

City of Coral Gables City Commission Meeting
Agenda Item E-1
July 7, 2015
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

Public Speaker(s)

Alexander Palenzuela, Special Counsel

Agenda Item E-1 [10:26:54 a.m.]

An Emergency Ordinance of the City Commission of Coral Gables, Florida, amending the Code to the City of Coral Gables, Florida, by repealing Division 2 “Condemnation” of Article III “Dangerous or Unsafe Buildings” of Chapter 105 “Buildings and Building Regulations,” and Division 2 “Unfit Dwellings” of Article V “Minimum Housing Code” of Chapter 105 “Buildings and Building Regulations” and replacing both with a renamed Article III, “Unsafe Structures” of Chapter 105 “Buildings and Building Regulations” and renumbering Division 3 “Permit Fees” of Article III “Dangerous or Unsafe Buildings” of Chapter 105 “Buildings and Building Regulations” providing for enforcement procedures; providing for a repealer provision; severability clause, codification, and providing for an effective date.

Mayor Cason: Alright, we’ve move onto Agenda Item E-1. This is an Emergency Ordinance of the City Commission of Coral Gables amending the Code of the City of Coral Gables by

repealing Division 1 “Condemnation” of Article III “Dangerous or Unsafe Buildings.” Mr. City Attorney.

City Attorney Leen: Yes. Mr. Mayor this is an Emergency Ordinance. It’s an Emergency Ordinance of the City Commission of Coral Gables, Florida, amending the Code to the City of Coral Gables, Florida, by repealing Division 2 “Condemnation” of Article III “Dangerous or Unsafe Buildings” of Chapter 105 “Buildings and Building Regulations,” and Division 2 “Unfit Dwellings” of Article V “Minimum Housing Code” of Chapter 105 “Buildings and Building Regulations” and replacing both with a renamed Article III, “Unsafe Structures” of Chapter 105 “Buildings and Building Regulations” and renumbering Division 3 “Permit Fees” of Article III “Dangerous or Unsafe Buildings” of Chapter 105 “Buildings and Building Regulations” providing for enforcement procedures; providing for a repealer provision; severability clause, codification, and providing for an effective date. I have two things to say before this will be turned over to Special Counsel. First, this is an Emergency Ordinance, so it requires a four-fifths vote and what is essentially happening is you’re voting to waive a Second Reading and you are voting to waive the publication requirement that’s in Florida Law you have the authority to do that, assuming you find it to be an emergency. Secondly, what this title indicates and what’s being done here is the City is establishing its own Unsafe Structure Board to address two things; first, there is a list of properties that the Commission has been focused on over the past year. There is at least one property and there could be a couple, and Special Counsel is here to talk about that, which would be eligible for demolition, but because the County’s Unsafe Structures Board is not meeting over the summer, I think their next meeting is in September, this will allow us to take more immediate action and we believe that immediate action is warranted.

Mayor Cason: Does this supersede the County’s...

City Attorney Leen: Yes.

Mayor Cason: So this takes away from the County gives us the authority to make these decisions?

City Attorney Leen: Yes. The County Code allows the City to establish its own Unsafe Structures Board, and what we are doing is we are not creating a new Board, we are taking the Construction Regulation Board and we are giving it the powers of an Unsafe Structures Board. This will give the City another tool that it can use to address an unsafe structure, to address a property on the Abandoned Property Ordinance. This one would be more targeted toward properties that are not historic properties, because generally we try to preserve historic properties, we don’t try to demolish them, but this will allow us to send it to immediate demolition, if that’s what we think is warranted; and Special Counsel is going to talk about when

you could have demolition, when you couldn't have demolition. And with that, I will turn it over to him to discuss.

Mr. Palenzuela: Good morning Mr. Mayor, Vice Mayor, Commissioners. I prepared this ordinance because in particular there is a case...

City Attorney Leen: Mr. Palenzuela, please introduce yourself.

