

City of Coral Gables City Commission Meeting
Agenda Item I-1
June 16, 2015
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Deputy City Attorney, Miriam Ramos

Public Speaker(s)

Agenda Item I-1 [12:47:31 p.m.]

Litigation Report

City Attorney Leen: Mr. Mayor, I'd like to call up the Deputy City Attorney to present the Litigation Report and answer any questions.

Ms. Ramos: Good morning everyone. About a week or two ago, I provided all of you via e-mail the Litigation Report. One of my duties since I joined the City is to supervise outside counsel and to keep track of litigation cases, and so I will be presenting to you probably three times a year or so, all of the cases that are in litigation. Now obviously, a lot of the things here are exempt for purpose of keeping our strategic advantage. So if any of you of course would like to meet with me and discuss a particular case, I'm happy to do that. Also, if any of you would like to have an Executive Session and think that one is necessary in any of these cases, we are happy to schedule that.

Commissioner Lago: Can I ask you just a few quick questions and you may not have the background or you probably do have the background. I imagine that Craig filled you in. One of my concerns as Commission was the amount of outside counsel that we are paying. Not in a bad sense, I know we are dealing with a lot of issues and we have to obviously get outside counsel, but do you see that trend kind of slowing down?- or do you see that we are on the same pace?- what's your opinion? I'm not going to hold you to an exact number; I know we are halfway through the year.

Ms. Ramos: I don't know that I have a baseline on which to know which direction we are moving. I can tell you that the cases I've seem most often are tort cases. The good thing about that is that while there are several, they tend to not be huge cases. We have had one very big case that we've been dealing with and of course that's going to ramp up the amount of money that we spend. But frankly, the three of us work around the clock and I don't know that – I mean, Yaneris is handling two litigation cases, but I don't know how many more we can really take on.

Commissioner Lago: I know you are short-staffed.

City Attorney Leen: I don't want to say that I'm short-staffed. I'm happy with my attorneys.

Commissioner Lago: You are not saying that you are short-staffed, but I know you are.

City Attorney Leen: We are all taking on a lot, it's true. We are happy to do it, it's a privilege, but you know the way I look at it is that our goal as Coral Gables is to always maintain a strong legal position to try to win every case, to not lose cases, to not have any judgments, which we haven't as far as I'm just thinking right now, I can't think of a judgment. The settlements, we try to keep them fair, so if someone's been harmed we do try to treat them fairly, but nothing more than we should pay, so we hire excellent counsel. I think a good example is what happened with hiring Cory's firm. I've gotten a very good rate from them, but it's still a much better rate than they would probably provide to anyone but a public entity, but it's still going to be expensive if we are going to win that case and in my view, if we take the case and we take the position and I give you the opinion that we should be able to win it, then we've got to try our best to win it.

Mayor Cason: Have we lost anything?- I can't think of anything in four years.

Vice Mayor Quesada: I'm sorry Commissioner Lago, let me just, I'm sorry you should answer the Mayor.

City Attorney Leen: Well, occasionally there may be an employment matter that's more like an arbitration which we might, but nothing in court that I can think of off-hand that we've lost since

I've been here. I don't think we've lost anything in court. In fact, we've had some major victories in the Third District and nothing lost and I do think that anytime the Commission has wanted to achieve something, and you know it's a good example is this case also in the Deering Bay matter, when we took a position with the County, and there is a host of matters. There are a lot of matters when we've taken positions we've always been very successful, and we get the best counsel and we get them at excellent rates and what I'll do is I'll meet with each of you and let you know, I don't want to say it necessarily here, although it's all matters of public record, but I just don't want to put different attorneys on the spot in a Commission meeting even if they are not here, but I will be happy to talk to you and of course, if you want to know, I'm happy to tell you. But I do think we get good rates and I know the Manager and I have been talking about the budgeting process and I'll turn it over to her.

City Manager Swanson-Rivenbark: As a point of clarification, previously several different departments managed outside counsel. We are bringing all of that outside counsel to fund to the City Attorney's office so that they have an opportunity to help guide us on those expenditures.

Mayor Cason: And you use your best judgment, obviously, when you need to go to outside counsel.

City Attorney Leen: I do in the really big cases and the ones last year were the one with FPL and then also the one with the trolley case. We came to you in a lot of Executive Sessions and would update you on what the fees would be, and so I do want to keep you updated, it's very important...

