

City of Coral Gables City Commission Meeting
Agenda Item E-2
February 9, 2016
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
Assistant City Attorney, Miriam Ramos
Sustainability Specialist, Matt Anderson

Public Speaker(s)

Agenda Item E-2 [9:53:14 a.m.]

An Ordinance of the City Commission of Coral Gables, Florida, amending the City of Coral Gables Code by creating Section 2-801, "Prohibition on use of Polystyrene" in Article VIII Procurement Code, and amending the City Code by creating Section 62-230, "Prohibition on use of Polystyrene" in Article VIII Special Events and amending the City Code by creating Article VIII "Sale, Use of Distribution of Polystyrene by Businesses with the City" in Chapter 34 Nuisance, of the City Code; providing for a repealer provision, severability clause, codification, and providing for an effective date. (Sponsored by Commissioner Lago).

Mayor Cason: E-2, this is an Ordinance on Second Reading.

City Attorney Leen: Thank you Mr. Mayor. Item E-2 is an Ordinance on Second Reading. Its an Ordinance of the City Commission of Coral Gables, Florida, amending the City of Coral Gables

Code by creating Section 2-801, "Prohibition on use of Polystyrene" in Article VIII Procurement Code, and amending the City Code by creating Section 62-230, "Prohibition on use of Polystyrene" in Article VIII Special Events and amending the City Code by creating Article VIII "Sale, Use of Distribution of Polystyrene by Businesses with the City" in Chapter 34 Nuisance, of the City Code; providing for a repealer provision, severability clause, codification, and providing for an effective date. This is sponsored by Commissioner Lago. It's a public hearing item, there is one amendment. In Section 34-189(b), we've added a sentence that a violation of this ordinance is deemed to be irreparable as it may only be complied with in the future and not retroactively. The basis for that is that if you commit a number of violations of this ordinance, its an escalating fine, but eventually it can get to \$1,000, which requires this to be an irreparable harm under Florida Law, which allows you to fine up to \$5,000. We haven't done that, we've gone up to \$1,000. I know that the Chamber of Commerce is here and I know that also City staff is ready to discuss.

Commissioner Lago: Good morning. First off before we get started, I just wanted to make sure that I commended staff, Matt, Jessica, I don't know if Jessica is here today, along with our Assistant City Attorney who has done an incredible job in bringing this before us. I'd also like to make sure, I've seen Mr. Trowbridge from the Chamber who is a great partner with the City of Coral Gables. He's done a lot of due diligence, he's met with the businesses probably, I think maybe on two or three separate occasions to build consensus, so I just wanted to commend you, because we are here on Second Reading because of the efforts, not only this Commission, but really the efforts of the business community and the efforts of our employees. So I really thank you so much for bringing this before us.

Ms. Ramos: As you know this item was on at the end of the year for First Reading and then there was a lapse in time because we wanted to make sure that the community was fully behind this item; and to that end both Matt and I and Javier have met with the B.I.D. and have met with the Chamber, at least on two occasions, and then Matt presented to the Chamber's monthly meeting with all of the restaurant participants. Everyone is squarely behind this ordinance that we spoke to, and it was nice to hear, and Matt can tell you more about that meeting with the restaurants. It was last Commission day, so I didn't make it. What I heard from them was basically this is what we already do. Of course we don't use polystyrene. So, I'll let Matt speak to that and then I'll go through the ordinance with you.

Mr. Anderson: The response was overwhelming. As Miriam said, they are in full support as they've been doing this for a few years, so they feel like its time that the rest of the restaurants buy-in and follow along with this ordinance. So we are definitely excited about it.

