

City of Coral Gables City Commission Meeting
Agenda Item C-5
September 11, 2014
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason

Vice Mayor William H. Kerdyk, Jr.

Commissioner Pat Keon

Commissioner Vince Lago

Commissioner Frank Quesada

City Staff

Interim City Manager, Carmen Olazabal

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Parking Director, Kevin Kinney

Chief Procurement Officer, Michael Pounds

Public Speaker(s)

Jason Gordon, Attorney Representing SP Plus Corporation

C-5 [Start: 9:50:55 a.m.]

A Resolution accepting the recommendation of the Chief Procurement Officer to award the Parking Cashiers, Attendants and Supervisors for City Parking Facilities contract to Laz Florida Parking LLC, pursuant to Request for Proposal (RFP) 2014.06.19, and Section 2-828 of the Procurement Code entitled "Contract Award".

Mayor Cason: C-5.

Commissioner Keon: Well, I asked for C-5 only as a, it's a new parking company to come into our City, but often the parking companies also provide valet service. I would like whoever, Procurement or whatever maybe to look into whether or not whoever has this contract, if they also provide valet service, because I would like us to begin to look at standardizing our valet

throughout the City. As it stands now each restaurant or anyone that request a valet service can hire their own valet service and we don't have a standard valet service that services the City, and so depending on what restaurant you go to or where you go there is different fees for valet service, they look different, they act different, they are different. I really would like to know that we have some control over the valet services in the City as to – I don't know if they do background checks on people that we give cars to, but so that they are somewhat standardized, that the cost of valet services are standardized. I also think that we should look toward sort of a uniform that is a common uniform throughout the City and branding our City with regard to valet and valet services. I would like you to just to take that under consideration, I'm not directing you to do anything, I'm only asking that you would look into and consider maybe standardizing our valet service throughout the City.

Commissioner Quesada: Commissioner Keon the Business Improvement District currently has a centralized valet system...

Commissioner Keon: Right.

Commissioner Quesada:...that at least when you are on Miracle Mile wherever you park you can pick up your vehicle from any other station.

Commissioner Keon: Right.

Commissioner Quesada: Recently the BID has been having discussions to include Giralda as well, because some of the traffic there, so you can go and have dinner on Giralda, walk to Miracle Mile and pick up your vehicle on the Miracle Mile station. But I agree with you, I just wanted to for the people in the audience and on TV so that they were aware of that.

Commissioner Keon: So we have one set that we do have some control of it. They are hired by the BID, and they are regulated by the BID and there is a standard cost, and they do look somewhat the same, but for so many of the places throughout the City where there are restaurants, where there are multiple restaurants, multiple valet stations, they are all apparently they are hired by the restaurant itself. So I would like us to look into whether or not it would be in our interest to more standardize valet services throughout our City.

Mayor Cason: Commissioner Keon, I agree with you 100 percent. We've also had discussions on valet in general. We need to be looking at it in part because as we move forward on the Streetscape program, I think we want to have some control over the rates that are charged by valet in order to alleviate some of the construction problems and other things; and also we need to take a look at some of the contracts that you say they are different prices. I don't think we've

had a bid contract since 2007, so I think we need to have a session coming up all about valet with a briefing on what the contract say?- who sets the rates?- question of uniforms.

Commissioner Keon: Right.

Mr. Kinney: Actually, at the direction of the Commission, I believe it was in April, we did hire someone to take an overall look at valet, and the intent is to in the next few months go out with a RFP for valet services. Currently, we have six valet companies that are licensed to operate in Coral Gables and you are correct, each restaurant gets to pick their own in most situations other than the BID, but we've had discussions with the BID. The report from the consultant has been finalized and everybody is looking or proposing that we move toward a more centralized system, and absolutely whichever company wins or is awarded the contract for cashiering, they will be encouraged to or proposed on the valet services also.

Commissioner Keon: Thank you. I understand that Development Services is working, I think it's Development Services, I'm not sure, one of the City departments, is working on the whole brand and branding of the City. Is it Development Services?

Interim City Manager Olazabal: Its Economic Sustainability.

Commissioner Keon: Oh, it's Sustainability, alright. They are working on the branding of the City. You know valet services and those people that serve our residents in that fashion should be – we should have a common appearance in that people know when they come in, they know who these people are. So if you go to BAL Harbor you know who the people that deal with parking, you know who they are by their dress and that is in most places.

