

**City of Coral Gables City Commission Meeting**  
**Agenda Item G-2**  
**July 11, 2017**  
**City Commission Chambers**  
**405 Biltmore Way, Coral Gables, FL**

**City Commission**

**Mayor Raul Valdes-Fauli**  
**Vice Mayor Pat Keon**  
**Commissioner Vince Lago**  
**Commissioner Frank Quesada**  
**Commissioner Michael Mena**

**City Staff**

**City Manager, Cathy Swanson-Rivenbark**  
**Assistant City Manager, Peter Iglesias**  
**City Attorney, Craig E. Leen**  
**Deputy City Attorney, Miriam Ramos**  
**City Clerk, Walter J. Foeman**  
**Deputy City Clerk, Billy Urquia**

**Public Speaker(s)**

**Randy Hoff**  
**Kathleen Phillips**

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Agenda Item G-2 [1:56:46 p.m.]

Proposed settlement between the City and Randy Hoff.  
(Sponsored by Commissioner Lago)

Mayor Valdes-Fauli: Time certain item. Time certain for 1:55. Commissioner Lago, proposed settlement between the City and Randy Hoff.

Commissioner Mena: I have a quick statement to make...

Mayor Valdes-Fauli: Yes, sir.

Commissioner Mena: Before we start. I've decided -- I don't like it, but I think it's the right thing to do. I've decided that because of the issue that's coming before us, which is the potential reinstatement of Mr. Hoff and the fact that Mr. Hoff vacated the position to run in an election in which I was involved, I think that the appropriate thing for me to do, while I don't like it, is to recuse myself from this vote. I think no matter how I vote on this issue, it would be construed or misconstrued in certain ways, and I don't want the credibility of the vote to be undermined in any way. So, I've consulted with the City Attorney. He's provided me legal support, although it's not legally required that I recuse myself, there is support for it. And so, that's what I've decided to do. So, I'm going to step out for a moment...

Mayor Valdes-Fauli: Okay.

Commissioner Mena: While you guys proceed on this item.

Mayor Valdes-Fauli: Can I go with you?

Commissioner Lago: Thank you, sir.

Commissioner Mena: Thank you.

City Attorney Leen: Yes. The City Attorney's office, both Ms. Ramos and myself, issued an opinion that although not legally required, it is within the discretion of the Commissioner within the specific circumstances of this matter. And, I've instructed him -- we've given him a written opinion, and he's leaving the room and will not participate in the discussion or any discussions related to this matter.

Mayor Valdes-Fauli: Commissioner Lago.

Commissioner Lago: I think we had a very robust discussion at the last Commission meeting, where I think we ended the last Commission meeting without having a final discussion or a final decision in reference to Mr. Hoff. I don't want to belabor the decision or the discussion further. I think that we, as a Commission -- if there's anything else to discuss -- the agreement has been placed before us. I don't have any further discussions in regards to the issue. I'm in favor of the settlement agreement...

Mayor Valdes-Fauli: Which...

Commissioner Lago: And I've been clear on that.

Mayor Valdes-Fauli: Which agreement are you talking about?

Commissioner Lago: The one that was put before us here.

Mayor Valdes-Fauli: Just now?

Commissioner Lago: Yes, sir.

Mayor Valdes-Fauli: Okay.

Vice Mayor Keon: Is it different than the one that we got before?

City Attorney Leen: No, it's the same, except there is a change to the -- one of the paragraph numbers, is my understanding, from Ms. Nickel (phonetic). Basically, just a brief synopsis, it's a -- what this settlement would do is reinstate Mr. Hoff by rescinding -- allowing the rescindment

of the irrevocable resignation that he gave. The City would be doing that based on a public purpose, which is stated in the settlement agreement. The time period when he was not working would be considered a leave of absence without pay. So, the City would not be paying back pay.

Commissioner Lago: Craig, let me just interject one second, since you mentioned that. I want my colleagues to be aware that also next month, in the next Commission meeting, I'll also be bringing forth legislation, which will mimic what we -- what the County and the City of Miami have already. I don't know if Miriam would like to step up just one moment.

Commissioner Quesada: In what...

Commissioner Lago: Miriam, Miriam, Miriam.

Commissioner Quesada: In what regard?

Commissioner Lago: In regards to what they have in the books already for individuals who are employees of the city, that live in the city, that if they have an interest in potentially running for public office, that they can take a leave of absence. This legislation already exists in our neighboring communities. I'm going to be bringing it forward for your review and your discussion. You want to give a little background in regards to that? Just because...

