

MINUTES OF

**LEGISLATIVE REVIEW COMMITTEE –  
FINANCE, INTERNAL AUDIT, ENGINEERING/CIP & MANAGEMENT SERVICES  
2<sup>ND</sup> FLOOR CITY COUNCIL CHAMBERS  
THURSDAY, SEPTEMBER 1, 2011  
9:00 A.M. – 11:00 A.M.**

The meeting was called to order by Chair Carl Robinson at approximately 9:17.

The following members of the Committee were present:

Representative Carl L. Robinson (Chair)  
Representative Michiel R. Noe  
Representative Eddie Holguin Jr.  
Representative Steve Ortega

Assistant City Clerk Brian Heller Honored upon his retirement with City.

1. **Call to order and introductions.**
2. **Approval of Minutes for the Fiscal Affairs & Management Support / Internal Audit meeting of April 8, 2010.**

ACTION TAKEN: Representative Robinson moved to approve the minutes of the previous LRC meeting as presented. Motion seconded by Representative Ortega and approved with Representatives Noe and Representative Robinson abstaining.

3. **Presentation, discussion and action on implementing House Bill 1869, Section 271.905(a) and 271.9051 (local bidding preference). [Financial Services, Bruce D. Collins, (915) 541-4313]**

SUMMARY: Mr. Bruce D. Collins, Purchasing Manger, City of El Paso gave a presentation/overview of the local government preference changes reference HB 1869 and the changes in Texas Local Government Code Sections 271.905(a) and 271.9051 called for in the aforementioned legislation. HB 1869 eliminates the population parameters for local governments in Texas that may apply a location preference for certain solicitations. In addition proposed policies and procedures for implanting the local bidding preference for the City of El Paso were presented.

Major points of the Purchasing Manager's presentation were to:

- Identify which sourcing processes the bidding preference applies to
- Identify the "percentage adjustment" that applies to competitive bids submitted in an amount equal to or greater than \$100,000 dollars
- Identify the "percentage adjustment" that apply to competitive bids submitted in an amount less than \$100,000 dollars
- Understand how the adjustments shall be applied to contracts at the varying thresholds
- Understand the definition and application of "principal place of business"

The Local Bid Preference does not apply to purchases off buy boards because the City does not facilitate those processes. To receive local preference principle place of business must be located within the city limits of City of El Paso. Hypothetical bid tabulations were presented showing how the local preference would be calculated. For bids greater than or equal to \$100,000 3% would be added to the lowest non-local bid. For bids less than \$100,000.00 5% would be added to the lowest non-local bid.

Representative Ortega asked if there was discretion in applying this law. Elizabeth Ruhmann, Assistant City Attorney, indicated there was discretion in using this preference; it's not mandatory.

Ms. Ruhmann stated that there has to be a written finding by City Council that the local preference would apply. Representative Ortega proposed to amend this agenda item so that Council will do a blanket resolution authorizing the local bid preference to be used in City of El Paso solicitations so everyone would know that the local preference was in effect from the start.

Representative Ortega asked the Mr. Collins, the Purchasing Manger to discuss the decision making process for when the City elects to purchase off the buy boards or to go out for bid.

Mr. Collins then explained the sourcing decision. Financial Services-Purchasing Division meets with requesting department, where the need is identified and staff looks at strategy for acquiring the service. If the proposed purchase is under \$50K, is there local bidder that can provide service on the buy board? If the answer is yes, then purchasing division will source off a buy board. If the answer is no, then three quotes are obtained. If over \$50K purchasing division will go through a 5 factor determination: is time of the essence; is it available locally; are they standardizing equipment; does it offer the best value for the City. If it's available from a buy boards, it will be purchased off the buy boards. If it's not available a bid will be issued by the City. Purchasing off the buy boards facilitates the purchase. Price reasonableness and best value have already been established during the solicitation process for each buy board purchase. Volume discounts and reduced cost of the procurement process are other reasons for using the buy boards.

Representative Holguin: Asked if changes could be made to the buy board policy. Cynthia Osborn, Assistant City Attorney indicated that local preference was the only item on the agenda today for consideration. If the LRC wished to make change to the buy board policy, that would have to be brought back for consideration by LRC at a later date. Representative Holguin requested that staff make sure to bring back the City's buy board purchasing policy to the next LRC.

Mr. Collins presented the strategy for educating and informing the vendors and the general public of the proposed local vendor preference policies and procedures, after adoption of the local bidder preference by City Council. Several regularly occurring meetings sponsored by organizations that the City partners with were listed.

Mr. Collins presented several key considerations to the LRC where staff needed direction in order to finalize a resolution presenting policies and procedures for implementing the local bidding preference to take to the full City Council.

- Principal Place of business –operation/production verse management
- Defining measurable standard for economic benefit to City of El Paso–Direct or indirect jobs created and/or retained–Dollar value of supplies/equipment being purchased from El Paso companies–Subcontracting Plan (value of contract to be subcontracted with El Paso firms) –Taxes to be paid to the City as a result of being awarded a contract
- Eligibility time frame for receiving local preference (required with submittal)
- Applicability dollar threshold –\$ 3,000 and above or \$50,000 and above

Mr. Collins indicated staff needed direction on the definition of what City Council would consider the principal place of business in applying the local bidder preference

Representative Ortega made a motion that in defining principle place of business number of employees be used in the definition and concurred with Representative Holguin's number of three (3) employees. Representative Robinson wanted to further define number of employees to full-time employees and address what type of services and what type of business is being provided. Mr. Collins made a recommendation that a defined number and percentage of employees be used in the definition of principle place of business. Representative Noé stated that he was not opposed to having minimum number of employees but the employee count was less important than the significant economic impact the business would bring to El Paso.

