

City of Coral Gables City Commission Meeting

Agenda Item F-2

August 28, 2007

City Commission Chambers

405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Slesnick Donald D. Slesnick, II

Vice Mayor Maria Anderson

Commissioner Rafael “Ralph” Cabrera, Jr.

Commissioner William H. Kerdyk, Jr.

Commissioner Wayne “Chip” Withers

City Staff

City Manager, David Brown

City Attorney, Elizabeth Hernandez

City Clerk, Walter J. Foeman

Deputy City Clerk, Susan Franqui

F-2

Discussion regarding best practice policies
Commissioner Rafael “Ralph” Cabrera, Jr.

Mayor Slesnick: Mr. Cabrera, you’re ready, F-2. We are now moving to the F section, City Commission items: F-1 was deferred; F-2 and F-3 are both Commissioner Cabrera.

Commissioner Cabrera: Thank you. I believe that the City Attorney – I believe on Friday percolated among the Commission in memorandum regarding best practices recommendations; did you all get a copy of that?

Commissioner Withers: Yes.

Commissioner Cabrera: Oh, great – it may be in the agenda, I don’t know, I didn’t see it there.

Mayor Slesnick: I did get a copy.

Commissioner Cabrera: I had my own copy so I didn’t even refer to the agenda. Let me just refresh your memories. About – I guess two months ago maybe three months ago we had an issue where we learned of a contract that had been; I don’t want to say it was in default but certainly there was some very unusual circumstances involving this particular contract. We had a discussion on the contract itself and subsequently I made a recommendation that the City Attorney review best practices by other municipalities, and needless to say she took on the exercise very aggressively and went through a series of

reviews of other communities and their best practices, and I have to tell you that I came back with a keen understanding that not a lot of communities do this kind of work, in fact I believe, I don't want to put words in her mouth, but I believe she really didn't find any other community with any kind of policies relating to best practices, and incidentally when I talk about best practices, I'm talking about best practices as it relates to the management of contracts, agreements, leases, with outside vendors. So having nothing to really use as a comparative, she and her staff worked on an overview and recommendations of best practices. We've had a number of meetings together to fine tune the document, and I was prepared to present it to you this afternoon; at the same time at the very last minute I decided to make a couple of changes to it, but before I do that I wanted to give the opportunity to the Commission to provide me with any and all feedback regarding this exercise. Comments – suggestions.

Commissioner Withers: I think its great Ralph. Would you institute it top down or bottom up?

Commissioner Cabrera: You know, that's a great question, and I can tell you that I would institute it from the top-down. I would also tell you that if you all support this, I would ask that it go to the Budget and Audit Board for their review and recommendations, and if they or even staff made some strong recommendations that it be bottom-up, then I would certainly support that. I can just tell you that since the document was finalized I've had a number of small changes. Do you want me to go through those for a minute?

City Manager Brown: I'd like to know what they are.

Commissioner Cabrera: Well, if you look at the section that begins with "Recommendations", I feel more comfortable under the third line which reads, contracts including leases, service agreements, and purchases which are over ninety (90) days, I would feel more comfortable to change that to thirty (30) days; and then if you continue on that same sentence it says, in default status – I would add, for any performance problems, if there is a performance problem that it be reported to the City Commission; and then I will tell you that further down in section B under "Key Terms and Conditions", I would change that the individuals who negotiate – not negotiated but negotiate the agreement and furthermore under section D where it says, "Reporting at the Mid Year Budget", I have a problem with the Mid Year Budget, and let me read on, I would say that the next part of the sentence should read, the City Manager will prepare instead of the City should prepare, it should be the City Manager will prepare and submit a report to the City Commission on the status of existing agreements part of the, and I would say, a quarterly review or more often if needed, and remove presentations during the workshop. So I would really move that Mid Year Budget and possibly look at quarterly or as often as needed, but again that's for you all to help me in this process. And letter "E" under Contract Manager, it reads, there should be a contract manager identified for each department, actually what we should have is, there should be a contract manager identified for each agreement; there are departments that simply don't go into these types of external contracts so I would be more comfortable if we could create accountability so you have a contract manager for each particular agreement.

