

CITY OF OPA-LOCKA

“The Great City”

CLERK’S ACTION SUMMARY MINUTES

SPECIAL COMMISSION MEETING

March 18, 2015

10:30 A.M.

Sherbondy Village Auditorium

215 President Barack Obama (Perviz) Avenue

Opa-locka, FL 33054

1. CALL TO ORDER:

Mayor Myra L. Taylor called the meeting to order at 10:35 a.m. on Wednesday, March 18, 2015 in the Auditorium at Sherbondy Village, 215 President Barack Obama (Perviz) Avenue, Opa-locka, Florida.

2. ROLL CALL:

The following members of the City Commission were present: Commissioner Joseph L. Kelley, Commissioner Luis B. Santiago, and Mayor Myra L. Taylor. Also in attendance were: City Manager Kelvin L. Baker, Sr., City Attorney Vincent T. Brown, and City Clerk Joanna Flores. Vice Mayor Timothy Holmes and Commissioner Terence K. Pinder were not in attendance.

3. INVOCATION:

The Invocation was delivered by Mayor Myra L. Taylor.

4. PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was recited in unison.

5. CITIZENS’ INPUT:

Agenda Items Only

1. Maria Bargan of 13205 Cairo Lane, Opa-locka, Florida, appeared before the City Commission on behalf of the business owners on Cairo Lane. She said they are aware that the city has a budget to repair the streets, but they want the construction to move rapidly and be done in a legal manner.

2. John Cook of 14580 NW 27th, Opa-locka, Florida, appeared before the City Commission and said it appears that the bidding process has been corrupted. Numbers are out of sequence and paper numbers have been re-done. This was a professional bid and everything should correspond with what was given to the City Clerk.

3. Patricia Ellis of 1146 Dunad Avenue, Opa-locka, Florida, appeared before the City Commission and agreed with the previous citizen. She asked the Commission to do due diligence with the process. She asked, did the City Clerk do her job properly, is the power still with the City Clerk to open the bids at the same time or was someone able to see the other bidder's documents to change the numbers? The company that was chosen had one bid and two alternates and one of the alternates was not done properly. She requested that the City Attorney advise the City Commission properly.

4. Johnnie Greene of 2091 Wilmington Street, Opa-locka, Florida, appeared before the City Commission and said a lot of citizens are not in attendance at the meeting because they have said on numerous occasions that they have to work or go to doctor appointments in the morning. She requested that the meetings be held in the afternoon. She said she have fought for improvements in the city for many years and she have heard the Commission concerns, however after reviewing the documents she is very disappointed in the process because the numbers does not add up.

5. Deborah Sheffield Irby of 14202 NW 17th Avenue, Opa-locka, Florida, appeared before the City Commission and voiced her concerns regarding the bidding process. She has issues with the CIP department because it is a conflict of interest. Cairo Lane is not the only project that has to be completed; they have to go to residential areas.

6. Angel Vargas of 13070 Cairo Lane, Opa-locka, Florida, appeared before the City Commission and said he is desperate to see the roads fixed in that area. He asked, how long do they have to wait to see something done in the area?

7. Steven Barrett of 633 Sharar Avenue, Opa-locka, Florida, appeared before the City Commission and said Cairo Lane is supposed to be a special tax district. The city needs to start with Code Enforcement enforcing on Cairo Lane to clean up the area before the city invest money. The process should be controlled by the City Commission and the committee should consist of business owners and citizens.

8. Alvin Burke of 1240 Jann Avenue, Opa-locka, Florida, appeared before the City Commission and said the City Commission have promised the people on Cairo Lane that they were going to fast track the process. In all fairness if they have the money to move forward on Cairo Lane, he suggest they do it for the business owners.

9. Daniel Lamnin of 13060 Cairo Lane, Opa-locka, Florida, appeared before the City Commission and said they need the roads fixed as soon as possible because it's hurting their business, but the process must be done properly.

For the record, Commissioner Kelley requested that the City Manager and City Clerk respond to the questions asked by the citizens.

Mayor Taylor asked the City Attorney can the City Clerk and City Manager make a statement before a motion is made?

Attorney Brown said no, a motion must be made to open the discussion.

Note: This portion of the minutes is transcribed in verbatim form.

