



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Minutes Public Works Council Committee

Tuesday, October 2, 2018

5:00 PM

Municipal Center

1. Call To Order

2. Roll Call by City Clerk Donna Jackson

Councilmember Chris Moore arrived at the meeting at 5:25 p.m.

Present 6 - Gene Vance; Mitch Johnson; John Street; Charles Coleman; LJ Bryant and Ann Williams

Absent 1 - Chris Moore

3. Approval of minutes

[MIN-18:089](#)

MINUTES FOR THE PUBLIC WORKS COMMITTEE ON SEPTEMBER 4, 2018

Attachments: [Public Works Minutes 09042018.pdf](#)

A motion was made by Councilperson Gene Vance, seconded by Councilperson Mitch Johnson, that this matter be Passed . The motion PASSED with the following vote.

Aye: 6 - Gene Vance; Mitch Johnson; John Street; Charles Coleman; LJ Bryant and Ann Williams

Absent: 1 - Chris Moore

4. New Business

ORDINANCES TO BE INTRODUCED

[ORD-18:060](#)

AN ORDINANCE TO PROVIDE FOR TRANSPARENCY AND ACCOUNTABILITY IN THE SELECTION OF PROFESSIONAL ARCHITECTS, ENGINEERS, AND SURVEYORS AND AWARDING OF CONTRACTS FOR CITY OF JONESBORO PROJECTS AND FOR OTHER PURPOSES

Chairmember John Street said this ordinance is kind of lengthy and I am not sure if you have read it, so I'll go ahead and read it.

Councilmember Gene Vance said I have a question for whoever wrote this. In Section 6, when this committee is looking at the professional service providers, PSP, and making a decision, will there be interviews and will there be someone from those PSPs here to make a presentation or will it be strictly by their statement of qualifications, SOQ? Chairmember Street asked Dennis Zolper if he would come forward. Councilmember Vance said I'm sure further down in another section would be the

same question. It is Section 6 and Section 11. Chairmember Street said I know when we did this before when we were doing the detention ponds back about 15 years ago, we brought them all in and the committee and the city engineer interviewed them. Councilmember Vance said the reason I am making that point is that I think it's important that we do that. I don't know how you were planning to do the ranking, but do it on a prepared piece of paper where the numbers are already established and it makes it simple for us to rank them. Councilmember Ann Williams said we did the same thing and interviewed the firms when the Finance Committee was looking at professional services for the salary survey. I think we interviewed all of them.

Mr. Dennis Zolper, Law Office of Dennis Zolper, 603 Madison Street, said that could be handled as an internal procedure as to whether you all wanted the parties to appear. We could amend the ordinance to specify that they would have to appear. It depends on the position of the committee and the City Council. I drafted it to the best of my ability and I'm not taking any pride in authorship. It can be amended any way that you all want to do it. That is a point that you all need to address. You could do it either way. You might feel better if it's in the ordinance because the next Public Works Committee might have a different opinion. I just need direction as to how you want the ordinance changed or modified. Councilmember Vance said personally, I think that should be in the ordinance. Councilmember Street asked so you want to amend it. Councilmember Vance said yes. I'd like to see us amend that.

Mayor Harold Perrin said, by listening to you read the ordinance and having read it before, I am assuming that the engineering department is going to come to this committee with three choices, which means they may have received 10. They are going to narrow it down to three with an executive summary and have already scaled it down based on that. You all will then have to pick one from those three based on your ranking. That's how I understand it. Chairmember Street said those three would come before the Public Works Committee just like they did when we did the detention ponds. Councilmember Vance said that is on the \$20,000 or less. When you go to the other one, I didn't catch that. I caught that they would all come to us. Mayor Perrin said it says the top three. Councilmember Vance said that's in the small ones. Mayor Perrin said you have two different ones. One is \$20,000 and below and one is above \$20,000. Councilmember Vance said in Section 10, it says, all compliant requests for proposals, RFPs, shall then be submitted to the Public Works Committee. Mayor Perrin said that's on the big one. Councilmember Vance said yes. That's on the big ones that are over \$20,000. Mayor Perrin said that's right. We do probably 6 to 12 of these in a year's time. I don't know for sure. So, you all would be meeting more frequently than you are now, which is fine with me.

