

City of Coral Gables City Commission Meeting
Agenda Item D-1 and F-1 are related
January 13, 2009
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

Interim City Manager, Maria Alberro Jimenez
City Attorney, Elizabeth Hernandez
City Clerk, Walter J. Foeman
City Clerk Staff, Billy Urquia

Public Speaker(s)

Colin Baensiger, Colin Baensiger and Associates

D-1 [Start: 9:24:43 a.m.]

Colin Baensiger from Colin Baensiger and Associates to provide a status report on the City Manager search.

Mayor Slesnick: Now, we have item D-1, its our search firm, Colin Baensiger; I know he is here, but I know that he also just arrived; are you prepared?- have you caught your breath yet?

Mr. Baensiger: I think I’m prepared as I’ll ever be.

Mayor Slesnick: OK, very good. Mr. Baensiger we are on D-1. We have a related item that we will go to after this, it is F-1, which is I think Mr. Cabrera’s item.

Commissioner Cabrera: Thank you Mr. Mayor.

Mr. Baensiger: Good morning, Colin Baensiger, Colin Baensiger and Associates; I assume this is the right....(mike).

Mayor Slesnick: Yes, either one, just as long you are speaking into the mike.

Mr. Baensiger: If I’m not, please let me know. What I wanted to do today is give the Commission and the community an update of where we are on the search process. As you know, but possibly the public doesn’t, we met with each of the elected officials right around the Thanksgiving Holidays, most of those a little bit after, I think the Mayor was a little bit before. We developed some recruiting material that we gave to the City to take a look at, and to

comment on, and then we went forth and looked for candidates. We did some advertising; we did some e-mail outreach, and we did some personal outreach. We returned...I guess we had approximately ninety (90) applicants, ninety-one (91) or ninety-two (92); we've been through those applicants; we picked out approximately fifteen (15) to look at; we took it down to ten at one point, and we are back up to about thirteen (13) right now that we are looking at. When we were looking at the candidates, the first thing that we looked for more than anything else, we looked for strong management experience; we looked for achievement; we looked for financial acumen; we looked for experience in a high end community; we looked for people who had experience in a diverse community; local knowledge was a plus, certainly. If they had experience in a university town, that was certainly a plus; we did look for government experience, primarily. We also looked for people who had experience with public and private partnerships; and as you can imagine candidates are kind of a basket of knowledge skills, and abilities, and experience, so you kind of...its not like you can do a formula and say, OK, so-and-so is in, because he gets three points for this, and four points for something else; its kind of a process where we evaluate; we go through a number of cuts; I talked to all of the candidates that we are considering strongly, and just try to determine who would be the best for Coral Gables. At this point, I'm not ready to talk about names, simply because we are still in this evaluation process. I'm pretty satisfied with the candidates that are on the list so far, but we are doing the background checks, and until we've completed the background checks, I think it would be unfair really to talk about any specific candidates. We don't know whether they will be ultimately considered or not. Our intention at this point is to bring you somewhere between ten (10) and thirteen (13) candidates to look at. We'd like you to look at their materials and then, to pick the top five (5); the five that you'd like to interview. My goal is for you to have the materials for about a week; we anticipate delivering those materials next Tuesday; and then, I'd like to meet with each of you. I'm getting a little ahead of myself; one of the things I did want to talk about this morning was how we go from here. I spoke with each of you in the individual meetings about what our process is; we described it; the Commission as-a-Whole has not had an opportunity to discuss the process going forward, and to say, you know, we really like this part or we are not too keen on that part. I do have a copy of the old schedule, which I can hand out, and need to be a little closer to the mike; I apologize. What we would normally do at this point, is we would give you the materials next Tuesday, then as I said we would normally wait approximately a week, and then meet with you individually. Many times the Commissioners are basically satisfied looking at the materials, they don't have a lot of questions for us, but we do like to make ourselves available for one-on-one meetings, so that you can go through the materials with us, and discuss the candidates with us. We like to have a meeting, preferably the same day, if that's possible, but it may not be, with the Commission where you actually do pick your top five candidates. We usually start with a straw ballot where everybody kind of lets us know who they think are the top candidates; and then obviously there is some discussion; and the reason we start with a straw ballot is that there maybe candidates in this booklet. It will be a fairly thick booklet, but there may be candidates in this booklet that no one is interested in; and so it would be kind of counter-productive to spend a lot of time talking about candidates that no one is interested. By the same token, there may be candidates that everyone is interested in, so there is probably not a lot of point in talking about those candidates. Its really the candidates, normally we can pick out three or four without any trouble. It's really the candidates who's number five, and six, and seven you may want to have some discussion on; one Commissioner may have a strong preference for a candidate, and you may say, well, if Mayor Slesnick or Commissioner Cabrera has a strong preference for this

