

City of West Lafayette, Indiana
Board of Public Works and Safety
MINUTES

JULY 1, 2014
8:30 a.m.
Morton Community Center
Multi-Purpose Room

Members present were Sana G. Booker, Shawn R. Little, Bradley W. Marley, and Jonathan C. Speaker. Mayor Dennis presided.

1. APPROVAL OF MINUTES

a. June 24, 2014, Meeting

Mayor Dennis noted a correction to the minutes, stating that Councilor Burch invited everyone to attend the forty-second annual Fiddler's Gathering, not the second annual. The minutes will be corrected.

Ms. Little moved to accept the minutes of the June 24, 2014, Board of Works meeting as amended. Mr. Speaker seconded the motion.

The motion was adopted.

2. NEW BUSINESS

a. Discussion Item: Pay Application No. 8 – North Side Regional Lift Station and Force Main Improvements – R.L. Turner Corporation – WWTU

WWTU Director Henderson stated that this is the latest pay application from R.L. Turner Corporation and Greg Turner, President and CEO of the company, is present. He provided background details, stating that this project is running late. This pay application is in the amount of \$395,958.60. He explained that usually at this point in a project, there would be a little less retainage. However, with this we are still withholding a retainage, and the full retainage amount at this point is \$238,161.33.

Mayor Dennis asked Director Henderson to describe retainage.

Director Henderson responded that retainage is money that is withheld from payment to ensure that items are installed correctly, equipment is operational in the station, and other issues. In this case we have additional costs because of the lateness of the project, including engineering, construction administration, oversight, and onsite inspection in particular. He stated that the retainage amount here is enough to cover the additional inspection for the project and any punch list items that may need addressed. He stated that there has been good progress made over the last few months and at this time we are pleased with the progress and the quality of work to date. He stated that the retainage amount would be less than the total liquidated damages, if they were to be assessed, of \$310,500 at this point. The project is expected to be complete at the end of July based on the last progress meeting.

Mayor Dennis stated that he is asking questions to provide some history and background. He asked how overdue the project is.

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Director Henderson responded that the substantial completion date was November 6, 2013, with final completion in December.

Mayor Dennis noted that we are beyond that. He asked, speaking generally, what the obligations are upon the part of the contracting firm, the inspection firm, and the City when the dates established within the parameters of a contract are not met.

Director Henderson responded that the contract has liquidated damages built in it which are agreed to when the contract is signed by the two parties—the City and the contractor. Those can be assessed at the amount of \$1,500 per calendar day past the substantial completion date until substantial completion is arrived at. He stated that they have been meeting bi-weekly for several months and progress has been made. We are happy with the progress we have seen; it is just that it has taken a long time to get to this point.

Mayor Dennis stated that he is not happy about that.

Director Henderson stated that he does not think that any of us are. He explained that he extended an invitation to R.L. Turner at the request of Ms. Booker to have them here for discussion of this latest pay application.

Mayor Dennis asked what we are asking the Board for this morning.

Director Henderson responded that after discussing this internally, our recommendation is to leave the pay application as it is, and leave the increased retainage that would cover these additional inspection services as it is. But it is certainly a decision and discussion to be had with the Board members.

Mayor Dennis said in essence a project is late and there is a penalty assessed for the tardiness of this project. Yet, there is a retainage issue in which we will pay out?

Director Henderson confirmed for Mayor Dennis that there is cash on hand in the amount of \$238,161.33. That is the current retainage as it would be with the approval of this pay application.

City Attorney Burns stated that there may be a terminology issue. Retainage is merely the amount that is withheld from a payment. The State law requires that there be retainage in public projects of this sort, so 10% is held in each pay request as retainage. What we are talking about here is a pay request with an increased retainage. We have internally made the calculations to make sure that we have retained enough to cover the anticipated normal and customary punch list items as well as the inspection services. The liquidated damages are a separate issue. He explained that liquidated damages are not so that the City makes profit; they are so that projects get done on time. The project is not done on time, so in this case the liquidated damages cannot create a different timeline, but it can encourage it from this moment forward. The liquidated damages are still enforceable in full. He stated that it will be up in the air, depending on how the project buttons up, as to what the City's position is on the liquidated damages. He stated that to review, this will take care of normal retainage costs expected on a project, and it will also cover all of the additional direct costs incurred for inspection services.

Director Henderson confirmed that is correct.

Clerk-Treasurer Rhodes stated that she would like to add some dollars. She asked if in a contract of \$2,793,000, it is the opinion of our engineers that we will not need more than approximately \$36,000 to cover punch list items. There is \$234,000 in retainage. The estimate from Greeley and Hansen for increased construction inspection was \$198,000. She asked how much that leaves for punch list items and if it sufficient for a contract of this magnitude or this state of completion. She stated that she would like a professional engineer's statement.

