, Cocoplum; same font, same letters, same size, everything. This is different font. They have a crest on it, which is totally different and out of context.

Mr. Kline: Now, who does the crest belong to?

Mr. Amore: I have no idea -- Islands of Cocoplum.

Mr. Kline: Okay. Have you seen the trademark? Did I send you a copy of their trademark...

Mr. Amore: Yes, I have.

Mr. Kline: Presentation? Okay. And have you seen that they've registered the name Islands of Cocoplum?

Mr. Amore: Yes, I have.

Mr. Kline: As a trademark of the association, right?

Mr. Amore: Correct.

Mr. Kline: Have you ever seen any document that changes the plat for Section II?

Mr. Amore: No.

Mr. Kline: Do you know what the name of the community in Section II is?

Mr. Amore: Cocoplum Section II.

Mr. Kline: And what's the name of your community?

Mr. Amore: Cocoplum Section I.

Mr. Kline: Have you ever seen any name change to either one of those plats?

Mr. Amore: No.

Mr. Kline: Are you aware that Florida Statutes require a community name to be set forth in its plat?

(COMMENTS MADE OFF THE RECORD)

Commissioner Quesada: Can you speak into a microphone? Maybe get that portable.

Miguel Diaz de la Portilla: And the first ground is relevance and beyond the scope of what we're here before today. Your City Attorney has clearly opined that we're here on an appeal from the Board of Architects. And that process -- the only thing at issue are design and aesthetics. This goes way beyond the scope of this hearing. In addition to that, counsel is testifying, so I would object to leading. In addition to that, this witness has not been qualified as having any particular expertise in these fields. But the most important one is it clearly is beyond the scope of this hearing.

City Attorney Ramos: Correct.

Mayor Valdes-Fauli: Madam City Attorney.

City Attorney Ramos: That is correct, sir. It has nothing...

Mayor Valdes-Fauli: That is correct.

City Attorney Ramos: To do with aesthetic.

Mayor Valdes-Fauli: Okay, that is correct.

Mr. Kline: I will link this...

Mayor Valdes-Fauli: It's worthless.

Mr. Kline: Up to appearance.

Mayor Valdes-Fauli: What?

Mr. Kline: I will link this up to appearance. I will link it up in another couple questions, Your Honor. Let's...

Mayor Valdes-Fauli: Madam City Attorney, do we let him continue on this line?

City Attorney Ramos: He needs to link it up very quickly.

Commissioner Mena: Yeah.

Mayor Valdes-Fauli: Very quickly.

City Attorney Ramos: Link it to the scope.

Mayor Valdes-Fauli: Yes.

Mr. Kline: Thank you. Now, if every group in Cocoplum can advertise their homeowners' association at the gate, what's going to happen to the appearance of the area around the gate?

Mr. Diaz de la Portilla: Pardon me.

Commissioner Mena: This has nothing to do with...

Mayor Valdes-Fauli: This has nothing at all to do with what we're talking about.

Commissioner Mena: You're relitigating...

Mayor Valdes-Fauli: We're talking about design.

Commissioner Mena: The same thing we discussed last time.

Mayor Valdes-Fauli: You're relitigating. We're talking about design and aesthetics and the appeal of the Board of Architects, which deals with design and aesthetics.

Mr. Kline: I'm just trying to make a record because I know I don't have your vote, but I think...

Commissioner Mena: You have a two-hour record from two weeks ago that you...

Mayor Valdes-Fauli: Yes.

Commissioner Mena: Have a video of that we're happy to provide to you when we discussed this.

Vice Mayor Lago: Commissioner, but I mean, let's...

Mayor Valdes-Fauli: No, no, no, no. But let's...

Commissioner Mena: But this is well beyond what...

Mayor Valdes-Fauli: Stick to the issue.

Commissioner Mena: The aesthetic of the sign.

Mayor Valdes-Fauli: This is well beyond the...

Vice Mayor Lago: But at the end of the day we're here.

City Attorney Ramos: This was advertised...

Mayor Valdes-Fauli: We're not here.

Vice Mayor Lago: What's the issue about hearing it for another five minutes?

Mayor Valdes-Fauli: No.

City Attorney Ramos: This was advertised...

Vice Mayor Lago: It's not going to cause any problems. I mean...

Mayor Valdes-Fauli: Yes, it is.

Commissioner Mena: I think it's prejudicial.

Mayor Valdes-Fauli: It is...

Commissioner Mena: (INAUDIBLE)

Mayor Valdes-Fauli: It's prejudicial and it is beyond the scope of this hearing.

City Attorney Ramos: Additionally, this is...

Vice Mayor Lago: I think everybody...

City Attorney Ramos: Advertised as a Board of Architects appeal. That is what we're here for today.

Commissioner Mena: This is a formal hearing process.

Vice Mayor Lago: And I understand that.

Mayor Valdes-Fauli: This is a formal hearing process.

Vice Mayor Lago: But both sides are going to have their opportunity to speak. And he wants...

Commissioner Mena: But that's...

Vice Mayor Lago: If he wants -- Commissioner.

Commissioner Mena: On the aesthetics.

Vice Mayor Lago: Commissioner, just give me one second. I know you're the attorney and I'm not, but just give me one second, please, okay. You've given this gentleman 15 minutes. If he wants to take his 15 minutes and spend them talking about things that have already been litigated...

Mayor Valdes-Fauli: And irrelevant to this issue.

Vice Mayor Lago: And irrelevant to this issue, let him spend his 15 minutes. At the end of the day...

Mayor Valdes-Fauli: No. That's not the way the judicial system works.

Commissioner Mena: Yeah. I was going to say...

Mayor Valdes-Fauli: That's not the way.

Vice Mayor Lago: You can't spend your time...

Mayor Valdes-Fauli: No.

Vice Mayor Lago: That's been allocated to you to...

Commissioner Mena: No.

Vice Mayor Lago: Have a discussion?

Mayor Valdes-Fauli: No.

(OVERLAPPING COMMENTS)

City Attorney Ramos: If this was a legislative item...

Commissioner Mena: Right.

City Attorney Ramos: That would be very different. This is a...

Mayor Valdes-Fauli: It isn't.

City Attorney Ramos: Quasi-judicial hearing on an appeal of aesthetics. That's all this is.

Vice Mayor Lago: Let the gentleman -- let the gentleman tie in his comments. You said you gave him a few moments. We interrupted him again. Let him tie it in now and see what the reason for all this questioning is for now. He says he's willing to tie it into something.

Mayor Valdes-Fauli: Aesthetics and...

Vice Mayor Lago: Tie it into something. Tie it into aesthetics. Let's see.

Mayor Valdes-Fauli: Design. Aesthetics and design, and you're going way beyond that.

Commissioner Mena: He's talking about a sign with names of other -- you know, the same -- the discussion you know we had last week, two weeks ago.

Vice Mayor Lago: Trust me, I was here, Mike.

Commissioner Mena: About -- I know, right.

Vice Mayor Lago: I was here. I haven't missed a meeting yet.

Commissioner Mena: There's going to be a sign, like a Tahiti Beach and all that. That's not the sign before us.

City Attorney Ramos: Correct.

Mayor Valdes-Fauli: We're talking about -- this is a quasi-judicial hearing and we should limit it to the scope of the...

Vice Mayor Lago: Tie it in. Bring it for a landing.

Mr. Kline: Are you concerned that there may be multiple different signs at the entrance?

Mr. Amore: Yes, I am.

Mayor Valdes-Fauli: That's not...

Mr. Diaz de la Portilla: Same objection.

Mayor Valdes-Fauli: If he were concerned with the look of the sign, that's one thing, but not -- there may be 50 other signs, but it has nothing at all to do with this. We'll deal with those when we get to them, sir. You know that.

Mr. Kline: Tell me what you think about the crest.

Mr. Amore: I -- it's a personal opinion. I hate the crest. It's (INAUDIBLE). It's not Coral Gables. It's not Cocoplum. We're not a country club.

Mr. Kline: And what do you think about the lack of symmetry? Can you tell the Commission what you think?

Mr. Amore: I'm not an architect, but I am a connoisseur...

Commissioner Mena: I couldn't hear you, Mr. Kline. I'm sorry. I couldn't hear your question.

Mr. Kline: I'm sorry. Tell the Commission, please, what you believe about the lack of symmetry on these signs.

Mr. Diaz de la Portilla: Objection. There hasn't been a predicate laid that this witness is an expert on symmetry nor that there's any asymmetry. That is simply Mr. Kline's testimony.

Commissioner Mena: I think that's okay. Go ahead.

Mr. Amore: I'm not an expert, but from a -- as a connoisseur of architecture, I like symmetry and the same -- the fonts and everything else to be the same. It's been like that forever. Why would we change the symmetry or the font or put a crest out there? It just...

Commissioner Mena: When you...

Mr. Amore: It reduces the elegance.

Commissioner Mena: May I ask him a question about that, a follow-up?

Unidentified Speaker: Of course.

Commissioner Mena: When you say that you don't believe the signs are symmetrical, you're not referring to the monument, for lack of a better word.

Mr. Amore: No. We're talking about the two signs in the front in Cartagena Plaza.

