

City of Coral Gables City Commission Meeting
Agenda Item E-5
April 12, 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 E-5 [Start: 10:40:05 a.m.]

An Ordinance of the City Commission of Coral Gables, Florida pursuant to the authority granted by the Dade County Home Rule Amendment, Article 8, Section VI of the Florida Constitution of 1968, conflicting with modifying and nullifying the preemption of polystyrene regulations in Chapter 2016-61, Laws of Florida (to be encoded as Section 500.90 of the Florida Statutes), to the extent that such preemption is a local, special, or general law applicable only to the City of Coral Gables in Miami-Dade County and determining that the City's polystyrene regulations are not preempted and remain enforceable, and providing for severability, repealer, codification, and an effective date. (Sponsored by Commissioner Lago).

Mayor Cason: Let's do E-5. That's an Ordinance on First Reading – polystyrene.

City Manager Swanson-Rivenbark: This is the City Attorney's item with Commissioner Lago on polystyrene and Home Rule.

City Attorney Leen: So Item E-5, Ordinance on First Reading. Is an Ordinance of the City Commission of Coral Gables, Florida pursuant to the authority granted by the Dade County Home Rule Amendment, Article 8, Section VI of the Florida Constitution of 1968, conflicting with modifying and nullifying the preemption of polystyrene regulations in Chapter 2016-61, Laws of Florida (to be encoded as Section 500.90 of the Florida Statutes), to the extent that such preemption is a local, special, or general law applicable only to the City of Coral Gables in Miami-Dade County, and determining that the City's polystyrene regulations are not preempted and remain enforceable, and providing for severability, repealer, codification, and an effective date. This is sponsored by Commissioner Lago. It's a public hearing item. What this ordinance does, is it invokes the Dade County Home Rule Amendment and the specific language in the amendment, it's in the amendment, this is not something that is not expressly written in the law, which says that where there is a local, special, or general law of local application. What that means is where there is a law that only applies in Coral Gables, and I'll get to that in a second, where only applies in Dade County, and Coral Gables is in Dade County, that the local government, in this case the City, is expressly authorized by Constitutional Amendment to conflict with, nullify, or modify that provision. Why is that important?- because the polystyrene preemption done by the State Legislature it purports to preempt any regulation before a certain date, January 1 of 2016. The issue with that is Coral Gables is the only City in Florida, the only City in Florida that had a regulation that was preempted and it's a closed class because there is no other City now that can come in and adopt a law that was effective, that was valid and then become preempted. We are the only one. So the amendment directly applies. The grandfathering and preemption provision only hurts Coral Gables. Now one thing you should know is that there are special laws related to Coral Gables. We are allowed to have a special law related to Coral Gables. What we can't do under the amendment or what's not allowed is a law that we object to. The Legislature can't come here and legislate in a way that harms the City in the eyes of the City Commission, that's what this amendment protects. It protects Home Rule for Dade County and the cities within Dade County. It's a very important amendment. Now there is not case law really looking at this particular aspect of the amendment, and the Vice Mayor did ask me that. What there is, is Dade County has previously used this amendment once before and I talked to Craig Collar again, who was the attorney for Dade County, and that was an effective act, and my understanding is it has not been challenged. Anyhow, we are relying on the express language of the amendment. Now, one other thing I should point out regarding the ordinance is that, the City has already by emergency ordinance changed the effective date retroactively to December of 2015. We believe, I believe that, that's an effective act by the Commission. Nevertheless, you did have someone, an attorney for a party to come here, and he has told us that he may, not necessarily going to, but he may challenge that act, and he's put the City on notice to retain

records related to that, etc. So this is also being done to protect the Commission's will, and the ability of the Commission to one, have retroactively move the effective date to December, but also if and its ratified again in this ordinance, but also, if that is for some reason found to be invalid by a court, we will have done everything we can then to save this ordinance by exercising the Constitutional prerogative granted to Dade County and the cities within Dade County. So with that, I would turn it over to Commissioner Lago, who is the sponsor of this item.

