

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

## **Agenda Item I-2**

**October 28, 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**

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

**Richard Namon, Coral Gables Resident**

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I-2 [Start: 12:04:19 p.m.]

A Resolution directing the City Attorney to prepare an Ordinance amending Section 54 of the City Charter, entitled “Public Works – Bidding Contracts”, to change the threshold amount above which all contracts for execution of any public work or improvement must be approved by the City Commission, from \$25,000 to \$100,000, and further authorizing the holding of a Special Municipal Referendum Election on the issue at the General Biennial Election to be held on April 14, 2009, for the submission to the qualified electors of the City of Coral Gables.

Mayor Slesnick: Item I-2.

City Attorney Hernandez: OK, and this was following our review of the Procurement Code, and following the application of increased limits to \$25,000 regarding Public Works or improvements before there is a mandatory advertising and formal RFP process. What we are requesting because of the cost incurred, as you all know there have been a shift in the direction in terms of the cost, and cost savings that are being directed from Tallahassee, as well as municipal government and county government tightening their belts. This is a measure to in effect attempt to resolve some of those issues. Most capital improvement projects, most improvement projects exceed the \$25,000 amount. You saw examples of that today with two items that you were reviewing, and it’s the recommendation of the City administration that that amount be increased from \$25,000 to \$100,000; and Mr. Nelson, Mr. Delgado and Mr. Brown can answer any questions you have.

Vice Mayor Kerdyk: I got a question for you as he walks up. Right now this is for the construction portion of it...

City Attorney Hernandez: Right.

Vice Mayor Kerdyk:...and we already have the goods and services that...

City Manager Brown: Goods and services are already there.

Vice Mayor Kerdyk: So we went from \$25,000 to \$100,000, just to refresh my memory.

City Attorney Hernandez: On goods and services, right. The issue of procurement of public works or improvement is Charter language that was voted upon; and therefore in order to change that Charter language, the Commission has to submit that again to the citizens, and that's why the other provisions of the Procurement Code deal specifically with only Code items that the Commission has the authority to amend and change.

Vice Mayor Kerdyk: Here's the issue that I see, and maybe you can help me out. Goods and services – when you order goods and services you have a specific order form or order; basically, you would go and order for example, a hundred widgets of this specific type. In construction it's a little bit more ambiguous, I mean, you know...

City Attorney Hernandez: Roof.

Vice Mayor Kerdyk: Yeah, well a roof, or electricity, or plumbing; can you be that specific in awarding bids with regards to construction?

Mr. Nelson: We can do two different ways. When we order goods and services, usually we define the scope and we know exactly what we want to buy. If we want to buy twenty computers, we know the model, we know the...and we go out and get the best price, and currently under the Procurement Code we can then go, we have to go out for a bid if its over \$25,000, whether its construction, goods or services; \$25,000 we have to go out for a bid. That's a written proposal. We seek either pricing under request for proposal, or a request for a bid which is a definite price. What we are asking is that the construction portion, which is in the Charter, only the construction portion be increased from \$25,000 to \$100,000.

Vice Mayor Kerdyk: I understand.

Mr. Nelson: The referendum for this item was changed back in April 12, 2005, whereby the public voted to increase it from \$7,500 for construction only to \$25,000. In the meantime we created a new Procurement Code back in 2003. In that Procurement Code, we increased the goods and services to \$100,000, but we only kept the construction at \$25,000, and that was because of the Charter. Now we are requesting that the Charter be equal to the goods and services, which is \$100,000 going for construction from \$25,000 to \$100,000. The process of what we go through is the same actually. Again, it has to be over \$25,000 for goods, services or

construction. We have to do a formal advertisement; we have to go out to the public. The only difference is the City Manager has to bring items that are a \$100,000 and over to the Commission for goods and services. He now has to of course bring construction items over \$25,000 to the Commission. We are requesting that be equal to goods and services of a \$100,000 before the Manager would bring that to the Commission for approval.

City Manager Brown: A good example Vice Mayor, are items H-2 and H-3 would not have been before you today, because they would have been under the \$100,000 mark, and we would have asked them to begin construction immediately after the bid, and the contract was signed, instead of waiting for the Commission meeting today. Of course Item H-1 would still be before you because it clears the \$100,000 mark.

Mr. Nelson: It facilitates a faster...

Commissioner Withers: How do you deal with projects that have several components? If you have someone doing masonry, and someone doing electrical, and someone doing plumbing, someone doing paving, I mean, how do you...is it accumulative of a project, or is it each individual bid? It could be a half a million dollar bid that we would never see.

