

Tonasket City Council Agenda

Tuesday, April 23, 2019

7:00 pm

**PLEASE REMEMBER TO BE AT CITY HALL AT 4:20 PM FOR THE PARLIAMENTARY CLASS
AND COME INTO CITY HALL ON MONDAY TO PICK UP THE CLASS INFORMATION**

- 1) Call to Order
- 2) Pledge of Allegiance
- 3) Approval of the minutes of the previous meeting
- 4) Presenting Award to Jason Utecht
- 5) Kurt Danison Report
- 6) Dave Kester---Bulb outs
- 7) Stacy Kester and Jordon Weddle---Comprehensive Park Plan
- 8) Jennifer Ward --- review of contract for Internal Compliance Administrator
- 9) This meeting has been advertised as a public hearing on the surplusing of items from the Water/Sewer Departments.
- 10) This meeting has been advertised as a public hearing to inform the public the City is applying for USDA/Rural Development Funds for a pickup truck for the Public Works Department
- 11) Unfinished Business
 - a) Code Enforcement person discussion
 - b) City Council Rules of Conduct
 - c) Peddlers Permit
 - d) Resolution 2019-12 Surplus items
- 12) Mayor/Council/Committee Reports
- 13) New Business
 - a) Ordinance #802 amendment to park ordinance regarding dogs in Chief Tonasket Park
 - b) Resolution 2019-13 setting rules for use of Chief Tonasket Park
- 14) Miscellaneous and Correspondence
- 15) Public Comment
- 16) Adjournment

Council Memo
Tuesday, April 23, 2019

TO: Mayor and City Councilmembers

FROM: City Clerk-Treasurer

Mayor Brown will present to Jason a plaque thanking him for his many years of volunteering his time at the Tonasket Police Department.

Kurt Danison will be giving his report to the Mayor and Councilmembers.

Dave Kester asked to be on the agenda to discuss the proposed bulb outs on Whitcomb Ave.

Stacy Kester and Jordon Weddle have asked to be on the agenda to discuss the City's Comprehensive Park Plan.

Jennifer Ward asked to be on the agenda to give her review of the contract for the Internal Compliance Administrator.

This meeting has been advertised as a public hearing to discuss the surplus items that had been purchased by the Public works Department. This is required by RCW 35.94.040.

This meeting has been advertised as a public hearing to inform the public the city is applying for USDA/Rural Development Funds for a pickup truck for the Public Works Department. This is required by Rural Development as part of the process for requesting R.D. funds.

Code Enforcement: I have attached Omak's Job description and Okanogan's description for this position. I would like to work with possibly the personnel committee to put our own job description together.

Council Rules of Conduct: I believe it is time for us to have a comprehensive set of rules for the Council to go by. I think after the class from Ann MacFarlane we will have a good idea on how to proceed.

Peddlers Permit—I will have information for the Council so you can decide if you want to proceed with approving this permit or not.

Resolution 2019-12—this would surplus many items from the City Shop and City hall.

Ordinance #802—this will be an amendment to the park ordinance regarding dogs at Chief Tonasket Park. I don't have the ordinance yet—should have it on Monday.

Resolution 2019-13 sets rules for the use of Chief Tonasket Park.

Minutes of the Regular City Council Meeting Tuesday, April 9, 2019

DRAFT

Present: Mayor Brown and Councilmembers Kriner, Levine, Moreno and Sackman

Staff: Danison, Attwood and D. Johnson.

The meeting was called to order at 7:00 pm and the pledge of allegiance was given by all.

Kurt Danison Report: Kurt reported the Planning Commission will be holding a public hearing in May on a conditional use permit application for a slaughterhouse. Kurt reported that FEMA is working on updating the flood maps, and there will be cross sections of the river taken and there will possibly be new flood maps in 2020. Danison also reported on the Perfect Passage meetings and at this time parking has not been eliminated. There is discussion of eliminating the left hand turn lane, and possibly directing truck traffic down Western Ave. Street trees were discussed and possibly some sort of memorial artwork by Smoker Marchand. There will be a NCWEDD forum on the 22nd, and the south access to the park is being discussed again. Other subjects discussed were the possible south end annexation, the Library/Police Department and the State Transportation Commission is coming to Tonasket.

Unfinished Business

Motion made by Marylou Kriner to allow Jennifer Ward to speak under Unfinished Business. The motion died due to the lack of a second.

Mayor/Council/Committee Reports

Levine: Reported there will be a Long Term Recovery meeting April 16th from 10am to 7 pm. Reported she had looked around town regarding a complaint about graffiti, there is still some at the Skate Park and a few other places. It is important the graffiti is removed quickly after photos have been taken of the graffiti possibly for evidence. The Perfect Passage meeting on March 28th was well attended, there was discussion of art from Smoker Marchand and maybe the school. Also reported on the Water Resource area meeting and OCOG.

Sackman: Replied to a question asked of her at a prior meeting from Jennifer Ward—Sackman stated the two RFP's for the Internal Compliance Administrator were both equally qualified, verified requirements, made calls and it was her personal opinion both were qualified for the position and she nor Councilmember Levine made the motion.

Moreno: No report.

Kriner: Little Learners Park is being prepared for the new equipment. Kriner is concerned that the old swing set still has concrete on it and will be hard to dispose of. The railroad ties will need to be disposed of properly. Kriner reported she has a document from Steve Perry that has recommendations for the Police Department from September 24, 2012. Attorney Howe stated the document should probably go to Steve Brown, the City's Internal Compliance Administrator.

Sackman: Reported the Comancheros auction was good and everyone should support them as they do a lot for the city.

Mayor: The Mayor reported on Little Learners Park and lots of work is being done and he also attended the OCOG meeting.

Department Head Reports

Johnson: Reported the streets are being cleaned and they will be busy working on a few water services—they may want to rent a mini-excavator or use Troy Nielsens and pay him for it. Johnson stated they would like to have a pipe thawer for next winter. And they will be purchasing the pipe for the water repair—copper is \$1900 and the poly pipe \$115 so he thinks they will go with the poly pipe. If they use the poly pipe they could use a hot water jetter to thaw out the pipe when needed.

DRAFT

Hawley: Handed out a report to the Mayor and Council and explained the format. Hawley reported that 5 of the 6 positions have been hired in the Department. There will be 1 lateral officer and 1 entry level officer working Tonasket. The City's police vehicles have been restriped. Hawley also reported there have been 166 calls in Tonasket since January 1, 2019

Attwood: Attwood asked the Council if they would like a letter written to the County Commissioners regarding the south end park access. It was the consensus of the Council to write the letter.

