

City of Coral Gables City Commission Meeting
Agenda Item E-10
May 26, 2015
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
Finance Director, Diana Gomez

Public Speaker(s)

Agenda Item E-10

An Ordinance of the City of Coral Gables, Florida, relating to the provision of services, facilities and programs throughout the incorporated areas of Coral Gables, Florida; authorizing the imposition and collection of special assessments against property; providing certain definitions; providing for the creation of assessment areas; providing a procedure to impose special assessments; establishing procedures for notice and adoption of assessment rolls and for correction of errors and omissions; providing that assessments constitute a lien on assessed property upon adoption of the assessment rolls; providing for interim assessments; authorizing hardship assistance and certain exemptions; providing a procedure for collection of special assessments; providing a mechanism for the imposition of assessments on government property; repealing Ordinance No. 2009-37 concerning fire protection assessments; providing for a repealer provision, severability clause, codification and providing for an effective date.

City Attorney Leen: E.-10, is that...

Vice Mayor Quesada: I'll make a motion on E.-10.

City Attorney Leen: It's a public hearing item, and I need to read it into the record. Are we going forward with E.-10?

Mayor Cason: Yes.

City Attorney Leen: OK. E.-10 is an ordinance. This is on second reading. It's an Ordinance of the City of Coral Gables, Florida, relating to the provision of services, facilities, and programs throughout the incorporated areas of Coral Gables, Florida; authorizing the imposition and collection of special assessments against properties, providing certain definitions, providing for the creation of assessment areas, providing a procedure to impose special assessments, establishing procedures for notice and adoption of assessment rolls and progression of errors and admissions; providing that assessments constitute a lien on assessed property upon adoption of the assessment rolls; providing for interim assessments; authorizing hardship assistance in certain exemptions; providing a procedure for collection of special assessments; providing a mechanism for the imposition of assessments on government property; repealing ordinance number 2009-37 concerning fire protection assessments; providing for repealer provision, severability clause, codification, and providing for an effective date. This was passed on first reading, May 12, 2015. The Master Services Assessment ordinance provides the procedures for the establishment of services, special assessments, such as the fire protection services and solid waste services assessments. It does not impose the actual assessment, nor does it obligate the Commission to proceed with the program. This is a public hearing item.

Mayor Cason: Do we have any speaker cards?

City Clerk Foeman: No, Mr. Mayor.

Mayor Cason: Close the public hearing portion. Discussion.

Vice Mayor Quesada: I will renew my motion.

Commissioner Keon: I just have one question before, I'm sorry, were you going to move it or did you want to speak?

Vice Mayor Quesada: No, no.

Commissioner Keon: Yes. I just have one issue here, and I spoke with the Manager about. In E.-10, there is a provision in here that talks about the authorizing hardship assistance. I'm assuming it relates to income levels and fees charging, waving fees, or whatever, based on income?

Mayor Cason: City Attorney, you want to discuss that?

City Attorney Leen: Give me one second. My recollection is that relates to the senior citizen assessment. It doesn't broaden what's already in existence.

Commissioner Keon: Yes, I know. But I want to know what the qualifier is for...it's some means testing of some sort on hardship assistance. What is the test?

Finance Director Gomez: So the resolutions that come up for each individual assessment that we put in place will give the specifics. Right now, for the Fire Fee Special Assessment program, which this is really for, as well as the Solid Waste, but we are not there yet with the Solid Waste. It is based for senior citizens, so it's based on...

Commissioner Keon: Is it based on senior citizens, plus income, or it's just age?

Finance Director Gomez: I believe it's just age.

Mayor Cason: I don't have to pay anymore? Am I free?

Finance Director Gomez: But I would have to go back and double check that.

City Attorney Leen: It's on page 23. I can read it to you, if you'd like?

Commissioner Keon: Yes, please.

Mayor Cason: Yes, read it.

City Attorney Leen: So it's an authorization for exemptions and hardship assistance. The Commission in its sole discretion shall determine whether to provide exemptions from payment of a service assessment for government property or other properties whose use is wholly or partially exempt from ad valorem taxation under Florida law. In addition, the Commission in its sole discretion shall determine whether to provide a program of hardship assistance to City residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of a service assessment. The Commission shall designate the funds available to provide any exemptions or hardship assistance. The provision of an exemption or hardship assistance in a one-year shall in no way establish a right or entitlement to such exemption or assistance in a subsequent year, and the provision of funds in any year may be limited to the extent funds are available and appropriated by the Commission. Any funds designated for exemptions or hardship assistance shall be paid by the City from funds other than those generated by the special assessment. Any shortfall on the expected service assessment proceeds due to any hardship assistance or exemption...I don't think you need to know that. That just goes on about what happen.

Commissioner Keon: No. I don't think it's age. It's income.

City Attorney Leen: My recollection is that the one that has been provided...this is just the general authority of the Commission. But the one that has been provided was for the fire fee, and it was for senior citizens. And it was actually based on the statute, because the statutory

right to impose a fire fee included with an ability to provide an exemption to senior citizens is my recollection, but I can look into that again.

