

City of Coral Gables City Commission Meeting
Agenda Item E-1
December 16, 2008
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

Interim City Manager, Maria Alberro Jimenez

City Attorney, Elizabeth Hernandez

City Clerk, Walter J. Foeman

City Clerk Staff, Billy Urquia

Public Speaker(s)

Richard Namon, Coral Gables Resident

E-1 [Start: 10:32:08 a.m.]

An Ordinance of the City Commission of Coral Gables, Florida, amending Chapter 54, "Solid Waste", Article II, "Litter", Division 2, "Handbills" by providing for the prohibition of throwing, discarding, placing or depositing handbills or flyers as litter in public places; providing for definitions; creating criteria for rebuttable presumptions concerning littering with commercial handbills or flyers; by providing for seizure of handbills or flyers for use as evidence; providing for enforcement; providing for appeals, payment of fines and foreclosure; providing for fines and penalties; and providing for severability, repealer, codification, and an effective date.

Mayor Slesnick: Madam City Attorney.

City Attorney Hernandez: Yes Mr. Mayor, Commissioners; this is an update to our City Code provision. In 1996 the City of Key West deal with this issue on handbills and commercial distribution and the pollution that was occurring in the City's public rights-of way; the City of Miami Beach has been experiencing them the last couple of years; we have been monitoring the court cases, and we believe that we bring to you an ordinance that appropriately deals with the issues that arise from the pollution that surrounds the unsolicited distribution of commercial handbills, and we are requesting that you adopt this on first reading. We provided you with the memorandum and the background on it. Its very simple, it allows the City to go both against the violator, the individual distributing the information, and if the City has sufficient evidence to determine that the actual property owner, the business has authorized the distribution in this manner, to create a rebuttable presumption so that the hearing officer may be able to hear the

case, and the property owner can establish what their position is, including that they had absolutely no knowledge that this was being distributed, and it would be incumbent upon them to prove their case.

Mayor Slesnick: And we have one question from a citizen that was submitted about does this affect handing out political literature.

City Attorney Hernandez: Well it includes, handbills include political literature, but it affects commercial literature not political literature.

Mayor Slesnick: So this does not restrict candidates from handing out literature, OK.

Commissioner Withers: So if someone is handing out a menu in front of their restaurant, they are in violation?

City Attorney Hernandez: They are in violation if it is thrown into the public right-of-way. See, you can hand out literature; the idea is to prevent the pollution of that literature.

Commissioner Cabrera: So it's more like if you take that menu and you put it on the person's windshield wiper, and they take it off and they throw it on the ground.

Commissioner Withers: I understand, and they take it off and rip it off.

Mayor Slesnick: I had a situation the other day where they put something behind my windshield wiper, and it stuck to the glass, it took scraping to get it off. But I've noticed that we've had a lot of citizens complain about literature in the neighborhoods; people sticking them in the gates and things like that, which we don't want.

Commissioner Cabrera: You know what I'm concerned about...I'm certainly going to support the ordinance both on first and second reading, but really what concerns me most is, so what; we approve this ordinance and it goes on the books and then nothing happens; I mean really that's the reality.

Mayor Slesnick: One of the things, and you're right, as far as day to day observation of everybody's property and trying to keep people, but the one thing that could be done is if in fact commercial literature is left around with a telephone number and a name of a company we can go to that company to get...

Commissioner Cabrera: And what would we do then? We would cite them with a code enforcement violation, and if the company is domiciled in Coral Gables then we have some teeth.

City Attorney Hernandez: No, it's not necessarily just anyone that is domiciled in Coral Gables, you are allowed to lien property throughout the County.

Commissioner Cabrera: Throughout the County.

City Attorney Hernandez: Yes.

Commissioner Cabrera: Well, I guess what I'm trying to get at is, I would also welcome to see some proactively. I'm curious; do we have Code Enforcement personnel assigned to the Downtown areas?

Interim City Manager Jimenez: Yes, we do.

Commissioner Cabrera: And they patrol the areas?

Interim City Manager Jimenez: Yes.

Commissioner Cabrera: I didn't know that. Thank you.

Mayor Slesnick: I have one person who signed to speak, and this is Mr. Namon.

Mr. Namon: My name is Richard Namon, 5555 Oakwood Lane, Coral Gables, Florida. I like the idea of the ordinance, the concept is fine; however in reading the Section 54-52, which I believe really spells out what is illegal, while you have defined very well what a commercial handbill is, in the language it doesn't specify commercial handbill, and it seems to me that leave it open to a lot of interpretation; it seems to me that by missing the specificity of it being commercial handbills, it does raise the question that somebody asked what about political, what about religious, and what about the City when you have your Farmer's Market here, or you have a table with Coral Gables information, and these things will also be illegal by the way this thing is actually spelled out. So I'm not against the principle, but I think that the actual wording of this is not specific in a way that clarifies that as commercial handbills. Thank you.

Mayor Slesnick: Mr. Namon, I would invite you, if you would, give your thoughts to the City Attorney because now and second reading, she can consider those thoughts and decide whether or not there are amendments to be made. We can change the ordinance and its wording as long as it's not a substantive substantial change.

Commissioner Anderson: For clarification purposes.

Mayor Slesnick: Do I have a motion?

Commissioner Anderson: I'll move it.

Vice Mayor Kerdyk: Second.

Mayor Slesnick: It's been moved by Ms. Anderson seconded by Mr. Kerdyk.

Mr. Clerk

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Mayor Slesnick: Yes

(Vote: 5-0)

End: [10:38:24 a.m.]