Commissioner Lago: Thank you Craig. My follow colleagues, I'll be brief. I just want to say thank you again for, it's not often that we have the opportunity to hear a certain four times. So, I think that this is hopefully we'll have another 5-0 vote like we had the three previous times, but I think what we are doing here was, I'm trying to be as modest as possible, I think what we are really doing here is, we are really setting history today, because this City is moving in a direction where they are making, not only the residents community, but also the elected officials of the state aware that we are not going to stand by, and allow special interest to really dictate the future of what this City does. I have, we are fortunate enough here to have Mark Trowbridge from the City of Coral Gables Chamber, and I wanted to just bring him up just one more time and just to really speak on behalf of the business community, because it's essential that we memorialize the fact that the business community, the reason why we waited about three or four months to finally vote on this issue and bring it before the Commission was because we wanted input and we wanted buy-in from the business community, and Mark does a great job representing the business community. So, I just wanted to get input from you.

Mr. Trowbridge: Well thank you, and good morning again leaders. As the Commissioner has said, we were engaged in this process, it ran us from the First Reading until Second Reading. It really at our request and the request of the Business Improvement District, we asked for a little bit more time, but we could once again sit down with, in our estimation probably the most directly affected which were our restaurant community. We did that over two separate meetings, and in each case, I think I shared with you before, that the feedback we received is we are already doing this. This is something that we have been making a part of our business model, now that doesn't mean that every restaurant was at the table and there will be a process, which again, I want to thank the Commission for working with us, and agreeing to a longer implementation educational awareness campaign. As a matter of fact, I talked to Matt Anderson this morning before the Commission meeting about what our next steps would be, and I mentioned to him, that we have our annual sustainability awards at the end of this month, that we do in conjunction with Earth Day, and will be rolling out the beginning of that kind of pronounced period of education and awareness. So we are moving forward. I know you are doing some ministerial things at this point to make sure that we can move forward, but I think in either case we are looking at it as a good practice as much as it is an ordinance. So that's sort of where we are. I hope that answers your question and just remind you that we appreciate the

inclusion in that conversation, and then other items that came out of that and opportunities to really make it user-friendly process for our businesses.

Commissioner Lago: Thank you for your leadership. Just to make sure that my colleagues are aware. I sent you a copy via memo, but I sent a letter to the Governor in regards to SB 1010, requesting that the Governor veto that Bill. Obviously, the Governor did not veto that Bill or we would not be in the situation we are in today. So basically exhausted every opportunity. I've spoken to – I've been incredibly impressed by the business community, and also by the residents who have contacted me, have contacted Chelsea and Martha in regards to this really simple issue. This simple issue, which is just so outdated when you talk about the measures that our City is taking. We just gave a Proclamation today in regards to Arbor Day. We talked about all the wonderful groundbreaking sustainability projects that the City is doing, and we are really the focal point and we are really the leaders in South Florida, and I think in the State when you talk about quality of life issues, when you talk about sustainability. To me, I just wanted to reiterate the fact that I'm extremely grateful to serve with each and every one of you. Your leadership is something that when I spoke to the residents and the business community they were all advocates of everything that you do up here, and they were very impressed by the fact that we were able to take this fight, not only to the local level, but we are able to take this fight to the doorstep of the Governor's residents. Thank you again for your consideration.

Mayor Cason: Do we have any speaker cards?

City Clerk Foeman: No Mr. Mayor.

Mayor Cason: So we close the public hearing.

Commissioner Keon: I'll make the motion.

Mayor Cason: Commissioner Keon makes the motion.

Commissioner Lago: I'll second the motion.

Mayor Cason: Commissioner Lago seconds. City Clerk.

Commissioner Keon: Yes

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Mayor Cason: Yes

(Vote: 5-0)

[End: 10:49:00 a.m.]