

City of Coral Gables City Commission Meeting
Agenda Item E-10
September 14, 2010
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Donald D. Slesnick, II
Vice Mayor William H. Kerdyk, Jr.
Commissioner Maria Anderson
Commissioner Rafael “Ralph” Cabrera, Jr.
Commissioner Wayne “Chip” Withers

City Staff

City Manager, Patrick Salerno
City Attorney, Elizabeth Hernandez
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia

Public Speaker(s)

James Crosland, Special Counsel for the City

E-10 [Start: 1:24:00 p.m.]

Mayor Slesnick: E-10 Mr. Manager.

City Manager Salerno: Thank you Mayor. You have before you a revised Section 7 of the proposed evidencesic(Ordinance) it is a glitch amendment that corrects an oversight. I'll read the Ordinance into the record. E-10 is an Ordinance amending Chapter 50, Article II of the Code of the City of Coral Gables, entitled “Retirement System for City Employees,” implementing action taken by the City Commission to establish provisions of the 2009-2010 Collective Bargaining Agreement between the City of Coral Gables and Teamsters Local Union 769; creating a definition of “average final compensation” and revising definitions of “compensation,” “disability,” “highest three year average,” “normal retirement date,” and “total earnings;” revising employee contributions; revising normal retirement income; revising disability benefits; revising DROP eligibility; revising the purchase of prior credited service; creating a new section providing for benefits of excluded employees providing for an effective date; and repealing all ordinances inconsistent herewith. Now we have Jim Lynn here to address the Commission briefly.

Mayor Slesnick: Before you address the actual contents of this, can we ask Jim Crosland a question.

Mr. Crosland: Good afternoon.

Mayor Slesnick: Good afternoon Mr. Crosland this is the product of a vote taken during an Impasse Hearing I believe.

Mr. Crosland: Yes this is First Reading on an Ordinance to implement the actions taken by the Commission on August 23rd. There has not been a ratification vote on the contract yet.

Mayor Slesnick: OK. Then, is this premature?

Mr. Crosland: No it is not premature your honor because we are proceeding with the First Reading. Mr. Scott with the Teamsters Union has informed me that they are going to have a ratification vote this week. So this will come back to you on Second Reading.

Mayor Slesnick: OK.

Commissioner Cabrera: Well, Mr. Crosland, we have a representative of the Teamsters here on this matter. We have the Shop, I am sorry I don't know your title Ms. Berryhill.

Ms. Berryhill: Chief Shop Steward.

Commissioner Cabrera: Chief Shop Steward.

Mr. Crosland: Oh, I did not see Jeanie back there.

Commissioner Cabrera: I didn't think you did. That is why I did that. Can we get some confirmation on that. That is coming as you anticipate.

Mr. Crosland: I was just told in a conversation by Mr. Scott, not just a few minutes ago, but the other day that after we gave them the contract language which is based on what you guys did on the 23rd, that they would have a ratification vote this week. Now if that is scheduled for a certain date I can't represent that.

Commissioner Cabrera: That is the only reason I was asking her if she could in fact represent that.

Ms. Berryhill: [Inaudible]

Mr. Crosland: The Resolution.

City Attorney Hernandez: The Resolution, that is right you have not. We have been working on it. We have been working on it, but it is not in its final form yet.

Mr. Crosland: It has been delivered to the Clerk.

City Attorney Hernandez: I have been finalizing it with the City Clerk and we have been working on that, unfortunately I am on standby on calendar call on another case and I have been working on it in between, but Mr. Foeman and I will get a final draft to you.

Ms. Berryhill: [Inaudible]

City Attorney Hernandez: Yes ma'am, and I appreciate that.

Mr. Crosland: So in any event, I do not consider this action, proposed action today as premature Mr. Mayor or Mr. Cabrera because it is just part of the process of moving this along you would have to have Second Reading in any event and I would reserve just in case people misunderstand I am seating here talking to you, I am not in the bathroom and just because I may possibly vote in favor of this. I reserve the right to speak on it in Second Reading, just thought I tell you that. It is really not intended for you, it is intended for others to better understand my thought process.

