

City of Coral Gables City Commission Meeting
Agenda Item I-1
March 28, 2017
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Assistant City Attorney, Stephanie Throckmorton

Public Speaker(s)

Agenda Item I-1[3:20:28 p.m.]

Discussion regarding House Bill 17 and Senate Bill 1158.

Mayor Cason: Let's conclude with I-1.

City Attorney Leen: Thank you Mr. Mayor. And I'd ask Stephanie Throckmorton to come up. Item I-1 is a discussion regarding House Bill 17 and Senate Bill 1158, and I'm also adding to this a discussion of the Bill related to FPL that's been in the news a little bit. I know some of the Commissioners feel strongly about it and I believe the whole City feels strongly about it. Briefly, on House Bill 17 and Senate Bill 1158, those are the Bills that seek to take away the City's Home Rule and by the City, I mean basically all municipalities and counties in Florida, but it would include the City of Coral Gables, in an attempt to take away those local governments Home Rule power over business regulations. Stephanie do you have any update on that?

Assistant City Attorney Throckmorton: Both of those remain in Committee and I don't think they've been heard on the Committee Agenda as yet. Naomi Garcia Levi and our Lobbyist are both still working on that issue.

City Attorney Leen: So, the City's position is that we oppose these. As you may remember, there is a resolution that has been passed, asked my office to prepare in case they are adopted we would prepare to file a lawsuit if necessary to block them. We believe we have allowed the same defenses for these Bills that we had toward polystyrene, for example, we believe that the Miami-Dade Home Rule Amendment blocks it, we believe that the Municipal Home Rule Amendment to the Constitution blocks it, that you can't change by statute something that's granted by Constitutional Amendment and its existential threat in many ways to the City of Coral Gables, so we would obviously fight this if it was ever adopted, but we are monitoring it. The other thing I wanted to talk to you today about briefly is House Bill 1055 and Senate Bill 1048, and I'm doing this at the request of Commissioner Lago, who is sponsoring this. What I'm providing to you is a copy of a resolution that was adopted by the City of Miami as well as a letter that the Mayor will be sending to our Legislative Delegation, let me hand it out. What it essentially does – as you all know, and this comes up from time to time, Coral Gables did settle its administrative proceeding in front of the Governor and the Cabinet with FPL, and we also settled a separate franchise agreement lawsuit that was filed. So you know, every time I mention these Bills, I mention that we have to take account of the fact that we've settled. All I mean with that is, that we have to stand by our settlement and we have, and we've got, I just want to repeat again, we got a lot of benefits out of that settlement, and we were in a different situation than every other City, different situation, because we had an existing transmission line corridor. Now the problem with this legislation is one, it does affect our fellow cities who are continuing that case, but it also affects us in a negative way that, in my opinion, we can oppose this and still be consistent with the settlement; and the reason why and went up to Tallahassee and I gave some remarks, I know that Commissioner Lago wants to speak on this as well, but the problem with this proposed Bill is basically three-fold. First, the Bill is very broad, it doesn't just apply to FPL or to electricity, or to electric utilities, but it also applies to water, and it applies to gas, it's very broad by all sorts of utilities. In addition to that, it doesn't just apply to existing corridors, it applies to perspective ones. What does that mean? It basically says that perspective corridors are no longer within the definition of development, which means that our land development regulations which Coral Gables is well known for, do not apply to perspective corridors, well a perspective corridor could be anywhere in Coral Gables. So essentially, we are not – in determining where to put a powerline or a water line or a gas line, some of which are above ground and some of which are below ground, but in determining whether to put any of those things, you don't have to consider that this goes through a residential area, that's what's zoning is all about, is you have industrial areas, you have commercial areas, you have residential areas, this doesn't have to consider that, which doesn't make any sense. You would think that, that's one of the basic parts of zoning, so