Mr. Palenzuela: Oh, I'm sorry. I'm Alexander Palenzuela, Special Counsel for Code Enforcement issues for the City of Coral Gables. And I was asked to prepare this ordinance because in 2011 the County passed an ordinance allowing cities to create their own Unsafe Structures Boards and because there were properties that were approved for further enforcement action, the City decided that it would be more efficient for it to have its own Board in order to address some of the properties that were in litigation and presenting problems through regular Code Enforcement.

Mayor Cason: We have a case at hand over the summer that makes this an emergency?

Mr. Palenzuela: In particular, 1248 Serolla Avenue, I'm going to be presenting an update on all of the abandoned real properties for you this later afternoon, but in particular that case, there were vociferous complaints, and it all had to do with the litigation and an appeal that was filed that slowed that process down.

City Attorney Leen: Can you describe a little bit that property, and in fact, if it's OK Mr. Mayor, after the vote on this item, since he's here and we are paying him as outside counsel, I was hoping he could go over the list of abandoned properties with you at that time too, so that...

Mayor Cason: Sure.

City Attorney Leen: But could you discuss a couple of the properties and why Unsafe Structures Board is necessary and why we want to do one now, as opposed to waiting a couple of months?

Mr. Palenzuela: Well the issue in that case is basically, the City has a pending emergency motion to be heard, but as a back-up and an additional tool that the City could use, it was decided to forward the Unsafe Structures Ordinance at this point, because basically with the County you'll have to give them notice months in advance and there is an August recess, so the hearing on the Unsafe Structures notice couldn't take place until September 16th and that was too long a period to wait, in the event. We hope in that case to have a resolution promptly and I can present on that

item now or afterwards, but this was another tool that the City decided to prepare in case we needed it, in that particular case.

City Attorney Leen: In addition Mr. Mayor, Manny Lopez, our Building Official is here, and he is doing 40-year certifications, which generally go before the Unsafe Structures Board and those are – there are some that are pending now, I believe that have expired or that he needs to proceed with, so this will allow him to proceed, if he wished, before the City’s Unsafe Structures Board.

Mr. Palenzuela: According to Virginia Goizueta, I think she said about 40-year recertification cases that are pending. There is a fee for each one to take it to the County of \$600, so there could be substantial savings for the City in prosecuting those cases efficiently and less expensively by taking them before the City’s own Board, which exists and is appointed and they would be qualified to hear these kinds of cases.

Mayor Cason: Can you explain the typical property that would be affected by this ordinance?- the banks don’t care?- or is it not bank-owned?- its falling down? We think generally the owners would do everything they could to keep it.

Mr. Palenzuela: Well there are many reasons why properties can become abandoned. The ones on the list, in particular most of them are ones that they entered the foreclosure process because of the foreclosure crisis, but you also have situations where there are probate cases that go on forever, one of those 903 Groves Court, I think is the address, that one was a probate case, it can be very complicated. Usually it’s because the cases are buried in litigation, either....

Mayor Cason: Is this designed to be an incentive for the bank or somebody to pay attention?- or do we really plan to knock it down, because it’s in such bad condition?

Mr. Palenzuela: Well, the Code is drafted – it depends on the value of the property really and the Building Official makes a determination on whether it can be repaired or it should be demolished. If the cost of repair exceeds 50 percent of the value, then the order would be to demolish, but generally the owner is given the opportunity to repair a structure and then if they do not, it can be demolished.

