

**City of Coral Gables City Commission Meeting**  
**Agenda Item F-5**  
**August 29, 2017**  
**City Commission Chambers**  
**405 Biltmore Way, Coral Gables, FL**

**City Commission**

**Mayor Raul Valdes-Fauli**  
**Vice Mayor Pat Keon**  
**Commissioner Vince Lago**  
**Commissioner Frank Quesada**  
**Commissioner Michael Mena**

**City Staff**

**City Manager, Cathy Swanson-Rivenbark**  
**Assistant City Manager, Peter Iglesias**  
**City Attorney, Craig E. Leen**  
**Deputy City Attorney, Miriam Ramos**  
**City Clerk, Walter J. Foeman**  
**Deputy City Clerk, Billy Urquia**

**Public Speaker(s)**

**Luis Garcia**  
**Maria Cruz**  
**Alejandro Silva**

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**Agenda Item F-5 [0:00:00 p.m.]**

A Resolution of the City Commission of Coral Gables, Florida granting conditional use approval pursuant to Zoning Code Article 3, "Development Review," Division 4, "Conditional Uses," for a modification to the adopted Campus Master Plan for Henry S. West Laboratory School located at 5300 Carillo Street zoned University Campus District for the property legally described as the Portion of Tract 3 of the Amended Plat of Portion of Main Campus University of Miami, Coral Gables, Florida; including required conditions; providing for an

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Agenda Item F-5 – Resolution of the City Commission of Coral Gables, Florida granting conditional use approval for a modification to the adopted Campus Master Plan for Henry S. West Laboratory School located at 5300 Carillo Street zoned University Campus District.

effective date. (08 09 17 PZB made no recommendation due to insufficient application, Vote: 7-0)

Mayor Valdes-Fauli: Next item is Items F-5 and G-8, having to do with school issues.

City Attorney Leen: So, Mr. Mayor, we're going to take them one after the other. We're going to take F-5 first. This is a resolution of the University Campus District modification, a resolution of the City Commission of Coral Gables, Florida granting conditional use approval pursuant to Zoning Code Article 3, "Development Review," Division 4, "Conditional Uses," for a modification to the adopted Campus Master Plan for Henry S. West Laboratory School located at 5300 Carillo Street zoned University Campus District for the property legally described as the Portion of Tract 3 of the Amended Plat of Portion of Main Campus University of Miami, Coral Gables, Florida; including required conditions; providing for an effective date. Before we begin a couple points. One, there is a recusal in this matter, so I'm going to turn it over for the recusal. And also, we need to swear in anyone who's going to be...

Mayor Valdes-Fauli: There is a what in this matter?

City Attorney Leen: Recusal by Commissioner Lago, who wants to speak on the record. And then second, we will then need to swear in anyone who's speaking, not Mr. -- not Luis here, not this Deputy School Board attorney, but I believe the architect is here. Is he going to be testifying?

Luis Garcia: More than likely not.

City Attorney Leen: Oh, he's not going to speak?

Mr. Garcia: No. He's here to -- if you have any questions regarding the project.

City Attorney Leen: Are you going to be testifying?

Mr. Garcia: No.

City Attorney Leen: Okay, so no one -- you're not presenting anyone to testify today.

Mr. Garcia: No, we're not. We're basically here to present the School Board's position, which I think is well-known to the City.

City Attorney Leen: Okay, well, we'll get to that in a second. So, the first thing would be to address the recusal.

Mayor Valdes-Fauli: I would like to address this issue. And, we have a cease and desist order, because they started constructing...

Commissioner Quesada: Mr. Mayor, I need to stop you. If he's going to recuse himself...

Mayor Valdes-Fauli: Pardon?

Commissioner Lago: I need to recuse myself. I just need to put it on the record.

Mayor Valdes-Fauli: Oh, okay. Go ahead, go ahead.

Commissioner Lago: Thank you, Mayor. As everybody here is aware, I've been doing business -- well, my firm -- let me correct that -- which I'm not the owner of. I've been pleased to work for them for the past seven years -- has been doing work with Miami-Dade County Public Schools, along with other educational facilities throughout South Florida and throughout the state since 2005. We have a CM contract and a JOC contract, where Miriam, our esteemed Deputy City Attorney, will explain, you know, the CM process and the (INAUDIBLE) process.

So, I'm going to recuse myself in regards to this project and she'll give you further details. Should I put anything else on the record or...?

Deputy City Attorney Ramos: That's all you need to put on the record.

Commissioner Lago: I would love to vote on this issue. I'm a big supporter...

Mayor Valdes-Fauli: Thank you.

Commissioner Lago: Of public schools, but I...

Commissioner Quesada: So am I.

Commissioner Lago: Cannot vote on this issue.

Commissioner Quesada: So am I.

Deputy City Attorney Ramos: Commissioner Lago has asked me to just briefly explain -- there's a five-page decision that's posted on our website, as all the opinions that we issue, and you're free to read it.

Commissioner Lago: Can you also, please, for the record state that it was my request?

Deputy City Attorney Ramos: It was your request for an opinion. There are three different items. The conditional use resolution and related cease and desist letter, which you'll be hearing right now, Item F-5, is a quasi-judicial matter. Based on the fact that it's quasi-judicial, under Florida Statute 286.012 and also under Miami-Dade County Code 2-11.1(d), which applies to us -- it's the Miami-Dade County Ethics Code -- we recommended that Commissioner Lago recuse himself under both, as we believe that it is required and he's obviously agreed to do so. The

second item on the agenda, a potentially Chapter 164 resolution, which you'll see later on today, we do not believe that Commissioner Lago has a conflict on that item and he may vote on that later today. And, the third item is not on today's agenda, but it is possible that this Commission will be sitting to determine whether we should move forward on purchasing additional seats at West Lab. That could lead to the need for a second floor and further expansion. And although we do not believe that there's a legal conflict, it could create an appearance of impropriety for him to vote on this in the future, and we'd ask that he consider that in deciding whether he should or should not vote for that, if it comes before the Commission at a later date.

City Attorney Leen: Yes.

Mayor Valdes-Fauli: Thank you.

City Attorney Leen: And Mr. Mayor, if I may add. Mr. Garcia, who's the Deputy School Board Attorney, I believe, wants to place his legal position on the record. After he does so, I would like to place the City's legal position on the record, and then we can proceed with the hearing.

