

City of Coral Gables City Commission Meeting
Agenda Item F-8
September 13, 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 (On Zoom)

City Staff

City Attorney, Miriam Ramos

City Manager, Peter Iglesias

City Clerk, Billy Urquia

Public Speaker(s)

Mark Trowbridge

Agenda Item F-8 [10:18 a.m.]

An Ordinance of the City Commission creating Chapter 14 "Businesses", Article VII "Mobile Food trucks", providing for severability clause, repealer provision, codification, and providing for an effective date. (Sponsored by Mayor Lago)

Mayor Lago: Moving onto Ordinances on First Reading, F-8.

City Attorney Ramos: An Ordinance of the City Commission creating Chapter 14 "Businesses", Article VII "Mobile Food trucks", providing for severability clause, repealer provision, codification, and providing for an effective date. Ms. Levi-Garcia will present the item. I just want to remind the Commission that we are here because the state law does not allow us to prohibit food trucks, but we may regulate them. So, this is our first attempt at regulating.

Mayor Lago: Perfect. Good morning.

Assistant City Attorney Levi-Garcia: Thank you. Thank you, Mayor, for sponsoring this ordinance. So, I also want to preface the presentation by just mentioning that we did work closely

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with the Chamber of Commerce. They gave us some very good feedback, and the ordinance did change from its original version, based on that feedback. So, the ordinance sets forth definitions for food trucks. There are Class 1 food trucks, which are mobile kitchens; Class 2 food trucks which are lunch trucks; Class 3 food trucks which are essentially ice cream trucks. Class 1 and Class 2 trucks are generally prohibited from operating in the Central Business District within 500 feet of a restaurant and single-family residential districts, and they are prohibited from operating on, on-street parking spaces. One exception to this is, that lunch trucks can continue to service the construction industry, construction sites, as long as they don't park for more than 15 minutes at a time. Additionally, a resident can hire a food truck for a private engagement without having to get a special events permit, as long as certain conditions are satisfied. Class 3 food trucks, which again, are like ice cream trucks are prohibited from operating in the Central Business District within 500 feet of a restaurant. They can, however, drive around residential areas and stop and park for no more than 15 minutes at a time. Mobile food trucks, there are some provisions that apply generally across the board, unless otherwise specified. You can only have one truck on a property at a time, unless you have a special events permit. The general hours of operations are 8 a.m. to 9 p.m. and generally mobile food trucks, again, unless otherwise specified cannot be in the same location for more than an hour. Certain entities are exempt from the provisions of this article, religious facilities, schools, hospitals, government facilities, and the University of Miami. We have built in certain protections for abutting residential properties as well. So, if you have any questions, I'd be happy to take them.

Mayor Lago: Again, its self-explanatory. We are trying to control our future and the state is giving us an opportunity and I want to be very clear, and I think that we got buy-in, not I think, I know we got buy-in from the Chamber. The last time it was deferred at the request of Mark Trowbridge, who wanted to kind of dive in and get a better understanding and speak to some of the other restaurants to make sure that we weren't adversely affecting them. We are ready to move forward, unless my colleagues have any other comments or concerns, they want to address.

City Attorney Ramos: Naomi, I want to make sure you covered the businesses that are coming online that could have the opportunity to have a food truck.

Assistant City Attorney Levi-Garcia: Oh sure, let me mention that. So, there is a provision that we built in one of the later versions that allows a restaurant that is going to be coming into the city to operate a food truck fully on their premises for a maximum of six months. So, if you are going to be coming in with a brick and mortar and you have a food truck you want to start introducing the cuisine to the community, you can do that. Of course, the provisions regarding operating in the Central Business District and not operating within 500 feet of another restaurant still apply, so it's a very, admittedly a limited opportunity.

Mayor Lago: Commissioner, go ahead. Go ahead, Commissioner.

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Commissioner Menendez: I was briefed on this item. I'm very happy that its being presented. I think it's a great piece of legislation. Something that I asked, and I propose perhaps adding to the legislation concerning ice cream trucks that when ice cream trucks park or stop that they cannot play the music through the speakers. Once they are parked that they are silent, because I think for residents to have that constant sound, I think is something that alienates our resident's whole situation. So, I think addition perhaps to the legislation if the City Attorney can find a way to add it, that once those ice cream trucks park that they have to shut off the music or whatever they are playing.

