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**MINUTES OF THE *WORK SESSION***  
***BOARD OF MAYOR AND ALDERMEN***  
**FRANKLIN, TENNESSEE**  
**CITY HALL BOARDROOM**  
**TUESDAY, NOVEMBER 26, 2013 – 5:00 P.M.**

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**Board Members**

Mayor Ken Moore	P		
Alderman Clyde Barnhill	P	Alderman Margaret Martin	P
Alderman Brandy Blanton	P	Alderman Dana McLendon	P
Alderman Pearl Bransford	P	Alderman Ann Petersen, Vice Mayor	P
Alderman Beverly Burger	P	Alderman Michael Skinner	P

**Department Directors/Staff**

Eric Stuckey, City Administrator	P	Lisa Clayton, Parks Director	
Vernon Gerth, ACA Community & Economic Dev.	P	Shirley Harmon, HR Director	P
Russell Truell, ACA Finance & Administration	P	Mark Hilty, Water Management Director	P
David Parker, CIP Executive/City Engineer	P	Paul Holzen, Engineering Director	P
Shauna Billingsley, City Attorney	P	Catherine Powers, Planning/Sustainability Director	
Rocky Garzarek, Fire Chief		Joe York, Streets Director	
David Rahinsky, Police Chief		Brad Wilson, Facilities Project Manager	
Fred Banner, IT Director		Lanaii Benne, Assistant City Recorder	P
Chris Bridgewater, BNS Director	P	Linda Fulwider, Board Recording Secretary	P
Becky Caldwell, Sanitation & Environ'l Services Dir.	P		

**1. Call to Order**

Mayor Ken Moore called the Work Session to order at 5:03 p.m.

**2. Citizen Comments**

Greg Cashion, 908 Briarwood Crst, Nashville, attorney with Smith Cashion Orr, reviewed the information on the following page regarding the Rock City Fee Dispute. He requested the Board consider the reduced amount of \$50,000 in fees to end the dispute.

## ROCK CITY FEE DISPUTE

On June 3, 2013, Cross Motions for Summary Judgment regarding the attorneys' fees requested by Rock City Construction against the City of Franklin were heard by the Honorable Judge Timothy Easter. Judge Easter noted that Rock City was entitled to some amount of its attorneys' fees and ordered the parties to mediate:

*And so from an equity standpoint, I think that [Rock City is] entitled to something. I don't think they're entitled to zero. Maybe that's what the City believes. But that just doesn't seem fair from my preliminary view of this. So that's the reason I'm suggesting that you both agree on a good fee mediator, attorney fee mediator to look at this and under all facts and circumstances, including the construction management contract, what would be a fair amount, if any, that Rock City and their attorneys would be entitled given the whole history of this marriage between Rock City.*

The amount of attorneys' fees incurred by all the parties is as follows:

<u>The City of Franklin</u>	
• Smith Cashion & Orr ("SCO")	\$153,858.45
• Farrar & Bates	65,054.32
• Rock City (as advisor and City representative)	<u>28,869.50</u>
<b>TOTAL</b>	<b>\$247,782.27</b>
<u>The City's Prime Contractors</u>	
• Lee Masonry	\$283,886.00
• Stansell Electric	<u>434,741.79</u>
<b>TOTAL</b>	<b>\$718,627.79</b>

In Greg Cashion's June 15, 2007 letter to the City's attorneys, Rock City reserved its right to request reimbursement at some future date for its attorneys' fees incurred in defending the City:

2. Payment of attorney's fees. Our firm will look solely to Rock City Construction Company for the payment of our attorney's fees as a result of our representation of the City of Franklin in the Stansell/Lee Masonry lawsuit. However, Rock City Construction Company reserves its right to claim our attorney's fees against the City of Franklin pursuant to its construction management agreement with the City of Franklin. Therefore, our firm will not look to the City of Franklin for payment, but Rock City Construction Company may request reimbursement at some future date from the City of Franklin.

