

City of Coral Gables City Commission Meeting
Agenda Items H-3
May 12, 2015
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason
Commissioner Pat Keon
Commissioner Vince Lago
Vice Mayor Frank Quesada
Commissioner Jeannett Slesnick

City Staff

City Manager, Cathy Swanson-Rivenbark
City Attorney, Craig E. Leen
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia
Assistant Director, Economic and Sustainability, Leonard Roberts

Public Speaker(s)

Agenda Items H-3 [2:13:13 p.m.]

A Resolution authorizing entering into a settlement and release agreement with Azul and Company, Inc. Maria J. De Caires and Oscar Murphy with regard to City owned property at 4520 Ponce De Leon Blvd. Coral Gables, FL, and authorizing an amendment to the Fiscal Year 2014-2015 Annual Budget to reduce the rent revenue/contingencies budgets, and to transfer funds from Special Revenue Fund Balance and appropriate such funds to put toward the cost of the settlement. (This is the former DMV building. It is consistent with the FPL settlement agreement and will allow passport operations to relocate with ample off-street parking for customers).

Mayor Cason: We are going to do H-3. Let's start with H-3, we are back in session again. H-3 is a Resolution authorizing the settlement with Azul and Company. City Manager.

City Manager Swanson-Rivenbark: And we've been able to brief each one of you – yes sir, the item is H-3 and we've been able to brief each one of you on the old Department of Motor Vehicle Building, which is involved in the FPL settlement. So the City Attorney will want to provide some information, but the property at 4520 Ponce is approximately 4,000 square feet, the building, and we are interested in – the tenant is relocating out, we are interested in having Passport and Parking move into the building. They will pay the tenant the unreimbursed tenant improvement dollars, which includes their cost of hurricane impact windows, improvements that will benefit the City, and will operate the Passport offices Monday through Saturday from that operation, as well as our Parking and Trolley operations from that site, but Craig wanted to bring up some points related to the FPL settlement.

City Attorney Leen: Yes, thank you Madam City Manager. As you will recall, we have a settlement agreement with FPL, related to the power poles and power lines along Ponce de Leon Boulevard. What I would call the old DMV Building, it was called the DMV Building, was part of that settlement, and basically what the settlement requires is that the City of Coral Gables by June 1st, must provide an election whereby we inform FPL one, whether we are going to go underground or above ground; and two, whether we are going to require the demolition of the DMV Building. Depending on your action today, what my plan is and I'm just going to assume that this passes for what I'm about to say, my plan is to contact FPL by letter and let them know, one, that we are going to keep it above ground, it will not go underground, and if you will recall the estimate for having to go underground was something like \$60 million, and so based on that, we haven't really proceeded with an underground transmission line. Number two, I'm going to inform FPL that we plan to keep the building. Based on the agreement the goal at that point would be to try to minimize the pole heights, consistent with the FPL agreement.

Vice Mayor Quesada: I've got to stop you. We had Merritt Steirheim looking at this, it's been a few months since we discussed it. He was looking at an analysis whether we can have the line run underneath the Metro Rail line or worked into it. I know FPL was pushing back, that they were saying that it would not make sense, he was saying that's malarkey, and that he felt it could be done. We were never given some sort of closure on that conversation, that back and forth.

Mayor Cason: I wrote a letter to Mayor Gimenez and to my knowledge he never answered it.

Vice Mayor Quesada: So did we have any closure on that conversation?

City Attorney Leen: I met with the County and with Merrett, and the County did not seem that interested in it, but it didn't say no, and it hasn't really progressed.

Vice Mayor Quesada: I don't feel comfortable going back to FPL at this point and saying that we are OK with the underground lines. This hasn't been fully vetted, let's close that conversation. Let's continue pushing...

City Attorney Leen: If we put it on the Metro Rail it would still be above ground, that's not necessarily consistent...with the election, that we have to make the election?

Vice Mayor Quesada: I understand that, but the way you phrase what we are doing, your recommendation right now leads the average person, leads me to believe that we have power lines coming in, we have bigger power lines coming in there. I don't want that. I want us to make sure we uncover every stone possible, do everything we can to try to either get it undergrounded or worked into the Metro Rail.

City Attorney Leen: But I have to make the election or else we'll lose, we'll potentially lose the \$1.3 million that they are supposed to pay us, and we could lose the...

Vice Mayor Quesada: By when do we have to make that election?

City Attorney Leen: June 1st.

