

City of Coral Gables City Commission Meeting
Agenda Item 2-2
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
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Assistant Public Works Director, Jessica Keller

Public Speaker(s)

Courtney Thompson, Chair of the Transportation Advisory Board
Nan Markowitz, Member of Transportation Advisory Board
Deborah Swain, Former Member of Transportation Advisory Board

Agenda Item 2-2 [10:19:50 a.m.]

A Resolution by the Transportation Advisory Board recommending that the City of Coral Gables Commission review the Traffic Impact Study procedures developed by the Board and considers adoption.

Mayor Valdes-Fauli: I'm going to take another item out of order, that is Item 2-2, Traffic Advisory Board, Commissioner Mena's.

Commissioner Mena: Courtney Thompson who is here is the Chair of our Traffic Advisory Board, and he had asked for time this morning to speak to us about a proposal they have, which is an idea that I support, but I wanted to give him an opportunity to address the Commission.

Mr. Thompson: Thank you. Good morning everyone, good morning Mr. Mayor, Commissioners, City Attorney, City Manager. I'd like to explain to you that we have a very effective Traffic Board working on your behalf, each of whom you have sent a member to; and over the past two years one of the things that we have been deeply concerned about is traffic. Mr. Mena ran on traffic, many of you have run as having traffic as part of your platforms and traffic – and one of my companies is a research company and when we do research I can tell you that we consistently find traffic as a very important item in the City of Coral Gables and in the City of Miami. So, this item here actually speaks to traffic in a different way, in that what it really does is it helps to take out of the hands of the developers traffic studies that are currently in their hands and that procedure then gets moved over to the City of Coral Gables as a more neutral and beneficial situation. So, by virtue of this resolution that we made and brought before you, what we are looking to do is to centralize the, standardize and centralize the procedures and practices that go into the Traffic Impact Studies that are done, take that out of the hands of the developer per say, and bring that into the City, with the City understanding that we create equal and fair standards, practices and procedures. The benefits of that would be as follows: number one, clear procedures; number two, I should say creates and keeps applicability limits which benefits projects of all sizes, both smaller as well as larger. Currently, we see that there is a slant toward the larger projects given the current procedures and process. It create and maintains a standard that then Coral Gables gets to manage itself, as opposed to allowing that being a somewhat amebic standard that is moveable and changeable, therefore it creates consistency and that's what we are after; and the other part is, and we think that this is very important, it creates a standard that allows for the sniff test, if you will pardon the expression, of no conflict of interest by the City and/or the developers, so that we have a very homogenous set of practices and procedures. It also does not shift any significant costs or any true cost to the City of Coral Gables, nor does it affect negatively any of the developers, because they will be paying for it, the same as they would be paying for their own traffic studies.

Mayor Valdes-Fauli: Thank you. Commissioner Mena you want to give us the resolution?

Commissioner Mena: The gist of the idea is to make it a more independent process to have, you still have the developer funding the traffic study, but we retain the entity that will conduct the traffic study. Obviously, we would have to have either a preapproved list of people who can do this, if they have a direct conflict of interest, because they are doing other work for that developer, they are not foreclosed from doing that, but I think regardless and I had this discussion with Assistant City Manager Iglesias, you know regardless of whether we think our current process is flawed or not, the optics are important and the fact that we have residents who feel that developers are coming in and submitting traffic studies that they've paid for and they've conducted and that of course always pass any applicable test, it's important for our residents to feel that we have a process that's independent and that keeps their concerns in mind with respect

to traffic. So, I think it's a good idea to separate the study a bit and make it a bit more independent and give us more control over it, and so that's why I support Mr. Thompson and his Board's work on this issue.

Mr. Thompson: It boils down to really plain sense and common dealing, which you very well said.

Mayor Valdes-Fauli: Madam City Manager you wanted to address the issue.

City Manager Swanson-Rivenbark: Does Public Works have a recommendation on this?- would you like the input, Public Works on this.

Ms. Keller: Good morning. I'm Jessica Keller, Assistant Public Works Director for Transportation and Sustainability. I give the credit to the Transportation Advisory Board for developing the procedure. It has very little impact on our operations. I'd like to take one closer look at some of the things inside of the procedure, because since we've written a procedure we've had some changes related to our mitigation fees and things like that, but minor. Overall, I support their proposal.

Mayor Valdes-Fauli: You what?

Ms. Keller: Overall, I support the proposal, the concept.

Mayor Valdes-Fauli: OK. Alright. Do we need a motion here?

Commissioner Quesada: I have just a basic question on this and I guess it's the conflict item of it, and correct me if I'm wrong here, if I'm reading this correctly. Let's say Tim Plummer, which actually I saw peeking his head through the window back there. We see him and we see Kimley Horn more than anyone else, it's been my experience in the last few years and really we see him more than anyone else. Is this going to create a situation where, I mean we'll get a lot new traffic engineers in town, I'm assuming that's what this is going to create, this will be the consequence of this?

Commissioner Mena: Well the idea is if, obviously if Kimley Horn has been retained by that developer on that project to do their preemptive evaluation of it, they are going to be the entity to conduct the official traffic study as retained by the City, they've have to have somebody else do. Similar to the conflict of interest standards we have.

