

**CITY OF PORT ST. LUCIE
CITY COUNCIL SPECIAL MEETING MINUTES
MARCH 19, 2012**

A Special Meeting of the CITY COUNCIL of the City of Port St. Lucie was called to order by Mayor Faiella on March 19, 2012, at 2:00 p.m., at Port St. Lucie City Hall, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

1. MEETING CALLED TO ORDER

2. ROLL CALL

Council Members

Present: Mayor JoAnn M. Faiella
Vice Mayor Linda Bartz
Councilwoman Michelle Lee Berger
Councilman Jack Kelly
Councilwoman Shannon M. Martin

Others Present: Gregory J. Oravec, Acting City Manager/
CRA Director
Roger G. Orr, City Attorney
Sherman A. Conrad, Parks & Recreation
Director
Edward Cunningham, Communications Director
Joel Dramis, Building Official
Kim Graham, Assistant City Engineer
Carol M. Heintz, Assistant City Clerk
Edith Majewski, Engineering
David K. Pollard, OMB Director
Brian E. Reuther, Police Chief
Cheryl Shanaberger, OMB Deputy Director
April C. Stoncius, Deputy City Clerk

3. PLEDGE OF ALLEGIANCE

The Assistant City Clerk gave the Invocation, and Mayor Faiella led the assembly in the Pledge of Allegiance.

4. PROCLAMATIONS

There was nothing scheduled for this item.

5. SPECIAL PRESENTATIONS

There was nothing scheduled for this item.

6. ADDITIONS OR DELETIONS TO AGENDA AND APPROVAL OF AGENDA

Councilman Kelly **moved** to approve the Agenda. Councilwoman Martin **seconded** the motion. The Assistant City Clerk restated the motion as follows: for approval of the Agenda. The **motion passed unanimously** by roll call vote.

7. APPROVAL OF CONSENT AGENDA

There was nothing scheduled for this item.

8. SECOND READING, PUBLIC HEARING OF ORDINANCES

There was nothing scheduled for this item.

9. OTHER PUBLIC HEARINGS

There was nothing scheduled for this item.

10. FIRST READING OF ORDINANCES

There was nothing scheduled for this item.

11. RESOLUTIONS

a) RESOLUTION 12-R32, AUTHORIZING THE CITY MANAGER AND HIS STAFF TO ENTER INTO AND EXECUTE A LOCAL AGENCY PROGRAM AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION CONCERNING THE CONSTRUCTION OF SIDEWALK IMPROVEMENTS WITHIN AND ALONG MARION AVENUE BETWEEN BAYSHORE BOULEVARD AND CURTIS STREET; PROVIDING AN EFFECTIVE DATE

The Assistant City Clerk read Resolution 12-R32 aloud by title only.

The Acting City Manager said, "This is one of our important sidewalk projects, and I wanted to provide the Council and the public with some background information. As you know, sidewalks are one of our greatest priorities. This will be about a mile of sidewalks that will connect Bayshore Boulevard to schools and parks. In addition to providing connectivity and safety for our pedestrians, we are also leveraging funds through an agreement with FDOT."

Ms. Majewski stated, "The Marion Avenue sidewalks are about a mile, and will begin on Bayshore Boulevard and go east to Curtis Street. They will be five-foot wide concrete sidewalks, and there are existing sidewalks in the area that this sidewalk will connect to. It will provide a safe route for all of the children that go to the Northport K-8 School campus. There is also a Boys and Girls Club at the old St. Lucie Elementary School, which would use this sidewalk. There will also be a sidewalk constructed on Bayshore Boulevard from Prima Vista to Floresta. We have FDOT funding for this sidewalk that will come before you sometime next year, with construction beginning at the end of 2013. For the Marion Avenue sidewalk, once the LAP Agreement is signed in April, we will send out the request for bids to contractors. It needs to be out for 30 days, so we will open the bids in May, and award the contract. In June, the Notice to Proceed and the construction will begin. We are looking at about an eight-month contract that will be completed in February 2013."

