



Agenda Item 3.A

City of WPB v. Palm Beach TPA

April 16, 2020



Case Details

- Case No. 50-2020-CA-003387-XXXX-MB
 - WPB filed on March 23, served to TPA general counsel on April 6
 - WPB filed motion to abate during Chapter 164 dispute process on March 31
 - Motion to abate will be heard by judge on May 18
- Court: Circuit Court in PBC - 15th Judicial Circuit
- Judge: Honorable Glenn Kelley
 - University of Florida Law School - 1981
 - Private practice - 1982 to 2006
 - Circuit court bench - 2006 to present

Attorneys

- West Palm Beach
 - City Attorney Kimberly Rothenburg, University of Florida Law School in 2006
 - Asst. City Attorney Anthony Stella, Nova Southeastern Law School in 2008
 - Special Counsel Ed de la Parte, University of Florida Law School in 1977
- TPA (thru Weiss Serota Helfman Cole & Bierman, P.L.)
 - Matthew Mandel, University of Miami Law School in 1998, chair of the Firm's Litigation Division
 - Paul Gougelman, Nova Southeastern Law School in 1980

Issues

1. Procedural irregularities with regard to adoption of Amendment
 - a. Mr. Uhren had no authority to put this item on the agenda. He should have asked Governing Board approval first.

2. Amendment required re-demonstration of “Fiscal Constraint”
 - a. Sufficient information must be presented to show that revenue sources are available to undertake the project.

3. No meaningful public review and comment
 - a. An opportunity for public comment was not afforded because there was no demonstration of “fiscal constraint”

Issues (continued)

4. Amendment is not consistent with the West Palm Beach Comprehensive Plan
 - a. Florida Law requires that the SR-7 project must be consistent with local government comprehensive plans to the “maximum extent feasible.”
5. Amendment was improper because the TPA failed to consider “Environmental Mitigation Activities” relating to natural resources, conservation and highway runoff.
6. The TPA failed to demonstrate need for the State Road 7 projects

What is West Palm Beach Seeking?

- Declaratory Relief
 - A determination that the SR 7 LRTP Amendment failed to comply with applicable federal and state requirements
- Injunctive Relief
 - An order prohibiting the TPA from implementing or executing the SR 7 LRTP Amendment
- NOT seeking damages, attorney's fees, or filing claims against individual TPA board members

Overview of Ch. 164, F.S. - Governmental Disputes

- WPB Motion to abate case during Ch. 164 Process
- Intent of Ch. 164: Force local governmental entities to negotiate solutions rather than use taxpayers' money to litigate in court
- All parties are required to negotiate in good faith
 - Bad faith negotiations may require payment of attorney's fees of other party

What Happens Next?

- Commencement - WPB adopts resolution commencing Ch 164 process
 - Expected on April 20
 - WPB sends letter TPA, FHWA and FDOT. FHWA and/or FDOT may elect to join negotiations
- Conflict Assessment - within 30 days of letter receipt
 - Administrators meet and identify issues (Not necessarily same issues as litigation)
 - Parties seek tentative resolution to present to governing bodies
- Joint Public Meeting - within 50 days of letter receipt
 - TPA Board and WPB Commission meet to consider statement of issues and seek agreement
- Mediation
 - Parties select mediator in 14 days, conduct mediation in next 14 days
 - Mediation costs equally divided between parties
 - If the Mediation is unsuccessful, litigation commences in earnest

Questions?