

City of Coral Gables City Commission Meeting
Agenda Item I-3
July 26, 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

Public Speaker(s)

Agenda Item I-3 [11:55:00 a.m.]

Discussion regarding Neighbor Dispute Policy

City Attorney Leen: Item I-3 is a discussion regarding the neighbor dispute policy.

Mayor Cason: And then after this we are going to do H-5.

City Manager Swanson-Rivenbark: And if you might Mayor, if I may ask, is anyone here for H-1, which is the Renuart Enterprises, the MacFarlane?- is anyone here non-staff?- we love staff, but we are not counting you. And is anyone here for the Miracle Mile light issue that is non-staff. Then it's at your pleasure Mayor.

Mayor Cason: Craig.

City Attorney Leen: So Mr. Mayor, Item I-3 is a policy regarding Code Enforcement and neighbor disputes. This was requested by the City Commission. I remember Commissioner Keon

raised it initially and then the entire Commission was very interested in this matter. What's happening from time to time is that you'll have a dispute between two neighbors, it could be commercial or it can be residential, and the two neighbors will make complaints against each other regarding Code Enforcement. So they'll claim violations of the City Code or Zoning Code related to an adjacent property. One thing you need to know about Code Enforcement is there are some violations which are life safety issues, which the City goes out and we vigorously enforce, we cite, and then there are other ones where typically we receive a complaint and we'll go out to the house and then we will ticket the matter based on the complaint. And the problem that that causes sometimes, often it's a very good policy, it seems to work very well for us, we are well known for our Code Enforcement, but from time to time because there is a focus on complaints, you will have one property owner and then another property owner will get in a dispute, they are upset with each other, and they keep making complaints against the other property. I've probably worked on, I would say at least ten, maybe twenty of these as City Attorney, and I'm sure there are many more that goes to the City Manager's office, that come to you individually, that go to Code Enforcement, or one of our Assistant City Managers, and also our Ombudsman, Tony Silio who also deals with citizens' complaints sometimes. So we believe this is a real problem and there are a couple instances where it took a lot of City resources because we had to continue responding to complaints from one citizen to another and these were not significant violations of the Code. In fact, sometimes they were violations in a couple instances where we haven't really cited that before, but they found a violation, a technical violation of the Code. In no way am I excusing violations of the Code, but the concern is that because you have a personal issue with another neighbor you're receiving a lot more complaints than any of your other neighbors, and no one seems to have an issue with what you are doing on your property, except for the person who you are in a neighbor dispute with, and our concern is that neighbor dispute is using Code Enforcement in a sense as a tool, almost an abusive process, that's what it's called in the Turk world, but they are using Code Enforcement as part of their dispute with their neighbor to cause their neighbor harm. So our goal is to have Code Enforcement use its resources appropriately to be able to address all sorts of complaints throughout the City and we believe that this policy effectively addresses neighbor disputes. What it does is defines a neighbor dispute as three or more Code Enforcement complaints between the same set of neighbors or between individuals of the same property against the same neighboring property whether residential or commercial during a period of six months. Then what happens is, if there is a neighbor dispute that's declared and that declaration is done by the City Prosecutor, the Code Enforcement Prosecutor who is Miriam Ramos, she would do that in conjunction with the Code Enforcement Division Director, they would make a determination that, pardon me, there's been a slight change. It's the Code Enforcement Division Director and his or her discretion establishes that a neighbor dispute exists; the department will not issue a notice of violation or ticket to the property or business being complained about, unless the violation is a life safety violation. If either neighbor believes that their complaint should not fall under this policy, either may request the decision be reviewed

by the Code Enforcement Prosecutor. If either neighbor wishes to appeal the decision of the Code Enforcement Prosecutor, he or she may request in writing to the Code Enforcement Division Director that the matter be reviewed by the Code Enforcement Board. So there is a lot of process here. It gives the Code Enforcement Director the initial decision because he oversees Code Enforcement, and typically discretion is issued by Code Enforcement. If however, one of the neighbors is concerned and feels that they are being treated unfairly, that matter will then come to the Code Enforcement Prosecutor who will look at it also from a legal perspective and a prosecutorial discretion perspective. At that point if the neighbors still are concerned about it, it can be brought to the Code Enforcement Board, which also is a good thing, because both of the neighbors will likely have to go before the Code Enforcement Board and hopefully they will work out their problem. So this policy does not apply to noise complaints, complaints regarding abandoned properties, or complaints regarding public nuisance properties, because we recognize that you may have many complaints regarding a property like that. In addition, it does not apply to any life safety violations. If there are any life safety violations the City will act on that immediately. Finally, it does not apply to a complaint from another person that's not in the neighbor dispute. So if there is something that's causing concern for the neighborhood, another neighbor can make a complaint. Likewise Code Enforcement retains its discretion to always enforce the Code whenever it believes it's appropriate. We believe it's a comprehensive policy, we've asked the relevant City staff to look at it that has an interest in this. We believe it's a good policy, the City Manager has looked at it as well, it's our departments working together and we present it to you.

Commissioner Keon: Thank you. It doesn't apply to noise, that's what you said.

City Attorney Leen: It does not apply to noise.

Commissioner Keon: So it's not barking dogs and not any of those sorts of things.

City Attorney Leen: Because those could be recurring, so you may have a number of these.

Mayor Cason: I've seen some of these where people come in for whatever reason they hate their neighbor and they talk about, well you've got some mud on the side of your house and they call Code Enforcement, and says, yes, your house has got to be clean, and then it rains so it's a waste of our resources.

Commissioner Keon: It's the County Attorney's office, the City Attorney's office a tremendous amount of time and resources.

City Attorney Leen: It does. And what it allows Code Enforcement to do is, say there's been a recognized neighbor dispute so we are not going to cite this, because right now they are concerned, Oh we have a complaint, it's a technical violation, what do we base the decision not to cite on. Now we have a policy, it's been blessed by the Commission. We'd ask that you do, if you agree with this, a motion accepting the plan and allowing the City Manager and I the authority to revise it where warranted.

Mayor Cason: Somebody wants to make a motion?

Commissioner Keon: I will make that motion.

Mayor Cason: Commissioner Keon makes that motion, Commissioner Slesnick seconds – City Clerk.

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Mayor Cason: Yes

(Vote: 3-0)

Absent: Quesada/Lago

Commissioner Keon: Thank you.

[End: 12:01:55 p.m.]