candidate, even though maybe he finished sixth in the ballot list, put him in the top five; but that's the point which we normally have discussion; and then once we've picked our candidates it doesn't have to be five, it could be four, it could be six; we try not to go more than six simply because it becomes a blur after a while in terms of who you are interviewing, and who said what. After that, typically what our process is, is to have an interview weekend, it could be a Friday and a Saturday, it could be a Thursday and a Friday, whatever you are most comfortable with, or any other day of the week for that matter. Typically, it's a Friday and a Saturday with cities; but what we do in that weekend, I call it a weekend, that interview process, typically we recommend a reception where you have an opportunity to see the candidate in a situation where he or she is mingling with you and with the public, and it does two things, it gives you an opportunity to determine if that person is comfortable in a crowd; the City Manager is going to be representing your City at various community events, at various clubs, rotary, whatever; you want somebody you are comfortable with, is going to represent you well. It also tends to be an ice-breaker; you get to meet them informally at a reception the night before, and then the next morning we do one-on-one interviews. The one-on-one interviews are really to test the chemistry between you and the candidate or candidates. Ultimately, a City Manager succeeds or fails based on that chemistry between you and the particular Manager or candidate; and then we'd like to have a meeting like this where the candidates come before you for about twenty-twenty-five minutes. It doesn't have to be lengthy, where you can see them in a City Manager-type setting, where they are appearing before you as a Manager so-to-speak. So when you are done, you've seen them in a social setting, you've tested the one-on-one, and you have seen them in a setting somewhat similar to a City Commission meeting. We normally wait a couple of days, and then do a vote to select your Manager. That's kind of the process going forward that we recommend, certainly open to any suggestions or changes that you might want to make, and then of course there is the timing issue.

Mayor Slesnick: Thank you Colin; any questions for Colin?

Commissioner Withers: I have a question. How many of the candidates that have made this first initial list are currently employed? I'm just thinking of moving forward and scheduling these events.

Mr. Baensiger: Right; I think, I believe all of them are at the moment, there may be one or two – no; there may be one as a matter of fact.

Commissioner Withers: And secondly, what is your thought on having us contact their references?

Mr. Baensiger: It's really your call.

Commissioner Withers: Is it?

Mr. Baensiger: We will give you part of the background notebook; I didn't spend much time with that; we'll give you the resume, we give you the results of our interviews, which is usually three or four pages written up; we will give you the comments of all the references that we talked to, and the telephone numbers are on that sheet, so you can contact anyone you wish, if you want

to, feel free. We certainly don't mind anybody reaching out to others as well that we may not have been able to reach.

Commissioner Withers: I assume they have already advised their current employer that they are...

Mr. Baensiger: I believe they have.

Commissioner Withers: That would be kind of important before we started calling.

Mr. Baensiger: Yes.

Mayor Slesnick: I think Chip, it's been my experience has been that they probably will wait to see if they make the final list, and that's the time when they need to contact, because their name is going to become public.

Mr. Baensiger: Well many of them I know have already talked to their employers, simply because we asked for their current elected officials, and you know, the last thing you want to do is blind-side your Board, but I think you are right, you want to get down, well you want to see the material, if there is somebody you feel you need to ask some questions of, I would suggest you go ahead and do it.

Commissioner Withers: And this is a question to Liz; Liz, when does this list become public record?

City Attorney Hernandez: The list becomes public record the minute they prepare it and give it to the City Commission.

Commissioner Withers: I'm sorry.

City Attorney Hernandez: The list becomes public record the minute that they prepare it and provide it to the City Commission.

Commissioner Withers: So as long as he hasn't distributed it then it's...

City Attorney Hernandez: The minute he has a document prepared it will become a public record.

Commissioner Withers: Can we just make sure, and I know that this has been one of Ralph's things, that we get that list before the press gets that list.

Commissioner Cabrera: I tell you what I did...

City Attorney Hernandez: I think that's directed to the Manager's office.

Commissioner Withers: You know what I'm saying?

Commissioner Cabrera: Yes, let me tell you what happened; last week we had, Mr. Baensiger and I, had a real good conversation about that; and I shared with him my concerns with the media getting that information before all of us, and I shared that with the City Manager as well, and we had a real good understanding last week, and so he was even gracious enough to alert us that he was going to be in a newspaper article last Sunday, and he went to the City Manager's Office to tell us that, so I think you and I have had that very candid conversation, and you understand how we feel about this.

Mr. Baensiger: Yes, I do, and we have been very careful, our conversations have been very limited with the elected officials. I've given you the opportunity, I think for the most part, to ask me and until you really get it down to the finalists or semi-finalists, down to that thirteen, I don't know there is much point talking about it; and the press has been quite frankly, very gracious in the sense that I said to them, you know I could give you the names I suppose, but I don't want to do that until we have zeroed in on who the top candidates are, simply because we may expose somebody who is not going to be recommended. So I will make sure you get it first. My goal is to get the notebooks to you, and then to talk to the press about whom those candidates are.

