

**City of Coral Gables City Commission Meeting**  
**Agenda Item H-2**  
**October 9, 2018**  
**City Commission Chambers**  
**405 Biltmore Way, Coral Gables, FL**

**City Commission**

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

**City Staff**

**City Manager, Peter Iglesias**  
**City Attorney, Miriam Ramos**  
**City Clerk, Walter J. Foeman**  
**Deputy City Clerk, Billy Urquia**  
**Finance Director, Diana Gomez**  
**Assistant City Attorney, Gus Ceballos**

**Public Speaker(s)**

**Jerry Proctor**  
**Anna Vega Milton**  
**John Baublitz, FOP**

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Agenda Item H-2 [2:34:52 p.m.]

A Resolution accepting the recommendation of the Procurement Officer, pursuant to Section 2-501 of the City's Procurement Code and authorizing the City Manager to enter into a professional service agreement with Millenium Services, Inc. to provide security guard services to a city managed special taxing district. (Sponsored by Commissioner Lago)

Mayor Valdes-Fauli: H-2.

Commissioner Lago: H-2 – perfect.

City Attorney Ramos: H-2 is a Resolution accepting the recommendation of the Procurement Officer, pursuant to Section 2-501 of the City's Procurement Code and authorizing the City

City Commission Meeting

Agenda Item H-2 – Resolution accepting the recommendation of Procurement Officer to enter into PSA with Millenium Services

[Date]

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Manager to enter into a professional service agreement with Millenium Services, Inc. to provide security guard services to a city managed special taxing district. Ms. Gomez.

Finance Director Gomez: Good afternoon. This is an item in order to allow the special taxing district of Coco Plum Phase I. They have come to the City requesting to be able to use FHP as the security services instead of private security company that we were planning to have for this district. The community has requested it and so we do not have a contract with FHP, so this is a contract that the County has with FHP for a different special taxing district. So, we are asking permission to use that contract with different rates that FHP has given to the City, more favorable rates, that FHP has given to the City so it can follow up in the budgeted amounts needed.

City Attorney Ramos: I'd like ACA Ceballos to come up and explain how they arrive at their amount without going over budget.

Commissioner Lago: I wanted to give my colleagues really quickly just a little bit of background. We had several meetings, staff, myself, and the residents and the leadership from Phase I in Coco Plum and they are kind of in a, I don't want to say sticky, but they are in a time sensitive situation; and he'll give you, Ceballos will give you a little more background in regards to where we are at right now, but we have to make some sort of decision today, as soon as possible in regards to this matter. And, it's basically about money and it's about who actually represents Phase I in regards to security.

Assistant City Attorney Ceballos: Good afternoon, Assistant City Attorney Gus Ceballos. As Commissioner Lago was speaking, we did have a meeting recently with the representative from the Civic Association. The Civic Association doesn't only represent a small portion of the taxing district, but they are the ones that made this original request. Their President did pen a letter that a significant portion of the residents do support it. Originally the City had come with a plan to do a hybrid with Coral Gables Police and private security. The community chose that they did not want to have private security, so they were looking for alternative options. FHP was an option that was proposed, but when the numbers were run, it still didn't meet under the existing budget. So, what they had proposed was they were going to negotiate with FHP or Millenium Services is the actual company we are contracting with, to see if they could work the numbers down. As of our last meeting it was assumed that they had come to those terms, but they didn't actually come to the terms which was \$45.00 an hour, they needed to get down to around \$41.00. So in order to bridge that gap, the Civic Association has gone out and basically proffered a contract with Millenium Services independent of the City to bridge that gap. Meaning that the City will have a contract with Millenium Services for a rate of \$41.00 an hour and it changes on certain holidays and after hours, but it's well within our budget; and they state in that contract that they will provide the 16 hours of service, which is our duty where we have to provide to the special taxing

district. Just so that everybody knows that there is a gap and that gap will be covered by a third party contract. Now we want to look at it, but the City is not a part of that contract. If anybody has any questions.