Commissioner Mena: No, no. Understood. But you're not referring to the size of the sign.

Mayor Valdes-Fauli: They are symmetrical.

Mr. Amore: I'm referring to the size of the letters...

Commissioner Mena: Just referring to the font.

Mr. Amore: Yes, correct.

Commissioner Mena: So, it's the...

Mr. Amore: And the words. The words are not symmetrical. It's totally different.

Commissioner Mena: Okay.

Mr. Amore: The length of the sign and everything else.

Commissioner Mena: Other than the words, the rest of the sign is symmetrical, correct, the base?

Mr. Amore: What -- the proposal that's up is not symmetrical.

City Attorney Ramos: If you look...

Commissioner Mena: Did you understand my question, sir?

Mr. Amore: Repeat it. Explain it to me.

Commissioner Mena: Okay. I'm happy to explain it to you. Other than the font and the crest, so other than the lettering, the signs themselves are otherwise symmetrical and otherwise identical; is that right?

Mr. Amore: No, they're not.

Commissioner Mena: What is the difference?

Mr. Amore: Just the backing and the way they lay on the wall is different today. In other words, the font is the same. The way they're laid out or where they're standing on the wall is different.

City Attorney Ramos: (INAUDIBLE) your renderings?

Commissioner Mena: Hmm?

City Attorney Ramos: It actually shows that they're slightly different.

Commissioner Mena: Okay. No, that's fine. I'm asking the question. I'm asking you the question. I'm trying to understand. I understand your point on font. It's well -- understood, very clear.

Mr. Amore: Okay.

Commissioner Mena: Other than font, I'm trying to understand what the differences are.

Mr. Amore: Okay.

Commissioner Mena: Because I -- and just to be clear, I made very clear at the last meeting I think the signs, but for the font, should otherwise be identical and the landscaping should be identical and the maintenance should be identical. So...

Unidentified Speaker: The way...

Commissioner Mena: That's why I'm asking the question.

Vice Mayor Lago: Commissioner, I'm not a font expert.

Commissioner Mena: Right.

Vice Mayor Lago: So, we're clear, I'm not a font expert.

Commissioner Mena: Me neither.

Vice Mayor Lago: I'm not a font expert or a lawyer, thank god. So, we have here Islands of Cocoplum.

Mayor Valdes-Fauli: Alright.

Vice Mayor Lago: It's a pretty significant sign.

Mayor Valdes-Fauli: It is.

Vice Mayor Lago: Pretty large.

Mayor Valdes-Fauli: Yeah.

Vice Mayor Lago: And then you have Cocoplum. It's a pretty much smaller, reduced scale sign. I think that's a little bit more elegant, the size. If you want...

Unidentified Speaker: That...

Vice Mayor Lago: If we're going to discuss the issue about signs -- about signage, size of the signage, I'd like to see the Islands of Cocoplum one reduced significantly. Now, can you tell me if this is the same exact font because I can't.

Commissioner Mena: No, and I guess...

Vice Mayor Lago: I'm asking you a question. I'm not being facetious. I'm asking you a question to see if you can help.

Commissioner Mena: No, and I don't know if it's the same font. But again, I think I was very clear last time -- you guys can speak for yourselves. I think the signs should be the same size...

Vice Mayor Lago: Okay.

Commissioner Mena: With different lettering. Same size, same configuration, with the same lettering -- with -- excuse me, with different verbiage on the sign.

Vice Mayor Lago: So, do you think that this rendering that's here achieves your goal?

Commissioner Mena: Those two things I'm looking at...

Vice Mayor Lago: Yes.

Commissioner Mena: Look different.

City Attorney Ramos: They are different.

Commissioner Mena: Yeah.

Mayor Valdes-Fauli: They are different, yeah.

City Attorney Ramos: And that's something you would have to decide on.

Commissioner Mena: And again, I made that clear last time. They should be the same.

Vice Mayor Lago: Okay. I just want to make sure that we're all on the same page.

Commissioner Mena: Right.

Mayor Valdes-Fauli: Okay. Go ahead, Mr. Kline.

Vice Mayor Lago: Bring it in for a landing.

Mayor Valdes-Fauli: Go ahead.

Mr. Kline: I'm going to reserve...

Vice Mayor Lago: You're running out of time.

Mayor Valdes-Fauli: Go ahead.

Mr. Kline: You mentioned...

Mr. Amore: I was just going to say less is always better. Less is always more elegant. The Gables is elegant. Why would we want to put anything that's not elegant? Why would we change anything that's worked perfectly for 40 years?

Mayor Valdes-Fauli: Okay.

Mr. Kline: I'm going to reserve the rest of my time, Mr. Mayor, for rebuttal, if that's alright.

Mayor Valdes-Fauli: Thank you, sir. Attorney.

Vice Mayor Lago: Give this to Commissioner Mena. I don't know if you have -- because I didn't have it.

Mr. Diaz de la Portilla: Thank you. Thank you, Mr. Mayor, Commissioners, for your time. May I just inquire how much time was reserved for rebuttal? I know I have twenty minutes on mine.

Commissioner Mena: Five minutes.

Vice Mayor Lago: Five minutes.

Mr. Diaz de la Portilla: Was it five? Okay.

Mayor Valdes-Fauli: Five minutes for rebuttal.

Mr. Diaz de la Portilla: So...

Mayor Valdes-Fauli: Just for rebuttal, not bringing in different things.

Mr. Diaz de la Portilla: No, of course. Of course, Mr. Mayor. I am Miguel Diaz de la Portilla. I'm an attorney at Saul Ewing Arnstein & Lehr. I'm here on behalf of the Islands of Cocoplum, the only homeowners' association in this area, the only group here today on this issue that has -- that I can say has 100 percent represented by their homeowners' association. So, out of the 304 homes in the Islands of Cocoplum, 100 percent are all members of the homeowners' association. The objectors here have been vague about exactly how many people are actually members of this civic association. They've said vague expressions as some, many, but my understanding is that this civic association that is here represents probably fewer than ten percent or about ten percent of the 150 homes that are in Phase I. I'm not going to go over everything you've discussed for the first 30 minutes or 25 minutes of this meeting, the arguments that were made by Mr. Kline. But suffice it to say that when certain legal arguments were deemed as without merit back in December by your City Attorney, then at the eleventh hour, at 4:41 pm, the civic association decided to try new arguments to see if they stick. Those two have been rejected as without merit because they cite a provision of your charter that does not exist any longer and they cite an Attorney General opinion that has to do with vacation of roads, meaning closure of roads, that is totally irrelevant. So, on the issue of design, which is what we're here on today, what they are appealing is the design that was approved in a settlement agreement by your City planner -- by your City Planning and Zoning Director, rather, and by your City architect. The design that was presented was for the two signs at the front. What was presented for the two signs at the front on Cartagina -- or Cartagena Circle, rather, was two signs at the front. The idea was that the existing signs right now are asymmetrical. The one on the north that says Cocoplum is actually a little bigger. The one on the south is actually a little smaller. That's what it looks like today. If I may approach, I will show you the picture that shows what they look like today. They're not of identical size. They do say - both say Cocoplum. If you'll excuse me. So, if I may approach. What you have is the one on the north, slightly higher than the one on the south. The one on the north under existing conditions, slightly higher than the one on the south. That's what exists today. The proposal that your City architect and City Planning and Zoning Director approved in the settlement conference that was held on February 6 called for two signs, not changing the dimensions of the existing signs, but to use the same material, the same material in both signs. Meaning the north sign right now is made

of stucco with a little base of coral rock. The proposal that was accepted in the settlement agreement calls for both signs, the north and the south, to be entirely wrapped in oolite limestone, also known as coral rock, also known as one of the materials that the best practices manual for aesthetic review by the Board of Architects allows, and in fact, prefers coral rock or oolite stone, which is a sedimentary stone, which is what it actually is. The proposal that was accepted by your City architect and your Planning and Zoning Director calls for the lettering to be the same, but of course, the words are different. One is Islands of Cocoplum and the other one is Cocoplum. The proposal does have a crest and I could understand some folks may like it; some folks may not like it. But that is the proposal that was accepted by your City architect and by your City Planning and Zoning Director. And again, if you really look at what was proposed and accepted, the reality is that -- and fact is -- and you now look at the proposed condition -- that the sign on the north that says Cocoplum is actually a little taller and ends up being a little more visible than the one that says Islands of Cocoplum. That's the proposal because, again, the dimensions of the existing signs weren't going to be changed, just the wrapping and the oolite material and the lettering to update the look of the sign. And by the way, the oolite material rock, limestone rock, is exactly made to match what the guard gate on Cocoplum Road is made of. And the park that is north of it has features made of the same coral rock. So, the whole space is defined by this material and that is the intent. Without altering the visibility or the height, quite frankly, the sign that says Cocoplum is proposed to be even more visible than the one that says Islands of Cocoplum. However, if this board decides to make them both exactly the same height, we would have no objection to it. We want to get along with our neighbors. We like them, despite this hearing. And we want to be able to get along. So, if it is the will of this board to make them exactly the same height so that the sign that says Islands of Cocoplum be a little taller so that it can match up with the same height as the visibility, if you will, of the sign that just says Cocoplum on the north, we are amenable to that and okay with that. Our idea here is to upgrade these 1970 signs that look very, very dated to something that is up to part with Coral Gables in terms of the material, in terms of the font and the lettering, in terms of the look of the signs so that it matches with the aesthetic of Coral Gables and is updated with everything that has been done in the City of Coral Gables. We have no desire whatsoever to create any acrimony. In fact, our thought was initially that this would be -- wouldn't be a problem.

