

City of Coral Gables City Commission Meeting
Agenda Item I-1
January 26, 2016
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

Public Speaker(s)

Agenda Item I-1 [3:03:00 p.m.]

Status update regarding City Commission's request to the Miami-Dade County Mayor and Board of County Commissioners to resolve the lawsuit between Miami-Dade County and the Lola B. Walker Homeowners Association.

Mayor Cason: We have only two things left, we have F-2 and the Attorney is going to talk to us on I-1 about...

Commissioner Lago: You want to do I-1 first?

Mayor Cason: Let's do I-1 first.

Vice Mayor Quesada: Just want to make a quick note. Commissioner Slesnick please don't encourage Commissioner Lago, OK. Thank you.

Mayor Cason: City Attorney let's do your I-1.

City Attorney Leen: Thank you Mr. Mayor. Item I-1 is a status update regarding City Commission's request to the Miami-Dade County Mayor and Board of County Commissioners to resolve the lawsuit between Miami-Dade County and the Lola B. Walker Homeowners Association. I'm not going to do a full recap of the background facts because I've said it to you twice now. But I did want to keep bringing this up to let you know the status, because I do think it's helpful, and I know that the – I believe that the County likely watches this and also I think they are concerned with what the City thinks about this matter. So I want to bring it back to you to get your feedback. I'm going to give you an update. First, the City Commission has asked to be placed on the agenda, the County Commission's Agenda. We have received a response now that they will put us on the Agenda. They've agreed we have that in writing. So the next question is the date and time. Now in my view, they should have already given us a date and time, we are still requesting a date and time. At this moment I do not have that. I did send a request today to the person who schedules, I sent one yesterday and today, and I'm still waiting to hear back. Right when I learn I will let you know and all of you are invited obviously to the County Commission meeting. I know that Commissioner Lago and Commissioner Keon have indicated that they wanted to go and so once I get that date and time I will let you know. The second issue is mediation. The City offered to basically provide a mediator to the County and to the Bahamian Village, including the Lola B. Walker Homeowners Foundation so they could resolve the matter, and we suggested George Knox, the former City Attorney for Miami. We've now learned from the County that they've rejected that proposal, they will not accept the mediator from the County; pardon me, from the City. What they have said, I see you are looking at me in surprise. I was surprised too. I thought that they would accept that, but what they have said is that they will...

Vice Mayor Quesada: One of the most well respected governmental attorneys in the history of Miami-Dade County.

City Attorney Leen: I agree. They have said that they are meeting; they are setting up a meeting with the Bahamian Village to try to work the matter out. At this moment, they've said that they don't want the City to participate. I've asked them to take another look at that, because I do think that we can be of help in resolving this matter in a number of ways. Also, I know that the Lola B. Walker Homeowners Association trusts us, trust the City, and I think that they would appreciate if we were there, and I know that they are very appreciative of everything you've done. We are going to ask the judge to basically require mediation, paid for by the City, basically to impose what we've offered, and that will come up this week, there is a hearing on the motion to dismiss. That's the next thing I want to tell you about was the case. We filed a motion, the City, to intervene or appear as an amicus. We have a very strong basis to intervene in my opinion, because we have an actual restrictive covenant on the property that could be affected by the

County's exercise of its reverter. We are going to ask the County to give us assurance that they would not try to basically invalidate or go after our restrictive covenant; we'll see what they say once we send that request. In addition, we also have a planned area development, so what that planned area development does is that it establishes that they'll be a community center there, and it basically does the site plan, and that can't be changed under our regulations without a public hearing, because the whole purpose of a planned area development is people move there knowing what's going to go in that space so it can't be used for a private development or any other sort of development. It has to comply with our planned area development. So we are going to ask them to give us assurance that they will comply with that as well. If they don't, we may want to intervene as a party as opposed to an amicus that is on the table, that's something that we raised with the judge, and we may end up intervening as a party. The other issue is – but right now, hopefully we'll be able to intervene as an amicus which is our principal idea. Lastly, and for those, an amicus is a friend of the court, because you know we are ultimately, even though we are very sympathetic with our residents and we are trying to help them here, ultimately we are neutral. We are here to try to help the parties resolve the matter in a way that allows the community center to be built. We are not here to take the County's rights away, or to have them forfeit their property rights, we are just asking the County to wait and to work with us to come to a three-party solution for having the community center built, which is what everyone wants. I believe our position is very reasonable. Lastly, just to let you know, I really, really, really, really hope that we don't have to do this, but we have prepared a mandamus action regarding the agenda and also our public records request. What that basically does is it asks the judge to order that those things occur because they are ministerial. The County is working with us and I don't think it would be necessary anymore, but I wouldn't be honest if I didn't say I was a little disappointed that we haven't been given a date and time. I know that the County Commission, I believe, would want to hear from the City Commission on this matter, and I also know that if the County ever request it to be placed on our agenda we would place them immediately. We have a good relationship with the County. Whatever reason this case is difficult, but I do hope that we will be able to reach a resolution. I do think we made a lot of progress because the County is saying that they are going to try to work the matter out and that they are setting up a meeting with the Bahamian Village and also because they are putting us on the agenda, and because the case is going forward. There is a hearing this week. We sent a letter to the judge asking the judge to allow us to be an amicus to intervene and also that we are going to be at the motion to dismiss hearing and we are going to ask the judge to order a mediation. This issue came up once before with Deering Bay, you may remember, and the City intervened on behalf of its homeowners association. I think we've acted very honorably here. I think we are trying to help our residents. The County, I don't know if they always realized how large they are and how even decisions they may view as reasonable the impact it can have on residents, and I think that when the City gets involved, I think it can serve a really constructive impact.

