

**COUNCIL AS A WHOLE COMMITTEE MEETING
MINUTES
TUESDAY
DECEMBER 1, 2009**

Council President Mr. Elshaw opened the meeting at 7:00 p.m. Members of Council in attendance were Mr. Knuchel, Mr. Morley, Ms. Vaughn, Mr. D'Ambrosio and Council President Mr. Elshaw. Mr. Lajeunesse and Mr. Matheke were absent and excused. Also attending was Council Clerk Mrs. Cendroski.

Attending from the Administration were Mayor Andrzejewski, Finance Director Mr. Condron, Law Director Mr. Klammer, City Engineer Mr. Gwydir and Service Director Mr. Semik.

LEGISLATION PROPOSED:

There was no Legislation Proposed.

LEGISLATION PENDING: (Placed on First Reading 11/24/09)

11-24-(09): Conditional Use Permit: Castle Café: 33419 Vine Street, Unit E, Eastlake:

Mr. Elshaw: The first item on the agenda is Legislation No. 11-24-(09) a Conditional Use Permit for Castle Café at 33419 Vine Street, Unit E, Eastlake which was placed on First Reading at our last Regular Council Meeting on November 24, 2009. There was some discussion in the Planning Committee Meeting and there was further discussion during the Council-as-a-Whole Committee Meeting.

Mr. D'Ambrosio: We decided to place this item on First Reading after discussion in the Council-as-a-Whole Committee Meeting held November 24, 2009. Police Chief Ruth had some concerns and he was going to talk to the 3rd shift commander as far as some activities that have been going on at the Castle Café which have been questionable. He provided a memo to me today before the meeting and there are probably around six or seven pages so I haven't had time to look at it. I did pass copies of the memo to the rest of Council to take a look at. I gave the Mayor and the Law Director a copy of the memo also. I know we don't have enough Council members to vote on anything today, so I think we need to review this because it is something to be considered when we decide what we are going to do with this so we will be putting it on Second Reading.

Mr. Elshaw: I'm referring to your e-mail Mr. Klammer – you talked about bringing your own alcoholic beverages and that there is a Willoughby restaurant which does participate...

Mr. Klammer: That was the restaurant that I originally referenced. In my research they talked about (*inaudible*). If it is a party for invited guests only they can BYOB – it is not a violation. The restaurant cannot sell alcohol when it is BYOB. The restaurant is closed to the public and is open to invited guests only if it is a party and rented out. It can be done and it seems as though the police are having some issues and I think some of those issues were raised by Ms. Vaughn in the past. The Public Hearing expressed that to some certainty it is a unique situation that needs to be addressed.

Mr. Elshaw: So is one of the conditions then that it can't be open to the public and it has to be a private event?

Mr. Klammer: Yes, but it is covered in the sense that they have to adhere to the liquor laws.

Mr. Elshaw: I'll have to give this additional thought on this item. But at this point that is the first item that comes to my mind.

Mr. Klammer: *(Mr. Klammer's comment was inaudible)*

Mr. Knuchel: Would having these parties constitute the establishment being a party center? If that was the case there falls a whole lot of others rules and restrictions about parking and other things. Do we want to create another situation like we had down the street – the High Point? Is that appropriately zoned for that type of a business?

Mr. Klammer: I don't know that part – we look at it as a party center. We looked at it as a coffee shop. *(Mr. Klammer's comment was inaudible.)*

Mr. D'Ambrosio: Also, when you take a look at the memo that was provided you can see the attached police reports of some of the happenings that went on over there.

Mr. Elshaw: We are not going to go anywhere this evening with this so we will give it some additional consideration.

Mr. Klammer: You might want to send your comments over to CBO Mr. Stigalt.

Mr. Morley: Can we force them to have a liquor license if they want to do these types of things?

Mr. Klammer: *(Mr. Klammer's comment was inaudible.)*

Mr. Morley: One of the stipulations in the CUP before they do this is that they go and apply for a liquor license to sell liquor. I understand what they are doing...

