

**UTILITIES SERVICE BOARD MEETING**  
**3/11/2024**

*Utilities Service Board meetings are available at CATSTV.net.*

**CALL TO ORDER**

Board President Parmenter called the regular meeting of the Utilities Service Board to order at 5:00 p.m. The meeting took place in the Utilities Service Boardroom at the City of Bloomington Utilities Service Center, 600 East Miller Drive, Bloomington, Indiana.

**Board members present:** Amanda Burnham, Megan Parmenter, Jim Sherman, Jeff Ehman, Molly Stewart, Kirk White, Jim Sherman

**Board members absent:** Matt Flaherty, Jacqueline Scanlan, Seth Debro

**Staff present:** John Langley, Kat Zaiger, Daniel Frank, Kevin White, Chris Wheeler, Hector Ortiz Sanchez, Dan Hudson, Jane Fleig, Michelle Waldon

**Guests present:** None

**PETITIONS AND COMMUNICATIONS:** None

**MINUTES**

***Board member White moved, and Board member Sherman seconded the motion to approve the minutes of the 2/26/2024 meeting. Motion carried, six ayes***

***Board member White moved, and Board member Sherman seconded the motion to approve the minutes of the 3/7/2024 meeting. Motion carried, six ayes***

**CLAIMS**

***White moved, and Sherman seconded the motion to approve the Standard Invoices:***

Vendor invoices included \$143,520.96 from the Water Fund, \$29,177.09 from the Water Construction Fund, \$338,173.26 from the Wastewater Fund, \$24,915.42 from the Stormwater Fund.

***Motion carried, six ayes. Total claims approved: \$535,786.73.***

***White moved, and Sherman seconded the motion to approve the Utility Bills:***

Invoices included \$10,843.23 from the Water Fund and \$14,640.92 from the Wastewater Fund.

***Motion carried, six ayes. Total claims approved: \$25,484.15.***

***White moved, and Sherman seconded the motion to approve the Wire Transfers, Fees, and Payroll for \$525,817.58. Motion carried, six ayes.***

***White moved, and Sherman seconded the motion to approve the Customer***

***Refunds:*** Customer Refunds included \$33.90 from the Water Fund, and \$2,866.31 from the Wastewater Fund.

***Motion carried, six ayes. Total refunds approved: \$2,900.21.***

### **CONSENT AGENDA**

CBU Assistant Director - Environmental - Zaiger presented the following items recommended by staff for approval:

- a. Building Associates, Inc., \$6,115.00, New aluminum door and frame at Blucher Poole
- b. City Glass of Bloomington, Inc., \$710.00, Door repair at Blucher Poole
- c. ABC Cutting Contractors, Inc., \$7,500.00, On-call concrete cutting
- d. Klir, Inc., \$9,000.00, software provider for pretreatment program management

**Item d. Klir, Inc. was removed for further discussion, while the remaining items were accepted as presented. Total approved: \$14,325.00**

### **REQUEST APPROVAL OF PROFESSIONAL SERVICES CONTRACT WITH BARNES & THORNBURG, LLP FOR PROSECUTION OF AN ENVIRONMENTAL LEGAL ACTION**

Legal Assistant - Wheeler presented the agreement noting that Barnes & Thornburg, LLP would provide outside counsel assisting in representing the CBU in a potential legal action against Leonard's Linen Dry Cleaning Service formerly located at the corner of Third St. and Lincoln where there was substantial soil remediation. CBU is opting for outside counsel because this is a fairly specialized field of litigation and this group has lawyers on staff with experience.

Burnham noted that she is happy that CBU is pursuing this because of the substantial time and expense that CBU invested in remediation at the site. Burnham questioned if the board will be approving all three phases outlined in the agreement, and then if the matter is resolved in the first phase, then the contract will terminate and CBU won't need to move on to the other phases.

