

City of Coral Gables City Commission Meeting
Agenda Item E-4
January 10, 2017
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
Assistant City Manager, Peter Iglesias
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Deputy City Attorney, Miriam Ramos

Public Speaker(s)

Rhonda Anderson

Agenda Item E-4 [10:27:17 a.m.]

An Ordinance of the City Commission of Coral Gables, Florida, amending Section 105-26 of the City of Coral Gables Code to prohibit certain exterior construction on Saturdays (Along with Sundays and Holidays) in residential zones or within 100 feet of residential zones, providing for a repealer provision, severability clause, codification, enforceability and providing for an effective date.

Mayor Cason: Item E-4 is also an Ordinance on Second Reading.

City Attorney Leen: Yes. Thank you Mr. Mayor. Item E-4 is an Ordinance of the City Commission of Coral Gables, Florida, amending Section 105-26 of the City of Coral Gables Code to prohibit certain exterior construction on Saturdays (Along with Sundays and Holidays) in residential zones or within 100 feet of residential zones, providing for a repealer provision,

severability clause, codification, enforceability and providing for an effective date. This is sponsored by Commissioner Lago. It's an ordinance on Second Reading. I'm going to read in one change from the sponsor which is the sentence, if you go to page 2 of the ordinance, which says, presently says, *"no exterior construction, alteration or repair that exceeds 60 decibels or ten decibels over Ambient noise at the property line based on an acoustical survey approved by the Building Official shall be performed on a Saturday,"* and then it goes on. The words, "that exceeds 60 decibels or 10 decibels over Ambient noise at the property line based on an acoustical survey approved by the Building Official" are removed. So now it would say, "no exterior construction, alteration or repair shall be performed on any Saturday" etc. In addition, the words "no music" or programming that exceeds 60 decibels or ten decibels over Ambient noise at the property line of a construction site is permitted. I would like that to be moved toward the end of the paragraph just to make it clear that that doesn't only apply for Saturdays, but that it's a general prohibition every day of the week. Those are the changes and with that I would turn it over to Deputy City Attorney who worked on this with the sponsor Commissioner Lago.

Deputy City Attorney Ramos: Good morning everyone and Happy New Year. I also worked with Mr. Peter Iglesias, Assistant City Manager. The only real change, other than the ones that Mr. Leen just alluded to since last time were the changes regarding owner-builder. There was some concerns last time about people doing work on their own homes, so what we have added, other than the two changes that have been removed, is that now if you are doing work under an owner/builder permit or you're a resident or an owner that is doing work that does not require a permit on a Saturday you will be permitted to do that between the hours of 9 and 5, of course

City Attorney Leen: One other thing I'd like to read into the record if it's OK, Mr. Mayor and Commissioner Lago is, there is a sentence here which talks about how we measure the 100 feet and I just want to be very clear in the record, because this could affect very large properties like the University of Miami or somewhere else. What it says is, the 100 feet shall be measured as the distance between the nearest property line for property zoned for residential use in either 1) the property line for typical construction projects, i.e. single family homes or single building sites, that's the smaller properties; or 2) the construction boundary, which is also referred to as the quasi property line as determined by the Building Official for larger sites or stage work. What that means is, if you have a very large site like the University of Miami, which is probably the best example in this City, and there is construction being done 800 feet away from a residential zone that does not implicate this ordinance, because that would be the quasi property line is where the construction is being done 800 feet away. If the construction is being done within 100 feet of a residential area, then it would apply. So I just want to make that very clear for the record so there is no confusion.

Commissioner Lago: And I also wanted to make it clear Mayor, if I may, when we discuss owner-builder, again, I received one e-mail from one individual in reference to their concern about not allowing them, because they do a lot of handyman work on their own residence Saturdays and I had no issues with that. Again, if you are a homeowner and you are working on your own home have at it, no problem, but I want to be very, very clear and I want to put it on the record, when you talk about owner-builder, anyone can pull an owner-builder permit, as long as you pass the test and you have some sort of competency in regards to design and construction.

Vice Mayor Quesada: Does it have to be less than a certain amount of work?

Commissioner Lago: Depends, it all depends. For example, I can pull an owner-builder, because of my knowledge in reference to construction and design, but I am the owner and I'm the builder and I'm working on my home.