Mr. Klammer: They are not selling liquor so in this case a liquor license would not apply because they are not selling it.

Mr. Morley: I thought that at one of the Planning Committee Meeting's when the owner stopped in he stated that he was trying to apply for a liquor license. Was it denied once?

Mr. Klammer: I don't know the whole story. *(Mr. Klammer's comments were inaudible.)*

Mr. Elshaw: That is a good point though Mr. Morley because I'm a bit uncomfortable with this CUP without a liquor license but I will give it some further thought.

Mr. Klammer: *(Mr. Klammer's comment was inaudible.)*

Mr. Elshaw: Are there any further comments or questions?

There were no further comments or questions.

Upon review by the committee, there were no objections to place Legislation No. 11-24-(09) on the agenda to be placed on Second Reading at the evening's regular Council Meeting.

Special Comment:

Mr. Elshaw: We have a couple of items due to the timing of on these items were entered into Council-as-a-Whole Committee Meeting under Miscellaneous. If any of these are in need of further discussion that will be open tonight beyond the Council-as-a-Whole Meeting if you would like to discuss in Committee, but at this point let's go through these.

MISCELLANEOUS:

Bid Award Recommendation: JFK Senior Center Bus Garage: Casa Bella Construction:

Mr. Elshaw: The next item on the agenda is a Bid Award Recommendation for the JFK Senior Center Bus Garage. The contractor is Casa Bella Construction for \$26,164. This went through the Recreation Committee Meeting and went out for bid. This is the results of the bid process. Mr. Knuchel would you make the Motion to add this item to this evening's agenda?

Mr. Knuchel: I will do that.

Mr. Elshaw: Are there any comments or questions?

There were no comments or questions.

Upon review by the committee, there were no objections for Mr. Knuchel to make a Motion to add Legislation No. 12-01-(01) to the agenda to be placed on First Reading at the evening's regular Council Meeting.

Bid Reject and Rebid: Houston Fisher Pool:

Mr. Elshaw: The next item on the agenda is the Bid Reject and Rebid for the Houston Fisher Pool. We will begin with the Administration for discussion on this item.

Mayor Andrzejewski: As I have stated before and I'll restate it - what we would like to do is not change the bid specs but just go out and put the higher amount up there and get this thing bid so we can get working on it. The time as you know is going to be up for this so we want to go out and award this bid we can open it next year. Again, there are no changes in the bid specs - the thing that we are going to do is increase the dollar amount so that it can do two things - that is get more bidders and secondly this time the low bidder is awarded the bid so we can start working on this thing. All aspects of the bid - electrical, plumbing and the pool itself - we are

not accepting any of the previous bids. So we would like to reject all bids and go ahead and get this thing bid out.

Mr. Elshaw: Are there any comments or questions?

Mr. Morley: Regarding the 10% - if we were to rebid this again and it comes within the \$500,000 and 10% do we still have to accept the bid?

Mr. Klammer: You can reject it.

Mr. Elshaw: It would still come to Council for acceptance or rejection?

Mayor Andrzejewski: What we are hoping for is a bid around \$500,000 but keep in mind it could come in at \$520,000 or \$530,000 which is where you have the 10%. We fully expect it to be somewhere between \$500,000 to \$540,000. We are hoping that by putting the higher dollar amount in there the bidders can now see it is a viable project that they can bid on so hopefully we will get more than one bidder.

Mr. Morley: Is there a way that we can possibly get bids from pool companies? Because with all these bids we have not had any companies that just builds pools.

Mayor Andrzejewski: I know Mr. Gwydir and I have talked about this too. I know he will call several more plumbers. We put it on Cleveland Builders Exchange. Cleveland Builders Exchange goes to everybody out there who wants to bid on specific government jobs. I think what was holding it back from bidders was that they came in and took a look at it and said that there were too many variables and we can't afford to lose money on this. So by having this higher dollar amount we should attract some more bidders.

Mr. Knuchel: I'm just not understanding how having a higher bidding amount is going to make bids come in lower. Am I missing something?

