

CITY OF DEER PARK
710 EAST SAN AUGUSTINE STREET
DEER PARK, TEXAS 77536

Minutes

of

A JOINT SPECIAL MEETING OF THE DEER PARK CITY COUNCIL AND THE DEER PARK CRIME CONTROL AND PREVENTION DISTRICT BOARD OF DIRECTORS HELD AT CITY HALL COUNCIL CHAMBERS, 710 EAST SAN AUGUSTINE STREET, DEER PARK, TEXAS, ON AUGUST 15, 2017 BEGINNING AT 5:15 P.M., WITH THE FOLLOWING MEMBERS PRESENT:

CITY OFFICIALS PRESENT:

JERRY MOUTON	MAYOR
SHERRY GARRISON	COUNCILWOMAN
THANE HARRISON	COUNCILMAN
TOMMY GINN	COUNCILMAN
BILL PATTERSON	COUNCILMAN
RAE A. SINOR	COUNCILWOMAN

CRIME CONTROL AND PREVENTION DISTRICT PRESENT:

SHANNON BURKE	PRESIDENT
DONNA TODD	TREASURER
CRAIG O'SULLIVAN	MEMBER
GEORGE PINDER	MEMBER
DIANNA TAYLOR	MEMBER
BOB HOTTEN	MEMBER

OTHER CITY OFFICIALS PRESENT:

JAY STOKES	CITY MANAGER
GARY JACKSON	ASSISTANT CITY MANAGER
SHANNON BENNETT	CITY SECRETARY

1. CALLED TO ORDER – Mayor Mouton called the Joint Special Meeting to order on behalf of the City Council and President Shannon Burke called the meeting to order on behalf of the Deer Park Crime Control and Prevention District Board of Directors at 5:15 p.m.
2. THE DEER PARK CRIME CONTROL AND PREVENTION DISTRICT AND THE DEER PARK CITY COUNCIL WILL RECEIVE A REPORT FROM THE DEER PARK POLICE DEPARTMENT REGARDING PERSONNEL REASSIGNMENTS – Chief Greg Grigg commented, “As you know we have had a great difficulty this year with hiring. We have hired one and have two resignations in the last three weeks. We have one guy in the academy, two guys that just got out of the academy. One is in the training program, the other one is going to a five month military supervision school. The other one will come out in December and in February. He leaves for a 5 month military school. I have one officer out that had surgery and one out that is pregnant. I have one going out in November with a wife that delivers in November. So, out of

thirty officers in patrol, we are down to about twenty-one. We are almost down to 66 percent of staffing and patrol. We are taking measures to look at some of our less critical functions. One of those being Crime Prevention Officer that is funded by the Crime Prevention District. The other one is one of our traffic positions. On September 4th, we are going to move both of those positions into patrol. We have an investigator on standby that may have to be moved into patrol. We are taking steps to address the shortage until we can get some people out of the academy and out of the training. Until then we can't let somebody sit in a crime prevention position which is an important role but our critical role is in patrol. We will have to move people there. This is a notification primarily because the Crime Prevention Officer is funded by the Crime Control Prevention District."

Councilwoman Sinor asked, "So just two officers?"

Chief Grigg answered "Yes, for right now."

Councilwoman Sinor asked, "Are the two that gave notices based on salary?"

Chief Grigg answered, "No, I do know that we can compete. He went to work for a substantially greater amount at one of the plants. The other officer decided that she wanted to be a nurse."

Councilman Patterson asked, "Both of them changed careers?"

Chief Grigg answered, "Yes."

Councilwoman Garrison asked, "Do we have any new applicants?"

Chief Grigg answered, "We had some test today. We did have a non-certified person that passed everything. He would not be eligible to go to the academy until January, so we are talking over a year before we could actually have him out."

Councilwoman Sinor asked, "Do we need to start going after experience?"

Chief Grigg answered, "We are having conversations about that."

President Burke asked, "Last meeting you mentioned salary issues and the surveys that have been done on salaries in the area. Do you feel that is related in any way or is it more military experience assignments?"