Finance Director Gomez: I don't recall it being senior citizens and income. I thought it was just senior citizens.

Commissioner Keon: I would like us to look into that.

Finance Director Gomez: Sure.

Commissioner Keon: And I don't think age should be the qualifier. I really think income should be the qualifier, and income doesn't include the value of your home; it's income, income to the home. Because you may have people and they can be seniors or not, more likely seniors, that have a great deal of value in their home, but their income is very limited. So, you know, you don't expect them to go out and second mortgage or remortgage their home or reverse mortgage their home in order to pay these things. So, I certainly understand that the population that may be more affected by this could be seniors for that reason. But I know in speaking with the Manager about it, I want to know what means we apply. Do we look at Coral Gables? Do we look at Dade County? Do we look at Federal? Do we look at the State of Florida? And I would like us to adopt a means test that is applicable to everything, that this is the means test.

Mayor Cason: I agree. And I think that we did that with the special second homestead exemption on those 250 homes.

City Attorney Leen: Yes. I was thinking that too.

Finance Director Gomez: That was the income ...

Mayor Cason:...under \$26,000 annual income and we gave them another \$25,000.

Finance Director Gomez: Right.

Commissioner Keon: OK. So what I'd like us is to apply that, this hardship assistance, the qualifier for hardship assistance is not age but income, and you can determine or decide what that income level is. So it's not values, but it's income.

City Attorney Leen: I'm sorry, Commissioner. I would recommend, I'm sorry, and when you do the actual resolution, you should not apply it to the senior citizens. But I would not put in this ordinance, a limitation that it can't apply to senior citizens, particularly since we've been doing that.

Commissioner Keon: Well, I'm not saying that it can or can't.

City Attorney Leen: OK.

Commissioner Keon: That hardship assistance should be related to income, not age.

City Attorney Leen: I understand, and that's what this basically says, and then when you apply it...

Commissioner Keon: But what is the income?

City Attorney Leen: Well, it's poverty level, according to this, or closely to poverty level.

Commissioner Keon: Whose poverty level, Dade County, State of Florida, national?

City Attorney Leen: But I would not limit your discretion. I recommend you retain the discretion; you put that in the actual resolution when you do the special assessment. That gives you flexibility. Otherwise, you're going to have a uniform...we'd have to take this back. We would have to come back with another proposal, but it'll be an ordinance that's not applying. This is just giving you authority.

Commissioner Keon: All right, but I would like to know that we use a hardship assistance level that is uniform.

City Attorney Leen: I understand.

Mayor Cason: Why don't you come back and tell us between now and the next reading what that would be.

Finance Director Gomez: Well, this one is on second reading.

City Attorney Leen: This is second reading.

Finance Director Gomez: So, as Craig was mentioning, this is the master ordinance, but the specifics of what the hardship program could be are in the resolution. We could put that in the resolution.

City Attorney Leen: Obviously, we have a direction.

Commissioner Keon: OK, yes.

Mayor Cason: Each resolution when they come back to us.

Finance Director Gomez: Yes.

Commissioner Keon: In the administrative order.

Finance Director Gomez: Yes.

Commissioner Keon: Yes.

City Attorney Leen: So when staff prepares this, it'll be based on what you said.

Commissioner Keon: Yes. I'm asking you to identify what that is.

City Attorney Leen: The Resolution.

Finance Director Gomez: Right. ... specific.

City Attorney Leen: Understood.

Mayor Cason: OK.

Commissioner Lago: OK.

Mayor Cason: Do we have a motion on this?

Commissioner Slesnick: Frank, you moved it.

Vice Mayor Quesada: Yes, I did.

Commissioner Slesnick: I'll second.

Mayor Cason: You made it. All right, I think we did that on 11. OK. The Vice Mayor made the motion and Commissioner Slesnick seconds it. City Clerk.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Vice Mayor Quesada: Yes.

Commissioner Slesnick: Yes.

Mayor Cason: Yes.

(Vote: 5-0)

City Attorney Leen: Mr. Mayor, before you go to G.-1, I just want to clarify something while the Finance Director is here. As to the hardship assistance, we did look into that, and the hardship assistance we were talking about was for the fire fee resolution, and what it was is...and it did relate to senior citizens, but it did have an economic component to it. I'll just read it. It is hereby ascertained, determined and declared that it is in the best interest of the citizens of the City to assist certain low-income residential property owners with the financial burden created by the imposition of a fire protection assessment. Accordingly, there is hereby created an economic hardship program to assist residential property owners who qualify for the additional homestead exemption for seniors pursuant to Section 196.075 Florida Statutes, and that homestead for seniors whose household income does not exceed \$27,030 a year.

Mayor Cason: So that's the means test....

