

**City of Coral Gables City Commission Meeting  
Agenda Item F-3  
December 11, 2012  
City Commission Chambers  
405 Biltmore Way, Coral Gables, FL**

**City Commission**

**Mayor Jim Cason**

**Vice Mayor William H. Kerdyk, Jr.**

**Commissioner Maria Anderson**

**Commissioner Rafael “Ralph” Cabrera, Jr.**

**Commissioner Frank Quesada**

**City Staff**

**City Manager, Patrick Salerno**

**City Attorney, Craig E. Leen**

**City Clerk, Walter J. Foeman**

**Deputy City Clerk, Billy Urquia**

**Public Speaker(s)**

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F-3 [Start: 2:00:43 p.m.]

Discussion regarding permitting on holidays and weekends

Commissioner Rafael “Ralph” Cabrera, Jr.

Mayor Cason: Do you want to....

Commissioner Cabrera: I do. I’m still going strong here. Thanksgiving – this past Thanksgiving I received a phone call from a Coral Gables resident who indicated that there was construction going on near their neighborhood, and what I proceeded to do was to respond to the resident the best way I could, which was to obviously apologize if it was disturbing their quality of life on a holiday, and then suggesting that they contact Code Enforcement. I was then contacted by the resident again and told that Code Enforcement was not working during the Thanksgiving holiday. They were off Thursday and Friday Thanksgiving holiday, and that the Police Department was actually involved with trying to uphold the Code, so I decided to just make a quick stab at discussing it with the Police Department, and I spoke to a very polite and professional dispatcher who explained to me that they were already aware of this complaint and that in fact Code Enforcement was not working on that day, but that the construction that was

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Agenda Item F-3 – Discussion regarding permitting on holidays and weekends

By Commissioner Cabrera

going on was permitted construction. So the purpose of this discussion is very brief and the brevity is the following: if we are permitting on holidays and weekends then you know we are compromising the quality of life of residents and neighborhoods, and unless it's a very unusual request to have a project be allowed to go through the construction process on a holiday and/or weekend I see no reason for it because I believe in my heart of hearts that, that's a policy decision. The ability to give someone approval to work on a Saturday or Sunday or to work on a holiday really does affect a neighborhood and this particular individual, and I've begun to see this in the last few years and I wanted to talk to you, my colleagues, regarding this because if that's the pattern what I'd like to see done is I'd like us to form a stronger restriction and not allow this to happen.

Commissioner Quesada: You are saying not allowing work to occur on holidays and weekends?

Commissioner Cabrera: Unless it's a very unusual....

Commissioner Quesada: An emergency, a major....

Commissioner Cabrera: Exactly a major leak, a pipe is broken, something is serious that could affect the structure of a building, a home, I understand those things happen, but to allow construction to take place, and I've seen it, I've seen it firsthand, and maybe what I need to start doing is taking pictures of it and sending it to all five of us...

Mayor Cason: I think the rules are now holidays and Sundays definitely you can't, and Police are supposed to respond if Code Enforcement is not there, Saturday is the issue you are talking about.

Commissioner Cabrera: I know Jim, but in that case, the case that I used to provide you with an example, it actually happened on Thanksgiving Day.

Mayor Cason: That's illegal.

Commissioner Cabrera: No, not according to the dispatcher that I spoke to; the dispatcher, I apologize for not remembering the dispatcher's name, I should have taken her name down, but essentially I was told that they were aware of this disturbance, they were aware of the complaint, and that it was a properly permitted construction.

Mayor Cason: Let's ask Craig. What are the rules in terms of construction?- is there any difference between residential and commercial on Saturday, Sunday and holidays?

Commissioner Cabrera: Jim, I don't know – I can't say for sure if it was commercial or residential.

Mayor Cason: I think...

City Attorney Leen: The main provision I'm looking at is the noise ordinance, there is an ordinance related to construction, but I'll just read it to you, of course this Commission could always amend it, if you wish. What it says is, any construction noise, any site preparation, assembly, erection, substantial repair, alteration, delivery of materials, demolition or similar action which disturbs the peace and quiet of the neighborhood on public or private property, rights-of-way structures, utilities or similar property, so basically throughout the City, a) between the hours of 6 p.m. and 7:30 a.m. on the following day, pardon me, so now its saying when its prohibited and it says, between the hours of 6 p.m. and 7:30 a.m. the following day on Monday, Tuesday, Wednesday and Thursday, between the hours of 6 p.m. on Friday and 9 a.m. on Saturday, between the hours of 5 p.m. on Saturday and 7:30 a.m. on Monday, and lastly, regarding holidays it says, on holidays as established by Section 1-2 of the City Code unless waived by the City Manager or designee.

Mayor Cason: So it should be prohibited now unless waived, is that correct?

City Attorney Leen: Yes.

Commissioner Cabrera: And I don't know – in all fairness to all concerned, I'm not certain whether there was a waiver for that particular project, all I can tell you is what I went by. The reason I wanted to make this a discussion point was to set some policy, I can't speak for the rest of you, but if it were up to me I would really, really try not to allow that to happen during holidays and weekends because it does disturb the quality of life.

Mayor Cason: I understand that definitely Sunday and holidays. I wondering about Saturdays when people work and they have somebody come work on their home and they want to be there to supervise somebody doing something on their home, it could impact the ability of homeowners to fix their homes.

Commissioner Cabrera: But I'm not talking about that kind of stuff, I'm talking about the kind of stuff that you get woken up to; you get woken up to because there is construction noise. What you just mentioned is very, very appropriate and it does occur. I'm really talking about....

Commissioner Quesada: General work – general non-emergency work.

Mayor Cason: If that's happening now, it's totally illegal then because of that noise ordinance, does that cover it?

