

**City of Coral Gables City Commission Meeting**  
**Agenda Item K – Discussion Items**  
**December 6, 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**  
**Assistant City Manager, Peter Iglesias**  
**City Attorney, Craig E. Leen**  
**City Clerk, Walter J. Foeman**  
**Deputy City Clerk, Billy Urquia**  
**Deputy City Attorney, Miriam Ramos**

**Public Speaker(s)**

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Agenda Item K – Discussion Items [4:31:30 p.m.]

Mayor Cason: Any Discussion Items? Commissioner Keon do you have anything?

Commissioner Keon: I'd like to ask or it is my hope that the issue of the Ponce Infill District that we've been working on, we did the major quarter to do the rest of this North Gables item. I know it was before the Planning and Zoning Board, I think it's supposed – it was continued for December, I'm hoping or like strongly encourage to ask to have it please brought back to us in January, so we can begin to move forward, you know, because it would be good to talk about that when we talk about 33 Alhambra, so we know that we are looking at a whole district and what will go forward there as we are making a decision of what is happening now. I think it is probably ready to come back in December; I'd like to encourage them to try.

City Manager Swanson-Rivenbark: For January.

Commissioner Keon: I mean January, I'm sorry, January – the January 10<sup>th</sup> meeting.

City Manager Swanson-Rivenbark: You had also asked for the Tennis Center and we are working on both of those items for the January.

Commissioner Keon: The Tennis Center – yes. I have to tell all of you, I am exceedingly happy with the Tennis Center, because of our actions, and because we went back and redesigned the way the courts were being done and everything else, we have enough money to go forward and redo the building as well and I think you will be as pleased as I am with the building when you see it. I think we did a very good thing together.

Mayor Cason: Super. Commissioner Lago.

Commissioner Lago: OK – three quick things. Number one, I want to wish everybody happy holidays. I know I won't see you guys till January, in a formal setting like the Commission. So, I just want to make sure that everybody has a safe and a festive holiday, whatever you celebrate. Number two, I want to invite everybody on December 12<sup>th</sup> to second Town Hall meeting that I'm having this year. It's going to be a nice event. It's going to be at the Coral Gables Museum, it's going to be Monday, December 12<sup>th</sup> from 6 p.m. to 8 p.m., you are all welcome to attend. I hope that you come and interact with the residents. We are going to have some beverages and some cookies and a few different things there. We are going to have a very simple agenda and then we are going to open up to the residents, so that they can talk to us about how we can make the City better and also talk to us how the City is doing well. And the final issue is, make sure that you please find individuals to get involved in the Waterway Advisory Board, please they can't hold the meetings, and I would really want to see that the Waterway Advisory Board become active and give us their recommendations, because again, these are individuals who live on the Waterway and we can really use their expertise.

Mayor Cason: We created this for the waterway community. Craig, you wanted 20 seconds before we continue on.

City Attorney Leen: Oh, I just wanted to let you know that the Florida Association of Women Lawyers is awarding me the Julie K. Amicus Award for the work I was doing with parental leave, which you know this Commission gives me the latitude to be able to do, and so I really appreciate that.

[Applause]

City Attorney Leen: Mr. Mayor, I just want to let the Commission know...

Commissioner Lago: Where are you going to put all these trophies and medals and all that stuff.

City Attorney Leen: It's not that many. Well a lot of them are running, this is different, but the other thing I wanted to tell you was, as City Attorney I would like to apply for the Constitutional Review Commission. I believe that there should be a City Attorney or someone representing local governments to try to protect Home Rule, so I'm going to the Governor, to the Chief Justice of the Supreme Court, and to the Senate President, they each have appointments. I don't know if I'll be appointed, but I wanted to have the support of the Commission and obviously, my work as City Attorney comes first, but I would try to do that as well, I think it's important. So, I just want to let you know that I'll be applying and I want to let them know that I let the Commission know that.

City Manager Swanson-Rivenbark: Did you want the by resolution? I can't vote for you, but if I could I would.

Mayor Cason: Let's just say anybody not in favor unanimous. It's unanimous.

City Attorney Leen: So Mr. Clerk can I get a unanimous consent.

City Clerk Foeman: Absolutely.

Mayor Cason: Alright. Vice Mayor.

Vice Mayor Quesada: The Waterway Commission ties into one thing I want to bring up, which was Roland Samimy, who is a resident. I put him in touch with Cathy and Frank Fernandez. This is a grant that had just come up to help us pay for some studies on Biscayne Bay Waterway.

Commissioner Lago: Water quality.

Vice Mayor Quesada: But there is a new grant that just came out, it just issued by NOAA, I think in the last few days.

City Manager Swanson-Rivenbark: The Public Works Director is on it already.

Vice Mayor Quesada: OK – perfect. Did you speak to him yet or no?

City Manager Swanson-Rivenbark: No. I sent the information, the long text...

Vice Mayor Quesada: Yes.

City Manager Swanson-Rivenbark: ...and then I need to forward him your contact.

Vice Mayor Quesada: So essentially it could be a great study for us to find out the waterway qualities in Biscayne Bay, we have over 40 miles of waterfront in Coral Gables, so it should be real nice and he is the head of the Marine Biology Department at UMass, Dartmouth and he works a lot with University of Miami Marine Biology Center. I can never say it, Rosenstiel School, so that's it. Thank you. Happy holidays to everyone.

Commissioner Slesnick: I'd like to commend Commissioner Lago for having an open meeting, a Sunshine Meeting down Sunset Elementary School this week, because I think it's solving a lot of problems by his getting together with staff and so forth and talking to the neighbors about the major problem of parking and delivering children at Sunset. I also like to move to reconsider the last motion on the Public Safety Building.

Mayor Cason: Is there a second?

Commissioner Slesnick: I was on the winning side.

Vice Mayor Quesada: So it can only come from Commissioner Keon or the Mayor.

