

City of Coral Gables City Commission Meeting
Agenda Items J-1 and J-2 are related
June 12, 2018
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Raul Valdes-Fauli
Vice Mayor Frank Quesada
Commissioner Pat Keon
Commissioner Vince Lago
Commissioner Michael Mena

City Staff

City Manager, Cathy Swanson-Rivenbark
Assistant City Manager, Peter Iglesias
City Attorney, Miriam Ramos
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Assistant Finance Director, Celeste Walker

Public Speaker(s)

Jose Felix Diaz
Jared Moskowitz
Eric Hernandez
Tommy Webster

Agenda Items J-1 and J-2 are related [2:52 p.m.]
Disaster Debris Removal Services Bid Protest

A Resolution accepting the recommendation of the Procurement Officer to award the Disaster Debris Removal Services contract to the three (3) highest ranked responsive-responsible proposers in rank order: Phillips and Jordan, Inc., (Primary), Ceres Environmental Services, Inc., (Secondary), and AshBritt, Inc.,

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Agenda Items J-1 and J-2 are related - Disaster Debris Removal Services Bid Protest and a resolution accepting the recommendation of the Procurement Officer to award the Disaster Debris Removal Services contract to the three highest ranked responsive-responsible proposers; authorizing the City Manager to negotiate and execute Professional Services Agreements with each proposer.

(Tertiary), pursuant to section 2-763 of the Procurement Code entitled “Contract Award” and Request for Proposals (RFP) 2018-009; further authorizing the City Manager to negotiate and execute a Professional Services Agreement with each proposer for a period of three (3) years with options to renew for two (2) additional two (2) year periods, exercisable at the option of the City Manager; should negotiations fail with any of the three (3) highest ranked responsive-responsible proposers, negotiations shall commence with the next most responsive-responsible proposer (up to the fifth ranked proposer), until an Agreement satisfactory to the City has been reached.

Mayor Valdes-Fauli: Now, we go to J-1, Disaster Debris Removal Services bid protest.

City Attorney Ramos: The Disaster Debris Removal Services, RFQ 2018-009 bid protest, a procedural order was also issued in this matter. The City’s procurement officer will come up first and she will present the RFP, the selection committee’s recommendation and the Procurement Division’s recommendation, and a timeline relating to the protest. Next, in accordance with Section 2-910(g) of the City Code, the City Manager will present her recommendation with regard to the bid protest. The protestor or counsel for the protestor will then be given up to 20 minutes to argue the reasons for the protest, and the procurement officer or counsel to the procurement officer will then be provided up to 20 minutes for rebuttal. If the remaining two companies in the RFP wish to speak, each company, or its counsel, shall be provided up to 10 minutes to address the Commission, with the City having 10 minutes for rebuttal. At the conclusion, the City Commission may ask questions of any or all presenting parties or City staff. With that, Ms. Walker.

Assistant Finance Director Walker: Good afternoon, Celeste Walker, Procurement Officer. Specifically, this particular project was competitively solicited and we were seeking professionals to provide disaster debris services. We let the actual solicitation on March 5. We received 8 proposals when the solicitation closed on April 5. Those proposals were reviewed and found responsive and submitted to the evaluation committee for their recommendation. We convened the committee on April 25, and that committee was comprised of subject matter

experts, who, at the conclusion of the meeting, recommended that we proceed in the manner as follows: that we would recommend Jordan and Phillips, Inc. as the primary, Cere Environmental Services, Inc., as the secondary, and AshBritt, Inc. as the tertiary. Specifically, after that particular meeting, we formalized the recommendation and submitted it to the City Manager for her consideration. On May 1, that recommendation was posted -- was approved and posted. And on May 4, we received an intent to protest from the third-ranked proposal, AshBritt, Inc., on behalf of that particular company. On May 9, we received their actual protest. And, their protest included some issues specifically that they would choose to address to say they should be recommended as the primary selected vendor for this particular contract. According to the Procurement Code, I had ten days to respond, and I did so on May 18, made my recommendation that we should reject the protest of AshBritt and move forward with the recommendation of the committee, as they originally recommended. That particular recommendation on my behalf was submitted to the City Manager for her then consideration, which at this time she will let you know.

City Manager Swanson-Rivenbark: I did review the recommendation of the Procurement Officer in full. I also spoke with the City Attorney, as well as outside counsel representing staff, and I concurred with her recommendation.

City Attorney Ramos: Very well. With that, if we can have the bid protestor or the attorney for the bid protestor please come forth.

Vice Mayor Quesada: You know, I haven't seen you in like a week and I just want to say, again, that I think you did a spectacular job.

Assistant Finance Director Walker: Thank you.

Vice Mayor Quesada: Thank you so much.

Assistant Finance Director Walker: I appreciate that.

City Manager Swanson-Rivenbark: I should say I also had the opportunity to meet with counsel for the person protesting.

City Attorney Ramos: Yes, of course.

Mayor Valdes-Fauli: Yes, sir.

Jose Felix Diaz: Jose Felix Diaz, 2 Alhambra Plaza, Suite 102, Coral Gables, Florida, 33134. We have submitted a PowerPoint presentation. I would appreciate if the IT Department could...

Mayor Valdes-Fauli: Excuse me. Would you...

Mr. Diaz: Put it up there.

Mayor Valdes-Fauli: Will you keep time? Twenty minutes, right?

City Attorney Ramos: Yes, up to 20 minutes.

Mr. Diaz: Perfect. I have my own stopwatch here, as well. Jose Diaz, again, on behalf of AshBritt. We believe that our protest is a very simple protest with a very simple solution. As you know, AshBritt is the current incumbent in Coral Gables. They've been working with Coral Gables for approximately 15 years. Here in Coral Gables, they use SFM Services as their subcontractor. I think many of you are familiar with Mr. Infante and his team. In the time that AshBritt has worked with Coral Gables, they've worked on Hurricane Katrina, Hurricane Wilma, and most recently, Hurricane Irma pickup. In this case, as was mentioned before, AshBritt was ranked third and submitted a written protest on May 9. AshBritt enumerated many grounds for the protest. A summation of that is in this next slide, which is that the City does not

currently have formal procedures for the appointment of the selection committee members. The composition of the five selection committee members only included one Coral Gables employee. The City's evaluation criteria did not provide clearly regarding scoring radius or when committee members should fill out their forms. And last, but not least, one selection committee member, Mr. Tom Norman, singlehandedly and disproportionately impacted the final outcome of the RFP.

Vice Mayor Quesada: I'm sorry to interrupt your flow, but I'm going to do it anyway.

Mr. Diaz: That's okay.

Vice Mayor Quesada: You mentioned SFM Services and Christian Infante, but this is AshBritt. Can you tell us the relationship there?

Mr. Diaz: SFM is our subcontractor for Coral Gables.

Vice Mayor Quesada: Got it, okay. Is it an exclusive relationship? Can they work with others or not?

Mr. Diaz: In Coral Gables, they only work together.

Vice Mayor Quesada: Okay.

Commissioner Lago: Are you going to...

Mr. Diaz: And my understanding from conversations with Mr. Infante is that in this procurement in particular, they would like to only work with AshBritt.

Vice Mayor Quesada: Okay. Thank you. You may proceed.

Commissioner Lago: Are you going to go into further details in regards to Mr. Norman, how he disproportionately impacted the final...

Mr. Diaz: I am.

Commissioner Lago: Okay.

Mr. Diaz: I am.

Commissioner Lago: Then I don't want to interrupt your flow.

Mr. Diaz: Yeah, not a problem. A quick synopsis of Mr. Norman's score. AshBritt was ranked first or second by every single selection committee member, except for Mr. Norman, who ranked AshBritt in sixth place. There were four categories evaluated in this matter; experience, project and approach, past performance and reference, price proposal. In past performances and reference, every single selection committee member ranked AshBritt in first, except for Mr. Norman, who somehow ranked AshBritt in sixth place. One statement here is one individually -- one individual negatively skewed the results, and therefore, invalidated the work of the four other members of the selection committee. And, the reason I mentioned that is because you are a panel of five, as Commissioners, and you all have equal votes. Not one of you could taint the work of the other four. In this matter, one person's low score singlehandedly offset the score of everybody else.

Mayor Valdes-Fauli: Can I ask you a question?

Mr. Diaz: Yes.

Mayor Valdes-Fauli: And this won't be counted against your time. How did Mr. Norman vote in the other bidders? Did he give them high scores versus the low scores or was it...

Mr. Diaz: I actually have his scoring sheet three slideshows from now, and it will show that he actually scored people at the highest and at the lowest levels, depending on who he was discussing. But he actually did not stick to just really low numbers. He gave other competitors perfect scores and then gave others really low scores, in no -- not related at all to what the other committee members were ranking. I'll go over one by one if you want.

Mayor Valdes-Fauli: Okay, go ahead.

Mr. Diaz: I -- go over here to the standards of proof. In a bid protest, the standards for these matters are whether the award is erroneous, contrary to competition, arbitrary or capricious. Here, we believe that this one individual's rankings makes this an erroneous and arbitrary decision. Mr. Norman certainly came in with what appears to be a bias and there's case law that says in ensuring there's no opportunity for favoritism and that all business vying for a public contract are on equal footing are two fundamental purposes for procurement. If you look at the next slide, I think this one's, yeah, an important one. On overall scores, Mr. Carlos Arroyo scored AshBritt a 93 out of 100. Wade Sanders, a 100 out of 100. I put letter grades next to it. Having two small kids in elementary school, I see a 93 out of 100 as an A; a 100 out of 100 as an A. Olga Espinosa gave us a 92 out of 100. At St. Brendan's, where I went to school, that was an A. Maybe in Belen, that was a B, but that was an A in our school. And Brook Dannemiller, which is actually here from the City, was the one that has been working with AshBritt, along with Mr. Peter Iglesias, scored AshBritt a 97 out of 100, which is an A. Mr. Norman ranked AshBritt a 62 out of 100, which is an F. Mr. Norman, who had been part of the City's post-hurricane blue ribbon committee in public records, was very clear about his disappointment with the react -- the City's responsiveness after the storm. We believe that therein lies his scores, which are on the next slide. The Mayor asked a very good question, whether Mr. Norman's scores were low for everybody. And as you'll see here, on the left, you have the four categories

that are ranked. On the top, column, you have the different companies, and on the little blue column, you have the highest ranking in each. If you go one by one on experience and qualifications, Mr. Norman chose to give somebody a perfect score. He also chose to give us an 18. On the next one, he gave perfect scores. We were one of the ones to receive that perfect score. On the next one, he gave a perfect score and then gave us an 8. And on the last one, which is the easiest one to quantify -- and we'll go over that one later -- on price proposal, he gave a close to perfect score to D & J, and then gave us a 6, when nobody else gave us under a 12. To put it in a graph, which I think is demonstrative of just how big the disparity is, here is on experience and qualifications, Mr. Norman ranked AshBritt an 18 out of 30. Others were ranked much higher and close to perfect. And in the City Manager's defense of Mr. Norman's scoring, she referenced that AshBritt only had 25 years of disaster debris experience, while the primary and secondary proposals had 41 and 42 years of experience. But, an existence of a company does not experience make. My grandfather's small computer company does not have more experience than Google. In the last decade, AshBritt has done more work than just about anybody. And if that's the recommendation of the City that you're only looking at the years of experience, Mr. Norman not only gave higher scores to Ceres and Phillips, but also to Crowder Gulf, D & J, DRC and T.F.R. Ceres, which came in second, only have 23 years of experience compared to AshBritt. DRC had 13 years. Crowder Gulf was only formed in 2002. And some of these vendors, under their experience, list the time that they were created, many of which started as tree service companies and not as full debris removal companies. The committee members' experience rankings show that AshBritt, in experience and qualification, were ranked as the highest or second-highest by every single member of the committee. Mr. Norman was the only one to rank them outside of that first and second place, with a seventh-place score. Every vendor (sic), out of 30, gave AshBritt either a 28 or a 30 out of 30, near perfect scores. Mr. Norman gave AshBritt an 18 of 30. Another graph that shows just how disparate the rankings were. You'll see in the far left the 18 out of 30 for AshBritt and what everybody else scored, even though some of these companies, if the ranking was based only on time of existence, are much younger and don't have the experience nor the age of AshBritt. On past performance, this, to me, is the most disparate of rankings. Here, the qualifier ranked AshBritt at 8, when

everybody else ranked them a 19 or a 20. AshBritt was given the highest score by every single member of the committee in this instance, except for Mr. Norman. A 20 out of 20 by Committee Member Dannemiller, which again, works for Coral Gables; a 19 out of 20 by Committee Member Arroyo, a 20 out of 20 by Committee Member Sanders, and a 19 out of 20 by Commissioner -- Committee Member Espinosa-Sanderson (sic). Again, here, Committee Member Norman scored AshBritt in the bottom three for the category; despite them having received the highest score by every single other evaluator. When it comes to price, I think price is the most objective of the categories. AshBritt received a 12 or 15 by every single member of the committee. Mr. Norman, again, for some reason, which is unexplained to us, gave AshBritt a 6 out of 15. On the price proposal, that ranked AshBritt at the very bottom. On overall scores, you'll see here what I reference as the A's -- the four A's versus the one F. AshBritt's total scores were the first or second highest for each committee members, except Committee Member Norman. That's an overall. That also included Committee Member Dannemiller, again, the Coral Gables Commissioner (sic), ranking AshBritt as the highest proposer. If the City was not happy with AshBritt or SFM's performance, we believe that that one particular scorer would have been reflective of a bad performance.

