

CITY COUNCIL GOVERNANCE COMMITTEE MEETING

March 3, 2004

3:30 p.m.

MEDIA BRIEFING ROOM

The meeting was called to order at 3:30 p.m. by Chair, Mayor Ed Garza, with the following members present: Council members Perez, Hall, and Schubert; Absent: Castro

Staff members present: Terry Brechtel, Patricia Major, Erik Walsh, Milo Nitschke, Lena Ellis, Mark Webb, Malcolm Matthews, Rebecca Waldman, Christopher Brady, Martha Sepeda, Yolanda Ledesma

- I. Presentation by KPMG (Mike O'Brien and John Fisher), Leal and Carter, P.C. and Robert H. Williams, CPA on the status of the external audit work for fiscal year 2003, as requested by Mayor Edward D. Garza.

Members of KPMG staff were introduced. Mr. O'Brien from KPMG then spoke to the financial statement audit, internal controls testing, management of internal controls to City, noting that an exit report is anticipated for the end of March. He stated they were working through the draft reports. With respect to the federal and state awards, he added that the audit was in progress and 75% completed, with a final report to be provided by the end of May.

Ms. Major spoke to the number of hours dedicated and the remaining work on the single audit. She also addressed the issue of added staff hours due to an auditor moving into the Finance Dept.

Mr. O'Brien with KPMG spoke to the additional time spent with in-depth testing procedures, noting there had been 24-40 hours in re-testing to assure no concerns were there.

Mayor Garza expressed concern on the additional time dedicated to this audit, and how a sensitive issue of personnel changes would be handled. He asked that the City Manager and City Auditor have discussion on employee issues and have clear expectations of employees and present a clear policy that all employees will understand.

Ms. Major stated there was a need to determine if additional testing was necessary on the single audit. She further spoke to the hours spent by one employee on the audit, noting that one audit took 50 hours to recheck, however noted that more detailed work was done.

Councilman Hall spoke to the policy in place to limit this kind of issue of having audit personnel moving to City positions.

Mayor Garza spoke to the freedom of choice for employees to have with respect to their employment while preventing conflict of interest. He spoke to the need for better

understanding, and the issue of independence and clear separation. He added that the new policy needs to be very clear and transparent and independent for a certain period of time.

City Manager Brechtel stated it was incumbent upon public entity audits to have the independence at its highest level. She added that with respect to employee issues, there should be Executive Sessions to address specific issues.

Councilman Schubert stated that the Audit office was unique with certain expectations of what they can or cannot do with other employment within the City, noting that it was important to get it resolved quickly.

II. Presentation on the Fiesta Market Square, Inc. final audit report; Patricia Major, City Auditor.

Ms. Major highlighted results of the Fiesta audit, noting that a report had been released. She outlined certain City staff issues and of Market Square, Inc., role of City staff and Market Square members.

Mr. Mark Webb, Asst. Director of Asset Management, presented information of contract improvements, and spoke to the process as outlined in the contracting manual. He delineated the Process Improvement Plan and technology implementation in efforts to get everyone consistent. He cited the organization and its people to have a more efficient and effective delivery of administration, noting that the common themes cited in a recent survey included the increased need for contract compliance, internal procedures, assistance with non-financial contract items and other contracting functions.

City Manager Brechtel stated that as the City organization continues to grow, she sees this initiative as a separate contract division.

Mayor Garza noted that while it was conceptually good, he inquired how it would work, how many people would it take, and how it would be carried to other departments.

Mr. Webb further explained the process, adding that the single division that deals with contracting, contract compliance, and facilities are in one division. He stated that it would be in three separate parts, and that contract preparation and compliance would be separate. With respect to compliance, he added that existing positions would work on this component and that six individuals would work with monitoring and cash management. He added that it would be a 3-part function

City Manager Brechtel stated that the positions were redirected positions.

In response to Mayor Garza, Mr. Webb further clarified the contract compliance process to assure that departments are doing what they're supposed to. He also spoke to the training of staff on policies and procedures.

