

City of Coral Gables City Commission Meeting
Agenda Item I-3
October 11, 2016
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Deputy City Attorney, Miriam Ramos

Public Speaker(s)

Agenda Item I-3 [12:05:03 p.m.]

City Attorney Items

Mayor Cason: Are you going to request any Executive Sessions, that's your last item?

City Attorney Leen: No, no Executive Session. I do want to raise one other thing about the Justice Advocate Program. Do you have anything to report for today?

Deputy City Attorney Ramos: [Inaudible – off mic]...my old stomping ground on the burglaries that occurred to vehicles a few weeks ago. Our Justice Advocates were both out of town today, so I went to represent the City. This was one particular defendant that was on this morning; he had five pending cases, one is in the City of Miami, that's the most serious case, that's an armed burglary, and that's going to be reset to October 19th, and I think that's the one that's going to end up getting him some significant prison time. He does have gang connections, and I think he

probably scores pretty highly, although I wasn't able to meet with the ASA for too long, because the Judge was coming in as we were speaking.

Vice Mayor Quesada: Scores very highly means?

Deputy City Attorney Ramos: Yes. So when you pull the prior record of a particular defendant, there is an actual score, there is a sheet that has a formula, and they score out what the minimum sentence would be for that particular defendant.

Commissioner Lago: So you are telling me he is not a first time offender.

Deputy City Attorney Ramos: This particular person is absolutely not.

Mayor Cason: He's an adult, right?

Deputy City Attorney Ramos: He's 18, and barely an adult. He has a significant juvenile record as well, and both Mr. Guarch and I believe that he probably will score highly particularly with the armed burglary. I don't know if it was with a fire arm or with some other type of arm. If it's with a fire arm, there is own minimum mandatory that goes along with that. So that case is pending on the 19th of October, that's the Miami case. We had one misdemeanor here at the City and then we had three felonies. Two were filed this morning, burglary of an unoccupied conveyance, and a third was no action. The reason it was no action is because the only evidence in that case was the defendant's confession. So when he was arrested he was asked about all of them, and he confessed to that particular one. You can't proceed in a criminal case with only a confession.

Vice Mayor Quesada: Explain what no action is what I think he did.

Deputy City Attorney Ramos: No action basically means that the case was dismissed.

Mayor Cason: Were there other – did this particular individual break into more than one car?

Deputy City Attorney Ramos: Yes. So there are three cases; two were filed this morning, and then the one was no action.

Mayor Cason: Did the victims cooperate with us in order to make the case?

Deputy City Attorney Ramos: Yes, but the victim in this particular case had no knowledge of who broke into her car. There were no fingerprints on the car, so there was no evidence to

cooperate his statement, but in either of them I think he has bigger fish to fry, not only with the two felonies that were filed this morning, which are third degree felonies, but also with the larger case of the City of Miami that's coming down the pike.

Vice Mayor Quesada: Great work.

City Attorney Leen: The other point is that with all of these cases we are monitoring them.

Deputy City Attorney Ramos: Oh, absolutely.

City Attorney Leen: We are going to get weekly reports from the Justice Advocates, and they are going to be appearing as the case proceeds.

Deputy City Attorney Ramos: And when I spoke to the prosecutor this morning, we exchanged business cards and I again, reminded him that we are here to help him in any way that we can.

City Attorney Leen: One other thing Mr. Mayor is, I was asked by Commissioner Keon about 1411 Mantua, which was a case where the Judge found that we had probably cause for a forfeiture, and that was a case that the Commission voted to invoke our forfeiture ordinance, the City's forfeiture ordinance, which was also adopted by this Commission. So what has happened is, we went before the court, the court found there was probably cause supporting the seizure. Now what happens is we go forward and we see if any of the parties have an interest in the property, such as the bank, someone like that decide to assert their interest. If not, then there will be no impediment to us basically assuming ownership of the property. The other thing that we were planning to do was go forward and seize the property, and we'll have to decide administratively and I'll be doing that in conjunction with the City Manager's office and with Peter Iglesias, because there is a public safety component, Director Fernandez as well, will be talking about that, but the idea would be the City would seize the property, and then could either seek to take any measures that are necessary to ensure there is no public safety issue, and at some point maybe put it into either receivership or start to take action to fix it up, and impose a special assessment lien on the property. Now if we end up owning the property, we could do a host of things, and there are a number of options we could look at. Another thing we might look at is demolishing the property, because remember the particular house on this property has significantly deteriorated, and that's one of the things that we raised with the bank was demolition, and for whatever reason I will look into it more, they have not agreed to that as of this time. I think what they said was they would want an order from the court or some sort of court approval of the demolition, which maybe the remedy we seek as well. At least at this moment, I do think we should go forward with the seizure of the property and then we can determine what to do.