The City received great value per the above agreement to assist the City. Specifically, John Lee served as the City's advisor and sole representative at trial. Additionally, Rock City's attorneys performed the majority of trial and appellate work:

• Trial Prep	65% performed by SCO at cost of \$39,418.69
• Trial	80% performed by SCO at cost of \$13,200.00
• Post Trial Work	70% performed by SCO at cost of \$25,947.86
• Appellate work	80% performed by SCO at cost of <u>\$42,811.93</u>
<b>TOTAL SCO Attorneys' Fees</b>	<b>\$121,378.48</b>

The result of the post-trial and post-appeal motions pursued by SCO was to reduce the fees and expenses payable to Stansell and Lee Masonry by \$99,216.80. The reduction in fees owed to the City's Prime Contractors was pursued entirely by SCO on behalf of the City; motions that the City would not have filed but for the recommendation of Rock City and its attorneys. Ultimately, \$99,216.80 in savings was directly attributable to the sole efforts of Rock City.

**Rock City requests \$50,000 to settle and finally resolve this dispute.**

## WORK SESSION DISCUSSION ITEMS

### 3. Consideration of Event Permit for Eat the Street Sponsored by 21<sup>st</sup> Drug Court and Williamson County CASA to be Held Downtown on May 9, 2014

**David Rahinsky, Police Chief**

Eric Stuckey said this is the second year for this event in Downtown Franklin. The sponsors want to continue holding this event on Friday night and in future could have it at Bicentennial Park

after the Third Avenue Extension is completed.

**4. Consideration of Event Permit Application for Willpower 5K in Downtown Franklin, April 5, 2014**  
**David Rahinsky, Police Chief**

No questions or comments

**5.\* Consideration of Proposed Contract 2013-0198, A Letter of Intent with Friends of Franklin Parks, LLC for Multipurpose Equestrian Arena at Harlinsdale Farm**

**Lisa Clayton, Parks Director**

The Franklin Tomorrow Board was present. Board members Monty McInturff and Greg Young provided a PowerPoint presentation on the proposed multipurpose Equestrian Arena and spoke about the Letter of Intent. The intention is to bring the horse back to Harlinsdale. They foresee this as an educational site as well as a place for other community activities. They are eager to get started on the project.

**6. Consideration of Amendment to the Park at Harlinsdale Farm Conservation Easement, COF Contract No. 2013-0218**

**Lisa Clayton, Parks Director**

This is an amendment to the Conservation Easement that will clarify the current conditions as it relates to uses permitted by the Master Plan. Refer to Page 6, #6 Right to Use Property for Equestrian Uses.

**7. Discussion of Proposed Charter Change for Election Process**

**Alderman Beverly Burger**

Alderman Burger related she met with City Attorney Shauna Billingsley as well as talking to people in LaVergne and Columbia, and Ann Beard of the Election Commission. Her concern is the low voter turnout for the October 2013 Ward Aldermen election and the cost of that election, \$39,174, which equals \$42.98 per vote. Of 44,963 registered voters, just 914 voted.

Other municipalities have switched election dates because of low voter turnout and the expense of stand-alone elections. Alderman Burger said options are May, August or November, although May isn't feasible. In August or November, the election would be combined with Williamson County and/or federal elections. A resolution to change the Charter would be necessary.

Lengthy discussion ensued. The other seven aldermen felt there was no compelling reason given for making a change in Franklin's election process.

**8.\* Consideration of RESOLUTION 2013-76, A Resolution to approve the Letter of Intent with Trojan Technologies for Ultraviolet (UV) Equipment for the Franklin Water Reclamation Facility (COF Contract No. 2013-0216) and to Authorize the City Engineer to Execute the Letter of Intent for Final Equipment Purchase**

**David Parker, City Engineer/CIP Executive**

An RFP was sent to five companies; four responses were received. Trojan Technologies, the selected source, was not the lowest bidder; however, the operations and maintenance performance of the Trojan system in contrast to the head loss and maintenance concerns identified with the lower cost systems, compelled staff to recommend Trojan.

The resolution will establish the contract and allow the City Engineer to negotiate purchase of necessary equipment in accordance with the Base Selling Price and the Method of Cost Escalation as found in Attachment A of the Letter of Intent. The financial impact is \$750,700 subject to the Method of Cost Escalation. The general contractor will purchase the equipment when it is needed. Mark Hilty and David Parker provided answers to questions posed about the equipment used in other locations and reasons for choosing this company.

