

The Board of Public Works and Safety of Plymouth, Indiana, met in Regular Session on May 23, 2016, at 6:00 p.m. in the Council Chambers of the City Building, 124 N. Michigan St., Plymouth, IN.

Mayor Senter presided for Board Members Delp, Fonseca and Houin. City Engineer Gaul, City Attorney Surrisi and Clerk-Treasurer Xaver were also present. Board Member Grobe was absent.

Board Members Fonseca and Houin moved and seconded to approve the minutes of the last regular session of the Board of Public Works and Safety on May 9, 2016, as presented since they have been reviewed and found to be correct. The motion carried.

Street Superintendent addressed the Board regarding the 2016 Street and Sidewalks Projects. He recommended that the Board award the bid to Walsh & Kelly for \$349,681.00, which does include the airport work.

Board Members Delp and Houin moved and seconded to award the bid to Walsh & Kelly for \$349,681.00. The motion carried.

City Attorney Surrisi made a last call for quotes for the Roof Replacement Project at the Wastewater Treatment Facility. The following sealed quote was opened and read aloud:

- Millwood Roofing and Construction, Milford, IN \$8,417.00 base quote, \$3.50/SF of plywood

Utility Superintendent Davidson did notify the Board the requests for quotes were sent via email and mail to Millwood Roofing, Sims Roofing and Leroy Nolt & Sons. Davidson noted that he will review the specifications and requested that the Board award the bid to Millwood Roofing provided all the documentation is in order since it was the only bid received.

Board Members Delp and Fonseca moved and seconded to award the quote to Millwood Roofing and Construction provided all the documentation is in order. The motion carried.

Superintendent Davidson updated the Board on the improvement project for the Ledyard Water Treatment Plant. The project is on schedule and projected to be substantially completed by June 18, 2016. The final inspection of Division II of the project, the water main extension, has been completed and a final claim is expected to be presented to the Board at the next meeting.

Davidson also noted that water main flushing will begin June 1, 2016. The media will be notified so residents know the upcoming schedule.

Davidson stated that the properties at 805 and 809 W Harrison Street have been purchased by the City of Plymouth. The properties have been cleaned, mowed and the building entrances secured. Davidson thanked the Plymouth Police Department for their continued surveillance of the property.

Building Commissioner Hammonds notified the Board that the electric to the sign at Mooney's Ice Cream Parlor has been corrected and the work completed.

Board Member Delp asked for an update on the brick falling off a building on Pidco Drive. Hammonds stated that he has looked at the property and a letter has been sent to the property owner.

City Attorney Surrisi reminded the Board and the public that the Downtown Brick Restoration Project includes power washing and cleaning the bricks. This project began last week and is expected to last through the end of this week with little disruption to the downtown area.

Clerk-Treasurer Xaver presented the following request:

We need a street light off of Baker onto Dora Lane. We don't know where a good place to place the light or what décor to use, your choice. Residents in Riverwalk are in their 70's, 80's and 90's. S/ Marlene Swank, 1019 Red Maple Dr, Plymouth, IN 574-936-7172

Resident Karen Delp addressed the Board. She noted that the area is very dark at night and an area that is difficult to maneuver in the darkness. Street Superintendent reported that the street lights were never accepted by the city for that development. He noted that there used to be a light in the island, but that has since been knocked over and not replaced. He stated that there is no wiring in that location, so should the Board move forward with this request, NIPSCO may need to install the light/wiring. Marquardt will research the different options available for that area and report back to the Board.

Clerk-Treasurer Xaver presented the following request:

I'm 94 years old and fallen once already. This area is ½ block North of St. Michael's Church. People are now walking in the street to avoid the sidewalk. Kids walking to school cross this area or have to walk in the street as well. S/ Eileen Helms, 723 N Center St, Plymouth, IN 574-936-2562

Street Superintendent noted that this area has been categorized a number 3 area on the transition plan. He said that the Street and Sidewalk Project for 2016 does not include this area, but could be amended to include it should the Board choose to make that adjustment. Otherwise, the area can be included in the 2017 Street and Sidewalk Project.

Board Member Delp thanked the Street Department for all their hard work, but did suggest that we focus on prioritizing more sidewalk projects as there are a lot of areas that need attention throughout the City of Plymouth.

Board Members Delp and Houin moved and seconded to allow the payroll for May 31, 2016, and the claims for May 23, 2016, as entered in Claim Register #2016. The motion carried.

Jim Powers of the Indiana State Board of Health addressed the Board in support of water fluoridation. He provided a brief history, stating that fluoridation began in 1951 in Grand Rapids, Michigan, and started in 1969 in Plymouth, Indiana. Since its inception, there have been over 3,000 studies showing fluoridation is effective, reduces the amount and severity of tooth decay, and has proven to be safe and cost effective. Mr. Powers provided medical and scientific documentation to the Board Members.

