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Burlingame City Council Minutes Special Meeting February 9, 2009

1. Call to Order by Mayor.

The Mayor called the meeting to order at 11:00am.

2. Roll Call.

Roll Call: Present: Mayor Brenda Dorr
Norman Bloomquist
Carolyn Strohm
Dustin Swander

Absent: Kevin Fry

Staff Present: City Clerk Gilbert, Utility Foreman Grandstaff (on his way in), City Attorney Godderz will be arriving after court.

Citizens: Gabe Faimon (Osage County Chronicle/Herald), Mr. and Mrs. Ted Watchous, LaVene Brenden, John Slover, Dennis Jones, Jim Strohm, Jim Welch, Dan Fischer with Rural Development, Donna Crawford, Robert Helton and Tyson Brown with J&H Construction.

3. Citizen's Comments: Mr. Watchous addressed the Council regarding his father's house that had been empty for more than 6 years. Stating they had begun to work on the house and the construction crew had turned the water on when laying the new line ultimately flooding the house. City Clerk reported the water meter was read at the time it was discovered and 37,000 gallons had gone thru the meter. A question and answer conversation with Council and Staff occurred with the Council recommending to Mr. Watchous to return to Council pictures and a list of damages.

4. Approval of Agenda:

Motion not required as the Water Project is the only item discussed.

5. Phase II Water Project:

This session was a question and answer part for the Council with the engineers of Bartlett and West. Councilmember DeMars asked if there is a communication record between the engineer and contractor. Mr. Slover stated a summary is kept also a log book. Mr. Brenden stated the City gets a copy of the summary. Councilmember DeMars asked who was to attend the walk-thru and the time it was planned on being completed. Mr. Brenden stated when the contractor notifies him when they are ready for substantial completion. The discussion turned towards the inspection part, with Councilmember Swander stating to Bartlett and West they were hired to inspect the work, Mr. Slover replied he couldn't be in more than one place at a time and they had 3 different groups working. Councilmember DeMars asked if they (contractor) put gravel under the hydrants, Mr. Slover stated yes they did as far as he knew. Mayor Dorr added she felt there should be rock at the base if they put the rock as asked for. Mayor Dorr also inquired how long before the hydrants will be ready to use and the bags taken off. Councilmember Swander said a few of them should be dug up and checked for the placement of rock.

(Owner of J&H Construction, Robert Helton, entered meeting at this time)

Councilmember Swander asked what kind of meter lids were used on the meter pits. Mr. Helton reported he was told not to use the metal meter lids and had to order plastic ones. Mr. Grandstaff stated it was due to the computerized metering system could not read the meters with metal lids. Councilmember Swander asked on the depth of the meter boxes, with Mr. Helton reported he was instructed to cut the boxes in half. Mr. Helton stated someone instructed him not to bury the meter boxes at that depth but he bought them according to the specs. Then Mr. Swander asked what was the length of the service lines they had connected. Mr. Helton noted it varied and also the system had a pressure test.

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Mr. Helton stated the PRV was discussed and they are to be adjusted as we go.

Mayor Dorr asked if on the Inspector if a broken down form is supplied or a bundle. Mr. Brenden replied it was on a total hourly listing. Mayor Dorr at that time asked for a breakdown including the mileage also. She showed a copy of the invoice also said that she wanted it broken down with mileage per day.

Councilmember Bloomquist asked Fire Chief Strohm if he was satisfied with the set up and the way things were installed. Fire Chief Strohm stated all hydrants were in that were asked for except Seneca and the Library. He noted he had not tried any of them and if there is a drain back problem they will find out. Discussion over the rock and weather it was there and the problems it can pose not only immediately but down the road. Utility Foreman Grandstaff stated he didn't think all hydrants had crushed rock. Councilmember Bloomquist asked Mr. Slover that he says there is crush rock around them. Mr. Slover responded by saying yes they have all crush rock around them. Mr. Bloomquist responded with I thought the question was some of them did not have crush rock around them. Chief Strohm stated on hydrant was placed to close to the road, Mr. Brown said that issue was addressed after the installation of the hydrant. Mr. Helton stated there was nothing specific on the plans where to place it, and a special request was placed after the installation. Council verifying the location of the hydrant as Seward and Dacotah. Councilmember Strohm interjected with common sense would tell you not to place a fire hydrant on the edge of a road.

