



## *City of Miami Springs, Florida*

The Miami Springs City Council held a **WORKSHOP MEETING** in the Council Chambers at City Hall on Wednesday, September 20, 2006, at 7:30 p.m.

### **1. Call to Order/Roll Call**

The following were present:

Mayor Billy Bain  
Vice Mayor Zavier Garcia  
Councilman Bob Best  
Councilman Paul C. Dotson  
Councilman Rob Youngs

Also Present:

City Manager James R. Borgmann  
Assistant City Manager Ronald K. Gorland  
City Attorney Jan K. Seiden  
Chief of Police H. Randall Dilling  
Code Compliance Officer Tex Ziadie  
City Clerk Magalí Valls

### **2. Invocation:** Councilman Youngs offered the invocation.

**Salute to the Flag:** The audience participated.

### **3. Discussion of Proposed Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-013, Fences, Landscaping, and Boundary Walls; by Establishing New Code Section 150-013, Residential Plantings, Fences, and Walls; Providing for Planting Provisions, Restrictions and Limitations for Front, Side and Rear Yards of Residential Properties; Delineating Fence and Wall Installation and Construction Provisions, Restrictions and Exclusions for Front, Side and Rear Yards of Residential Properties; Specifying Fence and Wall Materials and Locations for Front, Side, and Rear Yards of Residential Properties; Repealing all Ordinances or Parts of Ordinances in Conflict; Directions to Codifiers; Effective Date (First Reading: 6/12/2006 and 6/26/2006)**

Councilman Best thanked everyone in attendance for helping to amend Code of Ordinance Section 150-013. He said that the ordinance was adopted in 1954 and it has been amended nine times, most recently in 2003.

Councilman Best stated that Council must not lose sight of citizen safety or the fallout of aesthetic private landscaping and the City's legal liability for lack of definitive language and that feedback was requested from both the Code Enforcement Board and the Board of Parks and Parkways.

Councilman Best said that the most prolific statement on the entire issue was made by the Board of Parks and Parkways Chairman Eric Richey who said:

*"We do not understand the necessity of changes as they relate to vegetation, except in relation to driveway visibility. We conclude that any law that limits or reduces residents' rights must be necessary and well reasoned. But the reasons as given in the minutes and in the wording of the ordinance simply are not convincing."*

Councilman Best stated that one year ago a moratorium was placed on the enforcement of Section 150.013, with Council committing to review the Code to eliminate as much controversy as possible with public input. It is his opinion that the original drafters of the legislation were intent on insuring the long lasting establishment of aesthetic landscaping and planting that would set Miami Springs apart and to serve as a model for others. Clearly it was not the intent to discourage residents by imposing unreasonable benchmarks.

Councilman Best reported that he researched the Codes for Coral Gables, South Miami and Miami Beach and they practically mirror Miami Springs relative to Section 150.013, particularly with regard to the triangle of visibility related to driveways. He recognizes the complexity of abnormal plat plans in the City, which contributes to the uniqueness and the residents have various options open to them. The government does not have the right to infringe on an individual's decision making process; however, he would argue that there is a charge to uphold the tradition and precedent long ago established.

Councilman Best stated that Council seeks positive and thought provoking input from all and to arrest any inconsistencies surrounding Section 150.013 in order to release a bill that is suitable and satisfactory to many. He urged Code Compliance to exercise due diligence in their proceedings and to remember the significance and uniqueness of the City that was established eighty years ago.

Vice Mayor Garcia thanked Council for bringing this issue to the table. He referred to the moratorium that was put in place regulating hedge heights by the previous Council. He reported receiving a lot of citizen input questioning why the City should be allowed to regulate the trees and vegetation in front of their homes and why the present Council is addressing the issue now.

Vice Mayor Garcia explained that the issue was not addressed a few years ago and this Council is being responsible by reviewing the ordinance in order to reach a solution to the problem. He said that by no means does he want to regulate private property when it comes to trees or vegetation because the City is a Tree City U.S.A. and known for its beautiful green spaces that should not be infringed upon.

