

PUBLIC WORKS COMMITTEE

AUGUST 23, 2011

3:30 P.M.

Councilman Rico called the meeting of the Public Works Committee to order, with Councilpersons Scott, Ladd, Benson, Robinson, Berz, Murphy and Gilbert present. Councilman McGary joined the meeting later. City Attorney Michael McMahan; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Dan Johnson, Danny Thornton, Larry Zehnder, Lee Norris, Gary Hilbert, Richard Beeland, Steve Leach, Mike Patrick, Paul Page, Bill Payne, Brian Kiesch, Greg Haynes, John Bridger, Bryan Shults, Ron Swafford, Jerry Stewart, Johnny Feagans, Dickie Hutsell, Karen Rennich, John Van Winkle, Daisy Madison, and Jim Templeton. Artie Pritchard, Geoffrey Hipp, and Mayor Littlefield joined the meeting later.

On motion of Councilman Murphy, seconded by Councilwoman Ladd, the minutes of the previous meeting were approved as published and signed in open meeting.

Mr. Leach began with **Ordinance First Reading 6(a)**, an abandonment for the City of Red Bank of a portion of a sewer easement for the construction of the new Red Bank Middle School. He explained that this went through the Red Bank Planning Staff and that is the reason for a different numbering system. Mr. Payne went over the map, stating that they wanted to get this in place as soon as possible, and it would be effective immediately after second reading. He stated that he did not see any problems and all of the relocation is part of the School's contract.

Councilman Murphy asked if we have a sewer line in Red Bank? Mr. Payne responded "yes". Councilman Murphy wanted to know why? Mr. Payne responded that there is a need for this school, and we had the sewer line—that this portion is the same as some we have in East Ridge; that this was before there was a sewer system anywhere else or WWTA. Councilman Murphy indicated that we needed to get this out of government and into something like EPB; that part of him wondered why we are even ruling on this. Adm. Leach stated that the Mayor would need to address this. Councilman Murphy stated that he knew we were not there yet—that if we were not going to merge the system, why did we not just give this up. Mr. Payne responded that it is one of our assets, and it is appropriate for us to remain status quo. Councilman Murphy indicated that we needed to hurry up with one quasi-government entity—that this patchwork is confusing. Adm. Leach stated that the Mayor is pressing forward on this.

Resolution 7(e) authorizes Arbor Creek Property, LLC to temporarily use the right-of-way located at 7310 Standifer Gap Road to install identification signs and stone walls. Mr. Payne went over the map showing the existing sign.

AGENDA ITEMS FOR AUGUST 30, 2011

Resolution 7(b) authorizes a one-year extension to Contract No. W-10-009 with Improved Technologies, LLC for an annual estimated expenditure of \$2 million dollars. Mr. Leach presented the Council with a clean liner that had not been used to explain this. Mr. Payne noted that the contract was amended last year--\$900,000 with an option to extend two additional years; that we have extended this for one additional year and \$2 million dollars is projected. This will be 11 miles of additional sewer. Councilwoman Robinson asked if they could explain to the Council the reason for the insert? Mr. Payne explained that it would reduce infiltration and keep the ground water and roots out. Mike Patrick added that it would be good for 50 to 70 years. Councilman Murphy asked "if we dig and replace—what"? Mr. Payne stated that it would be about the same.

Resolution © is a change order to the contract with Consolidated Technologies for Construction Engineering Inspection Services at Old Lee Highway at Apison Pike Sanitary Sewer Relocation and Force main Project for an increased amount of \$12,425 for a revised contract amount not to exceed \$92,425. Councilwoman Scott questioned why a delay in the project for more time always came back to us to pay the additional amount? Mr. Payne explained that we had two easement acquisitions and TDOT did the contract work—that it was a "hurry up and wait" situation and was sporadic in nature; that as far as costs, when it comes back to us, we negotiate funds—that we set the scope and time; that this is more cost effective for the City, and we are paying what we negotiated for. Councilman McGary asked about the change order, itself where it states "Resident Project Representative". Mr. Payne explained that this was just an Inspector type service. Councilman McGary wanted to know if we were paying for this person for the entire project and was told that we pay additional for field costs.