Commissioner Mena: Can I ask a quick question?

Mr. Diaz: Yeah.

Commissioner Mena: And I don't know if it's for you or for Procurement, but on price as a factor, if somebody submits a price for a project, that's obviously a numerical value. So, if one company has X price and another company has the same price...

Vice Mayor Quesada: How is that not the same?

Commissioner Mena: Wouldn't that be the same score?

Commissioner Lago: They'd receive 15.

Commissioner Mena: What am I missing? Yeah.

Assistant Finance Director Walker: Are you saying...

Commissioner Mena: In other words, if two companies put \$100,000 bid on a procurement, wouldn't they both have to get the same score on price?

Assistant Finance Director Walker: They wouldn't have to get the same score. It depends on the actual evaluator, and I will explain. Meaning that in a proposal, it's based off of someone's interpretation of that. So, if they feel like that Company A was a superior company and they were providing that particular service at this particular price and Company B not so, then they sort of make a determination on whether or not they feel that the price was associated with the services that was also going to be rendered and the company itself as well.

Mr. Diaz: Jared...

Assistant Finance Director Walker: In this particular case -- I'm sorry. This is his time. But specifically, since he wanted to address pricing, the pricing that was submitted for AshBritt -- by AshBritt on the highest -- on the pricing component that was going to be utilized the most, over 60 percent of our particular spend, they were the sixth highest-priced bidder as far as all the pricing component was concerned. The lowest price was like 894. They were 29 percent higher in that particular category, which is the bulk of the spend for the City. So, what they're looking at is they need to make sure that it's an apple to apple comparison. So, when the evaluators were looking at whether to not they made their assessment, these are the facts of the matter, that the actual proposer that was seventh and eighth ranked got just as low of scores from Mr. Norman as AshBritt did.

Mr. Diaz: Jared Moskowitz is here, from AshBritt, and he'd like to answer as well.

Jared Moskowitz: Jared Moskowitz, 565 East Hillsborough Boulevard, Deerfield Beach, Florida. It's an excellent question. And in fact, it's part of our protest. See, price is supposed to be an objective formula. All the other categories can be subjective. You don't want to have an arbitrary or capricious ranking, like we do -- Mr. Norman did. But pricing's supposed to be objective. It's \$3, it's \$5, it's \$8. But as you heard, the City decided not to tell us what the criteria was going to be on how they determined that. There were no quantities in the categories. So, you just had Hurricane Irma. We know how much debris was picked up. Those quantities could have been plugged in and determined what the price would be between what you paid in Irma and what you would pay under these vendors. Because there was no process, pricing was completely subjective. One vendor could decide something was more expensive. One vendor could decide it was less expensive. Additionally, one committee member could have said, well, they're the cheapest, so I'm going to give them 15 points. Another committee member could have said, they're the cheapest, so I'm going to give them 10 points. So, pricing was treated as a completely subjective category. And for the City to say that we were 29 percent more expensive, I don't even know how they calculated that because there was no criteria or calculation provided at the evaluation committee. So, the City's saying we're 29 percent more expensive, but what did the evaluation committee members figure out? We don't know because that was never discussed nor was the criteria ever provided.

Commissioner Lago: Well, could we have staff do a response in regards to -- you were saying how did you come up with that number that they were 26 or 29 percent more expensive? I'd like to know also.

Assistant Finance Director Walker: I did that calculation on the actual pricing line that we use the most. So, the pricing line for the actual debris collection, which is over 60 percent of the spend for our contract. On that particular line, they were 29 percent higher than the lowest-priced proposer.

Commissioner Mena: I'm still...

Assistant Finance Director Walker: But in regards to their claim with the pricing, the pricing component for this particular solicitation cannot be something that could be calculated as they have indicated. The pricing or the actual line items that we had priced out were -- I don't know how many line items, maybe 50 or 60 line items. So, there was no way for you to use a formula, which is what they're indicating, for us to come up with a formula to say that this person was going to be lowest on this or this person was going to be lowest on that. So, it was subjective, like the rest of the categories on whether or not the actual evaluator felt like the pricing that was proposed by that particular proposer was in line not only with their qualifications, their experience, but what we were expecting as the City.

Mr. Moskowitz: Commissioner, unfortunately, that's just not accurate. We bid on proposals around the country, from the federal government to the state to cities and counties. We've bid on about 50 or 60 of these a year. The overwhelming majority of them have a criteria and they have quantities. So, to say this is not quantifiable is just not accurate. I can provide you infinite examples of cities and counties in Miami-Dade, outside of Miami-Dade, that put in 100,000 cubic yards for right-of-way pickup, 100,000 cubic yards for DMS, 250 refrigerators, ten E waste. Each particular item has quantities, and that's how you will determine what price is. Additionally, some cities don't put quantities in. They treat every item as just equal. Then they would add all those items up to determine what price was. Here, there was no process at all. So, to say that one line item is 60 percent of the spend, I'm not going to disagree that the majority of the money is on five or six line items, but they were never added up. There was no quantification. There was no discussion of that among the members. No guidance was provided. And this is on pricing. Our protest, obviously, is more encompassing than just on pricing. But on this particular issue, it was something that we raised. In fact, even in the question and answer period, we asked a question how pricing was going to be determined, and it was specifically stated that it's up to each individual member to decide what the price is.

Commissioner Lago: And again, this is just my point. My final point on pricing -- and we'll get into other things that we've been discussing for some time now in regards to procurement here that I think we're cleaning up, but we have a few loose odds and ends here. A natural disaster comes -- so, right now, we're talking about pricing. This is very simple. We're in a vacuum. It's very easy to talk about pricing right now. A natural disaster comes tomorrow. What happens? Are all these numbers out the window or are these numbers legit? Can people hold this price, or is there just so much competition that sometimes, you know, these prices are inflated? How does -- give me a little background because I want to give some importance and some credence to these numbers, because if we're talking about a person's insurance, if we're talking about a person's reputation -- if -- their, you know, their credibility, whether they've been able to finish a job, you know, different things like their Dun & Bradstreet number -- those are numbers that you have that you can say, okay, the person's done -- this firm's Dun & Bradstreet number is X. This is where we're at. What I want to know is, do these prices -- you gave them today, but maybe in six months or a year, they're not really worth anything.

Mr. Moskowitz: Commissioner, that's an excellent point. And, the reason it's an excellent point is your pricing that you had here under our current contract during Irma was extremely cost competitive. I believe you had 10.25 a yard. You'll notice that while a lot of other cities talked about increasing price in Miami-Dade that was never discussed during Irma in Coral Gables. Additionally, Miami-Dade County did an RFQ during the process and awarded it between 15 and \$30 a yard. So, while I can't give you guys advice on what to do, I will tell you that people who are bidding below your current number in a bid it to win it situation because, oh, they know the current number, and hey, if we bid below, we'll look cheaper and we might get more points - - performance will be an issue.

Commissioner Lago: And let me tell you why I bring that up. Because this is why I'm a little skeptical about price. There is a mechanism called a job order contract -- a JOC contract -- and I used to have that contract for the Miami-Dade County School Board. And, I lost that contract

when it came up probably about a year ago. And, the reason why I lost it is because people were actually giving numbers that were negative. So, the standard number is a dollar, and then you put your profit. So, if you're making 5 cents, your number's a \$1.05. People were providing JOC contract numbers at \$0.75, \$0.70, \$0.65 and trying to figure out a way to get these jobs done in an effort to hopefully land these multimillion dollar, you know, projects. I could not do that because, obviously, that's irresponsible and you can -- basically, your company could go bankrupt. So, to me, I don't put that much weight on price right now, because who knows if there isn't -- is this price going to hold for three years? You know, are you going to tell me you're going to hold this number for three years? Is that going to be part of your contract? And we know there's inflation, and we know that cost has been going up, fuel fluctuates. So, I'm a little skeptical about that number.

Mr. Moskowitz: Commissioner, we price...

Mayor Valdes-Fauli: (INAUDIBLE)...

Mr. Moskowitz: I'm sorry, Mr. Mayor.

Mayor Valdes-Fauli: Go ahead.

Mr. Moskowitz: Commissioner, we priced it to perform, which is why...

Commissioner Lago: Today.

Mr. Moskowitz: Today...

Commissioner Lago: Okay.

Mr. Moskowitz: Tomorrow and for the next five, six, seven years, just like we priced our current contract that way. And in fact, when we priced your current contract, you were slightly more expensive than some of your neighbors. As it turned out, smartly, we were and you were because you didn't have performance issues like some of the other cities who did put a lot of weight on price, because there's not been a major storm here in ten years. And so, since there's not been a major storm here in ten years, the market was driven down. Now, because of Irma, the market is coming back up, but some of our competitors are trying to buy market share by bidding low. I know we're kind of off topic on the protest, but...

Commissioner Lago: No, we're not. No, we're not because I think that's important that my colleagues understand that because that's something that's not mentioned. And what ends up happening is you just said it, people gobble the market share, and that's what happens in the JOC contracts. They start buying up all these JOC contracts and then they can't perform and the jobs are, you know, abandoned. So, that's also -- there's two extremes. You know, it's too cheap or too expensive. There has to be that, you know, in the middle, where you can actually deliver at a reasonable price.

Mr. Moskowitz: That's why, Commissioner, it doesn't make any sense, in this particular category, as well as others, how four members -- the four members with subject matter expertise, all four of those members either have done a hurricane cleanup for a city or county, how they could score us on price no lower than 12, as high as 15, but the one member with no subject matter expertise, who hasn't done a hurricane cleanup for a city or county, who hasn't been in charge of that, ranks us -- gives us 6 points.

Commissioner Lago: Who is this individual?

Mr. Moskowitz: This is Mr. Norman. And so...

Commissioner Lago: He's a resident for the City.

Mr. Moskowitz: He is a resident for the City.

Commissioner Lago: Appointed by?

Mr. Moskowitz: Well, appointed by the City, of course. And so...

Commissioner Mena: The whole panel was appointed.

Commissioner Lago: Oh, wait, wait. Did the panel appoint this person or was there a certain person -- did Procurement appoint them?

Vice Mayor Quesada: No, he was in the blue-ribbon panel.

Commissioner Lago: No, no. I understand.

Vice Mayor Quesada: You're saying -- oh, to this?

Commissioner Lago: No, no. I'm talking about to this.

Vice Mayor Quesada: Got it.

Assistant Finance Director Walker: To this. Yes, Mr. Norman was appointed to this particular committee initially, yes.

Vice Mayor Quesada: The question is who appointed him to this committee.

Commissioner Lago: Yes. That's what I want to know.

Assistant Finance Director Walker: The recommendations came from staff, and I officially make the appointment as to who gets to be on the evaluation committee.

Commissioner Lago: And who in staff recommended that...

Assistant Finance Director Walker: We had this discussion when we were actually doing the debris monitoring. Mr. Norman's name was recommended to be on the committee to actually do the debris collection.

Commissioner Lago: Because he has some sort of background, I guess. I'm asking...

Assistant Finance Director Walker: Correct.

Commissioner Lago: Because I don't know Mr. Norman, so...

Assistant Finance Director Walker: Because he does. It's not accurate that Mr. Norman does not have subject matter experts...

Commissioner Lago: That's what I...

Assistant Finance Director Walker: Expertise, as far as this is concerned. So, Mr. Norman is well versed in this type of...

Commissioner Lago: I never said that, by the way. I have never met Mr. Norman...

Assistant Finance Director Walker: In this type...

Commissioner Lago: And I want to be very clear...

Assistant Finance Director Walker: In this type of actual contract and these services, which is why he was one of the recommended committee members.

Vice Mayor Quesada: I want to be very clear. We are very thankful for all of our citizen volunteers who help out, so...

Commissioner Lago: That's what I'm saying. I want to be very clear. We're deviating to a little bit of a negative...

Vice Mayor Quesada: You know...

Commissioner Lago: Conversation that I...

Vice Mayor Quesada: Yeah.

Commissioner Lago: I'm asking -- I just want to know who this gentleman is.

Assistant Finance Director Walker: Yes.

Commissioner Lago: It's very simple.

Vice Mayor Quesada: I would just...

Commissioner Lago: Because his name...

Vice Mayor Quesada: I would ask if we could just refer...

Commissioner Lago: By the way, his name is mentioned all over this presentation. It's been said about a thousand times.

