

City of Coral Gables City Commission Meeting
Agenda Item E-3
April 26, 2016
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

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

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Chief Procurement Officer, Mike Pounds

Public Speaker(s)

Agenda Item E-3 [Start: 10:45:20 a.m.]

An Ordinance of the City Commission of Coral Gables amending the City Code, Chapter 2, entitled “Administration,” Article XIII entitled “Procurement Code,” by adding a new Section 2-780, Procedure to provide a Buy American Preference in contracts for goods and general services; providing for a repealer provision, severability clause and providing for an effective date. (Sponsored by Commissioner Lago).

Mayor Cason: Alright, to E-3, Ordinance on First Reading.

City Attorney Leen: Mr. Mayor, Item E-3 is an Ordinance on First Reading. Its An Ordinance of the City Commission of Coral Gables amending the City Code, Chapter 2, entitled “Administration,” Article XIII entitled “Procurement Code,” by adding a new Section 2-780, Procedure to provide a Buy American Preference in contracts for goods and general services; providing for a repealer provision, severability clause and providing for an effective date. This is sponsored by Commissioner Lago. It’s a public hearing item. Before I turn it back to you Mr.

Mayor, I'd like to say one of the issues that came up during discussions was whether, how did this interact with federal law? My office, I would like to say two things first, there is a provision within the ordinance which indicates that this has to be applied consistent with Florida and Federal Law. In addition, this was based in part on the Buy American Act and Regulations, which is at 41 USC Chapter 83, the Buy American Act and 48(c) of our Chapter 1, Regulation 52.225-11 and 12. In some ways the scope of this is limited with what we can do because of applicable law, but this basically allows a Buy American preference to the extent allowed by applicable law. And with that, with some limitations as discussed by, will be discussed by Mr. Pounds again related to the fact that this will apply to bids and is an option in our appeals, and it's similar to the way that the sustainability preference is applied. So with that, I will turn it over to Mr. Pounds.

Mr. Pounds: This is in the similar vein as the Buy American. It's being done for sustainability and economic reasons. We think that this has sustainability impacts by buying American versus buying products overseas that may not have the same sustainable goals as American companies have. It calls for a five percent preference, if a firm is within five percent lowest responsive, responsive bidder, and can assert a buy American status; they would be allowed to match the low bid. They can be used for RFP's, but once again we are going to look at that very carefully on each procurement that we do under that methodology. Buy American preferences do have some exemptions – professional services, bids for construction projects, goods or services provided under cooperative purchasing agreements, piggyback contracts, emergency or non-competitive solicitation, such as sole sources, legal services, and then of course businesses that are not qualified in a Buy American preference, we would not award to them if they are not qualified and bids that exceed the projected budget.

Mayor Cason: I used to run U.S. Trade Promotion in Europe at a trade center and one of the greatest difficulties I had was what's American? This was 40 years ago and it was difficult then, it's even more difficult now. This refers to American manufactured, assembled or produced goods or services. I think the federal legislation has a 51 percent component, we need some number in here because you can have a Japanese, or say a Chinese company bring something in, and just put some plastic around it and say it's American without some 51 percent of the value, or some way to know what you are talking about, because otherwise it's very difficult. We have a lot of products that are brought in and I think the Lexus ES-350 is produced 40 or 50 percent in Kentucky and the rest is brought in. So just to make sure that we capture what we are trying to do here, because it's very, very complicated subject what's an American.

Mr. Pounds: That's a good point. We can research that between now and the next reading to see if we can find a percentage. We were not able to find a particular percentage in the research that we did earlier on this project, but we can research that. We tried to define what is manufactured,

some of them produced, and we of course would look at that individually, Procurement would look at that and make a determination.

Mayor Cason: Yes. I just thought I read somewhere in here that the federal government under the federal buy American defines it as 51 percent. Whatever the number is, so that we avoid those that just bring stuff in and package it and say it's American.

Mr. Pounds: Yes. We definitely don't view that as American.