Commissioner Lago: I feel that last year or maybe over the last two or three years, we've had pretty significant large cases, like you mentioned the FPL and the trolley station issue. So, I feel that since we've already sunsetted on those, I wanted to know maybe...

Ms. Ramos: There is a big one that's still in play this year...the COLA case.

City Attorney Leen: That's the COLA case. That we hired one of the top attorneys in Florida who is a Florida Supreme Court Justice and we got a better rate than is typical again, but it's still a high rate, because we wanted to have – that case is a big case, it could be millions of dollars. We think we have a really strong position, but we still need to convince a judge and then maybe the Third District and maybe the Florida Supreme Court. It depends on how the case goes. So, we feel very strongly about our position, but I wanted to make sure that no one would ever say that Coral Gables lost because they didn't hire the best attorney on a case like that. I feel very comfortable with what we are doing there.

Vice Mayor Quesada: And then Commissioner what happens is laws, there are so many different types of cases, there are so many different types of specialties that it's impossible for them to have all that experience, and they might have a general understanding just like you might have a general understanding of different area of construction or of engineering. So, it's really bringing in those specialties, because as we all know experience especially in the legal setting, a courtroom setting, is really what sets attorneys apart, and to have them come in I think it's most important that our legal team continues to be strong and controlling those rates, and again...Cantero, she mentioned that she didn't have that relationship, but Cory Lopez-Castro, she is one of the best attorneys in town, she is amazing.

Commissioner Lago: Listen, I agree 110 percent. We all want to give them the necessary resources to our legal team to be able to perform to the best of their ability. At the end of the day, they represent the City of Coral Gables. My question was just in reference to the amount of monies that we were spending, because does it make sense to bring in maybe another junior lawyer fresh out of law school...?

Vice Mayor Quesada: In limited circumstance. The City Attorney and I had that conversation many, many times. I can give you another example, Cory Lopez-Castro was one of the big reasons why we were able to negotiate a resolution. I wasn't on the Commission at that time with the Mayor and I, with the Biltmore, because there was some potential bankruptcy implications there and she is a specialist in that field. So again, it all really depends on the specialty; the pension issue that we have going right now, we have the former Chief Justice of the Florida Supreme Court representing us. You know you can't match up someone like that with a junior attorney that we can pay first year, second year attorneys salary.

Commissioner Lago: I don't know if he still is, but it's also a great fact that he was or maybe still is a Coral Gables resident.

Vice Mayor Quesada: He is.

City Attorney Leen: I will tell you any rate you want, but I will tell you one rate. I want you to hear one rate. For tort cases we get excellent counsel and it's \$150.00 an hour and it's very hard to get a rate like that. Attorneys do it for us because they like to serve the City and they think a lot of the City and we take reasonable positions. So, it's not like they are taking, they feel comfortable.

Commissioner Lago: My statement is not based on whether we should be spending the money or not. My statement is based on, what is the most effective way to help you do your job?- is it bringing somebody else in who can engage you on a day-to-day basis or is it to go to outside

counsel, and you've eloquently stated that you feel comfortable in this route and I back you 110 percent, especially with Vice Mayor's explanation.

City Attorney Leen: I appreciate that and we'll always look at that in each year's budget and we'll talk to the Manager about it. If I can say, since it came up, this is a wonderful job; I have never felt so much support since I've been here. It's a great job to be City Attorney of Coral Gables.

Commissioner Lago: You want to take a pay cut?

(Laughter)

Mayor Cason: We'll even give you medals.

City Attorney Leen: I would prefer not to...you've got to be careful what you say. I love the job though. I do feel a lot of support and I appreciate what you are saying and I'm always looking at the fees and the Manager and I have been talking about it with bringing it into my budget and then I can have more control over it. Miriam, one of her main tasks is to supervise all of this and keep it contained and we are very strict on the rates. I want you to know, not only do we not pay for legal research, we are very strict about that, we don't pay for paralegals, unless they are pre-approved in limited circumstances, and we don't pay for law clerks. We usually get a blended rate, it's a good rate. So, I want to assure you personally, I'm very conscientious that we are expending public funds.

Commissioner Lago: Craig, before you made your statement, I feel 110 percent confident in you.

City Attorney Leen: It will be scrutinized. I'm going to keep it up.

Mayor Cason: Just keep it down below Commissioner Quesada's rate (laughter). Anything else on litigation? Thank you.

Ms. Ramos: Thank you.

Commissioner Lago: Great work

[End: 12:57:08 p.m.]