

## **City of Coral Gables City Commission Meeting**

### **Agenda Item C-11**

**June 1, 2010**

**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, Patrick Salerno**

**City Attorney, Elizabeth Hernandez**

**City Clerk, Walter J. Foeman**

**Deputy City Clerk, Billy Urquia**

#### **Public Speaker(s)**

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C-11 [Start: 10:20:30 a.m.]

Resolution authorizing execution of Addendum No. 1 to the Professional Services Agreement for Disaster Debris Services with the primary contractor, Ashbritt, Inc., for the purpose of providing additional bonding requirements and further authorizing execution of subsequent professional services agreements with the secondary or backup contractors, Ceres Environmental and JB Coxwell Disaster Recovery, inclusive of the same language as the Ashbritt, Inc., Agreement and Addendum No. 1.

Mayor Slesnick: C-11

Commissioner Cabrera: C-11 is another resolution, and this one authorizes the execution of an addendum to the Professional Services Agreement for disaster debris services with the primary contractor, Ashbritt Inc., for the purpose of providing additional bonding requirements and further authorizing execution of subsequent professional services agreements with the secondary or backup contractors, Ceres Environmental and JB Coxwell Disaster Recovery, inclusive of the same language as the Ashbritt, Inc., Agreement and Addendum No. 1. My question to the City Manager is, Mr. Manager what is the value of this contract?

City Manager Salerno: Hopefully, nothing meaning if we have no hurricanes we'll have no expenditures. For instance, last year no hurricanes, no mobilization, no cost. It would be very difficult for us to be able to estimate what would happen, if anything again this current year.

Commissioner Cabrera: OK, I understand that, but I would say that this contract if in fact, and I certainly hope this doesn't occur, this upcoming hurricane season, but this in fact could very well occur, and I could very easily see us spending over \$100,000 for a relationship like this.

City Manager Salerno: Absolutely Commissioner, no question about it.

Commissioner Cabrera: Well having said that, that brings me to really a more important issue for me, and that is that this and all the other resolutions that I have read this morning only come with the recommendation of department heads and not your office.

City Manager Salerno: Sorry.

Commissioner Cabrera: I said that this C-11 as well as the other items that I have read this morning all come with recommendations from department heads and not your office, and this particular one I have trouble with the fact that these recommendations are not coming with your, I would say approval. If you go into our Charter and specifically under Sub-division 3, as it relates to the City Manager and Chief Procurement Officer, Section 2-650, under Authority, stipulates as the City Manager, as a Chief Administrative Officer of the City, the City Manager shall have the authority to, and if you look down on Number 5, excuse me, Number 4 and Number 5, but Number 5 specifically stipulates that you recommend to the City Commission all contract awards in excess of \$100,000 for supplies and services and in excess of \$25,000 for construction. So I just have a great deal of concern with a recommendation that is coming from the department head and not your office, as well as the fact that I just have tremendous concern with resolutions that are coming from department heads and not your office.

City Manager Salerno: I understand Commissioner. Let me tell you first of all, I sign for – I approved that item, if you notice on the item on the bottom right corner, it says approved by City Manager, Pat Salerno, that is my support recommendation, whatever you'd like to call it, that is how I am approving the item. Secondly, with respect to the Code; I want the department heads to take ownership and accountability of their areas of responsibility, and this is part of that effort. I've been doing managing organizations for some time, and I want the department heads to take ownership of their items, and I will approve the item if I so agree and support that item by placing it on the agenda. This particular item here is a very minor item; it is only authorizing an increase in a million dollar performance bond. You previously acted and awarded the contract, this has nothing to do with the expenditure of funds, this item, this only has to do with authorizing an amendment that would require the vendor to provide a million dollar performance bond that would be in place today, rather than wait upon the \$15 million dollar bond that he must comply should we ever activate and mobilize for this service. So this is a minor administrative issue right here in this regard. As I said, it doesn't spend any money; it just requires the contractor to give us more insurance. So that's why we are doing it.

