

## **Schragie Goldblatt and Kelly Gonzalez are thrown under the trolley**

*We must demand a fair resolution for this unfortunate situation lest it becomes the norm for the future*

By Alan Sakowitz

The faithful readers of this newsletter have always made great efforts to support local businesses especially when they learn of businesses that can use a real influx of customers to stay afloat. I applaud you all for doing this and lifting each other up as a matter of course and particularly in this difficult environment with the cloud of COVID overhead. But sadly, I must report our city, the City of North Miami Beach, has inadvertently engaged in what can only be described as less than best practices. The damages for this unintentional, but harmful conduct may well cost a local business owned by Schragie Goldblatt and Kelly Gonzalez over \$100,000. Unless this pattern of conduct is discontinued immediately, the less than best practice tools will likely haunt the City for years to come. Going forward it can ill afford to continue employing less than best practices regularly, for it will cost the City its reputation and its residents will see their taxes go to litigation costs and overpaying vendors since vendors will bake the cost of additional risk into bids.

After being told what took place, reviewing dozens of emails between the City and the vendor, listening to a video of the City council meeting of Tuesday, November 10, 2020, and receiving calls from three commissioners and the City Manager and having conversations with each at length, it is my opinion the City does not have bad people or bad intentions but it does have bad practices which led to this fiasco.

If after you read my summary of what transpired and my suggestions, you agree with me, I beseech you to email the commission members and the City Manager at the addresses below asking that it participate in

mediating a fair solution with the trolley vendors leaving no one thrown under the trolley and work toward making NMB, NMBF [Now More Business Friendly]:

Their cumulative email addresses are as follows with a copy to me:

anthony.defillipo@citynmb.com, McKenzie.Fleurimond@citynmb.com,  
Michael.Joseph@citynmb.com, barbara.kramer@citynmb.com,  
phyllis.smith@citynmb.com, Fortuna.Smukler@citynmb.com,  
Paule.Villard@citynmb.com, esmond.scott@citynmb.com,  
asakowitz@pointecompanies.com

You can compose your email or [click here](#) to add your name and send a proposed email that you can modify or send as drafted.

Then forward this email to everyone you know within the City and its surrounding areas and to everyone else you feel would find the conduct unacceptable and be willing to send a short email expressing your feelings about this matter.

Together we will make a difference see the day that NMB becomes NMBF [Now More Business Friendly.]

## **The facts as I see them:**

June 1, NMB Solicited bids to operate its trolley for the next 3-years with 2, one-year options.

July 29, Prokel [owned by Schragie Goldblatt and Kelly Gonzalez] and NMB's current contract holder, LSF, made formal presentations to the selection committee. The City Manager met with staff and decided to award the contract to Prokel. Staff was surprised, while LSF and Prokel were scored remarkably close, LSF was ranked number 1 and Prokel, number 2. But the City Manager could not ignore that going with the second ranked company would save the City about \$1,000,000 over 5 years and staff rated both companies capable of performing the task.

The City Manager understood that the Prokel was not currently in the trolley business, but it had a CEO with outstanding trolley experience and the company was in the transportation business. He also believed the skillset of the company was transferable. Also, of consideration to the Manager was the importance of not just having one capable company in county that could provide trolley services because allowing that would artificially inflate the cost of operating the trolley.

September 15 The City Manager formally notified the Mayor and all commissioners of his decision to award the contract to Prokel during the City Council Meeting. No one objected, and they all welcomed Prokel.

September 23 The Mayor and commissioners began receiving calls from LSF asking that the matter be reconsidered and added as an agenda item of a special hearing.

September 24 A motion to reconsider the appointment of Prokel was made, and after a hearing on the matter, the members of the commission voted it down 4 - 3, choosing to remain with Prokel.

October 1 The City and Prokel executed a 3-year contract with 2, one-year options. But the City retained the right to cancel the contract for any reason or no reason upon 15 days' notice. Prokel proposed starting on November 28. The City pressured Prokel to start sooner if possible and to immediately purchase insurance for \$67,000, order two trolleys as back-ups in case the City's trolleys had mechanical problems, enter into a lease for a facility within the NMB City limits, renovate the facility, purchase office equipment, hire staff, etc.

October 5 The NMB Transit Director approved one of three locations Prokel proposed as its facility.

October 7 The NMB Public Works director inspected and approved Prokel's facility and asked for the start date to be moved up to November 19 which was agreed to by Prokel. The NMB Public Works Department "strongly urged" Prokel to make the start date. earlier than November 19 .

On October 15 and 16 the City asked that the start date be moved up to October 30. Prokel Agreed. Compressing the start from 60 days to 30,

resulted in Prokel having to expend more money since there was little time to negotiate the best deals.

October 19 NMB Public Works official did another site visit and congratulated Prokel on the renovations.

October 20 LSF, the losing bidder, filed a lawsuit to stop the City from transferring the contract to Prokel. After this, the City has extraordinarily little communication with Prokel.

October 26 A meeting was set with the City Manager and Protel for 10:30 AM. When the Prokel arrived, it's CEO was advised the meeting was canceled but would be rescheduled but was not. This meeting replaced the Oct 1st which he also canceled on the day of the meeting.

November 9 With less than 24 hours' notice, Prokel was told the contract is being reconsidered for a second time and its principals were invited to show up for the hearing.

November 10 An hour 47-minute special hearing was held to reconsider the award to Prokel and by a 4 - 3 vote against Prokel the contract was terminated and the City Manager was instructed to negotiate a new contract with LSF.

