

**PINELLAS PARK WATER MANAGEMENT DISTRICT (PPWMD)
6460 35TH STREET N.
PINELLAS PARK, FL 33781-6221
(727) 528-8022**

**May 21, 2020
Regular Authority Meeting #4**

MINUTES

IN ATTENDANCE

Jennifer Cowan, District Attorney
Lisa Atkinson, PPWMD
Brad Williamson, Kiewit Construction
Karen Lowe, District Engineer (via telephone)
Nick Charnas P.E., Applied Sciences (via telephone)

I. Chairman Charles Tingler called to order the Regular Authority Meeting #3 for May 21st, 2019 at 5:30 P.M.

II. ROLL CALL

Mr. Taylor - Present
Mr. Farrell - Present
Mr. Tingler – Present

Jennifer Cowan, District Attorney, announced that Randal A. Roberts, Executive Director, was out sick and not able to attend the meeting. There were no members of the public in attendance.

III. AGENDA

Jennifer Cowan, District Attorney, stated there are no changes to the agenda.

IV. MINUTES

Mr. Farrell made a motion to approve the minutes of the Regular Authority Meeting #3 held on March 19, 2020. Second was made by Mr. Taylor.

No discussion. Roll Call:

Voting Aye: Mr. Taylor, Mr. Farrell and Mr. Tingler

MOTION APPROVED

V. NEW BUSINESS

No New Business

VI. ITEMS OF BUSINESS

A. PROJECTS

CHANNEL 1B5 (01-19-2017) – PANEL REPLACEMENT (17-01)

Nick Charnas, Applied Sciences, stated project is completed and all project work is closed out. The Contractor has been paid in full. Mr. Charnas stated that the contract came in under budget and ahead of schedule.

No discussion.

CHANNEL 1C (09-18-14) – RENEWAL FROM 98TH AVE. TO CONFLUENCE OF CH 1 (10-08)

Karen Lowe, District Engineer, stated that Duke Energy has completed their portion of the project which was the electrical undergrounding. There are a few power poles remaining because they have other utilities on them. Duke Energy is coordinating with those other utility owners to also remove their utilities from those existing poles and then the poles will be removed by Duke Energy. The District is looking at taking that project out to bid soon. This project was designed by McKim & Creed. McKim & Creed is the Engineer of Record and will also provide services during construction.

CHANNEL 4 (01-15-2015) - PANEL REPLACEMENT (10-19)

Jennifer Cowan, District Attorney, stated that this project is on hold, until the funds are available and need arises to replace those panels. Mr. Charnas, Applied Sciences, stated that the plans are at 60%.

DISTRICT'S MODERNIZATION PROGRAM – (01-21-2016)

Karen Lowe, District Engineer, stated CDM Smith continues to assist with modernization activities. The transfer of the models from ICPR3 to ICPR4 is now complete. Additional cleanup of the models is ongoing. We are continuing to assist David Cook in updating the maintenance forms and progressing to an electronic tracking process.

CHANNEL 1 (11-16-2017) – PANEL REPLACEMENT AT 66TH STREET (18-01)

Nick Charnas, Applied Sciences, stated that in the Board package you will find a recommendation letter for the Channel 1 bid award. This project had a previous bid opening towards the beginning of the year and a decision was made to cancel that bid and rebid the project. It was re-advertised and re-bid; the low bidder has been deemed to be unresponsive. Applied Sciences is recommending awarding the bid to the lowest responsive/responsible bidder, Kiewit Construction, their bid is \$5,400,328.00. Brad Williams, Kiewit Construction, asked what the issue was with the bid awarded the first time the project was out to bid.

Mr. Charnas stated that last time there was some missing paperwork, but the biggest issue was that one of the other bidders stated that the equipment that the low bidder Shoreline and is proposed to use they alleged that there was no way that type of equipment could perform with the sound specifications required by the City of Pinellas Park. Mr. Charnas stated that being the bids were so close and they didn't list their suppliers. The bid documents specifically provide that if a bidder does not list its suppliers, then the bid is nonresponsive.

Mr. Charnas stated this bid was revised to address the issues brought up during the last bidding. However, All American Concrete had missing documentation. All American concrete missed eight different items and were nonresponsive.

Brad Williams, Kiewit Construction, asked what were the bids last time. Mr. Charnas stated that last time Shoreline was lower apparent bidder at \$4.7 million and the second low bidder was DN Higgins at just over \$6 million. Mr. Charnas stated that the Engineer's estimate is \$5.1 million, and we had updated that based on bid tabulations taken from Channel 1B5. All American Concrete was below that bid, but because they were nonresponsive, they weren't given the contract and recommended it go to the second low bidder. Mr. Taylor asked Mr. Charnas should we go back out to bid on this, because that is a considerable difference. Mr. Charnas stated it does take good amount of effort to put these bid packets together but there is an option to go to bid again.