Ms. Ramos: So there is essentially three parts to the ordinance. The first part talks about City vendors and City contractors, the second part talks about special events, and the third part is businesses within the City. So particularly with regard to City vendors, nobody that enters into a contract with the City going forward would be able to use polystyrene products within the City or in the fulfillment of that contract, and failure to abide by that result in the default of a contract with us. Of course those that are already in a contract with the City will not apply to them, unless the City has an option of extension and then the City Manager can consider whether we want to extend based on whether they are willing to abide by this ordinance or not. The second section is a special events section. It essentially does not allow anyone that we give a special events permit to use polystyrene during the event. If a person is seen using it, they must immediately stop. They'll be given a warning. If they do not immediately stop, we will ask them to leave the premises, revoke their permit essentially and we may also not give them a permit in the future or give conditions to that permit if they have violated the ordinance.

Mayor Cason: On that item, is the special events committee going to give some kind of document or something to people in Farmers Market, sign here, you understand what....

Ms. Ramos: We certainly can have them do that, that's a good idea.

Mr. Anderson: And include it in the applications going forward.

Commissioner Lago: I think maybe Mark is going to discuss it later, but I think the whole point of this, we are not going to start this immediately. There is going to be a long window where we are really focus on education, which is...and when we look at this like when Matt and the Assistant City Attorney stated, a lot of people are already doing this, there are just a very few individuals that haven't caught on to the importance. This is not really a cost issue, this is really a planning issue. People really plan accordingly you don't really need to use this product. So, I think Mark will go into that later in reference to what the business community feels.

Ms. Ramos: That's correct sir and that's a great point. If you notice the ordinance will not be enforced or take effect really until August of this year and then between August and December Code Enforcement will only be giving warnings, so we won't actually start fining people until January of next year. We want to give them plenty of time off so they have stock, they can get rid of it, continue our educational efforts.

Mayor Cason: The tough ones are going to be the food trucks that come in from outside to construction sites and they don't have any interaction with the City, they just come in and give you coffee in a little cup.

Commissioner Lago: You are correct Mayor, and it goes back to what Commissioner Keon stated before about the blowers. This is a conversation that I've been having with the City Manager where hopefully in the future, maybe today or maybe next Commission meeting we'll discuss it, is the issue of potentially doing what the City of Miami does. For example, with design professionals and contractors they make you pay a \$25 a year fee and that way they have all your information and they can contact you. For example, anybody goes to the City of Miami, you can't pull a permit if you have an expired permit, and how do they notify you of that?- because they already have your information from the year before, and every single year you have to renew, its like a standard procedure that's in place already; and it doesn't have to be \$25, it could be \$5 for example, for food trucks or it can be \$2 for gardeners, but that way we make sure that we control the information and we are able to notify them in reference to maybe blowers or in reference to maybe trash piles, or some sort of new legislation that's is coming down the pipeline; and right now we have no means of getting that information. Now we are basically depending on the residents and the business owners to go out there and make sure they contact them or Code Enforcement catching them in the act.

Ms. Ramos: OK. So the last part of the section talks about prohibiting sale or use by businesses within the City. And it essentially has some exceptions, obviously, any articles that are prepackaged. So if a convenient store has an article that already came, i.e., eggs, that already comes with Styrofoam then that would be an exception, but they cannot sell Styrofoam items and they cannot sell their products, so at the sub shop within the supermarket or the coffee that the supermarket sells can't be in polystyrene containers. Also, if they have a romi or deli style counter that is an exception because that's the best way to keep those products. And lastly, it doesn't apply to non-profits, the School District, County, State or Federal government.

Commissioner Keon: Can I ask a question with regard to non-for-profits? Does that also apply to private clubs and things, when we have a couple Riviera, Deering Bay, which are private clubs, does this extend to them?

Ms. Ramos: I don't think that they are categorized as non-for-profits.

Commissioner Keon: OK. They would still just be a business.

Ms. Ramos: If they are a 501(c)3.

Mayor Cason: In terms of violations, say the same company is caught using it and they use it again a couple of hours later the same day, is each of those an incident or is it per day?

Ms. Ramos: Each would be a separate violation under 34-189, each violation within a 12 month period, so its \$50 for the first, \$100 for the second, \$500 for the third, and \$1,000 for the fourth or more. So if they use it ten times in one day we are going to get well into the thousands.

