



Highline Water District Minutes November 19, 2008

COMMISSIONERS PRESENT

Gerald R. Guite
Daniel Johnson
Vince Koester
George Landon
Kathleen Quong-Vermeire
CONSULTANT(S) PRESENT

STAFF PRESENT

Matt Everett, General Manager
Thomas Keown, Engr./Ops. Manager
Debra Prior, Administrative Manager
Mary Fossos, Project Coordinator, CIPs
ATTORNEY(S) PRESENT
John Milne

Note: Strikeouts indicate absence

1. CALL TO ORDER

Commissioner Koester called the meeting to order at 4:01 p.m.

2. APPROVE AGENDA

Commissioner Landon's motion to approve the Agenda as presented was seconded by Commissioner Guite and carried unanimously.

3. CONSENT AGENDA

Consent Agenda Items are considered to be routine and non-controversial and are generally approved as a group with one motion. Any Commissioner may remove any item from the Consent Agenda for separate discussion and action. Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.080 have been recorded on a listing which was made available to the Board of Commissioners).

Minutes: November 5, 2008 Regular Meeting

Fund Name	Fund No.	Warrant Date	Vouchers		AMOUNT
Maintenance	09-075-0010	11/25/08	010983	- 011040	\$ 216,495.02
Construction	09-075-3030	11/25/08	901028	- 901032	\$ 103,551.41
Fund Name	Fund No.	Period Ending	EFT Transfer Date		AMOUNT
Payroll Tax	09-075-0010	10/31/08	11/12/08		\$ 22,786.06
Direct Deposit	09-075-0010	10/31/08	11/07/08		\$ 62,496.48
Dept of Retirement-Deferred Comp	09-075-0010	10/31/08	11/07/08		\$ 2,938.00
HRA VEBA	09-075-0010	10/31/08	11/07/08		\$ 2,554.50
Dept of Retirement	09-075-0010	10/31/08	11/14/08		\$ 11,419.61
Commissioner Guite's motion to approve the Consent Agenda as presented was seconded by Commissioner Johnson and carried unanimously.					

4. RESOLUTIONS / MOTIONS

Resolution 08-11-19A awarding construction administrative services contract #08-80-15 to PACE Engineers, Inc. for Project 07-1 Ph 1 Zones 375 and 490 Water System Improvements.

Commissioner Johnson's motion to table this resolution was seconded by Commissioner Landon. After discussion, the motion to table Resolution 08-11-19A carried unanimously (Refer to General Manager's comments in Item No. 6).



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4. RESOLUTIONS / MOTIONS

Resolution 08-11-19B awarding construction administrative services contract #08-80-16 to PACE Engineers, Inc. for Project 08-1 Salt Air Hills Water Main Replacement. Commissioner Landon's motion to approve was seconded by Commissioner Guite and after discussion carried unanimously.

Resolution 08-11-19C to reject all bids for Project 07-1 Phase 1 Zones 375 & 490 Water System Improvements. Commissioner Koester's motion to reject all bids was seconded by Commissioner Guite. After discussion, the motion to reject all bids carried unanimously (Refer to General Manager's comments in Item No. 6).

Resolution 08-11-19D accepting developer extension as complete (Graydon Townhome Development). Commissioner Landon's motion to approve was seconded by Commissioner Guite and after discussion carried unanimously.

Resolution 08-11-19E authorizing site lease agreement with New Cingular Wireless PCS, LLC (Bow Lake Tank Site). Commissioner Landon's motion to approve was seconded by Commissioner Guite and after discussion carried unanimously.

Motion to authorize a 4.5% general wage increase (effective 1/1/09) for the non-union employees. Commissioner Landon's motion to approve was seconded by Commissioner Johnson and after discussion, the motion carried 4 to 1 (Guite voted no).

5. PUBLIC INPUT

No members of the public present.

6. STAFF / COMMISSIONERS / ATTORNEY INPUT

Matt Everett

Matt reviewed the following item(s) from the General Manager's Report of 11/19/08:

- Project 07-1 Phase 1 Zones 375 and 490 Water System Improvements
The District had a bid opening on November 14, 2008 for the Project 07-1 Phase 1 Zones 375 and 490 Water System Improvements. The Engineer's Estimate for the Project was **\$2,564,542.61**, including tax. Fourteen bids were received. The lowest bid was submitted by Kar-Vel Construction, Inc. in the amount of **\$1,368,462.30**, including tax. However, an issue has arisen because most of the bidders (11 of 14) failed to identify an electrical subcontractor or itself to perform some electrical work which was part of the Project. Everett and Milne reported that a state statute, RCW 39.30.060, required the bidders to submit as part of their bid the name of the electrical subcontractors to perform the electrical work or their bid would be non-responsive and void. Further, the bids of the five lowest bidders did not identify an electrical subcontractor and therefore it appeared their bids were void and could not be considered.

