

CITY OF SOUTH MIAMI
Historic Preservation Board
Regular Agenda for Monday, March 29, 2021
Commission Chambers
6:00 P.M.

City of South Miami Ordinance No. 28-14-2206 requires all lobbyists before engaging in any lobbying activities to register with the City Clerk and pay an annual fee of \$500.00. This applies to all persons who are retained to represent a business entity or organization to influence "City" action. "City" action is broadly described to include the ranking and selection of professional consultants, and virtually all-legislative, quasi-judicial and administrative action. It does not apply to not-for-profit organizations, local chamber and merchant groups, homeowner associations, or trade associations and unions.

In order to balance the need for the City of South Miami to function and conduct vital business during the COVID 19 pandemic and, at the same time, protect the health, safety, and welfare of our citizens and our staff, the City shall conduct its upcoming meetings virtually, including the Historic Preservation Board for the month of March 29, 2021, virtually through communications media technology (CMT) as explained more particularly below.

In accordance with City of South Miami Code, Chapter 286.011, Fla. Stat., and Executive Order Number 20-69, the City will be holding its Historic Preservation Board (HPB) Special Meeting VIRTUALLY. The special meeting is scheduled to begin on Monday, March 29, 2021 at 6:00 p.m. to consider the following public hearing items:

I. Call to Order

II. Pledge of Allegiance to the Flag

III. Roll Call

IV. Swearing in

V. Add on item Request:

A) HPB-2021-002-COA

Applicant: Joey Halegua

Property Owner: Sunset 58, LLC

Location: 5837 SW 72 Street (Sunset Drive)

Request: Exterior Renovations

VI. Discussion:

- a) Proposed changes to the City's ordinances that pertain to the Historic Preservation Board, including those outlined in the proposed amendment, attached. Any other amendments that would make the Board's duties beneficial to the public, too.
- b) A review of the powers and duties of the Board, as outlined in the Ordinance.
- c) The recruitment of new Board members.
- d) Review the draft letter to be sent to the owners of properties to be considered for historic designation, attached.

VII. Attachments:

- Section 20-11.1 Historic Preservation Standards, of the Land Development Code
- Draft letter to owners of properties to be considered for historic designation

VIII. Approval of Minutes:

A) HPB meeting on Monday, February 22, 2021

IX. Next HPB meeting: Monday, April 26, 2021

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X. Adjournment

Warning regarding ex parte communication: "Ex parte communication" is a written or verbal communication, between an elected or appointed public official and an applicant, his or her representatives, a citizen or any other person concerning the subject of a pending quasi-judicial hearing but which communication takes place outside of the hearing and before final action on the matter. The Florida Legislature by the adoption of section 286.0115(1), Florida Statutes, has authorized the adoption of local ordinances to remove the presumption of prejudice created by ex parte communications if certain procedures are followed to ensure that the written or verbal exchange is made public. It is designed to remove any presumption of prejudice that would otherwise result if the communication were kept private and not disclosed. Ex parte communication must be publicly disclosed prior to or at the quasi-judicial hearing at which the decision is to be made in order to dispel the presumption of prejudice. Almost all communication that occurs outside of the quasi-judicial hearing is considered to be hearsay and is not competent evidence. Normally, hearsay may not form the basis for making any quasi-judicial decisions, but it may be used to support or explain competent evidence. All decisions made at a quasi-judicial hearing must be based on substantial competent evidence.

Pursuant to Ordinance §2-2.1, City Code, the South Miami City Commission has adopted these procedures to dispel the presumption of prejudice due to ex-parte communications as follows:

1. The elected or appointed public official shall disclose in writing the subject of the communication and the identity of the person, group, or entity with whom the communication took place, as soon as practicable after the communication takes place, with the city clerk and made a part of the record at the hearing before final action on the matter.
2. A local public official may read a written communication from any person. Any written communication that relates to quasi-judicial action pending before a local public official, shall not be presumed prejudicial to the action, provided such written communication is disclosed and made a part of the record before final action on the matter.
3. A local public official may conduct investigations, make site visits and receive expert opinions regarding quasi-judicial action pending or impending before him or her provided that such activities and the existence of such investigations, site visits or expert opinions is made a part of the record before final action is taken on the matter.
4. Disclosure made pursuant to paragraphs 1, 2 and 3 above must be made before or during the public meeting at which a vote is taken on such matters so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication.