[https://citynmb.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=578](https://citynmb.granicus.com/MediaPlayer.php?view_id=1&clip_id=578)

Prokel will likely lose over \$100,000 because it dealt with the City and was pretty much told too bad so sad - the end.

Initially, Prokel had the support of all 7 members of the commission. The next 2 times the same matter was brought before the commission, the same 3 voted for and another 3 voted against both times, The remaining commissioner initially voted for and then against thus resulting in the great loss to Prokel and tarnished reputation for the City. Though the commissioner caused Prokel a significant loss because of indecisiveness, the real motivation was to help Prokel, the underdog, and save the City \$1,000,000 in taxpayer money over 5 years. Unfortunately, when selecting Prokel initially, the commissioner did not consider the significant investment Prokel would be making to honor the contract the City awarded it. For that reason, when "respected constituents" told the Commissioner she voted "the wrong way" and the City Manager mentioned concerns his staff had, the Commissioner became wiggly and quickly bailed on "helping the underdog" and saving the taxpayers \$1,000,000. A shame the Commissioner waited until after the contract was awarded to Prokel and City staff encouraged Prokel to spend tremendous sums of money and make binding commitments for much more before bowing to the pressures of the "respected constituents" and grumbling of staff.

What the commissioner may not have considered is that the City Council and City Manager's objectives are not necessarily aligned with that of staff. The City Council and the City Manager are always trying to provide the best services at the lowest cost to its residents. From the staff's perspective, having a new company will require more of their time and effort. The cost to the taxpayers may not be as big a factor as it is for the City leaders. Since Prokel is in the transportation business but only now expanding to the trolley space, even more effort of staff would be needed. Add to that, staff are comfortable working with the current

company and was less than thrilled the City Manager chose the option of saving \$1,000,000 over business as usual.

The City Manager and the commissioner thoroughly conducted their due diligence before awarding the contract and encouraging Prokel to spend what was necessary to honor the contract. If the commissioner wanted LSF for \$1,000,000 more over 5 years, the commissioner should have voted to award the contract to LSF before she voted to award it to Prokel. If the commissioner wanted to save the \$1,000,000, help the underdog, and/or create completion in the trolley market in Miami-Dade County, the Commissioner's vote should have remained consistent.

True leadership would have respected its award, had confidence in its position, recognized the \$1,000,000 in taxpayer savings, stood by its commitment to helping the underdog, and made sure staff offered guidance to help Prokel be the best trolley operator it could be. They do this even if, in hindsight, they may have initially decided differently. The best employers help their employees reach their potential, and the best Cities do the same. It is expensive and disrespectful to treat people like they are easily disposable. It leads to lawsuits, low morale, and overpriced contracts.

## **My suggestions to move the City forward with fairness are:**

1. Mediation. The City should acknowledge that it employed less than the best practices in dealing with the trolley contract and should enter into mediation with both vendors and figure out a fair way to select who should be awarded the trolley contract once and for all and how the other vendor harmed by the City's unintentional vacillating should be made whole. Fortunately, there is a lot of profit in this contract such that the LSF vendor bid \$200,000 more than Prokel, who was making a significant profit without the extra \$200,000 per year. In the end, whoever gets the contract should save the City \$1,000,000 over 5-years, and a small amount of that savings should be applied to correct the error.

2. Civility. The City adopted a resolution "recognizing the importance of civility, decency, and respectful behavior in promoting citizen participation in a democratic government. The City of North Miami Beach calls upon all residents, employees, and elected officials to exercise civility toward each other." This practice of civility should be expanded to include decency, respectful behavior, and fair dealing between elected officials, employees, and vendors.

3. Outsourcing Services. When the City decides it is in its best interest to outsource services, it seeks the best service at the lowest cost. Depending upon how the request for proposals is drafted, that may not always occur. If too much emphasis is on hiring the best, the result may be only one candidate qualifies, and then, there is no incentive for that candidate to give a competitive bid. If too much emphasis is on cost, quality may suffer. It is a delicate balance where both the desire for



competition and the need for fiscal responsibility should be considered in preparing a request for proposals.

Once a candidate is selected, if the cost savings are significant but time will be needed to ramp up operations, open operations in the City, and/or require more initial oversight, a process should be put into place to assist the awarded vendor in being successful. Unless there are no significant start-up costs to a vendor, the contract should not allow the City to cancel the contract for no reason with short notice unless there is a fair liquidated damages clause. It sounds good for the City, but it creates a disincentive for businesses to want to do business with the City at the lowest cost. Including it in the contract will require businesses bidding to factor in substantial risk and the residents pay for such contracts in the form of higher taxes. If the contract is contingent on outside funding, that contingency may be a valid reason for cancellation if it is a known possibility upfront. Likewise, poor performance is a valid reason for cancellation.

This very clause of "cancellation for no reason" and a provision in Roberts Rules of Order is what allowed this contract to come before the commission to rescind the award more than 3 months after it was first presented, 47 days after it was first reconsidered and 41 days after the contract was signed. But this is not the end, nothing is preventing it from coming up a 4th, 5th, and 25th time, all damaging the City's reputation, wasting the residents' tax dollars on litigation, and in the end, having inflated costs for outsourced services. If this keeps up, it will not end here. Once the voters learn that the end is never the end if after they vote, they have "voter's remorse" they too can change their mind by starting a petition to recall a member of the commission for no valid reason at all.