

City of Coral Gables City Commission Meeting
Agenda Item E-2
November 12, 2024
Police and Fire Headquarters
2151 Salzedo Street, Coral Gables, FL 33134

City Commission

Mayor Vince Lago
Vice Mayor Rhonda Anderson
Commissioner Melissa Castro
Commissioner Ariel Fernandez
Commissioner Kirk Menendez

City Staff

City Attorney, Cristina Suárez
City Manager, Amos Rojas, Jr.
City Clerk, Billy Urquia

Public Speaker(s)

Jackson Rip Holmes

Agenda Item E-2 [4:04 p.m.]

An Ordinance of the City Commission amending the City of Coral Gables Code, Chapter 10 “Animals”, to modify bird sanctuary protections by excluding pigeons, chickens, ducks, roosters, and other domestic fowl. (Sponsored by Commissioner Castro)

Mayor Lago: Moving onto item E-2.

City Attorney Suarez: E-2 is an Ordinance of the City Commission amending the City of Coral Gables Code, Chapter 10 “Animals”, to modify bird sanctuary protections by excluding pigeons, chickens, ducks, roosters, and other domestic fowl.

Assistant City Attorney Ceballos: So as stated, it is a very straight to the point. All it does is currently our code designates the city a bird sanctuary. This will create a carve out specifically for pigeons, chickens, ducks, roosters or other domestic fowl. All of those are being listed because its

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*Agenda Item E-2 – Ordinance amending the City of Coral Gables Chapter 10 “Animals”
To modify bird sanctuary protections*

[Date]

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consistent with other parts of the code that have those exact animals listed. If the Commission would like to modify that, please let me know.

Commissioner Castro: There is also more language added to this ordinance, and it's the humanity of trapping these animals and I just want to go ahead and make a point. I don't know if you could read that to the record, the added language that was added to this ordinance about humane compassionate.

City Attorney Suarez: In the whereas clause provisions.

Commissioner Castro: Yes.

City Attorney Suarez: Gus, can you read those relevant ones.

Assistant City Attorney Ceballos: Sure. So, in addition, there is a whereas clause that was added to the ordinance. It says, in the spirit of human treatment and in the interest of public health and welfare, the Commission finds it appropriate to exclude certain domestic fowl from the city's bird sanctuary protections, to allow for the compassionate and regulated trapping or relocation of these animals, ensuring that any actions taken are conducted responsibly and with care.

Commissioner Castro: I also want to put into the record that the city is not trapping, nobody is calling the city to remove any of these animals. This is a homeowner, if the pigeon or the hen or rooster is in their property, they will have the availability or the access to actually move the hen or the rooster or the duck at this point. Now, my question is, what happens if they are in public right-of-way, do they still have access to move or transport the chicken or the rooster.

City Attorney Suarez: So generally, that's an interesting question, Commissioner, I don't know if we ever had to deal with it, but I don't know that we have these fowl on public property. Certainly, they can do things on their private property and that's really what – and the city could take action as a result of this ordinance, the city could take action as well in the public property, its just excludes them from the bird sanctuary. It doesn't say that anybody has to take action either, it's just an exclusion.

Assistant City Attorney Ceballos: This would not grant authority to any homeowner to have a trapper come out and put traps in the right-of-way. So, it would not be allowed.

City Attorney Suarez: Certainly.

Assistant City Attorney Ceballos: So, if the chicken somehow is smart enough to stay on the road, I think it will be perfectly safe from the trappers.

Commissioner Castro: Okay.

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Vice Mayor Anderson: Through the Mayor. Mr. Clerk, I gave you, I emailed you a couple of items that we need to put up for discussion on this item, because we're talking about some fowl that are addressed by the Florida Wildlife Commission.

City Attorney Suarez: And Vice Mayor, while that's being pulled up. The language in the provision as proposed does say that this doesn't in any way affect any other applicable regulations, of course. This is just an exclusion from the city's bird sanctuary. All other regulations state or federal would of course apply.

Vice Mayor Anderson: My concern is this, number one, you are not authorized under the Florida Wildlife Commission to release any Mallard ducks, let's see, or Muscovy ducks because of environmental concerns. This provision is completely silent on that, and people shouldn't have to hire a lawyer to understand what is or isn't allowed under the law, not only our city, but in our state. If these are invasive birds and all we're doing is moving them from one side of the line to the other side of the line, are not accomplishing anything on a practical standpoint, whether they are chickens, ducks or otherwise, but you are not allowed under law to release Muscovy ducks or what's the other type of duck, Mallard ducks in the wild. So, we've lost – putting up the other one, so we need to consider the other provisions. Not only we are dealing with state law, but we are also dealing with federal law that restricts what we can do with these birds. While I applaud catching them, releasing them is prohibited by law and we shouldn't allow that to happen. Is there a place to have them taken to a farm We need to think out this process and the same thing should be done with the chickens, because just releasing them on the other side of 8th Street is not going to solve the problem. They'll be back. If anybody is ever watched the pigeons and so forth, they are homing, they come right back to where they left, you are only just wasting the time. They need to be taken to a farm and dealt with humanely and dealt with properly. That's my concern here.