Mr. Taylor asked when the bid was originally advertised. Mr. Charnas stated the bid advertisement was the last week in January. There was then a bid opening the first week of March. At the Board meeting in March, Jennifer Cowan gave you all the update on the bid process and recommended to complete the bid protest before awarding the contract. It was put out to bid and with COVID - 19 ongoing, the District had similar bidders interested in bidding. We also summarized very clearly in an addendum what had changed since the prior bid, including liner changes, questionnaire being updated, noise specification requirements of someone being onsite at all times and providing a report. We also had some questions come in from Contractors on alternate sheet pile, which we did approve an alternate, but also rejected two or three sheet piles. In an effort to bring this back to the Board today, we provided the Contractor's about two weeks to get their bid documents together.

Mr. Taylor stated that in January and May of this year, these are two different worlds. He stated he heard Contractors are laying crews off, but on the other hand there are Contractors that are still very busy. Then you also have Contractors like All American that didn't bid on it the first time. Mr. Taylor stated usually very close in numbers, but this is 1/2 million dollars off, and that is a lot.

Mr. Farrell asked other than All American, these four companies, how many of them were in on the last bid. Mr. Charnas stated three of the companies were Kiewit previously bid and their bid was \$6.1 million, and Higgins also bid on this and their bid was about \$6 million. Shoreline who was the previous low bidder at \$4.7 million, but now the 4th bidder. Mr. Farrell stated that the other two bidders were at least \$500,000 higher before then lowered their price 1/2 million dollars, which may be a reflection on the economy.

Mr. Tingler asked what was the biggest reason for them coming in so high from the original estimate? Mr. Charnas stated our original estimate was \$5.1 million, so both times the job was bid,

bidders come in under that amount. Mr. Farrell stated he didn't know the legal issues and if the bidders were given the opportunities to straighten out or not in a reasonable amount of time. Jennifer Cowan, District Attorney, stated the District has the right to waive informalities but, in this instance, there is a form that says in order to be deemed responsive the bidder must complete the following information and the bidder failed to complete the information. The bidder also failed to attach the required licenses to do this work. Those are typically items you would weight as to whether the bidder is qualified. After the bidder submits the bid, he/she does not get to go back and revise the submission. The reason for this is to keep everything fair. Mr. Charnas stated the bid documents allowed contractors to self-perform some of this work, if they identified they were going to do such work and presented an associated resume demonstrating the ability to do such work. Ms. Cowan stated that one of the major concerns with this project was the vibration and noise monitoring. It was also a point of contention challenged during the last bid process and this time one of the bidders failed to list anyone to perform the work. They listed themselves for some items for self-performing, they listed subs for other areas and left some lines entirely blank. Ms. Cowan stated Mr. Charnas is right you have options; you have the right to award to the lowest responsive bidder or to reject all bidders and go out to bid again.

Mr. Taylor asked if we go back out to bid what kind of timetable would that entail. Mr. Charnas if it is rebid, the award could be made at that the July meeting.

Brad Williamson asked can Mr. Charnas comment on the competency of the Kiewit bid package. Mr. Charnas stated Kiewit put together a bid package that was complete and responsive and responsible, but over budget.

Mr. Charnas stated we could table this so we can think about it some more until the next Board meeting. Mr. Farrell asked how long the proposals are good for; Mr. Charnas stated it would be cutting it close but would be within the 90 days.

Jennifer Cowan asked if there is any issue if the Board is to choose to delay this by either tabling it or going out to bid, would that effect the project? Mr. Charnas stated there are panels that have failed, and there is always the risk of a hurricane, which could have panel washout. Mr. Charnas stated we did obtain a series of easements including one from the Pinellas County School Board. We have a clock on that one that started in January of this year. I believe there is also a timetable on the priests of Sacred Hearth. The District also has a SWFWMD Permit that has a five (5) year timetable on the permit.

Mr. Tingler stated let's table this until the next meeting, so Randy can tell us what we can cut out until next fiscal year. Mr. Taylor stated if we must, we can have a Special Meeting on this item.

Mr. Farrell made a motion to table awarding the bid for the Channel 1, Replacement Panels 66th Street Project until next meeting. Second was made by Mr. Taylor.

