



Legislation Text

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## **Bernie Auld Billing Review** **April 19, 2007**

Mr. Bernie Auld submitted five bills for professional services to the the Public Works Committee on April 3, 2007. The five bills are as follows:

- 1.) Engineering Services “ Earl Bell Center” Hot Spot Review for \$12,319.32
- 2.) Engineering Services “ Little Bay, Maple Slough, Gum Slough and Butler Ditch Fema Submittal for \$29,896.48
- 3.) Engineering Services “ Hot Spots” Review for \$27,064.32
- 4.) Engineering Services “ 611 Nettleton Hydrological Evaluation” for \$8,030.00
- 5.) Engineering Services “ Valley Owens Hydrological Evaluation” for \$7,355.00

The Public Works committee requested the Internal Auditor to review the billings. The bills indicated work for the city and for Carter Burgess.

### **Item Number 1**

The Public Works Committee requested Mr. Auld to review item number 1 at the November 9, 2006 meeting. The area covers the drainage concerns on Oak and Cherry Streets. Mr. Auld was requested to have his analysis completed for the December 2006 regular meeting of the Public Works Committee. Mr. Auld provided the committee with drainage analysis of the property on December 5, 2006.

Item number 1 referenced above does not have a formal contract and precedent has been set that payment is withheld due to lack of formal contract. The Public Works Committee must ensure that the services and written reports were delivered and usable by city staff. However, the decision for payment rests with the Public Works Committee.

### **Item Number 2**

The City of Jonesboro entered into a contract per Resolution 2006:95 dated July 26, 2006 with Mr. Auld for hydrologic comparison studies between the Corp of Engineers and Carter Burgess. The contract outlines the work to be performed. Mayor Forman signed the contract sometime the week after the 7/26/06 City Council Meeting. However Mr. Auld did not sign the contract. Mr. Auld came by City Hall on Wednesday April 4, 2007 to sign the contract, after the 04/03/2007 Public Works Committee meeting requesting the billing review. The copy of the contract in possession of City Clerk Donna Jackson as of February 12, 2007 the date of the billings was **NOT** signed by Mr. Auld. I consulted with City Attorney Philip Crego, he stated the contract

would not be valid given the counterparty, Mr. Auld, had not signed the contract.

Again precedent has been set of nonpayment for no/invalid contract by the city. However, Mr. Auld submitted the work requested. His date of submittal to FEMA was September 15, 2006. However, the National Flood Insurance Program (NFIP) responded to Mr. Auld in a letter dated November 8, 2006 requesting additional information required to support the Letter of Map Revision (LOMR) he submitted on 9/15/06. The summary contained 8 items. FEMA gave Mr. Auld 90 days to complete the work. The deadline was February 7, 2007 and was not met per the response from Ms. Linda Delamare. The letter she addressed to Mayor Formon dated March 27, 2007, advises that “unless measures are taken to resolve your outstanding violation at Butler Creek, the city could face serious NFIP consequences.”

Given the current violation problem and the unsigned contract, the Public Works Committee has grounds for not paying the billing. Additionally Interim Floodplain Administrator Hooten informed me that since the failure to meet the 2/7/07 deadline for supporting information was not met it would cost the City an additional \$4,400.00 to resubmit the Butler Ditch information to FEMA. This amount should be deducted from this billing if the Public Works Committee decides to pay for the services.

Given the work has been completed and awaiting final approval by FEMA, the Committee could choose to honor the intent of the contract and authorize payment minus the \$4,400 resubmission fee. Except payment should be withheld until the City Staff receives a formal written response from FEMA stating the Butler Ditch violation has been cleared up.

### **Item Number 3**

In my review of numerous Public Works Committee meetings, I found no formal authorization for a broad brush review of city wide “ Hot Spots” by Mr. Auld. His services are requested for varied and many projects, hydrological review of drainage basins, reviews of specified properties such as 611 Nettleton and Valley Owens and work on FEMA submittal for Butler Ditch. But, I never found a request for a review of all formal city hotspots.

Item number 3 referenced above does not have a formal contract and precedent has been set that payment is withheld due to lack of formal contract. If the Public Works committee chooses to authorize payment it should request of detailed listing of Hot Spots reviewed and copies of the work performed . Also request review from city staff that the services were delivered and were usable. Still the decision for payment rests with the Public Works Committee.

### **Items Number 4 and 5**

Items number 4 and 5 referenced above should not be paid by the city. Carter Burgess submitted billings on September 19, 2006 for \$8,030.00 and \$7,355.00, respectively. Billings were approved by Tony Thomas and paid on November 27, 2006. The invoice number was 2694652, Check number 36441 paid to Carter Burgess, referencing 611 Nettleton and Valley Owens Hydrological Evaluations. Therefore payment for these services

are between Mr. Auld and Carter Burgess.