Commissioner Kelley: *In the future we not going to have the Manager give input or his thoughts before we vote on anything else because that has been allowed to occur, where he is allowed to make a statement and/or express a concern about an issue prior to a motion, so if that's going to be the policy, I want it to be consistent from now on so we don't have back in forth, because I have seen in the past on items where we asked the Manager to address or to make a statement based on an item on the agenda for clarity, clarification. Now if you are saying we need a motion and a second I don't have a problem with that, but going forward with every single item that comes on this agenda that same process needs to be followed. So madam Mayor if that's the case I will move the item so I can hear the question.*

Note: This concludes the verbatim portion of these minutes.

Mayor Taylor asked the City Attorney if he has a statement to make?

Commissioner Kelley left the room.

Attorney Brown said in order to bring up discussion on an item, it must be open for discussion and it's not unusual for Commissioners to open an item and have staff address concerns. He is unclear of what was done in the past, but through his many years of experience, once an item is read into the record the Commission can asked questions.

6. RESOLUTIONS:

1. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH INTERCOUNTY ENGINEERING, INC., IN AN AMOUNT NOT TO EXCEED FOUR MILLION NINE HUNDRED NINETY NINE THOUSAND ONE HUNDRED EIGHTEEN DOLLARS (\$4,999,118.00), FOR CAIRO LANE DRAINAGE, ROADWAY AND SANITARY SEWER SYSTEM IMPROVEMENTS AND NW 127TH STREET DRAINAGE AND ROADWAY, SANITARY SEWER, AND DRINKING WATER SYSTEM PROJECTS FUNDED BY FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) GRANT APPROPRIATIONS AND THE STATE OF FLORIDA REVOLVING FUNDS, PAYABLE FROM ACCOUNT NUMBERS 35-5356315, 43-5386315, AND 64-5336315, A BUDGETED ITEM, CONTINGENTLY EFFECTIVE UPON FDEP APPROVAL; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.
Sponsored by C.M.

The above resolution was read by title by Attorney Brown.

It was moved by Commissioner Kelley, seconded by Commissioner Santiago to pass the resolution.

Note: This portion of the minutes is transcribed in verbatim form.

Commissioner Kelley: *Since we are going to follow process and order, when I left this dais it should have been no discussion because you did not have a quorum.*

Mayor Taylor: *Did you leave the dais on purpose?*

Commissioner Kelley: *No, I went back there to do something.*

Mayor Taylor: *If you would have said something I would have stopped it.*

Commissioner Kelley: *No, the attorney was talking, he's in charge, he suppose to know the process, so I'm saying if we going to follow the process, follow the process, but I would like to hear those comments.*

Note: This concludes the verbatim portion of these minutes.

Manager Baker said he welcomes all of the comments and he appreciates of the level of interest and he thinks everyone has the same interest and that is to move forward with the infrastructure projects. Two years ago they started the effort and began having discussion with the State of Florida on the possibility of them funding the infrastructure work. Prior to that the city was suspended for seven years and could not participate in this process. When he met with them they laid out what would be required in order for the city to be reconsidered to participate in the process. They provided drafts of the purchasing procedures, the bidding process, and they told them what would be required in the event that they were successful at getting approval to utilize State Revolving Funds. They provided to them a copy of the evaluation process in terms of how each contractor would be rated and in that analysis it provided points for pricing, points for how the project is calculated, local hiring, innovative concepts, etc. The lowest bidder did not include an amount for contingency. It was stated in the bid proposal that \$300,000 should be added as part of the contingency. In addition, the Capital Improvement Team is something that he brought to the city as part of his plan to rebuild the city.

Commissioner Santiago said the citizens do not want to stop the Cairo Lane project, the issue is that something has been done improperly.

Clerk Flores said as far as the Clerk's responsibilities in the RFP process she normally send out the advertisement, receives the sealed bids and shortly after the deadline she open the bids publicly and with respect to this bid everything was done properly in the presence of several staff members and also several of the individuals who submitted proposals. All original bids are maintained in the City Clerk's Office and they never left her office.

