

TOWN OF PAYSON
SUBCOMMITTEE TO REVIEW PAST CAPITAL IMPROVEMENT PROJECTS
MINUTES OF THE PUBLIC MEETING
October 18, 2019

CALL TO ORDER: Mayor Morrissey called the meeting to order at approximately 1:04 p.m. in the Town Hall Council Chambers, 303 North Beeline Highway, Payson, Arizona.

PLEDGE OF ALLEGIANCE

PRESENT: Mayor Tom Morrissey, Council Member Jim Ferris, Council Member Suzy Tubbs-Avakian, Bob Graziano, Kelly Watts, Sally McCormac, and Pamela Derks.

STAFF PRESENT: Sheila DeSchaaf – Acting Town Manager, Ronald Tischer – Police Chief, Deborah Barber – Chief Fiscal Officer, Tanner Henry – Assistant Public Works Director, and Michelle Stanley – Senior Clerk.

Aaron Arnson, Interim Town Attorney, was present telephonically.

OTHERS PRESENT: Lee Miller – Special Counsel

Mayor Morrissey noted there would be a call to the public at the end of the meeting.

A. SCHEDULED DISCUSSION/POSSIBLE ACTION

1. Overview of Town of Payson Capital Improvement Programming. Mayor Morrissey opened discussion concerning the Overview of Town of Payson Capital Improvement Programming.

Mayor Morrissey read an overview of the Town's Capital Improvement Plan. Committee Member Watts asked for clarification on the solicitation of bids. Sheila DeSchaaf, Acting Town Manager, replied the procurement policy addressed when verbal or written quotes were required.

2. Administrative Policies A504 – Procurement and A201 – Contracts. Mayor Morrissey opened discussion concerning Administrative Policies A504 – Procurement and A201 – Contracts.

Mayor Morrissey asked if the current procedures and rules were spelled out. Ms. DeSchaaf answered that written quotes were required for anything over \$10,000 and up to \$25,000 and anything between \$5,000 and \$10,000 required three verbal quotes. Mayor Morrissey asked if there was a set policy for using purchasing cards (p-cards) for items under \$10,000 or in an emergency. Ms. DeSchaaf noted there were provisions for an emergency. Deborah Barber, Chief Fiscal Officer, responded the procurement card policy determined limits: \$1,500 limit for an employee card; \$2,500 limit for a department card; \$5,000 limit on specific department cards; and a \$10,000 limit on the Finance department and Town Manager's card for emergencies. Ms. Barber stated Department Heads could authorize up to \$5,000 on a p-card,

but it was not typical. Ms. Barber noted there were recent changes made on how the p-cards were used and that local vendor accounts had been set up for better tracking of purchases. Ms. DeSchaaf added that p-cards were not used to purchase capital improvements. Discussion ensued regarding p-card usage.

Subcommittee Member McCormac asked if there was an audit on the procurement policy. Ms. Barber answered she and the prior Town Manager had been reviewing and updating the policy. Council Member Ferris voiced concern on the bidding process. Following discussion on the bidding process, Mayor Morrissey commented that the purpose of the Subcommittee was to examine and determine if the Town can do better. Subcommittee Member McCormac asked if there was a lessons learned document for completed projects so the next people did not repeat the same mistakes. Ms. DeSchaaf replied there was nothing printed. Subcommittee Member McCormac asked if there was a list of projects that went over budget or a spreadsheet of completed projects. Ms. DeSchaaf answered the Capital Improvement Plan had all the projects planned for each calendar year and noted during the budget process they looked at carry-over and overages. Ms. Barber noted Jane Warren, Accounts Payable Clerk, did an outstanding job tracking contract progress and total costs and pointed out that anything over budget went back to Council for approval. Subcommittee Member McCormac asked if she could speak with Ms. Warren. Ms. DeSchaaf recommended asking the Chair rather than talking to individuals so the information would be brought to the committee. Council Member Ferris noted he had heard that Freedom of Information Act (FOIA) requests did not always have the information people wanted. Ms. DeSchaaf explained a FOIA request only provided exactly what was asked for, but information for a committee study allowed staff to create documents. Committee Member Graziano asked who checked if the Town got what it paid for. Ms. DeSchaaf answered Department Heads signed off on their projects. Council Member Ferris asked if going forward the Town could have a project review for Department Heads to check off and recap projects that were under or over budget. Mayor Morrissey suggested making it a future agenda item.