City Attorney Leen: Mr. Mayor, this is not a forfeiture ordinance, that was an ordinance that came before you previously and I remember there were concerns by the Commission that we wanted to limit the use of that ordinance to truly egregious extraordinary cases. This is different – this is a situation where you have a building that’s unfinished usually, it’s in the middle of construction, it’s just left there, and sometimes one property which we did take to the Unsafe Structures Board was the one on Columbus, remember it had a hole in the roof, and it was just

dangerous. It could also be a house that's being used for crime, criminal purposes, like a "grow house." Not that we necessarily have those in Coral Gables, but it's always good to be prepared to take action if one occurs. So what this ordinance allows is, if there is a house that's dangerous, according to the Building Official, or if its unfinished and it's not being built and it hasn't been being built for over 120 days, or it's a "grow house" or something like that, it allows the City to bring this to its own Board, which is under the oversight of the City Commission which is advised by the City Attorney, as opposed to a Board for the County. It allows us to bring it before our own Board to set a special meeting if we need to, so it could be dealt with expeditiously, and it allows the City to seek demolition of that property.

Mayor Cason: If it's demolished who pays and do we own the property afterwards, if nobody pays for it?

Mr. Palenzuela: Well generally the owner can pay for the demolition himself, they have that opportunity, but if they don't, the Board will then be able to order the City or allow the City to demolish it and impose a lien for the costs, not just what the vendor is paid to conduct the demolition, but also the administrative costs of the process, and if you have a lien that it could foreclose upon and that lien would be an assessment lien that would be superior to everything, the taxes.

Vice Mayor Quesada: I think it's great. I support it. I move it.

City Attorney Leen: We have a public hearing.

Mayor Cason: It's a public hearing.

Vice Mayor Quesada: Oh, I'm sorry. I retract that motion.

Commissioner Keon: When we demolish a property do we then assume that the likelihood that we will maintain the lot, I mean if somebody didn't care enough about the house, once we demolish it and it becomes an empty lot, do we mow the grass?- we maintain it?- the City maintains it?- who maintains it?

Mr. Palenzuela: Generally with these properties you'll find that if the owners, in the case of abandoned real property where there is bank there are other interests, interested parties that are responsible, responsible parties, if it gets to that point the City generally is already maintaining the property and imposing assessment liens for mowing and lot clearing under a separate ordinance that already exists, but it's not always the case because sometimes the banks will be performing the minimum maintenance because it's less expensive, but they are unwilling to pay

for finishing a structure, repairing a roof, or demolishing it, and then the City could step in and the bank might continue to maintain. They have to sod the property and then maintain that grass until they build something else.

Mayor Cason: Let me ask since this is a public hearing. Do we have any speaker cards Mr. Clerk?

City Clerk Foeman: No Mr. Mayor.

Mayor Cason: Then we'll close the public hearing. Anymore discussion?

City Attorney Leen: Mr. Mayor before there is a motion, the Clerk has asked me to state on the record the emergency and I think that has been demonstrated through the hearing. The emergency relates both to a specific property; can you give the address of the property?

Mr. Palenzuela: It's 1248 Serolla Avenue. There may be other properties that will qualify for demolition...

Mayor Cason: When you follow the...you can go into the properties and then let us know the abandoned real properties, you can run through each of the cases.

Mr. Palenzuela: Right.

City Attorney Leen: And we also have the 40-year recertifications, those are basis for the emergency action; and then second, the Clerk has asked me to remind you that it's a four-fifths vote and there will be two roll call votes. So there needs to be a motion, a second, and then there will be two votes in a row and for this to pass it requires four of you to vote for it.

Mayor Cason: I see that the Vice Mayor made a motion.

Vice Mayor Quesada: So moved.

Mayor Cason: And we have a second?

Commissioner Keon: I'll second it.

Mayor Cason: Commissioner Keon seconds. So on the first vote, City Clerk

Commissioner Lago: Yes
Vice Mayor Quesada: Yes
Commissioner Slesnick: Yes
Commissioner Keon: Yes
Mayor Cason: Yes
(Vote: 5-0)

City Clerk Foeman: Second roll call.

Vice Mayor Quesada: Yes
Commissioner Slesnick: Yes
Commissioner Keon: Yes
Commissioner Lago: Yes
Mayor Cason: Yes
(Vote: 5-0)

[End: 10:38:34 a.m.]