Mayor Andrzejewski: Not lower. They should come in at \$500,000 or more but we had it at \$375,000. So at \$375,000 we had inquiries and we had people picking up bid specs and they were saying forget it we can't recover our costs.

Mr. Knuchel: I understand what you're talking about now. I didn't realize the amount was that low.

Mr. Gwydir: Mr. Knuchel typically the bidder gets the impression that a bid is going to be over the 10% before the range. *(Mr. Gwydir's comment was inaudible.)*

Mr. Knuchel: That makes sense – thank you.

Ms. Vaughn: As you know the pool is in my ward, therefore, I support the pool 100%. I am asking the Administration do we know if we have the \$500,000?

Mayor Andrzejewski: Mr. Condrón is prepared to answer that question.

Mr. Condrón: In my memo to Council the original cost of the pool was to be \$375,000. With the State's money, the inheritance tax and if the \$300,000 is approved that will give us enough money.

Ms. Vaughn: I guess my deep concerns are the stadium issues and I anticipate the money not being there.

Mayor Andrzejewski: The money is there.

Mr. Knuchel: Ms. Vaughn, we will be having a budget meeting and we will be talking about re-appropriations and that will be brought up at that time because the transfer of the cash is part of the whole re-appropriations process.

Mayor Andrzejewski: It's not going to be like the stadium where we build it and then you have to fund it. We will have the money appropriated and ready to go.

Ms. Vaughn: If there is change orders or a mishap or something undiscovered in the building process is there extra surplus cash to cover it?

Mayor Andrzejewski: We are going to allocate inheritance money continually. So if we get more inheritance money this year or next year than you'll have that. I don't anticipate change orders because this is going to be a pretty thorough bid.

Ms. Vaughn: I just want to make sure because I want to protect the City financially but I want the pool.

Mayor Andrzejewski: Mr. Condrón and I have spent hours on this putting it together to make sure we have funds there. Again, remember, and I don't want to be redundant, but we have all agreed that any inheritance tax which could be a \$1 this year and \$200,000 next year - that we're going to put that for use for the residents recreation type services.

Mr. Knuchel: I think you have a different recollection than I do. My recollection was that at the end of the year that we would sit down and see whether we were in the position to put that inheritance money into a recreation fund and at that time we would see how we were doing.

Mayor Andrzejewski: Is that year-to-year?

Mr. Knuchel: That would be year-to-year.

Mayor Andrzejewski: That's fine.

Mr. Knuchel: Because we don't want to put ourselves in the position where we are taking money from one thing and putting it into another thing when we need new police officer or a new whatever. These are bad examples but you can understand what my point is.

Mayor Andrzejewski: It would be a fixed commodity let's put it that way - something that would be for the benefit for the people of Eastlake. That would not be a continuing expense.

Mr. D'Ambrosio: Mr. Gwydir our original estimate was around \$375,000. As the Mayor stated we didn't adjust the bid specs at all. How do we go from \$375,000 to \$500,000?

Mayor Andrzejewski: I think that's the feedback you were getting from the potential bidders and the one bidder - that's what they said would cost them to do the work. Mr. Gwydir, you answer it but that's what I understood.

Mr. D'Ambrosio the first time we went out for bids we just sent it out and said here look at it and bid on it. We have fine tuned the bid specs a little bit for the bidders because the price was too low. So then now with this new dollar amount we feel that was from the feedback of the potential bidders that this would be more involved.

Mr. D'Ambrosio: Mr. Gwydir.

