

City of Coral Gables City Commission Meeting
Agenda Items E-11
September 28, 2010
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Donald D. Slesnick, II
Vice Mayor William H. Kerdyk, Jr.
Commissioner Maria Anderson
Commissioner Rafael “Ralph” Cabrera, Jr.
Commissioner Wayne “Chip” Withers

City Staff

City Manager, Patrick Salerno
City Attorney, Elizabeth Hernandez
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia

Public Speaker(s)

City Attorney Hernandez: Mr. Mayor you can go to E-11 now, if you wish.

Mayor Slesnick: I'd be happy to do that, Mr. Manager if you...
This is an item on First Reading.

City Manager Salerno: OK...E-11 is an ordinance of the Commission of Coral Gables creating Chapter 16, Article VI, entitled “Lawn Maintenance Equipment” of the Code of the City of Coral Gables, Florida and regulating debris produced or coming from all lawn maintenance equipment; amending Article V by changing the hours of operation for power tools and landscaping equipment under Chapter 16; providing for restrictions on the use of motorized leaf blowers, providing for exemptions; providing for enforcement and penalties; providing for severability, repealer, codification and an effective date.

City Attorney Hernandez: Mr. Mayor, Commissioners this item first arose as a result of discussion that the Mayor had with regard to the disposal of debris onto the sewer lines of the city; Commissioner Cabrera then also expanded upon it with regard to gas powered leaf blowers, and we have worked with the Commissioner and the Mayor, on the specific provisions that they were concerned about. And you have before you an ordinance that deals with both the prohibitions on lawn maintenance equipment, as well as times when you can operate motorized leaf blowers, and also the prohibition on discharging debris onto public rights-of-way street, sidewalk, sewers, Drain systems, or any other used by or accessible to the public.

Mayor Slesnick: Mr. Cabrera would you like to...

Commissioner Cabrera: No as you all recall, I think it was 3?-Perhaps 4 Commission meetings ago, that I made a presentation; a power point presentation, on the adverse effects of the use of leaf blowers throughout our city, through commercial maintenance companies. After presenting the information I researched, I think I shared with all of you, that I had also conducted a survey with 10 municipalities throughout the United States, primarily in California. And the good news is, that I did get 6 out of the 10 to respond. And I can certainly make copies available to any of you. I would say that, overwhelming there was tremendous support for this endeavor. And in fact some of these municipalities that implemented this ordinance had done so a number of years ago and have experienced very little in the way of, if I should use the word carefully negativity, with regards to the banning of leaf blowers. At the same time, I decided it was important to seek as much input from all of you, and I think it was Mr. Withers who expressed some concerns and specifically having to do with electrical leaf blowers. So this ordinance does not affect the use of electrical leaf blowers by residents. And that way you know if residents today wish to continue to use electrical leaf blowers for whatever uses that apply to the use of leaf blowers, so be it. But I do want to make one point to you this morning, you know after I made the presentation and I talked about all the adverse effects of the particulate matter that leaf blowers will put out in the environment, and the carcinogens, I wanted to share with you all, I guess it was about 2 weeks ago, I was looking through the paper. And like most of us, we get these Home Depot ads? And this Home Depot ad had a section for leaf blowers. And I got a kick out of the fact that, the majority of these leaf blowers, with the exception of one, put out winds based on the Saffir-Simpson Hurricane Wind Scale, of category 5. And this is the kind of stuff that we have going on, each and every day in our city. At any point in time, at any residential neighborhood, we have folks using leaf blowers. And these by the way, are not commercial grade leaf blowers either. These are residential use leaf blowers. And even the electric ones have a Category 5 wind speed. Because they could put out about 235 mph, maximum air speed, for powerful leaf removal. And so according to the Saffir-Simpson Hurricane Wind Scale 235 mph is over a Category 5, it's kind of like a Category 6 or 7. I don't think the scale goes that high, but I just wanted to make that point, if I didn't make it before to all of you, as far as the adverse effects of gas powered leaf blowers in our city.

Vice Mayor Kerdyk: I have a couple of questions, if I could go ahead and ask them...Commissioner, I like most of the ordinance, I just need some clarification on a couple of issues here. The ordinance itself states that, loud and unnecessary noises were basically implementing you know, leaf blower ordinance. And I like the idea about limiting the time and several things. I just have a question with regards to the loudness of a motorized as opposed to electric. I do not know, is there a difference in decimal you know measures there? And then I have one follow-up question from that point.