Mayor Cason: I'm not willing.

Commissioner Keon: The second can come from anyone, any of you.

City Attorney Leen: No, no, the second can come from anyone; the motion has to come from the winning side.

Commissioner Keon: Second it. You can second it.

Commissioner Lago: I'll second it.

Vice Mayor Quesada: Before you second it, so we don't have to go through the process, can I just ask a question? - can you retract the second for a second.

Commissioner Lago: I retract my second, yes sir Mr. Vice Mayor.

Vice Mayor Quesada: Is either Commissioner Keon or Mayor Cason willing to change their vote or not?

Commissioner Keon: Could you help me understand.

City Attorney Leen: Commissioner Slesnick made the motion.

Vice Mayor Quesada: I'm sorry I'm just trying for expediency; I mean I was on the losing side of it.

Commissioner Keon: I guess if you could help me understand why you voted no...

City Attorney Leen: Just as a matter of order, you made a motion for reconsideration, it is an order, because you were on the prevailing side, but there must be a second and it could be from anyone.

Commissioner Slesnick: He seconded it.

Commissioner Keon: He seconded it.

Vice Mayor Quesada: OK. OK.

Commissioner Keon: And then we have a discussion.

Commissioner Slesnick: Have a discussion.

City Attorney Leen: Oh, you did second it, OK.

Commissioner Slesnick: He did second it for discussion. Yes...

Commissioner Lago: This is the first time that it happens since I've been elected.

Vice Mayor Quesada: It happened once with the Mayor and I, before you got elected.

Commissioner Keon: Help me understand why you voted the way you did. I have great respect for you and so if you can help me understand why, I maybe would think about it, but based on everything I've heard I don't. So tell me why.

Vice Mayor Quesada: OK. So when I was going through this I was very vocal about this at the first Commission Meeting when this came up, because my concern of the appearance of impropriety. I've had a number of conversations with staff on how there was no impropriety that occurred here. And my concern is that I didn't find out probably until the last time it was on the agenda, actually we didn't vote on it, had a long conversation with Assistant City Manager and the City Manager on to exactly the involvement of AECOM. They were able to tone back my anger at the situation the way everything unfolded, as far as from a perception standpoint, because the first time we had a long conversation about it I was very aggressive and saying I hate the perception of it, because it seems like the company who is putting it all together was the same company that won it. So obviously, they have an unfair advantage from a perception standpoint. It was more fully explained to me at that meeting by Peter explained to me, the Assistant City Manager, explained that it was somewhat the way that this individual explained the role Carreras explained it today. I felt better about that. My concern was what Mr. Carreras was saying today was not consistent with what both Assistant City Manager...

Commissioner Slesnick: Are you saying Mr. ---

Vice Mayor Quesada: Carreras, the one...

Commissioner Keon: The gentleman from AECOM.

Commissioner Slesnick: That's Barrero.

Vice Mayor Quesada: Barrero – I'm sorry, Carreras – the names are very similar the two speakers. So Mr. Barrero, the one representing AECOM, he said some things that, if I can put this politely, we are not consistent with what the Assistant City Manager and the City Manager had told me. For example, when we were sitting down with staff, Frank Fernandez told me that when they were doing the program, as Mr. Barrero would put it, that they had conversations similar to what he was saying that, Oh, the gun range was too big or it's too small, and getting into that, so it was – they were giving recommendations as to the way it should be set up. When you are giving recommendations to staff that's further along than just doing a massing study for someone, so you are helping them understand the process, it's more involved relying on their thoughts. So now when – so if I'm designing this water bottle, OK, and I have no idea of the size of the water bottle, what it should be, and how I want it designed, if I'm going to go ask someone, hey where should I even begin? - And then after that process I'm going to pick someone to build the water bottle. Of course I'm going to be biased to pick the company that helped me design it. So that is my concern. I feel like what Mr. Barrero was telling me was not consistent with what I was told earlier, and I'm not blaming staff on that, I just don't think that the picture that Mr. Barrero pointed was the full picture as it was explained to me by staff.

Commissioner Keon: Is Frank Fernandez available? - is he here?

Vice Mayor Quesada: He was at that meeting and so was the City Manager.

Commissioner Keon: Let me tell you what my understanding is, because maybe we have a different understanding so we have arrived at a different conclusion, because we didn't understand the same things. It was my understanding that if in doing the programming that staff would say to them we need, I mean all of the elements that exist in a public safety, the room that has all the TV's in it that you watch everything on, you can tell me like the right names of the rooms, the control center, there's a call center, there is a firing range, there is a detention center, there is some sort of an administration place...

City Manager Swanson-Rivenbark: It's included in the RFQ.

Commissioner Keon: What?

City Manager Swanson-Rivenbark: The listing of everything that is needed is included in the RFQ.

Commissioner Keon: Yes. I mean they have like all of the things, so that was all listed, exactly what those items were and what the dimensions of them were listed and how many square feet of that space you need.

Assistant City Manager Iglesias: Commissioner Keon, the programming with the areas was determined by the City.

Commissioner Keon: That's what I'm confirming, that's what I'm asking you.

Assistant City Manager Iglesias: [Inaudible]... As a matter of fact, Director Fernandez and I along with the Fire Department and Public Works reduced the square footage of the building; we went area by area, we did that area by area, so we reduced the square footage on what was determined originally by the City at 160,000 we reduced it to 99,000, that was done by us at a meeting in order to reduce cost, we reduced the actual parking to 180 cars, The explanation that he gave you is a little convoluted, but... we looked at every area, we sat down one afternoon for over five hours and went area by area, reduce every single space, every single Chief, every single Lieutenant, every single Sergeant,...we went through all those areas, reduced the building from 160,000 square feet to 99,000 square feet, which was approximately 20% larger than the building we have now. We reduced it from 300 cars to 180 cars. What AECOM did was basically say,

here's your package can we get 100,000 square foot and 180 car building... actually... we initially started with a much larger building that we gave them, so every other firm did the same thing...