Mayor Taylor thanked staff for their work on the project, in addition she thanked the State for providing resources to the City of Opa-locka for the well needed projects in the city, but there are two important goals when spending Millions of dollars. First she would like to get the best deal for the residents and taxpayers; secondly it is important to make sure the process has integrity. She will never interfere with the day-to-day operations of the city, but as the Mayor it is her job to oversee when things come to her. She has concerns, the fact that the addendum regarding the soil contamination had a drastic effect on the pricing after the bid was submitted, she has concerns that there is a large distance between the low bidder and the high bidder that is being recommended, she has concerns that the scoring sheet reflected that although the price was worth fifty points, it was

scored in such a way that the price almost rendered an insignificant factor and that hurts the taxpayers. She is concerned that almost of the entire selection panel works in the same department on a daily basis and there is not diversity, in addition there is ambiguity in some of the criteria in the process. Lastly her concern is that the Commission did not get an opportunity to review the recommendation before it was sent to the State. As the Chairman and Mayor of the city she would like to make a motion to reject all bids and direct the City Manager to rebid the process of the Mayor and Commission.

It was moved by Mayor Taylor, seconded by Commissioner Santiago to amend the resolution to direct the City Manager to reject all bids and rebid the process.

Commissioner Kelley said he want his colleagues to be clear of the Attorney has already said. If they want to put the project out for rebid, they are basically saying they want to change the process. As the City Manager said the Commission passed legislation to make Cairo Lane the number one project, if they want to go back out for bids that is fine, but they have to change the process.

Note: This portion of the minutes is transcribed in verbatim form.

Commissioner Kelley: To the Attorney, what was said to us from the state because all of got the documentation and so if we want the Commission to receive it first before it goes to the State and if I'm incorrect Mr. Attorney you can correct me. The email that came from them said obviously if we don't follow this we put it out, which is what the Mayor is suggesting, but it's also a caveat in here regarding their participation in the process. If we go and send it back out obviously of rebidding it and with the selection committee. The second part of that in reference to deferring to the City Commission, there is some language in there that we need to make sure fits to whatever we are going to do.

Attorney Brown: I will read it if you... ..Basically I will read the States response to our question into the record because this is the States response to our question. The question was "in addition does the State defer to the City Commission or the City Council selection as long as you approve the process and qualification of the vendor selected as oppose to doing your own de-noble review". The response was "the State Revolving Loan Fund Program (SFR) defers to the results of the selection committee after verification that it followed the previous submitted approved selection process. There is not point of having a selection process if it can be overridden or the selection criteria can be changed at the end by the Commission.

Mayor Taylor: What does that mean?

Attorney Brown: Basically what that means is, what the State wants is the City to send up the process of how they are going to select.

Mayor Taylor: Who picks the process?

Attorney Brown: The City Commission through the Manager picks the process and once that process have been established...but you got to take that in conjunction with Florida Statutes 287.055 as well. What they are saying is there's a process that has to be in place

that we must approve and there's a document which certifies that you follow the process that the State has already approved, not the selection of the vendor, but the process.

Commissioner Kelley: Mr. Attorney to the point and that's what I am saying, you are going to have to change the process, not just go out and rebid it, because the process as it stands now is what the Manager has done with the CIP and their review. Now if the Commission is going to quote on quote review it or approve it first then go to the State, according to what you said there's no point in having a selection process if it can be overwritten or changed by the Commission at the end. That's the sentence I'm having trouble with regarding the process as the State says. I don't have a problem if you want to rebid, but if we are going to be using the same process, what's going to be different?

Attorney Brown: What we understood from the State is you have to identify the process you are going to follow is consistent with the State Revolving Loan guidelines and also Florida Statutes 287.055. Now, you develop that process, you send it to the State for them to approve the process then you run your selection of whatever vendor you want through that process. Once that process have been vested and the vendor have been selected by the selection committee, then that selection comes back to the Commission for a vote and then that goes to Tallahassee for approval by the State. The way he read it it's a two prone process. One, an approval of the process first, then approval of the selected vendor second, that's how I understand it.

Commissioner Kelley: So what part of the process as the State see's it now was not followed?

Attorney Brown: Well that's a question for the Manager because the Manager is the one that sent it to Tallahassee, not us.

Commissioner Kelley: I didn't say you did, but you're our legal attorney and much has been said about whether this was done properly, legally, etc. so forth that's why I'm looking to you because you are the City Attorney. In your legal opinion based on the process that was set, has it followed all the criteria from a legal sufficiency stand point with the Manager and his committee, CIP selection process. It was said from one of my colleagues about the fact that the Manager's Office sent it up in advance of it coming to us, but if I'm hearing correctly that's the way the process have been laid out or no?

