

City of Coral Gables City Commission Meeting

Agenda Item H-5

August 26, 2008

City Commission Chambers

405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Donald D. Slesnick, II

Vice Mayor William H. Kerdyk, Jr.

Commissioner Maria Anderson

Commissioner Rafael “Ralph” Cabrera, Jr.

Commissioner Wayne “Chip” Withers

City Staff

City Manager, David Brown

City Attorney, Elizabeth Hernandez

City Clerk, Walter J. Foeman

City Clerk Staff, Billy Urquia

Finance Director, Don Nelson

Public Speaker(s)

Dr. Marc M. Grossman, Coral Gables Resident

Dr. Jim Hirschman, Coral Gables Medical Director

H-5 [Start: 12:56:20 p.m.]

A RESOLUTION AUTHORIZING THE AWARD OF MEDICAL DIRECTOR SERVICES TO DR. MARC M. GROSSMAN, JACKSON MEMORIAL HOSPITAL PURSUANT TO SECTION 2-828(E) OF THE PROCUREMENT CODE FOR MEDICAL DIRECTOR RFP 2008.06.19. FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE A THREE (3) YEAR CONTRACT WITH AN OPTION TO RENEW FOR (1) ADDITIONAL TWO (2) YEAR PERIODS.

Mayor Slesnick: H-5 David.

City Manager Brown: Yes Mr. Mayor, this is a Resolution authorizing the award of Medical Director Services to Dr. Marc M. Grossman of Jackson Memorial Hospital pursuant to section 2-828(e) of the procurement Code for Medical Director RFP 2008.06.19; further authorizing the City Manager to execute a three year contract with an option to renew one additional two year period and to expend the aforesaid funds from the Coral Gables Fire Department. Now, I will tell you Mayor and members of the Commission this does come with a protest, so Mr. Nelson will take you through the first part.

Don Nelson: Good afternoon, the Resolution is to authorize the award of a request for proposal for medical services utilized by the emergency rescue staff of the Fire Department. The City

advertized on June 9th of this year for the professional services of a medical director through a request for proposal on July 7, 2008; a mandatory pre-proposal conference was held for the medical directors to attend, three hospitals attended that mandatory pre-proposal Jackson Hospital, Coral Gables, and Memorial Healthcare Hospitals. On July 24, 2008 two proposals were received by the City they were received from Dr. Fredrick Kierof from Memorial Healthcare Services and from Dr. Marc Grossman from Jackson Memorial Hospital. On July 31st, 2008, the selection committee completed their evaluation on eight criteria. The eight criteria were: experience; qualifications; screening experience; interview presentation; professional affiliations; history of affiliations with Hospitals serving the Coral Gables community; support infrastructure and familiarity with the radio communications. The selection committee, consisting of three members, were Marj Adler, Human Resources Director, Chief Reed, and Frank Galvano, he is the program director for City College and former fire chief. These members ranked and selected Dr. Marc Grossman as the most responsive and responsible provider and proposer on the request for proposal. Dr. Hirschman, the current medical director with over 25 years of experience and service to the fire department did not attend the mandatory pre-proposal conference that was held on July 7, 2008; and because of his admitted believe that he thought it was to be held on Friday July 11, 2008. On August 7, 2008 a meeting was held in the City Manager's office, along with his attorney Richard DeWitt and myself regarding Dr. Hirschman's protest of the request for proposal on August 24, 2008. A letter was sent to Richard DeWitt from the City Manager stating his protest was denied and whereby was denied, where Dr. Hirschman's proposal would not be accepted nor would we throw out the proposals or begin the RFP process over. The Resolution before you authorizes the award of the Medical Services director to Dr. Marc Grossman with Jackson Memorial Hospital and for the City Manager to execute a three year agreement with an option to renew for an additional two year period; we went through this there was...Dr, Hirschman is present in the audience, the committee reviewed the two proposals both doctors were highly ranked, and Dr. Grossman was the recommend doctor to provide future medical services to the Fire Rescue Department; and your approval of this resolution, as recommended by the City Manager and Procurement, is to select Dr. Grossman as the medical services director. That is it.

Mayor Slesnick: Is Doctor Grossman here?

Dr. Marc Grossman: Yes.

Mayor Slesnick: Okay.

Dr. Marc Grossman: Good afternoon, Dr. Marc Grossman, from 1226 South Alhambra Circle.

Mayor Slesnick: Thank you. So you are a resident of the City?

Dr. Marc Grossman: Yes.

Mayor Slesnick: Thank you very much. I just wanted you to introduce yourself.

Dr. Marc Grossman: Okay. Well if there are any questions about the R.F.P.

