

City of Coral Gables City Commission Meeting
Agenda Item F-3
May 25, 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)

F-3 [Start: 11:27:28 a.m.]

Discussion regarding local vendor preference
Commissioner Rafael “Ralph” Cabrera, Jr.

Mayor Slesnick: OK, we have F-3, Mr. Cabrera.

Commissioner Cabrera: Thank you. Let me begin by giving you a personal experience that I went through just last week. I happen to have two clients unlike what the bloggers say, I have two clients that have headquarters in Coral Gables, and one of those two clients I visited last week in my other world as an insurance person, and after we concluded our business transaction that client said, you know, I used to do so much business with the City of Coral Gables. I said really, well how much business did you do?- he says, quite a bit of it, and I did it for forty years, and then you had some personnel changes and the next thing you know, I no longer did business with the City of Coral Gables. I said, surely that can't be right, and he said, no, in fact the last time I worked with the City of Coral Gables I was the lowest bidder, but unfortunately didn't get the business, and when I contacted the city and spoke to the person that was handling that particular service I learned that I was in fact the lowest bidder, but the decision had been made, and incidentally this goes back a number of years, I don't want you all to think that this is like last summer, or last month, we are going back 6-7 years, maybe longer, but getting back to my story; the person said, well you know, I had the lowest bid, but I learned from the city person I was working with that because the city could not order my services through the internet they looked favorably upon someone else, and so I didn't get the business; and unfortunately by the time I brought this issue up that I in fact could do the business, the same as the other vendor, it

apparently was too late. So I began to research a local vendor preference process, and I learned a couple of things, and I'd like to share those with you at this juncture. Number one, there are communities that in fact, communities in Dade County, that in fact provide for local vendor preference; and those communities that we contacted were kind enough to not only speak to us about their local vendor preference and give us the pros and the cons, but they also provided us copies of their ordinances. For example, the City of Miami under Ordinance No. 11087 implemented the local preference provision. What it does is it authorizes when a low bid is received from a non local vendor when contracting for personal property, public works, or improvements the City Commission may offer to a responsible and responsive local bidder, the opportunity of accepting a contract at the low bid amount. This is provided that the original bid from the local vendor does not exceed one hundred ten percent (110%) of the low bid, containing a repealer provision and severability clause and providing for an effective date. That's a pretty good ordinance, but incidentally I'm not trying to micromanage this process, I'm just trying to give you the situational analysis that exist throughout our community. The one that I really took a strong liking to was the City of Miami Beach, and they adopted an ordinance that specifies the procedure to provide preference to Miami Beach based vendors and contracts for goods and general services. It specifies that the preference established in no way prohibit the right of the City Manager and/or the Mayor and Commission as applicable, to compare quality of materials proposed for purchase and compare qualifications, character, responsibility, and fitness of all persons, firms or corporation submitting bids, further the preferences established therein in no way prohibit the right of the City Manager or the Commission as applicable from giving any other preference permitted by law instead of the preferences granted. So the reason I bring this to you this morning is, we are still in the morning, the reason I bring this to you this morning is, I certainly would like you all support in directing the City Manager's office to work with his staff to come back to us with some sort of a local preference, local vendor preference ordinance to be considered by this body, and I would ask that this be done in an expedited fashion, I would ask that this be done within the next ninety days; and lastly I'd like to leave you with a comment made in one of my last e-mail exchanges, and this one comes from the Chief Procurement Officer of the City of Miami, and he says at the end of his discussion regarding this local vendor policy, he says, tax dollars flow from local government to local businesses back to local government in the form of local taxes, and local employees thereby decreasing unemployment and paying local taxes who spend their dollars locally with other local businesses who pay local taxes. So really the genesis for this is to try to give some sort of preferential treatment to companies, and I want to be very clear on this, companies that are headquartered in Coral Gables. This is not some political ploy to get companies to come here when we are out to bid on some major contract, and allow them to have a satellite office in Coral Gables. It is very specific that this be preferential consideration for companies that are headquartered here, who pay taxes here, who employee people here, who not only in many instances, and by the way to end my story that I gave you earlier, the person that I was speaking to not only has a headquartered organization in Coral Gables for well over forty-nine years, this person is a Gables resident, and this person is a very active member of the Coral Gables Chamber of Commerce, and the last comment he made when he gave me this update, he said, and you know what?- it's not just about my company, I urge you to contact other people that do what I do and find out if they are getting the opportunity to do business with the City of Coral Gables, and I took him up on it. So I

