

Verbatim Minutes for Item 9B at the June 3 2020 Commission Meeting

Requested by Commissioner Good

Mayor Ortis: We are now on Item 9B Commissioner Good.

Commissioner Good: Thank you Mr. Mayor. 9B is Motion to approve the department's recommendations for the following items listed on the contracts database report: (B) Calvin, Giordano & Associates, Inc. - Professional Services Building Department Renewal.

Mayor Ortis: All right, is there a second? Is there a second? Is there a second to Commissioner Good's item? (Inaudible) Can everybody hear me? I need a second to Commissioner Good's item. All right, I'll second.

Vice Mayor Siple: Second.

Mayor Ortis: There we go. OK. Seconded by the Vice Mayor. Go ahead Commissioner Good.

Commissioner Good: Thank you, Mr. Mayor. So I do want to disclose that I had a number of questions regarding this item. A lot of them were numerical related and I want to thank City Staff and the City Manager for ensuring that I received that information. In receipt of that information, there is a substantial amount of information that I am still digesting and I still need some more time to evaluate the numbers that were provided to me and I do have additional questions. However, my focus tonight (if you will pardon me) I did something that I normally don't do; my apologies (Mayor: Tell your wife not to call you). (Laughter). So my concern is that this is sort of like a legacy contract. We've had this contract or doing this service for us for, since 2009. The dollar value that is generated from the Building Services is multi million; many many dollars. This contract interestingly is not a contract where we actually pay the vendor. The vendor actually pays us and there are some formulas that are associated with what the City gets in return for allowing this vendor to perform this service for the City. Now I am very well aware of unfortunately of what COVID-19 is doing to decimate our economy and unfortunately we are not spared. As a Municipal Government it is being greatly

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impacted by loss of tax revenues that we would otherwise have collected; based on just the economy working. Just recently, the State even sent a notice to all Municipalities that do State revenue shares; that they didn't collect what they were supposed to collect and they are only giving the Municipalities half of what the Cities budgeted for. So we are certainly looking at some very severe shortfalls coming up. And that's one of the things, I just don't know how severe it is. But I'm suspecting that we are millions of dollars short of what we had budgeted in terms of revenue to pay for our expenses going forward. If we can't cut expenses, then there is potential to cut people. And I am very, very focused on that.

One of the things though that this City has which is unique, other than maybe Weston, is that it has a large number of contracts. That has contracted out a lot of our government services and I mean tens of millions of dollars. If we don't start; I think that we need to start looking at these contracts, so that these contracts can start participating with us in regards to some of the short falls we are going to see. Now if this was an expense contract, I would say we should go out to bid, and we should be looking at getting somebody to come in and give us better pricing because we need to lower our expenses; because our revenues are being lowered. But this works in a different way. This is a revenue collection that we get. But it's really to be honest with you, to me it's not that much. But that's the point, I think that it's important for me to at least acknowledge that this is a contract that could be negotiated by the City Manager to get a larger share of the revenues that this vendor is collecting. And so it is my interest to bring this before you all and I am not going to ask that you to defer this contract. I am ok with moving forward. However, I think it's important for the City Manager to be given direction in renegotiating this contract in terms of what we receive as revenue going forward. And that could be done at any time. I mean it could be done within the next two months and of course, it would be important for the City Manager to know exactly where we are going to be financially as we get ready to close out this year because whatever happens to us this year is certainly going to have great great impact on next year as well. So I ask my colleagues to support me in giving the City Manager the direction to look at this contract and see if it can be tweaked to better value the City in the times of

hard times that we are about ready to; if not already experiencing. So that's my request to the Commission.

Mayor Ortis: City Manager do you understand?

City Manager Dodge: Yes Mayor. I do understand.

Mayor Ortis: All right, Commissioners. Do we have consensus on Commissioner Good's item?

Commissioner Schwartz and Vice Mayor Siple: Mayor I have a question Mayor.