Vice Mayor Quesada: So this is the last meeting before then.

City Attorney Leen: Well there is another meeting. I just don't want to miss the election and even with that I have not seen any interest – I just have to tell you I haven't seen any interest from the County, they haven't gone out of their way at all regarding that proposal.

Vice Mayor Quesada: So what do we need to do to really catch their attention, to really give us an opportunity here to keep these lines out of the sky? Anyone has any suggestions?

City Manager Swanson-Rivenbark: Leonard Roberts is not here to discuss the FPL, Leonard Roberts is here to provide you the business framework that we are considering for 4520 Ponce. So do you need to make the decision related to FPL poles prior to voting on 4520 Ponce?

City Attorney Leen: Yes. In the sense that we have to at least let them know that we are going to keep the DMV Building, that's one of the things that we have to elect because they would otherwise demolish the building.

Vice Mayor Quesada: OK. So if we elect to keep the DMV Building, are we precluding ourselves from going underground with the lines?

City Attorney Leen: No.

Vice Mayor Quesada: No.

City Attorney Leen: In fact, that was one of the purposes of going underground was to keep the DMV Building.

Vice Mayor Quesada: OK. I'm sorry to cut you off, because I feel like you are going to go into the second topic, but staying on the FPL topic, the line topic. City Manager...

City Manager Swanson-Rivenbark: Yes sir.

Vice Mayor Quesada: This is a very important item for this Commission. We've discussed it for a while before you came back to us. We need to pay special attention to this. I don't want this getting lost and I feel like it's gotten lost in the last few months, as far as our focus on it, and it just goes back to – you know we need to stay on top of the County. Do we need to be speaking to the elected officials there?- should we work on something the relationships that we have at the County level so that we are pushing them. Really we've got to get their engineers paying attention to this. Again, I don't want – if we are going to end up with power lines in the sky, I want it to be the ultimate last resort, so that we can comfortably sit here and say we did everything we could and we couldn't make it happen. At this point, have we done everything we can? I don't know.

City Attorney Leen: We have an agreement and the agreement says, 77, 81, and 85 feet depending on where it is.

Vice Mayor Quesada: I understand.

City Attorney Leen: Then we have the direction from the Commission that we should try to get it lower and the direction was to try to put them along the...Metrorail?

Vice Mayor Quesada: However, the reason we entered into that settlement with FPL was because we saw the writing on the wall because if the procedural worked out we knew we were going to lose, so we tried to get something out of it. Hold on, but in those conversations, we were all very, very clear that we still wanted to do everything we could to go underground. As a part

of that settlement FPL was either going to pay for us or review the specifications for going underground and they were going to give us the opportunity of bidding the project out and going underground to other outside contractors and not their preferred contractor.

City Attorney Leen: Except that when that issue came up a number of months ago, we were considering putting it on the ballot and when that estimate came back that I think it was \$60 million, the Commission decided not to go forward with the referendum.

Vice Mayor Quesada: With the referendum, but we didn't agree we were just going to give in.

City Attorney Leen: No, we haven't given in, but we have to make this election. The concern I have about the election is, if we breach or even if we hold it to the last day, I'm just concerned about that....I know what we are going to do in terms of the election.

Vice Mayor Quesada: You are absolutely right, I don't disagree with you. However, we have to make the election, let's make the election and see what we have to do, I'm fine with that. What I don't want is, we make the election and we just keep moving forward and whatever happens, happens. I want to make sure we are all over the County. I want to make sure we are all over FPL.

City Attorney Leen: I understand.

Vice Mayor Quesada: I mean if we can dedicate any resources, I know we are incredibly spread thin, but we are talking about, I mean I don't want to put it too emotionally, but it's almost like it's going to be a scar on the face of Coral Gables, if those power lines are too high. I know we are trying to keep it under 81, so I just want to make sure that, let's not lose focus with the County. If we need to apply pressure to the elected officials there, if we need to pull all our relationships, let us know so that we are doing it.

City Attorney Leen: In staff's view is that it's not feasible. In the discussions, basically their view is that it's not feasible because – even though Merritt came up with an idea that sounded like it would work, they said it would make it too difficult to maintain...the Metrorail.

Commissioner Lago: They gave us in writing or an e-mail saying that they are abandoning any opportunity of potentially attaching transmission lines to the Metrorail.

City Attorney Leen: That's not the way the County works.

Commissioner Lago: So we can stop discussing that, we are not even going to be able to....