Vice Mayor Quesada: Yeah. So, I just want to make sure we are very thankful to all of our residents and volunteers who assist. And, it was a very emotional process getting through Irma for us. So, I'm sure he had his reasons for doing what he did, but if we could just be respectful of --I think it goes for all of us. If we can try to not use his name as much as possible.

Commissioner Lago: Yeah.

Mr. Moskowitz: Mr. Vice Mayor, I totally agree with you.

Vice Mayor Quesada: Yeah.

Mr. Moskowitz: That citizen participation is not only welcome, it's encouraged and it's fantastic.

Vice Mayor Quesada: Thank you.

Mr. Moskowitz: But, there are four members on there that are either a public works director at a city or in the solid waste department. One was from the City of Miami. One was from Miami-Dade County. One was from the City of Coral Gables, and one was from the City of Doral. And in two specific categories, there is a over 100 percent variance in pricing -- I mean, I'm sorry, in scoring. In the pricing category and in the experience category, there is a 100 percent variance on how those categories were scored between the four employees and the non-employee. And, the reason we think that is extremely important is because this -- we're here about this award. But, procurement and processes should be in place that one member -- for whatever reason -- whether they're a City employee or non-City employee or a County employee or someone from outside Coral Gables, one member -- whether intentionally or unintentionally -- should not be able to skew the award of the other four. Imagine if you were all voting on an ordinance and there were four people up here that wanted to approve the ordinance, but the way we approve the

ordinance is we don't say yes or no. We're going to score the ordinance by points. One of you could give that ordinance a zero, and the other four scores wouldn't matter. And that's what happened in this evaluation.

Commissioner Lago: I'm going to bring up some other points in regards to certain things that we've mentioned already. And, this same situation happened at the last Commission meeting with the Parks & Rec design RFP that came up. So, I'm going to bring up some standards that I've been looking up that the County has adopted, which they're removing the highest bid and removing the lowest bid, which again, I think will allow, you know, these type of anomaly scores to not be considered and not to, you know, basically put a tailspin into the process. The County already uses it. They remove the highest and they remove the lowest score and that alleviates a lot of these problems. We had it with the AECOM Bermello situation.

Commissioner Mena: Right.

Commissioner Lago: And we have it this week again.

Commissioner Mena: And even -- but even that wasn't as dramatic as this.

Commissioner Lago: And by the way -- and I asked for that to happen and...

Commissioner Mena: Yeah.

Commissioner Lago: Again, I know this RFP had already probably happened and we were already long moving forward. I don't know if to move forward with a resolution asking my colleagues to not let this happen ever again or if staff comes back and says, okay, we're going to take care of this. We're not going to let it happen.

Mayor Valdes-Fauli: But this is a protest.

Commissioner Lago: I know. I'm just asking. We're talking about it.

Mayor Valdes-Fauli: No, no. I know, but...

City Attorney Ramos: Commissioner...

Mayor Valdes-Fauli: We can...

City Attorney Ramos: You can ask for that...

Mayor Valdes-Fauli: (INAUDIBLE)

City Attorney Ramos: However, that's -- since it's not in the books at this time, granting the protest based on that "policy" would lead to another...

Mayor Valdes-Fauli: (INAUDIBLE)

City Attorney Ramos: Protest by the other...

Commissioner Lago: I understand. But I'm just -- I'm bringing it up, because we're having a discussion. I think it's...

City Attorney Ramos: Going forward.

Commissioner Lago: Completely within -- I mean, correct me. You're my attorney. We have a lot of very distinguished attorneys here on this panel, a few in front of us. This is part of the discussion. It's part of...

City Attorney Ramos: And going forward, we can...

Commissioner Lago: And by the way, this is...

City Attorney Ramos: Change that.

Commissioner Lago: This is a problem we've had one meeting after another. So, let's -- I'm in the business of not having these problems anymore. I think it makes our staff rest easier at night. Do you agree or no? So, let's implement this. And if you'd like, after we're done with this, maybe we can do a quick resolution amongst the Commission, so that this is implemented moving forward.

Mayor Valdes-Fauli: Peter, you want to say a few words?

Unidentified Speaker: Can we respond?

Commissioner Lago: Of course.

Unidentified Speaker: Is it our time to respond?

Assistant City Manager Iglesias: Mr. Mayor, concerning price, Commissioner Lago, this is not a standard contract. In a standard contract, you reimburse 80, 90 percent from somebody else. And so, when you're going through these things, what you try to do is get equipment, get trucks, get backhoes, get the equipment you need to make it happen. So, what we will be looking at when we negotiate this contract is to have a price that is competitive and reimbursable by FEMA, and that's our consideration. Because, remember that -- right now we have 90 percent reimbursement. So, that's not a typical construction contract.

Commissioner Lago: Thank you. And let me also remind you of something, because I'm not sure if you were here, and just bring you up to date. I was the biggest advocate and right now -- of having multiple contractors in our last hurricane issue. And I think -- Commissioner Mena laughs because I'm actually now -- I have to be honest with you. I'm a little bit -- I'm siding with AshBritt when I was opposed to AshBritt's position and what we had -- when we had the hurricane here. I don't think that this process has been fair. You've seen it happen two Commission meetings in a row already in regards to choosing an RFP. I know you're going to have your rebuttal, and I look forward to it. I can always learn a lot more. I think it's great. We continue learning. It's a learning process. But, there hasn't been a person who's written more memos or been louder in regards to AshBritt and their involvement with the City and expecting the most out of AshBritt. And I mean, I could say this myself, so I understand that this is a little bit different than most things and that's why I'm asking certain technical questions of AshBritt and making sure that they're accountable. You know, is your price going to hold? Are you going to be here? Are you going to make sure that Coral Gables is your number-one priority, not a bunch of other cities? And, I want to make sure -- and that's why we call for the blue-ribbon panel, which we -- I know they've had two meetings and we're waiting for them to come back. So, I'm willing to listen, you know. I'm here. If you want to give a rebuttal.

Eric Hernandez: If I may. And I just want to set the stage. Eric Hernandez, special counsel on behalf of the City of Coral Gables. Commissioners, the thing that I think we should do is step back for a second, because this was already bid out under the rules that already existed. And one of the things that we're talking about now is changing the rules. But, what the law actually says is that a protest can only be rejected for certain things; illegality, fraud, oppression, arbitrary or capricious conduct, and that a city has wide discretion in soliciting and accepting bids. And no bid will be overturned even if they appear erroneous, and even if reasonable persons may disagree. So, what situation did we have here? We had a situation in which one person that they've singled out, one of the people -- the folks on the EC committee, that one person, they disagree with that person's judging that person's scoring. And we can get into that specifically, but we're here first and foremost to defend the process. And simply because one person decides

to score high or to score low, that is not sufficient to overturn the process. Again, even if reasonable folks could disagree, it's still not sufficient. The City should be able to go forward with it. So, that's where we have to start from. That's the first point we have to start from. The other second point is that with -- here with respect to the rules, they still haven't pointed out any rules that have been violated. And to the extent that they attempt to do so, we specifically rebut that in our -- in Ms. Celeste Walker's memo towards the Manager and the memo from the Manager to you, the Commission. I think with that, let's turn to a couple of the factual issues...

Commissioner Mena: Can I ask a question?

Mr. Hernandez: Yes, of course.

Commissioner Mena: This is really important. With all due respect to you and Mr. Diaz, I need to ask our City Attorney, because I've now heard sort of two different standards of proof and law here.

Mr. Hernandez: Absolutely.

Commissioner Mena: From the two of you, and I need Miriam, frankly, for you to tell us what standard we should be applying here and what authority we have, because I've sort of heard two different things here.

City Attorney Ramos: So, the idea of a bid protest is to attack the process. You are not supposed to put yourself in the shoes of the selection committee member and look at the way that they ranked. Unless there is some evidence that the person had, you know, corrupt intent, that there was some sort of fraud in the process, that they had been paid off or that they were acting in some way, arbitrary or capriciously, that person had a good reason for their scores. And, I hear what Mr. Diaz says with regard to when you look at the different categories. When you look at the bottom, all of his scores are between 60 something and 80 something. I mean, he was

clearly a hard scorer on everyone. But in either event, you're not supposed to put yourself in the shoes of the selection committee member. You're supposed to look at the process and whether it was followed. And but for the four or five categories, Mr. Hernandez stated the law correctly. You should not be rejecting the process based on that, unless, again, they can prove one of those four or five categories.

Mayor Valdes-Fauli: Can we determine that his scores were so out of line that they were arbitrary and capricious?

Commissioner Lago: That was...

Commissioner Mena: That's the question.

Mr. Hernandez: You...

Commissioner Lago: I was literally -- I'm not a lawyer, so I was looking it up to make sure what arbitrary and capricious was...

Mayor Valdes-Fauli: (INAUDIBLE)

Commissioner Lago: And I literally have here -- I was about to say that it says inconsistent or erratic and...

Mayor Valdes-Fauli: Right.

Commissioner Lago: You know, I...

City Attorney Ramos: And so -- and I would -- what I would say...

Commissioner Lago: I was looking it up because I wanted to make sure.

City Attorney Ramos: And again, I'm not arguing for staff, but what I would say is if he had given everyone else really high scores and then AshBritt had gotten the really low scores, I would understand. But, if you look at his scores across the board -- and I'm trying to find the one...

Mr. Hernandez: We have it here, if you...

City Attorney Ramos: So, he went between -- the highest score he gave anyone -- so, in his mind, 100 percent is 88. That's the highest score he gave anyone. And the lowest score was 40. And AshBritt fell in at 62. So, I don't know that a court of law would look and find this to be arbitrary and capricious where he consistently scored people harshly, I guess, for lack of a better word.

Mr. Moskowitz: And just...

Commissioner Mena: How did he score the three at issue?

City Attorney Ramos: How did he score the three at issue?

Commissioner Mena: Yeah, because you're going over eight different -- or however many different...

Mr. Hernandez: Why don't we...

City Attorney Ramos: So...

Mr. Hernandez: Can we answer factually...

Vice Mayor Quesada: Well, why don't we do this, if it's okay?

Mr. Diaz: Wait, I can answer...

Vice Mayor Quesada: If it's okay with everyone. They're not done with their presentation. We got sidetracked a little bit.

Mr. Hernandez: Oh, okay.

Vice Mayor Quesada: I actually flipped forward in the presentation and they're answering some of these questions. So, why don't we let them finish. If there's any rebuttals or response or anything else, obviously, you guys would have your time. We've completely hijacked your presentation, so let's just let them finish and just...

Commissioner Lago: You have five seconds.

(LAUGHTER)

Vice Mayor Quesada: Just if it's okay with everyone else.

Mayor Valdes-Fauli: Go.

Vice Mayor Quesada: Yeah. I think it'll wrap it up.

Mayor Valdes-Fauli: Yeah, go ahead.

Mr. Diaz: Yeah. And you have the PowerPoints in front of you, so I'm not going to wait for it to get back there. Commissioner Mena, you had asked about the top three scorers. Again, I had

gone through the scoresheet, which you have in front of you, of Mr. Norman. But he did rank people perfectly in every single category, except for price, where he was off by one point. But the highest score here he gave to Ceres, which got an 88 out of 62. The disparity between first and third there were 26 points. That's a significant margin and enough to make Ceres second and AshBritt third, that one ranker. But to go to Commissioner Quesada's point, I had said at the beginning that there was a -- this was a simple protest and I thought there was as simple answer. And Commissioner Lago had discussed how the County and others, including FDOT use a balanced method when it comes to scoring. So, what we did is we actually went through the highest and lowest scores of each proposer and removed the committee members who ranked highest and lowest. In almost all of them, Norman was the lowest, except for Ceres, which was the one that he ranked the highest. And when you do that, there's a new tabulation at the end, which we believe is consistent with that average, the balanced average, of which AshBritt goes from third to first, and there is some discussion at the end about it. The composite scores matter, and we believe that the experience of the rankers matter, and we believe that Mr. Norman's score was arbitrary, and that's for you to decide as the trier of fact here. You know, in other cities, when you have a bid protest, you go to a special master, which would be the trier of fact. Since you don't have that here, it's for you to decide. And, we pointed out in our bid protest -- that you should have a copy of -- and in the presentation that bias or favoritism are things that public processes should try to avoid. Unfortunately, I think that the facts speak for themselves in this matter. Mr. Norman's scores were erratic, which is one of the definitions of arbitrary. And, we ask for your consideration of that when you make a decision as to whether or not this was arbitrary or not.

Mayor Valdes-Fauli: Thank you very much, sir. Are you finished?

Mr. Diaz: I'm sorry?

Mayor Valdes-Fauli: Are you finished?

Mr. Diaz: I am, indeed.

Mayor Valdes-Fauli: Thank you. Thank you very much. Alright. We'll hear discussion now from the...

City Attorney Ramos: I believe...

Mayor Valdes-Fauli: Members of the Commission.

City Attorney Ramos: The City staff attorney...

Mayor Valdes-Fauli: Yes.

City Attorney Ramos: Needs to respond. They have not been given an opportunity.

