

PUBLIC WORKS COMMISSION
MEETING OF WEDNESDAY, NOVEMBER 12, 2014
8:30 A.M.

Present: Michael G. Lallier, Chairman
Lynne B. Greene, Vice Chairman
Wade R. Fowler, Jr., Secretary
Darsweil L. Rogers, Treasurer

Others Present: Steve Blanchard, CEO/General Manager
James Arp, Council Liaison
Karen McDonald, City Attorney
Kristoff Bauer, Deputy City Manager
J. Scott Flowers, Attorney, Hutchens Law Firm
James Nance, Attorney, Lewis, Deese, Nance, Briggs, &
Hardin, LLP
Andy Goldsmith, Attorney, Elmore Goldsmith, PA
PWC Staff

Absent: Billy King, County Liaison
Mike Bailey, Hope Mills Liaison
John Ellis, Hope Mills Liaison

Chairman Lallier called the meeting of November 12, 2014 to order.

Approval of Agenda.

Upon motion by Commissioner Rogers, seconded by Commissioner Greene, the agenda was unanimously approved.

Consent Items

Commissioner Fowler requested that Consent Item II-D - Bid Recommendation for Annexation, Phase V-Project VIII, Area 16, Hampton Oaks & Southgate Subdivision be pulled for a brief discussion.

Chairman Lallier called for a motion on the Consent Items. A motion was made by Commissioner Fowler to approve the Consent Items and pull Item II-D for a brief discussion. Motion seconded by Commissioner Greene.

Consent Item II-D Discussion:

Commissioner Fowler stated he noticed the difference in the budgeted amount per lot which was approximately \$13,000 per lot and after the additional 66 lots were added to the project the average cost per lot went to \$15,000, which meant those 66 lots were about \$20,000 per lot. Commissioner Fowler inquired as to why there was additional expense. Joe Glass, Engineering Manager-Water Resources, stated the big difference in the cost is related to the paving requirements that the city requested. Misty Manning, PWC's Project Manager stated the original cost per lot was budgeted prior to the additional 66 lots being added and in past projects the City of Fayetteville had paid for patching outside the trench limits. She stated parts of Area 16 were in bad shape and were already marked to be replaced by the city before they decided not to do that, therefore, most of the contractor factored in the additional paving requirements which increased the cost. She stated in the pre-bid it was stated that it would be the contractor's responsibility to resurface if necessary. Mr. Glass stated we pay for a 12-foot trench limit which is called for in the base contract. Since some of these streets are in bad shape, historically the city has had a line item in the contract for resurfacing areas outside the 12-foot trench width which the city would pay for, however, the city elected to take the area outside of the 12-foot width out of the contract and if it is damaged, it would be the contractor's responsibility. Mr. Glass stated it is our opinion they factored in the additional cost in the price of the contract. Discussion ensued. Commissioner Fowler thanked staff for explanation.

Chairman Lallier stated before voting on the motion regarding the Consent Items, for the record, Andy Goldsmith, Attorney for DeVere Construction Company is present and made a request to address the Commission regarding the bid recommendation for Annexation, Phase V – Project VII, Area 16, Hampton Oaks & Southgate Subdivisions. Chairman Lallier stated the request to address the Commission is not granted.

Chairman Lallier called for the vote on the motion to approve the Consent Items. Motion approving the following Consent Items was unanimously approved.

- A. Minutes of meeting of October 22, 2014.
- B. Bid recommendation to award bid for purchase of 770 35' Fiberglass Poles, PWC Stock No. 1-220-053 (with the option to purchase additional quantities within a one-year period upon the agreement of both parties) to HD Supply Power Solutions, Wake Forest, NC, lowest bidder in the total amount of \$402,278.80 and forward to City Council for approval. These poles are a regularly stocked electric inventory item last purchased in April 2014 at a cost of \$599.85 each. The current bid price is \$522.44 each. These poles are being ordered for the LED Street Light Conversion Project.