Public Works Director Buck stated that the total contract is just under \$2.8 million, and 10% of that is the maximum that we will withhold retainage. There is still yet to be earned approximately \$650,000. There is retainage in that amount that will also be withheld to address the \$36,000 approximate that we already would have that is above and beyond the anticipated additional inspection fees. So, the \$198,000 additional inspection fees aside, we will have somewhere between \$36,000 and \$80,000 to cover construction issues based on where we are at in the progress and the quality of work to date. He stated that that is what he feels comfortable with.

Mr. Marley moved that the pay application be approved. Mr. Speaker seconded the motion.

Ms. Booker asked if Mr. Turner could come forward to answer questions. She stated that she heard all of the numbers and they were well-spoken and well-understood but she has one question. She asked why we are eight months late.

Mr. Turner responded that they ran into some difficulties, some of which they fought through. The project started late to try to wait on the winter and it caught them, and that is where they are standing.

Ms. Booker asked for confirmation that one of the difficulties was the winter.

Mr. Turner confirmed that it was, and they waited this winter as well so they could complete the project instead of trying to fight through. He stated that they discussed it with Dave Henderson, Dave Buck, and Greeley and Hansen.

Ms. Booker stated that they did not start in the winter. She asked why they started late.

Mr. Turner responded that they have gone through two winter cycles. The first winter they waited to try to get to spring. There were a lot of groundwater issues and trouble coming out of the ground. Then when they came into this winter they waited until spring to finish up with the masonry, the block, and those types of things. He stated that they are scheduled to be done in July. The materials have been released and ordered and things are progressing. He stated that they want to get it completed and give the City a great quality project. It is later than they would want as well.

Ms. Little asked what assurance there is that we will not be sitting here in August watching our guys throw themselves on the sword because it is not done.

Mr. Turner stated that everything is almost done. The only thing that will not be done is grass seeding which needs to wait until September. He stated that they are on track and

the project is moving well now and they feel comfortable being done at the end of this month.

Ms. Booker asked Mr. Turner why he was not here at any point in the eight-month period of time. She stated that she is thinking that if she were a contractor doing a job and she knew that she was late, and she knew that she had not finished, she would not have had to be requested to come. She asked again why he was not here in the past eight months.

Mr. Turner responded that the point of contact, stated in the contract, is Dave Henderson, Dave Buck, and Greeley and Hansen. He stated that they have been going to the progress meetings and providing updates. He stated that it was never requested, or a part of the contract, that the company comes here. He stated that until the request was made, they thought the information was being communicated; maybe it was or was not, he does not know.

Mayor Dennis stated that it is fairly clear that the Board is somewhat disappointed but recognizes that there have been some things beyond the scope of R.L. Turner's control. For future reference, there have been some lessons learned on the part of the City. We will have more hands-on involvement and things that are uncontrolled should be communicated to this Board.

The motion was adopted.

b. Bid Notice: 2014 Wastewater Treatment Utility Projects – Wet Weather Facility and Phosphorus – WWTU

Director Henderson stated that the projects listed here to be advertised for bids are both driven by Indiana Department of Environmental Management (IDEM) regulations. The wet weather treatment facility improvements are the first small project in the combined sewer overflow (CSO) long-term control plan, as approved by IDEM. Both that and the phosphorus removal project are items that are under a deadline from IDEM with interim phosphorus monitoring requirements and a phosphorus limit that begins in the spring of 2016. The bid notice will be advertised July 7 and July 14 and the bids will be opened on July 29.

Ms. Booker moved that the bid notice for the 2014 Wastewater Treatment Utility Projects be approved. Ms. Little seconded the motion.

The motion was adopted.

c. 2012 SRF Loan Disbursement Request No. 42: North Side Regional Lift Station and Force Main Improvements—Greeley and Hansen – WWTU

Director Henderson explained that the three SRF loan disbursement items are to Greeley and Hansen for onsite inspection, review of submittals, and other items related to the project. Request No. 42 is in the amount of \$14,403.

Ms. Little moved that the 2012 SRF Loan Disbursement Request No. 42 be approved. Ms. Booker seconded the motion.

The motion was adopted.

d. 2012 SRF Loan Disbursement Request No. 43: North Side Regional Lift Station and Force Main Improvements—Greeley and Hansen – WWTU

Director Henderson stated that Request No. 43 is in the amount of \$10,734.

Mr. Marley moved that the 2012 SRF Loan Disbursement Request No. 43 be approved. Mr. Speaker seconded the motion.

The motion was adopted.

e. 2012 SRF Loan Disbursement Request No. 44: North Side Regional Lift Station and Force Main Improvements—Greeley and Hansen – WWTU

Director Henderson stated that Request No. 44 is in the amount of \$12,417.

Ms. Booker moved that the 2012 SRF Loan Disbursement Request No. 44 be approved. Mr. Speaker seconded the motion.

The motion was adopted.

f. Claims

i.	AP Docket	\$191,599.21
ii.	AP Docket	\$1,341,682.00
iii.	PR Docket	\$370,807.48

Mr. Speaker moved that the claims be approved. Mr. Marley seconded the motion.