Vice Mayor Garcia said that Section 150.013 restricts front yard hedges to 3-1/2 feet and the ordinance had not been aggressively or actively enforced for many years. He explained that the people who were cited complained about selective enforcement and Council has been proactive in order to resolve the issue.

Mayor Bain emphasized that no decision would be taken tonight, and that the purpose of the meeting is to receive input from the residents.

City Manager Borgmann said that sometimes Code Compliance gets blamed for selective enforcement. He said that the Administration is trying to inform residents on a monthly basis in the River Cities Gazette of actions or enforcement that will be taking place. In late 2003, a sweep of the City was done to identify those homes that were in violation of the hedge ordinance, which resulted in more than 160 violations out of approximately 4,000 homes.

City Manager Borgmann said that many concerned citizens address Council and they asked the Administration to refer the matter to the Code Review Board. He attended the Code Review Board meeting when Code Compliance Officer Tex Ziadie and Police Lieutenant Randy Walker also participated. They gave their input about the ordinance and the concerns that were expressed. The outcome of the meeting recommended strengthening the ordinance rather than liberalizing it, which was presented to Council and as a result the moratorium was put into effect.

City Attorney Jan K. Seiden said that the prior Council did not want to act on the Code Review Board's recommendation. A certain amount of time went by and Code Compliance conducted another sweep of the City and a number of residents complained or applied for variances to the Board of Adjustment. One resident appealed the denial of her variance and brought a lot of pictures to Council. Her case involved the side of the front yard from the house to the sidewalk.

Attorney Seiden said that Council saw the issue and referred the matter to an administrative committee. Council had two first readings of the ordinance and the last time, no decision was taken other than scheduling this meeting tonight.

City Manager Borgmann said that the Code was recently amended in 2003, relative to the planting or replacement of Ficus hedges. It was liberalized to allow the PVC white fencing, but as far as the vegetation is concerned, the Code has been in place for a long time.

City Manager Borgmann stated that Codes like this make the City as nice as it is and without Codes to regulate property maintenance, some houses could grow jungles. His recommendation is to leave the Code as it is, lift the moratorium and start enforcing the Code as it has existed for many years.

Vice Mayor Garcia said that once the moratorium is lifted and the Code is enforced, there are residents who will be in violation of the Code because they have hedges higher than 3-1/2 feet with beautifully landscaped yards. He was of the opinion that Code Compliance should be lenient on well manicured hedges.

Vice Mayor Garcia stated that there are many people that the current Code would affect that are not going to be happy about cutting their hedges to 3-1/2 feet and Council must make the right decision and take the residents' concerns into consideration.

Councilman Youngs said that if the ordinance is enforced, the hedges cannot be higher than 3-1/2 feet in the entire front yard and the residents had indicated that they wish to have more privacy. His question is what should be done with side hedges from the house to the street and plantings that are not technically hedges but that act as hedges.

Councilman Dotson indicated that he would comment on the issue after the residents have had an opportunity to speak.

The following residents spoke on the issue:

Ubaldo De la Riva of 1170 Raven Avenue has a hedge that is a part of his landscaping, it is setback at least five feet from the property line and it adds privacy to his home. It does not block visibility when backing out of the driveway and he does not appreciate the City getting involved in telling him what to plant on his private property as long as it is properly maintained.

Mr. De la Riva explained that he grew his hedge to six-feet because his neighbor is not tidy, and his solution was to have a high hedge. He was cited about three years ago, and he complied, while other homes on the same street have large plantings at least 12-feet high that act as hedges.

Councilman Youngs read the section of the Code:

*“No fence, hedge, or boundary wall in any front yard area shall exceed three and one-half feet in height, or extend beyond the boundary lines”.*

Mr. De la Riva said that if he received another citation that he would not cut his hedge to 3-1/2 feet because there are many residents who do not comply at all.