The Clerk reminded the Council the Parliamentary Class is set for April 23rd at 4:30 pm. Councilmember Levine asked the Clerk to invite other Councilmembers to the Parliamentary class on April 23rd if there is room.

The Clerk explained to the Council that she had used the wrong Ordinance number on the ordinance adopted at the prior meeting. The Franchise Ordinance is #801 not #800. It has been put in the minutes with the correct number.

The Association of Washington Cities Annual Conference is coming up and Councilmember Kriner stated she would like to attend. The Clerk will take care of the registration for her.

The City Clerk read the Arbor Day Proclamation for the Mayor.

Motion to approve the North Central Washington Task Force Agreement and to pay the fee of \$2300. M/Levine, S/Jensen. Carried 4:0.

Motion to approve Resolution 2019-10 an Airport Land lease Agreement with Harry Haney. M/Kriner, S/Jensen. Carried 4:0.

Peddler's Permit application submitted by Maria Garcia. There was discussion regarding the applicant. Last year the vehicle used by them was very loud and there were several complaints. The Clerk will verify the business license and add a hold harmless to the application before the next meeting.

There was a discussion on whether the City should surplus the 4 Glock handguns and the Dodge Police Car. After deliberation it was decided the City will retain the firearms and surplus the Dodge Police Vehicle.

Motion to adopt Resolution 2019-11 declaring certain items surplus to the City's needs. M/Levine, S/Kriner. Carried 4:0. The Dodge police car was the only item to be included in this resolution.

Sheriff Hawley offered to store the City's firearms at the County. An agreement will be prepared to cover this action.

Motion to set the date for the City Auction on May 11th at 10:00 am. M/Moreno, S/Kriner. Carried 4:0.

There was discussion on the Rules of conduct for the Council meetings. This will be on the next agenda after the training with Ann MacFarlane for Parliamentary procedure.

Motion to authorize the Mayor to sign the agreement with Ann MacFarlane for training. M/Sackman, S/Levine. Carried 4:0.

Motion to approve the consent agenda: the minutes of the previous meeting with the correction to Sackman's statement in the March 26th minutes: that she is already on the Public Safety Committee, and leaving her on the Committee, is setting it up for failure: the March Payroll (8968-8980 and Direct Deposit run 2/26/2019) \$37,249.79 and the April Bills (9028-9031, 9050-9100 and 4 EFT's) \$315,005.30. M/Sackman, S/Kriner. Carried 4:0.

Motion to excuse Councilmember Ritter from the Council meeting. M/Sackman, S/Levine. Carried 4:0.

Public Comment

DRAFT

Ann Cook stated the sidewalk has been cleaned and the vacant lot on 7th and Tonasket Ave. looks great.

Jennifer Ward stated she has concerns about the Internal Compliance Administrator contract

Brenda Jones stated she was not pleased with public records requests and that Committee meetings needs to be on the website.

There being no further business the meeting was adjourned at 9:05 pm.

Alice J. Attwood, Clerk-Treasurer

City of Tonasket

From: Deniece Miller <deniece.tonasket@nvinet.com>
Sent: Thursday, April 18, 2019 3:37 PM
To: City of Tonasket
Subject: FW: J Ward, agenda item, for City Council 4/23/19
Attachments: Final_Documents_JWard_CityCouncilAgenda04232019_sent04182019.pdf

From: Jennifer Ward [mailto:mckim.jennifer@gmail.com]
Sent: Thursday, April 18, 2019 2:58 PM
To: City of Tonasket <tonasket@nvinet.com>; Deniece Miller <deniece.tonasket@nvinet.com>
Subject: Re: J Ward, agenda item, for City Council 4/23/19

Good afternoon Clerk-Treasurer Attwood and Deputy Clerk-Treasurer Miller,

I spoke with Clerk Attwood yesterday morning and she said she would add me to the City Council agenda for 4/23/19, and she said to have any materials to her by today ideally.

I would like to include to the attention of the City Council and Mayor the following materials. I have combined it into one .pdf file for ease of printing/emailing.

It is 103 pages, but 30-40 pages are for reference only and have already been viewed/reviewed by City Council in prior Council packets and/or Council meetings. I included those documents (30-40 pages) that Council have seen prior, as reference, and for ease of reference if needed by the Council members.

The .pdf file I have attached is:

1. New: (pages 1-4) Timeline;
2. New: (pages 5- 26) Draft preliminary review of the Internal compliance administrator Request for Proposal process and contract management review;
3. Old: (pages 27-28) March 15, 2019 letter from SEP Consulting;
4. New: (pages 29-37) Transcript of 03/12/19 City Council review (15 minutes) of the RFP proposals for the ICA contract;
5. New: (pages 38-40) "Initial Check for Completeness", by J Ward;
6. New/old?: (pages 41-43): City of Tonasket RFP proposal, for ICA contract;
7. New/old: (pages 44-51): Key related published notices and ordinances.
8. New/old: (pages 52-58): Service agreement entered into March 18, 2019 between SDB Consulting and City of Tonasket.
9. New/old: (page 59-60): S. Brown resume.
10. Old: (pages 61-86): Inquiry March 13, 2019 and public record request, produced 3/27/19: RFP proposal packet for SEP and SDB.
11. New: (pages 87-91): MRSC: "Personal Service Contracts";
12. New: (page 92): Office of Secretary of State: Records Management Office: "What are Personnel Files?";
13. New: (page 93-94): Chapter 40.14 RCW: Preservation and Destruction of Public Records, Chapter overview:

14. New: (pages 95-96): WA Secretary of State: Washington Archives: Using the Local Government Common Record Retention Schedule, overview;
15. New: (pages 97-102): April 7, 2019 email to Public Safety Committee;
16. New: (page 103): MRSC: "Law Enforcement Records Management and Disclosure".

Thank you for letting me present my materials and findings to City Council at the upcoming Council Meeting on Tuesday April 23, 2019.

If there is any clarifications or any other way I can assist between now and the 4/23/19 Council meeting, please feel free to contact me by phone (cell: 509-322-4896) or email (mckim.jennifer@gmail.com).