Resolution (d) authorizes The Ice Cream Show to temporarily use the right-of-way located at 105 Walnut Street for the installation of a sign along a portion of the right-of-way. Mr. Payne explained that this was inside retail space at this address and is 18" from the front of the building. Councilman Murphy asked about the complimentary color scheme, asking if they could put up a color like "hot pink"? Mr. Payne responded that this is not a request that we have encountered before. Councilman Murphy felt like this was something that we should ask for input from the Downtown Review Board. Mr. Bridger stated that this Review Board was not in effect yet for the downtown area. Councilman Murphy noted that this was a body essentially formed to handle the Urban Design Studio functions and asked if we were waiting on putting this in writing? Mr. Bridger responded that once the Council acts on this, they would review projects. Councilman Murphy asked if we would turn over downtown signs to them and was told "yes". Adm. Leach added that they could be revoked. Councilman McGary stated that he remembered Dale Mabee and Kim White coming before the Council to ask for our blessing and wanted to know where we were in this process? Mr. Bridger responded that there was a kick-off meeting yesterday—that it is a 6-8 month project, and we want to do it right; that they need to get a feel for downtown—that this could take seven months.

Resolution (e) authorizes John Duckett to temporarily use the right-of-way located along Kerr Street (alley) as it intersects with E. 18th St. regarding continuation of the existing curb and gutter, sidewalk, placement of trash receptacles, and installation of an evergreen vegetative screen. This is for townhouses that are going in. Mr. Payne went over the map showing the existing warehouse.

Resolution (f) authorizes Vaudeville Murder Mystery Café to temporarily use the right-of-way located at 138 Market St. for the installation of a sign along a portion of the right-of-way. Mr. Payne went over the map, noting that the existing sign would be replaced. Councilwoman Robinson asked if this sign replaces the temporary sign? Mr. Payne explained that the permanent sign would be attached to it and changed around. She asked if it would be the same sign and was told “yes”, noting that there are four features to one sign.

At this time, Adm. Leach briefed the Council on a Citywide Services Tool Supply Building that needs repairs, stating that they hoped to add this to next week’s agenda. Mr. Payne stated that this would be on next week’s agenda; that the contract is with Thompson Engineering—that the roof is leaking, and we need to proceed as quickly as possible; that this expense is in the Capital Budget, and this will be on next week’s agenda. Councilman Murphy asked if he had heard correctly that it is leaking now and wanted to know if we were sustaining damages, noting that we had a lot of expensive tools? Mr. Templeton responded that there was a bad leak with structural damage—that it was not just the roof. Councilman Murphy wanted to know if they got the valuable stuff out of the way and was told “yes”. Mr. Payne added that we were getting an assessment as to how serious the damage is—that we were trying to get everything out as quickly as possible.

BID PROTEST ON LANDFILL COMPACTOR

Attorney McMahan noted that there was a bid protest—that the bid went to Nortrax, Inc.; that Stowers Machinery was the second lowest bidder and were claiming they should have been awarded the contract. He asked Artie Prichard, Purchasing Agent, to explain the purchase. She deferred to Geoffrey Hipp, a buyer in the department.

Mr. Hipp stated that there were three bids—Nortrax, Inc., Al-jon Manufacturing, and Stowers Machinery—lowest to highest in order. The trade-in allowance was the same for Nortrax, Inc. and Al-jon Manufacturing, with Stowers Machinery being the lowest trade-in. He explained that a Guaranteed Buyback Price at the end of three years was part of the bid; however, based on the initial cost, Nortrax, Inc. was lower than the Stowers Machinery bid. He did note that there was a significant difference between the buyback price—Nortrax was \$100,975 and Stowers was \$250,000. Nortrax’ buyback price would be the most expensive for the City. The question was, whether the buyback would be exercised or not and whether it should be part of the evaluation.

