



Richland County Council
Transportation Ad Hoc Committee
February 25, 2020 – 1:00 PM
Council Chambers
2020 Hampton Street, Columbia 29204

COMMITTEE MEMBERS PRESENT: Calvin “Chip” Jackson, Chair; Paul Livingston, Bill Malinowski and Yvonne McBride

OTHERS PRESENT: Allison Terracio, Michelle Onley, Eden Logan, Kimberly Toney, Michael Niermeier, Allison Steele, Quinton Epps, Rasheed Muwwakkil, Jennifer Wladischkin, Leonardo Brown, John Thompson, Mohammed Al-Tofan, Nathaniel Miller, James Hayes, Michael Maloney, Ali Eliadorani, Jeff McNesby, Sierra Flynn, Christine Keefer, Beverly Harris and Casey White

1. **Call to Order** – Mr. Jackson called the meeting to order at approximately 1:00 PM.

Mr. Jackson welcomed the returning and new members of the committee. He thanked the Transportation Department for continuing to move the projects forward. He also thanked the staff involved with planning the Council Retreat. He stated there was substantive discussion with the Charleston County personnel surrounding transportation issues that we are currently dealing with. The presentation by the Assistant County Administrator on how they have handled similar issues was encouraging to him.

2. **Approval of Minutes: October 22, 2019** – Mr. Livingston moved, seconded by Ms. McBride, to approve the minutes as distributed.

In Favor: Malinowski, Jackson, Livingston and McBride

The vote in favor was unanimous.

3. **Adoption of the Agenda** – Ms. McBride moved, seconded by Mr. Livingston to adopt the agenda as published.

In Favor: Malinowski, Jackson, Livingston and McBride

The vote in favor was unanimous.

4. **ITEMS FOR INFORMATION**

- a. **Gills Creek Maintenance Agreement** – Mr. Niermeier stated in January 2020 they received the agreement from the City of Columbia. Essentially, the agreement identifies the City’s roles and responsibilities once the project is completed, and is turned over to the City.

Mr. Malinowski noted on p. 9 of the agreement Subsection (i) has been completely eliminated;

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therefore, the subsequent subsections needed to be re-lettered.

Ms. Terracio inquired if this agreement is the same form of agreement as the Three Rivers Greenway.

Mr. Niermeier stated the Three Rivers agreement does not look like this. The content is very similar, but the form is slightly different.

5. ITEMS FOR ACTION

- a. **SERN Financial Participation Agreement between SCDOT and Richland County** – Mr. Niermeier stated in 2017 the PDT, on behalf of the County, submitted a drainage participation request to SCDOT. An improvements to the Rabbit Run, and the drainage there, would take some of the responsibility away from the State. In order to participate, SCDOT committed 12% of project budget to the County. The request today is to approve the agreement and allow the County to invoice the State for the funds.

Mr. Livingston moved, seconded by Ms. McBride, to approve this item.

In Favor: Malinowski, Jackson, Livingston and McBride

- b. **Mitigation Bank Credit Sales – City of Sumter, Shot Pouch Greenway** – Mr. Niermeier state before the committee is a request from the City of Sumter to purchase \$122,658.82 worth of credits for a greenway project they are beginning. The purchase will support their Army Corp of Engineer 404 permit.

Mr. Livingston moved, seconded by Mr. Jackson, to approve this item.

Mr. Livingston stated, for clarification, these are credits we will not need for the Penny Program.

Mr. Niermeier responded in the affirmative.

Ms. Terracio inquired if the funds will go into the Penny funds.

Mr. Niermeier responded in the affirmative.

In Favor: Malinowski, Jackson, Livingston and McBride

- c. **Shop Road Extension Phase I Road Transfer** – Mr. Niermeier stated as a part of their agreement with the State for the construction of Shop Road Extension Phase I, and the turnover of that road, the State cannot take more roadways into their system without giving up certain roadways. What is before the committee is the agreement to accept 9 State roads, with the equivalent mileage for Shop Road Phase I.

Ms. McBride moved, seconded by Mr. Livingston, to approve this item.