Comissioner Cabrera: Doctor thanks for being with us and being here all day. Do you work with any other municipalities?

Dr. Marc Grossman: I am the assistant medical director for the City of Miami Fire Department.

Commissioner Cabrera: Thank you.

Mayor Slesnick: Thank you very much, but stick around we may.

Dr. Marc Grossman: I'll be right here.

Mayor Slesnick: Was Dr. Hirschman's application rated at all, versus Dr. Grossman's? Or was it just determined that it was unacceptable before the ratings began?

Don Nelson: Dr. Hirschman was not able to provide a proposal because the first requirement was to attend the pre conference.

Mayor Slesnick: So there was no proposal.

Don Nelson: That is correct. Yes.

Mayor Slesnick: Now one more thing, one of the things that you said differs from one of the things I read in Mr. Dewitt's letter and I think it is important to me. You said that there confusion on Dr. Hirschman's part as to whether what day the meeting was.

Don Nelson: Yes sir, that was in our meeting in the City Managers office on August 7 we went through the protest.

Mayor Slesnick: That is contradictory to what Mr. DeWitt said he said Dr. Hirschman was mislead as to his requirement to come.

Don Nelson: No.

City Manager: No.

Mayor Slesnick: Don't say no that is what the letter says.

Don Nelson: Yes, he did say that and I'll explain there actually was two one was that he did admit that he believe that the meeting was on Friday the 11th of July as oppose to Monday the 7th of July, the second was he did attend a fire department training on Monday at the same time there was this, it was training session that was planned in advance, and however he did attend that, the doctor did attend that, but he did admit that he did not believe that there was a mandatory on that date as described.

Mayor Slesnick: My question is one more time, was he or was he not told by the people whoever they are? Procurement department, that always seems to end up here with protests in front us that he didn't have to go.

Don Nelson: No sir.

City Manager Brown: No sir.

Mayor Slesnick: He was not told that?

Don Nelson: He was not told that.

Commissioner Cabrera: Forgive me; I don't recall reading Mr. DeWitt's letter. Did it come under separate cover?

Mayor Slesnick: No, Dr. Hirschman gave me a copy of it. I can go get it.

Commissioner Cabrera: No I just didn't see it.

Mayor Slesnick: It is on my desk.

Commissioner Cabrera: No, it is okay. I am not interested in reading it.

Mayor Slesnick: Okay. Well it is what it said.

Commissioner Cabrera: You have already clear it up.

Mayor Slesnick: That is what it said.

Commissioner Cabrera: Yeah.

Vice Mayor Kerdyk: Let me just understand this too, because the gentlemen Dr. Hirschman, has been here for 36 years as a matter of fact start this and it is disappointing that, I mean I understand our Procurement Code. Let me say that first, but it is disappointing that a misinterpretation from him precludes him from at least being part of the package; and where I want to go here, so you eliminated him, and then you had two doctors then you eliminate the other one so you really only have one person that meets the specific guidelines that are provided in the Procurement Code. Is that correct?

Don Nelson: No, we did not allow Dr. Hirschman to propose any request for proposal because he didn't meet the first mandatory requirement, and nor did we ever waive that for any incumbent or any others we have precluded other bidders or proposers by even been late by a minute whereby if it is mandatory that is the time, that is the place, and if you are not you are precluded from bidding a future time. So that was the first elimination, Dr. Hirschman was not able to provide a request for proposal. There were two doctors that did submit a proposal Dr. Kirov and Dr. Grossman, those two were evaluated by the evaluation committee, both of them

were evaluated and Dr. Grossman was rated higher in their evaluation and the recommendation of the three committee members was to recommend Dr. Grossman to the City Manager.

Vice Mayor Keryk: I thought Dr. Kirov was eliminated based on the fact that he did not meet one of the criteria.

City Manager Brown: He did not meet one of the criteria, but he was also eliminated on the rating system prior to that.

Commissioner Cabrera: Ok., which came first he didn't meet the criteria, or he was eliminated based upon on the scoring system, or was it a combination of both.

City Manager Brown: A combination of both.

Commissioner Cabrera: Ok., be more specific.

Don Nelson: Dr. Kirov, one of the requirements in the request for proposal, the scope of work, was that the doctor had to be, his office and his residence had to be within 15 miles of the Fire Department. Dr. Kirov's residence and his business is outside of 15 miles, this was brought to the committee; the committee waived that requirement; it wasn't a mandatory requirement, it was a scope of work; they still based on Mr. Kirov's history and knowledge, and he also provides services I believe to Miami Beach and Hialeah that he is very familiar that he should be allowed to be evaluated; and that he would be able to provide services even though he was outside 15 mile radius. The committee reviewed his criteria reviewed his credentials and they allowed him to be accepted. They rated him, however Dr. Grossman was higher.

