

**MINUTES OF THE CITY OF LAS VEGAS CITY COUNCIL SPECIAL MEETING
ON WEDNESDAY, SEPTEMBER 7, 2011 AT 4:00 P.M. IN THE CITY COUNCIL
CHAMBERS**

MAYOR: Alfonso E. Ortiz, Jr.

COUNCILORS: Andrew Feldman
Tonita Gurule-Giroñ
Diane Moore
David L. Romero

ALSO PRESENT: Tim Dodge, City Manager
Casandra Fresquez, City Clerk
Dave Romero, City Attorney
Eugene Garcia, Sergeant at Arms

CALL TO ORDER

Mayor Alfonso E. Ortiz, Jr. called the meeting to order at 4:00 p.m.

ROLL CALL

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

Mayor Ortiz, Jr. asked for a moment of silence in thanks for the rain the City has been receiving.

APPROVAL OF AGENDA

Councilor Feldman moved to approve the agenda. Councilor Romero seconded the motion. Mayor Ortiz, Jr. asked for roll call vote. Roll Call Vote was taken and reflected the following:

Andrew Feldman	Yes	Tonita Gurule-Giroñ	Yes
Diane Moore	Yes	David Romero	Yes

City Clerk Fresquez re-read the motion and advised that the motion carried.

PUBLIC INPUT

Mr. Bob Wessely advised that Sustainable Las Vegas is having a monthly meeting, tomorrow, September 8, 2011 speaking on the water issues, the problems and some of the proposed solutions. The meeting will be held at NMHU Library, Room 325 at 5:15 p.m.

City Attorney Dave Romero advised that if Mr. Miguel Melendez who was signed up for public input would be speaking on the issue on the agenda, it would be inappropriate to speak on that issue at this time and would be appropriate once the agenda item is up for discussion.

Mayor Ortiz, Jr. agreed and advised that Mr. Miguel Melendez would be given time to speak once the agenda item was up for discussion.

BUSINESS ITEMS

1. Approval/Disapproval to award Bid for Plant Mix Bituminous Pavement (PMBP) to the lowest bidder.

City Attorney Romero advised that today, the City received a bid protest from Sangre De Cristo regarding the call for bids that is on the agenda today. City Attorney Romero stated that the protest has been reviewed and realized and the City's Finance Director has made the decision that Council should still consider the bid as it is in the best interest of the City to continue the award of the bid and the Finance Director has the powers at this point under the State Procurement Code and under the City's Procurement Code to try and resolve the protest during the next couple of days.

City Attorney Romero advised that the primary grounds for the protest is that the bidding documents, the specifications were written as to preclude Sangre De Cristo from submitting a bid, the protest states that the call for bids calls for certain materials of a certain type which Sangre De Cristo can not provide to be used and therefore Mr. Miguel Melendez believes it is exclusionary. City Attorney Romero further stated that the investigation reveals that there have been discussions with Sangre De Cristo and alternatives were made available to be able to bid on the project and as a matter of fact, Sangre De Cristo did bid on the project but did not receive the bid and that will be in part as the reasoning the Finance Director's decision in that the award of the bid should continue.

City Attorney Romero stated if the bid would be cancelled at this point and would not continue and had not been fully investigated, the project may never go through due to the time of the year as the winter season is approaching and secondly it's a good time in terms of oil, gas, the materials that are primary to creating any road, it's volatile pricing and those prices could go up dramatically and this is important to the public in general. City Attorney Romero stated those were the reasons that the Finance Director stated that the bid process should go through and continue.

Councilor Feldman pointed out to Mayor Ortiz, Jr. that Mr. Miguel Melendez is in attendance and if he has a protest or has something to say, he should be given that opportunity to speak.

City Attorney Romero stated he would like to have Public Works Director present the business item and then have anyone else that would like to speak do so thereafter.