Thank you. Sincerely,

Jennifer Ward
City of Tonasket Resident

**Timeline of City of Tonasket Police Department and Internal Compliance
Administrator award, 2018-2019**

June 12, 2018: City Council meeting:

1. Mayor Brown's appointment of Odegaard as Chief is approved by Council (Council member Ritter states it will take a couple weeks for Chief to be vested).
2. Council also approves Public Safety committee to look into a short term temporary interlocal agreement (with either other City or County) to cover police/law enforcement services.

June 18, 2018: CJTC confirmed receipt of Hire Form for reserve officer Cruz.

July 9, 2018: City Council, Chief Odegaard and Officer Cruz sworn in, in uniform.

November 27, 2018: City Council meeting minutes: re: increase to police wages.

December 11, 2018: City Council meeting minutes: motion to increase Police Department wages for 2019 by 10% and 2.8% {COLA, cost of living allowance}, and other budget items approved as listed. And motion to adopt Ordinance #797, 2019 budget ordinance in the amount of \$4,234,338.12.

December 17, 2018: Chief Odegaard and Officer Cruz terminated and rehired.

December 20, 2018: Officer Cruz resigns and Chief Odegaard re-terminated.

December 20, 2018: Ordinance #796 and #797, notices published, in newspaper of record. Ordinance #796 amends the 2018 Budget ordinances #785, 789, 790, and #794. Ordinance #797 adopts the budget of the ensuing fiscal and calendar year of 2019.

December 25, 2018: City Council? Rescheduled?

January 2, 2019: Special City Council Meeting: to discuss P.D. employees. motion to direct Mayor to enter into contract negotiations with County Sheriff Dept., for temporary coverage; motion to adopt ordinance #798 to temporarily repeal Chapter 2.12, Police Department {including Civil Service Commission}, designating Sheriff as Tonasket Chief Law Enforcement Officer {already is by jurisdiction}.

January 3, 2019: Police department Clerk Foreman is placed on administrative leave (4 weeks, through to March 31, 2019)

January 6, 2019: Officer Perez placed on leave or ?.

January 8, 2019: City Council agenda: includes disposition of Police vehicles.

January 10, 2019: Ordinance #798, notice published, in newspaper of record. States in part: An ordinance of the City of Tonasket, WA, temporarily repealing Chapter 2.12 of the Tonasket Municipal Code entitled "Police Department" and providing for police services to be temporarily provided by contract and designating the Sheriff of Okanogan County to be the Chief Law Enforcement Officer for the City of Tonasket until the Tonasket Police Department can be re-established. For a complete copy of this ordinance contact city hall." A copy of the ordinance ordains 4 sections: including Section 4: "This ordinance shall become effective from and after its passage by the council, approval by the Mayor, and publication as required by law or, the effective date of a contract and/or an Interlocal Agreement between the City of Tonasket and the Okanogan County Sheriff's Office to provide law enforcement within the City of Tonasket, whichever is later." Passed by the City Council this 2nd day of January, 2019 (signed by Mayor Brown, Attested to by Clerk-Treasurer Attwood, and approved as to form by Attorney Howe).

January 22, 2019: Regular City Council meeting: motion to adopt ordinance #799 amending ordinance #798. {Ord. #799 allows for the reinstatement of a civil service commission, as ordinance #798 had disbanded the Chapter 2.12 which included civil service commission).

January 31, 2019, Ordinance #799, notice published, in newspaper of record. Which states, "An ordinance of the City of Tonasket, Washington, amending Ordinance #798. For a complete copy of this ordinance contact city hall."

February 1, 2019: Police department Clerk Foreman's administrative leave ends and end of employment with City of Tonasket.

Feb. 6, 2019: City Council Special meeting: Pass Ordinance #800, for \$30,000. And create a new position on agenda.

Feb. 12, 2019: Regular Council agenda: new business: "approval of professional services agreement with Steve Brown". And adopt ordinance #800.

Feb. 12, 2019: City Council Meeting and minutes: Council member motions and Council agrees to advertise to get more proposals to compare.

Feb. 21, 2019: Official publication of Notice: City of Tonasket Request for Proposals for Internal Compliance Administrator.

Feb. 21, 2019: Ordinance #800, notice published, in newspaper of record. Amending 2019 budget ordinance #797. [The full ordinance available at City Hall, reads, "Whereas it was not known at the time of the adoption of the budget that a consultant would be needed to properly secure and process all records and evidence in the Police Department Building." And ordained, "Section 1. Current expense budget revenues and expenditures to be increased by \$30,000. Section 2. The additional funds will come from an adjusted Beginning cash balance: 2019 Budget Current Expense beginning cash balance \$275,000.00 increased to \$305,000.00. 2019 Budget: \$4,234.338.12; Budget amendment ordinance #800 \$30,000; Total Amended 2019 Budget \$4,264.338.12). [Unclear when it passed, at this time this City resident has an unsigned copy].

Feb. 26, 2019: Closing date (2 proposals received dated Feb. 25, 2019) -> brought to that evening Council meeting.

Feb. 26, 2019: City Council meeting: agenda includes: "The requests for proposals will be sent to Committee and taken to a future meeting."

March 12, 2019: Regular council meeting: Review questions/comments/concerns on proposals -> Council award to SDB Consulting & Investigation.

March 13, 2019: City resident email inquiry as to evaluation of qualifications for internal compliance administrator RFP. City turns the inquiry into a public record request with a response date given of April 1, 2019.

March 15, 2019: SEP Consulting Letter to City and Council (letter to state clarifications to Council's concerns, and disappointment).

March 18, 2019: SDB Consulting & Investigation service agreement entered into. First day of service by service provider.

April 4, 2019: City resident administrative bid award protest (to City Clerk and City Mayor). Clerk turns into a legislative action item, sends to Council (next Council meeting April 9, 2019). No response as of 4/17/19.

April 7, 2019: City resident emails questions to Council members on Public Safety Committee, re: assurances of vendor meeting "city requirements" of the RFP. Council members email on April 8th and 9th, 2019 state they will find out answers. No response as of 4/17/19.

April 7, 2019: Council member asks City Resident to ask to be put on agenda. City resident leaves email and voice mail to Clerk.

April 8, 2019: a.m. call from Council member and from City resident to Clerk, re: adding resident to and amend agenda. City Clerk denies request to amend and add resident to agenda. Clerk tells resident to come April 9, 2019 at beginning of regularly scheduled Council meeting to seek permission to be added to agenda.

