

**City of Coral Gables Special City Commission Meeting
Agenda Item D-1**

July 19, 2010

**City Commission Chambers
405 Biltmore Way, Coral Gables, FL**

City Commission

Mayor Donald D. Slesnick, II

Vice Mayor William H. Kerdyk, Jr. (Absent)

Commissioner Maria Anderson

Commissioner Rafael “Ralph” Cabrera, Jr.

Commissioner Wayne “Chip” Withers

City Staff

City Manager, Patrick Salerno

City Attorney, Elizabeth Hernandez

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Public Speaker(s)

Laura Russo, Representing Somerset Academy, Inc.

Tucker Gibbs, Representing Biltmore Neighborhood Association

Paul Zamek, Chairman of Somerset Gables Parent Association.

Fernando Zulueta, President of Academica Corporation

Rolando Llanes, Principal at Civica Architects

Tucker Gibbs, Representing Carlos Carta and Biltmore Neighborhood Association

Carlos Carta, Coral Gables Resident Representing Biltmore Neighborhood Assoc.

Tina Scott, Coral Gables Resident Representing Biltmore Neighborhood Assoc.

D-1 [Start: 5:32:29 p.m.]

Discussion to provide the applicant and interested parties an opportunity to present their positions to the City Commission on the settlement proposal in Somerset Academy, Inc. v. City of Coral Gables, Miami-Dade County Circuit Court Case No. 10-36228 CA 03.

Mayor Slesnick: Good evening everybody...We will get started once we clear the isles and close the doors. OK, we are going to try to speak as loud as we can, but we are going to need everyone to cooperate with the fire marshall and the police officers, we are going to clear the isles for safety sake, and we are going to keep an area on the stairwells free. If there is anything that happens in this building all of us will exit safely. We are not convening this meeting, we are reconvening this meeting, we started this meeting at about 4:20 p.m. this afternoon; we adjourned for an Executive Session to discuss the lawsuit of Somerset Inc. versus City of Coral Gables, and we are now back from Executive Session. We have concluded the Executive Session, and we therefore now go back to the city agenda. At the present time we are going to –

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City of Coral Gables

well I'm going to explain that more in detail. I'd like to welcome everybody here tonight and I hope that everyone will remember a couple of things. We are here to do the city business as best we can, we are here to do the most just thing we can for all people concerned, and as you can see from looking around there are many people on all sides of all issues that we are here to discuss tonight. We are going to try to conduct ourselves in an orderly fashion from this side of the dais. We would ask that everyone please maintain themselves and act in an orderly and civil manner, and we will try to get through this evening. We would also like to suggest that it's important for you to realize what we are here to talk about tonight. We are not here to talk about a final determination of Somerset Inc., as far as a size of it school for its future indefinitely; we are not here to talk about the pros and cons of public education versus charter schools, which are provided for by public statute. We are here to discuss the fact that there is a lawsuit which an emergency hearing will be held tomorrow to discuss before a judge, whether or not the laws of Coral Gables and our zoning laws will apply to the determination of the size of the school as we move down the road, or whether State Statute preempts that. I'm simplifying this, but I'm trying to do it in terms that I understand. So tonight what we are here to do is knowing that we are going into the emergency hearing, and knowing that the emergency hearing will possibly determine the coming years fate of the school, whether it's what we've already approved at 110 or whether it will be larger, we are here to discuss, and we've been asked to by the plaintiff in the lawsuit the possibility of a settlement about tomorrow. This is not a settlement of all issues of all things that are bothering each side of this thing; it's about a settlement possibly of tomorrow. We've been asked by the plaintiff to consider this, it's been our staff's recommendation that we do consider it and in our Executive Session we decided to consider it. Now, because of that, this is going to be a limited hearing to this extent; we have spoken to the principals from both sides of the issue, from Somerset Inc. and from the neighborhood, and we have...I don't see Tucker, where is Tucker?- Oh, there you are, I'm sorry. We have the two attorneys who are the chief spokes persons, we have said that we will take thirty minutes of testimony on either side, and we have allowed the attorneys or the persons who are responsible for that side to determine how that thirty minutes will be used, whether it will be broken up into different people, whether one person will talk, it's up to you all. Thirty minutes per each side, and then the Commission will wrestle with the fact of whether it can come to a decision on whether or not it will reach a settlement. If there is no settlement tonight, tomorrow the judge will decide this issue without public input, OK?- except for the attorneys of course. With that...yes Mr. Cabrera.

Commissioner Cabrera: Don, do you want to....

Mayor Slesnick: Oh, I would like to say one other thing, and then ask the question. I would like to say, I keep forgetting, Vice Mayor Kerdyk is out of the country; this is generally our summer break if you will, we don't usually have Commission meetings scheduled, we did not have Commission meeting scheduled at this time. He had plans with his family, he sends his regrets and we know he means that, he has been a great public servant for sixteen years in this city, and he could not be here tonight because of that, and we regret that too. Mr. Cabrera.

Commissioner Cabrera: You know I appreciate the way you are attempting to inform and to educate the audience. I think it's important for all of us to also make you aware of the fact that if

we don't contemplate this settlement, it's important that all of you understand that the City of Coral Gables loses potentially, potentially loses any and all control over this matter and/or oversight. So you are certainly well within your rights to wear any button you wish and take any side you want, but it's critical that you understand that if a settlement is not considered, we as a government potentially lose any control over this matter. So I just want to make sure we all know this, and I'm not attempting to be disrespectful to anyone in the audience that has a different opinion, you can have as many as you want, but what I'm giving you is a factual statement, and I just wanted to put that on the record early on for all of you that have come with a position. Thank you.

Mayor Slesnick: Chip, did you want to say anything? Maria?- before we start.

Commissioner Anderson: Let's go.

Mayor Slesnick: OK. Now, let me ask...thank you Walter, thank you Billy. I have submitted and other Commissioners have submitted all of the e-mails and all of the input that we have gotten by electronic correspondence, and I'm asking that this be made part of the record. So the record now includes e-mails and electronic correspondence that we have received over a long period of time from everyone in this matter, and I would ask the Commissioners if Walter does not have, if they share any written letters we've gotten also, there hasn't been very many, but I have had a few myself, and we'll get those to you also Walter to make part of the record. Ms. Russo you are going to be first. How would you – do you want to take the whole thirty minutes as a block?- do you want to do ten and give Tucker ten?- do you want to then come back and get him to come back? I am willing as long as you all take thirty minutes each, we'll do what works best for the people in front of us.

Ms. Russo: I think what I'd like to do is take about twenty to twenty-five and reserve the remainder for rebuttal at the other end.

Mayor Slesnick: OK and I'll give you that same offer too Tucker.

Mr. Gibbs: [Inaudible – off mike]

Mayor Slesnick: OK – great. You have any preliminary...?

Mr. Gibbs: I'm Tucker Gibbs and I represent the Biltmore Neighborhood Association, Carlos Carta. What we will do is divide it up three ways; I'll speak for approximately twenty minutes, followed by Mr. Carta and Tina Scott who are members of the Association, and gee, do I get time to rebut her rebuttal?

Mayor Slesnick: If you save it.

Mr. Gibbs: I'm saving it; I'll save five minutes to rebut there rebuttal.

Mayor Slesnick: So fifteen...

City Attorney Hernandez: So we are taking away time from you in order....

Mayor Slesnick: OK. So you want twenty-five and five...

Mr. Gibbs: It will be about fifteen-five-five-and five.

Mayor Slesnick: Fifteen-five-five-and five – OK – sure.

Ms. Russo: My presentation will be composed of different people...

Mayor Slesnick: Mr. Clerk we are going to use our light system so you'll have...when will we give, and by the way I'm sorry if we are taking a lot of time, but I want to make sure we are doing it smoothly, so when are we going to give a yellow light, with five minutes left out of the thirty?

City Clerk Foeman: We can Mr. Mayor if that's your pleasure.

Mayor Slesnick: OK – fine.

Ms. Russo: Do it at ten, do it at ten.

Mayor Slesnick: At ten we'll give you a yellow light. So when you are down to ten minutes of your allotted time you'll get a yellow light. Ms. Russo.

Ms. Russo: Good afternoon Mr. Mayor, members of the Commission, for the record my name is Laura Russo with offices at 2655 LeJeune Road. I am here this evening representing Somerset Inc. along with Co-counsel Mr. Robert Lincoln and Mr. Marcos Jimenez. I'd also like to take a moment just to introduce and they can raise their hand, people that we have here from our team. We have Andreina Figueroa, who is Chair at the Somerset Academy Board, we have Shannon Sedesky, who is the Principal at Somerset Gables, Fernando Zulueta, Principal of Academica, Paul Zamek, who is Chairman of the Board of Directors of the Somerset Gables Parent Association, the Reverend Bill White of University Baptist Church, Mr. Jose Diaz, who is the Director of Finance of the University Baptist Church, Mr. Tony Martinez, who is counsel for University Baptist Church, Rolando Llanes, who is the Principal at Civica Architecture, and Richard Garcia, Principal of RGA and Associates, our Traffic Engineer. As you know you have before you a settlement agreement, and while we understand that we have a disagreement over a legal interpretation of a State Statute, we at Somerset felt that there could be a way that we could proceed with the academic school year and agree to go through the process, and the settlement agreement that was proffered to you was something that was long considered, timely worked on, it was something that we worked intimately with staff. Those of you here know that I have represented schools in the past, so I'm familiar with a lot of the issues that come up when schools are trying to do anything, whether it be expand, whether it be open, whether it be add

students or not; and I want to take a moment just to say that we all want to be good neighbors; we want to be....Somerset wants to be a good neighbor, it's part of the community, I think it's important to recognize that University Baptist Church is also a long standing neighbor of the community, having actually had their land donated to them by George Merrick back in 1927. So I think sometimes we forget in all of this that we have to look at this as a community as a whole, and education and religious institutions benefit the common good, they benefit the common wheel, and we are not incompatible uses. You will look at maps throughout the City of Coral Gables and other municipalities throughout the state and you will see that schools and churches and religious institutions are located in residential neighborhoods. It then becomes a question of having the appropriate operating conditions and restrictions that allow for the cohabitation of the uses, for the uses not to infringe unfairly on either one of the community members, and what's important for us is to be able to open up Somerset Gables Academy with a number of students that allows it to be viable; and you want to know why. Why do we need this school?- and at this point I'm going to turn my presentation over to Paul Zamek who is Chairman of Somerset Gables Parent Association.

Mr. Zamek: Thank you Laura. Good evening everyone. I've been asked to start the PowerPoint, if you all could do that. My name is Paul Zamek, my wife and I live at 1505 Ferdinand Street, Coral Gables, with our two daughters, Caroline and Ally, who are four and six years old. I'm the Chairman of the Somerset Gables Parent Association. Somerset Gables Parent Association is a registered not-for-profit organization with the State of Florida. I'd like to thank the Mayor, City Commissioners, the City Attorney, City Manager and city staff for the opportunity to speak to you this evening. I have a new found appreciation for what you all do as public servants, having a thick skin and a conviction to stand up for what you believe in, in the face of adversity is not easy. I thank you all for what you do for this community. Why are we here? We are here because we need the school. Somerset Academy has a proven track record of creating and operating schools with the highest academic standards while maintaining an innovative and safe environment. As long time Gables residents my wife and I support Somerset Gables because Somerset Academy offers the type of school we hope to find for our children, a K through 8, dual language, parent driven, neighborhood school. I greatly underestimated how many other parents also desired this option. The Somerset Gables Parent Association was established to be the voice of the parents in our community, and to assist Somerset Academy in the creation of this school. Our Association's Board of Directors represents a cross section of all of the stakeholders in this initiative; Coral Gables residents, UBC members and neighbors of the proposed location. The Somerset Gables Parent Association represents over 1,300 families who have signed up for Somerset Gables online, the majority of which are from Coral Gables. The need and support for this school is overwhelming and unquestionable. Coral Gables has excellent public and private schools, they are not enough. Two of the three public schools which serve residents in the proposed schools attendance boundary are overcrowded, and the third cannot accommodate the remaining demand. According to the standard measure of capacity by the Florida Inventory of Schoolhouses Coral Gables Elementary is currently at 113 percent capacity, and Sunset Elementary is 106 percent capacity. Our public schools are good, but they do not serve us if we cannot get into them and there is no relief in sight. Somerset Gables reduce flight to other cities for families in search of an education for their children. Our global economy has created a

situation where more young families are staying in Coral Gables. It is our collective responsibility to provide an opportunity to educate all of our residents. The economic and sociological impact this school will have on current and future generations is immeasurable. There are two main issues at the heart of this debate; the University Baptist Church location and the number of students. Is the UBC location appropriate for the school?- yes. The existing academic building at UBC currently functions as a school of the proposed size. On any given Sunday there are over 700 students who attend classes in this facility. UBC is located on a major north-south corridor, Segovia Street, conveniently accessible from Bird Road to the south, and Coral Way to the north. The Coral Gables Youth Center and the Coral Gables Library are located to the immediate east, multi-family residential to the north and south, and single family residential to the west. The UBC location is ideal for a neighborhood school. What is the appropriate number of students? The DOC review has confirmed that the life safety capacity of the UBC academic building is over 1,000. The professional architects and engineers have determined that 735 students can be accommodated without negatively impacting life safety operations and traffic in the surrounding neighborhood. Somerset Academy is therefore requested a certificate of use for 675 students. The parents have rolled up their sleeves and have presented a solution to educating our children within our own community. The solution is Somerset Gables at UBC. The Parent Association has confidence in the process, confidence in the professionals, and confidence in you, our elected officials. We have confidence that collectively you will provide this school to our residence with the number of students consistent with the demand while ensuring neighborhood compatibility. On behalf of the Somerset Gables Parent Association, our parents, our children, residents and neighbors who support Somerset Gables, we ask that you approve Somerset Gables at UBC. Thank you.