Deputy City Attorney Ramos: Commissioner Lago asked that I look at what the County's policy is. We believe that it was AO or an HR policy. It's actually in the County Code. And, it says that if a County employee is going to run for office -- state, county and municipal -- that they take a leave of absence. If they win the election, they vacate the office immediately. And, if they don't win, then they return to their position.

City Attorney Leen: So, to continue -- so, there's the leave of absence without pay. Mr. Hoff would continue -- would go back into the DROP through August 31, 2019, unless for some

reason the DROP were extended at some point for all employees in that bargaining unit. He would be able to take the lieutenant exam. The time period for him to qualify for the lieutenant exam has expired. It expired during the time period after the election while he was out. And this has been checked -- we have checked with the union, who has agreed not to object to his participation, and they would not raise a grievance based on his participation in the lieutenant exam. And there would be a mutual release for both parties, the City and Mr. Hoff. In addition -- so, this is one of the options the Commission has is the reinstatement per settlement. Another option the Commission has is reinstatement per Section 14 of the Charter, with no settlement. Where there's a settlement that's agreed to, I would recommend that over reinstatement per Section 14. The third is to reinstate per settlement. You could modify the settlement or impose conditions to the settlement. If you did so, then that would require the agreement of Mr. Hoff, because it's a settlement agreement. In addition, we could decide not to settle and proceed with litigation. Right now, Mr. Hoff has demanded arbitration and we received something back from the AAA, so they're going forward to set the arbitration. We would either contest that now by going to court or go through the arbitration and see how that goes. And then at the end, we would assert our -- I mean, we'd probably assert it throughout --, but the City's position that this needs to go to court, as opposed to arbitration. And then lastly, if we're not able to either reach an agreement today or the City wants to discuss it more, there's also the possibility of an executive session, which I would likely ask for if there's no settlement, so that we can discuss how to proceed.

Mayor Valdes-Fauli: Okay, thank you.

City Attorney Leen: So, those are the options.

Mayor Valdes-Fauli: Now, let me ask a question. This settlement agreement before us was vetted by the City Manager and it's acceptable -- and you -- and is acceptable to Mr. Hoff?

City Manager Swanson-Rivenbark: I'm sorry, Mr. Mayor.

City Attorney Leen: No, no, no, no.

City Manager Swanson-Rivenbark: I couldn't hear you.

Mayor Valdes-Fauli: No?

City Manager Swanson-Rivenbark: I'm sorry. I couldn't hear you.

Mayor Valdes-Fauli: This has been reviewed by you and it would be acceptable to the City and acceptable to Mr. Hoff is the question.

City Manager Swanson-Rivenbark: Well, I think the City Attorney has managed this process.

City Attorney Leen: Yes.

Mayor Valdes-Fauli: Okay.

City Manager Swanson-Rivenbark: So, I think that I would yield to him.

Mayor Valdes-Fauli: So, you would -- you have...

City Attorney Leen: Yes. It has not come up -- that's not the way it's come up. The -- I raised this issue at the last meeting, because it was brought up by Commissioner Lago. Commissioner Lago's the sponsor of this. There are...

Mayor Valdes-Fauli: Okay.

City Attorney Leen: Parts of this -- I don't want to speak for the City Manager, but there are parts...

Mayor Valdes-Fauli: Let me ask...

City Attorney Leen: And maybe more generally, where there may be disagreement.

Mayor Valdes-Fauli: Commissioner Lago, is this acceptable to you?

Commissioner Lago: I'm fine with it.

Mayor Valdes-Fauli: Okay. I would like to ask Mr. Hoff a few questions. Mr. Hoff, are you satisfied with this agreement?

Randy Hoff: Yes, sir.

Mayor Valdes-Fauli: Let me ask you a question. Did you have anything to do with a flyer that was sent to Coral Gables residents -- some Coral Gables residents, not all, with scare tactics about the lack of police officers and how we were missing positions and such? Did you have anything to do with that or do you have any knowledge of that?

Mr. Hoff: Absolutely none at all. I didn't even know about it until Commissioner Quesada shared it with me.

Mayor Valdes-Fauli: Okay. Another question. Are you now -- not in the future -- now running for office?

Mr. Hoff: No.

Mayor Valdes-Fauli: No.

Mr. Hoff: Am I running right now?

Mayor Valdes-Fauli: Right now. Are you running for the Commissioner or Mayor in the 2019 election now?

Mr. Hoff: No.

Mayor Valdes-Fauli: Okay, okay. Alright, I have no further questions. And if you'd like to make a motion...

Commissioner Quesada: I got one question.

Mayor Valdes-Fauli: Yeah.

