



AGENDA
CUYAHOGA COUNTY PUBLIC WORKS, PROCUREMENT & CONTRACTING COMMITTEE
MEETING
MONDAY, AUGUST 12, 2013
CUYAHOGA COUNTY JUSTICE CENTER
COUNCIL CHAMBERS – 1ST FLOOR
3:00 PM

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENT RELATED TO THE AGENDA**
- 4. APPROVAL OF MINUTES FROM THE AUGUST 7, 2013 MEETING**
- 5. MATTERS REFERRED TO COMMITTEE**
 - a) O2011-0048: An Ordinance requiring the County Executive to contract for and conduct a Disparity Study in 2012 and, if required by law to validate the Disparity Study, every five years thereafter; and requiring annual updates of said Study, if required by law.
 - b) O2013-0018: An Ordinance enacting Chapters 507 and 508 of the Cuyahoga County Code to establish the County's performance bond and insurance requirements and repealing Sections 504.03(C)(2)(e), 504.04(D)(2)(e), and 504.16 in conformity therewith; and declaring the necessity that this Ordinance become immediately effective.
- 6. MISCELLANEOUS BUSINESS**
- 7. OTHER PUBLIC COMMENT**

8. ADJOURNMENT

*In accordance with Section 108.01 of the Cuyahoga County Code, complimentary parking in the Huntington Park Garage will be available for the public on any day when the Council or any of its committees holds meetings. Please see the Clerk to obtain a parking pass.



MINUTES

CUYAHOGA COUNTY PUBLIC WORKS, PROCUREMENT & CONTRACTING COMMITTEE MEETING

**WEDNESDAY, AUGUST 7, 2013
CUYAHOGA COUNTY JUSTICE CENTER
COUNCIL CHAMBERS – 1ST FLOOR
11:00 AM**

1. CALL TO ORDER

Chairman Jones called the meeting to order at 11:10 a.m.

2. ROLL CALL

Mr. Jones asked Assistant Deputy Clerk Carter to call the roll. Committee members Jones, Germana and Miller were in attendance and a quorum was determined. Committee member Conwell entered the meeting shortly after the roll call was taken. Committee member Simon was absent from the meeting.

A motion was then made by Mr. Jones, seconded by Mr. Miller and approved by unanimous vote to excuse Ms. Simon from the meeting.

3. PUBLIC COMMENT RELATED TO THE AGENDA

The following citizens addressed the Committee regarding issues of concern to them relating to Ordinance No. O2013-0018, an Ordinance enacting Chapters 507 and 508 of the Cuyahoga County Code to establish the County's performance bond and insurance requirements:

- a) Mr. Kyle Jones, representing KBJ Construction; and**
- b) Mr. Glen Shumate, representing Construction Employers Association.**

4. APPROVAL OF MINUTES FROM THE JULY 17, 2013 MEETING

A motion was made by Mr. Miller, seconded by Mr. Germana and approved by unanimous vote to approve the minutes of the July 17, 2013 meeting.

5. MATTERS REFERRED TO COMMITTEE

- a) R2013-0168: A Resolution authorizing the appropriation of real property in connection with right-of-way plans for replacement of Bellaire Road Bridge No. 24 over Big Creek and replacement of West 130th Street Bridge No. 64 over a branch of Big Creek in the City of Cleveland and Village of Linndale; directing the County Executive to proceed with the acquisition of real property required for public highway purposes; authorizing the Fiscal Officer to issue the monetary warrant to be deposited with the Probate Court of Cuyahoga County in an amount that is equal to the fair market value of the property; and declaring the necessity that this Resolution become immediately effective:

- 1) Parcel No(s): 13-WD & T
Permanent Parcel No.: 019-05-016
Owner: Clear Channel Outdoor, Inc., a Delaware Corporation fka Eller Media Company
Approved Appraisal (Fair Market Value Estimate): \$2,794.00

Mr. Fred Whatley, Land Deputy/Environmental Administrator; Mr. Jamal Husani, Chief Transportation/Traffic Engineer; and Mr. Majeed Makhlouf, Law Director, addressed the Committee regarding Resolution No. R2013-0168. Discussion ensued.

Committee members asked questions of Mr. Whatley, Mr. Husani and Mr. Makhlouf pertaining to the item, which they answered accordingly.

On a motion by Mr. Germana with a second by Mr. Miller, Resolution No. R2013-0168 was considered and approved by unanimous vote to be referred to the full Council agenda with a recommendation for passage under second reading suspension of the rules.

- b) O2013-0018: An Ordinance enacting Chapters 507 and 508 of the Cuyahoga County Code to establish the County's performance bond and insurance requirements and repealing Sections 504.03(C)(2)(e), 504.04(D)(2)(e), and 504.16 in conformity therewith; and declaring the necessity that this Ordinance become immediately effective.

Mr. Makhlouf and Ms. Sharon Cole, Deputy Chief of Operations, addressed the Committee regarding Ordinance No. O2013-0018. Discussion ensued.

Committee members asked questions of Mr. Makhlouf and Ms. Cole pertaining to the item, which they answered accordingly.

No further legislative action was taken on Ordinance No. O2013-0018.

6. MISCELLANEOUS BUSINESS

Mr. Jones announced that there will be a Public Works, Procurement and Contracting Committee meeting on Monday, August 12, 2013 at 1:00 p.m.

7. OTHER PUBLIC COMMENT

No public comments were given.

8. ADJOURNMENT

With no further business to discuss, Chairman Jones adjourned the meeting at 12:55 p.m., without objection.