City Attorney Leen: I was at the meeting. I saw no interest on their part to do it. That was my impression from sitting there in the meeting and they haven't followed up at all.

Vice Mayor Quesada: When was this meeting?

City Attorney Leen: Probably six months ago. This was with Merritt.

Vice Mayor Quesada: And we haven't done anything in six months?

City Attorney Leen: No, we haven't followed up on it.

Commissioner Keon: I would suggest that maybe you call our elected officials and have that conversation with them Commissioner.

Vice Mayor Quesada: I want to know what the exact technical reason is. What is the engineering reason, what is the structural reason, what is the – whatever the exact technical issue is, we need to find out what that is. So that we can ask all our internal staff or any other consultant we need to bring in to determine whether their rationale is valid or not. We need to really drill down into and rather than just saying, “well it's not feasible, we don't want to do it, we are not going to get anything in writing.” I don't want to just say, “OK” and walk away. I want to make sure – give me the exact specifics to know whether they are feeding us hot air or not.

Mayor Cason: Well we can ask them for it, my guess is that they just don't want to do it, and there is no technical reason.

Commissioner Keon: I thought there was something about...

Vice Mayor Quesada: Because it's complicated, it's hard, no one has done it before, they don't want to do it.

City Attorney Leen: They have to be able it would be difficult to access different parts of the...for maintenance and cleaning purposes. There was a concern about the weight, which they seen to indicate that they could get around.

Vice Mayor Quesada: Craig, this conversation you are recalling it from six months ago.

City Attorney Leen: Recalling from my meeting. I will follow up with them, with the designee, whoever she would like. I will follow up with them. All I can do is give you my advice, they have shown no interest.

Vice Mayor Quesada: I'll be honest with you, this is my fault because I thought we were still having those technical discussions going back and forth. I didn't realize we hadn't done anything in six months, so I'm putting the blame on myself, but we have to stay on top of this, because if not it's very easy for them to say, no we can't do it to make their jobs easy, to make their lives easier, no we are not going to do it, no big deal. Let's push, let's really push to make this happen, to get those power lines along University of Miami, in front of Merrick Park, above the high line, I'm sorry, above the Underline, all these great projects, all these great things that we have going on, I mean it's a significant step back. I know we all agree with that, we've had a lot of discussions about it, but again, if we are going to lose it's not going to be for lack of trying and proactivity on it. So if we could just identify some staff members, and Cathy, I know we are incredibly stretched thin.

City Manager Swanson-Rivenbark: No, no, no. I misunderstood. I thought that issue had already been resolved...

Vice Mayor Quesada: I thought it was still being worked out.

City Manager Swanson-Rivenbark: I misunderstood. I thought that there was – this was prior to my arrival, but we'll get up to speed. If we need to bring in somebody to help us marshal that to at least find out under what circumstances can there be a yes, or if there is a no, why is it a solid no, we'll get information. Now related to that we need to do it quickly, because we need to make some type of election, correct?

City Attorney Leen: Yes according to our agreement, by June 1st.

Mayor Cason: But can we do H-3...?

City Attorney Leen: We have to make the election.

Mayor Cason: Can we get that information?

Vice Mayor Quesada: The election does not preclude us from still trying to attach it...

City Attorney Leen: But that is consistent with...

Vice Mayor Quesada: So, perfect let's make the election, let's move forward with Leonard's plan, but concurrently with that let's continue being aggressive in finding out whether we can do it or not.

City Attorney Leen: Of course Commissioner – Mr. Vice Mayor. Let me add one other thing. I do want to say two things. First, I just want to remind the public that this Commission made it very clear that we needed to get as much as we could out of the FPL settlement and we believe we did. Not only did we get the \$1.3 million settlement payment, but more importantly, we got lower power lines than anywhere else in Miami-Dade County, and FPL is going to have to devote significant resources to engineering bringing these lines down to 77, 81, and 85 feet, which is much lower than what they were proposing, which is 105 feet, which is what's being proposed everywhere else, is my understanding in Miami-Dade County. So I just want to make that point clear. We also received a right to be able to, remember with the changing out the power, the light bulbs, and light poles we received other rights as well, and a host of conditions of approval that protect the City and protect our residents relating to the construction of these power lines. I just want to make you aware of that. I thought we did everything we possibly could to obtain things from the settlement, and we entered the settlement extremely reluctantly, I want the public to remember that, it was extremely reluctantly and it was ultimately, we believe in the best interest of the public to do it, based on the situation we were in, and remember we saw the actual order from the Governor that was going to go against us the day before, because interestingly they issue these orders in advance and at that point we settled. No one else did, but no one else received any of these benefit's. I thought we took a very sophisticated and appropriate response. One other thing I want to mention is, we have not just allowed FPL to do whatever they want. According to the agreement they have to present to us an actual application that meets all of these needs and at this point we are still going back and forth with FPL. We haven't approved anything in terms of the permitting process at this point. And in addition, we would receive the benefit of whatever occurs in the lawsuit as well, even though we are no longer a part of it. For example, they don't build Turkey Point or something like that happens, then some of this won't occur. Of course, I do have to remind you, we do have power poles already in place and at some point FPL has to harden those and they do have a right to do that under our agreement. But all this is still in flux, and I'm sorry if I alarmed you at, all that this was coming immediately...