Commissioner Cabrera: Well...I'll tell you Mr. Kerdyk, I would like to ban the use of all leaf blowers, but as a politician realizing that one of my colleagues has a concern with electrical leaf blowers. And the fact is that we have many residents that have electrical leaf blowers, I went ahead and compromised. If I had my way, I would ban all leaf blowers, and as I just gave you an example. The example I gave you was not even for a gas powered leaf blower. I used an example

of an electric 12 amp blower, vacuum cleaner from Toro, which right now has a lower price of \$69.97. And they're just as adverse as a gas powered leaf blower. So I mean your point is well taken with me; but I, you know, I wanted to develop an ordinance that provided for some compromises.

Vice Mayor Kerdyk: Right, I think that might be a good thing to do; but with the regard to the motorized leaf blowers, we have 2 exceptions. -One is that the owners use the electric leaf blowers themselves, or their tenants, it says. And then governmental entities can use electric or motorized?

Commissioner Cabrera: Motorized... You see what happens is in a municipality like Coral Gables, we'll have public service crews out in the public right-of-way. Whether it be on South Dixie Highway, or whether it be on Ponce, or anywhere in the downtown area cleaning up some of our public right-of-ways. And for them to utilize anything other than a leaf blower, it literally puts them in harms way, and that's one of the reasons I wanted to do that. In addition to that, you've got special events throughout our city, whether it's the Miracle Mile Little Havana's Kiwanis event, or any other kind of event, like we had this past weekend, with the Hispanic Heritage... And the clean up makes it almost impossible, without the use of leaf blowers. And so, I wanted to give the city the ability, to not fall under this ordinance, so that they could do their jobs in an effective and safe manner; that was the reason for it. And last but certainly not least, after a hurricane I think that the city and any other government entity should be able to clean up, as quickly as possible, and the leaf blower will provide that for them; and incidentally, this also includes contractors to the City of Coral Gables. So it's not necessarily a city crew, but it could be a contracted crew, that works for the City of Coral Gables. So that's the thought process behind that.

Vice Mayor Kerdyk: I'm just worried, that if our residents see our employees out there with motorized blowers, is that going to open up "Pandora's Box" with reports to them requiring, requesting you know that they feel that they're being somewhat violated by not being able to utilize that.

City Attorney Hernandez: This is a totally defensible position of the City. Remember that the city's crews work on public rights-of-ways with the public needing access immediately. Where as in residential districts of the city, you have neighbors that are imposing their equipment, and the noise that it generates, onto their neighbors; and a lot of the gas powered that don't have the safety equipment, are discharging debris onto the rights-of-ways. And citizens are expecting that they have a safe and clean environment that they could walk around when you know they are walking on city streets and city rights-of-ways.

Vice Mayor Kerdyk: No I understand the legal perspective, I'm talking more from a practical...

City Attorney Hernandez: Oh yeah, always.

Vice Mayor Kerdyk: Alright.

Commissioner Anderson: I have a question; Oh I'm sorry, I didn't know if you were finished?

Vice Mayor Kerdyk: No I'm finished.

Commissioner Anderson: If this were to pass, it says that it would be effective 30 days from the date of its adoption. I'm now wondering if people need to be educated.

Commissioner Cabrera: Informed and educated, I agree with you. I think there needs to be a program. Incidentally, one of the municipalities that I surveyed Ms. Anderson actually came up with complete information and education program that included a brochure and I can make that available to our city. It's a very well put together brochure on the appropriate uses, and I concur with you. I think an education program should be put in place in order to make sure that everyone understands how it works.

Commissioner Anderson: Yes and...

City Attorney Hernandez: And the City Commission has a precedent for that even on your red light camera we did do a warning period; you know, and we've done this on other ordinances where you've done a courtesy warning for a period of two months, three months to let people know that it's effective on a certain day this law will go into effect.

Commissioner Anderson: Well yes and we have people who are contractors in the city that work on our lawns that need some type of time because they would have to make adjustments on that

Vice Mayor Kerdyk: Exactly...yes, yes

Commissioner Anderson: I mean I'm going to make a promise between First and Second Reading to learn more about some of the impacts, and I'll be willing to support it on First Reading with some provision for education; a period for education before it's implemented because I can't support it now, with just thirty days and then people all of a sudden start getting citations and lawn people, lawn maintenance companies starting doing that as well.

