

WORKSHOP MEETING MINUTES
SISTERS CITY COUNCIL
520 E. CASCADE AVENUE
JUNE 30, 2011

MEMBERS PRESENT:

Lon Kellstrom Mayor
David Asson Council President
Sharlene Weed Councilor
Pat Thompson Councilor
Wendy Holzman Councilor

STAFF PRESENT:

Eileen Stein City Manager
Steve Bryant City Attorney
Pauline Hardie Community Dev. Director
Paul Bertagna Public Works Director
Lisa Young Finance Director
Kathy Nelson City Recorder

The meeting was called to order by Mayor Kellstrom at 8:47 a.m.

1. Review of Professional Services Contracts

Manager Stein reported she had polled other cities to see how they handled their professional services contracts as requested by the Council and discovered a wide range of answers. She stated some cities had contracts that had been in place many years while other cities sent out requests for proposal (RFP's) on a regularly established schedule.

Mayor Kellstrom stated he felt the best way to discuss the contracts was to look individually at the agreements the City had with the city attorney, city engineer, auditing firm and insurance agent of record. He stated he felt that as a professionally run city there should be written agreements for all professional services for a set period of time. He stated the only possible exception he saw was for the insurance agent of record which he characterized as an ongoing relationship. **Manager Stein** suggested that if there was a performance issue with a service provider, the performance issue should be raised with that service provider directly.

Councilor Thompson asked what fees the City pays to the insurance agent of record. **Director Young** reported the City pays approximately \$5,000 a year which is determined by CityCounty Insurance Services (CIS). **Councilor Thompson** stated he had no issue with any of the service providers but felt if the City was going out for an RFP it was important to make certain the City was getting the best deal it could. He stated the historical knowledge a service provider has acquired was important but should allow the provider to charge the City a lower rate. **Manager Stein** agreed there were efficiencies built into that historical knowledge that can be invaluable.

Councilor Asson asked the purpose of the fee paid to the insurance agent. **Director Young** explained the agent helps manage the City's insurance accounts and risk management issues. She reported he attends the yearly CIS conference on the City's behalf and pays his own way, keeps up-to-date with CIS and its rates, meets quarterly with staff to discuss risk loss, and in general is the insurance expert for the City. She stated he has shopped rates for coverage with other insurance carriers and confirmed that CIS provides the most cost-effective rates. She explained

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the City receives a separate bill from CIS for workers compensation, general liability and property also.

Mayor Kellstrom directed, and the Council agreed, to have staff develop a policy for obtaining quotes every three years for the city attorney, city engineer, auditing firm and insurance agent of record to bring back to the Council. **Director Young** replied that she would prefer a longer contract period for the auditor to allow a more in-depth review of the City's records and having a deeper understanding and knowledge of how the City operates. **Councilor Asson** agreed that five years was a better timeframe for an auditing firm. **Councilor Weed** suggested a three year minimum with the possibility for two one year extensions to provide the greatest flexibility.

Councilor Thompson asked if the City has a written policy for professional services contracts and **Manager Stein** replied it does not. The **Council** directed staff to draft a policy so the City knows exactly what services are provided by the service provider with the agreement. **City Attorney Bryant** reminded the Council it was their prerogative to determine what services it wanted provided.

Councilor Thompson stated he felt the City's insurance agent should be required to shop rates each year as part of the agreement and the **Council** agreed. **Director Young** confirmed the agent does research rates each year. **Manager Stein** suggested having the City's insurance agent attend a future workshop discuss coverage. **Councilor Holzman** stated she felt it was important for the Council to meet the agent and the **Council** agreed. The **Council** asked staff to determine if the agent is compensated any other way other than the \$5,000.

Manager Stein stated staff would draft a formal policy for the professional services of attorney, engineer, auditor and insurance agent of record that states it would take place every three to five years. **Director Young** explained there were certain windows of time that work best for specific RFP's such as the month of March for an insurance agent and the month of January for auditing services. **Councilor Thompson** asked about other professional service contracts the City has such as a water rights consultant and building inspectors. **Manager Stein** replied that other than building inspections the other businesses were providing consulting services for a specific project. **Director Young** suggested banking could also be added to the RFP process and the **Council** agreed. **Manager Stein** informed the Council there would be conditions for some of the service providers such as the city engineer cannot work on private development projects in the city.