Vice Mayor Quesada: But AECOM was assisting staff doing that prior to the RFQ being submitted, correct?

Assistant City Manager Iglesias: We gave them the square footage and they looked at three different sites and said is it feasible at Fire Station 2, is it feasible to do at different sites for the square footage that we gave them.

Vice Mayor Quesada: And all this work that staff was doing with AECOM prior to...

Commissioner Keon: No, staff did this by themselves prior to giving the information to AECOM. It's my understanding and this is what I was told, so all I'm asking you – wait, wait, is that our staff determined the square footage needed per use, per space, per whatever, everything, per person, they then gave all of that information to AECOM and said, do these queues fit in this space?- do they fit in this space?- do they fit in this space?- which space do these queues fit in?- and AECOM came back with a recommendation that said, I forget now, we got it back, there were three spaces, the recommendation was the lot 6...

Mayor Cason: Space number "X", the point is one of three, X, Y, and Z.

Commissioner Keon: Whatever that space that was the one that we are talking about now going, and they gave a recommendation based on that. All they did was take the boxes in the queue, the staff provided for them and they put them, they made them out on the board, on the shape for the different options that we had to build it based on cubic square footage.

Mayor Cason: Is that correct? Is that it for what they did?

Commissioner Keon: That's all they did.

Assistant City Manager Iglesias: The other firms had the same information and the same parking, the same box and the same lot.

Mayor Cason: So I don't see the advantage for them.

Commissioner Keon: So once they, AECOM gave them that information, they distributed that information to everybody else. Now AECOM didn't determine what the square footage should be, it didn't determine even where it necessarily had to go.

Mayor Cason: Which would be irrelevant anyway where it went.

Commissioner Keon: These items is like, you know, here's my living room can I fit two couches and four chairs in this living room with enough space to be able to walk around.

Vice Mayor Quesada: I've heard it twice, two massive key facts for me that go to the crux of this for me...

Commissioner Keon: To me that's what they said yes, so AECOM didn't know – did they put them in the box, sure they did, but if we were doing an RFP or a request for proposal and you are asking them to propose the design and development of that station, I would say to you in those circumstances and if you had worked with the numbers and if you had been familiar with them, if you had worked with staff, there could possibly be something that may affect the decision with regard to your being able to do this, but this is an RFQ. All it said is, they asked for your qualifications to do this project and the selection committee made the decision based on the names they had and it was after the oral presentation, after the oral presentation that the final scoring was done, and they were chosen. So that is a request for qualifications. It says you know what, if you are an attorney and you are an attorney, and somebody says I would like you to try my case, and they look at both of you and they say, where did you go to school? - What your experience in? - What have you won? - What have you lost? - What do you do? - Whatever, and it's based on all that stuff. I'm going to pick you or I'm going to pick you. It's the same thing. To me that's the same thing.

Vice Mayor Quesada: I'd pick Craig.

Commissioner Keon: I would pick you. You are younger, I think you'd...

[Laughter]

Commissioner Keon: What are you seeing that I don't see?

Vice Mayor Quesada: Here's – Two factual points, let me just start with a quick analogy. You want to build a house, you have a piece of raw land, you hire an architect to do your massing, actually you hire an architect. When you hire that architect to design your house as you are designing your house you say, you know something that bathroom, that bathroom is too small.

Based on my 100 years of designing houses, in our company's 100 years designing houses, I can tell you with all that experience you need more space for the tub, you need more space for the toilet, you need more space for the shower. OK. So perfect, so now I'm going to hire a contractor, Oh, I'm also a contractor. You automatically that relationship it creates a horrible perception, in my eyes, because you are already endeared to that architect, because they helped you get there. So that's my example to a real world example.

Mayor Cason: Let me ask him is that analogy is correct.

Vice Mayor Quesada: Hold on, the two facts, I know it's probably not perfect, but it gets to the point I think, that analogy was for Commissioner Keon and I think she gets me. Two facts that come up, when I said we sat down in a room with and Frank Fernandez was there, we were having a heated, a lively discussion on this topic and Frank Fernandez said, well you know they told me some spaces were too big or they were too small, we had conversations as they were doing the massing, as they were doing the program, some statement like that. But what was my response to you?- that goes to my point on how AECOM was too involved and at the same time you heard it from Mr. Barrero that was here, he said, we told them that it was too big or it was too small based on our past experience and then he got cut off. So because they are putting their past experience and they are endearing themselves to us, because they are helping us develop this, I see an improper perception. I didn't fight it harder, I could have gotten very aggressive during the last item to try to convince you guys even further, because when I went through the final scoring what I did was, I struck out Peter's name and I struck out Ed's name and I struck out all your scoring and I redid the scoring with three truly independent people, that I'm assuming were not involved, Judy, Thomas, and Wimble, if I'm pronouncing that properly and AECOM still wins.

Commissioner Keon: And AECOM still wins.

Commissioner Lago: I don't think Ed was in the City.

All Speakers: [Inaudible]

Mayor Cason: Let me ask you this of this analogy, wasn't their job to say whether it would fit with the things that you wanted. If they say it won't fit it's too big or too little. I don't see how that's influencing anything.

Assistant City Manager Iglesias: The job was to see if the building would fit on that site...the programming was done by the Director and myself and the team to bring the project down from 160,000 square feet and 300 cars to 99,000 square feet and 180 cars; AECOM was not involved

in that, we were involved in that, AECOM was never in that room, AECOM was never telling what size to use; we went room by room, item by item.

Vice Mayor Quesada: Are you saying they never gave you one recommendation.

Assistant City Manager Iglesias: They never gave me one recommendation.

Vice Mayor Quesada: But he just said they did.

Commissioner Lago: They did.

Mayor Cason: Let the City Manager answer.