In response to Mayor Garza, Mr. Malcolm Matthews, Director of Parks and Recreation stated that the compliance section would report directly to the department head, and would also address how to deal with default issues. He stated that all contracts have terms and must be met, and noted that most contracts do not require Council approval for default. He also added that depending on the contract, at times the need would be there to come back to Council with amendments.

With respect to consequence as highlighted by the Mayor, City Manager Brechtel noted that it was part of the training module.

Mayor Garza expressed the need to be bold and clear on the City's side, and how to hold the Manager and department heads accountable.

Committee members emphasized the importance of being clear and consistent with the process and handling of certain issues.

Mr. Webb spoke to the number of certified contract specialists being trained, and noted there was a need to narrow down the list of positions handling contracts and assure training of those individuals. He further highlighted on the contracting process and the contracting manual, specifically noting the issues at back end of contract monitoring, and have a written set of policies to assure everyone is in compliance.

City Manager Brechtel added that the small departments would be placed in a pod and be provided more oversight and assistance.

Mr. Matthews spoke in response to the audit findings, and how staff would get a better handle of the contract process than in the past. He spoke to the history of the Market Square contracts, the City's role, the day to day role at the Market. He noted the reassignment of staff was important, and how staff would be handling the contracts.

In response to Mayor Garza regarding payment of a City worker, Mr. Matthews stated that staff had met with FMSI board and made it clear that they could not accept payment.

Representative for FMSI stated there was not enough time given to address all the issues of the audit findings. He added this was an injustice and travesty to numerous organizations in Market Square. He added that the integrity and reputation of Board members was tarnished, noting that all obligations had been met by the Board and that there was no violations of federal standards. He further added that no City resources

were utilized for Fiesta Market events, and expressed that the audit document was inaccurate.

Ms. Major further delineated certain issues that were still not addressed, specifically noting the sales tax not being charged correctly. She stated she submitted the report to the District Attorney's Office, Internal Revenue and State Comptroller.

Mayor Garza spoke to the policy issues and consequences of outside parties for future proposals. He inquired as to how enforcement would be addressed.

In response to Mayor Garza on the employee issues, City Manager Brechtel recommended that an Executive Session be held to specifically address staff's actions.

Mr. Matthews spoke to the three Associations' membership, and that individually they were proposing to rent the facility for certain events.

Assistant City Attorney Martha Sepeda stated that the City has wide discretion on who to contract with. She added that such issues as evaluation of past performance could be a factor in determining the contract award. She added that a lot of latitude is given by law to Council to determine on a case by case basis.

City Manager Brechtel stated that as with a construction contract, many factors are considered, and on low bid contracts as well.

In response to Councilman Perez, Mr. Matthews spoke to the rental rates for certain events, and outlined some of the events that were forthcoming.

Representative of FMSI, spoke to the various types of events, adding that they were open to the public. He further stated that monies generated from the events were geared to cover security, clean-up, and also reinvested for promoting and marketing.

Committee members concurred with recommendations presented by staff.

III. Discussion concerning interviews for the City Clerk position as requested by Mayor Edward D. Garza.

IV. AGENDA PLANNING RELATED ITEMS

A. Briefing regarding the creation of ordinances to address aggressive solicitation, camping in public, urinating and/or defecating in public, and

sitting or lying down in the right-of-way, as requested by Councilman Roger O. Flores; Presented by Chief Albert Ortiz, Chief of Police, Christopher Brady, Assistant City Manager.

- B. Briefing regarding the reappointment and appointment of members to the Board of Directors, Tax Increment Reinvestment Zone No. 11, as requested by Councilman Joel Williams; David D. Garza, Director of Neighborhood Action; Jelynn Burley, Assistant City Manager.

This Meeting was adjourned at 5:00 p.m.



Mayor Edward Garza, Chairman



Yolanda Ledesma
Acting City Clerk