



City of Coral Gables
CITY COMMISSION MEETING
June 26, 2008

ITEM TITLE:

AN ORDINANCE AMENDING CITY CODE CHAPTER 86, ENTITLED "WATERWAYS", DIVISION 2, ENTITLED "ANCHORING, MOORING, ETC."; IN PARTICULAR, SECTION 86-59, ENTITLED "TO ABUTTING PROPERTY", BY RESTRICTING THE PLACEMENT AND PROJECTION OF BOATS OR WATERCRAFT WHEN ANCHORED, MOORED, OR TIED UP TO WATERFRONT PROPERTY; SECTION 86-60, ENTITLED "OTHER THAN ABUTTING PROPERTY" BY ALLOWING ANCHORING OR MOORING OF BOATS OR WATERCRAFT TO OTHERS DURING DOCK CONSTRUCTION OR IMPROVEMENTS, SUBJECT TO SUFFICIENT ACCESS FOR SAFE NAVIGATION; SECTION 86-61, ENTITLED "ENFORCEMENT BY CHIEF OF POLICE" BY FURTHER AUTHORIZING CODE ENFORCEMENT OFFICERS TO ENFORCE CERTAIN PROVISIONS OF THE CODE; ADDING SECTION 86-62, ENTITLED "DEFINITIONS"; DIVISION 3, ENTITLED "OCEAN AND WATERWAY REGULATIONS", MODIFYING THE TITLE OF SECTION 86-84, TO "WATERCRAFT AS HAZARDS; UNOBSTRUCTED WATERWAYS", IN ADDITION WITHIN THE SAME SECTION, DECLARING IT UNLAWFUL TO POSITION A BOAT OR WATERCRAFT IN SUCH A WAY TO INTERFERE WITH THE NAVIGATION THROUGH THE CITY WATERWAYS; AND FURTHER AMENDING SECTION 86-86, ENTITLED "HURRICANE PROCEDURE-REGULATIONS", BY DECLARING IT UNLAWFUL TO MOOR A BOAT OR WATERCRAFT TO PRIVATE PROPERTY WITHOUT CONSENT; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE

RECOMMENDATION OF THE CITY MANAGER:

It is recommended that this proposed *Revised* Ordinance be adopted on 2nd Reading. The revisions are based on further evaluation by staff of existing conditions along the Coral Gables waterway and Mahi Canal. The proposed revisions are incorporated in the attached Ordinance and are less restrictive; therefore, 2nd Reading of this Ordinance may be considered at this time. The following Brief History will further explain the proposed revisions.

BRIEF HISTORY:

A modified version of the proposed Ordinance was presented and approved on first reading on May 13, 2008. During the presentation, the Ordinance was amended to provide for a 10-foot side setback for properties with a waterfront length of 150' or more. This amendment was considered following a request from Gables Estates Homeowner Association to impose such a setback to maintain a clear visual path to the waterway for neighboring properties. However, during the deliberation on this matter, the City Commission requested staff to further evaluate existing conditions along the City's waterways, in particular, existing boathouses and slips, northwest of the LeJeune Road bridge and the Mahi Canal. The evaluation of these existing boat houses and slips confirm a conflict with the proposed 10-foot side setback requirement, as well as, existing docks, davits and other lifts constructed at a 10-foot side setback, resulting in the bow (front of the boat) or stern (rear of the boat) of the boat or watercraft protruding into the proposed 10-foot side setback area.

Further as requested by the City Commission, notices of the proposed 10-foot setback legislation presented at the May 13, 2008 City Commission meeting were sent to 396 potentially affected property owners, of which the City received 5 inquiries, 2 objections, as of June 18, 2008.

In summary, the proposed Ordinance on second reading presented today, will prohibit the mooring, anchoring or tying up of any boat or watercraft in such a position that the length of the boat or watercraft extends beyond the side property line, unless the adjoining property owner agrees to such extension in a form acceptable to the City, and further recommending that Gables Estates Homeowner's Association pursue establishing the 10-foot side setback requirement by requesting to amend the Zoning Code, establishing site specific amendments for Gables Estates.

The proposed amendments to the City Code is a result of the opinion issued by the Third District Court of Appeal entered on October 10, 2007 (attached), in the case of Victor Bared and the City of Coral Gables Code Enforcement Board, Petitioners vs. Yife Tien, Respondent in which the Third District Court of Appeal agreed that City Code Section 86-59 did not protect its residents "from unwanted intrusions by mega-yachts" and stated that the City should craft such an ordinance.

The initial version of this Ordinance was presented at the December 11, 2007 City Commission meeting on first reading, and required among others amendments, that the mooring of boats and watercraft be consistent with the required setbacks for structures on the property. Following public input, the City Commission directed staff to hold a public meeting with affected residents to receive input on the proposed amendments to the City Code. Over sixty residents and city staff attended the February 19, 2008 meeting held at Fairchild Tropical Gardens. The majorities of those in attendance were not in favor of the initial version of this Ordinance, but were in favor of restricting the placement of boats up to the side property line, and allow for encroachment of the side property line, so long as the affected property owner agrees to such an encroachment. Concerns were also raised by the attending public with previous language that required clear and unobstructed navigation through the waterways regardless of a hurricane event. The attached Ordinance addresses these concerns and further provides for enforcement of certain provisions of the Code by the Code Enforcement Division.

LEGISLATIVE ACTION:

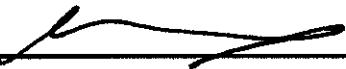
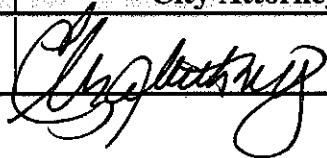
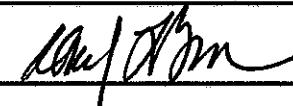
Date:	Resolution/Ordinance No.	Comments
12-11-2007		Ordinance presented on first reading was deferred.
5-13-2008		Ordinance approved on First Reading.

PUBLIC NOTIFICATION(S):

Date	Form of Notification
4-22-08	Letter with Proposed Ordinance sent to all associations abutting the waterway
4-22-08	Emails or letters sent to all residents corresponding with the City Manager's office concerning the subject matter and those who attended the February 19, 2008 Public Input Meeting
4-22-08	Letters sent to all those who attended the February 19, 2008 Public Input meeting
5-8-08	REVISIONS TO ORDINANCE MADE AND RESENT to all associations abutting the waterway
5-8-08	REVISIONS TO ORDINANCE MADE AND RESENT to all residents corresponding with the City Manager's office concerning the subject matter and those who attended the February 19, 2008 Public Input Meeting

Date	Form of Notification
5-9-08	Posting of Agenda (May 13, 2008)
6-13-08	Notification to each property owner of those properties that have waterfront property length of 150 feet or more
6-16-08	Notice posted in Miami Daily Business Review
6-20-08	Posting of Agenda (June 26, 2008)

APPROVED BY:

Assistant City Manager	City Attorney	City Manager
		

ATTACHMENT(S):

1. Draft Ordinance
2. Draft Ordinance (Highlighted Changes)
3. Chart with number of Coral Gables waterfront properties
4. Letter sent to property owners
5. Chart on Local Agencies "Boat Mooring Regulations"