Mayor Cason: We have that same argument with the guardhouses in the gated community.

City Attorney Leen: Yes.

Commissioner Keon: Right. The County Attorney's office is a law firm...

City Attorney Leen: Yes.

Commissioner Keon: It is the County's own law firm. This is the homeowners association or the Lola B. Walker group that are a 501(c)3 who have behaved honorably, who have....they don't have a law firm, they don't have a law firm, and to have to have someone incur the cost to solve an issue with the County's law firm is outrageous.

Vice Mayor Quesada: They work at the pleasure of the County Attorney's office, I'm sorry of the County Commissioners office.

Commissioner Keon: But they are the County's law firm.

Vice Mayor Quesada: Yes of course.

Commissioner Keon: They have all of the expertise and all of the ability and all of the numbers and everything else to be a very large law firm. So when they are not – when we can't work something out, or you are trying to work with a law firm and nobody is going to walk in and do that without their own law firm. So it's a real burden that they place small groups or whatever when you have to do that. I think the other thing that's very important, we don't get CDBG (i.e. Community Development Block Grant) funds, we don't get federal funds because we are a City under 50,000. All of those funds and that area is a CDBG eligible tract; all of the funds that should be allocated for that area come through the County. They go to the County and should be allocated by the CED, or whatever their program is that is doing that in conjunction with their Commissioners, and you know you would hope that they would have a relationship with us with regard to that tract and to that area. So for this to happen, I really think it is – I'm so surprised by it. I'm surprised the County would behave that way and I think that if it means that we need to be part of it to help that homeowners association get to where we need to be, then I think we should.

Commissioner Lago: Just to give you an update since you had mentioned the CDBG funds and the County as you are all aware, Commissioner Suarez was able to through those funds to get us about \$600,000...

Commissioner Keon: As GOB (i.e. General Obligation Bond).

Commissioner Lago: ...GOB – and I spoke to Commissioner Suarez and he told me he was going to do everything in his power to make sure that he could get us on the next agenda. It may be the next meeting or maybe the subsequent meeting, but I have faith that he'll be able to deliver on that. He's always represented us.

Commissioner Keon: And Chairman Monestime has no objection to our being on the agenda and is very willing to have us placed on.

Mayor Cason: I think we are doing everything we can. You've got three different actions, so I think the homeowners should be happy that we are...

City Attorney Leen: Mr. Mayor, I think what we are doing is very honorable. I think we are raising some important points. Ultimately, I do believe it will lead to a resolution that will allow a community center to be built and I think we should continue. I think what the City – all we are asking is for you to be able to go to the County Commission and explain the importance of this issue, so that the County Commission can direct staff and the County Attorney's Office to try to resolve the matter. We've offered to pay for a mediator; we offered to use our Code, in fact to help them resolve the matter through our dispute resolution process, which could impose strict deadlines and things like that on this going forward. We have not been one sided. We've been in the middle trying to find a resolution and we are going to propose a resolution to the County, we are working on it now to try to resolve this matter. So I just want you to know, we've been very polite, we are not trying to get into a direct adversarial dispute with the County. We are intervening, in my view, in a neutral way and trying to reach a resolution. I know that the County views it differently, but I'm just hopeful they will see the good faith of this Commission and that we are trying to do the right thing here for our residents.

Mayor Cason: OK. Thank you for what you've been doing, stay tuned.

City Attorney Leen: I should have a response from Commissioner Suarez pretty soon.

Mayor Cason: OK.

City Attorney Leen: Oh, I'm sorry Mr. Mayor one other thing. Commissioner Suarez has a resolution; I've been informed through in writing from the County, that he has a resolution to appoint him as the negotiator. Remember, he had said that when he came here that he would do, and that, that's apparently being prepared. So I believe that, that will also be heard. I'm very optimistic about this case.

[End: 3:15:05 p.m.]