

#14

MEMORANDUM

TO: Mayor and City Council
Toby Futrell, City Manager

FROM: Diana L. Granger, Purchasing Officer

Date: May 13, 2004

Subject: Item No. 14 for Wrecker Towing Services and Citizen's Communications

This memorandum summarizes numerous issues that have been raised or addressed by Mr. Pat Johnson over the past few months. Some of them relate to Southside Wrecker, which is on the agenda today as Item No. 14; others do not. I am not aware of the issues Mr. Johnson intends to address today.

1. Mr. Johnson raised a concern regarding towing companies being in violation of state law--Transportation Code Sections 684.081 & 684.082. He claimed towing companies are prohibited from giving anything of value to a parking facility owner in exchange for providing vehicle removal services. Mr. Johnson had a flyer from a towing company advertising free parking stripe painting services and sign services if a parking facility used its services to tow vehicles.

By memorandum dated January 22, 2004, Laura Huffman informed the Mayor, City Council, and the City Manager that Mr. Johnson may file a complaint with Municipal Court under Chapter 684 of the Transportation Code, or under the Texas Deceptive Trade Practices - Consumer Protection Act. The Texas Attorney General, the district attorneys office and the county attorney's office have responsibility for enforcement of these laws. This information was provided to Mr. Johnson.

2. In correspondence, Mr. Johnson has addressed the following:

- By letter dated January 15, 2004, he stated bid no. RF04300003 should not have been awarded to Denver's Towing because they would not be able to perform. At that time, City Council had not yet approved an award to Denver's Towing. (Council approved the award to Denver's Towing on March 25, 2004.) Mr. Johnson claimed that under the alleged contract award, Denver's Towing had attempted to subcontract the towing of a fire truck because it did not have a truck large enough to tow that size unit. He maintained none of the work could be subcontracted without the City's

- approval. When the statement was made, the City **had not** awarded the contract Mr. Johnson referred to. At that time, Kokel's Custom Towing was providing towing services for the City under a holdover clause of the previous contract.
- During the same timeframe, Mr. Johnson stated Denver's Towing did not have worker's compensation insurance. Denver's Towing held a smaller contract at that time to provide services to Public Works and was not required to carry worker's compensation insurance.
 - Mr. Johnson also included several questions about the City's intent to award to Denver's Towing.
 - a. Why did the City rebid the first time? *Answer:* We changed the specs.
 - b. In previous solicitations, the City awarded to the most qualified proposer; why was the award made to the low bidder this time? *Answer:* IFB instead of RFP was used in APD's abandoned vehicle contract that was awarded to Southside Wrecker.
 - c. In the previous solicitation, the bidder was given 90 days to get all equipment and insurance. *Answer:* This is incorrect. The bidder was given 14 after notification of award.
 - d. Who is towing for the City during this time (before March 25th)? *Answer:* Kokel's Custom Towing under a holdover clause from the previous contract.
 - In a March 3, 2004 email to Council Member about Denver's Towing, Mr. Johnson stated he had heard that Denver's Towing could not get financing for all of the equipment purchases necessary to meet the City's requirements. *Answer:* The City gave Denver's Towing 14 days to get the equipment. As it turned out, Denver's Towing could not comply with the equipment or worker's compensation requirement, which is why Item No. 14 is on the agenda today.
 - In the same email to Council Member Dunkerley, he asked if Kokel's Custom Towing will be paid for the services it provides the City during the time that Denver's Towing was attempting to get financing? *Answer:* Yes. Kokel's Custom Towing continued to provide services under a contract modification for a month-to-month holdover. Mr. Johnson recommended a rebid to avoid Kokel's Custom Towing not getting paid for services provided (which did not happen).
 - In a March 25, 2004 email to Council Member Dunkerley, Mr. Johnson asked if the contract award to Denver's Towing would be awarded to another vendor if Denver's Towing was unable to get the equipment or insurance. *Answer:* Yes. If Denver's Towing cannot meet the bid requirements, the City will go to the second low bidder—which is the item before the City Council today.
 - In an April 5, 2004 email to Council Member Dunkerley, Mr. Johnson stated he had heard that Denver's Towing was attempting to hide from the U.S. Postal Service in order to not receive written notification from the City that the City Council had approved the award to Denver's and that the clock has started to run on the 14 day timeframe for Denver's Towing to get the equipment and insurance. *Answer:* At that time, we had no basis for acknowledging Mr. Johnson's assertion. The Purchasing Office has documented all actions and conversations from the date of award to the present. Denver's Towing was unable to obtain the equipment and insurance and has, therefore, been rejected. As a result, City Council will be considering an award to Southside Towing.

3. Mr. Johnson has attended several City Council meeting and made numerous phone calls regarding several issues, one of which was that Southside Wrecker does not have worker's compensation insurance. The Texas Worker's Compensation Commission website reflects Southside has coverage from March 18, 2004 through March 18, 2005.

4. On May 6, 2004, at the Council Chambers, Mr. Johnson pointed out that towing companies' vehicles are parked across the street from Municipal Court and APD headquarters and wait for parking violators and tow their vehicles. He alleged the signs are confusing and hard to read and understand and certain towing companies know this. Mr. Johnson claims it is illegal to take cars from areas that are not properly signed and Hispanics are being targeted. He suggested a 24-hour Hispanic hotline should be established to receive complaints. The signs say tenant and authorized parking only and that unauthorized will be towed. Although Mr. Johnson also claims bribes and kick-backs are being taken and wants to know when APD is going to do something; we are unaware of who is being accused of taking bribes, or being involved in any of the alleged illegal activity. It is also unclear whom Mr. Johnson believes APD should take action against, e.g., parking lot owners, towing companies, or both.

This memorandum may have missed some of the other issues Mr. Johnson has raised in emails or telephone calls my office is not aware of. The Purchasing Office is in receipt of a letter from Bobby New, owner of Southside Wrecker, stating he intends to purchase the two trucks that are not currently in his fleet to be fully compliant with the City's requirements if City Council approves the award to Southside Wrecker.