

MINUTES/PUBLIC SERVICE COMMITTEE
Monday, October 13, 1997 - 7:00 p.m.

Members present: Hagness, Hafner, Klave.

1. Applications for moving permits:

a) David Skavlem - garage from 27th Ave.N. to 729 S. 9th St.

Bev Collings, Bldg. and Zoning Administrator, submitted pictures of the building, and building will be brought up to Code. Moved by Hafner and Hagness to approve the application. Motion carried.

b) Joseph A. Freeman - garage from EGF to 1511 12th Ave.S.

Mrs. Collings submitted pictures of the building, and reported that the building will be brought up to Code. Moved by Hafner and Hagness to approve the application. Motion carried.

Klave reported present.

2. Matter of amendment to composting agreement with KBM, Inc.

Howard Swanson, city attorney, reported that last week the council gave approval subject to his report, that the modification says that any new technology developed during the study belongs to the City but it goes on to say that in order to determine what is new technology, all of the parties have to agree and the third provision says that the owner may negotiate with other parties to use the new technology, and appears to be inconsistent; if we own it, shouldn't have to negotiate to use it; and if we own it, not certain we would be in position to allow someone else to determine what we own; that if we have ownership, should have control of it. Jim West, KBM, Inc., stated that any new technology that comes out of study, all parties would have to agree that its new technology, but BioDigester Technology's concern was that if approving it required them to reveal something they did not want to divulge; and are saying that all parties would have to agree that it's new technology. Dr. Peter Hombach stated that the composting process is known, what is new here and what the pilot project is all about is the logistics of collection and distribution of the product, and there is point where language could be clearer and that is use of data, that they have agreed that data belongs to the City because the City pays for the study; however, the data, physically as a report, belongs to the City, scientific conclusions out of that are protected by the copyright of those doing the study, so discussing a non-issue.

After further discussion the committee asked that KBM work with Mr. Swanson to resolve and then bring back to committee. Klave excused.

3. Matter of request from Clarence Storbakken to amend encroach-

ment easement at 2315 N. Washington Street.

Ray LeClerc, acting city planner, reported that Mr. Storbakken constructed building and when property replatted City picked up another 17 ft. of R/W and that put his building 2 ft. into newly acquired right of way, that in 1992 he came in and received

encroachment agreement, one paragraph stated that the City will

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allow building to remain provided that no structural improvements enlarging the building, etc. shall be allowed, except such improvements or alterations that shall remove or eliminate the encroachment and that Mr. Storbakken would like that removed from the agreement. Mr. LeClerc stated that not an issue because if he wanted to add onto his building he would have to meet setback requirements, etc. It was noted that city attorney stated they would need to spell out in new encroachment agreement that it supersedes the prior agreement. Moved by Hafner and Hagness to approve the amended encroachment agreement. Motion carried.

4. Matter of sidewalk on 24th Ave.s. from S. 29th St. west.

Sidney Berard, president of English Court Townhouse Assn., presented petition against sidewalk project, that they have sidewalk inside complex, bikepath across street between two coulees, and would need to barricade at coulee and would add additional cost to the project.

Klave reported back.

Mr. Grasser reported that according to normal construction practices, sidewalk is required to be installed when a building is constructed, and received petition for sidewalk from this group this spring, and included on the sidewalk list but not constructed because of the flood and sidewalk contractor behind in getting work done. Mr. Berard stated there is group of 38 people in complex and majority against it; were objecting to cost and maintenance (snow) because so close to the berm. Mr. Grasser reported that sidewalk approved in PUD as part of site development plan, sidewalk would tie

property into bikepath and sidewalk on 29th on east side. He reported that ordinance requires sidewalks on all streets but esp. on classified streets because routes for school children, to recreation areas, etc. It was noted that Council Member Babinchak called and recommended sidewalk not go in because doesn't tie in with other properties.

Mary Jean Lamb spoke in support of Mr. Berard's comments, that no way to install sidewalk without installing bridge, needs to be looked at. Mr. Grasser stated he would do that.

Moved by Klave and Hafner to delay sidewalk construction until next spring and to look at engineering plans before construction. Motion carried. (Comm. directed that Mr. Berard be notified prior to that.)

5. Matter of use of public building for storage of donated goods
until new building constructed.

It was noted that Mr. Bakken's idea was that City make commitment to store goods, and department heads need to make room in the interim. It was noted that sanitation equipment needs to be stored inside this winter (concern that garbage trucks are all

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hydraulics) and Hafner questioned if there was another building where goods could be stored. Mr. Grotte stated they will be checking re. Valley Motor building, City Center Mall, Noah's Ark, etc. and it was noted that leasing of building not ruled out. Mr. Grotte stated they will try to work something out.