Chairmember Street said those would just about have to be special-called meetings. That's how we would do that. Mayor Perrin said and that's fine. Councilmember Vance said that was my point about the personal interview. If they are making a presentation to us then it would need to be a separate meeting. Chairmember Street said that's how we handled it before. Councilmember Vance said I don't know if in Section 6 we would need to require the personal interview. That's on the ones under \$20,000, but on the ones above \$20,000, I would think it would be good if there was a presentation. Chairmember Street said I don't think the under \$20,000 needs it either. Councilmember Vance said I don't have a problem with under \$20,000, but I think PSPs over \$20,000 should be doing a presentation.

Mr. Zolper said that's not a problem from my standpoint in changing the ordinance. If that's what you want, then that's what we'll put in it. Chairmember Street asked Councilmember Vance if he wanted to amend the ordinance to that effect.

Councilmember Vance said I amend it to that effect. Councilmember Dr. Coleman seconded. Chairmember Street said I have a motion and a second to amend the ordinance as presented by changing the requirement of PSPs under \$20,000 appearing for an interview and mandating that PSPs over \$20,000 appear for an interview. Is it the top three of all of them? Councilmember Vance said it appears to me that after we rank the top three then it leaves us and goes to engineering and Mayor Perrin. It would appear that maybe we should in a short meeting, such as one of our regular meetings, rank them to get our top three and then have a special meeting thereafter for the presentations.

Mr. Roy Ockert said I have a statement I would like to make. Councilmember Street said yes sir. Mr. Ockert said, for the record, I'm an independent contractor on a contract to advise Mayor Perrin on communications issues. As most of you know, until recently, I served as Interim Chief Operations Officer and, because I dealt extensively with this issue during the six months in that office, I would like to make a statement in opposition to this proposed ordinance. The first version of the proposed ordinance was presented to city officials on June 15, via e-mail by Mr. Zolper. By that time, the administration was already considering proposed changes to the city's procedures for selecting professional services after some problems were brought to Mayor Perrin's attention by Mr. Mike Cameron of Associated Engineering. A week after receiving the first draft, we received another e-mail from Mr. Zolper, which said that the proposed ordinance has been prepared with the help of Mr. Cameron. While I consider Mr. Cameron to be a friend and I like my friends to succeed, we disagree on the need for such an ordinance. After further study and discussion, the administration decided that the best way to resolve the identified problems was to establish a written policy. Engineering Director Craig Light presented drafts of two proposed policies. One for construction projects costing \$2 million or more and the other for projects costing less than \$2 million. We also concluded that establishing an ordinance to set administrative policies and procedures would not be wise, especially since the Zolper proposal would turn all decision-making over to the City Council committee. That in turn destroys the check and balance system built into our democratic form of government. In effect, a council committee would make administrative decisions with only the full council as a check on its power and decision-making. The committee itself has a majority of council members. The selection procedure, as it has been alleged, has not worked well. If so, the Public Works Committee has always had the power to check bad decisions. Replacing a flawed procedure by eliminating any check or balance of power would be a bad solution.

Mr. Ockert said Mayor Perrin assigned me to study the drafts written by Mr. Light on related issues and research relevant state laws, local ordinances, resolutions and Municipal League articles. At various times, I consulted with Chairmember Street, Mr. Cameron, Mr. Zolper, Mr. Light, City Attorney Carol Duncan and former Chief Financial Officer Bill Reznicek. Eventually, I concluded that Mr. Light's drafts were inadequate to fix the existing problems. Further, that the city needed written policies that also covered selection of professional services for legal matters and financial matters. I went through several drafts while consulting with the people mentioned previously and sharing copies as the changes were made. I attempted to incorporate suggestions to make the policies more fair, more representative and more efficient. In addition, I developed policies for the selection of financial and legal services, neither of which is addressed in the ordinance. At the end of the process, Mayor Perrin agreed to put the policies into effect. Copies were distributed to all members of the City Council and posted on the administration's shared drive. Each policy puts a member of the council on the selection committee for all but small projects. Financial procedure is being followed in the selection of a consultant to study impact fees, however, Mr. Street

