

Equitable Contracting and Purchasing Commission

Meeting Minutes – April 21, 2016

Meeting: April Meeting of the ECPC

Date/ Time: April 21, 2016, 6:00 p.m. to 7:44 p.m.

Location: Portland Building, Auditorium

Chair: Bryant Enge, Director – BIBS

Secretary: Melissa Walton Hendricks, Staff – BIBS

In Attendance: Commissioners

- Marcela Alcantar, Alcantar and Associates
- Michael Burch, Pacific Northwest Regional Council of Carpenters
- Vicqui Guevara, Valley Growers Nursery & Landscape, Inc.
- Tony Jones, MCIP
- Rosa Martinez, PMG Environmental Services, Inc.
- Maurice Rahming, O’Neill Electric, Inc.

Guests

- Josh Alpert, Mayor Hales’ Chief of Staff
- Michael Jordan, Director Bureau of Environmental Services
- Andrea Gresh, Contractor Development Program Coordinator for BES

Excused: Commissioner

- Andrew McGough, Worksystems, Inc.

Absent: Commissioners

- Andrew Colas, COLAS Construction

- Herbe Fricke, Cascade Design Professionals

Action Items:

- Commission unanimously voted on their response to the Chief Administrative Officer (Fred Miller) and Commissioner Amanda Fritz (6-0-0) – see TPB 1% discussion on pages 8-11.
- Commission will consider “old business” at future monthly meetings, including reviewing meeting minutes.

Welcome and Housekeeping

- Chair Enge calls meeting to order, 6:00 p.m.
- Chair acknowledges changes to meeting structure
 - Principles of Agreement
 - Purpose Statement of ECPC
 - Sign-up sheets for public participation
- Chair introduces Josh Alpert, Mayor Hales’ Chief-of-staff
- Mr. Alpert’s post-retreat remarks
 - Analyzing where the ECPC is heading
 - Encouraged Commissioners to think of the work the ECPC does in a different way.
 - Scale back the amount of process that the Commission deals with since most Commissioners are in this line of work and are frustrated with the process.
 - Encourages workgroups to redesign the current system from the ground up.
 - Promises support from the mayor’s office.
 - With logistics, scheduling, and staffing
 - Would like groups to come to Council with concrete suggestions of how to change the current system.
 - Encourages Commissioners to use their existing knowledge of the barriers to come up with new systems for the City.
 - Would like workgroups to provide input on real world examples, not hypotheticals.
 - Will instruct Bureau Directors to reach out to the ECPC
- *Q&A with Mr. Alpert*

- Commissioner Guevara expressed concern about being backed up on the Commission's recommendations.
 - Mr. Alpert reiterated the mayor's office support. Will help set up checkpoints with each City Commissioner prior to presenting to the full Council so that the Commission knows where they're at.
- Commissioner Rahming noted that it would be nice to have Christine Moody from Procurement attend an ECPC meeting, and that it has been difficult to get data that the Commission has requested. Concerned that there are existing City policies that are being ignored if the requested data is not readily available.
- Commissioner Jones noted that he was glad the Commission was not just wrestling with abstract issues, and that they were proposing real changes for Procurement at the City.
- Mr. Alpert noted that the Commission needs to develop a process for what things are brought before the ECPC. Need to work this out to create an institutionalized pipeline.
- Commissioner Burch acknowledged the renewed commitment from the Mayor's office, but expressed frustration at the process so far. He stated that the Commissioners felt like they had wasted time and energy with no response from the City, and no cooperation with OMF.
 - Mr. Alpert acknowledged these concerns, and suggested setting time-certain on the City Council calendar for the ECPC to come and present their recommendations of how-to re-do the City's Procurement system.
- Commissioner Burch questioned the staffing support that was discussed at the ECPC retreat.
 - Mr. Alpert noted that a full-time position to staff the ECPC in the Mayor's budget, and reiterated some additional staffing support from the Mayor's office in the meantime.
- Commissioner Burch stated that the ECPC has been repeatedly told that Procurement cannot provide disaggregated data.
 - Commissioner Rahming noted that as a prime contractor they have to provide that data to the City. And if the City does not have the data the ECPC is requesting readily available they could always request it from the contractors who do have that data.