Mayor Valdes-Fauli: Alright.

City Attorney Ramos: Mr. Hernandez, come on up. In the meantime, I'd just like to reiterate that while balanced scoring may be a great process moving forward and we may want to move in that direction, that was not the process here and should not be now retroactively...

Mayor Valdes-Fauli: Right.

City Attorney Ramos: Applied.

Mayor Valdes-Fauli: Okay. Thank you. No, thank you. Yes, sir.

Mr. Hernandez: Again, Eric Hernandez on behalf of -- special counsel for the City staff. One of the things that I wanted to clarify, because it's a great question with respect to what's arbitrary

and capricious. Arbitration and capricious can't be determined by just looking at the scores alone, okay. There has to be some evidence out there, some additional evidence showing that this person is either conflicted out or has done something wrong or something so stark in the scores themselves, and that just doesn't exist here.

Commissioner Mena: So, we can't just look at the score?

Mr. Hernandez: You can't just look at the score alone in this case. It would have to be that...

Commissioner Mena: Unless we think it's so startling...

Mr. Hernandez: Exactly. And here, for example...

Commissioner Mena: Look, I want to -- again, I don't want to harp on price too much. I cannot wrap my head around -- and I'm not a genius, but I think I'm a relatively intelligent person, how one person gave them a perfect score on price and three people -- which was a 15 -- three of them gave them, okay, a little less, a 12. And then one person gave a 6. So, what am I missing in this process that somebody can look at the same proposal and say...

Vice Mayor Quesada: Well...

Commissioner Mena: This is perfect price proposal and somebody can say this is two and a half times less.

Mr. Hernandez: But that's the actual point in terms of the standards. You're not supposed to -- what you're looking to see if this person has acted illegally, if this person has acted so far out of the realm that's not possible...

Mayor Valdes-Fauli: Arbitrary and capricious, yes.

Mr. Hernandez: Yes, and...

Mayor Valdes-Fauli: Precisely.

Mr. Hernandez: And here, you can't really say that. For -- let me first address it in inverse order. When you're talking about the people that were -- that Mr. Norman scored, alright, one person. He scored AshBritt at a 62; another provider, Arbor Tree, at a 40; Ceres Environmental, which is the number -- the primary provider -- the secondary provider, at an 88. So, all -- this is all lower than everybody -- how everybody else has been scoring. For example, Crowder was at a 74. D & J Enterprises, at a 64. DRC Emergency Services, at a 75. Phillips, who was the primary provider, at an 82, and TFR, at a 56. So, for everybody, across the board, he gave lower scores. That's the first point. That's the first point. The second point that I want to make -- and I'm going to circle back to your pricing issue that Ms. Walker's going to respond to. But, the second point is that in order for us to start picking specifically -- if you start picking specifically at one person, then there is -- it's going to be possible for you to start looking specifically at the scores of every single one of these persons individually, and that's not what you're really supposed to be doing. You're really supposed to be looking at the process as a whole and whether there was any illegality in the process as a whole. And, they have the burden to show evidence as to whether there was some fraud or something like that.

Commissioner Lago: So, let me ask you...

Mr. Hernandez: In this...

Commissioner Lago: Let me ask you a question since you're mentioning that.

Mr. Hernandez: Yes.

Commissioner Lago: Can you show me a similar graph that is so...

Commissioner Keon: Let him finish.

Commissioner Lago: So...

Commissioner Keon: Let him finish.

Commissioner Lago: Commissioner wants me to let you finish, so I'll let you finish. No, no, go ahead. Go ahead.

Commissioner Keon: It's that...

Mr. Hernandez: Well...

Commissioner Keon: Because I'm losing my train of thought.

Commissioner Lago: Don't worry. Don't mind me.

Commissioner Keon: I'm sorry.

Mr. Hernandez: What I wanted -- I just wanted to point out that, as you know, this goes to a public meeting where these specific issues were all discussed publicly and in the open. And before you get to that public meeting, every single one of these folks are appointed to the EC committee. They've given a conflict form in which they have to expressly state whether they have a conflict of interest of some kind with the providers. And, they get to look at the proposals ahead of time and pencil in what they believe or what they could look at beforehand, so when they get to the meeting, they can get to the final scores in a publicly noticed meeting, of course. And for us to start looking individually at this one -- at just one person, whoever it may be on the

EC, is improper. It's not really looking at the process as a whole. It's not respecting the process as a whole. It's, essentially, the Commission almost stepping off of the dais and deciding themselves who they want, which is not what they're supposed to do. The next point I wanted to -- and I did want to address Commissioner Lago's point with respect to the dropping off of scores. That's all well and fine. You can do that, but it hasn't -- the rules are not such in the City of Coral Gables that allowed it for this particular bid protest. In the places -- yes, it does happen. In certain cities, they drop off either the high score or the low score, but that's all already a part of the actual ordinances and rules with respect to that bid process.

Commissioner Lago: Let me correct...

Mr. Hernandez: And...

Commissioner Lago: Let me just correct you one second, if Commissioner Keon allows me to.

Commissioner Keon: Okay.

Commissioner Lago: I want to make sure. I usually have to ask my wife at home for permission. I didn't know that I had to ask -- that I also have Commissioner Keon. It's usually the Manager that tells me not to speak, but this time, in this case, it's Commissioner Keon.

Mayor Valdes-Fauli: Come on. Stop this nonsense. Come on.

Commissioner Lago: He's short-tempered today, the Mayor. So, the point is very simple. Look, I understand your comments, but you have a lot of -- the County uses this process. There's many municipalities using this process. Listen, I didn't invent this process.

Mr. Hernandez: I agree.

Commissioner Lago: And by the way, it would have saved us headaches last month, and it would have saved this long, one-hour discussion. You know, we wouldn't be -- we wouldn't even be having this discussion right now and your services wouldn't be needed today, because if we would have that in -- we would have had that in place. So, let -- give me one second.

Mr. Hernandez: Yes, sir. Yes, sir, of course.

Commissioner Lago: I asked Commissioner Keon for approval to speak. Give me a second. On this graph here, very simple, can you show me another graph similar to this, where there's such a stark difference from one number to another? I mean, where the drop-off is this significant, where you see, you know, these individuals were voted in the top tier, 12 and 15. In most instances, and then you have that massive drop, which, again, throws the process into a tailspin.

Mayor Valdes-Fauli: Let me...

Commissioner Mena: I...

Mayor Valdes-Fauli: Support you on this.

Commissioner Lago: I just want to know because, I mean, again, you're saying it's not arbitrary and capricious, but...

Commissioner Mena: That's not just price. It's also...

Commissioner Lago: Yeah.

Commissioner Mena: On this one.

Mayor Valdes-Fauli: We have to buy into this process and we have to follow the rules. But maybe Mr. Norman didn't buy into the process. Maybe he's following different rules for him to have reached those results. It's -- they are startlingly different that you -- maybe he didn't read the rules...

Commissioner Lago: But let me give...

Mayor Valdes-Fauli: And that's arbitrary and capricious.

Commissioner Lago: And if I may, Mayor. Let me give you my other big, big concern, okay. And again, if you look at the following graph, Mr. Brook Dannemiller is the person who has been in the trenches with SFM and AshBritt throughout the entire process and they've voted -- again, Mr. Dannemiller is a very capable individual. He's the one that handled a lot of the debris pickup, along with our staff, Peter Iglesias, Ed Santamaria, Jessica Keller, our wonderful staff that did an exceptional job. We had our hiccups. We had our hiccups, and trust me, I made it very -- I was very loud in regards to -- and so was this Commission -- about expectations, about managing expectations. But, you're telling me the person who was in the trenches with this company is voting them a 97 and works for the City of Coral Gables, and somebody who was not in the trenches voted them a 62. To me, that, again, has to be arbitrary and capricious, because you're talking about a person who has firsthand experience being out there every single day. And by the way, Mr. Dannemiller is also, if I may, Madam City Manager, a Coral Gables resident, so he knows very well the streets here in Coral Gables. He knows exactly where things are and he has dealt with all these issues upfront. So, how does he vote them almost 35 points higher? I mean, that's a significant difference. It went from an A-plus to an F. Actually, I thought it was a D-minus, but you said F, so I'll go with your F. So, the point is, I just find that very arbitrary and capricious.

Commissioner Mena: Well, and it's two...

City Attorney Ramos: Important for me...

Commissioner Mena: It's two things.

City Attorney Ramos: Sorry.

Commissioner Mena: I just want to say it could be one of two things. It's either arbitrary or capricious, I agree, or something might...

Commissioner Lago: It's becoming my...

Commissioner Mena: Or there's something wrong...

Commissioner Lago: New favorite word.

Commissioner Mena: With the process.

Commissioner Lago: Yeah.

Commissioner Mena: Because, again, five people looked at the same thing and four of them, on average, were two to two and a half times higher than the other on multiple categories.

City Attorney Ramos: So, I was asked to state the standard, and you asked me earlier. Essentially, the standard is as follows from a number of different cases in the procurement area. The decision's not to be overturned if it was based upon an honest exercise of discretion in good faith absent a finding of fraud, oppression, illegality or misconduct. So, if he in good...

Vice Mayor Quesada: That's it? Nothing else? There's no other -- let me ask you a more broad question. And I apologize, it maybe gets -- it gets away a little bit from this specific issue. But, there's no other reason that we can overturn the selection?

City Attorney Ramos: Not in the bid protest context.

Vice Mayor Quesada: Got it.

City Attorney Ramos: What will happen, for example, is if you deny the protest and you go to J-2, you then, under our Procurement Code, can throw out the whole thing, can send it back to the selection committee. You have a number of different things you can do outside of the...

Vice Mayor Quesada: Can we award it to...

City Attorney Ramos: Bid...

Vice Mayor Quesada: Who we want or no?

City Attorney Ramos: Protest. You can pretty much -- according to our Code, do pretty much whatever...

Vice Mayor Quesada: So, let me understand...

City Attorney Ramos: You like once you're...

Vice Mayor Quesada: You hit something...

City Attorney Ramos: Out of the bid protest context.

Commissioner Lago: If our attorney is telling us...

Vice Mayor Quesada: No, I get it. No, this is very helpful. This is very helpful.

Commissioner Lago: Because I didn't know this, so I...

Vice Mayor Quesada: Yeah, so because it's funny...

City Attorney Ramos: But they're two different things.

Vice Mayor Quesada: We've had a number of bid protests in the past, and there was one that comes to mind that was related to development of a portion of the streetscape and it was overturned. It was a bid protest and it was just a -- it was a little bit different. And that's the last time we had a more -- I wouldn't say this is contentious, but a more -- a longer bid protest process. So, let's assume we accept the protest. Hypothetically, what's the next step?

City Attorney Ramos: They win the protest.

Vice Mayor Quesada: And so, what does that mean? They get awarded the contract?

City Attorney Ramos: Well, they're not ask -- they've already been awarded the contract, if you approve J-2. What they're asking is to be number one. So, then what I suspect will happen is the ones that are now one and two will then file a bid protest.

Vice Mayor Quesada: So...

Mayor Valdes-Fauli: Let me ask a question having to do with the (INAUDIBLE).

Vice Mayor Quesada: I'm just trying to get some clarity for me, but go ahead.

Mayor Valdes-Fauli: No, no. AshBritt's evaluation of past performance and references and everybody gave them 19, 20, 19 to the others. Norman gave them an 8. What's in their past performance that we don't know about, based on this chart? Lawsuits, litigation, protests, what?

Assistant Finance Director Walker: Yes. In the past performance area -- it's past performance and references. It has two specific areas. We asked for a minimum of three references from their past public sector contracts, and we also asked for a list of public sector clients that have discontinued their services. They gave us the references. The references were good and excellent. Second section of that particular category, name public sector clients that have discontinued use. AshBritt had six contracts that were discontinued or canceled due to performance, and that is the area -- those two components comprised of that one particular area that they actually received a poor rating in.

Vice Mayor Quesada: So, I have a question, unless you've got...

Mayor Valdes-Fauli: (INAUDIBLE)

Vice Mayor Quesada: So, here's my -- here's what I'm trying to understand from -- this is a procedural question, okay.

Assistant Finance Director Walker: Okay.

Vice Mayor Quesada: Forget about the substantive facts.

Assistant Finance Director Walker: Okay.

Vice Mayor Quesada: Pure procedure. Hypothetically, we accept the protest, okay. We all vote hypothetically, yeah, unanimous, we accept the protest. What does that mean? Does that mean

that this one individual's numbers all get thrown out and the order reshuffles? Is that what happens? I don't -- it's...

City Attorney Ramos: If you grant their protest, you will grant them being number one. That's what they're asking for.

Vice Mayor Quesada: Got it.

City Attorney Ramos: They're not asking you to throw the whole thing out.

Vice Mayor Quesada: Got it.

City Attorney Ramos: They're asking you to make them number one.

Assistant Finance Director Walker: Number one.

Vice Mayor Quesada: Got it.

City Attorney Ramos: And my caution is...

