

CITY OF WILSONVILLE
CITY COUNCIL MEETING MINUTES

A special meeting of the Wilsonville City Council was held at the Wilsonville City Hall beginning at 7:00 p.m. on Thursday January 19, 2012. Mayor Knapp called the meeting to order at 7:10 p.m., followed by roll call and the Pledge of Allegiance.

The following City Council members were present:

Mayor Knapp
Council President Núñez - excused
Councilor Hurst - excused
Councilor Goddard
Councilor Starr

Staff present included:

Bryan Cosgrove, City Manager
Jeanna Troha, Assistant City Manager
Mike Kohlhoff, City Attorney
Eric Mende, Deputy City Engineer
Sandra King, City Recorder
Mark Ottenad, Public Affairs Director
Starla Schur, Deputy City Recorder

Motion: Councilor Goddard moved to approve the revised order of the agenda. Councilor Starr seconded the motion.

Vote: Motion carried 3-0.

MAYOR'S BUSINESS

Upcoming meetings were announced by the Mayor, in particular the January 30, 2012 Work Session to discuss the Storm Water Master Plan. Mayor Knapp recounted the regional meetings he attended on behalf of the City.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

This is an opportunity for visitors to address the City Council on items *not* on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter. Please limit your comments to three minutes.

There were none.

COUNCILOR COMMENTS, LIAISON REPORTS & MEETING ANNOUNCEMENTS

Councilor Goddard – DRB and Clackamas County Business Alliance (CCBA) liaison, reported the December DRB meetings had been cancelled. Councilor Goddard noted is serving as an ex officio member of the CCBA Board, and updated the Council on the activities of their last meeting. He announced the "Down to Earth" Sustainability Speaker Series which begins January

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31. The three-part series is a partnership between Arts & Technology High School and the City of Wilsonville.

Councilor Starr – Planning Commission and Wilsonville Community Seniors Inc. liaison, announced the next meeting of the Planning Commission. The Commission will continue their work on the sign code, and their discussion about the transportation systems plan. Councilor Starr announced the next Middle School dance, as well as the Friends of Trees voluntary planting event with on January 28th.

CONSENT AGENDA

A. Minutes of the December 19, 2011 and January 5, 2012 Council Meetings.

Mr. Kohlhoff read the titles of the Consent Agenda for the record. He noted the minutes of the December 19, 2011 Council meeting were slightly revised from what was included in the Council packet and the revision was discussed in Work Session.

Motion: Councilor Starr moved to approve the Consent Agenda. Councilor Goddard seconded the motion.

Vote: Motion carried 3-0.

NEW BUSINESS

A. **Resolution No. 2342**

A Resolution Of The City Of Wilsonville Authorizing An Intergovernmental Agreement Between The Cities Of Sherwood And Wilsonville Regarding Transmission Segment 3A: Reimbursement For Work Completed And Ownership Thereof; And Regarding Transmission Segment 3B: Payment By Sherwood To Wilsonville For Work Previously Accomplished, Easement Acquisition Costs And Process, Environmental Permitting, Pipeline Design Services, And Terms Of Advance Sherwood Funding For Construction Of Segment 3B.

Resolution No. 2342 was read by title only by the City Attorney. He then presented the staff report. Resolution No. 2342 authorizes the intergovernmental agreement between Wilsonville and the city of Sherwood regarding portions of water transmission lines referenced as Segments 3A and 3B.

The Willamette River Water Treatment Plant was constructed by Tualatin Valley Water District (TVWD) and the City of Wilsonville to initially serve the City of Wilsonville with up to a 10 mgd (million gallons per day) supply of municipal water and TVWD, or a water consortium to be formed by TVWED and nearby cities, with up to a 5 mgd supply, with future expansion of another 10 mgd for Wilsonville and another 45 mgd for TVWD/TVWD Water Consortium. With Wilsonville's permission, Sherwood as an intended city in the water consortium acquired from TVWD its interest in its 5 mgd of supply. To transmit Sherwood its supply and to accommodate Wilsonville's transmission needs, agreements between Wilsonville and Sherwood

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were entered into on a segment basis for construction of, and interest in supply capacity of segments of the transmission line. There are two basic agreements needed to complete the provision of the transmission line Segment 3, known also as the Kinsman Road segment extension. The first being the IGA before Council for payment and capacity ownership provision for a previously constructed portion of Segment 3, referenced as 3A, and for work completed on design of 3B, as well as cost allocation for land acquisition, permitting and final design. The second will be for the allocation of ownership capacity and costs for the construction of 3B. This should be before Council in February or March and completes the transmission line segment agreements. Further negotiations and agreement(s) may occur in regard to plant upgrades.

Sherwood is paying for its share of cost incurred for 3A and up through August 31, 2011 for 3B, is advancing its estimated share of costs associated with negotiating right of way and engineering design, and is agreeing to pay its true up share. The total Sherwood will be paying and advancing within 30 days of adoption will be \$268,460.83. The City's share has either been paid as to construction of 3A and for 3B work through August 31, 2012, or has been duly budgeted for future work.