- Mr. Alpert shared in their confusion, and noted that while he knows they are getting new software he does not understand why the current software cannot track that data.
 - Commissioner Jones noted that while accurate data is important we have repeatedly gone over past numbers and know that minority and women contractors are not being adequately utilized. Expressed concern that while getting a new system is important this is currently serving as a distraction.
 - Commissioner Alcantar concurred with Commissioner Jones that they have reviewed enough data to know the utilization numbers are bad. The bigger issue is that the Commissioners have made recommendations that were ignored. She wants to focus on recommendations instead of getting caught on data.
 - Mr. Alpert reiterated his belief that setting a time-certain on the City Council calendar to present recommendations would provide focus, and incentivize moving forward to meet that deadline.
 - Commissioner Martinez noted that it is difficult to give specific recommendations on how to fix programs without accurate data. She also expressed concern that contractors are submitting information to the City that is not being retained. She also wanted to know how quickly ECPC recommendations can be implemented once they are made.
 - Mr. Alpert noted that the City does have some of the data, it's just in a different format. He also noted that City Council can pass ordinances at any time after receiving recommendations.
 - Chair Enge noted that Mr. Alpert would like to meet with each sub-group to talk about their immediate plans, and encouraged each sub-group to think about scheduling.
- Commissioner Rahming requested that the Commission have an opportunity to review the minutes and approve them at the beginning of each meeting.
 - Commissioner Burch requested that minutes are emailed to the Commissioners instead of just being posted on the website.
 - Chair Enge said that City staff would email the minutes to Commissioners, and post them on the City website as “draft minutes” until Commissioners had had the opportunity to review and submit any corrections.

Introductions

- 6:39 p.m. Chair Enge Introduces Michael Jordan, Director of the Bureau of Environmental Services (BES).
- Mr. Jordan thanked the Commission for the opportunity to be here, and noted the opportunities BES has to improve their M/W/ESB utilization numbers as an infrastructure bureau. He noted that their utilization numbers had been about the same for a long time, and that they needed a “breakout” strategy.
 - Noted that BES is particularly well-suited for this process because it has the ability to take small contractors and grow them because they have an incredibly predictable capital budget (Approximately \$110 million) that does not vary wildly from year to year. Further noted that they haven’t adequately taken advantage of the fact that they have a predictable spend rate.
 - Feels like BES is at a unique crossroads, and is interested in ECPC acting as a catalyst for change.
 - Noted that BES is doing alternative contracting on the Tryon Creek plant job, and hopes to have new strategies to improve BES utilization numbers.
- *Q & A with Mr. Jordan*
 - Commissioner Rahming asked if Mr. Jordan knew the disaggregated data for contractors and workforce for his bureau
 - Mr. Jordan replied that he had M/W/ESB data for prime and sub-contractors broken down by ethnic group, but that he had not seen workforce numbers.
 - Commissioner Rahming followed up by asking Mr. Jordan to share those numbers.
 - Mr. Jordan indicated that they had the data from FY 13/14, but did not have the exact figures with them. He deferred to Andrea Gresh, the Contractor Development Program Coordinator for BES on specifics.
 - Ms. Gresh estimated that for Professional and Technical Services contracts (PTE) the numbers were about 30% aggregate. She indicated that the previous year was the first year she had started trying to disaggregate. She noted that

- Procurement does not give them the data disaggregated and that she had to manually go through it.
- Mr. Jordan noted that they could get the data they had for FY 13/14 for the commissioners.
 - Commissioner Jones asked what opportunities they saw within their budget for the next fiscal year.
 - Mr. Jordan explained how BES typically spends their capital budget:
 - Pipe rehabilitation – 40%
 - Plant upgrades and expansions – growing percentage of the budget over the next 5 years
 - Pump station rehabilitation + watershed enhancement projects – smaller pieces of the budget
 - Commissioner Rahming asked Ms. Gresh how much time she spends disaggregated data.
 - Ms. Gresh indicated that she spends a solid week when she gets quarterly reports.
 - Commissioner Guevara asked how BES is connecting with Chair Enge and the ECPC currently, and what the process is for having the Commission evaluate projects.
 - Mr. Jordan noted that BES tries to take advantage of different ways of projecting upcoming contracts for the vendor community, but other than working with Procurement was unsure that they did anything in particular.
 - Chair Enge noted that they have formed a committee of infrastructure Bureaus, and will be meeting once a month. He likes the idea of each Bureau developing a five year timeline to the best extent possible, and promised to bring that information to the Commission.
 - Commissioner Martinez praised BES for being willing to work immediately, and Ms. Gresh for her work at many community meetings. She suggested finding areas within their existing work that has weaknesses. She believes that you can build contractors by finding a subcontractor and seeing if they have interest.
 - Commissioner Rahming noted that when looking for opportunities it's good to reach out to the Prime Contractor Development Program, but that they only represent 10% of contractors, and that the commission

represents the other 90% and encouraged BES to come to the ECPC for advice too.