City Manager Swanson-Rivenbark: I'm sorry sir. I think what's happening is, they gave initial, they gave initial but not anyone on the evaluation committee.

Mayor Cason: Would you say that again?

City Manager Swanson-Rivenbark: I'm sorry sir?

Commissioner Slesnick: Say it again.

Assistant City Manager Iglesias: [Inaudible]...Are committee nobody dealt with AECOM, we looked at strictly qualifications. I headed the committee, I made sure it was on record that we were looking at was 100% qualifications, everybody had the square footage, everybody had the parking requirements, everybody had the exact site where it was going to be on, nobody complained that they couldn't get the building on the site, we had five different presentations, everybody was able to get the building on the site, I don't see what the problem is, if I was there as an engineer, and I have been there over 30 years, I think it was a fair selection, I have the programing, I have the actual square footage, I have the parking, I've got the site, what else do I need. No one complained that that they couldn't get the building on the site. None of the five firms, all had decent buildings on the site. We chose AECOM, because they have designed over 70 building like this. We wanted to get the best possible firm in our experience. Bermello was number two in our opinion, because they were using a consultant and never worked with a consultant before.

Mayor Cason: We've had that problem. Another question is who built the Fire Station that's fall down now, who was the architect? Let me just say one more thing. It seems to me that the

perception problem is going to be if we overrule a committee that based on everything we've heard today, why would we pick number two?

Vice Mayor Quesada: You and I agree on most things, but I strenuously respectfully disagree with you on that. What looks worst is that if it looks like a general lack of trust in government in this country.

Commissioner Lago: Vice Mayor, Vice Mayor, you know what looks worst, we just passed a resolution that will stop this from ever happening again or allowing it to happen now, one last final time – but hold on – this is my point, AECOM is an exceptional architecture firm, I've done multiple jobs with them, like I told you in the beginning.

Vice Mayor Quesada: They did Ingraham Park for us.

Mayor Cason: Many things.

Commissioner Lago: They did the Quesada Park for us, from my understanding they are...

Vice Mayor Quesada: There are actually lots of Keon names on that plaque.

Commissioner Lago: Everybody takes credit for it. They also from my understanding, correct me if I'm wrong, they are working on the U.S.-1 Fire Station, right? - or they are not.

Commissioner Slesnick: Which one, which firms?

Vice Mayor Quesada: They do a lot of projects in the City.

Commissioner Lago: So again, in my opinion, I think it's in the best interest in the City, we've been here long enough, in my opinion I've made my comments, I've told you how I've done it when I've been involved in similar situations, as a professional in this industry I would not become involved in this project. I think we should spread ourselves out to other firms, we could restart the process, I'm not saying to go with the second bidder, that's not what I'm saying, or we could have the two bidders, one and two come before the Commission, present, whoever feels comfortable, I'm willing to do whatever this Commission feels comfortable with.

Vice Mayor Quesada: This is why I'm so conflicted on this issue, because the way you cleanse this issue is, you either start again and then at that point, because of the representations that have been made to AECOM, we put ourselves in precarious legal positions, and I look at the attorneys

when I say this, and I think they would agree, but they shouldn't nod, because this is a public meeting.

Commissioner Lago: But you can't cure it by just giving them the project, because we got out potential legal ramifications.

Vice Mayor Quesada: Or you bid it again and it's the same people present, and the same results are going to happen....

Commissioner Lago: But now we have a resolution for this that does not allow a firm that does pre-design work to enter into an RFQ.

City Attorney Leen: Mr. Mayor we did make it clear all along that you could select the number two that you didn't have to select AECOM. The Commission can always reject all bids. The one point I would raise though is a lot of the issues that you've raised today would apply even if they hadn't worked on the RFQ. It's to any continuing contractor that we have; you could make this argument, because they have this relationship with us. So we may want to broaden the policy to not allow continuing contractors to bid on these things in the future if that's a concern of the Commission, because that is the long --- the whole issue came up here, because we have continuing contracts.

Commissioner Lago: I don't have a problem, excuse me Craig, Mayor if I may, I don't have an issue with continuing contract entities bidding on projects for the City of Coral Gables. The reason why I don't have a problem is, because if you restrict them then you'll never get people who get into continuing service contracts, you need those people who resolve issues immediately for you, who can be there on a daily basis to resolve simple, and construction at least you have a continuing service contract you already have pre-qualified AE's, engineers, and contractors, which at the end of the day can work from one moment to the next and immediately resolve your issues. You know how this works Peter, but I don't want to not allow these entities to become involved. What I want to make sure is that Resolution 2016-173 is in effect and this never happens again. I think we already have that in effect, correct?

City Attorney Leen: Yes.

Commissioner Lago: For now – my problem is we talk about perceptions. If we move forward and we allow AECOM, which is a very competent firm, because we want to avoid potential legal ramifications, I'm not happy with that. My vote continues to be no.

Assistant City Manager Iglesias: Commissioner let me just say there are perceptions and there is reality. There is no conflict of interest done here. There is absolutely zero conflict. They were selected strictly on qualifications. The five people of the Selection Committee had no prior dealings with AECOM and they were selected strictly on qualifications. All the firms were able to place buildings on the site, they had the same information, I just don't see it, as an engineer for over 35 years....

Mayor Cason: And that's my point. If I had seen any evidence of bias or they had advantage I would have voted with you guys. I don't see it, therefore, I would rather take facts over perception, and I think this can be explained by the committee that did it. We've listened to everything that you've said about what they did, which has nothing to do with the qualifications, whether the things would they fit in X, Y, or Z, which you gave them. So seems to me it's very dangerous to go to somebody not picked by technical experts, I say we did it once before and we rue that day, and I think the harder thing is going to explain why we picked a number two, because we thought perception was more important than reality.

Commissioner Keon: To Commissioner Quesada's example. If I gave an architect and said to him, I have a bedroom that's 100,000 square feet, I have a bathroom that's 20,000 square feet...