Wheeler confirmed. Burnham questioned if CBU gets to phase three in the contract, if it is safe to say that CBU will have a clear understanding of what litigation will cost at that point. Wheeler confirmed, noting that the issues would be better framed at that point and CBU would have a clearer understanding of what is left to be litigated. Burnham noted that the owners of the dry cleaner no longer run the business, and questioned if there have been active communications with them regarding this matter. Wheeler advised that CBU has been communicating with attorneys who represent the former entity and their insurance. White questioned what the initial cleanup cost for the site was. Wheeler advised that he was unsure of the exact amount, but it was in the range of \$1.2 million dollars. White noted that the legal fees for this action would be around \$750,000.00. Wheeler confirmed, but noted that statutorily speaking, CBU can request reimbursement of the legal fees in this case as part of the eventual settlement. White noted that he is just considering opportunity cost, but noted that it is important to send a message that rate payers should not be shouldering others' messes, and this action will help recover some of those costs, especially if the legal fees can be reimbursed. White questioned if it is known what the companies insurance limits on liability coverage were. Wheeler was unsure. Board member Stewart questioned if the reimbursement is only paid out if the case is won by CBU. Wheeler confirmed. Parmenter questioned when CBU will know the insurance limit. Wheeler advised

soon, as it will be one of the first things that is learned during the basic discovery of phase one. Parmenter noted that this agreement outlines almost \$750,000.00 in legal fees, so if the insurance only covers \$700,000.00 CBU will not be made whole pursuing this type of litigation, but if \$2,000,000.00 can be recovered, then that is definitely something to pursue. Wheeler agreed and noted that the first phase will provide the necessary information to determine the best course forward. White questioned if it was an option for the Board to approve only the first two phases of the agreement at this time. Wheeler advised that it wouldn't affect anything as far as expenses are concerned. If the first phase shows that there isn't much to go after economically, then CBU will not continue pursuing litigation. White noted that it would be nice for the Board to be kept up to date on the proceedings of this action, and having final approval of the third phase would provide that. Wheeler advised that Staff will make a point to bring this topic back to the Board at each of the phases so that they can be kept aware of where CBU is at in the litigation process. White noted that this reminded him of the PCB cleanup, where the Board had to make incremental decisions throughout the process. Parmenter noted that she agreed with the need for this type of process, but noted that there may be limitations to what could be said during a legal proceeding. Wheeler confirmed, but noted that it would simply be a legal recommendation on how CBU should proceed at each phase.

***White moved, and Sherman seconded the motion to approve the agreement with Barnes & Thornburg, LLP. Motion carried, six ayes.***

#### **REQUEST APPROVAL OF SECOND AMENDMENT TO AGREEMENT FOR SERVICES WITH FPBH, INC.**

Zaiger presented the second amendment with FPBH, Inc., noting that the contract is for the design and bidding of four stormwater detention basins. This amendment resulted from the determination that one of the proposed sites was found to be in a historic district, so an archeological survey had to be completed, which used up a large portion of the budget. This amendment will cover any remaining responses to the reviews from Planning and Engineering, administrative services for site #3, and administrative services for rebidding site #1. White requested the location for all four proposed sites. Zaiger advised that sites #1 and #2 are located in the Waterman Neighborhood on 8th and Fountain Dr. Site #3 is East of Bryan Park near E. Sheridan Dr. and E. Karen. Site #4 is on Sare Rd. at the corner near Sherwood Oaks Church. White questioned if there was a detention pond located at the Southeast corner of Sare Rd. and Rogers. and asked if it was possibly put in during the development of the Hyde Park and Kensington Neighborhood as a provision of the development. White noted that if it was a provision CBU shouldn't have to build a new one. Zaiger was unsure if that was the case but offered to look into the matter. Board member Ehman advised that he believes that was a pond built by Blackwell when he constructed his house. White noted that it was put in when Howard Young developed that area. Ehman noted that it was placed prior to all the homes being built.