Vice Mayor Quesada: The only reason I said, I pulled one for my house years ago, because I was doing less than \$2,000 worth of work, I think is what the application said.

Assistant City Manager Iglesias: **It's really based on the competence of the individual and generally there is no limit on residential.**

Vice Mayor Quesada: Then they should not have given me the permit then.

[Laughter]

Commissioner Lago: You wouldn't hand a lawyer like yourself an owner-builder permit to do an addition to a home.

Vice Mayor Quesada: Of course.

Commissioner Keon: You can't pull an owner-builder permit to do an addition?

Assistant City Manager Iglesias: Yes **you can.**

Commissioner Lago: No, I'm saying, but if you are qualified, he can, but he wouldn't pass the test. I know Frank, he wouldn't pass the test, he won't, he's a lawyer. He doesn't know how to build a foundation.

Assistant City Manager Iglesias: **So what the Codes are and what inspections you require, this has been a law ever since I can remember...[Inaudible]**

Commissioner Keon: I remember years and years ago, pulling a permit for a very large addition onto a home we lived in, as an owner-builder permit.

Assistant City Manager Iglesias: **You can do an entire home with an owner/builder permit, but it must be for your personal use.**

Vice Mayor Quesada: I'm going to ask Code Enforcement to come by your apartment.

Commissioner Keon: Yes, it was in a home, it could be 20 years ago now. Anybody can pull an owner-builder permit, so if you have even someone buying-building a spec home is the owner of the property and if they decide to pull it as an owner-builder permit, can they as opposed to something else?

Assistant City Manager Iglesias: But they can only get one permit per year. They are limited by State Statute to one permit per year and most of the time it is residential. Yes you can.

Commissioner Keon: So anybody can pull an owner-builder permit.

Commissioner Lago: But you have to be competent.

Assistant City Manager Iglesias: We provide...

Commissioner Keon: No, you don't have to be. You have to have knowledge of the Code.

Assistant City Manager Iglesias: **Knowledge of the Code and knowledge of construction.**

Commissioner Lago: For example, in the City of Miami, I'm just going through this issue right now recently. I have a friend of mine who wanted to pull an owner-builder, excuse me, permit for an interior renovation. When he went to pull the permit he requested owner-builder, they made him take an exam, a very simple ten question exam.

Commissioner Keon: We don't.

Commissioner Lago: No, I'm just telling you what other cities do and what I think is appropriate, because what ends up happening is not only the issue where you may not know what you are doing, but you also may hire somebody who may not be doing the appropriate work and they may not be following the Code, so that's the importance of why you have design professionals and construction professionals. But beyond that again, my issue is in reference to the owner-

builder, the owner is going to be out there shoveling sand and fixing the roof and they are competent, I have no issue with that, but what I don't want is an owner-builder to pull a permit and then have an entire construction crew that is under his auspice as his subcontractor working on block, laying tie beams and they are competent, which happens a lot. The purpose of this, I don't want to hurt owner-builders that are out there performing their own work on Saturdays, but I want like I mentioned to you before, I want an increase in quality of life especially in the neighborhoods. I recommend that anybody drive through my neighborhood near UM, it's a beautiful, peaceful neighborhood, but again I'm not there 9 to 5. There are currently probably about ten homes being renovated in a five square block, being built or renovated. It's a very up and coming neighborhood, a lot of people want to move into that area, so if you are there in the middle of the day, there is concrete trucks, that's not an issue for me, that's not an issue for me Monday through Friday, but I think Saturday and Sundays, like I mentioned before should be a little bit of something that we enjoy and we don't have to hear someone reroofing their property starting at 9 o'clock in the morning.

Assistant City Manager Iglesias: **As you know Commissioner any owner-builder if he subs out any work it will have to be a licensed contractor.**

Commissioner Lago: Yes, of course. For the purpose of this, I don't want people to circumvent this change and say, OK, well I'm an owner-builder, but I'm bringing in a roofing company to start laying 30 paper, 90 paper and tar on a Saturday. Not only the noise, but it's also the smell.

Deputy City Attorney Ramos: **I think we can address it Commissioner by saying the owner-builder permit where the owner or resident is performing the work him or herself.**

Commissioner Lago: It's self-performing.