However, Mountain West Construction, the sixth lowest bidder (**\$1,536,269.44**), had identified an electrical subcontractor to perform the electrical work. After the bid opening, Mountain West had submitted a letter dated November 19, 2008 to the District contending that all bids lower than their bid failed to identify an electrical subcontractor and were therefore, by implication, nonresponsive and must be rejected. Mountain West contended that it was the lowest responsive bidder and therefore should be awarded the Project. However, Mountain West's letter appeared to be in the nature of a bid protest because Mountain West had not submitted the low bid for the Project. If the letter was a bid protest, a different statute, RCW 39.04.105, required Mountain West to submit its protest to the District no later than two full business days after the bid opening. The deadline for submitting a bid protest to the District was Tuesday,



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6. STAFF / COMMISSIONERS / ATTORNEY INPUT

November 18, 2008. Therefore, Everett and Milne advised that if Mountain West's letter was a bid protest, Mountain West had missed the deadline and would not be considered.

Everett stated that it was not clear why so many of the bidders failed to comply with the requirement to identify an electrical subcontractor or itself to perform the electrical work. However, District staff and the project consulting engineer, Brown & Caldwell, felt that the bidders may not have understood that the Project work included some minor electrical work on traffic signal detection looping. Everett also reported that the Project's bid documents included the WSDOT Standard Specifications by reference. However, it appeared there may have been some ambiguity between the Standard Specifications and the applicable bidding statutes. For whatever reason, the results of the current bidding process were that only 3 of 14 bids were arguably responsive and one bidder has submitted a letter complaining about the process.

District staff felt the lack of responsive bids was detrimental to the competitive bid process and indicated a widespread misinterpretation of the requirements for a responsive bid for the Project. In addition, if the District rejected the five lowest bids and awarded the Project contract to Mountain West, the difference between the lowest bid submitted by Kar-Vel and Mountain West was \$167,807.14. Therefore the remaining bids might be considered unreasonable given the significant increase in price that the District would have to pay for the project work.

Everett and Milne advised that the Board was allowed to reject all bids for good cause pursuant to RCW 57.08.050. Milne advised that the requirements for "good cause" were not specifically defined in the statute but generally the courts have interpreted the bidding laws to provide protection to the public and the contracting agency rather than specific bidders. Everett and Keown reported that if the Board rejected all bids for good cause, they would recommend the District consider combining Phase 1 of the Zones 375 and 490 Water System Improvements Project with Phase 2 and bid those Phases as a single public works project to take advantage of the competitive bidding climate. Therefore, because the increased cost for Phase 1 would not be in the best interests of the District or the public under these circumstances, District staff recommended that the Board reject all bids for "good cause" for the reasons identified by staff.

Following discussion, on motion made, seconded and carried unanimously, the Board adopted Resolution No. 08-11-19C rejecting all bids for the Project 07-1 Phase 1 Zones 375 and 490 Water System Improvements for the reasons stated by staff and authorized and directed Staff and the consulting engineer to investigate and to report back to the Board on possibly combining Phase 1 of the Zones 375 and 490 Water System Improvements Project with Phase 2 and bid those Phases as a single public works project to take advantage of the competitive bidding climate. District staff will report back to the Board as soon as possible.

- Matt informed the Board that via a phone call from Standard and Poors (Bond Rating Company), the District's bond rating will be increased from AA- to AAA (best rating). Matt said he is waiting to receive written confirmation.

Commissioner Kathleen Quong-Vermeire

- Kathleen asked Debbie for the status of the impaired investments with the King County Investment Pool. Debbie said the "Victoria" investment, the only unresolved investment remaining, will not be resolved until approximately January 2009.
- Kathleen attended the following conferences:



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6. STAFF / COMMISSIONERS / ATTORNEY INPUT

- ICS-300 Emergency Management Training in Silverdale (Kitsap County) - 10/27/08.
- WASWD Board Retreat (Yakima) - 11/12/08.
- WEF General Awareness (San Francisco) 11/4-11/7/08.

Commissioner Dan Johnson


- Dan commended District staff for their efforts in improving the District's bond rating.

Commissioner Vince Koester

- WASWD Membership - Vince asked the General Manager to delay paying the 2009 dues until February 2009. Vince wants to see the direction of the WASWD Executive Board regarding the Executive Director position. After discussion, the Board unanimously agreed and authorized the General Manager to delay the payment.

There being no further business of the District, Commissioner Koester adjourned the meeting at 5:15 PM.

BOARD OF COMMISSIONERS



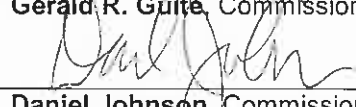
Vince Koester, President



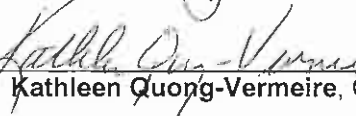
George Landon, Secretary



Gerald R. Guite, Commissioner



Daniel Johnson, Commissioner



Kathleen Quong-Vermeire, Commissioner