Ina Howell of 771 Wren Avenue said that people have to be careful about hedges and fences but she does not agree that the City should tell her how tall a plant can be that is three or four feet from her front door. She felt that there should be a definition of what is a hedge. Ms. Howell was of the opinion that under the present ordinance a planting that is three-feet from the property line should not be restricted to 3-1/2 feet tall.

Ms. Howell questioned where the property line would start when there is no sidewalk in front of a house. She felt that there are many gray areas in the proposed ordinance and she resents the fact that it restricts plantings in her front yard. The present ordinance should be enforced for plantings on the property line, not on what is planted within the boundaries of her property. She added that this ordinance is beginning to sound as a condo association ruling.

Juan Carlos Hervis of 1200 Raven said that he has installed and maintains many of the hedges in the City. If visibility is obstructed, then the City should take action, but he is not in favor of the new proposed ordinance that would restrict plantings in the front yard to 3-1/2 feet because there are different situations that should be considered and Council should modify the old ordinance.

Joan Paul of 781 Plover Avenue thanked Council for having this meeting and giving the residents an opportunity to express their wishes. She said the Board of Adjustment has denied the variances because they do not want to set a precedent. She suggested keeping the Code as it is with the exception of substituting the word "plantings" for hedge and that plantings in the front yard may exceed the maximum height only when not adversely impacting views from sunlight, airflow, or neighboring properties and not determined to be a safety factor. The property owner would assume all liability for non-conformity to the Code.

Martin Marquez of 401 Hunting Lodge Drive stated that the ordinance as proposed could be construed as a deed restriction on the residents' private property and it forces the City to act like a neighborhood association by controlling private property instead of establishing guidelines for the general health, safety and welfare of the general public. He suggested that there should be more creative alternatives that are tailored to the unique, historical community.

Mr. Marquez referred to other cities' codes that have grandfathering provisions in their hedge ordinances and handle each complaint on a case-by-case basis. He said that one city in California has a creative solution to the hedge problem that states: "*subject to the provisions of Chapter 8.28 of this Code, a hedge as defined in that section may exceed the height limit for fences where the extra height is agreed upon by all immediately adjacent neighbors*".

Mr. Marquez said that Council has the ability to appeal all of the hedge ordinances and thereafter establish grandfathering, special exemptions and even amnesty clauses to deal with some of the problems.

Jose Savino of 90 Cherokee Street said that this is his first time before Council. He bought his house here about four years ago because of the beauty of the City and the landscaping. He lives on a corner and he is trying to keep his property beautiful with trees and hedges in order to have privacy from the street and the alley. He was of the opinion that hedges should be cut only in cases where they restrict visibility.

Maggie Amaya of 185 Flagler Drive said that she lives on an irregular lot and the beauty of Miami Springs is that not everything is the same. The proposed ordinance would cause her to remove beautiful trees from her property or to request a variance. Ms. Amaya urged Council to adopt an ordinance that would work for the residents.

Robert Schultz of 100 Sunset Way asked Council to take the ordinance and throw it out. He distributed a map and said that he does not appreciate Council telling him what to do on his property. He has an extensive palm collection that is not a hedge but that would be affected. Mr. Shultz said that this law would affect a lot of people.

Mr. Shultz urged Council to adopt an ordinance that can be enforced and to define what is a hedge. He said that satellite image of the City shows the vegetation, which is the same in the upscale neighborhoods like Coral Gables and Pinecrest.

Paul Rawls of 951 Oriole said that when the ordinance was first written, people did not have this type of vegetation or grow plants. He felt that the 1954 ordinance does not work today and Council should address this issue. Mr. Rawls asked to clarify where the homeowner's responsibility ends and the City's starts if there were to be an accident. He felt that it should be the homeowner's responsibility for safety.