Board Member Houin reiterated his strong opinion of continuing fluoridation of the City's water supply after researching and reading the material brought forth by sides. Board Member Delp also stated that his opinion remains the same and continuing fluoridation is the best practice for the City and its citizens.

City Attorney Surrisi notified the Board that Joyce Maxwell-Downs had communicated with him after the last Board of Public Works and Safety meeting. He followed that up with the following communication:

Dear Ms. Maxwell-Downs:

Clerk-Treasurer Xaver forwarded your recent message to me and asked that I respond to your inquiry. There is no entitlement for anyone to speak at the Plymouth Board of Public Works and Safety meetings. The Board serves as the chief administrative body of the City, having oversight of the following departments: Police; Fire; Building Commission; Street and Sanitation; Cemetery; Water; Wastewater; and Stormwater Management. The Board meets twice a month and always has a busy agenda, making important decisions that have an impact on these various departments.

Citizens who have a concern may fill out a request form at the Clerk-Treasurer's Office. Those requests are then reviewed by City staff to see if the matter may be addressed by the staff alone without the need to engage the Board. If it is a matter within the Board's purview that requires its decision making, the City staff will place the matter on the Board's meeting agenda for consideration. Board members or City staff members themselves may also request that a matter be placed on the meeting agenda.

During meetings, the Board will generally allow public input on agenda items. The presiding officer of the meeting will ordinarily allow any member of the public to address an agenda matter at least once, so long as they conduct themselves with decorum, their input is not unduly repetitive, and does not disrupt the business of the Board. This is what occurred on Monday. The presiding officer acknowledged the gentleman you referenced, Common Council member Gary Cook, who briefly spoke regarding your agenda item on the Fluoridation of City Water. All of the City officials value the input of the citizens they serve and recognize that it is only with their consent that they have been entrusted with the important work of governing the City. Citizen input is essential to effective government. However, the purpose of any Board meeting is to conduct the Board's administrative functions, which amount to a large part of the City's day-to-day operations. No attendee of the meeting has an entitlement to speak unless permitted by the Board's presiding officer.

The City's long-serving Utilities Superintendent, Donnie Davidson, has expressed his support for the City's fluoridation program. And the membership of the Board has unanimously demonstrated their commitment to maintaining that program. Given those facts, as a member of the City staff who works with the Clerk-Treasurer to prepare the Board's meeting agendas, it is my opinion that the continued rehashing of this settled matter during the Board meetings is no longer productive at this time. Accordingly, the City staff will no longer be placing your request on future meeting agendas until such time as an individual Board member directs us to do so. Of course, you maintain your rights to petition your government and instruct your representatives under the Constitutions of the United States and the State of Indiana. Any additional information you provide to the Clerk-Treasurer's Office will certainly be forwarded to the Board members for their review. But, you will not be placed on the agenda to discuss this same issue unless a Board member instructs us to do so.

Please let me know if you have any additional questions.

Sincerely,
Sean Surrisi
Plymouth City Attorney

Mark Sullivan of Midwestern Engineers discussed the Guaranteed Savings Project for the Wastewater Treatment Plant Project with Kokosing Construction. As previously reported, the budget was successfully negotiated. Sullivan presented the recommended contract amount of \$10,773,498.00 and the letter of intent.

Dear Board,

We have been working closely with Kokosing Industrial Inc. and Donnie Davidson of City of Plymouth to negotiate a not to exceed Guaranteed Savings Contract for the Wastewater Treatment Plant Improvements project. We have successfully reached an agreed upon not to exceed price of \$10,773,498.00. We have closely reviewed the scope associated with the given price and are comfortable it meets the intent of the project plans and specifications. The guaranteed price includes monies for the entire scope of work and also includes contingencies and the Contractor's agreed upon mark-up (8.5%). This total price also falls within the budget given to Umbaugh and Associates in determining the most recent City of Plymouth rate ordinance.

Based on the above parameters, we are comfortable and recommend the City of Plymouth enter into an agreement with Kokosing Industrial for the stated price noted above. Upon your tentative approval of this recommendation, we will work with the City Attorney to develop a project contract for your review. The contract and associated notice to proceed will not be executed until the successful completion and closing of your project bonds and project funds are in place.

If you have any questions, please contact us.

Sincerely,
Midwestern Engineers, Inc.
Mark M. Sullivan

Sullivan reiterated that the nature of this contract guarantees that the project will not exceed the budget amount and includes a contingency of roughly 3%. He noted that Kokosing had the best presentation, the best recommendations and the least mark-up of the four construction companies that submitted proposals. Sullivan recommended the Board acknowledge and make a tentative award subject to financing and successful negotiation of the proposed contract.

Board Members Houin and Fonseca moved and seconded to tentatively award the project to Kokosing subject to financing and a successfully negotiated contract. The motion carried.