6. Matter of backup protection on discharge connection to the river.

Mr. Swanson presented ordinance draft which would require anyone who has direct storm water discharge to the English Coulee or the river to have backup protection, that last spring found several private outfalls with no backup protection. Mr. Grasser reported they found 3 or 4 private discharges to the river they weren't aware of and not much good to have flapgates on public storm sewer if have private storm sewer system unprotected that allows an access behind diking system. He stated that they were looking for ordinance to provide some legal teeth into what they see as something that needs to be addressed and to give them the ability to correct and special

assess costs if private owner does not do so. He reported that Keith Johnson and Tom Hanson working on this - at Minnkota, State Mill and downtown - Dacotah Hotel. After further discussion moved by Hafner and Klave to introduce the ordinance for first reading. Motion carried.

7. Matter of change order for Proj. 4438, Rehab. Lift Station #17, to add rail system to service pumps for L.S. #17-A.
Tom Hanson, WFW, reviewed change order in the amount of \$1,800. Moved by Klave and Hafner to approve change order. Motion carried.

8. Matter of Proj. 3821, Richard's West forcemain - warrantee work.

Mr. Swanson reported he had been notified by Keith Johnson that when contractor started work at adjoining location this summer they found that joints of previous project were leaking, engineering department had little or no response from the contractor, that the warranty expires in December and that based upon that information he placed bonding company on notice but has had no response from them and that they also notified the contractor and have had no response from them. He reported that he suggested to Mr. Johnson that this be placed on the agenda for committee's information. He stated that original bond in the amount of \$750,000 but not aware of amount of damage, etc. Mr. Hanson stated that there is possibility that the correction could equal construction cost or close to it depending upon the extent of the problem. Mr. Grasser reported he had verbal response from the contractor after letter went out to the bonding company and the contractor disagrees with fact that he has responsibility. There was some discussion as to how damage may have occurred. Mr. Swanson stated they are talking about substantial amount of money, and doesn't anticipate that either the contractor or the bonding company will let it go without

some fairly significant evidence, and it may take some money to

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investigate situation and potentially could end up in litigation. Mr. Hanson reported this forcemain located on North 55th Street from 6th Avenue North to Gateway Drive and crosses under Gateway Drive. Information only.

9. Matter of Proj. 4332, Rehab. Lift Sta. #7:
a) change order for repair of old structure.

Mr. Hanson reported this lift station in front of

H.E.Everson, \$3,000 add funded by FEMA, to fill old abandoned lift station barrels that settled as a consequence of the flood. Moved by Klave and Hafner to approve the change order. Motion carried.

b) deduct for pump charge.

Mr. Hanson reviewed change order; that the contractor received the quote for pumps prior to the bid opening but because his office was displaced by the flood, he was unable to include the lower quote in the bid, and the change order allows the contractor and owner to share the savings, City's savings, \$4,500. Moved by Klave and Hafner to approve the change order, deduct in the amount of \$4,500. Motion carried.

10. Matter of Proj. 4339, Lift Sta. 338, construction phase engineering agreement.

Held until next meeting.

11. Proj. 4654, Lift Sta. flood restoration, request for time extension (30-days from Nov. 30, 1997).

Tom Hanson, WFW, presented request for time extension because of problem in getting materials, no additional cost, and would recommend approval. Moved by Hafner and Klave to approve extension of time to complete project as requested, new completion date December 30, 1997. Motion carried.

12. Consideration of construction bids for Proj. 4669, Dist. 386.1, Southend Drainway Phase 1B, from Chestnut to Hwy.

81.

Tim Lykken, project engineer, and Mark Lambrecht, CPS, presented bids for the project. Mr. Lambrecht reported that bids opened today for this project, good competitive bids; however, had one bid that was not opened because bidder, Park Construction, Mpls., did not meet requirement that there be an MBE/WBE solicitation sheet in the outside envelope because of State Revolving Grant Funds that City receiving and that specific requirement was stated twice in the specs. that it be included and it was not. He stated he didn't think this was minor informality and recommended bid be returned to bidder unopened. Moved by Hafner and Klave to return the bid of Park Construction unopened. Motion carried.