Mayor Lago: I think that's a reasonable request.

Commissioner Anderson: Yes. It's either that or going to beep a horn or the music level has to be at a certain level.

Vice Mayor Mena: Well, I'm sure it's already subject to this ordinance, right.

Assistant City Attorney Levi-Garcia: Our provisions related to amplified sound and like the allowable decibels still applies.

Mayor Lago: Okay.

Assistant City Attorney Levi-Garcia: So even if they have amplified music, the ice cream truck song, or whatever, it needs to be below a certain volume, but I could build in a further prohibition that when they are parked, they don't play any music at all.

Commissioner Anderson: Or low...

Vice Mayor Mena: Say they would be subject to our noise ordinance, right.

Assistant City Attorney Levi-Garcia: There is language in the ordinance that says they are subject to all other provisions of the city code and zoning code.

Vice Mayor Mena: If I pull up in my car and I want to roll down the windows.

Assistant City Attorney Levi-Garcia: Loud music – yes, we would have a problem with that.

Vice Mayor Mena: Which I'm prone to do. I have the right to do that, right. I don't know why there's would be any different.

Commissioner Anderson: I think we could do this on a test drive.

Assistant City Attorney Levi-Garcia: Yes, whatever the will of the Commission is. I can make changes between first and second reading, if you like, otherwise we can test it as is. Again, in

residential areas they cannot stop for more than 15 minutes at a given location. So that's other thing to keep in mind.

Vice Mayor Mena: The whole point of the music is that as a kid, you hear the ice cream truck, you hear the music, you'll get an ice cream, right.

Commissioner Anderson: Right. I'm more concerned with them rolling down the street with the noise because the kids will come run after the ice cream truck than when they are parked. Have we had any complaints from the folks that live near Salvadore about the music from the ice cream truck?

Assistant City Attorney Levi-Garcia: There have been some complaints about the ice cream truck parking at Salvadore Park. I don't know if the issue is the music or just the concept of an ice cream truck is offensive, but that there is a danger issue if it's in the street and kids are going into the street to purchase products, so I'm aware of one or two complaints regarding ice cream trucks parking at Salvadore Park. And just to be clear, this would allow for that, but only for 15 minutes max at a specific location.

City Manager Iglesias: I'm not sure, excuse me, Mayor.

Mayor Lago: No. Please go ahead.

City Manager Iglesias: I'm not sure if the complaints were from the residents or from people at the park themselves.

Mayor Lago: Its coming no matter what. It's preempted by the state.

Assistant City Attorney Levi-Garcia: We need to be more permissive than we have been.

Mayor Lago: So, we need to, obviously, get our ducks in a row to make sure that we have everything lined up prior to the state. I don't have an issue with the noise, as long as like the Vice Mayor said, they are following our rules in regard to our noise ordinances. I just want to make sure that if they are going to be selling there for 15 minutes, the music is not blaring for 15 minutes, basically disrupting someone's Saturday or Sunday afternoon after a long week of work. For some people that's an issue. For some people who may live around that park, they may view it as noise pollution. I want to be as sensitive as possible to that front. So how would we address that? Do we go the Vice Mayor's route which is our noise ordinance comes into play, or do you want to further legislate it by stating that when a car is stopped and you are selling ice cream, turn your music off.

Assistant City Attorney Levi-Garcia: I can add that language. It's not a problem between first and second reading.

Mayor Lago: Oh, I'm just asking my colleagues, that's where we are basically, we are at right now.

Commissioner Anderson: I'm more concerned about them playing it down the street for the kids running out into the traffic, because we all have experienced that with little children. They want the ice cream. It's sort of like the treat bag for my dogs, there is no stopping them. That's my concern. I'd like to hear the comments from the residents. What are the hours that they could possibly play the music?

Assistant City Attorney Levi-Garcia: So, they can operate 8 a.m. to 9 p.m.

Commissioner Anderson: Okay.