Mr. Crosland: I understand that.

Mayor Slesnick: And my thought process not, that we couldn't go forward with First Reading, but I wanted to understand the process and to make sure technically as far as I know Jim we could go for the Second Reading because we did, we cooperatively, not me, voted to proceed with offering the Teamsters a specific set of changes to the pension plan. And then the vote was to also impose that if they did not ratify it.

Mr. Crosland: Absolutely.

Mayor Slesnick: So therefore I guess you could make the argument that we could vote the First and Second Reading before they do anything, but I want to make sure that we don't do anything inappropriately, either for the Teamsters or for the citizens or for the City, so I just want to make sure...

Commissioner Cabrera: Or for the excluded employees.

Mayor Slesnick: This would cover excluded employees.

Commissioner Cabrera: I know. I know. I understand that.

Mayor Slesnick: OK. Thank you.

Commissioner Withers: I do have a question though, we talked about general employees and we have talked about excluded employees, now I am assuming that I am one of the excluded employees. Correct?

Mr. Crosland: You are right.

Commissioner Withers: Now what about City Manager, City Clerk and City Attorney, are they covered in this?

Mr. Crosland: City Manager and...

Commissioner Withers: No, not you that's right you are not...

City Manager Salerno: I am not in the pension.

Commissioner Withers: You are not in the pension.

Mr. Crosland: City Manager and Clerk and Attorney, No.

City Manager Salerno: No that is not correct. City Manager is not covered under the excluded because I am not a member of the plan.

Mr. Crosland: I am sorry, yes that was changed, right.

City Manager Salerno: All other excluded employees are covered.

Mr. Crosland: There are different categories of excluded employees. I was wrong about that. I was thinking of management.

Commissioner Withers: And what are those? Because I just want to make sure if we do it, we get it all.

Mr. Crosland: There are managerial employees, there are professional/supervisory employees, which is a level below the managerial employees, there are confidential employees, which principally relates to their status with regard to perk matters, and there are the appointed officials, which is Mr. Salerno, Ms. Hernandez, and Mr. Foeman.

Commissioner Withers: But this does not included appointed employees. Or does it?

Mr. Crosland: It does.

City Manager Salerno: It does.

Mr. Crosland: I misspoke originally when I said it does not.

Vice Mayor Kerdyk: It does.

Mr. Crosland: It does, yes sir.

Commissioner Cabrera: And how did they receive notification?

Commissioner Withers: OK. Last year I remember Bill had brought it up and we all decided to do the 5 percent, then we had to do a special vote or special Resolution on the appointed officials.

Mr. Lynn: Correct. This Ordinance includes the appointed officials as a category of excluded.

Commissioner Cabrera: Does it include elected officials?

Mr. Lynn: It includes elected officials.

Commissioner Cabrera: Good.

Mr. Lynn: Because they are excluded employees as defined in the plan and so it covers elected officials also, and by the way elected officials are designated as managerial classification.

Commissioner Cabrera: Thank you.

Commissioner Withers: I just, and it is just my personal feeling, I don't know how the rest of the Commission feels, but you know we just went through a pretty trying difficult Commission Meeting with the general employees and it was brought up that the City Manager was not dealing with management and other excluded positions, and I know that plan has since been implemented. I just want to make sure that everybody shares in the pain here and that we don't get thrown back at us that there is a group or a special group that is being taken care of. So I just want to make sure that the reduction in the number of years and the multiplier and all of that has already been in place and it covers everybody across the board.

Mr. Lynn: It doesn't cover everybody across the board the excluded are set forth with respect to their multipliers differently than other...

Commission Withers: I understand that but they have been addressed though, it is what I am saying.

Mr. Lynn: It addresses them yes, and it reduces the multiplier for all of the categories.

Commissioner Withers: OK. But I am assuming that the excluded employees that are in managerial or director positions or senior management positions or appointed positions are all under basically the same multiplier.

Mr. Lynn: As set out in the Ordinance the multiplier is a little different for each of those groups.

Commissioner Withers: Right.