✿ Alderman McLendon left the meeting

9.\* **Consideration of the Funding (\$3,000.00) and Installation of a New Historical Marker for Roper's Knob and Not Funding the Construction of a Way-Finding Sign and Kiosk as Part of the Mack Hatcher Parkway Northeast Widening Project**

David Parker, City Engineer/CIP Executive  
Paul Holzen, Engineering Director

David Parker referred to Exhibit A showing Location 1 and Location 2 for the Roper's Knob Wayfinding sign and Kiosk and the Historical Marker. The trailhead is at that location. TDOT decided not to fund install the Wayfinding Station at Location 1. The historical marker (through the Parks Department) was damaged by an unknown source, and repair would cost \$3,000; repair would damage the message on the marker.

There are three options for consideration:

- Option 1: Install the sign and kiosk at location 1 as shown on Exhibit A. Location 1 has two distinct problems. First is that location 1 misrepresents where Roper's Knob is actually located. Of the two hilltops, Roper's Knob is the southeast hilltop and will not be visible. The second problem is that to place the sign there requires the construction of a retaining wall that drives the cost of the installation to \$61,000.
- Option 2: Install the **fractured** historical marker sign at location 2 and **do not fund** the installation of the sign and kiosk. Location 2 is at the arbor structure and the intersection of the Spencer Creek Greenway and Mack Hatcher Multi-Use Path. This option has no cost to the City of Franklin.
- Option 3: Install a **new** historical marker sign at location 2 and **do not fund** the installation of the sign and kiosk. Location 2 is at the arbor structure and the intersection of the Spencer Creek Greenway and Mack Hatcher Multi-Use Path. The estimated cost of a new historical marker is \$3,000.

Staff recommends Option 3.

10.\* **Consideration of Amendment 2 to TDOT Contract 060118; PIN 108409.00; Federal Project #STP-EN-106(22), Hillsboro Road (SR 106, US 431) Intersection of Claude Yates Drive; COF Contract No. 2011-0028.**

David Parker, City Engineer/CIP Executive  
Paul Holzen, Engineering Director

Completion date was originally set for December 31, 2013. The design is complete and right-of-way acquisition is in progress. Amendment 2 proposes an extension of the completion date to October 31, 2016. Staff recommends approval of Amendment 2.

11. **Consideration of RESOLUTION 2013-77, A Resolution to Approve the Modified Construction Scope for the Third Avenue North Trail/Greenway Project**

David Parker, City Engineer/CIP Executive

The Capital Investment Committee forwarded this item, in further detail, to the Board for discussion. Staff was directed to eliminate the architectural concrete structure at the overlook (\$91,000) and the stone obelisk/monument at Point Park (\$139,000). This results in a cost savings of \$230,000 for the project.

Other architectural items looked at to reduce costs were changing from stone cut park benches to ornamental steel benches, use of cheaper overlook railing, change from stone pavers at Point Park to concrete or sod, and other small reductions. Staff recommends keeping or modifying the following items because they match the existing look of the current Third Avenue North Extension Roadway Project:

- Keep the decorative railing at the overlook. The decorative railing will match the bridge rails currently being installed on the Third Avenue North Bridge. Changing to a cheaper mesh frame rail could result in a \$69,000 savings.
- Keep the brick circular walking trail at Point Park. The circular brick walking trail will match the brick sidewalks currently being installed on the roadway project. Changing to a concrete trail could result in a \$49,000 savings.
- Keep the cut stone benches. The stone cut benches match the stacked stone walls around Rest Haven

- Cemetery.
- Eliminate the Stone Pavers at Point Park. This will realize a \$54,000 savings and the stone pavers can be installed in the future.
- Reduce the amount of boulders along the Top of Bank. Using one-half of the original amount will save \$27,000.

The project cost estimate is reduced from \$1,580,000 (\$630,000 Federal Grant/\$950,000 City) to \$1,269,000 (\$630,000 Federal/\$639,000 City), a savings of \$311,000. The cost decrease includes the \$91,000 Architectural Concrete Structure, \$139,000 stone Obelisk/Monument, \$54,000 stone pavers, and \$27,000 boulder reductions.

The aldermen were in favor of the revised recommendation.