Commissioner Cabrera: In essence what happen is the selection committee chose to waive the scope of work requirement thereby allowing him to be part of the criteria and went through the tabulation of points in order to determine a final vendor.

Don Nelson: Yes.

Commissioner Cabrera: In essence, he was given the courtesy to be in the running for the ultimate job.

Don Nelson: Yes.

Commissioner Cabrera: Okay. That makes sense.

Don Nelson: So we are continuing to recommend, the committee is highly recommending Dr. Grossman with incredible credentials, great service, resident of the community, to be this City's medical services provider to the Fire Department.

Commissioner Cabrera: Having received your report, Mr. Mayor, I would like to move to accept the Finance Department's, or Procurement Department's recommendation to move forward with Dr. Marc Grossman.

Mayor Slesnick: It has been moved by Commissioner Cabrera, is there a second?

Commissioner Anderson: I'll second it.

Mayor Slesnick: Okay it has been second by Ms. Anderson.

Commissioner Withers: May I ask a question to Mr. Nelson please, about how long has the current been...

Don Nelson: Dr. Hirschman? How long? I believe over 35 years. He started the program.

Commissioner Withers: During the 35 years were there ever any issues with him or reasons, he wasn't doing his job?

Don Nelson: No, his job was excellent, excellent provider, from my understanding from talking to the Fire Chief, he provided excellent service he was a pioneer in this, he started the program, exceptional doctor, great training.

Commissioner Withers: I guess I have to ask Liz, if we allow this Dr. Hirschman's application to be revisited and brought back into competition, would we then wait for the bid protest and to accept the bid protest, or would we ahead and say we would like to have this gentleman's resume reviewed once again?

Liz Hernandez: The procedure that the commission has at this point, under Florida law there are certain mandatory requirements that cannot be waived. One of them in the procurement document is attending a mandatory pre-bid conference. If the Commission finds that they would like for whatever reasoning because the commission under our procurement code can throw out all bids for whatever reason or no reason at all, we would have to start from the very beginning. If the successful applicant feels that the Commission has abused their discretion they have 30 days to file suit in the circuit court, and that is their prerogative. However, the only way that we can now consider Dr. Hirschman is to throw out everything and start all over.

Commissioner Withers: Okay, here is how I feel, I don't know Dr. Grossman. This is the first time I think I have ever met him, he is probably a very qualified individual and at the end of the day he might be the most qualified individual. However we have someone that has been with us for 35 years that has an excellent track record that has never had an issue that I think deserves a shot at the position again. That is just how I feel, so I won't be able to support Dr. Grossman, not because I don't think he is a qualified individual, but I think we should have the opportunity to take a veteran who has been with us for 35 years and put them back into play.

Liz Hernandez: Again Commissioner absolutely within your prerogative, but just for clarity Dr. Hirschman did have notice, he had notice of the mandatory.

Commissioner Withers: No there is no doubt. I remember I think it was either gymnastics or whatever.

Commissioner Cabrera: It was children's gymnastics.

Commissioner Withers: She left her house at 4 o'clock to be here at 5 o'clock to turn in an RFP and we said no and that was it. The difference to me is that was basically someone that was relatively new to the system whereas.

Commissioner Cabrera: No that is not true, she was with the system for quite some time.

Commissioner Withers: She was here for 35 years.

Commissioner Cabrera: No.

Commissioner Withers: Did we have issues with the program before?

Commissioner Cabrera: With the gymnastics program?

Commissioner Withers: Yes.

Commissioner Cabrera: Not that I can recall.

Commissioner Withers: All that I am saying is that I just feel that someone with 35 years of experienced reserves the right to be evaluated. But if you don't then that is fine. That is how I feel.

Commissioner Cabrera: That is the reason that I am not supporting it, because I didn't support the gymnastics program, and that lady was here and she gave her report and said that she was late; and she did everything by the book, except that she arrived late at submitting the R.F.P. So it was more than just not attending the meeting she arrived late at the RFP and at the end of the day I didn't go with her and I felt terrible about it and she had been a long time contractor, not 35 years, but more than enough to know--you think 8 years Mr. Manager? So I just can't set that precedent. By the way I am offended by one thing, the letter that was sent to Mr. Slesnick there are five people in this government that make decisions not one and I know it was not Mr. Slesnick's intention not to share that letter with the rest of us but I think that hurts you, any time you decide to only appeal to certain people on the Commission and not the entire Commission.

Commissioner Anderson: I want to say a few words because my hearts really breaks about this decision because I know Dr. Hirschman, from Rotary and it hurts me to do this, but I am going to go with the manager's recommendation, but it really is painful because he has served this community a long time.

