

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

May 16, 2023 at 5:30 PM

Chairman T. Sapienza called the meeting to order.

The Clerk called the roll.

Present: Aldermen T. Sapienza, Stewart, Fajardo, Burkush, E. Sapienza

Messrs: Alderman Cavanaugh, E. Rice, A. Beloin

1. Discussion with staff regarding the drafting of an ordinance to incorporate a Project Labor Agreement when the city participates in the financing of a project.

Chairman T. Sapienza stated a draft was submitted to staff for review. I have reviewed it, and we have all seen it.

Alderman E. Sapienza stated in section 5-1(a), the hiring of city residents, women, and minorities by a general bidder or proposer shall be considered as one of the criteria used by the city in determining the award of a project or contract, it seems a bit disingenuous seeing as how the city does not hire based on race, color, creed, or national origin. I don't know how that would work. Where it refers to minorities, how would that work? Who exactly is a minority? For that matter, I guess who exactly is a woman while we're at it. This just seems a bit onerous to me.

Chairman T. Sapienza stated the idea is to get them to hire local people.

Alderman E. Sapienza stated I get that. City residents, I'm on board with that. Minorities...if Ted Williams were alive and was a young man, would he be considered a minority because he was part Mexican?

Alderman Fajardo replied yes.

Alderman E. Sapienza stated who is to determine that. How about Slash from Guns N Roses or Derek Jeter? I don't like having that language included because the city itself does not hire based on race, color, creed, or national origin.

Alderman Fajardo stated it is standard at this point I would say for most hiring practices. I know for myself in the corporate environment previously and in non-profit now it is to incentivize for historically marginalized groups. It is not suggesting that anyone get preference necessarily.

Alderman E. Sapienza asked it's not.

Alderman Fajardo stated in the scenario where for all intents and purposes two contracts are exactly the same line by line, and one employs women or people of color, that could be a deciding factor.

Alderman E. Sapienza stated alright. Let me ask a question. Does the city have on the bottom of its job applications a statement that says something to the effect of the city does not hire based on race, color, creed, national origin, and on and on?

Alderman Fajardo stated discriminate. It doesn't discriminate based on that. It wouldn't be a disqualifying factor.

Alderman E. Sapienza asked what is the statement on the bottom of all the job applications.

Emily Rice, Solicitor, stated the city has a non-discrimination policy; yes.

Alderman E. Sapienza asked what does it say.

Solicitor Rice stated I don't have it in front of me. It is probably pretty standard language that any one of these factors cannot be used as an occupational qualification and that the city is an equal opportunity employer; words to that effect.

Alderman E. Sapienza stated great, so that would be the opposite of what this provision is. I don't see how we can support that. Hopefully we just hire the best highly qualified people we can find regardless of race, color, creed, or national origin. Quality and qualifications are what we are looking for.

Alderman Fajardo stated I would suggest that in a scenario where two contracts were side by side and were exactly equal and one were a factor on one and not the other, that could be considered an advantage or a deciding factor in favor of a given contract. If you have a contract that is decidedly better than another one, I think that is where we start.

Alderman E. Sapienza stated ok, well we'll move on from that. I'm going to pull this for the reason that I stated.

Chairman T. Sapienza asked what section was this.

Alderman Fajardo stated section 5-1(a).

Solicitor Rice stated we did receive a draft a couple of weeks ago. We have been looking at it. I can tell you preliminarily that there are some challenges here. In the other jurisdictions that I've been able to identify that utilize these types of provisions there is a state statute, a fair pay act, which we do not have in New Hampshire. In the other jurisdictions I've been able to find, the local action is taken based on a superordinate state law. Also, my understanding of this is that it is supposed to apply to all contracts not just those that are funded entirely 100% with city generated funds. As you probably know, I'll just use federal contracts as an example as well as the state contracting process, they all have all kinds of guidelines and conditions and obviously for example Planning & Community Development and the CIP space would be very familiar with those. I'm not sure how the interface of additional city requirements when, for example, the city is a sub-grantee or a grantee that then gives money to sub-grantees for construction projects how that would play out. From a legal perspective, I've spent several days on this personally and it is very complex. We're more than happy to continue our work and get it back to you in some formal way. I understand clearly what the drafter's aspirations are but I am just not sure from a legal standpoint whether or not it is feasible.