Ms. Russo: I will now ask Fernando Zulueta to speak to explain to you the need for a certain minimum number of students in order to make the school viable, and to have it function programmatically. Fernando.

Mr. Zulueta: Good evening Mayor, members of the Commission, my name is Fernando Zulueta I'm the President of Academica Corporation, we are the service and support provider for the Somerset schools among others. I live here in Coral Gables, 1220 Alfonso Avenue, and I'm here tonight, first and foremost to thank you for giving us this opportunity to speak to you on this important issue. The reason I'm addressing you right now is to try to identify why is it that we are at a number – why is it that 110 students, which was the long standing operation there for pre-K is inadequate?- and what is the lowest number we could possible work with to make the school work? First, keep in mind that a charter school is a public school, so we are constrained in the same manner as all public schools are. Our funding is actually less, lower than the average public school. Recent study by the Rand Organization said in Florida it's about \$2,700 less per student per year for a charter school versus a traditional public school. It is no coincidence that the public schools that are serving your community today all have somewhere between 500 and over 1,000 students in the elementary schools in the immediate service area, and those are Carver, Coral Gables Elementary, and Sunset. Keep in mind that those are either K-5 programs or pre-K-5 programs, so you are serving seven cohorts of students, seven groups of students or eight at most. Somerset Academy will begin serving nine groups of students and grow to eleven

and I'll explain, because it includes pre-K-3, pre-K-4, Kindergarten, and then eight additional grades, first through eighth. So at full capacity the school would be serving eleven groups of students in different grade levels. When you look at the requirements for operating a public school, be it a charter or a traditional public school, every single one of our educators needs to be state certified, in the same manner as in the traditional public schools. We need to have a Principal that has the same qualifications as the school leaders at the traditional public schools, an Assistant Principal with those same qualifications, and so on. What that means is that unlike private schools, which are wonderful, by the way, the schools in the City of Coral Gables are wonderful private schools, they can charge more, they can charge considerably more and actually do, sometimes two to three times as much as what a charter school receives annually in their funding. So with that in mind when we are working with charter schools, and we've done so successfully for fourteen years now in Academica, which is a local company that is serving more than seventy charter schools across the nation, and we do so successfully; but there are two things that we are accountable for every year in each charter school; first being academics and the second being the finances of the charter school, much like you face those difficult decisions when you are looking at your own budget, that does not allow you to spend beyond what your revenues are, charters are faced with the exact same limitations, and in fact more than twenty percent of the charter schools that have ever been opened in Florida have closed and the vast majority of those for financial reasons, they just become unviable below a certain number of students. We've done that analysis, we've made it available to your staff, at 500 students the school becomes already dips into a deficit position. So, we understand we would not open in the first year at full capacity anyway, that would be if each cohort if we are looking at a facility ultimately with a capacity for 735 more in fact, but 735 being the number that does not impact the neighbors from a traffic standpoint, in any event we would not open two grades to start with, that was approximately 120 students beyond below that, so that would have been around 550. We were hoping that we could start at around that number perhaps, and we did, we tried to push it down as low as possible, and that number came to about 500, and mind you those are conservative numbers. We've had four budget cuts last year alone, we are no different than you are, in revenue we suffer the same setbacks every time the new numbers roll in as to what the State's finances are like. So, albeit with rosiness...expecting our revenues not to drop on a per student basis, at anything less than 500, it becomes almost impossible to make the numbers work. So, I ask you to consider this, keeping in mind that we will be coming back, and if we don't demonstrate that we've done a good job you will be unwilling at that time to grant us any more students, and in fact you could request that we could have fewer, if we've done less than a stellar job during our first year of operation. Thank you very much.

Ms. Russo: At this time I'd like to call Mr. Rolando Llanes of Civica Architecture to address the physical conditions of the site. Rolando.

Mr. Llanes: Thank you Laura. Good evening Mr. Mayor, Commissioners, my name is Rolando Llanes; I am Principal at Civica Architects, with offices in the City of Doral. I want to be as brief as possible; I know that brevity is important tonight. Over the years we have had a significant amount of experience designing public charter schools, in addition to private schools that makes up a significant amount of our portfolio; and I just want to be very clear as to what we do, what

our scope is, and what our interest in representing Somerset in this case, as we have done other schools in similar ventures. There are three ways in which you can open a school; you can build a school from the ground up, you can convert an existing building that isn't a school into a school, or you can simply move into a facility that's already established as an educational facility, and that is the case here. As you know, and as you may know, UBC has been running educational programs in that facility for over 50 plus years, and so there is amply history there. What we do is we look at on sight observation, we do photographic documentation of the existing facilities, we look at site conditions and we do historical research, that's one of the first things we do; but more importantly what we have to do as experts that are informing Somerset about this potential new facility in evaluating it, is that we have to conform or confirm compliance with the statutes that basically says that charter schools, and I would add, that any school whether private or public, but charter schools says it in the particular statute, shall utilize facilities which comply with the Florida Building Code in Florida Fire Prevention Code, that's paramount. So what we do there as a subset to that is we first establish the educational occupancy of the existing school and that has been done, and in fact we met with the building official, we met with the fire marshal, and that existing educational occupancy has been discussed and agreed upon regarding the building code confirmed by the building official, that it is an existing educational occupancy and the fire prevention code confirmed with the fire marshall for the same, and they both have their own requirements in that regard. Concurrent with that we perform a life safety analysis as per the Florida Fire Prevention Code; and what that means is that we review the status of all the history of fire and life safety approvals and inspections for the property, and key to all of that is we then produce an update, a life safety plan for the facility, and why that is important we want to establish the occupant load of that facility which is in essence have been embedded in that facility from the beginning if you will in a sense, and that occupant load is what has been referred to, I think Paul referred to it earlier as having over a 1,000 in the educational occupancy of the building, and that's just in the classrooms, there are other functions in the facility that go beyond that load, but in terms of classroom occupancy its over 1,000. While doing this, we also work with the school to ensure that the facility meets their needs, and that's something that we are doing all the time; and finally, another important component to this is that we look at traffic on site and traffic off site. One of the first things we did was we engaged our Traffic Engineer, RGA and Associates, Richard Garcia who is here, are we OK on time?- and the first thing that Richard did was an accumulation assessment to determine the safe functional capacity of the site without any changes, and I might add that when I saw the facility for the first time both in its physical state and the site, I thought it was an ideal facility for a school of the type that Somerset wants to operate, in fact it has already in essence has that level of intensity on site. We then developed an operational plan for safe pick-up and drop-off functions as a result of that accumulation study. The study and analysis that yielded a safe and functional site capacity of 735 students, that's where that number came from. Looking at the site without any physical changes to the site, looking at the length of the parent drop-off loop, very similar to other schools that you have in the city, so you are all familiar with how that operates, and looking at two arrivals, three dismissals, a half hour a part, and when you do that math it yielded 735 students in a pre-K through eighth grade environment. We also looked at traffic off site, and by that I mean the traffic engineer analyzed the level of service impact on the adjoining streets, the impact of the school on the four cardinal points around the site, we even

looked at the impact of the school on the future improvements of Segovia and Somerset, and we are wholly supportive of what the improvements on Segovia will be like, and in fact determined that the impact of the school does not diminish the level of service of that. We also looked at, for example, Cárdenas Street which is right to the west of the school that has an ideal set up for the ingress and egress because there are no residential properties affected by that, there are no driveways on Cárdenas Street on the west side; and then finally we looked at proposing safety signage in the appropriate proximity to the school and those are plans that have been submitted to your Public Works Department for review. So all of those things Somerset would incorporate in the surrounding areas, not only issues of safety and crosswalks and speed zones, but also looking at how signage, which again you've seen in other places in the city where people are not allowed to park, etc. so that they don't impact negatively the surrounding areas. So that's in an essence is what we do in our role in this, and I'll turn it back to Laura to wrap up.

Mayor Slesnick: Am I mistaken?- you were involved in the design of the charter school that ran over here?

Mr. Llanes: Yes, about three years ago, the International Studies Charter High School, yes, absolutely. So we have experience in the city with a similar project.

Ms. Russo: What I'd like to do now is just emphasize is what we have done in order to be able to start with a temporary number is taken the school through and the proposal through the rigorous reviews that the city requires and we've put in a lot of the same restrictions that will come out fine tuned when we go through the process, we have volunteered that as a part of your settlement agreement. I'm sure you will see that we addressed the parking; we have a staggered drop-off and we have staggered pick-up in the afternoon. We have put in staff that will assist to make sure that there is no parking on any of the swales or the adjacent streets; we have agreed to put in "No Parking" signs, while its going on even while we are going through the process to readdress any issues that didn't come up with respect to traffic, we've agreed. I know there's been a concern that we might use the Youth Center; there will be no athletic programs on site; there will be no use of the parking lot for athletics; there will be no outdoor lighting; there will be no outdoor speakers; all athletic programs will be held off site; there will be after school programs, they will end by 6 o'clock as they are both in other public and private schools in the vicinities. What we've tried to do is go through the usual conditions that are looked at both programmatically and site-wise in constraint and have voluntarily proffered these restrictions while we go through the city's conditional use and land use, change in land use process, and what I'd like to emphasize is that you've heard that we need the school, we want the school to be a partner in the community, we don't want to be here at odds, we want to work with the neighbors, we want neighbors to send their kids to the school, we want this to be a neighborhood school. We have proof that the facility exist for far greater than the number that we are requesting, we have the back-up information on the traffic that it works, we are willing to continue to fine tune and work with staff and provide additional information as they need it, we've tried to structure our conditions in the settlement agreement to work as best to preserve the neighborhood and the quality of the neighborhood and we will be working during the process, if any issues are identified. So we would respectfully request that you make a motion to approve the settlement agreement for up to

525 students; and at this time I'd like to reserve my remaining 7 minutes and 22 seconds for rebuttal.

City Attorney Hernandez: You are saying up to 525...

Ms. Russo: You heard the number today; it doesn't work with less than 500.

Commissioner Cabrera: Is the number 500 or 525?

Ms. Russo: I'll take 525, but I'll settle for 500.

Mayor Slesnick: We're going to do this, Tucker, one little change; we are going to go ahead and allow some questions from the Commission which we will not take off your time, the same will be true of you of course.

Commissioner Withers: Hi Laura, nice to see you. I have a question as to why West Lab was omitted off of all your statistical data?

Ms. Russo: West Lab – and I will ask the appropriate person to respond to the question because West Lab is a special school, and I'm going to ask Mr. Zulueta to explain the difference between West Lab and the other school.