City Attorney Ramos: And, the one issue that we looked at whether this was any legalities associated. It is permissible, it is legal to do this. We do have concerns that may arise, for example, they stop paying the additional amount.

Commissioner Mena: Yes, what happens if they breach?

City Attorney Ramos: Well what would happen is, if the Civic Association stops paying and FPL stops showing up, then they are in default of our contract. We'd have to terminate their contract, our contract with Millenium Services and then presumably go to private security to comply with the ordinance. Additionally, we would request the Commission as a governing body of the special taxing district, ask that they add additional language if this is how we're going to go forth to that private contract that states that the City as a special taxing district is the one that essentially calls the shots and not just because they are paying a difference doesn't mean that they get to direct those officers. Those are the concerns that we see. At the end of the day, it's a policy decision for the Commission. It does comply with the ordinance as written.

Commissioner Mena: How many people are in the community?

Assistant City Attorney Ceballos: I actually don't have an accurate number. The number I've always been told was roughly 30 percent.

Finance Director Gomez: It's about 149 units.

Commissioner Mena: OK. And, how many people does the Civic Association represent.

Speaker: It represents a vast majority...[Inaudible]

Commissioner Mena: Do you know how many?

Mayor Valdes-Fauli: Come up – come up. We can't hear.

Speaker: Active members...[Inaudible]...

Commissioner Mena: 87 did you say?

Speaker: Yes – about 80 percent of them.

Commissioner Mena: 80 percent, OK.

Speakers: Some are renters.

Assistant City Attorney Ceballos: 80 percent of the homes are members of the association?

Commissioner Keon: No.

Speaker: Members – we have to check...we have the majority support whether they are members or...How do you determine members that pay or not pay? Members are everybody that live in the community, so. We have the vast majority.

Commissioner Mena: How many people were at your meeting?

Commissioner Lago: There are about five or six members.

Commissioner Keon: Well that was by design.

Commissioner Lago: Here in the City.

Commissioner Keon: Yes, we didn't invite the whole community.

City Attorney Ramos: And you should know that next year when we reassess, we can assess a much higher amount if that's what they wish and they could have whomever they would like. They can do Coral Gables the entire time if they can afford it. The problem is right now it was assessed at a lower rate and now they can't afford.

Commissioner Lago: That's the biggest issue. That's the issue right now. We can't go back on the assessment that was put on the books, so there's going to be a shortfall. And, I'll allow our Finance Director to explain.

Finance Director Gomez: And to be clear, when the assessment was first put on the books it was based on the fact that we will provide 16 hours of off-duty officers, the budget allow for it. Right after the timeframe when we set the assessment, a decision was made based on FLSA rules that we couldn't use off-duty officers at the off-duty rate, we have to pay them overtime. So, that was the switch that happened after the rate was first assessed. We cannot go up after you set the rate, we can only come down. So, we found the compromise of the part CGPD and overtime and part private security in order to make up the 16 hours and stay within budget. The Civic Association has since come back and said they don't want the private security. The rate does not afford

CGPD overtime for the entire 16 hours, therefore something had to give; and so FHP now is what they are asking for and we can get there with the FHP contract.

City Attorney Ramos: Only if they bridge the gap.

Finance Director Gomez: Exactly. We will be signing a contract with FHP seeing that FHP will provide us 16 hours of services at “X” dollars and those dollars will fit within our budget.

Commissioner Keon: And then you arrange to pay the additional amount.

Speaker: Yes. We have the funds in the association and the Board has committed to making the shortfall so for the first year and then next year we want to correct it, so that they’ll be enough money in the kitty so that the Board or the Association doesn’t have to pay directly for it, so it wasn’t just a stopgap measure in lieu of the issues. So we’d appreciate your support on this.

Commissioner Mena: Was there any notice mailed to the homeowners about any of this?

Finance Director Gomez: The assessment rate is noticed based on the TRIM notification...The City through Government Management Services, Paul Winkeljohn our consultants sent out a letter to the community letting them know that what we were going with the private security and part CGPD, since then that I know of no other mailing has gone out.

Commissioner Mena: You sent a notice to every resident?