Vice Mayor Kerdyk: Let me say my peace I am going to support Commissioner Withers on this. I support Dr. Hirschman having the opportunity to go back into the pool there, so that is how I am going to support it.

Commissioner Withers: Well call the question Mr. Mayor.

Mayor Slesnick: Can I say something?

Commissioner Withers: Sure I thought you had already spoken, I apologize.

Mayor Slesnick: I am again disturbed and David I have to tell you I wish we would take a hard look at our Procurement Section and how they operate, because every single time we have a bid we have some misunderstanding we some disconnect something that has happen that gives part of the Commission if not all the Commission problems, it should happen that way. Jim Hirschman is a long time friend he has not only being someone who has supported our department and supported our City, he is a fellow Rotarian he is a friend; he hired one of my good friends as his lawyer, I think that is well known to everybody and I respect I am concern that I could not understand the distinction between the arguments made by Mr. Hirschman and by his lawyer were different, and that bothered me, troubled me. So I don't understand whose fault this lies and the whole thing just bothers me, I just don't see to start the process all over again.

City Manager Brown: I have the letter that I wrote to them if you would like a response.

Mayor Slesnick: No, I think Mr. Cabrera has already stressed, why didn't the package have the appeal letter and your response? Did it have it?

City Manager Brown: No it just had the response the appeal letter was just basically the three items.

Commissioner Cabrera: I only saw your response.

City Manager Brown: That is all that was in there.

Commissioner Cabrera: I did not see Mr. Dewitt's letter.

City Manager Brown: This is all that was there.

Mayor Slesnick: David in the future how about having the letter to which you are responding.

City Manager Brown: I'll be glad to do that, in a nut shell it just didn't rise in my opinion to change the process, I feel bad to hear that Dr. Hirschman forgot about the meeting. He admitted that. We didn't do anything wrong here I couldn't recommend to through out the entire process, if we had done something wrong I would have done that. That is why I made by decision.

Commissioner Withers: And David listen it was clear to me that the City did nothing wrong.

City Manager Brown: I understand that.

Commissioner Withers: I am not saying that my feeling is a result of the City.

City Manager Brown: I understand that Commissioner

Commissioner Withers: The process was not tainted by a mistake, I just felt a 35 year old veteran deserves an opportunity another “bite of the apple,” specially someone that has had an excellent record.

City Manager Brown: I am supposed to uphold the process if this Commission wants to give the veteran the nod they have that authority to do so.

Commissioner Withers: I know, I know.

City Manager Brown: I just couldn't do that.

Commissioner Withers: Enough Said.

Mayor Slesnick: Mr. Clerk.

City Clerk Foeman: Vice Mayor Kerdyk?

Vice Mayor Kerdyk: So we are voting for the approval of Dr. Grossman?

Mayor Slesnick: Yes.

Vice Mayor Kerdyk: No.

City Clerk Foeman: Commissioner Withers?

Commissioner Withers: No.

City Clerk Foeman: Commissioner Anderson?

Commissioner Anderson: Yes.

City Clerk Foeman: Commissioner Cabrera?

Commissioner Cabrera: Yes.

City Clerk Foeman: Mayor Slesnick?

Mayor Slesnick: Yes.

Don Nelson: Thank you.

Vice Mayor Kerdyk: One thing I would like to say since because Dr. Hirschman is here, I would like to schedule him for the opportunity to come to the City to get a proclamation and key to the City for all the hard work that he has done, at the next available meeting that he is here and

maybe at that point you could say a couple of words, I am sure share some thoughts with the City that you have; and I also Dr. Hirschman is a person that of course has given years of experience and dedication to this fine City. If there is some way that we can utilize his services maybe that the City can also look into that realm of using him for something; and I have some ideas that maybe we can get together and discuss later.

City Manager Brown: Okay, I'll be glad to.

Dr. Hirschman: Mr. Mayor may I say a word of endorsement.

Mayor Slesnick: of course.

Dr. Hirschman: I thank you very much for your very honorable deliberations, I enjoyed listening to it. 36 years ago I was privileged to give birth to the Fire Rescue System in its modern form, and after 36 years, I'm pleased to say that we have never had a medical malpractice suit mature against us as a result. I am also privilege to see the fire rescue system on graduation day and think that the City made a good choice in Dr. Grossman, and I certainly pledge to help him if he should have questions or desire advise from me. Dr. Grossman. Thank you all.

Commissioner Anderson: Dr. Hirschman thank you, my heart broke on that decision, I had to go that way, but not against you I really have the greatest esteem. Thank you.

Mayor Slesnick: Thank you all.