And we thought it wouldn't be a problem because, again, you have a community that has spent 40 years in partnership with the City, investing. And each one of the owners of the 304 homes, which is obviously more than 304 people because some homes have a couple of owners, husband and wife, as the case may be. We thought that as the community that has invested for 40 years in this partnership with the City and that has maintained everything for the last 40 years, the signs at the front, the irrigation, the lighting, the water features, the landscaping, that upgrading and investing additional dollars into the community would benefit not just Islands of Cocoplum, but in fact, would benefit Cocoplum and the city as a whole, as the investments that the Islands of Cocoplum have made throughout the years have improved and benefited the entire city. Admitted or not, the owners in Phase I have benefited. They've benefited tremendously from the investment that every single one of the owners of 304 homes in Islands of Cocoplum have been making for 40 years, and they've done it without having to pay for any of this maintenance, without having to pay anything.

City Attorney Ramos: So, I'm just going to reel it in. This is outside the scope of design and aesthetic, so if we could just keep it to...

Mr. Diaz de la Portilla: So, keeping back to the design and the scope, I'm here to tell you that we think that the design that your City architect and City planner approved in the settlement agreement and entered into an agreement with us on February 6 is a good design. We think it takes into account existing conditions and enhances existing conditions for both communities. And we are, of course, advocating and asking for your support of that design. But we would be amenable to any other design that this board feels or any adjustment, rather, to that design that this board feels would make them identical, exactly identical. But the reality is that they're not identical now and we were trying to keep existing conditions as close to what they are while improving. That was our intent. That's what we tried to do. But we're here to ask for your support. We spent over two hours last time on some of these issues that we spent another 25 minutes on, but I know that's the prerogative of this board and they were legitimate questions that had to be asked and answered by both your City Attorney and by everyone here. And so, I humbly ask you for support. It's been a

long, you know, ordeal for something that is minor and it really is just an investment in improving the entire community. Thank you.

Mayor Valdes-Fauli: Thank you, sir.

City Attorney Ramos: While Mr. Kline comes up, I just want to add...

Commissioner Mena: As rebuttal.

City Attorney Ramos: I just want to add that in accordance with the Board of Architects rules of procedure, after the settlement agreement was entered into that our staff went into, the hearing officer, in fact, ratified agreement. I just want to put that on the record.

Mayor Valdes-Fauli: Okay. Yes, sir, rebuttal.

Mr. Kline: I would like to respond (INAUDIBLE). We represent not only the homeowners' association. We specifically represent the property owners on both sides of the bridge, the one that goes from Cocoplum Section I to Section II on Cocoplum Road, both of those owners. And we represent the owners of the property at the entrance to the circle immediately adjacent to the sign.

Commissioner Mena: So, two by the bridge and two...

Mr. Kline: Yes.

Commissioner Mena: And then how many in the civic association?

Mr. Kline: I don't know how many there are.

Commissioner Mena: You don't know how many people are in the civic...

Mr. Kline: I don't know, but I'm told it's a significant number of people.

Commissioner Mena: Does anybody here from the civic association have the answer to that question?

(COMMENTS MADE OFF THE RECORD)

Unidentified Speaker: We have 75 members.

Commissioner Mena: Seventy-five members?

(COMMENTS MADE OFF THE RECORD)

Commissioner Mena: A hundred and forty-seven what?

(COMMENTS MADE OFF THE RECORD)

Commissioner Mena: Okay.

Mayor Valdes-Fauli: Go ahead, sir.

Mr. Kline: We weren't a party to this settlement agreement. This was addressed by counsel. The reason we weren't a party is we went to the Board of Architects original hearing and we noted our objections to the signs, and it was voted down completely, hands down by the board. I think it was only one architect that was in favor of it. Then without notice to us and in private, they had a settlement conference, which was theoretically envisioned by your rules, and...

Commissioner Mena: Theoretically or is it?

Mr. Kline: Pardon?

Commissioner Mena: When you say theoretically, is it in the rules or is it not in the rules?

Mr. Kline: Yes, it's in -- they can have this settlement conference, but we think we should have been invited and we weren't.

Commissioner Mena: That's what the procedures dictate.

Mr. Kline: Yeah.

Commissioner Mena: It's not theoretic. It's...

Mr. Kline: Yeah, yeah.

Commissioner Mena: The actual procedure.

Mr. Kline: And we weren't invited. We weren't given notice and we weren't called on. And then they come up with a settlement. Had we been there, it might have been a totally different agreement. Why? Because we had standing to raise the question of what goes on those signs. And the reason we have standing is set forth in the binder. It is part of the evidence or it's going to be part of the evidence...

Mayor Valdes-Fauli: Sir, we -- microphone. Microphone.

Commissioner Mena: Use the microphone, yeah.

Mr. Kline: This document is a...

Mr. Diaz de la Portilla: I'm going to object to that, if I may, Mr. Kline. With all due respect, again, this is trying to take it back to the argument from two weeks ago. In fact, this binder was introduced two weeks ago. Why it's trying to be introduced here again today on a Board of Architects appeal is beyond the scope.

Mr. Kline: This has a direct relation to...

Mr. Diaz de la Portilla: Thank you.

Mr. Kline: To the appeal because we had the standing to be there to be invited to that settlement because of a contract right that we had. This contract was signed by Crow, Pope & Carter that allowed two signs and a wall to be put at the entrance to the gate. It was signed by our predecessor in title, and specifically, the individual property owners that I represent at the gate.

Mayor Valdes-Fauli: Sir, we're talking about aesthetics and design. And you're going all over the field. That is not proper. You should know that.

Mr. Kline: I'm saying...

Commissioner Mena: (INAUDIBLE) like to see -- can I ask you just -- can I just cut to the chase here? We're talking about the two signs. I think we've already voted last time that there shouldn't be...

Mayor Valdes-Fauli: And let's concentrate on the signs, the design...

Commissioner Mena: There's going to be...

Mayor Valdes-Fauli: The lettering, whatever. Concentrate on that.

Commissioner Mena: There's going to be...

Mayor Valdes-Fauli: We discussed that for two hours last time.

Commissioner Mena: If I could just ask you a question. There's going to be two signs. We voted last time you were here. One's going to say Cocoplum; one's going to say Islands of Cocoplum. I understand there's an objection to that and I think you've articulated that. Your witness has articulated that. So, that said, on the aesthetic design of the actual sign, what is it that you would like to see?

Mayor Valdes-Fauli: That's what we should...

Commissioner Mena: Given that that's going to happen

Mayor Valdes-Fauli: Focus on.

Mr. Kline: The same name on both signs.

Commissioner Mena: But we already voted on that, sir.

Mayor Valdes-Fauli: We voted on that.

Mr. Kline: I know you did.

Commissioner Mena: So, you're not going to take the opportunity to chime in on the actual aesthetic? You're just going to keep asserting your objection?

Mr. Kline: (INAUDIBLE).

Mayor Valdes-Fauli: Which we voted on the last time after a two-hour discussion.

Mr. Kline: I understand that, sir. But what I'm saying is...

Mayor Valdes-Fauli: But you're wasting your time. You're wasting your client's time.

Mr. Kline: Well, I could be wasting my time, but I'm trying to make a record. And the record I'm trying to make is that I would have standing to have been part of the settlement agreement...

Commissioner Mena: Understood.

Mr. Kline: That I'm appealing.

Commissioner Mena: But you have standing here today and you're here. And we're here on an appeal of the aesthetic of these signs. And I'd like for you to take the opportunity to actually chime in on the aesthetic of the signs. And you continue to create a record...

Mr. Kline: The only thing I can say about...

Commissioner Mena: I understand why you're creating a record...

Mayor Valdes-Fauli: You're creating a record because you're going to sue us.

Commissioner Mena: Right, but I'm giving you this opportunity and you're here. We're about to engage in a discussion about the aesthetic of the sign, should they be identical, should they be as current...

Vice Mayor Lago: And trust me, there's nothing more -- and I would love to have Cocoplum on both sides. I've had a long discussion...

Mayor Valdes-Fauli: But we approved that the last time, yeah.

Vice Mayor Lago: With the City Attorney on this.

Unidentified Speaker: Yeah.

Vice Mayor Lago: That ship has sailed.

Commissioner Mena: So, I'd like to get your input and your clients' input on what we're actually here to discuss, which is the aesthetic of these signs, other than the font because we already ruled on what the words will actually say.

Mr. Kline: Well, I think the only thing I can add to that -- I can't add anything to it. I can only say what my witnesses already said, that he believes the sign should be simple and uncluttered. The lettering should be the same, and they should not be obtrusive and he wants symmetry.

Vice Mayor Lago: Would you want...

Mr. Kline: And I don't know how you get symmetry...