April 9, 2019: City Council meeting: Council member Kriner motions to add City resident to agenda. Other three (3) council members do not second the motion. Resident not allowed on the agenda.

April 10, 2019: City resident follow-up email to public safety, re: questions for internal compliance administrator service provider. No response as of 4/17/19.

April 10, 2019: City resident objects to City Mayor and City attorney and urges for administrative oversight from Sheriff.

April 12, 2019: City Attorney disagrees with the immediate need to make request of the Sheriff for his oversight of the IC officer.

April 13, 2019: City resident responds to April 12, 2019 letter, and provides basis for protest and a timely hearing. No response as of 4/17/19.

April 15, 2019: City resident to City Mayor and City Attorney, Re: request for disciplinary action as to City Clerk-Treasurer and obstruction or suppression of competitive bid process. No response as of 4/17/19.

April 15, 2019: City resident to City Mayor and City Attorney, Re: request temporary stop work order for SDB Consulting & Investigation.

April 18, 2019: City resident follow-up email to Mayor Brown and City Attorney, as to need for a temporary stop work order. Reply from City Attorney in same a.m., that he does not recommend any of the actions City resident proposes.

**Preliminary Review of Procedural Issues and Discrepancies as to the City of Tonasket's
2019 Award for the Internal Compliance Administrator Contract**

April 15, 2019

Completed by City of Tonasket resident Jennifer M.F. Ward

Introduction

This is an independent procedural review of the City of Tonasket's 2019 Award of the Internal Compliance Administrator personal services agreement. Issues and discrepancies were documented as to the request for proposal process, review of the proposals, award, and the services agreement for the Internal Compliance Administrator project ("ICA agreement").

This review relies upon information and documentation obtained through inquiries and public records requests to the City of Tonasket as of April 10, 2019, including but not limited to City of Tonasket agendas, minutes, ordinances, meeting and telephone notes, published Request for Proposals for the ICA agreement, information requests, and public records requests. [See attached supporting documents].

City of Tonasket Contracting Policies and Procedures

The City of Tonasket Municipal Chapter on Contracting, Chapter 3.16, refers only to Public Works projects. City policies and procedures for Personal Services Contracting was not immediately available from the City Clerk's Department. A public record request for City of Tonasket contracting policies and procedures was submitted to the City Clerk via email on April 4, 2019. Initially the City Clerk responded with a June 6, 2019 date the document would be produced. But a few days later the City Clerk responded that the City of Tonasket did not have any contracting policies and procedures but followed RCWs. Further clarifications with the City Attorney clarified that the City uses its Municipal Chapter 3.16 for Public Works contracting and does not have a chapter for personal services contracts (City Attorney cited the use of the following RCW's in the City's contracting: RCW 39.12, 39.08, 39.04, 39.80, 35.23, 25.21, 43.19, 35A.40, 47.24, 35.77, 39.33, 39.34 and probably others).

Municipal Research and Services Center (MRSC) Personal Services Contracts Guidelines

The Municipal Research and Services Center (MRSC) is a non-profit organization that provides legal and policy guidelines to local governments in Washington State. Personal Services Contracts Guidelines described and referenced herein are taken from the MRSC website, at <http://mrsc.org/Home/Explore-Topics/Public-Works/Purchasing-and-Bidding/Purchasing-and-Bidding-for-Washington-State-Local/Personal-Services-Contracts.aspx> [see MRSC Personal Services Contracts Guidelines].

Background

The City of Tonasket recently advertised a Request for Proposals, notice published February 21, 2019, for an Internal Compliance Administrator to process records, evidence, and other property, among other tasks, in order to assist with the closing of the disbanded City of Tonasket Police Department. [See: City of Tonasket Request for Proposals for Internal Compliance Administrator]. The closing date for proposals was February 26, 2019. Two proposals were received, from SEP Consulting, LLC and SDB Consulting & Investigation, LLC., with both proposals dated February 25, 2019. The proposals were brought to City Council for decision at the regularly scheduled Council meeting on February 26, 2019. Council were not comfortable with a decision without further review. Council agreed to send the proposals to the Public Safety Committee for additional review of qualifications and reference checks. The Public Safety Committee developed 2-3 additional questions for the two proposal submitters. The Council then made a final review at the regularly scheduled Council meeting on March 12, 2019, wherein Public Safety Committee members presented the results of the reference checks, and clarified some questions asked by Council. selected and award SDB Consulting & Investigation with the Internal Compliance Administrator contract. The proposals were reviewed between February 26, 2019 and March 12, 2019 by City Council A contract was awarded March 12, 2019to SDB Consulting & Investigation

This was a personal services contract. The RFP was published on February 21, 2019 and closed on February 26, 2019. Two proposals were received by the City in response to the RFP from SDB Consulting, LLC. & Investigation and SEP Consulting, LLC.

On February 26, 2019 City Council received Council packets including the proposal responses. Council needed additional time to review the proposals and agreed to send it to Committee for review. (Public Safety Committee, Council Member Levine and Council Member Sackman, to review the proposals and to check references). Three questions were asked of references, and 1 or 2 supplemental questions were sent to each of the proposal submitters.

On March 12, 2019 City Council completed their final review of the proposals. City Council took about 15 minutes to discuss their concerns, questions, or comments as to the two proposals, the reference checks and the supplemental questionnaire responses. Council then awarded the ICA contract to SDB Consulting & Investigation, LLC.

A professional services agreement was entered into on March 18, 2019 between the City of Tonasket and SDB Consulting & Investigation.

The remainder of this document reviews the background, roles and processes, and issues and discrepancies, in the pre-solicitation, solicitation, review, selection, and award process of the City of Tonasket ICA contract.

Pre-solicitation for the City of Tonasket Internal Compliance Administrator contract

In the spring of 2018 City of Tonasket Police Department was having issue with retaining police officers, and was considering seeking a law enforcement agreement to serve the City.

The City Mayor's appointment of Mr. Darin Odegaard as the Chief of Police was approved by City Council on June 12, 2018 and he swore his oath on July 9, 2018 at City Council.

The City of Tonasket Police Department hired SEP Consulting, "SEP", in July 2018 to assist the Department and the new Chief of Police, Mr. Darin Odegaard, and the Police Clerk, Mrs. Diane Foreman, with records and evidence processing and other assessments and priority tasks.