Mr. Gwydir: First of all I agree with the Mayor's statements. As you understood we are coming into this from a design and build perspective. It starts with the contractor who wins the potential bid as opposed to a program where we know every foot, curve and every square yard. This is a little bit different where you specify all the required material, all the required work but it is the risk of the contractor putting it all together to get the required permits and even to do bid engineering - we did not have to do from this approach. Based on prices that we actually were quoted Mr. Semik and I spent a considerable amount of time at the beginning of the year getting quotes from reports but when we do the bids they reflect the fact that we had risks that quite frankly they didn't factor those numbers in. We're getting a high number even when we redid the bids specs. We brought one price down about \$40,000 but not down to where we needed to. We spoke with Chuck Whitmer on the pool pricing and a couple of suppliers who expressed concern about the timing of the stainless steel gutter and the timing of the job and the labor and the remittance of damages and so on and so forth. Those prices are factored in. Those concerns are factored into that price. So that's what we are seeing - we're not saying despite our best efforts to try to get a price or bid come in had our amount or amount we thought we didn't include that uncertainty we left that to the bidders. It reflected that. So in order to move forward or at least to get additional bids quite correctly we adjusted that into the realm of where we were bidding. Now all along through this the electrical has come in pretty much right on the money as it was quoted - the plumbing is a little high. But they're concerned about the number of items they may have to do which would force their price up so they may be a little higher than anticipated. That's precisely what's happening.

Mr. D'Ambrosio: I guess if more engineering would have been done then the uncertainties would have declined and then it would have balanced the other the other way.

Mr. Gwydir: Not necessarily, theoretically, we had discussions about this in the past in Committee where in engineering this type of prep work could run \$100,000. We are trying to get the bidders and the suppliers to do some of that, theoretically, the price would come down so it would be tic-for-tack. I can do that much engineering and maybe I could lower the price. It could be in the \$400,000's – it is not necessarily an even trade back. The Mayor is pushing as hard as he can on us to produce these bid specs at the least possible cost to the City so any leftover can be placed towards the pool. That's the way it is still going but despite our efforts to get the price down we can't take the uncertainty out there.

Mr. Elshaw: Mr. Gwydir the difference between the \$531,000 and the \$375,000 is what then? Is it the uncertainty? I'm not sure I understand what the difference is?

Mr. Gwydir: It's more of a breakdown – if you look at the pool for congregate for \$400,000. The original estimate was \$270,000 and that is the bulk of the difference which is \$130,000. We can account directly for around \$30,000 for suppliers. The other \$100,000 is their uncertainty in the work. The electrical is a non-issue that we know exactly as anticipated - I moved the price up \$100,000 just so we could possibly increase the pool's bidders (*Mr. Gwydir's comment was inaudible*). The plumbing's contracts sleeve you had \$78,000 - last time around you had \$55,000. When you quoted prices you pulled in a price of \$48,000 with the additional quotes to us when Mr. Semik and I were working back in January. I raised the plumbing to \$78,000 to try to get a couple of plumbing bids to come in close.

Mr. Elshaw: So the plumbing we're off by \$23,000, the pool maybe about \$130,000 than the original estimate. What was the difference in that?

Mr. Gwydir: Between the \$270,000 and \$400,000 according to Whitmer the suppliers, especially with the gutters and the liner, were concerned about the time frame to do the work. There was a price increase and, quite frankly, neither he nor I could get it to go over the \$400,000 figure. To try to give you the complete answer would be to guess the liner figure.

Mr. Morley: Was one of the issues when they started pulling that pool out and they dug underneath it and they saw things that they did not guess would be there - is that where the main problem comes? Say it costs \$50,000 or \$60,000 to go under to dig and they got under there and there were more problems and it ended up costing them \$100,000. Is that the extra money that they are looking at?

Mr. Gwydir: I don't believe so – it is wrapped up in the engineering and piping that they will find and the depths they have to dig. They would find something under the boards and the pool that they would encounter. The problems will have to be addressed when they are encountered.

Mr. Klammer: There is a risk that there are additional costs in a bid.

Mr. Morley: I understand that.

