Call to Order / Pledge of Allegiance

Mayor Mark A. Lauretti called the meeting of the Board of Aldermen to order at 6:10 p.m.

Roll Call

Alderman John F. Anglace, Jr., President - present
Alderman John “Jack” Finn – present
Alderman Stanley Kudej – present
Alderman Joseph Lanzi - present
Alderman Kenneth Olin - present
Alderman Christopher Panek - present
Alderman John P. Papa – present
Alderman Randy York - present

There was a quorum of 8 present, 0 absent.

Agenda Items

1. Waiver of Bids – Waste Water Treatment Facility Expansion and Upgrade

Alderman Anglace MOVED to waive the bids for additional unexpected work to the Waste Water Treatment Facility Expansion and Upgrade pursuant to the letter from the Director of Finance; SECONDED by Alderman Papa.

Mayor Lauretti stated, I think that perhaps the best way to proceed is to ask the question, what are the objections? I know there was a lengthy discussion at the last meeting about waiver of bids, and I think I had mentioned at one meeting that all these requests are very different. Some are more complicated in nature than others. From my standpoint, it’s really about the money and getting the best deal for the taxpayer, the City, and that’s why we do these things. So tell me what the objections are. You have quite a healthy package here of backup material. You may have not had the opportunity to get through all of it, but I hope you got through some of it. There are people here from Maguire that hopefully can shed a different insight on the complexity of this project in particular.

Alderman Anglace asked, can we start with a little background on what brought us to this point? From my reading, I’m asking myself the question, are we really asking for a bid waiver or is it something else?

Mayor Lauretti stated, the request and the action tonight is for a bid waiver.

Alderman Finn stated, to me, it’s nothing more than a change order. And a change order would come out of the contingency account. I don’t understand why we’re doing a bid waiver. I do know it’s up to about $177,000.
Mayor Lauretti stated, there are at least two of us in the City that don’t agree with that. One of them is myself, and the other one is the Assistant Corporation Counsel, who evaluates these contracts and who does all the legal work to prepare these contracts. So we think that a bid waiver is necessary and that’s why we’re here. You know, some contracts are more specific than others. Again, as an example, the high school project that we just approved. There is about a $900,000 contingency and there is also a paragraph in that contract that says before any of that money can be spent, it has to be approved by the building committee and then brought back before the Board of Aldermen for their approval.

Contingencies are exactly what the definition is – for unexpected things that come up. What you have before you tonight are unexpected things that have come up during this major overhaul of the wastewater treatment plant, of which we’ve given you endless pages of backup on.

Alderman Papa stated, so do you have to have a waiver of bid or if you have a contingency, can’t you use that money in that contingency account to pay for this?

Mayor Lauretti stated, the money is going to be used for the contingency but the contract, in my opinion and Ray Souses opinion says that you need a waiver. So that’s why we’re here.

Alderman Anglace stated, I guess I’m confused. Maybe I’m not the only one. When I listened to some of the explanation, I got the impression they were telling me, talking to the building committee members, that we didn’t need a bid waiver because, and I think it was along the lines of what Jack Finn was saying, that the contract was bid and approved for ‘x’ amount of dollars, and that included the contingency money.

Mayor Lauretti stated, okay, let me stop you there. A contract was bid on specific specifications. And you have got a number. And now we have built a contingency in there,

Alderman Anglace interjected, did the contract include the contingency? If it did, then you don’t need a waiver, is what I’m told. And if,

Alderman Finn [inaudible]. The only other two questions I would have beside what John raised about the contingency fund, and Lou Marusic’s letter to us, I just want to verify that it would be practical to have multiple small contractors on this small site and [inaudible] the Community Center, and we had a number of small contractors on the site. This is a different situation down there. I just want verification that we’re being practical to that. Also, I’d like to know [inaudible] work with a number of contractors on the site.

Mayor Lauretti stated, we’ll let Maguire answer that question.

Mr. Farmer stated, I’m Kevin Farmer, Project Manager for the Engineering Contract we have with the City for the Treatment Plant Upgrade, and this is George Kaufman, Resident Engineer, who is on the site every day that construction activity is going on. George will address that.