Commissioner Quesada: A quick procedural question. This is a quasi -- we're sitting in a quasi-judicial capacity, correct?

City Attorney Leen: Yes.

Commissioner Quesada: And, if they're not going to present any evidence -- they're presenting no evidence for us to consider, correct?

City Attorney Leen: Yes. We'll have to address what exactly they present and what's presented by staff, but if there's no competent substantial evidence in the record, you would be required to reject the application.

Commissioner Quesada: Got it.

Mayor Valdes-Fauli: Yes, sir.

Mr. Garcia: Good morning. I'm Luis Garcia. I'm here on behalf of the School Board of Miami-Dade County. Basically, the School Board's position is well-known to the City as it has been a long-established history where any project that is within the City boundaries does not go through the City's application process. It has never had to go through the City's application process. For instance, when we did the renovations and additions at Coral Gables Senior High School or when we did -- we built a brand-new school, the International Studies Preparatory Academy, which is right on Madruga Avenue, which is now a nationally ranked and state ranked -- highly ranked state school within the City boundaries.

Commissioner Quesada: What's your legal authority for that position?

Mr. Garcia: The legal authority is 1013.37, which is the Florida Statute that says that school districts do not have to go through the municipal city building codes, and that's essentially what we are arguing here. We have our own building officials. We have our own inspections and permitting. And we've done this in the past with the City's cooperation, as I was mentioning, with the International Studies Preparatory Academy. We cooperated fully with the City while not going through its application process. We did a traffic study, got suggestions from City staff on many occasions, and this was just recently. It was only like in 2009 that we actually built that school. And this is a brand-new school within the City boundaries. Unlike West Lab, which is a city (sic) that has been on Carillo Street for over 60 years. Now, in that spirit of cooperation is how this addition to West Lab actually emanates. Because it is something that this City has requested from the School Board for well over a decade, and we're doing this project now, because of your (INAUDIBLE) request.

Mayor Valdes-Fauli: I'm sorry. We've requested what?

Mr. Garcia: I'm sorry?

Mayor Valdes-Fauli: We've requested what?

Mr. Garcia: The renovations and additions at West Lab. That has been something that the City has been requesting for a long time, because the City is -- the school is 60 years old and there's a need for it to have more students from the City and from the entire County to attend that school.

Commissioner Mena: Are you saying that you're not subject to our application process?

Mr. Garcia: Correct.

Commissioner Mena: Or are you also saying that you're not subject to our Zoning Code?

Mr. Garcia: To both. Well, if you look at the -- we currently have with the City...

Commissioner Mena: So, could you come in and build a 15-story building there if you wanted to? Is that your position?

Mr. Garcia: If it's a City -- an educational -- if it's an educational element, which is something that is found in your Comprehensive Plan, which is also part of the interlocal agreement that we have with the City that was executed in 2008, which says that any school element has to be made part of your Comprehensive Plan. And now, if you think about it, West Lab has already been here for 60 years, so that should have been already part of your Comprehensive Plan.

Mayor Valdes-Fauli: So...

Commissioner Mena: But, one thing is the school being part of our Comprehensive Plan -- and I don't think anybody's disputing that.

Mr. Garcia: Right.

Commissioner Mena: But my question to you is, based on your position, you're saying that you can build basically anything on this property...

Mayor Valdes-Fauli: Yes.

Commissioner Mena: As long as it -- what was the term of art you used...?

Commissioner Quesada: Has an educational component.

Commissioner Mena: Has an educational component. So, you're saying you could come in and build a 15-story building here without regard for our Zoning Code, if it served an educational purpose?

Mayor Valdes-Fauli: That's what he's saying, yes.

Mr. Garcia: A school -- if it's a school element, it should be able to go through the School District's own process without having to go through the zoning application process of the City. And obviously, the School District takes recommendations from the City. That's why we said in the past when we did the renovation at Coral Gables and an addition -- a whole new building at Coral Gables and when we did the whole new school at the International Preparatory Academy, we first come to the City, find out what their suggestions are before we actually start that building project. We did that with West Lab. I mean, West Lab went through your design review committee and they actually liked the project. Nobody really objects to this addition. As

a matter of fact, we also appeared by our own volition, without actually acquiescing to the jurisdiction of the City, before your Board of Architects. And, they...

Commissioner Mena: But...

Mr. Garcia: Also recommended approval...

Commissioner Mena: But even if we don't object...

Mr. Garcia: Of the project.

Commissioner Mena: But even if we don't object to this specific plan -- and we'll talk about that. But you can understand why it's a problem for us to have you saying and having a precedent where you can come in and build anything, regardless of our Zoning Code, and we simply are subject to providing suggestions to you. I mean, that's problematic for us. And, while we may not be in objection to this specific plan, I'm asking you -- I'm taking your logic to its logical conclusion. I mean, if you were coming in here with a 15-story building for educational purpose, we would have a significant problem with that, as would our residents who live in this area. And, you're saying -- if I'm understanding you correctly -- that the only check on that would be that you would hear our suggestions. That's a problematic process for -- at least for me. I think there needs to be a little more clarity on how this plays out.

Mr. Garcia: Well, if you look at your educational -- your Comprehensive Plan, it says when it talks about educational units, it says that it'll encourage the School Board to go through the City process. It doesn't state that we're required -- this is your own Comprehensive Plan. Obviously, we will not build a school that the City would object to because it's 15 stories high.

Mayor Valdes-Fauli: But you could.

Commissioner Mena: But you could.

Mr. Garcia: That is something that was -- conceivably. But, in the past, we have never had to go through the application process. This is not...

Mayor Valdes-Fauli: That's going to change, sir. And let me -- can I interrupt?

Commissioner Mena: Yeah, absolutely.