Commissioner Cabrera: Well I'll tell you between now and Second Reading what I'll provide to the entire Commission copies of the responses that I received from the various municipalities that have already implemented this ordinance or a similar ordinance, so you can get a flavor for how it's worked. But I'm certainly supportive of any kind of a process that does this in a kind and thorough thoughtful way.

Commissioner Anderson: Yes.

Commissioner Cabrera: So I concur with your thought process.

Commissioner Anderson: OK.

Commissioner Cabrera: In the meantime, I'll try and get you a flavor for that, but I want to go back for one second, if I may, because Mr. Kerdyk raised a really interesting commentary about the use of the government using leaf blowers and commercial lawn maintenance companies. Let me take you back to my presentation for one second and give you the example that I gave to all of you that you seemed to accept and if it's flawed by all means correct me, but I used the following, I said that in Coral Gables there are approximately 17,000 households. Assuming that 4,000 of those households are apartments and or condominiums that would leave us with 13,000 households; assuming that 3,000 of those households do not use commercial lawn maintenance companies, or the use of leaf blowers we are then left with 10,000 homes. If you then calculate 10,000 homes that have their lawn mowed 18 times in one year, which is a very low number, 18 is a very low number. You would then have as many as 180,000 leaf blowers going somewhere in a residential neighborhood, in a one year period, and that's a startling number 180,000. I encourage each and every one of you to go out on any weekend morning, or any weekend afternoon outside your door, and you will hear a leaf blower. Whether it be on a weekend or a weekday, and in many occasions many of you, I know I have I've lived in Coral Gables most of my life, I've been awoken by leaf blowers at 7 O'clock in the morning. So I mean it's a reality, and it's a very simple way to move stuff from one side of the street, or one side of a lawn to another. We're not picking these up, we're just moving them, and incidentally, I know many of you are not here for this item; but incidentally I made a very factual presentation on all the pollutants that leaf blowers throw out in the environment, from mold spores, and pollen, to pesticides, to particulate matter, to dog and cat excrement, and rodent feces, to viruses, to lead, to mercury, chromium as much and even nickel. So these are some of the effects that we're putting out into our environment, on a daily basis and you can look at it and say, well 180,000 that's not a whole lot, it's a whole lot for a city that's about 17 square miles.

Vice Mayor Kerdyk: How many of those households do you think actually have blowers themselves? As opposed to...

Commissioner Cabrera: Well I don't know, I have no idea, I couldn't tell you.

Vice Mayor Kerdyk: I mean there is a economic ramification that we have to, you know somewhat keep in...

Commissioner Cabrera: I'm sorry, but I will again debate that with you, because...

Vice Mayor Kerdyk: (inaudible)

Commissioner Cabrera: After I went ahead, well I'm not debating. I'm just discussing with you.

Vice mayor Kerdyk: OK, Yes.

Commissioner Cabrera: After, look I did my Homework. I went to ten municipalities that have already implemented this type of ordinance. I didn't just "willy-nilly" wake up one morning and said to Liz "Hey, put together a leaf ordinance, a Leaf Blower Ordinance". These ten municipalities, and again I probably need to inform and educate you as well; they did not share

with me that there was a negative financial impact to their residents which means that, it's not that the lawn people came back and said well now that I'm not allowed to use a leaf blower I'm going to charge you five dollars more to cut your grass. That did not happen. What did happen Bill is that the lawn maintenance companies made a fuss over this. They could not prove that in fact this was going to increase their times dramatically. In my presentation, I also showed you statistically that the increase of time to do a yard was minor in comparison to having a leaf blower, and I'm sorry for not having that piece of information readily available. But at the end of the day going back to the folks that responded that have been doing it now for quite some time; and incidentally, the people that have been doing it are out West, and I happen to think that most municipalities out West for whatever reason seem to be a little further ahead of the curb than we are in the East. And the same thing goes for healthcare, you know as a healthcare executive, or healthcare person, or professional I see that healthcare organizations in California are way ahead of the curb. And listen I think California is way ahead of the curb in so many different things, you're not allowed to use the cell phone while you are driving a vehicle; and they've imposed that law as a state law so... Across the board they are ahead of the curb. And they've tried to do the leaf blowers with the filters, or the sound filters and they just haven't worked out effectively. So I think I need to provide you guys... excuse me I need to provide you all with more information as it relates to this, but once again...

Vice Mayor Kerdyk: Can you do that between First and Second Reading?

Commissioner Cabrera: I will, I'll make a point of doing that because I think you deserve it.