Public Works Director Carlos Ortiz stated that his department is preparing for Cutler repaving approximately twenty four streets within the community and Cutler is set up in the community and is ready to get started. Public Works Director Ortiz stated that he placed a request for bids for asphalt because the asphalt was \$91.00 per ton delivered to the machine and in consultation with the City Manager, they decided to bid the asphalt out and bids were open yesterday; the two bidders were Rocky Road Construction Company and Sangre De Cristo Gravel Products; Rocky Road's bid was consistent from 1-10 tons, picked up at \$70.00 and 6,000 – 7,000 tons, Delivered at \$77.00. Public Works Director stated that the difference to be saved in going out for bid would be about sixty thousand dollars and those monies could be used to pave another two streets; out of the two bids received, the lowest bid is Rocky Road and the Public Works Department's recommendation is to award the bid to Rocky Road Construction for 1-10 tons picked up at \$70.00 or 1-10 tons delivered at \$77.00

City Manager Dodge added that throughout the bid process, there was communication as the City does with any bid that occurs in which Mr. Melendez contacted him twice and his input was valuable both times; in fact Mr. Melendez recommended to put a quantity in the bid so an addendum was issued on the bid and the second time he contacted the City Manager was to advise him that he was unable to bid and he felt it was unfair because his bid spec was different than the bid spec that was being advertised and at that time the City Manager asked Mr. Melendez what his opinion of the quality of the material was and Mr. Melendez stated that it was a current state spec that his plant was currently producing, so then City Manager Dodge asked him about the material in the spec that the City was requesting and Mr. Melendez stated that it was probably a better material. City Manager Dodge stated he asked Public Works Director Ortiz if he would accept Mr. Melendez bid and Public Works Director Ortiz said he would; Mr. Melendez did submit a bid and it is the City Manager's understanding that Mr. Melendez contacted Public Works Director Ortiz this morning and told him he was willing to lower his bid. City Manager Dodge advised Public Works Director Ortiz that was unacceptable as once the bid opening has closed; the City may not receive additional bids or changes to a bid.

Councilor Gurule-Giroń asked if this particular bid was bid out previously and asked if the scope of work had been changed from the prior bid. Public Works Director Ortiz stated that it was the same bid and had not been changed. Councilor Gurule-Giroń also asked Public Works Director Ortiz in his opinion if

the asphalt to be used was a substandard grade, a higher quality grade and did both bidders have the same quality of asphalt. Public Works Director stated that they both had the same quality of asphalt, one was a super pave and the other is a marshal mix which is the type of material in terms of the fines and the oil in the material, they are technically the same and the state has both on their books.

Councilor Gurule-Giroñ asked when the bids were open. Public Works Director stated they were open yesterday at 3:00 p.m. Councilor Gurule-Giroñ stated for the record that she has a problem with receiving bid information at the last minute as she had just received the bid information right before the Council Meeting and did not have ample time to review the documents as it is required to have back up documentation for any item twenty four hours prior in order to review information and requested that in the future ample time be given between the bid opening and the Council Meeting so that she may review documents.

Councilor Feldman agreed that there was not ample time to review the bid and the bid is vague. Councilor Feldman stated that he would like to hear what Mr. Melendez would like to say.

Mr. Melendez stated that he would like to clarify a couple of things stating that he did go into Public Works Director Ortiz' office today, however it was not in reference to yesterday's bid as he would not try to alter the bid in any way, but rather talk about the price agreement that Sange De Cristo already has with the City to provide asphalt for these types of projects in place which was recently renewed. Mr. Melendez stated that when they bid that job, there was one price which was eighty five dollars which was a fair price and about a month ago he was contacted verbally by the City to prepare for this Cutler project through their current contract and started crushing to prepare for the project, shortly thereafter he got wind that the City was going to re-bid in what he thought to be the price agreement so he looked at his agreement and the agreement was still in effect so when the bid came out, it was different, he called City Manager Dodge and talked to him about the current eighty five dollar amount which he agreed was out of proportion for the quantity. The City Manager re-bid the project which is the addendum bid out and the item being discussed at this time. Mr. Melendez distributed an informational packet to Council to explain the differences between the price agreement that Sangre De Cristo has and what was bid yesterday as well as the grades of asphalt including a letter from CA2 Testing, a well known lab throughout the state for creating mix designs, a letter from a professional engineer who is the assistant engineer to our district and a copy of Sangre De Cristo's protest.