It is possible that if the statute or ordinance discussed above, or a quasi-judicial action pending before the Commission or board are challenged, that a court might find that, despite the enactment of these procedures, the ex parte communications did in fact create a presumption of prejudice, which could result in the action taken being reversed. You thus proceed at your own risk in engaging in such communications, and they are not encouraged. They are, however, the policy of the Legislature and City Commission, and until determined otherwise by the Legislature or the courts, are legally permitted but not without possible adverse legal consequences to the detriment of the City and other parties.

The VIRTUAL MEETING will be held through communication media technology with the members of the Historic Preservation Board Members, City staff, any applicant making a presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the Historic Preservation Board, as well as the applicant's attorney and witnesses participating through video conferencing. This virtual meeting will be held on the Zoom platform used by the City Clerk for live remote participation. Members of the public may join and participate in the meeting in the following ways:

via Zoom at (<https://zoom.us/j/3056636338>); and

- via a dedicated phone line that will be available so that any individual who does not wish (or is unable) to use Zoom, may listen to and participate in the **meeting by dialing +1-786-635-1003 Meeting ID: 3056636338.**

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The public may view the meeting live without participating on the City's website: (<https://www.southmiamifl.gov/102/Agendas-Minutes>) ("Granicus") as well as Channel 667 on Atlantic Broadband or by AT&T U-Verse.

If you intend to present a document to be live streamed at the time of the meeting, you must send it to the Clerk on or before 3:00 p.m. 2 business days (not counting the day of the meeting) before the meeting in one of the following ways:

- Scan or photograph the document and send it as an attachment in an email to the City Clerk at npayne@southmiamifl.gov; or
- Scan or photograph the document and upload it to a flash drive and deliver the flash drive, along with your name, address, phone number, facsimile number (if any), and email address (if any), to the City Clerk at 6130 Sunset Drive, South Miami, FL 33143.

If you plan on participating in the meeting, either in person, if allowed, through the Zoom platform, or by teleconferencing, it would be helpful if you sign-up for the meeting by providing the City Clerk with the following information, via email at npayne@southmiamifl.gov or by calling the City Clerk at 305-663-6340, one business day (not counting the day of the meeting) before the meeting, on or before 4:00 p.m.:

- your name;
- whether you are a business owner;
- whether you are a resident of the City;
- physical address;
- phone number;
- facsimile number, if any;
- email address, if any; and
- a description of the item on the agenda upon which you intend to present your verbal comments/evidence (Topic); and
- if using Zoom, your Zoom screen name, which must be your real name, or;
- if using the teleconferencing option, the phone number you will be using to call into the meeting.
- Your ability, or lack thereof, to use the Zoom platform to attend the meeting virtually.
- **If the item to which you want to speak is quasi-judicial** and your face will not be appearing on the Zoom screen when you are called upon to be sworn in, or if you will be speaking using a telephone, you must, in addition to the other sign up information, deliver a copy of your Florida identification card or driver license or the page of a valid passport that has your photograph on it or other identifying documents as described in s. 117.05(5)(b)2, Fla. Stat., to the Clerk. Without this information, you will not be sworn in and will not be allowed to testify at the quasi-judicial hearing.

At the appropriate time, all participants who want to speak will be asked to raise their "virtual hand". If the Mayor/Chair requests that all or some speakers take their "virtual hands" down and if a participant fails to do so, or otherwise disrupts the meeting, the Mayor/Chair may permanently mute that persons microphone and video image for that meeting and said person will not be allowed to participant in that meeting. See the specific instructions below for raising your "virtual hand" using Zoom. If you have signed up in advance of the meeting

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you may be given priority ahead of others who did not sign up. You will be called upon and you may speak on the Topic and present your evidence (physical (see special requirements for physical evidence) and testimonial) or comments through your choice of communication, either Zoom, teleconferencing or, if allowed, in person in the Commission Chambers using City provided Zoom connection to the meeting.