

City of Coral Gables City Commission Meeting
Agenda Item E-5
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

Public Speaker(s)

Agenda Item E-5 [10:43:51 a.m.]

An Ordinance of the City Commission of Coral Gables amending the Code of the City of Coral Gables by amending Division 2 “Code Enforcement Board” and Division 3 “Supplemental Code Enforcement Procedures” or Article VI “Code Enforcement” of Chapter 101 “Administration and Enforcement”; providing for a repealer provision, severability clause, codification and providing for an effective date.

Mayor Cason: E-5, Ordinance on Second Reading.

City Attorney Leen: E-5 is An Ordinance of the City Commission of Coral Gables amending the Code of the City of Coral Gables by amending Division 2 “Code Enforcement Board” and Division 3 “Supplemental Code Enforcement Procedures” or Article VI “Code Enforcement” of Chapter 101 “Administration and Enforcement”; providing for a repealer provision, severability clause, codification and providing for an effective date. This is an Ordinance on First Reading; it’s a public hearing item. What this ordinance does is it affectively, one moment please. We had two ordinances that affect Code Enforcement directly that actually establish the ability to have

Code Enforcement; the Code Enforcement Board and Code Enforcement Magistrates. They needed to be reconciled with each other because there were some inconsistencies. What this ordinance does is it basically does reconciliation. It also allows for a right to fine, and expressed right to fine up to \$5,000 for irreparable, which is already in State Law. It allows for fines up to \$500 for repeated violations. One thing on Second Reading, in talking to you individually, we may want to allow for a fine up to \$500 in the first instance. It doesn't mean that the Code Enforcement Board has to use that authority. Typically they do \$250 for commercial property and \$150 for residential property, but there are times when you may want to go right to \$500. The times that I would think of is when you have, let's say you have a billboard or something, and they are making more than \$500 a day, this happens occasionally. I don't think we've had an event like this in Coral Gables, but it doesn't mean we couldn't, there could be a violation that's worth more to the party than \$500 a day and then they view it a cost of doing business or \$250 a day. So it's useful to be able to go up to \$500, and it's useful to be able to charge the irreparable arm. In Coral Gables putting up a billboard that violates our Code is an irreparable harm, every day it's up from the Coral Gables perspective. So that gives you more authority to ensure that the Code is followed. Obviously, I know that the City Manager has the same view on this and I know that Code Enforcement does and myself. The Commission has already been clear that you want compliance, you are not so concerned about the fines, but you want compliance. So, that's what this does. It basically allows for fines, it allows us to put liens on properties other than the property that is in violation. What do I mean by that? So under State Law, let's say you have a house which is a Homestead they are in, clear violation of the Code, and they just refuse to change what they are doing, and they get a \$250 a day fine, pardon me, \$150 a day fine and it starts to accrue. After several months, we can put a special, pardon me, we can put a Code Enforcement lien on their house. The issue though is if it's a Homestead property, we can't enforce that lien under State Law, and that lien does not take precedent over the mortgage, so it would also be extinguished potentially, if there was a foreclosure or if the bank came in. So the concern with that is that it greatly diminishes the effectiveness of our liens. Now what this will allow us to do is put the lien on other properties as well that, that property owner owns. Particularly where there is a bank in these abandoned property situations and the bank is the mortgage holder, because under our abandoned property ordinance we can view the bank as the violator, that is very useful, and we want to be able to – we want to be very clear that we can lien the bank's other properties. It's my view that we can already do that because the bank doesn't own, is not living in that house, doesn't own that house, they obviously own many properties, but I think it's better to be as clear as possible. On Second Reading, a couple of the changes that we are looking at adding to this also are to make it clear that any review of the Commission by the Circuit Court is insurciary, which basically means that they have to defer to your legislative and quasi-judicial judgments, and they can only reverse you or really quash, it's called, your decision if you clearly exceed the law, or if you make your decision based on something other than the facts, which the City does not do. So it's useful to have – to make it clear that it's not a de novo

appeal, so we'll make changes related to that. We are also going to emphasize that what we are doing – what thing that this does is that the violator for a Code Enforcement matter can be the tenant, it can be the landlord, it can be the owner, which is the landlord, but it can be anyone associated with that property, it can be a third party that comes in and dumps on your property, and we want the flexibility to be able to say any or all of those people, depending on if they have culpability. So this ordinance recognizes that. One thing I'd like to add is to be clear, in talking to you individually that this applies also to banks and mortgage holders. We already have that in our abandoned property ordinance, but it's important that every ordinance recognizes that, because that's something we've been very effective with because of this Commission making sure that the banks maintain the properties. So you'll be receiving an updated version on Second Reading, but these are mostly minor changes, otherwise – Oh, one other change that Commissioner Keon raised was with the notice provision. She felt that it was important that every property get certified mail and a posting. This allows for other types of service as well, so we were going to work with Commissioner Keon prior to Second Reading to make this satisfactory to her, but I wanted to raise that issue as well. And with that, I would turn it back over to the Commission for questions and public hearing.

Mayor Cason: Do we have any speaker cards?

City Clerk Foeman: So we'll close the public hearing. Discussion?

Commissioner Keon: Yes. The only issue I had is on page 5 in Section 101-70, number 4, where this could be an alternative is that in case of commercial properties leaving the notice with the Manager or the person in charge, means that it isn't delivered to the owner of the building, it is delivered to the tenant. I have had a couple of owners have called me or talked to me about this because whoever is leasing the property may get it, and they set it aside, and the owner isn't really notified in a timely way. So, I don't think that we should – they could combine maybe one and four together they can leave it with whoever is leasing this, but they really should notify the owner of the store by certified mail.

Mayor Cason: I agree. Do we have a motion on E-5?

Commissioner Lago: I'll make the motion.

Vice Mayor Quesada: Second.

Mayor Cason: Commissioner Lago makes the motion, the Vice Mayor seconds. City Clerk.

Commissioner Keon: Yes

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

City Attorney Leen: And Mr. Mayor just for E-5, there were no speaker cards, were there?

Mayor Cason: No, there were no speaker cards.

[End: 10:51:04 a.m.]