Mr. Zulueta: Thank you. West Lab is a lab school, so it's actually governed by an entirely different part of State Statute, and as a lab school it runs differently, it's not part of an attendance boundary, you are not assigned, no one is assigned to a lab school; you must go there by choice, number one, and the original intent of lab school is to study cohorts of students and to develop research from them. So they tend to be nested in universities like West Lab is, and they are there really like a laboratory to study the students. So you have the correct way to operate a lab school, and I assume West Lab is being operated in that manner is that you actually select, the school selects students based from particular demographics depending upon what their mission is or what they are studying, so they can literally study how their educational outcomes are depending on the inputs, meaning that, that's not a setting for every child out there, that's a very particular type of school designed with a very specific mission, and its funded differently, and to my knowledge it has a very large waiting list...

Commissioner Withers: It doesn't, that's the ironical thing, it doesn't.

Mr. Zulueta: It doesn't? It's probably nobody wants to be put in a laboratory now-a-days, they don't want their kids experimented on, but...

Commissioner Withers: That's not correct.

Mr. Zulueta: Not to make light of it. It's a lab. What I mean is it's a laboratory school which by definition it's for a specific mission, it is not a traditional public school, nor is it a charter school, nor does it have an attendance boundary to provide preference to people living within a certain...

Commissioner Withers: Then you can say that event against Sunset Elementary, its IB programs, and its magnet programs. You might want to verify your comments on West Lab because I don't think you are one hundred percent correct on that.

Mr. Zulueta: Well, I'm just explaining what a lab is, and they are not part of, if you look at the...it's here, I didn't exclude it, it's just excluded by the district. If you look at this chart, this was provided to you by Miami-Dade County Public Schools in 2007, you will notice that it's not on their chart, so they don't consider it to be one of your schools and....

Mayor Slesnick: Well then what's the answer? It's not on the Dade County Public Schools, so for whatever reason.

Mr. Zulueta: It is a Dade County Public School.

Mayor Slesnick: It's not on their chart.

Mr. Zulueta: Oh, no, no, it's not in the chart...

Mayor Slesnick: That's the reason, that's the short answer

Mr. Zulueta: I apologize, that's the short answer.

Commissioner Withers: That's the answer.

Commissioner Cabrera: Ms. Russo, one of the comments you made during your presentation had to do with the fact that no use of the Coral Gables Youth Center would be part of your application....

Ms. Russo: Correct.

Commissioner Cabrera:...and one of the things you said, and correct me if I'm wrong, was that the children that would attend this school would be taken somewhere else other than the existing facility...

Ms. Russo: For athletic programs, sports programs.

Commissioner Cabrera: OK. That's exactly what you said.

Ms. Russo: Yes, that's exactly what I said.

Commissioner Cabrera: I'm just curious, where would you take them?

Ms. Russo: That's being worked on now depending on the types of sports that will be offered. There will be enrichment classes or afterschool programming that will be provided, they are still in the programming stages, a lot will depend on what's available. You know, there's a reason behind, I know that there was some concern over the use of the Youth Center; the Youth Center Board issued a resolution requesting you folks up here not to allow us any use; we dispelled that rumor early on...

Mr. Zulueta: Nobody is leaving the facility for physical education or recreation; they will do that on site. That was strictly for after hour's programs, we do intramural and other leads and those are done at South Miami, we do the exact same thing. Those are done off site, there are a number of programs and they are organized by the parents themselves to participate. There are any number of programs throughout South Florida that students can participate after school for athletics, that's what that means.

Commissioner Cabrera: Generally then, the students would be transported from the school to a facility, whether it be in South Miami or....

Mr. Zulueta: Absolutely – that's after school and they go in groups with their parents, with their Dads, I mean, I know that in the case of South Miami, they participate in some of the leagues over at the Gibson Bethel Community Center and some of the after school leagues and they are going with their parents in groups after school.

Commissioner Cabrera: There is just that the only facility – I have not been at University Baptist Church in a number of years, did you want to add something to that?

Ms. Russo: There are three playground areas at University Baptist Church....

Commissioner Cabrera: I was going to go there next.

Ms. Russo: I anticipated that.

Commissioner Cabrera: You did. Very good; so therefore I'm familiar with the one that is right there on the perimeter of the church property that you can actually see from the street on Anastasia...

Ms. Russo: OK.

Commissioner Cabrera: That's a small lot.

Ms. Russo: And your two interior ones that are larger.

Commissioner Cabrera: According to the school's plans, the existing facility would accommodate any and all physical education, recreational activities....

Ms. Russo: On site.

Commissioner Cabrera: And how would you enforce, out of curiosity, how would you enforce prohibiting the use of the Coral Gables Youth Center parking lot that immediately faces the University Baptist Church right on Segovia?

Ms. Russo: With school staff, if need be, the placement of – we are going to put cones if need be on the west side of Segovia and I think there has to be staff supervising it. There is no doubt because people will use parking, but there has to be a staff person there to determine that the people are going to be using it; for example, you could have a student that elected to go to the Youth Center after school having nothing to do that independently. So there has to be that query, you are not using this to park here for the school, you are using it to attend the Youth Center, but we would have staff working; staff would be working both on site and around the perimeter of the site to ensure that swale parking were not to occur, and that there be no parking even on the parking spaces on the west side of Segovia.

Commissioner Cabrera: I really hate to get into the subject about the traffic study that you all did, because you know how I feel about traffic studies that come before us.

Ms. Russo: In general – I understand, but we submitted it, we submitted it for review; we got comments, we submitted those, but I understand...

Commissioner Cabrera: I understand. OK. It's just my personal feeling, but I want to talk about it, believe it or not.

Ms. Russo: OK.

Commissioner Cabrera: In – and I don't want to get into too much detail or formulas and justifications because it's going to work, you all are going to make it work, you always do. How do you handle knowing, and I say this as a parent, how do you handle the fact that grades K through 4, you are going to have moms and dads and grandfathers and grandfathers walking their children into school and in some instances picking them up at the end of the day, how are you going to, because I know what I go through in taking my children to school and I know what it does to the immediate neighborhood, which incidentally is in Coral Gables, and I see what a challenge it is for the school that my child goes to. So I'm curious, was that accounted for in the study that was accomplished by you folks?- and again I don't want to get into details because I really will...

Mr. Zulueta: The traffic engineer accounted for – you wanted to know how we accounted for walkers?-

Commissioner Cabrera: Well, I just wanted to know... You are an educator...

Mr. Zulueta: Correct.

Commissioner Cabrera:...and a business man, you know the reality is that K through 4 and K through 5, Moms and Dads and family members are going to want to take the children and then pick them up...

Ms. Russo: You mean park and literally....[inaudible]...

Commissioner Cabrera: Especially what we just went through in the Pacific Northwest with a child that was taken while in school. So you know there is a real concern out there by parents and therefore, I'm just curious, I don't mean to go off too deep on a tangent on this thing, but how did you account for it?

Mr. Zulueta: That's a great question. The way we do it is we do not allow parents in those grade levels to park and walk, and we have an enforceable parental contract to prevent that, and that works because my own daughter when she was in school, the school she went to, my older daughter, had that same restriction, and if you parked and walked to pick her up they would maybe go back to your car and get back into the queue and pick up your child. So you can enforce that and we do have a contract to do so. Now that doesn't mean that we do not allow people to walk to and from school with their children, if they happen to live in the neighborhood, and we certainly hope they do and quite a number of them that live in the neighborhood are on the Board of Parent Association are looking forward to walking their children to and from school; children have to walk to and from school accompanied by an adult, that will also be in the parent contract, but you cannot park at a remote location and walk to the school. We will have a person – you will be guaranteed that there will be an adult, meaning an educator there during pick up and drop off who will take your child from your car to his or her classroom and that is our obligation as the educational institution, we do that, and it is eminently enforceable.

Commissioner Cabrera: OK – I don't see it, but OK. I was looking on the map, I wanted to look at the map that specifically review the section that addresses the immediate neighborhood on the map, and if you look at the compatible neighborhood map which shows lots of multi-family, religious institutional space as well as commercial multi-family to the east, and then to the south municipal and then the Coral Gables Library, but if you look at the area that's immediately south of University, I beg your pardon, not University, Riviera actually, south of Riviera, that's all completely residential, and I could see a lot of smart parents, which we have many in Dade County, finding ways to park either in some of the public alleyways as well as these immediately neighborhoods that would be adversely affected by it. Just looking at the map, I appreciate the blue and it's very helpful to understand how everything is zoned, but I mean, come on...

Ms. Russo: We also agreed to the posting of "No Parking" signs which makes it then enforceable, then the Coral Gables Police Department can issue tickets, and you know that's what happened at other schools, unfortunately for all people sometimes enforcement has to be by

virtue of a violation and a payment of a fine, but that's part of our proposal in this settlement agreement was the placement of "No Parking" signs and we worked with the Parking Department, with Planning, and with Public Works and recognized just like in other schools where you have to put in the "No Parking" signs.

Commissioner Cabrera: And you know what's frustrating for me outside of that phone going off, the fact that I don't know that, I haven't been briefed by staff, I have no staff overview of this matter, and so it's awfully difficult to be up here and to make a decision based upon the fact that I'm hearing you represent your client, but I have no staff report to support what you are saying.

Ms. Russo: I can tell you we did DRC as requested by this Commission to the City Attorney. We had originally just submitted a DRC application for DRC-2 review, level 2 review, which would be use of an existing structure, because of the City Attorney's ruling without waiving our rights, we submitted for DRC level 1 and 2. We had a DRC meeting, minutes and issues were raised that dealt with pick-up, drop off, parking, signage, operations, the issues that you have heard me address here today. We then submitted a follow up to the DRC comments, which is usually not done as I was even advised by the secretary to the DRC Board. I turned everything in, in written format, again, to be distributed to everyone, not just to the particular department that had raised the issue, but so that they could sort of work in concert, which is sort of the purpose of the Development Review Committee, which is to work in concert identifying both issues and looking at solutions, because you may solve one department solution, I mean, one department's issue, but not another or they may conflict. So we provided those; we provided – questions were raised by both Public Works and by Planning and by Public Service with respect to the traffic report. We submitted additional data, so we've been working with staff; and we plan to – this is not meant to be a permanent solution, it's meant to be a document that will allow us to start the school while we go through the process, which will be the normal rigorous process of the conditional use and the change in land use. So it will be reviewed again.

Commissioner Cabrera: In 50 words or less, in the process that you just outlined, OK, in the process that you just outlined to me, did you, and we've worked together in the past because you've represented a number of other institutions and businesses that have come before the City Commission; did you come up with a workable solution that staff was comfortable with.

Ms. Russo: I believe I did. I believe I addressed all of staff's issues, major issues, and I believe that any of the, shall we say, fine tuning is a result of some of the suggestions raised by staff were issues that I think if they need to be permanent they can be permanent, but before you make a decision like that you need to see in fact that the problem exist, because some of the issues raised by staff I don't think were fact based. So, we in the proposed settlement agreement that you have, have committed to continue during the process; for example, we are not going to say Oh, we are in the process, we stop; if during the process we identify that there's an issue...

Commissioner Cabrera: You exceeded the 50 words.

Ms. Russo: Well you knew I was going to do that when you asked me; you know me too well.

Commissioner Cabrera: I got it, I got it. I don't mean to be rude because I know people want to get moving on this. Last question, please keep it brief...

Mayor Slesnick: But that does raise one issue I'd like the City Attorney to comment on for the people that are here tonight. Liz, in the end, and I'm going to say this, what if – if there is a school and if there is a debate as we go down the road and if there is a judge determining that, is it not that the number of students will have to be based by law on substantial competent evidence?

City Attorney Hernandez: Yes sir.

Mayor Slesnick: That goes on both sides.

City Attorney Hernandez: Correct.

Mayor Slesnick: Substantial competent evidence from the applicant that the facility can hold and can function at that level and substantially competent evidence for us to deny that.

City Attorney Hernandez: Correct.

Commissioner Cabrera: How much of all of this, the workable solutions, the Development Review Committee, the school's proposed plans for recreation, physical education, did you share with the neighborhood?- the impacted neighborhood?

Ms. Russo: I did not attend any neighbor meetings, but the lawyers were not in attendance, so I don't know.

Commissioner Cabrera: I kind of know what happened, but you did have these neighborhood meetings.

Ms. Russo: There were neighborhood meetings; I know the architect and Fernando attended – Rolando was in attendance at a couple of the neighborhood meetings, some were bigger, some were smaller meetings.

Commissioner Cabrera: But there were multiple meetings.

Ms. Russo: There were multiple meetings; I just did not attend any of them.

Commissioner Cabrera: I'll bring you back later.