Mr. Kinney: And that would be very easy to work into the RFP that, that's a requirement.

Commissioner Keon: So I would hope that when you do the RFP and you begin to look at this, you would please coordinate with Sustainability and with the branding program that they are putting forth, so that the departments are working together to the same end.

Commissioner Quesada: As well as the BID, because they've also been working on their stations and creating a uniform as well, so that everyone is consistent all the way through so you are not – when you are looking for a space, you are not guessing who is a valet parker and whose not.

Mr. Kinney: When we started talking about centralized, the BID was the first group that we went to.

Commissioner Quesada: OK. Perfect. Just so that we have some consistency. Also on this Item on C-5, I was informed by staff that there was a notice of intent to protest.

Mr. Kinney: We have not....

Commissioner Quesada: Let's ask the City Attorney.

City Attorney Leen: Yes. There is a notice of intent to protest.

Commissioner Quesada: So I have the concern moving forward with something pending like that.

City Attorney Leen: I need to give an opinion related to this. We received a notice of intent to protest. Now under our Code, we also have a speaker from that organization who wishes to speak and before you take action under the law you must hear from them. But I would say before you do anything that, a notice of intent to protest under our Code does not automatically stay the procurement. That's a discretionary decision for the City Commission or the Manager. The filing of an actual protest along with the fee, which my understanding is about \$2,000, will automatically stay the procurement until its resolved, but that has not been done as of this time. So you have the discretion to move forward or to stay the matter, but it's your discretion.

Mayor Cason: You want to say anything?

Mr. Pounds: No. I think the City Attorney covered everything. I am available to answer any of your questions.

Commissioner Lago: I have a few questions in regards to this, that's why I wanted to pull Item C-5. It's my understanding that the firm Standard Parking has been serving the City for close to 16-plus years and has had this particular contract for 12-plus years, is that correct?

Mr. Pounds: That's true. They are a long term contractor.

Commissioner Lago: One of the first things, and I've brought this up, I think maybe it's the third time I bring this up. What is the amount of this contract for?

Mr. Pounds: I'm going to ask Pamela to come forward, she is the Assistant Chief Procurement Officer and she handled this particular solicitation, she can give you specific details of the contract.

Ms. Katsaris: Hi. Good morning, I'm Pamela Katsaris; I'm the Assistant Chief Procurement Officer.

Commissioner Quesada: I'm sorry. Again.

Ms. Katsaris: Oh, I'm sorry, Pamela Katsaris, I'm the Assistant Chief Procurement Officer. I did handle, I did facilitate the process and the value of the contract is \$525,000.

Commissioner Lago: This maybe outside of your purview, but is it standard operating procedure to have a contract of that magnitude be on the Consent Agenda?

Ms. Katsaris: Again, it's out of my purview.

Mr. Pounds: I will try to answer that. In recent years we have been putting most procurement items on the Consent Agenda and I would say in the last 4 or 5 years most procurement items of all types have been on the agenda.

Commissioner Lago: That's why you see me pull this item because I'm a little bit uncomfortable when you are talking about half a million dollar contract, taxpayer dollars that are going to be spent and there is currently a protest that could be, there is a discussion of a protest. These are the issues that I've been made aware of. I had someone that tried to approach me, I spoke to the City Attorney, they were not a registered lobbyist from my understanding, this was under the Cone of Silence, so I did not meet with that individual. I spoke to our City Attorney, just to make sure that I could meet with that person. But I've been made aware that there was maybe an issue in regards to minimum salary requirements for this project, and there may be a shortfall in regards to the budget in the number of, in the tune of about \$150,000, which is supposed to be negotiated post award of the contract. How are we going to handle that situation?

Ms. Katsaris: My understanding is that the Parking Department worked with the Budget Director and they have already worked through those items, and the reason there is a discrepancy, I mean not a discrepancy, but the salary has gone up is this particular RFP is incorporating the Miami-Dade County living wage, and that's why the pricing went up from previous years that the incumbent has had the contract. So I know that the Parking Department and I was involved in some of the discussions, but it really was more between the Budget Director and Parking and they have located the funding for it. It is on the cover memo the accounts that will be used.