declined to participate in the selection process of an engineer for the South Caraway widening project. A proposed agreement with the Pickering Firm had been postponed temporarily by the Public Works Committee in July, and then was postponed permanently in August. The project is still in abeyance. I have made a detailed analysis of this proposed ordinance and consider at least one fatal flaw, which has already been mentioned. If needed, I'll provide that analysis in written form. I think a better course of action would be for the council to revive and update RES-08-016, which was introduced in 2008 in an attempt to ensure a fair and transparent process for the selection of professional services, but was never passed. The new policies establish such a process, but a resolution of that sort would emphasize the council oversight power. Thank you very much.

Chairmember Street said just for the record, Mayor Perrin requested that that project be pulled from Pickering. We didn't do that on our own. Mayor Perrin requested it and we did it. It's amazing, and you know this Mayor Perrin, that with just a phone call they dropped that price by \$50,000. So, that tells me there wasn't a lot of thought gone into it. Respectfully, I disagree with Mr. Ockert. This could be modified to some extent, but I still think the best process, and it is not the hijacking of anybody's powers, but we just take the companies who have already submitted their statement of qualifications and professional service providers and put their request for proposal in. We simply look at them based on these criteria with the help of the Mr. Light and city staff. It's not just us. It's all your staff right here, too. It's our experts. Based on that, we rank them and we turn it over to you. It's totally up to you to negotiate with them. Mayor Perrin, you were on council whenever we were doing the stormwater drainage and it worked very well. It was a good check and balance of power. It was no one person issuing out contracts. It was open. The public could come and attend and have input on the selection process. I feel like that would be a good and fair way to distribute those contracts.

Mayor Perrin said you mentioned when we made that phone call. I asked for Pickering to be tabled until we got this completed, and I thought it was only fair because they were in the pipeline, but they hadn't got either way. The second thing, on that phone call, after digging into it more and reading the contract is that when they dropped \$50,000, they also pulled stuff out of that contract. So, it was not apples to apples. It was apples to oranges. That's the thing you're going to have to be very careful with. I went out and met with Mr. Cameron for a long time and discovered how to read those things, particularly on the percentages. You have to be careful with those percentages. It depends on where the most cost is in the project, such as is it in the surveying, or this or that. So, you have to be really careful when looking at those.

Engineering Director Craig Light said Mayor Perrin made one of the comments I wanted to make. The change in price in the Pickering contract was because we reduced the services they were providing to us. That's the reason \$50,000 was cut out of the contract. We were taking things out of the contract. One of my major concerns with this proposed ordinance is Section 8. In Section 8, you are requesting proposals freely from any firm that wants to submit. In the current policy, we shortlist based on letters of interest and we only solicit proposals from the top three firms. When a firm begins to prepare a proposal, they'll put in 40 plus hours to prepare a proposal. We don't need 15 of those to make a decision. All we need is a letter of interest and SOQs. We shortlist from there and then request proposals from the top three. Concerning projects that are less than \$20,000, we have a lot of projects that are \$600. Does council really want us to bring three firms up here and ask your blessings on who to give a \$600 contract to? Chairmember Street said no. Mr. Light said that's what this ordinance would do. Chairmember Street said we just talked about that and modified that. Mr.

Light said this ordinance would still require us to bring a list of three for a \$600 surveying contract to you to select when we need the survey done, for instance, this week and we're going to have to wait a month to get a simple boundary survey done for a small project. This ordinance really slows us down on being able to provide our services to the city. That's the only comments I have. Chairmember Street said I agree with you on that, but it's not chiseled in stone. It's subject to things you can change. Mr. Light said but this ordinance becomes law. Chairmember Street said it can be amended prior to its passage. Mr. Light said it needs a lot of amendments in my opinion.