Ms. Russo: OK. Thank you.

Mayor Slesnick: Tucker.

Mr. Gibbs: Good evening, my name is Tucker Gibbs with law offices at 2980 MacFarlane Road in Coconut Grove, and I represent Carlos Carta and the Biltmore Neighborhood Association, and my clients are the neighbors of the church quite simply. We are here today because a charter school has having obtained approvals from the School Board in July of 2009 waited almost until April of this year to file any requests for approvals for a proposed 675 student school, at the University Baptist property. When the school failed to get the approvals for that size school it then sought approval for a smaller school at 110 students, because that's what they were allowed according to the City Attorney, and they got that approval and then promptly sued the city claiming that the state law overrides the city's Comprehensive Plan and Zoning Code; and now they are saying give us more, more students and we will put our lawsuit on hold, we'll go through your conditional use process, comprehensive plan amendments, zoning changes, and if we don't like that outcome, well we can either continue our lawsuit or seek to change the Comp Plan and Zoning Code to allow what they want. The school because of their dilatory actions has successfully gained this system, and they shifted the debate from, is a charter school or any non church related school allowed at the UBC property?- to how big should the charter school be?- how many students should we allow? The issue has always been and remains, is a non church school allowed at 624 Anastasia Avenue? Your Comprehensive Plan and your Zoning Ordinance says no, but you don't even have to go to those documents to say no, the church itself recorded a deed restriction in 1968, where it agreed to several things: the use of the property must be consistent with the city's ordinances including the Comprehensive Plan, which is the city's ordinance; the church can't leave, excuse me, can't lease a portion of the property to another entity, and that's what's going on right now. The church is leasing a portion of its property contrary to the deed restriction it filed in 1968 at the behest of the City of Coral Gables, but the church has entered into a lease and we know that. The property has a land use designation of Religious and Institutional, the Comprehensive Plan does not allow schools in a religious-institutional comprehensive land use designated district, the only educational uses that are allowed in the religious-institutional land use designation are educational facilities that are related, that are a related accessory use to whatever the facility is. Here they must be a related use to the church, and the Zoning Code defines what an accessory use is, and this use does not meet that definition. The use: this charter school does not serve the principle use, which is a church, it has no relationship other than a lesser or lessee with the church, it is not subordinate in any way, and it is not related to the UBC in any form. The proposed school does not meet the applicable zoning ordinance that rezoned the property to "S" Special Use. When I looked back in 1959, it appeared it was the first time that it was zoned "S", they had to rebuild the chapel and build the educational unit on the back. But in 1977 the City Commission said, OK to an educational use for pre-K only, and it had to be for church purposes under that ordinance, and you all established, you – your predecessors, established four conditions, the magic 110 students that you been hearing about tonight, 18 staff, open from 8:30 (a.m.) in the morning to 2:30 (p.m.) in the afternoon, and access only from Segovia not through the residential neighborhood. A proposed charter school as a public school cannot be for church purposes, that's very important to understand. Your ordinance said whatever educational use that goes in here has to be for church purposes. The proposed charter school exceeds all the conditions placed on the property in 1977, the CU that was granted several weeks ago, it said age 3 through 13, that's not pre-K;

open 7:30 a.m. to whenever, there is no hour of limitation, no limitation on access, and apparently no limitation on students; they are asking in this settlement, I assume, its 525 students. The school claims that all this is meaningless though because of Florida Statute 1002.18(c) which says, charter schools can be placed within a religious facility under its preexisting zoning and land use. They say that means the city's Zoning Code and Comprehensive Plan can't be enforced against them because they are a charter school, and they are exempt from the city's Code. Your City Attorney disagrees; my clients and I side with her. Somerset is coming here because they want you to fear the possibility that the judge will agree with its interpretation and force you tonight to agree to a settlement, and that settlement lets them operate a school contrary to the Comprehensive Plan and Zoning Code and that's critical to understand, because what you will be agreeing to tonight is contrary to your Zoning Code and it is contrary to your Comprehensive Plan, and now they've shifted that debate, it's no longer is a charter school allowed here?- it's now how many students?- 525, whatever. The settlement gives the city nothing, it just kicks this can down the road, because in the end the school goes through the process and if it doesn't like what happens it goes back to court, preemptions go back on the table, it can appeal the decisions on any land development applications. The choice is all theirs and it's what's wrong with this entire process; they have been driving this process, they could have come to you last year, they could have made these applications last year, they came at the last minute, and now I feel like I'm in a used car lot, if you don't leave the room the deal goes away, and that's what's going on here. What do we want?- my clients wants the city to abide by their Comprehensive Plan and Zoning Code, rescind the certificate of use that allows them 110 students because that's contrary to your Comprehensive Plan Land Development Regulations, and just say no. Thank you; and I'll be followed by Mr. Carta and Ms. Scott.

Mr. Carta: Good evening Mayor, Commissioners, City Attorney, City Manager and all residents of Coral Gables. My name is Carlos Carta, I live at 715 Anastasia, I have two small children. I live in this beautiful city since 1994 and I had been a property taxpayer since 1998. I made this choice for my family to protect the American dream that so many of us cherish, homeownership. The reason I picked Coral Gables was because of its strict enforcement of codes and laws, even when I remodeled my house, the city asked me to give up the right to split my lot, and I did, because I believed in the Codes. I'm saddened to be here today because of what I feel is an ugly real estate transaction deal at the expense of our children, our neighborhood, and our city. We all know the facts about the UBC, and now we all know the true intentions of Somerset. It's not right to break the law or do anything behind people's back, why would you start now by entering into an agreement like that?- Academica-Somerset and our State Representative Eric Fresen approached some of our city officials last summer about the charter school. Mr. Cabrera acknowledged that he'd met with them and clearly told them to start the process early. Why didn't they do so? Why?- because it's about a real estate transaction deal. This is not about our children, our city, or our neighborhoods. The chain of events that I have witnessed since March 4th of this year has lead me to better understand the organization that we are dealing with here. If this is such a good organization why are they threatening the residents with a lawsuit?- they know the law, they just seem to think that our city, our residents will buckle by their so called powerful influential machine, no we won't. Why has Somerset put so many families with children at risk?- because they choose not to follow the city's process; why has Somerset put my

neighborhood at risk?- why has Somerset put our city at risk?- why did Academica-Somerset tell our City Manager that they had already spoken with Commissioners prior to March 23rd of this year?- why has Academica put so many other communities at risk, the Redlands and now the Rhodes? Who are we really dealing with here? Mayor, I urge you not to enter into an agreement, I urge you to protect our neighborhoods like you've done to so many other neighborhoods. Mr. Kerdyk, I know you are not here, but I want to address him; you have a long history of protecting neighborhoods, please don't accept an agreement that will destroy our neighborhood. Maria Anderson, hopefully by now you have all the facts and you will be compelled not to enter into an agreement with this organization. We all have struggled hard to live in this great city, don't throw it away now. Mr. Withers, please do the right thing before you leave office, protect our laws, our neighborhood, don't accept an agreement, make them follow the process. Mr. Cabrera, I'm pleading with you to enforce what you told this organization last summer to start the process early. Please do not enter into an agreement with them. If you enter into an agreement with them acknowledging the fact that they didn't bother to listen to you from the start, this is not right; you told them clearly to start the process early. City Attorney, I urge you to uphold the law that makes our city so special. Please don't enter into any agreement. We took your advice and entered into mediation on Friday as good neighbors to try to work something out with them, they chose not to do so. You know what we are dealing with here. Just say no. I urge each and every one of you that has a vote today to protect our city by not accepting a deal. I urge all Coral Gables residents to uphold and fight for these rules that we cherish so much. Thank you very much and good night.

[Applause]

Ms. Scott: Good afternoon Mayor Slesnick and Commissioners. My name is Tina Scott and I live on Riviera Drive, a half block from the proposed site for this charter school. I oppose this school because of the lack of transparency during this entire process and the proposed school sense of entitlement, which prevents it from following the laws of our city, laws put in place to protect the sanctity of our neighborhoods. The issue of having a charter school in our city is not new. The discussion first began at a Commission meeting in February of 2002. At that meeting Commissioner Kerdyk was very concerned about the placement of such a school and stated, quote "the biggest issue is finding a location in the City of Coral Gables that would be appropriate and not get the neighbors too stirred up". Commissioner Kerdyk continued, "And I guess one of the alternatives for the city would be looking at other possible locations other than just the residential areas. You could look in a commercial district and possibly adopt one of these commercial buildings to a school". Fast forward eight years – the neighbors around UBC are quite, quote "stirred up", as predicted. We are stirred up because no one bothered to consult the very people who would be directly impacted by a school of this size. We are stirred up because we have learned through our research and speaking with neighbors and other communities with Somerset schools that this is their strategy wherever they go. They enter in under the radar, without any neighborhood input and have total disregard for any local laws and regulations. A perfect example – Somerset Academy charter school in the Redlands opened three years ago, and was approved by the School Board for a K through 5 with up to 500 students. The area was not zoned for a school, and neighbors were under the impression that houses would be built on the

land until the school was built. Somerset then added 102 students one year before obtaining permission to expand the school to a K through 8 center from the Miami-Dade County School Board. The School Board was forced to accept their request because the students had already been enrolled, and the Board was reluctant to throw them out. There are now 700 students and another hearing to be held this Thursday as the school is now requesting 800 students – 700 wasn't enough. Miami-Dade County Commissioner Katy Sorenson is on record stating the following; quote "Somerset has a history of begging forgiveness, not permission". One neighbor said, "We are living a nightmare right now with this school, they are never satisfied and always want more". I hope this will not be the fate of our beloved city. I hope that Somerset and Academica will not be allowed to trample our laws and due process, laws that everyone follows. We are fortunate to have top ranked public elementary schools to which my children have attended; they have phenomenal parental involvement, they are warm and nurturing, they are diverse, their faculty and administration is first rate, they are not over capacity as rumored, in fact they will be expanding making a charter school unnecessary. Coral Gables will be a K through 8 center beginning this August. If two of our private schools in the area are capped with student enrollment below 200, to quote "protect our neighborhoods", and a forty seat outdoor café was voted down by some on our Commission because it was an intrusion, what rationale could possibly be used to accept any settlement with this school? Somerset and Academica had one year to follow the rules, and chose not to. Why should the city conform to their timetable?- why should we reward them for bad behavior? Please say no to any settlement agreement. Don't let this be business as usual for this organization; don't let our beautiful neighborhood be their next victim.

[Applause]

Mayor Slesnick: Tucker, Tucker are you reserving the rest of your time?

Mr. Gibbs: Yes, I'm reserving the rest of my time.

Commissioner Cabrera: How much time is that?

Mayor Slesnick: Mr. Clerk, how much time does both parties have?

City Clerk Foeman: Tucker has 12 minutes 52 seconds, and...

Mayor Slesnick: And Ms. Russo?

City Clerk Foeman: Ms. Russo has 7 minutes 22 seconds.

Mayor Slesnick: We have some questions for you Tucker.

Mr. Gibbs: Kind of figured I wouldn't be left off the hook.

Mayor Slesnick: Mr. Withers.

Commissioner Withers: Hello Tucker.

Mr. Gibbs: Hello.

Commissioner Withers: Mr. Carta made a statement that you proffered an offer to the school last night or night before last, what was that offer?

Mr. Gibbs: No, we did not....Carlos, did you say that?

Commissioner Withers: I thought you said that you had offered him something but they denied it, I'm just curious.

Mr. Gibbs: You have to be careful, you have to be careful. Mediation is confidential, and so we mediated and reached an impasse. I think that's the best way to describe it.

Commissioner Withers: I don't want to get anybody in trouble. If you want to tell me what it is.

Ms. Russo: I just want to clear the record. The comment was that we did not go to mediation; we did go to mediation.

City Attorney Hernandez: It was, it was...folks, that it was not in good faith and the problem is both parties went in good faith to mediation and they reached an impasse.

Commissioner Withers: One at a time. I misunderstood. I thought the comment was that you had made an offer to them and they rejected it, that's what I thought I heard you say...

Mayor Slesnick: You don't need to repeat it.

Commissioner Withers: Then I don't need to repeat it; then I was wrong, I misunderstood you.

Mr. Gibbs: But I will say one thing about it, as Laura said, we both came to the mediation in good faith, and it reached an impasse.

Commissioner Withers: So there was no offer made, there was no rejection of an offer.