Mayor Ortis: Hold on. Commissioner Schwartz first.

Commissioner Schwartz: Thank you. City (inaudible)

Mayor Ortis: Commissioner Schwartz you are breaking up.

Commissioner Schwartz: OK. Can you hear me OK or no? OK, your audio was a little bit garbled as well at times so it might be a buffering issue on the system. City Attorney, the contract back in 2008 or 09; that was a selection Committee that was the City Commission at the time if I'm not mistaken. I believe it was the City Commission who ultimately had to do the rankings and then the contract was negotiated by the Manager. Brought back and (inaudible). So my question relating to Commissioner Good's comment about renegotiating terms within that contract. Is that even possible to do under the formulated? Meaning if this contract, which would be an extension were to be reduced, and there were to be substantial changes to that model. Would it be something we could do?

City Attorney Goren: May I respond, Mr. Mayor?

Mayor Ortis: City Attorney, go ahead.

City Attorney Goren: Thank you, Mr. Mayor and to the Commissioner. Thank you. Commissioner Schwartz thank you for the question. Two things happening at the same time, and you are correct about the fact that the contract predates the Procurement Code. It also predates the Broward County Ethics Code which as you know, this allows public officials sitting in your seats, to actually become a Selections and Qualifications

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Committees. Except in the event you are making a direct hire, the Manager, the Clerk, or the City Attorney, or the Commission Auditor. So that's not in play here, because that's not the same legal theory, but the end result is that you own the contract, it is controlled by the City Commission through the City Administration. In my view that notwithstanding the fact that contract was initially engaged in in the prior Code, you own it, you control it, and you also get to decide how to direct the Manager to deal with it. In the context of whether it be a renegotiation or some other review or measured evaluation, as described by the Commission.

Commissioner Schwartz: So if that be the case. I think it was a couple years ago; within the last two years when the FCS contract came up, I made a recommendation that we renegotiate and I was kind of lit up on live T.V. saying that you can't do that, we have a contract. You have to honor the contract; that's not the way that you do things. I guess at this point, City Manager, if this item passes as Commissioner Good would like to see it, providing you direction, I don't know what that direction would even look like. I don't know from the City Attorney's stand point if, I mean it doesn't sound like it could be a one way street, we would need to have vendor participation with that process, to direct the Manager to, in all intents and purposes, find a better deal. I don't see anywhere in the contract that the vendor even has to listen to that or step up to even have those meetings. So again I'm going to lean on the City Attorney and the City Manager at the same time, each of you both, to see what that would look like?

Mayor Ortis: City Manager?

City Manager Dodge: Mr. Mayor, can you hear me?

Mayor Ortis: Yes.

City Manager Dodge: Ok. I understand Commissioner Good's comment and I believe that it is his intent primarily to deal with the contract regarding sharing of revenues and the current contract has a provision of a certain percentage over a certain amount of revenues. So if that is the direction, it is my understanding that would be the only provision of this contract that I would be having discussions with this vendor about. If that is the understanding or the direction that Commissioner Good wants us to go in,

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certainly that is something we could do and it would not change any of the other provisions of the contract that are non-economic.

Mayor Ortis: Thank you Mr. Dodge.

Commissioner Schwartz: So Mr. Dodge, the (inaudible) from what I understand, there is a certain percentage that is shared after a certain level is achieved. Commissioner Good, are you asking the Commission to direct the City Manager to lower the level, the cap, before those revenues get shared or are you asking the Manager to negotiate a straight across for every dollar that comes in, that's the percentage we take?

Mayor Ortis: Commissioner Good.