Mayor Valdes-Fauli: At the last meeting, we voted to approve the wording on both signs.

Vice Mayor Lago: Would you prefer to see a crest or no crest?

Mr. Kline: No crest. Absolutely no crest.

Mayor Valdes-Fauli: Okay, but we approved that at the last Commission meeting.

Commissioner Mena: We did.

Vice Mayor Lago: No, but I'm saying...

Mayor Valdes-Fauli: Yeah.

Vice Mayor Lago: I mean, because, again, if you have Cocoplum and you have Islands of Cocoplum...

Mayor Valdes-Fauli: Okay, is that it, sir?

Vice Mayor Lago: Does the name of that...

City Attorney Ramos: I actually don't think...

Vice Mayor Lago: Community have a crest?

City Attorney Ramos: I actually don't think that the resolution includes the crest.

Vice Mayor Lago: Okay.

City Attorney Ramos: It just simply says one will say Cocoplum and one will say Islands.

Mayor Valdes-Fauli: Okay.

Commissioner Mena: Hmm?

Mayor Valdes-Fauli: Alright.

Commissioner Mena: Well, go ahead. Sorry.

Mayor Valdes-Fauli: No, no, go ahead.

Vice Mayor Lago: No, no.

Mr. Kline: This is one of the things that the attorney and I can -- City Attorney and I can agree on. It did not say anything about the crest.

Commissioner Mena: Fair enough.

Mayor Valdes-Fauli: Okay.

City Attorney Ramos: I just -- I'm sorry.

Mayor Valdes-Fauli: I would like to...

City Attorney Ramos: Because since everybody's laying a record here, I need to lay mine.

Commissioner Mena: Sure.

City Attorney Ramos: The applicant went to the Board of Architects and was rejected. The applicant, Cocoplum II, filed an appeal. At that time, the only party was the applicant and the City. A conflict resolution hearing or meeting was held in accordance with both the Board of Architects rules of procedure and the Zoning Code. That then agreement was sent to the Hearing Officer for ratification, again, in accordance with the rules. At that time, Cocoplum I filed their appeal and, in fact, became a party. They objected. Normally, the appeal to the City Commission

is not de novo and it is based on the record. But because of the procedural way that this happened, I explained and I issued an opinion to this effect that we would have a quasi-judicial hearing today, which we're having in order to ensure that Cocoplum II would have their due process rights preserved. And I just want to make sure that that's on the record that is the way that it happened and this is the way that we correct it.

Mayor Valdes-Fauli: Alright.

Vice Mayor Lago: Are you done, sir?

Mayor Valdes-Fauli: Are you done?

Mr. Kline: I have nothing more to add. I thank you...

Commissioner Mena: Okay.

Mr. Kline: For your patience.

Mayor Valdes-Fauli: Thank you, sir.

Mr. Kline: Thank you. And I'm going to give a copy of that binder to the...

Mayor Valdes-Fauli: Perfect. Thank you very much.

Mr. Kline: Clerk and make it part of the record.

Mayor Valdes-Fauli: And I'd like to call on three people that wish to speak. Do they have to be sworn in?

City Attorney Ramos: Yeah. I don't know...

Mayor Valdes-Fauli: Can we swear them in?

City Attorney Ramos: Who has and who hasn't, so we should just swear them all in.

Mayor Valdes-Fauli: David Serviansky, Ira Jacobson and Nestor Machado.

Commissioner Mena: They were all sworn in.

Commissioner Quesada: Yeah, they were sworn in.

Vice Mayor Lago: They were sworn in.

Commissioner Quesada: If you were previously sworn in, you don't have to be sworn in again.

Commissioner Mena: Yeah, they were sworn in.

Mayor Valdes-Fauli: Nestor, you're third, but go ahead.

Nestor Machado: My name...

Mayor Valdes-Fauli: You have two minutes. Go ahead.

Mr. Machado: My name is Nestor Machado. Actually, let me tell you. I bought the lot before all of you were here. I bought the lot from Crow, Pope & Carter. That was longer than 40 years ago. When Crow, Pope & Carter sold me the lot, and I built my house 40 years ago, I think it was over two years -- maybe 42, I bought my lot. At that time, it was Cocoplum period, okay. We didn't have any crests in the back or anything in the front or on the other side. It was only one side,

Cocoplum. Also, we have Cocoplum. We have Tahiti Beach and then they developed the marina. I belong to the marina and I belong to Cocoplum. Now, when these people start all over about the island, you know, I don't know -- there was no (INAUDIBLE) what we have there. The island itself, it was something new that they create in order to do something different. But from the beginning, Cocoplum was in one side and everybody knew where Cocoplum are without any problem. We got along very nice with the second phase for some many years since I've been there. I think it started maybe eight or ten years after they finished the first phase. And that's why I understand why they want to make a change in the crest, in the sign, change in this (INAUDIBLE) if we have the same place. We have the Cocoplum. Also, I understand that they want to make a gate between the Cocoplum Phase I and Cocoplum Phase II. We have only one Cocoplum.

Commissioner Mena: That's not happening anymore, sir.

Mr. Machado: Huh?

Vice Mayor Lago: That's not happening.

Commissioner Mena: That's no longer happening.

Vice Mayor Lago: That's no longer happening.

Mr. Machado: That's no longer happening? Well, I didn't know because I don't follow...

Commissioner Mena: That's okay. That's why I'm letting you...

Mr. Machado: And the good thing is -- I didn't know, you know, the things that were doing that. I know you're the attorney, but don't (INAUDIBLE) me now. I helped you do all of your campaigns (INAUDIBLE).

Mayor Valdes-Fauli: Nestor, you have limited time. Finish up, finish up.

Mr. Machado: Okay. That's what I wanted to explain to you all of these things because maybe you're not aware. I was longer here than all of you. I know Raul. Raul and me, we fight at the beginning when he was a Commissioner to get the gate at the front, okay, because we had two stupid people that didn't want to approve that, one older man and then another one. And then we finally got the approval to get the gate there. (INAUDIBLE) I think that we should keep Cocoplum the way that Cocoplum was. Even with the letter (INAUDIBLE) show you all the renderings and all that, that's fantastic. That's why they pay him, you know, and he have to do all this. But at the same time, nobody pay me anything and I am here just trying to keep everybody happy, having Cocoplum as Cocoplum like Gables Estate. Supposed that part of Gables Estate wanted to change to Islands of Gables Estate or East Gables Estate or Lower Gables Estate (INAUDIBLE).

Mayor Valdes-Fauli: Thank you.

Mr. Machado: (INAUDIBLE) put here maybe Cocoplum Estates, you know, or something better.

Vice Mayor Lago: Thank you.

Mayor Valdes-Fauli: Thank you, Nestor. Thank you very much.

Mr. Machado: Okay, thank you.

Mayor Valdes-Fauli: Thank you. David Serviansky. Two minutes, sir.

Unidentified Speaker: How are you, sir?

Unidentified Speaker: Hello.

Mayor Valdes-Fauli: Good afternoon.

David Serviansky: Thank you.

Mayor Valdes-Fauli: Or good morning still.

Mr. Serviansky: Thank you, Mayor and Commissioners. My name is David Serviansky. I am in Phase I of Cocoplum, 7920 Los Pinos Boulevard. And I'm not an expert in symmetry either, but I would like the signs to be symmetrical. And I would also like to point out that the wording being different serves no public purpose. It sets a precedent and it opens the door for, in the future, Tahiti Beach and the marina to want to be listed at the entrance. And -- would you let me finish, please?

Mr. Diaz de la Portilla: Respectfully, I need to object, sir. I need to object again. It's going beyond the scope and, you know, I know they're lay witnesses, so I've been very quiet there in the back, but I do need to object for the record. It's beyond the scope.

Mayor Valdes-Fauli: Thank you. Go ahead, sir.

Mr. Serviansky: Well, I thought this was about design and the words.

Mayor Valdes-Fauli: It is about design, yes.

Mr. Serviansky: Yes. And the words are part of your design. So -- and I do oppose the crest, just for the record. And one of the reasons that we are all here is because we were not included in the settlement meeting and therefore, the settlement agreement that was reached after the Board of Architects denied their proposal. So, that is not very neighborly, and I would just like to point out that there's something wrong with the system. Even though you may have all followed the rules, it was done in secrecy and it was done behind our backs. So, we have a problem with that. Thank you.

Mayor Valdes-Fauli: Thank you, sir. Thank you very much. Next is Ira Jacobson.

