



CITY OF KIRKLAND

Department of Finance & Administration

123 Fifth Avenue, Kirkland, WA 98033 425.587.3100

www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Tracey Dunlap, Director of Finance and Administration
Barry Scott, Purchasing Agent

Date: August 22, 2007

Subject: Staff Recommendation for Revisions to New Purchasing Ordinance (KMC 3.85)

RECOMMENDATION:

City Council approve minor revisions to Purchasing Ordinance (KMC 3.85) and KMC 3.16.065 Authority to sign agreements. It is also recommended that the City Council approve, by the accompanying resolution, the removal of the "Authorization to Call for Bids" from the Consent Calendar section of the Council Agenda.

BACKGROUND DISCUSSION:

The City Council adopted the revised Purchasing Ordinance on July 3, 2007. The following "housekeeping" items have been identified since that date:

Proposed Revisions to KMC 3.85 and KMC 3.16.065

1. Effective July 22, 2007, RCW 39.08.010 was changed to allow contractors that are awarded public works contracts for less than \$35,000 to have their retained amount increased to 50% in lieu of their posting a performance and payment bond. The RCW provides that this is at the option of the contractor. KMC 3.85.230 cites the contract threshold of \$25,000 that was previously established in RCW 39.08.010. The threshold set forth in the KMC should be consistent with the threshold in the RCW.
2. KMC 3.85.230(a)(1) currently requires that a bid bond be submitted with all sealed bids for public works projects. It is our intent to only require bid bonds for projects estimated to cost more than \$50,000. This would be consistent with the practices of other Seattle suburban cities. For small public works projects (estimated to cost less than \$50,000) bid bonds would only be required if it is determined to be in the best interest of the City to do so for a specific project.
3. KMC 3.16.065 Authority to Sign Agreements is in conflict with the intent of the Purchasing Ordinance. KMC 3.16.065 sets the dollar threshold for a department director to enter into a professional services agreement at \$20,000. It is the intent of the new Purchasing Ordinance to permit a department director to execute any contract up to \$50,000.

The following revisions are recommended:

- (a) KMC 3.16.065(b) make reference to KMC 3.85 for the authority to sign contracts.

- (b) KMC 3.85.080(a) be amended to specify the department directors are authorized to approve all purchases for less than \$50,000 and the City Manager or designee must approve contracts in excess of \$50,000.

Elimination of Authorization to Call for Bids from Council Agenda

With the adoption of the revised Purchasing Ordinance, the requirement for the Council to provide an Authorization to Call for Bids was eliminated. The Council requested that, in lieu of the Authorization to Call for Bids, a report on purchasing activities in excess of \$50,000 be routinely provided to the Council.

The accompanying Resolution to amend the Rules of Procedure for the Conduct of Kirkland City Council Meetings is submitted to eliminate the Authorization to Call for Bids from the Council Agenda's Consent Calendar (see summary of changes below). A report on major purchasing activities (sample attached) will be included under the Consent Calendar's Other Items of Business.

Summary of Changes

6.	Consent calendar
	a. Approval of minutes
	b. Audit of accounts and payment of bills and payroll
	c. Written Correspondence
	i. Routine
	ii. Written correspondence relating to quasi-judicial, including land use public hearing matters and placed in the appropriate hearing file.
	d. Authorization to call for bids
	e d. Award of bids
	etc.

[Resolution continues unchanged after this section]



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MEMORANDUM

To: David Ramsay, City Manager

From: Barry Scott, Purchasing Agent

Date: August 21, 2007

Subject: REPORT ON PROCUREMENT ACTIVITIES FOR COUNCIL MEETING OF SEPTEMBER 4, 2007

As requested by the Council, this report is provided to apprise the Council of recent procurement activities where the cost is estimated to be in excess of \$50,000. This report also includes the process being used to determine the award of the contract.