Sullivan also discussed Kokosing's Letter of Intent and Limited Notice to Proceed to begin shop drawings of the equipment needed for the project.

Dear Donnie:

The purpose of this Letter of Intent is to state that the City of Plymouth ("Owner") and Kokosing Industrial, Inc. ("Provider") intend to finalize a written guaranteed savings contract (the "Contract") for the Plymouth Wastewater Treatment Plant Improvements (the "Project") and to issue a Limited Notice to Proceed to the Provider to initiate project critical activities.

The Parties agree that finalization and implementation of the Contract is subject to the Owner obtaining their project financing, a signed contract and written Notice to Proceed with construction from the Owner.

Unless otherwise specifically agreed upon in writing between the Parties, this Letter of Intent and Limited Notice to Proceed shall expire no later than July 31, 2016 or upon execution of the Contract, whichever first occurs. The terms of the Contract, upon execution by the Parties, shall automatically supersede the provisions of this Letter of Intent.

The Parties hereby agree to negotiate in good faith to finalize the Contract based upon terms and conditions in accordance with the EJCDC agreement modified specifically for guaranteed savings contracts.

The Parties recognize that certain exhibits to the Contract have not been finalized. However, during the term of this Letter of Intent the Parties agree to cooperate to finalize those Exhibits. As part of this Letter of Intent, the Owner agrees to a Limited Notice to Proceed for Kokosing to proceed with project procurement activities and expedition of project related submittals and shop drawings. This Limited Notice to Proceed does NOT include any release for fabrication and delivery of construction materials and process equipment.

All Parties agree that this Limited Notice to Proceed is critical to the overall project schedule and potentially benefits the Owner with: reducing overall project costs by eliminating any material price increases, potentially reducing the overall project completion schedule and thus general condition costs and early completion and operation of new facilities needed by the Owner.

Should the Owner be unable to obtain the necessary project financing and/or execute a guaranteed savings contract with Kokosing, the Owner agrees to pay Kokosing for submittal and shop drawing preparation for a "not to exceed" amount of \$84,615.00 and in accordance with Submittal Schedule attached hereto. This project "cancellation" charge is not a penalty but actual reimbursement for submittal preparation. Actual payment for submittal preparation would be based on actual costs billed by suppliers on the condition that the submittals issued are of an "approvable" quality. Payment would be due within thirty (30) days after both Parties mutually agree that this project is "cancelled" or July 31, 2016, whichever occurs first, and actual submission of this submittal information to Midwestern Engineers ("Engineers") or the Owner.

Each Part shall bear its own internal and external expenses in connection with this Letter of Intent and Limited Notice to Proceed unless otherwise noted or negotiated.

Anticipated Project Timeline:

Issue "Draft" Guaranteed Savings Contract to Owner	May 20, 2016
Finalize Contract Negotiations between Parties	June 13, 2016

Finalize Contract Exhibits	June 13, 2016
Owner Financing Complete	June 17-July 1, 2016
GSC Contract & Project NTP Execution	Within 7 Days After Financing
Commence Construction Activities	Within 5 Days After NTP

This could potentially save up to two months of work by starting with this portion of the project ahead of schedule. The equipment would not be ordered until the financing is in place. The contractor proposed that this could save the City approximately \$20,000-\$30,000. Sullivan stated that there is also risk involved. In the event that the financing falls through, the cost for these shop drawings will still have to be paid. In the worst case scenario the total cost could be \$84,615.00.

Board Member Houin asked City Attorney Surrisi if there is anything in the statute that would limit our ability to enter into this letter of intent. Surrisi said no. He stated that should the financing not come through, the Wastewater/Utility would have funding to draw from to cover the cost of these shop drawings.

Board Member Delp and Houin moved and seconded to approve Kokosing's letter of intent, dated May 13, 2016, in the amount of \$84,615.00. Sullivan and Davidson did note that the shop drawings must be complete and approvable in order for Kokosing to receive this compensation should the project not move forward. The motion carried.

There being no further business to discuss, Members Delp and Fonseca moved and seconded to adjourn the meeting. The motion carried and the meeting was declared adjourned at 6:50 p.m.

Jeanine M. Xaver
Clerk-Treasurer

APPROVED:

Mark Senter
Mayor

The following requests have been submitted to the proper committee to act:

Tree Request Form: Please remove two (2) dead Ash trees and four (4) Willow trees that are dying and losing big branches in the city/county right-of-way along the creek behind 1720 Hope Blvd. S/ Darlene Marquardt, 1720 Hope Blvd, Plymouth, IN 574-930-6299

Grass Complaint Service Request: Grass is not being mowed at 406 Nursery St. S/ Larry Hatcher, Jr., 412 Nursery St, Plymouth, IN 574-360-2462