Commissioner Lago: That's a big home.

Commissioner Keon: I know. You know I figure this is the lot, this is the square footage, this is the FAR I'm allowed on this lot, can I build what I want on this lot? All they are going to come back to me and say, yes you can or no you can't. It's not that they are going to say to me, well you can if you have a smaller bedroom, or you could if you took away a bathroom, that's not the question; the question is I said to him, this is what I want, can I put it on this lot? - and the person says yes or no, and that's what they did. They said this is what we need; can we put it on this lot? - AECOM came back and said; now that I'm understanding what's being said to us is, staff said yes or no. They didn't have a discussion with them about them, they said yes or no. Can we put it on this lot? - which lot can we put it on best? They made a recommendation as to which lot they could put it on best and it went to an evaluation committee that wasn't involved in any of the other process at all, so I mean, do we think is there perception?- sure, and you know what, procurement is like towing contracts and parking contracts and everything else, you know. There is a piece where if you want to construe something you can. To me, the issue was raised, and I'm glad it was raised, because we looked at it, we looked at every aspect of it, and for me, I know not for you, but for me the answers that came back said to me, it may appear that something was wrong, but it turned out not to be. Could it had been?- yes it could have been, because of maybe our Procurement Code, and so when we said, OK, you know good, let's do this, it was nothing wrong with it, it went forward, it was honest, it was open, it was ethical, fine, but you know

what? - Let's going forward just to make our Procurement Code stronger, better, you know let's prohibit this. You did the investigation and it came out and it said, you know what, it's clean, it's a clean concept, let it go.

Assistant City Manager Iglesias: Commissioner in the presentation all five firms put the building on the lot. None of them said there was a problem. We had five buildings on that lot. Everyone had the same information.

Commissioner Keon: And to me that's not even the issue. The issue became the qualifications of the people that did it.

Mayor Cason: And if you told me, if you told me that the firm that came in first had never built a police station or a public safety building or had built one that had problems, and the other one had built 75, I would have had a problem, but it didn't turn out that way. It seems to me that, I feel very strongly that we should stick with the experts, I'm not about to try to decide myself on these technical things. You guys are supposed to do that, you did it, you came up with a solution, nothing fits the facts and I think we've been talking about the perception issue, but if anybody doubts it, I think we can make a strong case that the perceptions were not the reality in this case.

Commissioner Slesnick: Commissioner Lago...?

Commissioner Lago: Yes ma'am.

Commissioner Slesnick: You know because you are in the industry, you said you wouldn't be bidding against this, you're bidding for this. Are there a lot of other firms that can build massive buildings like the public safety building and so forth, so do you think other firms maybe shied away because...

Commissioner Lago: 100 percent.

City Manager Swanson-Rivenbark: I'm sorry, is your question building or designing?

Commissioner Lago: Designing a building.

Commissioner Slesnick: Designing, I'm sorry.

Commissioner Lago: We design and we build...for example, if we were to entertain getting involved in this type of building, the first thing we ask, like our Assistant City Manager so

eloquently stated, is this an RFQ or is this an RFP? We don't bid RFP's, we don't hard bid, which is another term for RFP's.

Commissioner Slesnick: That's very expensive.

Commissioner Lago: It's just because it's basically, and I'll give you a quick synopsis. You are basically going up against 20 or 30 people who they are bidding on a project and they are potentially not including everything that encompasses the project. An RFQ is used for more professional outfits, for more professional firms – you are not discussing price, what you are discussing is qualifications, or past experience, their ability to perform the job, because what you are seeing in Miami and Peter can tell you, because he's been involved in this industry a long time is, when you go the RFP method there's been a lot of liquidated damages, there's been a lot of lawsuits, projects have been stalled, because firms, who potentially didn't get a bond to do the work don't have the experience to enter into that arena. So they enter into that arena, because they see the flashing lights of big numbers, but what ends up happening is they are not qualified and then the municipality has to accept that price, because they got a bond even though they could be the lowest bidder by 5, 10, 15, 20 percent, and it gets you into trouble. So a lot of municipalities are moving now, especially for high profile jobs to the RFQ's. I would have never entered into this process.

Commissioner Slesnick: So you do think there would have been more competition if...

Commissioner Lago: If you had adopted this resolution before.

Mayor Cason: How many people bid on this in the first round?

Commissioner Keon: We didn't have that.

Commissioner Lago: We didn't have that resolution.

Mayor Cason: How many architectural firms?

City Manager Swanson-Rivenbark: It says 60 in our packet.

Mayor Cason: 60 firms.

Commissioner Slesnick: It's the perception in the community, you think?

Commissioner Lago: Let me just make a statement. Staff did an incredible job, I'm not doubting staff, trust me. I do this. I deal with staff every day. I deal with the School Board. I deal with FIU, Miami-Dade College, Jackson, I deal with them. If you can get 60 to 100 firms, you mail out the information, you contact them, would you like to get involved? The reason why we only had five firms submit is, in my opinion, my opinion, Peter has 35 years of experience over me, I think that people were turned off by the fact that sometimes people get the impression that if you have a company that's involved in pre-construction or pre-design, they have a leg up on everybody else.

Mayor Cason: Why do you think that you had 5 from 67, why do you think?

Assistant City Manager Iglesias: The final selection for presentations was actually five. But the fact that we are dealing with a specific building, we are dealing with a safety building, so those firms have to be versed in EOC's, 911, all kinds of...that are not normal in a building, some of the firms put civic buildings as examples. We are looking at a very specific detailed building, where there are quite a number of very specific issues, that is why Bermello partnered with another firm that had a lot of experience in this specific phase. When you are dealing with these specific buildings, it's not like you are going for a condominium or an office building, you are going for a specific building, and we asked for very specific experience, we weren't looking for regular firms we are looking for firms...

