



## ***Board of Works Meeting – Minutes from September 25, 2023***

**Board of Works Members in Attendance:** Mayor Phil Jenkins, Wayne Scheumann, and Rod Stump Jr.

**Also Present:** Clerk-Treasurer Jeff Knight, 7 guests (6 IP, 1 OL) and one member of the press (IP).

- Call to order: Mayor Jenkins called the meeting to order at 3:30 pm.
- Roll call: Members listed above were in attendance.
- Approval of the Minutes from September 11, 2023: Mr. Scheumann motioned to approve the minutes. Mayor Jenkins seconded. The minutes were approved unanimously by voice vote.
- Approval of Consent Agenda: A Consent Agenda containing items that are approvable by the various department heads (2 Excavating in ROW Permit applications) was submitted. Mayor Jenkins motioned to approve the Consent Agenda. Mr. Stump seconded. The Consent Agenda was approved unanimously by voice vote.
- There were no petitions or comments by citizens, no reports of committees, boards, or commissions, and no unfinished business.
- New Business
  - Approve Partial Release of Retainage for Indiana Earth: Mr. Ryan LaReau (Commonwealth Engineers) presented the request. He gave a brief history of Indiana Earth's lack of performance which caused the non-payment of Pay Applications #13 and #14. Included in those issues were claims from subcontractors for non-payment and unresolved liquidated damages. At this time, all of the subcontractors have been paid. Waivers of lien have been received from all of them. The punch list items remaining are deemed warranty items (grass restoration and tree replacements totaling \$31,000). There is an open damage claim from John's Butcher Shop totaling \$14,461.58. The resolution/deduct to liquidated damages totals \$52,000. These items come to \$97,461.58. A change order was created and discussed with Indiana Earth, and they agreed to it. The signed change order has not been returned yet. Total Payments to Indiana Earth throughout the project to date are \$2,707,103.76. The Contract Value is \$3,119,838.65. Current Retainage is \$412,734.89. The overall contract value needs to be reduced by the \$52,000 mentioned earlier. If the \$97,461.58 is subtracted from the retainage of \$412,734.89, it leaves \$315,273.31 which Commonwealth recommends paying to Indiana Earth.

The question of the correct process to approve this payment was discussed with the final recommendation being that the letter be approved totaling \$315,273.31, pending City Attorney Hoffer recommending how the paperwork should be signed and submitted. Mr. Scheumann asked how the grass and tree replacements will be handled. Mr. LaReau responded that Utility Superintendent Gerber has a list of 22 trees that need to be replaced and 9 addresses that need additional yard work. That list has been given to Indiana Earth. There are two options that were discussed for the completion of the work. Indiana Earth would obtain a Maintenance Bond and the work would be completed under the bond or the City would self-perform the work and the costs would be deducted from what is owed to Indiana Earth. Indiana Earth prefers to complete the work themselves without a maintenance bond. However, due to their inability to get the work done correctly the City prefers they provide a maintenance bond. Mayor Jenkins noted the John's Butcher Shop lawsuit may not be decided until December of 2023. Mayor Jenkins motioned that the Board approve payment of the \$315,273.31 with recommendation from City Attorney Hoffer on how the payment should be processed and giving Indiana Earth the two options of either



bonding the work for replacement of the grass and trees or the City will complete the work and deduct the cost from this amount. Mr. Scheumann seconded. The request was approved unanimously by voice vote.

- Approval of Accounts Payable Vouchers:
  - Mr. Stump motioned to approve the 2023 Water APV's Totaling \$109,379.04 and 2023 WWTP APV's Totaling \$86,420.80. Mr. Scheumann seconded. The APV's were approved unanimously by voice vote.
  
- Reports of City Officers:
  - Superintendent Warren submitted a memo updating the progress of construction on Woodview Drive. Mr. Stump asked if the project was still on track. Mayor Jenkins said it was. Mayor Jenkins also told the BOW's that the contractor accepted the fault for damaging a water line. Their insurance will cover the cost of repair, per Superintendent Gerber.

Adjournment: With no further business to discuss, Mr. Scheumann motioned that the meeting be adjourned. Mr. Stump seconded. Adjournment was agreed to by voice vote and the meeting was adjourned at 3:51 pm.

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Phil Jenkins, Mayor

Attest: \_\_\_\_\_  
Jeff Knight, Clerk of Board of Works