

**MINUTES OF THE MEETING OF THE
CITY OF SEAFORD MAYOR AND COUNCIL**

June 23, 2015

7:00 PM

Mayor David Genshaw called the Regular Meeting to order with the following present: Councilwoman Grace S. Peterson, Councilwoman Leanne Phillips-Lowe, Councilman Dan H Henderson, Councilman Orlando Holland and Councilman H. William Mulvaney III. Dolores J. Slatcher, City Manager, Charles Anderson, Assistant City Manager, and June Merritt, Director of Finance/HR, were also present.

Councilman Henderson offered the opening prayer and led those present in the Pledge of Allegiance.

Mayor Genshaw solicited changes to the agenda. City Manager Slatcher stated that there were none.

Mayor Genshaw called for a motion to approve the minutes of the Regular Council Meeting of June 9, 2015. Councilwoman Peterson made a motion to approve the minutes of the Regular Council Meeting of June 9, 2015. Councilman Mulvaney seconded the motion, and the motion so passed with all present voting in favor.

Mayor Genshaw presented New Business # 1, Bids for a Solar Array for the Wastewater Treatment Plant. City Manager Slatcher stated that the City of Seaford received one bid in response to the Request for Proposal for City of Seaford Solar Facility that were available on May 6th. The bid was reviewed by Pennoni Associates, Inc.

The bid had the following key parameters:

1. Cost of \$1,637,285
2. Design size of 474 kW AC
3. First year production of 864,075 kWh

The bid had the following items listed as not included or exception to the bid documents:

1. They did not include a performance bond and proposed a 5% holdback to guarantee completion.
2. They rejected the performance guarantee and proposed a 5% holdback to guarantee performance.
3. They did not include O&M in their bid – claiming some discrepancy in the bid documents.
4. They did not include the required security items.
5. They did not include the specified vinyl fencing or cover for posts.
6. They did not include the fence fabric for shading reasons.
7. They did not include grass maintenance after initial seeding.
8. They are not providing the revenue grade meter.
9. They are not performing the DEPSC registration but will provide assistance.
10. They are not willing to be liable for one year on land damage.

11. They cannot accept the termination clauses for without cause or for convenience.
12. They did not respond using Addendum #1 Bid Form.
13. They did not respond with a Statement of Good Faith Efforts for Disadvantage Business Enterprises.

The bidder had opportunity to clarify the items during the question period but did not elect to do so. The technical portion of the bid was acceptable but would require a different performance testing procedure due to the innovation design of the project. The bidder could have reflected this in their bid proposal as the actual production of this project was the key factor in Pennoni's review. Of the bid issues, the following are considered to be major concerns and are not considered to be acceptable:

1. Proposing a holdback for the performance bond. This denotes a lack of understanding of the purpose of the performance bond, which is to ensure completion of the project.
2. Proposing a 5% holdback for the performance guarantee. This limits their exposure to their design/construction errors to 5% with no downside protection to the City of Seaford.
3. Operations and Maintenance is not included.
4. The required security system is not included.
5. The required fencing is not included.
6. The required revenue grade meter is not included.
7. Lack of response to DBE requirements.

The following issues could have been addressed during the question and answer period, and could have been clarified further:

1. Completion of the DEPSC registration. They need to provide complete assistance but the City of Seaford actually submits this (as signator). It is reasonable that they cannot be asked to guarantee that the DEPSC accepts this.
2. The liability for land damage for one year after they leave the site could have been addressed. It is reasonable that the land should be inspected as part of the final acceptance and that should limit their liability. However, this is the City's final decision.
3. Clauses for termination without cause or for convenience are always difficult for contractors to accept. However, this could have been clarified during the question period to allow the contractors to understand the City's requirements.

Due to the bid issues noted above, Pennoni Associates Inc. recommended that this bid be rejected as non-responsive. Mayor Genshaw solicited questions or comments. There being none, he called for a motion. Councilwoman Phillips-Lowe made a motion to accept the recommendation from Pennoni Associates Inc. to reject the one solar array bid as received as non-responsive based on their evaluation as presented, dated June 17, 2015. Councilman Holland seconded the motion, and the motion so passed with all those present voting in favor.