Mayor Cason: That takes care of it that way.

Assistant City Manager Iglesias: **I do believe we have it as personal though.**

Commissioner Lago: And the reason why I want that clarification, and this is just for my colleagues for their edification is, I want to make the process as simple as possible for our Zoning team, not our Zoning team our Code Enforcement team, because they have to go out there, they are going to ask, who are you? - why are you out there? - let me see your permit. No. It's very simple. If you see somebody working on the exterior of a home, painting it, roofing it, installing a window, it should be very simple, you should be able to walk up to them and say, are you the owner of the home?- yes, I am, I am the owner, here it is, here is my permit, here's my name. OK, you are fine. You continue doing your work. If you are a contractor or subcontractor

you should not be working on an exterior of a home on a Saturday, not to mention on Sunday we have no construction, but two weeks ago, the Manager can look this up, a block away from me on Ancona there was a gentleman reroofing his house on a Sunday. It's a problem. I got a call from a neighbor to go look at it. The noise could be heard two blocks away from my house.

Mayor Cason: On Section 2, Special Permits, you referred to 100 feet of residential zones, why the word zone?- is it a residence or a zone?

Deputy City Attorney Ramos: **The area is zoned residential is what it is trying to refer to.**

Mayor Cason: So presuming there are no homes that are outside something zoned residential?

Deputy City Attorney Ramos: **The concept behind the ordinance was residential areas of the City, so you going to have apartment buildings that are not in residential areas, and those will not be covered.**

Mayor Cason: OK. So it's zones.

Commissioner Lago: I received two phone calls, excuse me, one phone call in reference to the University of Miami. This is nothing to do with the University of Miami; I live in front of the University of Miami, I have no issues with the university, they have been on their best behavior in years and they are a great community partner. My concern is not the university, they know what to do, they hire the best, my concern is the residents that don't know what they are doing and they need to be explained.

Mayor Cason: OK. We have one speaker card, Rhonda Anderson.

Ms. Anderson: **Thank you, Rhonda Anderson for the record, 2715 Hernando Street, one I want to voice strong support for this, but also pose a question to you all, for instance, issues where you don't need a permit, pressure cleaning your roof or pressure cleaning sidewalks on Saturday and Sunday, whether that has been considered and whether or not the Commission...**

Mayor Cason: I think we said that was maintenance.

Deputy City Attorney Ramos: **Yes, in matters where you don't have to pull a permit or you yourself or a resident is performing the work it would be exempt.**

Ms. Anderson: **And what if you hire someone, which most people do?**

Deputy City Attorney Ramos: Then it would not be exempt; it would have to be done Monday through Friday and not on Saturday...[Inaudible]

Commissioner Lago: Miriam can we discuss that, because one thing that I would love to see and I imagine my colleagues feel the same way, I would love for more people to do their sidewalks. So I don't want to deter from that, and I see there are a lot of residents here. How do you feel about maybe having the exception be you can hire a person to clean your sidewalk?- because again, I don't think many people – I myself don't own a power wash machine.

Mayor Cason: I'll lend you mine.

Commissioner Lago: You'll lend me yours – is it electric or is it gas?- I hope its electric – gas – it's got to be electric.

Deputy City Attorney Ramos: **You can always hire someone, the only thing this is doing is to not let you hire someone to work on Saturday.**

Commissioner Lago: No. I know that. I know that. But again, if you are going to self-perform it, it's tough.

Deputy City Attorney Ramos: **If your self-performing it is exempt if you are going to contract it out, it has to be Monday through Friday.**

City Attorney Leen: But Commissioner you can just exclude sidewalk.

Commissioner Lago: Sidewalk cleaning.

City Attorney Leen: It's a public sidewalk.

Mayor Cason: Sidewalk is not part of your house, that's public.

Commissioner Lago: Its public, but you are responsible for it, you are responsible for it.

City Attorney Leen: The difference is that that serves a public purpose, so you are basically – even though under our Code you are given a duty to keep the sidewalk maintained, you are essentially performing a public purpose, so there would be a very good reason to carve that out if you wished. You could definitely do that without compromising the rest of the ordinance.