Vice Mayor Kerdyk: I have a follow up to that question. I'm already being contacted by Mayors and people that their City Managers or COO's might be seeking the job, and that we've already touched base with, and I don't even know the list myself; so when they are calling me, I'm saying, you've got to be kidding, I don't know what you are talking about. So there is a point here, what I'm trying to get at, there is a point where you do need to give us all the list, not just one or the other, we all need to know, so we don't get these unexpected phone calls, and I did get one last night on the same topic; Commissioner do you realize that so-and-so is a candidate for this?- and you guys are already doing background checks on him, so I said no; but I do want...some may know about candidates and some people may not, I think its only fair that all of us know about the candidates at the same time, when there is that point.

Commissioner Cabrera: Vice Mayor, excuse me Mr. Baensiger, are you saying that you would not only like to get his list of finalists, but you would also like to see all of the people that applied for the job, a list of their names?

Vice Mayor Kerdyk: I don't know, I don't need to see that, just the finalists.

Commissioner Cabrera: I'm with you; I don't need to see all ninety-some names that applied for the job. I think...

Vice Mayor Kerdyk: I'm sorry, when you start drilling down, that's when I need to know the names, when you start drilling down.

Mr. Baensiger: One of the problems we have obviously, is that when we are doing background checks we don't know whether they are going to be a semi-finalist or not at that point, we're approaching their elected officials saying, you know what do you think of "Joe" or "Fred" or "Nancy" or whatever?- and so there is a little bit of a problem there, to be perfectly frank, and that's one that I haven't had to address before; I mean, I can certainly give you the names at any

point you want them, but we don't know if we are going to recommend them yet or not, so I've been a little reluctant. If you want to discuss them I'd be happy to.

Commissioner Cabrera: You know, I'm experiencing a little bit of what you described, and I'm sure the rest of us as well. I'm wondering...I know how I'm going to handle it, and I'm going to share it with all of you, and you don't have to handle it the same way, you can handle it your own way, you can handle it however you chose; but what I have been doing is, I have been letting people know whether it's a Mayor, or a lobbyist, or a friend of the family, or a relative, that we are assigning that task to the professional recruiter; and that we are going to work with whatever his firm brings back to us. Now, if we decide that you've got eight-nine great candidates, then we'll be blessed. If we decide that you don't have any good candidates, then we won't be so blessed, and you'll have to start over again, but the point is that I'm relying upon you and your firm to bring us those people; and I'm going to try to stay away from, Gee you know, he's a good person, and this and that, and knows the culture, and knows this, and knows that, and all of a sudden we find out that that person is not on your list, then I'm going to politicize the process, and its bad enough that its already a political process amongst five people, and now we are going to even make it that much worse. So I just wanted to share that with the rest of you for no other reason than to tell you what my thoughts are on the process.

Mr. Baensiger: And its obviously a problem, because there are ninety (90) applicants, and there are quite a few from Miami-Dade County, and we are looking at probably five or six from Miami-Dade County at this point, we're looking at probably four or five from other parts of Florida, and we've got a few that are from the national scene.

Vice Mayor Kerdyk: When you said satisfied, can that word be substituted with impressed with the candidates?

Mr. Baensiger: Oh yes, sorry, I'm sorry; that was a poor choice of words. I'm very happy with the group of candidates, and I've looked at the list of thirteen, and I've tried to think myself, now who would I pick to interview if I was sitting on the Dias?- and I can get down to probably seven or eight, and then I have a real hard time picking out...and that's me looking at the materials from my point of view; you may look at the materials and there may be some others that you really like, but I'm very impressed with the group.

Vice Mayor Kerdyk: The last comment I have is that, I'm impressed that you are staying on your timeline, but I also want to tell you from my perspective, I think I shared this when we had our meeting, that timing is not the only issue that we need to look at, matter of fact I want a good candidate, if it takes a little more time to go a little bit longer, so be it; don't feel, at least in my perspective, speaking only solely for myself, that you're guided by our initial timeline here, if it takes you another month or so to get us a good candidate, take your time and bring us the best candidate possible.

Mr. Baensiger: OK.

Commissioner Cabrera: How do you all feel about that, what Vice Mayor Kerdyk just said?- how do you feel about his comments?

Commissioner Withers: As far as the timeline goes, or as far as...

Commissioner Cabrera: No, no, more the timeline, because I share his sentiment that, you know, I'd rather see Mr. Baensiger's firm take its time and bring us the very best candidates using the very best timeline, without having to rush him, and I don't know how the rest of you feel.

