

CITY OF SEBASTOPOL CITY COUNCIL
AGENDA ITEM REPORT FOR MEETING OF: June 18, 2024

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To: Honorable Mayor and City Councilmembers
From: Mary Gourley, Assistant City Manager/City Clerk
 Deborah Muchmore, Muchmore Than Consulting, HR Consultant
Subject: City Attorney Interview Follow Up/Next Steps: The Council can take the following actions: Consideration of Appointment and Award of Contract; or Consideration of Conducting Second Interviews in Closed Session; or Reject all Interviews and Propose New Requests for Proposals for City Attorney Services

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- RECOMMENDATION:** This item is to request the City Council provide direction to staff for:
1. Approve appointment tonight of one or more of the respondents interviewed and approve Award of Contract for attorney services and direct staff to return to a future City Council meeting with agreement; or
 2. Conduct second interviews in closed session based upon California Government Code from those selected tonight as follows:
 - a. Council can interview and appoint at the closed session with a report out at open session and request a contract(s) be returned to a future Council meeting; or
 - b. Council can conduct the closed session interviews and then discuss and make a decision in a subsequent open session Council meeting; or
 3. Reject all proposals and direct staff to issue a new request for proposal for City Attorney Services
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EXECUTIVE SUMMARY:

The City of Sebastopol issued Request for Proposals (RFPs) for City Attorney Services and received four Proposals as of the deadline for submittals. City staff and Human Resources Consultant reviewed the proposals for City Attorney services and verified that all proposals met the requirements of the RFP. City Council conducted interviews of four firms at an open publicly noticed meeting on June 4, 2024. As noticed, the Council conducted interviews but did not conduct any discussion or take any actions at that meeting. Tonight’s item is for Council to discuss next steps which could include making a selection of a firm or firms for attorney services; directing staff to set up additional interview(s); or rejecting all proposals and directing staff to conduct another Request for Proposal process.

BACKGROUND:

The City Council is the appointing authority for the City Attorney who serves as the legal advisor to the City Council, City Manager, Assistant City Manager/City Clerk and Department Directors. The general legal responsibilities of the city attorney are to: 1) provide legal assistance necessary for formulation and implementation of legislative policies and projects; 2) represent the city's interest, as determined by the City Council, in litigation, administrative hearings, negotiations and similar proceedings; 3) prepare ordinances, resolutions, contracts and other legal documents to best reflect and implement the purposes for which they are prepared; and 4) keep the City Council and staff apprised of court rulings and legislation affecting the legal interest of the City.

Of note, the city attorney does not represent individual city councilmembers, but the City Council as a whole.

DISCUSSION:

As stated above, the City Council conducted interviews with four firms that submitted proposals for attorney services for the City. These interviews were conducted in open session. Based on the interviews, Council may determine that one proposal and firm stands out over the others and can choose to make an appointment tonight. Alternately, the Council may discuss and defer the decision to a later meeting, or request additional interview or interviews; or reject all proposals and authorize staff to conduct a second request for proposals. The Council can conduct discussion tonight on questions and answers from the interviews conducted.

If the Council chooses to conduct second interview(s), City staff recommends the second interview(s) be conducted by the Council in closed session to allow for questions specifically related to closed session topics such as labor relations, employment actions, legal strategies, litigation, and other allowable Brown Act closed session exceptions. The Council is authorized to conduct a closed session for this purpose under Government Code Brown Act: Gov't Code section 54957(b)(4) provides that the term "employee" (in the closed session exception) shall include an independent contractor who functions as an officer or an employee. Since Gov't Code 36505 establishes the office and/or employment of a "city attorney", it appears to be that this first Gov't Code section allows the appointment of an individual as "city attorney" in closed session. The closed session would fall under:

- Public Employee Employment; City Attorney
- Public Employee Appointment, City Attorney

ANALYSIS:

Based upon the complexities of Attorney services, and length of interviews conducted, City staff and the City's human resources consultant recommend that the City Council consider conducting a closed session to conduct second interview(s) with all or selected firm(s) that were interviewed.

COMMUNITY OUTREACH:

This item has been noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date.

FISCAL IMPACT:

Other than the cost of staff time to prepare for and participate in the meetings, there is no fiscal impact with any of the recommendations. If appointment or appointments are made, funding has been allocated in the Proposed FY 24 25 DRAFT budget; if additional interviews are requested, there is no cost to the City for additional interviews; if a new Request for Proposals is requested, staff time would be required to make minor amendments to the RFP and reissue.

OPTIONS:

That the City Council:

1. Approve appointment of one or more of the respondents interviewed and approve Award of Contract for attorney services and direct staff to return to a future City Council meeting with agreement; or
2. Conduct second interviews in closed session based upon government code above from those selected tonight with a report out:
 - a. Council can appoint at the closed session with a report out at open session and request contract(s) be returned to a future Council meeting; or
 - b. Council can conduct the closed session interviews and then discuss and make a decision in a subsequent open session Council meeting; or
3. Reject all proposals and direct staff to issue a new request for proposal for City Attorney Services

Staff would recommend option 2a.

ATTACHMENTS:

None

APPROVALS:

Department Head Approval: Approval Date: 6-11-2024

CEQA Determination (Planning): Approval Date: 6-11-2024

The proposed action is not a project under the California Environmental Quality Act (CEQA)

Administrative Services (Financial) Approval Date:

Costs authorized in City Approved Budget: Yes No N/A

Account Code (f applicable) 1012-4214

City Attorney Approval: Approval Date: 6-11-224

City Manager Approval: Approval Date: 6-11-2024