Mayor Valdes-Fauli: I wrote a letter on this on Sunday. And there is a cease and desist order there that you cannot continue building this. I am astonished that you're saying that you don't have to go through the City's application process. It may not have happened in the past, but the District has been so discriminatory and so anti-Coral Gables in the past that I'm offended by your presence and your state -- not your presence, your statements regarding -- that you can disregard the neighborhood, you know, good qualities, the single-story homes and you can build a 15-story building, if you'd like. Yeah, you can hear our advice or maybe you don't want it, but if you think you need it, then you can do it. Sunset -- do you realize the impact that Sunset has had in our residential neighborhoods? It has been devastating, and yet, you defend that. You can have City input, but you don't have to follow it. I am offended by that and I totally disagree. And, I am astonished your statement again that you're fulfilling the City's requests to build this in West Lab. Our City request also includes our ability to buy new spaces, not taking spaces away from any other in order to reduce diversity, et cetera. We would build new -- we would have you, with our money, build new spaces there for our Coral Gables residents. Eighteen percent of those students are from Coral Gables, and it's in the middle of a residential neighborhood. Fourteen percent of Coral Gables High students are from Coral Gables. That's pathetic and that is a shame, and you should be embarrassed to appear here telling us that you can do whatever you want in our school. That is embarrassing, frankly. And, I am very offended by your statements that you can disregard our Code and impose all of these things in order to serve the whole of Dade County community, which deserves to be served, putting that

burden on the backs of Coral Gables residents. I am offended and, unless we reach an agreement, that cease and desist order, as far as I'm concerned, is going to stay there and you will have to go through our processes, but the cease and desist order is going to stay. I had a meeting with the Superintendent yesterday, which he cancelled, for very good reasons, I imagine. But I insist on asserting our rights, our obligations to our residents, in spite of what you say the law is.

City Attorney Leen: Mr. Mayor, can I just put them on...

Mayor Valdes-Fauli: I'm very offended by that.

City Attorney Leen: Let me put them on the record, so at least it's aware and then you can respond. The Supreme Court, in the '70s, addressed this issue. And, in many states in the union, we have something called the superior sovereign system, which means that you have the state, you have the County and School Board, and then you have the cities. And, there's essentially a supremacy clause in place. So, if the County adopts an ordinance, a zoning ordinance, or the School Board, a policy that would take precedence over a city zoning ordinance. Florida does not follow that rule. It rejected it expressly, in a case called Temple Terrace out of the Florida Supreme Court. So, this is the Florida Supreme Court. It's a binding precedent. And, what the Florida Supreme Court said was, no, in Florida, we follow what's called the balancing of interests test. And in fact, it gives authority to the local government to have a hearing and to apply a balancing of interests, so that its zoning code will apply. And, in a series of decisions by appellate courts in Florida, they have applied the Zoning Code of the city to counties and school boards. And there's two specific decisions, one of which I cite in this -- two of which I cite in this document, which is a Chapter 164 resolution, which will come up later. Let me just read them into the record. The City of Orlando v. School Board of Orange County 362 So. 2nd 694 Florida Second District 1978 and the Village of North Palm Beach v. School Board of Palm Beach County 349 So. 2nd 683 Florida Second District 1977 -- this is well-established law for several decades that school boards and counties are subject to the zoning regulations of the city.

In addition to that, in Dade County, we have Section 6.02 of the Miami-Dade County Charter, which is based on a constitutional amendment granting home rule to Dade County. It takes precedence over any statute in the Florida Statutes, because of that which says that cities, because of their unique character, can have a higher standard of zoning regulation and service than otherwise provided, so that exists as well. In addition to that, there is a Florida Statute, which indicates that school boards are subject to Comprehensive Plans of the city. And, our city -- the particular Comprehensive Plan that we have for the University District does not allow schools. So, this is very unique to West Lab. We're talking about West Lab here and the concern...

Commissioner Quesada: But can you address...

City Attorney Leen: Yes.

Commissioner Quesada: I'm sorry to cut you off, but you mentioned the precedent. I hear that; I understand that. He mentioned the Florida Statute. I think it was 1037...

Mr. Garcia: 1013.37.

Commissioner Quesada: I'm sorry, 1013.37.

City Attorney Leen: 1013.37. That applies to Building Code. So, for example, we have the Florida Building Code. They have their own building official. They can grant building permits, but building and zoning are separate. They're distinct. Zoning involves the police power of the City to determine what's appropriate in a given community and to ensure that there are appropriate conditions of approval to protect neighborhoods. Building is a technical process. We have our Building Official, Peter Iglesias, and they have their building official, but they are separate. Just because you get -- you might be able to get a building permit, because you're going to build a 100-story building in Coral Gables that's going to be technically proficient

doesn't mean that you have the zoning right to do so nor can it. That would destroy Coral Gables. Our city's a planned city. We obviously have to apply our Zoning Code to everyone that comes in here and attempts to build.

Commissioner Mena: And I just want to clarify something. Nobody's looking for this to be adversarial. But, you need to understand that we cannot just allow our Zoning Code to be thrown out the window at your discretion and that you'll take our suggestions. I mean, as someone -- and this is West Lab. The Mayor brought up the example of Sunset Elementary. I live two blocks away from Sunset Elementary. Every morning, my street's a parking lot. And the reason we had zoning codes is because they provide things like parking requirements and things of that nature for buildings. And obviously, our Zoning Code, in particular in this city is one of the prides of this city. We take it very seriously. Our residents invest in this community in large part, because of the protections that are afforded by that zoning code. So, you need to understand that we cannot simply accept an answer that we can come in and build whatever we want, regardless of your Zoning Code, but we'll take your suggestions. That's not okay with us.

Mr. Garcia: If you give us an opportunity to respond to all the...

Commissioner Mena: Absolutely.

Mr. Garcia: Different things, and since it's a quasi-judicial proceeding, I really want to get some of the response on record. First of all, Mayor, I understand you may be offended by our position, but that is not our intent. Our intent is just to explain why we feel that we do not have to go through the application process. But, in addition to a school that has been requested by the City for over a decade, there's been numerous negotiations to try to get this school renovated and get that addition. And, when we finally finance it and get the construction started to give you what the City has requested, there's this attempt to intervene in that process when we didn't have it before with Coral Gables High or the other schools within your district, because the district -- the City has consistently acknowledged that we do not go through that process, even in its own

interlocal agreement that we have that was signed in 2008. We do not want to be adversarial in any way. We're -- this school is something that I think is a good school for the City, for the City residents, so is Sunset Senior High.

Mayor Valdes-Fauli: It's not a good school for the City, because you're excluding our residents, our children. It's not a good school for the City. I'm sorry to interrupt.

Mr. Garcia: No problem, Mr. Mayor. I take no offense to it. But I must, with all due respect, say that we do not try to prevent students from Coral Gables residents...

Mayor Valdes-Fauli: You are.

Mr. Garcia: Currently, there's 18 percent population of Coral Gables residents at West Lab, and we would like it to be higher. Maybe the application process is something that they need to engage in more.