Bids were received October 21, 2014 as follows:

<u>Bidders</u>	<u>Total Cost</u>
HD Supply Power Solutions, Wake Forest, NC	\$402,278.80
Stuart C. Irby, Rocky Mount, NC	\$468,930.00
WESCO Distribution, Inc., Raleigh, NC	\$471,625.00

- C. Bid recommendation to award bid for purchase of 24,000 feet of 750 MCM AL Underground Primary Distribution Cable, PWC Stock No. 1-065-522 (with the option to purchase additional quantities within a one- year period upon the agreement of both parties) to HD Supply Power Solutions, Wake Forest, NC, lowest bidder in the total amount of \$145,776.00 and forward to City Council for approval. This cable is a regularly stocked electric inventory item last purchased in May 2014 at a cost of \$6.035 per foot. The current bid price per foot is \$6.074. The cost of this cable fluctuates due to metals pricing.

Bids were received October 21, 2014 as follows:

<u>Bidders</u>	<u>Total Cost</u>
HD Supply Power Solutions, Wake Forest, NC	\$145,776.00
Stuart C. Irby, Rocky Mount, NC	\$146,400.00
WESCO Distribution, Inc., Raleigh, NC	\$150,024.00
CME Wire & Cable, Suwanee, GA	\$152,368.00
Metro Wire & Cable Corp., Lawrenceville, GA	\$183,480.00

- D. Bid recommendation to award contract for Annexation, Phase V – Project VII, Area 16, Hampton Oaks & Southgate Subdivisions to State Utility Contractors, Inc., Monroe, NC, the lowest responsive, responsible bidder in the total amount of \$5,111,671.00 and forward to City Council for approval.

This is a budgeted item in FY 2015 - CIP WS 50 – Phase V Annexation. \$3,570,336.00 was budgeted for construction of Area 16. The budgeted amount was calculated based on 256 lots; however, an additional 66 lots were added to this project area. The additional cost will be covered by Annexation Phase V – Areas 16 & 17 Capital Project Fund Amendment #1.

Bids were received September 24, 2014 as follows:

<u>Bidders</u>	<u>Total Cost</u>
State Utility Contractors, Inc., Monroe, NC	\$5,111,671.00
Hall Contracting Corporation, Charlotte, NC	\$6,986,598.00

- E. Bid recommendation to award bid for purchase of 8140 Photo Controls for the LED Street Light Conversion Project, PWC Stock No. 1-250-005 (with the option to purchase additional quantities within a one-year period upon the agreement of both parties) to HD Supply Power Solutions, Wake Forest, NC, lowest bidder in the total amount of \$106,145.50 and forward to City Council for approval. These photo controls are a regularly stocked electric inventory item last purchased in May 2014 at a cost of \$18.75 each. The current bid price is \$13.04 each. These photo controls are being ordered for use on the LED Street Light Conversion Project.

Bids were received November 4, 2014 as follows:

<u>Bidders</u>	<u>Total Cost</u>
HD Supply Power Solutions, Wake Forest, NC	\$106,145.60
WESCO Distribution, Raleigh, NC	\$135,205.40
Irby Utilities, Rocky Mount, NC	\$148,962.00

- F. Approved the following recommended bid awards (with the option to purchase additional quantities within a one-year period upon the agreement of both parties) for the purchase of LED Luminaires for the LED Street Light Conversion Project and forward to City Council for approval.

Bids were received November 4, 2014 as follows:

1. Irby Utilities, Rocky Mount, NC, lowest bidder in the amount of \$140,800.00 for purchase of 880 each, Luminaire, LED, Roadway, Type II, 67W, (PWC Stock No. 1-165-280).

This item was last purchased in March 2014 at \$220 each. The current bid price is \$160.00 each.

<u>Bidders</u>	<u>Total Cost</u>
Irby Utilities, Rocky Mount, NC	\$140,800.00
HD Supply Power Solutions, Wake Forest, NC	\$219,841.60

2. Irby Utilities, Rocky Mount, NC, lowest bidder in the amount of \$971,520.00 for purchase of 7040 each, Luminaire, LED Roadway, Type II, 47W (PWC Stock No. 1-165-290).

This is a new inventory item, with no previous purchase history. The current bid price is \$138.00 each.

