

COMMITTEE OF THE WHOLE

Tuesday, June 18, 2019 – 5:30 p.m.

Police Training Room – Olean Municipal Building

Present: Members: Alderman Crawford, Alderman Witte, Alderman Andreano, Alderman Gonzalez, Alderman Dougherty, Alderman Smith, and Alderman George. Others: Mayor William Aiello; Nicholas DiCerbo, Jr., City Attorney; Fred Saradin, City Auditor; Bob Ring, Director of Public Works; Jeff Rowley, Police Chief; Bob Bell, Fire Chief, and Tiffany Taylor, Managerial Confidential Administrative Secretary.

1. Roll Call

Alderman Crawford called the meeting to order at 5:30 p.m. and asked that the record show that all committee members were present.

2. Unfinished Business

None

3. New Referrals for Consideration

a. Discussion – Requirement for Council Approval Prior to Engagement of Outside Legal Services

Alderman Crawford explained that he has had ongoing conversations with Mr. DiCerbo regarding this topic. He explained that he would like to frame this in a more generalized way, towards all professional services. He explained that there is currently no codified monetary threshold requiring Council approval of professional service contracts.

He explained that in a given month, Finance and Bills are received, and a potential breakdown in oversight is that the Council does not authorize large scale spending for professional services, the work has been done and the Council is responsible to pay them after the fact. Making this change will allow for some monitoring. He suggests that certain professional services should be approved prior to engaging in an agreement, if over a certain cost threshold.

Alderman Crawford presented a section of the Code of Ordinances to the committee that outlines some of the general powers of the Common Council, which includes “no debt or a liability, which may become a charge against the City, shall be created or contracted except by authority of the Common Council unless otherwise provided”. He feels that there is some belief that by approving the budget each year, the Council allows for a “blank slate” for the budget to be spent, but he does not believe this is the case. He feels that the Council should have a greater oversight of these professional services agreements.

Alderman Crawford continued that the Code also states “the Common Council may make, establish, publish, modify, amend or repeal ordinances, by-laws, regulations, rules and resolutions for the purpose of exercising any power granted to it”, which is why he suggests that the Council has the ability to create a written policy. He does not expect prior approval of any service or agreement as it would grind the City’s operations to a halt; however, he feels that there should be prior review and approval of contracts over a certain monetary threshold.

Alderman Crawford explained that he would like to have this discussion with the committee in order to provide for more transparency and oversight for these large scale professional agreements.

Alderman Witte explained that she feels that each Council does this in her own way, and she is happy to see this in black and white. She explained that a previous Council’s concern was oversight and transparency. We wait until the end of the month and pay bills after services are done, and the Council should have more control over money that taxpayers put into the City.

Alderman Crawford explained that he is not necessarily looking for more control, but more oversight. He feels that material professional service contracts should be made aware to the Council ahead of time. He clarified that he is not looking for additional oversight for the smaller contracts, such as those that Code Enforcement uses for grass cutting. He explained that the Council has to come to an agreement regarding a materiality number.

Alderman George added that it needs to be determined if RFP’s need to be done and how the process would work to notify the Council in advance, and asked if a spreadsheet could be created with the current professional services agreements in place in order to see how many there are and what average amounts are prior to decisions being made.

Alderman Crawford asked if there is anything that requires that RFP’s be done for professional services on an annual basis, and Mr. DiCerbo responded that there is not. He explained that the City should consider putting into place a procurement policy for professional services. There is one for goods and services that was passed in 2014, but it should be expanded upon to include procurement of professional services as well. He explained that the City is not under an obligation to bid out professional services.

Alderman Crawford asked why the City is sometimes obligated to bid something out and other times is not, and Mr. DiCerbo responded that public works contracts must be bid out, with certain exemptions spelled out in the procurement policy, such as where a specific skill is more important than finding the lowest bidder. Mayor Aiello explained that this is the case for professional services related to the labor attorneys that the City uses for personnel matters, as they specialize in that time of law, and using a new firm each year could cause issues as they

will need to learn the City's contracts and current negotiating status. Alderman Crawford explained that is where the City needs to be cautious in mandating annual RFP's.

Mayor Aiello explained that there are also cases where multi-year deals provide savings, such as the City's insurance, which currently has a multi-year contract where a yearly RFP would not work. Alderman Crawford responded that the City could still go out for RFP's each time that the insurance multi-year contract is almost over to find the best company.

Alderman Dougherty asked when the last time an RFP was done for the City's independent auditors, and Alderman Crawford responded that the current auditors, to a certain extent, know our business inside and out and provide a business. However, an RFP process could include a stipulation that the low bid is not necessarily the one that will be chosen, but it will help keep the company honest. Alderman Crawford explained that an individual, company or firm must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity, and moral worth.

Alderman Dougherty explained that the County has switched its auditors quite often. Alderman Witte added that one firm might do something different than another firm, or might see something that another firm has not seen.

Alderman Witte asked if the City has looked into the insurance that is NYCOM-recommended, and Mr. Saradin responded that the local firm came back thousands of dollars less for Workers' Compensation and General Liability than the NYCOM-recommended companies.

Alderman Smith explained that he agrees with Alderman George, that he would like to see a list of the City's current professional services contracts. He feels that it is probably a longer list than what can be thought about off the top of his head. Mr. Saradin explained that he can do this, but that he needs a material figure that the committee can agree on. Alderman Smith added that these services are being paid from budgeted line items, and it is not as if the money needs to be found elsewhere.

Alderman Gonzalez suggested that \$10,000 be a starting point, and Alderman Crawford replied that they would start there and see where it goes. He clarified that \$10,000 would be over a twelve month period.

Mr. DiCerbo explained that he does not want "professional services", such as attorney and accountants, to be confused with the landscapers, which are under an entirely separate portion of the General Municipal Law. He explained that there is also probably some room for improvement in the City's Procurement Policy for that as well. He noted that professional services fall under a specific exemption of the General Municipal Law.

Mr. Saradin will put together a list of the City's current professional services contracts over \$10,000 for presentation at the next committee meeting.

4. Approval of Committee Reports

None

5. Adjournment

A motion to adjourn was made by Alderman Crawford, seconded by Alderman Gonzalez. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 5:55 p.m.