Vice Mayor Quesada: So, if we vote yes...

City Attorney Ramos: Then number two and three, which are now number one and two, will have a viable protest because they went through the process and now, because of this bid protest, they have been harmed.

Commissioner Lago: So...

Vice Mayor Quesada: Well, if we -- let's go hypothetically now -- we reject the protest...

Commissioner Lago: Yes.

Mayor Valdes-Fauli: Alright.

Vice Mayor Quesada: We go to item J-2...

City Attorney Ramos: Then you have four choices.

Vice Mayor Quesada: We could either go with what the...

City Attorney Ramos: You can accept the...

Vice Mayor Quesada: Recommendation was.

City Attorney Ramos: Recommendation, reject them all...

Vice Mayor Quesada: Throw the whole thing out and send it back for a new process, or pick whoever we want.

Commissioner Lago: Yes.

Vice Mayor Quesada: Is that correct?

Commissioner Lago: Yes.

City Attorney Ramos: The Procurement Code doesn't give the "pick whoever you want" option.

Vice Mayor Quesada: Okay.

City Attorney Ramos: It says approve the recommendation, reject all, reject and ask that the RFP be reissued or reject and instruct the City Manager to negotiate with firms with an ability to perform the services.

Vice Mayor Quesada: Got it.

City Attorney Ramos: Under four is where you can provide further direction about what you would like to happen should you not want to throw the whole thing out.

Vice Mayor Quesada: Are you reading from the agenda?

City Attorney Ramos: No. I'm reading from my notes on the agenda.

Vice Mayor Quesada: Okay. I was like I don't see that here, okay. Now, I'm clear.

Mr. Hernandez: So, and just -- I'm -- go ahead.

Commissioner Lago: I'm ready. I'm ready to reject the bid protest, move on to J-2, throw out the entire process and start again, using the removing the high and low bidders, so that we can follow -- one second -- follow the way that the County does the process.

City Attorney Ramos: Commissioner Lago, before you make that motion, we need to give an opportunity to one and two to speak, if they're present. I don't know if they are. Okay, the other bidders should have an opportunity to speak. They have not been heard yet.

Vice Mayor Quesada: Okay, and...

Commissioner Lago: We can have -- but we can have -- but before we even do that, we can have a discussion amongst us -- amongst Commission.

Vice Mayor Quesada: Yeah.

Commissioner Lago: It's early in the day. We've got time.

Mayor Valdes-Fauli: Go ahead. You've made...

Assistant Finance Director Walker: Could I...

Mayor Valdes-Fauli: A motion to reject the bid protest.

Commissioner Lago: I have not.

Mayor Valdes-Fauli: I thought you had.

Commissioner Lago: What I said was what I would like to do -- and I want to speak with my colleagues to find out exactly if we're aligned and if this makes sense.

Mayor Valdes-Fauli: I would support your motion.

Commissioner Lago: Vice Mayor...

Vice Mayor Quesada: You know, I'm actually thinking of something completely different. I was actually thinking of making a motion to accept the bid protest. You said reject.

Commissioner Lago: I'm fine with that. Let's go.

Vice Mayor Quesada: So...

City Manager Swanson-Rivenbark: So...

Commissioner Lago: But then you also -- then you have...

Vice Mayor Quesada: But, it's actually -- what helped me -- which is interesting to me because, actually, your statements and your statements helped me arrive at that conclusion. That's not necessarily where I was before.

Commissioner Lago: But the reason why I will follow suit...

Vice Mayor Quesada: Because of the arbitrary and capricious...

Commissioner Lago: Yes, I agree with you on that...

Vice Mayor Quesada: Yeah.

Commissioner Lago: Point, but I just would like to make it as clean as possible. That's what I -- my interest is I want to make this a clean process. I want to start from scratch. I want new procurement processes in place.

Vice Mayor Quesada: Yeah, but here's the concern with that.

Assistant Finance Director Walker: Can I make a comment to that, Commissioner Lago?

Commissioner Lago: You don't think we should...

Mayor Valdes-Fauli: Yes, please.

Commissioner Lago: Have procurement processes in place that resolve the issue, like we did last...

City Attorney Ramos: I think it's important to treat that separately.

Commissioner Lago: I understand.

City Attorney Ramos: With all due respect.

Commissioner Lago: But we can treat that separately. We can treat that separate. It's fine. But I think that I want...

Vice Mayor Quesada: But, it's important to have the conversation together. I agree with...

Mayor Valdes-Fauli: Yeah, go ahead.

Vice Mayor Quesada: Commissioner Lago on this.

Commissioner Lago: Yes.

Mayor Valdes-Fauli: You wanted to say something.

Assistant Finance Director Walker: I wanted to make a comment to Commissioner Lago's point about how to treat the actual high and low scores. Specifically, since I came from the County, the process that you are making reference to is used on the A&E side, on that side of the house, not to the procurement side that this was actually issued on.

Commissioner Lago: But we can...

Assistant Finance Director Walker: So, for all the years that I was there, we never threw out the higher and lower score.

Commissioner Lago: We can apply it to this also.

Assistant Finance Director Walker: Okay.

Commissioner Lago: We can apply it to this also.

Assistant Finance Director Walker: No, we can, but I'm saying for the points.

Commissioner Lago: We can apply it to this -- like, also, before we weren't looking at litigation, and when I got here, we started looking at litigation. And, we almost didn't accept the contract with somebody who had 30 active pieces of litigation. So, we can do certain things that will, you know, protect the City and that's why we make those decisions.

Mr. Hernandez: Can I...

City Attorney Ramos: Mr. Hernandez, do you have anything further before calling up the other (INAUDIBLE)?

Mr. Hernandez: I just have a couple of things to say. Commissioner Lago, just the problem with trying to bring that in now is that we're doing it midstream and it would be prejudicial to the other -- if I may.

Commissioner Lago: But we're not. But we're not. That's why...

Vice Mayor Quesada: Could we (INAUDIBLE)...

Mr. Hernandez: No, I hear you. I'm just pointing...

Commissioner Lago: That's why I said we want to start clean.

Commissioner Mena: He wants us to jump in a new stream.

Mr. Hernandez: I'm just pointing it out that those are...

Commissioner Lago: We can jump in midstream together (INAUDIBLE).

Mr. Hernandez: Absolutely.

Commissioner Lago: And I promise -- and I -- you know, so...

Mr. Hernandez: And the other thing I did want to point out was that -- Mr. Mayor mentioned is that when he mentioned that -- about Mr. Norman, he mentioned the word maybe this person was arbitrary and capricious, and that's the issue. You're -- if you were to accept the bid protest, respectfully, I would say that that's on a maybe, which means that that's speculation, which means that's not evidence. And, it would be difficult considering the very deferential standards of the City to do it on that basis. The only other thing I'd like to allow is to allow Ms. Walker, if she has any other factual analysis or factual retorts that I don't think she's had the chance to make, if she could get to make those.

Mayor Valdes-Fauli: Okay, go ahead. We have to get...

Assistant Finance Director Walker: Just one last point. And again, to...

Mayor Valdes-Fauli: Yes.

Assistant Finance Director Walker: Commissioner Lago, which are excellent points with regard to whether or not we concur with the actual evaluation committee's recommendation -- that's the process that we follow. We think that it's fair and it's open and transparent. The part of -- the responsibility that we actually go through to consider even the recommendation of the actual committee are some other factors and things. And Mr. Lago mentioned litigation. Specifically, the three proposers that are being recommended, Phillips and Jordan had one particular litigation case that was opened and actually settled in 2014. The actual second-ranked proposer, Ceres, has zero litigation. AshBritt has 18 litigation cases that are currently open. So, that is part of the consideration with responsibility...

Mayor Valdes-Fauli: 18?

Assistant Finance Director Walker: As well. 18, sir.

Commissioner Lago: And what I would love to see -- but I think it's great. We'll judge that when the process is clean, and I think that'll be the great opportunity. We'll start doing that moving forward, if my colleagues, obviously, support me.

Commissioner Mena: Is...

Commissioner Lago: And we'll cross that bridge.

Commissioner Mena: Can I ask -- is -- and I don't -- if it's a long explanation, I don't need it because we're -- I think people are ready to move on. But on pricing, again, as an example, but also past performance, what kind of instruction do you give the evaluator? Do you give them any?

Assistant Finance Director Walker: Yes, we do. We actually give them instruction on telling them that they're going to evaluate each one of the points that are listed in the categories and the criteria. We give them the scoring components to tell them this is how much this particular category is ranked, and we also give them a scale, which is what the counsel was trying to allude to is that we give them a ratings guideline. It's strictly for guiding to tell you if you think that their response is well put together and that it addresses all the issues, that you can rank them in this particular area within the rankings of 90 to 100 percent. And it tells you the scale of the ratings on the points that you assess to them. So, that's the information that we give them because, again, it is their assessment and how they actually view the actual proposals that were submitted. So, we don't tell them what they're supposed to score, but we give them a guideline, so that they can be in the range and they choose whether or not if they want to be in that range and whether they consider it -- not an A through a D -- but whether or not they consider it excellent through poor, and that's the ratings that we give them -- the guidelines.

Mayor Valdes-Fauli: Okay.

Commissioner Mena: So, somebody looking at the same guide -- okay -- no, go ahead.

Assistant Finance Director Walker: Right, because I can't tell you...

Commissioner Mena: Never mind.

Assistant Finance Director Walker: That you consider their response good or if you consider it fair. Now, you make that particular determination based off of the category of whether or not you felt like the proposal or the actual response they gave them was on point, whether you felt like that they only hit some of the points or not, but then each person's interpretation of that may be different.

Mayor Valdes-Fauli: Alright.

Assistant Finance Director Walker: I can't tell you that the two of you would look at the same proposal and be able to come up with the same response.

Mayor Valdes-Fauli: Are there any...

Commissioner Mena: I think that if we all looked at a price, we wouldn't be two and a half times off each other's number.

Assistant Finance Director Walker: The pricing component, you mean?

Commissioner Mena: Yeah.

Assistant Finance Director Walker: Okay. But the...

Commissioner Mena: And four people looked at it the same way and then...

Commissioner Lago: Yeah.

Commissioner Mena: So, there's...

Mayor Valdes-Fauli: Okay.

Commissioner Mena: Something wrong there.

Mayor Valdes-Fauli: Peter.

Assistant City Manager Iglesias: Oh, yes.

Mayor Valdes-Fauli: Let's conclude this. I mean...

Assistant City Manager Iglesias: On the...

Mayor Valdes-Fauli: Staff.

Assistant City Manager Iglesias: On the price issue, what we're looking for is the most competitive price that we can have and still get FEMA reimbursement, because the last time we were not in a competitive position and it was very difficult to operate in such a non-competitive position. So, when we look at these contracts and we finalize the contracts through negotiation, we will be at the highest price it could possibly without -- with FEMA reimbursement. This is where we want to be.

Commissioner Mena: Right, understood. But again, somebody thought this price was perfect. The other three thought it was close to perfect and one thought it was awful, so the...

Mr. Diaz: Can I mention something about the process?

Mayor Valdes-Fauli: Wait, wait, wait. Let's finish with staff.

Mr. Diaz: It was supposed to be 20 minutes for us...

Mayor Valdes-Fauli: And then you will have two minutes to rebut.

Mr. Diaz: 20 minutes for them. They ate almost all of our time.

Mayor Valdes-Fauli: This is -- sir, this is our staff, and we're asking. Go ahead. Three minutes, go ahead.

Mr. Diaz: No, I was just...

Mayor Valdes-Fauli: They didn't eat into any of your time. I'm sorry, go ahead.

Mr. Diaz: No. I was just preserving that they've gone over their 20-minute allocation.

Mayor Valdes-Fauli: Go ahead.

Mr. Diaz: That this should have been brought in for a landing. And specifically, when it came to litigation history, one of the things that we protested was that the evaluation committee, the recommenders or the committee members were specifically instructed not to take litigation history into account. And the reason was because litigation history doesn't mean that you did something wrong. I mean, they are so big and they have so many contracts. Sometimes they don't get paid, and they have to go after the people that owe them money. So, that was not to be taken into account. So, for that to be brought in right now is an attempt to poison the well. And, I think that this presentation was strong enough and you have what the standards of the burden of proof is, and I think we've met that burden in multiple things. Whether you want to say this was contrary to competition, arbitrary or capricious or clearly erroneous, the lawyer that you handle specifically said that the City has broad discretion in determining what it wants to do in a protest. And, I think that -- I feel that you guys understand what our case is and you have the discretion to remedy that. That's it.

Mayor Valdes-Fauli: Thank you, sir.

City Attorney Ramos: Again, I think we need to have an opportunity to hear from the other two...

Mayor Valdes-Fauli: Yes, go ahead. Alright, from the other two, and thank you. AshBritt has had its say. Yes, sir. Be very brief, please.

