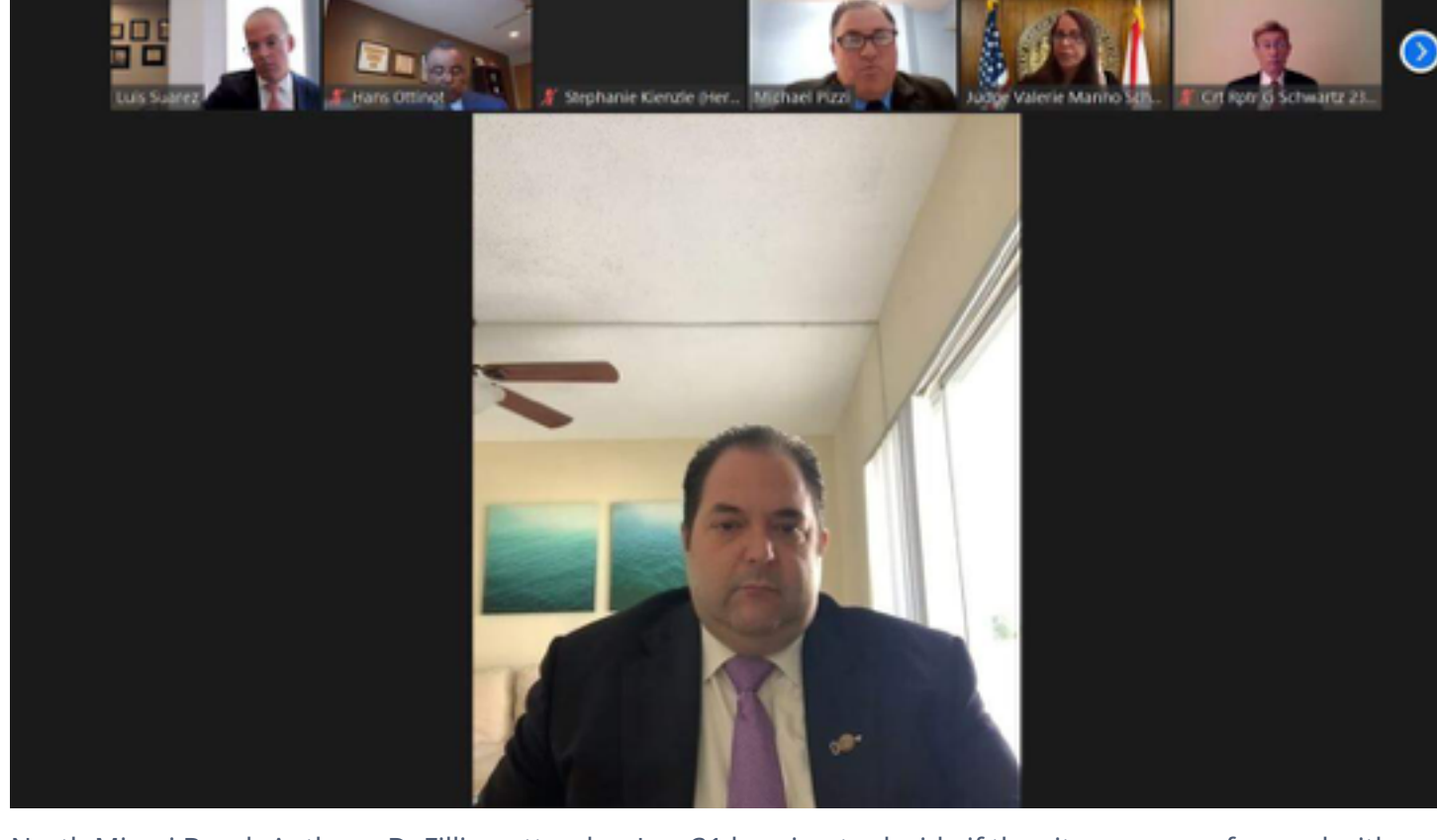


NORTH MIAMI - NMB

Judge says no to reducing commission quorum in North Miami Beach amid turmoil over mayor