- Mr. Jordan noted that he agreed with Mr. Alpert that big reforms are needed at the City, and if one of those reforms is to create a pipeline to the ECPC they would be happy to route projects past the Commission.
- Commissioner Burch noted that it was refreshing to have a Bureau Director be willing to cooperate with the ECPC. He also noted that not all contractors translate to diversity in the workforce.
 - Mr. Jordan indicated that he would be happy to discuss this further, especially on workforce since that is not something they have focused on.
- Commissioner Jones asked about good faith effort. He recounted a BES event he attended in which a BES staff person was talking with an African American excavating contractor. The BES staff person said she was happy to meet the contractor so she could check the box for availability for excavation projects. Commissioner Jones was concerned that they were not already “checking the box” for excavating, and the BES staff person indicated that if she checks too many boxes she gets pushback. He feels that for there to be good faith effort BES staff needs to at least check the box or it creates yet another barrier for minority contractors.
 - Michael – I don’t think good faith effort is enough, but I just got a letter today that says all contracts over \$150k will not be using good faith effort after May 1 – they will be using a new subcontractor program. Systemic way to get around this is to move away from low-bid and move towards alternative contracting.
- Commissioner Jones then raised the issue of pre-qualification. He noted that Procurement has told him that it is up to the Bureaus to determine whether a contract qualifies, and that can be another barrier. He encouraged Mr. Jordan to look at how they qualify contractors.
 - Mr. Jordan said he would look into it.
- Commissioner Guevara asked about the process for using alternative contracting at BES

- Mr. Jordan noted that they have a lot of work that he believes they are using CMGC, but does not know exactly when off the top of his head.
- Commissioner Alcantar noted that for PTE firms that are underutilized they can never get to the qualification side. She believes the PTE side needs a second look.
- Chair Enge noted that there seemed to be a lot of questions and discussion, but that he have another agenda item and will have to move on.

Discussion of the Portland Building (TPB) 1% Proposal

- Chair Enge noted that Michael Stuhr was unavailable, and would be introduced at the May meeting. He also noted there had been miscommunication with MAWE, and that we will have to reschedule their presentation.
- Chair Enge then introduced TPB 1% proposal draft. Copies had been previously distributed to Commissioners, and Commissioners Burch and Rahming had been involved in the process. Commissioner Fritz and Fred Miller, CAO asked for ECPC input on TPB 1% draft proposal.
 - Commissioner Rahming expressed disappointment that Mr. Miller asked for ECPC input without attending the meeting. He noted that the total budget for TPB was \$150 million, and so 1% would be \$1.5 million, not \$1 million. He was opposed to using part of the \$1 million in equity dollars to support City staff in getting data, and to support the relocation of existing tenants. He wanted to know what percentage of the \$1 million was getting allocated to these causes so they could know the actual dollar value for increasing equity. He believes calling it “1%” is very disingenuous, and would like to know the actual figure so they know what to report.
 - Chair Enge noted that from the draft proposal it was clear it was \$1 million total, and that they could stop calling it 1% of hard construction costs if that is a stumbling block.
 - Commissioner Rahming asked if the \$1 million was being used to support existing tenants and support City staff.

