

City of Coral Gables City Commission Meeting
Agenda Item G-5
September 26, 2017
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Raul Valdes-Fauli
Vice Mayor Pat Keon
Commissioner Vince Lago
Commissioner Frank Quesada
Commissioner Michael Mena

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 G-5 [10:35:12 a.m.]

A discussion requiring businesses that operate 4 or more assisted living units or residential buildings with 12 or more multi-family units have an appropriately sized generator and fuel for at least 4 days with annual inspections to ensure operability. (Sponsored by Commissioner Quesada)

Mayor Valdes-Fauli: Let's go onto Item G-5, four or more assisted living units or residential buildings, Commissioner Quesada.

Commissioner Quesada: Based on the experience that we had throughout the storm and also some of the stories that we heard throughout the state, I think it's important that we have regulations in place in the City that again, assisted living units that have 4 or more are required to have a generator that can run for X amount of days. We put 4 days on there, but I wanted staff really to think about it to give us the right number, but just so that we don't have some of the bad experiences that other municipalities have had recent. So, I think it's important to protect our elderly and that's really it. The title of the discussion is pretty self-explanatory. That's my

thought; I don't know if anybody has any additional feedback, but I really want to give it to staff to give us the best opinion on what it should be.

Mayor Valdes-Fauli: The big thing here would be the definition of assisted living facility.

Commissioner Mena: Yes. My concern was the addition of the 12 or more multi-family units, the sort of secondary part. I'm all for something like this for ALF's, however we define those to be, what we all sort of understand them to be, but I think if we get into any building that has 12 or more units that's a pretty significant requirement that we are now imposing on them.

Vice Mayor Keon: That is a huge amount of regulation that you are placing on private property owners.

City Manager Swanson-Rivenbark: So, I'll take responsibility on that. Commissioner Quesada came up with a brilliant idea of 4 units for assisted living and I shared with him some of our experience with Irma that some of the beautiful buildings that we have become defacto senior living options, and if you look at the requirements that our Fire Department had in responding to those buildings with no power, it's our privilege to do so, but if there is some way of thinking out whether it's this way or another way of how we can make sure that those buildings that predominantly cater to a mature resident has some type of option.

Vice Mayor Keon: Unless they are designated as senior living facilities or I think they call them 55 and older communities or whatever they are with a particular designation, those buildings will evolve over time. They may for a period of time have older people, but as older people are no longer there, some of them are larger, they are closed in, younger people will move in. So those are going to be changing, that would be a changing demographic in those buildings; and what you are telling them is that any of these buildings with 12 residents or more, 12 units or more have to install a generator that can keep them running, and I don't even know what you consider to be running, like what is it? I know I live in a condominium that has generator power for two lights that stay on 24 hours a day in those units, so that you have exit type lighting, and it runs the elevators, it doesn't run anything else. Is it our responsibility, do we demand that people run air conditioning?- do you demand that they run refrigerators?- do you demand that they run – some of this is living in South Florida. We live in a hurricane-prone zone and sometimes people have to take responsibility for where they live and where they choose to live, particularly when it's on private property. Now, I think assisted living facilities, there is a whole category that are group homes, assisted living facilities, congregate living facilities, there is a whole matrix of those that are under the auspices of the state and are licensed through the state, and so, I think if you are going to look at that, you should look at whatever, however the state allows it, whatever the state categories are that could exist because we do have, it is permitted within our zoning

code, so we could have group homes in the City of Coral Gables; and then what you want to, and what the state requires because they are licensed and certified under the state. Can we require more for them than the state requires?

City Attorney Leen: Well we would want to look at that. Typically – it depends on if the state indicates that it’s the exclusive, it has exclusive jurisdiction it preempts us, if they haven’t done that then we can apply a higher standard.

Vice Mayor Keon: OK. Well I think you need to look at what the state does and what the state regulations are because they are licensed through the state and they have to go through the state and they are subject to inspections and state inspectors and whatever else.

