

CONTRACT REVIEW COMMITTEE  
MEETING  
MONDAY, OCTOBER 11, 2010  
PRESCOTT, ARIZONA

MINUTES OF THE MEETING OF THE CONTRACT REVIEW COMMITTEE held on MONDAY, OCTOBER 11, 2010, in the CITY MANAGER'S CONFERENCE ROOM, located at CITY HALL, 201 SOUTH CORTEZ STREET, Prescott, Arizona.

A. Call to Order.

Member Hanna called the meeting to order at 6:00 p.m.

B. Roll Call.

CONTRACT REVIEW COMMITTEE MEMBERS:

Member Steve Blair  
Member John Hanna  
Member Lora Lopas

GUESTS PRESENT: John Turner, Ed Miller, Tom Deveraux, Mike Taylor and Jerry Carver.

C. Discussion of boilerplate contract format.

Member Hanna said that the City's contract template had recently been rewritten to address issues the Council had regarding loopholes. Those changes were brought to Council at the September 28, 2010, Council Meeting but there were still concerns so they put together a subcommittee made up of himself, Councilman Blair and Councilwoman Lopas. That committee will be meeting with members of the community, from different backgrounds, and making further recommendations to the full Council.

Member Hanna thanked everyone for attending the meeting. He said the meeting would be short tonight as they would be reviewing the process and outlining the direction they would like to head. He distributed a copy of the proposed contract and asked everyone to read it and come to the next meeting with comments and suggestions. He said that the goal is to get a fair and balance contract document.

It was suggested that they use a copy of a state contract. Comments were made that one type of contract would not fit all situations. Discussion was held on the benefits of different types of contracts such as Design/Build and Contract Manager at Risk (CMAR).

Various situations that have occurred over the years were discussed. It was noted that the new questionnaire required of all contractors was a concern when it asks if the company has ever sued the City.

Lengthy discussion was held on the issue of change orders. It was noted that if a contract is written with unit prices and changes are needed for the contract, it should not have to go back to the Council. There needs to be education of the Council and public on the use of change orders for quantity changes.

Discussion was also held on the ability to give preference to local contractors. It was noted that there were requirements of the State that the City must follow, but it was also mentioned that it is possible to provide some points for local contractors in a point system although they do not usually allow for enough to make a difference. Further comment was made on the benefit of CMAR projects.

Member Hanna said that his opinion was that they need to do as many of the jobs as they can with the CMAR process, understanding that it does not work for all jobs. He said that they need to have a contract that the layman can sit down and read. If there is a problem the parties need to sit down and work it out. He said that arbitration did not do anything but cost both parties money.

Member Blair said that where they have gotten in a jam in the past is in releasing projects that have not had the utilities moved before it is released.

Further discussion was held on change orders. Devereaux said it was the City's job to determine where the utilities were. They need to deal with that and other items in mandatory pre-bid conferences. If they tell them in those conferences there is going to be rock, then everyone is aware and there is a record of it. Member Lopas said that would hold everyone's feet to the fire.

Turner said that there have always been those contractors that would bid low to get an extra out of the City. Out of all of their contracts they had with the City, they never asked extra from the City, and it will be more prevalent now with them bidding cheap.

Discussion was held on what direction to head for the next meeting. It was agreed that the next meeting would be held on Wednesday, October 20, 2010, at 5:00 p.m. in the Lower Level Conference Room and they would invite a few contractors and representatives from the Legal Department. For the following meeting they would invite Mr. Nietupski.

D. Adjournment

There being no further business to be discussed, the Contract Review Committee meeting of October 11, 2010, adjourned at 7:02 p.m.