Following is a report on the City's major procurement activities since July:

	Project	Process	Estimate/Price	Status
1.	Planned Action EIS for Update of Comprehensive Plan	RFQ	\$200,000	Three submittals received and are being evaluated.
2.	Audio Logging System	RFP	\$60,000	One proposal received on August 8 th . Proposal rejected due to proposed cost and insufficient number of proposals received.
3.	Public Safety Building Feasibility Study	RFQ	\$96,000	Ten submittals were received and evaluated. Three firms interviewed. Negotiating with Jensen/Fey.
4.	Jacobsen Wide Area Mower	Cooperative Purchase	\$73,244.74	Purchased using WA State Contract for Lawn & Grounds Equipment

Please contact me if you have any questions regarding this report.

ORDINANCE NO. 4111

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PURCHASING.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Section 3.16.065 of the Kirkland Municipal Code is hereby amended to read as follows:

3.16.065 Authority to sign agreements.

(a) Interlocal Agreements. The city manager or the director of finance is authorized to execute on behalf of the city an agreement that is made pursuant to the Interlocal Cooperation Act (see Chapter 39.34 RCW). A department director may, on behalf of the city as the delegate of the city manager, enter into an interlocal agreement so long as such agreement either imposes no financial obligation on the city or the contract is for less than twenty thousand dollars. The person who signs an interlocal agreement shall ensure that it is delivered to the city clerk's office in order that the interlocal agreement will be recorded for purposes of RCW 39.34.040.

(b) Professional Services Agreements. The city manager or ~~the director of finance~~ designee is authorized to execute on behalf of the city an agreement for professional services. A department director may enter into a professional services agreement so long as such agreement does not impose a financial obligation on the city in excess of the amount set forth in Section 3.85.080 of this code of twenty thousand dollars or more.

(c) The authority delegated by this section is supplemental to the authority provided under Chapter 3.85 of this code. In case of specific conflict, the provisions of Chapter 3.85 will prevail.

Section 2. Section 3.85.080 of the Kirkland Municipal Code is hereby amended to read as follows:

3.85.080 Small Purchase

(a) Small purchase procedures shall be used for purchases of goods, services and multi craft or trade public works when it is expected the total price will not exceed fifty thousand dollars (thirty thousand dollars for single craft or trade public works), including sales tax and freight, except as otherwise allowed in 3.85.190 and 3.85.200. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. The director of the department making these purchases is authorized to make such purchases without further approval if the total price will not exceed fifty thousand so long as done in compliance with the procedures herein outlined. All purchases of fifty thousand or more shall be signed by the City Manager or designee.

(b) For goods and services, price quotations shall be obtained and documented from at least three (3) sources, where possible, if the total price is

expected to be between seven thousand five hundred dollars and fifty thousand dollars including sales tax and freight, except as otherwise allowed in this chapter. All awards to other than the lowest responsible bidder must be documented on the quote sheet with selection rationale clearly defined. For goods and non-public work services under seven thousand five hundred dollars, formally documented price quotations shall be unnecessary but it is expected that competitive pricing shall be sought in the best interests of the City.

(c) For public works projects that are street signalization or street lighting, under thirty thousand dollars involving a single craft or trade, or under fifty thousand dollars if involving multiple crafts or trades, three written quotations must generally be obtained. The Small Works/Limited Public Works process is recommended for obtaining quotes.

1) If it is necessary or advisable that public works projects that are street signalization, street lighting, under thirty thousand dollars for a single craft or trade or under fifty thousand dollars for multiple crafts or trades, should be done without obtaining competitive quotes, the appropriate director or designee may waive in writing the requirement of obtaining quotes.

2) For any public work which is not competitively bid and where the cost is estimated to exceed twenty five thousand dollars, notice providing the estimated cost and a description of the work will be published at least once in a legal newspaper of general circulation in the area where the work will be performed and at least 15 days before beginning work.

(d) The Purchasing Agent shall be responsible for determining the adequacy of quotations for small purchases. So long as the authorization exists within the budget appropriation for the small purchase, the manager or director with the appropriate budget authority shall not be required to obtain further approval by the City Council prior to the commitment and expenditure of funds.

(e) Price quotations for repetitively purchased items that are purchased within one year of the last procurement of that exact item(s) shall be unnecessary provided the prior competitively quoted purchase price has not changed.