Mr. Malinowski stated, under “Fiscal Impact”, it says, “The long-term fiscal impact will be the maintenance of the nine (9) roads.” He inquired if we know what the current impact is.

Mr. Niermeier stated he does not have that information, but he can provide it.

Mr. Malinowski inquired if these roads can be transferred back to the State in the future.

Mr. Niermeier stated with the approval of this motion they will officially become County roads.

Mr. Malinowski noted, it says, "SCDOT no longer allows for an increase in their road system mileage..." but from the background information SCDOT agreed to take over the right-of-way once the construction was completed. He inquired if SCDOT has exceptions for agreements they entered into prior to coming up with a later rule.

Mr. Niermeier stated he cannot speaker to the latter agreement, but with the current IGA between the County and the State, for the Shop Road Extension, that was the language, and what the County and State agreed to.

Mr. Malinowski requested a legal opinion on whether the County has to take the roads over, since there was a contractual agreement prior to the State changing their rules.

Mr. Niermeier stated he believes the agreement was always for the County to take over the roads. He will review the agreement to confirm that is correct.

Ms. McBride stated the majority of these roads are connected to community, or are a part of a community. She noted we have received numerous complaints, and the residents are told that some are State roads and some are County roads. She stated it is difficult, working in this situation, because we are telling our communities these are State roads, and we cannot do anything about it. She is sure the Ombudsman's Office will support her in the number of complaints we get, regarding this issue. She inquired if the majority of these are within subdivisions.

Mr. Niermeier stated the four in Ms. McBride's district are in subdivisions, and the others are primarily within a neighborhood.

Ms. McBride stated oftentimes we receive motions/recommendations for road repairs that are concentrated in one district, and other districts are not afforded the opportunity to receive the services. She believes it will be a positive thing for the County to take on these roads, so we can have more control over them.

In Favor: Jackson, Livingston and McBride

Opposed: Malinowski

The vote was in favor.

- d. **Department Transfer of Funds between Projects** – Mr. Niermeier this item is the department's request to be allowed to transfer up to \$100,000 between projects. In the past, as we have discussed, construction moves faster or slower, or there are other delays. There is even human error in setting up the dollar figure for specific project budgets. He noted that transfers would be reported out quarterly to the committee. Anything above the \$100,000 would come back to committee/Council.

Mr. Jackson stated this was an issue before when we almost came to a stalemate because there was a temporary "shortage" of funds, and we had to come to Council to get permission to access some funds because of an overlap in the fiscal year. Because the funds were not readily available we had to come back to Council to get funding for projects that were moving faster than anticipated. There

were other projects that were moving slower; therefore, would not need the funds at that time.

Mr. Livingston moved, Mr. Jackson, to approve this item.

Mr. Malinowski stated the briefing document says, “some projects [were] underfunded and others [had] funding that was not immediately needed”. He could see the funding not immediately needed being moved, but it also says, “...project schedule changes delayed some projects and that funding could address shortfalls in others projects”. If you have a shortfall, and you take from “Pot A” to put it in “Pot B”, where does the money come from to cover the shortfall.

Mr. Niermeier stated it is still within the budget.

Mr. Malinowski stated, for clarification, the use of the term “shortfall” does not mean the project was underfunded.

Mr. Niermeier responded in the affirmative.

Mr. Livingston stated it is based on an approved budget, and he thinks it is extremely important in case they run into a delay or a material shortage. Charleston County does this and they send Council a briefing document notating the change that was made.

Ms. McBride stated this is a common practice. Her concern is how projects are selected to move the funds from, and if that has been taken into consideration.

Mr. Niermeier stated they would not knowingly take funds from a project if they knew it was needed.

Ms. McBride inquired if there was a reason they chose a cash amount rather than a percentage of the funding.

Mr. Niermeier stated he and Mr. Jackson spoke about this, and he was comfortable with not to exceed \$100,000, as a benchmark. The committee could recommend a different number.

Mr. Jackson stated he would hope staff would make Council aware of where funds were taken from.