Commissioner Lago: I live about two blocks from that house, so I pass by it on a constant basis. It's in a very deteriorated state, anybody who would even consider purchasing that property, I mean it's a great location, but anybody who considers purchasing that property would be recommended by a contractor, engineer, and architect to potentially just knock the house down. It's a great location; I mean again, I'd love to see it as park, as an empty green space. I'm perplexed by how the bank has not taken charge of that property, demolishes it and sold it as an empty lot or fixes it up and put it on the market, because it wouldn't even last, you know the real estate market, and it would not even last an hour on the market just because of the location. But if you go by and you get a chance to see it, it's a nuisance, it's a hazard for the neighborhood; you have portions of the roof that are falling down, and I wish, I wish maybe the City, I don't know what rights we have, but maybe put a construction fence around it, because I'd hate to see somebody get on that porch and potentially get injured with the roof collapsing on them.

City Manager Swanson-Rivenbark: As staff we talked about if we were able to seize the property then we would get a bid on demolition, and we would bring the building down. It is in significant disrepair, we tried multiple times to work with the bank, it is a non-Homesteaded property, it's an excellent test for the new ordinance that you all have created.

City Attorney Leen: So based on what the City Manager said, what I'm planning to do then is, we'll go forward and seize the property and in an abundance of caution we'll likely to the court and ask for – first we'll have our Building Official look at it, Mr. Iglesias, if he's prepared to go forward with the demolition, what we can do is go to the court, and ask for a demolition order, in an abundance of caution since title has not transferred to the property yet, or perhaps we can get the bank to agree to the demolition. Now one of the things that we are going to want, particularly if the bank ends up taking possession of the property again in the future, which our forfeiture ordinance contemplates if they bring it into compliance, we would want them obviously to pay for the demolition.

Mayor Cason: Of course.

City Manager Swanson-Rivenbark: But we talked about liening the property so that we would receive ultimately the cost of demolition.

City Attorney Leen: So the way we would do that is, you go forward with demolition and you put a special assessment lien and then either, the choice is either we keep it, we just keep the property, because we demolished it, and then we can use it however we think is appropriate for the public good, or as a condition of the bank receiving it back they have to pay us back for the demolition. There are different ways that we can do that, but the goal here is either for the City to

own the property for the public good or for the property to be brought into compliance and for the bank to pay for that, but the City is not going to delay.

City Manager Swanson-Rivenbark: But Mr. Mayor, I just want to make it very clear, we are not trying to acquire that property for a specific use, we are trying to mandate change and that change has not occurred.

City Attorney Leen: Yes. Let me add one more thing. The forfeiture ordinance is very clear that if any party with ownership interest, perhaps the property owner or the bank, if they succeed to the ownership interest, that any property like that can keep their interest as long as they bring the property into compliance, which in this particular case demolition will bring the property into compliance. For whatever reason, even though we've been asking the bank to do it, they have not done that, which is why we got the forfeiture, basically the probable cause finding, which is why we are going to proceed ourselves; and I do want to be clear, we would demolish the property assuming we follow all the legal procedure even if it's not paid for in advance, but then we would seek that money later, because the goal of the City and the City Manager has made this clear and I know this is the Commission's view as well, is that we want compliance and we want it as soon as possible.

Commissioner Keon: Part of that I would think is, if we demolish it that we would sod that lot and leave it as an attractive parcel of land in that neighborhood, so that they no longer have to live with this derelict home that has been there for how long now?- it's been abandoned for five, six years?

City Attorney Leen: I'm not positive. It will be coming before you at the next meeting. The only reason I brought it up today was, because I had received a specific request and I wanted to update you that it had been found with probable cause for forfeiture, but Alex Palenzuela will be here next time and I will let him know your questions, I'll make sure he can answer those; and if you have any questions on any of the properties on our Commission's abandoned property list, which are the ones that you are monitoring, please let me know, I'll resend that to each of you. Let me know in advance and I'll make sure that he's ready to answer. I'm sorry I don't have that answer.

Commissioner Keon: It's just we have been very successful and I know that there were some concerns about the ordinance, because we know that we knew and it was evidence that just fining properties certainly didn't bring them into compliance, and didn't achieve what our goal was, but after passing the ordinances we did with regard to abandoned properties, we have been very successful in forcing the banks to either take over the properties, clean up the properties, build out the properties, or whatever, and in the case where this one is not cooperating with the

City that we will seize the property and demolish it and it's an opportunity to do whatever is in the public's best public interest with that piece of property, but it eliminates that blight from the neighborhood, because we know no one wants to live next door to an abandoned home.

Mayor Cason: Any other City Attorney items?

City Attorney Leen: No. Thank you Mr. Mayor.

[End: 12:15:54 p.m.]