From:	Bill Bronson
To:	commission; Greg Doyon
Cc:	Bill Bronson_Personal; Justin Grohs; david@kuhnproperties.net; Krista Artis; Jeremy Jones
Subject:	RE: Proposed Ordinance 3263 -- First Reading, October 3, 2023
Date:	Monday, October 2, 2023 10:16:26 PM
Attachments:	Athey Letter 10 2 2023.pdf 10 2 2023_letter to mayor_commissioners_city manager.pdf Athey Letter 9 15 2023.pdf

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Mayor and Commissioners/Mr. Doyon:

On behalf of Great Falls Emergency Services, please find attached my letter of October 2, 2023, and two letters from our industry consultant, Mr. Steve Athey, addressing some of the proposed changes to the EMS Ordinance, which you will be considering on first reading of proposed Ordinance 3263 on October 3. Thank you in advance for entertaining our thoughts and recommendations both tomorrow and in advance of second reading of this proposed ordinance on October 17.

Best wishes,

/s/ Bill Bronson

WILLIAM O. BRONSON, PLLC

P.O. Box 3485

Great Falls, MT 59403

Tel: (406) 799-9373

E-mail: bill.bronson@bresnan.net

WILLIAM O. BRONSON, PLLC

ATTORNEY AT LAW
P.O. Box 3485
Great Falls, Montana 59403
PHONE: (406) 799-9373
E-MAIL: bill.bronson@bresnan.net

October 2, 2023

Reference:
Ordinance 3263, *An Ordinance amending Title 8, Chapter 5, of the OCCGF, pertaining to Emergency Medical Services*
[First Reading, October 3, 2023]

Mayor Kelly
Commissioner Wolff
Commissioner Tryon
Commissioner McKenney
Commissioner Hinebauch
All via e-mail: commission@greatfallsmt.net

City Manager Doyon
Via e-mail: gdoyon@greatfallsmt.net

Dear Mayor Kelly, Commissioners, and Mr. Doyon:

Great Falls Emergency Services [GFES] would like to offer some comments and perspectives on the proposed changes to the emergency medical services ordinances, OCCGF Sections 8.5.010 through 8.5.280, prior to the first reading set for October 3. We hope this communication is helpful and offers a more comprehensive understanding of the Great Falls EMS system and the role of the private sector provider – where it has been, what it is now, and what it might become, for better or for worse.

GFES, like our Great Falls Fire-Rescue first responder colleagues, greatly values and therefore adheres to the three guiding principles behind the ordinance:

> -orderly and lawful operation of the EMS system;
> -adoption of appropriate regulations and policies to ensure public health and safety;
> -enactment of regulation and policies to ensure that a private ambulance company adheres to the same goals of public health and safety.

See, OCCGF § 8.5.010. GFES has a long track record of support for these guidelines. Our management and dedicated line staff abide by these principles in their everyday work, and will continue to do for many years to come.

We much appreciated the opportunity to sit in on Chief Jones's presentation to the Commission on September 19. We took special note of Commissioner McKenney's question to the chief, inquiring whether there had been any outside input into the proposed changes. GFES had not yet had the opportunity to review the proposed changes or participate in their drafting, although there have been ongoing conversations in recent months with Great Falls Fire-Rescue personnel over several aspects of the current EMS system and what might be done to modify and improve it. Nevertheless, the September 19 rollout of proposed changes was our first opportunity, as it was yours, to see what directions city staff would actually be proposing for the system.

Having now had the opportunity to see specific policy proposals in detail, we offer the following comments and perspectives:

-8.5.080, *Establishment of an EMS Advisory Board*: Subpart B.3 of the current ordinance has been changed from 'Emergency Manager' to 'City of Great Falls Emergency Manager'. The prior version listed this Advisory Board position as '**Emergency Department Manager'.** We are not certain why in the last revision that was changed to 'Emergency Manager'. The EMS Advisory Board should be representative of the EMS System components as outlined in Section 8.5.060. The Emergency Departments are primary players in the City's 911 System, and should be included on the Advisory Board.

-8.5.090, *City of Great Falls EMS Responsibilities*: The proposed changes impact criteria under which Great Falls Fire Rescue can transport. If this section is changed, we propose the fine structure should also be looked at as far as occasions where Great Falls Fire Rescue transports but GFES is NOT fined. We already have occasions where a GFES unit is available shortly after a 911 call to which the GFFR ambulance is dispatched; we don't know whether that is fair for GFES to get fined in these cases. We are including with this submission a letter from our industry consultant, Steven Athey with Health Care Visions in Denton, Texas, dated October 2, which discusses this subject in the context of best practices.