Commissioner Withers: So there are agreements that maybe cross over three or four departments.

Commissioner Cabrera: Yes.

Commissioner Withers: You'd have the one that has the largest responsibility?

Commissioner Cabrera: The one that has the largest stake or the largest client of that particular agreement; and then the last part of my commentary has to do with "F" – Audits, and I would say that contracts should be placed on a cycle for regular audit review; and further down in that paragraph, it says audits should take place at least every three (3) years – I would tell you that if we have the staffing, the resources and staffing I would try to do that once a year or once every eighteen months. And that's a staffing issue, I just don't know if you have the personnel to do it.

City Manager Brown: [Off mike – inaudible]..... about \$60 a year.

Commissioner Cabrera: And I would ask you to stay with that, that's a very good process. And the last comment that I had that the City Attorney and I did not include in this, but we discussed it and I actually brought it up in our discussion, is that we need to have a provision or a condition in this potential ordinance that reads: that any agreement approved by the City Commission which has been executed – which has not been executed with a sixty (60) day window should return to the City Commission for review. This is a condition that if there is any contract that has been approved by the Commission and has not been executed within a sixty (60) day window it should return to the City Commission for further review or should come back to us for review again, if we don't execute the contract. And this is not meant to be punitive; this is really meant to help with checks and balances and I believe – the Manager and I really have not had a chance to talk about it, but I believe the Manager supports it, and if you don't Mr. Manager, by all means I want to hear from you.

City Manager Brown: The only concern that I have with the changes is sometimes agreements go out of compliance in thirty (30) days and are back in compliance in forty five (45) days. So it's paid by the letter of the law, so a late rent or somebody who is not paying or pays in fifteen (15) days before it triggers an admission of default, I might recommend forty five or sixty days rather than the thirty days. That's the only thing I heard that is out of whack.

Commissioner Cabrera: And you know what I would do – I'd like to leave the thirty day language in tact, and then give you the purview to bring to our attention as you normally do, when you feel there is something that could potentially be in default.

City Manager Brown: That's acceptable because I know whether it's.....

Commissioner Cabrera: And I'm – listen, I'm not going to – I see your point and if you want to change it to forty five days, that's a compromise.

City Manager Brown: As long as I have the ability to bring you the problems at thirty – that's fine.

Commissioner Withers: Is that all contracts or those are just the ones that have come to us for approval?

Commissioner Cabrera: I'm talking about everything.

Mayor Slesnick: But how large contracts?

Commissioner Cabrera: Well, we can make that determination at some point in time; we can assign a monetary value to the contract.

Commissioner Anderson: Could we be guided by the procurement code authorities or something like that?

Commissioner Withers: Do we want to look at contracts that don't even come to us for approval? That's my only question.

City Attorney Hernandez: And you have some contracts that have no dollar value, but a tremendous impact in the community where there is a lease requirement every year, and you may want to.....

Commissioner Withers: Liquor liability, I mean, there are all kinds of issues.....

Commissioner Cabrera: Here's why I would like to be able to at least be attuned to the contracts that don't come before us, because if there is a default in that contract, or any performance problem, it could then eventually come back to us, and aren't you better off knowing about it before hand? But I concur with all of you with regards to the monetary value; maybe we can use that as the benchmark for what contracts come back. Why don't you allow the City Attorney and I to work on that with the Manager and the Finance Department, and then bring it to the Budget and Audit Board for review, and then bring it back to you as an ordinance on first reading? Is that acceptable?

Mayor Slesnick: Yes, I would really appreciate you working it out with all those people; that we get it all smoothed out.