Mr. Melendez further stated that the City hand delivered a letter to their office yesterday morning on September 6th, at 9:00 a.m., six hours prior to the bid opening stating the amendment to the bid allowed for Sangre De Cristo's kind of material. Mr. Melendez included this letter as part of record and stated that the letter did not include or allow for any change of material that they use.

Mr. Melendez stated that the reason for their protest is; they were precluded from bidding competitively because of the time frame and because of the mix, but more importantly a lot of questions were asked of Public Works Director Ortiz and the answers he received significantly change the scope of work of the bid. Mr. Melendez further added, the letter Sangre De Cristo received prior to the bid opening shows copies to City Manager and Purchasing Department and nowhere does it say copies were issued to the other bidders so how would he know that all other bidders received the same information and if they didn't that would be a violation of procurement regulations. Mr. Melendez concluded by stating that when he approached the City today it was in no way a violation or new information, it was simply to negotiate the price and it wasn't for this bid, it was for the current contract Sangre De Cristo has with the City as there is a provision that allows for amendments and the reason its in there is that prices of oil fluctuate so the conversation with Mr. Carlos Ortiz this morning was to follow up on the discussion with City Manager Dodge three weeks ago regarding negotiating the current contract.

Councilor Feldman moved for a five minute recess. Councilor Moore seconded the motion. Mayor Ortiz, Jr. asked for roll call vote. Roll Call Vote was taken and reflected the following:

David Romero	Yes	Tonita Gurule-Giroń	Yes
Andrew Feldman	Yes	Diane Moore	Yes

City Clerk Fresquez re-read the motion and advised that the motion carried.

Councilor Feldman moved to reconvene. Councilor Gurule-Giroń seconded the motion. Mayor Ortiz, Jr. asked for roll call vote. Roll Call Vote was taken and reflected the following:

Tonita Gurule-Giroń	Yes	David Romero	Yes
Andrew Feldman	Yes	Diane Moore	Yes

City Clerk Fresquez re-read the motion and advised that the motion carried.

City Manager Dodge recommended to table Business Item one and go into Executive Session.

EXECUTIVE SESSION/CLOSED SESSION

Councilor Feldman moved to table Business Item one and go into Executive Session. Councilor Gurule-Giroń seconded the motion. Mayor Ortiz, Jr. asked for roll call vote. Roll Call Vote was taken and reflected the following:

Diane Moore	Yes	Andrew Feldman	Yes
Tonita Gurule-Giroń	Yes	David Romero	Yes

City Clerk Fresquez re-read the motion and advised that the motion carried. Councilor Feldman moved to go back into Regular Session and stated for the record; only discussion on contract matters took place and no action was taken. Councilor Gurule-Giroñ seconded the motion. Mayor Ortiz, Jr. asked for roll call vote. Roll Call Vote was taken and reflected the following:

Diane Moore	Yes	Andrew Feldman	Yes
David Romero	Yes	Tonita Gurule-Giroñ	Yes

City Clerk Fresquez re-read the motion and advised that the motion carried.

Business Item Continued

Councilor Feldman moved to bring Business Item one back on the table. Councilor Gurule-Giroñ seconded the motion. Mayor Ortiz, Jr. asked for roll call vote. Roll Call Vote was taken and reflected the following:

Andrew Feldman	Yes	Diane Moore	Yes
David Romero	Yes	Tonita Gurule-Giroñ	Yes

City Clerk Fresquez re-read the motion and advised that the motion carried.