contacted three more companies that did what his company did, and learned that they haven't seen an opportunity to bid in years from this city. So without embarrassing anyone out there in the community and certainly not embarrassing anyone internally, I would ask you that you strongly consider a local vendor preference ordinance and allow the Manager to come back to us with that ordinance for our consideration in approximately ninety days.

Mayor Slesnick: Thank you. Mr. Kerdyk.

Vice Mayor Kerdyk: I just wanted to commend the Commissioner for bringing that up. I had looked into this a long time ago, and I didn't follow up with going through with the process, but I think I'm totally supportive of doing a local vendor ordinance. When I looked at my – when I was researching it, I saw there were several possibilities, there is classic approach where you can basically just add decisional criteria to the procurement law to give weight to the local operations, there is one way of doing that; and then there are a couple of other issues that the straight percentage approach where you can basically, if the local vendor falls within a certain percentage whatever we agree it to be, then as you said, we can go ahead and give preference to that local vendor, but you have to be somewhat cautious there because what happens is you might pay more for the services than you would do in other locales; and then of course the reprice approach, which is another one you were talking about where, if they fall within that threshold, then everybody gets to go back and reprice the bid one more time to see if there is a lower alternative. So there are a lot of alternatives that the city can consider, but what you are bringing forth is something that is very good for our vendors and our local merchants to have an opportunity to proceed along in the city. As I've said before here, an expert is always somebody that is located outside our borders, and you know we have so many experts in the city that we can use, or vendors in the city that we can use and this ordinance will certainly give that preference to those. So I commend you for bringing that forward.

Commissioner Cabrera: I thank you and I would hope that, I know the Manager is listening, I would hope that he will take all your comments and I would like to give the Manager's office as well as the City Attorney's office the latitude to work on this ordinance in such a way that we do it right, and the good news is I've done a little bit of the leg work, I've got ordinances already here already for them to look at that affect communities, in the case of the City of Miami and the City of Miami Beach, our neighboring communities that are much larger than Coral Gables. So I appreciate Bill, your support on this.

Commissioner Anderson: I have a question, since I don't know much about it only in concept and what you've shared. You mentioned that you had researched some of the downsides, any potential pitfalls?

Commissioner Cabrera: Yes, that's a great question. You know the biggest pitfall that I found? – political influencing, literally political influencing, letting the politicians get in the way of this process, but the good news is that even before I was a Commissioner, and while I was still in High School and began to kind of become interested in local government...

Mayor Slesnick: When Chip started.

Commissioner Cabrera: I think it was his third term in office, when I was in High School; you know the one thing I do recall that this government, specifically these politicians, the politicians that represented the City of Coral Gables since the 70's have all been straight up and always try to do the right thing for the community at large and not take personal influences and try to modify things to suit their way, and not look for the greater good of this community. So having said that and knowing what we are going through in this economy, and then being kind of disappointed and somewhat embarrassed by having a conversation with a stakeholder caused me to do this thing. So I think that if we gave the right direction to the Manager's office, I think that we could come back with a product that will serve the ultimate goal, which is to give the folks that have businesses in Coral Gables an additional opportunity to be looked on as a preferential vendor. Hey look, if nothing else, put everything aside, proximity right there, the fact that they are within our city limits should give them the ability to be at least in the running and be put on a level playing field, because the unfortunate thing is this individual is not put on a level playing field, and I'm just very grateful that he did not complain or file a bid protest to the city to try to get his business back; he was a stand up guy, and he took the decision, he didn't like it, he took the decision and every blue moon he says, I get an invitation to bid on business but we never get it. That's really the genesis for all this.

Mayor Slesnick: Thank you. Let me say this, without objection or if there is let me know, but if without objection....yes Chip.