City Attorney Leen: That's the current means test in the Florida Statutes for a senior citizen. I mean, that's the only one that I know of, at least since I've been here and Diana has been here, where we've actually put a hardship assistance into a Resolution. Now, obviously, in the ordinance, it's broader than that. You could adopt other hardship assistance programs, but this is the specific one that I was recalling, and I appreciate Diana getting that information for me.

Mayor Cason: I think that's the only one that I recall in four years. But that brings up the question: This particular hardship was given about two years ago. Do we have any reason to believe that there are more potential homestead exemptions for relatively low-income homes in the Gables that we need to go and take a look at again?

City Attorney Leen: No. I think what would happen is we would continue to put that one into the fire fee resolution. That's been the policy of the Commission in the past.

Mayor Cason: But the homes that qualify came to us from the property appraiser, if I'm not mistaken. The question is, do they look at this every year and come up with some new homes?

Finance Director Gomez: Yes, excuse me. The property appraiser does do that. They decide if you qualify, they put them on the roll as homestead exempt for additional senior citizen discount. So when we get the property roll data, before we impose a fire fee, we take those out, because they qualify based on the fact that they have the additional...

Mayor Cason: So, we don't need to do anything more in terms of legislation up here in terms of new applicants for this is that correct?

Finance Director Gomez: Right, because...

Commissioner Keon: Well, the only thing I'm asking is, and I don't know, I'm going to assume not, but I don't know that there are not other people that are not deemed senior citizens that have that income level that could also benefit from...

Finance Director Gomez: That would be an additional program, if you wanted to implement an additional hardship program, but the only hardship program that we have currently for these types of assessments is for the additional senior...well, the senior citizens that qualify for the additional homestead exemption based on the Florida Statutes.

Commissioner Keon: I understand..

City Attorney Leen: We took that from state law.

Commissioner Keon: Right. But that's fine. But in applying the hardship program to other fees, I would think...

Mayor Cason: You have discretion to do that?

Commissioner Keon: I would think it would be based on income and not...

City Attorney Leen: Yes, that could be the number that could be used. We could have a broader exemption program. The only one that we've had is for seniors at this point.

Commissioner Keon: OK. But I think it could be a good thing to have a broader one for anything else that comes along. If we have a hardship a program, that it be related to income without age. If you want to keep that.

City Attorney Leen: No. I think that that's good to know. I think that in drafting these we should consider that then.

Commissioner Keon: And apply that provision of income.

Finance Director Gomez: So to be clear, for right now, these assessment programs that allow for the hardship program right now, is based solely on this. If you want to expand the program, then I guess provide direction in order for us to come up with a hardship program for any or all fees or just these assessments or...

Commissioner Keon:...we're going to do a hardship program that it be based on income and then you can use the same income as the income level you have for the senior citizen, for the second homestead exemption.

Finance Director Gomez: But for what fee should it apply to? Any and all or --?

Mayor Cason: The only thing we have to be careful is on things like garbage fees and other ones.

Finance Director Gomez: Right.

Mayor Cason: You may end up having a lot of...

Finance Director Gomez: Because that one is coming up soon.

Mayor Cason:... service that we're providing --

City Attorney Leen: I mean, I think the concern is that this number was chosen for senior citizens, and some senior citizens may live with their family, but, for a family, like a household where they have three or four children and they're younger, that number may be low; you know, it may have to be higher than \$27,030 a year. I think this number was chosen for individuals who are senior citizens by the State as the appropriate figure. I don't know if that's the appropriate figure for a family of six either.

Mayor Cason: Yeah, it could be higher.

City Attorney Leen: And I'm not saying that a senior citizen couldn't have a family of six. I'm just saying, that hasn't been assessed, you know, so this is specifically for senior citizens.

Mayor Cason: Let's see if any other cities in Miami-Dade have anything that might help us.

Commissioner Keon: So what you're saying, though, is that this qualifier is how you extended the second homestead exemption, and then you use this again for fees?

Finance Director Gomez: No. So, when we are billing for the fire fee, we take the data from the property appraiser's office. Anybody who has that second exemption with the property appraiser, the second senior exemption, they will not be billed, so they are not included in the bill.

Mayor Cason: About 250 homes, something like that, if I recall.

Finance Director Gomez: It was a little bit less.

City Attorney Leen: And then, Mr. Mayor, in answer to your inquiry, yes, I sent to you the policy of the City Attorney regarding settlements of special assessments. And based on the

Commission's, you know, view on this, it can't just be based on hardship, you know, based on what you said, unless you end up adopting where there would have to be an exigency, and the policy discusses what those are. And if you have any feedback, let me know, you know, regarding it. But right now we're looking at a statute of limitations in any sort of situations where someone may have been exploited by someone or something like that. So it's narrower than simply hardship, because that was my understanding. The Commission didn't want just hardship to factor into like the garbage fees, for example; it had to be more than that. Now, if you end up adopting a program, we would apply the program.

Commissioner Keon: Oh, why don't we think about that? Maybe you can just speak with the Manager about it and decide at this point.

City Attorney Leen: OK.

Mayor Cason: All right.

Finance Director Gomez: Thanks.