

**BOARD OF PUBLIC WORKS AND SAFETY
CITY OF NOBLESVILLE
JULY 27, 2010**

The Board of Public Works and Safety met in regular session on Tuesday, July 27, 2010. Mayor Ditslear called the meeting to order pursuant to public notice with the following members present: Lawrence Stork and Jack Martin.

Also present were Dana Fisher, Clerk-Treasurer's office, City Attorney Michael Howard, and department directors.

APPROVAL OF MINUTES: JULY 13, 2010

Mr. Stork moved to approve the minutes as submitted, second Mr. Martin, three aye.

PETITIONS OR COMMENTS BY CITIZENS WHO ARE PRESENT

There were no petitions or comments by citizens.

APPROVAL OF AGENDA

Mr. Stork moved to approve the agenda as presented, second Mr. Martin, three aye.

BID OPENING – UNION CHAPEL ROAD PHASE 3 & 4 PROJECT

Mr. Howard stated the first bid packet is from Sunesis Construction Co. They have submitted their financial information in a sealed envelope, to be opened only if they are the apparent low bidder. They acknowledge receipt of both addenda. They have included their bid bond, Form 96, and non-collusion affidavit. The total bid is \$7,597,031.60.

The next bid packet is from Shelly & Sands, Inc. They acknowledge receipt of two addenda and have included their bid bond, Form 96, non-collusion affidavit, and financial statement. The total bid is \$6,841,626.00.

The next bid packet is from Calumet Civil Contractors, Inc. They have included their bid bond, financial statement, Form 96, non-collusion affidavit, and acknowledge receipt of two addenda. The total bid is \$6,283,000.00.

The next bid packet is a joint venture from E & B Paving, Inc. and Gradex, Inc. They have included their bid bond, Form 96, non-collusion affidavit, financial statement, and acknowledge receipt of two addenda. The total bid is \$5,720,809.03.

The next bid packet is from Rieth-Riley Construction Co., Inc. They have included their Form 96, non-collusion affidavit, financial statement, and acknowledge receipt of two addenda. The total bid is \$6,455,520.00.

Mr. Howard stated that appears to be all of the bids for the Union Chapel Road Phase 3 & 4 project. Mr. Howard asked if anyone present knew of any other bids. There were none appearing. Mr. Howard recommended the bids be referred to the Engineering Department for review, recommendation, and award, depending on the contract to the south, for the next Board of Public Works and Safety meeting. Mr. Martin so moved, second Mr. Stork, three aye.

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BID OPENING – 2010 CDBG PROJECT

Mr. Howard stated the first bid packet is from E & B Paving, Inc. They have included their bid bond, Form 96, non-collusion affidavit, and acknowledge receipt of one addendum. The base bid is \$135,655.00.

The next bid packet is from The Hunt Paving Co., Inc. They have included their Form 96, non-collusion affidavit, financial statement, bid bond, and acknowledge receipt of one addendum. The base bid is \$136,104.00.

The next bid packet is from CC&T Construction Co. They have included their Form 96, financial statement, non-collusion affidavit, and bid bond. The base bid is \$127,646.00.

Mr. Howard stated that appears to be all of the bids for the 2010 CDBG project. Mr. Howard asked if anyone present knew of any other bids. There were none appearing. Mr. Howard recommended the bids be referred to the Engineering Department for review and recommendation for the next Board of Public Works and Safety meeting. Mr. Martin so moved, second Mr. Stork, three aye.

Mayor Ditslear thanked all of the contractors who submitted bids to the City of Noblesville. We appreciate the interest in these projects.

NEW ITEMS FOR DISCUSSION

#1 BOARD TO CONSIDER ENTERING INTO A REVISED MUTUAL AID AGREEMENT WITH THE FISHERS FIRE DEPARTMENT (CHIEF GILLIAM)

Chief Gilliam stated the Fire Department has automatic aid agreements with some of our neighbors, one of whom is Fishers. This is an update of that automatic aid agreement. The only thing that has changed in this agreement is related to Noblesville's addition of Fire Station #7 and our ability to help points to the east and the Fishers jurisdiction with our Ladder #77. Chief Gilliam stated the map supplied indicates areas that the addition of Ladder #77 has affected. The City has expanded it slightly. Instead of sending Ladder #73 from Station #3, we would send Ladder #77 from Station #7 because of its closer proximity. Otherwise, the agreement is exactly the same as the last automatic aid agreement the City signed with Fishers. Chief Gilliam stated there is a fairly equal response between Fishers and Noblesville. They help us as much as we help them. This is a fair agreement. Mayor Ditslear asked where their nearest station is in regards to our Fire Station #7. Chief Gilliam responded their nearest would be #92. They have plans to build two more stations out in points east over the next few years. This agreement will change again when that happens. Mr. Stork asked if Noblesville would go first down to 113th Street. Chief Gilliam replied Noblesville would go in addition to Fishers. We would be the first Ladder to arrive, but they would be sending an Engine company, ambulance, and whatever else is needed. Mr. Stork moved to approve as requested, second Mr. Martin, three aye.