-8.5.170, *Criteria for ambulance service performance contract*: we recommend reexamining section C as redrafted. It is certainly acceptable for the City to require NREMT certification. However, the City should also require Montana state EMS licensure. For an ambulance unit to be legal per state law it must contain two providers who hold a Montana State EMS license. We understand there is no long a state 'certification'—and are referring to the actual state license. Without this, the unit would

be in violation of state law; so we would propose changing the language to, " …*shall be staffed by a Paramedic licensed by the state of Montana."* This is a subject discussed with City staff in the past, and we are more than happy to revisit that with them in the process.

-8.5.130, *Issuance of ambulance performance contract:* in proposing to eliminate the "grandfather clause", which essentially pertains to GFES having been the only provider available and willing in this City in 2008 to be the private EMS provider, when the original version of the EMS ordinances were adopted by the City Commission, the revised ordinance appears designed to instigate a process for putting the existing contract out to bid in 2024, when the current contract expires. This causes us great concern. It's not just simply our personal business interest at stake here. It's also the interests of public health and safety, and we strongly recommend the City Commission avoid making this proposed change.

We have previously expressed our concerns on this subject to both the city manager and to Chief Jones. We want to share those concerns directly with you, as well as supplement and update the basis for our concerns with new information the Commission should consider before making its final decision on this aspect of the ordinance.

By way of background: the private ambulance industry in many communities the size of Great Falls operates in an economically problematic environment. The best way we can explain this is by analogizing the situation to the electric utility industry. Competitive market practices generally do not work well when it comes to the generation, supply and distribution of electrical energy. Monopolies are typically allowed to operate in specific geographic areas subject to rate and other regulation by governmental authorities.

Similar circumstances prevail in the ambulance industry, although for different reasons. When an ambulance responds to an emergency situation, the crew does not require the patient/customer to first pay for the expenses of care and treatment prior to transport. Billing, if there is ability to bill, is strictly "after the fact" of service. Some patients are insured and billing can be accomplished that way. Others are not. Moreover, billing government agencies and insurance companies does not necessarily mean the company will receive dollar for dollar for the actual cost of the care and transport.

Consequently, operating an ambulance company in today's market generally results in the company running the business at a loss. This necessitates the company reaching out to perform other services on a contract basis where payment prices are fairly negotiated, and payments are received in advance or on a guaranteed schedule. This is why GFES has been able to survive in this market for so many years. Although it tends to lose

money on EMS operations, it makes up the difference through other contracted services which allow it to maintain some measure of profitability. This margin is nonetheless very small, thus necessitating constant attention to details, and reasonable assurances that its ability to operate in any given market is as stable as it possibly can be.

Due to GFES's current standing with other customers, a competitive bidding process where the city might consider offering the performance contract to another provider would first compel that provider to look at the overall market for services, and conclude that, since they would also likely run EMS at a loss, or a very small profit margin, but with no ability to access other customers due to GFES's current position in the market, that provider may pass on the opportunity to bid.

We have also previously discussed with city staff the prospect that putting an ambulance contract like the existing one out for bid raises serious issues for us as the current provider. Our staff have relied upon the existing performance contract, negotiated subject to the ordinance, but if they have any indication that the contract may be in jeopardy, our ability to maintain personnel would be jeopardized. Staffing private ambulance companies is already a challenge not only here but in other communities across the country. Public safety is therefore placed at risk, something that none of us want.

The entry of another ambulance company into a market like ours also poses serious problems if there is any contemplation the City might allow more than one provider to operate EMS. We don't believe anyone wants to go there, but it's worth commenting on history here for purposes of placing Great Falls' history with EMS in complete context.

Several years ago, this community had two and at one time three different ambulance services competing for EMS. The City developed a rotation system at that time so that all the companies were able to participate in the market on what were thought to be equal terms. That system turned out to be very problematic and difficult to manage. The companies were frequently at odds with each other, including litigation. GFES survived that era, in large part because of the City's decision to move to a regulated performance contract scenario. It was then and still is mutually beneficial to both entities, and ultimately serves the broader public interest of public health and safety.

Even if the City stays with one provider, the entry of even one additional provider into the market area might return us to an era similar to the one that prevailed nearly 20 years ago, and nothing in our assessment of today's market conditions tells us that the situation would be better today.

We are providing here another letter from Mr. Athey, dated September 15, which goes into his concerns about the competitive bidding process in our circumstances, as well as the use of the alternative "letter of intent" approach. We commend his insights to the Commission's careful reading and consideration.

