

City of Coral Gables City Commission Meeting
Agenda Item I-1
March 14, 2017
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)

Alex Palenzuela

Agenda Item I-1[10:35:10 a.m.]

Time Certain 10:30 a.m.

Abandoned Property Report

Mayor Cason: Now we'll move to a time certain at 10:30, which is I-1.

City Attorney Leen: Thank you Mr. Mayor. Today we are going to present our Abandoned Property Report. We are very pleased to inform you that we've had tremendous progress addressing abandoned properties. The Commission has a list of abandoned properties and has adopted a number of ordinances to abate nuisances and to correct those properties. Mr. Mayor you may remember way back to Cotorro, 1044 Cotorro, and the...

Mayor Cason: Six years ago, if I recall.

City Attorney Leen: Six years ago and the Commission has been very aggressive in raising these issues. Commission Keon asked that this be placed, basically sponsoring this today, so that this could be discussed, but I did want to also, I know the Mayor is finishing his term, so I just

wanted to reference 1044 Cotorro and all that's been done since then, Mr. Mayor; and we have Alex Palenzuela here today. One point I'd like to make, he's going to try to go quickly, do a few of the highlights of what we've been able to accomplish. One other thing that we are going to be doing is, this is at the request of Commissioner Keon, but it's for the whole Commission, if you are OK with it, what we are going to do is, we are going to replenish the list of abandoned properties. So what we are going to have happen and I'd like Alex to work with Code Enforcement in doing this as well as with Peter Iglesias, our Assistant City Manager over Code Enforcement is, we are going to have Code Enforcement take a look and the City Manager has agreed to this as well and I appreciate it Madam City Manager. In fact, at least as aggressive in addressing these abandoned properties as I am. So what we are going to do is, we are going to have Code Enforcement take a look at the entire abandoned property registry to go through and identify the top 20 properties that need to be addressed, we are going to replenish the list, and we are going to do it again; and we are going to keep doing that until none of those properties exist in Coral Gables. So with that I'm going to turn it over to Mr. Palenzuela.

Mr. Palenzuela: Good morning Mayor and Commissioners, I've prepared a PowerPoint to update the Commission. The last presentation was October 18, 2016, and since then six more properties have been brought into compliance. The first one, 501 Elcaza; the owner has always been cooperating. They expect to finish the house, this is the before photograph, by the end of April. The next property is 707 Ponce de Leon; this one the servicer was cooperating, but after some delays they picked up working on the house again. They did comply and paid the reduced fine – these are the after photographs. The property has since been sold. 711 University Drive – the seller and buyer at the same time came in and negotiated a final reduction and have corrected the violations. The buyer is having problems with security so she boarded up the house, but as you can see it's been painted and she is addressing all of the City's concerns. The property has been designated historic and she's working diligently to finish the work on the house. 803 Alhambra – you'll remember is the house that had the protected Florida Bonneted bats, so we had to work with the state and federal agencies to first exclude the bats and then the next day they came and removed the roof and rescued the remaining bats who didn't move and they were taken to the zoo and assessed, and then they were released in front of the....

Mayor Cason: Those bats successfully mated, we didn't interfere with their mating, that was the issue, so I'm very happy that for the public to understand that.

Mr. Palenzuela: I'm not sure if they were young bats, the ones there...but they did fly away when they were released.

Commissioner Slesnick: They are not living at the zoo?

Mayor Cason: Did they go to another city I think, I hope.

Commissioner Lago: They actually went to the golf course.

Mr. Palenzuela: I'm sorry.

Commissioner Lago: They actually went to the golf course. I made several visits to the house; it was pretty impressive that those bats were there. It's a beautiful home, large, large sprawling home that was illegally demolished, the interior was illegally demolished, and the new owner has some really beautiful plants to restore the home to its previous beauty, and he complied. I have to give the owner a lot of respect because he dealt with a lot and he understood the importance of being patient in regards to the bats. Again, don't quote me on this, but I think there were a few hundred bats of this species left and they are very hard to track because they come out at night, but they are supposedly their location is the Granada Golf Course.