Councilman Kelly **moved** to approve Resolution 12-R32. Councilwoman Martin **seconded** the motion. The Assistant City Clerk restated the motion as follows: for approval of Resolution 12-R32. The **motion passed unanimously** by roll call vote.

b) RESOLUTION 12-R33, AUTHORIZING THE CITY MANAGER AND HIS STAFF TO ENTER INTO AND EXECUTE A LOCALLY FUNDED AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION CONCERNING THE VALUE ENGINEERING SERVICES FOR THE CROSSTOWN PARKWAY EXTENSION PROJECT; PROVIDING AN EFFECTIVE DATE

The Assistant City Clerk read Resolution 12-R33 aloud by title only.

The Acting City Manager said, "It is my intent to provide the Council with as much information as possible regarding the City's Number One Capital Project priority. This is another important step in the process."

Ms. Chesser stated, "This agreement will allow City staff to move forward with the Crosstown Parkway project. In order to complete the final Environmental Impact Statement, we need to incorporate this VE analysis into that document. The VE analysis is a process that is generally a workshop that covers about a five-day period. During that workshop, the project perimeters are reviewed, and recommendations are made as to how to reduce the cost or to add value to the project. After the workshop, a report is completed that is included in the Environmental Impact

Statement. The LFA that you are reviewing will allow DOT to conduct a study using their team of qualified professionals and consultants to ensure that the study is done in accordance with the requirements of the Federal Permitting Process. The cost for this service is \$60,000, as outlined in the agreement. All of the costs are budgeted for, and will be paid out of the Crosstown Parkway Extension fund. With the Council's approval of this resolution, staff will confirm the schedule for the project, which we are anticipating in April. Then we can move forward to complete the environmental documents."

Vice Mayor Bartz **moved** to approve Resolution 12-R33. Councilwoman Martin **seconded** the motion. The Assistant City Clerk restated the motion as follows: for approval of Resolution 12-R33. The **motion passed unanimously** by roll call vote.

12. UNFINISHED BUSINESS

a) **CULPEPPER & TERPENING, INC.**, #20120018, CONSTRUCTION ENGINEERING INSPECTION AND GEOTECHNICAL FOR ST. LUCIE NORTH DRAINAGE IMPROVEMENTS, \$270,952, 300 CALENDAR DAYS, FUND 401-4126-5340, ENGINEERING

Councilman Kelly said, "I didn't get the list of people who bid on this job. It just says Culpepper & Terpening, Inc., came in as the Number One firm, but I don't have any other information."

The Acting City Manager stated, "We have a couple of items for this project. It is the St. Lucie North Drainage Improvements project. You can think of it as NWIP, as it is like EWIP, but on the north side. They will be doing several similar improvements to the canals, including the C-105, C-106, and C-107. If you would like to know who else bid on this project, OMB can provide us with a list of firms that bid on the contract." Ms. Shanaberger explained, "The short list of those that competed was presented to the Council, and it was approved. The Number One firm that was selected was Culpepper & Terpening, Inc., and that information was in a previous packet that was provided to the Council. I can provide that information to you, but I don't remember those names." Councilman Kelly pointed out, "This has happened before where I've asked for it. Even though we voted on it once before, we sometimes have 60 or 70 items. If it comes back three meetings later, I'd still like to see the information. Even though we voted on it, I'd still like to see the list." Ms. Shanaberger said, "I will get that for you."

Councilwoman Berger **moved** to approve Item 12 a). Councilwoman

Martin **seconded** the motion. The Assistant City Clerk restated the motion as follows: for approval of Item 12 a). The **motion passed unanimously** by roll call vote.

13. NEW BUSINESS

a) **MELVIN BUSH CONSTRUCTION, INC.**, ST. LUCIE NORTH DRAINAGE IMPROVEMENT PROJECT, #20120008, \$1,817,095.91, WHICH INCLUDES A \$10 INDEMNIFICATION FEE, CONTRACT PERIOD 240 CALENDAR DAYS, MARCH 19 THROUGH NOVEMBER 12, 2012, FUND 401-4126-5340, CITY MANAGER

The Acting City Manager said, "This is the construction item that goes with our Northern Watershed Improvement Project. It would award the construction contract to Melvin Bush Construction, Inc., in the amount of \$1,817,095.91. The contract period is 240 days, and that is relevant on this project, because we did have a dispute from Mancil on this item. Mancil bid outside of the 240 days that was required by the bid specifications, and were therefore found to be nonresponsive. They were thrown out, as the 240 days was critical, because there is a grant associated with the project and a time certain date by which this project must be completed. Staff recommends approval."