Chairman T. Sapienza stated I am asking you to offer a draft ordinance that would require contractors that work with the city to demonstrate that they pay their taxes, social security, workman's comp, and those types of things.

Solicitor Rice stated yes, that's my understanding from the draft.

Chairman T. Sapienza asked can you work on creating that.

Solicitor Rice answered yes, we are.

Chairman T. Sapienza asked how much time do you need. We have these meetings once a month. Is one month good?

Solicitor Rice answered I think that would be fine, yes.

Chairman T. Sapienza stated and in the meantime you can forward the committee any drafts that you have rather than waiting a month.

Solicitor Rice stated yes, of course. I'd be happy to.

Alderman Cavanaugh stated I think it is important. We have contractors that are coming in here, we have taxpayer money that is being put in some buildings and we're giving some great tax breaks. And there are lawsuits in other states against these contractors? I don't want that to happen here. We have to protect the taxpayers' money as well as the people working there, to make sure they get their pay.

Chairman T. Sapienza stated I agree. My concern is that this industry is rife with abuse. A guy shows up for work, he should know he's getting social security paid and he should get his paycheck on time. Let's get a draft so we can have some input on that.

Alderman E. Sapienza stated certainly this industry is rife with abuse. What is the current procedure? For the past several years what has been the procedure? I'm sure the city has a system in place already.

Chairman T. Sapienza stated well, I'm not going to answer that question publically but I've got some ideas on it. You can ask the Solicitor.

Solicitor Rice stated I'm sure that as you know all of these federal requirements are matters of law, and there are considerable penalties for not complying with the law and I think we've all seen in the media in New Hampshire the prosecution of companies for playing fast and loose with wages, not paying payroll taxes, and engaging in various types of fraud so there are remedies. My understanding of the proposed ordinance is to essentially put folks doing business with the city on notice that we take this very seriously and we're not satisfied with a remedy after the fact; we want there to be compliance and compliance up front.

*On motion of **Alderman Fajardo**, duly seconded by **Alderman Stewart**, it was voted to table the item until receiving further input from the Solicitor.*

2. Communication from Adrienne Beloin, Homelessness Initiatives Director, requesting approval of a letter of agreement with the National Alliance to End Homelessness.

Alderman Fajardo stated this is very technical. There is an edit that needs to be made. There is a reference under estimated costs to Linn County, which is in Utah. I'm guessing that is picked up language from a previous version. That should be replaced with CoC, I don't think it would need to reference Hillsborough County, but it says City of Manchester and Linn County. I think it would be the City of Manchester and the Continuum of Care. Again that is under the estimated costs section.

Adrienne Beloin, Homelessness Initiatives Director, stated yes. That must be a typo.

Alderman Fajardo stated I love pointing those out. I also had a second question. I noted that you are seeking grant money. I saw \$15,000 in a CIP or somewhere in our packet for today for the Board meeting. Is there an expectation that you'll continue to seek funding to cover the balance of it?

Director Beloin stated yes. The full cost of this consultation is going to be covered by the Bean Foundation with the Charitable Foundation. Those are the two funding sources.

Alderman Fajardo stated I missed the second one. Ok, thank you.

Director Beloin stated Bean has come through already and Charitable is coming up behind it.

Chairman T. Sapienza stated it is worth noting that there is no property tax money being used for this particular item.

Director Beloin responded yes that's right.

*On motion of **Alderman Stewart**, duly seconded by **Alderman Fajardo**, it was voted to approve.*

*There being no further business, on motion of **Alderman E. Sapienza**, duly seconded by **Alderman Stewart**, it was voted to adjourn.*

A True Record. Attest.



Clerk of Committee