SEP worked with the City Police Department from July 2018 through early November 2018. SEP was primarily funded by a small grant the City of Tonasket obtained through the Association of Washington Cities, as well as funded through the City Police Department 2018 budget funds.

SEP Consulting had initially begun work in 2012 with the City Police Department with the then Chief Burks, and had issued a 22-page Report to the City Police Department at that time.

SEP was asked by Chief Odegaard and agreed to return to further assist the Police Department in the spring 2019. In the interim, the Police Department was able to secure the funding needed for SEP to continue to assist the Police Department through the City annual 2019 budget, approved December 11, 2018.

On December 17, 2018, the City Chief of Police, Mr. Odegaard, was terminated, rehired the same day, then terminated again on December 20, 2019 by the City of Tonasket. The City also terminated Reserve Officer Cruz at this time.

Mr. Odegaard filed an appeal to the City Civil Service Commission but was denied an appeal hearing by the Commission. The Civil Service Commission in part or full relied on and signed a letter of denial and rationale drafted by the City of Tonasket Attorney, Mr. Michael Howe. The rationale given was the City's determination that Mr. Odegaard had not met his six (6) month probationary period as of December 20, 2019.

On January 2, 2019, a Special Council Meeting was held and City of Tonasket Ordinance #798 was amended to disband the City Police Department, repealing Chapter 2.12 of the Tonasket Municipal Code, entitled "Police Department".

The City then soon after completed a reduction of force of the police department and placed on leave the one remaining officer, Officer Perez, and placed on leave the police department Clerk, Clerk Foreman.

As to the integrity of the police evidence and records, and as to the closing of the disbanded City Police Department, the City looked at obtaining an audit of the City Police Department from an outside individual.

Officer Perez and Police Clerk Foreman were not retained by the City of Tonasket to help facilitate the administrative closing of the disbanded City Police Department.

The City did not appear to attempt to contact SEP Consulting even though the City anticipated a need for similar work to be completed in order to close the Police Department and the City was aware that SEP Consulting had been funded by the City and the AWC grant in 2018 and was scheduled to resume this work in the spring of 2019.

The City began to recruit Mr. Steve Brown, in December 2018 and January 2019, who was recently employed with the County Sheriff's Department, to potentially hire for an Internal Compliance Administrator in order to facilitate the closing of the disbanded City Police Department. The City was preparing to hire Mr. Brown as an employee, however, at some point changed course and planned to sole-source to Mr. Brown.

On February 6, 2019 a Special Council Meeting was held in which Council passed Ordinance #800, amending the City budget to allow for \$30,000 to pay for the Consultant costs for the Internal Compliance Administrator contract [See February 6, 2019 Special Meeting Agenda, Minutes, and Ordinance #800 budget amendment for an Internal Compliance Administrator].

The City had sought to sole-source the Internal Compliance Administrator contract to Mr. Brown. Upon further review and upon request of Council Member Kriner at the February 12, 2019 City Council meeting, the Council agreed to open the solicitation and to publish a Request for Proposal, "RFP", for the Internal Compliance Administrator personal services contract.

Solicitation for City of Tonasket Internal Compliance Administrator

On February 21, 2019, the City Clerk published the Notice for Request for Proposals for the Internal Compliance Administrator with a closing date of February 26, 2019 in the City's newspaper of record, Okanogan Valley Gazette-Tribune. [See Okanogan Valley Gazette-Tribune Notice of City of Tonasket RFP for Internal Compliance Administrator, published 02/21/2019]. Two (2) proposals were received by the City, from SDB Consulting & Investigation, and from SEP Consulting by the closing date of February 26, 2019 [See Public record request: Council RFP proposal packets].

Issues and Discrepancies with the City of Tonasket's initial recruitment of an internal compliance administrator

The City and City Council initially stated the reduction in force and layoff of the remaining Police Department employees was necessary because there no longer was a Chief of Police to oversee the remaining Police department employees. As part of the City's January 2, 2019 passing of Ordinance #798, disbanding the City of Tonasket Police Department, the City acknowledged that the jurisdictional Chief Law Enforcement Officer for the City would be the Okanogan County Sheriff, Mr. Hawley.

Despite the explanation for the reduction in force of current Police department employees, it appears the City of Tonasket did so while they were considering hiring a new employee in the role of an internal compliance administrator for the Police Department records, evidence, and property.

In addition, some of the scope of work of the internal compliance administrator (as detailed in the City RFP for the ICA) overlapped with the roles and duties of the recently placed on leave Police Department Clerk. It is questionable why the City would conduct a reduction of force that included the Police Clerk when they were looking to create and hire an outside person in a new position with some overlapping roles and duties as to the Police Clerk.

Issues and Discrepancies with the City of Tonasket's initiation of sole source for an internal compliance administrator

Sometime in January 2019, the City changed course and decided, instead of hiring, to sole source with Mr. Brown as an independent contractor for the Internal Compliance Administrator position. Sole source justifications typically encompass a prior successful history of work with the contracting agency or possession of specialized and unique qualifications specific to the scope of work to be contracted. The City of Tonasket had no prior employment or contracting history with Mr. Brown. It is also not clear if Mr. Brown had specialized and unique qualifications and work history specific to the scope of work deliverables as to the processing of police department evidence and records, or in disbanding a police department. Nor did Mr. Brown have a business name or license at the time of the sole source considerations and when a bid estimate was offered for \$30,000 as noted by the February 6, 2019 passing of Ordinance #800, amending the City budget to allow for \$30,000 to pay for the Consultant costs for the Internal Compliance Administrator contract. Mr. Brown did file for a business license with Washington State on February 20, 2019 and registered as SDB Consulting & Investigation, LLC. [See WA State Department of Revenue: Business license for SDB Consulting & Investigation, LLC.].

Request for Proposals for the Internal Compliance Administrator Contract

The MRSC states, at a minimum every RFP should include:

- Statement of need (scope). This should be well-written with an adequate level of detail describing the project tasks and products, and listing the availability of supporting documents.
- Estimated project budget. State the estimated budget, but note that the amount is only an estimate.
- Estimated schedule. This should be realistic and closely tied to the scope.
- Evaluation criteria. Be clear and tie the criteria to the scope. Provide the scoring criteria, and provide the decision schedule if available.
- Proposal elements (list all the information that interested firms should submit, including the firm's general approach to the project, a list of key personnel who would work on the project with their experience and availability, and general scope and deliverables....)
- Submittal deadline. Allow an adequate response time of 3-4 weeks. Accept electronic proposals, and acknowledge receipt of all proposals.
- Agency's standard terms and conditions (attach a copy of the terms and conditions, if available, to the RFP).