Commissioner Slesnick: Which end?

City Manager Swanson-Rivenbark: Mr. Mayor just to let you know, that Marian at the Zoo is a Gables resident and he has been absolutely wonderful in working with us on the program, so the bats have been well cared for and he will continue to serve a vital role and we are communicating with our building permit about what out for bats in your attic if you see them, what the process should be.

City Attorney Leen: Yes. The City always wanted to protect the bats; I want to be clear about that. We worked with the federal government to protect them. The issue that was happening was all the burden was falling on one property owner, a human being, a person, and so the City intervened on their behalf, because otherwise this could have taken a very, very long time and that would essentially cause that person to lose their property rights, so that's why we intervene; City Manager sent a letter to Fish and Wildlife, we also sent a letter to, the Mayor sent a letter to Congresswoman Ros Lenthin, I sent a message to the U.S. Attorney, so we did intervene very strongly on behalf of that resident.

Commissioner Keon: I think that one of the issues with this particular property is that it was really, you were beginning to see demolition by neglect, so I have to congratulate you and the City Attorney for taking the action you did and the Historic Preservation Department for the actions that you took that required the home to be dealt with and to be addressed, to remove the bats and to go back in and restore this home so that it didn't just fall down around us and we would have lost this significant home to our community.

Mr. Palenzuela: Right – there were leaks in the house and the process took so long that the owner was asked after the bats were out to actually resubmit entirely new plans for the work so that they could be reviewed once again before the work could commence, but its underway now. So 1200 Hardee, this one, the buyer – these are the after photographs of the house; 1200 Hardee, the buyer entered into a compliance agreement and he did demolish the house, however, these are the before photographs, as you can see he has not yet removed the construction fence in violation of the compliance agreement. So the City sent him a cease and desist order that the City Attorney sent under the new ordinance.

City Attorney Leen: I'd like to mention that. The cease and desist ordinance that this Commission passed have been very affective and I'd like to thank Miriam Ramos who is the City Prosecutor, she sends these letters out and people comply with them, because if they don't they get a \$500 a day fine, and we find that they are very effective. We do them in concert with Code Enforcement; Code Enforcement will sometimes issue a ticket as well, and in fact, to enforce these cease and desist, they would issue a ticket. So anyway, it's the City working together to accomplish these goals, but I would like to thank Miriam.

Commissioner Keon: Thank you. So have they moved the fence from the site yet?

Mr. Palenzuela: The owner now has until March 22nd to remove the fence and lay down the sod or the citation we'll issue first, you have to issue the order and then if he doesn't follow it you issue a citation. The one is 1222 Tangier, here the owners always have been cooperating and they currently have an extension until tomorrow to obtain BOA approval and try to get their plans approved. The next property is 1411 Mantua and in this case special counsel Manny Guarch filed a forfeiture action and obtained a court order and I worked with the City in hiring a demolition contractor and the property passed final inspection on the demolition permit on March 8th. Now it turns out the property was in foreclosure for so long because it was an appeal and dispute as to alternate ownership, so the bank was refusing to do anything, but the appeal was decided in favor of the bank, the Appellate Court entered its own in February, so the bank came forward and is trying to pay the cost of the demolition, but the City is sending them the amount of the fines, attorneys' fees, cost of demolition and special assessment, and we'll see if the parties can enter into a fine reduction agreement.

City Attorney Leen: Our position is that we have the right to forfeit that property unless they make us whole, that's what the ordinance says. So if the bank pays for all our costs and the special assessment liens then according to our City Code provision related to forfeitures, the forfeiture is dismissed, but we want to make sure that the City doesn't come out of pocket when really other parties should have been doing this to begin with.