Staff is recommending Council authorize the IGA as a fair arms' length agreement to mutually assist the city of Sherwood and provide for a means to transmit water to Sherwood consistent with supply ownership and our prior agreements, while constructing the transmission line for Wilsonville's use as well.

Councilor Goddard clarified the reference to August 2012 in the staff report should be August 2011 and the costs incurred for 3A, and up through August 31 for 3B, are costs incurred last year. He asked if there had been any changes the City of Sherwood asked for in the IGAs that are not reflected in the version before Council tonight.

Mr. Kohlhoff stated there were not. However there had been an agreement reached about capping the administrative costs at 14% based on historical experience.

Eric Mende, Deputy City Engineer further explained the August 31, 2011 date. The preliminary engineering for the transmission line was performed under the Barber/Kinsman project, which was a larger project that included five components – two roads, two water lines, and a sewer line. The City had actual costs for that project accumulated under those project numbers through August 31st. As of August 31st we started tracking the project costs directly against a different project number.

Motion: Councilor Starr moved to approve Resolution No. 2342. Councilor Goddard seconded the motion.

Councilor Goddard asked when the project was expected to be completed in terms of delivering the first planned water. Mr. Kohlhoff responded the estimated completion is the end of 2013 due to the permitting process.

Vote: Motion carried 3-0.

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B. Resolution No. 2343

A Resolution Of The City Of Wilsonville Acting In Its Capacity As Its Local Contract Review Board Authorizing The Execution Of A Professional Services Agreement With Westech Engineering Inc. To Provide Engineering And Consulting Services For Preparation Of Final Design Documents For The Segment 3B Water Transmission Pipeline Project.

Mr. Kohlhoff read the title of Resolution No. 2343 for the record.

The staff report was presented by Eric Mende, Deputy City Engineer, and project manager for the project. Council action is needed to authorize the Interim City Engineer to execute a Professional Services Agreement (PSA) with Westech Engineering Inc. for professional services associated with final design of Segment 3B of the 48" diameter Water Transmission pipeline. The proposed contract value is \$214,530.

In 2002, the City of Wilsonville completed construction of the Willamette River Water Treatment Plant (WRWTP). The plant was jointly financed by the City of Wilsonville and the Tualatin Valley Water District (TVWD), with the Master Agreement between the City and TVWD specifying an initial production capacity of 15 Million Gallons per Day (MGD). Of this initial 15 MGD production capacity, 10 MGD was allocated to Wilsonville, with 5 MGD allocated to TVWD. TVWD subsequently sold their initial 5 MGD production right to the City of Sherwood.

Beginning in 2007, various intergovernmental agreements were negotiated between the cities of Wilsonville and Sherwood for construction of a jointly owned 48" diameter Water Transmission Pipeline from the intersection of Wilsonville Road and Kinsman Road to a jointly owned vault located at Tooze Road and Westfall Road. Sherwood also constructed a wholly owned transmission line from the vault to their Snyder Park Reservoir.

Five major Segments were identified for the Wilsonville portion of the Transmission Pipeline, of which this Segment 3B is the last remaining unconstructed segment. With the recent completion of the vault, and with an Interim Water Supply Agreement in place (Resolution 2317 – passed 9/7/2011), the City of Sherwood is now able to receive up to 2.5 MGD through Wilsonville's distribution system. However, completion of Segment 3B of the 48" Transmission Pipeline is needed for Sherwood to fully realize their entire 5 MGD rights.

Both cities desire to see this final leg of the pipeline completed in an expeditious manner. To that end, the project is being expedited to the extent feasible. General design criteria, alignment, and Preliminary Engineering for the Project were completed to the 30% level in mid-2011 under the larger Barber – Kinsman Project. This was done primarily to coordinate the water line alignment with a future Kinsman Road alignment and to document the cumulative environmental impacts of both the road and the water line. Having completed these coordination tasks, final design and permitting for the pipeline is now being moved forward as an independent project. Environmental permitting (Joint Permit Application) has also been expedited using a separate Services Agreement that was executed in October. The Permit Application is ready for submittal.

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The procurement effort for this Services Agreement followed a Qualifications Based Selection (QBS) process consistent with City purchasing procedures and State of Oregon Public Contracting Rules. Statements of Qualifications (SOQs) were solicited in September 2011 via inclusion of the project on the City's web site, as well as direct publication in the Daily Journal of Construction (DJC). Only three firms responded, all of whom were considered Responsive and Qualified. Each SOQ was reviewed independently by a panel consisting of Wilsonville City Engineer Mike Stone, Wilsonville Deputy City Engineer (and Project Manager) Eric Mende, and City of Sherwood Public Works Director Craig Sheldon. A consensus decision was reached to select Westech Engineering to perform the work, assuming an acceptable Scope and Cost could be negotiated.