Mayor Valdes-Fauli: Or maybe we can buy seats in West Lab.

Mr. Garcia: But that is a different issue. You're here on...

Mayor Valdes-Fauli: No, it isn't. It's the same issue.

Mr. Garcia: Well, I mean, you're here in a quasi-judicial proceeding to -- from a recommendation from your Building and Zoning Board, which is actually a recommendation for approval and all the conditional uses that is actually listed in that recommendation, we've already met.

City Attorney Leen: No, no. The Planning and Zoning Board did not -- the Planning and Zoning Board couldn't make a recommendation, because it was an insufficient application.

Commissioner Mena: Can I clarify something?

Mr. Garcia: (INAUDIBLE) on the agenda.

Commissioner Mena: Can I clarify something factually with what you said? You stated that, you know, you started construction and then all of a sudden we came out with a cease and desist order. Weren't -- were your building officials or your officials at the school on notice before you started about this? That was my understanding is that we were already involved in discussions with people from the School Board before this commenced.

City Attorney Leen: Oh, yes.

Commissioner Mena: And, we were actually surprised when construction commenced, because we were in active discussions.

Mayor Valdes-Fauli: And, we made the decision at my recommendation not to red tag the project and just issue a cease and desist.

City Attorney Leen: We raised this during the DRC process; we were both there. I spoke on the record and indicated to them that they would have to go through our process, which we also sought to require with the Coral Gables windows. We recently required Somerset Charter School to go through our process and they're treated equitably under state law. And, I spoke to the City Attorney -- the former City Attorney, Ms. Hernandez, who told me that she did believe our zoning code applied -- you had mentioned International School -- and that there were disputes and negotiations between the City and the School District regarding approval of that particular school. And that, in fact, there were some issues regarding your signs that were there, a digital sign, as well, and that it had to be limited. So, I don't think that the -- the City has always taken a balancing of interests approach, either through negotiation -- but the problem here

is there is no negotiation, so we are applying or formal process, which we're allowed to by law. The Supreme Court could not be clearer. It could not be clearer. There is no precedent going against the position that I'm taking today. You are bound to it, in fact. I mean, I wouldn't say that to the Commission I work for, but case law is binding and it says that it applies.

Mr. Garcia: The case law was superseded by Florida Statute. That's very clear. And in this instance, there's no real reason for the City to actually go through the application. If you look at the recommendations of your Board of Architects, which actually praised the project, even your Historic Preservation Officer liked the project, because it's consistent with the remainder of the school and it actually complies with the historic nature...

Commissioner Mena: But, it's not only about this project is the point I was trying to make to you earlier.

Mr. Garcia: No, I understand.

Commissioner Mena: It's about the fact that you are coming in, commencing construction in our city without any regard for our Zoning Code. And, that's not to say that this project doesn't comply with it. I'm not making that claim. I'm not trying to say that.

Unidentified Speaker: Right.

Commissioner Mena: And you know what, if you came in for application, it probably would get approved. But, we cannot allow a situation to persist where you can come in and build whatever you want without regard for our Zoning Code. That's the real issue here.

Mr. Garcia: But, it seems from the arguments that I hear today that the objection to the addition is the amount of seats that are going to the school that are actually dedicated to the City residents.

Mayor Valdes-Fauli: No, no, no.

Commissioner Quesada: No.

Mayor Valdes-Fauli: No. That sets the tone. The objection is that you're not coming through our process.

Vice Mayor Keon: Right.

Mayor Valdes-Fauli: The objection is that you say and you starting saying that you don't have to comply...

City Attorney Leen: I know the Vice Mayor...

Mayor Valdes-Fauli: With our process and our Zoning Code.

City Attorney Leen: I just need to say one thing. There's two parts of this. There's the conditions of approval to protect the neighborhood. There's also the issue that a school that is not a boundary school provides no benefit to the immediately surrounding community is placing a significant impact on them. So, in my opinion, the issue of seats is relevant. It's a relevant -- it would be relevant to a condition of approval. It would be relevant to a proffer. Otherwise, what you're saying is that the local community, which has to bear all the impact, gets none of the benefit. And typically, when you have developments, if you are not a public entity and it was private developer coming in over Somerset or any of these different entities, you could ask them for a proffer in that respect and that would not be viewed as an exaction. That would be viewed as a permissible issue for you to consider because the immediately --, because there's a nexus and there's rough proportionality and the immediate community is what is being harmed, and that's where you're seeking to have the seats provided.

Mr. Garcia: But, the issue here that we're another coequal constitutional entity, we're a political subdivision of the state, and the state has already decreed what powers the School District has. Remember, we are responsible for every school in the County, not just in the City. And in this case, we're applying our funds to give you a school that -- in addition to the school that is within your own zoning. I mean, it's in the Comprehensive Plan, regardless of what is stated here. It's been there for 60 years. This is not something that's out of the scope of the City's zoning. And at the same time, it doesn't have any impact. There's none of the...

Mayor Valdes-Fauli: It does have impact.

Commissioner Mena: How do we know that if you haven't...?

Mayor Valdes-Fauli: And, you haven't come through the process.

Mr. Garcia: Well, I can explain how the impact is lessened. Currently, the school is there with a capacity of 424. There's only 312 students currently there. When we do the addition, it doesn't even increase it by 5 percent.

Commissioner Mena: So, but you're asking me -- listen, I'm sure you're an honest person and I'm happy that you're saying those things and that sounds great. But, how do we know that unless you go through our process?

Vice Mayor Keon: Right.

Commissioner Mena: That's the whole point of having a process.

Mr. Garcia: Well, let's go through your process.

Vice Mayor Keon: Well, wait.

Commissioner Mena: When you break ground...

Mayor Valdes-Fauli: No, don't go through the...

Vice Mayor Keon: Commissioner Mena.

Commissioner Mena: When you break ground on construction, we're just supposed to assume that you're abiding by it? I mean, we can't operate that way.

Mr. Garcia: I understand your concerns. But, even if you look at what the Planning and Zoning Board said that it would be granted their conditional use...

City Attorney Leen: The Vice -- she's the sponsor of the item.

Vice Mayor Keon: I think that there was...

Mr. Garcia: Oh, I'm sorry.