Commissioner Quesada: I can simplify this.

Commissioner Lago: I wanted to commend you for bringing this up.

Vice Mayor Keon: But I think for private properties, I mean I think for buildings that is a choice that sometimes people make, and when you move into a building – you have buildings that are some walk-up buildings.

Commissioner Quesada: I can simplify it.

Vice Mayor Keon: OK.

Commissioner Lago: I wanted to commend you for bringing this up. I thought it was a great idea. Now that I hear from my colleagues I still think it’s a great idea, but maybe we should amend just that small portion of it, because I’m not sure if you are aware; Commissioner Suarez called me during the hurricane and I dealt with the Manager and with Peter in regards to a case that occurred with elderly individuals in our community that were living in, what’s the name of the location?

Assistant City Manager Iglesias: It was in Broward.

Commissioner Lago: No, it wasn’t in Broward.

Mayor Valdes-Fauli: 65 Biltmore Way.

Commissioner Lago: Yes – and they were having issues, standard issues that you would expect from not having electricity for such a long time, like the residents that all of us encountered that

we dealt with. I just think it becomes a little bit more of an issue and it's compounded if you are in a building, especially if you are confined to a bed, it's a serious situation. So, I think it's a great idea that we address the issue in regards to assisted living facilities, I also see the concern in having every building required for a generator. If you are running an assisted living facility, I think you should.

Vice Mayor Keon: Or a group home or any one of those, within that category.

Commissioner Lago: I don't know the definition, the exact definition, but I think it's a great idea. I support you.

Commissioner Quesada: The way I came up with the idea is, I found a number of duplexes in the City or houses in the City that had more than one unit in there and we saw some old people in there and they were really struggling a lot, so that's where I got the idea from. We don't have to include the multi-family units, I say we move forward on the assisted living units, have the City Attorney look into the legality aspect and overseeing. See if we can tac on and provide additional requirements in the City. Let's figure that out; the appropriate way is to have staff look into that further, the legalities as well as the technical aspects of it and then we reconvene and we vote on it. But at this point, I just want to get a general consensus of should we be looking into this?

Mayor Valdes-Fauli: I think we should be. This also ties into the very first item having to do with those people in need.

Commissioner Lago: I forgot the address.

Assistant City Manager Iglesias: I thought you were talking about the problem in Broward where the people passed away. But, the ALF by the building code is dealt with as one to five units, it's treated as residential except for the need of a sprinkler system, then you have from 6 to 16, still look under the residential building code. In other words, 1 to 5 is looked at under the residential building code; its two codes are commercial and residential building code; and you need a sprinkler system 6 to 16, you need a sprinkler system additional, and anything above 16 is considered commercial.

Commissioner Quesada: You know you are the one that really comes to mind and I don't know what they have in place, is the Riviera Assisted Living Facility, the Riviera Health Resort, were they down without power for a long time.

City Manager Swanson-Rivenbark: Yes, they went to generator; they had a generator and ultimately FPL was able to get their power online and when they did 1200 homes also got their power online.

Commissioner Quesada: Got it. So the point is, we should really have an inventory of those types of locations within the City to make sure and we check up on them, see their storm preparedness; and again, if we can work in the generator aspect, I think that's ideal.