Attorney Brown: There's a prior resolution you all past that says "any expenditures of any funds must come before the City Commission first". The fact that it went to Tallahassee first for approval of the vendor without having come to the City Commission it took you all out of the equation of the approval going to Tallahassee. What should have happened was based on your prior resolution and based on the city charter it should have come to the Commission first after the selection committee made its recommendation. It should have come to the commission then to Tallahassee, but you still have to run the process consistent with the State Revolving Loan program and section 287.055.

Commissioner Kelley: Okay Mr. Attorney you're giving me....like you are before a judge. I'm looking at the last sentence, there is no point in having a selection process if it can be overridden or the selection criteria can be changed at the end by the Commission. So if

this Commission says we want to change whatever the staff recommends and send it to Tallahassee, they could except it or they could not except it, correct?

Attorney Brown: *Correct.*

Commissioner Kelley: *The process as it is right now, that process was followed. Yes or no?*

Attorney Brown: *I can't answer that question with a yes or no and this is the reason why. I was not involved in the process, but from my investigation the process went as this here, you did a RFP, the RFP came in, the selection committee reviewed the RFP's, then they made a selection, then it went to Tallahassee and they approved it now it's before you for award. That award is within your prevue, the issue here is how it got to Tallahassee for approval before coming to the City Commission.*

Attorney Brown: *Well I got that because the Manager said he wanted an extra set of eyes whether he should have done that or not, but that was his explanation that he wanted technical expertise to address it. That's why I asked that point because my colleague raised that very issue about it being sent prior to that 25th meeting when it would have been on the agenda. His explanation was he wanted to send it to them so when it came to the Commission.*

Manager Baker: *Nothing inappropriate took place in this process, no funds have been committed. The purpose of their process is to look over the entire process to ensure we followed it, had we not followed it; it would have not been approved. Nothing inappropriate took place with having them look over the entire process. If this was a decision to fund it yes, but no the funding of this project occurs after the Mayor and Commission approves the project. No project can funded by your City Manager, all projects require final approval by Mayor and Commission and all that I was interjecting in all of this here was that I think that the Commission is in a better position to have the final approval on projects opposed to the State. I don't know why there is disagreement with that but if you go the other route, you can approve it here and the State can deny it so if you want to do it the other way, I certainly don't recommend it. I think you're on stronger legal footing, stronger tactical and practical footing by having the funding agency review it first.*

Commissioner Kelley: *Madam Mayor to belay the point, I put the motion on the follow and you put a subsequent one on the floor. I can see there are different opinions from the Manager/Attorney/what I'm reading.*

Note: This concludes the verbatim portion of these minutes.

Mayor Taylor said she does not know if there was an assumption that because the State approved the recommendation that the Commission was going to go along with that. The problem came in when the Commission felt like they were out of the process.

Commissioner Santiago said he heard the process from the City Attorney and the process is clear.

Attorney Brown said the city has to rebid the project.

Commissioner Kelley asked, if the process is going to be changed, they need to send it to the State prior to?

Attorney Brown said that is correct.

There being no further discussion, the amendment passed by a 3-0 vote.

Commissioner Santiago	Yes
Vice Mayor Holmes	Not Present
Commissioner Kelley	Yes
Commissioner Pinder	Not Present
Mayor Taylor	Yes

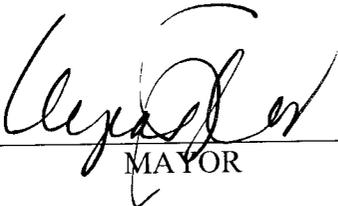
2. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH H&R PAVING FOR MILLING AND PAVING SERVICES, PIGGYBACKING ONTO AN EXISTING MIAMI-DADE COUNTY, FLORIDA CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE. *Sponsored by M.T.*

The above resolution was read by title by Attorney Brown.

It was moved by Mayor Taylor; motion died for lack of a seconded.

7. ADJOURNMENT:

There being no further business to come before the Commission, it was moved by Commissioner Santiago, seconded by Commissioner Kelley to adjourn the meeting at 11:51 a.m.



MAYOR

ATTEST:



CITY CLERK