Don Mancil, Mancil Tractor Service, said, "We were the lowest bidder, but there was a typo on the bid sheet. We put in 270 days instead of 240 days. When the job originally came out, there was no specified time. They sent out an addendum on January 9, 2012, that said the job must be completed in 240 calendar days. When we received the addendum, we bid the job and acknowledged the addendum in the bid. The addendum was in the bid, and we acknowledged that it had to be done in 240 days by signing it. We had a bid bond, and did everything the way we thought it was supposed to be done. That is why we are protesting the bid. We don't understand if we acknowledged the addendum, why we would not be awarded the job. What does one typo have to do with it? If it was a major one, I could understand, but you put out an addendum, which we acknowledged. You would be saving \$232,000, and isn't that worth saving? The base bid was a savings of \$61,901, and at the end of the deal, you are looking at \$232,000 in savings. We have worked for a lot of municipalities, and don't have any scars. We have bid projects in the City for ten years, and we have worked really hard. We put the right bid in on the right day, but there was a difference from 240 to 270. We acknowledged the addendum, and feel like it should override the typed or handwritten piece of

paper, because everyone makes typo errors in these situations."

Councilwoman Berger inquired, "What do you mean when you say you acknowledged the addendum?" Mr. Mancil responded, "It was Addendum Number One that came out on January 9, 2012, and we signed it and sent it back with the bid package that should override the original information. In the beginning, they asked for our time frame, and then they put out an addendum that indicated it had to be done in a certain amount of time because of the grant that was associated with it." Councilwoman Berger asked, "Did you have to resubmit your entire bid packet?" Mr. Mancil replied in the negative and explained, "All of it was in the bid package the day of the bid. The only thing that was wrong was on the bid form was where we put the wrong amount of days. We never even got a phone call regarding the addendum, and the wrong written information; no conversation at all. We work with a lot of municipalities, and there have been incidents where the county or the city calls to verify the information. It says in the Articles that you can waive any discrepancies if you feel that they are not detrimental to the contract. How can one number be detrimental when we have to put up a \$2 million bond for this job? We are not playing games with these jobs. You can't mess up with your bond, as they are very serious and are very hard to get and keep. You have to be very professional, and maintain a certain status to keep this going. Right off the bat, we would save the City \$62,000. We would like an opportunity, as we have been working in this area for 24 years. I did Veterans Park, City Hall, Jessica Clinton Park, and Mary Ann Cernuto Park. We felt like we did our homework, and are entitled to this project. We have been rejected before for other reasons that were legitimate. It comes down to a \$232,000 savings."

Mayor Faiella asked, "Mr. Oravec, was there a call made in reference to the discrepancy?" The Acting City Manager replied, "No, Madam Mayor, and quite frankly it would be my position that our staff should not contact anyone. It will become a very slippery slope once you start contacting respondents. You can't go down that road. The amount of days was a critical element of the bid. I understand that it was a terrible typographical error, but I do not want staff asking those kinds of questions and being subjected to the slippery slope of, did you really mean that in your application or not? I would like the City to save \$60,000 just as much as anyone else, but as far as the sanctity of the bidding process, I think it is important that we base the submittal on whatever is in the envelope. An important point that has to be made is that he did not have to revise the submittal and resubmit. It came in as part of the process, there

was a pre-bid, and then it was submitted by the deadline. If it was the Council's desire to reject all bids and bid it again, it would have to be shorter than 240 days. We would have to expedite it so that we can make sure that we can complete it by the due date. I had a conversation with staff where we selected a certain number of days, and we actually selected more days. If we would have selected 271 days, which I think is what he submitted in his response, rather than 240, we would have saved \$60,000. Whoever made that choice, it was a \$60,000 choice. We should always spend the City's money like it is ours."