Commissioner Anderson: I don't have any problem. I think we are in really peaceful steady waters, and Maria is doing a great job. So if it takes a little longer I'm good with that.

Commissioner Cabrera: Good.

Commissioner Anderson: I just want the best candidate...to be able to pick the right candidate.

Mayor Slesnick: I just think, we seem to be progressing pretty well, and he seems to feel comfortable he's got it going, so. I would agree that we should take as much time as it takes to get the best person possible for the job, but on the other hand I don't want to see us start lagging around.

Commissioner Anderson: No, that wouldn't be my hope that would be only if a little additional time would yield better benefit; but if this timeline yields what we want, then great.

Commissioner Withers: As we move toward April, is there a concern about...?

Mayor Slesnick: I think there is.

Commissioner Cabrera: You know why I don't think there is a concern, and this again is my personal opinion, if the person we are going to hire is worried about an election, and the five people that he or she is going to report to, I don't want them to come and work here, for the simple reason that this is not about the five people, we're always going to come and go; there will be another election in two years.

Commissioner Withers: No, I understand; I'm more concerned about the politicizing about the process. In a perfect world, I agree with you a hundred and ten percent; but I'm concerned as we get close to the whole... as the political ball starts to roll down hill, that's...Don, I don't know how you feel, but we'll see how it plays out.

Commissioner Anderson: I feel confident that we'll probably move before then, but if not, it will be what it will be.

Commissioner Cabrera: We're the two that's most affected.

Commissioner Withers: That's what I'm asking you too.

Commissioner Anderson: Like I said, I think, I could be wrong, but I think what the folks out there, our residents look for, is that their government is steady, and strong, and calm, and the new

City Manager, whenever that person comes on would be just icing on the cake, really. So for me I'm comfortable; I'm good with this, however it plays out.

Commissioner Cabrera: Yeah; same here.

Mr. Baensiger: If I could make a quick comment, and that is of course we have to consider the candidates as well, and many of these now are exposed because we have talked to their elected officials and such, and we don't want to leave the candidates we do have dangling for any length of time. We have a very good group of candidates, and so I would suggest we move forward with all due haste; and if you decide that you would prefer somebody else, you don't see what you are looking for, we can always step back and do it differently, but for the moment I would encourage this to move forward as quickly as possible, so that some of these people, their lives are kind of up in the air right at the moment.

Commissioner Anderson: Absolutely.

Mr. Baensiger: Having said that, we are planning to deliver the materials next Tuesday. I would like to get together with you to talk about them about a week later, and to pick the finalists, and then we need to decide on dates for the interview weekend. I would again, if we are going to move fairly expeditiously, I would suggest like the first weekend in February if that's possible, but I don't know...

Commissioner Cabrera: We should have the reception just before the Super Bowl and probably get tickets for the Super Bowl for everyone, and we should all have it somewhere there, I think that would be most wise, probably a box...

Mayor Slesnick: Especially if Pittsburg is going...

Mr. Baensiger: Yes, I like that.

[Laughter]

Mr. Baensiger: We could put that in the recruiting material, I probably would have gotten more candidates too, but for the wrong reasons.

Commissioner Cabrera: OK.

Mayor Slensick: Alright, well why don't you get us...let's do it this way, why don't you get us the packages next week and you start interviewing with the Commission members; at that time we'll start circulating some dates, proposed dates, and see how many people can sign on for those dates to do the things that are required.

Mr. Baensiger: We can do that. Are there any other questions?

Commissioner Cabrera: One last question. When you submit the packages to all of us, will you have the ability, because I read exactly how the package would come to us; will you be able to provide some sort of an overview on each person, your own personal overview?

Mr. Baensiger: Yes.

Commissioner Cabrera: OK – great. Thank you so much; appreciate that.

Mr. Baensiger: And again, I'll be happy to talk to each of you about the candidates, and I do intend to talk to each of you; you may want my comments before you start reading through the package, or you may want to read the package and then get my comments. So I'm completely available and I will give you an overview, yes.

Mayor Slesnick: Thank you.

Mr. Baensiger: Thank you.

Commissioner Anderson: Thank you very much.

Commissioner Cabrera: Actually, can he stay?

Mayor Slesnick: Yes. Colin can you stay for the next item?- you are going to stay around for a little while, I think you told me?

Commissioner Cabrera: But I'd like to actually have you stick around for this discussion.

Mr. Baensiger: I was actually intending to stay for the morning at least; I do have some things in the office.

Mayor Slesnick: Mr. Cabrera has an item that he's going to bring up at this moment.

Commissioner Cabrera: And I'd like you to actually stay up here with us, and allow you to be a part of the dialogue, that would be very much appreciated.

Mr. Baensiger: OK. As I said, I was intending to stay; I can get an opportunity to really observe you all in action, so I wanted to do that.

[End: 9:49:00 a.m.]