Commissioner Cabrera: I'd love to. You know, some people say this is micro management, I think that we just needed to take a look at this from this standpoint because at the end of the day when we are at Burger Bobs, or Miracle Mile, or wherever we may be, we are the ones that are really put under the gun with regards to issues that have to do with defaults and vendors going to jail and being arrested, and things like that. I think it's incumbent upon us to take some fiduciary responsibility over this thing. So if I seem to have your support, the City Attorney and I are going to go back smooth out some of these issues and primarily deal with the items that relate to the value of the contracts, and then bring it to the Budget and Audit Board for their review of it, and then bring it back to you for implementation. I really would be remiss if I didn't thank the City

Attorney and her staff for the many hours they put into this exercise, because I know she didn't want me to say any of this; but she contacted more communities and governments that I'd like to bring up, but I know she worked very hard to put this document together in a very concise and professional manner. Madam City Attorney thank you very much for your hard work – well done.

Commissioner Withers: Ralph, the only question I have is what about licenses and agreements, and things like that, are they going to be bound by this also?

Commissioner Cabrera: Well, you know, the license is a good question. I didn't particularly address that. Did you look at?

City Attorney Hernandez: No, you said agreements, contracts for services.....

Commissioner Cabrera: Agreements, leases, contracts – we didn't look at licenses – is that something you would like us to look at?

Commissioner Withers: I don't know, I don't know what our.....

City Attorney Hernandez: I don't think we have had an issue with that.

Commissioner Cabrera: I just don't think that if a licenses issue comes up, I really don't see how it involves us. They are mostly software related issues that when it comes to licensing that I can think of.....

Commissioner Anderson: Technical – they are more technical in nature, proprietary information.

City Manager Brown:had a license to operate a software.....

Commissioner Withers: So you are looking at franchise agreements?

Commissioner Cabrera: Franchise agreements – any general contracts, leases, particularly with vendors. I think we will be setting a trend; we would be pioneering this program here if you all would support us on it, and I think it would have the right checks and balances.

City Manager Brown: Inter-Local Agreements?

Commissioner Withers: Would you like to send these to the Budget Advisory before they come to us?

Mayor Slesnick: I don't see interlocal agreements.

Commissioner Cabrera: No, I don't either.

City Manager Brown: I was just asking – the fourth category we've identified is.....

Commissioner Cabrera: But interlocal agreements don't have monetary value, rarely have monetary value.

Commissioner Withers: Before we get inundated with these, do you want it to go to the Budget Advisory first?

Commissioner Cabrera: You are saying so – before you.....

Commissioner Withers: Before we would hear it, before there is an issue, maybe.....

Commissioner Cabrera: You know I don't have a – that's not a – actually that's a very good idea. The only issue I have with that is that we would need to be under advisement that it was going there, so we are well aware of it. But I would not – I could tell you that would be a great use of the Budget and Audit Board, but there is a problem there. If you go to the Budget and Audit Board, and let's say it's a property issue, so what happens now?- it goes to Budget and Audit, it doesn't go to Property Advisory Board.

Mayor Slesnick: It should – it should go there now, anyways.

Commissioner Cabrera: Well – OK. But Chip is saying let's create a mechanism....

Mayor Slesnick: He is saying in order to implement this particular system, but the Property Board should be looking at it no matter what.

Commissioner Cabrera: Maybe I misunderstood you.

Commissioner Withers: If we find an issue then I think we should send it to a Board that.....

Commissioner Withers: Why don't we just say to the appropriate Board, you know; if it's a parking related issue, then perhaps it needs to go to Parking; if it's a financial issue that's general in terms of the agreement, then by all means let it go to the Budget and Audit Board.

Commissioner Anderson: Putting in language that directs it to the appropriate Board that's related to the specific issue – sure that makes sense.

Commissioner Cabrera: We can try to be more definitive; how do you – there will be issues that come up that there is no particular Board, for example, an IT related issue, well we don't have an IT Board.

Commissioner Withers: Or a towing contract.

