

City of Coral Gables City Commission Meeting
Agenda Item E-2
October 27, 2015
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

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 E-2 [Start: 11:16:08 a.m.]

An Ordinance of the City Commission of Coral Gables, Florida, granting subpoena power to the City Attorney on behalf of the City, and providing for severability, repealer, codification and an effective date.

Mayor Cason: Item E-2.

City Attorney Leen: Mr. Mayor Item E-2 is an ordinance on First Reading; it's a public hearing item. It's an Ordinance of the City Commission of Coral Gables, Florida, granting subpoena power to the City Attorney on behalf of the City, and providing for severability, repealer, codification and an effective date, and again, this is a City Attorney's sponsored item. One thing that's notable in our Code is there is no ability for the Commission, the City Manager or the City Attorney to issue subpoenas if we need to enforce an ordinance or if we need to enforce the public records laws. What this allows is through the City Attorney, who is your Chief Legal

Officer, I can issue subpoenas on your behalf, on behalf of the Manager, on behalf of the City Attorney's Office to enforce our ordinances. One ordinance would be this false claim ordinance. It's very hard to conduct an investigation to determine if fraud or a falsity has occurred if you have to file the lawsuit first, because under the law you can only make allegations if you have a good faith basis to make them, so it's much better to be able to issue the subpoena, do your investigation, and then determine how you want to act. Now the second thing is, for example, and the one I thought was the most was either the abandoned property ordinance, actually both the abandoned property ordinance, the forfeiture ordinance and actually the squatters ordinance, those three ordinances, I have to tell you now that we've been enforcing them for some time and particularly the abandoned property and squatters one, we haven't enforced the forfeiture one yet, but in enforcing those ordinances it would be extremely helpful to the City to have the subpoena power, because what that means is, if we are trying to determine who owns the property and the chain of title which it often is in these cases is confused, and there is a foreclosure, there are some quick claim deeds, etc., it would be extraordinarily useful for the City to be able to issue subpoenas to the bank or to the different purported property owners to determine who is the actual owner and to determine if they've taken action to try to fix the property, which often tell us, but it would be nice to be able to get the documents to prove it, that's one of the principle benefits of this provision.

Mayor Cason: It's just a common ordinance in Florida municipalities, is this unique?

City Attorney Leen: I would say that cities have – a number of Code Enforcement Boards have the ability to issue summonses, a number of governments have the authority through an Inspector General or through an Ethics Commission to issue subpoenas. For example, the County Inspector General and the Ethics Commission both have the ability to issue subpoenas. For the City, I am the Ethics Officer, so I do not have that same authority.

Mayor Cason: OK. Again, like the other ordinance a chance to get evidence to make a decision.

City Attorney Leen: Yes sir.

Commissioner Keon: This will give you subpoena power.

City Attorney Leen: This will give me subpoena power, but the three different entities that could invoke it is the City Commission, the City Manager, or the City Attorney.

Mayor Cason: And you can do it on behalf of Code Enforcement Board if they needed it?

City Attorney Leen: I could although that I'd have to do it under my own authority, but they could ask me to do it.

Mayor Cason: Any legal challenges anywhere in the state or is this legally...?

City Attorney Leen: Our own Charter actually had a provision allowing the Commission to issue summonses and penalizing. That was removed at one point, but its within the general authority that's given to cities and Municipal Powers Act, which is why the county for example, is able to do it or other larger cities could conceivably similar authority. Its useful for the City, it's a useful authority.

Mayor Cason: Again, this is a public hearing – any speaker cards?

City Clerk Foeman: No Mr. Mayor.

Mayor Cason: Close the public hearing. Vice Mayor makes the motion.

Commissioner Lago: Second the motion.

Mayor Cason: And Commissioner Lago seconds. City Clerk.

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Mayor Cason: Yes

(Vote: 5-0)

[End: 11:19:46 a.m.]