(f) In accordance with RCW 39.04.190, the Purchasing Agent will publish a notice twice per year in the City's designated official newspaper advising potential bidders of the existence of the vendor list used by the City. The vendor list is to be used for the purpose of identifying suppliers interested in being provided the opportunity to quote on small purchases for materials, equipment, supplies and routine services.

Section 3. Section 3.85.230 of the Kirkland Municipal Code is hereby amended to read as follows:

3.85.230 Bonding Policy

(a) For all public works contracts, the following minimum bonding requirements shall be met for each procurement.

1) A bid deposit in the form of a bid bond or certified check in an amount equal to at least five percent of the total bid must be enclosed with the submitted sealed bid if the bid is in excess of fifty thousand dollars.

2) A performance and payment bond for 100 percent of the total contract price shall be received from the successful contractor prior to contract award for all contracts in excess of thirty-five thousand dollars.

(b) On public works contracts of ~~twenty-five~~ thirty-five thousand dollars or less, at the option of the contractor, the City may, in lieu of a performance and payment bond, retain fifty percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the Department of Revenue and settlement of any liens fixed under RCW 60.28, whichever is later.

(c) If the limited public works process allowed under KMC 3.85.170(c) is used, the city may waive the requirements for performance and payment bond and retainage.

(d) The Purchasing Agent, in consultation with the project manager, City Attorney's Office and Risk Management Coordinator as needed, shall have authority to determine amounts of protective bid guarantees for all purchases in the best interests of the City.

Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2007.

Signed in authentication thereof this _____ day of _____, 2007.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

RESOLUTION R-4665

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND SETTING FORTH THE CURRENT RULES OF PROCEDURE FOR THE CONDUCT OF KIRKLAND CITY COUNCIL MEETINGS.

Whereas, a predetermined order of business and the adoption of rules of procedure for City Council meetings will be the most expedient means of conducting Council Meetings; and

Whereas, such order of business and rules of procedure will avoid confusion and aid in the expeditious handling of business; now, therefore,

Be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The order of procedure herein contained shall govern deliberations and meetings of the Council of the City of Kirkland, Washington.

Section 2. Regular meetings of the Council shall be held as provided for by ordinance.

Section 3. At all meetings of the Council, a majority of the Councilmembers shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time to secure the attendance of absent members.

Section 4. The order of business shall be as follows:

1. Call to order
2. Roll Call
3. Special presentations
4. Reports
 - a. Council Reports
 - b. City Manager reports
5. Communications
 - a. Items from the audience (3 minute limitation. See Section 5)
 - b. Petitions
6. Consent calendar
 - a. Approval of minutes
 - b. Audit of accounts and payment of bills and payroll
 - c. Written Correspondence

- i. Routine
- ii. Written correspondence relating to quasi-judicial, including land use public hearing matters and placed in the appropriate hearing file.
- d. Award of bids
- e. Acceptance of public improvements and establishing lien periods
- f. Approval of agreements
- g. Resolutions and Ordinances
- h. Other routine items of business

Any matter, which because of its routine nature, would qualify for placement on the Consent calendar pursuant to this section, may be included on the Consent Calendar, notwithstanding action on the matter may, by law or otherwise, require adoption of a Resolution or Ordinance.

Any item may be removed from the consent calendar upon the request of any Councilmember. All items remaining on the consent calendar shall be approved by a single motion. Whenever an Ordinance is included on the Consent Calendar, approval of the calendar shall be by roll call vote.

- 7. Public hearings
- 8. Unfinished business
- 9. New business
- 10. Announcements
- 11. Adjournment

Section 5. The Council believes that the following procedure for public comment during regular City Council meetings will best accommodate the desires and concerns of the Council:

1. During the time for "Items from the audience", speakers may not comment on matters which are scheduled for a public hearing, or quasi-judicial matters. The Council will receive comments on other issues, whether the matter is otherwise on the agenda for the same meeting or not. When possible, items on the agenda will be marked with an asterisk when the Council cannot receive comments on such matters during the time for "Items from the audience".