Ira Jacobson: Good morning, gentlemen and ladies. My name's Ira Jacobson, and I live at 299 Cocoplum Road. I bought the lot in '92, and I've lived there since 2000. I'd like to address two subjects here, one about the lettering. The lettering that says the island -- it's a subdivision of Cocoplum. If anything, the lettering should be smaller than the Cocoplum lettering because it's not -- the place isn't Islands. It's Cocoplum and this is a subdivision of Cocoplum. Okay, that being said, another thing that was discussed was the public purpose. Any argument that there's a public purpose served is totally without merit. Anybody coming into Cocoplum knows he's in Cocoplum. He doesn't have to know. If he has an address, he follows the address. He'll get there. If he comes in looking for a place and sees the sign the Islands of Cocoplum, he might be confused and say, gee, I don't know if it's the Islands of Cocoplum. My friend said he lives in Cocoplum. So, I think that purpose -- public purpose is totally without merit. I think it could serve a negative purpose and that part of the argument I think has no merit at all. That being said, the sign at the end of Cocoplum Road on the Phase I side of the bridge, therefore, is totally illegal. There's no purpose and that should be taken out or at least moved to Cocoplum II side of the bridge. I think the Commissioners, you all took an oath to follow the rules and the law, and the law, as it is, says it should not be on public property for a private, elitist use. I think we should all follow your oath when you got sworn in. Follow the law and make sure the sign is taken down or at least moved to the Phase II side. Okay, anything else, you're derelict in your duty. I think this is what you should do, with all due respect.

Mayor Valdes-Fauli: Thank you very...

Vice Mayor Lago: Thank you.

Mayor Valdes-Fauli: Much, sir.

Mr. Jacobson: Thank you.

Mayor Valdes-Fauli: Thank you. Alright, the public hearing is closed. Everybody has had an opportunity to be heard.

City Attorney Ramos: I failed to say one thing, Mayor, before when I was addressing the -- I failed to say earlier when I was addressing the process and the conflict resolution meeting that in addition, in an abundance of caution, yesterday morning we held an additional conflict resolution meeting. Both parties were in the room yesterday morning, including staff, and obviously, we didn't come to an agreement. So, again, that matter was cured once again.

Mayor Valdes-Fauli: Alright. Okay.

(COMMENTS MADE OFF THE RECORD)

Mayor Valdes-Fauli: Okay, thank you, sir.

Commissioner Mena: No, it's not.

Mayor Valdes-Fauli: No.

Commissioner Mena: No, it's not.

Mayor Valdes-Fauli: No, it isn't. Okay, Commissioner Lago. You wish to state...

Vice Mayor Lago: Yeah. Again, I -- my...

Mayor Valdes-Fauli: Please.

Vice Mayor Lago: My comments remain the same. You know, I've heard a few things today that I found very peculiar and that I found very disturbing. My opposition, my objectors, the way that people were being defined here. My opposition, my objectors -- I -- I've been here five years, five years. I've never heard anybody refer to somebody in this chamber as my opposition. It's incredible.

Commissioner Mena: Are you talking about the lawyers?

Vice Mayor Lago: No, no, no. Yeah, yeah, I know you're going to tell me, no, that's common. That's common...

Commissioner Mena: No. I'm asking (INAUDIBLE) from lawyers.

Vice Mayor Lago: Yeah, from the lawyers and -- but I've gotten it also from both phases, both phases of individuals. I mentioned it before. I understand what the intent is from Phase II. They want to differentiate themselves from Phase I. They believe that they foot the bill. They mentioned it constantly. We pay, we pay, we pay, we pay. Trust me, if Phase I could, they would have an HOA. Immediately, they would have an HOA. They're in a situation where they cannot do it. I've told them to get counsel. I've told them to hire lobbyists, go and speak to individuals in the state, try to figure out how they can come up with an HOA to resolve this issue. I am tired of dealing with Peter and with our Public Works director in regards to the lights. I get phone calls on a daily basis from Phase I on issues with lights, issues with irrigation. Am I wrong, Peter, please? There's nothing more that I want is for them to have an HOA, but they don't have that vehicle at the present moment.

Mayor Valdes-Fauli: Yeah, but let's focus on...

Vice Mayor Lago: No, no, I'm getting back -- I'm getting to that point. So, now we're -- am I also held to the same that I can't even have a con -- I can't mention things or am I allowed, as an elected official, to speak?

Mayor Valdes-Fauli: No, no.

City Attorney Ramos: You can speak.

Vice Mayor Lago: Yeah. I have...

Mayor Valdes-Fauli: (INAUDIBLE) whatever you want, but let's stick to the issue.

Vice Mayor Lago: No, but I have two years left. So, let me finish up here. I got two years left and then I'll sunset, just like Frank, don't worry. So, I'm going to take my two minutes here.

Mayor Valdes-Fauli: (INAUDIBLE).

Vice Mayor Lago: And if anybody's hungry, we'll order some pizza. It'll be on me, okay. So, I don't like where this is headed. I don't like where this has started. Opposition, one phase versus another. Listen, Cocoplum has always been Cocoplum. I don't care if you call it Cocoplum, Islands of Cocoplum, Tahiti Beach, the Yacht Club. It's Cocoplum. I don't care what you tell me, how many lawyers you bring up here. I lost -- I was on the losing side of the last vote, and I understand that. I'm not an attorney. I don't pretend to be an attorney. But I think the way that we treated people today -- and our City Attorney will disagree with me -- I just don't think it was correct. Cutting people off, objecting, you know. Guys, at the end of the day, we have to represent both sides here and we have to find a resolution. We're talking about lettering here. If it was up to me, Vice Mayor Quesada, I would have never voted to allow those monuments to stay there. They should have moved those monuments to the rear. Of course they don't want to do anything. They don't want to upgrade those monuments. They want to keep them there. That was a failure

on our part. We should have moved those monuments to the back. Knocked them down and moved them to the other side of the bridge.

Mayor Valdes-Fauli: I refuse for you to categorize the decision of this Commission as a failure. Yes, it was in disagreement with...

Vice Mayor Lago: It was...

Mayor Valdes-Fauli: It was in disagreement with you, but I think it's disrespectful for you to categorize it as a failure.

Vice Mayor Lago: Mayor, I'm entitled to my opinion.

Mayor Valdes-Fauli: Of course.

Vice Mayor Lago: I'm entitled to my opinion, and it's a failure, okay. And I'm not going to let you tell me that my opinion is -- I'm not entitled.

Mayor Valdes-Fauli: No. And your opinion is a failure then too.

Vice Mayor Lago: That's fine, perfectly fine. But what we're doing today is now we're deciding on the sizes of letters and whether it should be Cocoplum, Islands of Cocoplum, you know, and (INAUDIBLE) should not have a coat of arms. This is ridiculous.

Commissioner Mena: It is.

Vice Mayor Lago: I mean, this is absolutely ridiculous.

Commissioner Mena: I agree.

Vice Mayor Lago: Call it Cocoplum. I've already lost that battle. Call it Islands of Cocoplum on one side. Remove the coat of arms. Have it the same size lettering. Put a refresh in regards to the coquina stone and move on. That's what I would do.

Mayor Valdes-Fauli: Thank you.

Vice Mayor Lago: Because...

Mayor Valdes-Fauli: Vice Mayor. I'm sorry.

Vice Mayor Lago: Because we're not going to find a resolution here. We're going to keep going back and forth and there's not going to be -- and that's why I propose to Phase I so that we can avoid having to go and now litigate this issue.

Commissioner Mena: But -- yeah.

Vice Mayor Lago: Because I think that Phase I should at least proffer that if we remove the coat of arms, that maybe that would appease them. I know it doesn't make you 100 percent happy, but we have to find some common ground and I don't think that we, as a City -- I don't want to be in litigation with any resident here.

Mayor Valdes-Fauli: Vice Mayor.

Commissioner Quesada: You know, I agree with that. I mean, everything...

Vice Mayor Lago: No, hold on a minute. Hold on, then you're a failure too.

Commissioner Quesada: Everything...

Mayor Valdes-Fauli: Come on. Grow up.

Commissioner Quesada: Obviously, from what I'm seeing is you're laying a record for a lawsuit...

Mayor Valdes-Fauli: (INAUDIBLE).

Commissioner Quesada: For another proceeding after this. And is there any way that what Vice Mayor Lago just said would obviate the need for that, other than removing -- if the coat of arms is removed, Islands of Cocoplum, is that -- you probably can't speak for your client at this point because you have to sit down with them and discuss it.

Commissioner Mena: No, but they -- yeah, go ahead.

Commissioner Quesada: If there's a way to get there, to the point that there isn't a lawsuit moving forward because there could be additional expense for Phase I, additional expense for Phase II and additional grief for everyone involved if we can bring people together on that. And if it takes a ten-minute recess for y'all to discuss and come back and you have some time to think about it, but maybe if it's going to get to a point that, you know, Phase I would be willing to walk away from that, then, yeah, I'd be in agreement, say Islands of Cocoplum and remove that seal. Something I did notice -- let us finish and then we'll give you...

(COMMENTS MADE OFF THE RECORD)

Commissioner Quesada: No. I want you to think about it because I think you need to speak to, you know, to your clients. As I was looking at the handout that we got from the Board of Architects, you can't really tell -- I mean, you look at the blowup that was given to us by Phase II. The font looks a little different. I don't know if it's because one is computer imposed and the other is actually real or not. That's probably what it is. If they're different, I think they should be exactly

the same. The one on the front, electronically imposed, is nicer. But I guess I'm just assuming that -- you're nodding yes tells me that's exactly what it is. That's where I'm at on it. If we can avoid a future dispute on this so that this neighborhood can come together, then I'm going to be all in favor of that. Otherwise, I'm with -- I am against the reversal of what the Board of Architects did. And again, what Vice Mayor Lago brings up is a great point.

Vice Mayor Lago: Thank you, sir.