Vice Mayor Keon: An issue that predates all of this. And, when it first came to our attention that the school system was negotiating with Baptist Hospital to build a parking garage on that site and then to redo the school, it wasn't just a school. It was also a parking garage, which when we asked about it, we were told that we had no jurisdiction. It wasn't up to us; it was up to you and you could build whatever you wanted on that site. So, I think that the issue that has been raised is -- started not with where you are today, but where you were going if we hadn't interceded or if you could have reached an agreement with all of the parties involved to go ahead and build it. You would have told us, too bad; we're building a parking garage. I mean, that is the way it was going. That is the way it was tracking. Now, it never came to fruition, so do we

know that that's what would have happened? No, but based on your prior conversations and the prior actions of the school system that is where we were going. So, that is why there is the concern here about our Zoning Code and all of these issues. Thank you.

Mr. Garcia: Commissioner, I understand your concerns. I was not present at those negotiations nor am I privy as to what took place in them. All I could say is that in this instance, we feel that this project fits the City Code. It fits the Zoning Code. And if you look at the recommendations of your Planning and Zoning Board that didn't take any action, they were very simple. They said that the applicant filed an application and appeared before the Board of Architects. We did that. We appeared before the Board of Architects and they recommended approval, with only a minor suggestion that we think about a different screen for the air conditioning unit that's going on top of the building. That was their only recommendation.

Mayor Valdes-Fauli: We have somebody who wants to speak, and I would like to make a motion after that.

City Attorney Leen: Well, I do think...

Commissioner Quesada: Mr. Mayor, considering it's an evidentiary hearing; I just want to call one member from staff just to get some facts on the record. It'll be brief.

City Attorney Leen: Yes. And, my understanding is you will allow your -- the architect who's right here to answer questions.

Mr. Garcia: Sure.

City Attorney Leen: Will you allow him to be put under oath?

Mr. Garcia: Of course, absolutely.

City Attorney Leen: Okay. So, could we do the oath now, Mr. Clerk?

Mayor Valdes-Fauli: And, Maria Cruz also wants to...

Commissioner Quesada: And actually, I'm going to call Peter Iglesias, so maybe the three of them take the oath at the same time.

City Clerk Foeman: Would you raise your right hand, please? Do you solemnly swear or affirm that the testimony you will provide this morning will be the truth and nothing but the truth to the best of your knowledge?

(COMMENTS MADE OFF THE RECORD)

Mayor Valdes-Fauli: Yeah, Ms. Cruz, and then we'll have...

Maria Cruz: Maria Cruz, 1447 Miller Road. I am a little disturbed about this whole conversation because -- and I agree with what Craig Leen said. This is not one issue. This is a whole composite issue, okay. We do have rules in this city, and yet, I've seen things going on in the schools that do not go by our rules. We are -- Garcia is talking about this is your school in your city. It is not our school. It is in our city, but we have nothing coming out of it. Because when you have 18 percent of the students are residents and the rest of the people are coming from other places and if our kids want to go to a school similar to that, they have to travel ten miles to go to, or we have to buy seats. You know what; I'm going to tell you something. I haven't had a kid in Dade County Public Schools since 1980 -- 1992. I'm paying school taxes. So, if most of the people that live in Coral Gables that don't have kids -- and even when they have kids, they go to private schools. So, we're putting money in. We shouldn't have to buy seats for our kids that want to go to any school that is within our city, and that's part of the deal here. It's not just, you know, we do it this way or that way. And, when we talk about it doesn't

affect us, the traffic affects us. The construction affects us. You know, the people that live -- this is a school that's in the middle of a residential area. It does affect us.

Mayor Valdes-Fauli: Thank you.

Ms. Cruz: Thank you.

Mayor Valdes-Fauli: Thank you very much. I'm sorry. What's the next step?

Commissioner Mena: Peter was next.

City Attorney Leen: So, what would occur at this point is Peter is going to speak briefly about the application.

Commissioner Quesada: Just -- well, no. Just a few basic questions. I just want to clarify something.

City Attorney Leen: Sure.

Commissioner Quesada: Peter, a quick question. The attorney for the School Board mentioned the International School was built by the School Board. Is that the case or no?

Assistant City Manager Iglesias: That was an existing building that was remodeled.

Commissioner Quesada: Okay, it was remodeled. And did they seek any approvals at all in that process?

Assistant City Manager Iglesias: They had a school drop-off zone that had to be approved by the Public Works Department and the Dade County Traffic Department.

Commissioner Quesada: Okay, so in the past, they have sought approvals related to schools...

Assistant City Manager Iglesias: Within the (INAUDIBLE), yes.

Commissioner Quesada: With the City of Coral Gables.

Vice Mayor Keon: And signage.

Commissioner Quesada: I'm sorry?

Vice Mayor Keon: And the signage.

Assistant City Manager Iglesias: And signage.

Commissioner Quesada: The parking lot that was proposed related to the potential negotiation with Baptist. Do I recall correctly with the parking it was 350 parking spaces?

Assistant City Manager Iglesias: About 300, I believe.

Commissioner Quesada: About 300. And how many parking -- and that's larger than our Garage 1; is that correct?

Vice Mayor Keon: It's about the same.

Commissioner Quesada: Our parking garage 1.

Assistant City Manager Iglesias: Yes, it is. Yes, it's larger.

Commissioner Quesada: Okay, those are the only questions I had for him.

Mayor Valdes-Fauli: Okay. Mr. Leen.

City Attorney Leen: Mr. Mayor, what I would propose at this time is that staff come and speak briefly about the application, and then the architect is here. I should note for the record that the architect is on our Historic Preservation Board. I've given opinions in the past that even if you're on one of our boards, you can present to the -- you can speak before the Commission if it's in the form of testimony, if the Commission's asking questions. The reason I raise that is because we do have a provision of our Code that does not typically allow board members for a quasi-judicial board to come and present before the Commission. But, what we have said is that no, well, they can -- but if they're an architect, they can answer questions. We're also addressing that issue as well, and we're going to be removing that portion of the Code, because it's not in the County Ethics Code. So, we're construing it as narrowly as possible at this time. But anyhow, I just want him to know that and I wanted to put that in advance on the record, because I don't want him to get -- and anyone to get upset with him for speaking before the Commission.