F-1

Discussion regarding a potential employment contract with the next City Manager
Commissioner Rafael “Ralph” Cabrera, Jr.

Mayor Slesnick: Mr. Cabrera.

Commissioner Cabrera: Thank you Mr. Mayor.

Mayor Slesnick: For the people watching we are on F-1 now.

Commissioner Cabrera: The item is F-1 and it's a discussion, a conceptual discussion regarding the potential of an employment contract for the next City Manager. Members of the City Commission, it came to my attention that many, many municipalities throughout South Florida are now making it a standard operating procedure to have an employment contract with their Chief Executive Officer, their City Manager, and in fact today's agenda has a memorandum from Ms. Swanson's office listing, a number of large cities throughout South Florida that in fact has that kind of environment or agreement structure. Among them the City of Doral, the City of Coral Springs, the City of Naples, Miami-Dade County Government, the City of Miami; I believe the City of Homestead is listed; I think there were somewhere between seventeen and/or nineteen cities that we polled; and we not only learned that they had an employment contract for their City Managers, but we also were able to get copies of those contracts, of those contract templates. I know I received one from the City of Coral Springs; and the reason I bring this up for discussion today is, this is a critical part of this process; and I want to be very clear to the public, this is not a document or an agreement that I am creating, or that I'm suggesting that we create for the purposes of creating a “golden parachute” or a “platinum parachute” for the next City Manager. It's more of an agreement to ensure that the City of Coral Gables is protected, as well as the next person that joins us. Colin and I discussed this in great detail; and he was actually quite surprised when I first discussed it with him that we did not have an employment contract in place; and that our City Manager, our City Attorney, our City Clerk were all “at will” employees, which I think an employment is never going to change that, but here me out; the real reason that I like the idea of an employment contract between the City and the next City Manager, is because its going to give us the opportunity to develop performance standards, objectives, and goals for that individual that will hopefully be measured in a twelve month period; and it will allow us to renew or not renew that employment contract every twelve months; and what I learned is a lot of the cities that has employment contracts, they are renewed during the budget cycle; and I think there could be no better time than to do this, not only to go over what we have achieved as a City financially and operationally, but then to determine what will be our objectives, our goals, and our performance standards for the next twelve months. So for no other reason this document could serve as our ability to provide an annual performance review for this person, and hopefully the City Attorney, and the City Clerk, because if you all recall about, I don't know, thirty-six (36) months ago, forty-two (42) months ago, I entered into the process of trying to have an annual performance review for our City Manager and City Attorney, and the best way that I can describe it is, I was attempting to herd cats. It was probably my most frustrating project that I've ever entered into, and for no other reason, I don't blame anyone upon this dais; I don't blame the former City Manager for it or anyone else, it was just a very difficult task to get five people to agree on things when the only time we can talk to each

other about something like this would be under a special workshop or a public hearing. So what I intend on proposing this morning is that the City Manager, our current Interim City Manager, and our City Attorney work with a number of templates that have been provided by a number of cities and develop a general foundation agreement, not finalize it, because the reality is as we get closer to hiring the person, we will need to make this more of a detailed document that will need to be agreed upon by the City of Coral Gables and the individual; and so I don't want you to think that I want to get ahead of ourselves, but I think its very critical that we at least begin the process of putting together a template that we can all agree upon, so when the time comes to make that offer or to accept that offer, we're ahead of the curve and we already have something that (a) we can work with, and (b) that we all have blessed. So those are my thoughts on this matter. Any comments, suggestions, concerns, objections amongst you?

Commissioner Withers: Should we do it for the Attorney and City Clerk?

Commissioner Cabrera: I'd like to, I really would, because we have a sense of urgency because of the Manager, I was hoping that we could use the Manager as the first template, but Chip, I think we should.

Vice Mayor Kerdyk: Haven't we done it before?

Commissioner Cabrera: What do you mean?

Vice Mayor Kerdyk: We've done it by resolution.

Commissioner Cabrera: It would always be by resolution; yes sir; it would have to be by resolution.

Vice Mayor Kerdyk: But before we have done it by resolution, haven't we?- and we spelled out criteria of the office...

Commissioner Cabrera: But you don't review it on an annualized basis; you don't agree on it as a team; you don't set performance standards; you don't set objectives; you don't set goals. When I entered office in 2001, Mr. Eads was already our City Manager, I never saw his agreement.

Vice Mayor Kerdyk: The thing is that, I certainly don't want to handcuff the elected officials here for hiring and firing people and that's one of the things....

Commissioner Cabrera: I'm not suggesting that at all.

Vice Mayor Kerdyk: No, I know, but I just wanted to make sure.

Mayor Slesnick: For thirty years I have written, litigated, and enforced these agreements, and I can understand a manager coming to us or a candidate and asking for a contract; I'm not so sure I can understand us voluntarily reaching out and saying, oh yeah, we're willing to give a contract.

