

City of Coral Gables City Commission Meeting
Agenda Item 2-3
July 25, 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

City Staff

City Manager, Peter Iglesias

City Clerk, Billy Urquia

City Attorney, Miriam Ramos

Senior Transportation Engineer, Melissa DeZayas

Public Speaker(s)

Sue Kawalerski, Chair of Transportation Advisory Board

Agenda Item 2-3 [10:56 a.m.]

A Resolution of the Transportation Advisory Board requesting that the City Commission adopt a Resolution amending Resolution No. 2015-101, passed and adopted on June 16, 2015, to include the Transportation Advisory Board in the site plan review process for proposed and existing development applications and proposed legislation which include variances and/or changes to existing Building and Zoning Code, Comprehensive Plan, Land Use Designation, PAD, TOD, and other development overlays which could impact transportation and traffic. Review by the Transportation Advisory Board would not be quasi-judicial but rather advisory in nature and effectively considered by other City boards, administration and Commission before project applications are denied or approved.

Mayor Lago: Moving onto time certain, 10:30 a.m.

City Attorney Ramos: That's 2-3, Mayor. A Resolution of the Transportation Advisory Board requesting that the City Commission adopt a Resolution amending Resolution No. 2015-101,

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passed and adopted on June 16, 2015, to include the Transportation Advisory Board in the site plan review process for proposed and existing development applications and proposed legislation which include variances and/or changes to existing Building and Zoning Code, Comprehensive Plan, Land Use Designation, PAD, TOD, and other development overlays which could impact transportation and traffic. Review by the Transportation Advisory Board would not be quasi-judicial but rather advisory in nature and effectively considered by other City boards, administration and Commission before project applications are denied. Two notes on this. This is the board asking the Commission to take action. The Commission does not need to take action. Also, because of the description of what the board will be doing, they in fact would be quasi-judicial, just saying that they are not, doesn't automatically render them not.

Mayor Lago: Good morning. The floor is yours.

Ms. Kawalerski: Good morning. I'm Sue Kawalerski, I reside at 6830 Grecian Street. I'm here representing the Transportation Advisory Board for the city as Chairperson. And taking the advice of this Commission at our last attempt at this resolution. We did incorporate some language to make it very clear that we were not acting as a quasi-judicial board, number one; and number two, that we would not hold up any process in the development process, but merely act to help advise, on an advisory basis, how projects could impact transportation and traffic in the city. So, we revised the language from the last time, and we hope that you agree that it is acceptable.

Commissioner Anderson: I have a question for the City Attorney. Is it possible for you to work with this board to achieve the intent of not being a quasi-judicial board, informing them and providing the materials to them like we do for the Property Advisory Board and to have it as a standing item on the agenda for them?

City Attorney Ramos: So, providing the information, yes, but if they begin to review and provide recommendations, then they become quasi-judicial because it's a project-by-project basis, that's not true for the Property Advisory Board.

Vice Mayor Mena: That's completely different from the Property Advisory Board.

City Attorney Ramos: The role is completely different.

Commissioner Anderson: Well, if they review the materials and provide comments to whatever board thereafter, whether its Planning and Zoning, etc.

City Attorney Ramos: Now they are becoming, now they are recommending certain things on a specific project which becomes quasi-judicial.

Commissioner Anderson: If they receive the information like the Property Advisory Board does and the individuals decide to provide their own comments, is it still quasi-judicial?

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City Attorney Ramos: What do you mean by the individuals, the board's not taking action?

Commissioner Anderson: The board is not taking action.

City Attorney Ramos: I don't know, that's a novel question. Its strange for a board not to vote as a body, because then you have five different opinions potentially on a project.

Commissioner Anderson: But they could discuss it.

City Attorney Ramos: They could discuss it.

Commissioner Anderson: On an individual basis bring up issues.

City Attorney Ramos: Yes. I suppose they could note issues, but I don't know what the purpose is of the next higher board is not going to take all those recommendations into account which is kind of the point.

Vice Mayor Mena: The members of the board already do that, don't they?

Commissioner Anderson: I think the problem here is they are not getting informed. So, if we get them informed and that they individually want to bring something to the Planning and Zoning Board say, hey, we have an intersection here, we have a problem with traffic, bring this to your attention. And it was not uncommon for them to do that when they knew of a project, so its really about notice, about giving them notice, just like we are doing for the Property Advisory Board.

Vice Mayor Mena: The distinction would be the Property Advisory Board all they are asking for is, if there is an unsolicited bid, they'd like it brought to the agenda, but obviously there is no notice of unsolicited bids, because its unsolicited, right. Its not something of public record otherwise. I don't know what we are talking about here, but if we are talking about like a development project, anything relating to that project there will be notices and things in the public record and plans. We have a process already for traffic studies and peer review of traffic studies, all those things are already matters of public record. If they want – so I guess my question is, what is it that we are looking for in addition to what is already public record.

