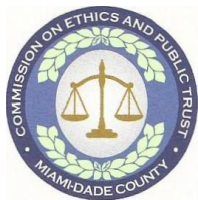


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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November 18, 2022

Via U.S. Mail & email transmittal:
mcaughton.laura@gmail.com

Ms. Laura McNaughton
13401 Southwest 74th Avenue
Pinecrest, Florida 33156

Re: **RQO 22-03**, Sec. (A) 5., Citizens’ Bill of Rights, Right to be Heard, Miami-Dade Charter

Dear Ms. McNaughton:

At a public meeting on November 9th, 2022, the Miami-Dade County Commission on Ethics and Public Trust opined that the:

The Right to be Heard provision contained in Section (A) 5. of the County Home Rule Charter’s Citizens’ Bill of Rights requires a municipality to afford citizens the right to address a municipal board on a matter within the board’s jurisdiction, even if the matter is not on an official board meeting agenda. A rule or practice that does not afford this right violates the Right to be Heard provision contained in the Charter’s Bill of Rights.

As you know, while you requested guidance regarding the application of this provision to your prospective appearances before the Village of Pinecrest’s Council, as predicate to the issuance of this opinion, Ethics Commission staff conducted an informal survey of municipal clerks in each of the jurisdiction’s 34 municipalities and the County in an effort to identify practices regarding citizen presentations on matters not necessarily on a board’s agenda, but within its jurisdiction.

This review of local practices revealed that all but two local cities, afford this right as a regular agenda item and matter of practice at each public meeting. The overwhelming supermajority of all local governments, regularly provide citizens the opportunity to be heard, with procedural limitations, on non-agenda matters within the board’s jurisdiction.

While the Ethics Commission opined that a person has a right to address a municipal board on matters that may not be on its agenda but within its jurisdiction, it also reaffirmed that local

governments are afforded great discretion on how they may run their public meetings. Local boards may impose reasonable time, place, and manner restrictions on citizen presenters. Consequently, a board may limit the time afforded persons to speak, may limit presenters to the beginning or end of an agenda, and may of course insist on proper decorum.

Cities may also require compliance with certain administrative practices as a predicate to presentation, including sponsorship by a municipal elected or appointed official or the requirement that the person first attempt to resolve the subject of the presentation with municipal staff. These two latter permissible predicates to presentation are required in the Village of Pinecrest and the City of Miami, respectively.

However, while the cited provision does not impose on local boards the obligation to afford every citizen, the opportunity to be heard on non-agenda matters within the board's jurisdiction, at every public meeting, the discretion enjoyed by local boards may not result in a pernicious, absolute, or regular bar on citizen speakers, or a particular citizen speaker, regarding matters within the board's jurisdiction.

Any rule or practice that essentially prohibits a citizen from effectively being able to address a board on a matter within its jurisdiction that is not on a meeting agenda would violate the Right to be Heard provision contained in Section (A) 5. of the Charter's Citizens' Bill of Rights.

Finally, any public meeting presentation rights or privileges afforded by federal, or state law are outside of the Commission's jurisdiction. The Ethics Commission's opinion only interprets the supplemental rights afforded in this jurisdiction by Section (A) 5. of the Home Rule Charter's Citizens' Bill of Rights.

Thank you for requesting guidance from the Ethics Commission and for participating in our process. If you have any questions regarding this opinion or its application, please feel to contact me for assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Arrojo", written over a printed name.

Jose J. Arrojo
Executive Director

cc: All Commission on Ethics Legal Staff
Miami-Dade County League of Cities
Mitchell Bierman, Esq.
Xavier Alban, Esq.