Mr. Nelson: No, it would be the total bid. In other words...

Commissioner Withers: But they are going to individual...

Mr. Nelson: No, but we would go out for a general contractor and it could be a manager at risk bid that would come before you for all the components. We wouldn't break it down into all the individual subcontractors and bring those and circumvent the process.

City Attorney Hernandez: Right. The law is very clear that you can't break down a specific project in order to go below, well you have to...whatever the project is, the project is. If you are building a building, you can't break it down, and say OK, today we are going to build the walls, and that's only this amount.

Commissioner Withers: What if it's a phased project over a couple of years?

City Attorney Hernandez: It still has to be, the total project has to be approved either by the City Commission, if it exceeds certain thresholds or by the Manager if it's below certain thresholds.

City Manager Brown: Commissioner, we couldn't bring you phase one and then phase two; we'd have to bring you phase one and phase two.

Mayor Slesnick: Liz, Liz, can't you address this and the language you create so that you could sooth Mr. Withers and Mr. Kerdyk's concerns?

City Attorney Hernandez: Absolutely.

Commissioner Withers: And also I'm assuming this only deals with pre-approved capital improvement projects?

Mr. Nelson: Yes, these would be approved capital improvements as part of the budget process that would be brought forth to you. You create the capital improvement through the budget. The amounts are determined and then of course based on those budgeted amounts. We go out and seek request for proposals for those construction projects and bring those forward.

Mayor Slesnick: I think that that is the critical, critical element right there; and I think you have asked the exact question, and the public should understand these are projects which we have already approved in the budget. We have already approved the money, its now just picking a contractor.

Mr. Nelson: Right and we go through that public process...

Mayor Slesnick: And I think that should be addressed Liz, too. In other words, the words should be for items that are in our capital improvement or in our budget.

Mr. Nelson: And that are funded through the budget process.

Mayor Slesnick: Funded through the budget process; items that are funded through the budget process.

Commissioner Withers: And then the last question is, how do you deal with cost overruns on these projects? I mean, would you come...you have estimated a project at \$90,000, and you find out that now you have to do it for \$160,000; does that now throw it over the threshold, over the \$100,000 threshold, and you now have to come back for additional monies to be approved?

Mr. Nelson: Great question. The Procurement Code today that you approved provides that the City Manager has the authority based upon the recommendation of the Public Works Director, of amending the contract if its below fifteen percent (15%) of the contract. So if we awarded a contract for \$100,000 to the Commission, and then they needed a change order and it came in at fourteen fifty, it would be OK; if it came over that it would have to come back to the Commission for their approval.

Mayor Slesnick: Do I have a motion?

Vice Mayor Kerdyk: So moved.

Mayor Slesnick: Mr. Kerdyk moves, second?

Commissioner Withers: Second.

Mayor Slesnick: Second by Mr. Withers. Mr. Namon you filed a card to speak; again, I would say that this wasn't publicized as a public hearing, but we'll invite you forward.

Mr. Namon: The only thing that on a personal note, I know it's in the newspaper, you said well even a little cost \$30,000.

Ms. Bolton: I can't hear you; speak up man.

Mr. Namon: I understood and according to the newspaper Mayor Slesnick is saying we can't do anything in construction that cost \$30,000 to do a roof, and my comment is when I go out to get a \$30,000 roof job done, I make sure I get competitive bids for that same roof.

Mayor Slesnick: We are not doing away with competitive bids.

Mr. Namon: But the advertising for it has in effect as far as availability of price or competitiveness, and it seems to me that if the Commission was being overworked by so many of these items having to come forward because they were under \$100,000, I would agree with you that it might be time to change, but I don't think you have so many items that come in front of you that require this approval; and for that reason in an era where we are looking for more oversight in financial matters such as from our melt-down on the stock markets and such, it seems to be that the reduction of oversight, and this is a matter of oversight, and public information, it would seem to me that it would be appropriate just to leave it where it is. Thank you.

Mayor Slesnick: OK, further discussion?

**Mr. Clerk.**

**Commissioner Withers: Yes**

**Commissioner Cabrera: No**

**Vice Mayor Kerdyk: Yes**

**Mayor Slesnick: Yes**

**(Vote: 3-1)**

**(Absent: Commissioner Anderson)**

Mayor Slesnick: Any further report?

City Attorney Hernandez: The only thing you have in addition, is the Pending Litigation Report, and I have nothing additional to provide.

Mayor Slesnick: Thank you.

[End: 12:14:35 p.m.]