3. Resolution 2724 & Resolution 2725. Mayor Morrissey opened discussion concerning Resolution 2724 & Resolution 2725.

Mayor Morrissey read into the record Resolution 2724 and Resolution 2725. Lee Miller, Special Counsel for the Subcommittee, cautioned that discussion would have to be kept to Capital Improvements. Mayor Morrissey commented it was part of the C.C. Cragin project. Ms. DeSchaaf clarified that the water service delivery agreement was not a Capital Improvement Project, but the subcommittee could discuss the pipeline which was a capital asset. Council Member Ferris questioned why the Rim Country Educational Alliance (RCEA) was involved in design and construction of a capital project. Ms. DeSchaaf replied there were different ways entities became involved in capital projects through a Joint Power Authority (JPA), an Intergovernmental Agreement (IGA), or depending on where the financial resources were coming from. Ms. DeSchaaf noted at the previous November 17, 2019 Council Work Study the RCEA had explained that the pipeline was brought in that direction to serve the University property and was constructed to the University property boundary. Council Member Ferris commented that the water was brought to Chaparral Pines and Rim Club which brought it to the RCEA property. Ms. DeSchaaf responded that the sale of the bulk water had reduced the cost for the Town of Payson to treat the water and

explained the process. Council Member Ferris asked for an explanation of the water lines. Tanner Henry, Assistant Public Works Director, explained the Arizona Department of Environmental Quality (ADEQ) rules for construction of the water line and the Town's cost effective measures.

B. INFORMATION TO COMMITTEE (not for discussion)

There was no information for the committee.

CALL TO THE PUBLIC

Mr. Miller stated that in the Call to the Public the audience was free to comment on agenda items and express their points of view, but cautioned that the Subcommittee should just listen and not talk.

Greg Friestad, a Payson resident of 42 years, read into the record a prepared statement (attached). Mr. Friestad commented that the RCEA owed the Town \$244,467 and felt the contract should be reviewed because of the commonality of people involved on both sides of the contract. Mr. Friestad felt the Town could go back with legal action and recover the money.

Donna Rowell asked if money budgeted but not used on Capital Improvement projects went back into the budget. Ms. Rowell questioned where unused grant money went besides somebody's pocket. Ms. Rowell commented that overage of money should be used for another project. Mr. Miller advised that public comments could be used as potential topics for agenda items. Council Member Tubbs-Avakian asked that it be added to the next agenda.

Debbie Nelson commented there was always a boss above a boss. Ms. Nelson cautioned that Department Head bosses should be trusting, but verifying.

David Rowell asked Mr. Henry if there was a possibility of cross contamination if a pipe breaks if the untreated water went into the same trench as treated water. Mr. Miller advised that the conversation would have to be outside or after the meeting. Mr. Rowell expressed concern about cross contamination in the event of an earth tremor and worried the Town was setting itself up for a crisis of potable and non-potable water.

Don Ascoli commented that Capital Improvement projects could be funded by grants and outside concerns, but noted the project was still run by the Town of Payson. Mr. Ascoli stated the pipeline was the opposite because the folks bringing money also did the work and was the project leader before turning it over to the Town of Payson. Mr. Ascoli wondered why the project was different from 99% of other Town projects and felt it seemed procedurally suspect.

Margie Oldenkamp commented that the Town did not always do Capital Improvement projects and noted she had spent her own funds for a Capital Improvement project at the Payson Airport and had turned it over to the Town immediately. Ms. Oldenkamp stated each project should be looked at individually to determine who had the technical ability to complete the project. Ms. Oldenkamp noted the Town did the inspections, but did not have the technical expertise to do the Capital Improvements.

Don Ascoli clarified that his previous comments referred to water pipeline projects.

Subcommittee Member Graziano asked if the Town had received the \$100,000 referenced in Resolution 2724. Ms. DeSchaaf suggested that it be added as a future agenda item so staff could review the financials and put together a spreadsheet. Mayor Morrissey directed that it be added to the next agenda. Council Member Tubbs-Avakian requested the financial figures of the RCEA reimbursement and the JFM project cost for the next meeting.

Mr. Rowell asked if the information would be public knowledge. Mr. Miller answered that meetings were open to the public so any information distributed was open to the public. Mr. Rowell asked if Mr. Friestad's statement would be available. Mr. Miller replied that since it was given to the subcommittee it would be available to the public upon request. Mr. Rowell enquired if Mr. Friestad's statement would be part of the meeting minutes. Mayor Morrissey noted it would be part of the record.

Subcommittee Member McCormac asked how she could get a list of completed projects that went over budget. Mayor Morrissey answered that requests be given to him and he would relay it to the Town Manager. Mayor Morrissey stated he had been asked if anyone on the subcommittee was paid and noted no one was paid except for Special Counsel Miller.

Mayor Morrissey directed Council Member Ferris to work with staff to assemble all C.C. Cragin contracts and create a table of who contracts were with, how Request for Proposals (RFP) were done, which employees approved the contracts and how much they were compensated. Ms. DeSchaaf remarked it was not an agenda item and explained that direction had to come from the Council as a whole. Ms. DeSchaaf noted the subcommittee could make a recommendation to the Town Council to direct staff. Aaron Arnson, Interim Town Attorney, concurred. Mayor Morrissey requested it be set on a future agenda.