<u>Bidders</u>	<u>Total Cost</u>
Irby Utilities, Rocky Mount, NC	\$ 971,520.00
HD Supply Power Solutions, Wake Forest, NC	\$1,509,024.00

Discussion on Increasing Funding for the Davenport Lawrence Project

Steve Blanchard, CEO/General Manager presented this item. Mr. Blanchard stated the Commission approved in October 2013 to participate in the joint funding of Davenport Lawrence for Phase II of the project and set the limit at \$100,000. He stated the contract with the City and Davenport Lawrence states that work shall not exceed the sum of \$200,000 from all sources and any invoices submitted in excess of this amount for Phase II work will not be honored. Mr. Blanchard stated we continue to get invoices and pay them, however, when we reached the \$100,000 limit we stopped paying them. He stated Davenport Lawrence has exceeded their limit by \$19,000 (PWC's share) and at this point we have notified Davenport Lawrence that they have exceed the \$100,000 that PWC committed and are not authorized to pay these invoices until the Commission approves payment for these invoices. Mr. Blanchard stated PWC requested Davenport Lawrence provide information regarding the cost to complete the project in order to ask for the proper amount. He stated the amount Davenport Lawrence provided was \$30,555 increase each for PWC and the City of Fayetteville. Mr. Blanchard stated he talked with Ted Voorhees, City Manager and Mr. Voorhees stated the City has additional money budgeted to cover this expense. Mr. Blanchard stated PWC did not budget any additional money for this project. He stated the City contacted Davenport Lawrence regarding the additional cost to complete the project and Davenport Lawrence's latest estimate is \$35,940 each (PWC and the City) to finish the projects. He stated Davenport Lawrence was working on three projects which included Risk Management, the Customer Call Center and Communications. Discussion ensued.

Mr. Blanchard stated if the Commission decided to continue to fund this project, he would recommend setting the limit at \$40,000 for the Davenport Lawrence Project. Chairman Lallier asked Council Liaison Arp if Council were aware of the cost overrun. Council Liaison Arp stated he doesn't believe the Council is aware of this, but he could be mistaken. He stated he feels there is interest in finishing what has been initiated and will follow up on this with the Council. Chairman Lallier asked the Commission if they would want to consider an action subject to the Council acknowledging the cost and if the Council accepts

the Manager's report and approves to move ahead then the Commission's action is complete. Commissioner Fowler said it appears to be an approximate 30% overrun if there wasn't an increase in scope. Chairman Lallier asked if this is a cost overrun or additional scope. Deputy City Manager Bauer said it is a cost overrun. Commissioner Rogers stated with a contract that states "not to exceed" how do you exceed and not come back and ask permission to proceed. He stated Davenport Lawrence doesn't seem to be conscience of cost. Mr. Blanchard stated they talked with Davenport Lawrence and it is their position that they would continue the project as long as we didn't say stop, even though the contract didn't say that. Commissioner Fowler stated he was on Council when the contract with Davenport Lawrence was awarded and Davenport Lawrence felt the \$200,000 would be sufficient for the project.

Chairman Lallier stated the Commission has three options:

1. Accept the CEO/General Manager's request for additional funding of \$40,000 to complete the Phase II project with Davenport Lawrence.
2. Deny CEO/General Manager's request for additional funding
3. Approve CEO/General Manager's request for additional funding of \$40,000 to complete the Phase II project with Davenport Lawrence, subject to Council's acknowledgement and approval.

Commissioner Rogers requested that a fourth option be added as follows:

4. Ask Davenport Lawrence to modify the amount.

Commissioner Greene stated since we do not have this budgeted, where does the additional funding come from. Discussion ensued.

Council Liaison Arp stated at the last Steering Committee meeting it was agreed that Davenport Lawrence would provide a final report to Council at the December 1, 2014 Council work session. He stated the next step would be, do we want to proceed with Davenport Lawrence and if so, we need a specific scope and price.

Following discussion, a motion was made by Commissioner Rogers to approve additional funding for the Phase II project with Davenport Lawrence in the maximum amount of \$40,000 subject to City Council's approval of a similar amount. Motion seconded by Commissioner Fowler and unanimously approved.

General Manager Report

- Update on Preferred Provider Network (PPN) Effective January 1, 2015.

Staff has been working with our Third Party Administrator (TPA) to seek better provider coverage in-network. Effective January 1, 2015, PWC will change to the MedCost network. This change will also result in a savings to PWC.