Nery Owens of 332 Payne Drive said that this is a difficult issue to deal with. She loves trees, but her major concern is safety. In case of an emergency, it would be difficult for the fire or police to find the house numbers when the plantings are very dense in the front yard.

Frederick Seaman of 1521 Hammond Drive is totally opposed to the proposed revision beginning with the inclusion of the word plantings. He said that the revision includes a restriction for limiting all plantings within 10 feet from the property line to 3-1/2 feet, which is totally unacceptable. He strongly urged Council to do away with the proposed ordinance.

Gail Perron of 1001 Meadowlark Avenue stated that the greenery makes the City beautiful. Many residents have invested a lot in professional landscaping and neighbors have a friendly competition to see whose yard looks the best. She felt that it is wrong for the City to try to intervene in what the people can plant in their own yard.

Ms. Perron said that a lot of tree canopy was lost to citrus canker and last year's hurricanes and more was added to make up for the losses. She said that this proposal would require residents to destroy plantings or hedges in their front yard. She urged Council to get rid of the original ordinance and adopt one that works and protects the residents without destroying what the residents have done to make the City beautiful.

Beth Collingsworth of 1420 Lenape Drive agrees with those that have suggested the ordinance be changed, taking into consideration also the safety issues. She said that after living in the City for thirty-four years, she finally invested in professional landscaping and she loves the greenery. She urged Council to revise the original Code with safety in mind and to reconsider the proposed ordinance.

Irene Priess of 449 Swallow Drive stated that the code is necessary, but in order to be enforceable it has to be fair and equitable. She felt that the geography of the area must be considered and every effort must be made to accommodate the lifestyle preferences of the homeowners, within public safety limitations

Ms. Priess said that what works in one area will not necessarily work in another area and reverse frontages and houses with no sidewalks should also be considered. She reiterated that a code is necessary, but it must be fair and equitable.

A. A. Sakhnousky of 1451 Hammond Drive said that the current code has one page and it has not been enforced. The new Code is more complex with many pages and it will be impossible to enforce. He was of the opinion that the current code has to be refined to remove the 3-1/2 feet limitation. He displayed a banner that said "Don't tread on me".

Fausto de la Grana of 840 Wren Avenue agrees with many of the speakers tonight. He was cited many times before the moratorium and if it were lifted, he would be cited again. He has exotic plantings that cannot be pruned, including palms and bamboos of many varieties. Some would consider his house a jungle because he collects plants. Mr. de la Grana felt that a person's yard is their choice as to what they plant as long as safety is not a factor.

William Wetmore, 121 Royal Poinciana, said that many prior speakers had already addressed issues he wanted to bring before Council. The native plantings in his yard helped to protect his home from the wind during the hurricanes and they provide privacy from the Middle School. His back yard is seldom used because it opens to the canal and noisy Okeechobee Road so his family gets together in the front yard.

Mr. Wetmore said that the new ordinance is very controversial and it is not a very good document. His house was robbed but he does not think it had to do with his foliage, just the Federal Express tag hanging on the door because they were not home. Mr. Wetmore described the various types of plantings in his yard. He asked Council not to waste time on the new proposal and to modify the old ordinance in order to let the residents keep their yards the way they want as long as there is no safety hazard involved.

Cheryl Stoney of 171 Pinecrest Drive said that she does not agree with either version of the Code but it would be better to modifying the existing one. She is not sure what is the problem and the problem cannot be fixed unless it is identified. She has a yard like a park that is full of hedges and plants, which is safe because her driveway is clear. Ms. Stoney asked Council to identify the issues at hand, not looking at the old ordinance because it is outdated. She said the City needs to look at the easements and stop signs to make sure that they are clear.

Eric Richey of 224 Reinette stated that Council has heard the opinions of many residents. He said that the issue is safety and aesthetics, and safety is definable. The visibility triangle at the alleyways was addressed almost fifteen years ago. Mr. Richey stated that the government has the right to make decisions about private property and this cannot be avoided. The tougher issue would be the aesthetics because what is pleasing to one person might not be to another. If safety is the problem, then it should be what guides the decision.