Councilman McGary questioned the language of the bid and whether the buyback option would be exercised; that Nortrax, Inc. was not the highest bidder. He asked if the bid indicated that the buyback would be considered or might be considered? Mr. Hipp explained that their economic evaluation was based on the life cycle of the machine, which would depend on when it is traded in. Councilman McGary stated that he would ask Attorney McMahan, “Does the buyback factor in”? Attorney McMahan responded that he was not familiar with purchasing practices; that we would have to rely on the people involved or the people from Stowers and Nortrax.

Randy S. of Stowers spoke, stating that he had a lot of stuff to say; that the buyback price was in the body of the bid, itself, which says that it **will** be used—that they were the lowest bid and the best for the City—that their buyback price was \$250,00 after three years, which is a \$150,000 spread.

Councilman McGary ascertained that if this was a feature to be factored in, then Stowers would be the lowest bid.

The representative of Stowers noted that they analyzed the future value in three years; that whether or not this option was exercised, he thought was irrelevant; that they would take it back in three years for \$250,000; that this was a guaranteed buyback and lends value to the machine and has to be considered.

Councilman Murphy noted that their bid, without the buyback, was \$586,276. The representative from Stowers pointed out that in three years, their cost for maintenance was less. He stated that their trade-in allowance was \$15,000 and Nortrax, Inc. was \$25,000.

Councilwoman Berz wanted to know the basis for the decision that was made. She wanted to know who made the decision. Mr. Hipp responded that the reason for purchasing from Nortrax was based on the initial cost of the machine, minus the trade-in for value plus the 3 years’ service plan; that the difference between Nortrax and Stowers is about \$100,000. Councilwoman Berz asked Mr. Hipp if he made the decision. He responded that the decision was made by his boss, Artie Prichard, but he agreed with her decision; that if they traded in every three years, the machine would be replaced seven times, and it was hard to see why this would be economical.

The representative from Stowers mentioned a Study done by the City by a company out of Nashville; that they randomly chose bulldozers and information was gathered from John Lyons; that they analyzed a nine year period and trading every three years. He noted that there is a cost savings to not having maintenance—that some machines do last a long time, but there is maintenance cost involved; that sometimes there is a cost savings with a three year buyback.

The representative from Nortrax spoke. He stated that as they understood the bid, the buyback was an option; that there was not a great deal of explanation on this—that to trade every three years, it would cost \$867,000 at the end of three years; that in their view, their bid was the best value for the City.

Councilman Murphy asked if they met all the bid specifications and was told “yes”. Councilman Murphy asked if there were no exceptions to any of the bids and was told there were exceptions to all three of the bids. (The representative from Stowers said there was no exceptions in their bid). Councilman Murphy questioned if the buyback was relevant, stating that he needed more information from Public Works in order to make a decision.

Mr. Stewart responded that they tried to exercise the three year buyback and could not get the funds; that a buyback makes sense; that after six years, the increase in maintenance goes up; that this compactor has been rebuilt four or five times, and they needed another machine; that the old one is a 1990 model, and the frame is cracked—that he needed a compactor.

Councilman Murphy asked if Mr. Stewart was telling him that he would like to come back and exercise the three year option? He noted that this is a viable piece of machinery and if it has to be rebuilt, it would be down for some time. Mr. Stewart agreed that the good part was the first three years and buyback would be the best deal for the City—the three-year buyback approach.

Councilman McGary stated that he had not seen the bid—that one gentleman stated that all features were factored in and the other said they did not—that he was in a “lurch”; that language could be read in; that he was going back to the language of the bid and not understanding the Purchasing Dept. He asked if the bid could be rewritten because the language is not balanced. Attorney McMahan agreed that it could be rewritten. However, Ms. Prichard indicated there was not time to do this.

Paul Page spoke at this time. He stated that the bid was in and everyone knew what the bids were—that all had knowledge; that a three-year buyback is an option; that they were told this was not the legal thing to do and that is why Nortrax received the lower bid.

