

City of Coral Gables City Commission Meeting
Agenda Item F-3
October 26, 2021
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Vince Lago

Vice Mayor Michael Mena

Commissioner Rhonda Anderson

Commissioner Jorge Fors

Commissioner Kirk Menendez

City Staff

City Manager, Peter Iglesias

City Attorney, Miriam Ramos

City Clerk, Billy Urquia

Deputy City Attorney, Cristina Suarez

Public Speaker(s)

Agenda Item F-3 [Start: 10:25 a.m.]

An Ordinance of the City Commission amending Chapter 34 "Nuisances," Article VI. "Noise," Section 34-170, "Exemptions," of the City of Coral Gables Code to address the operation and testing of emergency backup generators, providing for a severability clause, repealer provision, codification, and providing for an effective date. (Sponsored by Mayor Lago)

Mayor Lago: F-3.

City Attorney Ramos: F-3 is an Ordinance of the City Commission amending Chapter 34 "Nuisances," Article VI. "Noise," Section 34-170, "Exemptions," of the City of Coral Gables Code to address the operation and testing of emergency backup generators, providing for a severability clause, repealer provision, codification, and providing for an effective date. This is a public hearing item, Ms. Suarez.

Mayor Lago: Good morning.

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Deputy City Attorney Suarez: Good morning, Mayor and Commissioners.

Mayor Lago: Before we move forward on this item, and our City Attorney explains it. I want to tell you why this is coming before you. This is an item that I've been dealing with a resident for several years now, and we have kind of a situation that's unresolvable. There is no way to resolve this issue. The resident, in my opinion, I think in the opinion of many, has done everything in their power to be a good citizen, has done everything in their power to find a workaround, if its not doing testing their generator at 7 in the morning, its doing it at 12 o'clock in the afternoon, but with the help of the City Manager and his staff, we've reviewed this generator. It's in perfect optimum working order. It is probably one of the highest quality generators you can buy, it's a Kohler, correct.

City Manager Iglesias: It's a Kohler Mayor.

Mayor Lago: It's a Kohler. So, this resident is in a situation where listen, we have no other option, we don't know what to do and when to test this generator. This is a lesson learned for the city and for future procedures moving forward on how to embark and how to address new construction projects that have a generator, or existing construction projects that are installing a generator and what would be the requirements moving forward. The floor is yours. Thank you.

Deputy City Attorney Suarez: That particular circumstance brought to light some clarification that was needed to our exemption in the noise ordinance that specifically exempts the operation of emergency backup generators. The City Attorney opinion sometime ago, we had already opined that this exemption also applied to the routine testing, but this ordinance codifies that so that the routine testing of the emergency backup generators is also encompassed. The exemption is for reasonable noise generated by the generators, and so, what this ordinance does is it adds a sound level to what reasonable noise means, which is proposed to be 70 decibels, if it's a single-family residential property or abutting a single-family residential property; and then 80 decibels for other properties. And it's measured from the nearest property line and it also grandfathered in generators that have been permitted or installed prior to the, installed with proper permitting prior to the effective date of this ordinance, which we presume might be November 9th, so we'll adjust that if necessary. Between now and second reading, per the sponsor, we're going to add some hours of operation for the routine testing that would be Monday through Friday, from 11 a.m. to 2 p.m.

Mayor Lago: If I may add something, just because it came to thought. By the way, I requested that in my meeting with the Manager, but I ask my colleagues, if you have any ideas in regard to this, because it's a very rare case. This is the only one that I've encountered in my eight years of service, but this individual can't stop getting Code Enforcement violations, they just can't. There is no other way of resolving this issue. They used to test their generator at 7 in the morning, now they are doing it mid-day, to make sure they don't bother anybody who maybe asleep or a young child or somebody who may be studying, or in the morning hours before they go to work. So, we tried to find workarounds to see how we can be good neighbors, be good stewards of the community,

and the quality of life. But if you think of any ideas, think of anything that we could possibly do between first and second reading, all are welcome, any ideas.

City Manager Iglesias: Mayor this takes into account the existing conditions that were permitted, and it also takes into account the future condition that we will put acoustical covers on future generators, hence the 70 for residential and 80 for commercial, or for new projects, but any replacement generators would have to have acoustic, probably that would be a new permit.

Mayor Lago: By the way, this only applies to projects that were done with permits. This is very important to mention.

Deputy City Attorney Suarez: Correct. The grandfathering only applies to those that were done with permits, and we are going to further between now and second reading, we are going to further tweak the language to make it very clear that any replacement generators or newly installed generators going forward must comply with these sound level measurements.

City Manager Iglesias: Those will be new permits, so those would have to comply with the new permitting requirements.

Mayor Lago: So, between first and second reading, please if you have any comments, any ideas, any experiences, any other pieces of legislation you've seen in other communities, bring them forward. We are just trying to resolve an issue for a building.

Vice Mayor Mena: That last point is one that I had recommended to the City Attorney, just with my pre-agenda about, if the existing grandfathered in property owner were to put a second generator, it's a commercial building or replace that one, then they are subject to the new requirements, obviously.

Mayor Lago: Exactly.

Vice Mayor Mena: Which I think was the intent, but just to make it more explicit.

Deputy City Attorney Suarez: It was the intent to make it expressly clear.