Commissioner Cabrera: Or a towing contract. What do we send it to, to Parking? It doesn't make sense.

City Attorney Hernandez: And in order to put some of these recommendations together what we did was spoke to the Chief City Collector, the Internal Audit Department, met with the Manager and came up with dates, and where he felt there were loopholes that needed closing, so it's a general overview by people who are dealing with this stuff and feel that these are loopholes that need to be closed.

Mayor Slesnick: The thing that I would urge, Ralph, is that if you go through this in a final format that you – first of all our administration is obligated, responsible for viewing every single piece of business plan in the City, and keeping it headed in the right direction to make sure that contracts are being followed, that payments are being made, and that we are informed. For this particular system I would hope that we would set a level at which we are asking for extra overview, in other words at one hundred thousand (\$100,000), fifty thousand (\$50,000), whatever it is, whatever size it is, I just don't want to burden the system with more review of small contracts.

Commissioner Cabrera: I concur with you, but ironically unless someone wants to educate me....

Mayor Slesnick: But the ones that you have talked about are big contracts.

Commissioner Cabrera: Yes, I want us to focus on the big picture stuff, but ironically we really don't have the system in place, and that's not an attack on the City of Coral Gables; through the City Attorney's Office I learned that most other municipalities don't have this kind of system in place, and its high time that we have it. So I agree with you on the value of contracts.

Commissioner Anderson: I wanted to offer an observation that might be a valuable component. As we do this particular process how are we going to integrate it in our information technology kind of framework, our software, how are we going to have all this good data triggered up? We are going to have to work a component out.

Commissioner Cabrera: We would have to because what you see here is manual; the check list that you see are all manual so we would have to see if there is an ability for our current software systems to interface with something like this.

Mayor Slesnick: Perfect for the Clerk to take on – designing all these flow charts and systems and everything else.

Commissioner Anderson: If we can automate this and integrate it into our present system it will even make for a better process.

Commissioner Anderson: Actually, Commissioner, let me just add something that hopefully would be useful. If this becomes a real good model this is something that could be an enterprise that we could model for other cities.

Commissioner Cabrera: Could – yes, especially in light of the research done by the City Attorney.

Commissioner Anderson: I offer that to you.

Commissioner Cabrera: I think that's a great suggestion. I would be happy to incorporate the Clerk in this exercise. You know, the point is that I want to get this thing off the ground, and so we'd like to try to have the input that you've given us today, and finalize the recommendations and go before the Budget and Audit Board, get some feedback from that particular Board, and then return to staff, the Manager, the Clerk, and if the Manager wishes to have the Finance Director be part of this be happy to do it.

City Manager Brown:[Inaudible] called Contract Management and we are trying to see if its suitable for this type of compilation of all those four types of contracts or at least these contracts with greatest of services.

Commissioner Cabrera: But I got to tell you the genesis for this is the fact that I don't want to be caught off guard anymore, and neither do any of you, and if we can on a proactive basis become aware of possible defaults and performance issues with any of the agreements, contract, leases then I think it will make for a better management of government.

Commissioner Anderson: I congratulate you and support you on this.

Commissioner Cabrera: Thank you. Alright, so we will be back in touch with you probably sometime in late September early October, we are going to try to move this along. Thank you all, appreciate your support.

Mayor Slesnick: I was going to say to be fair, I'm not sure how good a system we devise we will be able to forewarn ourselves of a contract if someone is arrested for illegal activity.

Commissioner Cabrera: No, no, I don't think we can be held accountable for it, but try telling that to a resident that feels strongly about the fact.

Mayor Slesnick: From my understanding that contractor wasn't in default.

Commissioner Cabrera: He wasn't in default, but he was charged on criminal activity. You're right, that's a good point. Even if we had had this system in place we would not have been able to do anything about it, so it's a good point.

Mayor Slesnick: That was a shocker.

Commissioner Cabrera: Shocker for all of us.