Mayor Dorr asked if all the pipes sticking up at the edge of the roads will be cut off. Mr. Helton replied with he assumes she is talking about a valve riser. After discussion it was determined it was a valve box.

Councilmember Swander again asked who instructed them not to use the steel lids and Mr. Helton verified the question. It was confirmed by Wes Colson the lids needed to be plastic for the electronic metering system. Discussion over the meter pits and why they were put in as they were continued, with Mr. Helton saying he doesn't understand why it is such a big issue at this point in time as it has been going on for quite some time. Adding not all things are discussed with the engineer, and he does what he is told.

Meters being placed too high up, Councilmember DeMars wanted clarification if they would be placed low enough not to freeze. Councilmember Strohm wanting to have an explanation on why the meters would be set too high. Tyson Brown explained how a meter set worked.

Mayor Dorr asked if they had a completion date, asking if no more extras, with Mr. Helton stating the city didn't have the 2" service line parts by the 1/31 end date. Mr. Helton stated as of this date the 2" lines have been done and there is three or four tie-ins left, maybe a couple 3 days to completion.

Discussion over items that needed to be completed Mr. Helton reported there was one area on the plans didn't have services when common sense would tell you otherwise. He also added it is a snowball effect that has put us past every deadline we tentatively give you. Mayor Dorr asked if it went back to our engineering services, Mr. Helton stated they designed the plans with what information they had. Mr. Helton stated this was to be an easy job, get in and get out as soon. As far as the question about the engineer, he wouldn't speak for the engineer, and he as a contractor could only bid on the stuff that we can see.

Councilmember Strohm stated some of this stuff, she was under the impression the city agreed to pay for. Mr. Helton stated you have agreed to pay for extra main, explaining he bid on so much of the service line and if it goes over the length that is bid, we are getting paid for it as it is a unit price, but what I am saying these things compound time frame.

Councilmember Swander asked if the current engineer drew up the project, and asked why wouldn't these differences be on the plans. LaVene Brenden told the Council we put together based on the number of connections and anticipated locations of meters should be a reasonable quantity of 1" service. Now if the meter pit is 300 feet away from the street opposed to within shouting distance of the street

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that is why it is bid as unit price. Mayor Dorr then asked who would have know if it was 300 feet versus 10 feet. Mr. Brenden stated drawings had been sent down to the city 4 times to be reviewed. Councilmember DeMars spoke up this is where she is having a problem pointing out the steps for communication, adding if she remembers correctly there was extras, and that is included in extending the deadline. Mr. Helton said yes it included the extras the city requested. Mr. Brenden went down the list of what was extra and not in the original bid. Mr. Helton interjected with the word extra is something that we don't already have a price for and maybe that is where the confusion is coming in. The time we asked for a time extension is to complete the extras and what was not on the plans.

Councilmember Swander returned to the depth of the meter pits and on the communication between all parties involved. Mr. Helton stated it is not a whatever or he wouldn't be sitting there right now. Mr. Swander said what he is saying ' you are a business owner are you going to listen to what your employees tell you or are you going to go to someone to find out for sure?'

Mr. Helton then spoke stating when you have to work with more than one boss on a program, I understand you think you know what you are talking about right now but I understand where you are going with this, the problem with this unless you come to the field everyday and figure out the different coordination steps you have to go through just to get something done around here it is absolutely ridiculous. There are too many chiefs and not enough Indians and when we try to please one person, somebody else says something else. The problem is they are at zero communication in this circle, we are the ones that get all the stuff directed back to us. So as far as you telling me you are a business owner are you going to listen to your employees, yes because your guys are the ones telling our guys what they want, it's not us. We have an inspector on site that is verifying the installation. You guys have representation, why wasn't this issue brought up on meter # 2, why are we waiting until meter 170? It's not our fault we did as we were told.