Commissioner Quesada: The lieutenant one was not -- the lieutenant exam was one that I was not aware of. Is that fair and equitable to the others that may have been in the process?

Vice Mayor Keon: I don't think...

Commissioner Lago: Well, I mean, I -- you're asking...

Commissioner Quesada: Yeah. So, I'm looking at page 2, subsection e, so I guess it's 2(e). The City will register Hoff for the police lieutenant exam, with Hoff will take with all other officers who registered for the exam. You know, I don't -- look, I don't know the innerworkings or the details and the procedures in the police department when it comes to sitting for sergeant or lieutenant or major.



Mr. Hoff: The process -- the registration has been done. The actual testing process has not begun yet. That doesn't start until, I believe, August or September.

Commissioner Quesada: And did you previously register for it?

Mr. Hoff: No, I wasn't here. I couldn't register for it.

Kathleen Phillips: So, is the concern is that he's got an advantage by now...

Mayor Valdes-Fauli: Could you identify yourself, please?

Ms. Phillips: Oh, I'm sorry. Kathleen Phillips, attorney for Mr. Hoff and for the union. He has no advantage by being allowed to register. Nothing is -- you know, he doesn't have access to any materials. He doesn't have access to any testing material. It's just a matter of while he was out on leave without pay, the registration process happened and he was not able to register. That's all it was. There would be no advantage to allowing him.

Vice Mayor Keon: How long have you been a police -- were you a police officer?

Mr. Hoff: I started in 1988, 29 years.

Vice Mayor Keon: So, almost 30 years, and in the course of 30 years, you never registered for -- you never registered -- well, maybe not. But after you became a sergeant, you never chose to register to take the lieutenant exam?

Mr. Hoff: Yes, ma'am. I've registered -- when I was an officer, I registered for every single sergeant's exam until I got promoted. And since then, I've registered -- since I was eligible, I registered for every single one. It's offered -- it's only offered every two years. So, this is the cycle for the next two years.

Vice Mayor Keon: But, in the past...

Mr. Hoff: But I was...

Vice Mayor Keon: You didn't -- you had registered previously or you had?

Mr. Hoff: Yeah. I was -- I've been on previous lieutenant's lists. I took the test and everything, I just didn't get promoted. I wasn't far enough up the list.

Vice Mayor Keon: Oh, I see. And so, you don't stay on the list?

Mr. Hoff: No. Every -- the list is created...

Vice Mayor Keon: You have to -- oh, every two years.

Mr. Hoff: Every two years, there's a new sergeant's list and a new lieutenant's list.

Mayor Valdes-Fauli: Alright, any other comments?

Unidentified Speaker: No.

Vice Mayor Keon: Yeah. Well, you know, I think that I have made it clear. I -- you know, I believe that we live by our word and we honor our contracts. You know, these are the moral principles that dictate ethical behavior. And I truly, you know, understand that, you know, it's not easy to not win an election and what you, you know, what came to you with that loss was also a loss of a job. But you know, you walked in knowing full well what you were doing. You knew that it was irrevocable. I know that you spoke with the Clerk. I know he explained it to you. I know you had a discussion with the Manager. I know you and I spoke about it, you

know, and I said to you -- you know, you told me you were concerned you were giving up the DROP. I said to him, you know, if your concerns are fiscal, then you have time. Don't run now. Finish your DROP. Take what you want, whatever, but you know, it isn't -- as it currently stands, it is irrevocable. And you know, no one -- not the Manager nor the Clerk have changed their opinion on that being irrevocable, and to my knowledge, neither has the City Attorney that at the time it was irrevocable.

City Attorney Leen: My position...

Vice Mayor Keon: Under our Code.

City Attorney Leen: Remains that we agreed it was irrevocable. It's the Commission -- by the way, they don't agree with that. I want to be perfectly clear. And, you're not admitting anything through this either.

Vice Mayor Keon: No, you're not. No, no, no.

City Attorney Leen: But, my position has been that it's irrevocable by agreement, but that the City Commission can rescind it.