2. During the time for "Items from the audience", speakers will be limited to 3 minutes apiece. No more than 3 speakers may address the Council on any one subject. However, if both proponents

and opponents wish to speak, then up to 3 proponents and up to 3 opponents of the matter may address the Council.

Section 6. Items of business to be considered at any Council meeting shall be submitted to the City Manager no later than the Wednesday morning prior to a scheduled Council meeting. A written agenda and informational material is to be prepared and sent the Friday preceding each meeting to each Councilmember. Emergency items arising after the regular agenda has been prepared shall be referred to the City Manager for inclusion, as an Addendum to the agenda.

Section 7. Written Correspondence: Access to the City Council by written correspondence is a significant right of all members of the general public, including in particular, citizens of the City. The City Council desires to encourage the exercise of this access right by the general public to bring to the attention of the Council, matters of concern to Kirkland residents. In order to do this most effectively, some orderly procedure for the handling of written correspondence is essential. One concern of the City Council is application of the appearance of fairness doctrine to correspondence addressed to the Council, concerning matters which will be coming before the City Council in a quasi-judicial or land use hearing context. Special care in the way the content of those letters is brought to the attention of the individual members of the Council is essential in order that an unintended violation of the appearance of fairness doctrine does not result.

The Council believes that the following procedure for handling of written correspondence addressed to the Council will best accommodate the desires and concerns of the Council as set forth in this section:

1. Correspondence of an Information Only Nature - Correspondence which is purely of an informational nature and which does not require a response or action should not be placed on the Council Meeting Agenda by the City Clerk, but rather transmitted to the Councilmembers in their weekly informational packet.
2. Routine Requests - Items of a routine nature (minor complaints, routine requests, referrals, etc.) shall be placed by the Clerk on the agenda under the Written Correspondence - Routine Section of the consent calendar. A brief staff memorandum should accompany each letter explaining the request and recommending a course of action.
3. Significant Correspondence - Written correspondence which obviously requires some Council discussion, is of a policy nature

or for which a non-routine official action or response is required, shall be placed by the Clerk on the regular Council agenda, either under New Business or if appropriate, under Unfinished Business, and shall be accompanied by staff report as are all other agenda items.

4. Correspondence Directly Relating to Quasi-Judicial Hearing Matters - All such correspondence when so identified by the City Clerk shall be listed by name and reference to hearing matter on the consent agenda under the item Written Correspondence Relating to Quasi-Judicial Matters. Copies of such correspondence shall not then be included within the agenda materials, but shall be placed in a City Council communication holding file, or directly into the appropriate hearing file, so that they will be circulated to City Councilmembers at the time that the matter comes before the City Council for its quasi-judicial consideration, and as a part of the hearing record for that matter. The City Clerk shall also advise the sender of each such letter, that the letter will be coming to the attention of the City Council at the time that the subject matter of the letter comes before the Council in ordinary hearing course.

Section 8. ROBERTS RULES OF ORDER, REVISED, shall govern the deliberations of the Council except when in conflict with any of the rules set forth in this resolution.

Section 9. It shall be the duty of the presiding officer of the Council to:

1. Call the meeting to order.
2. Keep the meeting to its order of business.
3. State each motion and to require a second to that motion before permitting discussion.
4. Handle discussion in an orderly way:
 - a. Give every Councilmember who wishes an opportunity to speak.
 - b. Permit audience participation at appropriate time.
 - c. Keep all speakers to the rules and to the question.
 - d. Give pro and con speakers equal opportunity to speak.
5. Put motions to a vote and announce the outcome.
6. Suggest but not make motions for adjournment.
7. Appoint committees when authorized to do so.

Section 10. No member shall speak more than twice on the same subject without permission of the presiding officer.

Section 11. No person, not a member of the Council, shall be allowed to address the Council while it is in session without the permission of the presiding officer.

Section 12. All questions on order shall be decided by the presiding officer of the Council with the right of appeal to the Council of any member.

