

**City of Coral Gables City Commission Meeting
Agenda Item E-1
September 13, 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
Assistant City Manager, Peter Iglesias**

Public Speaker(s)

Agenda Item E-1 [10:04:41 a.m.]

An Emergency Ordinance of the City Commission of Coral Gables, Florida, amending Article V, to add Section 105-250 of the City of Coral Gables Code to allow for the City to take remedial measures to address pools and other openings with stagnant water that cause a public safety concern; providing for remedial measures and cost assessment; providing for a repealer provision; severability clause, codification, and providing for an effective date.

Mayor Cason: City Manager E-1,

City Manager Swanson-Rivenbark: I'll ask the City Attorney to present.

Mayor Cason: Excuse me, yes.

City Attorney Leen: Thank you Mr. Mayor. This is an Emergency Ordinance. It's an Emergency Ordinance of the City Commission of Coral Gables, Florida, amending Article V, to add Section 105-250 of the City of Coral Gables Code to allow for the City to take remedial measures to address pools and other openings with stagnant water that cause a public safety concern; providing for remedial measures and cost assessment; providing for a repealer provision; severability clause, codification, and providing for an effective date. I'd like to ask the Deputy City Attorney to come up to speak about it, but before she begins I just wanted to make a couple of slight modifications to the ordinance. The first is, you'll be making a finding because it's an Emergency Ordinance by a four-fifths vote, assuming you decide to adopt this, that this is an emergency because of the Zika virus and because of other issues related to mosquitos, and that the City needs these powers now so it can take action and not have to wait for another meeting. Number two, Section 105-250, I just wanted to make two changes. Several portions of the proposed Code provision refers to subsection 2, like for example, in paragraph 4, it says at the end, the City may take any and all remedial measures available to it as set out in subsection 2. It says that in each section, but it's actually subsection 3, because I guess a subsection was added, so that will say subsection 3. In addition, one other change, this refers to the property owner, but we are also applying this to the mortgage holder and any other responsible party under our abandoned property ordinance, so that will be clarified if you adopt this.

Mayor Cason: Will this apply to tenants as well?

Deputy City Attorney Ramos: Well it will apply to the property owner. We typically would cite or assess the cost to the property owner even if they have tenants, and then they can work it out with their tenant.

City Attorney Leen: But the issue for us is that sometimes these property owners leave and so part of the effectiveness of the abandoned property ordinance is that it also applies to banks, the mortgage holders and to other responsible parties. So whoever would be a responsible party under the abandoned property ordinance would be a responsible party here, and often it's the bank that is the one that would have the funds to be able to pay the special assessment.

Mayor Cason: So how does this supplement or add to the April ordinance on mosquitos and swimming pools and so on that we passed, does this fill a gap?

Deputy City Attorney Ramos: The April ordinance on mosquitos more discussed when you had like a breeding of mosquitos and it also talked about extra territorial, so outside of the Coral Gables area. This issue has come up again because of Zika, but we found properties again and again that has swimming pools that are dirty, they don't have water flow, and of course they lead to mosquitos and a number of different animals that could go there, or procreate there. So the

Assistant City Manager and I worked together to draft this ordinance that allows us to, not only cite, but actually take the measures necessary to eliminate the problem very quickly and then assess it to the property owner, the cost.

Mayor Cason: So will this allow Code Enforcement to do things that otherwise couldn't do in terms of going in?

City Attorney Leen: Before you respond, let me just clarify that. Right now for a construction site, the building official has this authority, because he has authority over construction sites. What this does from a legal perspective, I think we already have this authority, but what it does is it clearly puts in the Code a process. So for example, if you have a vacant property, but it's not abandoned, we give you a notice and you'll have 48 hours' notice that we are going to be coming on the property. If it's temporarily vacant, like someone leaves for three months, we also would give you notice that we are coming on the property, 48 hours' notice. If it's occupied, you get 24 hours' notice. The importance of this is that by giving the notice, it gives someone, first of all it makes sure they know that someone will be coming on their property for a non-law enforcement purpose, I want to be clear about that. The purpose of this is to address a public safety concern, public health concern, pardon me; and then number two, it allows then the ability to contact us to say, you know I'm doing it, I'm going to do it right away, and it gives them that opportunity before they are specially assessed.

Deputy City Attorney Ramos: Except for the abandoned properties on the abandoned property registry, which have no warning period, it's an immediate.

Mayor Cason: Does other municipalities have this ordinance?- is this unique?

Deputy City Attorney Ramos: I don't know. Have you seen it in other municipalities?

City Attorney Leen: I have not. I have not.

Assistant City Manager Iglesias: The ordinance is also...much faster than the Unsafe Structures Board. The Unsafe Structures Board would take months to go in for emergency purposes only.

City Attorney Leen: Mr. Mayor most cities and so does Coral Gables has a general nuisance abatement ordinance, like if the grass is too high we give notice, and then we go on the property and we cut the grass, so it doesn't set any sort of new precedent in that sense, and we would specially assess that to the property owner, but it's very focused on the stagnant water because sometimes it requires you to really go in the backyard, and so the idea is we want to provide the

ability to give notice for residents where it's possible that someone will be living there, so they are put on notice and aware.

City Manager Swanson-Rivenbark: And Mr. Mayor, I want you to know I am a strong advocate of this action. Our Code Enforcement, and you honored them today, frequently have to go and check pools, same pools every two weeks. It is not an efficient use of their services and the property owners must take responsibility if they are not on site or they are not taking care of their pools and this kind of ordinance forces them to do this.

Mayor Cason: This allows us to fix the problem even if they don't want to.

Deputy City Attorney Ramos: That's correct, very quickly.

Mayor Cason: Now what about if it's a tenant and the owner lives in Japan. There may be cases where the tenants say, I don't know, I can't get in touch with the owner...

Deputy City Attorney Ramos: We'll go in and do it and then it would be assessed to the owner, the cost of the remedial measure.

Mayor Cason: So that really is where you are going to gain some time on these rental homes.

Assistant City Manager Iglesias: Yes, instead of going through the Unsafe Structures Board, which takes quite a bit of time to take action.

Deputy City Attorney Ramos: And I want you to know that it's not just swimming pools, but really all bodies of water that can be on the property, a fountain, a grotto, anything like that, a pond.

Mayor Cason: OK. Any discussion? Can I have a motion?

Commissioner Keon: So moved.

Commissioner Lago: I'll second it.

Commissioner Lago: Commissioner Keon made the motion.

Mayor Cason: Commissioner Keon made the motion.

Commissioner Lago: I'll second it.

City Attorney Leen: And Mr. Mayor, they'll be two roll call votes, and remember it's a four-fifths vote because of the emergency nature of the ordinance.

Mayor Cason: And also do we have any speaker cards?

City Clerk Foeman: No Mr. Mayor.

Mayor Cason: So we'll close the public hearing. City Clerk.

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Commissioner Lago: Yes

Mayor Cason: Yes

(Vote: 4-0)

(Vice Mayor Quesada: Absent)

City Clerk Foeman: Second roll call.

Commissioner Keon: Yes

Commissioner Lago: Yes

Commissioner Slesnick: Yes

Mayor Cason: Yes

(Vote: 4-0)

(Vice Mayor Quesada: Absent)

Mayor Cason: Thank you.

Commissioner Lago: Thank you.

[End: 10:11:48 a.m.]