#2 BOARD TO CONSIDER WRITE-OFF OF UNPAID DEBT IN THE EMS DEPARTMENT (CHIEF GILLIAM)

Chief Gilliam stated this is the Department's quarterly write-off of accounts that will not be paid and therefore be written off. There is additional detail that has been added as requested by Mr. Stork which should make things more clear. Chief Gilliam stated the last item on the list is per 7501, which is him. That person called and asked to be considered under the hardship consideration. They supplied all their financial

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documents. Chief Gilliam stated upon investigation, he determined they had no ability to pay and did waive the bill under the hardship consideration. Mr. Stork asked about the term of over 4 years. Chief Gilliam responded this is the time they have been trying to collect beyond the time it was sent to the collection agency. Chief Gilliam stated the City has collected 1 payment that was outstanding greater than 4 years. Mayor Ditslear asked if liens are done. Chief Gilliam replied they can be in the event there is any property to put a lien against. Mr. Stork moved to approve as requested, second Mr. Martin, three aye.

**#3 BOARD TO CONSIDER RE-AWARDING THE CONTRACT FOR THE
L.E.D. STREET LIGHTING PROJECT (MIKE HENDRICKS/LEN
FINCHUM)**

Mr. Finchum stated this item is a request to re-award the contract for the L.E.D. Street Lighting project. After the contract was awarded, there was a question regarding the materials being supplied by one of the vendors to Custer Electric, who was originally awarded the contract. Upon investigation, it was discovered the materials were made in China. This is in violation of the grant requirements. It was stated specifically in the bid specifications that the materials were to be made in the U.S. Mr. Finchum stated the second lowest responsive, responsible bidder has been researched and found to be in compliance with the grant. Their products are considered to be manufactured in the U.S. Mr. Finchum stated this request is to re-award the L.E.D. contract to the second lowest bidder, which is Gaylor Electric. Mr. Howard stated, procedurally, the Board needs to determine first whether or not to revoke the original award of the contract to Custer Electric on the grounds that they were not responsive to the specifications of the bid. Mr. Martin moved to revoke the bid award for the L.E.D. Street Lighting project from Custer Electric because they were not responsive to the requirements, second Mr. Stork, three aye. Mr. Howard stated the next motion can be made to award the contract to the next lowest responsive, responsible bidder. Mr. Martin moved to award the L.E.D. Street Lighting project to Gaylor Electric, second Mr. Stork, three aye. Mayor Distlear thanked Mr. Finchum for his diligence on this project. This was something that was brought to our attention and the City absolutely needed to adhere to the requirements of the grant.

**#4 BOARD TO CONSIDER APPROVAL FOR CHANGE ORDER NO. 3
FOR THE PHASE II – TREATMENT PLANT IMPROVEMENTS
PROJECT (RAY THOMPSON)**

Mr. Thompson stated this is Change Order No. 3 which has a balance of \$75,566.00 which includes all deducts for any credits on individual jobs. Mr. Stork asked about the extension. Mr. Thompson stated the extension request is for a delay in the grading. The original grading has to be replaced due to flaking. There are also some parts still due in for the primary clarifiers. Mr. Stork asked if the grading replacement would be at no cost. Mr. Thompson replied that is correct. Mr. Martin moved to approve as requested, second Mr. Stork, three aye.

**#5 BOARD TO CONSIDER STREET CLOSURES FOR SHAKESPEARE
IN THE PARK AT SEMINARY PARK (STEVE HUNTLEY)**

Mr. Huntley stated this is the same request the City has received for this event for the past 20 some years except that the Noblesville Cultural Arts Commission is requesting two weekends this year, July 29-31 and August 5-7. They have coordinated with the Street Department on the street closure locations. The closures would be on those dates from 7:30 p.m. until End, which is between 11:00 p.m. and 11:30 p.m. The Street Department would handle the barricades. Mr. Stork asked if the barricades would be in the same locations as previous years. Mr. Huntley replied yes, he thinks so. Mr. Stork noted that this request is for the waiver of any associated fees. Mr. Stork moved to approve as requested, second Mr. Martin, three aye.