Mayor Genshaw presented New Business #2, discussion of rebidding of the Solar Array Project. City Manager Slatcher stated that once a bid has been submitted, it cannot be changed. The

purpose of discussion is to seek more bidders who will meet the bid specs without the constraint of the timeline for closing on the loan, which originally was by June 30, 2015. Mr. Terry Deputy, CECD Administrator, Financial Assistance Branch, Office of the Secretary, DNREC, has agreed to hold the original binding commitment letter, if Council decides to rebid and hold a referendum to borrow the funds, until the process is complete, provided the City will approve the rebidding.

City Manager Slatcher stated that Mr. Alan Grant contacted Assistant City Manager Charles Anderson and stated that if changes are allowed to be made in the bid, he will submit the bid at the same price. Discussions with Alan Grant, Pennoni Associates Inc., indicate that others will bid this project given more time.

Some constraints are:

- Use of prevailing wage rates
- Meeting Federal and State requirements for
 - Women Business Enterprise
 - Minority Business Enterprise
 - Disadvantaged Business Enterprise
 - Buy American or file for a Waiver
- Original Project analysis vs. bid –
 - Original
 - Size of Project (kW DC) 430 Value \$57,120 Utility Revenue
 - Starting Annual kWh AC 560,000 61,600 SREC Revenue
 - Bid
 - Size of Project (kW DC) 474 Value \$88,136 Utility Revenue
 - Starting Annual kWh AC 864,075 95,048 SREC Revenue
 - Increase Value
 - Utility Revenue \$31,016
 - SREC Revenue 33,448
 - Total additional revenue \$64,464. This represents a 54% increased revenue over original project projection
- This will most likely be the last opportunity for the \$500,000 principal forgiveness on the loan according to Mr. Deputy. The loan is for \$1,658,300, 20 years at 2% with a \$500,000 principal making the loan payback principal \$1,158,300.
 - Annual debt service without principal forgiveness - \$85,779
 - Annual debt service with principal forgiveness -\$59,915.18
 - It is planned that the SREC payments will pay the annual debt service.
 - 2 payments are made each fiscal year – November and April or months established by SRF.
 - Value of off-setting utility revenue would be for the Wastewater Facility.

Councilman Henderson stated that it concerns him that if this process is exercised, that new bidders will raise their pricing. Councilman Henderson asked if the City has an estimated cost to go through the bonding process. City Manager Slatcher stated there is not an estimate, however there will be a cost; she stated it will most likely be covered in the borrowing. Councilman Henderson asked if the bond yield is higher than the interest rate they currently have. City Manager Slatcher stated the bond will be issued at 2%.

Mayor Genshaw solicited any further questions or comments. There being none, he called for a motion. Councilman Henderson made a motion to approve the rebidding of the solar array project. Councilwoman Peterson seconded the motion, and the motion so passed with all those present voting in favor.

Mayor Genshaw presented New Business # 3, discussion of the State Revolving Fund financing for the Solar Array, and holding a referendum for the issuance of bonds for a 20 year term. City Manager Slatcher stated that the options for borrowing are as follows:

- Two options for borrowing:
 - . Floating Debt and Council makes decision to borrow
 - . Referendum for Bond Issuance

- Floating debt option:
 - . Council makes decision
 - . It would be a note with the State Revolving Fund
 - . Requires 10 year pay-off
 - DNREC would redo binding commitment letter for issuance of a note
 - Annual Debt Service for \$1,658,300 - \$168,747
 - Annual Debt Service for \$1,158,300 - \$117,867
 - Annual SREC shortfall for \$1,658,300 with Seaford original values (\$61,600) -\$107,147
 - Annual SREC shortfall for \$1,158,300 with Seaford original values (\$61,600)-\$56,267
 - Using floating debt this time would be at the beginning of our fiscal year vs. at the end and could restrict borrowing in the event of an emergency.

- Power to Borrow Money and Issue Bonds:
 - . Council would follow Section 35 of the City Charter
 - . Issue Resolutions as required
 - . Hold a public hearing for the borrowing
 - . Hold a Special Election for the borrowing (referendum)
 - . Bond issue would reflect \$1,658,000 in borrowing
 - . 20 year payoff of loan at 2% interest
 - . Principal forgiveness of \$500,000 would be applied when project is in service

This information is proposed on the base bid specifications, and would be subject to change as far as the output from the solar array project and the number of SRECs for purchase, along with the

utility revenue based on energy output from the project. The exception is the information used from the one bid received that was recommended to be rejected. City Manager Slatcher stated that there is available time to hold a referendum to issue bonds. Mayor Genshaw asked how long the process will take. City Manager Slatcher said from 90 to 120 days.