Commissioner Quesada: You're welcome.

Vice Mayor Lago: I knew we'd see eye to eye on the...

Mayor Valdes-Fauli: Commissioner Mena.

Vice Mayor Lago: Last meeting.

Commissioner Mena: And I don't have...

Commissioner Quesada: We still got other (INAUDIBLE) don't worry.

Commissioner Mena: And I don't have a problem with that and I'd like to hear from Mr. Kline in a moment about, you know, if he'd like to address that. I do want to say, respectfully, because you said I think the way we treated people here was not appropriate and I need to respond to that.

Vice Mayor Lago: Of course.

Mayor Valdes-Fauli: Of course.

Commissioner Mena: So, I didn't say -- all the witnesses and the private residents who came up, I gave them their time. I actually asked Mr. Diaz de la Portilla not even to object when they were testifying. Mr. Kline is a lawyer. Mr. Diaz de la Portilla is a lawyer. Mr. Kline understands that people object in the middle of a presentation and there are parameters as to what you can and can't get into, and he was trying to lay a record for his client and I respect that and I appreciate that. My and our addressing the scope of what he was getting into, I think, is perfectly normal within the context of a hearing of this nature, so it wasn't intended as any disrespect towards him. I wasn't trying to treat him improperly. I don't think he -- I hope he didn't take it that way, and I think, given his level of experience as an attorney, he probably didn't, so it's nothing personal on that level. I think, you know, again, I think we agree that a lot of this...

Vice Mayor Lago: Can I respond to you (INAUDIBLE)?

Commissioner Mena: Yeah, go ahead.

Vice Mayor Lago: First off, I never said you didn't because I know you have the utmost respect for the residents and the business community. So, I never said you. I said we.

Commissioner Mena: For sure.

Vice Mayor Lago: What I would have liked to have seen was -- which we have a very capable and astute attorney on both sides. I've dealt with Mr. Miguel Diaz de la Portilla as senator. He's a gentleman. What I would have liked to see is I would have liked to have seen -- and again, I'm not an attorney, but I would like to have seen is a more subdued response from everyone, you know, even from our own team. I would have liked if people just finished and said, listen, just for the record, what this person put on the record is not appropriate because it deviates from today's discussion. So -- and I know what Mr. Kline was doing. Again, at the end of the day, he's trying to build a record.

Commissioner Mena: Right.

Vice Mayor Lago: But he has an intention after it, and I've heard those rumors from multiple people. And -- so I never said you, please.

Commissioner Mena: No, no, no.

Mayor Valdes-Fauli: But I think...

Commissioner Mena: And I'm not implying you did. But I admit I was...

Mayor Valdes-Fauli: I don't think that we...

Commissioner Mena: Chiming in on...

Mayor Valdes-Fauli: Treated anybody disrespectfully. I agree with you. And attorneys object in the middle of presentations because, you know, when they object I think that that was perfectly proper in the context of a quasi-judicial hearing.

Commissioner Mena: The other thing that -- the other part of this, though, that I -- you know, I also think there needs to be some level of like personal responsibility here. I would love nothing more for them to all agree on this. You know, I'm not dividing this community.

Vice Mayor Lago: No, I agree.

Commissioner Mena: You know, they're here because they can't agree.

Vice Mayor Lago: By the way, it's not you; it's we.

Commissioner Mena: They had...

Vice Mayor Lago: No, we.

Commissioner Mena: Right, right. So, they had a meeting as recently as -- I'm sorry, when was it?

City Attorney Ramos: Yesterday morning.

Commissioner Mena: Yesterday, where they all understood that we made a decision last time that one sign was going to say X and one sign was going to say Y. In fact, they asked us to reconsider that decision, so they were very clear on what that decision was. They -- I wish yesterday they would have come up with, okay, assuming this Commission is going to stand by its decision, here's what we'd like to see on the aesthetic part of this.

Vice Mayor Lago: They decided...

Commissioner Mena: They couldn't agree.

Vice Mayor Lago: They decided to lay the groundwork for a potential...

Commissioner Mena: Sure. So, here we are. You know, I wish you all could have agreed on the aesthetic and said this is what we want the sign to look like and -- but that didn't happen for whatever reason and that's out of my control, unfortunately. And so, here we are.

Mayor Valdes-Fauli: It is out of our control. We're discussing the aesthetics and the design of the sign, which was approved by the Board of Architects. This is an appeal. And I think that we have treated everybody with utmost respect. Within a quasi-judicial hearing, attorneys do object, and you know, we've seen it in court. Those of us that haven't been in court, you've seen it on

television. I've been in court. And people object, attorneys object. And I think we've treated everybody respectfully. We gave each side 20 minutes to present their case and the thing is that the issue before us is design and aesthetics. We approved -- the last time, we approved the sign at the entrance. We disapproved the bridge features that they wanted -- that Cocoplum wanted. And the issue before us is do we affirm the ruling of the Board of Architects or do we not affirm it. If we ask them to meet they're not going to meet for 20 minutes or 15 minutes because I'm sure Mr. Diaz de la Portilla has to go back and consult with his neighborhood association and they do have a neighborhood association. So, this would be deferred until the first meeting in May and...

Commissioner Mena: I don't think it's appropriate to defer this.

Mayor Valdes-Fauli: It is not appropriate. I agree with you. And it is impossible to defer it.

Commissioner Mena: Yeah.

Mayor Valdes-Fauli: I will entertain a motion at this point to affirm the Board of Architects or to reverse the Board of Architects.

City Attorney Ramos: So, two points. If you're going to reverse, then we need direction on what the design should look like. But I do think that, you know, maybe I'm the eternal optimist. I've made many attempts at being a mediator on this issue and trying to get a resolution, particularly after last meeting when the Commission spoke. We were only talking about design. I was unsuccessful. But maybe now, today, if we give them until -- you know, in an hour, maybe they can work something out and that would be...

Mayor Valdes-Fauli: You can't...

City Attorney Ramos: In everyone's benefit.

Vice Mayor Lago: I'll make a motion.

City Attorney Ramos: I'm sure he can reach his client on the phone.

Vice Mayor Lago: I'll make a motion to reverse -- removal of the crest. Both signs will be the same size with the same font.

Commissioner Mena: Is there...

Vice Mayor Lago: And the same, I guess, materials, backing...

Commissioner Quesada: Everything else...

Vice Mayor Lago: The same materials.

Commissioner Quesada: The same.

Mayor Valdes-Fauli: Is there a second to that motion?

Commissioner Quesada: The thing, though -- hold on. Let me just understand your motion.

Vice Mayor Lago: Yes, sir.

Commissioner Quesada: You said earlier you'd be willing to do that if they gave a commitment not to have any -- pursue any legal proceedings.

Vice Mayor Lago: Well, that's a good point. Do we need a five-minute recess so that the attorneys can...

City Attorney Ramos: That's what I'm saying. I think they need to speak.

Mayor Valdes-Fauli: Okay.

Vice Mayor Lago: They can have a discussion for ten minutes.

Mayor Valdes-Fauli: Okay. We can have a -- we'll take this up in five minutes, and we'll take some other issues at this point. If you want to confer outside of the room.

Commissioner Quesada: I think both sides should actually confer with their clients if they're willing and able.

Mayor Valdes-Fauli: Alright.

(BREAK IN AUDIO)

City Attorney Ramos: I've been told by the parties that they've reached an agreement. They are not willing to release their litigation, but they do agree on design.

Unidentified Speaker: Thank you.

Mayor Valdes-Fauli: I'm sorry, what? Say it again.

City Attorney Ramos: I'm being told by the parties that they've reached an agreement as to design.

Unidentified Speaker: Thank you.

City Attorney Ramos: But that they are not -- and I won't put words in Mr. Kline's mouth -- but they're not willing to release the City and the other party from litigation.

Vice Mayor Lago: So, attorneys, take over.

City Attorney Ramos: (INAUDIBLE)

Vice Mayor Lago: What does that mean?

Commissioner Mena: So, what's the agreement?

Commissioner Quesada: That means that they're not...

Vice Mayor Lago: Yeah, I know.

Commissioner Mena: What's the agreement?

Unidentified Speaker: Yeah.

Commissioner Quesada: There is no agreement.

Mr. Diaz de la Portilla: No. What -- there is on the issue of design, which is the matter that is before you today...

Unidentified Speaker: Yes.

Mr. Diaz de la Portilla: As far as the design. So, the agreement on the design and Mr. Kline is here -- make sure I state it correctly -- is to flip the signs in terms of the sign that would say Islands of Cocoplum would be on the north entrance and the one that would say Cocoplum would be on the south entrance, as opposed to how it's being shown there. We have no objection to that, to switching the location of the signs.

Commissioner Quesada: Okay.

Vice Mayor Lago: Does it include the crest?

Mr. Diaz de la Portilla: The second part is we are willing to remove the crest so that the only thing you have is the words “Islands of Cocoplum” now on the monument to the north of Cartagena Circle and Cocoplum to -- and the monument to the south and no crest. And the font would be the same font.

Mayor Valdes-Fauli: Okay.