2. Review of Public Contracting Ordinance

Manager Stein stated there had been discussion by the Council to modify the public contracting ordinance to include language on weighted criteria or best value criteria. She discussed the three threshold levels:

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1. Small Procurements/Improvements – up to \$5,000. These procurements do not require the solicitation of competitive price quotes or bids.
2. Intermediate Procurements/Improvements – \$5,000 to \$49,999. These procurements require the solicitation by competitive price quotes. The City Manager has a \$25,000 contract authority limit so any procurement over that amount must be approved by the Council.
3. Formal Procurements/Improvements –\$50,000 and above. These are procured through a RFP or bid process and approved by the contract review board. Contracts between the amount of \$1 to \$49,999 can also have this procurement method applied at the request of the contract review board.

Councilor Thompson asked if a call is received from a company outside the area that wants to provide a quote, whether the City was obligated to accept the quote. **City Attorney Bryant** replied the City was not, but he recommended accepting the quote. **Councilor Thompson** stated his concerns stem from talking with local contractors and their complaints that they are constantly called and asked to provide community support for local events and programs which they provide year round. He stated when an outside contractor comes in to perform a job, that contractor doesn't provide anything for the city. He stated he wanted something in place that required using weighted criteria after he and other councilors were gone. **City Attorney Bryant** explained the City could create bid criteria that required some level of community support but not for small and intermediate quotes, as that would be illegal. He stated there was also the advantage that the City could solicit quotes from local contractors only for those jobs or services. He reminded the Council that the state statute allows the City to set the threshold to \$150,000 before requiring a formal procurement process so intermediate quotes could be bumped up to \$150,000 if they chose. He stated two factors the Council should consider when using a weighted criteria were; there is a cost involved in preparing, advertising and reviewing contracts and that with weighted bids, the City could end up paying more for a project. **Councilor Thompson** disagreed stating he felt the local contractors would still be competitive. **City Attorney Bryant** suggested the City could keep a list on its website of all the contractors it has used for the past year for agencies and groups to look at and use when looking for donations. **Director Bertagna** stated he liked having the formal procurement threshold at \$50,000 since that was when Bureau of Labor and Industries (BOLI) wage requirements became necessary and all the forms could be tied to the contract.

City Attorney Bryant stated if the Council directed staff to always use weighted criteria the Council would have to approve every RFP and determine criteria for every project. He stated each project would have unique characteristics that would need to be considered. **Councilor Thompson** stated he saw three criteria that could be used for any bid; 1) what has the company done, what is the company doing at present or what does the company plan to do for the community, 2) the company's ability to perform the job whether it be experience, equipment or timeframe and 3) price. **City Attorney Bryant** stated the issue was whether the Council wanted

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to handle every bid over \$50,000 with weighted criteria. He explained that at present the ordinance allows the Council to decide on a case by case basis as to whether a project should be decided by price alone or by weighted criteria. **Director Bertagna** expressed concern that if weighted criteria was always used, local contractors would always have an advantage which could drive up the cost of the project. **Councilor Weed** stated if all things were equal then a local contractor should be the choice but she was not in favor of creating a situation where contractors felt they had to contribute to the community to get a job.

City Attorney Bryant stated the Council had three options before them; 1) leave the ordinance as is which allows an alternate contracting method to be used, 2) require all bids to be based on an alternate contracting methods (weighted criteria), or 3) have all bids come before the Council to determine in advance if it wants to use weighted criteria or not. **Councilor Thompson** suggested the ordinance be edited so all bids were mandatory unless staff requested the alternate contracting method not be used for a specific project. **City Attorney Bryant** stated if the alternate contracting method became mandatory, the Council would be bound to always use weighted criteria.

Councilor Asson asked what drawbacks or unintended consequences there could be with making the alternate contracting method mandatory. **City Attorney Bryant** stated the issues were not necessarily drawbacks, but the Council would have to see every bid prior to it going out, there would be additional staff time needed to tweak the criteria for every bid to make certain it was correct for the particular project, and the function of weighted criteria could sometimes be skewed. He stated there would always be the provision that the Council could reject all the bids which could create a problem with the timing and cost of a project.