Based on the increased solar array output bid, the favorable financing offer, DEMECs offer to purchase the SRECs, and the use of green energy to produce a portion of the electrical use at the Wastewater Treatment Plant, Management would recommend the rebidding of this project and doing a Special Election to borrow the funds over 20 years.

Mayor Genshaw solicited any questions or comments. There being none, he called for a motion. Councilman Henderson made a motion to authorize City Management to work with Bond Counsel to prepare the necessary resolutions under Section 35 of the City of Seaford Charter for the Power to Borrow Money and Issue Bonds for this project, as per the binding commitment letter from Mr. Terry Deputy, Financial Assistance Branch, dated February 26, 2015. Councilman Mulvaney seconded the motion, and the motion so passed with all those present voting in favor.

Mayor Genshaw presented New Business #4, HVAC maintenance for all City facilities. Assistant City Manager Charles Anderson stated that the City received two bids for the referenced project. The two bids received were as follows:

- **National HVAC Service, LTD:**
FY 2015 \$9,633.00
FY 2016 \$9,853.00
FY 2017 \$10,055.00

- **Electrical Automation Services, Inc:**
FY 2015 \$11,165.00
FY 2016 \$11,395.00
FY 2017 \$11,625.00

Assistant City Manager Anderson recommended that the bid be awarded to National HVAC Service, Ltd. He stated that the City has worked with this company in the past with good results. Mayor Genshaw asked if there were any questions from Council. With no questions, he asked for a motion. Councilwoman Peterson made a motion to award the HVAC Maintenance Services bid to the low bidder National HVAC Service, Ltd. in the amount of \$9,653.00 for FY16; \$9,853.00 for FY 17; and \$10,055.00 for FY18. Councilwoman Phillips-Lowe seconded the motion, and the motion so passed with all those present voting in favor.

Mayor Genshaw presented New Business #5, presentation of the FY16 Fee and Rate Schedule for approval. City Manager Slatcher presented the City of Seaford's Schedule of Fees and Rates, to be effective on July 1, 2015. Councilman Holland made a motion to approve the City of Seaford's Schedule of Fees and Rates as presented to be effective July 1, 2015. Councilwoman Peterson seconded the motion, and the motion so passed with all those present voting in favor.

Mayor Genshaw presented New Business #6, presentation of Change Order #2 for approval for the Route 20 Sewer Extension Project. City Manager Slatcher stated that the City is required by DelDOT to patch Norman Eskridge Highway due to the boring of the sewer line and the water main relocation for the Route 20 Sewer Extension Project. Full depth of excavation is 1 3/4", and must be overlaid to the center line. Councilman Henderson asked why they will need to mill to the center line. City Manager Slatcher stated that it is required by DelDOT, and they would like to ensure that there is no faulty area along that line. Councilwoman Phillips-Lowe made a motion to approve Change Order #2 in the amount of \$8,982.00 to A.P. Croll for the Route 20 Sewer Extension Project for milling and pavement of the area for the water main relocation as presented, to be paid from the sewer reserves. Councilman Mulvaney seconded the motion, and the motion so passed with all those present voting in favor.

Mayor Genshaw presented New Business #7, recommendation to place 25 mph speed limit signage on the northwest corner of the Porter Street and Locust Street intersection. Assistant City Manager Anderson explained that the City received a request from Carol Beth Lambert of Porter Street to post speed limit signs on Porter Street. On June 4th, Assistant City Manager Anderson, Berley Mears, Director of Public Works, and Lt. VanFleet visited the location and reviewed the area conditions and existing signage. They noted that Porter Street currently has no speed limit signs posted between Stein Highway and Pennsylvania Avenue. Based on the referenced visit, they recommended having a 25 mph speed limit sign posted on the existing stop sign post located at the northwest corner of the Porter Street and Locust Street intersection. Mr. Anderson stated that the sign would be posted on the existing stop sign to avoid having to install a new post, and for low maintenance purposes.

Mayor Genshaw asked why this issue was being presented to Council. City Manager Slatcher stated that proof that the City Council approved the signage posting is needed, since it involves traffic and Police control. Councilman Henderson asked if there is or isn't a code that states that if signage isn't posted, that it is to be assumed that the speed limit is 25 mph within City limits. Mr. Anderson stated that posting the sign will avoid incorrect assumptions, and will also help conduct traffic control. Councilman Mulvaney made a motion to approve the installation of a 25 mph speed limit sign on the existing stop sign post located at the NW corner of Porter and Locust Streets intersection, as per the internal committee recommendation. Councilwoman Peterson seconded the motion. The motion so passed with Councilman Holland, Councilman Mulvaney, Councilwoman Peterson and Councilwoman Phillips-Lowe voting in favor. Councilman Henderson voted against.

