

**COMMITTEE OF THE WHOLE WORK SESSION  
NOVEMBER 19, 2024**

**CALL TO ORDER:** Mayor Patricia Randall called the Committee of the Whole Meeting to order at 4:31 PM in Conference Room #1 at Portage City Hall.

**ROLL CALL:** Councilmembers Chris Burns, Victor Ledbetter, Nicole Miller, Terry Urban, Jihan Young, Mayor Pro Tem Jim Pearson, and Mayor Patricia Randall were present.

**ABSENT:** None.

**ALSO PRESENT:** City Manager Pat McGinnis, Chief Operating Officer Adam Herringa, Chief Development Officer Peter Dame, and City Clerk Erica Eklov.

**REVIEW AND DISCUSS OPTIONS RELATED TO THE PROVISION OF LEGAL SERVICES:** Mayor Randall introduced the topic for the meeting, noting the City Charter lists the City Attorney as one of two employees, along with the City Manager, who report directly to the Council. She relayed that the City Manager had been researching what other communities do for legal representation, then transitioned the City Manager to present his findings.

City Manager McGinnis explained that his office had informally surveyed communities of similar population size, filtering out specialized legal topics. He noted models varied from in-house legal counsel that occasionally hired private firms for outside consultations to contracted counsel. He relayed that the city's current legal services are in the fifth year of a five-year contract originally signed in July 2020 and expires in August 2025. He stated that the Council would then have the option to renew the current firm under a new contract, publish a Request for Proposals (RFP), or hire an in-house option, and warned that the survey indicated the in-house to be the most expensive. He then opened the discussion to the Mayor for Council input.

Mayor Randall highlighted the terms of the various Councilmembers, and their experience with the current Attorney, and noted the city's length of service with the prior City Attorney, Randall Brown. She explained that unlike with other services, legal counsel is not necessarily tied to the lowest bid and the Council does not need to publish an RFP if they choose to stay with the current attorney.

Mayor Pro Tem Pearson noted the City Charter provision, stating that hiring an on-staff attorney could be problematic because of it, and a contract would be ideal for monitoring cost-effectiveness. He explained his concern that former Attorney Brown lacked a backup option and succession plan, eventually causing issues with Council and staff. He noted his request for how many people bid and found it was only one firm that hired Randy Brown, but then shortly let him go. Mayor Pro Tem Pearson noted his preference to adhere to the Charter and pursue the contract option. He stated that Portage hasn't yet had a competitive bid and hoped that other firms might materialize following a call for bids.

Councilmember Urban relayed the prior history regarding Attorney Brown's transition from his original firm to joining the Bauckham Sparks firm, and the low nature of his public bid. Councilmember Urban noted issues with the bid process and informal bids from other firms. There was additional discussion regarding the history of prior bidding processes. Councilmember Urban asked whether there was a total calculation of the time Bauckham Sparks currently spends on prosecutions. Chief Operating Officer (COO) Herringa responded that he did not have such data.

Mayor Randall asked the City Manager to relay feedback he had received from Chief Arnold regarding the current firm's work on prosecutions. Mr. McGinnis relayed Chief Arnold's satisfaction with the current firm's work. Councilmember Urban noted the communication in the agenda packet

from Attorney Kaufman highlighting the Kalamazoo County Courts' approval of her firm.

Councilmember Burns asked the City Manager to opine on the City Administration's feedback on the current quality of service. The City Manager expressed satisfaction. Discussion followed regarding the quality, cost, and time spent. Councilmember Burns then asked for the level of potential disruption to regular business should the Council seek bids and select a different firm. City Manager McGinnis stated it would not be a problem. Councilmember Burns then asked if the city could separate the various legal functions, noting a prior issue with election questions and complications between various administrative and elected roles entailed in the matter. Councilmember Ledbetter highlighted the outside attorney consult sought for the matter. Mayor Randall relayed discontent with the City Attorney's court response on the matter and various Council meeting responses but stated she has been pleased with the current firm's prosecutions and the local and women-led nature of the business. Councilmember Urban relayed similar issues he had experienced with former Attorney Brown, both on the Council and the Zoning Board of Appeals, expressing consistent arguments but saw it as a positive rather than a detriment.

Councilmember Young suggested that any new legal counsel should understand the Council's expectations for public meetings and other situations. She stated that any responsive bid would be higher than the current contract. She also asked about the option of two different attorneys, with one for the City Administration and one for the Council.

Councilmember Burns asked if anyone on the Council had recently sought an opinion from the Attorney recently. Mayor Randall and Mayor Pro Tem Pearson confirmed that they had done so. Councilmember Burns asked if the procedures could be clarified regarding when opinions are expected, citing that it didn't appear the current counsel understood when to take direction from the Council. Mayor Pro Tem Pearson explained his prior confusion about consulting with the City Attorney, as well as expressed his desire to receive proper bids this time for assurance should Bauckham Sparks remain the lowest bid.

COO Herringa noted the prior bid response from 2015 and relayed the four firms who previously responded. There was additional discussion regarding the proposed amounts and cost breakdown. The City Manager stated that the city has historically had minimal litigation for a city of its size and said he would relay a policy from another jurisdiction for reference that authorized the Mayor and Mayor Pro Tem as points of contact. Councilmember Urban disputed the Mayor and Mayor Pro Tem having greater responsibility beyond the remainder of the Council and any policy could be discussed at a later date. City Manager McGinnis then expressed concern that two different attorneys between the Council and the staff could result in conflicting opinions.

Councilmember Urban asked that the Council be supplied with copies of the 2015 bid response to ensure the firm assessment was comparable and recommended the Council review the RFP prior to publication. Mayor Randall relayed a prior practice by City Manager McGinnis with the City Attorney while employed in Grand Haven and keeping him on call for public meetings to save on costs. Councilmember Ledbetter asked whether the Charter spoke to the Council hiring a firm or a specific person. Councilmember Urban relayed that that question had come up before as a single attorney had been noted but best practices recommended a firm with supporting attorneys.

There was discussion about pursuing going out to bid as the desired option. Councilmember Urban offered that the Council could ask the current firm for an initial proposal prior to sending an RFP, but several members expressed concern about affecting a fair approach. Councilmember Ledbetter asked if the current firm had expressed interest, to which Mayor Randall confirmed they had. Other members agreed with a public call for bids. There was discussion on the contract's term, with the consensus being three to five years. Mayor Pro Tem Pearson asked for a consensus of the Council, which was a unanimous request for proposals for a five-year contract. Mayor Randall then asked for clarification on how such a request should be structured. Councilmember Burns asked if the City Administration could research the common approach. City Manager McGinnis confirmed that the

current legal counsel structure is the most common model. Councilmember Urban asked if the specialties had ever been bid. COO Herringa relayed that he would research. The City Manager stated that staff would draft an RFP for the Council to review and prepare ahead of the annual budgeting process.

**PETITIONS AND STATEMENTS OF CITIZENS:** None.

**ADJOURNMENT:** Mayor Randall adjourned the meeting at 05:34 PM.

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Erica L. Eklov, City Clerk