Mr. Garcia: No, I appreciate that. But, I would like to make one response to clarify the record before we go on to the testimony. Something that was said here earlier was that the School District comes to the City without its -- you know, without taking into consideration its requests and it builds a 15-story building or something like that. As the testimony that was given to you by your own City official, in the past, with ISPA, which was a school that was brand-new, it was an existing building, but we had to renovate it completely into a school and spent considerable funds and money in there. That school, we came to -- through the City, even though we didn't file an application through your zoning or anything in -- like you requested to be done or demanded to be done in this instance, we still met what the City wanted. We did the drop-off. We did a traffic study to meet the City's requirements, and it went by smoothly, and now you have a school that's nationally ranked and highly ranked within the state and within the nation. And it's a school for City residents as well.

Vice Mayor Keon: Well, it's a magnet school.

Mr. Garcia: It is a magnet school. I mean...

Vice Mayor Keon: I don't know what percentage of kids in the City go there.

Mr. Garcia: I'm not familiar with it either.

Mayor Valdes-Fauli: Peter.

Assistant City Manager Iglesias: Well, let me just say that the drop-off requirement not only was a City requirement, it was a County requirement, because the County deals with streets and our traffic issues.

Mayor Valdes-Fauli: Thank you. Would you -- did you want to have the architect come up?

(COMMENTS MADE OFF THE RECORD)

Unidentified Speaker: Yes.

Vice Mayor Keon: He was sworn in.

Alejandro Silva: Good morning, Mr. Mayor and Commissioners. My name is Alejandro Silva, with Silva Architects, offices at 135 San Lorenzo Avenue, Coral Gables, Florida. I'm also a Coral Gables resident. And as Mr. Leen said, I also sit on the Coral Gables Historic Preservation Board. I apologize for being stuck in the middle of all this today. But, we were the designers on the project, the A of record. We -- it's an 8,500-square-foot addition to West Lab, six classrooms. We really tried to be extremely sensitive to the site in terms of, number one, the

existing trees and, number two, the historic nature of the site itself. The building is very carefully proportioned, so that it's very complementary to the historic architecture of the facility. We are matching heights and we are screening all equipment. The window pattern on the new facility mimics the old. I think if you read the minutes of the Board of Architects and the DRC meeting, you'll see that it was -- the design itself was well received. I think that may not be necessarily the issue here. But that being said, if you have any specific questions about the project, I'm obviously, more than happy to...

Commissioner Mena: I think your right, for what's its worth. It's a beautiful design.

Mayor Valdes-Fauli: No, it's a beautiful design.

Commissioner Mena: And I compliment you on that. I think there's a greater issue here, which probably goes beyond the scope of your architectural work on this project. If I could just ask you a question. In designing the building, did you take steps to verify whether or not it abides by our existing Zoning Code?

Mr. Silva: Yes, we did. We actually did the required zoning calculations. We meet all the setbacks. We meet the FAR. We're within the height in terms of technical qualities, yes.

Commissioner Mena: Right.

Mr. Silva: It is compliant.

Commissioner Mena: But you did that internally. You didn't go through any City process.

Mr. Silva: Yes. But, we did the calculations and they were actually submitted to DRC at that time. They were placed on our site plan as part of -- and we also did -- there was one tree on the site that we did have to remove, and we did permit that tree removal through the City. We took

that through the City process. It was approved and the tree was removed, with mitigation (INAUDIBLE), which we'll be providing as well.

Vice Mayor Keon: I have a question with regard to the structure of the school. You know that we had been in ongoing discussions with the school system and had been meeting over -- well over a year. How much -- Ms. Manager, how long have we been meeting on the issue of additional seats at West Lab?

City Manager Swanson-Rivenbark: I think it's since 2014, I'm told. I did not come until the end of 2014, but I'm told that those discussions were prior to my return.

Vice Mayor Keon: I know shortly after I was elected to office we began the discussion, because we don't have enough high-quality elementary school seats affordable to this feeder pattern. It's not just Coral Gables. It's the feeder pattern that we exist in that includes part of Coral Gables. We have been in a discussion with them on the addition of seats. I want to know is the building constructed in such a way that those seats could be added.

Mr. Silva: Yes, Vice Mayor. We took a very close look at the site and we felt that the most appropriate solution in terms of keeping green space and keeping trees was to do a two-story -- possible two-story solution. So, the School Board asked us to design this building, so that the foundations and the glazing and everything is designed to support a future second story.

Mayor Valdes-Fauli: I would like to call Ramon...

Vice Mayor Keon: It's done in such a way that they can accommodate interior staircases and all those things to access the second floor with elevators, all that.

Mr. Silva: The stairs will be placed on the perimeter of the building. It would be, essentially, a mirroring of that same plan on the second floor...

Vice Mayor Keon: Okay.

Mr. Silva: Where they have two stair tiles added.

Vice Mayor Keon: Thank you.

Mayor Valdes-Fauli: I'd like to call Ramon Trias, who has a presentation for us on the project. Ramon. You have something for us.

Planning and Zoning Director Trias: Yes. I have the PowerPoint that was...

Commissioner Quesada: He's got to swear in. Mr. Clerk, he's got to swear in.

City Clerk Foeman: Do you solemnly swear or affirm that the testimony you will provide this morning will be the truth and nothing but the truth to the best of your knowledge?

Planning and Zoning Director Trias: I do. Mayor, I have the PowerPoint that was given to the Planning and Zoning Board. That's probably the easiest way to explain where we are. I'll go really quickly. The technical aspect of this project is that it's a modification of the Campus Master Plan. For whatever reason, the school is part of the University of Miami master plan, for whatever reason. I don't know why. And as you know, the property is right along Carillo, and the existing buildings are actually very nice. It's a remarkably nice campus, very unusual for the School Board, if you look at it in context. And, what the architect was proposing was very clearly compatible with what was there. So, those are, I think statements that I agree with and that most of the other people that have viewed this agree with. The Campus Master Plan, as you can see, is a very large blue area within the Zoning Code. And, the area that we're looking at is the very northernmost end of that whole area. And, the land use and the zoning are also the same as the university campus. So, what is required is a conditional use process to modify that