Councilwoman Berz asked who told Mr. Page that this was not the legal thing to do? Mr. Page stated the Legal Department. Attorney McMahan stated that no one from his office had advised this; however Mr. Page disagreed. He stated that it was Attorney McMahan who told him it was not the legal thing to do. Attorney McMahan denied this and suggested that we come back with this next week.

Councilwoman Berz stated that a decision was made and not in a cost beneficial way, and it was feared that the funds were not in the Capital Budget; that the ideal situation is the buyback every three years but Public Works was not sure this would be in the Capital Budget. Mr. Stewart felt that going out in five years would make for a better budget and a higher trade in.

Councilwoman Berz asked if he were saying this was the better way to go? Mr. Stewart again stated that you get the best from the machine in the first three years and a higher value of trade-in. Councilwoman Berz again wanted to know the reason the decision was made and if there was nothing in place in this sort of system.

Councilwoman Scott spoke to the bidding process, noting that any and all bids can be rejected, stating that she did not understand the downside to rebidding and questioned “why not re-bid”?

Attorney McMahan responded that legally there are no downsides—that he could not speak to the practical side of this.

Councilwoman Scott stated that she thought it would be better to re-bid this. The representative from Stowers indicated that this was the second time it would have been re-bid. Councilwoman Scott wanted to know why it was re-bid the first time? Mr. Page responded that it specifically eliminated people from bidding—that this was done last October. Councilwoman Scott asked how long it would take to re-bid this and was told 10-15 days. Mr. Page stated that Purchasing could put in a five year buyback; that he did not like this because the cost would be greater—that he was not in favor of an add-in.

Councilwoman Ladd stated that she could tell the Council as a business person who has put in bids that the last thing you want to see is a re-bid—that this is the last straw; that the best thing to do was what the City Attorney said and re-write the wording in a fair and equitable way; that with re-bidding there is complete knowledge, and there is no parity in doing this.

Councilman Benson stated that he was about to say the same thing; that he questioned vendor fairness when you re-bid—that you are playing one against the other. He suggested changing this to five years, which would make a difference. As far as re-bidding, he stated that he could go either way, but we could change what we are asking for.

Councilman McGary stated in question of a motion—was it either re-bid or change the specifications? Attorney McMahan stated that a motion could be made in the business portion of the agenda tonight, and the Council can do what is appropriate; that Mr. Johnson could bring it up as a bid item; that actually there were three options.

Mayor Littlefield stated that he was the only one who had been through this process before—that both of these were good companies and the Purchasing Dept. had done their best; that he would urge that the Council follow Councilwoman Ladd’s suggestion and put this off for a week and look at this portion of the bid; that a three-year buyback does not always work to our benefit; that we try to get a guaranteed price, and Purchasing has done their best to make a fair evaluation, and the Council should take one more week to act on this.

Councilwoman Scott stated that she appreciated the vendors' positions, but the Council's constituents are the ones that the Council represents; that with re-bidding, we would come in at a lower price—that all are good machines; that re-bidding would take ten days, and it would be to our advantage; that she disagreed with the idea that we don't re-bid this.

At this point, Councilman Gilbert stated that he had a question for Lee Norris. He asked if there would be another sweep on debris. He wanted to know where we were with this? Mr. Norris indicated that he had an update from the contractor, who would make a second and final sweep throughout the city. Councilman Gilbert asked if this included Wilcox Blvd. and Indian Hills? Mr. Norris indicated that he did not think they were that far out—that he thought they were in the Brainerd area and also Tiftonia; that he would be glad to mail Councilman Gilbert an update. Councilman Gilbert was concerned about Pin Oak Heights and Indian Hills. Mr. Norris stated that the contractor had asked to be able to collect on Sundays because of safety issues; that there were still 10-15 streets, and he would provide this information to all of the Council.

The meeting adjourned at 4:30 P.M.