- Meeting scheduled for November 24, 2014 at 2:00 p.m. at PWC with N.C. Department of Water Resources reference Interbasin Transfer Issues. Invitations will be sent to community leaders, Commission and Council.

Reports and Information: The Commission acknowledges receipt of the following reports and information:

- A. Monthly Incident Summary for October 2014
- B. Personnel Report for October 2014
- C. Position Vacancies
- D. November 2014 Wholesale Power Cost Adjustment
- E. Approved N.C. Department of Transportation Encroachment Agreement(s):
 - Encr. #17973 – Water main extension – SR-1658 (Bullard Circle)
 - Encr. #17470 – installation of underground electric facilities – SR-1713 (Carvers Falls Road)
 - Encr. #17469 – installation of underground electric facilities – SR-1713 (Carvers Falls Road)
- F. Actions by City Council during meeting of October 27, 2014, related to PWC:
 - Approved bid recommendation for Meter Test and Inventory System (Lab Track System)
 - Approved bid recommendation for LED Street Light Conversion Project – FY 2014
 - Approved bid recommendation for Water Main Rehabilitation Work for FY 2015
- G. Actions by City Council during meeting of November 3, 2014, related to PWC:
 - Directed staff to revised the proposed logo

Closed Session as allowed under N.C. General Statutes 143-318.11(a)(3)&(6)

Chairman Lallier entertained a motion to go into closed session for legal matters as allowed under N.C. General Statutes 143-318.11(a)(3).

Upon motion made by Commissioner Greene and seconded by Commissioner Rogers, the Commission unanimously voted to go into closed session at 8:57 a.m. as allowed under N.C. General Statutes 143-318.11(a)(3)) for legal matters.

Following discussion, upon motion made by Commissioner Rogers and seconded by Commissioner Greene, the Commission voted to return to open session at 10:24 a.m.

The following action was taken by the Commission as a result of the closed session related to legal matters - N.C. General Statutes 143-318.11(a)(3).

A motion was made by Commissioner Rogers that the Commission approve to have the Chairman send a second letter on behalf of the Commission to the Mayor and City Council requesting mediation negotiations related to the request for declaratory ruling filed in Superior Court. Motion seconded by Commissioner Greene and unanimously approved.

Chairman Lallier entertained a motion to go into closed session for personnel matters as allowed under N.C. General Statutes 143-318.11(a)(6).

Upon motion made by Commissioner Fowler and seconded by Commissioner Rogers, the Commission unanimously voted to go into closed session at 10:32 a.m. as allowed under N.C. General Statutes 143-318.11(a)(6) for personnel matters.

Following discussion, upon motion made by Commissioner Fowler and seconded by Commissioner Rogers, the Commission voted to return to open session at 11:00 a.m.

The following actions were taken by the Commission as a result of the closed session related to personnel matters - N.C. General Statutes 143-318.11(a)(6).

Upon motion by Commissioner Fowler, seconded by Commissioner Greene, the Commission unanimously approved to hire the firm of Mycoff, Fry and Prouse, LLC as the search firm for the CEO position.

Upon motion by Commissioner Fowler, seconded by Commissioner Greene, the Commission unanimously approved, as part of the process to select the CEO, to invite the Mayor, Council Liaison to the PWC Board and another member of Council, appointed by the Mayor, to participate in the planning session to review attributes for the CEO position and to meet with the candidates from the search firm. The selection of the CEO will be at the discretion of the Commission.

A motion was made by Commissioner Fowler that in the absence of the CEO/General Manager beginning December 1, 2014, the Public Works Commission approves the application of the administrative functions defined in the "Extended Absence of CEO/General Manager" procedure and the financial functions in the memo designation "City of Fayetteville Deputy Finance Officer" signed by the previous CEO/General Manager, Steven K. Blanchard, in effect until an Interim or new CEO/General Manager is selected or hired. Motion seconded by Commissioner Rogers and unanimously approved. (See Policy on 'Extended Absence of CEO/General Manager and Memo on COF Deputy Finance Officer on Pages _____ of Minutes)

There being no further business, upon motion by Commissioner Fowler, seconded by Commissioner Rogers and unanimously approved, the meeting was adjourned at 11:12 a.m.