



CITY COUNCIL SPECIAL SESSION
Friday, August 6, 2021 – 12:00 PM
ZOOM Meeting

1. **CALL TO ORDER** – Mayor Trett called meeting to order at 12:03pm on Friday, August 6, 2021, via ZOOM.
2. **CITY COUNCIL ROLL CALL** – Mayor Trett, Councilor Sheppard, Councilor Michelle Tesdal, Councilor Page, Councilor Smith, and Councilor Engle.
Staff present – Kelly Galbraith
3. **CORRECTION TO THE AGENDA** – Correction to the agenda is that this is Friday, August 6th, not Wednesday. (Nothing was stated regarding approval of the agenda)
4. **ANNOUNCEMENTS** – Items not on the agenda but relevant to City business may be discussed by the Council at this meeting. Citizens are encouraged to attend all meetings of the City Council to ensure that they remain informed. Agenda items may be moved back if a Public Hearing is scheduled.
5. **UNFINISHED BUSINESS** – Detroit Service Replacement and Agreement, Staff Contact: Chris Eppley.

Marion County Community Development Manager Chris Eppley read the staff report verbatim.

Mr. Eppley then reported since the writing of this report, he has a second alternative for the council to direct staff to send out a notification to all who quoted and provide additional time to modify their quotes, return, and then council will have an opportunity to look at the new remodified quotes based on all information provided in the clarification as early as Monday, August 16th, to determine if the project should be reissued.

Mr. Eppley presented Mike Henry, President of HBH Engineering. Mr. Henry said it has been stated that he has a personal relationship with the Danielson's. He described when he first met Don and Dave Danielson in St. Helens on a 650-lot subdivision they were doing, they had the first three phases complete, the engineer was fired, and HBH was hired to complete the project. Mr. Henry said he worked with Don four to five years on the project and has done three other projects with Mr. Danielson, considers him a friend and stated his relationship with Don has been related to business. He stated he did not give any information and did not know the project was being bid until he received a call from Kenny wanting to know where their

bid was and he said he did not know and suggested that Kenny call Danielson's or R&G and ask, which Kenny did. Mr. Henry said his relationship is professional. He does not know Don's brother, Dave. There has been four or five projects Don has done for Mr. Henry. He referred when he gave a dissertation on where the project stood, and that the Danielson's asked him to come to their trailer for beer after the meeting; he went over and refused beer and asked for water. He asked if there are any questions from the council. No questions. Mr. Eppley gave two options to Mayor Trett to determine if the process was valid or not. Mayor Trett asked if there is a motion to reconsider. Councilor Engle motioned to reconsider the vote on the quotes for the lateral line installation. Councilor Smith seconded. Discussion: Councilor Smith added that he found the quote from Danielson Construction or Contractors is invalid. According to the HBH forum of quotes submission on number two, it says a work plan accompanying time schedule for availability to complete services described under the above tasks as applicable and Mr. Danielson's Construction or Contractors did not put it in the bid. All the other quotes had it and Councilor Engle fears that it would open a lawsuit with the other companies as preferential. He said he feels because of that, this questionnaire should be thrown out as invalid. Councilor Sheppard stated he does not understand why we are considering a revote, they bid \$71,000, and does not know why we would want to spend more than twice that amount, and that travel considerations regarding commuting, and the need for living accommodations would need to be considered. Councilor Page noted that the short window of time which we received these materials and putting the brunt of this decision on council without council being given all the information and plenty of time to analyze the information is unfair. He said when this was voted on last week that we had none of this information, and from his review of the materials, there was information related to the sleeving and other items in the bid that should have been made clear. Councilor Sheppard said he believes we should have a city attorney present and he said he does not think it is legal to manipulate the outcome of the federal contract. He said he believes there is a stigma on the Danielson name. Mr. Eppley addressed Councilor Sheppard's concern and stated that if this was a formal sealed bid process, he would agree, but since it is a quote process, councilors have a lot more flexibility whether the quotes are accepted or rejected. Mr. Eppley does not believe we need to have an attorney present unless it was a formal bid process. Councilor Page asked council if we had this information clearer a week ago, and a spread of the quotes being as wide as it is, there would have been extreme question about that. He said that it is industry standard to throw out a bid that is as low as in comparison to the rest of them. Had this information been provided, he thinks council would still be sorting through it and as to what is making sense. He said this is what we are appointed to do and to not make haphazard decisions. Councilor Engle said she is also considering all these factors and that it is a FEMA project, the lateral lines conversation has been going on for weeks and is a FEMA-funded project. She said it is our responsibility as stewards and elected officials to represent the citizens of Detroit, it is our responsibility to be fiscally responsible with any monies we are given charge of, but this will not cost the city any money, and these are tax dollars that all of us have paid into federal government that the federal government is distributing back to us to spend appropriately and responsibly. Due to the fact there was missing information, she said she feels she decided based on nothing and that is why she requested to reconsider her vote because she now has information she did not have and feels she is more an informed elected official making decisions going forward. Mr. Eppley said there is an element the city may be obligated for since the local match to a FEMA project is 25 percent currently; the state may be able to lower that