Finance Director Gomez: Every property owner and every home. So, if there was a different mailing address than the Property Appraiser, we sent it out to the actual physical address and the property owner on Miami-Dade’s Property Tax Records.

Commissioner Mena: And, that was saying that you were going to have...

Finance Director Gomez: That we are transitioning from the County.

Commissioner Mena: Part of the 16 hours and private security for another part, that’s what that notice said.

Finance Director Gomez: Correct. If you remember, I sent a letter to the Commission about, before we transitioned, similar type language to say GMS – we are doing a transition from the County to the City, GMS is going to be the property contact person, this is what’s going to be provided part CGPD and part private security.

Commissioner Mena: But now there's a different.

Finance Director Gomez: If the Commission chooses to move to FHP they would switch over to FHP, it is the right of the Commission to do that as a governing Board.

Assistant City Attorney Ceballos: The residents originally received that notice, it's really what set most of these wheels in motion, so was there an outreach and confusion, I guess, to what they thought they were going to be receiving. So, that notice really initiated this process looking for a second source.

City Manager Iglesias: Commissioner the HOA will be responsible for that delta between the cost...

Commissioner Lago: That's your biggest concern right, Commissioner?

Commissioner Mena: Well, I have two big concerns. One is, I think I would much rather have Coral Gables PD in there. I understand there are challenges for that and I understand that, but my other concern is, yes, making sure that we are clear on what the entire community actually wants and we don't have any – I understand you are saying 80 percent. I don't know how we know that, I mean has there been like a community meeting of the whole neighborhood or...?- that's my concern. I understand you folks – what your position and preference is and I respect that, but I don't know what the rest of the neighborhood thinks.

Mr. Proctor: Through the Mayor, Jerry Proctor, representing the Association. We have actively kept our community informed. There's been a lot of different twist and turns, but we've actively with e-mail, but also face-to-face, and in some cases written communication. We will communicate with them again following this result, because as you aptly noted there's been a change and we have been communicating this change and seeking their support, which we have in an ad hoc way, but we will reach out to every resident through their communication, whatever communication method they have given to us and let them know these results what we are doing and I will also say through the Mayor to the Commission, we will also let them know what we have told you. We like having the Coral Gables Police. This overtime rate was a surprise and a disappointment to us. We are going to do everything we can to regain or go back to Coral Gables Police at some point, but we need this measure today because of the budget issues, we are already in the fiscal year and as Commissioner Lago mentioned, we really need this stopgap approval and we can't delay it at this point. So we would make those commitments to you.

Commissioner Keon: How do you collect from your other homeowners for the additional amounts?

Ms. Anna Vega Milton: If I may, Anna Vega Milton, I'm a resident of Coco Plum and also the Treasurer of our Civic Association. So, we do have annual dues and right now we have enough in the bank account to cover. What we are thinking of doing is how to proceed, maybe cover it half and then we have some residents who volunteer to give some funds to supplement that, to cover this.

Commissioner Keon: OK. So, you have the means of paying for it if people that live in the community are not in agreement with you, you have the ability to pay for it.

Ms. Vega Milton: Remember most of the residents already expect to have police.

Commissioner Keon: Right.

Ms. Vega Milton: So whether it's Coral Gables Police or not, they are expecting to have armed police roving. So, this is not a far stretch moving from Coral Gables Police to Florida Highway Patrol.

Commissioner Keon: That's OK. That's fine. You know what it is, I just wanted to ensure that we have an obligation to make sure that you have 16 hours of service and we have to make sure that that happens and for that to happen there has to be a means to pay for the additional amount and as long as you have the money, you say already at hand, we'll pay for it or there are people there that will represent them that they will pay for it so that your service won't drop below 16 hours a day, then I don't have a problem with it.

Commissioner Mena: What do the other Phases have as far as security is concerned?

Ms. Vega Milton: Coco Plum Phase II or they call themselves...of Coco Plum, they have an actual homeowners association, so they have a means of collecting money.

Commissioner Mena: Security-wise.