Councilor Feldman moved to allow the City Manager and City Attorney the authority to enact the bid if the current supplier, Sangre De Cristo is unable to meet the demand of the project. Councilor Moore seconded the motion. Mayor Ortiz, Jr. asked for roll call vote. Roll Call Vote was taken and reflected the following:

Tonita Gurule-Giroñ	Yes	Andrew Feldman	Yes
David Romero	Yes	Diane Moore	Yes

City Clerk Fresquez re-read the motion and advised that the motion carried.

City Manager Dodge advised that Utilities Director Ken Garcia informed him that he has two of his water operators that would like to attend training out of state that has been paid through a purchase of equipment and if there are no objections from Council, he will approve such and place it on the next agenda for ratification. City Manager Dodge added that the training will take place in California and the travel will need to be paid for.

There were no objections from Council.

COUNCILOR'S REPORTS

Councilor Gurule-Giroń reported that she, City Manager Dodge and Councilor Romero went to the housing work site and she was very concerned about the relocation and displacement of the current residents. Councilor Gurule-Giroń stated she researched the CFR and checked on the HUD Regulation for relocation and displacement and one of the conditions is to ensure that before individuals are relocated into their homes is that the windows and certain doors need to be fitted and sealed and things of that nature. Councilor Gurule-Giroń pointed out that they went to the homes and looked at them and the windows had not been sealed and the doors were open on the side and before relocating these individuals everything must be closed out and sealed which is in the CFR. Councilor Gurule-Giroń stated she was very concerned about the liability issue to the City in regards to placing these individuals back into their home with the condition of the homes. Councilor Gurule-Giroń further added that the sidewalks were removed and there is a two foot drop and that is unacceptable as the elderly are unable to function in such conditions. Councilor Gurule-Giroń also mentioned that there were units that had current windows in place and the other side of the unit did not and feels that the windows should be addressed for the entire unit and is concerned about how the work is being handled. Councilor Gurule-Giroń concluded by stating that she appreciated the dirt that was placed where the sidewalks were removed, however she is still very concerned and feels it is still a hazardous situation; the CFR regulation for HUD relocation and displacement is very clear and specific as to what needs to be done prior to placing people back into those homes. Councilor Gurule-Giroń stated that she took several pictures.

Mayor Ortiz, Jr. agreed in saying that the housing units are a mess and the project was not done systematically. Mayor Ortiz, Jr. reminded Councilors that their authority as a decision maker ends once they leave Council Meetings.

Councilor Gurule-Giroń stated that she only talked to the constituents and took photos.

Councilor Moore wanted to confirm that in regards to the street improvements, would 8th Street extension to Kay Lynn Street be included in the twenty four streets to be improved.

City Manager Dodge stated that Kay Lynn Street is included and up to the alley.

City Manager Dodge stated that he would be speaking to Robert Pacheco the Housing Director and meeting with the architect and address all the concerns that were brought up.

Councilor Moore stated that the City Manager needs to hold the Directors accountable when he is out of town and the Directors needs to make sure that they leave someone in charge who will handle issues that come up when they

are out. Councilor Moore added that information needs to get to Councilors in a timely manner.

Councilor Gurule-Giroñ stated that Directors cannot solely hold their project managers accountable for projects as they as Directors need to ensure these projects are being done correctly by dealing with them hands on.

City Clerk Fresquez apologized to Council for documentation on the agenda item not getting to them in a timely manner and added that she will make it a priority to communicate with the Directors to ensure that they get their documentation in a timely manner.

ADJOURN

Councilor Feldman made a motion to adjourn. Councilor Gurule-Giroñ seconded the motion. Mayor Ortiz, Jr. asked for roll call vote. Roll Call Vote was taken and reflected the following:

Tonita Gurule-Giroñ	Yes	Andrew Feldman	Yes
Diane Moore	Yes	David Romero	Yes

City Clerk Fresquez re-read the motion and advised that the motion carried.

Meeting adjourned at 5:00 p.m.



Mayor Alfonso E. Ortiz, Jr.

ATTEST:



Casandra Fresquez, City Clerk