Chief Grigg answered, "We are getting the 2 % COLA and the \$300 a month increase in education pay. That will certainly help. Right now, it is probably helping more with retention. I don't know about recruiting yet. The problem is, we are getting applications. The people that are coming in, we can't pass them."

Councilman Patterson asked, "When you say you can't pass them?"

Chief Grigg answered, "They don't show up for the PT test or they can't pass the PT test. If they do get past all that, we seem to catch them in lies."

Councilman Patterson asked, "Education wise they qualify?"

Chief Grigg answered, "Yes."

Councilman Ginn asked, "You have to have a Bachelor's Degree just to apply?"

Chief Grigg answered, "Correct."

City Manager, Jay Stokes commented "As you know, we hired IKLO Contractors to construct the Firing Range. We have had a lot of problems with them as our contractor pretty much since day one. We are working on a letter. I do not have it ready at this time, per the contract, that will site specific items and its justification to move to terminate the contract. It is not ready just yet, but the recommendation stays the same. Since the earliest time in dealing with them, we have issues with scheduling, quality with the work they have done, the construction schedule has not been followed, the work has been poor and the staffing they provided has been lacking based upon what the contract requires. They did not send qualifications on some of their key staff that has been asked of them for months and months. This pattern has gone on and on in addition to many of the specific things you will learn about later. Staff has lost all ability to think that this contractor will be able to follow through and complete the job as they are required to do. The recommendation is to terminate for cause of the contract with the contractor."

Councilwoman Sinor asked "What would happen?"

Mr. Stokes answered, "We would have the ability because they were let go for cause, to hire our own company without having to redraw a new set of plans and go out for a formal bid all over again. We could find a contractor who could finish the job. We would bring that to the CCPD and Council, perhaps even in a joint workshop like this, with the recommendation of who we think could move forward regarding the dollar amounts. Moving forward, you could hire them. Again, without having to go out for bid."

Councilwoman Sinor asked, "Do you have anyone mind?"

Mr. Jay Stokes answered, "We do not have anyone specific in mind. At this point, we just have to take it one step at a time and get through this step."

Councilman Harrison asked, "When did we start this project? I don't remember when the ground breaking was but it should have started shortly after that."

Assistant City Manager Gary Jackson answered, "May or June of 2016 is when the project began."

Brent Costlow, Assistant Public Works Director, answered, "As of Thursday, we are at 444 days since they started."

Mr. Jackson answered, "The contract is dated May 1, 2016, but the notice to proceed may have been a little later."

Mr. Costlow commented, "They had 360 days to complete it."

Councilwoman Garrison asked, "They had 360 days to complete the project?"

Mr. Jackson added, "There was a change order."

Councilman Harrison asked, "Did we see this coming at some point in time, like last Spring, that they weren't on their time line to get this job done?"

Mr. Costlow answered, "We have been working with them for several months to address many issues. We were hoping they would correct the issues. You don't want to change contractors in the beginning of a project or the middle of the project because then, you're just in a big mess. Who is going to warranty that part of the construction? Are they going to walk off the job? So we kept working with them, Chief Grigg was working with them, we all were working with them but we are now at our wits end. We don't know what else to do to finish the project on time and finish it in the correct method."

Councilwoman Garrison asked, "How far are we off? Where are we exactly? Are we half way through? Can you even determine that from what they have done already?"

Mr. Costlow answered, "We are over half way. The building is up, the walls are in, some painting has been done, some tile work has been done, the berms are up, but are not correct. Some of the power is in, Centerpoint has made their connection, but there is nothing hot. There are problems with drainage because it wasn't built like it was supposed to be and the detention pond isn't correct. The fence is somewhat up but it's mashed together to try to keep somebody out but one could get in if they really wanted to. There are several issues."

Mayor Mouton asked, "Can you estimate the percentage?"

Mr. Costlow answered, "I say probably about 69 to 70 percent."

Councilman Harrison asked, "Did we have any type of a performance bond?"

Mr. Jackson answered, "We had a payment and performance bond."

Councilman Harrison asked, "Are we going to exercise that performance bond?"