**12. Discussion and Consideration of Biosolids Handling Processes for the Water Reclamation Facility Modifications and Expansion Project (COF Contract No. 2013-0001)**

**David Parker, City Engineer/CIP Executive**

Eric Stuckey noted this is follow-up to the ongoing discussions on how to handle biosolids. A decision is needed on which path to take. Further discussion will occur at the December 10, 2013 meeting.

Alderman Petersen wanted to wait until after the first of the year to address this because of the complexity of the processes and the busyness of the holiday season.

David Parker noted they are beyond the time for the preliminary design, and cannot complete it until there has been a decision. It delays the final design and construction, a project delay. Mr. Stuckey preferred to provide more information and keep the discussion going in December.

Mark Hilty related information is still pending regarding rate impact and costs associated with examples of other Class A Biosolids Technologies. They want to walk through the presentation at the December 10, 2013 Work Session.

Discussion on Thermal hydrolysis with solar drying, and the market for Class A biosolids was initiated by Alderman Skinner. Mr. Hilty advised Class A would not be a significant revenue stream, but there would be many more options than with Class B.

**13. Consideration of Bid Award to Novacopy of Nashville, TN, in the Total Estimated Amount of \$56,494 for Four (4) Different Multifunction Copiers, Comprised of \$30,703 for the Machines and an Estimated \$25,791 for 60 Months of Maintenance Services, for City Court, Engineering Department, Human Resources Department and Fire Department (Purchasing Office Procurement Solicitation 2014-008 through 2014-010 and 2014-014; \$27,248 to be Budgeted for Purchase of Three Machines in the Capital Improvements Fund for Fiscal Year 2014; \$3,455 to be Allocated to 110-83530-42200; Fees for Maintenance Services to be Allocated to Departmental Operating Budgets; Contract No. 2013-0206)**

**Brian Wilcox, Purchasing Manager**

No questions or comments

**14. Consideration of Bid Award to Bobcat of Nashville Located in LaVergne, TN, in the Total Amount of \$47,146.15 for One (1) Trailered Mulch Applicator for the Stormwater Division of the Streets Department (Purchasing Office Procurement Solicitation No. 2014-011; \$45,000 Budgeted in the Stormwater Fund for Fiscal Year 2014; Contract No. 2013-0207)**

**Joe York, Streets Director**

No questions or comments

**15. Consideration of Bid Award to Stringfellow, Inc. of Nashville, TN, in the Total Amount of \$103,769 for One (1) Solid Waste Container Service Truck for the Collection Division of the**



Sanitation and Environmental Services Department (Purchasing Office Procurement Solicitation No. 2014-012; \$103,769 to be Budgeted in the Capital Improvements Fund for Fiscal Year 2014; Contract No. 2013-0208)

Becky Caldwell, Sanitation & Environmental Services Director

No questions or comments

16. Consideration of RESOLUTION 2013-73, A Resolution Extending Interim Positions in the Police Department

David Rahinsky, Police Chief

No questions or comments

17. Consideration of ORDINANCE 2013-51, To Be Entitled: "An Ordinance to Amend Title 12, Chapter 1 of the Franklin Municipal Code to Adopt the International Building Code, 2012 Edition"

Chris Bridgewater, Building & Neighborhood Services Director

18. Consideration of ORDINANCE 2013-52, To Be Entitled: "An Ordinance to Amend Title 12, Chapter 10 of the Franklin Municipal Code to Adopt the International Residential Code, 2012 Edition"

Chris Bridgewater, Building & Neighborhood Services Director

19. Consideration of ORDINANCE 2013-53, To Be Entitled: "An Ordinance to Amend Title 12, Chapter 2 of the Franklin Municipal Code to Adopt the International Plumbing Code, 2012 Edition"

Chris Bridgewater, Building & Neighborhood Services Director

20. Consideration of ORDINANCE 2013-54, To Be Entitled: "An Ordinance to Amend Title 12, Chapter 9 of the Franklin Municipal Code to Adopt the International Mechanical Code, 2012 Edition"

Chris Bridgewater, Building & Neighborhood Services Director

21. Consideration of ORDINANCE 2013-55, To Be Entitled: "An Ordinance to Amend Title 12, Chapter 8 of the Franklin Municipal Code to Adopt the International Existing Building Code, 2012 Edition"