City Manager Iglesias: That was the intent, Vice Mayor.

Mayor Lago: That's why I added the times. Just because you are out of compliance in regard to the noise ordinance, it was permitted, so its legal. Please do me a favor and try to be a good community resident, a good corporate citizen and do it in the middle of the day, don't do it at 7 in the morning, 6 in the morning.

Vice Mayor Mena: My only other point, a question I had which was answered, but just for the benefit of the public and for my colleagues was, I'm obviously relying on staff's opinion that the decibel levels are being included are decibel levels that your standard sort of generator that

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somebody would be installing can easily comply with, that its not some super restrictive that's going to add a lot of cost, especially for single-family homeowners who are looking to get a generator, which I think is a great thing to do, if people so desire to do so. I just want to make sure that most generators in the market that they would be installing these days would satisfy those levels.

Deputy City Attorney Suarez: So, we absolutely...

City Manager Iglesias: Vice Mayor, these 70 for residential and 80 for commercial can easily be satisfied with acoustic covers, most of the residential units have them, because they are outside, and now we will have acoustic covers in the generator for commercial buildings or condos, so it will be inside. So those two are easily achievable.

Vice Mayor Mena: I have another question on that point. I'm assuming that generators have specs that related to decibel levels, shouldn't the ordinance, shouldn't the appropriate generator be approved based on the specs of the product being permitted, because what if you install a product, it says X, its specs are X, Y, and Z, but then you go out to the property line and measure and you are over the threshold. Now you've installed a generator and you're technically not complying with our code, even though the specs of the product said that they were warranted for some.

City Manger Iglesias: The Kohler generator in question has specifications of slightly over 105 decibels new, and that was the case. In this case with the coverage, you can get as low as in the 70 or 71, so that the fact that we have 80 should be easily achievable and we would permit them based on the specification.

Vice Mayor Mena: So, I go back to, if you approve it based on specs and you issue a permit and they install it, at that point you're really not in position to go out to the property line and measure and say, well you're over, sorry.

City Manager Iglesias: That specification is correct, Vice Mayor, we do that in construction all the time, it's based on specifications.

Vice Mayor Mena: Its food for thought for the City Attorney as far as how this is exactly worded, that's all.

City Manager Iglesias: But if you have – there is a little margin in that 80, because you can get covers that bring you down to 70, so there is margin there. For instance, this is a Kohler generator, excellent generator, which is supposed to be at 105 to 107 decibels, that's exactly what it was 30 years later. As long as you use reputable companies, those are reputable numbers.

Commissioner Anderson: So, I've got one more question. For the portable generators that don't require a permit, how does it address that here? The Hondas are nice and quiet, I'm not too concerned about those, and the ones you see at Home Depot being sold that you can just put in your garage.

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City Manager Iglesias: You have an issue with generators that really, if you have over 70 in residential areas that's going to be a problem. There are many generators that are in the 60 range, and the large generators that you put with covers are in the 60 range, so there should not be an issue.

Vice Mayor Mena: I'm talking about the gas-powered stuff that people use during hurricanes and stuff like that, right.

Commissioner Anderson: Correct. There is like a frame on them, and you see them at Home Depot. The Hondas are quiet, like a sewing machine running, but the bigger ones are noisy.

Mayor Lago: These are more for – we can talk about it between first and second reading, but these are more for units that are actually built into a structure.

Commissioner Anderson: Right.

City Attorney Ramos: Maybe we can make that clear, because I don't think its clear right now.

Mayor Lago: It's a good point that you make Commissioner, I think it's a good point. We should review that between first and second reading.

Commissioner Anderson: I had one of those big ones. Its more than 70 decibels.

City Manager Iglesias: You have Honda, you have Yamaha, you have a number of good generators that are so quiet, you can barely hear them. Hopefully they won't use something that's 105 decibels in a residential area.

Commissioner Menendez: With regards to that concern which makes sense and I'm sure we can fix it. Another thought how to deal with the portable ones, because everybody at some point uses them during the aftermath of a hurricane, perhaps we can add language that while we are on a state of emergency...

Vice Mayor Mena: All bets are off.

Commissioner Menendez: All bets are off as long as we are in a state of emergency. Once the state of emergency is lifted, they go back, that way we're not fining somebody.

Vice Mayor Mena: But that's for a mobile generator, I don't know if you need a permit for that.

Mayor Lago: Covid pandemic, outdoor dining is a prime example.

Commissioner Menendez: Yes. So that's something we might want to consider in terms of wording, that way we take away any misinformation or confusion.

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Commissioner Anderson: Confusion – and part of it is educating people too. They might want to pick something a little quieter anyways, so they can sleep.

City Manager Iglesias: There are no permits required for portable generators.

Mayor Lago: Anybody make a motion?

Commissioner Menendez: I'll make them.

Mayor Lago: Second.

Vice Mayor Lago: Yes.

Mayor Lago: Mr. Clerk.

Commissioner Menendez: Yes

Commissioner Anderson:

City Attorney Ramos: I'm sorry Mr. Clerk, is anybody wishing to speak, it's a public hearing item.

City Clerk Urquia: No ma'am.

City Attorney Ramos: Okay.

Commissioner Anderson: Yes

Commissioner Fors: Yes

Vice Mayor Mena: Yes

Mayor Lago: Yes

(Vote: 5-0)