Mr. Lambrecht reviewed bids and reported that the bid of Kern and Tabery of Wadena, Mn was low, in the amount of \$971,003.70; he reported they had not personally worked with them in the past and requested list of equipment, recent projects and references and

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that references very good. Mr. Swanson reported that the City has previously had contracts with Kern and Tabery at the airport back in mid-1980's and did end up litigating with them re. question in quantity of dirt. Mr. Orthmeyer stated they did go to court but was resolved. Mr. Swanson stated they do have some history with them but doesn't rise to level that not competent. Mr. Lambrecht stated that council hasn't denied award to any competent bidder, that Zavoral excellent contractor (Zavoral \$5700 higher than Kern and Tabery). It was noted that a small amount of work is required to be done this fall, and that City has not acquired all of the land for the project. There was some discussion re. awarding contract to Zavoral, however, some concern on part of committee that if turn down low bid for local bidder, and also some concern re. funding from State Revolving Funds (pass through of federal funds). It was also noted that if involved in litigation, could delay project for minimum of 30 days. Moved by Hafner and Klave to accept the bid of Kern and Tabery in the amount of \$971,003.70. Motion carried; Hagness voted no.

Mr. Swanson stated that if looking at having work done this fall and if get involved in some contest, will delay min. of 30 days. He stated that if they wanted to pursue the issue, if can document the grounds he will defend but may come as a cost both in terms of dollars and time.

13. Matter of cleaning Belmont Coulee from Cherry St. to Belmont
Road.

Mr. Lykken reported that neighborhood condo assn. wrote letter requesting City to clean, that their property drains by 48" pipe into the Belmont Coulee and Coulee so full of excess dirt, etc. that storm sewer not functioning properly, that Mr. Hanson was out there with FEMA and he also recommended City look into cleaning this, and wanted to bring to committee's attention. He stated that the coulee system basically needs to be dredged and 48" pipe sitting half full because of sediment that has built up over the years. He also noted that according to FEMA people this is pre-existing condition.

Mr. Grasser reported this is same one where sent out letter requesting comments whether they would object to cleaning project or if they would support it, because over the years the cattail strip there 15 ft. wide and now expanded to up to 100

ft. in places and some lost part of their yards to that, (that part of this designated as nature easement); that result of survey was that half didn't want any work back there, one-fourth would support project if at no cost, and one-fourth supported project. He stated that the flood, work of Corps and property owners underscores the fact that it is causing some significant problems that it needs to be corrected, and need to pursue project. He reported that funding most likely special assessment project, could be assessed over

entire drainage basin, and would be his recommendation to go beyond **MINUTES/PUBLIC SERVICE COMMITTEE**

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the immediate strip of homes. Hagness asked if there wasn't covenant that swale left in its natural state even if one person protests. Mr. Grasser stated that they have number of storm sewer systems draining into this natural drainway that has now filled in to point where not functioning. Frank Orthmeyer stated that there should be letter from him about year ago on file pointing out to the engineering department that was a problem; the water comes down 32nd and goes into that sewer which is about half plugged and water doesn't flow through but comes back through Belmont Coulee behind his house and actually flooded basement there last summer, and he pointed out in his letter that the City could possibly be liable for not maintaining that ditch. He stated that they know the drain is not working and that the Washington Street project is going to put more water in there faster and aggravate that problem and is here to support project. Mr. Orthmeyer stated there was lot of work that could be done before they get to that drainage area and has to be maintained. Mr. Grasser stated this is for committee's information and they will research covenants. Information only - will bring back as a project.

14. Matter of special meeting on Monday, Oct. 20, to consider construction bids for various flood control structures.

Tim Lykken, project eng., asked committee to meet Monday evening prior to council to consider bids which will be opened on Monday for these projects. Committee scheduled 15-minute meeting -6:45 p.m. in Room A-205. He also noted that they will know tomorrow whether State funding any of these.

15. Matter of dike work on Northridge Hills.

Klave reported that this is being handled internally and Mr. Vein reported they have contracted with CPS to draw up documents for easements to access properties, and need to get

everyone in agreement if put temporary clay dike back there. Mr. Grasser reported there are numerous areas on the secondary flood fight plan where there are options available if the neighborhoods get together and give them a continuous route. Klave reported that if agreement signed, Mr. Vein in favor of getting something done this fall. Mr. Grasser stated that depends on weather; Hagness stated they need to get agreement signed and easier to go in now than in the spring. It was noted this has to be inclusive.

16. Hagness reported that mayor's office had received letter from Vogel law firm re. cleaning up of downtown, and if anything City can do. Mr. Swanson reported that letters have gone out to all the property owners.

Meeting adjourned at 8:35 p.m.

Alice Fontaine, City Clerk

Dated: 10/16/97