Commissioner Withers: I'll just like to make a comment. I like the idea and I really would like to hear what the City Manager thinks, but....

Commissioner Cabrera: What about the City Manager?

Commissioner Withers: Ralph...I'd like to hear just his input after my comments that I'm going to state right now to see what he thinks about this. What I've seen Ralph, and I've seen it a little more on a state level and I've certainly seen it in my own private business, and maybe this can work very well, not the on-line auction stuff that RFQ's end up to, but the other thing I saw was that instead of asking someone to come in and quote for a proposal, they come in and they just ask the – they put out something to allow a negotiation process to start, and the intent to negotiate, and pricing is a factor, but service and local presence and all that are important factors also; and what's happens is a lot of times the firms that can provide better service, or a firm that might have a local presence is more expensive than the lowest bidder, but it gives the administration the opportunity to still bring those firms in, negotiate with them and see if they can get their price down to the preferred level. You understand what I'm saying?

Commissioner Cabrera: Yes, and I think that would be a good direction to take.

Commissioner Withers: So instead of making bid pricing the key ingredient, it's kind of like what we do with architects, engineers, you know people like that, even though pricing is not

supposed to be a factor, at least it gives the opportunity for staff to bring the people in based on their abilities and their service and whatever, and then that allows the city staff, City Manager's office to negotiate whatever to say OK, what's the best thing that you can do as far as pricing goes. So it's a change in the way we do our procurement and that we are not going after the lowest bid, we are going after the best service and hopefully that opens the door up to allow us to bring them in and negotiate down the price.

City Attorney Hernandez: Right – and I think that a lot of those local preference ordinances are permissive, its “may”, so you are able to give the flexibility to the administration to look at other factors that might be important to them.

Commissioner Withers: So does that cramp....

Commissioner Cabrera: Before you ask....I fully support what you are saying, I just didn't want to give that much direction, I wanted at least for the Manager to come back to us, but I like what you said, and I would certainly support what you recommend.

Commissioner Withers: I just went through a process where the lowest bidder did not get the job, it was second from the highest, but the second from the highest by far had the best tool set, they brought them in and they actually ended up through negotiation meeting the lowest bid, so we got the best of both worlds.

Commissioner Cabrera: Look, if we had had this ordinance back when this occurred, and it was about eight years ago, this particular contractor would have had the opportunity to say, oh, you want internet ordering?- we can do that, so we would have won. We would have gotten the lowest bidder with the internet service we were looking for, because what we told this vendor was we want it because of convenience...

Commissioner Withers: I understand.

Commissioner Cabrera:...so we bypassed the lowest bidder. So even though we were supposed to do that....

Commissioner Withers: So you could have gotten both.

Commissioner Cabrera: Could have gotten both. So your point is well taken.

Commissioner Withers: I don't know what that does to...

City Manager Salerno: Let me share some thoughts from staff's perspective with local vendor preference. Certainly there is nothing more policy driven than if the Commission's desire is to pursue a direct preference for local vendors, staff would recommend this approach. It needs to be done carefully because there are some pitfalls that Commissioner Anderson had raised and asked what do you need to be concerned about?- and I think they can be overcome in each regard, but