Commissioner Cabrera: Well, let me respond to that.

Mayor Slesnick: Well, let me finish. First of all we aren't giving anyone any promises unless we give a contract, and then you do add promises by giving a contract. So far we have had City Managers that have worked without having any mutual consent on our part; in other words they work "at will", and they are here as long as we want them, or as short as we want them; and secondly, if I was a Manager/Candidate coming in, and you suggested that you were going to do an annual contract with me, I mean, that's not much of an offer to come to our City to come and be every year be turned over – your whole future to be turned over every year, an annual contract doesn't offer anything to somebody. So I just don't know where we are headed. I don't mind having the City Attorney, the City Clerk, City Manager, the Interim Manager working on a template that if we find ourselves in a situation of having to give a contract that we have our own thinking in place, but it just, I think we are ahead of ourselves here.

Vice Mayor Kerdyk: I have one other comment.

Commissioner Cabrera: Well, I'd like to respond to Mr. Slesnick's comments. Let me begin by trying to talk about this issue about waiting for it, that was one of your comments you said; well I'm not an experienced litigator or debater so I just...

Mayor Slesnick: Ralph...

Commissioner Cabrera: Don, yes?

Mayor Slesnick: You always say that, you do very well, Ralph, for yourself, so.

Commissioner Cabrera: OK, well thank you; I appreciate that; would you consider if my business doesn't go well, you think I could "moonlight" as an attorney?

Commissioner Withers: Cabrera and Slesnick.

[Laughter]

Mayor Slesnick: Good sound to that.

Commissioner Cabrera: Well, I'm trying to address your point, and one point you made was, why don't we wait and see what happens, I think that was one of the comments. I hate to paraphrase you.

Mayor Slesnick: If in fact we are not asked for a contract, I wouldn't give him one, how's that?

Commissioner Cabrera: OK, that's a very good point. Let me respond by saying the following. If Colin is out there trying to find the brightest, the best and brightest, and I have already stated factually that we have cities throughout South Florida with employment contracts, major cities including the County, including the City of Miami, and the others that I have mentioned, it pays to be able to tell that candidate, you know, they have never had an employment contract, but they realize that it is now a standard operating procedure in the industry in which you serve, and

therefore they have begun to develop a template for one that they will finalize at a point in time that your employment is finalized with the City, so that's number one. So now you've got someone, and let's just say for the sake of this discussion in Salt Lake City, Utah, because you were just there, so I'll use that as an example, that there's a bright star that is contemplating moving his entire family of twelve children, and spouse to Miami, Florida, Coral Gables, Florida, and they now find out that we don't have an employment contract, that person may think twice about being included in the mix, its just a reality.

Mayor Slesnick: If they want the job they can certainly ask for what they need, but if that bright star hears that you are offering them a one year contract where they only have...what kind of contract is that?- that's not very much of a contract.

Commissioner Cabrera: Well, that was your second point, so let me respond to that one. Right now you are not offering them anything, not a darn thing. I'm saying, you know, before we take a step from point "A" to point "B", I've learned in this City you have to take baby steps. So instead of giving somebody a three or five year contract, I suggest a one year contract as a starting point because reality is, you know, this first year for that City Manager, they are going to be challenged, he or she will have many, many challenges, a lot of financial challenges, and I would like to be able to be able to review them within a twelve month period. Who knows, maybe later on after we all retire from office, the next members of the City Commission may decide that a three or five year contract is warranted, but that's their decision; and by the way, what I'm suggesting as an annual contract is once again the norm, its not something that I'm suggesting is out there and people are getting ten, and five, and seven year contracts.

Mayor Slesnick: Well, I certainly wouldn't even consider such a thing, and I don't know why we would do that, but the fact is before we say it's the norm I'd like to see what Miami Beach and Miami and other major cities do.

Commissioner Cabrera: We've just asked staff to do that already, Mr. Mayor; and the last comment that you made, because I'd like to rebut everyone of your comments...

Mayor Slesnick: I realize you do; you seem to thrive on that.

Commissioner Cabrera: I think its good; it's good for this government to not always agree, I really do. Anyway, the last thing is past managers, that's what you said, past managers have served the City for as long as...I just can't live with that one, I'm sorry, you know, many of us have given support to past managers, and some of us have not; and to say that I think its just a blatant comment, because I struggled with our past Manager, and some of you felt strongly and supported his tenure for a while and you didn't for another time; so I just think, I mean, I can go back and go through the Mayor exercise that I went through before to show you how many managers have served the City and how long they served, and I'm willing to bet that we had managers, with the exception of Mr. Eads and Mr. Brown, that served for a fairly short time frame.