Mr. Diaz de la Portilla: Material would be the same material. And my understanding is, from Mr. Kline, that regarding his challenge of two weeks ago on the encroachment or what have you, they're not releasing that. We're just talking about the design issues and the appeal that is before you today, correct?

Mr. Kline: I think you said it correctly, but I don't hear real well, Miguel. So, I'm going to say it the way I understand it. We don't have here today a quorum of the directors of the homeowners' association, so I can't act and we can't make a decision for the civic association.

Commissioner Quesada: You aren't able to get them on the phone?

Mr. Kline: No, we were not.

Commissioner Quesada: Okay, so, look, I'll tell you this...

Mayor Valdes-Fauli: Okay.

Commissioner Quesada: If you're reserving your rights to sue, then I am not -- then my motion is going to be to deny the appeal.

Mayor Valdes-Fauli: (INAUDIBLE) to deny.

Commissioner Quesada: Because, I mean, the whole point was to try to resolve this amicably. If you're holding on to the litigation aspect of it, that's what we were trying to...

Commissioner Mena: How'd you get their approval for the other items?

Mr. Kline: Well, the other four clients who are directly involved here, the two on each side of the bridge, the two on each side of the entrance, we haven't been able to speak to them. So, I can't act for them either on this. All I can say is that there were a number of people who stood up -- I'm going to ask them to stand up. Mr. Serviansky, Mr. Jacobson, and I think (INAUDIBLE). Yeah, they were willing, I think, to withdraw their objections to the aesthetics, but not to the right -- they can't bind the rest of the homeowners' association or those four people to take an appeal challenging the encroachment issue.

Mayor Valdes-Fauli: Okay. Commissioner -- Vice Mayor, make a motion.

Commissioner Quesada: You know, I'd like to hear the others because, on one side, you guys are agreeing. I mean, they're agreeing to it. But at the second time, you know -- and it's...

Commissioner Mena: We're going to be sued.

Commissioner Mena: I'm going to be honest with you. If you were saying that you couldn't agree, right, there was no agreement, I would support denying the appeal. But you're saying you agree, so I don't want to...

Mr. Diaz de la Portilla: No.

Commissioner Mena: You guys have actually reached some consensus on some of the issues.

Mr. Diaz de la Portilla: Yeah.

Commissioner Mena: I'm not trying to...

Mr. Diaz de la Portilla: If I may, to make it clear. We agreed on the design issue and we conceded a couple of points.

Commissioner Quesada: Yeah.

Mr. Diaz de la Portilla: The shield and the location.

Vice Mayor Lago: Everybody here...

Commissioner Quesada: The whole idea was to avoid litigation...

Mr. Diaz de la Portilla: Right.

Commissioner Quesada: So everyone could move past this.

Mr. Diaz de la Portilla: And we don't have -- threatened litigation against the City. That's, you know, for Mr. Kline and his client to make that, and he just said he will not do that.

Commissioner Quesada: Yeah.

Vice Mayor Lago: And I think everybody here will disagree...

City Attorney Ramos: I just -- I need to...

Vice Mayor Lago: If we...

City Attorney Ramos: Chime in because I'm reading Commissioner Quesada's mind.

Commissioner Quesada: After Commissioner Lago speaks.

City Attorney Ramos: Go ahead, Vice Mayor.

Vice Mayor Lago: Appreciate that, man. God, I -- are you sure you want to leave?

Commissioner Quesada: (INAUDIBLE).

Vice Mayor Lago: You can do this for another four years if you want. I mean...

Mayor Valdes-Fauli: He knows I'll interrupt, so...

Vice Mayor Lago: I think everybody here -- listen, let's come to an agreement. Let's come to an agreement. Everybody's going to walk away not having achieved everything they wanted. But I think the good thing to do here today is let's start building community. Let's stop with these threats of litigation. Let's move forward. I think we're in a good place. Phase I has shown a gesture. We're moving in a positive direction. I'll ask Phase I to come to the table and let's stop this back and forth about litigation, please.

(COMMENTS MADE OFF THE RECORD)

Vice Mayor Lago: Okay.

(COMMENTS MADE OFF THE RECORD)

Commissioner Mena: We already voted on that.

Vice Mayor Lago: We voted on that. We lost that one, so that's it.

Mayor Valdes-Fauli: We voted on that.

City Attorney Ramos: So, here's my concern. I have been told numerous times that we're going to litigation. So, if the idea is for this agreement to avoid that, for us to move forward for the communities to work together, let's give them more time and let's come back at 3 o'clock.

Vice Mayor Lago: Two o'clock, we have an hour.

City Attorney Ramos: They can call their association. Let them call their clients. Because otherwise, I don't think we're building any consensus. I think we're making it worse because we're going to be in court in two weeks.

Commissioner Quesada: I agree.

Vice Mayor Lago: So, we come back in one hour when we have our -- well, Vice Mayor, take -- let's go.

Commissioner Quesada: The City Attorney's recommending we give them another...

Vice Mayor Lago: Hour.

Commissioner Quesada: We give them five minutes before...

Mayor Valdes-Fauli: Okay.

Commissioner Quesada: Before we start at 2 o'clock.

Mayor Valdes-Fauli: I will cut you off at 2. Let's meet at quarter to 2. We have Miracle Mile issues coming on at 2, so if you cannot do something by 2, fifteen minutes, then you know, you're out of here. Okay, is that fair enough?

Commissioner Quesada: Yep.

Mayor Valdes-Fauli: Alright. We will take a break until a quarter 'til 2.

(BREAK IN AUDIO)

Mayor Valdes-Fauli: We have a quorum, so we'll start on our agenda items. At 2 o'clock, I will take it, at 2 o'clock sharp. That's I-4. Yeah, I-4. Alright, counsel. Any news?

Mr. Diaz de la Portilla: Mr. Mayor, Commissioners, City Attorney. As you last heard, the Islands of Cocoplum is willing to agree to flip the location of the signs from the Islands of Cocoplum currently being proposed to be on the south side to the north side and the Cocoplum sign currently placed on the north side, flip it to the south side. The Islands of Cocoplum is also willing to drop the shield. That's where the agreement stops because -- and Mr. Kline can speak for himself and for his client. Mr. Kline cannot agree to drop any threatened litigation against the City or against us, notwithstanding our concessions on these things at the direction of the -- or suggestion of the City Commission.

Mr. Kline: It's not me that gets to drop anything. It's my client. I can't reach any of the four property owners by the bridge or the two by the circle. And my civic association client doesn't

have a quorum here. And we did come with settlement authority, but it does not include the settlement as proposed.

Mayor Valdes-Fauli: What is the pleasure of the Commission? Vice Mayor Quesada?

Commissioner Quesada: When everyone has a chance to speak, I want to move to affirm the findings of the Board of Architects.

Mayor Valdes-Fauli: Is there a second?

Vice Mayor Lago: (INAUDIBLE)

Commissioner Quesada: Nothing's changed.

Mayor Valdes-Fauli: They don't want to drop the litigation. So, you made a motion. I second the motion.

City Clerk Urquia: Commissioner Lago?

Commissioner Mena: What do you think?

Vice Mayor Lago: Second for discussion, right?

Commissioner Quesada: Yeah, fine.

Mayor Valdes-Fauli: Brief discussion.

Vice Mayor Lago: (INAUDIBLE) back to what you said before.

(COMMENTS MADE OFF THE RECORD)

Commissioner Quesada: I know but we could accept this and still get sued. It doesn't go away.

Mayor Valdes-Fauli: Okay. Commissioner Mena.

Vice Mayor Lago: (INAUDIBLE)

Commissioner Quesada: I don't like it either.

Mr. Kline: Well, you know there are two things that...

Commissioner Mena: I'm going to be frank.

Commissioner Quesada: Can I still be Frank?

Vice Mayor Lago: Yeah. You can be frank, too.

Commissioner Mena: I'm a little frustrated, frankly, and I'm just starting to question...

Mayor Valdes-Fauli: What's this?

Commissioner Mena: Kind of the good faith here...

Mayor Valdes-Fauli: Thank you.

Commissioner Mena: On the side of your client. When you came in before, you said you had spoken to the four homeowners, but you can't get the people from the civic association and...

Mr. Kline: No, no.

Commissioner Mena: But regardless, now I feel like you should be able to get ahold of them in two hours. You haven't been able to get ahold of anybody?

Mr. Kline: I have not been able to get ahold of any of those four people. And the only people I've been able to speak to are the people who are here. Most of the folks are on spring break and they're in Colorado or Europe or some other place, so it's pretty hard.

Mayor Valdes-Fauli: Okay.

Mr. Kline: We came with an offer yesterday -- or not yesterday. I guess it was the last time we met Monday -- it was yesterday -- and it didn't work. And I don't have the authority to do what the HOA wants done. It's possible that we can work on this some more and maybe eventually we could reach an agreement, but I think right here today I can't give up somebody's right to sue. I'd be misleading you because I don't...

Commissioner Quesada: I understand.

Mr. Kline: You know.

Commissioner Quesada: I understand.

Commissioner Mena: No, I understand. You can't say...

Mr. Kline: I don't want to mislead you. I don't want to mislead...

Mayor Valdes-Fauli: The motion has been made and seconded.

Commissioner Mena: But again, to be clear...