Mayor Andrzejewski: I think the best scenario or description would be when you draw up the bid to tell the bidder that you want this amount of concrete, this amount of base. You can tell them pretty specific things and they know what their bids are. Here there are a lot of unknowns and Mr. Morley caught a few of those unknowns and Mr. Gwydir caught a few of those unknowns. When I talk about it the bidders were saying that when they start digging into it they don't know what they are going to find because it is a 40 year old pool. But, again, we want to look at the end product. When we are done with this we are going to have a completely remodeled pool that's going give us a minimum of 10 probably 15 years of life. If you divide that cost of \$540,000 or whatever it comes in at by 15 years you get a very good cost per year to give the kids, teenagers and adults a place to swim this summer.

Mr. Knuchel: I think everybody here on Council wants this pool. Our concern, again, is the cost involved and when we looked at this it has been a long process we've gone through and the Mayor has gone through going out and getting \$150,000 from our State reps. We said that we would pledge this much money toward this from our budget 2009 and that didn't come about. Our concerns are we don't want this to just keep on mounting and mounting and mounting. We went form a Whitmer study that said somewhere around \$375,000 at the highest to now upwards of \$400,000 maybe \$500,000. We just want to be sure that we are doing our due diligence and looking out for the residents of our City as well as providing them with a service that they can enjoy.

Mayor Andrzejewski: I can understand it. I think that we are pretty comfortable at this new price.

Mr. D'Ambrosio: You said the pool should last 10 to 15 years. I thought it was 15 to 20 years.

Mayor Andrzejewski: I've always said 10 to 15 years. Now that doesn't mean in 15 years we are going to shut it down. If this time we maintain it every year - due preventative maintenance and close it up properly we will get more years out of it.

Mr. Knuchel: You and Mr. Semik had gone out for another grant to provide some money for the pool - what's the status on that?

Mr. Semik: The grant was turned down – we were competing with 43 others who were turned down. We went ahead and resubmitted for the upcoming 2010. So it is already in and, again, it has been resubmitted. There were a lot of people that applied for the grant but with the economy it was hard to get.

Mr. Knuchel: What is the time frame in 2010?

Mr. Semik: April.

Mayor Andrzejewski: I don't want to give any false hope. Obviously, we are going to continue to try to get money but the reality is that it is going to come out of our budget. I don't want to sit here and say that we are going to get grants for all this money because that's not what it is going to be.

Mr. Knuchel: Nobody is asking for promises. What I was referring to is I want to know the complete picture before I would be voting on anything. We had discussed that previously in another meeting and I just wanted an update from Mr. Semik.

Mr. Elshaw: Are there any further comments or questions?

There were no further questions or comments.

Mr. Elshaw: If it is desired that this be placed on First Reading, I will need someone to make that motion.

Ms. Vaughn: I will make the motion.

Mayor Andrzejewski: Is there not enough to pass it tonight?

Mr. Elshaw: No. We're missing two councilmen and you can't waive the readings.

Upon review by the committee, there were no objections for Ms. Vaughn to make a Motion to add Legislation No. 12-01-(02) to the agenda to be placed on First Reading at the evening's regular Council Meeting.

Fee Waiver Request: Taft Senior Center Multi-purpose Room: 12/11/09:

Mr. Elshaw: The last item on the agenda is the Fee Waiver Request for the Taft Senior Center Multi-purpose room for 12/11/09. This item came over from the Taft Senior Center Coordinator Mr. Doberdruk for use of the Taft Senior Center Multi-purpose Room by Becky White on Friday, December 11, 2009 for a fundraiser for the Senior Levy Campaigns.

Mr. Elshaw: Are there any comments or questions?

Mr. Morley: We can't pass it can we?

Ms. Vaughn: We can pass it with a Motion.

Mr. Elshaw: For a fee waiver we can pass it with a Motion. The other ones are the actual bid and re-bid.

Upon review by the committee, there were no objections for Ms. Vaughn to make a Motion to approve the fee waiver request from Taft Senior Center Coordinator Mr. Doberdruk for use of the Taft Senior Center Multi-purpose Room by Becky White on Friday, December 11, 2009 for a fundraiser for the Senior Levy Campaigns.

There were no further comments or questions.

ADJOURNMENT

The Council-as-a-Whole Committee Meeting was adjourned at approximately 7:32 p.m.

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