A Request for Proposals (RFP) was issued to Westech in early October, with the initial cost proposal due back on October 24, 2011. Negotiations and scope and cost revisions occurred in November and December 2011. The City negotiations team included the same evaluators as for the SOQs (Stone, Mende, Sheldon). All parties are in agreement that the final negotiated Not To Exceed contract price of \$214,530 fairly represents the value of the Scope of Services to be performed.

Ownership of, and financial responsibility for the completed pipeline, will essentially be 50/50. The project (and this contract) will be directly managed by City of Wilsonville staff, but the majority of initial funding for the project (including this contract) is being provided by the City of Sherwood. Sherwood staff rightfully expects a significant amount of input and oversight, and will be intimately involved in the project from beginning to end. These financial and administrative arrangements are more fully detailed in an Intergovernmental Agreement, also before the Council this evening, under Resolution 2342.

The currently approved 2011/2012 design budget for this project is \$290,000, of which \$25,681 is encumbered by the permitting subcontract and \$32,379 is encumbered for Preliminary Engineering, leaving an available budget for this contract of \$231,940. The proposed contract is within budget.

The proposed Professional Services Agreement is structured as a *Not To Exceed* (NTE) contract, with NTE values assigned to both the Major Tasks and to the contract as a whole. Assigning Task level NTE values forces both the consultant and the city project manager to track project costs more closely with the specific intent of managing and controlling scope creep and associated cost overruns. Under this structure, the city Project Manager maintains the flexibility to move funds between Tasks if warranted by minor scope changes of individual subtasks, however, the Contract level Not To Exceed value remains fixed.

The schedule for the project estimates the design would be completed in about eight months; however, the permitting process is an unknown, and a one year time frame is reasonable, making the completion date the summer of 2013.

Councilor Goddard asked if there were reasons why a competitive bid process was not used and how to assure the citizens of Wilsonville the highest quality professional services at the lowest possible cost were procured.

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Mr. Mende replied State Public Contracting Rules do not allow the consideration of price in the negotiation of a professional services agreement for engineering services. It is specifically forbidden under the State rules for certain budget levels. The process is set up through the State of Oregon Public Contracting Rules with the intent to select the most qualified consultant based on a review team or other methodology used for selecting the most qualified consultant, then to negotiate the price with the consultant. Should the City feel the prices are too high; the City has the option to end negotiations with the most qualified consultant and go to the next one on the list. The State is very clear on how Engineering services are contracted.

There was a brief discussion about how the Oregon Public Contracting Rules were written and the influence of strong engineering and architectural lobbyists, as well as the passage of HB-3316 which tightened up the model contracting rules. The model contracting rules for the city of Portland allowed some flexibility, and was being reviewed by staff to see if there were any aspects that could be adopted by Wilsonville. It was suggested to review the City's purchasing rules for flexibility while insuring the highest quality services were being purchased in a fiscally responsible manner.

Motion: Councilor Goddard moved to approve Resolution No. 2343. Councilor Starr seconded the motion.

Vote: Motion carried 3-0.

Councilor Starr suggested contacting Representative Wingard and Senator Larry George to let them know there might be a better way to write the law so that we can be more mindful of the financial picture as well as the engineering picture, and a better way to balance the two.

Mayor Knapp thought the discussion could take place during a work session after more review by staff.

Councilor Goddard wanted staff to highlight areas of the existing State of Oregon Public Contracting Rules that merit review, or opportunity for improvement, and summarize those areas. This information could support a work session discussion and then to the city's legislative agenda.

CONTINUING BUSINESS

A. **Ordinance No. 701** – Second Reading

An Ordinance Repealing Wilsonville Code Chapter 5, Sections 5.530 To 5.550 And Chapter 6, Sections 6.100 To 6.175 And Adopting New Sections 6.100 To 6.175 Relating To The Use Of Public Lands, Parks, And Facilities For Hosting Large Special Events And The Use Of Public Streets, Rights-Of-Way, Sidewalks And Bikeways For Hosting Special Events That Will Substantially Impede The Flow Of Vehicular, Pedestrian, Or Bicycle Traffic.

Mr. Kohlhoff read the ordinance into the record by title only on second reading.

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Mayor asked if council had further questions on the topic, there were none.

Motion: Councilor Starr moved to approve Ordinance No. 701 on second reading. Councilor Goddard seconded the motion.

Vote: Motion carried 3-0.
Mayor Knapp - Yes
Council President Núñez – excused
Councilor Hurst - excused
Councilor Goddard - Yes
Councilor Starr - Yes

CITY MANAGER’S BUSINESS – There was no report.

LEGAL BUSINESS – There was no report.

ADJOURN

Motion: Councilor Starr moved to adjourn. Councilor Goddard seconded the motion.

Vote: Motion carried 3-0.

The Council meeting adjourned at 7:55 p.m.

Respectfully submitted,

Sandra C. King, MMC, City Recorder

ATTEST:

TIM KNAPP, MAYOR