***White moved, and Sherman seconded the motion to approve Amendment #2 with FPBH, Inc. pending approval by the Controller. Motion carried, seven ayes.***

**REQUEST APPROVAL OF CHANGE ORDER NO.1 WITH PERFORMANCE PIPELINING, INC. FOR ADDITIONAL SERVICES RELATED TO SE SEWER BASIN LINING PROJECT**

CBU Capital Projects Coordinator - White presented the change order noting that there were changes to some laterals in the specs. Several lines that were originally included were found to be abandoned, so they were replaced by different sections of active sewer line and in order to follow the proper procedure, additional sewer lining of other mains has to be added to the scope of work.

***Sherman moved, and White seconded the motion to approve change order No.1 with Performance Pipelining, Inc. Motion carried, six ayes.***

**REQUEST APPROVAL OF RESOLUTION 2024-07 FOR BID ACCEPTANCE AND CONTRACT AWARD FOR MILLER SHOWER DREDGING PROJECT**

Zaiger presented the resolution, noting that Merrell Bros. Inc. was determined to be the lowest responsive and responsible bidder for this project, with a base bid of \$419,350.00 and supplemental unit price per dry ton of \$2,629.00. Sherman questioned if the other bidder was found to be not responsible. Zaiger advised that they were non-responsive, simply meaning that not everything that needed to be submitted had been. Sherman noted a substantial difference in the two bids. White noted that CBU re-bid this project after having a similar bid situation last time. Burnham noted that she is hopeful that this contractor included everything in the bid and the Board will not see a lot of amendments related to this contract. Zaiger said she is confident in the contractor after vetting the proposal and speaking with their references. Burnham questioned when dredging will begin. Zaiger advised that the job will begin once there are no longer freezing temperatures and should be completed in 45 days. Sherman questioned what the Engineer's Estimate for this project was. Zaiger advised that there was no estimate on this project, but CBU had budgeted \$300,000.00 for the project and that amount was estimated almost two years ago.

***Sherman moved, and White seconded the motion to approve Resolution 2024-07. Motion carried, six ayes.***

**REQUEST FOR APPROVAL OF AGREEMENT WITH KLIR, INC FOR PRETREATMENT PROGRAM MANAGEMENT SOFTWARE**

Zaiger presented the agreement. Ehman questioned if the contract was \$3,000.00 for three years. Zaiger advised that no, this agreement is \$9,000.00 each year for three years. Ehman questioned the expiration date of the contract being dated to expire in one year. Zaiger advised that the agreement provides that CBU is provided the opportunity to opt out of the contract each year. Wheeler confirmed that there are provisions in the contract that allow renewal to occur prior to the expiration date.

***Sherman moved, and White seconded the motion to approve the agreement for services with Klir, Inc. pending Mayoral approval. Motion carried, six ayes.***

**OLD BUSINESS:** None

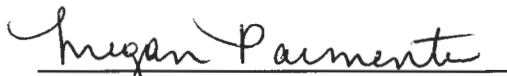
**NEW BUSINESS:** None

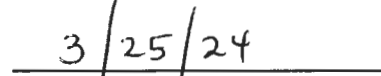
**SUBCOMMITTEE REPORTS:** None

**STAFF REPORTS:** None

**PETITIONS AND COMMUNICATIONS:** Parmenter noted communications she had with CBU Interim Director - Langley regarding the upcoming eclipse, noting that CBU has been testing capacity and preparing for high demand the weekend leading up to, and the day of the eclipse. All non-essential staff will be on PTO and working from home that day and the Director along with T&D, Communications, Plant Staff, and Leadership will be on-site here and at the plants so that in the case of an emergency there will be staff ready to respond. Parmenter noted that Staff will be giving a more comprehensive update regarding preparations at the USB meeting on 3/25.

**ADJOURNMENT:** Parmenter adjourned the meeting at 5:34 pm

  
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Megan Parmenter, President

  
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Date