Commissioner Lago: I'd be interested in doing that.

Commissioner Slesnick: I would too.

Mayor Cason: Me too.

Commissioner Lago: Commissioner Keon?

Commissioner Keon: I have to tell you, I have all of the respect in the world for you, Commissioner Lago, and I know what you are attempting to do, but I really, I don't support what you are doing here. I think that, one, you are assuming that everybody's workweek is Monday through Friday and everybody's workweek is not Monday through Friday. There are a lot of people that work over the weekends, nurses, most public servants of some sort, whether they are police officers or firemen, or any other number of jobs; for people who maybe travel extensively, they may be leaving to catch their flights on Sunday, they may not be coming home till Saturday; you have a large community of international business people that live in the City, and they still may choose to do some work themselves or they may have work done, and sometimes in a project they maybe want to be there when some element of that project is being done. So, I think it is a bit, I think its over-regulation and I think it's a little bit intrusive into the lives of people in general that live in the City. I certainly understand Sunday, because Sunday throughout our history, throughout the Christian world is regarded as a day of rest, although we don't live in just a Christian world, so I'm not sure...but we do, we live and so things are like that. When you first started with this, I said the only thing that I would really be opposed to is demolition. I don't think you should be allowed to do demolition on the weekends, because it is very loud, it is very messy, so even if you are in your home, in your yard, you are going to get the dust and whatever that comes from demolition. I think that there are periods where we shouldn't allow demolition, like even over the Christmas holidays, between Christmas and New Year's, because there are so many people that are home that are celebrating and I think demolition is just a particular activity that is difficult to have in your neighborhood. You know you have to put up with it, but maybe if we cannot have it on the weekend or actually not have it during that whole week, I could accept it. And I also think that knowing and watching construction is that for contractors in order to keep a crew together and for the benefit of the homeowners who is having this home built, the more days that they can keep this crew on this job the faster this home is going to be built, and they now only have a five day workweek, they are going to build in another place where there are seven days, or they are going to start another project and I think that it will eventually slow down the project, the projects that are being built. I think that – you can't start before 9 on Saturdays, you have to finish by 5, you have to be out of the area by 5, which means you have to start cleaning up at 4, because you have to be totally done and exiting by 5 o'clock, which I think is a reasonable time, and you know I think a lot of people on Saturdays use Saturday as a work

day themselves. You know, you are out running errands, and if you work all week you are out running errands, you are out doing stuff yourself and so you may not necessarily be home. I know in talking to someone recently, they said they remembered when they had a newborn baby and somebody was building next door to them and it could have been Monday through Friday. I'm going to tell you, that new mother with this newborn baby doesn't want somebody pounding next to them all week long, but you know we can't legislate those things. We can't go tell people, I'm sorry this is happening in your neighborhood, but you can't. I think we preserve Sunday, we fine the most egregious types of activities that happen with regard to construction, which I think demolition, that's the only one I know of, I'm sure there are probably others that people can write in and tell us about, but I think going beyond that is really just I think it's an assumption that everybody lives on a Monday through Friday schedule and I don't think it's a correct assumption, and I really think it is over-regulation and I think it's really an intrusion into the lives of most people. So I have all of the respect for you and I know exactly what you want to achieve and I applaud you for trying to make our neighborhoods the best that they can be, but that's how I feel on this particular subject.

Commissioner Lago: And like always, we agree 99.9 percent of the time. I think I have a better approval rating with you than my wife, so it's OK.

[Laughter]

Commissioner Lago: And I will be honest with you, the good thing about this is that there are a few things being my profession, I'm regulating my own profession, this is interesting, so demotion, there is roofing, there is exterior construction, there is structural work, these are things that make an immense amount of noise, but there is something that we also are not capturing and I want to make sure we memorialize it. I'm not stopping construction on Saturdays, I'm stopping exterior construction.

Mayor Cason: That makes noise.