The Acting City Manager continued, "I would not recommend that staff ever call people to ask them if they are sure about their bid. It is what it is when they submit it." Councilwoman Martin said, "When the original bid went out, the time frame was not put in there. It was put in after as an addendum. If that is the case, and we knew we had a time frame, why didn't it go out in the beginning?" The Acting City Manager replied, "I wasn't involved in this project from its onset, but I can tell you that things change all of the time with bids. That is why we have a formal amendment process to the addendums, and require the respondents to sign an acknowledgement of the addendum. Certainly, that is not the first addendum that he has ever signed." Mr. Mancil pointed out, "That is not what we are talking about." The Acting City Manager advised, "It is part of the process, and that is why we have a pre-bid meeting to review all of the information." Councilman Kelly said, "I would never want anyone in OMB to call someone about a bid to tell them there is mistake. That would be like opening up a can of worms. Although I have tremendous sympathy for you, because that is a lot of money to a small business man, we have to go by the written rule." Mr. Mancil inquired, "So what does the addendum mean?" Councilman Kelly responded, "Let me finish. When you indicated \$232,000, staff is not agreeing with you because I'm hearing \$60,000, which is a lot of money. Because you made a mistake, the City is going lose \$60,000, and you are going to lose a job. I've done it, and cost myself more money than this. That is the way it is. You have had jobs with the City before, and I'm sure that you will again. I would not want OMB to call anyone regarding a mistake to look at it again." Mr. Mancil asked, "What does the City do when they make typos? They don't even know how to spell Melvin Bush's name properly on the award, but it is just a typo, right? I'm showing you proof in your award that you can't even spell Melvin Bush's name right, and he does tons of work for the City." Councilwoman Berger remarked, "That is not the issue." Mr. Mancil said, "I'm just saying, it is one letter. The addendum should override what was typed on

the bid sheet, and that is why they send the addendums out. That is why we acknowledge them and we sign them, which is just like signing a contract. It says that I understand something has changed during the bid process, and we will now do something different. Since Councilman Kelly says the typos are an issue, then who gets reprimanded for not spelling Melvin Bush's name right?" Councilman Kelly pointed out, "I think you are comparing apples to oranges. If you want to beat us up over Melvin Bush's name, you can, but you are going over the edge. Don't burn your bridges, as you have done great work for the City." Mr. Mancil stated, "No bridges are being burned. This is a discussion, and it is wrong the way that you are handling it."

Councilman Kelly **moved** to approve Item 13 a). Councilwoman Berger **seconded** the motion, and said, "With this bid, 75% of it is funded by FEMA, and it is sitting there waiting to get started. We don't often have the opportunity to claim the amount of money that we are talking about through federal funds, so this will allow us to do that, and we need to move forward. I get the gentlemen's position, and it is a very professional position, but the dollar amount is something that you must check and recheck before submitting bids. I agree with the amendment process concern as he is speaking to it, but the due diligence is on the person that is submitting the bids. Every time someone comes before us with a bid process concern, we try to be consistent, which means we can't open a sealed bid, look at it and ask if they are sure that is what they meant. That would be a conflict of the sealed bid process." Councilman Kelly commented, "Time is of the essence with this project." Councilwoman Martin said, "It is a good learning opportunity to make sure that we continue to review our processes, and make sure that we are doing everything that we are supposed to do." The Assistant City Clerk restated the motion as follows: for approval of Item 13 a). The **motion passed unanimously** by roll call vote.

ADDENDUM ITEMS

b) FY 2012/13 COMMUNITY ORIENTED POLICING SERVICES (COPS) HIRING PROGRAM GRANT APPLICATION, TOTALING \$2,302,330, TO HIRE TEN (10) FULL-TIME SWORN OFFICERS WHO MUST BE MILITARY VETERANS WHO SERVED ON ACTIVE DUTY FOR A PERIOD OF 180 DAYS AFTER SEPTEMBER 11, 2001, AND MUST BE RETAINED FOR A MINIMUM OF TWELVE (12) MONTHS FOLLOWING THE CONCLUSION OF THE THREE-YEAR GRANT PERIOD, CHIEF REUTHER

The Acting City Manager said, "Last Friday I was made aware of

the COPS Grant. The Chief advised me that it requires a governing body's approval prior to the submittal. This is the grant that was discussed in greater detail at the Winter Retreat that provides for ten full-time sworn officers with the cost of the officers to be shared by the grant and the City. As you know, a big part of the evaluation process of this program is need, and given the safety of our community, we are trying to obtain it, as we didn't get it last year. If we succeed and get it this year, I will come up with a proposal to put in front of you as part of the budget to fund it. We will keep you informed. If it was awarded, we would bring back an agreement to you for formal approval. This is just to authorize the submittal. Staff hopes that you will support it."

