

MINUTES OF THE REGULAR MEETING OF THE COSTA MESA CHARTER COMMITTEE

SEPTEMBER 25, 2013

1. CALL TO ORDER

The meeting was called to order at 6:00 p.m. in the Emergency Operations Center, at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

PRESENT: FACILITATORS: Dr. Kirk Bauermeister, Dr. Mike Decker
CHARTER COMMITTEE MEMBERS: Ron Amburgey, Brett Eckles, William Fancher, Thomas Graham, Gene Hutchins, Kerry McCarthy, Mary Ann O'Connell, Henry Panian, Tom Pollitt, Lee Ramos, Andrew Smith, Kevin Tobin, Harold Weitzberg
LEGAL COUNSEL: Kimberly Hall Barlow, Yolanda Summerhill

ABSENT: Committee Member Graham

2. PLEDGE OF ALLEGIANCE - Dr. Bauermeister

3. MOMENT OF SILENCE – Dr. Bauermeister

4. WELCOME - Dr. Bauermeister

5. PUBLIC COMMENTS

Chris Hannan, Los Angeles and Orange County Building Construction Trade Representative, expressed opposition to changing prevailing wage requirements and that prevailing wage promotes qualified contractors.

Jay Humphrey, Costa Mesa, spoke on the California Contract Cities Association and outsourcing.

Charles Mooney, Costa Mesa, commented on a draft analysis of police compensation prepared by Committee Member Hutchins.

6. REVIEW OF MINUTES

MOTION/SECOND: Committee Member Eckles/ Committee Member O'Connell

7. MEETING SUMMARY

Dr. Decker clarified the corrections that were made to the preamble.

Legal Counsel Hall Barlow explained the hierarchy of government laws.

8. CHARTER ISSUE

TRANSPARENCY - PROPOSED LANGUAGE GOVERNING PUBLIC CONTRACTING

Consensus: (10 Ayes, 2 Noes) The following language will be added to the Charter: The Public Services Department shall be authorized to utilize the informal bidding procedures and cost thresholds set forth in the Uniform Construction Cost Accounting Act, as the procedures and cost thresholds may be modified every five years by the Uniform Construction Cost Accounting Commission. The City shall not be obligated to comply with any provision of the Uniform Construction Cost Accounting Act, including but not limited to future changes which relate to matters other than solicitation of bids and thresholds for informal bidding.

Ayes: Committee Members: Amburgey, Eckles, Fancher, Hutchins, McCarthy, Panian, Pollitt, Ramos, Smith and Tobin.

Noes: Committee Members: O'Connell and Weitzberg.

Absent: Committee Member Graham.

Committee Member Weitzberg commented that there is no need to put the proposal into the Charter because it is redundant.

OPENESS – PROPOSED CHARTER PROVISION

Committee Member Eckles recommended reviewing each proposal individually.

Discussion ensued on why or why not to include language/provisions in the Charter.

Consensus: (5 Ayes, 7 Noes) Proposal 1: The City will promote fair and open competition for all City construction projects so that all contractors and workers are treated equally in the bidding and awarding of City Public Works Contracts.

Ayes: Committee Members: Amburgey, Eckles, Pollitt, Ramos, and Tobin.

Noes: Committee Members: Fancher, Hutchins, McCarthy, O'Connell, Panian, Smith and Weitzberg

Absent: Committee Member Graham.

Consensus: (5 Ayes, 7 Noes) Proposal 2: All citizens have the right to offer grievances or suggestions for the betterment of municipal affairs at any regular meeting of the City Council.

Ayes: Committee Members: Amburgey, Eckles, Fancher, Pollitt, and Ramos.

Noes: Committee Members: Hutchins, McCarthy, O'Connell, Panian, Smith, Tobin, and Weitzberg

Absent: Committee Member Graham.

Consensus: (3 Ayes, 9 Noes) Proposal 3: The City Council may reject any and all bids presented and may readvertise in its discretion.

Ayes: Committee Members: Amburgey, Eckles, and Ramos.

Noes: Committee Members: Fancher, Hutchins, McCarthy, O'Connell, Panian, Pollitt, Smith, Tobin and Weitzberg

Absent: Committee Member Graham.

Consensus: (5 Ayes, 7 Noes) Proposal 4: Projects for the maintenance or repair of City Assets are exempt from Public Bidding Process if the City Council determines that such work can be performed more economically by a City department than by contracting for doing such work.

Ayes: Committee Members: Amburgey, Eckles, McCarthy, Ramos, and Tobin.

Noes: Committee Members: Fancher, Hutchins, O'Connell, Panian, Pollitt, Smith and Weitzberg

Absent: Committee Member Graham.

Discussion ensued regarding retention levels.

Consensus: (2 Ayes, 10 Noes) Proposal 5: The City will withhold a maximum of 5% retention from public works contracts. The City reserves the right to not withhold, or reduce retention withholdings on projects it deems suitable of a non-complex nature.