Commissioner Good: Yes Mr. Mayor, thank you. So I didn't want to get into that kind of detail, but the general clause of the agreement is the payment terms. And that's the payment that is you know, provided to the City from the vendor after they collect the money for the services. And so it could be the phase, it could be what's above the trigger. It could be exactly what you just said; lower that trigger number to a lower dollar value in order to be able to start collecting more. The whole point that I am trying to get to is, I don't think we are collecting as much as we could be collecting from this contract from the vendor. And I leave it to the City Manager to find a way to see if it could be better. You know, negotiate it and then let's see what we can do with it. And if they are not willing to participate with us in this economic decline, then there's always the provision of termination for convenience so we could have another conversation later if we don't believe that they are participating with us as they should be as partners with this City. I mean they are a legacy company; they do understand us very well. They have been with us, they know us, they love us and we love them. But they have to come to the table too when it comes to this economic concern.

Commissioner Schwartz: And Commissioner Good if you don't mind me asking Commissioner Good, one last question. You're asking the Manager to bring this back to us when? Is it going to be at the next meeting? We have budget workshops, we have a TRIM notice that needs to be established. We have our preliminary discussions of the

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actual budget the first meeting of August. It's a sense of which direction are you asking the Commission to direct the Manager to go in?

Commissioner Good: So Mr. Mayor, may I?

Mayor Ortis: Go ahead.

Commissioner Good: Ok. Thank you, Mr. Mayor. So I was not going to turn this contract down tonight. I was going to vote to pass it, so that we wouldn't have you know, this pause and this uncertainty. I just think that it's important for the City Manager to see if they can negotiate and if they can't negotiate, then we would consider possibly later the, termination of convenience if we don't find them to be the partner we expect them to be. So my intent is not to stop this tonight, to allow the City Manager an opportunity to negotiate, understanding what our financial position is going to be. And then bring that back to us later to say either "yes" he was able to better the terms and then of course we do something I am certain, Mr. Attorney. Or he would say no we couldn't do anything and then we could either leave it alone or we have more discussion.

Mayor Ortis: Alright. Vice Mayor Siple.

Vice Mayor Siple: Thank you Mayor. Actually a couple of my questions were answered, which was Commissioner Good just was originally saying just give direction to the City Manager, but now that direction has been clarified and little bit more specific direction has been given. So I am very happy with that and I would assume then, that Commissioner Good would make a motion to that would include that kind of language. That we could have that on record and to where there is more specific direction to give the City Manager for. Thank you Mayor.

Mayor Ortis: City Clerk call the roll please.

Commissioner Good: Well, Mr. Mayor, if I could then; I would like to follow up on the Vice Mayor's suggestion and make the motion that we approve this contract with the provision that the City Manager work with the vendor to see if we can achieve better payment terms.

Mayor Ortis: Is there a second?

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Vice Mayor Siple: Second.

Mayor Ortis: Seconded by the Vice Mayor. City Clerk call the roll please. (City Attorney Goren: Mayor if I may please.) Please mute your phones. Your phone is open and we can hear it during our meeting. Ok go ahead City Clerk.

City Clerk Graham: Commissioner Good.

Commissioner Good: Mr. Mayor before I vote, I saw that the Attorney wanted to speak (City Manager Dodge: He did. Commissioner Good: thank you Commissioner Good.)

Mayor Ortis: Did you want to speak City Attorney?

City Attorney Goren: I did Mayor just very briefly please. The motion offered by Commissioner Good would direct the City Administration by this motion to in fact negotiate the financial terms that were otherwise discussed during your exchange moments ago. To the extent possible the contract itself is not being approved. It's being essentially deferred for Administration to review and a report back to the Commission. Was there a time certain to bring it back Commissioner because I did not hear that specifically?

Commissioner Good: No I Mr. Attorney; I did not make the motion to defer. I made a motion to approve and to have the City Manager see if they could negotiate (work) better payment terms that could be brought back to us later.

City Attorney Goren: Correct. That was the point of clarification. Thank you for the insight Mr. Mayor. Thank you very much.

City Clerk Graham: Commissioner Good, Vice Mayor Siple, Commissioner Chanzas, Commissioner Schwartz, Mayor Ortis. (All said Yes). Motion passed.