There were no questions about the claims.

The motion was adopted.

g. Informational Items

i. Project Payment List – WWTU

There were no questions or comments about the listing.

ii. Legal Budget & Expenses – Clerk-Treasurer

There were no questions or comments about the listing.

iii. Park Board Dockets

There were no questions or comments about the listing.

h. Other Items

► Director Henderson reported that the Cumberland Sewer Extension project is progressing nicely with Atlas Excavating, Inc. putting in some deep sewer there. The subcontractor is doing a jack and bore to push casing underneath Lindberg Road.

► Human Resources Director Foster reported that Mayor Dennis helped the Health Promotion Committee kick off a Trail Trek event last Friday. She stated that it is an eight-week program, and if it is successful it will be rolled out for public participation in September and October. She explained that each participant receives a colored pencil, a Trail Guide provided by the Parks Department, and a piece of paper for pencil rubbings. There are 15 tags placed along the City's trail system to find and scratch over to produce a couple of healthy activity phrases. She explained that this event promotes physical activity, it is family- and pet-friendly, and it allows people to become familiar with the trail system. Director Foster thanked the Fire Department for use of their RTV and

manpower for the Committee members to go out and affix the tags all over the trails, and she thanked the Parks Department for the Trail Guides and some manpower.

► Public Works Director Buck provided construction project updates. He stated that new construction of sidewalks and curbs has wrapped up along Navajo Street, and the street will be resurfaced in July. Good progress has been made on the Salisbury Street project and it is on schedule to change traffic and the detour route on July 7; it will be open to southbound while northbound will be detoured. Both directions of traffic are expected to be open in early August. He reported that the mid-block crossings project has been progressing well and should be wrapping up as new equipment is installed. There was a pre-construction meeting yesterday for the Cumberland Avenue project, and Milestone Contractors will be reconstructing Cumberland from Salisbury to Soldiers Home Road, with work beginning at the Cumberland School right after the July 4th holiday. The utility relocations in that area are ongoing and then as they wrap up they will be working on the roadway for at least the next year.

Mayor Dennis stated that there will be a lot of signs and thanked the Police Department because traffic will need redirected.

Director Buck stated that the current plan is for the road to stay open to traffic in both directions. Milestone has indicated that they would like the City to entertain some alternate maintenance and traffic plans that would allow them to speed up. He said it will be discussed but nothing has been decided. He stated that we are adamant that with the utility relocations required on that project go per plan and keep everybody's access as was communicated throughout the planning of that project. However, if enough time and money can be saved, it would be entertained and it would come to the Board and the Redevelopment Commission (RDC) should it gain any traction. Director Buck reported that there is good news for Happy Hollow; we are in the bid letting for INDOT's bid opening on July 9, and there is daily activity from the bidders seeking additional information. He reported that Northwestern Avenue demolition of the existing median has started, and a new median with a change in length and width will be put in extending from Stadium Avenue to Dodge Street. Pedestrian railings will be installed to restrict jaywalking. There will be a new traffic signal at Dodge and Northwestern and a new pedestrian signal at the midblock crossing across from the Northwestern Parking Garage and the Engineering Mall. He stated that the traffic signals at Grant, the Engineering Mall, Stadium, and Dodge will all be coordinated with a pedestrian phase. He hopes for a lot of improvement in safety there and eliminating the jaywalking.

Mayor Dennis stated that it is a problem during class changing times.

Director Buck stated that the new big developments at Wang Hall and the 720 Northwestern building will drive a dramatic change in pedestrian behaviors and we want to be in front of that rather than behind it and have someone get hurt. He reported that the CDBG sidewalk replacement project is approximately half-way complete. The street resurfacing project has begun on Russell Street.

► Fire Chief Heath reported that the Stars and Stripes event at Tapawingo Park is taking place on Friday. He reminded everyone that City and State code allows fireworks from 5:00 p.m. until two hours after sunset from June 29 through July 9, with the exception of July 4 in which they are allowed from 10:00 a.m. to midnight. In response

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to a question from Mayor Dennis on the types of devices allowed, Chief Heath stated that the types are listed under the State code and where they can be shot.

Mayor Dennis stated that he and other elected officials get asked about it frequently, and his response is to use common sense. If someone lives in a densely populated subdivision they should not do something that has the potential to harm themselves or a neighbor.

Chief Heath stated that we are fortunate to have a lot of rain recently and it is not as dry as two years ago, but fireworks explode in the air and the embers fall down on rooftops, mulch piles, and grassy areas. There is a potential for fire and a hazard to be aware of, and that is the reason the laws and rules are in place. He stated that it is also sometimes hard on animals. He recommended leaving fireworks to the professionals.

3. ADJOURNMENT

There being no further business to come before the Board, Mr. Marley moved that the meeting be adjourned, and Mayor Dennis adjourned the meeting.