Mayor Perrin said I don't think it's the desire of this committee to bring this on and get three readings. We're going to have to look at this. Chairmember Street said I would request three readings. Mayor Perrin said I think we need to get more input. Chairmember Street said and there can be some changes. Councilmember Vance said I hate to use the word, but can we just table this for 30 days and ask the administration to make the changes that we've talked about. Maybe it needs to be a window such as from \$5,000 to \$20,000 and then \$20,000 and above, but make the recommendations back to us and bring an amended ordinance back to us for us to look at during the next meeting, which is four weeks away. Chairmember Street said I don't have a problem with that at all, and we can amend some of the amounts, like the \$20,000 and under. That would probably be extremely time consuming and not necessary. There are a lot of surveys and things you need to do on a timely basis to get things done so we don't want to hamper anything. We can modify some of that, but the biggest thing is bringing people in for major projects, interviewing them, ranking them and then turning it over to Mayor Perrin and his staff to negotiate the contract. Councilmember Vance said that's the other point I wanted to make is that we wouldn't be reading the contract to find the hidden costs. It would be the responsibility of Mayor Perrin and Mr. Light to analyze the contract. We would just be basing it on what was presented to us. Chairmember Street said and this committee would be relying highly on their expertise anyway on those. In fact, they're going to check them for accuracy and all that, but I would assume that one of those proposals would never get to us if it wasn't qualified. Councilmember Vance made the motion to postpone temporarily for 30 days. City Clerk Donna Jackson said you mean to postpone temporarily until the next Public Works Committee meeting, which is November 6. Chairmember Street said yes.

Councilmember Chris Moore said I'm getting ready to second Councilmember Vance's motion, but I want a little clarification. The changes will come back to this committee and we will iron out the changes in this committee before it ever goes to full council. Is that right? Mayor Perrin said that is correct. Councilmember Vance said what I would envision is that it would be the completed ordinance and not an ordinance that we would be amending. City Attorney Carol Duncan said I know I probably saw this way back months ago when it was first submitted and went out in an e-mail, but this didn't go through the Legistar process where it comes to me and I review it and then it goes to Mayor Perrin and he reviews it. This just ended up on this agenda. One recommendation I am obviously going to make is that the emergency clause be removed from it. Councilmember Moore said well, sure. Ms. Duncan said there are amendments to it that need to happen. Councilmember Moore said I'm going to second the motion to postpone until the next meeting without prejudice. Whatever changes are prudent, I want them ironed out in this committee. I don't want to get on the full council floor debating technicalities of engineering when we have a full agenda and we don't have appropriate time to address each one. I want to address them right here in this committee. Chairmember Street said I agree with that. Councilmember Moore said I second Councilmember Vance's motion to postpone temporarily until the

next Public Works Committee meeting on November 6.

Councilmember Dr. Coleman said my question is when Mr. Ockert brought the information about Mr. Cameron, why couldn't those individuals be part of this reconciliation on this project to get their input. Chairmember Street said Mr. Zolper represents him, but I have been contacted by Mr. Carlos Wood and others with the same concerns. So, I think everybody is pretty much on board with what we need to do.

A motion was made by Councilperson Gene Vance, seconded by Councilperson Chris Moore, that this matter be Postponed Temporarily. The motion PASSED with the following vote.

Aye: 7 - Gene Vance; Mitch Johnson; John Street; Chris Moore; Charles Coleman; LJ Bryant and Ann Williams

5. Pending Items

6. Other Business

7. Public Comments

8. Adjournment

A motion was made by Councilperson LJ Bryant, seconded by Councilperson Mitch Johnson, that this meeting be Adjourned . The motion PASSED with the following vote.

Aye: 7 - Gene Vance; Mitch Johnson; John Street; Chris Moore; Charles Coleman; LJ Bryant and Ann Williams