to a 10 percent match, it is not free to the city and there is a potential that the city may own part of this. Mr. Henry said that if the council wants to rebid the project, that is the council's decision. He said he had 7 projects he worked on with FEMA and said that with the bid council has now, if council rebids the project, if the bid comes in less, FEMA will pay 75 percent; if the bid comes in more, FEMA will pay 75 percent of the bid we have today. The city will likely have to pay the difference. He said probably all the contractors will cut their bids and the Danielson's will probably raise their bid. The estimate from HBH was \$66,000. Councilor Page stated that council has been put into an ugly situation to make this decision after the information has come out. He reminded council that the last low bidder council took on, on a city water project, cost a lot of money and additional administrative time, and it was nothing short of a nightmare. Mr. Eppley addressed Mr. Henry's comment regarding FEMA and how they fund projects, Mr. Eppley does not know if he agrees with him, and we have a legitimately modified quote process if (council) uses the process he outlines to reconsider the quotes. Mr. Kenneth "Kenny" Cannady-Shultz (with HBH Consulting) stated we have been including information regarding the lateral service line replacement project in reports to council for the last three months, the RFQ (Request for Quote) was put out in the beginning of July to council, the results were included in the report to council, and we have been providing reports council and Chris along the way. Councilor Smith stated that the quote should be invalid. Mayor Trett said his main concern is that HBH thinks it should cost \$66,000 or \$70,000 and the other quotes are way over it. Mr. Henry stated it is based on the last bids. Councilor Sheppard readdressed that the other contracts are in the valley and that (distance expenses) add up. He asked for any further discussion on reconsidering. None stated. Motion passed 5 to 1, Council Sheppard voting no, per Mayor Trett. Mr. Eppley provided two primary options. The first one is to reject all quotes outright and direct staff to prepare a formal sealed bid process, due to the state limit to use quotes versus bids, is \$150,000. Since the other three quotes are over that amount, it should be a state sealed process if council decides. The alternative would be to direct HBH to prepare a clarification and send it to all of the submitted quoters, and that information include supplemental information provided by HBH Engineering regarding sleeving, and information that council will require including a liquidated damage clause of \$500 per day, a performance clause, provide them until next Wednesday (August 11th) to update the quotes, and for the following Monday (August 16th) to put the quotes in front of council. Per Mr. Eppley, scrap it all and start with a sealed bid or reclarify this quote process and give everyone an opportunity to modify their quotes. Reclarification was discussed regarding change of liquidated damages of \$100 to \$500. Councilor Smith would like to add a maintenance bond to guarantee quality workmanship. Mr. Eppley confirmed we can. Councilor Page suggested we let the timeline roll out until Friday, August 13th, instead of Wednesday, August 11th, to provide reasonable information. Mr. Eppley prefers to provide council time to review the information, so the meeting is on Friday. Councilor Engle made a motion to direct HBH to prepare a clarification and send a remodified quote to council with supplemental information regarding sleeving, damages, the maintenance bond, performance bond of \$500, due by 12:00noon on Friday, August 13, 2021, so city council may review and consider revised quotes on Wednesday, August 18, 2021. No further discussion.

Motion passed six to zero with one absent. Closing comment by Councilor Page: none of this is easy, we are councilors and we signed up to do it. He said he believes this is the correct process for council to go through and deliver to the people who put

us in office. Mayor Trett said we will try for an evening meeting. Mr. Eppley said this is council's decision and if council believes it is the right choice, it is the right choice, and staff will support council. No further comments.

6. ADJOURN

Mayor Trett adjourned meeting at 12:50pm.

Signed:

James R. Trett, Mayor

Attest:

Kelly Galbraith, City Recorder

Meeting minutes transcribed by Janet Toman, contractor with the Mid-Willamette Valley Council of Governments, on August 16, 2021.