Councilmember Strohm clarified she was speaking for herself and not the whole panel. Stating I want this job done, I want it done properly and if you need a little bit more time I don't have a problem with that personally. And if you are using more pipe because the meter was here instead of here, I think it is our obligation to take care of that. I kinda agree with you there has been too many he said she said, and too many people instead of one person communicating. That is our fault not your fault, I would just like to see this completed, completed right.

Mr. Helton asked Mrs. Strohm if she has a problem with the way we have completed so far?

Councilmember Strohm repeated personally, not really. Mr. Helton interrupted with why would you say completed right, insinuating that we haven't. She responded with I am just saying I want it completed right, if there is a problem I want it completed right. All this stuff I am hearing at the table, this is the first time I heard this, I didn't know there was a problem with meter cans and height of water meters. I feel like we hired an engineering firm and a construction firm that was supposed to know what they were doing and far be it from me to say well that meter can is too high, if it's sticking far above the ground I agree it shouldn't be. Personally I would like to see you guys finish the job and get out of town. Not that I have anything against you, I am getting tired of the mess here and people bitching.

Mayor Dorr asked if you go to someone's property and the line has been shut off, why would it be left on when you are done, why would water run through it when it has been shut off? Mayor Dorr had to clarify the question to Mr. Helton.

Mr. Helton stated it was standard procedure, they man might have failed to notice the meter was shut off when replacing it. He then asked how long ago. Mayor Dorr reported it was just recently and one house had the water turned on twice, with the City Clerk verifying the amounts. Mr. Helton asked if these were services that were scheduled to be shut off, and was assured that was not the case. With one of the houses the service hasn't been on in six years.

(Tape had run out and was being changed) The Mayor had brought up a situation at Chase & Dayton, where Mr. Helton responded no one from J&H has turned lines on in that area as they haven't have to

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blow out any lines in quite awhile. Mayor also reported at Seneca and Hall corner where they cut across the road they put rock but yet it is seeping a lot of water. Tyson Brown reported that had been fixed.

Councilmember Swander questioned the tree cutting and asked if the construction company had a chain saw, Mr. Helton stated at the end of the project that will be cleaned up. Mr. Swander asked about a resident on East Seward and wanted to know if the company cut through the phone line and used duct tape to repair it. Tyson Brown responded he temporarily fixed it until Embarq could respond. Councilmember Swander stated he doesn't have any other questions except the concern over the rock at the bottom of the hydrants.

Mayor Dorr also asked regarding the non-payment to HD Water Products on the materials J&H received for this project. Mr. Helton stated he is well aware of the accounts payable to them basically and entirely we have chosen to wait to the end of the project to completely get them paid off due to extended amounts of inhouse expenses for this project. We have communicated that with them. Mayor Dorr said they are fully aware of that, with Mr. Helton stating yes, the problem they (HD) said in Kansas if they don't file within 6 months they can't file. So they put everyone on notice meaning that if J&H ten toes up and we leave the bonding company will not be able to collect our money unless the notification process has been started. He assured the Council he has spoken with the bonding company.