The MRSC RFP recommendations also includes other common RFP elements. The MRSC is clear that these are only recommended guidelines for municipalities.

The City of Tonasket RFP for the Internal Compliance Administrator contract did include a scope of work which detailed the project tasks and listed criteria [see RFP for ICA contract]. The RFP did include a time frame of 2-3 months project.

Issues and Discrepancies in the City of Tonasket Request for Proposal

The City of Tonasket RFP did get a time frame of 2-3 months but did not state a desired start date or end date. As the ability to start right away was a deciding factor in the evaluation of the proposals, the City should have furnished in the proposal the target start and end dates.

The City of Tonasket RFP published in the official newspaper of record on February 21, 2019 with a closing date of February 26, 2019, (see Okanogan Valley Chronicle, notice published 02/21/19), furnished four (4) business days, or six (6) calendar days, for submittal deadline from the official date of publication of the RFP, rather than the 3-4 weeks adequate response time guideline provided by the MRSC.

The City of Tonasket's RFP for the ICA did not include an estimated project budget (although at a Special Meeting held by City Council on February 6, 2019, the council heard the first reading

of a budget amendment in the current expense budget revenues and expenditures, for \$30,000 to pay for the ICA contract).

The RFP did not require some key proposal elements such as the firm's general approach to the project or a list of key personnel who would work on the project with their experience or availability. The City of Tonasket did not attach any standard contract terms or conditions to the RFP.

Evaluation of Proposals

It is standard practice for reviewers to review the proposal materials to ensure they are complete and that they are responsive to the stated requirements in the scope of work. And it is standard practice for reviewers to agree upon and use uniform evaluation criteria in their review. Evaluation criteria and scoring may give more importance, or weight, to certain aspects of the expected experience and qualifications.

As this scope of work involved highly sensitive records and evidence, and property, it is essential to give more importance to certain criteria. The verification of licenses, insurances, and training certifications would be given significant weight, as well as the relevant qualifications and experience detailed in the scope of work. The ability to complete the work in the amount of time stated in the scope of work is also critical. The goal is to lowest bid would be given significant weight as well, but it would be to the most qualified lowest bid.

The MRSC personal service contract request for proposal potential evaluation criteria include, but are not limited to:

- Fees or costs
- Quality of previous performance
- Ability to meet contract deadlines
- Responsiveness to solicitation requirements
- Compliance with statutes and rules relating to contracts or services
- References
- Staff readily available for the project
- Financial capacity
- Licensing and certification, if applicable
- Safety record
- Ability to meet necessary response times for unscheduled work and emergencies.

A March 13, 2019 inquiry/public record request was filed seeking clarification from the City and City Council as to how they evaluated the qualifications of the candidates and on what grounds

did they award the contract to SDB Consulting & Investigation, (the RFP proposal packets were produced by the City on March 27, 2019 as part of this inquiry/record request but a sufficient response as to how the qualifications were evaluated has not been documented, as of April 9, 2019 as to the inquiry portion of the inquiry/record request).

Completeness of the Proposals

The City Clerk received RFP proposal submittals at City Hall on February 25, 2019 with the deadline being February 26, 2019. The City Clerk then furnished the packets to the City Council that evening at City Council for their review.

A public record request was submitted on March 13, 2019 and documents ready on March 27, 2019, that included the proposal documents for the RFP. Upon review of the proposal documents, both proposals included UBI numbers and business license information for each Consultant.

However, upon additional review the following issues and discrepancies were found in the SDB Consulting & Investigation proposal packet:

- the proposal did not include a resume as required in the RFP. In a follow-up inquiry, on April 2, 2019, upon review of the proposals from a public record request, the City Clerk stated that the resume for Mr. Brown was included in the original submittal when the City was considering hiring him as an employee.
- the proposal included a list of things needed to be completed that matched the list of the RFP scope of work with the following changes/alterations:
 - the original RFP scope of work language of “the processing of documents, evidence or property in accordance with all WAC/RCW which have exceeded the statute of limitations or in which the City has received a final Judgement and Sentencing from the Prosecutor’s office,” was changed in their proposal scope of work to read, “The Destruction of paper documents, evidence or property in accordance with all WAC/RCW which have exceed the statute of limitations or in which the City has received a final Judgement and Sentencing from the Prosecutor’s office.”
 - The original RFP scope of work language of “Process Public Records Requests,” was excluded from their RFP scope of work.
- Completeness of proposals – what SEP did provide and what SDB provided – in terms of content...

Verification of Business Licenses and Length of Time in Related Business

It does not appear the City or City Council verified the status of the business licenses in terms of evaluating how long each consultant had been in business. City Council was asked if they verified the business licenses and certifications of the proposals: City Council Member Levine and member Kriner stated in separate telephone calls that the business licenses and certifications had been verified by the City. However, in a separate telephone call, the City Clerk stated that she did not verify business licenses or certifications, and that it was the “perusal” of City Council. City residents verified and presented to City Council on March 26, 2019 that the business licenses with the WA State Department of Revenue show SEP Consulting had been in business since 2009, while SDB Consulting business license had been in business since February 25, 2019 (although the business license was filed on February 20, 2019, according to the WA Dept. of Revenue tax specialist, the business was “open” for business on February 25, 2019). City Council did not appear to weigh the fact that one of the consultants had been in business for ten (10) years providing the specific services detailed in the RFP scope of work services and the other had just obtained their first business license.

Verification of Qualifications and Relevant Experience

During the March 12, 2019 City Council meeting to do the final review and to select a proposal to award the ICA contract, Council spent about fifteen (15) minutes reviewing any concerns, questions, or comments. Council Member Sackman stated that she thought both were similarly qualified and that either would be qualified to do the work. Other Council Members did not disagree. However, the Council Members did not publicly discuss or compare the qualifications of either candidate.

The City Mayor did state that Steve Perry of SEP Consulting was in fact a trainer with the Washington State Criminal Justice Training Commission. In fact, based on his resume, Mr. Perry had actually been an Instructor/Facilitator for Law Enforcement Property & Evidence Management course and Law Enforcement Records Academy from 1987 to present (32 years). He was also the Administrative Supervisor for Edmonds Police Department for 23 years and the Executive Director of Southwest Snohomish County Communications for 11 years.