Commissioner Lago: Just want to echo City Attorney's sentiments because I live three blocks away from this house and I talk to a lot of the residents in the area. The house has been abandoned for a long time now; actually the roof was caving in. So one of the big concerns was that young children, a lot of kids in that area, you never know one of them gets into the house when they are riding their bikes or whatever it may be, and the bank didn't listen for a long time, and they left that house in the current state that it was in for years, for years, to the point where the City had to step in and start fixing up the house or cutting the grass, and eventually we had to take the issue into our own hands and basically demolish the house because they weren't being proactive, they wouldn't even listen to the City. I know we do fine reductions for residents to obviously alleviate a situation and especially when a house is sold or you have a new person, a new family that comes in. I don't have an issue with that, its standard practice in many cities to reduce fines, whatever those fines may be. But in this case, I want to be very, very careful, like what the City Attorney said. I'm not in favor of reducing any fines for a bank owned property. If a family owns a property and they are going through foreclosure, I understand, we try to work with them to bring everything up to code, they fix it up, but when a bank owns a property and they just leave it for years and years and years, to me it's a little appalling and its very disrespectful to the residents that have to live in that community adjacent to that home who have to deal with unsightly conditions, rats, it becomes a haven for situations, that again, it just makes it unpleasant to live on such a beautiful street. So I want to be very careful and I just want to bring that up to the attention of my colleagues that the bank owns this property and the bank took no action for years.

Mayor Cason: I agree with you. I agree with you. No leniency.

Commissioner Keon: As a result of the ordinance that I worked on with Craig, we do now have the teeth to do this with residents that own the homes, or people working with them to bring their homes into compliance has been successful in general. The problem was that for so long when it was a bank that was involved, we got nowhere, nowhere with the banks and you saw homes sit for years and years and years. I know the house on San Rafael sat for ten years before and until we passed this legislation and began to work on going after the banks and making the banks responsible for the properties for their assets, they would have continued to sit and deteriorate and be eyesores in neighborhoods.

Commissioner Lago: And I want to echo Commissioner Keon's sentiments and her statements, but I also want to give her the credit that she deserves. She has been a huge advocate for the residents in regards to this issue, because I remember when we talked about Cotorro, when we talked about the residents on Mantua, we talked about the residents, it's a whole host of homes that have had this issue, even we don't have as many issues as other cities, but again, it's still a problem that needed to be dealt with and your legislation led the way and it got this resolved

along with your legal help and expertise, but it was your hard work in conjunction with the City Attorney and his staff to get this done. So I want to congratulate Commissioner Keon for her efforts in leading the way in regards to this charge. But I ask you, just know, talk to Commissioner Keon, talk to the City Manager, talk to whomever you want to brief this City Commission, I want to be very careful when we cut banks any breaks. I want to be very, very careful on that.

City Attorney Leen: This particular property, we've been tough on banks.

Commissioner Keon: We have sought justice.

City Attorney Leen: We've sought justice.

Commissioner Lago: We've sought justice because of this legislation that we have in place now.

City Attorney Leen: They have the financial wherewithal to make these properties whole, they are the ones who are benefiting from it, so they shouldn't put a burden on the neighborhood. The one point I want to make though is we still need some leeway, because what happens is – one thing that this Commission has done which a lot of other Commissions have not done is we fine the banks directly. So we place burdens on the bank and we will fine them if they don't comply, which is fine, that's a Code Enforcement lien against the bank; it's a fine against the bank. The problem is that, some of these fines which are against the prior property owner, there is a Supreme Court Case which says that when the bank forecloses they get to foreclose on those liens, so they are not worth the amount that they say they are, and the reason why we need a little leeway is because we need to induce the bank to take action. So a lot of time what we'll do is, and this can be with banks or with property owners, is we will agree to a fine reduction, but then what I want to do is, if they don't comply, like fully comply, then all the fines come back, that's something that we've done and I find it to be very effective to get them to take action.