Commissioner Cabrera: Well, let me respond to your first commentary. It's not what I like to call it; this is not what Ralph Cabrera likes to call it. I am looking at Item C-11, you have an item title which I read out loud to the public followed by a department head recommendation, and it reads, that the aforementioned resolution be approved by the City Commission; and yes, you did sign

this document at the bottom, but it's only approved, it doesn't recommend. I don't see a recommendation; I see a recommendation from a department head, and then I see an approval of the department director, the City Attorney if applicable, and then your signature. So I don't understand, I'm not making this up. I'm looking at a piece of paper and I'm looking at other pieces of paper that I have read from this morning and they are all the same. Item C-1, under the resolution for the trolley purchase, department head recommendation, approval is the word that is used; under Item C-5, relating to the fire protection services, which was just voted upon by the Commission, department head recommendation – approval. Again, the only signature I find is an approval of the document and of the initiative, but no recommendation from you.

City Manager Salerno: If I am approving the item Commissioner, that is I am endorsing and approving of the recommendation of the department head to me. You can talk semantics here, but the bottom line is it doesn't get on the agenda without my approval, therefore it doesn't get considered by you without my approval, so.

Commissioner Cabrera: Approvals are fine, one thing, but I want a recommendation from you, that's why we hired you.

City Manager Salerno: That is I am approving of that recommendation, this is how I want to hold – I want staff to be, preparing the items and knowing that they are making a recommendation; they are there, they are hired to do that. This is increasing their role in some respects, but it's not reducing the Manager's role. The Manager's is responsible for what goes here and before you. We can talk semantics, but...

Commissioner Cabrera: No, we are not talking semantics, I'm your supervisor and as your supervisor out of five I would feel more comfortable receiving a recommendation on a resolution or an ordinance from the person that reports to us. The department heads, Mr. Manager, do not report to us, they report to you, and therefore I look upon your professional expertise to guide us and to give us your full-fledged recommendation of an item; you might not be able to approve an item coming before us, but it doesn't necessarily give me the level of comfort that you are making a recommendation on that item, and I have deep, deep concerns over this, I had deep concerns over this nine years ago with Mr. Brown, and I requested respectfully to this Commission body that we have recommendations coming from the Manager to us. On an organizational chart I don't have any relationships with the department heads other than to call them and ask them for clarification on an item, but I cannot direct them at no point in time am I able to do so, nor do I want to, that's your responsibility, but you report to us and specifically me, I want to feel comfortable that I am looking at something that is being recommended by you, not being approved by you, but being recommended by your office. I don't know how the rest of you feel about this item; if you want to remain silent then you are letting me know how you feel.

Mayor Slesnick: But Ralph I don't disagree with you, but I think what the Manager said – and Mr. Manager before we argue about the actual format, I assume that what you are saying that you agree with Mr. Cabrera's interpretation that it's your responsibility to recommend to us these actions, and that it was your intention that by your signature that you were adopting the recommendation...

City Manager Salerno: Absolutely Mayor, absolutely.

Mayor Slesnick: So I mean, we have one agreement here that the Manager and you both agree that he has to make the recommendation to us, so we have that agreement. You are distressed that it's not the format that you understood that to be and that you'd like to see it more clearly outlined that it is in fact his recommendation, not just that he's passing it along, I mean is that a fair...

Commissioner Cabrera: That's fairly clear; maybe the rest of you were aware of this, but I only saw it when I got the agenda and so therefore...

Mayor Slesnick: I wasn't aware of it.

Commissioner Cabrera...I'm just letting you know, I saw a change – I'm sorry the Manager wanted to say something, I'll be quiet.

City Manager Salerno: I'm sorry sir, I apologize...

Commissioner Cabrera: What I wanted to say to you was that look we've been doing it for this way for nine years, if he wants to make a change he has the prerogative to do so, he's made it clear to me that he has very broad powers in the role of City Manager and I accept that, but the Charter is very clear on items that require recommendations from his office and he might call it semantics or however, I like to interpret it, I mean I got a document last week that had a recommendation from a City Manager, this week I don't have any recommendations from a City Manager, I now get them from department heads, guess what?- department heads don't report to us, that's the point I'm trying to make; and if the Manager wants to change the format, then he's entitled to do so, but I think I'm entitled to know about it, and I'm entitled to discuss it, I'm entitled to give him my views as his Manager, and that's what I'm trying to do right now, and if he wants to say it's how I like to call it then than his prerogative, but as long as I'm here I intend to speak my mind on items of importance, and this to me is an item of importance. This particular contract in his view may be only minor, but he himself said earlier when I asked, hey, what if we had a need for this company, do you think we would probably spend more than \$100,000?- and his response was yes, absolutely, we would, and here we are getting a department head to support it.

