

City of Coral Gables City Commission Meeting
Agenda Item F-6
April 12, 2022
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

Assistant City Attorney, Stephanie Throckmorton

Development Services Director, Suramy Cabrera

Public Speaker(s)

Agenda Item F-6 [Start: 11:54 a.m.]

An Ordinance of the City Commission amending the City of Coral Gables Code by creating Chapter 54 “Solid Waste”, Article III- Collection and Disposal, Division 3- Collection Requirements, Section 54-150 Prohibited Disposition of Yard Waste, Dirt, or Debris When Using Leaf Blowers; providing for repealer provision, severability clause, codification, and providing for an effective date. (Sponsored by Commissioner Anderson)

Mayor Lago: Moving onto F-6. Thank you, staff. Thank you.

City Attorney Ramos: An Ordinance of the City Commission amending the City of Coral Gables Code by creating Chapter 54 “Solid Waste”, Article III- Collection and Disposal, Division 3- Collection Requirements, Section 54-150 Prohibited Disposition of Yard Waste, Dirt, or Debris When Using Leaf Blowers; providing for repealer provision, severability clause, codification, and providing for an effective date. This is a public hearing item. Ms. Throckmorton.

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April 12, 2022

Agenda Item F-6 – Ordinance amending the City Code by creating
Chapter 54 “Solid Waste” Article III – Collection and Disposal of Yard Waste

[Date]

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Assistant City Attorney Throckmorton: Thank you all. This is Commissioner Anderson's item. This adds a new code provision to clarify that its unlawful for any person using a leaf blower to cause yard waste, dirt or debris to be deposited or blown into or upon any city street or alley park, parkway or any neighboring property. And it sets forth fines for violations, including a warning and then a \$100 and \$200 fine for subsequent violations.

Mayor Lago: Commissioner Anderson.

Commissioner Anderson: Well, a surprise we didn't have this explicitly in our ordinances, so I've asked staff to amend the ordinance to allow us to specifically let the landscapers to know that they are not to be blowing everything out on the street into our drains, because it happens quite frequently, as I go down LeJeune and other places, okay.

Mayor Lago: Okay. Okay. Any other comments from the public?

City Clerk Urquia: No sir.

Mayor Lago: None. I also couldn't believe that this is not in the code, and I hope Ms. Cabrera and her team that we start enforcing this. We have the idea that you can just blow your stuff unto the neighbor's yard doesn't really work well and its not very Coral Gables-esq.

Commissioner Menendez: Could you just for the folks listening now the procedures that would be followed with the passing of this legislation.

Commissioner Anderson: Well, the first step is a warning, and the second step is the citation. You probably have it memorized better than I. I've seen them blowing it out on LeJeune roadway. You're driving Biltmore Way all over the place.

Assistant City Attorney Throckmorton: So, the procedure would be like any other code enforcement violation, where they would first be a warning and then a citation for \$100 and then subsequent citations of \$200 within a 12-month period.

Commissioner Menendez: Okay. Thank you. Appreciate it.

Assistant City Attorney Throckmorton: And at the moment, there is no education period built in, but I'm sure we'll work closely with staff to make sure that there is an educational component, so people know that there is now a change in our city code.

Commissioner Menendez: By the way, just a question. So, if a company has, a landscaping company who receives a citation, the business owner or the workers doing the job?

Assistant City Attorney Throckmorton: I'll defer to the Code Enforcement Director, but I believe it would be the person who is on site doing the blowing would receive the citation.

City Attorney Ramos: If we wanted to have the business owner, we did that for something a few years ago, we could expressly add it in the ordinance before second reading.

Vice Mayor Mena: The individual landscaper you mean?

City Attorney Ramos: Aside from. So right now, it would be the individual landscaper, but let's say we wanted to, and trying to remember what ordinance we did it in, where we said fine, but the business also. Whoever is contracting that person is going to get a citation.

Mayor Lago: By the way, we should take advantage of the fact that we have the database right now.

City Attorney Ramos: It was your UPS, FedEx.

Assistant City Attorney Throckmorton: Not the driver, it's the delivery company.

Mayor Lago: Yes. Now we need to take advantage of the fact that we have the database of landscapers, I don't know how long we'll have that, I think it was preempted by the state, correct.

City Attorney Ramos: Correct. It will sunset in July.

Mayor Lago: So, I think we should take advantage of it and make sure when we do pass this legislation that we notify everyone on that list.

City Attorney Ramos: The reason it might make sense to do the business, or the property owner is because how are we going to enforce it. Its difficult to enforce against a company that doesn't have property in Coral Gables.

Mayor Lago: Exactly.

Commissioner Anderson: Right.

City Attorney Ramos: We can fine them. Sure, they can pay.

Vice Mayor Mena: Even more difficult to enforce against the individual landscaper.

Commissioner Menendez: Right. As opposed to the company.

Commissioner Fors: Technically speaking, I believe that this type of behavior on the public right-of-way technically qualifies for littering under state laws, which I read that recently for one reason or another, and unto your neighboring is littering and/or even potentially trespass. They are actually criminal offenses, technically speaking, not ones that gets prosecuted, but...

Commissioner Anderson: Suggestions.

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Commissioner Menendez: I like the idea of the company because once the company owner receives a few of those, they'll change policy within the business.

City Attorney Ramos: But to clarify, its not just commercial property owners, its residential.