Ayes: Committee Members: Eckles and Ramos

Noes: Committee Members: Amburgey, Fancher, Hutchins, McCarthy, O'Connell, Panian, Pollitt, Smith, Tobin and Weitzberg

Absent: Committee Member Graham.

Consensus: Proposal 6 regarding firewall would be discussed under governance.

BREAK: 7:14 p.m. – 7:24 p.m.

PREVAILING WAGE – PROPOSED CHARTER PROVISIONS

Public Works Director Munoz summarized the prevailing wage document which included the survey that he gave to other Charter agencies.

Committee Member Weitzberg stated he is against eliminating prevailing wage for the following reasons:

- Documentation shows non prevailing wage jobs are not being completed.
- Prevailing Wage supports members within the community by hiring locally.

Committee Member Pollitt stated that he would like to see contracting that provides for prevailing wages and that provides the option for compensation.

Committee Member O'Connell stated that prevailing wage is a living wage not a union wage and supports prevailing wage because it generates revenue that comes back into the City.

Committee Member Tobin stated that paying prevailing wage complicates the process and he is not in favor of prevailing wage.

Committee Member Ramos commented that he is in favor of finding a formula that is flexible for the City and finding the best possible outcome for contractors.

Committee Member Eckles stated that prevailing wage and unions are totally separate; he is opposed to limiting a contractor's profit; and the key is flexibility.

Committee Member Amburgey commented that prevailing wage costs an extra 40% on jobs and if the City opened up the projects to more than prevailing wage workers it would save a lot of money.

Committee Member Fancher stated prevailing wage is too expensive and that the majority of the commercial buildings in Costa Mesa were built by using non prevailing wage workers and the building were built on time, safely, and they are of good quality.

Committee Member Panian commented that he cannot make a decision at this point because he wants to save money but at the same time would not want to disqualify competent workers and both of these items impact the public.

Committee Member Hutchins commented that the City needs to save money due to the unfunded pension liability and needs to look at prevailing wage to keep costs down and allow the City Council flexibility to decide.

Committee Member Smith stated that he is opposed to prevailing wage as he trusts the voters to elect representatives who can choose to pay prevailing wage or not. Also, that he trusts that staff would build a good product without prevailing wage. Prevailing wage is an unnecessary requirement.

Committee Member McCarthy stated that the market should decide what to pay people and the contracts should give the contractors incentive to hire Costa Mesa residents.

Committee Member Weitzberg inquired how the City is guaranteed to save money and how does the City ensures that the contractor is not keeping a higher profit.

Committee Member Smith commented that the bidding process ensures that the lowest responsible bidder receives the contract.

Committee Member Eckles commented that prevailing wage is not related to local hiring.

Legal Counsel Hall Barlow stated proposal 3: The City Council in its discretion may determine whether a public project funded exclusively by local funds requires the payment of prevailing wages to the workers on the project.

Legal Counsel Summerhill clarified proposal 3, stating that it gives the City Council discretion whether to pay prevailing wage.

Committee Member McCarthy commented that it does not matter what profit the contractor makes, whoever has the lowest responsible bid should win the project.

Discussion ensued regarding the bidding process.

Dr. Bauermeister stated that the staff is going to rework the prevailing wage language and will bring back to the Committee at the next meeting.

Committee Member Amburgey and Hutchins suggested a consensus be taken on paying prevailing wages all of the time or just some of the time.

Consensus: (2 Ayes, 9 Noes, Abstain 1) - Apply Prevailing wage all of the time as it currently is practiced.

Ayes: Committee Members: O'Connell and Weitzberg

Noes: Committee Members: Amburgey, Fancher, Hutchins, McCarthy, Panian, Pollitt, Ramos, Smith, and Tobin.

Abstain: Committee Member Eckles

Absent: Committee Member Graham.

Committee Member Amburgey suggested instituting a super majority within the City Council.

Dr. Bauermeister stated that for homework the staff will put together the prevailing wage language and the Committee Members should begin sending in language on governance.

9. INFORMATION REQUESTS

10. AGENDA BUILDING FOR September 25, 2013

Consensus of the Committee for the following topics to be on the September 25, 2013 agenda: Call to Order; Pledge of Allegiance; Moment of Silence; Welcome; Public Comments; Review of Minutes; Meeting Summary; Charter Issue: Public Contracts: Prevailing Wage & Governance: Firewall, Districting/Equal Representation/Minority, Polarization, Local Control, Compensation; Information Requests; Agenda Building; Committee Member Comments and Adjourn.

11. COMMITTEE MEMBER COMMENTS

Committee Member Smith thanked the Committee Members and staff for being good listeners and bringing in great ideas.

Committee Member Panian addressed the parking lot under improved marketing and recommended a program which the citizens could gain a better understanding of the City. Committee Member Panian also prepared a paper on governance which he handed out.

Committee Member Ramos thanked the staff for all of their work.

Committee Member Pollitt thanked everyone for their input.

12. ADJOURNMENT at 8:42 P.M.

Brenda Green

CITY CLERK