

Walterboro City Council
Special Called Meeting
Monday, November 9, 2009

MINUTES

A Special Called Meeting of Walterboro City Council was held at City Hall on Monday, November 9, 2009 at 12:00 Noon, with Mayor Bill Young presiding.

PRESENT WERE: Mayor Bill Young, Council Members: Dwayne Buckner, Randy Peters, Ted Parker and Franklin Smalls. City Manager Jeff Lord, City Clerk Betty Hudson, Attorney Ashley Amundson, Tay Smith of the Press and Standard, Phillip Taylor of The Dispatch, Parks Director Carolyn Powell, Utilities Director Wayne Crosby and Finance Director Bill Floyd were also present.

ABSENT WERE: Council Member Charles Lucas, Tom Lohr and City Attorney George Cone.

There being a quorum present, the Mayor called the meeting to order and called on Council Member Smalls for the invocation and Council Member Parker to lead the pledge of allegiance to our flag.

OLD BUSINESS:

Recommendations for Acceptance of Bids Received for I-95 Landscape Improvement Project.

City Manager Jeff Lord briefed Council on this agenda item. He stated that this is part of the two interchange projects. The two interchanges were two different grants, so they were designed together, but bid separately, so that we could keep the funding separate for grant purposes. On the two interchanges, we took bids in July. On Exit 53, the Greenry Incorporated was the lowest bidder and Palmetto Coastal was the second low bidder. On Exit 57, Palmetto Coastal was the lowest bidder as determined by our engineers and Greenry, Inc. was second. The difference between the two low bidders is \$1,500 on the Exit 57 interchange. Mr. Lord explained that because of new regulations from SCDOT, staff had to send the approval of the low bidder to them for concurrence. He stated that Council approved Palmetto Coastal as the low bidder on the Exit 57 interchange project on July 28, 2009. On October 27, 2009, staff received concurrence from SCDOT for the Greenry, Inc., but they did not concur with the bid submitted by Palmetto Coastal. The problem occurred in Palmetto Coastal's bid form where in several places they bid a value of "0". We have been in several talks with SCDOT on this matter, letting them know we consider this a valid bid, but they have not yielded on this. They stated that Palmetto Coastal submitted a non-responsive bid because they did not put a value in it. They see zero as not being a value. In order for the City to continue with the project, according to SCDOT, we will have to go with the Greenry, Inc. So, the effect of this will be that we will have the same contractor for both interchanges. It will increase the cost of the Exit 57 interchange improvement project by \$1,500. There is a 20% match, so this amounts to about \$300 in extra cost to the city.

Mr. Lord then introduced Resolution # 2009-R-11. He explained that the city was giving Palmetto Coastal a week to get with SCDOT to make their case that they did in fact have a responsive bid. However, if they are not successful, then the bid will go to the Greenry, Inc., the next low bidder, so the City can proceed with the project.

A motion was then made by Council Member Parker to approve Resolution No. 2009-R-11 as submitted. Council Member Smalls seconded the motion.

In discussing the motion, Council Member Smalls asked if there were a provision for the company already selected by Council to correct their problem. City Manager Lord responded, no, you cannot change bids. Once a bid form is submitted, it cannot be changed. As you will remember, there were several other contractors that made mistakes like this and our engineers

considered them non-responsive. If they were allowed, we would have had to go back to those. So, you cannot change a bid once it is submitted.

Council Member Buckner then asked why are we approving this action in the form of a resolution and not just a motion by Council? City Manager Lord responded, I believe it is so that we can set out the facts to protect us, should Palmetto Coastal seek any legal proceedings in the future.

Attorney Ashley Amundson pointed out that the resolution is to give the background and to clarify that Council's previous action in July is essentially rescinded and you are doing this, which has possibly the same effect. You are giving them the week to discuss matters with SCDOT and this just sets forth exactly what has happened thus far. As Jeff has said, they can't change their bid, but they can discuss this matter with SCDOT to determine whether or not their bid was actually responsive. The resolution just sets that out and if they are not responsive, you are taking the further action that if we don't hear something in writing by Friday at 5:00 p.m., then the contract is instead awarded to the Greenry, Inc., which SCDOT has already said, in their opinion, was the lowest responsive bidder.

Council Member Buckner then asked, why don't we wait until we see if they make any type of request before we take this action, if it is just to protect us? Mayor Young responded we won't have another Council meeting until the 24th, and it will hold up the project.

Council Member Smalls then asked if during this week in discussions with SCDOT, it is determined that the bid was responsive, does this mean we can stay with Palmetto Coastal? City Manager Lord responded that this resolution gives us the option of going whichever way the final determination is.

The motion approving Resolution # 2009-R-11 then passed with all members voting in favor, except Council Members Lucas and Lohr were absent and did not vote. A copy of said resolution is attached as part of these minutes.

The Mayor then entertained a motion to enter an executive session. Council Member Parker so moved. Council Member Smalls seconded the motion that passed unanimously.

The Mayor announced that the meeting will convene into an executive session for a discussion of contractual arrangements related to the State Revolving Fund.

The meeting returned to Open Session and there being no further business to consider, a motion to adjourn the meeting was made by Council Member Parker, seconded by Council Member Smalls and passed unanimously. The Mayor adjourned the meeting at approximately 12:49 P.M. Notice of this meeting was distributed to all local media and posted on the City Hall bulletin board at least twenty-four hours prior to meeting time.

Respectfully,

Betty J. Hudson
City Clerk

APPROVED: November 24, 2009