PUBLIC COMMENTS

Mr. Frank D. Cannon, Jr. of 411 Nylon Blvd., came forward to comment on Riverfest. Mr. Cannon stated:

Tragically, our City's Riverfest celebrations in July, 2014 were marred by the death of 19 year old Justin Johnson from drowning. The handcuffed victim somehow escaped from Seaford Police Department (SPD) custody and jumped into the Nanticoke. Mr. Johnson was apparently under water more than 20 minutes despite SPD efforts to save him. This

was the extent of extremely limited, sketchy information available from one media source in 2014.

Mysteriously, we citizens and taxpayers know little more about this matter almost a year later. Why is this? Our Mayor has said that no investigations by SPD or anyone else in our City have taken place – with no further explanation. Obviously, no investigation equals no new information to work with to try to prevent the recurrence of such a tragedy; it also perpetuates the mystery surrounding the tragedy at Riverfest 2014.

However, rather than doing nothing, I suggest Riverfest 2015 and future Riverfests need the following:

1. First and foremost, have **water rescue personnel and equipment ON SITE**; use funds saved by retiring just (1) of our City's non-service vehicles;
2. Second, have SPD purchase and wear body cameras during Riverfest duties (with video available to the public);
3. Establish a Civilian Police Review Board (CPRB) to investigate, learn from and report the details of what happened to Justin Johnson last year to citizens.

Responsible City government should insist proactive measures #1 and #2 be in place for this year's Riverfest to help protect citizens and guests of Seaford. The CPRB should be established ASAP because no one else is investigating or reporting exactly what happened to Mr. Johnson to citizens. Knowing the facts of the matter could result in additional, valuable preventative measures for future Riverfest and other events.

REMINDER OF MEETINGS & SETTING NEW MEETINGS

- Employee Meeting, Utility Building, 1 p.m. on June 25th
- City offices closed for business on Friday, July 3rd for the 4th of July Holiday
- Riverfest, July 10th and 11th in the Down Town area and on the Nanticoke River

COMMITTEE REPORTS

Councilwoman Phillips- Lowe reported that the Seaford Police Department has issued conditional job offers to Jonathan James for Dispatch, and John Thompson for patrol. The Department has concentrated additional patrols in the Collins Avenue area, utilizing grant funded overtime, as well as the on duty patrol squads. Preliminary reports are that it has significantly deterred illegal activities reported by citizens at the June 9th Council meeting. Riverfest patrol planning has been conducted and units are prepared to man the event. Several officers have attended Alert Training, a two day training session on the proper responses to an active shooter situation. More officers are scheduled to attend this training in the near future. Police Chief Gary Morris would like to commend the many officers involved in an armed barricade situation following a robbery that occurred Saturday, June 13th, an event that lasted approximately six hours, for their professionalism and excellent service to the citizens. The incident resulted in the arrests of the suspects

without any injuries to suspects, citizens, or officers. Protective measures were taken to assure the safety of the citizens in the surrounding area. In addition, the cooperation exhibited by the Delaware State Police, Bridgeville Police and Laurel Police was very much appreciated and provided valuable assistance. Councilwoman Phillips-Lowe also reported that the Fire Department took possession of its new Pierce tanker truck 87-9. It replaces a unit that was sold about six months ago. In rural areas like Seaford, including in City limits where a hydrant may not be accessible at the time or may be out of service, a tanker is a huge asset during working fires, where a lack of water for just a short time can be detrimental. As of now, the Department's career staff is up to its full capacity of 10 EMTs. There were a few EMTs who left for other careers and they have been filling the voids with part time employees. Three employees are on from 7 to 7 daily; this gives Seaford the ability to staff two calls at one time.