Commissioner Anderson: Its public record, but I think if you have it on their agenda it highlights to the fact that hey, this is out there, they can take a look at it, they can pull it from the DRC materials that are there.

Vice Mayor Mena: They are entitled to that already.

City Manager Iglesias: Vice Mayor, Commissioner, I believe our Transportation Manager is here and can answer that question.

Ms. DeZayas: Melissa DeZayas, Senior Transportation Engineer. So, just to give you a little bit of background. We do have on our agenda item, it's a recurring agenda item for DRC and for traffic impact studies. Unfortunately, due to the timing of the Transportation Advisory Board and the DRC, a lot of times we don't get notice about any applicants that have submitted for DRC until sometimes the day of TAB or the day after. At that point, we've already published the agenda, but if I do get the e-mail saying that there is an applicant, we bring it to the TAB and let them know, hey, there's an applicant, these are the projects for moving forward.

Commissioner Anderson: Okay. But it could be an agenda item you can bring it to their attention that this is happening and if they have individual comments, they can share them with you and you can look at it, because you may not know about a particular drainage issue or something that exists there.

Ms. DeZayas: Exactly. So that's what we've done in the past. We have submitted to them like for a project recently, we took a set of plans, they had certain comments about it. Some of those were not within my purview to answer because they were about zoning, they might have been about green space, but they were presented to the board for their review.

Ms. Kawalerski: And if I could just interject here. And Melissa is absolutely correct. We usually get notified of a project after the fact, pretty much after the fact, after it has gone through the process. Not at the beginning where transportation and traffic issues could be a concern possibly. Our intention for this resolution is to be able to review those applications that are over and above whatever the current zoning code allows, whatever the current zoning code PAD allows at this point in time, so that we can judge whether this might have an impact on traffic and transportation. And we would certainly like to comment as a body, not as an individual, but as a body a comment, which I think is in the purview of the TAB anyway, to comment on anything we want to comment on. It doesn't mean we are holding up a project. It doesn't mean that we will have any quasi-judicial affect on a project, like a Planning and Zoning Board, but just like Historic comes up with a comment, we don't think this is historic. We want to be able to say as a board for the city that this might have an adverse effect or a positive effect on micro-mobility in the city, on traffic in general in the city, etc. But as the Transportation Board, our purview should be to recognize and to raise red flags when necessary or applaud those who are abiding by great transportation and traffic systems in our city. A comment does not mean it has to be acted upon we are going to hold everything up. A comment is merely a comment.

Vice Mayor Mena: But you're saying it can't proceed unless it goes to you first.

Ms. Kawalerski: We didn't say that.

Vice Mayor Mena: That's what I'm asking.

Ms. Kawalerski: We didn't say that which is why – definitely saying here we are not quasi-judicial, we are not holding anything up.

Vice Mayor Mena: Again, saying its not quasi-judicial doesn't make it so. The City Attorney just pointed out the reason it is.

Ms. Kawalerski: That's why maybe...

City Attorney Ramos: The Historic Preservation Board is, which is one of the examples just given.

Ms. Kawalerski: Well, that's why maybe the Commission Anderson asked for some kind of clarification, because when is a comment not a comment. What is comment? Is a comment supposed to be quasi-judicial or is it merely a comment? We are merely wanting to comment on proposals before they get approved. We want to be part of the process.

Vice Mayor Mena: I think that you are already allowed to comment. Its not about your ability to comment. This does is, it builds your board into the site plan review process and in doing so makes it quasi-judicial and the board you referenced is quasi-judicial at times, depending on the role that they are discussing. So, that's the distinction. Again, what our director just described is that they already take these things to them. I'm all for that. I think that's great, and it sounds like you are already doing that.

Ms. Kawalerski: Well, that's not correct. You didn't understand what she said. She said its on the agenda as a permanent agenda item. We have never, except for this last meeting ever had an actual plan presented to us and that was only after we begged and pleaded that something be brought to the TAB.

Vice Mayor Mena: Is that true?

Ms. DeZayas: So, in the past we've even had our previous assistant director for Planning and Zoning come to the board, present for zoning changes. We've actually had comments, we've presented to them the links so that they could go and check to see the zoning changes and there have been comments in the past about asking if there were Cliff Notes for the zoning changes, because they wanted it presented and explained in a way, but these were like hefty changes during the time of the meeting, it just couldn't have been explained completely, but Mr. Trias did come to the board a few times to present these things.

Ms. Kawalerski: And I might add, Mr. Trias last presented to the board when we asked him to be there and that was over two years ago. Since then, we've had lots of DRC applications. We've never received one at the TAB, except when we found out about one that we really wanted to look at, but it was never on the agenda. We had to beg and plead for it to be on the agenda. We finally got to see it and we had comments. And so, it might be on DRC – a note might be on the agenda,

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but there are no projects associated with it ever. So what we're saying, let's make this a formal process, when an application comes before or it has to go to the DRC, which means it's going to go past our current zoning or PAD or whatever, we would like to have the purview to look at it to make sure that traffic and transportation are not either adversely affected or absolutely we would love to applaud the projects that are taking stands on making micro-mobility a great thing for the city. But we would like to be able to see them before the fact of a vote on it so that we have some true comments, that's the purpose of our board is to make sure that the residents of this city have good transportation and traffic systems.