Campus Master Plan. Now, the proposed project has one building, one building with eight classrooms, which is in red, and a small storage area that is a storage building right next to it, and then some sports facilities. The floor plan, as you can see, in the larger building that has the eight -- I'm sorry, the six classrooms that are accessed from the outside directly from the ground level. The architect did testify that a second story could be added to the building in the future, that that was possible. Now, if that were to happen, though, it would be a significant project, because it would require an elevator and two stairs to be built also. In terms of the design, the design is very similar to the existing buildings in the modern style, very compatible with the campus, very appropriate. We did have a chance to do the DRC, the Development Review Committee, back in February, which is where all the materials that you had were provided by the School Board at that point. They did provide the -- an application for DRC. Then, we had a chance to go to the Board of Architects a couple of times. The second time, the architect made a full presentation to the members and it was well received, and they made some comments, as the attorney explained, about only the screening of the mechanical systems at the roof. I believe that they're going to make those changes. They didn't seem to be significant and so on. But those were the comments. We've also went to the Planning and Zoning Board, and they were frustrated with the fact that the application was not complete, and that was true since they had not submitted a new application since DRC, and that is why they chose not to have a recommendation. And, we've had a chance to have staff review from all of the different departments, and I think that the -- and we also notified the property owners within a thousand feet, as required by Code in this type of application. There were letters sent once. The property was posted twice. The website posting happened three times, and there was a required advertisement in the newspaper also. And, staff has reviewed this and recommended approval with some conditions. As I said, the Planning and Zoning Board decided not to make a recommendation later on. And basically, the conditions deal with that the applicant should follow the Zoning Code, that any demolition should be processed through the historical resources department. And, then the most significant one would have to deal with traffic. The applicant did not provide a traffic study, and traffic there on Carillo -- traffic plus parking is an issue, and that is an issue that I think there should be some further discussion with the School Board. All of

the parking, as you know, is taking place in the right-of-way, rather informally, I would describe it, in the swale. Which in itself, in the big picture, is probably a good way to deal with parking in that site because it's fairly low impact, but it could be enhanced with some design improvements. And also, the traffic impacts, we don't know what those are because a traffic study was not provided -- at least it was not provided to my office. And, then there was a recommendation for an additional crossing guard. Those were the recommendations, which if we were to follow the process, the Commission has the authority to make conditions.

Mayor Valdes-Fauli: Thank you.

Planning and Zoning Director Trias: That's the end. Thank you.

Mayor Valdes-Fauli: Any other comments from the Commission? If not, I would like to make a motion. Madam Vice Mayor.

City Attorney Leen: Well, Mr. Mayor, before the Commission speaks, I would like to also put in the record a copy of the cease and desist letter that was sent to the Miami-Dade County Public Schools. The reason being that attached to that is the -- it's a zoning analysis and land use analysis done by Craig Coller, formerly of the Miami-Dade County Attorney's Office, head of their Land Use and Zoning Section. Now, he was not, obviously, representing or speaking for the County in writing this, but he's very knowledgeable about these issues, and so I asked him to do his own analysis and to take a look at some of these issues I've been raising, and he put that into a document, which we have right here which I will be putting in the record right now.

Mayor Valdes-Fauli: Thank you.

Vice Mayor Keon: Okay. Could I have a motion on this?

Mayor Valdes-Fauli: Yeah. I'd like to make a motion that we reject the resolution and that we continue the cease and desist order until further -- until they comply with our application process, the traffic study. They go before the Planning and Zoning Board and we have a recommendation with it, because I don't trust the School District in the sense that -- I don't know if you know, but at the northernmost tip of that lot, they wanted to build a parking lot, a huge parking lot for Baptist Hospital with a ground floor school, but it would be a huge parking lot in the middle of our residential neighborhood for the benefit of Baptist Hospital. They would get \$20 million, which is nice for the School Board, but forget Coral Gables. I mean, who cares about Coral Gables? They were going to get that, and that is their attitude. And, I would like for them to, with all our good will and good intent, come through our Planning and Zoning Board, come -- have the traffic studies, have everything that they need to do in order to comply with our regulations, because our fiduciary duty is to our residents, so that we don't get a \$20 million parking lot in the middle of our residential school -- I mean, our residential neighborhood. Also, I would like to continue negotiations and maybe they get a part of this and not necessarily, but continue negotiations on our having students -- Coral Gables students attend West Lab. And, I am willing to buy seats in West Lab even though we pay a billion dollars in taxes every ten years to the School Board. And, I would -- my motion is to reject this and to continue the cease and desist order and to encourage our City to work with the District in order to reach a satisfactory solution and allow them to proceed with this school addition.

Commissioner Quesada: Mr. Mayor -- and I'm fully supportive of that. My biggest issue that I have here is, you know, when you were discussing the law back and forth, I mean, I heard a lot of Florida Supreme Court case law cited and the West Palm Beach case and Palm Beach case and the only response I heard back is that it's -- the statute overrides that. I didn't hear a citation other than that. I guess my biggest issue is how do we prevent this in the future from going forward? And, I don't...

Mayor Valdes-Fauli: By calling their attention. I mean, we...

Commissioner Quesada: And, I don't know if it's a Dec action to clarify those rights. I don't know if we need to do something further. It's something that I want you guys to consider, to think about. I don't think it's a decision for today.

Mayor Valdes-Fauli: Yeah.

Commissioner Quesada: But, it's something that regardless what happens, we don't want to be an adversarial -- we just want clarity on this point. And obviously, because of what I feel is the lack of clarity on it is what causes this tension, which...

Mayor Valdes-Fauli: Right.

Commissioner Quesada: Obviously, we want to get away from.

Mayor Valdes-Fauli: Alright.

City Attorney Leen: We do have on the agenda coming up right after this a Chapter 164...

Mayor Valdes-Fauli: Yeah. We do have that coming up.

City Attorney Leen: Resolution coming up for your consideration.

Commissioner Quesada: You know, I had my skepticism as to a 164. It's...

City Attorney Leen: Well, the thing is, under state law...

Commissioner Quesada: We're required to do that.

City Attorney Leen: We have to go...

Commissioner Quesada: Yeah, we have to.

City Attorney Leen: Into a 164.

Vice Mayor Keon: We have to go through that.

Mr. Garcia: Or even if you filed a declaratory action, you'd still end up in Chapter 164.

Mayor Valdes-Fauli: Yeah.

Mr. Garcia: But, one thing that I would like to clarify before you move on in your motion -- I know you have one on the floor -- before you, is that the recommendation that you have was to go through the application process. But at this juncture, I really don't know what else there is to do. There was an application that was presented to the Planning and Zoning Board, even though we were not present, because we had a School Board meeting at the same time, and that went through the process. And, they made several recommendations that are in Exhibit A to the documents that are before you from the Planning and Zoning Board, and I think all those requirements have actually been met. So, I really don't know what the motion does now since it says to go through that process, when it seems like the City did it on its own, sort of in the form of a legal fiction.