- Chair Enge noted that it had not yet been decided if the 1% would go towards supporting existing tenants, and he did not believe it would go towards supporting City staff.
- Commissioner Burch noted that he and Commissioner Rahming attended the meetings and felt brushed off. He said at the meeting they were informed that a portion of the \$1 million would go towards relocation, that they would not use a CBA, and then requested input from the people present. He felt this process was disingenuous, and felt that they had a pre-existing plan and ignored input that was given.
 - Chair Enge responded that he was not here to legitimize the process, or to judge Mr. Miller's commitment to taking recommendations from tonight when moving forward. He is just here to take the ECPC commissioners interests and ideas and report those back to OMF and Commissioner Fritz. He encouraged the Commissioners to consider how they would reform the process, and if they had \$1 million tonight how they would increase access for minority and women contractors for TPB project.
- Commissioner Burch reiterated that they would have to actually know the amount of money in question for those purposes since a portion of this money is being set aside for other processes (i.e. relocation of tenants). He asked Commissioner Fritz and Mr. Miller to show up with accurate numbers so they could talk about it.
- Commissioner Rahming noted that TPB 1% allocation was not a strategy, it was just a dollar value. He questioned if they were just supposed to assign percentages to each section. He felt that this contributed to the disingenuousness of the process – he feels like they instead should build a strategy and see how much it costs.
- Commissioner Guevara stated that she thought the majority of the \$1 million should go to contractors and workforce, noting that the ECPC is a contracting organization. She said she wants the money to go towards supporting MBE, WBE, and DBE contractors not everything else on the proposal, noting that she's not even sure why some of the things are on the proposal list.
 - Commissioner Enge asked what percentage she would assign to those two groups.

- Commissioner Alcantar noted that a 1%/ \$1 million commitment to the community is so far off, and called the allocation “sad” and “shameful.” She felt that 100% should be allocated to workforce and they should move on.
- Commissioner Guevara asked when this proposal was being presented to City Council.
 - Chair Enge noted it was scheduled to be presented on May 11.
- Commissioner Rahming stated that he didn’t feel they should just throw money at categories without explanation of how the items have been vetted or formulated.
- Commissioner Martinez noted that she felt a \$1 million allocation was unrealistic and would ultimately be ineffective. However, she thought 100% should be put towards workforce training, and that the Commissioners shouldn’t be fighting over such a small amount.
- Commissioner Jones stated that he did not think relocation of tenants should come out of this budget at all, and instead that should come out of the \$40 million relocation budget. He believes the focus should not be the \$1 million allocation by the City, but rather on the 40% of money that should be going to minority and women contractors. He stated that his recommendation is also to spend 100% of the money on workforce, and that it was a waste of the Commission’s time to fight over this small amount of money. He concurred that he thought the process had been disingenuous.
- Commissioner Rahming noted that he found this entire process very difficult. He felt like the City was asking them to divide workforce and minority contractors into different groups to get them to fight over \$1 million. He believes that that money for contractors should not be used in City programs like the Prime Contractor Development Program.
- Chair Enge noted that he was going to try to capture the Commissioners’ thoughts so that they could make a motion:
 - The process for formulating this draft proposal was disingenuous.
 - Money for relocating tenants should come from the relocation budget.

- The Commission feels like the amount allocated is unacceptable, but would nonetheless allocate 100% to go only to workforce and contracting development.
- The Commission is worried this process will divide involved communities.
- The Commission does not want the City to go to existing City programs (i.e. Prime Contractor Development Program) for contractors.
 - Commissioner Jones moved to send this response to TPB 1% draft proposal on behalf of the ECPC.
 - Commissioner Burch seconded the motion.
 - Ayes: 6 – Commissioners Alcantar, Burch, Guevara, Jones, Martinez, & Rahming.
 - Nays: 0
 - Abstentions: 0
 - Commissioner Rahming noted that he would have abstained if they had more people present, and wanted to revisit the attendance policy for meetings

Public Comment

No public comments.

Meeting Adjournment Proceedings

- Chair Enge started developing the agenda for the May 19 meeting
 - MAWE presentation
 - Introducing Michael Stuhr
 - Follow-up with Michael Jordan
 - Other suggestions?
 - Commissioner Jones noted that he sent a letter to Mr. Alpert, and said that if he does what he requested in the letter Christine Moody would need to attend.
 - Commissioner Rahming noted that it would be nice to start meetings with “old business” as a housekeeping item. This would also give them the opportunity to review and approve the previous meeting’s minutes.
- Actionable items

- Chair Enge noted that other than approving meeting minutes he did not hear any actionable items during the meeting. Were there others?
 - Commissioner Rahming said that under the order of “old business” he would like to know the status of the Commission writing a letter of no confidence in Procurement.
 - Chair Enge responded that if one or more of the Commissioners drafted a letter they could bring it before the Commission to vote on it.
 - Commissioner Burch noted that he would like an opportunity to go over old business on every agenda going forward to make sure it doesn’t look like they are giving up on issues that don’t get resolved immediately.
- Chair Enge adjourns the meeting at 7:44 p.m.