Mayor Dorr said she wanted to get back to something that was said awhile ago, too many chiefs and not enough Indians, how many chiefs did you have. Mr. Helton replied you know I try to watch out what as I say this. I am not interested in making any enemies down here, J&H Construction came down here and we love putting in water lines and we enjoyed working with the guys in the beginning as the project has progressed it has been increasingly more difficult to get to the end of the tunnel where there is light. That is because of certain instances that happened in the field. In my opinion, there are too many people in this whole realm of this business that like to be heard that like to have their opinion voiced. Everybody thinks they have a little bit of authority and we are the contractors and their two cents are thrown in. My problem is, is I don't have a standard itinerary of people who are in charge or balance/check list or hierarchy if you will. It's the engineer, it's the city guys from Burlingame, it's you guys (pointing to the Council table), it's everybody. So put yourself in my position and someone wants something done, you don't ask questions you just do it. I hope that answers you question, but I am not going to throw names out there, I am not going to give specific situations cuz that's not what I am here for. Mayor Dorr then said I guess what I am after if we have a problem with our city crew we need to address that, but if we don't know who or what was going on we can't address it. Mr. Helton stated he is not willing to talk about it in an open format meeting. Mayor Dorr stated she will talk to him then after the meeting. Mr. Helton says and that goes for all that kind of stuff, I am just not into public.

Councilmember Strohm asked when the contractor put in the 2" line did you furnish the line? Mr. Helton stated the city furnished the materials, the city felt they could get the materials cheaper and only pay the contractor the labor for putting it in.

Councilmember Swander made a comment regarding the communication with everyone, Mr. Helton stated he did not say not having a project manager, what he stated was his employees hear things from numerous people who are to be in charge representing your money you are spending on your project. Now if there isn't a project manager or superintendent at that time on that job site, his guys are trained not to stand and wait for someone to come around. They are taught to make the best decision and if someone comes around with authority they are going to listen. If this was such a huge issue, I can't believe it wasn't brought up with all the representation you guys have 170 meters ago. Mr. Swander added I respect and understand that, but to prevent this from happening in the future there needs to be a better form of communication between the contractor, inspector and the governing body of the city.

Mayor Dorr asked if there were still several leaks in the city, with Tyson Brown confirming the locations. Mayor Dorr then stated I know we talked about communication, and I don't feel it falls souly on the City, because another thing we have is a several of residents not being notified their water was going to be shut off. That happened in several areas. Mr. Helton apologized for that, the only defense, you know what meter and what valve would put out what people. Mayor Dorr reported with the

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Townsite being shut down 2 different days with the food program it could have been a serious problem. Letting them know ahead of time they could have made arrangements.

Mr. Helton stated he doesn't see why they couldn't be done by the end of the week. Councilmember Strohm asked that is including the library hydrant, with Mr. Helton agreeing.

Donna Crawford made a statement that at the pre-construction hearing regarding communications that it was very important the city stay out of initial negotiations, that everything is to go through the engineer. So I know there were a lot of question and the communication factor failed, no one was going to the engineer instead people were coming out saying do this and do that. So in the future all city employees attend the pre-construction meeting so they know they have no say so in these decision making situations. Mayor Dorr brought up the left handed valve in Osage City and the steps that were taken by employees when the inspector didn't report it to the engineer. Mayor Dorr asked Dan Fischer from Rural Development if he had anything to say. Mr. Fischer verified the importance of attending the pre-construction hearing also if anything needed immediate change to get it in writing. He added he was not placing blame but would like to see the project done.

Motion by Councilmember DeMars with a second from Councilmember Swander to adjourn for lunch until 1:15 pm.

Ayes: Vikki DeMars
Dustin Swander
Carolyn Strohm
Nays: Norman Bloomquist

Meeting was called back to order at 1:25 pm.

Roll call shows Carolyn Strohm not present, and City Attorney Godderz in attendance.

Mayor Dorr gave a quick description of the morning segment of the meeting, Mr. Godderz said with the answer and question session this morning with the contractor, the council could go into executive session for attorney-client to discuss if they felt uncomfortable doing it in open session. Councilmember Swander started on the depth of the meters asking John Slover if he was aware that was happening. Mr. Slover replied he was aware, then Mr. Swander asked why did he not relay it to Mr. Brenden so he could report it to the Council? City Attorney Godderz asked LaVene Brenden if this was a variance from the contract document, with Mr. Brenden replying technically yes. Mr. Grandstaff added he did not ask for a change and couldn't report exactly when it started. Mayor Dorr wondered who then would be at fault for allowing this, Mr. Grandstaff said from the first meeting his go to guy was always John Slover. Mayor Dorr asked J&H who authorized the cutting of the meter cans, with Mr. Helton stating it was someone from the City and doesn't know the name.