Tommy Webster: My name's Tommy Webster, 12608 Clear Ridge Road, Knoxville, Tennessee. I'm the director of Disaster Services for Phillips and Jordan, the number-one ranked contractor. I had prepared a statement, but it sounds as if you may be moving in a different direction. I'm going to read through my statement. It is fairly brief. Please forgive me for being underdressed. Ironically, I was on a construction site this morning for one of our groups, and they made fun of how dressed up I was. Let me start by saying we understand and respect the method under which this contract was properly procured. We prepared and submitted our proposal under those guidelines. And, we also understand and respect the evaluation process and that your decision is final. We are happy and proud to have been selected as the primary disaster removal contractor, and we look forward to meeting all of you and working together as part of your emergency preparedness team, which is very much how we see our burgeoning relationship. It is a team effort. All parts, yours and ours, working and communicating together, along with preparation efforts will be the barometer of the success of our team. Phillips and Jordan's been in business since 1952, primarily as a heavy civil contractor, but we have over 41 years' experience in responding to natural as well as man-made disasters of all types, hurricanes, tornadoes, wildfires, ice storms, et cetera, as well as man-made disasters, such as coal ash spills, train derailments, even receiving the US Army Corp of Engineers contractor of the year award for our efforts in the cleanup and forensics recovery after the terrorist attacks at the World Trade Center. Although our corporate headquarters is in Knoxville, Tennessee, we employ over 200 full-time staff at our regional office in Zephyrhills, Florida. We've had a strong presence in the state of Florida for the past 44 years. We have successfully completed over 1,700 projects throughout the state. Collectively, our core management team has more than 165 years of emergency management experience, and all team members have certifications in everything from NIMS and USACE construction management, multipole OSHA certifications, CPR/first-aid training. That's something we require of all of our core management staff. We take very seriously responsibility of being involved in almost every single major disaster event that has occurred in this country over the last 40-plus years. We take great pride in the recovery projects that we have successfully accomplished with more than 200 different clients, some of them on multiple

deployments. Because our presence is a 52-week a year construction firm, it puts us in a unique position to provide personnel and equipment of which we own over 900 pieces of heavy iron at a moment's notice. Also, our reputation and ability to perform is paramount to our overall success. As we all know in this industry, your reputation will usually precede you. It is imperative to us that we maintain a productive and positive relationship with our emergency response clients before, during and after an event. Our presence in the state of Florida is far too important for us to tarnish it by not following through with an obligation to you as our client. After the tremendous hurricane season of 2004-2005, we were all seemingly lulled into complacency. Several years went without an event, along with heavy staff turnover during that quiet period had this storm season catching most everyone on their heels. Hurricane Irma taught us all a great deal about what needs to go into everyone's preparation and response efforts. We were deployed in seven different counties in the state of Florida, as well as being simultaneously engaged in Texas, assisting with the Hurricane Harvey recovery. So, we know what it's like to have resources stretched to their limits. I'm proud to say, though, that we were able to successfully complete all of our emergency responses during the 2017 storm season, and we would be more than happy for all of you to speak to any and all of our clients regarding those responses and our performance. As a municipality, having a pre-positioned disaster debris contractor is one of those necessary securities that you hope you never need. Whenever I meet a new client, they usually say, it's great to meet you. We hope we never see you again. But, we understand and we see your preparedness differently. And we want to --- in helping sure that you are prepared for whatever emergencies that may come your way, well in advance of an event, to prevent you from potentially getting caught unprepared and flat-footed. So, once again, thank you for the privilege of being selected as your primary disaster debris contractor. And I look forward to the opportunity to work with your team.

Mayor Valdes-Fauli: Thank you, sir.

Mr. Webster: Thank you.

Mayor Valdes-Fauli: Miriam Ramos.

City Attorney Ramos: Someone present from Ceres that wishes to speak?

(COMMENTS MADE OFF THE RECORD)

City Attorney Ramos: Okay. Alright, but there's no one present today in the audience?

Mayor Valdes-Fauli: Okay.

City Attorney Ramos: Alright, sir. With that...

Mayor Valdes-Fauli: Okay. No more testimony and we have discussion among the City Commission. Madam...

Commissioner Keon: You know, I -- I -- when I first looked at this and ran through it, I was concerned with Mr. Norman's because it is -- it diverges significantly from the other four people. I also noticed that he is the one individual on the panel that does not have experience in the disaster removal field or in trash and garbage. Is that right? Does he have experience in that area?

City Attorney Ramos: Ms. Walker, if you could speak to his experience.

Commissioner Keon: It looks like from his -- you know, from the submission here, that that isn't -- he had been with Florida Power & Light as retired.

Assistant Finance Director Walker: Yeah. He worked for...

Commissioner Keon: Right, so he really -- he wasn't in the disposal -- trash...

Assistant Finance Director Walker: No, ma'am. He didn't...

Commissioner Keon: Any of that.

Assistant Finance Director Walker: He does not have that type of experience.

Commissioner Keon: The other -- and the other...

Assistant Finance Director Walker: He did work...

Commissioner Keon: Four people were.

Assistant Finance Director Walker: He worked with the City as far as their liaison with the last major storm.

Commissioner Keon: Right.

Assistant Finance Director Walker: So, he worked in the EOC with actual...

Commissioner Keon: Right.

Assistant Finance Director Walker: The City and doing that particular work.

Commissioner Keon: Right.

Assistant Finance Director Walker: But not specifically on the ground.

Commissioner Keon: So, you know, I have -- I do have concerns about it because I -- his scoring and his not having maybe the knowledge in the field that would have maybe better prepared him to score differently, but I don't know the man. But, that was a committee that was put together by the City and, you know, when I listened to our -- the attorney that is speaking on behalf of the City, I can't say that it's arbitrary and capricious. I don't know. So, I'm -- you know, I'm not comfortable with it, but I don't feel that I have -- the record doesn't speak to me in a way that it justifies not upholding -- to not maintaining or supporting the Procurement Division's findings. So, I wouldn't overturn it. I can -- but I certainly understand the concerns that are raised here, because I have those same concerns. But, whether I could -- can I go to that point of arbitrary and capricious? I can't, but you know -- and if you can and if you can help me, that would be fine because I can't. So, you know, I am unsettled by it too, but I can't...

Mayor Valdes-Fauli: Okay.

Commissioner Keon: Get there, so...

Mayor Valdes-Fauli: Commissioner Lago.

Commissioner Lago: No, I think I've spoken enough. My comments...

Commissioner Keon: Oh, come on. You can talk now.

Mayor Valdes-Fauli: You'll let him talk? Okay.

Commissioner Lago: We're good, we're good.

Mayor Valdes-Fauli: Commissioner Mena.

Commissioner Mena: I mean, I have a hard time understanding when I could say something is arbitrary and capricious. I mean...

City Attorney Ramos: You need to have evidence you can point to.

Commissioner Mena: What kind of evidence? I'm looking at scores. So, that, to me, is some evidence.

City Attorney Ramos: Well, but a court might require that you have some other evidence other than you just looking at the scores cold because, again, each selection committee member has an enormous amount of discretion. So, but for a showing of bad faith, illegality, as we said, conflict, et cetera, if his score is just his matter of discretion -- he's just a really hard scorer, that in and of itself is not likely evidence of arbitrary and capriciousness.

Mayor Valdes-Fauli: Okay. Commissioner (INAUDIBLE)...

Commissioner Mena: Again, I have a little bit of -- I have some questions. I have a little bit of a problem with that. Like if somebody says the sky is red...

Commissioner Keon: Okay, so...

Commissioner Mena: You know, it -- I just -- these scores are so -- and by the way, there's things that go the other way too. Am I reading it correctly that Sanders gave AshBritt a perfect score...?

Assistant Finance Director Walker: Correct. He gave...

Commissioner Mena: In every category?

Assistant Finance Director Walker: Well, no. He gave three proposers a 100 score, not just AshBritt.

Commissioner Mena: So, again, I come back to my point earlier. I don't know if it's arbitrary and capricious or not, Miriam, but there's something wrong with this process. When one person can give three people perfect scores, another one can give just on the opposite side of the spectrum -- so, I have a couple of very quick questions for you, Miriam...

City Attorney Ramos: Yes.

Commissioner Mena: That's going to guide which direction I go here, which is as follows. If we accept the bid protest or grant the bid protest, I believe you said earlier that would open up to additional bid protests, right?

City Attorney Ramos: It could.

Commissioner Mena: Okay. Is it subject to any sort of further review? Like, can you take that to court?

City Attorney Ramos: Your decision's supposed to be final. That doesn't mean that they can't file a lawsuit.

Commissioner Mena: Okay. And if we reject the bid protest, but under -- what was it, J-2?

Commissioner Lago: J-2.

City Attorney Ramos: J-2, you have specific things you can do in the Procurement Code. And, then you're not subject to all of the restrictions that case law puts forth in a bid protest of what can and cannot be considered.

Commissioner Mena: I'm torn on whether...

City Attorney Ramos: You can consider...

Commissioner Mena: To grant it or go with the route you said...

Commissioner Lago: I feel the same way. I'm torn between granting it and (INAUDIBLE) direction.

Commissioner Mena: But I'm not comfortable with the results.

Commissioner Lago: Yeah.

Commissioner Mena: I just...

City Attorney Ramos: Sure.

Commissioner Lago: I can't stand -- I also can't stand with the results.

Commissioner Mena: I can't look -- it's just...

Commissioner Lago: And especially, like I mentioned before, this is becoming a habit, so we need to make a change.

Mayor Valdes-Fauli: Okay.

Commissioner Lago: Vice Mayor.

Mayor Valdes-Fauli: Vice Mayor.

Vice Mayor Quesada: Yeah, thank you. You know, I'm coming back where Commissioner Mena was as far as what the evidence is. I've just given my version of the document to Cathy, so that they can discuss it. If you look at the comparison page -- actually, I don't think any of you were on it. Look at the D & J price and the way Norman scored it and -- yeah, that page. Can you see? It's this page. And then look at the scoring for AshBritt, where he gives a 14 for one and he gives a 6 for another. You know, if that's the same price or they're close, then I think that's the additional evidence that would satisfy me because, you know, the first one, Commissioner Mena brought it up. I thought it wasn't that big of a deal, but it's not -- this is not a situation where there are a lot of variables -- there could be a lot of hidden costs in the price, at least not that...

Commissioner Keon: Isn't this...

Vice Mayor Quesada: That I could see.

Commissioner Keon: Isn't this the price -- these are the price -- is this what composes the price?

Mayor Valdes-Fauli: I'm sorry.

Assistant Finance Director Walker: Yes.

Mayor Valdes-Fauli: Vice Mayor, can you say it again?

Commissioner Keon: This is in here.

Mayor Valdes-Fauli: Can you go through that again?

Vice Mayor Quesada: Yeah, of course. Can you -- just a quick question. Real quick, don't need a lot of explanation.

Assistant Finance Director Walker: Okay.

Vice Mayor Quesada: Very simple, black and white. Do you know -- do you have the answer?

Assistant Finance Director Walker: The answer to D & J that you asked in...

Vice Mayor Quesada: So, what was AshBritt's price and what was D & J Enterprise's price?

Assistant Finance Director Walker: D & J Enterprises' price was 924.

Vice Mayor Quesada: Okay.

Assistant Finance Director Walker: And AshBritt's was 1150 on the one particular line item, the one that is the debris collection.

Vice Mayor Quesada: Got it.

Mayor Valdes-Fauli: Okay.

Commissioner Mena: What was -- let's see...

Vice Mayor Quesada: So...

Commissioner Mena: No, I think this is important. You're saying to compare...

Vice Mayor Quesada: Yeah. I'm trying to compare apples...

Assistant Finance Director Walker: Okay.

Vice Mayor Quesada: To apples.

Assistant Finance Director Walker: Okay.

Vice Mayor Quesada: Because AshBritt, Norman gave a 6 on the price for the 1150. And D & J, which had a lower price, at 924, gave a 14. So, what's Arbor -- can you tell me Arbor Tree and DRC quickly, or no?

Assistant Finance Director Walker: Arbor Tree...

Vice Mayor Quesada: Arbor Tree was scored a 5.

Assistant Finance Director Walker: Was...

Commissioner Mena: Well, he's -- yeah.

Assistant Finance Director Walker: They were 1250. They were higher than AshBritt. So, he gave AshBritt 6 and he gave Arbor Tree 5.

Vice Mayor Quesada: So, that's inconsistent?

Commissioner Mena: No, no.

Assistant Finance Director Walker: No, that is consistent because...

Commissioner Keon: No, it's not.

Assistant Finance Director Walker: They were higher.

Vice Mayor Quesada: Oh, I'm sorry. Higher, higher, right. You're right, you're right, you're right, you're right. Okay, and then DRC was a 10.

Assistant Finance Director Walker: DRC...

Commissioner Mena: Did anybody do this exercise, by the way?

Assistant Finance Director Walker: 894. I did.

Commissioner Mena: Okay.

Assistant Finance Director Walker: Yes. This is why I have...

Vice Mayor Quesada: Hold on a second.

Assistant Finance Director Walker: That I can tell you the pricing.