City Manager Salerno: I did Commissioner, but – but let's put it into context, please. What I said was this contract, not this amendment, this contact can spend a considerable amount of money; this amendment only provides that the contractor will give us only a performance bond of a million dollars, that's all this item does. It is in the city's interest to do so, the department head has recommended it, I recommended it, I approved it, it's there on the agenda, if I didn't recommend it, if I didn't approve it you wouldn't have it before you. Only those items that are on there with my recommendation, with my approval you will see, otherwise there would be a specific action saying otherwise. So this does not spend – this action today doesn't spend any money, it is just accepting an increase performance bond that the city asked for.

Vice Mayor Kerdyk: Let me just try to give you my thoughts. My feeling is, we are looking at who's held accountable for this recommendation in my opinion, and when I read this document here the person that I hold accountable for this document is the City Manager. If there is a problem, it's the City Manager's problem, and my problem with the City Manager, that's how I see it; whether he's signing it down here or whether he's putting it up there, that's to me the most important is who is ultimately responsible for this item coming in front of the City Commission. So that's my number one issue is, who is accountable?- and in this particular case I see the City Manager as being accountable on this document.

Commissioner Withers: Let me go out on a limb and ask the City Manager a question. On these issues, where you are trying to empower your department heads with recommendations, if you didn't agree with a department head recommendation would you sign this?

City Manager Salerno: No.

Commissioner Withers: I mean, I would think that if I'm a manager overseeing a subordinate, if I don't approve their recommendation, I'm not even going to present it any further.

City Manager Salerno: Absolutely.

Commissioner Withers: So to me, even seeing this is assurance that the City Manager has not only has read it, but has signed off on it, and whether you want to call it a rubber stamp or what, I would just be surprised that any Manager worth his or her weight would even move an item forward, if they didn't agree with a decision of a subordinate. Secondly, Ralph, we do receive recommendations from Boards and Board of Adjustment, Planning and Zoning Board, etc., etc., etc. that do fall under the purview of the City Manager and in that case the City Manager's office does not come through with a recommendation, excuse me, does not always come through with a recommendation of yea or nay. So, I'm assuming that administrative items, if they are presented to us do have the stamp of approval by the City Manager by introducing the item; secondly, those that are not under the City Manager's purview do come through to us with an approval or without an approval.

Commissioner Cabrera: Let me try and respond to the two comments you made. Number one, I had no idea that the fact that he altered the template he will still be held accountable for it, because he's made a change to the template, I can only base my commentaries on what I read. So that's number one. He's clarified that and the only way I'm going to get a level of comfort going forward, it's a very simple task of mine as his supervisor, I'll ask him does he recommend this item, if I think it's important enough for him to give me more than an approval signature. Secondly, those Boards that you say have recommendations to make, those Boards are quasi-judicial Boards, and they supersede any administrative responsibility he may or may not have, he has no way to turn down a Board of Adjustment decision like he has the way to change a decision made by one of his, or recommendation made by one of his department heads. So, I don't know how the two go hand-in-hand.

Commissioner Withers: I was just showing you on the administrative reviews, they do come through with a City Managers approval. The Boards that report to us directly, they do not necessarily come through with an approval, they can come through with a denial or an approval. So the ones that do come to us administratively, I don't think we would ever see them from a department head. I would be flabbergasted if we had an item on the agenda where the City Manager doesn't approve of it and yet a department head approves of it. I don't know what Manager would be stupid enough to present an item that he disagrees with his own staff, it's just beyond me.

Commissioner Cabrera: Your logic is very clear, but how do I know that when I get a document that removes the line of recommendation from a City Manager?- how do I know that Chip?

Commissioner Withers: I don't think it does though Ralph, what I'm saying...

Commissioner Cabrera: Sure it does, I'll show it to you; you want to see last week's agenda.

Commissioner Withers: I read it, I read it, but what I'm saying is, why would a Manager put him or herself out on a limb of a recommendation of a subordinate without approving it?- I mean, that's just basic bad management, that would never happen.