Councilman Mulvaney reported that June Merritt, Director of Finance/HR, reported that she processed payroll due to Annette Cole, HR Coordinator, being on vacation. She continued work with the FOP negotiations, preparation for the July 1st change in the Hooper's Landing Agreement, and the fiscal year end reconciliation. The daily operations in customer service, financial management, purchasing and billing are reported as being routine. Utility bills are due on June 25th and disconnects are scheduled for July 7th. Assistant City Manager Charles Anderson reported that he attended several meetings and bid openings. He attended the Sussex County Prayer Breakfast, Representative Short's Monthly Coffee Meeting, and the Small Business Forum in Dover. The bid openings were the Solar Array Project and the HVAC Maintenance bid, which included the bid recommendation on tonight's agenda. City Manager Dolores Slatcher reported that she has worked extensively on the solar array bid and communications with DNREC, the bond attorney, and the bidder, who was referred to the engineer, culminating in the information contained in tonight's agenda. She also attended meetings, including the Sussex County Prayer Breakfast, Representative Short's Coffee Meeting, and the wrap up meeting for the 150th Anniversary/Towne & Country Fair. She also attended the Committee Hearing on the City's Charter Change along with Councilman Henderson for the change in election hours and the new deadline for candidate filing for the Municipal Election.

Councilman Holland reported that the Parks and Recreation Department held the spring softball playoffs. The schedule for summer movie night series has been finalized, and the next upcoming movie is How to Train Your Dragon 2, on July 3rd at the Ross Mansion. Meetings attended were the 150th Anniversary/Towne & Country Fair event wrap-up, Boys & Girls Club Programming Committee meeting, and the Live for Chocolate event wrap-up meeting. The 2015 flag football newsletter has been written and distributed. The co-ed softball program has started, and the flower baskets on the Pennsylvania Avenue bridge have been installed.

Councilman Henderson reported that Trisha Newcomer, ED/IT Manager, reported that she handled various IT issues and installations. Mrs. Newcomer attended the Business Forum in Dover with other State Elected Officials and Business Leaders. She attended a Seaford

Tomorrow Executive Board meeting as Ex-Officio; the group is working on developing their strategic plan. She is also making preparations for Riverfest.

Berley Mears, Director of Public Works reported that the Department performed more weed spraying and replaced 2 old fire hydrants with new break away/storz model. The Department also painted curbs around High Street, and painted all fire hydrant bonnets to the correct color determined by flow for compliance. Installation for a 2" tap for 401 High Street was completed. The Route 20 Sewer Extension project is down to odds and ends, including paving restorations. The Department performed equipment maintenance and routine tasks. Mr. Mears also reported that all handicap ramps have been installed as part of Street Paving 2015 bid, the Industrial Park water tower will be cleaned on June 24, 2015, and numerous meetings were attended. The Waste Water Treatment Facility reported that plant performance is excellent; the leachate treatment also continues to go well. Compost sales continue to be steady. The primary and filter building roof replacement is complete. The facility employees responded to maintenance issues, such as PLC on sand filter failed, level transducer to FE #1 & #2 failed (under warranty), belts broke on blower #3, and internal recycle pump #2 has a leakage indicator fault. BFP belts were replaced and screening is ongoing.

The Code department received Edmunds training on Code software for the MCSJ system. Josh Littleton, Building Official, met with several property owners regarding various code issues; he reviewed several work orders for violation enforcement. The Code Department reports that substantial progress is being made on at least 4 commercial projects in the City. Permit reviews are complete for 2 projects, and reviews are in process for at least another 4 commercial projects.

Councilwoman Peterson reported that Rick Garner, Electrical Engineer, reported that he evaluated DEMEC RFP for LED lights. He has also worked on developing street light designs and budgetary estimates, and coordination regarding service upgrade. Bill Bennett, Superintendent of Electric, reported that the Electric Department moved inventory from the fence line to get ready for the Solar Facility project. The Department hung the Riverfest banners on High Street and on the Riverwalk. The monthly substation checks were completed, and inventory for the year end has been counted.

With no further comments, Mayor Genshaw called for a motion to close the Regular Meeting of Mayor and Council and move to Executive Session. Councilwoman Phillips-Lowe made the motion to close the Regular Meeting of Mayor and Council. Councilwoman Peterson seconded the motion, and the motion so passed with all present voting in favor. Mayor Genshaw closed the Regular Meeting at 7:42 p.m. and opened the Executive Session.

Mayor Genshaw closed the Executive Session at 8:22 p.m. and reopened the Regular Meeting of Mayor and Council. Councilman Mulvaney made a motion to close the Regular Meeting of Mayor and Council. Councilwoman Peterson seconded the motion, and the motion so passed with all present voting in favor. Mayor Genshaw closed the Regular Meeting at 8:23 p.m.


Dolores J. Slatcher, City Manager

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