Vice Mayor Quesada: So, 894, which is a lower number...

Commissioner Lago: Yeah.

Vice Mayor Quesada: Which -- so, they should have had a higher score, correct?

Commissioner Keon: Right.

Assistant Finance Director Walker: Yes, but he gave them, I believe...

Vice Mayor Quesada: He gave them a 10.

Assistant Finance Director Walker: 10.

Vice Mayor Quesada: Yet, a company that had a higher price, 924, D and J, he gave them a 14.

Commissioner Mena: Lower.

Assistant Finance Director Walker: But he also ranked D and J...

Vice Mayor Quesada: But he gave them a better score.

Assistant Finance Director Walker: Lower.

Commissioner Lago: Yeah.

Vice Mayor Quesada: Very few -- there's the -- there -- I mean, I move to accept the bid proposal. I'm sorry, Mr. Mayor. I withdraw all that...

Mayor Valdes-Fauli: Please.

Vice Mayor Quesada: And let you finish speaking.

Mayor Valdes-Fauli: You're going to let me speak and...

Vice Mayor Quesada: Because I think there's evidence of a clear inconsistency.

Mayor Valdes-Fauli: Commissioner Keon, would you let me speak?

Commissioner Keon: No. I -- you know what it is? I...

Mayor Valdes-Fauli: No, no, no. Please let me speak.

Commissioner Keon: Oh, let you speak? Oh, I'm sorry.

Vice Mayor Quesada: That was a no, Mr. Mayor.

Commissioner Keon: Yes, sir. You can speak. I like this (INAUDIBLE).

Mayor Valdes-Fauli: I don't like the system at all, but I don't see anything illegal or anything out of legality in this. And I would vote to reject the bid protest. I mean, that would be my vote. It is a very flawed system. I agree with Commissioner Lago. I agree that we have to change this. I would not choose Mr. Norman again for this. He's so out of the ordinary or so out of the - - but I would reject the bid protest. Is there a motion?

Commissioner Lago: Vice Mayor Quesada has a motion on the floor.

Commissioner Mena: Well, I'd like to -- where are you at with it at this point?

Commissioner Lago: I mean, again, I...

Commissioner Mena: Part of me is leaning towards throwing it out altogether.

Commissioner Lago: I think the best opportunity we have here is throw out the entire bid, move to J-2...

Mayor Valdes-Fauli: Yeah, but let's deal with J-1 first.

City Attorney Ramos: Right, but they...

Mayor Valdes-Fauli: I agree.

City Attorney Ramos: Should be considered separately.

Mayor Valdes-Fauli: J-1 first.

Vice Mayor Quesada: But, can we at least have a conversation on the overall impact of what happens?

Mayor Valdes-Fauli: Yeah, yeah, yeah.

Vice Mayor Quesada: Yeah, so I think it's very important.

Mayor Valdes-Fauli: Yeah.

Commissioner Lago: So, what I was saying was I'm in favor of denying J-1...

Mayor Valdes-Fauli: Okay.

Commissioner Lago: Obviously, the bid protest. Moving to J-2, throwing out the process completely, revamping the procurement process to fall in line with the County. I know I'm a broken record. I apologize. That's what I feel very comfortable doing. But I also, if you want to move forward with J-1...

Vice Mayor Quesada: Let me...

Commissioner Lago: I second your motion.

Vice Mayor Quesada: I -- here's the thing. I don't -- I really, in principle, don't disagree with you. I agree with it. However, here's my concern. Hurricane season, I know we have an existing contract that goes on so we're not...

Commissioner Lago: Yes.

Vice Mayor Quesada: Going to be not covered.

City Attorney Ramos: But only for six months.

Vice Mayor Quesada: But...

Mayor Valdes-Fauli: Okay.

Vice Mayor Quesada: Okay, so we'll come back and we'll extend it for another six months if it's not worked out then. And that's fine and great, but I don't like the temporary nature of that. I think it's -- I don't want to say dangerous because we're always going to be covered, but I think there is a company that's more invested when they know it's a permanent thing. I think that definitely plays into it. In my mind, I think there's clear evidence of the inconsistency to satisfy the arbitrary and capricious -- that even if we do get sued, I feel very comfortable in our chances of prevailing, because of the evidence that I think I just pointed out there and the discrepancy in the pricing. Now, as far as revising it, the Procurement Code, absolutely.

Commissioner Lago: We'll deal with that afterwards.

Mayor Valdes-Fauli: Yeah.

Commissioner Lago: Right now.

Mayor Valdes-Fauli: Yeah.

Commissioner Lago: We're going to make a resolution on that.

Vice Mayor Quesada: But...

Mayor Valdes-Fauli: Okay.

Commissioner Lago: I second your motion.

City Attorney Ramos: So...

Mayor Valdes-Fauli: Will you call the roll, please?

Commissioner Mena: What does it cost us to do -- go through this process? Yeah, the ballpark.

Assistant Finance Director Walker: As far as internal resources? I mean...

Commissioner Lago: Legal fees for the gentleman who's behind you.

Assistant Finance Director Walker: Yeah, legal fees. I'm not -- I can't come up with an actual number. And then we actually do like engage people from other governmental entities, and that's their time and stuff too, so I'm not -- I don't have a quantifiable number that I can give you.

Commissioner Lago: But we also reciprocate and provide individuals -- you know, key individuals...

Mayor Valdes-Fauli: Let's...

Commissioner Lago: From our staff who also serve in their...

City Attorney Ramos: So, Vice Mayor, to be correct and technical...

Commissioner Lago: Did you get an answer for your question or no?

Assistant Finance Director Walker: I don't have the numbers.

Mayor Valdes-Fauli: Wait, wait. Let's...

Commissioner Mena: No, I...

Mayor Valdes-Fauli: Let's deal with J-1 first and then...

Commissioner Mena: Well, but I...

Mayor Valdes-Fauli: Commissioner Lago, you're very right in bringing up the other one. Let's deal with this one first.

City Attorney Ramos: As to J-1, Vice Mayor...

Vice Mayor Quesada: Yes.

City Attorney Ramos: To be technical, you should either move to approve the City Manager's recommendation to deny the protest or disapprove the City Manager's recommendation to deny the protest.

Vice Mayor Quesada: My motion is to disapprove the recommendation.

Commissioner Lago: And I have seconded it.

Mayor Valdes-Fauli: Disapprove the recommendation to deny. So, that means that we accept the protest.

Vice Mayor Quesada: Yeah.

City Attorney Ramos: Correct.

Vice Mayor Quesada: That's my motion.

Mayor Valdes-Fauli: Okay.

Commissioner Keon: But if you accept the protest, then it automatically goes...

City Attorney Ramos: Then he -- AshBritt becomes number one. Arguably, right, then Phillips and Jordan become number two and Ceres becomes number three.

Commissioner Mena: I have...

City Attorney Ramos: And we likely have another bid protest.

Commissioner Mena: I have an important question. If you removed Mr. Norman's scores from the equation, would AshBritt have been number one?

Assistant Finance Director Walker: Yes, sir.

Commissioner Mena: Who would have been number two?

Assistant Finance Director Walker: I believe Ceres still would have been number two.

Commissioner Mena: So, that...

Assistant Finance Director Walker: Where's my -- you have my piece of paper. If we removed Mr. Norman's scores, AshBritt would be ranked number one. Phillips and Jordan would be ranked number two, and Ceres, three.

Mayor Valdes-Fauli: Okay. Will you call the roll, please?

City Attorney Ramos: I'm sorry. Excuse me. I'm being told that they are not requesting to be number one. And we need to know what it is you're requesting then.

Vice Mayor Quesada: That doesn't make sense.

Mr. Moskowitz: Jared Moskowitz again. So, in the protest, okay, we asked for the scores to be thrown out, okay. And so, sustaining our protest, the only thing that happens is his scores disappear. You still separately would have to award it to us. I just want -- I was hearing that it's automatically we become the primary contract. That's a separate vote that you would have to take.

City Attorney Ramos: It is a separate vote, but it changes the order.

Mr. Moskowitz: Correct. I just want to be clear that it's still a...

Vice Mayor Quesada: Got it.

Mr. Moskowitz: Separate vote.

Vice Mayor Quesada: Thank you.

Mayor Valdes-Fauli: Okay, will you call the roll, please?

Commissioner Lago: Yes.

Commissioner Mena: Yes.

Vice Mayor Quesada: Yes.

Commissioner Keon: No.

Mayor Valdes-Fauli: No.

(Vote: 3-2)

Mayor Valdes-Fauli: Alright, J-2...

City Attorney Ramos: J-2...

Mayor Valdes-Fauli: Awarding the...

City Attorney Ramos: So -- J-2 now changes. So, I don't know if Procurement is ready to proceed on J-2.

Assistant Finance Director Walker: We're ready to proceed, but I'm not sure exactly what I'm presenting at this point.

City Attorney Ramos: Correct.

Assistant Finance Director Walker: What did we just...

City Attorney Ramos: So, you can either pass it and give her some time while we go through the rest of the agenda, and if they're not ready at the end, then come back next month.

Mayor Valdes-Fauli: Why don't we do that? Let's look at the rest of the agenda and then come back.

Commissioner Mena: Isn't it what you just said?

Assistant Finance Director Walker: Right. So, you voted to accept their protest.

Vice Mayor Quesada: Correct.

Assistant Finance Director Walker: But their protest -- really, their protest was written...

City Attorney Ramos: Is to throw out Mr. Norman's scores. So, we need to know what happens...

Assistant Finance Director Walker: Well, what happens is...

City Attorney Ramos: When those are thrown out.

Assistant Finance Director Walker: That AshBritt becomes primary. Phillips and Jordan become secondary, and Ceres becomes tertiary.

Vice Mayor Quesada: I move to approve item J-2...

Assistant Finance Director Walker: Okay.

Vice Mayor Quesada: Based on...

Assistant Finance Director Walker: Based on the new...

Vice Mayor Quesada: The result of the J-1 vote.

Commissioner Keon: Is it possible -- I mean, we can have a number of options at this point or no?

City Attorney Ramos: Not anymore because the protest was award -- the bid protest went forward -- in other words, was awarded.

Commissioner Keon: You know what, I -- alright. I would have liked to have seen it go back to those same people with that fifth person being somebody with knowledge in the industry, but that's not an option to us anymore.

Commissioner Mena: You have the scores of four people with knowledge in the industry.

Commissioner Keon: I don't know if a fifth would make a difference.

Mayor Valdes-Fauli: Alright.

Commissioner Keon: I don't know.

Mayor Valdes-Fauli: Have we made a motion?

Commissioner Keon: Okay, go.

Commissioner Lago: But wait. It's not like...

Commissioner Keon: Never mind.

Commissioner Lago: It's not like I didn't mention that four or five times. I said we can just nullify and then go back to J-2. I mean, I said it. Let's start the whole process all over again. Let's scrap it and start it again. That's what happens.

Mayor Valdes-Fauli: Let's make a motion.

City Attorney Ramos: Is someone moving to reconsider?

Vice Mayor Quesada: You know, my concern with that is, again, the permanency of it. I'm absolutely okay revising procurement so anything moving forward, we have...

Commissioner Lago: Yeah, yeah.

Vice Mayor Quesada: That process that...

Commissioner Lago: Well, you made a motion.

Vice Mayor Quesada: You mentioned.

Commissioner Lago: I just want you to be...

Vice Mayor Quesada: Oh, no. My motion is to approve J-2...

Assistant Finance Director Walker: With the new order.

Vice Mayor Quesada: As modified by the vote on J-1.

Commissioner Lago: Okay, second.

Mayor Valdes-Fauli: Alright. Will you call the roll, please?

Commissioner Mena: Yes.

Vice Mayor Quesada: Yes.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Mayor Valdes-Fauli: No.

(Vote: 4-1)

Mayor Valdes-Fauli: Alright, we'll go on to...

Vice Mayor Quesada: Mr. Mayor, is it timely for Commissioner Lago -- we make a motion related to what Commissioner Mena -- I'm sorry, Commissioner Lago mentioned? Do we need a motion to change the procurement process or the Code...?

Mayor Valdes-Fauli: No, no.

Vice Mayor Quesada: To follow that?

Mayor Valdes-Fauli: Let's go -- we have some people waiting since 3:30.

Commissioner Lago: I think you could put it on the next agenda, right?

Commissioner Keon: Right. Why don't we...

Commissioner Lago: Because that's -- because they're not sending...

Commissioner Keon: Give them an opportunity to...

Commissioner Mena: Right, Vince?

Mayor Valdes-Fauli: Okay, I will take up Item J-10, which is the LeJeune Bridge. They've been waiting here...

Commissioner Lago: Hold on a second.

Mayor Valdes-Fauli: For...

Commissioner Lago: Mayor, if I may, just one second.

Mayor Valdes-Fauli: Yeah, please.

Commissioner Lago: We're talking about an issue...