Ms. Terracio requested the dollar amount be included in the briefing documents when this item goes to full Council. She inquired what would happen if there were a need for more than \$100,000.

Mr. Niermeier stated anything that would be above the \$100,000 threshold would come back to the committee, and ultimately Council, for approval.

In Favor: Malinowski, Jackson, Livingston and McBride

The vote in favor was unanimous.

- e. **Staff Augmentation Selection Approval** – Mr. Niermeier stated they went through a RFQ solicitation to find resources for the Transportation Department, in the way of staff augmentation, for positions that were not necessarily organic to the County. The list before you are the responsive consultants that were evaluated and deemed qualified to provide these services. The request is approval of the list of seven vendors, so staff can move forward with selecting individuals to help support the program.

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Mr. Livingston moved, seconded by Ms. McBride, to approve staff's request.

Mr. Livingston stated with the Program Development Team, in terms of staff, we were able to keep up with that because we had positions, and a certain amount for those positions. He has no idea how he will be able to keep up with how much it is costing, staff wise, with the way it is structured now. He inquired how we keep up with how much we are paying (i.e. Utility Coordinator). He inquired if there is a certain amount that is budgeted, or will be negotiating.

Mr. Niermeier stated initial estimates for 6.5 FTE is approximately \$988,000 annually. We are looking at phasing these positions in. All of the positions will be under contract, and will be brought back to Council for approval.

Ms. McBride inquired if these positions were under consideration when Council received the initial budget to bring the program in-house, and the staffing needed.

Mr. Niermeier stated, if Ms. McBride is referring to last Spring, he does not know the answer. He stated this was a part of the cost that was presented to Council at the 2020 Council Retreat.

Ms. McBride stated she wants to make sure that we are clear if we are saving money, or breaking even. She stated, for clarification, that we have identified these companies to provide us with these consultants.

Mr. Niermeier responded in the affirmative.

Ms. McBride inquired if we did this through an RFQ, and if we did it individually, per position, or as a group of positions.

Mr. Niermeier stated in the RFQ the responders were allowed to identify who they had to fill the positions. He noted the last three (3) on the list are recruiting companies, so they will be able to fill all of the positions.

Ms. McBride inquired as to what the recruiting agencies specialize in.

Mr. Niermeier stated he does not know if they specialize in any particular field. In his working with recruiting agencies, they tell you they can find anybody for anyone.

Ms. McBride requested to look at the breakdown of these agencies.

Ms. Terracio inquired if this is coming out of General Fund or the Transportation Penny.

Mr. Niermeier stated the funding will be from Penny funding.

Ms. Terracio stated, for clarification, these positions will be dedicated to the Penny projects only.

Mr. Niermeier responded in the affirmative.

Mr. Livingston stated one of the significant concerns of the community, when the program started, was to ensure that Small Local Business Enterprises were included in the process. He inquired if we are still tracking that, and if any of these companies SLBEs.

Ms. Wladischkin stated there are two (2) companies that may be SLBEs, but they will have to research that and bring it back.

Mr. Jackson inquired as to what kind of background check was done by the committee on the selected companies.

Mr. Niermeier stated the main evaluation areas: Ability & Capability, Performance History, Personnel Qualifications, and References were checked, as a part of the evaluation.

Mr. Jackson stated we can do that on the ones that are not the recruiting agencies. The recruiting agencies are the ones that he has the most concern about because they said they could find someone to fill the positions. In them saying they can find someone to fill the positions, do we have some degree of certainty that their track record has been proven.

Mr. Niermeier stated if something came up where we found they were not qualified, or had a troubled history, they would have lost points and likely would not have been selected.

Mr. Livingston stated, it was his impression, when we were discussing staff augmentation that we were selecting firms that had individuals on staff which could provide the services we needed.

Ms. McBride inquired if the County has used any of these firms before. Additionally, she inquired if the evaluators were County employees.

Mr. Niermeier responded in the affirmative.

Ms. McBride inquired if it was a blind review.

Mr. Niermeier stated the qualifications were in the proposal that was submitted to the County.