Mayor Valdes-Fauli: You started going through the process, but the process -- the information was not complete, and you didn't go through a traffic study. And, I would like for you to -- if you had gone through what you say, maybe we can go through it in a week.

Mr. Garcia: Well, the City -- the School District does not object to a traffic study. We've done that in all the other projects that we've...

Mayor Valdes-Fauli: Right, but you haven't done it here.

Mr. Garcia: We normally do the traffic study when school is in session, so you can get an actual identifier of what the traffic is and the impact.

Commissioner Mena: Well, you started building already.

Mayor Valdes-Fauli: My motion stands. Will you call for the roll?

Mr. Garcia: Well, as I explained earlier, the impact that we have is the same of what the School Board's actually established for originally, in terms of students, so it wouldn't...

Commissioner Mena: And again, you seem like an honest man, but we have a process so that our staff and our professionals can evaluate whether that's accurate or not.

Mr. Garcia: No, and I understand...

Commissioner Mena: And, to not have a -- I'm hearing Mr. Trias say there's no traffic study. I mean, that is, in any project in our city, a major red flag.

Mayor Valdes-Fauli: Especially for a school.

Commissioner Mena: We just had -- we just spent half an hour before you came up talking about improving our traffic study process, because it's something that really concerns our residents. So, we're not -- again, I want to make clear, I don't think it's anybody's intention here to be an obstacle to this going forward, but we do need it to go through the appropriate process, so that we can make sure that we know the impact it's going to have on our community. That's the entire -- that's probably our chief responsibility as a Commission and it's certainly the chief goal of our Zoning Code. And, for you all to circumvent it and tell us, well, we have a statute

which allows us to, I'm not sure I agree with you on the legal. I agree with Commissioner Quesada. We maybe need some clarity on that. But again, we want to see this go forward, but we just want to see that you go through the appropriate process, so that we are comfortable with how it impacts our residents.

Mr. Garcia: Right. The only thing that I want to just respond is at the end of the day, you're just looking at form over substance. I mean...

Commissioner Mena: I totally disagree with you.

Mr. Garcia: We didn't go through any application process and we still did the traffic study. That can be done (INAUDIBLE)...

Mayor Valdes-Fauli: I disagree.

Commissioner Mena: If that was true -- sir, if that was true, if this was just about form over substance, I would think it would be very easy for you...

Mayor Valdes-Fauli: Yeah.

Commissioner Mena: To comply with the form, if you've done all the substance. Why not comply with the form? Why give us such a difficult time? Why not go through our application process if it's just about form? So, we're not asking much of you. If you're right, if it's form over substance, then we would ask, sir that you and the School Board please comply with the form, because it's not that hard to do.

Mr. Garcia: I understand that.

Vice Mayor Keon: Thank you.

Mr. Garcia: And that's what my initial question was. It seems like we've already gone through the entire process, except for the traffic study. It's not that we object to any of it at all. We understand the City's concerns. And like I said before, this project is a result of the cooperation that we've had for the city. It's a long-established practice that we've had for many years. This is not the first project that we're doing in the City of Coral Gables. And we've done them for several years, for decades, without ever having to go through this entire process, and we ended up with schools that are good within the school -- within the City boundaries.

Mayor Valdes-Fauli: Yeah. I differ with that, too.

Vice Mayor Keon: And we will continue the process.

Mr. Garcia: I understand.

Vice Mayor Keon: Commissioner Quesada, did you second the motion?

Commissioner Quesada: I did.

Mayor Valdes-Fauli: Yes, he did.

Vice Mayor Keon: Call the roll, please.

Commissioner Quesada: Yes.

Commissioner Mena: Yes.

Mayor Valdes-Fauli: Yes.

Vice Mayor Keon: Yes.

(Vote: 4-0)

City Attorney Leen: I would like to make one clarifying point, unless you disagree. I understand your rejection of the application to be without prejudice to them coming back...

Mayor Valdes-Fauli: Right.

City Attorney Leen: If they go through the process.

Vice Mayor Keon: Absolutely.

Mayor Valdes-Fauli: Absolutely.

Commissioner Mena: Absolutely. And I think the Mayor...

Mayor Valdes-Fauli: But, the cease and desist order will continue in place.

City Attorney Leen: Yes.

Commissioner Mena: And, I think the Mayor stated -- and I don't want to put words in his mouth...

Mayor Valdes-Fauli: No, no.

Commissioner Mena: But if I understood him correctly, we're talking about -- it can be an expedited process to finish whatever is still missing from the process, planning and zoning, traffic study. Mr. Trias can tell us what else -- what other gaps there may be. But, I also think it would behoove all of us to have some discussions. I know there was supposed to be a meeting between the Mayor and Mr. Carvalho. I think it would be -- Superintendent Carvalho. I think it would be great if that could actually happen. I think it would be great if there can be a broader discussion about this because, again, I don't think it's anybody's intent for this to be adversarial.

Again, if you're right, let's just abide by the form and let's get things done in a way that's great for everybody.

Vice Mayor Keon: I think it would...

Mr. Garcia: I certainly understand that the hearing was not something that we requested. It was something that was done by City.

Vice Mayor Keon: Right. But, I think that...

Mayor Valdes-Fauli: What meeting, I'm sorry?

Vice Mayor Keon: Going forward with the school system...

Mayor Valdes-Fauli: What, this hearing? Okay.

Vice Mayor Keon: Yeah. I think going forward with the school system that when we ask or we have an issue that we would like to discuss with you, that you would have people attend that have the authority to negotiate and not only to say no, because today every discussion that has happened between the City and the school system has been through other people or people appointed by the Superintendent to have that discussion. And, the only authority that they seem to have is to say no. So, I think going forward -- I think that there should be maybe a better effort.

Unidentified Speaker: Thank you.

Mayor Valdes-Fauli: Thank you very much, sir.

Mr. Garcia: Thank you.

City Attorney Leen: So now, at this point, we should bring back Commissioner Lago, and we have...

Mayor Valdes-Fauli: Yes.

City Attorney Leen: The Chapter 164 discussion, which we may want to go forward and do.

Mayor Valdes-Fauli: Let's take a...

City Attorney Leen: In light of the action today.

Mayor Valdes-Fauli: Five-minute break.

City Attorney Leen: Okay.

Mayor Valdes-Fauli: And then we'll continue it, and we will start with the agenda.