Consequently, Great Falls Emergency Services strongly believes that moving to a strictly competitive bidding process will actually produce a level of instability in the market, and jeopardize public safety. This defeats the purpose of the ordinance itself. The current ordinance language preserves the option for competitive bidding if the market conditions we have outlined here change dramatically in the future, but also provides for "grand-fathering" the existing contractor [GFES] if as we believe the current market conditions clearly warrant tipping the scales in the direction of maintaining the status quo.

We need not remind the Commission that the overall structure of the EMS ordinances still places ultimate determinations of the quality of care in the hands of the City and its staff, based on the language of the current as well as the proposed ordinance. This ensures that GFES abides by the City's expectations for the type of care rendered to our citizens even under the "grand-fathering" arrangement.

We fully understand the Commission may want more information about this particular issue before deciding to go forward. For that reason, GFES would propose conducting an independent study of our existing operations model to confirm what we are presenting here. We would be willing to assist in the funding of that study. Even though we would offer assistance in funding, we would agree to a selection process that would ensure that the ultimate contractor has been selected independently by the City and is not in any way influenced by our financial support of the study. We don't think it's necessary to go this route, but we are prepared to do so if that would assist the Commission in its decision-making process. The Commission might consider making the other proposed adjustments in the ordinance now and leave consideration of any changes to Section 8.5.130 and other sections tied to it to a later time.

In summary, we cannot thank you enough for this opportunity to brief you as part of the first reading of the proposed ordinance with our ideas, experiences, and concerns. We welcome continued dialogue with you on this subject as we work together to build upon and improve the emergency medical transport system in Great Falls.

Respectfully,

/s/ Bill Bronson

William O. Bronson,
Representing: Great Falls Emergency Services

Attachments:
(1) Steven Athey Letter, 9/15/2023
(2) Steven Athey Letter, 10/2/2023

cc:
Krista Artis (w/attachments)
Chief Jeremy Jones (w/attachments)

Justin Grohs/David Kuhn

HEALTH CARE
VISIONS

P.O. Box 2966
Denton, TX 76202
Phone: 940.367.3280
E-mail: slathey@hcvems.com
www.hcvems.com

September 15, 2023

David Kuhn, President
Great Falls Emergency Services
514 9th Avenue South
Great Falls, MT 59405

Dear Mr. Kuhn:

Thank you for your inquiry on the use of a Letter of Intent (LOI) in the preliminary stages of a possible request for proposals (RFP) process. I have seen cities, counties and other governmental entities use them over the years in an attempt to gauge potential bidders' interest in responding to an upcoming RFP with only minimal success. If the intent is to really find out "who will bid," this process rarely works. Often the entity will ask the broad question, "If we put our system out to bid in a competitive process, will you have an interest in responding?" The answer is never "No."

Emergency Medical Services (EMS) companies, large and small, good or bad, qualified or not, will of course respond in the affirmative, which can leave the potential bidding entity with the false impression of the interest in their contract. Potential bidders do so because there is no downside for them and they can always ignore the RFP or choose not to respond at a later date; without repercussions. For an LOI to be effective the entity really needs to fully describe the system components, strengths and weaknesses and ask for responses only from qualified firms; those that meet appropriate stated standards. For example, those standards might include;

- Proven historical operational experience in a system the size and scope of the one going out to bid.
- Verification of sustainable financial strength to operate and to be able to sustain losses during the usually expensive start-up period.

- Strong key personnel and management experience
- The proven ability to bill and collect user fees properly and legally.
- Documented clinical and quality improvement programs.
- Documented ability to attract, hire and retain medical personnel during this time of paramedic and EMT shortages.

These and other qualifications are the minimum standards your city should want to see in a potential bidder and a simple LOI will not accomplish this. I do understand that most entities (cities and counties, especially) realize that putting together a process that properly informs the interested parties and asks for a response only from those that qualify comes close to being a request for qualifications (RFQ), which is complex and can be costly.

Dave, during our conversation last week you mentioned a few other items that I wanted to address about your system "potentially going out to bid," that I hope you and your city partners have thought through. Before the decision to bid is formalized there is still time to consider this, but once that decision has been made the process has to run its course.

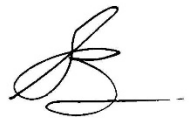
If there is an option to renew your contract instead of bidding, I hope that option receives consideration. Obviously, that would be better for you, but I also think it can be better for the city and the system. I am a firm believer that a system should not go to bid (unless legally obligated to do so) unless they are sure they can get a better service for the same expense or can get the same service for a better price. Absent that ability a competitive process may not be the best option.