Commissioner Lago: OK. OK.

Mayor Cason: What is the hourly salary before and after?

Ms. Katsaris: I want to say, I'm sorry off the top of my head, it's going forward its \$11 and change with benefits and \$14 and change without benefits, with benefits, I'm sorry.

Commissioner Lago: Let me ask you another question also because since there maybe...

Ms. Katsaris: \$12.50, I'm sorry.

Commissioner Lago: No worries – there may be a protest or this is a protest, I'm not sure exactly how.

City Attorney Leen: Again, there is a notice of intent...

Commissioner Lago: But the \$2,000 has not been paid.

City Attorney Leen:...which is recognized in our Code. It is the first step, but there has not been a formal written protest filed.

Commissioner Lago: Do you feel that there were any hiccups or maybe things that could have been done in a different fashion in regards to the procurement process through the RFP process?

Ms. Katsaris: I do not. Again, just a little history about myself. I've been with the City for a little over two years, prior to that I was in the private sector and the public sector for almost 28 years all in procurement and materials management. I feel that this was a very sound process.

Commissioner Lago: Thank you. I appreciate that.

Ms. Katsaris: Thank you.

Mr. Pounds: I've also reviewed the solicitation and I do not feel that there are any problems.

Commissioner Lago: Thank you.

Commissioner Quesada: Have either of you spoken to the party that has filed a notice of intent to protest?

Mr. Pounds: I have not.

Ms. Katsaris: Have not spoken to them, no. They did perform a public records request whereby we did provide the information that they requested on a CD and they picked that up yesterday as far as I know, have not had any conversations with them. We are under the Cone of Silence.

City Attorney Leen: Regarding the Cone of Silence, I just want to clarify one point. Commissioners are allowed to speak to vendors; the Cone of Silence exempts Commissioners from that. The issue is that the vendor has to be a registered lobbyist though, the person who speaks to you, and that was the reason why in that particular case...

Commissioner Lago: That's why I inquired with you the other day in reference – well actually it was thanks to Danette, I can't take credit for it, Danette – I mentioned that I may have a meeting with this person. She said, look I think you should speak to the City Attorney in regards to this. So Danette was actually the one that brought it to light and brought it to my attention.

Commissioner Keon: The Cone of Silence extends to the procurement staff until what point?

City Attorney Leen: Until there is a recommendation of the Manager.

Ms. Katsaris: And I also followed up with the City Clerk's office yesterday morning to determine whether any lobbyist had been registered and as of this morning still none, none whatsoever.

City Attorney Leen: Now there is a speaker here, Jason Gordon. Can I take one moment just to speak with Mr. Gordon regarding the issue we just discussed?

Commissioner Quesada: Well, you know something, keep this in mind. The last protest that really comes to mind for me that we handled here was related to the tow truck. I'm curious at that time was there a notice of intent to protest?- because I remember we deferred it at that time....

Commissioner Keon: I think there was a formal protest filed. Wasn't there a protest filed on that?

Mr. Pounds: I think there was a formal protest filed – yes.

City Attorney Leen: Mr. Gordon is an attorney, so he may speak to the Commission on the point to state the arguments of his party and that's the note we have Mr. Mayor, so he's here to speak.

Mr. Gordon: Thank you. Good morning, my name is Jason Gordon with the law firm of Heller Waldman, here in Coconut Grove. I do represent SP Plus Corporation in the bid protest to clarify

for the Commission; we will be filing a protest by Monday, which is the date that will be due. The filing fee has not been filed yet, we will take care of that. So I did send a letter yesterday afternoon to the Interim City Manager, as well as the City Attorney advising of the protest. We were recommending that the item on the Consent Agenda be removed pending a resolution of the bid protest, as is indicated by the City Attorney, it may not be required by your Code, however for the sake of allowing the process of review to go forth as is indicated in the Code. We think it would just make more sense to allow that to go through as opposed to possibly voting on this item today to the extent that if there is any merit that is to be in our protest you would effectively have to undo some of the things you do today. So we think that's not necessarily the best way to go, so for the moment we would just ask that you do defer on this item, allow our protest to be filed and allow it to take its course and you can deal with it at the appropriate time. If there are any questions I'm happy to answer them.