The Council did not discuss SDB Consulting & Investigation’s work history either. Mr. Brown did not include a resume in his proposal but did state in his proposal that he had 20 years of Law Enforcement experience. (The City of Tonasket Clerk clarified in a later email, that the resume and training certifications were not in his proposal packet but had been in Mr. Brown’s original submittal when they were looking whether to hire him as an employee).

Council Members likely did not have the subject matter expertise to evaluate the qualifications of the candidates for the Internal Compliance Administrator.

It is also unlikely that the City Council had the grounds to evaluate and compare the qualifications and relevant experience of the two consultants, as it is unclear if City Council had a resume for SDB Consulting in the RFP proposal packets they reviewed. In a March 13, 2019 public record request submittal for the comparison of qualifications (including resumes, licenses, certifications, and trainings), documents were produced on March 27, 2019 by the City, that contained the RFP proposal packets. The proposal packet for SDB Consulting & Investigation did not have a resume. If this RFP proposal packet was similar to that given to City Council Members, then it too was missing a resume for SDB Consulting & Investigation. It would have been difficult if not impossible to compare the qualifications and the relevant experience of the two candidates without the resumes to do a side-by-side comparison.

The City Clerk confirmed on April 4, 2019 that SDB Consulting RFP proposal did not have a resume. Council member Levine did say in a telephone call about this time, that she had seen a resume for Mr. Brown. The City Clerk confirmed that Mr. Brown had submitted a resume with his original submittal when the City was considering hiring him as an employee (likely sometime in January, 2019).

It would be very unusual for the contracting agency to not take note or weigh the completeness or incompleteness of a proposal as to required documents. Also, it would be difficult if not impossible to compare qualifications and relevant work experience without a resume in the RFP proposal packet to evaluate.

Evaluation of Quotes

As to the fees or costs, SEP Consulting proposal provided the cost to undertake and complete the project would not exceed \$24,660.00. This quote includes all duties performed by SEP, including any subcontractors as described in the enclosed "response to scope of work and conditions" document. This quote also includes all standard mileage for contractors, any anticipated equipment rental or dump fees, supplies or any other miscellaneous project costs. And, additional costs: this quote does not include any postage or publication fees required for legal notifications, nor any shipping costs associated with the return of evidence outside the City of Tonasket.

As to the fees or costs, the SDB Consulting & Investigation quote to complete the work was a rate of \$10,000 a month with a minimum of 3 months provided to the City. SDB Consulting & Investigation's proposal stated that they anticipated the scope of work would not be completed in three months.

The value difference between the two proposals was \$5,340.00 higher for SDB Consulting & Investigations and this difference however is dependent on the SEP Consulting amount of additional costs (postage or publication fees for legal notices, or shipping costs). However, SEP

Consulting's quote did include a "not to exceed," whereas SDB Consulting has a set rate per month and did not specify a "not to exceed".

Need for assistants or subcontractors

Some of Council appeared to weigh against SEP the fact SEP potentially might subcontract for an assistant(s) whereas weighed in favor of SDB that they stated they would not hire subcontractors (as evidenced in the supplemental questions asked of the vendors).

However, the use of one's own personal assistants and/or the use of subcontractor(s) is indicative of an independent contractor and indicative of someone in business of themselves.

Furthermore, SEP stated in their proposal that a witness was required for any disposal of evidence, and therefore an assistant or subcontractor appeared to be essential to the integrity of the project and the scope of work.

Council failed to weigh SEP's knowledge of the requirement for a witness and failed to weigh that SDB did not state any witness was needed as to the handling or disposal of evidence (handling and/or disposal of evidence being one element of the RFP scope of work).

It is inferred, if the City RFP criteria apply in whole or in part to any assistant(s) or subcontractor(s), that any assistant(s) or subcontractor(s) would or may have certain required credentials/certifications/licenses, and be insured, and would need to pass a background check and may be required to take a polygraph.

Once SDB Consulting & Investigation was awarded the contract and entered into the service agreement on March 18, 2019, it appears, from the April 1, 2019 to April 5, 2019 Logs of SDB Consulting & Investigation (posted on the City website in the Council packet for 4/9/19), that the City of Tonasket furnished some assistance and assistants to the vendor (including the City Mayor serving as a witness, and some other city employees). This additional assistance furnished by the City increases the actual cost of the project. But furthermore, resulted in City personnel assisting without meeting the City requirements as to the scope of work credentials and criteria (such as a background check and possibly a polygraph).

The process of reference checks and supplemental questioning

The two public safety committee members were tasked with asking the references some questions:

"Did this person work for you?"

"Would you rehire this person?", and

"is there anything you would like to contribute?"

The reference check questions were non-specific questions and did not appear designed to evaluate specific qualifications and relevant experience of the candidate to complete the scope of work in the RFP for the Internal Compliance Administrator. Again, the qualifications and the relevant experience should have been given significant weight given the highly sensitive nature of the scope of work.

Questions for reference checks that would have been more relevant if they had been developed from the scope of work itself, for example:

“how well did this person comply with and process evidence and records in accordance with all relevant WACs/RCWs?”

“How well did this person process public records requests?”

“How knowledgeable was this person about case management of evidence, disposal and tracking and how to properly adjudicate evidence?”

Key questions for references could have been designed to garner more information as to the candidates' ability to successfully complete the scope of work.

Evaluation of references

Council Members did not appear to ask specific questions of the references as to the qualifications and relevant experience of the candidates, *specific to the scope of work* (see prior section).

Council did not appear to give weight publicly to the fact both the relationship information provided in SEP reference list and the reference check notes completed by the City reviewers, specifically substantiate SEP qualifications as to evidence and records functions and property, whereas SDB reference list and the reference check notes conducted by the City reviewers, do not appear to specifically substantiate SDB qualifications as to evidence and records functions or property, key duties of the RFP scope of work.

Council, particularly Council Member Kriner, gave a disproportionate attention to SDB references and their comments. Council Member Kriner quoted all four of SDB references during the final public review and appeared to give particular weight to those comments, even though the comments did not directly relate or pertain to his qualifications as to the specific RFP scope of work deliverables. Council Member Levine did say that SEP references did nothing but rave about Mr. Steve Perry, but no Council Members similarly publicly quoted references and their comments as to SEP.