Vice Mayor Keon: Yeah, that we can rescind it. But, I guess, I -- you know, I don't think that we change the rules retroactively. I think if, you know, it's -- we learn from this and, you know, we want to change them prospectively, you know, I think that that is another story. You know, we have -- the City has created a pathway for retired officers to return to duty. I think that you would be -- I would assume that you would be more than welcome back as a retired officer. And under the labor law, working part-time, I think you can work a maximum of 29 hours -- Cathy, is it? You know, you could work a maximum of 29 hours a week. You would receive benefits. You would start collecting your \$88,000 a year pension. You could take your almost half million that you have in DROP money and invest it and work with it, and you would receive a

substantial salary in addition to it. I think that that pathway is in place. I think it is an option that is available to you and you could take. You have a sergeant's position. There -- another officer has been promoted to sergeant, so we would be carrying an extra sergeant. I don't know what that says to, you know, officers going forward that are waiting in line for promotions that -- and how do we recruit if, you know, this is irrevocable -- you know, another officer was promoted into that place that you held. I know -- I really don't understand what the trigger for a grievance is. A grievance -- it's my understanding that a grievance is when you are treated differently than everyone else. There isn't -- you haven't been treated differently than everyone else. You've been treated the same as anybody that would hand in a -- sign an irrevocable letter of resignation. So, you know, whether there's different rules for police or not, I don't really know. But -- and then I think if you're going to grieve, you grieve in the circuit court and not through the FOP. And if you were retired, does the FOP attorneys represent retired officers?

Ms. Phillips: It depends on how they've come about being retired. But you know, we've represented retirees who, in the context of their job, became retired. Or just like we would represent the terminated employee who is no longer an employee of the City. So, there are a number of ways that the FOP attorney might provide assistance.

Vice Mayor Keon: But I mean, I think that -- I think you walked in knowingly -- what you knew. I think it was made exceedingly clear to you what it was. I think you have the ability to take that DROP money, get your pension every year. You can come back under the pathway of a retired officer, with benefits, and you can maintain the process and the authority of the City administrative staff under this. So, I would not be prepared to accept this...

Mayor Valdes-Fauli: Okay.

Vice Mayor Keon: Settlement agreement under those...

Mayor Valdes-Fauli: Alright.

Vice Mayor Keon: Conditions because of that.

Mayor Valdes-Fauli: Any other comments from Commissioners?

Commissioner Lago: Do you have anything else you want to say?

Ms. Phillips: All I...

Commissioner Lago: Be brief, please.

Ms. Phillips: I just -- you know, there were some comments made about the status of the facts and the legal basis. You know, we're not here to litigate the case. We've come to agreements with the City Attorney, with the special attorney that was hired to help work this out. We think we've come to an agreement -- a proposed agreement, I should say, that is fair to everybody and is a win-win, in our opinion, for everybody.

Mayor Valdes-Fauli: Thank you. Thank you, Ms. Phillips.

Ms. Phillips: Oh, I'm sorry. I'm just...

Mayor Valdes-Fauli: No, no, no. We're ready to...

Commissioner Lago: Let me...

Ms. Phillips: Oh, okay.

Commissioner Lago: Let me tell you...

Ms. Phillips: Shut up, okay.

Mayor Valdes-Fauli: No, no.

Commissioner Lago: Let me tell you why I'm here. I'm here because we have 16 openings, vacancies in the City of Coral Gables, in reference to police officers. A lot of us, four years ago, a lot of us two years ago, and a lot of us three months ago, ran on ensuring public safety. It's not that difficult. It's not that difficult. About a month ago, we had an issue here with Officer Molina, where I'm not going to rehash. I was on the losing end of a vote and we extended her stay in the City of Coral Gables, so she could reach the Rule of 70, actually giving her an additional three weeks. I'm looking at an individual here who the only mistake that this person made was signing an irrevocable resignation, which, in Miami-Dade County and the City of Miami, you would take a leave of absence. You may have your opinions on whether, you know, you've done a job or you haven't done a good job. At the end of the day, your job is to serve this community, to serve the residents here. And, you've been here 29 years and you have two years left before you retire in your DROP. We have a settlement here -- a settlement agreement, which if you're fortunate enough to work and it's ratified today, you will serve this community. You will serve the residents for the next two years. You will do everything in your power to uphold the values of the City of Coral Gables. Because, at the end of the day, if you don't, you're going to be tainting my reputation, because I vouched for you.

Mayor Valdes-Fauli: Would you make the motion?

Commissioner Lago: Okay, so I'm going to make a motion to accept the settlement agreement and the general release of all claims in reference to Mr. Randy Hoff.

Commissioner Quesada: Second.

Mayor Valdes-Fauli: Will you call the roll, please?

Commissioner Quesada: Yes.

Vice Mayor Keon: No.

Commissioner Lago: Yes.

Mayor Valdes-Fauli: Yes.

(Vote: 3-1)

Mayor Valdes-Fauli: Thank you.

Commissioner Lago: Have a nice day.

Mr. Hoff: I just want to say thank you to all of you. I greatly appreciate it and I respect you and whatever side we're on...

Vice Mayor Keon: I know.

Mr. Hoff: Thank you.

[End: 2:14:57 p.m.]