that's a huge problem with this Bill; and finally, it does seek to undo certain decisions made by the Third District Court of Appeals. Now, we are not rechallenging the settlement, but there is possible in the future there will be another case that the City of Coral Gables has with FPL regarding another line, and the issue here is that the Siting Board needs to have the power to grant conditions of approval, which could include undergrounding, in certain circumstances, or could include looking at our land development regulations and imposing conditions, and this Bill takes that away from the Siting Board, and that's a big problem, because we need the Siting Board to have that sort of authority even if they didn't exercise it in this case, perhaps they will in the future, but even if they did or they don't or whatever ends up happening, they need to have that authority, because the whole purpose of quasi-judicial proceedings is that when a development company or when a utility wants to develop something and they cause a harm, there should be an ability of the decision-maker to impose a condition of approval to address the harm. That's very important and that's being taken away by this Bill and that's a big problem. This is why the Bill may be Unconstitutional, frankly. The Bill may be Unconstitutional, but that's the problem with the Bill, because it's not good legislation, and this has nothing to do with our settlement, that's why I wanted to speak.

Mayor Cason: How many of the other cities in Miami-Dade have pushed back?

City Attorney Leen: All – can you talk a little bit.

Assistant City Attorney Throckmorton: Well the City of Miami has passed a resolution, which we then provided a copy of and Mayor Regalado who has written a letter similar to the one we've drafted for you Mayor. I know all the other local municipalities were sent the Mayor Regalado's letter, I'm not sure if they have passed resolutions or have written letters of their own yet.

City Attorney Leen: The main thing that we are looking at today is this resolution from the City of Miami. I know a lot of the cities were up there when I was in Tallahassee; the County was there, I believe there were other cities. I know that Mayor Scoddard has taken a strong position, I know that Pinecrest has as well, and Pinecrest was present up in Tallahassee, but the main point to make from the City's perspective is that, this letter is important because it's not a good Bill, regardless of the outcome of this particular case, and we are not trying to undo the settlement, we stand by the settlement. This is not a good Bill in the future either, and so, my recommendation to you is, do you adopt a resolution and ultimately it's a policy decision, so it's up to you, but if you continue to have the position that you've indicated that you've had in the past, you could adopt a resolution against this Bill and still be consistent with the settlement; and so, I leave that to you and I know Commissioner Lago asked to have this issue raised may wish to speak about it.

Commissioner Lago: I think you've circled the wagons on the issue. To me this is an issue about Home Rule and I find it, I'm baffled by the fact that the State Legislature thinks that they can basically push the cities around and take away our Home Rule powers. To me it's perplexing and I think it's a very dangerous piece of legislation that the State is currently discussing and my understanding they have the votes for this to pass, and it looks like it's being expedited through the process and through Committee. So, it's just a simple issue about Home Rule and it's tough to really understand what's going on or why FPL would move in this direction.

Mayor Cason: Because they lost.

Commissioner Lago: But, it's not only about that. When I mean it's tough to understand, it's tough to understand not on those facts obviously, everything is based on money, the decisions are based on money, rate hikes are based on money, but when you watch their commercials and you listen to their PR campaign, you listen to the marketing strategy, it's all about Florida families. It's all about being the cleanest utility in the South United States and lower utility cost, this is going against South Florida families, this is going against cities in our backyard and our rights. I just ask for your support on this issue, and again, if you want to have a little discussion on it, I'd love to hear you out.

Mayor Cason: I think we should pass a resolution, I think we should also, when I sign this letter send it to all the other cities in Miami-Dade and urge them to – League of Cities, a little cover saying, this is existential, they could put if you are City Hall, a powerline, they could put it anywhere, through the University of Miami, anywhere. So, they need to get on the ball and do something similar and sort of push back. I'm in favor.

City Attorney Leen: I think it's a very interesting dichotomy, how on the one hand there is an attempt to really limit local government's ability to regulate, and on the other hand, basically give utilities free reign, with no regulations whatsoever, they could basically put themselves wherever they want.

Vice Mayor Quesada: There is nothing interesting about it; they are just trying to boost their power – so moved.

Mayor Cason: And seconded.

Commissioner Lago: Second.

Mayor Cason: So, Vice Mayor made a motion, seconded by Commissioner Lago – City Clerk.

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

Mayor Cason: Thank you.

[End: 3:30:31 p.m.]