Reference check questions did not specifically ask about work experience as it related to the specific scope of work deliverables. But SEP references responses gave specific feedback that pertained to the scope of work deliverables for the ICA contract.

Review Panel

The City of Tonasket is a small city with a Mayor-Council government (that includes five (5) Council Members. According to the MRSC, “since a city council has the ultimate authority to approve city contracts, the council also has the power to deal with the details of contracts. Though many Councils frequently authorize the mayor/city manager/administrator to conduct contract negotiations, there is no statute that prohibits a council from taking over that role.”

It is essential that clear standard practices are utilized to ensure fair, impartial, and well-reasoned outcomes as to city contracts.

According to the MRSC, “Review panels typically include three or more reviewers as the value and complexity of the service increases. The panel may include non-agency employees who offer subject matter expertise. Participation by elected officials on a consultant evaluation could have Open Public Meetings implications. If a quorum of members participates on a consultation selection panel, the activity would be considered a meeting subject to the Open Public Meetings Act, (“OPMA”).

The five members of the City Council were the review panel for the Internal Compliance Administrator. The Mayor and the City Attorney also reviewed all of the RFP proposal materials. Council had between February 26, 2019 (date the RFP solicitation closed) and March 12, 2019 (date of Council meeting and final selection of a proposal).

Two (2) of the Council Members that were on the Public Safety Committee, Council Member Levine and Council Member Sackman, were further designated to conduct reference checks for the two Consultants.

Issues and discrepancies with the review panel expertise

Although it is not mandatory, as the MRSC states, a panel may include non-agency individuals who offer subject matter expertise.

The Internal Compliance Administrator RFP contained a highly sensitive scope of work and the five Council Members lacked the subject matter expertise as to evaluating the qualifications of the two proposals. City and the City Council were requested during Public Comment on February 26, 2019 to include on the review panel person(s) with greater expertise such as the City Civil Service Commission or the Chief Law Enforcement Officer. However, City and City Council declined to seek any other person(s) with expertise on the subject matter.

Review panel conflict of interests

Some of the Council became uncomfortable when they were made aware that Council Member Levine had a potential conflict of interest with one of the Consultants. Council Member Levine had recently campaigned in the 2018 election campaign of Mr. Brown for Sheriff. Council decided that Council Member Levine could continue on the review panel and still be assigned to the reference check for SEP Consulting but not SDB Consulting & Investigation, and would recuse herself from voting.

Council did not remove Council Member Levine and Member Levine did not recuse herself from the review panel entirely as to this RFP proposal review.

Council decided that Council Members Levine would still review SEP Consulting proposal packet, while Council Member Sackman would review SDB Consulting & Investigation proposal packet. Council Member Sackman later explained that the two Public Safety Committee members met and reviewed the two proposals together at some point.

The City Attorney was asked by some community members on March 4, 2019 if Council Member Levine should recuse herself from the review panel as she had campaigned for Mr. Brown and that she would potentially have a bias and may lack impartiality. The City Attorney answered it would be hard not to have a bias when you lived in small towns and cities, where you are going to know most everyone, but that a person would need to make a full disclosure as to how they know a proponent of a project. The City Attorney had advised the City to recruit Steve Brown back in December, 2018 and/or January 2019, that they did not have to advertise and that the City should have already hired him. He knew him and felt he was qualified. The attorney was concerned about Mr. Perry of SEP Consulting and whether there was potential concern as to his having worked with the recently terminated Police Chief.

If someone has a conflict of interest or the appearance of a conflict of interest, one of the other panel members should have taken over responsibility for the reference checks, and the member should have been recused from the review panel entirely.

Also, it is standard practice that the same person(s) conduct the reference checks for all applicants, for consistency, and to make be able to make a more precise comparison of the references responses. It is not standard practice for split the reference checks among more than one person, particularly when there were only two proposals received.

During the March 12, 2019 Council meeting, the City Attorney stated that he knew Mr. Brown and could work with him, and did not correspondingly say whether he could work with Mr. Perry. The City Attorney also stated he agreed with many of the concerns that Council Member Ritter. There were indeed time sensitivities as to active public record requests, and open cases. However, Council Member Ritter's concerns as to SEP Consulting's proposal were shown to be unfounded and incorrect. Even given the time sensitive nature of the scope of work, the review panel still needed to transparently and fairly evaluate and weigh the abilities of the two candidates to meet the scope of work and criteria for the Internal Compliance Administrator.

City Council Public Final Review Hearing, March 12, 2019

On March 12, 2019 City Council Public Final review hearing on the Internal Compliance Administrator contract, the Council gave approximately 15 minutes for their public review of proposals, before selection.

Council member Sackman on the Public Safety Committee stated that the submitters qualifications were similarly strong and that either candidate would be qualified to do the work. Council member Levine on the Public Safety Committee thought they were both strong in different areas. Council member Ritter had concerns that she raised as to SEP Consulting's ability to guarantee work completion in the time frame of 3 months. She also raised concerns as to the location of any report as to the outcome of SEP Consulting's prior work in 2018 for the City of Tonasket Police Department.

However, the City Council at this time did not publicly weigh or evaluate:

- the resumes of the two candidates;
- whether both proposals included resumes;
- the degree of qualifications and relevant experience;
- how long the candidates have had their consulting businesses;
- what were some of the clients the candidate has consulted with;
- what was the nature of the work the candidates had completed and how well did it pertain to the scope of work for the internal compliance administrator;
- did the references share anything specific about the candidates qualifications and relevant experience in the internal compliance administrator scope of work;
- efficiency and accuracy factors, wherein someone with more qualifications will typically have a higher level of efficiency and accuracy in their work, and in turn will complete a project more timely and cost effectively;
- the cost benefits of the "not to exceed limit" versus the flat rate per month proposed in the two proposals; and,
- whether the proposal provided a detailed approach to how the project would be completed. SEP provided a detailed approach to the project in their proposal. SEP provided a list of assurances from SEP Consulting (which included, in part, SEP's assurance that *"all screening of evidence will include an individual 8-9 step process", and "all screening of investigative reports for purging will undergo an individual 7 step process"*), conditions needed to complete the scope of work, the methodology they would use, and provided a detailed project cost quotation. SDB did not provide a detailed approach but did generally state to, *"propose to assist the City of Tonasket in providing an audit of what is contained within the now disband[ed] Police Department."*