Commissioner Menendez: I have a follow up, if I may. How about if the noise issue is limited to parks, our parks, in that area. So, if they are at Salvadore Park, they are parked for 15 minutes and come back a little bit later another 15 minutes, to come back later. As the Mayor, I think was saying, families are there weekends, they are trying to rest, and if I'm not mistaken, to hear the same tune over and over again throughout the day if you are living near a park and the ice cream truck is there, I think it probably does, how do you say, intrude into a person's efforts to have a peaceful weekend. I, as a kid, like Rhonda said, I was one of those kids that would run after the ice cream truck. I know that's an issue, but how about if we just limit the noise, focus on the parks area. I don't know if that's possible, Naomi.

Assistant City Attorney Levi-Garcia: Absolutely. If we are going to work, it in between first and second reading is what it sounds like. Let me just take a stab at putting something together for your consideration on second reading and seeing if it works for what you are trying to achieve, let's just apply it to all residential areas, that makes sense.

Commissioner Anderson: Only two cents I have to add to that. From my conversations with the folks around Salvadore Park, which I got to hear about the Mariachi Band at the Salvadore Park late at night. What's good for the goose is good for the gander. If we allow music for parties at Salvadore Park, there is no cost benefit of controlling it when the truck is parked unless we do it across the board.

Vice Mayor Mena: That's my point is exactly that. Is I don't know why this relating to food trucks would have a different noise ordinance than what applies to everybody else. That's exactly my point.

Mayor Lago: For example, like vendors, the ice cream truck is a vendor. If any event is going to go to a park, to a city owned park, a public facility, they have to pull a permit, correct.

Commissioner Anderson: Right.

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Mayor Lago: Does he or she, whoever owns this ice cream truck is a vendor, they are selling products to people who are enjoying the park. Then we've got to change that rule also in regard to city parks, don't we?

Assistant City Attorney Levi-Garcia: Well, we are carving out this function because we have to, essentially.

Mayor Lago: We are dealing with it because we have to deal with it. People are saying why are we talking about ice cream trucks. Trust me, we have bigger fish to fry, but this is an issue that has been put in our lap as a result of preemption by the state. Can you take a look at that, vendors?

Assistant City Attorney Levi-Garcia: Sure.

Mayor Lago: Because already if you are a vendor and you are going to go and visit a city park, you've got to pull a permit, and this is a very similar situation.

Assistant City Attorney Levi-Garcia: Our zoning code basically prohibits business outside of a building. The exception is when you have a special events permit. You are not going to have the hotdog cart going to any park unless there is some kind of special event going.

Vice Mayor Mena: You need a special event permit. But we are being forced because of the preemption issue to allow the food trucks, is what you're saying.

Assistant City Attorney Levi-Garcia: Correct, because we are basically prohibited from permitting and licensing and even having a registration of food trucks as a prerequisite for allowing them to operate in the jurisdiction. So, we need to create some avenue for them to operate without having to take those steps.

Mayor Lago: Naomi, I didn't know this, but we made four trips to Tallahassee the entire Commission this year.

Assistant City Attorney Levi-Garcia: It was a few years ago, actually.

Mayor Lago: Which I'm very proud of. Just for our next time that we go up for Session, maybe we can meet with the ice cream lobby, because obviously they are powerful, they were able to get this done. Maybe we should consider the ice cream lobbyist.

City Attorney Ramos: I think it's more the restaurant lobby.

Vice Mayor Mena: How do I join the ice cream lobby?

[Laughter]

City Attorney Ramos: To be clear, even though food trucks technically have not been permitted in the City of Coral Gables, we haven't gone after ice cream trucks. So, I don't think that there is going to be like an influx of ice cream trucks. Whatever music they've been playing, they are going to keep playing. I don't think this is going to create an issue in the ice cream truck world.

Vice Mayor Mena: The more concerning thing that I heard today was the hours of operation, to be honest with you. 9 o'clock is pretty – does that apply on weeknights?

Assistant City Attorney Levi-Garcia: I'm sorry?

Vice Mayor Mena: Does 9 o'clock time limit apply on weeknights?

Assistant City Attorney Levi-Garcia: It applies across the board. We can adjust it, but I guess my approach was we are kind of treading into unknown territory, and so, it has to make sense to be more conservative at the outset.

Vice Mayor Mena: I'd have to revisit the hours for like landscapers that we have, because I know like...

City Attorney Ramos: Its much earlier than that.

Vice Mayor Mena: Well, I know, but it's also structured so that on weeknights you know there is a later start time than on the weekends.

City Attorney Ramos: Yes.