Mr. Lynn: So for managerial it is 3 percent for the first 10 years 2.25 percent thereafter. For professional/supervisory it is 2.5 percent for the first 10 years 2.25 percent thereafter. Confidential is 2.25 for each year of service.

Commissioner Withers: Right. And the elected?

Mr. Lynn: The elected fall under the managerial classifications, so that is the 3 percent for the first 10 and 2.25 thereafter. And the appointed officials are the 3 percent multiplier.

Commissioner Withers: With a, after 10 years.

Mr. Lynn: No, just 3 percent.

Commissioner Withers: And why aren't they treated like management and Commissioner and people like that.

City Manager Salerno: Mayor, Commissioner let me address that, that wasn't Mr. Lynn's, it is within my purview I felt to address excluded employees that work for the Manager. I was not going to address people that don't work for me. So I chose to leave it at 3 percent for the appointed and for those that were excluded, I recommended as Mr. Lynn just addressed you today.

Mr. Lynn: And just to make it more clear hopefully all of the other changes that are applicable to the Teamsters Bargaining Unit, all of those other changes, other than the multiplier are going to apply across the board also to the excluded. So the only difference between the excluded and all of the other general employees is being spelled out in those differential multipliers.

Commissioner Withers: So is now the time to discuss appointed officials? Or do we vote on this and take it as a separate issue?

Mr. Lynn: I think that is at the Commission's purview.

Mr. Crosland: It is [inaudible] the rules of the procedure, but it is not a subject in this...

City Attorney Hernandez: The motion can include an amendment to the provisions as applied to appointed officials and spell out what you want in there.

Mr. Crosland: Appointed officials are covered in this proposal [inaudible].

Commissioner Cabrera: I would prefer since the appointed officials report to the five of us, I would prefer to have private conversations with them prior to doing something like this for communicative purposes and as a professional courtesy to them. That is what I would suggest to you.

Commissioner Withers: OK. I have no problem. I can tell you how I feel, I think that they should be like...

Commissioner Cabrera: And maybe we all feel the same way.

Commissioner Withers: OK.

Commissioner Cabrera: But I think they deserve that courtesy and in the same breath I can ask how have the excluded employees received notification of this change? And I am willing to tell you that they don't have any clue that this is going on. But, you know that is just the way it was done, but I know of no formal communication that has come out informing excluded employees of this particular change and it is unfair because morale is bad enough as it is now, this just adds to it, but so be it. That is the way things get done around here these days.

Mayor Slesnick: Mr. Lynn. We are going to proceed with Mr. Lynn's presentation and then we'll come back as we decide how we are going to vote on this and as to what we are going to vote on. If our union representatives are going to ask to be a part of this, if they would fill out a card. I am not telling you to do it.

Ms. Berryhill: [Inaudible]

Mayor Slesnick: Well, that is why....what did she say?

Commissioner Cabrera: She is going to go get a card.

Mayor Slesnick: OK. Mr. Lynn please.

Mr. Lynn: Yes, as Mr. Crosland had indicated, this Ordinance implements the actions that this Commission took at the Impasse Hearing with the Teamsters with respect to changes in the Pension Plan and briefly redoing those changes. The benefits of all current employees will be frozen effective September 30, 2010. Current employees will become 100 percent vested in their accrued benefit as of that date. Going forward the formula will be adjusted to 2.25 percent of average final compensation for each year of future service and the way that will work when the employees who are now here get to retirement is that they will get their retirement benefits in two pieces, they'll get the frozen accrued benefit through September 30th added to the benefit that they earn on or after October 1st, 2010, and those two pieces will make up their pension benefits. In addition the normal retirement date is changing. The new normal retirement date is age 62 with 10 years of service or age 65 with 6 years of service or Rule of 80; and of course the plan has built into it a provision that protects the current normal retirement age for current members who have 10 or more years of service. They would keep the current normal retirement rate. Pensionable earnings are going to change to base compensation including shift differential and special assignments. Average final compensation is going to the highest five year average, but the Ordinance makes clear that no member will get less than whatever their average final compensation was based on the current formula in effect on September 30th. So folks who are closer to their retirement age will retain, they'll get the greater of. Either if the average final compensation under the current plan provisions is better they'll get that, if they stay and at the time of retirement the new average compensation figures is better, they'll get that. There are changes in disability benefits, the definition of disability is changing to an employee being prevented from rendering useful and efficient services in any capacity. This is basically the