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#6 BOARD TO CONSIDER AWARDING CONTRACT FOR THE 141ST STREET AND MARILYN ROAD ROUNDABOUT (ANDREW RODEWALD)

Mr. Beery stated bids were received a few weeks ago for the construction of a roundabout at the intersection of 141st Street and Marilyn Road and the extension of 141st Street through a portion of the Marilyn Ridge subdivision. A review of the bids has been done by the Engineering Department. It is the recommendation to award the project to the lowest responsive, responsible bidder, E & B Paving, Inc. for a combined base bid and alternate bid #2 of \$938,206.84. Mr. Martin moved to approve as requested, second Mr. Stork, three aye.

#7 BOARD TO CONSIDER CHANGE ORDER NO. 1 FOR CLOSE OUT OF CONTRACT AND RELEASE OF RETAINAGE FOR UNION CHAPEL ROAD CLEARING AND DEMOLITION PROJECT WITH POINDEXTER EXCAVATING, INC. (JIM HELLMANN)

Mr. Hellmann stated this is an early item clearing contract for the bid opening the City has for Phase 3 & 4 to get the utilities out there, done, and out of the way of the road construction as soon as possible. This was a clearing contract in scope, so there was actually some items added to it. These items were funded elsewhere. One was the tree clearing on Union Chapel Road. The second was the tree clearing at the southeast corner of 191st Street and Promise Road to extend sight distance at the intersection. There was also some grading and seeding at that intersection. Mr. Hellmann stated he recommends the Board approve the Change Order and accept the contract and he would sign off on it once the seeding and grading is complete and inspected. Mr. Stork stated the three figures for the individual items do not add up to the total. Mr. Hellmann stated the total dollar amount is correct. One of the individual figures must have been inputted incorrectly. Mayor Ditslear stated the tree line clearing makes the intersection much safer. Mr. Martin moved to approve Change Order No. 1 up to \$12, 880.00 and subject to final payment being released after final grading and seeding is completed, second Mr. Stork, three aye.

#8 BOARD TO CONSIDER AGREEMENT WITH BEAZER HOMES FOR THE IMPROVEMENT OF 156TH STREET (JOHN BEERY)

Mr. Beery stated this is an agreement between the City and Beazer Homes for the reimbursement to the City from Beazer of approximately \$32,000.00 for the improvement of half of 156th Street along Logan's Point. Last summer, the County had monies left over in their repaving funds and decided to do their portions of 156th Street, in between Summer Road and Boden Road. That left some City segments of the road that were in poor condition. The City had already allocated its paving money for that year. The City allocated money to repave its portion of 156th Street this year. Beazer Homes is developing Logan's Point subdivision. As part of their development requirements by standard, they are required to improve their half of the road along the entire frontage of the subdivision. The City was doing the project and bid it out, and they agreed to reimburse us for half of the segment cost. Mr. Beery stated 156th Street is scheduled to be repaved in about a month. Mr. Stork moved to approve as requested, second Mr. Martin, three aye.

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**#9 BOARD TO CONSIDER ACCEPTANCE OF RIGHT-OF-WAY FROM
UNION CHAPEL SHOPPES PARCEL AT GREENFIELD AVENUE
AND UNION CHAPEL ROAD (JOHN BEERY)**

Mr. Beery stated this is an agreement that deals with the northeast corner of Union Chapel Road and Greenfield Avenue. When the petitioner came in for a rezone in 2008, the City informed them we were investigating putting in a roundabout at that intersection. The intersection would be offset to accommodate no right-of-way purchase or need from the Belfry. The City was able to design a roundabout there. This agreement is for traffic impact fee reimbursement for additional right-of-way needed above the base commitment. They were required to give 70 ft. half right-of-way along both frontages of Greenfield and Union Chapel Road. The City needed an additional 30 feet to make it work. In exchange, the City committed to rezone the property and reimburse them approximately \$8,800.00 in traffic impact fees when the site develops. Before the Board is the deed. The agreement is recorded and is part of the ordinance that rezoned the parcel. Mr. Martin moved to approve as requested, second Mr. Stork, three aye.

