

**COUNCIL SPECIAL MEETING MINUTES  
MAY 3, 2010**

Pursuant to Public Notice, Mayor Ferrante convened a special meeting of the City Council on Monday, May 3, 2010, at 5:00 p.m., in the Council Chamber. Those present were Mayor Joseph Ferrante, Councilman Scott Rhodes, Councilman William Higginson, City Manager Michael P. Crotty, and City Clerk Barbara Montanaro. Vice-Mayor Jeffrey Fleis and Councilman Mike Chase were not able to attend.

Mayor Ferrante led the Pledge of Allegiance.

**DISCUSS/TAKE ACTION ON AWARD OF BID FOR CASSIA PHASES I AND II DRAINAGE PROJECT**

City Engineer David King stated that bids were opened on January 11, 2010, for the Cassia Phases I and II drainage project. H&D Construction of Fort Pierce submitted the lowest bid of \$913,760.50, which was lower than the Engineer's estimate (\$1.23 M) and the EPA/DEP 319h grant application estimate (\$1.30 M). Mr. King performed due diligence and found that H&D Construction held active State Certified General Contractor and State Certified Underground Utility and Excavation Contractor licenses with no active complaints. Mr. King spoke with several municipalities where H&D had worked and they were satisfied with the quality of their work.

However, since that time H&D has made some personnel changes that cause concern. Information from other public entities indicates that H&D is not adequately performing on their projects. H&D's bonding company GCNA has requested that the award to H&D be rescinded. The City can seek to have the bonding company complete the project if H&D fails to perform.

Phase I grant funds of \$590,000 must be spent by August 31, 2010, or the City does not receive the funds. Due to the grant time constraints and the potential for any resolution through H&D/GCNA delaying construction beyond the deadline, Mr. King recommended that the City consider granting GCNA's request to release H&D.

Mr. King further recommended that the City award the contract to Don Luchetti Construction, the next lowest bidder at \$1,053,118.50. Although this bid is higher than H&D Construction, it is lower than the Engineer and EPA/DEP's estimates. The Luchetti bid documents are complete and accurate. They satisfactorily completed the Jamaica project for the City in 2003/2004. Their licenses are in order with no active complaints. Work on current projects in Melbourne are going well.

City Attorney Beadle stated that he spoke with the Edward Etcheverry, Attorney for GCNA, the company that issued the Payment and Performance Bonds on behalf of H&D. Mr. Etcheverry will discuss with H&D executing general releases for all parties so that the City can move forward to meet the August 31 deadline.

H&D has prepared the pre-construction video, photo documentation of site, shop drawings, material submittals, coordinated with utilities, and set up a storage site. Some pipe has been ordered and may be delivered on Friday. Their damages will be minimal. Potential damages to the City are significantly larger if the August 31 deadline is missed.

According to the contract, seven days' notice is required if the City terminates the contract. Mr. Beadle stated that there may be an April 6, 2010, letter wherein H&D may terminate the contract without the seven day notice.

Mr. King spoke with DEP and they do not have a problem with switching contractors; however, there is no flexibility in the August 31 deadline.

Mayor Ferrante asked for public comments.

- Mr. Joe Green, Estimator for Luchetti Construction, stated that Mr. Luchetti owns all his equipment and shop and does not have anything financed. Luchetti Construction has been in operation here for twenty-three years and Mr. Green has been an estimator for forty years. They have already begun shop drawings and initial preparation to begin the project as soon as they get the notice to proceed.

**ACTION:** Councilman Higginson MOVED, SECOND Councilman Rhodes, authorize termination of the contract with H&D Construction subject to the City Attorney working out legal issues to protect the City and to authorize awarding the contract to Don Luchetti Construction subject to the City Attorney working out all legal issues. VOTE: ALL AYES. MOTION CARRIED.

Mayor Ferrante adjourned the meeting at 5:20 p.m.

Barbara Montanaro, CMC  
City Clerk