County Council of Cuyahoga County, Ohio

Ordinance No. O2011-0048

Sponsored by: Councilmembers Jones, Connally, Brady, Conwell, Rogers and Miller and County Executive FitzGerald	An Ordinance requiring the County Executive to contract for and conduct a Disparity Study in 2012 and, if required by law to validate the Disparity Study, every five years thereafter; and requiring annual updates of said Study, if required by law.
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WHEREAS, Cuyahoga County desires to ensure that its business practices make it possible for all willing and able businesses to be eligible to contract with the county and to subcontract with the county's prime contractors for construction, architecture and engineering, and other professional services, and for the procurement of other goods and services; and

WHEREAS, Cuyahoga County desires to know whether its business practices are in fact, making it possible for all willing and able businesses, especially those designated as Minority Business Enterprises (MBEs) and/or Female Business Enterprises (FBEs) to be eligible to contract with the county and subcontract with the county's prime contractors; and

WHEREAS, Cuyahoga County further desires to know the level of participation in county contracts and subcontracts with county prime contractors of those businesses designated as Minority Business Enterprises (MBEs) and/or Female Business Enterprises (FBEs) in order to determine whether there is a disparity or underutilization in the award of any such contracts to MBEs, and/or FBEs; and

WHEREAS, the appropriate manner of determining whether there is any disparity in the award of contracts is to conduct a Disparity Study, which includes a comprehensive analysis of county contracting data to determine whether statistically significant disparities or underutilization exists in the award of contracts to MBEs and/or FBEs; and

WHEREAS, in order to act upon any determined disparities or underutilization, it is necessary to update data on an annual basis; and

WHEREAS, Cuyahoga County last conducted a Disparity Study in 2002, after which the County adopted its Small Business Enterprise Policy; and the county has not updated its 2002 study.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. The County Executive shall contract for and conduct a Disparity Study in 2012 and, if required by law to validate the Disparity Study, every five (5) years thereafter. Such studies shall be designed to meet the methodological standards put forward by court rulings regarding the constitutionality of programs specifically designed to encourage greater participation of women and minorities in our economy.

SECTION 2. The County Executive shall, if required by law to validate the Disparity Study, annually update the Disparity Study in order to ensure the County is using accurate and legally valid statistics.

SECTION 3. It is found and determined that all formal actions of this County Council meeting relating to the adoption of this Ordinance were adopted in an open meeting of the County Council and that all deliberations of this County Council and any of its committees that resulted in such formal actions took place in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by _____, seconded by _____, the foregoing Ordinance was duly enacted.

Yeas:

Nays:

County Council President Date

County Executive Date

Clerk of Council Date

First Reading/Referred to Committee: October 11, 2011
Committee(s) Assigned: Public Works, Procurement & Contracting

Additional Sponsorship Requested on the Floor: October 11, 2011

Legislation retained per Motion No. M2012-0031: January 22, 2013

Journal _____
_____, 2011

County Council of Cuyahoga County, Ohio

Ordinance No. O2013-0018

Sponsored by: County Executive FitzGerald/Department of Law and Councilmember Jones	An Ordinance enacting Chapters 507 and 508 of the Cuyahoga County Code to establish the County's performance bond and insurance requirements and repealing Sections 504.03(C)(2)(e), 504.04(D)(2)(e), and 504.16 in conformity therewith; and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, the Department of Law's Risk Management Division has been working on developing risk management practices, including performance bond requirements, to simultaneously promote the County's interest in contracting with small businesses and protect the County against risk;

WHEREAS, it is necessary to enact legislation to deviate from the rigid performance bond requirements under state law and to provide the Law Department with the flexibility to make performance bond and insurance determinations as appropriate for each individualized case; and

WHEREAS, it is necessary that this Ordinance become immediately effective in order that critical services provided by the County can continue.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Chapters 507 and 508 of the Cuyahoga County Code are hereby enacted as follows:

Chapter 507: Performance Bonds

Section 507.01: Performance Bond Requirements

Notwithstanding any provisions in the Ohio Revised Code, Ohio Administrative Code, or any other law or regulation to the contrary, the County, through the Director of Law, shall have the discretion to determine whether to require performance bonds, and the amounts of any such bonds, on a contract-by-contract basis, including all construction contracts.

Section 507.02 Small Business Considerations

In exercising his or her discretion on whether to require performance bonds and the amounts for such bonds, the Director of Law, through the Law Department's

Risk Management Division, shall give deference to the County's interest in contracting with small businesses without causing undue risk to the County.

Chapter 508: County's Insurance Requirements

Section 508.01: Insurance Requirements

The Director of Law, through the Law Department's Risk Management Division, shall determine the County's insurance needs and requirements, including all insurance requirements related to County contracts.

Section 508.02: Updates to County's Insurance Requirements

The Director of Law, through the Law Department's Risk Management Division, shall continually update the County's insurance requirements as necessary to protect the County's interests.

SECTION 2. Sections 504.03(C)(2)(e), 504.04(D)(2)(e), and 504.16 of the Cuyahoga County Code are hereby repealed.

SECTION 3. It is necessary that this Ordinance become immediately effective for the usual daily operation of the County, the preservation of public peace, health, or safety in the County, and any additional reasons set forth in the preamble. Provided that this Ordinance receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (1) its approval by the County Executive through signature, (2) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Cuyahoga County Charter, or (3) its passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Cuyahoga County Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

SECTION 4. It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by _____, seconded by _____, the foregoing Ordinance was duly enacted.

Yeas:

Nays:

County Council President

Date

County Executive

Date

Clerk of Council

Date

First Reading/Referred to Committee: July 23, 2013

Committee(s) Assigned: Public Works, Procurement & Contracting

Journal _____
_____, 20__