Commissioner Lago: Matt can you discuss the fact that we are not the first City to do this by far locally, and the objective here is to again, not force people to pay fines, we are looking to educate people and really change the culture.

Ms. Anderson: Yes – and I made that clear when I was presenting to the restaurant industry that our goal, we don't want a fine, we just want to remove polystyrene from our waste stream and as Commissioner Lago said, we aren't the first to even do this down in South Florida. Its been done all around the country, mostly on the west coast, but even locally Key Biscayne has taken a very aggressive approach, this was much what our ordinance was modeled after, Key Biscayne, Bal Harbor, they've all gone through this same process and gotten buy-in.

Commissioner Lago: And let me just ask you a quick question. Again, I don't have this information. When they implemented these similar ordinances in Key Biscayne, Bal Harbor, you mentioned Miami Beach...

Mr. Anderson: Miami Beach – correct.

Commissioner Lago: How have the businesses adapted? How have they gone through the process and basically understood? Are we modeling our outreach efforts in the same fashion as they did?

Mr. Anderson: Yes. Our outreach efforts are going to be modeled much after what Miami Beach has done. They did an extensive education and outreach program with their businesses. I've heard that even they worked with – they had a CVS on Miami Beach and they got CVS buy-in even before with doing away with selling polystyrene, so I think during that education period and extending it the way we have and not starting really till January 1st, I think is key because that gives us time to reach out to the businesses working with the Chamber and the B.I.D. and driving that out, reaching that education.

Commissioner Lago: And one final question just for the residents and the businesses that are listening. Not only is this cost effective, but this is important in regards to sustainability. What if you know, I imagine you do that's why I'm asking, how long does it take for polystyrene to decompose in the landfill versus a standard paper cup, which should be recycled?

Mr. Anderson: They actually don't have a timeframe on how long because they don't know, its that long its basically infinity. It can sit in the environment and not decompose for hundreds of thousands of years, which is one reason why we want to reduce this and it's a bi-product of petroleum, made out of bi-product of petroleum, so its something that we definitely think its crucial to remove from our...stream.

Commissioner Lago: And besides the fact, it also gets into the marine environment and it wreaks havoc in the marine environment.

Mr. Anderson: Yes. We can see traces of polystyrene in canals, we were talking about our Waterway Commission and removing that we think we can remove that from the waterways as well.

Mayor Cason: Mr. Clerk do we have any speaker cards on this?

City Clerk Foeman: No Mr. Mayor.

Mayor Cason: So we'll close the public hearing. Anymore discussion?

Commissioner Keon: No. I really would like to thank Commissioner Lago for this. I have to tell you, I have a Styrofoam-free house now, I do, Styrofoam cups in my house, I have none, and I think my trash can, my garbage can has like a voice in it and every time I go to throw away something that's recyclable, I go, Oh my God, now don't. Don't throw away recyclable.

Mayor Cason: Let's ask Mr. Trowbridge if he wants to say anything before we have a vote.

Mr. Trowbridge: And I'll follow-up on Commissioner's comments too. Since we've had the first Reading, we've had five follow-up meetings. So we had two that were with staff, with Marina Foglia from the B.I.D., the Assistant City Attorney, Matt, Javier Betancourt and we had a follow-up with that after we had our meeting with the restaurant community. We held two of those meetings, the B.I.D. had one of those meetings, and then also our Chamber See Green Committee had a follow-up. So in total there were at least another six meetings that took place, and in each of those, as Miriam said, a very positive response. Most of the entities, at least on the restaurant community are already doing what we are talking about here and have for some time. I think there are going to be some one-off's that we are going to have to identify, the Commissioner and I were talking about that last night. We've identified one location, I've already shared that with Matt, he's going to work with us on that educational process, and I think that's the key. So for anyone who's listening from a business perspective and we have another ten and-a-half, eleven months in terms of the education process, and then sort of the soft morning