No questions or comments

Chris Bridgewater, Building & Neighborhood Services Director

22. Consideration of ORDINANCE 2013-56, To Be Entitled: "An Ordinance to Amend Title 12, Chapter 4 of the Franklin Municipal Code to Adopt the International Fuel Gas Code, 2012 Edition"

Chris Bridgewater, Building & Neighborhood Services Director

23. Consideration of ORDINANCE 2013-57, To Be Entitled: "An Ordinance to Amend Title 12, Chapter 3 of the Franklin Municipal Code to Adopt the National Electrical Code, 2011 Edition"

Chris Bridgewater, Building & Neighborhood Services Director

24. Consideration of ORDINANCE 2013-58, To Be Entitled: "An Ordinance to Amend Title 7, Chapter 5 of the Franklin Municipal Code to Adopt the International Property Maintenance Code, 2012 Edition"

Chris Bridgewater, Building & Neighborhood Services Director

25. Consideration of ORDINANCE 2013-62, To Be Entitled: "An Ordinance to Amend Title 7, Chapter 2 of the Franklin Municipal Code to Adopt the International Fire Code, 2012 Edition"

Chris Bridgewater, Building & Neighborhood Services Director

26. Consideration of ORDINANCE 2013-63, To Be Entitled: "An Ordinance to Amend Title 7, Chapter 5 of the Franklin Municipal Code to Adopt the NFPA 101 Life Safety Code, 2012 Edition"

Chris Bridgewater, Building & Neighborhood Services Director

Chris Bridgewater related the primary reasons for adopting these versions of the ICC and NFPA codes (the 10 ordinances) include:

- The City of Franklin has been on a different code cycle than most surrounding Middle Tennessee communities since switching from the Standard Building Code in 2003. Other communities are using either the 2006 or the

- 2012 versions. Franklin is on the 2009 version. The 2012 version would allow consistency with surrounding communities allowing builders and designers to follow similar practices throughout the Middle Tennessee area.
- State law requires jurisdictions to adopt the ICC and NFPA Code versions within seven years of the most recently published version.
  - Surrounding communities who adopted the 2006 version that are in the process of adopting the current 2012 version: Metro, Murfreesboro, Rutherford County, LaVergne, Lebanon, Columbia, Spring Hill, Gallatin, Smyrna, and Thompson's Station.
  - Adoption of the current 2012 ICC version yields better audit results from the following agencies. Better ISO and Flood audit results can yield better insurance rates for Franklin businesses and residents:
    - State Fire Marshall's Office
    - ISP Building Code Effectiveness Grading Scale
    - FEMA/TEMA Flood Audits including the Community Rating System

Mr. Bridgewater also highlighted some of the amendments in specific ordinances.

Discussion ensued on ease of use, inspector training, communication of changes, and the March effective date for the new codes. Energy conservation is not being pushed forward at this time. The Building a Better Franklin group meets on a regular basis for discussion. These are baseline codes for standardization; they are brought above baseline/minimum codes with the addition of standards specific to the City of Franklin.

**27. Consideration of Contract 2013-0140 with Tennessee Fair Housing Council to Provide Fair Housing Outreach Services**

**Chris Bridgewater, Building & Neighborhood Services Director**  
**Kathleen Sauseda, Housing Coordinator**

No questions or comments

**28. Acknowledge Report of Sole-Source Purchase of 1,000 Sensus Model 520M Water Meter Transceiver Units (MXUS) from the C.I. Thornburg Co. Inc. of Nashville, TN, in the Total Amount of \$132,000 for the Water Distribution Division of the Water Management Department (\$100,000 Budgeted for Water Meter Supplies in 421-83680-52102 for Fiscal Year 2014)**

**Mark Hilty, Water Management Director**

Acknowledgment of sole source purchase of 1,000 water meter transceivers units (MXU) for inventory that will be installed over time by City crews.

**ADJOURN**

Work Session adjourned @ 6:43 p.m.

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Dr. Ken Moore, Mayor

Minutes prepared by: Linda Fulwider, Board Recording Secretary, City Administrator's Office - 1/15/2014 9:37 AM