

City of Coral Gables City Commission Meeting
Agenda Item E-3
June 11, 2024
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Vince Lago

Vice Mayor Rhonda Anderson

Commissioner Melissa Castro

Commissioner Ariel Fernandez

Commissioner Kirk Menendez

City Staff

City Attorney, Cristina Suárez

City Manager, Amos Rojas, Jr.

City Clerk, Billy Urquia

Deputy City Attorney, Stephanie Throckmorton

Public Speaker(s)

Agenda Item E-3 [10:10 a.m.]

An Ordinance of the City Commission amending the Code of the City of Coral Gables, Florida, Chapter 2, entitled “Administration,” Article III “Boards, Commissions, Committees,” Division 3 “Trial Board” by creating Section 2-124 “Procedures” and amending Chapter 2 entitled “Administration,” Article IV “Officers and Employees” by creating Section 2-255 “Employee Protection” in order to provide for an administrative procedure for handling complaints made in accordance with the Florida Whistle-Blower’s Act, F.S. 112.3187; providing for a repealer provision, severability clause, codification and providing for an effective date. (Sponsored by Commissioner Menendez, Co-Sponsored by Vice Mayor Anderson, Co-Sponsored by Commissioner Fernandez)

Mayor Lago: Moving onto item E-3.

City Attorney Suarez: E-3 is an Ordinance of the City Commission amending the Code of the City of Coral Gables, Florida, Chapter 2, entitled “Administration,” Article III “Boards, Commissions,

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Committees,” Division 3 “Trial Board” by creating Section 2-124 “Procedures” and amending Chapter 2 entitled “Administration,” Article IV “Officers and Employees” by creating Section 2-255 “Employee Protection” in order to provide for an administrative procedure for handling complaints made in accordance with the Florida Whistle-Blower’s Act, F.S. 112.3187; providing for a repealer provision, severability clause, codification and providing for an effective date. The Deputy City Attorney can present the item.

Mayor Lago: If I may, just one second. I see there’s a bunch of people co-sponsoring this. Commissioner Menendez was the original sponsor of this item. What I would like to do, if possible, through his acknowledgment is take into consideration the points that are potentially missing from this legislation and amend the comments that were made from the previous speaker who I asked to put on the record and to see if the sponsor will allow that to be included into.

Deputy City Attorney Throckmorton: I’m happy to address those points one by one. Let me just grab my notes where I wrote them down.

Commissioner Menendez: We received the email with the details a moment ago, I believe from...

Mayor Lago: No, I know that. But the issue was that they weren’t included in the legislation.

Commissioner Menendez: They should be.

Deputy City Attorney Throckmorton: So, a few of them will be addressed in an ordinance on first reading, I think may be addressed in that, so we can get to that then. But generally, that the rules of procedure just to be clear, the wedge change that was made from first reading now provides that the rules of procedure shall include the option of mediation or arbitration prior to a full hearing of the Trial Board with costs to be shared by all parties. That’s the new language that was added since first reading. This addition to the code provides that the Trial Board shall have the power to adopt rules of procedure pertaining to matters brought before it as the Trial Board and as the Employee Protection Act Board or that version of the Trial Board. So that is a new addition to the code. So, to the extent that that addresses Ms. Keller’s concern about the ability of the board and the requirement of the board to adopt rules of procedure, I believe that’s addressed here. The board has previously adopted rules of procedure. It was just part of getting going of the board, which as she mentioned and has been brought up before is not generally convened all the time. It’s not set all the time. The ordinance we have coming on first reading, I think will help address that issue by setting term dates and we can talk about it then or now, but there’s that item. The other thing about training of employees. We discussed with the Manager’s office and with HR the ability to train, not only on these employee protection items, but perhaps on the Trial Board generally and we can certainly work with the Manager’s office and HR staff to make sure that employees are up to date on their rights and protections. We already have extensive training annually on staff on disclosures, etc., but to the extent we want specific to the Trial Board, we can certainly look at working on that. And then as far as the communication with the board and elected officials, as we mentioned previously, the Trial Board is a quasi-judicial board, so to the extent that there’s ex-parte communications to be avoided, decisions should be only made on the record presented before

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them. That would apply to the Trial Board just the same. There's not a Sunshine Law violation issue there. They are different boards between elected officials and the Trial Board, but certainly just like all our quasi-judicial boards, we expect them to avoid ex-parte communications and make their decisions solely based on the record. So, the ordinance that will be coming on first reading whenever we get to it today, will address the terms and I think the sort of general, making sure the board is always in place, but the rules of procedure and those other issues to the extent you feel they are addressed, Commissioner Menendez, I think they are touched upon this ordinance and the other.

Commissioner Menendez: In my discussions with the City Attorney and obviously the Deputy City Attorney and staff, and I actually had the opportunity to speak with Jessica Keller prior a couple of weeks ago regarding this matter and listening to her concerns. I am of the opinion the sooner we can assemble a Trial Board so that they can meet and focus on what the rules of procedures are or should be, I think that's helpful instead of everything happening all at once, and as we have all experienced there are so many rules and procedures and guidelines that we are used to hearing about what quasi-judicial means, we are used to it, but 90 percent of everyone else are going about their daily routine and I think we have to go above and beyond to make them aware of what they can or can't do. So, I think things in writing, presentations, workshops, because there's just so much to handle that its, I think a responsibility of the Commission, the Administration make sure that our employees truly know what they can or can't do and what's available to them.

Deputy City Attorney Throckmorton: Sure. And to the extent that our board and committee members all attend our biannual training, we have a section on quasi-judicial matters, and so, all of our board members, including the Trial Board will be invited to our next training that we will do and make sure that to the extent that there are any questions about what that means and for which boards it applies, we are always happy to answer those questions, in the meantime, but also address them in our biannual trainings.

Vice Mayor Anderson: I'm just going to add that for the employees, we all...and we have the training for the board members, but we don't have, I don't believe we have that frequency of training for the employees to remind them of what their rights are.

Deputy City Attorney Throckmorton: Like I mentioned, we are certainly happy to address that through the Manager and the HR Department. Those are the sort of trainings that HR does related to all employment protections and we can certainly work with them on that. If you are referring to quasi-judicial matters, the staff that works closely with those boards works closely with our office and attends those trainings as well.

Vice Mayor Anderson: Their rights on whistle blower matters and the procedure, I'd like this to continue on the agenda and have a report back from the City Manager on what the decision is. I know you are going to confer, but the rest of us need to know what's happening.

Deputy City Attorney Throckmorton: Of course, we're happy to facilitate however we can and work with the Manager's office.

Commissioner Menendez: I just want to commend your office and staff and my colleagues because I think it started initially the discussion on whistleblower and Trial Board and how they work together. It started in a very simple place, but it's evolved based on feedback from residents, ideas that the Commission has that we share with you, and I think it's really coming together in a wonderful way that's good for, I think, our city at large. So, I just want to commend everybody for working together and trying to make something really special come out of this.

Deputy City Attorney Throckmorton: Thank you.

Mayor Lago: We have a motion Mr. Clerk. We have any public comment.

City Clerk Urquia: No sir.

Commissioner Menendez: I'll move it.

Vice Mayor Anderson: Second.

Commissioner Menendez: Yes

Vice Mayor Anderson: Yes

Commissioner Castro: Yes

Commissioner Fernandez: Yes

Mayor Lago: Yes

(Vote: 5-0)

Mayor Lago: Thank you very much.