CAPITAL IMPROVEMENT PROJECTS OVERSIGHT COMMITTEE MEETING MINUTES September 15, 2008

The meeting was called to order at 5:37 p.m.

1. Attendance – See Attendance Sheet attachment.

2. Review and Acceptance of Minutes

MOTION: Acceptance of Minutes of the July 7, 2008 CIPOC Meeting

MOVED: Stacy Kilroy 2nd: Israel Magrisso

Note: Meeting conducted out of order from agenda. Please note times alongside each item.

New member, Fred Karlton, sworn in by City Attorney, Jose Smith:

7:11pm

3. Items Referred to CIPOC from July 16, 2008 City Commission Meeting 6:22pm

a. "Request For Authorization To Award A Contract, Pursuant To Invitation To Bid (ITB) No. 13-07/08; For The South Pointe Phase II Right Of Way Infrastructure Improvements Project, Neighborhood No. 12C, To RIC-Man International, Inc. (RIC-Man), Subject To And Conditioned Upon The Administration Being Able To Negotiate Further With RIC-Man; And Provided Further That, Upon Conclusion Of These Further Negotiations With RIC-Man, The City Manager Will Bring The Bid Back For Consideration By The City Commission, With A Recommendation For Award Of Contract Or For Rejection Of All Bids."

Background:

Seven bids were submitted to the City for evaluation. All seven came in under the budget presented in the ITB. Of the seven, six alternates were asked for and five fit within the City guidelines. All were evaluated under the Best Value Procurement process, including the value of the alternates. RIC-Man International was ranked #1 by the evaluation committee, and Acosta Tractors, Inc. was ranked second. When the item came before the City Commission on July 16, 2008, the bid award was deferred and the item referred to CIPOC.

A Sub-committee for the South Pointe Streetscape Phase II Project was formed and evaluated the ITB and the results of the bid. The sub-committee suggested that the City consider either publishing with the ITB the Engineer's Estimate of Probable Costs and/or requiring that prospective bidders include unit prices on pre-selected items. The Sub-committee agreed to recommend to the City Commission, through CIPOC, that the City proceed with the award for the construction contract for the South Pointe Streetscape Phase II project as outlined at the July 16, 2008 Commission Memorandum (attached with CIPOC September 15 agenda packet) and evaluate the inclusion of unit prices in future bids. The Sub-committee also asked City Staff to provide a template for the unit pricing format for inclusion in ITB documents.

Stacy Kilroy, Sub-Committee Chair, brought the Sub-Committee findings to the Committee. This was a lump-sum bid, which only asks for cost on parts of specific sections of the project. Detailed pricing schedules are not typically asked for in lump-sum bids. She stated that the two top contenders for the project, RIC-Man and Acosta Tractors, took two different approaches to pricing their bids, and both came in below the advertised project cost, both prices very close together and both met the Best-Value Procurement guidelines, which is commendable. The result was that there is a market value for this project.

Alex Tachmes, attorney with Shutts & Bowen, representing Acosta Tractors, Inc., spoke about the process. He referenced the letter sent to the City Manager and Commission. He said that it was clear that not every bidder followed the instructions sent out in the addendum. Acosta, he argued, followed the instructions of presenting detailed unit pricing, while RIC-Man did not. He also noted that diversification of contractors in public construction is beneficial for the City. Two additional components bid by both were bid lower by RIC-Man: Staging cost and PIO. RIC-Man is at an advantage because they are already on Miami Beach. Nevertheless, overall bids were very close.

Frank DelVecchio, (301 Ocean Drive), a resident who attended the Sub-committee meeting, noted that a key element in the pricing list was base price, which counts for 95% of the total. The margin between the two on base price was under 20%. It would be beneficial to look at the risk exposure. High staging cost was included in overall cost for Acosta. Overall, as so many different factors were evaluated in the process, Mr. DelVecchio would recommend that the Commission follow the advice of the evaluation committee.

William Goldsmith, (1820 W. 25th Street), who also attended the Sub-committee meeting, stated that it was difficult to compare the two approaches by the two contractors, which is why he also believes it is important to present established unit prices in a standard format. He suggests hiring the Engineer of Record, Wolfberg Alvarez, to provide estimated construction costs in breakdown sheets. He further recommends setting up a system listing the top items in order to put a control mechanism in place. He also suggests setting up specific contractors to do specific jobs.