Commissioner Menendez: I understand, but a lot of companies come in and do the work.

Assistant City Attorney Throckmorton: So, we can work with the sponsor on the changes between first and second reading to make sure that those come back with her approval.

Vice Mayor Mena: I'm confused. Are you talking about the landscaping company or the commercial establishment where the landscaping is occurring?

Commissioner Anderson: Or the residents.

City Attorney Ramos: Whoever hired the landscaper.

Commissioner Menendez: To me, in a residential area. A company has five...

Vice Mayor Mena: You are talking about the landscaping company.

Commissioner Menendez: Yes. Yes – the landscaping company.

City Attorney Ramos: That's the same issue I was bringing up in terms of fining that person and collecting versus we can also fine the company but attaching it to the person or property owner that hired the company.

Commissioner Fors: You can fine the company for littering without using this ordinance probably, I think.

Commissioner Menendez: I'm not too comfortable citing or the property, the resident. The way I look at it, if the company has – company XYZ has 50 residences in Coral Gables, and it has a crew with different trucks going out there. As soon as that company owner, that company starts receiving citations, they are going to change their policy across the board in Coral Gables to not continue receiving it. So where can you have the biggest impact.

City Attorney Ramos: Hopefully. Because they are Code Enforcement citations, there is nothing for us to lien.

Development Services Director Cabrera: We can't really follow Code Enforcement if they don't comply.

Vice Mayor Mena: This is just deterrence, to be honest with you.

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Commissioner Menendez: I'm open to...

Commissioner Anderson: It's also – there was one complaint I received from an individual homeowner that had some kind of...multi-story condo association and the practice of that condo association was to blow all their dust and debris on top of his property every single day.

Vice Mayor Mena: I also think there is a lot of gray area, and you are going to have neighbors whose landscapers is going to get some leaves that blow over. Its just part of the deal and I don't want people getting cited every time their landscapers come over. We've got to be careful. If there is something egregious happening – yes.

Commissioner Anderson: I don't think anybody is going to notice a few leaves, but...

Vice Mayor Mena: You'd be surprised, neighbors can bicker, and neighbors can fight over this stuff. Neighbors have history over trees and cutting the other one's tree.

Commissioner Anderson: I know. But that's why we have a mediator in between, basically. I mean we're talking a few leaves, or we are talking about blasting everything from your property out onto the street and leaving it there.

City Attorney Ramos: A couple things. Code Enforcement like Police always had discretion and it should be used. When property owners start going back and forth, we have a neighbor dispute policy that unless it's a life safety issue, we stop citing. We basically invoke the policy, and we are like, we are done with you using this as a pawn. Also, technically speaking, we could cite the property owner already if they hire the landscape company.

Development Services Director Cabrera: And that's the way we typically do it. We will cite the property owners, that's been the process, because it's the only real teeth that we have.

Vice Mayor Mena: That's the only thing that has any teeth in it.

Development Services Director Cabrera: Correct.

City Attorney Ramos: So, if you don't want that, the ordinance should say that. Should say to cite the landscape company.

Development Services Director Cabrera: Correct.

Mayor Lago: So, moving forward. Are we going to tweak this in between first and second, or are we going to address it right now? What would you like to do?

Commissioner Menendez: We'll tweak.

Commissioner Anderson: We can tweak it between first and second, with the ideas that you all have.

City Attorney Ramos: But we need direction on what that is.

Vice Mayor Mena: They need direction. What do you want to do? Do you want to cite the owner of the house?

Mayor Lago: I'm comfortable citing the business.

Commissioner Menendez: Yes, me too.

City Attorney Ramos: You want to make it only the business.

Assistant City Attorney Throckmorton: And/or the property owner themselves, if they are doing it themselves, whoever is physically blowing.

Commissioner Fors: I see that all the time, by the way.

Mayor Lago: Physically blowing.

Commissioner Fors: Blowing it onto the street.

Mayor Lago: Okay.

Commissioner Anderson: For instance, if there is a homeowner's association, I guess you are talking about their employee.

Mayor Lago: Yes.

Commissioner Anderson: Alright.

Mayor Lago: Okay.

Assistant City Attorney Throckmorton: So, it would be the individual whether or not they own property in the City of Coral Gables or a business or individual who would receive the citation; and if it's an individual working for a company, it would be the company.

Mayor Lago: Correct.

Assistant City Attorney Throckmorton: Or the property owner who is the property owner.

Vice Mayor Mena: What happens if it's a building though, like what she just described?

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Assistant City Attorney Throckmorton: That would be an employee of the homeowner's association, so the homeowner's association would receive the citation.

Mayor Lago: Yes – exactly.

Assistant City Attorney Throckmorton: If they were in fact an employee of the homeowner's association.

Commissioner Anderson: At the first level we're talking about warnings anyway, so it's a matter of deterrence, okay.

Commissioner Menendez: And what the Mayor said, get the word out.

Mayor Lago: Get the word out.

Commissioner Menendez: And avoid...

Mayor Lago: Use the database that's why we built that. Mr. Clerk, can I have a motion. Does anybody have a motion on this issue?

Commissioner Anderson: I'll move it.

Commissioner Menendez: I'll second.

Commissioner Anderson: Yes

Commissioner Fors: Yes

Vice Mayor Mena: Yes

Commissioner Menendez: Yes

Mayor Lago: Yes

(Vote: 5-0)