Mr. Gibbs: We were at impasse. That's all I can say, sorry.

Commissioner Withers: I understand. You are a lawyer, I'm not.

Mr. Gibbs: Thank you.

Commissioner Withers: I've been there before way too many times. Thank you.

Mr. Gibbs: Thank you.

Mayor Slesnick: Ms. Russo.

Ms. Russo: Thank you Mr. Gibbs.

Mayor Slesnick: Would you give Ms. Russo a yellow light at about 4 minutes please – 3 minutes – 3 minutes.

Ms. Russo: What I'd like to go over once again is that this is just a temporary agreement, which is to allow us to open up Somerset for this academic year and to go through the city's process. We are not asking not to go through the process; we are just asking to allow us to...

Commissioner Cabrera: I appreciate the sidebar – OK.

Mayor Slesnick: Would you start Ms. Russo's time again from 7:22? Would you start again?

Ms. Russo: Thank you. First thing I said was thank you Mr. Gibbs for clarification with respect to the mediation; both parties went in good faith. With respect to our proposed settlement agreement that's before you today, what we are for you is to consider the settlement agreement wasn't something that was drafted overnight, it was something that was drafted with all the input from comments made by the DRC staff, which reviewed this for both Level 1 and Level 2 where you identify the issues of a school of a proposed development, that's the entire purpose of the Development Review Committee. It's composed of directors of your departments and we presented plans to them, we've worked with them both individually, and so we have gone through the process; we will go through the process with more intense scrutiny in order to set up what would be the permanent number for Somerset Gables Academy. We would like to point out to you that your Comprehensive Plan policy, EDU 1.3.1 states...

Mayor Slesnick: Excuse me, I'm sorry, you have to stop again. Stop the thing. Could we please get the people...?

Ms. Russo: The people outside the door.

Mayor Slesnick: No, no, no....

Commissioner Cabrera: It's the feedback from the....

Mayor Slesnick: Could we get the people in charge of the television in here. Somebody has complained to me that on Channel 77 they couldn't hear or can't the presentations because of some type of translation or something going on.

Commissioner Cabrera: It was a simulcast. I got the same e-mail. Unfortunately though what happened was what Mr. Slesnick is eluding to while Mr. Gibbs was making his presentation,

there was a Spanish simulcast going on, and so a lot of the things, unfortunately that's what happened; I got an e-mail from someone watching at home.

Mayor Slesnick: Tucker, we heard it; we are the voting and you are on the record, and those who speak Spanish heard every word. I did not know we did simulcast.

Channel 77 Staff: [Inaudible – off mike]

Mayor Slesnick: I'm sorry, but we've got it straight.

Commissioner Cabrera: You'll be required to speak Spanish to us.

Mayor Slesnick: You were at the Florida Statutes.

Ms. Russo: We think that the University Baptist Church is an ideal location for the charter school. Your own Comprehensive Plan Policy EDU 1.3.1, which you saw in the PowerPoint states, "where possible Miami-Dade County schools should seek sites for future educational facility development, which are adjacent to existing or planned public recreational areas, community centers, libraries, or other compatible civic uses for the purpose of encouraging joint use of facilities or the creation of a logical focal point for community activity". The University Baptist Church has been an active community participant, it's an active congregation, they have things going on, the public library is across the street, they Youth Center is immediately east of the proposed site. We think this is an ideal location for the school, we think that we have tried to address issues that are of main concern with respect to the student pick-up, with respect to drop off, with respect to parking, with respect to signage, operation, all the issues that come up in the normal course of analyzing whether a school can have operational standards and conditions that will allow the shared use of the neighborhood in the facility. I mean, they have to be good neighbors, we want to be a good neighbor, and what we are trying to say here is please allow us to open up our doors and to go through your process. We are not saying no, and that's the purpose of proffering the settlement agreement. If we come to an agreement then tomorrow's hearing becomes basically asking the judge to accept the settlement, and then we start right through the same process, the process that we already started. I mean, this is not saying we haven't presented stuff, we've had inspectors on the site, we've had city staff looking at this inspection. So to say that we haven't gone through the process is not true. Somerset has tried very hard and has been constantly meeting and as requested and in the actual settlement agreement has also agreed to continue providing information as requested by city staff. We respectfully request that you pass the resolution that accepts our settlement agreement for 500 students. Thank you.

Mayor Slesnick: Laura...

Commissioner Cabrera: Stay up here for a minute. Mr. Carta made a very interesting comment about the fact that when I did meet with members of the community....

Ms. Russo: Could you repeat that again.

Commissioner Cabrera: I'll start over again. Mr. Carta made a comment that's very accurate, that when I met with members of our community as well as members of the Academica management team, I remembered distinctly that I had two major concerns, and one was, try to start this process early, try to speak to the City Attorney quickly because one of the things that they were very quick to point out to me was the State Statute that allowed for this to take place without any kind of, I would say, jurisdiction by the City of Coral Gables, and I said, well you really need to run that one by the City Attorney's office, and then I said, let's just be clear on something here, when you start, if you in fact start this process, it's critical that from the very beginning you do an outreach program to the affected community, the neighborhood, and I said because this is a very active neighborhood and I happen to know that from political experience and just knowing the kind of people that live there; my parents are a part of that neighborhood. So why did the timeframe come on so quickly upon all of us?- because we really look like a bunch of smucks up here, because the reality is...oh, you like the fact that we are smucks?- OK – good I'm glad, thank you for the civility. Bottom line is that we had no idea this was upon us, the next thing you know we find out through a website, I believe it was the church's website, that's how we learned that this was something in the works. I really feel that the public and I know that I need to know maybe my colleagues need to know as well, why did this take the shape that it took in terms of the timeframe?

Ms. Russo: I would love to be able to answer that, but I don't have personal knowledge.

Commissioner Cabrera: OK. Will Mr. Zulueta, can he answer that?

Ms. Russo: I will have Mr. Zulueta come on board. As soon as I was brought in being familiar I immediately met with the City Attorney; I understood that at the beginning – what you have to understand at the beginning...

Mr. Zulueta: Laura, I'll answer the question. I'll answer the question Commissioner Cabrera. The short answer is and when in fact we met with you and immediately when you asked us to after meeting with you and other Commissioners last year and also met the City Attorney, what happened was shortly after that we no longer, the negotiations broke off with University Baptist Church; we were no longer pursuing that and as we understood it, there was another interested school that came in, it was a private school that was evaluating using that facility, the summer went by and into the fall and it was, I believe, it was November or December of '09, so fast forward to that point in time, and please to clarify and it may have been our mistake when we met with your City Attorney we did not clearly understand that we were at odds with the interpretation, and in fairness she may not have – she may have clearly thought it that way and we didn't hear that, we didn't hear her saying that doesn't mean she didn't think she was saying that. We thought that like everyone else that we knew had previously looked at the Statute because we've been in many municipalities where this has been applied; we believed that there was no issue of either a Comprehensive Plan or Zoning; but even forgetting that for a moment, we no longer were pursuing this facility over the summer and beyond. Late last year and the end

of '09, we began talking with UBC again and they were still dealing, and I can show you, I believe, as late as January with another organization, another school that was looking to locate there, a private school. It was after that, and I believe January, February that we began once again looking into the process of what we needed to do to make it happen in Coral Gables because they expressed a willingness to move forward with us. It wasn't – we did not obtain an actual lease with UBC until the 22nd of April, or thereafter. We met with the neighbors in March, and we were had not made a definitive decision to even move forward until sometime in March; we were moving forward investigating, but we didn't have a traffic study, and in fact when we met with the neighbors, we said as soon as we get a traffic study we'll share it with you. The first question is how many students were you planning to put in this facility?- we didn't know. We knew preliminarily that the facility had a certain size and capacity, but honestly until I saw a traffic study, until I received a report from the life safety experts as to what the capacity of the building was, we didn't know that we could put a school there, because we didn't know if it was a safe location and if it had capacity. You can look, I don't know the date of the first traffic study, but it was in late March, I believe, and we...anybody know the date, I don't know if Rolando could find it. I believe it was sometime in late March was when we actually for the first time received information that allowed us to say, OK, 735 students can be accommodated here without impacting the neighborhood, that's what we were looking at. Had we just relied on what was life safety we would have been asking you for 1,000 students. In other words, we work with municipalities and we work with neighborhoods to see what can be accommodated, and I like you want to look at data and not just my own personal opinion in what decision to make. So that's how the timing worked out.

Mayor Slesnick: Thank you, thank you.

Ms. Russo: I will review once again my request of the motion be made that would approve the settlement agreement, and that resolution be for the settlement agreement to allow for 500 students. Thank you.

Mr. Gibbs: Good evening. Tucker Gibbs, I will certainly be a lot more brief than 12 minutes. I heard Ms. Russo speak to three issues in her rebuttal that I wanted to address. The first was...

Ms. Russo: [Inaudible – off mike]

Mr. Gibbs: Excuse me. I'd like to address three issues that Ms. Russo brought up in her rebuttal. The first one she said, she cited a policy in your Comprehensive Plan regarding the educational element talking about co-location and that's a very common provision in a Comprehensive Plan, but what she neglected to say, the first thing you look at when you deal with your Comprehensive Plan is the map, and you all probably recognize this, it's a map of whatever plat; plat 6 or 18, and it's a future land use map, and over here that I've circled, over here is the University Baptist Church, and it has a land use already of religious and institutional, and I just want to focus on something. You all approved the Comprehensive Plan; it goes to the State of Florida, the State sends it to the Regional Planning Council, everybody takes a look at it, Dade County takes a look at it, because the goal is consistency, the goal is to make it work, but this is

your product, you voted on it, as I found out just a second ago, January 7th of this year, not very long ago; you voted on this map, this is called a Future Land Use Map, and we are all talking about language, future means this is what your blueprint is for your future, for your community's future, and you have said this is where we have religious facilities. You also created a Comprehensive Plan that has a future land use element that talks about what goes in these uses. In a religious institutional use it specifically says, churches, temple, synagogues, houses of worship, fraternal organizations and related accessory uses such as educational and child care services. University Baptist meets the bill, it fits the bill because it has a related educational use that it runs, and so when you – don't be too cavalier about saying, yes, let's do a settlement, I think the city was too cavalier in approving the certificate of use and you should rescind it, because your city did the same thing they ignored this; your staff ignored this, and ignored the Code that applies, and the fact is you are now being asked to go beyond the 110, to ignore the restrictions about access, just to let them go in at 525, but I want to say this is your document and your document needs to be protected. You also have an educational land use and I'm somewhat familiar with the travails of this city dealing with the Public School system in overcrowding and a lot of those issues years ago, and one of the results is you have one of the finest Comprehensive Plans because it is clear. You have educational land use where all schools go, you have religious and institutional, and if a church or a synagogue wants to have a school it can have a school because you all have drafted an incredible Comprehensive Plan; and here we are six months, seven months after you adopted this Comprehensive Plan and you are being asked to trash it; you are being asked to ignore it and this is your blueprint for your future, and don't kid yourselves any church in this town is going to come back and do the same thing. If it's hurting for money bring a school in and it can make some money. The second issue that was brought out was that Somerset went through the process. The way I looked at this, they were approved in 2008, this site was approved by the School Board in 2009, there was no application until March 2009, it went to the DRC, the certificate of use application came in May 17th and the certificate of use amendment that was eventually approved happened on the 22nd and it was approved on the 23rd, they filed a lawsuit a month later, the temporary injunction was filed at the same time and we are here. The point is that they didn't go through the process; every step of the way, and I made public record requests from the City Attorney's office, there were memos saying, we don't have to pay any attention to your zoning and land use because of this wonderful language, which I don't understand people can say it preempts, to me it says that you have to apply your land use and zoning for a charter school and a religious institution. But the fact is they sat there for several months from late March, early April saying, we don't need to come to you. Now at the eleventh hour in the fifty-ninth minute they are coming back to you, and they are saying, well you know, we don't really know if we want to deal with a judge either, and I don't blame them because I think the city has prepared an incredible brief on this, and I think the city is going to come in there and win tomorrow, that's my position. Commissioner Cabrera you asked why didn't they move forward back in the beginning?- we talked about that. Our issue is the Comprehensive Plan and the Zoning Code, please apply it, and also remember don't forget that covenant. The church put a covenant on the land back in 1968 saying they would abide by every city ordinance, every city ordinance in existence and in the future, and it was going to run with the land; there is no provision for amendment in there, it's there and the church has entered into an agreement contrary to that covenant to lease a portion of the property and in the process

violate the land use and Zoning Code, that if nothing else warrants your attention when you look at this in terms of the Comprehensive Plan and land development code. Thank you very much. Please vote no to the settlement.