Vice Mayor Mena: And so, on and so forth. To me 9 o'clock on a weeknight for there to be any food truck playing music, that I would be willing to, not even play music, just operating, I would be willing to restrict more.

Assistant City Attorney Levi-Garcia: Okay.

Commissioner Fors: What about sunrise to sunset?

Commissioner Anderson: Yes, that's what I was going to say. The park itself can only go sunrise and sunset.

City Attorney Ramos: Right. But if are driving through a neighborhood in December at 4:30 – 5 p.m., its probably close to sunset.

Assistant City Attorney Levi-Garcia: And again, we talked to maybe look at one timeframe for, what if you're not in a residential neighborhood, what if you're in a commercial area on a private parking lot, maybe its not a problem to be operating till 8 p.m. or 9 p.m.

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Vice Mayor Mena: I have no problem with it being 9 p.m. in a business district, but if its near a park in a residential neighborhood, especially on a weeknight.

Assistant City Attorney Levi-Garcia: We can differentiate that.

Mayor Lago: So why don't we work on that between first and second reading.

Assistant City Attorney Levi-Garcia: So, timing and music.

Mayor Lago: Yes.

Commissioner Anderson: 6 o'clock.

Mayor Lago: And also look at the vendor permitting, just to clarify that.

Assistant City Attorney Levi-Garcia: Okay.

Vice Mayor Mena: Taking a park, for example, any park. I know you were referring to Salvadore, but we have obviously several other parks. What dictates where they are allowed to be positioned. They obviously can't be blocking traffic.

Assistant City Attorney Levi-Garcia: They can't block traffic, currently under the code, so they would have to park on a swale or in a parking space or they could pull into someone's driveway, if they would allow it, but again, 15 minutes max.

Vice Mayor Mena: In a driveway?

Assistant City Attorney Levi-Garcia: If the private property owner were to allow it.

Vice Mayor Mena: That could be for like a – how does this currently apply to like private parties, for example. Like if I want to have a food truck at my kid's birthday in my driveway.

Assistant City Attorney Levi-Garcia: Sure. So, they are regulated under a separate section of private engagements and one of the distinguishing factors is whether the food truck is visible from the street. So, if its not visible from the street, the person can pretty much have events as often as they would like, as long as they don't create a nuisance and they abide by other sections of the code that are applicable related to noise, exhaust, you know that kind of thing.

Mayor Lago: I know everybody here on this dais has lived in Coral Gables their entire life, I haven't, so just to make sure we also address the Viandero and also the Afilador. The Afilador is a critical and the viandero too could also be a nuisance. Make sure we address those. You know what that is Naomi, or no?

Assistant City Attorney Levi-Garcia: I need a translation.

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Mayor Lago: The Viandero is the one that sells you fruits and vegetables.

Assistant City Attorney Levi-Garcia: Oh, the fruit truck, yes.

Mayor Lago: And obviously, the Afilador is the one that sharpens your knives and...

Assistant City Attorney Levi-Garcia: The knife sharpener is out of luck.

Mayor Lago: Look at Hermes; Hermes knows what I'm talking about, sharpens your knives and your scissors.

City Attorney Ramos: The real thing, Naomi.

Assistant City Attorney Levi-Garcia: Yes, the knife sharpener is out of luck. I had a fruit truck in Miami Beach, so I'm familiar with that.

Mayor Lago: I'm trying to lighten things up here. This is a real serious discussion here.

Commissioner Anderson: It is.

Assistant City Attorney Levi-Garcia: The fruit truck guy can cross the border now.

City Manager Iglesias: If we are talking about ice cream trucks, our parks are generally sunup to sunset.

Mayor Lago: No knife sharpening in the neighborhood.

[Laughter]

Vice Mayor Mena: I would make it early hours on weekdays in residential neighborhoods, 7 o'clock or something like that.

Assistant City Attorney Levi-Garcia: Sunup to sundown or sunup is too early.

Vice Mayor Mena: Residential neighborhoods, I'd be comfortable with that.

Assistant City Attorney Levi-Garcia: Okay.

City Manager Iglesias: Vice Mayor, most of our parks are open sunrise to sunset, and they probably don't have a big market coming through at night, so I doubt that you know.

Commissioner Anderson: Probably not.