Commissioner Anderson: And between First and Second Reading some type of education program, and implementation type of....

Commissioner Cabrera: Well that I'm not going to do, but I can give you...

Commissioner Anderson: No I mean, you know?-for staff.

Commissioner Cabrera: Yes with staff, right I can certainly give staff what I found, and give you copies of it as well. I think you'll be impressed, I forget what city did this.

Commissioner Anderson: OK.

Commissioner Cabrera: Which of the California Cities? I think it was Carmel? Or maybe Berkley, California, but I'll get that for you.

Commissioner Anderson: OK, alright that would be great.

Mayor Slesnick: Mr. Withers?

Commissioner Withers: Liz, how much is the fine?

City Attorney Hernandez: I can't tell you...Usually, it's \$250? I'll double check, I'm not sure.

Mayor Slesnick: Do we, anybody know how much the fine is?

Commissioner Withers: And who gets fined, the homeowner or the lawn service?

City Attorney Hernandez: How they did it?-well typically, it's the homeowner that is fined; but how we did it was, we're going to fine the property owner or the employee agent, or contractor working for the property owner. So, whoever is caught violating the ordinance is the person who will receive the ticket.

Vice Mayor Kerdyk: Let me just tell you, I just got an E-mail from somebody that's watching this. He says, "Are you kidding me? You don't maintain the property in front of my house, or the trees, so I have to maintain it. But you can use leaf blowers, but I can't?" That's...I mean

City attorney Hernandez: They can, they can use electric leaf blowers.

Vice Mayor Kerdyk: I know electrical, but...alright we just need an education program, during First or Second Reading.

Commissioner Cabrera: That's fine.

Commissioner Anderson: Yes, that's fine.

Mayor Slesnick: OK, we have one speaker that has decided to speak. Mr. Charlie Girtman, 744 Tibidabo.

Mr. Girtman: Good Morning.

Audience in Unison: Good morning.

Mr. Girtman: I talked to a couple of you; it's become painfully aware to me that most of you don't really know what a leaf blower is. I mean other than it blows leafs around...

(Laughter)

Mr. Girtman: I would like to tell you, everybody knows what a chainsaw is and how loud a chainsaw, is correct? When you hear a leaf blower, it has the same motor in it as a chainsaw. You do not hear the motor on the leaf blower. All you hear is the air coming out. Noise is defined as sheer, the molecule of air that's standing still, versus the moving molecule of air next to it. Just like (Mr. Girtman tears up a sheet of paper) that's sheer, that made a noise, the ripping there. Thirty years ago, my yard man was an elderly gentleman named John, who lived in the Grove, and I looked forward to seeing him every other week. Because his lawnmower was a small Brigs and Stratton, and it went "put, put, put, put, put" and after that finished, you would hear the rake (Mr. Girtman emulates a rake sound), and then the broom (Mr. Girtman emulates a broom sound).

(Laughter)

Mr. Girtman: Now, I've got five contiguous neighbors, one across the street, and four that's on the property in the back. Everybody gets a yard done twice a month? Generally speaking...those people, yard men hit the damn place like an invasion force; you hear the motors running, you hear the leaf blowers going. My yard is completely encompassed by fences due to swimming pool regulations, and hedges. We have hedges on both sides, my hedge and the neighbors' hedge. In between there is a mound of leaves, that continually builds over a foot high, from the blowers, just blowing the leaves inside one way against the fence, versus the other way against the fence. So, as Commissioner Cabrera said we don't pick up most of the leaves, we just move them around, most of the leaves. I'll say I bought an electric leaf blower here, but after a consultation with the Mayor, it was determined that if we turn it on in this room everybody here will have a lawsuit against the City. It is so loud. As I said before, when you hear a leaf blower, you do not hear the motor whether it's gas or electric. What you hear is the sheer. And I'll go on to another quick little subject here, since I'm obviously old enough to be legitimately retired, and am. Old folks like myself like to take naps. You try taking a nap at 1 o'clock in the afternoon in my neighborhood, and it's not just those yard men, it's the maids that come out and blow the yard up (Mr. Girtman mimics a blower sound) and that goes on for thirty or forty minutes. Enforcing the thing? I don't know if you could enforce it or not. It's pretty tough; the suggestion was made because one of the uses of leaf blowers is that blow your roof off. Get the leafs off the roof up there. And the Commissioner said, well you could call in and we'll give you a \$25 permit to do that. That would certainly limit the noise, but again, I would like to emphasize one thing, that the electric leaf blowers are... you'll open a can of worms if you say you could have one and not the other. That's just my humble opinion. Whether you get this by or not, I really thank you all for looking at it.