No discussion. Roll Call:

Voting Aye: Mr. Taylor, Mr. Farrell, Mr. Tingler

MOTION APPROVED

CHANNEL 1A2 (11-16-2017) – REPAIR AT 49TH STREET (14-04)

Nick Charnas, Applied Sciences stated that they are currently working on 60% Design for this project. We had a design kickoff meeting with SWFWMD, and we met with Pinellas County because we are going to have some changes and making slight modifications on right-of-way to 49th Street and will be required to obtain a permit from Pinellas County. We also met with Grand Villas Retirement Home to coordinate their future expansion project on the northside of the channel project and inquired about the use of the north parcel during the District's project. They are interested in coordinating a plot path to go across the channel. We met with the property owner on 52nd Street to begin discussions on an easement there and we need to prepare a document they can sign.

CHANNEL 2E REPAIR (3/19/2020) – REPAIR AT MAINLANDS/THE LAKES (20-01)

Jennifer Cowan, District Attorney, stated that Randal A. Roberts, Executive Director, has asked Applied Sciences to prepare a scope of work for a rip rap and liner project to stabilize the bank where erosion has been noted.

B. ADMINISTRATION

FINANCE

a) Financial Statement – April 2020

Mr. Farrell made a motion to approve the Financial Statement for April 2020 as presented and on file in the District Office. Second was made by Mr. Taylor.

No discussion. Roll Call:

Voting Aye: Mr. Taylor, Mr. Farrell, Mr. Tingler

MOTION APPROVED

b) Investment Summary – May 2020

Mr. Farrell made a motion to approve the Investment Summary for May 2020 as presented and on file in the District Office. Second was made by Mr. Taylor.

No discussion. Roll Call:

Voting Aye: Mr. Taylor, Mr. Farrell, Mr. Tingler

MOTION APPROVED

EXECUTIVE DIRECTOR COMMENTS

Jennifer Cowan, District Attorney, noted that Randal A. Roberts, Executive Director, stated the District is going to have a Health Insurance Renewal and that information and costs associated with that will be presented at the next meeting.

LEGAL COUNSEL COMMENTS

Jennifer Cowan, District Attorney stated she had two items to discuss. The first item was that she was contacted by Jim Denhardt, Attorney for the City of Pinellas Park. When Channel 5 was upgraded from a grass lined channel to a concrete panel channel an easement was obtained from a property owner as part of the 2005 concrete panel project. That property owner has since gone into foreclosure and the bank is foreclosing on the property. The bank has stated that the easement was given by the homeowner without the bank's knowledge and they are asking the easement to be vacated. The easement was given to the City not the District as this was a joint co-funded project. So, as part of the foreclosure process the bank has sued the City and Jim has been defending the case. The City has asked the District to file a petition to intervene and become a party to the lawsuit so we can defend our interest as the easement is for the channel and the District has an interest in ensuring that the easement is retained. This will have to be demonstrated to the courts because the bank is not willing to recognize that the channel was in existence when the property was originally developed. Mr. Denhardt has sent them pictures as to what it looks like now, has contacted the attorney about it, and has written a letter saying it has been this way since 1912 or 1917. The attorney is not willing to accept Mr. Denhardt's letter so the matter will proceed before the judge. If the Board chooses to move forward or file a motion to intervene there is a hearing on this matter on June 3, 2020 and at that time, we would have the petition to be heard. The goal is to have the bank realize that the easement has always been there. Pictures were presented of the Channel and house being foreclosed.

Mr. Farrell made a motion for Jennifer Cowan, District Attorney to move forward to intervene in the litigation. Second was made by Mr. Taylor.

No discussion. Roll Call:

Voting Aye: Mr. Taylor, Mr. Farrell, Mr. Tingler

MOTION APPROVED

The second thing is that there are a few things that have changed in the law, which I will put into a memo that Randy can circulate. There is a new revision in the Florida Ethics Law that prohibits a public officer/employee from abusing his/her office to obtain a disproportional benefit which has been defined as any type of benefit that are privileged that results from you acting in a way that is inconsistent with the property performance of your duties. There was also another law that was passed that changed some of the reporting requirements with District's websites.

The other two things the legislature did was for Consultant's Competitive Negotiation Act (CCNA) projects the dollar limits were increased for projects where you must go out and get engineering services which goes into effect on July 1, 2020. The other change, which will take effect in October 2020, decreases the allowable retainage for public construction contracts from 10 percent to 5 percent.

VII. PUBLIC COMMENTS

No comments

VIII. BOARD MEMBER COMMENTS

There were no additional comments from the Board.

IX. ADJOURNMENT

There was no further business to come before the Board and Mr. Farrell moved to adjourn the Pinellas Park Water Management District Board Meeting #4. Second was made by Mr. Taylor.

Meeting was adjourned at 6:27 p.m.

THIS DOCUMENT IS CERTIFIED AS
APPROVED ON _____

ATTEST: _____

DATE: _____

Signed: _____

Chairman

Vice Chairman

Treasurer