Mr. Jackson answered, "That is undetermined at this time. There are a number of issues involved in claiming the bond. The bonding company selects a person to come out and finish the job, there can be a number of issues involved in that."

Mayor Mouton asked, "So that will be explored as an option?"

Assistant Gary Jackson answered, "It certainly will be explored, but will not be automatic, but not ruled out either"

Mayor Mouton commented, "So the first step is what we are here to do."

Mr. Stokes commented, "We recommend to terminate the contract for cause."

Councilwoman Sinor asked, "How quickly would the letter be sent to them?"

Mr. Jay Stokes answered, "I would imagine tomorrow or the next day."

Councilman Patterson asked, "Are they working now?"

Mr. Costlow answered, "Yes, they are currently working. We had a meeting this morning and they have gotten a couple of minor issues fixed like we asked, but none of the major issues have been addressed."

Councilman Patterson asked, "What's their response?"

Mr. Costlow answered, "That they are going to get it done, just like they have said for several months. They have a tendency to say we are going to get it done this Friday and then another Friday goes by and we have a meeting and it's still not done and it's an excuse."

Councilman Patterson asked, "Do we have another contractor in mind?"

Mr. Costlow answered, "No sir, not at this time."

Councilwoman Sinor asked, "Do they have an idea that they are going to get fired or do they not even care?"

Mr. Stokes answered, "We have not had any direct discussion that this was coming before Council. It was posted 72 hours in advance, but beyond that, we have had no discussion."

Councilwoman Garrison asked, "What have we paid for this project so far?"

Mayor Mouton commented, "They are on a draw so they haven't been paid for the work they haven't done."

Mr. Costlow commented, "Correct, they have only been paid for the things that have been installed."

Councilwoman Garrison asked, "What about the work they did incorrectly? You said the berms are incorrect."

Mr. Costlow answered, "We have not paid for all the berms at this time just a percentage of it."

Mayor Mouton asked, "So part of the issues you are referring to have not been paid for yet?"

Councilman Harrison asked, "So the magic question is, are we going to have to pay more money to change to a new contractor?"

Mr. Stokes answered, "I wouldn't be surprised if we didn't but we don't know."

Mr. Costlow answered, "I don't have an answer to that."

Councilman Patterson commented, "My concern is whether or not we will ever complete this project."

Mr. Costlow answered, "There are provisions in the contract that cover if we terminate by cause, but without the City Attorney not here to say exactly those, I would not want to say but there are provisions in there."

Councilman Ginn asked, "Is there an estimated date that it will be finished?"

Mr. Costlow answered, "No sir. There is not?"

Councilman Ginn asked, "What is the worst case scenario or best case scenario?"

Mr. Costlow answered, "We would have to make a punch list item of what they have completed and didn't complete, which we have a pretty good idea of that. We would have to go back and look at all the stuff that we haven't seen and then find a contractor that will take care of that. There is a lot that we have to determine after this point."

Councilman Ginn asked, "So it could be another year?"

Councilman Patterson asked, "Are we prepared to cancel this contract? Do we have that punch list available?"

Mr. Costlow answered, "We are working on a draft to go over and do some changes to and get prepared and ready to go out."

Mayor Mouton commented, "They have enough on a list for just cause that they feel like legally they can terminate the contract."

Councilman Patterson asked, "Bottom line, you guys are ready to move then?"

Mayor Mouton answered, "They are."

Mr. Stokes commented, "This wasn't a knee jerk reaction."

Councilwoman Garrison commented, "One thing that bothers me, I am thinking of the future, you said we are 400 something days into this and they originally said 366?"

Mr. Costlow answered, "Yes, then we added 30 days a per change order so 390 would have been their contract days."

Councilwoman Garrison commented, "So we are about 70 something days over?"

Mr. Costlow answered, "They requested 80 rain days and we do not believe that they are warranted. We have checked the rain gauges and believe that half of that is warranted. At this time, no rain days have been granted."

Mr. Stokes commented, "Even if you granted the 80 rain days you would have ten days to finish project."

Councilwoman Garrison asked, "In hindsight, could we have gotten to this a little sooner? We have a lot of other construction projects going on now and we surely don't want to end up in the same place with them as we are here."