Mayor Valdes-Fauli: And we're going to talk about it. But let's take this time certain item first. We have County people here. We have (INAUDIBLE) people here. Let's take this, and then we'll take the other one. I'm not denying anything. We will take it up. Okay, anybody for LeJeune Bridge here?

Commissioner Lago: LeJeune Bridge.

City Manager Swanson-Rivenbark: And while they're coming up, sir, we are in the process of revising the Procurement Code, and so, if you'd like, at the next meeting, we could provide an update on where we are with it.

Commissioner Keon: I would like to see people with expertise in the field or knowledge of the field.

(DISCUSSION CONTINUED)

Mayor Valdes-Fauli: Okay, we will go to item J-2. Commissioner Lago.

Commissioner Keon: J-2.

Commissioner Lago: Not J...

Vice Mayor Quesada: J-2, we covered. I think J-3, you mean?

Mayor Valdes-Fauli: No, J-2. Commissioner Lago...

Commissioner Lago: F-2...

Mayor Valdes-Fauli: Wanted...

City Manager Swanson-Rivenbark: H-2? Are you talking under City Commission items?

Mayor Valdes-Fauli: I'm talking about Commissioner Lago wanted to discuss the process for the bids and...

Commissioner Mena: Oh.

Vice Mayor Quesada: Oh, okay.

Commissioner Lago: Excuse me. Thank you, sir. Wow.

Vice Mayor Quesada: I forgot about that.

Commissioner Lago: It's been a long day. Thank you. I'm going to make a motion to revise the procurement standards and implement a similar standard to what the County is currently adhering to where they basically remove the top and the lowest score, which allow for a more uniform outcome.

Vice Mayor Quesada: So, you have a lot of experience -- I have zero experience with this.

Commissioner Mena: Yeah.

Vice Mayor Quesada: Is that normal...

Commissioner Lago: Again...

Vice Mayor Quesada: That you've seen?

Commissioner Lago: It's a standard protocol that I've seen. It allows outliers...

Commissioner Mena: She disagrees.

Commissioner Lago: It's perfectly fine. She can disagree.

Commissioner Mena: No, no. I also have no experience...

Vice Mayor Quesada: Yeah.

Commissioner Mena: With this either.

Commissioner Lago: I'll give you -- I'll put a few...

Vice Mayor Quesada: It makes sense.

Commissioner Lago: I'll make it to you real -- I'll give you two examples. In the last month, we've had two major issues here where we've had bid protests based on this simple point.

Vice Mayor Quesada: Yeah.

Commissioner Lago: For one of the individuals -- and Commissioner Keon mentioned also that we should make sure that any individual that gets involved in these selection committees, that they have the necessary expertise that is aligned with that type of scope that we're discussing or work.

City Attorney Ramos: So, we're in the process of a full Procurement Code rewrite. Would you like this to come back alone or as part of the rewrite?

Commissioner Lago: I just want a simple...

Mayor Valdes-Fauli: Yeah, as part of the rewrite.

Commissioner Lago: I want a simple resolution. I want a simple resolution to galvanize right now that this gets adhered to from this moment moving forward. Do I get a second on that?

City Attorney Ramos: Well, hold on.

Commissioner Mena: So, I want to fix the problem that you're addressing.

Commissioner Lago: Yeah.

Commissioner Mena: My concern is -- I feel like I need to be more informed on this.

Commissioner Lago: Of course.

Vice Mayor Quesada: Yeah.

Commissioner Mena: So, I'd be curious to know like are there other -- like what other types of such approaches are there? Are there other approaches that other municipalities...?

Commissioner Lago: Well, what you're talking about...

Commissioner Mena: Whether it be this or something else, to understand what our options are.

Commissioner Lago: Well, the options are you leave it the way it is and one person can interject their opinion and basically throw off the process off kilter...

Commissioner Mena: Which I don't like.

Commissioner Lago: Or you can use the process that I'm talking about, which is high and low scores are removed and you end up with a much more efficient kind of resolution.

City Attorney Ramos: So, because we're setting up...

Commissioner Lago: Those are the two standards that I'm aware of when you're talking about, you know, these issues.

City Attorney Ramos: What I would ask then is for -- you're moving a resolution to draft an ordinance that would put these things into place.

Commissioner Lago: Yes.

City Attorney Ramos: My only question is, do you want it to come stand-alone or do you want it to come as part of the bigger procurement rewrite, because we're doing an entire...

Commissioner Lago: I don't have...

City Attorney Ramos: Rewrite.

Commissioner Lago: I'll do whichever way you want, whichever -- whatever makes it easier for you, but I want to make sure that if we have any RFPs or RFQs that are coming out in the next few days, that they adopt this standard.

City Attorney Ramos: Then -- but we can't because we don't have an ordinance. So, we would need to bring it back in July; it would pass in August. That's the earliest.

Commissioner Lago: That's fine.

Commissioner Keon: When would you -- when do you plan to have your proposed rewrite available?

Assistant Finance Director Walker: We're in the process of finalizing that now. We've been through several reiterations (sic) of that and had reviews on actual code updates, so I know that the City Manager has asked us to come with a presentation to sort of give you an update of that. But the particular changes that Commissioner Lago is proposing, that would be part of our actual procedures or processes and not necessarily the code rewrite that we're doing.

City Attorney Ramos: So, if you feel comfortable with that, then we can do it by resolution effective today.

Commissioner Keon: Well, can you -- based on your knowledge and your expertise as the director of the department, what's your...

Assistant Finance Director Walker: That's not the most common practice. Commissioner Lago is right that the County uses that, but they do specifically on their A&E projects, which is the architectural and engineering and not the standard procurement practices. What they do have in place, though, is a process that the Mayor or his designee gets involved where if there are cases where you feel like if there is some problems with the scoring, that that could be reviewed, and if necessary, he has the authority to remove that particular person's scoring, but it's not through the process that we utilize that we automatically throw out the high or the low.

Commissioner Keon: Oh, I (INAUDIBLE)...

Commissioner Lago: I'm not a big fan of that because, I mean, you have the Mayor or a Commissioner or City Manager, you know, interjecting and basically deciding whether someone's, you know, votes are removed or they continue. I'm a believer in, you know, unifying -- uniforming the process. Just simple as -- make it as simple as possible. And the process is used not only in selecting AEs; it's used in other different forms too because I know that contractors have been chosen, subcontractors have been chosen that way because there's -- it's a way. It's a process that simplifies and makes everything kind of even, so it's pretty simple. If you don't feel comfortable, we don't have to vote on it.

Commissioner Keon: How many...

Commissioner Lago: I just think we've had two back-to-back cases where this has become an issue. So, I just want to move on from the issue. If you're not ready to vote on it today, I don't have a problem with it.

Commissioner Mena: Can we...

Commissioner Keon: How many propose...

Commissioner Mena: Look, my preference would be for you to put that on the next agenda. And the reason why is I'd like to just like talk to people that...

Commissioner Lago: Of course.

Commissioner Mena: Operate in this space in the interim and get a feel for if there's any other suggestions they have of...

Commissioner Lago: I'm going to tell you what the process is.

Commissioner Mena: Other things we could do.

Commissioner Lago: This does not allow anyone to manipulate the process.

Commissioner Mena: Right.

Commissioner Lago: This is why this is important. This is why this is transparent.

Commissioner Mena: I think it's -- I agree.

Commissioner Lago: This is a way that you control, not anyone that is named by staff, named by the Manager, named by the Commission, named by the Manager -- named by anyone. This is the cleanest way of doing it.

Mayor Valdes-Fauli: Alright.

Commissioner Lago: Again, nobody -- it allows for no manipulation. It allows for -- if you score too high and you score too low, your number's kicked out. That's why -- this is the way...

Commissioner Mena: Is it on a -- can I ask a question?

Commissioner Lago: Of course.

Commissioner Mena: Is it on -- is it the overall scores or on a per category basis?

Commissioner Lago: It depends. You can do it multiple different ways.

Commissioner Mena: Right.

Commissioner Lago: I know. I'm just telling you...

Commissioner Mena: That's what I wanted to know.

Commissioner Lago: That what...

City Attorney Ramos: Perhaps we bring a draft resolution...

Commissioner Lago: Of course.

City Attorney Ramos: In July...

Commissioner Lago: But you -- you know that I'm very sensible when it comes to certain things.

Commissioner Mena: Yeah.

Commissioner Lago: I'm flexible. We can have -- I just want to get the process started and take into consideration your comments, which are -- which, again, which are comments I was going to make now. I just didn't want to get too lost in the weeds. I wanted to -- for staff to start working on...

Commissioner Mena: Yeah.

Commissioner Lago: Implementation and making this a reality and looking at what other, you know, municipalities and forms of government are doing around the community. But this is standard practice.

Commissioner Mena: I think, if you could put -- let's put something on the next agenda, Commissioner Lago, but let's -- in the interim, I'd like to ask you to please reach out to whichever one of us is interested and kind of like talk us through different options that other municipalities are doing and...

Assistant Finance Director Walker: Yes, sir.

Commissioner Mena: So, we have an understanding of what our options are.

Assistant Finance Director Walker: Okay.

Commissioner Lago: I'd like to see...

Commissioner Mena: And I'd like to speak -- and I'll speak to people on my own that have experience in that area as well, but...

Commissioner Lago: I'd like to see this on the next agenda, so...

Commissioner Mena: Yeah, absolutely.

Commissioner Lago: Do we need a resolution to put this on the agenda or...

Commissioner Keon: Yeah. Does it make any difference how many people are on the selection committee? I mean, do you have to have a selection committee of a certain...

Commissioner Lago: That's a...

Commissioner Keon: Size?

Commissioner Lago: That's a question that I don't have an answer for you.

Commissioner Keon: Okay.

Commissioner Lago: Because that I'm not sure. Because I know we've had certain -- I mean, I've been involved where -- to be honest with you, the School Board has 15 people in front of me for the School Board, and it's a massive selection committee. And, then I've been involved in certain other RFQs and RFPs where the selection committee could be five people.

Commissioner Keon: Right. That's why I'm afraid if you have five -- only five people and you throw it out, then you're down to three and is three sufficient? And I don't know that.

Commissioner Lago: Yeah.

Commissioner Keon: I don't know that.

Commissioner Lago: So, that's something I think we should...

Assistant Finance Director Walker: Commissioner...

Commissioner Lago: Look at.

Assistant Finance Director Walker: Typically, we like to have an odd number and that odd number usually is five.

Commissioner Keon: Okay.

Assistant Finance Director Walker: So, it depends on how you want to write the resolution or the process that you have for us or proposing for us. But, would you be considering at that time if you're saying that five is sufficient, that you're increasing it to seven...

Commissioner Lago: Right.

Assistant Finance Director Walker: So that when you do...

Commissioner Lago: Yeah.

Commissioner Mena: That's a consideration.

Commissioner Keon: But why don't -- wouldn't you sit down with her to write it? Wouldn't you work together...?

Commissioner Lago: I would. I would.

Commissioner Keon: So that you're...

Commissioner Lago: I don't have an issue with it.

Commissioner Keon: I would think that Commissioner Lago...

Commissioner Lago: I just want to avoid...

Commissioner Keon: Would like to work with you on whatever it is so you can...

Commissioner Lago: I'm making myself available.

Commissioner Keon: You have experience and expertise in the field.

Commissioner Lago: I just don't -- I'm going to be honest with you. And, you know -- and you shook your head before because you don't -- you...

Commissioner Keon: Yeah.

Commissioner Lago: Like ourselves, do not want to have to deal with...

Assistant Finance Director Walker: No, I do not.

Commissioner Lago: What we dealt with today and what we...

Commissioner Keon: Yeah.

Commissioner Lago: Dealt with last Commission meeting.

Mayor Valdes-Fauli: Right.

Commissioner Lago: So, let's -- I'm here. Do we need to take a motion to put this on the next agenda or no?

Commissioner Mena: I think you can just put it, right?

City Manager Swanson-Rivenbark: We have it for...

Commissioner Lago: Alright, I'm going to put it on the next agenda.

City Manager Swanson-Rivenbark: July 10.

Commissioner Mena: You have -- I just want to be clear. You have my support to approve such a measure on the next agenda. I think -- I just want to clarify some of these details in the interim.

Commissioner Lago: I agree with you. And, I want to address some of the issues that Commissioner Keon mentioned about the size of the selection committee.

Commissioner Mena: How it gets selected.

Commissioner Lago: I think -- to be honest with you, I think the School Board -- 15 people, 12 people is a little bit -- it's a little excessive. Again...

Assistant Finance Director Walker: It's difficult -- to be quite honest -- to get people...

Commissioner Lago: You've got to manage people.

Assistant Finance Director Walker: To participate to even manage that process. So, the more members that we're requiring, it's going to be a little bit tough for us to actually get people to accommodate that, to be...

Commissioner Lago: Okay.

Assistant Finance Director Walker: Honestly.

Commissioner Lago: Thank you.

Mayor Valdes-Fauli: Alright.

Commissioner Lago: I appreciate it.

Commissioner Keon: Thank you.