This project is 100% designed and is 100% permitted and ready to go into construction.

Fred Karlton asked if Mr. Goldsmith was able to assist the City in creating a unit price list. Mr. Goldsmith responded in the affirmative, and is willing to provide contractors who are willing to work with RIC-Man and with Acosta to develop the price lists.

It was noted that the City Manager has requested staff and the City's Program Manager to look at pricing structures as well as compare them to other municipalities and public institutions to see what they are paying.

STAFF ACTION: Bring this list of comparative pricing to a future CIPOC meeting.

Mr. Karlton noted that there is little benefit to comparing ourselves to other municipalities that overpay for materials and services. He further recommended that this item be deferred until prices can be evaluated and contractors be prevented from overcharging.

Ms. Kilroy commented that there is a difference between the way public construction and private construction is priced. The public procurement process is tied to a time and place for a bid. It is difficult to pick apart in a lump-sum bid. If someone could bid it cheaper, they would have done so already. If you defer to the qualitative criteria, both bidders met that. The subcommittee was tasked to look at the qualitative criteria. The suggestion that came from the subcommittee meeting was that the item list provided by the Engineer of Record be included in the bid documents.

Frank Acosta, of Acosta Tractors, discussed the unit pricing issue further. He offered that Acosta presented a more detailed cost break-down than RIC-Man had. If the bid was determined by the base bid, he argued, Acosta would have shown to have the lower bid. The difference in base bids was only \$319,000, with Acosta lower.

Commission Ed Tobin noted that other projects in the City have been priced too high and the Commission has approved projects and parts of projects without seeing comprehensively how they were priced. He gave as an example an issue of flooding in the Orchard Park neighborhood for which the Commission was to grant an additional contract. He had asked William Goldsmith to look at the project cost and found it to be overpriced. He also pointed out that contractors have charged us 30% of the cost for de-mucking.

Albert Dominguez, of RIC-Man International, stated that his company submitted the lowest base bid. He declared that RIC-Man has a proven track record with the City and cited two projects – Washington Avenue and Lummus Streetscape projects – that RIC-Man brought in on time and on budget. He pointed out that the evaluation committee chose RIC-Man based on Best Value Procurement process items.

Mr. Karlton stated that he thought the bidding process was flawed. He noted that there are volunteers in the community who are professionals and want to try to correct what are seen as problems with the City's procurement process and wants to see them assist in areas where they can save the City money. Mr. Karlton recommended that this bid be sent back and re-bid to see if the City can "get a better deal."

MOTION: To recommend to the City Commission that the bids for the South Pointe Phase II Streetscape Project be rejected and to additionally recommend that the City re-bid the project as a lump-sum bid but require the bidders to provide until prices to support their bid. (The recommendation also includes the suggestion that the City use the 6th and Lenox project as a model).

MOVED: Fred Karlton 2nd: Erik Agazim

MOTION PASSED 4 – 3 (Weithorn abstained. Kilroy, Magrisso, Kraai opposed)

Tim Hemstreet indicated that it would take a minimum of thirty days to re-bid this project. Commissioner Weithorn added that she would not want the project held up while the City waited for the development of the new unit pricing list. She asked that the way the City bid the project at 6th Street and Lenox Avenue be used as the model for the re-bidding process of the South Pointe Streetscape Phase II project.

The new recommended system is similar to the current JOC system. The way the 6th and Lenox project was bid is what Commissioner Weithorn referred to as a "hybrid system."

Israel Magrisso noted that this project was bid following all standards and procedures for the City and the Engineer of Record had determined the cost. The bid was an open bid and all bidders came in below the estimated cost. His concern is whether the City has a legal liability now to go below the bid that has already been submitted. Jose Smith, City Attorney, stated that the City Commission is the sole authority in determining who gets a contract and can reject bids and send them out for re-bid.

FORMATION OF UNIT PRICING SUB-COMMITTEE: All members of the CIPOC, with the exception of **Mr. Magrisso**, indicated that they wish to sit on the sub-committee to develop standardized unit pricing. Commissioner Weithorn stated that **Mr. William Goldsmith** would also attend that meeting (or meetings) as external expert. (**Christina Cuervo** was not present, but will be notified of this sub-committee).

4. Public Comments

Public comments were taken with each item.