Mayor Slesnick: That's fine, because they served at the will of the Commission, and that's what we are saying, that Managers serve at the will of the Commission, and the Commission serves at

the will of the people, and if you look around the industry, first of all we talk about industry standards; we had executive directors of not-for-profit corporations all over the country, well they decided that they didn't like the term executive director, so they created a movement to call themselves CEO's and Presidents, and take away the title President from the head of the Boards of non-profits. So that became an industry standard, but it wasn't started by the corporate entities, it was started by the people trying to upgrade the level of their status, so they upgraded their status. So that became the industry standard because of their efforts, not because of the efforts of the Boards; and now we are talking about the fact that managers have become very aerodyne about their job conditions; they understand what they need and want, and they are now demanding contracts. So I suppose and I was from the beginning thought that we might see a demand for a contract, it certainly wasn't me that was going to suggest giving the contract though, but that's fine.

Commissioner Cabrera: No, its me, but I'm doing it for other reasons; I'm doing it because...you know Don, I'm a private sector guy, and I really enjoy giving people tasks, goals, and objectives that I can measure; and since I've been in this office from 2001, I've never seen that out of the City Manager, the City Clerk, or the City Attorney's office, for that matter I've never seen it from a department head, outside of the "dog and pony show" that we get to see every budget cycle with the expensive video, and the expensive PowerPoint, and we get to tell everybody how wonderful we are, but I never really feel comfortable in saying, well how are we going to measure our results for the coming year? Mr. Nelson's department is probably the easiest department to measure, but outside of his department it's very difficult for me to do that. So I was looking at a way to effectively do it, and understand that I went through hell to get the five of us to agree on an annual performance review that went nowhere. I did it one time and none of you have brought it back again for discussion or contemplation, and so I said to myself, what a great way to truly be able to evaluate our next Manager, and give him performance standards that he or she can then shoot to meet.

Mayor Slesnick: Just two quick points. In the last year, in the last couple of years, and if you look at our stock market in our country, you'll see that the private sector example isn't such a great and shining example of how CEO and contracts actually affect the nation, because the fact is that we've had is, and you've mentioned it yourself, all these golden and platinum parachutes people walking away from jobs having disasters at their feet, and yet being paid off because of their contracts; and secondly, in the private sector when you are doing the performance evaluations that you are so used to doing and so forth, you do it in a political (sic: un-political) and (sic: un-public) non-public environment, and it takes on a whole different character at evaluating people than you do when you do it in a public, political environment. So there are differences; there are innate differences and you can't run one just like the other.

Commissioner Cabrera: Well ultimately you will bring them to...I understand what you just said and that makes a lot of sense, but understand this, and I know you will, a lot of that gets done behind the scenes; I can remember when Mr. Brown and Ms. Hernandez were reviewed by me; I sat with both of them privately, and gave them my annual review of their performance and ultimately it had to become a public process because the five of us had to see what everyone here did, but that's part of the business that we're in; we're under the "Sunshine", we're supposed to

be public about everyone of these types of issues. So anyway, how do we feel about this as a group?

Commissioner Anderson: I'll be happy to pipe in. I'm going to remain open to it. I think there was a lot of...one of the things that troubled me at the end of the tenure of our last Manager was that there was really no really document that showed what in fact he walked away with, and we probably took a lot of hits for people thinking we gave him the sun, the moon and the stars, when in fact we didn't. I'd stay open to something like that; I'd like to see what the template looks like for other cities to see where it goes, and how it fits in, how to do it properly, and how it would fit the character of our City, but I'll remain open to it.

Commissioner Cabrera: I appreciate that ma'am.

Vice Mayor Kerdyk: And I want to see too I'll remain open to it. I do want to mention though that if we eliminate the Trial Board, that our Department Heads and our Assistant City Manager become "at will", I mean so to speak, "at will".

Commissioner Cabrera: They won't stop being "at will".

Mayor Slesnick: They'll all want contracts.

Vice Mayor Kerdyk: Yes, they'll all want contracts, but I'm open to it because I think definable measures are certainly something that we can...

Commissioner Cabrera: Look, at the end of the day you don't agree with this, I would accept the decision of the four of you or the majority of the four of you; I would tell you that I would be willing to bring back something that is not a contract, but its literally a set of performance standards that, that person needs to achieve, and that will be reviewed on an annualized basis, because if I stick around, I'm going to hold that person's feet to the fire from day one, and its not going to be about personal feelings about the person, and about them doing favors for me, and making me happy with my pet projects, its going to be about them taking the City from point "A" to point "B" and putting us back on track. So that's going to be my operational goal for the year; and so while I can't go back to that annual performance review disaster, I was trying to make a bad, or not so good situation a win-win for everyone; a win for the City, a win for the person, and a win for the residents, so win-win-win.

Mayor Slesnick: Well, I can basically assure you that now that we've talked about it, we will be asked for a contract, so we better start working on a template.