Section 13. Motions shall be reduced to writing when required by the presiding officer of the Council or any member of the Council. All resolutions and ordinances shall be in writing.

Section 14: Each member present shall vote on all questions put to the Council. The duty to vote shall be excused when a council member has a financial interest in the question or, in quasi-judicial matters, where a council member has an appearance of fairness problem. When voting on any matter before the Council, a majority of the entire membership of the Council is required for passage of any ordinance, resolution or motion, provided that a simple majority of the members present shall be sufficient with respect to the following motions:

To adjourn, to table or continue a matter,

To go into or out of executive session,

To schedule a special meeting of the City Council,

To add or remove items on a Council meeting agenda,

To approve or authorize the sending of a letter or other communication so long as the letter or communication sets forth a policy or position previously agreed to by a majority of the entire Council membership,

To establish the date for a public hearing, unless such hearing is required to be set by Ordinance or Resolution,

To authorize call for bids or requests for proposals, and

To approve a consent calendar, provided that any ordinance, any grant or revocation of franchise or license, or any resolution for

payment of money included on said consent calendar, has first been removed therefrom.

Section 15: A tie vote, on a matter requiring four affirmative votes for passage, shall not be dispositive of the matter voted upon, but shall be deemed to have tabled the matter until the next succeeding regular meeting at which all seven Councilmembers are present. At that meeting, any member may move to take the matter off the table.

Section 16: A non-tie vote which fails for a lack of four affirmative votes, as to a matter which requires four affirmative votes for passage, shall be deemed to defeat the matter voted upon. Any Councilmember may move to reconsider the matter at the next succeeding regular meeting at which all seven Council-members are present.

Section 17. Except as provided in Sections 14 and 15, motions to reconsider must be made by a member who votes with the majority, and at the same or next succeeding meeting of the Council.

Section 18. Motions to lay any matter on the table shall be first in order; and on all questions, the last amendment, the most distant day, and the largest sum shall be put first.

Section 19. A motion for adjournment shall always be in order.

Section 20. The presiding officer of the Council may, at his discretion, call any member to take the Chair, to allow the presiding officer to address the Council, make a motion, or discuss any other matter at issue.

Section 21. The rules of the Council may be altered, amended or temporarily suspended by a vote of two-thirds of the members present; PROVIDED that at least four (4) affirmative votes be cast.

Section 22. The chairman of each respective committee, or the Councilmember acting for him/her in his/her place, shall submit or make all reports to the Council when so requested by the presiding officer or any member of the Council.

Section 23. The City Manager, Attorney, City Clerk, and such other officers and/or employees of the city of Kirkland shall, when requested, attend all meetings of the Council and shall remain in the Council chamber for such length of time as the Council may direct.

Section 24. The City Clerk shall keep correct minutes of all proceedings. The votes of each Councilmember on any ordinance shall be recorded in the minutes. At the request of any member, the ayes and nays shall be taken on any other question and entered in the minutes. Copies of the minutes shall be sent to the members of the Council prior to their next regular meeting.

Section 25. The City Council shall consider a Process IIA appeal under KZC Chapter 150 at one meeting, and shall vote on the appeal at the next or a subsequent meeting, in order for the Council to gather more information from the record and consider the appeal; provided, that the Council, by a vote of at least five members, may suspend this rule and consider and vote on the appeal at the first meeting. The Council's vote (to affirm, modify or reverse the decision of the Hearing Examiner, or direct the Hearing Examiner to hold a rehearing) shall occur within 60 calendar days of the date on which the letter of appeal was filed, pursuant to KZC150.125.

Section 26. The City Council shall consider a Process IIB application under KZC Chapter 152 at one meeting, and shall vote on the application at the next or a subsequent meeting; provided, that the Council, by a vote of at least five members, may suspend this rule and consider and vote on the application at the first meeting. The Council shall first consider the application at a meeting held within 45 calendar days of the date of issuance of the Hearing Examiner's recommendations, pursuant to KZC 152.90.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2007.

Signed in authentication thereof this ____ day of _____, 2007.

MAYOR

Attest:

City Clerk