process. We obviously want to encourage folks to begin looking at that plan now, and again, if they bought a supply that lasts three months, six months, nine months, that they are working through that, and then looking for those alternatives, if again they weren't at one of those meetings through the Chamber or the B.I.D., and so we'll be diligent on that. I know that you can probably work with Javier, he had some ideas from an economic development standpoint, through their newsletter that they do now on a regular basis, as well as new businesses that come into obtain a license, this will be part of their checklist, if you will, and information, as well as some of the things that you were talking about adding to the process. It will be a little bit of a learning experience for us, but we have the time to do that, and we want to thank the City for including us in the conversation and for listening to that. A lot of the things that you see in the final ordinance here were little tweaks and ideas that we had, including the timeline to implementation.

Vice Mayor Quesada: This impacts Publix from selling Styrofoam in the coolers...

Mr. Trowbridge: It would.

Vice Mayor Quesada: It impacts any gas stations that sell the Styrofoam coolers, pharmacies. I just want to reiterate that because we discussed restaurants, but I think the Publix, the Whole Foods, the gas stations that typically sell a lot of Styrofoam as well...

City Manager Swanson-Rivenbark: Its also hospitals and country clubs, so that we can use through our business tax licenses a great opportunity to educate, so its far more than just restaurants.

Vice Mayor Quesada: What are we doing to notify non-Chamber members?

Ms. Ramos: We had talked about putting out a massive e-mail that we have here at the City, CGTV, also an article in our publications, and we also talked about doing something in the tax bill?- is that what we were talking about?

City Manager Swanson-Rivenbark: Well the business tax licenses, they have to be registered also, so we'll work with, perhaps you'll reach out to Finance to make sure that as those renewals are issues we'll have that education within their renewal form.

Mr. Trowbridge: Yes – both the renewal and on the new side, absolutely; and I think we should also keep an eye on what's happening at the State level, because I think you all might be aware that there are some Bills that are moving forward even on pre-emption and things like that. Some

of its related to plastic bags and other conversations, but we should be watching on what's happening at the State level as well. I don't know where they are in the polystyrene conversation.

Commissioner Lago: Let me ask you a quick question. I want your input and I appreciate, as I mentioned before, your leadership on this issue. Do you recommend that we as a City may be put forth a recommendation for the State level to basically heed the direction that we are headed and basically mimic what we are doing in reference to this polystyrene ordinance? Do you think that would be a good opportunity for us to maybe get some headway and kind of curb the usage statewide?

Mr. Trowbridge: I think that would be helpful if you were doing that with other municipalities that have already adopted this, such as Miami Beach so that they are hearing from a number of voices on that. The Retail Federation which is a very strong organization statewide but also in Tallahassee, I think is looking at this in the sense that its burdensome and so you might want to look at kind of look at what their effect and efforts have been on that issue. Its not only polystyrene but I think there are also discussions, as I mentioned, on plastic bags and other things, and those aren't new, they have been brought up in previous legislative cycles, but the conversation is definitely getting louder.

Commissioner Lago: They are not new but they are making more and more sense as the years go by.

Mr. Trowbridge: Yes. Actually Representative Richardson is working on the plastic bag Bill for coastal communities, and I think Coral Gables would fall in under that just given the number of waterfront and waterways and obviously our coast and the residential community, so that may be included. But Miami Beach obviously gets a lot of that recognition just because they are the obvious coastal community and the largest.

Mayor Cason: OK. Thank you very much. Do we have a motion on E-2?

Commissioner Lago: So moved.

Mayor Cason: Commissioner Lago makes the motion, second?

Commissioner Keon: I'll second it.

Mayor Cason: Commissioner Keon seconds.

City Clerk

Commissioner Keon: Yes
Commissioner Lago: Yes
Vice Mayor Quesada: Yes
Commissioner Slesnick: Yes
Mayor Cason: Yes
(Vote: 5-0)

[End: 10:10:05 a.m.]