Mr. Kaufman stated, the General Contractor is C.H. Nickerson, as you know, and a number of subcontractors work for them. This is a $17-plus-million dollar job and therefore it’s a prevailing wage job. If you
were to bid out small changes in work that was done by Nickerson, or additional scope items, then you would probably run into all kinds of other problems such as requiring that the prevailing wage, versus non, for a small number, and union versus non-union, there might be some friction there, and warranty issues would also be a problem, and certain a lot more convenient in terms of managing the project to hold one person accountable for all of this work, and that is the General Contractor. Your contract is with them, not with all the subs, and when it comes to a warranty issue we hold the general contractor’s retainage money and they take care of whatever they need to do with the subs.

Mr. Farmer stated, George, can you explain to them the complexity that is associated with the replacement of the storm water drain – you know – the work that was started and now has to be completed? Speak to the liability of that particular issue, because I think that has a lot of merit.

Mr. Kaufman explained, one of the things we discovered when we excavated was...

Tape one, side two, 6:15 P.M.

...process takes place in is that there was an adjacent existing drainage system and discovered when we excavated for the SBR, laid them out, the surveyor laid out the footing lines, that the existing drainage was not only in very close proximity to our footings, but also in very poor condition. In fact, on the corner closest to Brennan’s driveway, the southeast corner of the tank, in that location our footing was actually on top of the existing drainage pipe. This pipe turned out to be 30-inch corrugated metal that has been in the ground, I think the drawings date back to the 50’s. There are sinkholes around this pipe and it’s certainly not in, the soil around it is not in any condition to bear loads imposed by our tank. I’m sure you’ve driven by the site and have seen the tanks project 20 feet above grade. They will be full of water, and that’s quite a bit a weight there. So it became apparent that we urgently needed to do something about that. If we were to stop the job and investigate the situation we would do this as a greensfield project someplace and go out to bid next year, then it would have taken months to figure out exactly what was there, and draw up bid documents and go to bid. If we did that we would incur a delay claim from the general contractor. So we did what we thought was the best thing at the time, and directed them to replace the defective material through the existing pipe and further relocate it closer to the property line so it would be out of the footprint of our tanks. We also made provision, first we split the work into two pieces and the first part it was necessary to solve our immediate schedule problem, and then the City went and secured a price from Brennan, competing with Nickerson to do the second half of the project. That number also came in fairly close to what we were figuring. We ended up with what we think is the best price to solve the problem that was very urgent at the time – the first half of the problem very urgent at the time, and the second half has to be completed in a timely fashion so that we don't hold up construction of the next set of tanks. We’re kind of under the gun here to act and replace that drainage system piping with something that will serve adequately for the future.

Mr. Farmer suggested, I think what they’re indicating is the removal of some of that soil – you might get into that.

Mr. Kaufman stated, oh yes. That area was a, you guys probably know a lot better than I, but it has, certainly, a history of being a dumpsite, and
there’s all kinds of garbage and unsuitable materials in the ground down there. We discovered when we excavated for the tankage, pockets of it that we had removed and replace with suitable structural fill and compacted. We have a line item in this contract for doing it on a unit price basis. We found that with, also in the area of where the storm drain piping is, it’s an unknown [?] leak and we can’t see it until we actually dig. We certainly would not want to bed down our tanks or the drainage pipe on top of the garbage that we found in the ground. There were tires, and bedsprings and broken items of any thing you can imagine in the ground down there. Creosol to telephone poles and pieces and all kinds of stuff. Trying to nail down that quantity and bid that would be impossible. It’s just not known.

Mayor Lauretti stated, the bigger issue for me, and should be for this board, is the liability that is associated with the compaction of the soil when you replace the existing soil with new soil and put the pipe in, because of the weight of the SBR tanks and because of the closeness, if it’s not compacted properly to meet certain standards, and they can certainly speak to the standards better than I can, God forbid something should happen, now who is at fault? How do you figure that one out? At least in this case, if you have the same contractor, or general contractor in this case, then we know that they’re the only ones that did the work and the buck stops with them. You start entering other people into the equation, now it gets complicated. I’m not saying that’s going to happen, but you should be aware that is certainly a possibility. And if I’m wrong here somewhere, please speak up.