Mayor Cason: And the current building has structural problems, because presumably it wasn't built for the purpose of heavy fire engines, it's a sick building.

Commissioner Lago: And Peter can tell you, there is multiple...

Assistant City Manager Iglesias: I am familiar with the current building. We have design issues and construction issues. We have all kinds of issues. We don't want to have that in the new building. We want a safe solid building that gives us 50 years plus of service, that will still keep on going. So it has design issues and has construction issues, it has problems with water in the basement, it has water in the building, the walls are falling down. We want to avoid those kinds of issues in the future, so we went with the firm that has over 70 projects that they had designed with internal experience.

Mayor Cason: Without having to deal with somebody they haven't dealt with before, we saw that in the other project.

Commissioner Slesnick: How old is our current Public Safety Building?

City Manager Swanson-Rivenbark: 1974 – but I understand in the newspaper articles that it leaked before it was open. And you know that’s really the discussion here, we want to give you our absolute best recommendation, because we have to have that building right, and so when we looked at it as a part of the qualifications and the discussion was, the full realization that there were over 79 specific public safety building examples that AECOM could present, not AECOM plus an outside consultant, but AECOM. So we are willing to fight you on this Commission, because it’s that important.

City Attorney Leen: Mr. Mayor it’s a motion...

Assistant City Manager Iglesias: Commissioner Lago remember this is not design build this is design only...

Commissioner Lago: I understand. I understand.

Mayor Cason: They have no more roles in this after designing.

Assistant City Manager Iglesias: Design Build is a whole different ballgame; you are dealing with lot of other issues. This is strictly...

Commissioner Lago: Give me a little credit, because I know it’s more complicated.

Vice Mayor Quesada: I’m confused.

City Attorney Leen: Mr. Mayor just to go over the procedure, there is a pending motion for reconsideration that’s been seconded. Now if you vote to reconsider and it’s by a 3-2 vote then it reopens the matter. At that point, you would have all the same options again; you could again award it to AECOM, you could award it to the number two, you could reject all bids. If you reject all bids...

Commissioner Lago: Can I ask you a quick question?

Mayor Cason: Let him finish what he’s saying.

City Attorney Leen: If you reject all bids, you would have to then decide whether you are going to allow AECOM to participate in the second time. That’s where there could be issues, because they were told that they could participate.

Vice Mayor Quesada: That’s why I was saying its legal...

Commissioner Lago: And through the Mayor if I may. We are talking about a lot of legal ramifications and we have a lot of attorneys here. I imagine at some point one of the participants in this RFQ got a legal opinion from your office, have you spoken to anybody? - did your office give a legal opinion?

City Attorney Leen: Yes.

Commissioner Lago: ...in regards to whether this was an issue, what was the final answer?

City Attorney Leen: Yes, our office gave a legal opinion. It's in the packet. There were two different provisions that were raised; one was in the CCNA, which does apply to the City and that's typically when you hire an architect, a landscape architect, so that statute applies. We made the determination that that provision did not apply though and its written in that opinion issued by Miriam, but which I agreed with and I supported; number two, there was a separate statute that was raised, that statute doesn't apply to cities, it just applies to the state. It also didn't apply by its terms, because it only apply to design-build contracts and this is a design-bid-build contract, so that provision didn't apply. The only one that applied was the one that was in the CCNA, and in our view that one was not applicable.

City Manager Swanson-Rivenbark: I'm sorry, can you say what that means in layman's terms.

City Attorney Leen: Let me go through the two provisions more specifically, and Miriam could you come up, because I got them reversed. The CCNA, the Competitive Consultants Negotiating Act, or Negotiations Act...

Commissioner Lago: Continuing?

City Attorney Leen: Yes --- that's for -- and it comes before you a lot where we have three different architects that we are going to negotiate with and we rank them, and we go 1, 2, 3, that statute has a provision that one of the parties argued applied to this situation. So first we'll talk about that one, could you talk about that one Miriam?

Deputy City Attorney Ramos: Essentially that Statute says if the underlying contract, in other words, the contract for the pool that all are all in PO with the City, was competitively bid, it does not preclude them from participating in another solicitation. AECOM was in fact competitively bid...

City Attorney Leen: No, no wait, Miriam that's the second one. The first one is 287.055; I'll just read it to you so everyone knows exactly what we are talking about. This is in the CCNA, it says, *"a design criteria professional who has been selected to prepare the design criteria package is not eligible to render services under a design-build contract executed pursuant to the design criteria package."* So the issue there was, the only legal issue was, was this design-build contract, we confirmed that it was a design-bid-build contract, so that did not apply.

Commissioner Lago: My question is based on, and I spoke to the attorney that represented one of the applicants, Mr. Garcia-Serra, and he told me that there was an opinion given that there was potentially a conflict.

City Attorney Leen: Yes. Originally, based on that provision, we gave an opinion that in fact there was a conflict, because it was our understanding from Procurement it was just a mistake and we clarified it, that it was a design-build contract, but then we learned it was not, and we immediately corrected that, it's a design-bid-build contract and the difference is you have one party that designs for those who don't know, they design, then you do a bid, and then there is the build, the contractor. Design-build is when you do them both together. Can you explain that?

Assistant City Manager Iglesias: Mr. City Attorney that's exactly what we are talking about. This is not design-build contract. This is a design only, so it is not a design and construction based on a maximum price. This is strictly a design project and that is why I see a difference Commissioner.

Deputy City Attorney Ramos: That factual difference is why that Statute does not apply.