Bids and RFP processes are expensive and disruptive too system performance. Even an "in-house" bid process (RFP, process, and selection) could cost the city $50,000 to $100,000 in direct and indirect cost, and the use of consulting help, although recommended in most cases, adds significantly to that cost. These processes are disruptive to system performance and can be destabilizing to the local workforce. Once an RFP "hits the street," uncertainty of long-term job security rises and often members of the local and desired workforce seek a more stable work environment elsewhere.

Maybe the most disruptive point in bidding out only the city contract is the fact that it will fragment the larger comprehensive EMS system that exists today. This fragmentation lessens anyone's ability to provide financially efficient patient care. Today, you provide services, under contract to the county, hospitals, nursing homes, and Malmstrom Air Force Base, which I assume you would strive to retain if you were unsuccessful in any future bid process for the city. That scenario leaves any other provider with a much smaller financial and personnel base to draw from to provide the required services. Honestly, it makes the city and county systems more difficult and costly to successfully operate.

I hope the ongoing discussions between Great Falls Emergency Services, the City of Great Falls and the Great Falls Fire Rescue result in a long-term solution that continues to provide the citizens and visitors with the optimum in emergency services and patient care. As always please feel free to contact me if I can be of service.

Sincerely;



Steven L. Athey, President

HEALTH CARE
VISIONS

P.O. Box 2966
Denton, TX 76202
Phone: 940.367.3280
E-mail: slathey@hcvems.com
www.hcvems.com

October 2, 2023

David Kuhn, President
Great Falls Emergency Services
514 9th Avenue South
Great Falls, MT 59405

Dear Mr. Kuhn:

Thank you for your inquiry on the *best practices* ambulance providers can use when there is an occasional need for their fire department first responders to provide a transport during times of system overload.

Systems across the country are strained with increasing call volume, often with non-acute behavioral and mental health patients, and every system will run out of ambulances occasionally. It makes sense to plan ahead of time for those, hopefully rare times, when call demand exceeds ambulance supply. Most systems use mutual aid agreements with other providers to assist one another during periods of high demand. I understand that your system does not have that capability due to the long distances between other providers. I am familiar with a number of systems where first responders, who have access to transport capable vehicles, may transport a 911 system patient during periods of system overload, expected long response times or the unavailability of other mutual aid options.

Typically, these scenarios are discussed and formalized in contract language so all the system providers are aware of when the first responder is activated to transport and the integrity of the system is maintained. Transport providers depend on the revenue for their funding, especially in a non-subsidized or a *reverse subsidy* contract like yours, and the fire department personnel need to be available for their mission critical fire protection duties. Often the provider has a financial agreement with the fire department allowing the provider to bill and collect from the patient and pay some agreed upon payment to the fire department for their services.

In the Great Falls' system, it makes sense that the fire department would be used occasionally, as "mutual aid" and be asked to transport 911 patients when the need arises. There is no national standard that defines how often mutual aid can appropriately be used in a system before the reliance on mutual aid is considered problematic. That is determined by each system, however using September's numbers

of approximately 600 system responses and 10 fire department transports, the Great Falls' system does not seem to be overly reliant on mutual aid. Even in previous months when fire department transports were higher, the system didn't appear to be overly reliant on mutual aid.

There isn't a description of your current practice in the agreement except for language regarding "failure to respond" in Exhibit B, where it states, *In the event the Contractor fails to respond to, or is unable to respond within 20 minutes of initial dispatch, when the City transports pursuant to an emergency medical request, the Contractor shall pay the City $500.00 damages per incident…*

This exhibit really does not dictate the parameters of using the fire department for mutual aid transport and it is unclear when the fire department is either activated or subsequently cancelled during one of these calls.

It would be *best practice* in your system to clearly define in the agreement under what circumstances the fire department will be dispatched to respond and transport and when will they be cancelled upon availability of an available ambulance (i.e., ambulance clears from the hospital). Additionally, I would recommend that you work with city to develop a financial agreement allowing you to bill and collect from the patient (this keeps the citizens from getting ambulance bills from two sources) and agree to a payment to the fire department for their services.

The penalty structure is misaligned. You, as the contractor, already have the incentive to make every transport you can, yet today if the fire department transports, you as the provider do not receive the revenue and you are penalized $500.00. It feels like it should really be one or the other. I hope this information is helpful to you, feel free to contact me if you have any questions.

Sincerely;

Steven L. Athey, President