Florida Retirement System definition, line of duty disability is changing to a minimum benefit of 42 percent of average final compensation non duty disability 25 percent of average final compensation with 6 years of service; and again these are based on the Florida Retirement System disability benefits;and finally as discussed, the pension contributions are going to be increased from 5 percent to 10 percent, effective September 30th. That is kind of an overview of the Ordinance. Mr. Salerno indicated that the drop glitch language which is essentially a replacement to Section 7 of the Ordinance that is in front of you and I would just tell you that I take responsibility for that drafting problem.I drafted the language and then after, I drafted it realized that it had the unintended consequence of allowing some participants with 10 or more years of service to be able to go into the Drop at Rule of 70 without having to have 25 years of service or attain age 65. That was never the intent of the change, so this language which makes it clear that those conditions which are now conditions for general employees going into the Drop will remain would remain, for the members with 10 or more years of service. That is basically an overview, and I will be happy to answer any specific questions you might have.

Ms. Berryhill: Can I ask a question?

Mayor Slesnick: Do I have any speaker cards? We have Jeannie Berryhill.

Ms. Berryhill: [Inaudible]

Mayor Slesnick: Oh Jeannie make sure you...so we can all hear you and it gets on the record. I mean just speak as close to the mike as you can. That's all.

Ms. Berryhill: OK. I have a question I am sorry, as far as the Drop, you said that people can enter it with 10 years of service, is that what you said? I am sorry I just wanted some clarification.

Mr. Lynn: Right now, before any changes are made to the Drop,general employees are eligible for the Drop when they reach Rule of 70, but they have to have 25 years of credited service or age 65; and the way the Ordinance was prepared, the way I drafted it, I left out the 25 years of service or age 65. What that would mean is because folks who now have 10 or more years of service would keep the current normal retirement age would be able to go into the Drop at the current normal retirement age, it could have meant that some folks who now have 10 or more years of service would be able to go into the Drop at Rule of 70 without having to have 25 years of service or age 65, and all that the proposed amendment does is to keep those two current conditions in the plan.

Ms. Berryhill: The 25 years of service and the Rule of 70 is that what you are saying?

Mr. Lynn: Yes.

Ms. Berryhill: OK. I understand that. I have another question just for clarification as far as the retirement system as we know it will stop as of September 30th. My understanding is that there is some kind of Defined Contribution Planthat the employees are going to be contributing to.

Mr. Lynn: No.

City Manager Salerno: If I could Jim, we had proposed that during the negotiations and we had proposed that for new hires and the general employees, that there would be a Defined Contribution Plan.

Ms. Berryhill: My understanding was new hires and employees who had 10 years of service. There is still a lot of confusion.

City Manager Salerno: No there never was any discussion about that matter, there was only discussion for new hires and before the matter went before the Special Master in this case the union objected to certain issues and we agreed to pull the matter for that time. That is why it is not there. It was over the objection of the Teamsters Union that the matter did not go forward. We believe it was ready to go forward.

Ms. Berryhill: Well, we were to, but we were missing some vital information as far as Defined Contribution Plan, and that is the reason why it was pulled by you all. I am just looking for clarification sir, that is all.

City Manager Salerno: Jeannie I just want to clarify, you made a comment that you were missing some information, we disagree. We believe that all the information was before the Teamsters at that particular time to make those decisions and they decided to take a tactic as I would describe it, that would complicate the issue and we agreed rather than to argue over the matter, we withdrew it.

Ms. Berryhill: OK. So, is there going to be a Defined Contribution Plan? You say everything is frozen.

City Manager Salerno: No.

Ms. Berryhill: So, we'll just continue to pay the 10 percent and so forth.

City Manager Salerno: Yes, and that was only going to apply to new employees, it never would have applied to existing employees.