Commissioner Keon: Why did you wait till now to file a protest? Why didn't you file the protest earlier prior to the time?

Mr. Gordon: The timeframe that you file the protest is short to begin with. We filed the written notice of the intent to file the protest on Monday...

Commissioner Lago: Excuse me, when were you notified of the award in regards to the RFP. It's my understanding that it was posted on the City's website, I believe sometime after 4 p.m. on Friday. So we filed our notice on Monday. We also filed a public records request. In order to prepare our protest there are a number of documents which we need, which we did receive yesterday from the Clerk's office. We appreciate the Clerk acted expediently in that manner and getting us the documents. There are some additional documents we are going to require, we are going to submit another request as soon as I get back to the office. So we are in the process of preparing that, however hopefully the Commission can understand to prepare a protest and property set forth all the items it does take a bit of time to do that, so we will have it prepared and submitted by the Monday deadline.

Commissioner Lago: And when you say Friday, obviously you mean September 5th, correct?

Mr. Gordon: That is correct.

Commissioner Lago: Just want to put it on the record.

Commissioner Keon: Why did it take so long?

Mayor Cason: Any damage done by waiting, by deferring this, is there any...

Commissioner Quesada: I think I can answer that question, I'm sorry to cut you off Mr. Mayor. Why did it take so long?-

Commissioner Keon: To post it.

Commissioner Quesada: To post what?

Commissioner Keon: To post the results of the bid, the recommendation...

Commissioner Quesada: Oh, I'm sorry, I thought you meant why did it take so long – I understand why...

Commissioner Keon: No. I understand that. I'm asking why...

Mr. Pounds: The official notifications come when the Commission Agenda is posted.

Commissioner Keon: When did your department...

Mr. Pounds: They were aware that the recommended, the firm that the evaluation committee recommended they were aware that prior to that actual posting of the agenda.

Commissioner Keon: OK. When did you make the recommendation to the Manager on this item?

Mr. Pounds: We made it probably – it was probably submitted to them the week before the Commission meeting when they are working on the agenda. We submit the agenda item to the Director and it goes to the City Attorney's office and reviewed and ultimately it goes to the City Manager's office. So it would have been a week before the Commission meeting when all the agenda items are prepared and the agenda is actually set.

Commissioner Keon: It seems like a very short period of time that someone has notice to be able to file a bid protest, not that I encourage bid protests, but in order really for the procurement itself, I would think that there should be timely enough that allows the vendor that is being awarded to know it. I'm sure that all of the vendors that apply follow some notification schedule, so I don't think we have to notice them, we just have to notice it in our website because I'm sure they look it up, but I would think that there should be an adequate period of time between the decision by procurement and the posting of it and before it comes to the Commission, so that if there is going to be action we know it and we don't end up here like this to defer the award of a bid.

Mr. Pounds: The timing in the Procurement Code is a very short time, that's the way it's written.

Commissioner Keon: Is that just the way our Code is written?

Mr. Pounds: It's just the way it's written – yes.

Commissioner Keon: OK.

Mr. Pounds: There are some things...

Commissioner Keon: Do you think that's a good thing as the Director?- do you think it's adequate?

Mr. Pounds: I think that the notice of intent is probably unnecessary, if they could get the protest in within five days, I think that's a reasonable period of time, but the notice of intent sort of creates another step that's really not necessary and the notice of intent sort of – it creates a notion that the process is going to be stayed, it isn't going to be stayed. It will only be stayed with the protest being submitted, unless you should decide that you want to stay at your discretion.

Commissioner Keon: Right. So they had five days from the time and that was over a weekend, if they were noticed – it was posted on Friday, it would be a week ago, was that the 5th, I think Friday?

Mr. Pounds: Five days from Monday when they submitted the notice of protest, which will be since the deadline cannot be on a weekend, it will be next Monday.

Commissioner Keon: It will be next Monday, but you normally would bring it forward instead of waiting until that deadline is reached?- your expertise is in procurement, not mine. I'm just wondering if we do that if we are not giving adequate time for people to protest, before it comes to us and we go through all of this.

Mr. Pounds: Keep in mind; they were aware of the evaluation findings prior to the agenda being posted. They had time to start thinking about if they felt that they had been aggrieved to protest.