Vice Mayor Quesada: No, you alarmed me because we are not doing anything.

City Attorney Leen: I'm just afraid – I don't want to miss the election date, because we've breached the agreement and we will lose all the rights that we have which are significant.

Commissioner Slesnick: Mr. City Attorney since I wasn't here before, in three or four sentences or less, what is it exactly we are asking from the County?

City Attorney Leen: We are asking that the County place the power line along the Metro Rail in a tube, in a large...

Commissioner Slesnick: Ninety-seven (97) feet, or 77 feet instead of the 105?

City Attorney Leen: It would be attached to the Metro Rail lines. It would be attached to the Metro Rail line, insulated and part of the weight would be borne by little extensions.

Commissioner Slesnick: Hanging from the Metro Rail?

City Attorney Leen: In a sense – it would be attached to it.

Commissioner Slesnick: Hanging but hidden, so we wouldn't have the power line...

City Attorney Leen: There would be an actual pipe, I'm not the engineer here, but my understanding it's an actual pipe that would run along it, but the concern is that – well the benefit would be we wouldn't need to have the large power poles.

Commissioner Slesnick: So we would come into South Miami and then when it hit's our Metro Rail at the border it would go into these pipes and that's \$60 million?

City Attorney Leen: No.

Mayor Cason: No, no, no. If we had to dig underground it would cost \$60 million.

Vice Mayor Quesada: Let me stop, let me stop. Let me ask you a question. We originally, we were fighting for to go underground on all of the power lines, OK. We were using that as leverage, we sued administratively as well as in civil court FPL to try to make that happen. When we saw we were going to lose the case at the administrative level in front of the Governor. The Governor has a procedural requirement. He puts out his order, a draft of it two days before or a day before it's actually entered. When it came out when we saw we were going to lose, rather than get absolutely nothing, we knocked on FPL's door, we say, OK, let's reach a settlement, and we got a few things in return. In return one of the things we asked for is OK, if we wanted to foot the bill to go underground, we would be allowed to use an outside contractor that we pick,

because FPL didn't want to allow us to do that, and you would give us the specifications that we would need. That's what would cost \$60 million putting the lines underground. In addition to that, part of the settlement, if we were to go to the regular power poles that they are proposing all throughout the County, ours would be a little bit lower than everyone else up to...

Commissioner Slesnick: Thirty feet.

Vice Mayor Quesada: Yes – about 30 feet lower than everybody else. One of the other options that we came up with on the dais as a Commission, we already have the unsightliness of the Metro Rail there, why not hide it in conjunction with the Metro Rail and that is what we are waiting on the County...

Commissioner Slesnick: The Metro Rail is about 40 feet up off the ground?

Vice Mayor Quesada: It is, but it would just be – when you look in that area you don't see the power line, you just see the Metro Rail...so that's what we were trying to do.

Commissioner Slesnick: Sounds like a great idea, but they are not responding to us.

Vice Mayor Quesada: Correct.

City Attorney Leen: What we need is, we need the County Commission or the County Mayor to direct County staff to take every feasible means to make it happen, but because we've been going through staff, we are going the other way, staff doesn't want to do it.

Mayor Cason: We had a letter drafted to the Mayor who did not answer the letter, so he needs to answer it either on his own or for the Commission or in conjunction.

City Attorney Leen: As far as I know he hasn't answered the letter.

Commissioner Slesnick: Thank you.

Commissioner Keon: Do you send him another letter asking him to please answer or what do you do?

Mayor Cason: We can call the Commissioners and try to get...

