



**MURRAY CITY MUNICIPAL COUNCIL
COUNCIL INITIATIVE WORKSHOP**

A Murray City Council Initiative Workshop was held on Tuesday, August 21, 2012, in the Murray City Center, Conference Room #107, 5025 South State Street, Murray, Utah.

Members in Attendance:

Jim Brass	Council Chairman
Jared Shaver	Council Vice Chairman
Dave Nicponski	Council Member
Darren V. Stam	Council Member
Brett A. Hales	Council Member

Others in Attendance:

Frank Nakamura	City Attorney	Janet M. Lopez	Council Staff
Jennifer Kennedy	City Recorder	Zach Fountain	Mayor's Office
Justin Zollinger	Finance Director	Doug Hill	Public Service Director
Jennifer Brass	Citizen	George Katz	Citizen
Sally Hoffelmeyer Katz	Citizen	Dale M. Cox	AFL-CIO
Brandon Dew	Operating Engineers		

Mr. Brass called the Council Initiative Workshop to order at 5:00 p.m. and welcomed those in attendance.

Minutes:

Mr. Brass asked for questions, corrections or action on the minutes from Council Initiative Workshops held on July 17, 2012 and August 7, 2012. Mr. Shaver moved approval. Mr. Stam seconded and the motion passed 5-0.

Business Item #1: Lowest Responsive Responsible Bidder - Dave Nicponski

Mr. Nicponski explained that he had always been concerned with and a party to workplace conditions and responsible employer situations. This had been a part of his legislative activities when working with Hercules and ATK on Capital Hill. He had dealt with other workplace sponsors and his presentation that evening included Dale Cox representing Operating Engineers Local #3 and was recently elected President for the AFL-CIO.

Mr. Cox distributed a copy of the ordinance language as adopted by Salt Lake City. He stated that he had been working on this project for about 18 months for several reasons. Consistently, he had seen responsible contractors go to the bid table and be punished because they furnish health care, have safety training, etc. Due to the cost of these benefits they frequently do not get bids. He began working with several cities and Salt Lake County on something that would help cities get away from the lowest bidder to the lowest responsible bidder. The language that is presented in the ordinance has four points that the procurement officer must evaluate to determine whether the contractor has demonstrated to the city that it will maintain the following standards.

- To keep in line with the state code a 10% preference would be given if the contractor provides health care. This benefit must meet the Children's Health Insurance Program and pay for 50% of the family coverage. It does not say that the contractor must furnish it, however, points are given if they do offer this benefit.
- The second requirement is a safety program, which includes drug and alcohol testing.
- A job training program developed by the City and in compliance with federal and state programs would be required.
- A veteran's preference hiring policy should be in place.

Taylorsville had adopted this language, as had Salt Lake City. Salt Lake County and West Valley City are looking at it. This is a way to reward responsible contractors and also to insure that the City is getting responsible contractors to bid on its work, Mr. Cox related.

He conveyed a story about a water line replacement on Bullion Street, where he lives. As a thirty-year member of Local #3 and in the construction business he watched the progression of the water line, which began just after July 4 and was not completed until well into September for just a half mile of water line. Sometimes there were no flag people and good safety measures were not taken around live traffic. This work should have been finished in about 30 days. Therefore; after seeing the work in that situation he felt pressed to get something done to see that responsible construction contractors were hired. He understands that delays occur but these are the reasons for his efforts on behalf of cities and contractors.

In response to a question from Mr. Hales, Mr. Cox said that this is an avenue to assist the cities in getting responsible bidders without being stuck to the lowest bidder. This helps to define what's responsible and will reward those contractors who are acting responsibly and morally for their employees. It is good in the long run. His idea is to bring the floor up a little and in the end, the trained workforce is a value for the city, the workforce and the contractor.

Mr. Stam mentioned the ordinance written for Taylorsville, which stated that if the bids came in over estimates then they would award it to the lowest responsible bidder. He read it to mean that if the bids came in under the estimate, then anyone could get it. Mr. Cox said that was not the intent and to be a responsible bidder the criteria outlined would be met. The only

part with a percentage was the health care coverage. Mayor Wall did it as an Executive Order and Salt Lake City approved it as an ordinance through the Council. Taylorsville's order applies to projects more than \$25,000 and Salt Lake City's ordinance is more than \$100,000.