Assistant City Attorney Ceballos: So, what is currently proposed, we're not proposing any sort of process for them to undertake and at the end of the day, we are not modifying any law. All we're simply doing is our law was more restrictive than state law, where basically you cannot arm or capture any bird that may be, under Florida Law you'd be allowed to do so. All this does is simply remove the city's restriction on it. We are not granting any authority to any individual to do anything more than state law currently allows for.

Commissioner Menendez: So, the individual or the company, whatever they still have to abide by state law.

Assistant City Attorney Ceballos: 100 percent.

Commissioner Menendez: Okay.

Vice Mayor Anderson: And what alerts them to the fact that they should be looking at that.

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Assistant City Attorney Ceballos: If you'd like we could try and incorporate some of that language before second reading.

City Attorney Suarez: My apologies. I think I mentioned that we already had that in there, but we can certainly add a specific clause or language to say that subject to all other applicable state and federal laws and regulations.

Vice Mayor Anderson: There's a state statute you can cite and there's a federal order you can cite and I believe there's even a federal law section you can cite whether it be regulation or otherwise or the actual Wildlife Commission itself, in order for people to know that, hello, there's something you have to look at beyond our city code. Yes, you can trap them, but what do you do with them after the fact. You don't dump them in the Everglades, that's why we have so many problems in the Everglades right now. The reason why releasing them in the wild is prohibited is because we have a problem. Let's not continue that problem and make it greater.

Commissioner Menendez: So if you are going to include specific statutes, I would suggest not limited to, because I don't want people to think that those are the only statutes that govern, it just puts them on notice, but again, I think you've all explained, the city is not going to be involved in catching these and releasing, whatever the plan is, but the obligation to abide by all laws is on the individual or the company, right.

Assistant City Attorney Ceballos: The additional language would be strictly informational, but we'll go ahead and incorporate that language, and we'll make sure to put some sort of a catchall clause to make sure that if they change the numbers, we're not caught off guard.

City Manager Rojas: So, if the homeowner wants to call a trapper to catch chickens in his yard, will he be required to pull a permit for that.

Assistant City Attorney Ceballos: No.

Vice Mayor Anderson: And I would urge that we just don't release them on the other side of the road. We're going to have problems with our neighbors and the birds will be right back. So, we're not solving the problem. Like we've done with the peacocks, there is a place they can be delivered, and the farmers sure can enjoy the additional eggs that they can profit from. We need to take care of that as well. Is that language you're comfortable with addressing now?

Assistant City Attorney Ceballos: Create a natural process.

Vice Mayor Anderson: An actual process, yes.

Assistant City Attorney Ceballos: I'm not sure if we maybe exempt under certain state statutes and certain laws as to what process we can, but we'll make sure to look into it and we'll dive into it and see if that's something we can incorporate.

Vice Mayor Anderson: Its kind of like an anti-dumping provision, we shouldn't be dumping in other people's, in other cities.

Assistant City Attorney Ceballos: Okay.

Commissioner Menendez: We can always put the chickens on Metrorail and just send them off, see where they land, just an idea.

Mayor Lago: It's a good one. Moving on. Can we get a vote here.

Commissioner Castro: I'll move it.

Commissioner Menendez: Second.

City Clerk Urquia: Mr. Mayor, Mr. Rip Holmes would like to speak on the item.

Mayor Lago: Perfect.

Mr. Holmes: I find it very upsetting that this Commission would be willing to basically sanction and allow and vote today to allow the murder of roosters and chickens. I'm putting myself under penalties for perjury as to what happened a few years ago, this is what happened. I live on Sedonia, near the Publix, near Douglas Road. I like chickens and so we had about six roosters and hens on my block. People were getting upset, the best argument I hear is that roosters wake people up and it disturbs their sleep, they are trying to go to work, but they need a good night sleep, but here's what happened. Of those six hens and roosters, five were put to death, four by the City of Coral Gables and I'm under penalties for perjury. The City of Coral Gables killed four of the six roosters and chickens, and this is what Commissioner Castro is taking us back to, by removing these birds from the protected list. I talked with the trapper at the time. I met with him, and he said, I said, what are you going to do with them when you trap them? – and he said, I'm going to kill them. And I said, well, what if I get a chicken farm in the Homestead area and would you relocate it there. And me talking with city officials, Code Enforcement, I was able to rescue one of the chickens, one of the hens, and we did it with Jessy's Chicken Farm. I cannot imagine that you all are going to vote to murder chickens and roosters, because that's the effect. People start complaining and then the city calls a trapper, and the city paid trapper kills them. That's what happens. That's what we will revert to if you approve this today. What I'm suggesting is that you add language saying that, if the city employs a trapper that the city be required to attempt to relocate rather than exterminate these chickens and hens, hens and roosters, three efforts, three phone calls be made, and I'm starting with the one that took the hen I saved, Jessy's Chicken Farm, but there

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are lots of chicken farms in the Homestead area. So, we add language saying, the city has to make, has to document three phone calls to chicken farms requesting that they accept the relocation. Thank you.