City Manager Iglesias: If I can clarify something. We are in the grid which means the transportation system has been decided that that's not part of concurrency, so that's clear. Two, the Vice Mayor, if you recall, through legislation we provided a traffic consultant that is paid for by the city to take care of the micro issues of that particular project. Our Transportation Manager, if there is a timing issue, does bring up the fact that this project is coming and does the best she can, if there is a timing issue, because we can't prevent them from going to the DRC, this is not a quasi-judicial board, she discusses it and anything that transportation board wants they get. So, I do believe that we are complying with this.

Vice Mayor Mena: Listen, again, what you're asking for. I think you said it just now that you want to be part of the process. I'm a no on that. Again, I think this is clearly quasi-judicial. So, I'm a no on the resolution as drafted. If we'd like to pass a separate Commissioner sponsored resolution that they get as much notice as possible, and what they do at that point is up to them, I have no issue with that.

Commissioner Anderson: I'll work on something and see if they can bridge the gap and get the notice. I want to add to that comment that DRC is not the end of the road. It's a commenting process to let, and the City Manager can explain it better than I can, let the applicant know what they are running into in the way of the sewer needs, the water needs, other different things that they need to comply with. FPL recently required a vault to be put into a building to handle the entire block for one project, but I do appreciate the contribution of residents that thoughtfully bring in concerns regarding traffic and how it flows and so forth, because unless you're out there on the ground experiencing it, you are not going to necessarily see everything. So, I'd like to work on something and put something together.

City Manager Iglesias: You mentioned, Commissioner, the DRC is for projects with major impediments that could affect that project. For instance, not having a sanitary sewer, you may have to go two miles for a sewer system. So that is the function of that DRC. Its in essence helping the applicant understand what the major problems of that project will be and that's what its used for and very effective for that.

Commissioner Fors: I just think there is a disconnect, very quickly. There is a disconnect between, what I'm gathering, what the TAB wants and what's actually being written in the proposed resolution, and I think it would be a good idea for Commissioner Anderson, sounds like she is willing to take it up, to ensure that we have text, from a text perspective, a resolution that accomplishes what the TAB wants without inadvertently rendering it quasi-judicial.

Commissioner Menendez: I want to add. I want to help your board get there and I think you made a great, a very good example of why we need to work on this and get it right. I ask if its okay with the Commissioner, Commissioner Anderson, if we whatever you are able to come up with before it gets on the agenda, run it by the City Attorney from a local government legal perspective so that we don't have to do this exercise yet another time.

Commissioner Anderson: I won't be writing it. Let's make that clear.

Commissioner Menendez: At the end of the day, we turn to the City Attorney's office for is it quasi-judicial or isn't it, so I'd much rather have them sort of guide it through that maze so that we can have an easy vote next time.

Vice Mayor Mena: And that it stays within the purview of what this board is intended to be, and not be about zoning and green space and things like that. This board doesn't have any advisory role as it relates to green space, as just an example, and I say that because you mentioned it. And so, let's make sure it says firmly within the realm of Transportation Advisory Board is supposed to do, and again, from my perspective, this board should really if they have a concern about the impact on transportation of a property should bring it to us, bring it to staff, and we'll consider it, but again, I don't think it should be quasi-judicial in any way whatsoever.

Ms. Kawalerski: And again, this is for the board to review projects not after the fact, before there is a vote and that's why when you say, Commissioner Anderson, the DRC, I'm familiar with the process. That's not a voting board, its an advisory board, right, and that moves up to Planning and Zoning after that where there is a vote. So, we want the purview to be able to see that, make comments on it, because of course, your boards are the liaisons between what you guys do and residents. We want to make sure that we are serving the residents as a board, that's our purpose, to serve the residents and to bring up to you what the residents' concerns are, and that is why the major concern, as you've probably have heard is traffic and transportation.

Mayor Lago: So, with that being said, we are continuing the item until we come back.

Vice Mayor Mena: I'm ready to vote on it and I will vote no on it.

City Attorney Ramos: You don't have to vote at all. I do want to make an important clarification for the record. DRC is not a voting board. It is staff members that provide comments, they do not vote.

Mayor Lago: Yes. Okay.

Vice Mayor Mena: This to me is a notice issue. How Commissioner Anderson describes it, I have no problem with them getting notice. I have an issue with the board becoming a quasi-judicial function and baked into the role of site plan reviews, because that's not their role.

Mayor Lago: And with that being said, just for the record, I second that.