Mayor Lago: My issue is enforcement and in enforcement we could do something similar to what we did with landscapers where we notify them, you know as a courtesy notice. Listen, respectfully,

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we can get their contact information and even somebody who's gone through the neighborhood we get in contact with them, and say listen, respectfully, these are the times that we've set, as per the following legislation, please follow this. I think enforcement is going to be the next big thing.

Commissioner Anderson: So, one last serious question on this very serious issue. Kids running across the street, can we restrict the location of the food truck to be, if its going to go to like Salvadore Park, it has to park on that side of the street, so the kids aren't running across a very busy street such as Granada.

Mayor Lago: Yes, that makes a lot of sense.

Assistant City Attorney Levi-Garcia: I can look at working in some language that, to the effect of when you are servicing a park, you're parked in a legal drive, like in a parking space, but I don't know that all of our parks have parking spaces, but I can look at that.

City Manager Iglesias: I'm not sure Commissioner, parking across that would be in front of a residential area, right in front of a resident. I don't think we allow that, right, to park.

Assistant City Attorney Levi-Garcia: They shouldn't be blocking any driveways, they shouldn't be blocking traffic, all those things would currently apply to any car on the street would continue to apply.

City Manager Iglesias: Let's make sure they don't park in a residential area; I think that would be a problem.

Commissioner Anderson: That would be a problem.

Mayor Lago: Why don't we work on that between first and second reading and to try to find the most safe location for these types of vendors to conduct business, on the swale potentially.

Commissioner Anderson: I would think Tallahassee wouldn't have a problem with us protecting the health, safety and welfare of our children.

Mayor Lago: I agree.

Vice Mayor Lago: I just want to be careful we don't over legislate this thing either.

Mayor Lago: Are you afraid the Afilador is not going to come to your neighborhood.

[Laughter]

Vice Mayor Mena: At some point, I'm responsible for where my daughter crosses the street, you know we have infrastructure and kids are going to cross the street, this is reality and we are never

going to be able to hyper-legislate exactly where each truck can park in exactly each location in the city, and when we start doing that, it just over-complicates it. I think we can have reasonable restrictions, but beyond that, you know I think we should let; sort of circumstances be what they may, and then we should work for sidewalks and crosswalks and all those things that are appropriate.

Commissioner Anderson: I get it.

Mayor Lago: Could I get a motion?

City Clerk Urquia: We do have members of the public requesting to speak on this.

Mayor Lago: Okay.

Commissioner Anderson: Come on down.

Vice Mayor Mena: It's the ice cream lobby.

City Clerk Urquia: First, its Mr. Mark Trowbridge.

Mayor Lago: The ice cream lobby (laughter).

Mr. Trowbridge: Good morning again leaders, thank you so much for the opportunity to speak on F-8. I do not technically represent the ice cream lobby, although we do have a number of great members who own ice cream shops within Coral Gables, so those are all brick and mortar. I just want to say a personal thank you to each of you for your discussion today and to the Mayor, especially for allowing us to defer this item from a couple of weeks ago, so that we could sit with our restaurants. Belkys Perez, I want to say thank you to her. She came and met with the restaurants. We had about 25 folks that weighed in on this ordinance, and I think the biggest takeaway was that they felt that Naomi and the City Attorney's office had done was excellent. We even had a discussion about 500 feet versus 1,000 feet, and most felt that at 500 feet that there was a good amount of safeguards in terms of how it would impact their businesses, especially with the one-hour limit and some of the parking requirements, and obviously, not allowing the food trucks to be directly within the Central Business District. As always, appreciate the partnership and the opportunity to let our restaurants really speak for themselves and have the members of our Chamber speak directly to Naomi, Belkys, and the entire team. So, thank you as always for listening and we do support this ordinance on first reading.

Mayor Lago: Thank you sir.

Commissioner Anderson: Move it.

City Clerk Urquia: That's it, Mr. Mayor.

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Commissioner Anderson: Move it.

Commissioner Menendez: Second.

Commissioner Anderson: I think we are going to have a record Commission meeting here.

Mayor Lago: We have a motion and a second.

Commissioner Anderson: Yes

Commissioner Fors: Yes

Vice Mayor Mena: Yes

Commissioner Menendez: Yes

Mayor Lago: Yes

(Vote: 5-0)