Mr. Kaufman stated, no, you’re exactly right. In fact, it’s not just a matter of laying the new pipe in the ground and digging a trench and laying the pipe, new manhole structures and connecting it up, it’s a matter of, we have to remove the old pipe and fill the void that it came out of with structural fill and backfill and pack it. We have a provision, a mechanism in the contract for paying for that testing – compaction testing. Having a third party involved in that kind of activity would tremendously complicate things, in the event there was any settlement of the new tankage and the GC would say, I didn’t install, place the soil and compact it and the crack isn’t my problem. You’d be fighting that for a long time. It’s very advantageous to keep all the balls in one court here for a liability standpoint.

Alderman Panek asked, all the backup that we have here, what is this in relation to the actual bid waiver? These are all invoices that are dated months and months ago.

Mr. Farmer stated, I didn’t send the backup down there and I was quite surprised that there was that much backup that was sent.

Alderman Panek stated, I was just trying to find out how these relate to the bid waiver – this is for work that needs to be done – these are for work that’s already been done.

Mr. Farmer stated, those are invoices for the future, [?] for that one issue that George just talked about, the drainage on the side of the SBRs, was completed as George described as it needed to be as those tanks were being built. There is still some additional work for that drainage next to the SBRs which is to be completed, so the very first package, the first stapled package, is work that has been done.
The second stapled package is work that is to be done, connected to that first piece of work, and then most of the other packages below are work that is to be done. There may be some additional items here and there that have been done, but for the most part, things are still to be done. There has been consistent communication with Tom Sym, Mayor Lauretti and WPCA about all these various items so there are no surprises here.

Alderman Papa asked, the number we’re looking at is $221,000?

Mr. Farmer replied, that’s the total of all of those items, yes. The first half of the first item has been done.

Alderman Finn stated, I have no problem with the waiver of bid on this, the only thing I’m concerned with is the [?] 9/10/2006. Instead of waiting six months to send us the invoice they [?] move along a lot faster.

Mayor Lauretti stated, listen. You should know this work was done, unbeknownst to me. And the second half didn’t get done once I found out about it. It has taken some time; I’ve been down to the plant a couple of times to look at some of this work. Tom and I have beat the hell out of talking to a couple of other contractors to verify the prices that Nickerson was giving us, because, if you know anything about me, you know that’s going to be my first approach.

Alderman Finn stated, okay, then we won’t change the six months old,

Mayor Lauretti stated, well I’m not saying that. You shouldn’t, with respect to the work that’s already been completed. You shouldn’t.

Alderman Finn stated, any new work I understand is [?] so the Board does approve it.

Mayor Lauretti stated, that’s why we’re here. Some people were under the impression that they could just go ahead and do this work. I think some of you are too. I don’t agree with that.

Alderman Panek stated, so, a portion of the work has already been done and once a case like that happens, and say that the ground is all dug up and it’s an emergency it has to be done, who on behalf of the City at that point, I mean, did that come directly to you, does it go through Tom, or

Mayor Lauretti stated, emergencies are, in my opinion, a different category. That means an absolute necessary that affects life or personal property to a great magnitude, where we should just act. I don’t think that falls into the category, that additional $25,000. That’s why this thing was stopped right then and there. Would it have delayed that portion of the project? Perhaps.

Mr. Sym stated, I was responsible for that first portion because it was brought to my attention it’s a conflict between the drainage and the footprint or the footing of the SBR tank #2. The contractor – didn’t want to hold him up. If we do then we’ll have a problem. So we did everything we could to save the City money. I went out and bought the piping. We replaced 24-inch piping under Riverdale Avenue from Brennan’s driveway to a manhole, nobody knew it was there, I found it. We shoved 18-inch pipe, corrugated, through it, from one manhole to the next manhole, we didn’t have to dig the road up, we probably saved $20,000 to $30,000 by doing that.
We were able to establish the next manhole and reroute the system. They were telling me at the time it had to be done, it’s going to hold up the contractor, so that was my best way to get it going.

Alderman York stated, this doesn’t have much to do with the motion, which I don’t have a real problem with either. It looks like it was done correctly and there was good reason, there was backup, the Maguire Group showed up, somebody came here to answer any questions that we had, so as far as that goes I think it was okay, but I’m just wondering about the chain of command when we have an engineering firm in here who has their own project manager and then it sounds like you have another general manager, so in other words when an emergency like that comes up, what’s the chain of command as far as making a decision? And who is watching out for the interests of the City? That’s the bottom line.

Mr. Kaufman stated, my job is to represent your interests and get you the best bang for the buck. I work very closely with Tom and keep him informed of everything that’s going on.