**#10 BOARD TO CONSIDER ACCEPTANCE OF RIGHT-OF-WAY FOR
THE WALMART ROUNDABOUT PROJECT (JOHN BEERY)**

Mr. Beery stated this is some paperwork catch-up. This is for both sides of the west side of the road at the intersection of the Wal-Mart roundabout. These are corner cuts at the Staples and Kohls parcel and the Wal-Mart parcel are before the Board for acceptance. The City received the right of entry agreements that permits us to do the construction right now. The developer granted at no cost to the City both corner cuts of the right-of-way for the roundabout. Mr. Stork moved to approve as requested, second Mr. Martin, three aye.

**#11 BOARD TO CONSIDER ACCEPTANCE OF RIGHT-OF-WAY FOR
THE LITTLE CHICAGO ROAD PROJECT (JOHN BEERY)**

Mr. Beery stated before the Board is the final piece of right-of-way needed for the Little Chicago Road project from 191st Street to S.R. 38. The City anticipates bidding for construction for this project next spring so the closure of 191st Street matches up with S.R. 38 in late May or June of 2011. This parcel is the northwest corner, which is a corner cut for the roundabout at 191st Street. Mr. Martin moved to approve as requested, second Mr. Stork, three aye.

**#12 BOARD TO CONSIDER ESCROW AGREEMENT BETWEEN
TRILOGY HEALTH SERVICES, LLC AND THE CITY OF
NOBLESVILLE (MIKE HOWARD)**

Mr. Howard stated Trilogy Health Services, LLC is the developer of the adult assisted living facility on Cumberland Road just south of 146th Street. Their planned development indicated rock in their landscaping detail. Rock is not permitted in the Corporate Campus. Trilogy is working through those issues with the Planning Department. This has been delaying their closing to go from construction financing to permanent financing and costing a substantial amount in additional interest per week for the development. This is an agreement between the City of Noblesville and Trilogy for them to post \$5,000.00 as a cash deposit in the event they did not move forward with the variance and did not comply with the terms of that variance. The deposit has been posted with the Clerk's office. If they do not comply, they would forfeit that cash deposit in addition to being subject to other penalties. Mr. Stork asked if Trilogy does not comply,

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is the \$5,000.00 used to go in and remove the rocks and put mulch in. Mr. Howard responded it could be. They would probably rather do it themselves. They could probably do it cheaper than the City could. Mr. Martin moved to approve as requested, second Mr. Stork, three aye.

#13 BOARD TO CONSIDER LIMITED WARRANTY DEEDS, VENDOR'S AFFIDAVIT AND RELEASE AND TERMINATION OF EASEMENT (BROOKS SCHOOL ROAD – BUBENZER PROJECT) (MIKE HOWARD)

Mr. Howard stated earlier this year, the Common Council approved a development agreement with landowner, Marilyn Bubenzer. The Bubenzers own land between 136th Street and Campus Parkway on either side of what would be Brooks School Road extended to the north and the new Boden Road. The long term plan for that area is Brooks School Road would continue north along its pre-existing path and then make a serpentine curve to the north and east and line up at Campus Parkway at Boden Road. This would create another thoroughfare to conduct traffic through the area. The development agreement was fairly complex. Under the agreement, the City is receiving almost 8 acres of serpentine right-of-way that is above the 100 year flood. The Bubenzers are receiving a total of approximately 33 acres. 2.4 of those acres are on the south side of Campus Parkway and would be at the corner of the new Boden Road and Campus Parkway. 30.5 of those acres are on the north side of Campus Parkway, which is substantially all in the 100 year flood. The agreement contains 2 deeds and a vendor's affidavit warranting that the City has title to the appropriate land. Mr. Howard stated the City also received a release and termination of easement for dirt from developing the Town Center that has been stored on land owned by the Bubenzers. The City has been paying rent on that land presuming that development would continue in the area and the dirt would eventually be needed. The costs of removing and disposing of that dirt by the City would be substantial. In the development agreement, the City received release of that easement. Mr. Howard stated these documents should not be recorded until the deed is received. Mr. Stork asked if the dirt was on flood plain or regular ground. Mr. Howard replied it is on regular ground. Mr. Stork moved to approve as requested, second Mr. Martin, three aye.

ADJOURNMENT

There being no further business before the Board of Public Works and Safety this 27th day of July, 2010, Mr. Martin moved to adjourn the meeting, second Mr. Stork, three aye.

JOHN DITSLEAR, MAYOR

ATTEST:

JANET S. JAROS, CLERK-TREASURER