By Raisa Habersham
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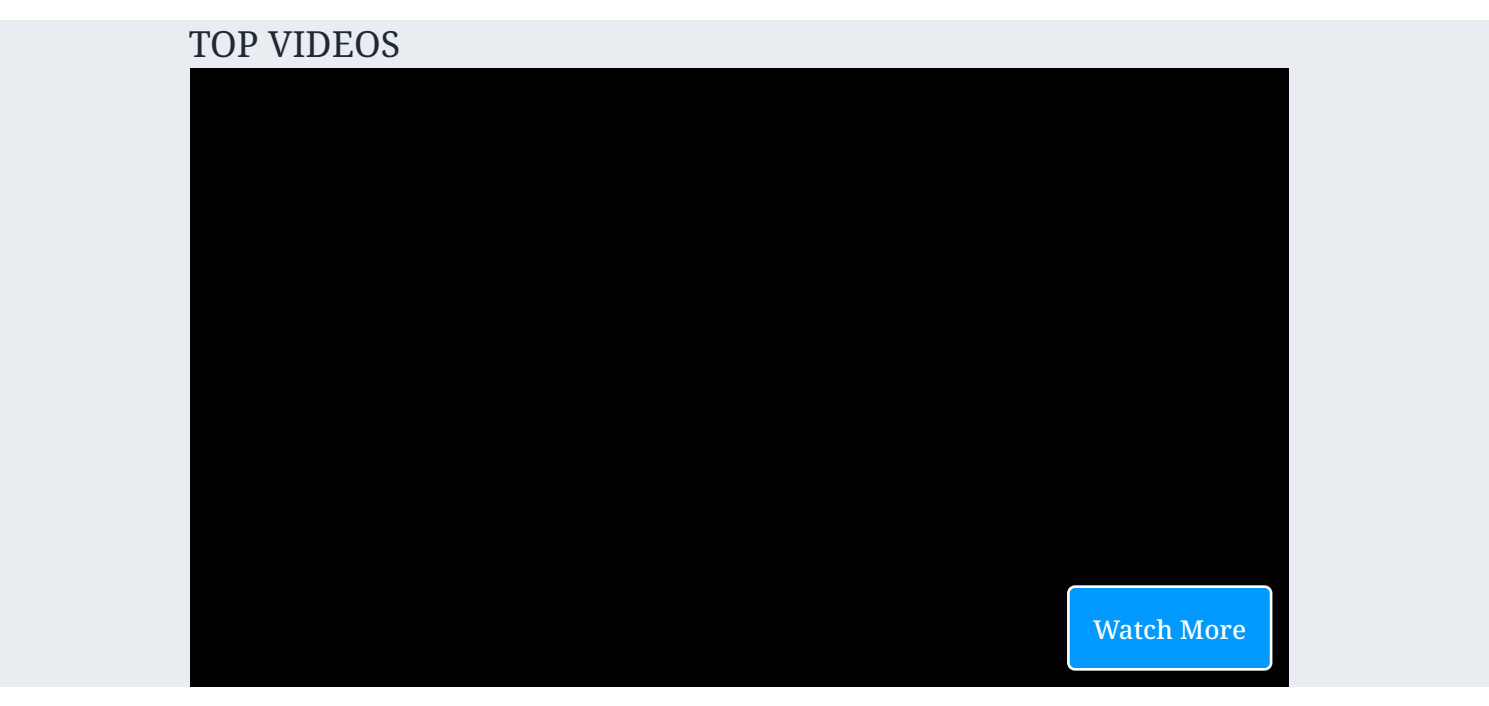
North Miami Beach Mayor Anthony DeFillipo attends a Jan. 31 hearing to decide if the city can move forward with four commissioners. A Miami-Dade County Circuit judge ultimately ruled the city had to continue with a five-person quorum required by its charter. The decision came as DeFillipo's residency continues to be a contentious issue for some commissioners.



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A Miami-Dade Circuit Court judge ruled on Tuesday that the city of North Miami Beach could not reduce the number of commissioners that would be considered a quorum to take up city business at meetings, while questions about the mayor's residency remained unsettled.

Judge Valerie Manno Schurr acknowledged that while the city needs to function, she could not change the charter which requires the city to operate with a five-person quorum. She noted the controversy over Mayor Anthony DeFillipo's residency, but said that issue would need to be resolved separately.



"I think a threshold issue in this matter is does he live in the city where he wants to be the mayor? That's for another day," Schurr told attorneys representing DeFillipo and the city of North Miami Beach.

DeFillipo's attorneys also asked if Schurr could rule on forcing three commissioners — McKenzie Fleurimond, Daniela Jean and Vice Mayor Michael Joseph — to attend the Feb. 21 commission meeting. Schurr said she would take the request under advisement.

The three commissioners have refused to attend commission meetings with DeFillipo at the helm because they say he is no longer mayor due to questions about his residency. Without their attendance, the seven-member commission cannot reach the five-member quorum required to take action on city business. The judge's decision places the onus back on the city of North Miami Beach to decide how it will move forward.

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City in limbo

Attorneys for DeFillipo argued that for the city to continue operating the quorum should be changed to four commissioners from the five required by the city charter.



"The current facts reflect that at least two, if not three commissioners have either left meetings refusing to do the business scheduled on the agenda, or have failed to appear at duly scheduled meetings," attorney Ben Kuehne told the judge.

But the city argued the mayor automatically vacated his seat because he had moved to the town of Davie in Broward County, which DeFillipo has denied.