Commissioner Lago: No, no. Once you have your shell up, once you have your shell up you are working inside the envelope of the building, so you can continue construction in the interior; you can do electrical, plumbing, HVAC, you can do dry wall, you can do paint, you can lay floors, anything inside you can do it on a Saturday, it's not a problem. The purpose of this ordinance is to, like I said, really minimize the noise and dust and the continued pounding that's going on in these small neighborhoods. People live on 5, 10,000, I live on a 10,000 square foot lot, my neighbor next to me is 5,000 square feet. I know that they went through construction when I was rebuilding my home for close to a year and-a-half, and we have a home that's adjacent to us that's been going through that process right now and they are working on a Saturday, they are

working on a Saturday. They are there at 8:30 in the morning, they start at 9 o'clock and they leave by 5 o'clock and they take no mercy on the neighborhood, and I understand they are within their right to make as much noise as possible. So to me, we are not legislating on the interior, we are just legislating on the exterior and they have five days to do exterior, they have six days to do interior work. I think that's sufficed on this issue.

Mayor Cason: Let me ask about the question we were discussing on power washing. Do you have any idea what decibel noise...?

Assistant City Manager Iglesias: **Mayor you would have to use a compressor, because an electric washer is not strong enough.**

Mayor Cason: I know, but the gas ones are they...?

Assistant City Manager Iglesias: **It would certainly be over 60.**

Mayor Cason: So the question is do we want to carve out, back to your argument Commissioner Keon, the people Saturdays, they want to hire somebody because they want to watch them actually do a good job, unless they do it themselves which would be OK, I think we ought to carve out power washing, because we do want these dirty sidewalks which are all over the City, people to encourage them and they are going to want to be there and say they do a good job, so I think we ought to carve that out in terms of this. Anybody else – everybody agree with that?

Commissioner Slesnick: But when you have power washing done you do your own driveways too at the same time, so you are on private property.

Mayor Cason: Some people do their own – they do all of it, some of them do the side beams and whatever.

Commissioner Lago: The beams are private property you still have the noise ordinance in place.

Mayor Cason: Sometimes they do the roof.

Ms. Anderson: **That was going to be my comment; you need to consider that; that you may or may not want to consider, are they going to start at 8:30 in the morning or is it preferable to start-up later in the morning.**

Mayor Cason: Well we said 9 to 5, so it would be 9 to 5.

Commissioner Keon: 9 to 5 anyway.

Mayor Cason: 9 to 5.

Commissioner Slesnick: I have gotten several phone calls and a couple of letters that this is over intrusive for regulations for our City, so I have been asked to not support this issue.

Mayor Cason: Let's – you want to make a motion?

Commissioner Lago: I make the motion.

Mayor Cason: First of all, do we have any more speaker cards?

City Clerk Foeman: No Mr. Mayor.

Mayor Cason: We'll close the public hearing then.

Vice Mayor Quesada: The whole point of this is to keep things moving, make it easier to move, people keep moving forward without bothering others in the neighborhood.

Commissioner Lago: You are still allowed to build in the interior.

Vice Mayor Quesada: Still allowed to do things, however, it's making it more peaceful and tranquil in the neighborhood. I second the motion.

Mayor Cason: OK.

City Attorney Leen: So just to clarify. We would basically take the ordinance as its been read with the revisions and we would add a provision excluding power washing.

Mayor Cason: Yes.

City Attorney Leen: And that would be between 9 and 5.

Mayor Cason: 9 and 5, right.

Deputy City Attorney Ramos: **Also, we would add under the owner-builder permit where the resident or owner is performing the work themselves.**

City Attorney Leen: Yes, isn't that already there?

Commissioner Keon: But under an owner-builder permit the resident may not be doing the work themselves. An owner-builder can hire people to do work.

Deputy City Attorney Ramos: **Right, but under the exception, it would only be if you are doing the work on Saturdays. I think that is what Commissioner Lago is wanting.**

Commissioner Lago: Yes.

City Attorney Leen: OK – understand. Yes we would clarify that.

Commissioner Lago: But you won't see me out there reroofing my own roof. There is a very good chance I'll fall off the roof, very good chance.

Commissioner Keon: I'll catch you.

Mayor Cason: So Commissioner Lago made the motion, so we have a motion from Commissioner Lago; Vice Mayor seconds it – City Clerk.

Commissioner Slesnick: No

Commissioner Keon: No

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Mayor Cason: Yes

(Vote: 3-2)

Mayor Cason: OK. Thank you very much.

[End: 10:50:10 a.m.]