Councilor Thompson stated the goal was to have contractors involved in the community. **Councilor Weed** voiced concern that a mandatory alternative contracting method would drive up the costs of projects. She asked at what point the Council was being irresponsible with taxpayer money. **Manager Stein** asked if the contract review board convenes for every bid would the dollar value of the contribution to the community become an issue. **City Attorney Bryant** stated the City could make points based on the dollar value of the contribution but that could be difficult to balance if one contractor was providing a financial contribution and one was providing man-hours. He stated that could take the time to figure out. **Councilor Holzman** stated she could foresee a problem with bids becoming a competition of which community effort provides the most value. **Councilor Weed** stated she was uncomfortable with requiring a future commitment from a contractor. **City Attorney Bryant** stated he would suggest the City not differentiate between donations by recipient and dollar amount but rather weigh it based on the contribution to the community in the prior year. **Manager Stein** noted that would be a disadvantage for any new contractor trying to become established in Sisters.

City Attorney Bryant stated the higher the weight the City places on the financial portion of the criteria the more competitive the bids would be. **Manager Stein** stated one concern was that

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currently Public Works had fewer staff and no longer had a project coordinator. She stated requiring this process would add to the workload.

Councilor Asson asked for additional information on the third option again. **City Attorney Bryant** explained with the third option he presented, the Municipal Code would be edited to state the City would use the alternative contracting method on all bids unless the Council voted to not use it on a particular bid. He expressed his opinion that the more flexibility the Council gave itself the better. **Councilor Weed** stated if the Council feels this was the method that should be used then it should be written into the ordinance. **Manager Stein** stated that language would tell staff they need to check in with the Council and schedule a workshop for each bid process. **Councilor Weed** stated there should be a standard formula to ensure the criteria used would drive down costs. She asked if other cities used weighted criteria. **Director Bertagna** replied the City of Redmond had used weighted criteria for the 5th and 6th Avenue project. **City Attorney Bryant** stated using weighted criteria had not been mandatory and like Sisters they are able to choose whatever method they think will work best for a particular project. He stated it's a matter of deciding on what number value will be given to the various components that are to be weighted.

Director Bertagna asked Councilor Thompson if he was looking for any elements others than experience, cost and community involvement and what was encompassed in community involvement. **Councilor Thompson** stated he saw community involvement as anything that contributes to the community whether it was using local labor or making some type of contribution or donation to the community. **City Attorney Bryant** warned that the criteria would need to be specific and objective enough to hold up in court so as not to create an issue with the interstate commerce clause. **Director Bertagna** stated he felt that price should be the bottom line if a contractor met the other criteria and **City Attorney Bryant** stated it was a matter of setting up the criteria correctly. **Councilor Holzman** suggested using weighted criteria on a project first as an experiment, prior to changing the ordinance. **Councilor Thompson** replied a weighted criterion was used for the Public Works Headquarters building already. **Director Bertagna** stated that in that instance since everyone met the other criteria, it came down to the lowest price. **Councilor Thompson** stated it would be important to let contractors know the City was moving to using a weighted criteria and that one component would be related to community involvement.

The **Council** agreed that weighted criteria would be the norm unless staff brought a contract to the Council requesting a weighted criteria not be used, and the Council agreed with the reasoning behind the request. **Manager Stein** stated a workshop would be scheduled after staff came up with draft language.

3. Preview July 07, 2011 Quarterly Workshop with County Commissioners

Manager Stein provided an overview of the upcoming workshop with the County Commissioners noting there were a lot of discussion points on the agenda.

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4. City Manager Update

Manager Stein reported staff had met with ODOT to discuss the possibility of relinquishing the sidewalks on Cascade Avenue to the City. She stated a workshop would be scheduled to discuss the matter further.

The meeting was adjourned at 10:14 a.m.

Respectfully submitted,

Kathy Nelson, City Recorder

Lon Kellstrom, Mayor