Commissioner Lago: I agree with Commissioner Mena, I think it's all about optics...

Commissioner Quesada: No, no, don't get me wrong, I like the optics aspect of this, but I'm just thinking, is anyone going to want to do work for the City? Do we give enough work for a traffic consultant to certainly provide service to us?

Commissioner Mena: Well it wouldn't be solely....

Mr. Thompson: I'd like to ask Jessica to answer that, because we had a conversation about that very issue.

Commissioner Quesada: I like the whole thing; I just want to make sure we are not hurting ourselves as an unintended consequence.

Mr. Thompson: The number of requests that we get are rather daunting.

Ms. Keller: Yes – so, I had done some research, this is about a year old, so bear with me, but compared to the number of applications that come through the City of Coral Gables is equal to Washington, D.C. and the City of Baltimore, and those cities this is the process. The thing is, is that the firms – the only thing that it prohibits them from doing is doing traffic impact studies. Those same engineering firms can do other sorts of transportation/engineering projects; it just would be that they would not be doing traffic impact studies, if they worked for a private developer and for the City of Coral Gables that wouldn't be allowed any longer.

Mayor Valdes-Fauli: OK.

Commissioner Quesada: So, if you are telling me it's not going to be an issue, we are not going to have an unintended consequence here, then I'm going to follow your recommendation.

Ms. Keller: There are numerous engineering firms that work exclusively with developers and exclusively with local jurisdictions or the County or FDOT.

Commissioner Quesada: Yes, but I guess the one local example I'm thinking of is Tim Plummer. We see him, you guys see him as often as we do and he's either for us or he's for the developer on the other side, so we see him all the time. So, what's that going to create – honestly, anytime he speaks to us on any project, I give that a lot of weight, because I feel like he knows the traffic in our City better than anyone else, because he's done so many studies here. Does that mean he'll stop doing these studies for us and only be doing it for developers?- probably?

Vice Mayor Keon: That's what I'm not sure. If someone works for a developer, will they never work with the City or is it on the same...if there is a project and one particular firm is doing the traffic study that precludes that firm for doing a traffic study for the City?- I'm going to assume.

Ms. Keller: So, they cannot be doing business with a developer who is doing business in the City of Coral Gables. They can be doing work for the developer who is doing work in the City of Miami, but they cannot be working for the City of Coral Gables.

Vice Mayor Keon: So ever?

Ms. Keller: No, not ever, no, during the time of their contract. So, ideally what we would do is we would go out to bid firms for a year, two years, whatever the duration happens to be and its during that period of time they wouldn't be doing business with a developer and the City of Coral Gables at the same time, as it relates to traffic impact studies.

Vice Mayor Keon: OK.

Mayor Valdes-Fauli: So, the recommendation of the Traffic Advisory Board is that we lose independent consultants, and I think the sense of the Commission and upon the guidance of staff, I think that that's a good idea and...

Commissioner Lago: I'll make the motion to support...

Vice Mayor Keon: I'd like to look into it and analyze it.

Commissioner Quesada: I need more information to be honest with you. I like it in principle, I'm just afraid of unintended consequences.

Mayor Valdes-Fauli: We have some public...

Commissioner Lago: Oh, we have comments, alright, I made a motion.

Vice Mayor Keon: I don't want to vote against it, because I think it's a good idea and I'd like to support it. I would just like staff to be able to look into it more deeply and tell us the pools of, do they feel, do you feel that there is a pool of engineers available to us to be able to do this. You know what, I don't really know if it requires a lot of local knowledge. I don't know if as a traffic engineer, because you are a traffic engineer you could come in and the metrics are the same whether you are in Miami, you are in Dallas, you are in Fargo, North Dakota, I don't really – I don't know the business, I don't know it at all, so I don't know. So, I need you to be able to tell

me that you can assure me that there is an adequate pool and it doesn't make any difference whether they are coming out of West Palm, whether they are coming out of Lee County on the west coast, you know whether they are coming out of Orlando to do it, just tell me that.

Ms. Keller: That one of our firms that we have under contract, they are working, they are traffic engineer is working out of Ft. Lauderdale, I believe, and they are reviewing our projects.

Mayor Valdes-Fauli: If they don't have any local knowledge then they don't have any credibility.

Vice Mayor Keon: That's what I'm asking you, if they don't have any local knowledge then you are limited in the number, like what's local knowledge?- is it Dade County?

Mr. Thompson: Sometimes local knowledge isn't necessarily an advantage, sometimes it's a disadvantage. You only get the answers to what you research when you research on that basis, and so, whether you are talking about – these are research studies that's what they are, that's the impact study, they are a bi-product of research, that's all you are really doing. The other part to consider is that there is nobody that can represent their own firm if they are on a Board in the City, they can't do work with the City, etc. This really follows all of that.

Vice Mayor Keon: I understand. I think the only thing I want to know is if we have an adequate pool, that's all I'm asking; and I would like the Public Works Department to – there is an adequate pool.

City Manager Swanson-Rivenbark: Would like Commissioner or Vice Mayor, we are happy to research it further.