City Attorney Leen: So then there was 287.057 of the Florida Statutes, this is a State Statute that does not apply to cities. We confirmed that with the City of Miami Attorney's Office as well, but when they define who this applies to it simply doesn't apply to municipalities. Nevertheless, we looked at it, because it was raised, and what that says, is a person who receives a contract that has not been procured pursuant to subsection 1, 2, 3, to perform a feasibility study of the potential implementation of the subsequent contract, and here's the important part, who participates in the drafting of a solicitation or who develops a program for future implementation is not eligible to contract with the agency for any other contracts dealing with that specific subject matter and any firm in which such person has any interest is not eligible to receive such contract. However, this prohibition does not prevent a vendor who responds to request for information for being eligible to contract with an agency. The issue here, now this statute we determined does not apply at all, because agency does not include municipality, but even if it applied we did look at it, even it applied the issue here is that the continuing contract by which they did this was competitively solicited. Now there is a dispute there; the other side, I shouldn't

say the other side, one of the applicants have argued that, well it's the actual contract that should matter not the continuing contract. The continuing contract is the basis though for granting this award, basically for having them do the – we've called it different things, but the programming or whatever we are going to call it, that was done pursuant to a continuing contract that was competitively bid, my office gave the opinion and I understand reasonable people can disagree, but my office gave the opinion that that was competitively bid. I stand by it. So the last thing I want to say...

Assistant City Manager Iglesias: They also had no involvement in the RFQ.

City Attorney Leen: Yes. Now it came out – Peter looked into the matter and because there was no direct involvement in the solicitation, which is the RFQ itself, that's another reason why this provision wouldn't apply. Now let's speak more generally, this Commission...

Commissioner Lago: Excuse me, when you say direct participation in regards to the RFQ, you mean writing the RFQ?

City Attorney Leen: Yes. They did not help design the solicitation itself, that's what this applies to -- who participates in the drafting of the solicitation.

Mayor Cason: They did not, is that correct? - And also what we are doing here, at least on the first vote was, we didn't give them the contract, we said we are going to start negotiating with him first, we may not reach with AECOM an agreement over the price and then move down to number 2 or number 3, is that correct?

City Attorney Leen: So ultimately, we gave the opinion, I'll just read it as follows: "we have reviewed the correspondence between you and the Procurement Department; we have also reviewed Section 287.057, Florida Statutes. We have determined that AECOM should be allowed to participate with the condition that the company's initial involvement in the site evaluation study will be disclosed at each stage of the proceeding, as well as ultimately to the City Commission. The decision is based on the following: 1) the underlying contract for continuing consulting services with the City was in fact competitively bid and purchase order for the site evaluation study was issued pursuant to that continuing consulting services agreement; 2) prior to accepting the purchase order AECOM inquired and was informed by City personnel that it would be allowed to participate in the RFQ process despite their work on the site evaluation study; 3) Procurement and this office agree that any advantage that AECOM may have as a result of conducting the site evaluation study is not material in nature. This opinion was issued pursuant to 2-201(E)1 and (8), and 2-584 of the City of Coral Gables Code. Now the Vice Mayor raised the issue with us where there are no case citations in here. Typically when you issue an

opinion, we would cite the case law. I have to tell you, we did not find any case law specifically on this issue, so I applied the following principal, just so you are aware. Typically in procurement a party is allowed to participate unless there is a specific provision preventing them from doing so. I did not see any specific provision preventing them from doing so in our Code, in the County Code, an applicable provision in the County Code, although I don't think there is any provision in the County Code that is specifically applies, nor in State Law. So based on that I could see no basis for denying them the ability to participate, particularly when the general rule of procurement is that you try to get the best outcome for the City. Now that doesn't mean that Miriam and I don't fully understand it, the City Manager as well and Peter, I think I can speak for all of us, we understand the Commission's concern here. That's why we did the policy, now we do have a provision that addresses these sorts of situations moving forward, but it wasn't in existence at the time. That was our opinion. Miriam do you have anything to add?

Deputy City Attorney Ramos: The only thing I want to add is the more and more we delved into the facts with the Assistant City Manager we learned that, in fact, it was an RFQ, it was a Request For Qualification, not an actual design of the project and that if you look at the PowerPoint of what they produced, it was really a study of if you put it here this is what happens, if you put it here this is what happens, that does not give them a competitive advantage.

Mayor Cason: So it seems to me that with everything we've heard and the legal opinion there may be a perception but it's not factual, and what's factual is that we had a process that resulted in 60 percent of the people of the five picking the same company number one, I don't care which one it is, but they picked Company X, AECOM in this case, and now we'll negotiate with them a price and if we don't agree on the price then we'll go to number two, and so on. But I don't see any grounds to act on a perception rather than on factual and I think we should stick with, in my view; I want to stick with the vote that I made. Now what's the next stage?

City Attorney Leen: There is a vote. You hold the vote now on the motion for reconsideration, if the Commission votes to reconsider then it reopens the matter and then there has to be another vote.

Mayor Cason: Do you have to vote today?

City Attorney Leen: No, you could continue the matter to a later hearing.

Commissioner Slesnick: I called the question.

Mayor Cason: OK. The seconder was...

Commissioner Slesnick: You don't need a second.

Vice Mayor Quesada: I'm sorry, I'm confused.

City Manager Swanson-Rivenbark: You do need a second.

City Attorney Leen: You do need a second.

City Manager Swanson-Rivenbark: The second would be on the losing side.

Vice Mayor Quesada: I'm confused procedurally. So what happens now?

Commissioner Keon: We either say yes -- reconsider, then it opens to reconsideration. If you have three people that say no, it's done.

City Attorney Leen: If three people vote, if three Commissioners vote to reconsider, the matter is reopened, it will be reconsidered. It's as if you hadn't voted originally. If less than three of you voted in favor then the matter continues and it's as if the reconsideration did not occur.

Commissioner Slesnick: Commissioner Keon, I mean Commissioner Lago...

Commissioner Lago: Yes ma'am.

Commissioner Keon: He seconded. So just call the roll. A no vote says no, we are not going to talk about it anymore.

Commissioner Slesnick: I called the question we should vote.

Commissioner Keon: He wants to make sure what the vote means.