Commissioner Lago: Mayor if I may, Craig, I agree with you and I understand where you are coming from, but over so many years and over all the municipalities in South Florida, the banks are used to the fact that there is a significant fine reduction. So again, if they don't deal with it today, they'll deal with it next month, or if they don't deal with it next month they'll deal with it in six months or in a year. It gets to the point where just put yourself in a neighbor's situation where they have to deal with this every single day when they step out of their home. It's a problem – squatters. We already dealt with squatters. Again, it's an issue that there are a lot of angles to these abandoned homes that when they are not dealt with, it's just tough on the residents that live on that street, so again, I commend Commissioner Keon and her efforts to really lead the way.

Mr. Palenzuela: I just want to add that the City does take into account the efforts by the violators to come into compliance and the City has collected significant amounts from banks, in particular where actually court cases had to be filed.

Commissioner Keon: Thank you.

Commissioner Lago: Thank you.

Mayor Cason: Any other ones?

Mr. Palenzuela: Yes. 1433 Mandavia – Here the owner has been cooperating and that property is also progressing and nearing completion, that's the after photographs. 1549 San Rafael Avenue – At the last Commission meeting I had reported to you that the owner had come into compliance by demolishing the house, but he had entered into a fine reduction agreement that allowed him to keep the construction fence up and not have to pay to lay down sod while he obtained his development approvals. He did that, however, he breached the agreement by never starting work on the house until a few weeks before the deadline, six months went by, and so he allowed his permit to expire because he wouldn't have everything he needed to get done in time, and so the City sent him a cease and desist letter with citations this time; and so he came in and is has now removed the fence, as you can see from this photograph taken on March 9th, and met with zoning yesterday, the zoning inspector to determine how much ground cover they have to lay, because he had planted some seeds, but there are areas where the grass didn't grow and so he's going to have to lay down some mulch. So he will be in compliance hopefully. He's asked or an extension until Friday, I'm not sure technically it's been granted yet, but he should be in compliance. The next property 3500 LeJeune Road – This owner originally agreed in a fine reduction agreement to renovate the house and he wanted to put on an addition. Unfortunately it took so long for him to get his approvals that he gave up and was advised that it would be too expensive to try to save the house by adding on to it, and so he agreed to demolish it. That property passed final inspection on the demolition permits on March 8th as well.

Commissioner Keon: It's been demolished.

Mr. Palenzuela: Yes. Yes. And the next one is 3933 Riviera. Here the buyers have been very cooperative, they are also trying to obtain their approvals; they have an extension until March 15th. As you can see, they repaired the damage to the wall when the car hit it after they had bought it, and none of the violations are visible from the outside because it pertains to an unpermitted pool house that was there when they bought the property and they are trying not only to renovate it, but legalize that pump house, I should say. 4600 Booker Street – This one,

the City originally tried to get the owner and the bank to cooperate to have the violations corrected, however the owner imposed such onerous conditions on the bank that the bank said, we can't agree to these terms such as indemnification, etc. so the City monitored the progress through the foreclosure and the second bankruptcy that the owner had filed and was basically watching to make sure the case would progress. A complaint was made and so the bank was taking too long so the City, I intervened in the foreclosure action and appeared in the bankruptcy case to prevent the owner from trying to convince the judge in the foreclosure that the property was subject to the stay, which it was not; and once the sale was finalized, the certificate of title reported Fannie Mae moved to evict him, we worked with Fannie Mae to expedite that process, and so now Fannie Mae entered into an agreement, a fine reduction agreement. They paid a substantial amount as well and the property passed final inspection on its permits for demolition on March 8th. The next one is the last one, 5626 Granada Boulevard. This property is the one that's in receivership. As you can see here it's the before photograph. The City obtained a court order appointing a receiver; he hired a contractor to finish the house and pool. This is what it looks like now. Unfortunately, as you can see the sod is nice and green because there is a \$3,000 high water bill that the City has been paying the cost of the receivership in exchange for liens, however....