Councilwoman Martin **moved** to approve Item 13 b). Councilwoman Berger **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 13 b). The **motion passed unanimously** by roll call vote.

**c) DISCUSSION REGARDING THE CITY MANAGER'S POSITION,
MAYOR FAIELLA**

Mayor Faiella said, "I'm bringing this forward in lieu of the crisis that happened last week in reference to Sportsman's Park. Emotions have seemed to settle down, and I would like to move forward regarding the position of the City Manager." Councilwoman Martin stated, "I would also like to move forward with it, as we have a lot of things coming up. It is very important for the fluidity of our organization to make sure we have a City Manager in place that will make important decisions going forward in a short amount of time. Since I have been on the Council, Mr. Oravec has displayed great leadership abilities. He has a passion and a vision for the City. In the last week since becoming Acting City Manager, in my opinion, he has hit the ground running. He has already started making the necessary changes that I feel are very important. I really don't think that we need to go out nationally when we have someone right here who has displayed those leadership abilities, and has a vision and a passion that wants to see the City go forward. I think he is the right person for the position. I **move** to appoint Mr. Oravec as the City Manager." Mayor Faiella clarified, "The contract will be brought to the Council within two weeks." Councilman Kelly **seconded** the motion, and said, "I agree with everything Councilwoman Martin said. I have been here for 12 years, and he has impressed me. He has grown, and gotten better every year. He works until 7:30 p.m. or 8:00 p.m. every day and sometimes beyond that. He is one of the hardest working people

that I have ever seen. He is a bright and clever individual, and does a great job." Mayor Faiella pointed out, "What I like about Mr. Oravec is that he is not a 'Yes' man. You may not like what he has to say, but he is not going to tell you what you want to hear. He indicates what needs to be done, and that impresses me." The Assistant City Clerk restated the motion as follows: for the approval of Greg Oravec to the City Manager position with a contract to come back in front of Council in two weeks. The **motion passed unanimously** by roll call vote.

The City Manager said, "I'm honored and very excited. It is okay if we come back in a week with the contract? I don't think it will be a difficult negotiation, because I would like to keep the same amount of pay that I currently make. I don't want an increase in compensation until we have gone through these tough times, and I can recommend a raise for all of the hard working men and women. I would just ask for a couple of weeks of vacation time to be credited to my account. I would also request a six-month evaluation, so that I can always stay tuned into the Council's perception of my performance. It is very important to me. I promise that no one will work harder than me, no one will care more, and no one will be more accountable. While I may not agree with everybody on difficult policy issues, I will always do my best to give the Council the best possible information to help you in your very difficult job of guiding this community. While I can't change everyone's mind, I think if people give me six months, they will see a difference. Thank you." Councilman Kelly advised, "Mr. Oravec, you will need an Assistant City Manager." The City Manager clarified, "It is on my list."

14. COUNCIL COMMENTS AND COMMITTEE REPORTS

COUNCILMAN KELLY - NOVEMBER ELECTION

Councilman Kelly said, "This will be my last term, as I have served for 12 years. I will not be running in November for a fifth term. I wanted to make it official, and I hope we get some good candidates."

MAYOR FAIELLA - ST. PATRICK'S DAY AT THE CIVIC CENTER

Mayor Faiella said, "This weekend we had a St. Patrick's Day event at the Civic Center that had a tremendous turnout. Mr. Oravec, do you know how many people attended, approximately?" The City Manager responded, "I don't have the numbers back yet, but I believe that we broke the record. It was an outstanding day." Mayor Faiella pointed out, "And we couldn't have asked for

better weather."

15. **ADJOURN**

There being no further business, the meeting adjourned at 2:30 p.m.

Carol M. Heintz, Assistant City Clerk

April C. Stoncius, Deputy City Clerk