Mayor Slesnick: Tucker – did you imply that there are no other churches that lease their property for private schools?

Mr. Gibbs: I'm not saying that, I don't know that. What I'm saying is...

Mayor Slesnick: I mean they are.

Mr. Gibbs: There may be, but I don't know if they have covenants such as University Baptist has. University Baptist covenant...

Mayor Slesnick: But you said if every church or synagogue...

Mr. Gibbs: No, no, no, I said what would happen if you gave this approval tonight, that it would open the door for other churches to come in and tell you to ignore the Comprehensive Plan because the Comprehensive Plan says....

Mayor Slesnick: But you said previously that the churches and synagogues can have a school if they want.

Mr. Gibbs: They can have a school if they run the school it has to be accessory to that primary use.

Mayor Slesnick: That's what I'm saying, we already have people...

Mr. Gibbs: We have no problem with church schools, but that's not the issue here.

Mayor Slesnick: Churches that lease to private institutions which pay them lease.

Mr. Gibbs: And if those schools are totally independent, I hate to tell you this under the language of your Comprehensive Plan, they are operating outside the law; look at your language; your language says it has to be accessory, you have an arms-length lease that's not accessory.

Mayor Slesnick: That's your interpretation of accessory.

Mr. Gibbs: I understand – no, I'll pull your Code out. Your Code specifically talks about four standards for an accessory use, and this one does not meet any of those provisions, I don't want to bore you, you can go through each one of them; the point is you've got a Comp Plan, you need to abide by it.

Mayor Slesnick: Thank you.

Commissioner Cabrera: I've got a question.

Commissioner Anderson: I've got a question.

Mayor Slesnick: Maria first.

Commissioner Anderson: Don't read – nobody read into this question any more than it is. If we decide to fight it and have the City Attorney go out there with all her best legal skills and the judge says, city you are going to have to live with the 675 and they preempt, and that's the struggle I'm having; could the neighbors live with something like that with that outcome?

Mr. Gibbs: I don't think the neighbors will like that, but let me go one step further.

Commissioner Anderson: You're not helping me Tucker.

Mr. Gibbs: Yes, I'm going to try to help you. You all are a Board of Directors representing the people of the City of Coral Gables, and you are sued a lot probably like most municipalities...

Mayor Slesnick: You even sued us.

Mr. Gibbs: Pardon?

Mayor Slesnick: You even sued us.

Mr. Gibbs: I've even sued you. I'm not the attorney in that case anymore, I'm not the attorney in that case thank goodness (laughter); that's right you know in this world anybody can sue anybody for anything, however, as the Board of Directors for the City of Coral Gables representing the citizen's interest and representing your Comprehensive Plan and your Zoning Code, you all have to look at that and decide are we willing to defend that which we approved six months ago....

Commissioner Anderson: And Mr. Gibbs I'm not challenging that particular thing, but let's say for the reality sake the judge is having a bad day, you know, I'm kidding...

Mr. Gibbs: I understand what you are saying.

Commissioner Anderson:...and comes off on the other side, and we say, Oh let's fight it, you know, and I get it; I know about the land use being our Master Plan and what we wish for the city, but I've seen stuff happen that defies my own ability to comprehend. So I'm trying to wrap my head around a lot of this stuff, because I want to make the best decision, and I know that we asking to make like a Solomonic decision and I don't feel very much like Solomon tonight...

Mr. Gibbs: And I don't want you to cut a baby in half thank you very much.

Commissioner Anderson: No, I don't intend to, I try not to, but I'm grappling with this and I wish there was a way that we can continue to talk this out, I mean, I don't know. The activist in me says fight it, the part of me that wants to protect and make sure we are not damaged further says "Um". So I'm struggling with that and I want to put it out there.

Mr. Gibbs: And my clients struggle with that too. We discussed this in the mediation process, that was a very big issue, but I have to tell you and I didn't have the benefit of reading the city's brief before we went into mediation, but I've had the benefit of reading it since. I am absolutely impressed by it, I don't want to jinx it, knock on wood, but the point is, I think the city has a very strong position, and without going into the details of that brief, and all of you have received copies of it, and have your City Attorney and litigation counsel talk to you all about it, you have a good judge, you have a good argument. I understand that judges can do different things at different times, but all I can tell you, you are defending something that's important; you're defending a neighborhood, you are a city of neighborhoods, you are defending the neighborhood, you are defending the Comprehensive Plan. State Statute – forget about the Charter business and the preemption argument – Florida Statute 163 is there, it's been there for twenty-some years, it's there for a reason, it's to protect growth, it's to protect this map and this Comprehensive Plan, and the first time someone comes and starts yelling at you about the fact that your Comprehensive Plan, the whole Comprehensive Planning system the State of Florida Legislature has put in place, means absolutely nothing when it comes in front of a charter school, and the first time someone comes and says that your reaction should not be to say, I'm afraid that they are going to win, the reaction should be I'm fighting for something that's important to this community, it's our plan, it's our blueprint for our future. If you are not going to fight about this, then you know what?– what are you going to fight about?– what are you going to fight about?– where are you going to take a stand? I'm answering the question, that's my answer.

Mayor Slesnick: Tucker, Tucker.

Commissioner Anderson: That's fine. I understand you are stretching there a little bit. I get it, I do get it.

Mr. Gibbs: I figured you will but you know me, I go over the top sometimes.

Commissioner Anderson: I hear you. I don't take any offence or you're challenging my integrity of thought.

Mr. Gibbs: Oh, I didn't mean to do that.

Commissioner Anderson: Oh no, I know you are not. OK. I just put it out there, I'm grappling with all of this, I think you make a very valid point...

Mr. Gibbs: That's where my client is coming from.

Commissioner Anderson: I'm just going to keep that in my copper as we talk tonight.

Mayor Slesnick: Tucker also would you admit that while we are the Board of Directors of this corporate entity that putting your argument aside about the Master Plan and the Comprehensive Plan, and so forth, which stands alone, that we have citizens on both sides of this issue?

Mr. Gibbs: Absolutely.

Mayor Slesnick: Well thank you, I'd just like to acknowledge that.

Mr. Gibbs: My clients understand that too, and believe it or not, my clients – I think there are people on both sides who are friends with each other, so I understand. Commissioner Cabrera.

Commissioner Cabrera: This is a very technical question.

Mr. Gibbs: Hope I can give you an answer.

Commissioner Cabrera: You can; I asked the City Attorney.

Mr. Gibbs: Oh, thank you City Attorney.

Commissioner Cabrera: I generally ask questions I know the answer to. What's your take on the City of Sarasota and their issue with a similar application?

Mr. Gibbs: I think it's very interesting that the County Attorney in Sarasota didn't take the appeal to the Second District. I will tell you...

Commissioner Cabrera: You want to tell the audience what this is all about.

Mr. Gibbs: The City of Sarasota, I think Mr. Lincoln is here; Mr. Lincoln argued the case and Mr. Lincoln – he doesn't know me, but I know him from his blog, and he writes a great land use blog, I may not agree with him all the time, but it's great. But it was a case dealing with a very similar situation, and the Circuit Court judge, I think it was a one day hearing, was it one day?

Mr. Lincoln: [Inaudible – off mike]...The first hearing was a half day, the second hearing was...

Mr. Gibbs: And the preemption issue came up, it was front and center in this matter. There were some different issues; the city had approved a building – the county had approved a building of a structure that was going to be used for a charter school. When it CO time – CO time after they built the building, they said, guess what?- you can't do this. But preemption was very large in this. I disagree with that judge's decision; it was a Circuit Court, but Commissioner Cabrera...

Commissioner Cabrera: I respect that.

Mr. Gibbs: What would you expect, that was my reaction, but Commissioner Cabrera, I will tell you that dealing with preemption cases look at the brief that the City of Coral Gables presented and specifically look at Judge Acharte ruling in the case, and I forgot the name of the case, but it's the sexual predators under the bridge case, and dealing with this issue of preemption, he literally went down every single preemption case in the State of Florida, implied preemption, which is what this is, and he went down that list, and guess what?- he said only one did the court find there was implied preemption and the Supreme Court ruled against that several months ago. So the point is I'm not afraid of preemption, easy for me to say, I'm not the City of Coral Gables, but my clients live there and they are going to live with it, and I think my clients want this city to fight, and I got to tell you as I said before, my clients are very happy with what the city has done with the preemption issue.

Commissioner Cabrera: Thank you.

Mr. Gibbs: Thank you.

[Applause]

Mayor Slesnick: We are now closing this portion of the hearing and we will take a five minute stretch break so that we can make sure that we are ready to go into deliberations and determine what we are going to do. At the beginning of our deliberations we will ask our City Attorney for her advice and counsel and then we will move forward from there. It would really help if you will let us work our way through, and work our way back. Thank you.

[Note for the Record: The Commission took a five minute break].

Mayor Slesnick: We are starting. Let me say this – well it hasn't been that long, but it maybe longer for most of you to put up with public hearings, and I appreciate everyone's cooperation, and everyone working with us to go through this in an orderly and civil manner. So thank you up front. I do have these generalized statements to make that number one, we have some written comments that were submitted by people who had come tonight and we are going to enter those into the record, and let me see, yes, we have names on each of these, we do. Also for those of you who are here tonight that did not have a chance to speak, but you'd like it noted that you were here on our record; we have taken all these speaker cards, and if you'd like to fill one out there is still some outside and submit them to our Clerk, your name will be on the record that you appeared here tonight, you took part in the session by being here, and if you care to comment on here whether you, I'm not sure if you are an opponent of or proponent of, but if you make a comment, there is a comment area, that will also be part of the record. So with that, we will add those to the record. Madam City Attorney.

City Attorney Hernandez: Thank you Mr. Mayor. Members of the City Commission, before I go into my recommendations I just wanted to address a comment that was made by the plaintiff in the case regarding a meeting in my office. I can tell you that in my meeting with Mr. Zulueta and his team that he was clearly advised that no one was exempt from the city process, and I told

them what I typically tell most individuals that come in, even the constitution is suspended in Coral Gables, we have a process, everybody follows it. He understood that. They indicated to my office, we have a statutory provision that we're exempt, and if they expected that they were getting a ruling in that fifteen minute conversation, I doubt that they were serious. They could have requested a legal ruling under our Zoning Code and they chose not to; and with that, I will leave it at that, but my recollection of our discussion was very clear at the time; go through the process, don't forget to go through the process. Mr. Mayor, members of the City Commission, this matter comes before you as a result of a settlement proposal that was submitted to the city. Within the provisions of Chapter 286, we met in Executive Session to discuss the legal issues which will be addressed at tomorrow's emergency hearing for temporary injunction before Judge Jennifer Bailey. We provided both mail notice to the neighborhood which we provided to all the neighbors with 1,500 feet of the perimeter of the property, mail notice as well as advertised notice so that everyone who had an interest could attend today's meeting. While the city and my office feels very strongly about our arguments regarding tomorrow's hearing, this office presents this settlement proposal to you due to the extreme potential outcomes and risks. Should the court interpret the statutory provisions of Chapter 102 that Somerset claims, this would be to preempt our land use and zoning codes, in effect tomorrow, if Somerset were to win they would be allowed to have 675 students starting school in August at the church facilities. This extreme outcome could have a significant and detrimental impact to the neighborhood and take this entire process out of the city's oversight and review. It would basically take it out of the city's hands. As such we provided you with the alternative which Somerset and UBC have proposed to the city. The proposal has significant benefits to the neighbors. We went over this proposal – Special Counsel, my office, the city's professional teams, we went over these proposals back and forth numerous times. We believe it benefits the city and the community; most importantly our land use and zoning code processes and procedures are protected. Thus far Somerset has gone through the DRC process and in good faith without prejudicing their rights; they did agree to go to both a Level 1 and Level 2 DRC process. So our professional staff was able to thoroughly review the applications, and be able to determine what needed to be mitigated and what needed to be looked at on a preliminary basis. The general points that they agreed to in the proposed settlement that they would go through our land use and zoning procedures, including conditional use approval and an associated site plan review, that they would incorporate the mitigation conditions addressed by the Development Review Committee for the 2010-2011 school year, and I can review those with you again if you'd like us to. They were part of the DRC comments that were sent out awhile back to everyone, so that everyone was aware what was going on during this process. They agreed that they would pay for the costs associated with all city reviews and defenses during the process, and they agreed to abate the litigation while they undergo the review process. We provided you during the Executive Session with your professional staff's preliminary and assessment and analysis. I want you to understand that regardless of what happens tomorrow the school will open in August for at least 110 students. So regardless of what Judge Bailey does tomorrow there will be a school that will open in August. I will tell you that they met the requirements of the Building Code, the Fire Prevention Code, they underwent concurrency review, traffic, parking, and transportation analysis, they addressed city staff's concerns, they dealt with the parking and student drop off and pick-up, vehicle management and safety, and in addition to that, they have agreed that any other mitigation items that the city

determines need to be addressed from a police standard, traffic standard, during the school year, they will immediately address and deal with. Should Somerset lose tomorrow's hearing they are no worse off than they are today; they are merely being delayed in their quest for land use and zoning code review. While they do not have a guarantee regarding the number they seek, just as with any other property owner they have a right to seek changes to the land use and zoning conditions which impact their property. In short, the city and the neighbors stand to win a battle in the short term, but potentially lose in the final outcome, as such we recommend that you seriously consider a proposal that would allow some relief to Somerset, which would require them to mitigate the impacts that they have on the neighborhood and to go through the city's processes, and go through it with neighborhood input, through the hearing and public procedures, that will allow them to come back to the City Commission with all the conditions that your professional staff would impose as an ongoing condition; and our recommendation is for this Commission to consider a number that is fair and equitable and it's up to the Commission to deliberate on that number with the settlement agreement, obviously.