5. Sub-committee Meeting Reports

a. South Pointe Master Booster Pump Station

7:46pm

Sub-committee Chair, **Dwight Kraai** asked this project be delayed pending proper analysis. He will present his reasons at a later meeting.

MOTION: To recommend at the budget hearing on September 16, 2008 that funding for this project be suspended until the next fiscal year and to recommend to Commission that all progress on this project be halted pending further investigation into the need for this pump station.

MOVED: Dwight Kraai 2nd: Fred Karlton

MOTION PASSED: 5 – 2 (Kendle and Kilroy opposed)

ACTION: To create a Sub-committee to develop unit pricing standards for City contracts. All members raised their hands to be a part of this sub-committee, with the exception of Mr. Magrisso.

b. Sunset Islands I & II

TABLED UNTIL A FUTURE MEETING

c. Normandy Shores Golf Course

Although the Sub-committee on this project did not present a report, this item was discussed in item 6, below.

6. Report on Walk-through of Normandy Shores Golf Course

5:38pm

The Normandy Shores Golf Course project has been observed by members of the CIP Oversight Committee as well as City Commissioners and their staff. The project is near completion and well within the schedule and budget, but drainage issues have been a concern.

Background

On July 24, 2008, **Commissioner Jerry Libbin** toured the golf course and facilities with members of the CIP Office and Parks & Recreation Staff. The focus was on areas where water was accumulating, most notably in the retention swale behind the homes on South Shore Drive and in the retention swale along the street on Fairway Drive. Understanding that the retention swales and all drainage structures in the golf course were regulatory requirements of DERM and DEP, Commissioner Libbin asked that these regulatory agencies be approached to re-think the decision for the swales' inclusion because the standing water was an additional health concern.

On August 27, 2008, CIP and Parks Staff accompanied staff from Commissioner Weithorn's and Commissioner Tobin's Offices on a tour of the golf course as well.

Drainage issues were the primary reason for this visit as well. Staff took photographs at this time. These photographs and photos taken the day of the CIPOC meeting were presented for review.

David Alschuler, (955 South Shore Drive) spoke about the standing water. He said that it attracts mosquitoes and is a tadpole breeding ground, which makes the retention swale a health hazard and a noise nuisance. He shared photos with the Committee, showing standing water four days after a rain.

Commissioner Libbin spoke about the direction he had given staff. Staff has been speaking with DERM to come to a solution.

Jorge Chartrand, CIP Director, discussed the various types of drainage in the golf course.

Mr. Karlton asked who presented the solution, was it the engineer of record? And did the engineer of record produce the original plans that were approved by DEP?

Commissioner Weithorn clarified that there were three different drainage issues:

- The accumulation of water in the retention swale running behind the homes that front South Shore Drive. The City has proposed addressing the standing water by adding additional drainage pipes from this swale to a retention structure, and then route the water to the lakes within the golf course.
- 2) The accumulation of water in the retention swales along Fairway Drive. These swales are already attached to drain pipes, but the water only drains into them once the levels reach weep holes that are several inches above the ground. The City has asked DERM for permission to lower the weep holes.
- The weirs that drain into the lakes need re-design in order to drain better. The City has also asked for this re-design.

Mr. Chartrand noted that from DEP's point of view, accumulation of water is not a problem, given that their goal is to keep as much run-off and contaminated water from entering the Bay, but allowing this much standing water is not in the best interest of an operating golf course. He also noted that not all of the drains are currently connected, and that the drains along Fairway are tied in to the street drainage system. Until that work is completed, these drains will not be operational.

Mr. Karlton asked for clarification that DEP required the inclusion of these swales, which was affirmed. He then pointed out that after the project went through the Civil Engineering process, the result was still these conditions.

Mr. Chartrand responded that engineering in these matters is never an exact science. The goal was to reach a compromise between protecting water quality and sufficient drainage.

Mr. Karlton asked for a timeframe and cost for fixing the current conditions.

City Staff said a cost estimate was not yet available but that it is likely to take approximately four months for work to begin on whatever corrections are decided upon with DEP.

Mr. Karlton asked for an opinion from a Civil Engineer as to the solution to this problem. Mr.

Chartrand offered that preliminary information shows that the City and DEP are close to a sufficient solution. The Parks and Recreation Department is currently looking into a temporary solution to the mosquito and frog problem. Parks Director Kevin Smith was not present, but Jorge Chartrand said that Mr. Smith informed him that his department is investigating a solution to safely deal with the mosquito larvae in the swales.