Vice Mayor Keon: You support it?

Mayor Valdes-Fauli: I have a comment. Staff supports it, our very fine committee supports it, and we have an extremely long agenda, this is not committing us to anything except allowing these studies to be presented and we will give them the credibility they deserve. We have two people who wish to address us, why don't we call them and then...

Vice Mayor Keon: It does affect – I want to know is because it's going to limit the work that people can do, I want to know that there is an adequate number of people that can only work for the City and not likely work for a developer, and then are of the same quality as the one that's working for – I just want to make sure we have a pool to do that.

Mr. Thompson: So, I believe what would happen is, much like you have attorneys that represent claimants and attorneys that represent plaintiffs, you'll have the same type of arrangement. You'll have firms that prefer to deal with the municipality and you'll have firms that prefer to deal with the developer.

Vice Mayor Keon: OK.

City Attorney Leen: There are a couple of legal points though. You know the City probably can't prevent a developer from hiring their own traffic consultant outside of this process, because it is a quasi-judicial proceeding, they are entitled to present whatever evidence they think is appropriate. Likewise, this process probably can't prevent the City from hiring its own consultant outside of the independent consultant, if it wished for the exact same reason; and remember, I'm not commenting on this particular process, it makes a lot of sense that you would want someone independent that's always a good thing, but remember ultimately, whatever decision you make has to be supported by competent substantial evidence in the record. So, there is – although there are some redundancies and cost problems with this, with what's being identified, there are also some benefits to having multiple traffic consultants testifying to you, because it provides you more evidence upon which you can act, so you have to weigh all those things. So, what I would suggest is that you – one thing you can do if you provide support for this to look at it, we would still come back to you with the process, which may have to be done by ordinance. If it's going to be an established process that would apply to every development in the City, it may have to come through a full ordinance process. If it's simply limiting who the City picks as its own consultant, it probably can be done by resolution.

Mayor Valdes-Fauli: I would like to call Nan Markowitz, 901 Sorrola, wishes to address us in this. You have a few minutes.

Ms. Markowitz: I'm just the new member of the Transportation Advisory Board. There are many engineering firms, my background is transportation, I'm not an engineer, there are many engineering firms that would be happy to do work for either the City or to help, there are a plethora of them locally and not locally.

Mayor Valdes-Fauli: Thank you.

Commissioner Lago: I agree with you.

Mayor Valdes-Fauli: And Deborah Swain, 4015 University Drive.

Ms. Swain: Hi Commissioners, Deborah Swain, Coral Gables resident, and up until June for eight years I was on the Transportation Advisory Board. Just very, very briefly, because you've heard so much already, this really was precipitated, because of the frustration that we had and that we sensed from staff at the point that we had to review traffic impact studies that came to our Board. They were in different formats, different criteria, different procedures, there was no uniformity, so it really came up as a method of uniformity, and then there were all these wonderful unintended consequences, as you mentioned. One was to shift the burden to, actually shift the burden to the developer of having to review the studies, rather than put the City in a position of having to review a developer study. So, it certainly gives more control to the City and it doesn't take anything out of the hands of the developer. As you said, they can still hire an engineering firm to do their own review and we expect that they would do that. As far as an adequate pool, I am the Principal at an engineering firm and while I'm on the Traffic Advisory Board, I could not do engineering work for the City or seek a contract for those items that might come in front of our Board and I'm pretty sure the City didn't suffer for me not being able to provide those services, and I reiterate what Nan said, there is plenty of engineering firms and this doesn't exclude them from doing work for both, it just says on this particular item they cannot do work for both.

Vice Mayor Keon: In reading the item from your e-mail, it was my understanding that there were also procedural issues, it wasn't just a matter of the different engineers, but that everyone who is doing a traffic study would follow the same parameters and the same methods, so you could actually look at and compare the data, is that right.

Ms. Swain: Yes, it is, and that's the key. That was what caused me to be interested in asking the Traffic Advisory Board to take this on, so it was exactly that, let's have everything uniform, the same chapters, the same methodology.

Vice Mayor Keon: So, do we have that process set up? - do you have that process set up Jessica? I'm sorry Ms. Swain.

Ms. Swain: We have the draft of the procedure written and it has already been reviewed by staff, it has been reviewed some time ago, I believe by the City Attorney's office to make sure that what was in there was consistent and appropriate. There is always tweaking that needs to be done, things change and needs to be incorporated in there, different types of fees. We did not write a traffic impact study chapter and verse, we just established the procedure for the staff to then create that with their consultants.

Vice Mayor Keon: OK. So, they will create and you'll peer review it and whatever else.

Mayor Valdes-Fauli: Alright. A motion has been made by Commissioner Lago, is there a second?

Vice Mayor Keon: I'll second.

Mayor Valdes-Fauli: The motion is to accept the recommendation of the Traffic Advisory Board.

Vice Mayor Keon: Yes.

Mr. Thompson: Thank you all very much.

Mayor Valdes-Fauli: All those in favor say aye.

All: Aye.

Mayor Valdes-Fauli: Opposed – nobody. Thank you.

[End: 10:38:33 a.m.]