Mayor Lauretti stated, that’s what I think I do, too. The chain of command is spelled out in the contracts, and we’ve got to follow contracts. I wouldn’t call this an emergency. It certainly wasn’t something that couldn’t have waited a week, a week and a half, to put before the Board. I just think that maybe there wasn’t an understanding by some people interpreting the contract that that had to be done. That is why we’re here tonight with the litany of things. That’s why we have contracts. When you start deviating from the contract, you have problems.

Alderman Panek asked, do we need a dollar amount on the motion or is that second page part of the motion?

Mayor Lauretti stated, I think the motion spells it out. The motion should reference the letter from Maguire to the City highlighting the apparent changes that need to be rectified to come from the contingency account. Your contract, Kevin, you had sent a cover letter over with this document right here. Where is that?

[everybody looking for the letter]

Mayor Lauretti continued, I’m saying should be put in the record is the reference that comes from Maguire because they’re our agent on this job. Let’s reference that.

Mr. Farmer stated, I think the spreadsheet stands alone as this gentleman is suggesting, if that’s what the Board.

Alderman Anglace stated, why don’t you just state, for the record, what amendments to the motion would be in order, and make those references verbally, and then we will incorporate that as part of the motion, as an amendment to the motion.

Mayor Lauretti stated, it’s the September 28 memo from Maguire to me regarding the expansion and upgrade, clean water fund #165c, that’s in reference to the concrete beam – this doesn’t talk about all the other upgrades. Okay, that’s a separate issue.
In the motion, let’s just reference the spreadsheet that was presented by Maguire that outlines the estimates and the work to be done on the various projects totaling $221,000. Include the date 10/13.

Mayor Lauretti read the motion:

Alderman Anglace MOVED to waive the bids for additional unexpected work to the Waste Water Treatment Facility Expansion and Upgrade pursuant to the letter from the Director of Finance and referenced in the spreadsheet dated 10/13/06 from the Maguire Group; SECONDED by Alderman Papa.

Mr. Sym stated, Mr. Mayor, I think you might want to subtract the $4,000 out of that. That’s the second item.

Mayor Lauretti asked why, the $4,000 is included in the $221,000?

Mr. Sym stated, you’re making a motion to have an amendment to raise the contract for $4,000, right?

Mayor Lauretti stated, that’s a separate, that’s coming next.

Mr. Sym said, right. So this $4,000 is included [? ] Remove it from the $221 – it’s the second item on the spreadsheet.

It should be $217,883.

Mayor Lauretti stated, the record will reflect that change in the total cost, and the reference is already made.

A voice vote was taken and the MOTION PASSED 8-0.

Alderman Anglace stated, that was the amendment, now approve the main motion.

Mayor Lauretti stated, the main motion was just approved with reference made to the dollar amount and the Maguire memo of 10/13.

2. Approval of Amendment #6 – Waste Water Treatment Facility Expansion and Upgrade

Alderman Anglace MOVED to approve Amendment #6 to the contract between the City of Shelton and Maguire Group, Inc., dated September 24, 2002, and authorize Mayor Mark A. Lauretti to execute any and all documents to effectuate same; SECONDED by Alderman Finn.

Mayor Lauretti stated, you’ll notice for the record that there is no request for waiver of bids for the additional work under Maguire’s contract because there are provisions in Maguire’s contract that call for this, because we anticipate that there will be changes. This will be paid for from the contingency, but the contract that we have with Maguire already allows for additional work set specific rates. The funding is not in place for it.

Alderman Anglace stated, it’s like other professional services, like architect fees. They give you a list of everybody in the firm and how much they charge if they use them.
Mayor Lauretti stated, but what’s different here is that Maguire’s fees are outside their original contract. That is why the board is approving the amendment. There may be other issues that arise that call for a greater dollar amount, depending on the scope of the work.

A voice vote was taken and the MOTION PASSED 3-0.

**ADJOURNMENT**

Alderman Olin MOVED to adjourn; SECONDED by Alderman Lanzi. A voice vote was taken and the MOTION PASSED 8-0.

The meeting adjourned at approximately 6:35 p.m.

Respectfully submitted,

Patricia M. Bruder, Clerk  
Date Submitted: ________________  
Board of Aldermen

DATE APPROVED: ________________ BY: ________________  
Mark A. Lauretti  
Mayor, City of Shelton