Mr. Costlow, “No, we have learned a big lesson on contractors on this one too. I don’t think this will be a further issue. As far as we know, the Architect did do his due diligence in looking at references.”

Councilwoman Garrison commented, “I understand that, you get what you get, but you don’t know what you get.”

Mr. Stokes commented, “The City can’t tell them the means and methods.”

Councilwoman Garrison asked, “But we do have control over their performance?”

Mr. Costlow answered, “Yes, we can push them to the best of our abilities but we have to stay within the contract as they have to stay within their contract, hence why we are here when they are not performing to their contract.”

Councilman Patterson asked, “Help me understand something. We are 444 days and you mentioned 360 days, plus some additional days so that is 390, plus another 40 rain days? But the problem is not so much that, it is just the fact of their performance.”

Mr. Costlow answered, “Correct. Also, in the first three months of the job we asked repeatedly to get on the job. They moved very slowly and took a long time to start the job. They were working on another job. So they didn’t actually start physical construction until 60-90 days into the job.”

Bob Hotten, CCPD Member commented, “I just think from the City’s perspective, they have been more than patient with this company. We have sat in meetings where there has been one delay after another. They seem like silly delays. Of course, I am not a contractor but listening to Chief Grigg and what the Police Department had to deal with trying to move this people forward, I think we have been more than patient with this company.”

Councilwoman Garrison commented, “Maybe too patient.”

George Pinder, CCPD Member commented, “The only thing that bothers me is, will they go out and find a sympathetic judge to take action and cause this project to go for another five years.”

Mayor Mouton answered, “No, I don’t think so. I think we have reached a point on the legal side but we won’t know until we start this action or we can just sit back and do nothing and hope they finish it in two years. We feel like we have just cause. We have legal counsel that we can terminate the contract. Hopefully, we are in the best position legally, where as if that becomes an issue and we do end up in court we have done our due diligence in making sure we have just cause. If not, we will deal with it then.”

Mr. Hotten asked, “Do we anticipate an increase in cost in finding a new contractor?”

Mr. Stokes commented, “We don’t know yet, but stands to reason.”

Ms. Burke commented, “Especially in correcting the problems that were left by IKLO, probably will be more expensive.”

Mr. Costlow commented, "We can't engage with another contractor until this process is done."

3. THE DEER PARK CRIME CONTROL AND PREVENTION DISTRICT WILL CONSIDER AND TAKE ACTION ON RECOMMENDING TO CITY COUNCIL THAT NOTICE OF TERMINATION BE GIVEN TO THE CONTRACTOR IKLO CONSTRUCTION ON THE POLICE FIRING RANGE AND CLASSROOM PROJECT, PURSUANT TO ARTICLE 15.02 OF THE GENERAL CONDITIONS OF THE CONTRACT – Motion was made by Bob Hotten and seconded by George Pinder on recommending to the City Council that notice of termination be given to the contractor IKLO Construction on the Police Firing Range and Classroom Project pursuant to Article 15.02 of the general conditions of the contract. Motion carried unanimously.
4. THE DEER PARK CITY COUNCIL WILL CONSIDER AND TAKE ACTION ON AUTHORIZING NOTICE OF TERMINATION TO BE GIVEN TO THE CONTRACTOR IKLO CONSTRUCTION ON THE POLICE FIRING RANGE AND CLASSROOM PROJECT, PURSUANT TO ARTICLE 15.02 OF THE GENERAL CONDITIONS OF THE CONTRACT – Motion was made by Councilwoman Garrison and seconded by Councilman Harrison to authorize the notice of termination to be given to the contractor IKLO Construction on the Police Firing Range and Classroom Project, pursuant to Article 15.02 of the general conditions of the contract.

Motion carried 6 to 0
5. ADJOURN – Mayor Mouton adjourned the meeting on behalf of the City Council and President Burke adjourned the meeting on behalf of the CCPD at 5:37 p.m.

ATTEST:

APPROVED:

Shannon Bennett, TRMC
City Secretary

Jerry Mouton
Mayor

Shannon Burke, President
Crime Control and Prevention District