City Attorney Leen: This is the noise ordinance – there may be other policies related to the Zoning Code as well that I would defer to staff, but yes, they can't violate this noise; this applies to the public rights-of-way, public areas and private areas, so this is a general prohibition.

Commissioner Cabrera: I know the letter of the law. Thank you for – and Jim thank you for asking the City Attorney to articulate it. Before the defensive attack comes in, I just want us to all as policymakers be sensitive to it, and if it's the will of this Commission try to diminish it.

Mayor Cason: I don't want noise on – I definitely don't want it on Sundays and holidays, I mean that's when you – I don't know about Saturday, I don't know how much occurs.

Commissioner Cabrera: [Inaudible]...on those days.

Mayor Cason: So many people work, they are just not home, so I think there ought to be a cut out for home construction, home projects where you can supervise, otherwise it won't happen.

Commissioner Anderson: Let me just say a few words please. I live on the tail end of a single family residential and the next one is multifamily and in over a three-year period, not this phase of the construction but the one before there was construction and even on the weekdays when its legal and it's tough to live behind a construction site, so on a day – I would be supportive of something on a day when you are not expecting – when you are home like a Saturday unless it's an emergency, I would be supportive of strengthening that because I've lived through construction and I think there is a quality of life issue there that we might want to really address.

Commissioner Cabrera: That's all.

Mayor Cason: What's the practice now?

City Manager Salerno: It sounds, the issue you raised sounds vaguely familiar to the complaint being raised by Mr. Dewald...?

Commissioner Cabrera: I think it might be his name, yes.

City Manager Salerno:...yes, Mr. Dewald who lives behind – who I think is a tenant who lives behind the Havana Harry's, and he sent an e-mail out, I guess he gets home, works late, I'm not

sure of that, and it was either I think it was a Saturday night, so it was over the Thanksgiving weekend, but it was not Thanksgiving.

Commissioner Cabrera: It may not have been.

City Manager Salerno: It was on either Saturday night that Havana Harry's had requested of staff to work on the interior. They were redoing their floors is what they requested, is that they were working on their floors to the interior and they wanted the approval to do so. Mr. Dewald sent an e-mail out, I think he might have been getting home then, but I'm not sure. I called him the following morning about, I think it was Sunday morning I called him at 8:30 in the morning, left him a message, he returned the call. We had a lengthy conversation and he said that there was a truck that pulled up; it wasn't per say the noise of the construction, but a truck had pulled up and that had disrupted him. I subsequently talked to staff and I told them I would look into it on the first thing on Monday, talked to staff about it, staff withdrew the ability for Havana Harry's to work on the evenings as such and they told Havana Harry's, the operator, that they would work with them to come up with an alternate schedule. He had said, he didn't want to have to close down his business because he was doing interior work at the time, he didn't think it would be disruptive of any neighbors. He had started that work a couple of weeks earlier and we had no complaints about that. There was the one complaint on that, I think it was that Saturday night, and as I said I talked to him Sunday morning. We revoked the approval and we told Havana Harry's we would work with you suggesting perhaps that he try to do his repair work during the daytime or early before they work and that was a commitment we made to work those out. Those things happened and we are committed toward doing that.

Mayor Cason: Do we have any kind of statistics on Police over the Sundays and holidays actually enforcing – is this something that is enforced?- are we doing a good job?- I mean I've seen people sneaking around the rules on holidays; you've got people out cutting lawns, my sense was that that was prohibited under the noise ordinance, but the question is are Police able and willing to cite these people when we don't have Code Enforcement?

City Manager Salerno: Well the issue was they had a permit, so there was no reason for the Police Officer to do anything other than what he did, because they had a permit. Because of the complaint that permit was revoked during the next business day.

Mayor Cason: But we don't give permits for Sundays and holidays.

City Manager Salerno: My direction and we had a discussion with staff was that in all respects I want the highest of restraint used particularly on Sundays, OK. Holidays don't happen that often and most often these projects occur in the downtown area where there isn't any residential

around that, but we can emphasize – I have no problem emphasizing to staff that they use greater restraint in their approval of those, OK?- Just like in this instance we found out about it, he was upset only because of a truck pulling up, not because of a noise that I understand coming from within, and we try to balance the needs both of the business community with the resident and in this case we came down on the side of the resident and said, you should not work in the evenings anymore and we had asked that you work in the mornings beforehand. So we addressed it and took care of his concern.

Commissioner Cabrera: I don't want to micro manage this, this was not an evening issue it was a morning issue because I recall that part of the greeting that I received in the message was, here's how I was woken up...

City Manager Salerno: It was 1:25 in the morning I believe.

Mayor Cason: We don't want the noise.

Commissioner Cabrera: That's just a catalyst, this is one example. I used that as one example, but I have to tell you that driving around the City and walking around the City and riding a scooter around the City, I do see a great deal of this kind of thing happening and in all fairness to staff it may not be permitted, but I want us all to be on the same page that we really want to frown upon that, and that's really the goal Jim.

Mayor Cason: And I think we want Police if they see it and if it's not permitted and somebody sneaking the system on a Sunday or a holiday, to cite them.

City Manager Salerno: That does happen; people do try to do construction on the weekend without a permit. We recently, I was made aware of a situation where they were doing interior work, a resident in the building where they were doing it complained and we went to that individual and told him he thought he did not need a permit to be working interior in their building on the weekend, and we corrected him and they are no longer doing that. So this is normal frankly routine management of that aspect and we always come down on the side of protecting the peace and quiet of the neighborhood.

Mayor Cason: Which is what we want.

Commissioner Cabrera: Yes, absolutely.

[End: 2:14:19 p.m.]