Mr. Malinowski inquired if any of the evaluators have to advise if there is any conflict of interest.

Ms. Wladischkin responded that the evaluators have to sign a confidentiality and conflict of interest forms.

Mr. Jackson inquired, if this item is approved by the committee and Council, what will be the process for selecting which companies are utilized.

Mr. Niermeier responded they will go back to the companies and state which positions they need to immediately hire for. They will then evaluate the qualifications, negotiate an agreement with the most qualified and bring the agreement back to Council for approval.

Mr. Jackson stated it would probably be helpful, before this item goes to Council, which shows the positions that have been filled since this has been brought in-house.

Mr. Niermeier stated the intent was, if we needed a specialty that we do not have in-house, we would have this group of qualified companies that we could call on.

Mr. Jackson stated he would imagine that there is a pool of individuals, which are unemployed, and have these skill sets. Our challenge is trying to find individuals that is available to come to work with the County, at the rate we are going to pay them, versus what SCDOT, or some other agency.

Mr. Niermeier stated the potential is to transition some of these positions into the County, in the future.

In Favor: Malinowski, Jackson and Livingston

Opposed: McBride

The vote was in favor.

- f. **North Main CEI Services Contract Approval** – Mr. Niermeier stated the item before you is the evaluation team’s recommendation to award the North Main CEI Services contract to Brownstone Construction in the amount not to exceed \$165,473.19, with an additional contingency of \$35,484.08.

Mr. Livingston moved, seconded by Mr. Jackson, to approve staff’s recommendation to award the North Main CEI Services contract to Brownstone Construction in the amount not to exceed \$165,473.19, with an additional contingency of \$35,484.08.

Mr. Malinowski inquired if the qualification methodology different than the previous one. In the previous one we were given consolidated evaluations, but we have nothing to show us how these companies were ranked.

Mr. Niermeier stated there were eight (8) companies that responded to a previous RFQ to be qualified to provide CEI Services for Richland County Transportation Penny. Subsequent, we sent out solicitations for work that is going to exceed \$100,000 (i.e. North Main, Greene Street, Clemson Road). The solicitation only goes out to the eight (8) qualified vendors, and they have an opportunity to respond. In this case, five (5) of the eight (8) responded back, and we followed the procurement process.

Mr. Malinowski inquired if they are responding with a bid.

Ms. Wladischkin stated, for clarification, that she believes Mr. Malinowski is looking for the scoring packet.

Mr. Malinowski responded the scoring packet, as well as the bid amounts.

Ms. Wladischkin stated it was a Request for Proposal, so they did not include the bid amounts. She has the scoring, and she can provide the costs to the committee. She stated they normally do not include costs because it could affect negotiations.

Mr. Malinowski stated he agrees with not “showing our hand” before all of the vetting is done. He inquired if there is a possibility to take this up in Executive Session, since it is a contractual matter.

Ms. Wladischkin responded that she had approached Legal about this matter, and their viewpoint is that because it is not under contract it would not qualify for Executive Session as a contractual matter.

Ms. Terracio inquired as to when the list of eight (8) vendors was presented to Council.

Mr. Jackson stated it was presented in the last few months.

Ms. Terracio stated, for clarification, we re-evaluated and re-determined the list.

Mr. Niermeier responded in October/November a list was presented of the respondents who were qualified to provide the services. Subsequent, when there is work to be let an RFP goes out, and those eight (8) can respond to the solicitation.

Ms. Terracio inquired how we came up with the list of eight (8) respondents.

Mr. Niermeier responded that they released an RFQ in August/September 2019.

Mr. Jackson stated, when we discussed the list, someone on Council raised the issue of ensuring the list was diverse, and when they made a selection, from the list, that Council was informed.

Mr. Brown stated this was one of his early meetings, and he spoke to the presentation of the list. Part of the discussion was what Council was being asked to approve. The list had gone through the procurement process, and staff was simply responding to a request to inform Council.

In Favor: Malinowski, Jackson, Livingston and McBride

The vote in favor was unanimous.

6. **ADJOURN** - The meeting adjourned at approximately 1:56 PM.