Ms. Vega Milton: They have private.

Commissioner Keon: They have Wackenhut.

City Attorney Ramos: They have Wackenhut, but they are not a special taxing district.

Commissioner Keon: Right.

Commissioner Mena: Wackenhut only? They don't have police?

City Attorney Ramos: Correct. But it's paid through their homeowners association, but it's a mandatory...

Speaker: They also rely on the Coral Gables Police...[Inaudible]...and FHP and ideally, we'd rather have Coral Gables, but under the circumstances we have to take FHP for now. In the future hopefully we can overcome that hurdle and come back to Coral Gables that would be great.

Commissioner Keon: OK.

City Attorney Ramos: So, what you would be voting on is approving the contract between the City of Coral Gables and Millenium Services/FHP.

Commissioner Lago: So moved.

Mayor Valdes-Fauli: Wait, wait, wait.

Commissioner Lago: Oh, I didn't know, I thought they had spoken already.

Mayor Valdes-Fauli: John Baublitz: Good afternoon Mayor, Vice Mayor, Commissioners, City Attorney, City Manager, City Clerk. At this time, I think everybody is in agreement that they would like City of Coral Gables police officers. I met with the homeowners association just a little while ago, we are in discussions. They are adamant they want Gables police officers. I understand their plight. I believe City staff as-a-whole, the Chief wants Gables officers there. I believe this Commission wants Gables officers there. It's what's best for the residents, its best for the community, and quite honestly its best for the officers. One of the things that we talk about the money that was raised and collected, they are \$41 an hour, we are cheaper than FHP, and I think we provide, because of being inside the department and knowing the community and the radio system, we provide a better service.

City Attorney Ramos: To be clear they are \$41 an hour on off-duty, not...

Mr. Baublitz: Off-duty rates.

Commissioner Lago: I think you need to explain that because people are listening right now are like hey, we are \$41 why not use it. Can you give a little bit of...

Mr. Baublitz: When it's through the County the special taxing district, we actually had an officer who had a company and he was hired to provide the services through this company, it was at the



off-duty rate. So, if we went back to off-duty rate which was \$41 an hour, it's cheaper than the contract the City is signing with FHP and cheaper because they have to pick up the difference.

Commissioner Mena: But the whole challenge here is that, we've talked about this, but just so everybody understands, the challenge here and what caused this whole thing is that from a legal perspective we cannot pay the \$41 off-duty rate.

City Attorney Ramos: Without violating the Fair Labor Standard Act, that's correct.

Commissioner Keon: The overtime rate not the off-duty.

Mr. Baublitz: And, right now FLSA is the issue and we believe our opinion is correct. Obviously the City Attorney has her opinion and we respect each other very much and I respect the job that she does and what she does for this Commission, but we do have a different opinion and we also right now, I think we have some more information that I think is helpful. So really what we are asking as the Fraternal Police is, this Commission just direct the City Attorney to meet with us again and the homeowners association to try to resolve this, because I do believe legally this can be done.

Mayor Valdes-Fauli: There is a solution here if you believe that, if you are convinced that we can legally do it give us an indemnification agreement that if we get into trouble for violation of the Fair Labor Standards Act, you will indemnify.

Mr. Baublitz: I've put it out there, the FOP would be willing to go into any agreement with the City that we support this position and that we would help defend this position if it was challenged.

Mayor Valdes-Fauli: Indemnify us and we'll do it, if you are that convinced.

Mr. Baublitz: I am that convinced.

Vice Mayor Quesada: Mr. Mayor, thank you for saying that, I was discussing this with Miriam yesterday and that's the answer.

Commissioner Mena: And in speaking to Miriam, I understand that neither they nor individual offices can waive FLSA.