Vice Mayor Keon: One of the issues with regard to requiring and I think probably maybe the state hasn't gone to the extent, I don't know whether they do this or not, but most of the group homes that exist, often exist because they are a lower cost alternative for senior care in a smaller setting and anything that you do that adds cost to that they become unaffordable to so many people. A lot of these issues are just the income and the resources that are available to so many elderly people who don't have children or don't have family who have outlived their families or whatever else, and don't have resources. So, when you are looking at some of these things, those are issues also; and in a lot of instances and I know I had this discussion with the Manager, people have lived in Miami-Dade County without air condition for a long time before air conditioning came and people aged here for a long time. The sad thing is, is when you have a caretaker that does not open the windows, does not take someone outside, does not give them tepid bath, does not do things that they should do to cool that body, so the body temperature reaches a state where it can no longer operate and they cannot survive. You know a lot of this is not so much this kind of regulation, as it is the responsibility and it's just pure negligence. If there is a way we can look at these facilities that work in our City, I don't know what kind of authority we have over or licensing over them or the quality of care that they give, because it's all been rendered to the state, under the state, and the state has failed to do it. They have failed time after time after time to do this despite all of the articles and all of the information out there on the quality of nursing homes and the quality of care for the elderly, they have failed over and over and over again. So, a lot of it is negligence and not so much this regulation.

Mayor Valdes-Fauli: Thank you Commissioner.

Assistant City Manager Iglesias: I think that this – if we add that I do not think that that would be a violation of the building code, because that is really something additional, but I do think that we should probably look at the same unit numbers as the building code for the initial generators for the additional days. I do not feel....

City Attorney Leen: From a zoning/building code perspective its fine, I agree with you. The issue would be did the state preempt the field of regulating nursing homes, we can find that out today and we'll let the Commission know by memo.

Vice Mayor Keon: But it's also assisted living facilities, group homes, all...

City Attorney Leen: I was meaning that generally and whether we can establish a higher standard.

Vice Mayor Keon: Right – you would need about 1,000 gallons of propane to be able to operate about a 5,000 square foot home, on a generator, with air conditioning and other services, for 7 to 10 days, is about what it requires, that is a massive investment in a 4-unit environment.

Mayor Valdes-Fauli: I think that the consensus is, is that this is a very important issue to explore, Commissioner Quesada, and let's go on and let's bring this up periodically, frequently, so we can reach consensus to what we can do and what we should do. Thank you very much.

Commissioner Quesada: So I think the next step is, let's get a comprehensive report from staff.

Vice Mayor Keon: I think you should look at what the state legislation is.

Mayor Valdes-Fauli: Thank you.

City Attorney Leen: Mr. Mayor, Mr. Volsky wanted to speak, would you hear him?

Mayor Valdes-Fauli: Yes sir.

Mr. Volsky: Mr. Mayor, members of the Commission, I am a caregiver, but speaking about this issue, I'll tell you something. When I read about the tragedy in Broward County, didn't surprise me at all. About 30 years ago, I was a New York Times correspondent, I wrote a series about five articles, about these facilities in then Miami-Dade County. Each one of them was negligent. You would go to one of the places, half a block away you would smell what kind of facility it was, urine, feces, and so on. So the City, I am in agreement that we should have something like this, but it's good to be vigilant of how they are operating; operation is the key, not so much regulations; and you can smell it, and when I entered there it was just absolutely horrendous. Nothing has changed. So, in the future I would like to suggest that the supervision of the operations, especially cleanliness is something....

Mayor Valdes-Fauli: But that is a state regulated business, we cannot get into the business of regulating adult living facilities or nursing homes; and I agree with you, we should urge the state and try to bring pressure on the state to do their job. I fully, fully agree with you, this is a big issue, but this is not for our City, this is the state.

Mr. Volsky: I mean just operations, in other words, cleanliness is the City, this is the key. I know I've seen that...

Mayor Valdes-Fauli: I agree with you. I've seen it too.

Mr. Volsky: Because for many of them the key is not really taking care of people, it's to get paid, that is one priority, then everything else is secondary, and I've seen it and I'm talking as a caregiver for the last three years.

Mayor Valdes-Fauli: Thank you George.

City Attorney Leen: Mr. Mayor just note, the City already does require that assisted living facilities be a conditional use over a certain size. So, as a condition of approval it's something that we can look at. So, I just want to look at before we determine, because I can see that the Commissioners have different views on this, what the legalities is, I do want to take a close look at the Statute.

[End: 10:50:35 a.m.]