



City of Palm Coast

City Hall
160 Lake Avenue
Palm Coast, FL 32164
www.palmcoastgov.com

Meeting Minutes Special Council Meeting

Mayor Jon Netts
Vice Mayor Heidi Shipley
Council Member Robert G. Cuff
Council Member Jason DeLorenzo
Council Member Steven Nobile

Tuesday, November 8, 2016

9:00 AM

City Hall Community Wing

IMMEDIATELY FOLLOWING THE COUNCIL WORKSHOP

City Staff

Jim Landon, City Manager

William Reischmann, Esq.

Virginia A. Smith, City Clerk

>Public comment on issues on the agenda or public participation shall be limited to 3 minutes for each speaker.

>If any person decides to appeal a decision made by the City Council with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, including all testimony and evidence upon which the appeal is to be based. To that end, such person will want to ensure that a verbatim record of the proceedings is made.

>The City of Palm Coast is not responsible for any mechanical failure of recording equipment.

>Other matters of concern may be discussed as determined by City Council.

>If you wish to obtain more information regarding City Council's agenda, please contact the City Clerk's Office at 386-986-3713.

>In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk at 386-986-3713 at least 48 hours prior to the meeting.

>City Council Meetings are televised on Bighthouse Networks Channel 495 and on AT&T U-verse Channel 99.

>All pagers and cell phones are to remain OFF while City Council is in session.

A. Call to Order

Mayor Netts called the meeting to order at 10:02 a.m.

B. Pledge of Allegiance to the Flag

C. Roll Call

Records Coordinator Barbara Redline called the roll.

Present: 4 - Mayor Netts, Vice Mayor Shipley, Council Member Cuff, and Council Member Nobile

Excused: 1 - Council Member DeLorenzo

ORDINANCES, RESOLUTIONS, & PUBLIC HEARING

Order of Business for Public Hearings (Council may make inquiries at any stage):

Open Hearing

Staff Presentation

Applicant Presentation

Council Questions of Applicant

Public Comments/ Presentations

Rebuttal by Applicant

Close Hearing

RESOLUTION

- 1 [16-454](#) RESOLUTION 2016-XX RATIFYING THE TERMINATION OF THE TUMBLESON WHITE CONSTRUCTION, INC., CONTRACT FOR DEFAULT

Mr. Landon gave an overview of this item.

Attorney Reischmann - Pursuant to the original contract between the City and the general contractor, the general contractor is required to have two different types of insurance bonds. One is the performance bond to require the insurance company, in the event it becomes necessary to complete the performance of the contract. There is concern that there are subcontractors, some of them are local, that need to be paid, deserve to be paid and that is the purpose of the payment bond, so the surety has a responsibility for that as well.

VM Shipley - Does it look like we have enough money to stay under budget? Mr. Landon - Yes, that is our goal and that is what we are striving for; we are very hopeful that is the case, but we will not be shy about having insurance pay if it comes to that.

Public comments:

George Mayo - When you put some kind of contract out for bid is it that you are required to take the lowest bid; is this not the exception to the rule to show us that maybe all the time, the lowest bid is not and should not be viewed as the most acceptable bid and is there something that we can do to change it? He hopes this is a teachable moment and maybe some kind of resolution to change it so that we could take the next higher bid set a certain percentage, 5% or whatever that may be. Also, he has seen trucks containing debris from Matthew taking it out to the old landfill on Old Kings Road and making a large pile there, is that the City or the County?

Responses:

Mayor Netts - In our bidding process we have the right, responsibility, to prequalify bidders and of the qualified bidders you are required to take the lowest bid. This is a situation where there was no reason to anticipate Tumbleson White wouldn't fulfill their contract. They had no negatives from their other contracts with other municipalities. He suspects that should they be the low bidder for some other municipality in the future, perhaps the experience with Palm Coast will reign in favor of them not being the qualified low bidder.

Attorney Reischmann - The term responsive, responsible bidders is in the bid documents that all local governments send out. Responsive means have they complied giving enough information asked for in the bid documents. Responsible means that they have to be able to provide proof that they will be able to do the job and 9 times out of 10 they are responsive and responsible. There are times, however, where you do your due diligence and unfortunately you get surprised. The bidding process is not unique to Palm Coast; this is the process that is used by all local governments in the State of Florida. Unfortunately, sometimes it doesn't work the way it should. Mayor Netts - The good news is that in the contract there are remedies for failure. It is unfortunate, but the good news is with the liquidated damages and the surety bonds the project will be completed; not on time, but under budget.

Mayor Netts - Old landfill on Old Kings Road, he assumes that is the County. Mr. Landon - It is not us, it makes sense that it would be the County.

Council Member Nobile motioned to approve, seconded by Vice Mayor Shipley; the motion carried without objection. The Resolution was Adopted.

Enactment No: R2016-121

D. Public Participation

Public Participation shall be held in accordance with Section 286.0114 Florida Statutes. After the Mayor calls for public participation each member of the audience interested in speaking on any topic or proposition not on the agenda or which was discussed or agendaed at the previous City Council Workshop, shall come to the podium and state their name. Each speaker will have up to three (3) minutes each to speak. The Mayor will advise when the three (3) minutes are up and the speaker will be asked to take a seat and wait until all public comments are finished to hear answers to all questions. Once all members of the audience have spoken, the Mayor will close public participation and no other questions/comments shall be heard. Council and staff will then respond to questions posed by members of the audience. Should you wish to provide Council with any material, all items shall be given to the City Clerk and made part of the record. If anyone is interested in discussing an issue further or ask additional questions, individual Council Members and staff will be available after the meeting to discuss the matter and answer questions.

No public comments.

E. ADJOURNMENT

The meeting was adjourned at 10:13 a.m.

*Respectfully submitted,
Barbara Redline*