Councilmember Swander said I am not blaming it on them (J&H) for doing it, the inspector was watching it be done. Mr. Godderz wanted to know if there was any written authorization to the change, and if there is none, there shouldn't have been a change period. He continued if the contract called for a certain size to change it there must be a written authorization to change the size, if there is no written authorization then they should not have been changed period, it's all in the contract. Now if you relied on someone from the City, call Wes and Dave in here, they do not have the authority to act on behalf of the City. Mr. Helton replied the work was inspected and signed off on. Mr. Godderz explained the communication steps, with Mr. Helton asking if there was any liability on City's part when employees watched the meter cans being cut. Mr. Godderz responded once you have a contract you abide by that contract until you have written authorization. The attorney asked Mr. Grandstaff if he signed off on the changes with Mr. Grandstaff answering with a no. Wes Colson stated common sense on my part, as if they put them in full length you would not have been able to work on the meter or change the meter. Mr. Godderz asked if Wes addressed it with the engineering firm and he stated no. Mr. Godderz said it would need to be addressed internally.

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Attorney Godderz asked J&H about the lack of gravel under the fire hydrants. Mr. Grandstaff reported on some of the hydrants he visually saw there was no gravel. Mr. Brown stated yes to the question of rock under the hydrants. Mr. Godderz then questioned the Council on what other complaints had come up in the earlier part of the meeting. Councilmember Swander said the shut off valves were put in the ditches. Councilmember DeMars stated she had spoke of the meters being too high and the contractor will lower them. Mayor Dorr verified with Mr. Helton they will be done by the end of the week, with Mr. Helton responding with a yes.

Mayor Dorr said she had one more question regarding the amount gone over with Council for the inspector and Mr. Brenden stated we have not gone over the amount allowed. After getting the breakdown, Mayor Dorr asked Mr. Slover how many miles does he put on in a day? Mr. Slover stated depends, when you run around town and they are working in more than one place it doesn't take much.

Wes Colson addressed the contractors on the placement of the meters in the pit. Stating there are a select few that had to be placed a certain way, however the contractor went and placed all the meters the same way. He said it will be added to the punch list to have it corrected.

City Attorney Godderz noted the City Clerk has been notified by a material supplier. Mr. Helton stated as he said earlier HD Water Products has had communication by them on how they intend to pay them off. Mr. Helton said he knows there is a bond and no liability to the owner, we understand that. Mr. Godderz interjected with the bonding is for the original purchase price and he understands it will cover the extensions but will not increase the bond. Mr. Helton stated the bond will increase with the price.

When everyone agreed they were done with the questions, Mayor Dorr stated Council needed to act on a pay request for the water project.

A motion to pay J&H Construction the amount of \$109,887.21 was given by Councilmember Bloomquist with a second by Councilmember Swander.

Ayes: Norman Bloomquist
Dustin Swander
Vikki DeMars

City Attorney Godderz asked Donna Crawford and Dan Fischer if they had any concerns. Mr. Fischer asked on the order to change the completion date and was told it was the next thing on the agenda.

Motion by Councilmember DeMars and a second by Councilmember Swander to accept change order # 3 to change the ending date to 2/27/2009.

Ayes: Vikki DeMars
Dustin Swander
Norman Bloomquist

Discussion over the MicroComm order and when the work can be expected Mr. Helton stated when the majority of the work is done they will then coordinated with the company to get the material installed.

Motion to Adjourn was given by Councilmember Swander with a second from Councilmember DeMars.

Ayes: Dustin Swander
Vikki DeMars
Norman Bloomquist

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Patti Gilbert, City Clerk

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