Mr. Alcshuler said that it takes more than four days for rain to percolate into the ground in these swales, which gives mosquitoes time to breed.

Rick Kendle pointed out that there has been concern in the past for the use of chemicals and pesticides and he hoped that the solution was as safe as possible.

Mr. Karlton asked if the City had submitted civil engineering plans for drainage in the golf course to the State, who made modifications, and then proceeded with the plans as they directed only to go back to the State who said we were wrong? Mr. Chartrand answered that this is not exactly the case. The City and State DEP are willing to revisit this together. Water treatment is DEP's focus, and mitigation of standing water is the goal of the City.

Erik Agazim asked if there had been a problem with flooding before this. Mr. Alschuler stated that there had been some, but not in the way you see it now.

Commissioner Weithorn pointed out that the ground on Normandy Shores Island is made of mud, which does not percolate.

Mr. Chartrand explained that the first request from DERM and DEP was to raise the elevation of the golf course, which was obviously cost-prohibitive and would result in water running off into back-yards. So the retention swale was actually a compromise. The same request was made to the City when they built the Miami Beach Golf Course. The same retention swale solution was the compromise there. It is working well, but the ground percolates better at that location

Ms. Kilroy asked about soil testing. Mr. Chartrand told the Committee that during the design phase testing was done and bad soil had to be removed. The entire site was contaminated by arsenic and soil removal is very expensive. The final course design took into consideration many of DERMS concerns. The contouring of the course not only helps for course play, but also helps raise elevation in some areas, with approval from regulatory agencies.

Commissioner Weithorn asked if any of the problems will be mitigated before the course is open to the public.

Mr. Chartrand said that some of the issues will be addressed. The solution on Fairway Drive, lowering the weep-holes in the drainage pipes, (pending DERM approval) would likely be addressed first, since this was a fairly simple solution. The work within the golf course fairway to re-design the weirs and the installation of new structures to pull water from the swale behind the homes will take longer. Neither is expected to delay the golf course opening, but we won't know until the final word comes from the regulatory agencies.

Commissioner Weithorn was most concerned about when residents will see improvements and that in the meantime any pesticides used should be discussed with the HOA.

STAFF ACTION: Bring an update to CIPOC on the three areas of the Normandy Shores Golf Course drainage solution each month until resolved.

Commissioner Libbin said that he had been looking for an answer from DERM or DEP, but has yet to have any representative from either agency come out to meet him at the golf course. CH2MHill, he noted, is the Engineer of Record.

Mr. Karlton declared that CH2MHill should give the City a timeline for completion of these fixes, or the City should move to another engineer.

Commissioner Weithorn asked for the plans from the engineer by the October 6 meeting.

STAFF ACTION: Bring plans from CH2MHIII for the lowering of weep-holes, the re-design of the weirs and the installation of additional drainage from the south retention swales to the October 6 CIPOC meeting.

7. Discussion on Placement of Normandy Shores Entrance Sign

7:25pm

Resident Ron Kaufmann, (1270 Stillwater Drive), representing his mother, who is a resident of South Shore Drive, presented information about the placement of the neighborhood entrance sign for the Normandy Shores neighborhood. This sign was designed and built on the property line of the home and is placed within the right-of-way, but it is very close to Mrs. Kaufmann's home. Early in the project, when the sign was first placed, the City relocated the sign at the resident's request. The new location is still very close to the home and Mr. Kaufmann claims has had a deleterious effect on the resident's view, quality of life and the value of the property.

The cost to build this sign was \$22,000.00 in this project. The cost to move the sign was \$18,000.00. The City would incur additional cost to demolish and remove the sign.

Mr. Kaufmann asked the CIPOC to recommend that the City Commission instruct CIP to remove the sign, and approve the change order to do so.

A discussion took place.

MOTION: To recommend to the City Commission that CIP remove the sign and to approve the change order for said removal.

MOVED: Fred Karlton 2nd: Stacy Kilroy

PASSED unanimously

8. Old Business

9. Staff Action Report

10. Adjournment: Meeting was adjourned at 7:50pm

The next meeting of the Capital Improvement Projects Oversight Committee will be held at 5:30 pm, Monday, October 6, 2008