Dona Kelley of 830 Swan Avenue stated that people have said that the government does not have the right to dictate what a homeowner does on private property, but they do it all the time with zoning restrictions and landscaping specifications are just as legitimate. She likes the openness throughout the City so that she can see the houses and address numbers. Ms. Kelley stated that without an ordinance the City would have a problem because not everyone can be trusted to take good care of their property. She said that whatever is done that the Code Enforcement people should have support so that the ordinance is enforced uniformly and fairly.

Carlos Francisco of 330 Palmetto Drive, asked what the definition of a hedge is. He felt that there are other ways of handling the problem without regulating vegetation and there could be an ordinance that requires all homes to have visible numbers. He said that front and side yard hedges should be considered separately.

Joe Valencia of 25 South Drive, an architect, brought a book with samples. He hopes that the new ordinance will not be approved. He planted a hedge to hide a chain link fence and areca palms to block the view of the alley. He urged Council to change the existing code to allow some leeway.

Joe Galeno of 181 Navajo Street hopes that the new ordinance would not be passed and that the existing ordinance could be modified in order to reach a compromise for the residents and code enforcement that will keep Miami Springs beautiful and unique. He hopes that before the moratorium is lifted, a decision will be reached. If not, a lot of people will be affected.

Martin Crossland of 900 Plover Avenue said that Miami Springs is a beautiful place. All the houses on the first block of Corydon have hedges that would have to be cut down, which would be a tragedy, and he hopes that the regulations could be modified.

Eileen (?) of 25 South Drive said that when she and her husband bought their house, they invested a lot of time and money to remove landscaping and they planted a Ficus hedge along a chain link fence. She said that five convicted sexual offenders live within a mile of her house and she protects her daughters by locking the gate, letting them play and not allowing someone to watch them. She said that there should be an ordinance to regulate maintenance, but not height.

Former Mayor J. C. "Chet" Fields of 372 Minola Drive said that in the 1970's the ordinance limited hedge height to 3-1/2 feet in the front yard and no more than 6-feet in the back yard. He could not believe that the limitation was in the books and he tried to eliminate the restriction for both front and back yards. He hoped that the ordinance could be eliminated and that hedges should only be restricted for safety reasons.

Rob Perez of 2201 Ludlam Drive said that his house on Robin has a reverse frontage problem, there is no landscaping in front but there is a Ficus hedge on the Ludlam side that is 6-feet and he would have to cut it down to 3-1/2 feet.

Iris Feberez at 264 Navajo Street said that she is concerned because her father put a lot of time and effort in the yard and she would not want a law to cause him to destroy the plants he put so much effort in. She said that people have a big investment in their plants and even though there are safety concerns, the residents should be allowed to have individual preferences. She hopes that Council can reach a reasonable solution for everyone.

Miguel Pita of 185 Corydon Drive said that he is also representing his sister who lives at 1040 Plover Avenue. His hedges are beautiful and perfectly trimmed while his neighbors do not take care of their lawn. He collected signatures of people who have been cited. Mr. Pita stated that it is important to have ordinances and it is also important to keep the City beautiful.

Jose Savino of 90 Cherokee Street lives on a corner and he does not know where the legal front of his property is. Laws tend to generalize situations and each case should be analyzed. The design could solve any safety problem and he would trim his palm tree if it were blocking a stop sign, or he would place larger numbers on his house but he cannot understand cutting all landscaping to 3-1/2 feet.

Juan Saborido of 1150 North Royal Poinciana said that the bike path runs along that street and many people would consider it a jungle, but without the vegetation he would be looking into Hialeah. He asked Council not to intervene and to eliminate the ordinance.

Allen Manzo of 480 South Melrose Drive is concerned about cutting a triangle out on the corner of the property. His pine trees provide privacy from the street and he would not want to cut out a big hole because it would look terrible. He asked Council to reconsider.