Mayor Slesnick: Alright, thank you. Mr. Girtman thank you. And by the way, Charlie has volunteered that any one that would like to go outside right after this and listen to the electric leaf blower, he has it ready to plug in so... come on guys, you're kind of dead out there, lets...

Commissioner Cabrera: It's a tough crowd today.

Mayor Slesnick: I know, we need to get a new act here (laughs).

Commissioner Cabrera: Or get them Mimosas.

Mayor Slesnick: OK, we have this item on First Reading, E-11. Do we have a motion? Mr. Cabrera moves it, is there a second? Is there a second?

Commissioner Anderson: I'll...I'll second it.

Mayor Slesnick: Mrs. Anderson seconds.

Commissioner Cabrera: Thank you for your support ma'am.

Mayor Slesnick: Do you have any further discussion? This is an item on First Reading, Mr. Clerk could you call the roll?

City Clerk: Commissioner Cabrera?

Commissioner Cabrera: Yes

City Clerk: Vice Mayor Kerdyk

Vice Mayor Kerdyk: Yes, but I need a lot of answers between First and Second Reading.

City Clerk: Commissioner Withers?

Commissioner Withers: No

City Clerk: Commissioner Anderson?

Commissioner Anderson: Yes

City Clerk: Mayor Slesnick?

Mayor Slesnick: Yes. Well OK. that will be...

Commissioner Cabrera: I'll tell you what I am going to do; I am probably on the Second Reading, I'm going to amend the ordinance to include electrical.

Mayor Slesnick: OK.

Commissioner Cabrera: Only because you know I did it for Mr. Withers and I still didn't get his support, so I am just going to go ahead and amend it.

Mayor Slesnick: OK. But lets think about that, I mean before you just do that because we still need to give the residents some options of...

Commissioner Withers: No I know I just said think about it... I'm impressed.

Commissioner Cabrera: Well they, hey look I'm glad somebody wrote the Bill. What they should do is, next time around come out here and (inaudible)...

Commissioner Withers: He said he would be here.

Commissioner Cabrera: Good. I have about ten or twelve people that would like to come too, in favor of leaf blowers and I told them that I didn't think it was necessary, so I'll do the same thing, it's the political process. So we'll do it that way.

Mayor Slesnick: OK ... we're moving forward, and it's a rocky road but we're moving forward. I would say that, let me join Mrs. Anderson, and Mr. Kerdyk could you, would you be willing to work on...

Commissioner Cabrera: No, no, what I am willing to do...

Mayor Slesnick: No, but could I ask you just to do one thing?

Commissioner Cabrera: Go ahead.

Mayor Slesnick: Forget all the other stuff. I mean you do what you want to do, but for one thing let's just not have a 30-day thing, but have a phase in period where there...

Commissioner Cabrera: I concur completely.

Mayor Slesnick: Oh, OK.

Commissioner Cabrera: No, I supported what Mrs. Anderson suggested...

Mayor Slesnick: Oh, I thought you said you weren't going to do that....

Commissioner Cabrera: Oh no, I think what she suggested was the right thing. You know I would venture to say, you know a 90 to 120 day program that does an information and education process with all of those that work in our City and live here. I see no problem in that, but I don't see that as my responsibility. I see that as staff responsibility, I see us giving staff that direction and I think the three of us agreed that we want to do this in a thoughtful and methodical manner, so that we're just not you know shocking someone into all of a sudden you know getting a \$250 fine. I think that is wrong. I think that's inappropriate. It's the same, it falls in the same line of thought process that I shared with you at the last Commission meeting when I sat there through the ticket hearing and I found all these residents that are getting tickets from our Code Enforcement Department for trash that is not theirs. You know and I think there needs to be better information, and education processes for that; but you know we slam people constantly for \$250, in spite of the fact that they have very legitimate excuses for not being the ones that created the offense. So yes, I agree that 2 things need to occur between First and Second Reading. Now whether staff cooperates, its purely up to them – Number one there needs to be some sort of a time line if this is to be implemented that gives this Commission a level of comfort. –Number two, I think I need to give you all the information that I received from the various California communities that included feedback from them as to how effective or ineffective the Leaf Blower Ordinance was, and we'll go from there.

Vice Mayor Kerdyk: That sounds good.

Commissioner Anderson: Alright, fair enough.