Mayor Slesnick: You want me to take the first shot?- or do you, I mean I've got comments too, if anybody has comments, I have comments. Well this is...well no, I always defer to you all because...Well, let me address some of the issues. This is our first time together discussing this in public because that's the way the system works, is that you go through a number of steps before you get here, in fact it wouldn't even be here at the moment were it not for the lawsuit and the possible settlement of the lawsuit, or at least of the injunctive relief sought. We've heard from a lot of people over the times, and I just want to take this opportunity to say a few things. One is, I appreciate Tucker your glowing and supportive comments about our legal work that our staff has done in preparing for the hearing tomorrow, and the brief that we have written, so thank you very much, but I will say that our brief and our efforts still fly in the face of the only decision on record in the State of Florida which is not in conformance with what our brief argues, and I think you've heard that from the City Attorney tonight, that she probably feels very complimented too that her brief has been pointed out as being an exceptional brief, well she and her special counsel who are with us tonight too, but the fact of the matter is that she has outlined for you the downsides of turning this decision over to the judge. On the other hand, I said in the meeting where we were looking at our strategy, I can't repeat to you what people said, but I can repeat my feelings, and that is I hate to come in here hoping to protect those same citizens that Tucker Gibbs told us it was our responsibility of ours to protect, and yet in the end result offer the worse deal, and that is by turning over to a third party the possibility of reaching Somerset tomorrow with a school oversized and intrusive to the neighborhood. So, I kind of like Commissioner Cabrera, noted you know, I was a little taken aback by the pins tonight, the "NO DEAL" pins because I don't think that deals were characterized properly at the beginning of this in the sense that, if I make any deal or vote for any settlement agreement it is to help or save our city and not to destroy it. I'm a lawyer and I've been in court a number of times, I've had my fair share of success, I've also had my fair share of being shocked at the outcome. The complaints about transparency of the process, I think we've hashed that out over and over and over again and the conversation between Commissioner Cabrera and this audience earlier, I think, certainly demonstrated the fact that maybe this didn't get off to a good start, maybe Somerset should be accused of coming in too late, not doing the right things, not interpreting the City Attorney's

directions properly, not interpreting Commissioner Cabrera's directions or suggestions properly, but since that time there has been nothing but transparency, I think that needs to be made before the paper goes to press, and says citizens allege no transparency and there is no answer to that. Well since that time whether it was started late or not on time, there has been nothing but transparency since that time through all kinds of things whether it's been through the filing of legal suits, the mediation of legal suits, the DRC, this hearing tonight, other things, community hearings and so forth. Do I regret the late start?- it certainly put me in a bad position sitting here because I didn't ask Somerset to come to Coral Gables, I didn't propose it, my children are now in their 30's, you know it came upon us, and we inherited this process, and so it's not something we wished for and we wished it had started earlier and that people could have felt more comfortable with the process whether they agreed with the end result or not. I also want to clarify for the record, I have been lectured to now by a number of e-mails on the value of public schools either with the insinuation or the direct accusation that I don't understand the value of public schools. I am a product of the Dade County public schools, both my children are the product of Dade County public schools, in fact Coral Gables Senior High School, and the schools leading up to Coral Gables, from Coral Gables to T.W. Carver on to Coral Gables High. My wife is a product of the Vero Beach high schools, and I spend time in every single school in our city every year. There is nobody that appreciates public schools more than I do, and if I thought that I somehow was a policymaker, you know what?- I don't want to upset you all, but if I had been a legislator, had to all elected me to the Legislature, I may have voted against the charter school legislation, I'm not sure I like the charter school legislation, but you know what?- that was given to us by Tallahassee and now implemented by the Dade County School Board, and as I told someone the only people that have so far voted on this issue until a few minutes from now will be the Dade County School Board. So if anyone's ruining public schools, I think we need to look elsewhere than this Commission; and I also as I said before take note that we have citizens on both sides of the issues, and I realize, I realize more than anyone, and it's been pointed out to me by Tina that I have a voting record, voting for other people's neighborhoods and voting for my neighborhood, and realizing but I have to tell you Linda, as you smile, I have to tell you that I think there is a big difference eating and drinking pizza and beer out in front of a club than it is a school, but I have that record, and I have neighborhoods in my heart, and so anything I do tonight, anything I do tonight, I will tell you come from my heart and hopefully at the end of the process will help protect neighborhoods. That's all of my comments. I am willing to consider at the request of our City Attorney a compromise to reach a settlement of this lawsuit and to stay in control of the process in the future, but the number I am willing to consider, there are the four of us, but the number that I am willing to consider is a number that is probably so low that the school is probably not interested in it, but in my comparison and because of some of the e-mails from neighbors, not from the supporters, but from the neighbors, that at this stage of the game and at this stage of life if there was a compromise in my mind I could settle with it being the same size as St. Phillips School, which is for those of you, 180.

Commissioner Anderson: I'll give it another shot too. If I had my druthers this process would have been really way different. I do believe that it did start off wrong, but here we are. Tucker, you know, you make a really good argument for the City Attorney's brief and stuff like that; I can't take that gamble, but I can't take that gamble on leaving it to the fate of a third party. I

want to stay in control of the process, and I agree with the Mayor, my number is low, my number is in that range between the 180-200, nothing anywhere near what the proposal of Somerset. That is my offer, but I can't risk it at the hands of a third party and lose complete control over the process and the ability to limit it in other ways to the benefit of the neighbors and to the benefit of our city, to protect actually the codes that we are so proud of, and it's really not an easy one for any of us up here, I mean, at least I speak for myself. I'm a gambler by nature, I ran for office for God's sake, but I can't take that similar gamble although I did entertain it for a few moments a few minutes ago, but my number is low, and my issue is to control our process, not to have someone else outside of it. Thanks.

Commissioner Cabrera: I too am a product of the Miami-Dade County Public School system and I'm really proud to say that because I had wonderful experiences growing up here in Coral Gables and attending most of the schools that afforded me that opportunity. Conceptually and fundamentally, I am a supporter of schools in neighborhoods, and I learned the value of schools in neighborhoods not as a young person, but as an elected official sitting up here. I supported St. Phillips when they were looking to make some improvements to their campus without increasing the student size; I was supportive of St. Thomas most recently when they were making some modifications to their fields and to their structure. So fundamentally and conceptually I'm a big proponent of schools, and incidentally I'm not treading on the public school system in Coral Gables, I think it's a fine, fine public school system, but I believe that if we can afford our children more choices and more opportunities for a solid foundation, whether it be a charter school or a public school or a private school, I'm going to get behind it; and I believe very strongly that the basis for a thriving community, a thriving culture is an education, and therefore I am always going to be a proponent of more education that is readily available to our kids. Having said all that I've got this huge, huge indigestion with this process, I really do and I'm not looking to blame the good folks from Somerset or any of our staff members or anything like that, but there is very little information that's filtered to the Commission. You heard me this evening talk about some of the questions that I asked about the DRC, by the way for those of you in the audience who don't know what a DRC is, it's a Development Review Committee, and it's made up of city staffers; people that work here in the city professionals, that understand the fire code the building code, all kinds of infrastructure related issues, and so providing any kind of relief so that the school can start is something that I've contemplated, but I also have to do something to protect the integrity and quality of life of a neighborhood that's going to obviously feel the school more than any other neighborhood in our city; and I happen to be fairly familiar with that neighborhood because I have a set of parents that live near it, and I have friends that live right by it, and I grew up playing at the Coral Gables Youth Center, and I grew up going to the library, and I grew up racing up and down Segovia when I was old enough to drive a car. So I can feel for the neighborhood, I can feel for the need for better education or more education, we've got great education. So if any of you think that I'm trying to tread on the Dade County Public School system, or if I'm trying to say negative things about the choices that are available, I'm not; you know what the saddest thing is, and I'll be very, very candid with all of you, my children go to private school; I make it a point that they go to a school that we are very happy with, and you know it's a financial hardship for my family to put our kids in this private school, but it's well worth it, what better way can you spend your money than on your kids education, so we get past

it, we accept that second tax that we all have to pay toward the Dade County Public School system, which by far is the largest portion of your tax dollars. But tonight it's very difficult to be able to just say to the folks at Somerset 675, 500 is the right number. I can't in good conscience do that because I don't have enough information at my fingertips. I asked the City Attorney's office and perhaps some of my colleagues did the same thing, to provide a comparative of all the schools that feed this area of Coral Gables, for the entire city for that matter, and her office provided not only private schools but public schools, and schools that are outside the city boundaries, and they are all over the board. As Mr. Slesnick pointed out 180 students is what St. Phillips enrollment is, I have the chart, and I heard the folks from Somerset give some numbers as far as the public school system, but there is very little information that I can go on, and you know what we are doing?- if we don't maintain control over this process, we're gambling, this is just a big gamble tomorrow; Judge Bailey is a fine, fine lady, I've only heard great things about her, both from attorneys and others, but we're allowing her to make the call tomorrow and if in fact the call is to allow a 675 student school at University Baptist Church, I believe in my heart of hearts it's going to be very little that this city can do about it, and I had some very heart to heart conversations with the City Attorney about this issue, and it's not that I'm afraid. Ladies and gentlemen if you think I'm afraid, I'm not, you know the only thing that I get scared about are my kids getting sick. Anything else whether its – whatever issue you want to bring up, metal roofs, whatever it is you want to talk about, I'll take on whomever, I'm not scared of anything, I really am not because as much as I enjoy this job it looks like I'll probably be done in 2013, so I'm on my way out, this is it for me, I'm tired of this fun stuff. So tonight I think that a settlement is the way to go, I don't know what the number is, and I'd be willing to deliberate a number that we all feel comfortable with. I took them on in a private session and I tried to get them to give me a number they'd be comfortable with and it was like a very difficult process, not because they didn't want to tell me, it's my colleagues, but they are struggling with this process as well, I mean, we all are; and it's a very uncomfortable process and we are not done, we're not done, we're far from being done. I've said enough and I've repeated myself enough times, so at this juncture I am willing to support the City Attorney's recommendation, unfortunately I just can't give a number, but I can live with a number that the majority of this government would be willing to settle for.

Mayor Slesnick: Thank you. Chip.

Commissioner Withers: Well one thing we have to agree on is that Bill will be buying us lunch soon (laughter).

Commissioner Anderson: Absolutely.

Commissioner Withers: And he booked the cruise yesterday (laughter). Liz, I just want to make sure that I understand the tree of options we have here, so bear with me, and if I go too far on something you need to real me back because....Tomorrow there are two options, if we go to the judge tomorrow, if there is no offer tonight...

City Attorney Hernandez: Right.