Commissioner Castro: How do you feel about that, City Attorney?

City Attorney Suarez: So, it's really an operational question. I think what I'm hearing from the Commission is that there is no plan currently for the city to undertake any effort with respect to these birds that we are excluding from...

Mr. Holmes: [Inaudible – off mic]

City Attorney Suarez: So, if the Commissioner wants to perhaps address it now, even though there is no plan to do, there are different ways that it could be addressed. Perhaps you can direct the City Manager to issue an implementation order, to the extent that at some point the city wouldn't take any efforts with respect to these domestic fowl that it be done in a certain way according to a certain process. There are different things the Commission can do, if that's what the Commission wishes to direct.

Commissioner Castro: Can we explore that idea and also come back with a fiscal impact on what it would cost the city to do that. I'm not comfortable leaving the city liable for trapping these animals, but let's go ahead and do analysis brainstorm and see what the impacts would be.

City Manager Rojas: We don't have animal control in the city, so it would be a whole new game if we were to go into that kind of business. So, my suggestion would be that the city stay out of the hiring of trappers and if homeowners want to do it, I think that's.

City Attorney Suarez: Perhaps we can include – Commissioner, we can discuss between now and second reading different things that we can do. We can also just put in a whereas clause that addresses that the city does not intend to be involved in any relocation or any other efforts with respect to these birds.

Vice Mayor Anderson: Through the Mayor. My suggestion was that you require the private trappers to, when you are talking about chickens, make an effort to get them to a farm. This is private removal of those. As far as the invasive species, the ones that are prohibited to relocate and put on the other side of the road or anywhere you put it, we have to comply with the law, okay. There's a farm that wants them, they can have them, but we do have to provide direction and that's why I'm not comfortable leaving this wide open not providing direction for residents and expecting them to go and do a search that wasn't done before this was drafted by our team here, to determine that it was illegal to rerelease the ducks.

Mr. Holmes: [Inaudible – off mic] All I’m asking is that the city and if the city involves itself in hiring a trapper that the city is required to try to relocate rather than kill any hens or roosters that are trapped by a city paid trapper. That’s all I’m asking.

Mayor Lago: Thank you very much. Let’s have one conversation. What is the will of the Commission. What would you like to do?

Commissioner Castro: Can we go ahead and make a clause or a whereas clause where the city will not trap any hens or chickens.

Assistant City Attorney Ceballos: So we can incorporate that whereas clause, but I think we’d be better served if we did some sort of an implementing order, because at the end of the day it would be odd to put inside the code something that only applies to the city, but I think we can definitely work with the City Manager’s office and have them do some sort of administrative order, an implementing order that we would not initiate this sort of trapping unless the will of the Commission changes in the future.

Commissioner Menendez: Or could we put language that basically says, the city will not do the trapping or hire anybody to do it. That basically creates a wall between us and what they do, just clear. We’re not...

Assistant City Attorney Ceballos: We can do it. It wouldn’t...

Commissioner Menendez: Yes, we will not...

Mayor Lago: Wait. Let’s have one point of conversation. It seems to be a very contentious issue. So why don’t we table this issue, Madam Sponsor, and we can come back to the next Commission meeting, and we can finalize this with legal to make sure that you sit down with Mr. Holmes and the Commission, and we have a conversation in regards to the sponsor so they feel comfortable so they meet all these criteria instead of negotiating up here on the dais. So that sounds good.

Commissioner Castro: Actually no, no. This is something that could be worked out between first reading and second reading. We won’t approve second reading if its not right and we don’t have to lose so much time. We don’t have that many Commission meetings left out of the year. So, we can work that out as the Mayor is saying, between both readings.

Assistant City Attorney Ceballos: We can do that.

Mayor Lago: Then why don’t you make a motion.

Commissioner Castro: I did.

City Clerk Urquia: We have a motion, Mr. Mayor.

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Commissioner Castro: There is a second on the table.

Mayor Lago: There's a second.

Commissioner Castro: Yes, I do.

Mayor Lago: So much back and forth, I lose track.

Commissioner Menendez: Yes

Vice Mayor Anderson: No at this time. I'll see what language we can put it for second reading.

Commissioner Castro: Yes

Commissioner Fernandez: Yes

Mayor Lago: Yes

(Vote: 4-1)