Commissioner Cabrera: Are you speaking as an elected official or as a labor attorney.

Mayor Slesnick: No, I'm saying that once that someone knows that we are willing to consider such a thing, why wouldn't they ask for it?

Commissioner Cabrera: Well you know what, so be it; I stand very comfortable with my position on this thing.

Mr. Baensiger: If I could make a couple of comments; one of which is its very unusual not to have a contract in this profession. The cases where we see it most commonly where they do not have a contract, is someone who has been promoted from Assistant City Manager to City Manager, so there really is no change from their point of view; they've got a job, they are fairly secure. Somebody coming in, very seldom do I not see a contract; now you never know if someone is going to want and whether or not that is going to be important to them. So I certainly wouldn't offer it up, but I would expect to be asked for quite frankly, which is the reality in the industry now. I think I've done one search out of about seventy, where the person did not ask for a contract.

Commissioner Cabrera: There is one last comment that I would like to share with the rest of us. We all have finite terms in office; we all have a four year term in office, what's wrong with a City Manager having a finite term in his or her office by having an annual performance or a twenty-four month, or a thirty-six month performance review agreement. So I'd like you all to think about that.

Mr. Baensiger: You know frankly, I like the idea of having a performance review annually, and I like the idea of having goals spelled out, and to some degree, although I don't see it very often, I'd like to see some dollars attached to those goals.

Commissioner Anderson: Yes, I actually agree with you, because here we fumbled through that because its uncomfortable; and so if we can put some numbers and parameters around it, that would make it easier for the appointed officials to know where they stand; and I think that's only fair for everybody, for ourselves as their bosses, and for the residents to know what we are thinking of our folks that work for us.

Mr. Baensiger: You know, it doesn't have to be a lot of dollars, but I think number one, it really lays out where the Manager should be headed, and I think that when you attach dollars to it, and I'm not saying this Commission would do it, but I think other Commissions where I've seen it happen, they take the goals more seriously, they really want to develop solid goals.

Mayor Slesnick: You know Colin, I'm sorry, but I...its like attaching dollars to how many arrests you make as a Police Officer and so forth, if we hire someone for "X" number of dollars, they ought to give us their best shot and do everything; evaluating them is one thing, telling them where they fail is another thing, but making it, you do this you get ten bucks, you do this, you get a thousand dollars, I find that repulsive, so. I appreciate your opinion. OK, thank you.

Mr. Baensiger: I tell you, it's very rare.

Commissioner Anderson: Thank you.

Mayor Slesnick: OK. I would presume that what we have heard then is that Madam City Manager, you and the City Attorney and the City Clerk will work with Commissioner Cabrera on coming up with a template of the contract in case we proceed in that direction.

Commissioner Withers: Don, let me just weigh in on one thing; if we are not really comfortable with the term contract, maybe we go the route of some kind of Memorandum of Understanding with our expectations, our understandings and if the marriage does end, you know, what considerations would be made; maybe we can put that into play, I don't know how forceful that is as part of an employment agreement.

Mayor Slesnick: Well I think that Ralph raises and had raised in the past good points about how do we as a Commission determine the performance, and if there was a way to formalize that, that certainly is good, as way of a MOU, or something, that's fine; and for what you just heard from Colin, I presume if we have great candidates and they know what their fellow people in the industry are demanding, then we'll see if they want a contract, and if we want the person bad enough, I guess we'll consider that.

Commissioner Cabrera: Well what I'm going to do, I'm actually not going to take that direction; I'm going to ask...

Mayor Slesnick: Sorry, I didn't mean it as a direction to you, I thought you...

Commissioner Cabrera: I mean I didn't take it that way either, I'm not going to take that recommendation; what I'm going to do is ask staff to go ahead and develop that for all five of us, I don't need to be working with you on this project, because I don't think its going to go anywhere. So you go ahead and work on it and have fun with it.

Interim City Manager Jimenez: Is the direction for a contract or a memorandum?

Commissioner Cabrera: I don't know, whatever they feel like giving you. I realize I'm not taking that road again; I've learned; it's been too many years now on this job.

Mayor Slesnick: Maria, I think I can speak for most of us saying Mr. Cabrera has raised some good points, and if you would put some of those points down on paper for us to consider, in other words maybe the pros and the cons of different approaches to this, and how we will hire the new Manager, and what there are to be considered, and Mr. Cabrera has already said that we have some statistics and other templates and maybe pass that around the rest of the Commission to consider it.

Interim City Manager Jimenez: I'll be glad to sir.

Mayor Slesnick: And Ralph, please understand that when I don't agree with something doesn't mean I don't respect it.

Commissioner Cabrera: Me too, me too, please understand that.

Mayor Slesnick: OK.

[End: 10:12:05 a.m.]