Mayor Bain said that the moratorium had been in place since he became Mayor because there is no reasoning behind the ordinance. He said that he has faith in the residents to do the right thing and most people keep their houses in very good shape. He would like to leave things alone unless there is a safety issue.

In response to Vice Mayor Garcia's question, the City Manager said that the Code Compliance officers look at the overall unkempt appearance of the yard and the height of the lawn is limited to 6-inches. The Code Compliance Officers are more lenient during the summer months because the lawns grow much faster and there is a lot of rain.

Vice Mayor Garcia suggested regulating those properties that are generally in an unkempt condition.

The City Manager said the real issue is 3-1/2 feet in the front yard and recently Council amended the existing Code. Section C states that:

*"No rear or side yard fence or wall, hedge or screening in excess of 6-feet in height shall be permitted in any R District. However, hedges may be planted and cultivated in the rear or side yards of residential properties without height limitation so long as the hedges are kept in presentable condition, properly maintained, and the owner of said hedge or hedges makes every reasonable effort to care for all sides of the hedge or hedges in a like manner. However, existing Ficus hedges shall not be permitted to exceed 6-feet."*

City Manager Borgmann reiterated that the issue is the 3-1/2 foot front hedge and it was never meant to be anything other than a boundary hedge that separates one home from another or the street. The average house has a 30-foot front yard setback and Council is free to eliminate the restriction on the side yard.

Mayor Bain said that Council could make the decision of doing away with the proposed ordinance and review the situation further based on the residents' comments.

Councilman Dotson stated that both times that the ordinance was presented to Council it failed and was considered very deficient. In the interim, he traveled around the City looking at the different varieties of landscaping and one can tell that the ordinance was not adequately enforced. He received a lot of information that he will study and his inclination is to not consider even tweaking the first ordinance. He would like to find a fair and better defined ordinance that would stop selective enforcement.

Councilman Dotson said that appearance or aesthetics is important to the value of the homes and people have different preferences. He would like to develop a definition and reach a decision concerning plantings considering other aspects like fences, walls and safety. He felt that private rights are important and one should be able to do whatever one wants with their property as long as it does not adversely affect the neighbors.

Vice Mayor Garcia said that in areas like Cocoplum or Coral Gables the numbers on the houses are big and placed in front of the properties, which is a good idea and he would like to check with various cities to see what they are doing. The safety issue is visibility when backing out of a driveway, but the real problem is when large cars and trucks are parked on the swale, which cannot be regulated. He added that large sports utility vehicles (SUV's) park on the corners in the commercial district that also impede visibility.

Vice Mayor Garcia said that enforcing the Code helps to keep the City beautiful. The solution is not a moratorium and the issue needs to be resolved. He said that he appreciated the input from the public, he urged residents to attend the monthly Council meetings and to keep informed by watching Channel 77.

Councilman Best also thanked residents for coming to the meeting and giving their input to Council. He said that it is quite obvious that they are not happy with the ordinance the way it stands and Council will work hard to resolve the problem.

Councilman Youngs said that he appreciated all the comments whether they were in favor or opposed to the proposed ordinance. He explained that Council does not want to restrict any plantings within the interior of the front yards and they talked about various options to carve out the interior while keeping height restrictions on the boundary lines.

Mayor Bain said that Council agreed to separate the hedges from the fences and boundary walls.

City Manager Borgmann stated that the Mayor made a valid point because everyone's concern is related to greenery and not fences or walls.

Councilman Youngs said that the current ordinance refers to fences, walls and plantings and no one wants a fence or wall with no height restriction. He asked for additional feedback.

**4. Adjourn.**

There being no further business to be discussed the meeting was adjourned at 9:47 p.m.

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Billy Bain  
Mayor

**ATTEST:**

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Magalí Valls, CMC  
City Clerk

Approved as written during meeting of: 10/9/2006.

Transcription assistance provided by S. Hitaffer

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.