if you talk to professional purchasing directors, they share a concern, and I've talked to many of them over the years about local vendor preference, and their concern typically is, if not crafted properly it can have a "chilling effect" on the bidding process, and you may ask how?- well if the word gets out that local vendors get a second bit at the apple and they perceive then, you could imagine how that could have an effect in that, I'm an outside vendor, I bid, if I'm within "X" percent of that amount the local vendor gets to match it, and in certain types of procurements vendors start to get, as I've said, purchasing directors feel that it has some sort of "chilling effect", and if you can take it one step further, if every city in this county, or in South Florida adopted such a local vendor preference, let's just take that hypothetically, then our vendors that are in, if this started a trend countywide, if that occurred our own local vendors, other cities are going to adopt the same types of ordinances, and our vendors from our city are going to get locked out or lose that lowest bid potential because the community in Miami, which has now, or Hialeah, or Aventura, or somebody else is going to adopt the same thing and you have to be concerned and perhaps when drafting it staff will have to look at a reciprocity provision and whether or not that's appropriate to make sure that we don't hurt in some way our local vendors. As I said, I think it can be crafted in a way that it would be advantageous. I also think we need to be cautious with respect to, I think that was a comment that Commissioner Withers was raising, that we are talking about bid items here, OK, price; when you get into RRP's where there are also so many other factors that were suggested, quality, experience, ability to do a job timely, their track record, those kinds of things, initially – my initial reaction from my experience would be those things are things that you might want to stay away from giving some preference there, because the methodology for that typically, the factors that go into those rankings are point, they derive by points. The highest ranking proposal gets picked typically or is ranked highest before it goes to the Commission, and typically those processes work – let's say you have five percent you basically look at it and say OK, if a local vendor gets a five percent bonus in points, or if they are within five percent of the low bidder, if they are outside, they get the job. Now that's a tricky area because price there is not the sole determinant, it's just one, and in those cases could wind up with something costing more in that particular respect, and I think from the discussions I've had with the Commissioner about this, is that it's not his intent to make things cost more. So I do believe we can craft something that recognizes the pitfalls that if you don't do it correctly or properly you could have that "chilling effect", and I think we can do it in a fashion that will result in a benefit to our local business community, and those are the major areas that I just touched on that concern for reciprocity, not applying it to RFP's, and making sure we don't create that "chilling effect", and if we are conscience of those items then we can come up with something that would be quite beneficial to the community.

Commissioner Cabrera: OK, thank you. Let me restate my comment. The fact that other cities adopting this ordinance could be considered a threat, if you will, I'll use that word, I won't steal words from others, I think that's a huge, far stretch. I did some research on this; I'm not a procurement professional, and therefore I can't answer and/or address all of the potential pitfalls, but I can tell you that many, many cities that I talked to consider adopting this ordinance and for some reason or another let it go. So I believe that in a ninety day period there is enough information out there, and there are enough professionals in this community and in this city that the Manager's office will come back with something that will work, that will make sense, that

will be fair to all, but it will also do the things that Vice Mayor Kerdyk pointed out and things that Commissioner Withers pointed out. The bottom line here is folks, the economy has taken the worse downturn in my lifetime, and when I find out that we have a local vendor who has been doing business with our community for forty years, who is an active member of our Coral Gables Chamber, who lives in our city and pays taxes both as a business owner, and incidentally his taxes on his business property was \$30,000 last year, and his home tax was \$15,000 last year, and all of a sudden he loses a bid because there was a lack of convenience in the ability to order his goods on the internet, there is just something wrong here, and that was just one example. I'm sure there are others, and there were others because I talked to other local vendors, and incidentally I don't want to embarrass anyone, you all know who I'm talking about, and when I contacted the other people in his industry you know them as well, they've done work for you; and I get told that we are not using them, we are not giving them the opportunity to work with us, this is when you have to step it up and do something like this, if other cities are doing that it would be great.

Mayor Slesnick: I don't know if this requires a resolution, is there any objection to this Commission...

Commissioner Cabrera: No, I'm not looking for a resolution, I'm looking for – let me tell you what I was looking for, I was looking to make you aware of what I wanted to do in a transparent fashion and then asking the Manager in your presence for this to move forward, if you all support it.

Mayor Slesnick: I'll take it one step further, is there any objection to the Commission directing the Manager's office to take this under study and to report back to us along with the City Attorney and the Manager's staff within a ninety day period?

Commissioner Cabrera: I don't know about under study, I don't like the word under study.

Commissioner Withers: Explore the opportunity.

Mayor Slesnick: Explore the opportunities, under study, and report back to us with a proposed ordinance.

Commissioner Cabrera: Come back with a proposed ordinance.

Mayor Slesnick: Come back with a proposed ordinance.

Commissioner Anderson: That's fine. I don't have any objection.

Mayor Slesnick: Hearing no objections, Mr. Manager....

City Manager Salerno: As I said, I think we can prepare something that will be beneficial.

Commissioner Cabrera: Good. I think so too.

[End: 11:52:07 a.m.]