Ms. Berryhill: [inaudible]

City Manager Salerno: I agree I should refer you to Mr. Scott who could explain that.

Mayor Slesnick: But that doesn't mean in the future if the desire of the employees is to start a Defined Contribution Plan, it certainly could be in future negotiations.

City Manager Salerno: Absolutely.

Mayor Slesnick: I am not quite sure, nor am I trying to put words in your mouth.

Ms. Berryhill: I understand.

Mayor Slesnick: Whether you wanted to consider it or not consider it, it doesn't mean it is dead forever, it just means that this round is not being considered that's all.

Ms. Berryhill: The only other comment, if I may make is that I must say that going on my 28th year here, I am very disappointed at the way that the City and the Union could not come to an agreement on the retirement system. There are a lot of employees here who have worked very hard for this City and I don't mean like the ones that have 1 or 2 years of service. I am referring to the ones that have the 20, the 25 years of service that have worked hard. I have listened to the people come up and speak as far as University of Miami, and they said that the quality of life here in the Gables, and the quality of life here in this City, and I am sitting there and I am thinking I contribute to that, the general employees contribute to that, the ones that are in the trenches contribute to that; and unfortunately I have heard Mr. Salerno say on several occasions say that Police and Fire and General Employees should be treated differently, I agree to a certain extent, firefighters have their needs, police officers have their needs and we have ours. However, where I disagree with him is as far as the retirement system, you put us all in the same retirement system, I feel we should all be treated fairly and I just feel that this is an injustice to the general employees. I do know that there are some changes that are needed to our retirement system we were willing to go ahead and contribute the 10 percent and possibly go right back to the tables in October and try to iron out the other things that Mr. Salerno wants implemented, but unfortunately that didn't happen. That is all that I have to say and thank you for the time.

Mayor Slesnick: Thank you Jeannie, and thank you for your service to the City. Do we have any other questions for Mr. Lynn.

Commissioner Anderson: No.

Mayor Slesnick: Do we have a motion?

Commissioner Anderson: I'll move it.

Commissioner Withers: Second.

Mayor Slesnick: Seconded by Mr. Withers. Any discussion? I have some, and it won't be long because obviously the Commission has already moved on this at a previous meeting and my vote will be the same as it was then, which will be no. I believe that the time had come and the time is needed for pension reform to a certain extent. I don't believe...by the way I want to explain that too...I don't believe pension reform is needed because public employees are being treated too good or too well or that they are robbing the citizens of the city in their pension plan at all I believe that pension reform is needed for the simple fact that the cost was unsustainable. The way in which our government needs to work these days and with the drying up of resources, financial resources it is just a fact of life type of issue for me. So I think you all know I support

it and will support certain elements of this plan to be implemented, but I feel then and I feel now that we have gone too far, too fast and for most of the people who felt out there that we have corrected all of the pension ill's, well that is far from the case because this only affects in a very specific number of people in our City employment, it does not affect all of them and the fact of the matter is that pension, the City Manager asks us if not now, when?-if not you, who? Those are very compelling questions I guess, but you know the fact is pension reform takes a long time to meld and takes a long time to really save the dollars you are looking for and it doesn't have to be done overnight to get to the end result as a meaningful result there are certain things that we are doing that will have immediate consequences and those are some of the things that I will support, but having said that I will again vote no because I think we are being to Draconian in our approach, but I respect the needs of this City and I respect the feelings of my fellow Commission members, I respect our employees, so with all of that having been said,are we ready to vote?

Commissioner Withers: Yes sir I am.

Mayor Slesnick: Mr. Clerk.

Commissioner Withers: Yes.

Commissioner Anderson: Yes.

Commissioner Cabrera: Yes.

Vice Mayor Kerdyk: Yes.

Mayor Slesnick: No.

Commissioner Withers: Mr. Mayor could I ask the City Manager to agenda the discussion on appointed officials maybe for the next Commission Meeting and that should give each of us an opportunity to seat down with both Liz and Walter. Is that OK with everybody? Thank you.

Commissioner Cabrera: Thank you.

Mayor Slesnick: That will be heard Second Reading in two weeks at the next Commission Meeting.