City Attorney Ramos: Correct. So two things; the union and our officers have had probably four calls and various e-mails to try to work this out, so it hasn't been like we've taken an adverse position, we've been really trying to work together. Frankly, it's easier for the City, I think

Diana would agree, if we just have one set rate rather than having to deal with all of this. The indemnification gets us pretty far if we can make a good faith argument that we are not violating the FLSA, that's the issue that I'm having. If I don't feel – so can't say I feel like this is illegal, but if you indemnify me I'll do it anyway. I need to have a level of comfort that we have a good faith argument that whatever process we come up with does not violate the FLSA before I ask them to indemnify us and that's the level of comfort that neither I nor special counsel has been able to arrive at. Now I'm hearing this morning that there is some additional information that they'd like to provide, of course I'm happy to review it, and again, the contract with FHP, Mr. Ceballos correct me if I'm wrong, has a termination provision for convenience. So, if a month from now we are able to come to some sort of way forward on this, we can terminate the contract with FHP and then move in a different direction.

Mr. Baublitz: I don't want to speak for the homeowners association, but they have said that if we are able to work this out that they would do that.

City Attorney Ramos: Irrespective the contract is with the City.

Speaker: We do have an out-clause according to our attorney, so if the City and the police can work it out, we will happily return, but in the interim we are asking to please ask FHP, so that we have continuing security and hopefully we can resolve this...

City Attorney Ramos: And Mr. Fortune is talking about the argument, their agreement, I'm talking about ours between the City and FHP. I do believe it has a convenience clause, so we can exit from that agreement.

Commissioner Mena: For any reason.

City Attorney Ramos: If there is a time, yes, when we believe that we can move forward in another way, happy to continue the conversation.

Mayor Valdes-Fauli: Commissioner Lago has made a motion to continue this, I mean to approve this, is there a second.

Commissioner Keon: I'll second it.

Vice Mayor Quesada: Hold on a second. I want to make sure that I understand what the vote is. So, you are saying the motion right now is to approve...

City Attorney Ramos: Contract.

Vice Mayor Quesada...the contract with FHP and I'm sorry, I think you just said this, but I missed it, the termination provision on that is?

City Attorney Ramos: For convenience. So we continue our conversation...

Vice Mayor Quesada: How is for convenience defined?

City Attorney Ramos: Unless its 30 days?

Commissioner Lago: 30 days.

City Attorney Ramos: So within 30 days.

Vice Mayor Quesada: I just want to make sure there isn't some sort of wacky interpretation...

City Attorney Ramos: This allows them to have a band-aide and us to continue a conversation without any promises, but if they can...

Vice Mayor Quesada: It resolves the neighborhood wants, which is obviously we want them to be comfortable and secure and allows us to achieve the needs what we want is, we feel your neighborhood and every neighborhood has more safety when we had more police officers on the street or publicly paid for or privately paid for. My goal is to eventually have those Coral Gables police officers in there full time. So I just want to let the two you know, three of you know that although I'm going to vote yes for FHP, I want this to be aggressively working towards getting the Coral Gables police officers in there. Is that something you guys are OK with?

Mr. Baublitz: Absolutely.

Vice Mayor Quesada: OK. Perfect. So we are all on the same page.

Commissioner Lago: Vice Mayor that's been the comments since we've been sitting down, been very adamant about wanting Coral Gables. When I preface my statement really quickly, this just needs to come to some sort of resolution today so that they can move forward, so they can actually have security and move towards Coral Gables.

Vice Mayor Quesada: I need you to immediately sit down with Miriam and work out the indemnification.

City Attorney Ramos: I can get to a level where I believe I can make a good faith argument that we are not violating.

Vice Mayor Quesada: We are all confident in your abilities to get comfortable.

[Laughter]

Vice Mayor Quesada: That was a bad joke.

Commissioner Keon: And we are not going to direct you to do anything, but you do not in good conscience feel that you can do it.

Commissioner Lago: Never.

Commissioner Keon: Thank you.

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

Commissioner Mena: Yes

Vice Mayor Quesada: Yes

Commissioner Keon: Yes

Commissioner Lago: Yes

Mayor Valdes-Fauli: Yes

(Vote: 5-0)

Mayor Valdes-Fauli: Thank you.

Commissioner Mena: And, I just want to echo Commissioner Quesada's comments by the way.

[End: 2:57:47 p.m.]