



HISTORIC
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9/27/FINANCE
ITEM #5

MEMORANDUM

September 20, 2011

TO: Budget & Finance Committee of the Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Russell Truell, Assistant City Administrator for Finance & Administration
Shirley Harmon, Human Resources Director
Brian Wilcox, Purchasing Manager

SUBJECT: The City doing business with City employees and certain relatives of City employees

Purpose

The purpose of this memorandum is to engage the Board of Mayor and Aldermen's Budget and Finance Committee in discussion on the subject of the City doing business with City employees and certain relatives of City employees.

Background

The Board of Mayor and Aldermen voted on July 26, 2011 to adopt Resolution No. 2011-26, a resolution adopting a revised purchasing policy for the City. On the subject of the City doing business with City employees and certain relatives of City employees, Resolution No. 2011-26 implemented the following changes:

- to rename the Purchasing Policy section previously entitled "Purchasing from an Employee" to "City Officer and Employee Business Dealings with the City";
- to delete from the Purchasing Policy the text within the subsection re-titled "City Officer and Employee Business Dealings with the City" (that read "It shall be the policy of the city that an employee shall not knowingly purchase or promote the purchase of any goods or services from any employee or from any employee's immediate family member (as defined in the City of Franklin Human Resources Manual, Rule II) without prior approval of the Board of Mayor and Aldermen");
- to replace that statement with a reference to Article XXII ("General Policies and Procedures"), Section E ("Business Dealings"), of the City of Franklin Human Resources Manual, which reads:

Except for the receipt of such compensation as may be lawfully provided for the performance of City duties, and except as noted below, no City officer or employee shall be privately interested in or profit, directly or indirectly, from business dealings with, of or by the City.

Regular full-time, regular part-time and temporary employees of the City may, subject to the approval of the City Administrator, contract to perform services for the City by meeting the following criteria: (1) the service performed must not be any service which the employee might provide in the normal scope of their regular duties; (2) the employee would be required to bid or submit a proposal in the same manner as any other prospective provider of service; and (3) the service performed must not present a conflict of interest nor a conflict of time with the employee's regular duties.

- and to make reference also to Title 1 ("General Administration"), Chapter 8 ("Ethics"), of the City of Franklin Municipal Code.



The reason for recommending the above changes (all of which were approved) was to address the following apparent contradictions between the then-current purchasing policy and Article XXII, Section E, of the City of Franklin Human Resources Manual:

- The 2004 Purchasing Policy addressed both goods and services while the second paragraph of the HR Manual excerpt focuses on services only.
- The 2004 Purchasing Policy addressed both the employee and the employee's immediate family while the HR Manual reference focuses only on the employee.
- The 2004 Purchasing Policy forbade such purchases unless approved in advance by BOMA while the HR Manual excerpt lays out terms and conditions for an employee to do business with the City, subject to the approval of the City Administrator.

At the July 11, 2011 Budget & Finance Committee meeting, the committee expressed interest in revisiting the subject of the City doing business with City employees and certain relatives of City employees. Staff has further considered the matter and sees the Board of Mayor and Aldermen as having two broad choices:

- A. continue to allow the City to do business with City employees and certain relatives of City employees but subject to certain stipulations; or
- B. forbid the City from doing business with City employees and certain relatives of City employees.

If the Board of Mayor and Aldermen chooses to continue to allow the City to do business with City employees and certain relatives of City employees but subject to certain stipulations, then staff would recommend the following changes to City policy:

1. Revise Article XXII, Section E, of the HR Manual so that it addresses business dealings with, of, or by the City involving either goods or services, not just services.
2. Revise Article XXII, Section E, of the HR Manual to acknowledge that the approval by the City Administrator for an employee to do business with the City is not meant to supersede the requirement that contracts, except those valued at less than the threshold delegated by the Board of Mayor and Aldermen to the City Administrator, may not be executed except by authority of the Board of Mayor and Aldermen.
3. Because relatives of City employees are not the concern of the HR Manual, reinstate a provision in the Purchasing Policy that forbids the City from doing business with any member of a City employee's immediate family, as that term is defined pursuant to the City's Ethics Ordinance.
4. Add to the Purchasing Policy (a) a provision requiring vendors of the City to disclose any known personal interest on the part of a City employee, or any member of a City employee's immediate family, as that term is defined pursuant to the City's Ethics Ordinance, in a business dealing with the City involving that vendor, said provision referencing subsection 1-804 ("Disclosure of personal interest in nonvoting matters") of the City of Franklin Municipal Code, and (b) a statement that employees who have a personal interest in a business dealing with the City, either themselves or by relation to any member of that employee's immediate family, as that term is defined pursuant to the City's Ethics Ordinance, are required to disclose that personal interest pursuant to the Ethics Ordinance.

If the Board of Mayor and Aldermen chooses to forbid the City from doing business with City employees and any member of a City employee's immediate family, then staff would recommend the following changes to City policy:



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1. Revise Article XXII, Section E, of the HR Manual to declare that choice.
2. Add a provision to the Purchasing Policy to declare that choice, referencing the Ethics Ordinance definition of the term “immediate family.”

Financial Impact

Staff is not aware that the revisions proposed above would have a significant negative financial impact on the City.

Options

Additional options to those identified above could be explored and brought back for consideration.

Recommendation

Staff recommends that the Board of Mayor and Aldermen continue to allow the City to do business with City employees and certain relatives of City employees but subject to certain stipulations, including the changes to City policy recommended above.
