

CUYAHOGA FALLS CITY COUNCIL

Minutes of the Public Improvements Committee Meeting

April 21, 2014

Call to Order The meeting was called to order by Mr. Iula, Chair, at 8:00 p.m. A quorum was present.

Approval of the Minutes Approval of the minutes was deferred.

Agenda Items

Temp. Ord. A-41 An ordinance authorizing the Director of Public Service to execute a modification of Contract No. 6787 with Karvo Paving Company Inc., and declaring an emergency.

Motion by Mr. Mader to amend Temp. Ord. A-41 by substitution with Substitute Temp. Ord. A-41 dated April 21, 2014. Seconded by Mr. Iula.

Motion adopted by acclamation. The amendment was approved.

Proponent testimony was offered by the Mayor and City Engineer Tony Demasi. The Mayor stated there have been cost overruns due to changes and delays, and the administration has spoken to many parties to obtain opinions and determine the cause. Mr. Demasi will explain the details.

Mr. Demasi stated that design of the public improvements to State Road and Portage Trail started on April 7, 2010. In June 2010, the City applied for a supporting grant from the Ohio Public Works Commission in the amount of \$1,155,341. The grant was denied in November 2010, but the project was placed on a contingency list in the event one or more of the successful grant-funded projects were to be cancelled. In June 2011, the City was awarded \$1,133,667 in OPWC grant funding for the project, based upon cancellations and savings in other OPWC grant-funded projects. The City was required to

accept the grant no later than November 2011, and begin construction no later than July 1, 2012, or lose the grant. The grant was accepted, the project was bid, and construction began on June 29, 2012.

The substantial completion date for the project was November 15, 2012, and the final completion date was April 30, 2013. The development and leasing plans of the developer were not finalized until October, 2013. Items that caused delays in the public improvement project include: changes in the leasing plan, which required changes in driveway and curb locations, and removal of curbs and traffic signal foundations, replacement of the water main in Portage Trail and relocation of the water service line at the Portage Crossing entrance, modification of traffic and light poles, addition of light and feature poles on Portage Trail, addition of Giant Eagle entrance and median, replacement of the Menard's entrance, modification of the State Road entrance, modification of the Lillis Road entrance, and various utility conflicts resulting from these changes.

On January 23, 2014 the City was notified by Karvo Paving that they intend to charge to City for delay costs associated with home office overhead, traffic maintenance of traffic, extended and escalated labor costs, and material storage. These charges are compensable under ODOT construction contract specifications, which govern this project. These charges will be included with the final invoice for the project, which will be received later this summer. This ordinance permits modification of the contract to cover these charges.

Mr. Demasi concluded his report.

The Chair asked who approved of the contract changes. Mr. Demasi stated that the City's Board of Control approved several change orders last year for work that occurred last year as well as some anticipated work that has not yet been done. The

Chair asked how these charges will be paid for. The Finance Director stated this is considered as a capital project. The 2014 capital projects plan approved by Council in December 2013 contains three budgeted projects that due to other funding issues will not be moving forward: the Wyoga Lake multi-purpose trail (\$75,000), the Second/Front street rebuild (\$415,000), and Front/Second two-way traffic project (\$65,000). The total of \$555,000 budgeted for these cancelled projects would be used. The Chair asked if the City can cancel these three projects. Mr. Demasi stated that these three projects were the subject of AMATS matching grant applications, which were denied on December 17, 2013. The budget amounts associated with these projects is the City's 20% share of the cancelled projects. Thus, there is \$555,000 in this year's capital projects budget which will not otherwise be spent. The Chair asked the Law Director what would happen if the Council did not pass this ordinance. The Law Director stated that the ordinance must be passed for payment to be authorized. The Chair asked what would have happened if the City would have waited until the developer's plans were final before beginning construction of the public improvements. Mr. Demasi stated that if the City had not accepted the grant funding, the cost of the project paid by the grant would have to come from the City. The Chair asked if this could not be considered a net savings since the cost overrun is less than the grant funding. Mr. Demasi responded: "Potentially."

The Chair recognized Mrs. Pyke, who asked if the City could not have asked for an extension of the grant acceptance and construction deadlines. Mr. Demasi stated that he does not know if the project would have qualified for an extension, but the guidance he has received indicates that grant recipients are not permitted to hold money on projects that are not "shovel ready," and an extension would have been very unlikely. Mrs. Pyke asked why the

City did not delay the grant application until the construction plans were final. Mr. Demasi stated that the leasing plan was not completed until October 2013, and if the City had waited to apply for the grant until the project was ready, the grant application would have been submitted no sooner than June 2014 and construction would not begin until July 2015. Mrs. Pyke asked what the Second/Front rebuild project consist of. Mr. Demasi stated the \$415,000 is the Gorge Terrace design portion of that project. Mrs. Pyke asked if the Second/Front rebuild is cancelled regardless of this ordinance. Mr. Demasi acknowledged this is correct.

The Chair recognized Mrs. Klinger, who stated this contract was originally in the amount of \$2.9 million. It was overrun by 10%, \$287,000, and now by an additional amount of \$555,000, and there is still \$315,000 in the capital plan to be spent on sidewalks, a total excess of \$1.1 million due to bad planning.

The Chair recognized Mr. Weinhardt, who asked if the expenditure of capital projects money on this overrun will increase the City's deficit in the 2014 budget. The Finance Director stated that no new appropriations are needed. The funding to pay these costs is appropriated and is savings coming from budgeted projects that were cancelled for unrelated reasons. The overall budget will not be affected. The revenue source for the capital projects fund is the City income tax. The deficit mentioned is in the General Fund, not the capital projects fund.

The Chair recognized Mrs. Pyke, who stated that while the City's deficit is not being increased, these savings in the capital projects funds could have been used for other worthy capital projects.

The Chair recognized Mrs. Klinger, who stated that these savings could have been used to pave the streets that two weeks earlier were left off of the

annual repaving program due to lack of program funding.

The Chair recognized Mr. Colavecchio, who asked the Law Director if the \$555,000 payment that is being considered is the final payment, or whether further payments may be sought by the contractor. Mr. Demasi answered, stating that the contractor has stated that this is what the projected invoice will be. Mr. Colavecchio asked what assurances there are that the contractor will not ask for further additional money. Mr. Demasi stated that the contractor's representatives are in the audience and hear his concerns. Mr. Colavecchio requested something in writing to protect the City to that effect. The Law Director stated that he would put something in writing with the contractor's assistance.

There was no opponent testimony. There was no public comment.

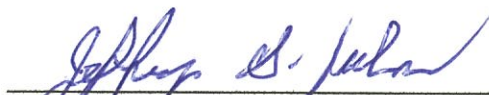
Motion by Mrs. Snyder to release Sub. Temp. Ord. A-41 (4/21/14) with a favorable recommendation. Seconded by Mr. Mader. Motion adopted by acclamation.


Non-Agenda Items

None.

Adjournment

Without objection, Chairman Lula adjourned the meeting at 8:20 p.m.



Jeff Lula, Chair


Paul A. Janis, Clerk of Council