All: [Inaudible].

Commissioner Keon: If we say, if there are three votes that say no, it means that we are not reconsidering, it's over.

Vice Mayor Quesada: And if we vote yes, then what happens?

Commissioner Keon: Then it means that we reconsider, we are going to open it up and to be reconsidered.

Vice Mayor Quesada: Got it. But didn't we just reconsider right now?

City Attorney Leen: Yes, in a sense.

Commissioner Keon: We did, but now you have to vote; now you have to vote; now we have to agree.

Vice Mayor Quesada: So let's assume it changes and everyone votes against it now, its two votes have to happen right now, correct?

City Attorney Leen: Yes.

Commissioner Keon: No, we have to have one vote.

City Attorney Leen: Let me be clear. I need to be very clear with this. If three of you vote yes, you nullify the prior vote awarding this to AECOM or at least the negotiations to AECOM, that's nullified and then the matter has to be reopened, because you have to decide what to do. The reconsideration only reconsiders, I'm sorry Commissioner.

Commissioner Keon: You understand what a no and a yes vote means?

City Attorney Leen: If you vote no you are leaving the matter as it is.

Vice Mayor Quesada: I got it. I'm clear now. I apologize.

Mayor Cason: City Clerk.

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Commissioner Keon: No

Commissioner Lago: Yes

Mayor Cason: No

(Vote: 3-2)

City Manager Swanson-Rivenbark: Mr. Mayor I move to withdraw the item – non debatable, the Manager has the right to withdraw an item.

Commissioner Keon: OK.

Mayor Cason: OK.

Commissioner Keon: That's her prerogative, she's the Manager.

Vice Mayor Quesada: So hold on a second, hold on a second, hold on a second. It's not a reconsider.

City Attorney Leen: The matter is before the Commission, the Manager has asked to withdraw it, the Commission could recognize that, the Commission could act if it wishes.

Mayor Cason: You can withdraw your "yes" and voted again.

Vice Mayor Quesada: So something that – just to make this more confusing procedurally. Something came up now that the City Attorney raised, which was a concern of mine first time we discussed this, I don't know, three, four, five, six months ago, five or six months ago, which is the legal opinion that was given, and can I take a two minute recess I've got to talk to the City Attorney.

Commissioner Keon: Absolutely.

Vice Mayor Quesada: I'm sorry, do you mind, a two minute recess.

Mayor Cason: Everybody else please stay here, otherwise we'll never get anybody back together again.

Commissioner Lago: I can go to the bathroom.

Mayor Cason: No, you may not, no bathroom sorry, otherwise we'll never get anybody together and it will be 7 o'clock at night.

[Note for the record: The Commission took a short recess and then resumed the meeting at 5:45:10 p.m.].

Vice Mayor Quesada: If I may Mr. Mayor?

Mayor Cason: Yes you may, whatever you want to...

Vice Mayor Quesada: We are back on the same issue, it's reconsidered, it's not, it is, it's open from what I understand for the complexity of the procedurals that's happening today. So I just had a lengthy conversation with the City Attorney and two Assistant City Attorneys and a portion of the time with the City Manager as well. I had asked the City Attorney to come and brief each one of you individually. I don't want to get into the details now, based on some of the conversations that came up and some of the topics that came up six months, that came out on the public record as well as, that came up in the reconsideration I'm changing my vote to a yes...

Mayor Cason: On the original resolution.

Vice Mayor Quesada: On the original resolution.

Mayor Cason: Do I have a second?

Commissioner Keon: Second it.

City Attorney Leen: So that's a motion and a second.

Mayor Cason: Vice Mayor made the motion to reconsider.

City Attorney Leen: No, no, the Vice Mayor moves to approve AECOM.

Commissioner Keon: To approve AECOM.

Vice Mayor Quesada: Accept staff's recommendation.

City Attorney Leen: To accept staff's recommendation.

Mayor Cason: And Commissioner Keon seconds it – City Clerk.

City Clerk Foeman: Commissioner Slesnick

Commissioner Slesnick: Can you come back to me?

Mayor Cason: Abstention is not permitted.

Commissioner Keon: Yes

Commissioner Lago: Out of respect for the Vice Mayor and I consider you a friend, I'm still voting no, but I'm not going to push you especially how late it is right now to find out and really discuss in great detail why you changed your vote.

Mayor Cason: So you voted no.

Commissioner Lago: I'm voting no.

Vice Mayor Quesada: Yes

Commissioner Slesnick: Yes

Mayor Cason: Yes

(Vote: 4-1)

Vice Mayor Quesada: Commissioner Lago had asked the detailed conversation you had with Mr. City Attorney.

City Attorney Leen: Mr. Mayor, I gave a legal opinion to each of you individually. I did not share with each of you what the others were thinking, I followed the Sunshine Law, but I did give you my legal opinion and my legal opinion in this particular matter, just so it's in the record was that, you know I stand by the legal opinion my office gave...

Vice Mayor Quesada: I would ask that you don't get into too much of the details as we previously discussed.

City Attorney Leen: I understand.

Commissioner Lago: Can I make one comment just in closing? This will never happen again.

Mayor Cason: Right.

Commissioner Lago: This will never happen again and there is a reason why it passed this resolution and why I made this comment, because its undeniable, its undeniable, I'm the only one up here that has any experience in this and in my opinion we are moving forward from today, but it's a very good measure by the City to have adopted Resolution No. 2016-173.

Mayor Cason: We agree.

Commissioner Slesnick: And I'd just like to say that I appreciate all of you staying for an extra hour to make sure that this was properly discussed and I just didn't feel like we finished the discussion.

Vice Mayor Quesada: Thank you. Thank you for doing that, and again, I'm not particularly happy the way I voted, but the realities of the situation.

Mayor Cason: OK. With that since we have no more discussion on K, the meeting is adjourned.

[End: 5:48:23 p.m.]