Vice Mayor Quesada: Who is the current Chairman in the County Commission?

City Attorney Leen: Jean Monestime.

Vice Mayor Quesada: Does anybody up here know Monestime?

Commissioner Keon: Yes.

Vice Mayor Quesada: You do? Good relationship?

Commissioner Keon: You know, I know his staff person.

Vice Mayor Quesada: Let's get on the agenda, let's get on the County Commission Agenda, let's go speak. Let's make it very public what we are trying to do. I mean it benefit's everyone. I think that we would have South Miami, who knows – South Miami and Pinecrest and the City of Miami as well, because if they can, of all those municipalities are similarly situated to us, they are not going to want the power lines either. So I think if we have this conversation in front of the County Commission, maybe we can set up as a Sunshine meeting, maybe two or three of us go and speak, we can go from there. The only thing I would hate is if we get on the agenda and then their staff comes up and gives us some technical reasons why it cannot be done, why it's not feasible then we have egg on our face, so that's why it's important to continue the conversation.

Mayor Cason: That's why if they have a technical reason, they should have the courtesy of answering the letter, saying for technical reasons we can't do it. If they don't have any technical reasons it's because they just don't want to do it.

Vice Mayor Quesada: So Madam City Manager, can you think about this and we'll discuss it later on?

City Manager Swanson-Rivenbark: Absolutely. Now I have a question for the City Attorney. Does anything related to what we want to do in 4520 Ponce affect this issue that we want to take to the County?

City Attorney Leen: No.

City Manager Swanson-Rivenbark: OK. So if we recognize that we have work to do with the County on flushing out whether or not we can have the wires attached to Metro Rail, not only for us, but South Miami and Miami, we can figure out how to get that issue to the top discussion with the County. But in the meantime, we are interested in using 4520 Ponce for a possible City

use and we wanted to talk about the business terms associated with that, and that's why Leonard is at the microphone.

Mayor Cason: Speak Leonard.

Vice Mayor Quesada: I'm fully supportive of this.

Mr. Roberts: Great. Great. So currently there is a tenant in place since September of 2012, because of the FPL concern and because it is public information, it has impacted their business and as the City Manager has said, we are looking for space for the City. I have been looking around for an equivalent space to house different City staff. The space in the public is relatively more expensive than what we are asking currently. The rents right now is \$19.10 a square foot; the rents that I'm seeing out in the public, not including TI's is substantially more. By doing a deal like this off the back, we would be saving about \$350,000 in the next three years, if we were to take over the space, use it versus leasing with a third party. So the deal does make sense for purposes of City staff. The settlement terms would include approximately \$160,000 of value, \$20,000 toward the tenants moving expenses, two months free rent, paying back their unamortized portion of their tenant improvements, which they put hurricane impact windows, new flooring, ceilings, they completely renovated the bathrooms, granite counter tops, the works. It's an interior design slash furniture store, so you can imagine what the build-out looks like in there. So that would be roughly around \$90,000, and then in addition, because they are an interior design company, furniture company, and a GC, they also offered to do the interior design build-out for the purposes for City staff purposes, and also to acquire all the furniture and fixtures at their whole sale cost.

Mayor Cason: Mr. City Clerk are you happy with this?

City Clerk Foeman: Yes, we are in agreement with it.

Mayor Cason: OK. Discussion.

City Manager Swanson-Rivenbark: And the City Clerk's input is important because half of the property would be, half of the building would be used by Passport and half would be used for Parking, and we would charge the City Clerk for Passport operations, half of the portion that we would be spending and the other half would be coming from the Parking Department. Two different uses, non-tax dollar uses that we identified. It has plenty of on-site parking, as well as on-street parking, so will well serve the Passport users, as well as Parking and Trolley, and

utilize some space that otherwise would have some type of questionable use moving forward given that the tenant wants to vacate, not questionable use, but uncertain use.

Mayor Cason: Any discussion?

Vice Mayor Quesada: I'm going to make a motion to make the election pursuant to the FPL settlement as well as proceed as indicated by staff.

Mayor Cason: Have a second?

Commissioner Lago: Second the motion.

Mayor Cason: Commissioner Lago seconds it.

City Clerk

Commissioner Slesnick: Yes

Commissioner Keon: Yes

Commissioner Lago: Yes

Vice Mayor Quesada: Yes

Mayor Cason: Yes

(Vote: 5-0)

[End: 2:37:07 p.m.]