Mayor Cason: Is this going to be difficult to implement?- I can't imagine you are going to use this very often, because we have a five percent preference for locally produced.

Mr. Pounds: I don't envision it being used very often. As you say, we have the local preference. Many of our vendors, particularly for services are local vendors, and by virtue of being local they are American owned, so I don't see it being used very often, probably not as much as the sustainable procurement preference.

Mayor Cason: Right.

City Attorney Leen: Mr. Mayor, I would suggest that you, and we did do this before, but take another look and maybe work with Miriam on the Buy American Act and CFR, because what it does is looks to the origin of where it was built, and then it looks at component parts and provides a certain score for that, I believe, but take a look at that because following that is the best way.

Commissioner Lago: Let me give you another example. First off, thank you, thank you for helping put this together the last year. This is very similar to the sustainability procurement ordinance that we just passed. When I purchased the solar panels on my home, the entity that procured them for me, which I signed a contract, gave me several different options, it was three different options and it was all based on quality. One of the main issues that I requested was the issue of where is this manufactured?- where are the components manufactured?- and where is everything assembled?- that goes to the Mayor's comments, where items are, where components are manufactured and when those components are assembled in the United States. I was assured by the firm that installed and procured me the solar panels that 100 percent of the manufacturing and components are American made. To me, the son of immigrants in this country 57 years ago, there is a sense of pride in buying American and supporting this country, that's just my opinion. Now, we had several sit down discussions in regard to this matter, I was very clear that I don't want to put the City in a position that could hurt the City financially, if they could find a product of the same quality, we are not compromising quality here and that's the key. We are trying to

buy American made products, but we are not compromising on quality. So if you can find a product from Holland, from Japan, from China, that is in the same vein, meets the same requirements, whatever the product may be, from pins all the way to cars, for example the electric cars that we have outside, which are not American made cars, but they are of great quality and they are of great value. Again, and it doesn't have to be American made. I think the key here is to request staff, request all 800-plus employees who make, who purchase products on a daily basis to really give it some thought to not only look at sustainable products, but also American made products. And if you look at it, and you probably heard many, many stories, I'm not going to get into it, because I remember we have some other items on the agenda, but if you look for example, on my field, construction products, engineering products. We've had a rash of Chinese made products that drywall, for example, copper, some other toiletry and bathroom products, which are sub-par to say the least that are actually a health hazard that were manufactured in China; and my issue also goes back to the fact that, not only having pride in America, but we've come a long way. Look at American cars today versus American cars in 1980 and 1990. American cars, Cadillac for example, is a superb car in comparison to what they were manufacturing years ago. So the products today are, if not better, or on the same level as foreign products, I just think that we need to take the time to really look at what we are purchasing, and you'll fondly be impressed by the fact that a lot of the products and the options that are there are overlooked, because it's just much easier to purchase something that's cheaper, that may look cheaper, but in some cases it's not, because I do that all the time in my private office. We look for American made products and sustainable green products.

Mayor Cason: Anymore discussion? We have a motion?

Commissioner Keon: I'll move it.

City Attorney Leen: Mr. Mayor when I turn it back over to you, we went right to Mr. Pounds, we didn't open the public hearing. Sorry about that.

Mayor Cason: Do we have any speaker cards?

City Clerk Foeman: No Mr. Mayor.

Mayor Cason: So we'll close the public hearing. We have a motion?

Commissioner Keon: Did you ask that it's in the implementation that they work with Miriam, or you wanted it to go back first.

City Attorney Leen: Oh, on Second Reading. It's going to Second Reading, so when it comes back to you, we'll be able to report to you on this.

Mayor Cason: Second.

Commissioner Lago: Second.

Mayor Cason: Commissioner Lago seconds. City Clerk.

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Mayor Cason: Yes

(Vote: 5-0)

Commissioner Lago: Mr. Pounds, thank you sir. Thank you for your efforts over the last year.

Mayor Cason: Thank you.

[End: 10:55:13 a.m.]