Commissioner Keon: But there is a cost to protesting and I don't know that you would really incur that cost if you are only thinking you may not be awarded the contract. I would think that you would want to know before you would actually incur those costs.

Mr. Pounds: Let me rephrase that. They could have been preparing a written document and only submitted the fee at the time they actually submitted the protest. They could have been preparing their protest in advance knowing that the evaluation committee had decided to choose another firm or to recommend another firm.

Commissioner Keon: Right. But that would require that the company doing it would engage an attorney and would incur significant cost in preparation for maybe, is that right?

Mr. Pounds: In some cases – this case they did engage an attorney, in other cases they perhaps won't.

Commissioner Keon: You know I really would like some input from – whether or not there is adequate notice.

Mayor Cason: When is the current parking cashier contract end?

Mr. Pounds: The parking cashier's contract ended at the end of August, so if you decide to stay you are going to need to extend the contract on a month-to-month basis until this gets resolved.

Mayor Cason: Anybody --- I don't have a problem with deferring it.

Commissioner Lago: I don't have a problem either. I'd rather try to make this as clean as possible to make sure; especially we are dealing with something which is so important to the CBD (Central Business District) and to the downtown. I don't want to have an issue where...

Commissioner Keon: And it's a big contract, it's a sizable contract.

Mayor Cason: Craig how do we do this?- can we defer and extend the current contract at the same time?

Commissioner Quesada: Let me see if I can clarify this a little bit for us. I'm going to ask the City Attorney if you can meet with the City Manager and Mr. Pounds and discuss how we can improve the situation. Give us a recommendation for an upcoming meeting as far as the timing. Maybe what we do with the notice of intent to protest they have to file the fee at that time and then obviously they have two or three days from the moment they get all the documents that they request, maybe we can change it around that way, but I think it's something that you guys can discuss, not for us to get into the details this morning. I think that's the better practice, so have that conversation moving forward. Specifically, to this particular instance, I would make a

motion if there is support saying that they've got to file the fee today and then we want to see the bid protest in writing, the formal documentation by Tuesday.

Mr. Gordon: The only issue I would have is, I'm not objecting to it being filed today, I don't know whether the company could, the Code doesn't currently require the fee be filed prior to when the actual protest is filed, so.

Commissioner Quesada: And it's true our Code also requires that it's discretionary, whether we want to give you additional time or not, so I'm trying to do something that works for both of us.

Mr. Gordon: And I appreciate it. My only concern is I don't know without speaking to the client whether I can commit them to be able to run a check over here today, is my only concern. It's not an unsubstantial size; I have to make sure whatever process they have, they are not a small company that they are going to be able to do that.

Commissioner Lago: I think we are getting caught up in details which we can iron out after. I image that your client has an office located in Dade County, correct?

Mr. Gordon: Correct.

Commissioner Lago: They've been doing business within the City for 16-plus years. I think we can figure this out. Let's move forward on this issue, let's not get caught up with that, we have a long agenda.

Mayor Cason: So we have a motion from Commissioner Quesada.

Commissioner Lago: I'll second the motion.

City Attorney Leen: Before you vote. So the motion is that you will continue the procurement until the next meeting.

Mayor Cason: That's right.

City Attorney Leen: If on the condition that they pay their written protest today based on the statement of counsel that they plan to protest.

Commissioner Quesada: I'm going to amend my motion to say that they can pay by tomorrow and then they can file their written protest by Tuesday.

Mayor Cason: And we'll continue on a month-to-month basis until it's settled.

City Attorney Leen: Are you OK with that?

Mr. Gordon: Yes. That will be fine.

Commissioner Quesada: And we will defer until the next meeting based on whatever the outcome of that.

City Attorney Leen: I'll just like to know for the record there is no objection from counsel or the protestor as to those conditions?

Commissioner Keon: And we'll continue the current contract until the issue is resolved, is that right?

Mayor Cason: That's correct.

Commissioner Keon: OK.

Mayor Cason: City Clerk

Commissioner Lago: Yes

Commissioner Quesada: Yes

Commissioner Keon: Yes

Vice Mayor Kerdyk: Yes

Mayor Cason: Yes

(Vote: 5-0)

Mayor Cason: Thank you.

[End: 10:14:31 a.m.]