"We as lawyers cannot overrule the law. We have to act consistent with the law," said Luis Suarez, who is representing the city and raised the issue of residency 10 minutes into the hearing. Suarez is a partner at the law firm Heise Suarez Melville, which issued a legal opinion on how to handle the mayor's residency.

READ MORE: [Investigation says mayor doesn't live in North Miami Beach. Will he have to vacate job?](#)

According to the city charter, if any North Miami Beach elected official changes their residence to outside the city limits, their seat on the council shall be automatically vacated and forfeited.

Suarez said the city charter has a procedure to fill a mayoral vacancy and that Vice Mayor and Commissioner Michael Joseph would act as mayor in the event of a vacancy. Joseph previously asked for a special meeting to discuss DeFillipo's residency, but one had not been scheduled.

DeFillipo's attorneys said Joseph may have a special interest in this case because the person who filed the initial ethics complaint about the mayor's residency worked for Joseph's campaign. Joseph told the Miami Herald the person who filed the complaint had worked for his campaign eight years ago.

"This is all a distraction from the fact that he has vacated seat and is living in Davie," Joseph said.

But with no decision on residency and no requirement that the three commissioners must attend meetings, the City Commission is effectively at a standstill.



"I guess there's a standoff here," Schurr said.

DeFillipo's residency

In December, a complaint regarding DeFillipo's residency was filed with the Miami-Dade County Commission On Ethics and Public Trust.

The issue escalated in January when Heise Suarez Melville, hired by city attorney Hans Ottinot to investigate the matter, issued a legal opinion saying DeFillipo vacated his seat and a special meeting must be called to discuss his residency.

DeFillipo has repeatedly denied the accusations, insisting he lives in North Miami Beach. He acknowledged to the Herald, through his attorney, that he served on the homeowners association for the Davie property.

READ MORE: [Embattled North Miami Beach mayor acknowledges he took a seat on Davie homeowners board](#)

DeFillipo did not show up for a Jan. 30 deposition requested by Heise Suarez Melville about whether or not he lived in North Miami Beach.

His attorney, Michael Pizzi, said the outside counsel hired by Ottinot was not properly authorized by the City Commission and doesn't have the right to a deposition.

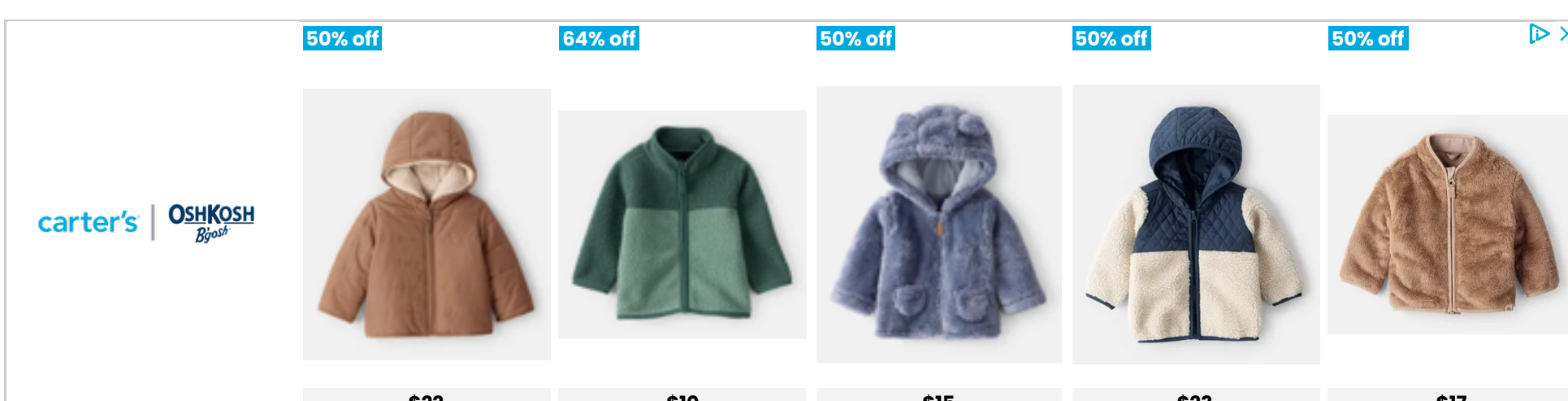
"The mayor has nothing to hide," Pizzi told the Herald, adding the focus should be on getting the city of North Miami Beach to function.

Joseph said he will again call for a special meeting to discuss the mayor.

"The rule of law is clear. We have a job to do," he said. "I'm here to follow the law, and our charter and our code to move our city forward."

Commissioner Jay Chernoff said Tuesday's decision gave him little confidence that the city will move in a positive direction.

"My concern is how is the city going to do business? Nobody is addressing the three commissioners who aren't showing up to meetings," he said.



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