City Manager Swanson-Rivenbark: I spoke with the City Manager last night and we are going to try to address it and then if we can't we are going to bring it back to the Commission.

City Manager Swanson-Rivenbark: I look at that and I look at the impact, the before picture played on the community, not only Temple Judea where their little children in the school, but the neighbors that had had to put up with that vacant abandoned building...

Commissioner Keon: It was an abandoned construction site.

City Manager Swanson-Rivenbark: If I have to pay for a little bit of water to make that grass green and to see that tremendous improvement, we'll figure it out.

City Attorney Leen: And the point is that the City, just one thing you should know is there is a receiver appointed for this property that the City requested. So the intent and the idea of this and what will happen eventually is when that property is sold, the City gets reimbursed, a receiver certificate, special assessments, but one thing we always try to do is keep down the cost still, because we understand its public funds, we also understand that we are being reimbursed and we don't want to affect the purchase price too much and things like that. But we are going to address that administratively and then if we can't we may bring that back to you to ask you to do a resolution to the County Commission, but right now the City Manager and I are going to try to work it out.

Mr. Palenzuela: Plus it's also a lien on the property so it affects the other interested parties; and in this case the court has entered an order, because originally the idea was to finish the house but then it became apparent that it's still in foreclosure, so the City moved for and obtained an order allowing the parties until April 10th, 90 days from the date of the order in January, to sell the house by either short-sale or selling the note or however they can do it, and if they don't successfully do that then the receiver will move to sell the house.

Commissioner Keon: Thank you.

Mr. Palenzuela: Thank you.

Commissioner Keon: These are all quality of life issues and the Manager has often said that we can't allow one property to bring down an entire neighborhood, so we have moved aggressively to deal with abandoned properties and abandoned construction sites and even once they are cleared or something is demolished, if they don't begin to build right away, we also now demand that they take down the fences and leave it as an open green space until such time that they either sell the property or they go forward with the development of the property, but people don't have to live anymore with these deteriorating properties or construction fences in their neighborhoods for the 8 to 10 years that has been going on for a long time. So I thank you, I particularly thank the City Attorney for working with me to find the means by which we could actually go after the banks, because I think that was my original intent was to go after whoever held that as an asset that we would hold them responsible for it. So thank you.

Mayor Cason: Thank you. Thank you for all your work on this and you really cleaned up the problem.

Commissioner Keon: Yes. And now I'd like to give direction to the City Attorney, City Manager, to replenish this list and to continue until we have no abandoned properties that are eyesores in our City.

Mr. Palenzuela: Just want to add what I've said before, I'm sorry to interrupt, that the City of Coral Gables has the most aggressive Code Enforcement ordinances that I've seen.

Mayor Cason: Good.

Commissioner Keon: Does anyone else have this that you know of?

Mr. Palenzuela: Some cities have abandoned real property ordinance, but the cease and desist ordinance is new and a novel idea.

City Attorney Leen: This top I'm asked to speak on more than any other. A lot of cities are interested in this; some of them have adopted similar ordinances. This ordinance has been adopted by other cities and a number of them have tried to enhance their abandoned property ordinances, so yes, what we are doing is great.

Mayor Cason: So a great ordinance, great work, and great results. Thank you.

Commissioner Lago: Do you need a motion in regards to the replenishment of the list or just directive.

Commissioner Keon: I think it's just direction.

City Attorney Leen: You can do unanimous consent.

Mayor Cason: Unanimous consent, yes, obviously. Anybody that knows of any buildings that qualify send them in, we'll go after them.

Commissioner Lago: Perfect.

Commissioner Keon: We have a registry of abandoned houses so we can go through and take the most egregious and continue to work through that list until they no longer exist in our City.

City Attorney Leen: Mr. Deputy Clerk would you note that the Commission is unanimous consent and also that we are going to replenish the list and that they strongly support it.

Mayor Cason: Thank you.

[End: 10:59:03 a.m.]