Carmen Arrieta-Candelaria, Chief Financial Officer (CFO) and Director of Financial Services Department, stated that Financial Services wants to encourage local business, however she encouraged Council to bring forward a recommendation that would be clear to the public and easy for the Financial Services Department to implement.

Representative Robinson inquired of legal if City can require companies under the local bidder preference to invest in the community and non-profits. Assistant City Attorney Elizabeth Ruhmann indicated while she would have to do some further research, it would be possible to include such language as recommended by Representative Robinson above.

Mr. Collins recommended that Council give Purchasing Division the authority to require bidders include all documentation establishing themselves as local business in each bid package they submit at the time the bid is due in order to reduce the time required to evaluate and award solicitations.

The following members of the public that commented:

Lisa Turner  
Richard Dayoub-El Paso Chamber of Commerce

**ACTION TAKEN:** Representative Ortega made a motion to accept staff recommendation and move to approve item # 3 with the caveat that for the local business qualification, the business is either headquartered in El Paso according to Secretary of State or has an existing office that has the equivalent of at least three full-time employees and to direct the Legal department to bring back a resolution concerning the consistency of the application of this particular policy. The motion was seconded by Representative Noe and approved unanimously.

**4. Discussion and action on the City's Investment Policy for the fiscal year 2012. [Financial Services, Carmen Arrieta-Candelaria, (915) 541-4011]**

Blanca Lorkowski recognized on her retirement with the City of El Paso.

**SUMMARY:** Dr. Mark Sutter, Comptroller made a presentation and discussed changes affecting City's investment policy due to approval of HB2226 (June 2011) by Texas Legislature. Dr. Sutter's presentation included the following points:

Approval of HB2226 has resulted in several changes to the Texas Public Funds Investment Act (TPFIA)

- Investment rating change monitoring required
- Training requirement period redefined
- FDIC backed securities added to investment options
- Certificates of Deposit rules changed
- Repurchase agreements security expanded
- Investment pool provisions expanded & more regulated
- Reporting requirements changed
- Recognize TPFIA recommended investment concerning limited commercial paper (270 day maturity max, A-1 or P-1 ratings)

Representative Robinson asked what the designation A1 and P1 meant regarding commercial paper ratings. Dr. Sutter replied that these were the highest ratings given by Standard and Poors and Moodys respectively for commercial paper investments.

A member of the public, Lisa Turner, expressed concern about using commercial paper during the current economic crisis. Carmen Arrieta-Candelaria, CFO commented that City invests per state statute and indicated existing investment policy is very prudent and very conservative and those same principles would apply to commercial paper. Ms. Arrieta-Candelaria also indicated that the use of commercial paper would allow the City to further diversify its portfolio and limit risk somewhat.

Representative Robinson asked if the City has lost money. Ms. Arrieta-Candelaria indicated that the City has not lost any money, but has not earned a great deal due to current lower rates of return. Dr. Sutter stated that the City's investment policy contains a list of priorities for investment of funds. The

number one priority in the City's investment policy is preservation of principle. The last priority of is yield.

The following members of the public that commented:  
Lisa Turner

ACTION TAKEN: A motion was made by Representative Ortega to approve the City of El Paso Investment Policy pending legal consultation. Representative Robinson seconded and the motion was approved 3-0 with Representative Holguin abstaining.

5. **Discussion and action on the proposed Title 5 (Business Taxes, Licenses and Regulations) amendments revising existing provisions throughout the entire title to reflect current processes and procedures; and deleting sections 5.04 (Occupation Tax and License Fees), 5.12 (Amusement Devises), 5.16 (Appliance Dealers and Installers), 5.40 (Junk Dealers), 5.44 (Kindergartens), 5.56 (Messenger Services), 5.68 (Motor Carrier Transportation Agents), 5.76 (Nurseries and other Businesses Selling Plants or Fertilizer), 5.88 (Private Detectives), 5.92 (Shoe Shining), 5.104 (Watchmen), 5.108 (Servicing Cesspools, Grease Traps and Septic Tanks) and 5.112 (Bingo Regulations). [Engineering and Construction Management, R. Alan Shubert, (915) 541-4423]**

SUMMARY: Mr. Alan Shubert, City Engineer, began the presentation noting that some sections in Title 5 were extremely antiquated and other processes needed to be changed, updated and modernized. What Engineering and Construction Management (ECM) is looking for a general sense of direction from the LRC going forward. Mr. Shubert then introduced Julie Baldwin-Muñoz who gave a summary of the proposed changes to Title 5 of the El Paso Municipal Code. ECM has undertaken a comprehensive review of the 33 chapters in this Title which had not been reviewed for over ten years. This review was a result of City Council and Citizen requests to update Title 5.

The Policy Direction Sought from the LRC consisted of

- General agreement with approach taken and chapters proposed for deletion
- Move forward with two year permit/license term adjustments
- Proceed with simplified approach to vendor licensing

ECM's next steps in the review and update of Title 5 are to

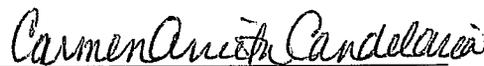
- Complete ordinance draft –Related precision changes
- Continue vetting process with impacted stakeholders
- Bring proposed amendments to City Council–Within 30 days of this LRC meeting

ACTION TAKEN: Representative Ortega made a motion to affirm direction of ECM Department regarding recommended changes in LRC agenda item 5. The motion was seconded by Representative Robinson and approved unanimously.

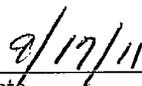
6. **Adjournment**

Representative Robinson adjourned the meeting at 11:08 a.m.

APPROVED AS TO FORM:



Carmen Arrieta-Candelaria  
Chief Financial Officer

  
Date