Commissioner Withers: Whether the school refuses our offer or whether we don't tender an offer...

City Attorney Hernandez: Right.

Commissioner Withers:...it's the same thing, is that correct?

City Attorney Hernandez: That is correct.

Commissioner Withers: OK. So we go to the judge tomorrow, if we lose Somerset would be awarded the number of 675 and our option would be to file suit...

City Attorney Hernandez: An appeal to the Third District Court of Appeals.

Commissioner Withers: Third District Court. If we win then Somerset still has the option to come back like any property owner and petition to us for a school and it will go through the normal process of Planning and Zoning Board, etc., etc., etc.

City Attorney Hernandez: If we win they will open in August with 110 students and also go through if they chose to, the conditional use site plan review process and land use.

Commissioner Withers: OK. Got it, got it, got it. If we tender an offer and they deny, I understand that, if we tender an offer and they accept, then basically we are frozen in time right now, the school opens with that agreed upon number...

City Attorney Hernandez: Correct.

Commissioner Withers:...and then here's what I'm not sure of, moving forward, do they still have the legal option where we find ourselves right now?- or does it automatically force them to go through a Planning and Zoning review, etc.?

City Attorney Hernandez: No, no. The settlement agreement, they have to go forward through the conditional use site plan review as well as land use; as part of this agreement they agree to go through our processes.

Commissioner Withers: OK. Now, here's the question. At the end of our process we have an option if someone does not agree with our process that they can still go to the Third Circuit Court.

City Attorney Hernandez: If they don't agree then they...the appeal of your decision is different.

Commissioner Withers: I understand, but do they still have the ability at the end of our...

City Attorney Hernandez: To go back to Circuit Court.

Commissioner Withers: Yes – so they are not waiving that right.

City Attorney Hernandez: No.

Commissioner Withers: They are just waiving the immediate right after the acceptance.

City Attorney Hernandez: Right – they are abating the action.

Commissioner Withers: They are doing what?

City Attorney Hernandez: They are stopping the litigation if they agree.

Commissioner Withers: OK – and then they would come back to us and apply Planning and Zoning Board, the whole nine yards.

City Attorney Hernandez: And if at the end of the process they are still not happy, then they will continue with their litigation.

Commissioner Withers: You made a comment that they are no worse off, can you expand on that please.

City Attorney Hernandez: What I was trying to explain to you is regarding the relative position, if they lose tomorrow's hearing they are no worse off than they are today. They can still open with 110 students.

Commissioner Withers: OK. Understand.

Commissioner Cabrera: But you heard from Mr. Gibbs, his clients would prefer that we rescind that approval.

Commissioner Withers: Yes, the K through 8th or change if from whatever the pre-K school is there now, right? I too am a proud graduate of the Cocoplum Women's Club where I was a red bird (laughter), and Sunset Elementary, Ponce Junior High School and Coral Gables Senior High School, so I understand the importance of public schools. All four of my kids went to West Lab and even though they might have been looked upon as white test rats they weren't (laughter), they did run in the wheel every night, but they were turned out OK, and the reason I asked you that is because West Lab from the day it opened under Pat Frost to today is an "A" rated school, and if I remember the test scores in the top one or two percent in the State on a regular basis, it is a very fine school. What concerns me about, and Ralph you said it so succinctly, I don't think any of us – we've been accused by a lot of e-mails, a lot of things, and one of the things that really struck me was that someone said to me in an e-mail that why don't you just take the cowardly way out and let the judge decide, you've got the political cover to do that, you know

you guys can let the State, it's a fate-a-complete, it's out of your control, the State will make the decision for you, they've made the ruling hide behind that, and I don't think any of us even had a notion, even a moment that we ever thought about doing that, and I suppose what kind of gets my gander up on this as much as the rest is we really feel that we don't want to lose control of the process, I mean, St. Thomas went through a process, St. Phillips went through a process, St. Teresa, all of those schools went through a Planning and Zoning process, the neighbors worked it out, the schools worked it out, and they are all fine institutions; the neighborhoods made compromise, the neighborhoods lived with the decision, the schools from what I understand are all doing well, we have actually had many of the graduates up here talking about their college aspirations and some of them already graduated from college and won awards. So I don't really think it's been a detriment to the schools in our area to make them go through the process that they've gone through. Saying that would I go for the two points to win the game, or would I kick the extra point to tie the game, I would err more on the side of kicking or going for the two points and winning the game; however, what concerns me about going into the next fifteen minutes of this deliberation with the fact of leaving it in the hands of a judge really runs contrary to how I feel about giving us the opportunity to rule on this, to make a decision to run it through the process. So if it means that we have to live with a year of upset neighbors if they are not happy with the number we end up tendering, I'm willing to do that because I want to guarantee that this Commission whether I'm here or Don's here or Maria's here or Ralph's here, Bill's obviously not here, that's my second shot at Bill, make sure he gets the verbatim minutes of this meeting, but I just want to make sure that we do have an opportunity to control somewhat of our own destiny, maybe not for the next year, but maybe for the following year. So I would support a number out there, and I guess Don, it's now at that point of the meeting to discuss that number.

Mayor Slesnick: And I would say this too that we've kind of avoided this, Tucker deserves an answer, he raised it well and made us all think, and that is if in fact the attorney for the neighbors has a valid point that the neighbors are not precluded from suing to enforce some of Tucker's arguments that there should be no school there.

Commissioner Withers: There should be what?

Mayor Slesnick: No school there. In other words Tucker raised issues that said that we had had it wrong from the beginning and that we shouldn't have issued the CO for the 110, and he raised his points, it's not points that obviously our City Attorney and our staff have agreed with, but Tucker raised them and raised them eloquently, and the courts are open to Tucker and the neighbors to try that; and again that's not a challenge because as a lawyer I'm second nature to Tucker, Laura and I and Liz, Mike and Jennifer to go to court, but we have an honest disagreement over that point and when you all decide if that honest disagreement is going to boil over we are not precluding that, we're not suggesting that we are acting as a court here and ruling on his objections. We've heard them and our staff will take them under advisement as always, and if the position changes because of your comments, so will our position too. OK. We have had a proposed settlement agreement with Somerset...

City Attorney Hernandez: What's missing is the number.

Mayor Slesnick:...it has been outlined to us by our attorney as to its conditions and so forth, and basically what we will be looking for is a motion to authorize the City Attorney to enter into that said agreement in order to move forward.

Commissioner Cabrera: But in order to do so....

Mayor Slesnick: In order to do so...

City Attorney Hernandez: We need a number.

Mayor Slesnick: If in fact we decide on a number that the school is not pleased with we'll have no settlement agreement anyway and then that will make other people happy. So anyways with that in mind let's do it this way; let's add a number to the resolution of authorizing the City Attorney to move forward to sign the settlement agreement that she has in her possession and that she has outlined to us, and the person making the motion pick a number and let's see what happens.

City Attorney Hernandez: It should be over 110.

Mayor Slesnick: Maria.

Commissioner Anderson: Oh yes.

Commissioner Cabrera: This is the part where we make sausage, you get to watch us (laughter).

Commissioner Anderson: Well I propose – I'm glad to make a motion, but I think we need to build a number. I'm only comfortable with maximum 200. Are we going to look at a consensus number or what? I mean I can propose it.

Commissioner Cabrera: You know I really would like to come out of this one as a consensus.

Commissioner Anderson: Because I have definitely a point of view.

Mayor Slesnick: Well let me argue my numbers. No, I'm serious, I'll provide some direction.

Commissioner Anderson: Sure.

Mayor Slesnick: When I look at the charts that were provided to us and I'm looking at the private schools located in churches, and those that are located in nearby neighborhoods, I discount St. Teresa because St. Teresa dates back to 1920's, 1930's and has a large piece of land with large fields and so forth separating it from its neighbors, etc., etc. anyway, I discount it whether I'm right or wrong; the two schools that I...and I discount a couple of the very small pre-K type schools, I don't know that this number is correct or the grades are correct, I find it hard to believe

that First United Methodist Church has 60 students and runs a 1 through 12, I don't think...anyway, the two schools that I am familiar with that are in proximity to this are St. Phillips and Granada Presbyterian; and St. Phillips and Granada Presbyterian are both elementary schools and one has 180 and one has 188; and Maria if it means anything to you I certainly would consider the 188 if that's a little closer. If at some point in time...

Commissioner Anderson: Let's just...I'll make the motion to authorize the City Attorney to do whatever you need to do, whatever that language says.

City Attorney Hernandez: Approve the interim settlement agreement with a number of...

Commissioner Anderson: 200 – going once, going twice.

Commissioner Cabrera: Can we reach consensus at 200?

Mayor Slesnick: I'd really like to stay below that.

Commissioner Cabrera: But I'm talking about 2...

Mayor Slesnick: If that's what you'd like.

Commissioner Cabrera: Well I want to reach consensus.

Commissioner Withers: See, I was thinking a little bit north of 200, so Don and I are apart. Liz, let me ask you a question how the process works now. If we reach a number, then do we throw it into the court of these folks and they say whether they accept it tonight?

City Attorney Hernandez: You can ask them if they accept it tonight that way we know if we are going to hearing tomorrow and staff can either stay afterward to get ready.

Mayor Slesnick: I want to know before I leave the room.

Commissioner Withers: Yes, that's what I'm wondering.

Commissioner Cabrera: But you also want to not only talk about...

Mayor Slesnick: Because if it's not an acceptable figure, then I will pass the gavel and move to send it to court tomorrow.

Commissioner Withers: So we'll know tonight.

Commissioner Cabrera: But 200 is the enrollment, we don't need to discuss staff or that whole issue with regards to the number of staff members, that's immaterial to this Commission?

Mayor Slesnick: Well, I don't know what number staff is.

Commissioner Cabrera: Neither do I, I mean, listen, that's why I said, you know you are going to watch us make sausage; I mean, we are basing this information...

Mayor Slesnick: But I've got to presume that because of budgetary constraints and so forth that you will have a staff appropriately sized.

Commissioner Cabrera: It's all mute; it's probably a mute point anyway. So we'll just stick to the 200.

Mayor Slesnick: Liz, in the document I would like to have you draw some reference to the fact that the size of the student body, the size of the faculty must be an appropriate proportion as outlined by guidelines of whatever educational groups there are, so that we don't have a staff for a 600 person school while we have a 200 person school.

City Attorney Hernandez: OK.

Mayor Slesnick: Well three people have up here said that 200 can probably suit their purposes.

Mr. Zulueta: Excuse me Mr. Mayor, can we have a recess for about three or four minutes, so we can go out and talk and come back and respond in some sort of civilized and effective way.

Mayor Slesnick: We are...let me put it this way, we are staying in place, so five minutes please.

[Note for the Record: The attorneys and parties of Somerset Academy took a five minute break to consider the number of 200 students].

Ms. Russo: Respectfully we cannot accept an enrollment figure comparable to St. Phillips and Granada Presbyterian, unfortunately we cannot charge, it's a public school, it's free and the funding for each of the students is half of what St. Phillips charges. So we are unable to accept a number and we have an obligation to the 1300 families, and that number was capped, so there are probably more families and we have to give them every opportunity for the best choice of public school. So we cannot accept a number that doesn't allow us to fund and make the school viable.

Mayor Slesnick: You know what?- I appreciate that honesty and that approach. I'll accept a motion.

Commissioner Anderson: I will make a motion to ask the attorney to...

Mayor Slesnick: Reject the settlement offer and go to court.

City Attorney Hernandez: OK.

Mayor Slesnick: OK. We have a motion by Ms. Anderson to reject, well let's not, let's not put it that way, let's have a motion for a resolution to instruct the City Attorney to proceed forward with the litigation and not to enter into a settlement agreement at this time. Do I have a second?

Commissioner Cabrera: Second.

Mayor Slesnick: Seconded by Mr. Cabrera. Any discussion on that?

Commissioner Withers: Well, I'm sorry we couldn't come to a number; it's just surprising that some schools can make it at those numbers and others can't. West Lab is down to 230; I'm sorry we didn't get there, at least as a starting point.

Mayor Slesnick: Mr. Clerk.

Commissioner Anderson: Yes

Commissioner Cabrera: Yes

Commissioner Withers: Yes

Mayor Slesnick: Yes

(Vote: 4-0)

(Absent: Kerdyk)

Mayor Slesnick: Thank you all again for this evening of patience and participation.

[End: 8:20:20 p.m.]