Mayor Valdes-Fauli: Do you have anything else to say, Commissioner Mena?

Commissioner Mena: You guys all agreed to this. You guys agreed to this.

Mr. Diaz de la Portilla: Yes.

Commissioner Mena: Your client agrees to this.

Mr. Diaz de la Portilla: Yes, we do. Absolutely.

Vice Mayor Lago: So, we're moving...

Commissioner Mena: That's the part that's...

Mayor Valdes-Fauli: Okay. Will you call...

Vice Mayor Lago: If we move -- if you move...

Commissioner Mena: If we...

Vice Mayor Lago: Forward, we're not...

Commissioner Quesada: What if the motion -- what if the motion...

Unidentified Speaker: Well, yeah.

Commissioner Quesada: Say it's going to affirm unless we get, I don't know, some sort of affirmation from a quorum from Phase I within 24 hours...

Mayor Valdes-Fauli: That they will drop the litigation.

Commissioner Quesada: Correct.

Mayor Valdes-Fauli: Okay.

Commissioner Quesada: And they get 24 hours to reach people all over the world.

Mayor Valdes-Fauli: So, the motion is to affirm the decision of the Board of Architects and if there's a motion to -- I mean, if there's a decision communicated by Mr. Kline, an agreement with Mr. Kline to drop the litigation, then we will affirm or adopt the solution that you guys have proposed and, you know, that's it.

Commissioner Quesada: Yes. Just to be clear, the communication has to be to our City Attorney prior to close of business tomorrow.

City Attorney Ramos: So, what I'm understanding...

Commissioner Mena: Share your concerns with that, please.

Unidentified Speaker: Okay.

City Attorney Ramos: Well, the issue and concern is that it's going to fall apart in the next 24 hours. I think the only way that we can...

Commissioner Mena: I think what...

City Attorney Ramos: And the devil's in the details is the problem with this. So, when we start to draft the language about releasing parties, it's going to fall apart and we have no more Commission meeting until May with a different Commission that has not been a part of this very lengthy process. So, that's my concern.

Commissioner Mena: No. We're going to leave here with -- I want to leave with some finality to this. I agree with you.

City Attorney Ramos: Correct. So, you have...

Commissioner Mena: I think -- I understood what he said as either we're approving -- or excuse me, denying the appeal, right?

Mayor Valdes-Fauli: We're affirming...

Commissioner Mena: Affirming the Board of Architects ruling.

City Attorney Ramos: Affirming the -- no, affirming the settlement agreement...

Commissioner Mena: Oh.

City Attorney Ramos: That was ratified. No, no, not -- not with the one today.

Commissioner Mena: Right.

City Attorney Ramos: What was appealed to you was a settlement agreement.

Commissioner Mena: Correct.

City Attorney Ramos: You will be ratifying the settlement agreement...

Commissioner Mena: Right, the (INAUDIBLE).

City Attorney Ramos: And denying the appeal, one.

Commissioner Quesada: Correct.

City Attorney Ramos: Or approving the appeal or -- I don't know what the word is. And...

Mayor Valdes-Fauli: What is the -- say again what the settlement agreement says.

City Attorney Ramos: The settlement agreement is the pictures that you have in front of you, where the signs are slightly different. They're in that same position the way they are there. So, you're either ratifying that and granting the appeal...

Unidentified Speaker: No.

City Attorney Ramos: You're ratifying that and denying the appeal.

Unidentified Speaker: (INAUDIBLE) Board of Architects.

City Attorney Ramos: Affirming the conflict resolution...

Commissioner Mena: Settlement agreement.

City Attorney Ramos: Settlement agreement.

Commissioner Quesada: Okay.

City Attorney Ramos: Okay. Or you can not affirm it and impose your own terms...

Commissioner Quesada: Okay.

City Attorney Ramos: Or you can ratify an agreement that's (INAUDIBLE) the two parties, but that at this point does not include any release language. Those are kind of the three options on the table.

Commissioner Quesada: Why can't I make a motion to affirm or to approve their agreement of today if they get a quorum affirmation of accepting it delivered to you by 2 o'clock tomorrow?

City Attorney Ramos: What I'm hearing from Mr. Kline is that the -- they have some authority to settle the design part, which has been drafted. What they don't have authority for is the releases.

Commissioner Quesada: Got it.

City Attorney Ramos: So, it would have to be that they would -- in 24 hours -- get authority...

Commissioner Quesada: Correct.

City Attorney Ramos: To enter into a release...

Commissioner Quesada: Correct.

City Attorney Ramos: Releasing the City. But let me be clear on the record because...

Commissioner Quesada: Yes.

City Attorney Ramos: It's going to be a problem. Releasing the City...

Commissioner Quesada: Yes.

City Attorney Ramos: And releasing Cocoplum II from any lawsuit relating to the Board of Architects appeal and to the resolution that was entered into at the March 12 meeting approving the encroachment agreement.

Mayor Valdes-Fauli: Right.

Commissioner Quesada: Okay, hold on, hold on. That's my motion. That's my motion. Confirming -- what's the last thing you just said?

City Attorney Ramos: In the alternative. Affirming or in the alternative.

Commissioner Quesada: By 2 pm tomorrow, communicate it to you.

Mayor Valdes-Fauli: Okay.

Commissioner Quesada: (INAUDIBLE) to you through email or handwritten or whatever. However, I want to add to that Phase II's got to release everyone else as well. I don't want...

Mayor Valdes-Fauli: Yeah.

Commissioner Quesada: I know you have...

Mr. Diaz de la Portilla: We're not threatening...

Commissioner Quesada: I'm just trying -- I want everyone to move past it.

City Attorney Ramos: So, if by 2 pm I don't hear from anyone, then...

Commissioner Quesada: Then it's affirmed (INAUDIBLE).

City Attorney Ramos: The settlement agreement is what it is.

Mayor Valdes-Fauli: Then it's affirmed.

City Attorney Ramos: The previous settlement agreement.

Mayor Valdes-Fauli: Okay. Will you call the roll, please?

Commissioner Mena: Wait, wait. (INAUDIBLE)

Commissioner Quesada: Commissioner Keon, welcome.

Mr. Diaz de la Portilla: Rephrasing just to make sure that I understand the motion is to affirm the settlement agreement, deny the appeal of the settlement agreement, which is what is before you today.

Commissioner Quesada: Correct.

Mr. Diaz de la Portilla: But if within 24 hours or by 2 pm tomorrow...

Commissioner Quesada: Correct.

Mr. Diaz de la Portilla: The folks from the civic association communicate to you that they are releasing the City and the homeowners' association from any litigation, that then...

Commissioner Quesada: Or any dispute (INAUDIBLE)...

Mr. Diaz de la Portilla: Or any dispute, right, and to that extent, we would execute a mutual release so that there isn't any...

Commissioner Quesada: Yes.

Mr. Diaz de la Portilla: Litigation between...

Commissioner Quesada: Correct.

Mr. Diaz de la Portilla: The parties, then the agreement will become the flipping of the signs...

Commissioner Mena: Yes.

Mr. Diaz de la Portilla: The no shield, right, meaning what is left would now go to the right; what is right will go to the left, meaning on the north side, it will say Islands of Cocoplum. On the south side, it will say Cocoplum, right. And...

Vice Mayor Lago: The same font, the same font size, same color.

Mr. Diaz de la Portilla: The same font size, meaning height of the font...

Vice Mayor Lago: Yes.

Mr. Diaz de la Portilla: And style of the font...

Vice Mayor Lago: Style.

Mr. Diaz de la Portilla: The same materials.

Vice Mayor Lago: Don't give me -- don't do like Arial versus, you know...

Mr. Diaz de la Portilla: No, no. The same materials, the same font style...

Commissioner Quesada: Comic Sans.

Mr. Diaz de la Portilla: The same font size and the covering, as you see with the...

Mayor Valdes-Fauli: Okay.

Mr. Diaz de la Portilla: Oolite stone, yes.

Mayor Valdes-Fauli: Can you call the roll, please?

Commissioner Mena: Do you have any...

(COMMENTS MADE OFF THE RECORD)

Mayor Valdes-Fauli: Oh, come on.

Commissioner Mena: Any questions or concerns on that?

Mr. Kline: Commissioner Mena, all I can say is it's very unlikely I will have been able to contact all of the clients.

Mayor Valdes-Fauli: Okay, then it will be affirmed. Will you call the roll, please?

City Clerk Urquia: Commissioner Keon?

Commissioner Keon: I wasn't here for...

Mayor Valdes-Fauli: No.

Commissioner Keon: I just got here.

City Attorney Ramos: She just walked in.

Vice Mayor Lago: Yes.

Commissioner Mena: Yes.

Commissioner Quesada: Yes.

Mayor Valdes-Fauli: Yes.

(Vote: 4-0)

Mayor Valdes-Fauli: Commissioner Keon pleads ignorance.

Commissioner Keon: Pardon me?

Vice Mayor Lago: Back pain.

Commissioner Quesada: Thank you.

Vice Mayor Lago: She pleads back pain.

Mr. Diaz de la Portilla: Have a great (INAUDIBLE).

Mayor Valdes-Fauli: Thank you.