Commissioner Cabrera: It is, but I don't disagree with anything you are saying, I'm in agreement with you; but I'm looking at an item from last week's Commission meeting on May 25<sup>th</sup>, and I've got a recommendation from the City Manager on an item here, on the University of Miami modification to the UMCAD, and I can give you all of last week's resolutions and ordinances and they all came with a recommendation from the City Manager; now I no longer see that, and incidentally I also see the approved columns with his signature or signed by someone else on his behalf, but the point is that's all be modified and changed. I mean, I can only base all this on what I'm reading, and I prepare for the Commission meeting like the rest of you do, and that is we read the agenda, we read the items and I think we all pay very, very close attention to the items on the cover page and we look to see what kind of recommendation this receives. I'm not getting one from the City Manager, I'm getting an approval; and yes, you're right, what City Manager would not – would allow a department head to bring forward an item that he doesn't support?- not a very bright one, but the way that this is being presented to me it's a complete different change to what I've been used to seeing for the last nine years, and I don't know, but last time I looked, I got elected like the rest of you and I think I have a right to say how I feel on an item of this importance; and so I'm not disagreeing with you Chip, I'm not saying that you are wrong and that Bill's wrong, or Don's wrong, or Maria, I'm just saying that Maria, I'm just saying that this is unlike what I've seen in the past and I find it to be irregular, and I don't understand it.

Commissioner Withers: The explanation I heard the City Manager give was that he is trying to empower department heads to take more responsibility, get more involved, think on their own, and I'm assuming some are on a shorter leash than others, but as confidence grows, then I think we are going to see more and more department heads recommending approval of items much

like Eric Riel does in Planning and Zoning. I think that it's just more of an empowerment issue, that's what I heard him say.

Commissioner Cabrera: And I accept that. I see it as a modification, and I don't like it, and what I'd do going forward, given what I'm hearing from the rest of my colleagues, I will simply, if I'm uncomfortable about something I will seek his recommendation that's all I can do. I can't convince you of this modification made without the appropriate kind of discussion, but so be it. It is what it is.

Mayor Slesnick: But wait, wait, Ralph, I think you brought up a good point, and I said that, and I think you've discussed it now, and I think that it has been made a discussion item, and I think the Manager has heard it, and I think he understands your concerns, and I think all of us has said...

Commissioner Cabrera: I think he disagrees with my concerns.

Mayor Slesnick: No, no, no...

Commissioner Cabrera: He's entitled to disagree, he's entitled to have his management style, I'm entitled to have mine.

Mayor Slesnick: But you're missing...OK. But I'm saying is...

Commissioner Cabrera: Let's call it what it is, what am I missing?- no tell me, what am I missing?

Mayor Slesnick: You are saying that the rest of us....I am saying and I think Bill said and Chip said that we all are looking for the Manager's recommendation, not one of us disagreed with you on that; we all are looking to be told by the Manager that it's his recommendation. I think the only difference was is that there were some members of the Commission that can accept the signature where it appears as his recommendation, and I understand you made yourself clear that it is not to your liking, and it wasn't told to you before you saw it in the first place.

Commissioner Cabrera: It's not about liking it; I don't see it as appropriate.

Mayor Slesnick: OK.

Commissioner Cabrera: OK. I see it as being inappropriate.

Mayor Slesnick: But I did ask the Manager on the record if that constituted a recommendation, he did say yes; now it didn't say that on the form and I understand that's why you brought it up, and that's why I asked him in response to your question if he would clarify that to say if that was his recommendation.

Commissioner Cabrera: And he has. He's made his point and I'll make mine.

**Mayor Slesnick:** I know that, but I don't think you should think that we are all against you.

**Commissioner Cabrera:** I don't think you are against me, I don't think that at all. I think you all are entitled to your opinions and that's what you've done, you've given me your input and opinions just like every other resident that writes us or calls us or has an exchange with us, and therefore so be it.

**Mayor Slesnick:** Mr. Manager you've heard the Commissioners comments and if you would think about his comments and take a look at the form and decide if it really is the way you wish to present it that would be appreciated by me. I mean, I know you said what your position is, and I'm just asking that you take a second look at it. I am asking for a motion on C-11.

**Commissioner Anderson:** I'll move it.

**Mayor Slesnick:** Been moved by Ms. Anderson.

**Vice Mayor Kerdyk:** I'll second it.

**Mayor Slesnick:** Seconded by Mr. Kerdyk; is there any further discussion on C-11?

**Mr. Clerk**

**Commissioner Withers:** Yes

**Commissioner Anderson:** Yes

**Commissioner Cabrera:** No

**Vice Mayor Kerdyk:** Yes

**Mayor Slesnick:** Yes

**(Vote: 4-1)**

[End: 10:43:27 a.m.]