Mr. Shaver mentioned that the City has a dollar limit for work that can be completed by the City and over that it must be bid out. Mr. Hill corrected that the line is drawn by the state and changes every year based on Class C road funds. The executive order or ordinance applies to building improvements and work other than street projects.

Mr. Nakamura mentioned the Affordable Health Care Act has mandated health insurance provisions and requirements. It seems that the contractors will be subject to the Affordable Health Care Act. He asked if that had been considered as part of the order and ordinances passed by the mentioned cities. Mr. Cox stated that when Taylorsville enacted their Executive Order the Supreme Court had not made a ruling on the Health Care Act. This does stay in line with state requirements. Mr. Nakamura said that it is a federal law.

Mr. Shaver pointed out that as legislators they must assume that as of January 2014 it will go into effect. What happens between now and then is unknown. In 2014 changes in how the contractors hire and provide health insurance will occur. If language is adopted then it has to be drafted according to the Affordable Health Care Act, Mr. Nakamura confirmed. Some of it may already be mandated.

Mr. Fountain made some comments based on changes in 2014; however, he stated that now it offers some stability for the next 18 months until the new law takes effect. Mr. Brass added that there is a long history of altering Murray City ordinances based on actions by the legislature.

Mr. Stam stated that he was in favor of the training aspects of the suggested ordinance. He related his dad, Dick Stam, was retired from the Operating Engineers and had maintained his membership. Shortly after the right-to-work law was adopted, his dad had an experience on a job site due to another worker's poor training that required him to spend several years in court.

Mr. Stam mentioned his concerns relating to the construction of large City projects, the Park Center and fire stations, that were built by ASWN. ASWN served as architect and contracting manager for these buildings. He asked Mr. Hill if this ordinance would disqualify ASWN should the City Council enact it.

Mr. Hill responded that he had not talked with ASWN; although some research with six to seven of his most recent contractors was completed. The majority of the contractors did comply with most of the conditions in the suggested ordinance. None of them employed any veterans. Most of them offer some health care and a very small percentage of contractors would not qualify. He could not say whether those would come into compliance. ABC, Whitaker, Acme and others meet the criteria except for the veteran's preference.

Mr. Cox said that it could be an issue with ASWN in the construction part of the project; however, again, he mentioned his effort for those contractors who meet the stipulations to be rewarded for doing so and to encourage the ones who do not to raise the bar and provide a

better project in the end. The wider spread this language is in cities and towns, the better prepared the contractors will be to compete with those that uphold these standards. A byproduct of that is better employees who stay with the owner from job to job and the city would benefit with a better project and shorter building time. There are benefits on both sides. Mr. Cox said that it is not difficult to pay more attention to veterans and hire more of them.

Mr. Fountain commented that a tax subsidy is in place for businesses that hire veterans. Mr. Shaver went to the Veterans' website and read about that and how job skills can be a benefit to employers.

Mr. Shaver noticed that the language was different in the two samples provided and he asked Mr. Cox if he could be available for assistance if the Murray Council decided to craft language for the City. Mr. Cox indicated his willingness to help in that way at any time.

Mr. Brass asked the Council Members if this was something they would like to move forward with.

Mr. Shaver said that he was in favor of the ordinance and he really looked at the value of each of the statements. He thinks language to set standards would be beneficial to the City. Mr. Brass, Mr. Stam, Mr. Hales and Mr. Nicponski all agreed that it would be an asset to have these measures in place and indicated their willingness to go forward.

Mayor Snarr noted that in his experience these standards level the playing field among contractors. He feels it is reasonable.

Mr. Brass offered his help to Mr. Nicponski to work on it and asked to have Mr. Nakamura's office craft the ordinance and bring it to a Committee of the Whole for further discussion.

The meeting adjourned at 5:25 p.m.

Janet M. Lopez
Council Office Administrator