ADJOURNMENT

Mayor Morrissey adjourned the meeting at approximately 2:15 p.m.

Mayor Tom Morrissey, Chairman

Approved

Michelle Stanley, Senior Clerk

Overview of JFM Water Project document attached

Provided to the Subcommittee by Greg Friestad at the October 18, 2019 meeting

OVERVIEW OF JFM WATER PROJECT

RESOLUTION 2724 & 2725 JUNE 6 2013

Updated 10/18/19

On September 4, 2019 I submitted a FOIA request asking for information on the C C Cragin water project to include a list of all contracts, all contractors who bid on the project, and the associated bid packages.

After conferring with town staff I realized that they were not able to comply with the request as written because of the way documents and accounting details were filed. It seems that there were 50 or more contracts associated with this project. No one could tell me exactly how many contracts there were nor the cost associated with each of them without weeks of research.

Because of these problems I revised my request to focus on the one contract that seemed to be the **most problematic**. This was a contract to build an untreated water line from the treatment plant at Mesa Del Caballo to the Joint Facilities Management location at Chaparral Pines (res 2427). This contract was between the **Town**, the **Rim Country Educational Alliance (RCEA-SLE)**, and **Joint Facilities Management (JFM)**. I requested a list of all costs for the project, and a list of any payments to the Town by the RCEA-SLE. As required by Resolution 2724, the JFM was to pay the RCEA-SLE \$700,000 to design and build this facility and then the RCEA-SLE was to pay the Town \$100,000 of that sum to accept and maintain the new water line. JFM would then pay the town for the water used as defined in resolution 2725, which is a separate point of contention for future discussion.

HERE IS THE PROBLEM: Why was \$700,000 paid to the RCEA-SLE to build a water line from the treatment plant to Chaparral Pines along Tyler Parkway. The town could have contracted directly with JFM to complete the project, especially when you consider that the RCEA-SLE has no property in the area.

The payment details for this contract are equally puzzling. Here are the details as gleaned from discussion with town staff, a preliminary review of accounting records, and some records received from FOIA requests.

JFM PROJECT COSTS PER PAYSON CFO:

Bid package contract by Tetra Tech	\$31,470	CDR 3/7/13
Engineering & design by Tetra Tech	\$62,197	CDR 12/13/12
Survey & inspection by Tetra Tech.	<u>\$155,140</u>	CDR 6/11/13
Tetra Tech total	\$248,807	
Construction by Pierson const.	<u>\$207,627</u>	Actual cost per CDR 7/11/13
Total	\$456,434	

Instead of the RCEA-SLE paying these costs per resolution 2724, The Town paid them, and it appears that they used WIFA funds to do so. The town water department enterprise fund was reimbursed several months later by the RCEA-SLE. No documentation approving the altered payment arrangement has been found. Using WIFA funds in this way **may be problematic.**

On 10/3/19 the town responded to the FOIA request for all payments received from the RCEA-SLE to the town associated with resolution 2724. The details are listed on page two.

Here is the bottom line as of 10/18/19 after receiving the FOIA requested data:

Total RCEA reimbursements to the town per Payson CFO and FOIA information:

Rcpt 31435	10/21/13	\$162,292
Rcpt 31523	10/23/13	\$120,015
Rcpt 32098	11/26/13	\$142,455
Rcpt 33024	1/17/14	<u>\$30,771</u>
Total RCEA reimbursements		\$455,533
Payment from JFM to RCEA		\$700,000
Total RCEA reimbursements		<u>-\$455,533</u>
Balance.		\$244,467

Using the FOIA cost and reimbursement data it appears that the **RCEA-SLE** retained **\$244,467** of the original JFM funds **as profit.**

These are funds that should have accrued to the Town because there was no need to have the RCEA-SLE in the middle of this contract.

At this time the 2013, 990 tax form for the RCEA-SLE has not been found in the public record and is pending a FOIA request. Because of this, actual payments or receipt of funds associated with this contract and the RCEA-SLE can not be cross verified. It is also difficult to compare the associated receipts from the RCEA-SLE to actual town costs because references to specific costs have not been provided by the town.

Considering the commonality of personnel involved with the RCEA (SLE), the MHA Foundation, and those approving resolution 2724 for the town of Payson it is my opinion that there are some **serious questions that need answers.**

I hope this committee will use the information contained in this exhibit as the basis for further study by qualified accounting, contract, and legal experts.

Why was the RCEA included as part of this contract?

In my opinion, these funds can be recovered for the Town?

(A) (B) UNTREATED WATER LINE IN JOINT TRENCH WITH TREATED WATER LINE

(B) (C) UNTREATED WATER LINE ONLY

Mesa del Caballo

Water Treatment Plant Site

Treated Water Line

Untreated Water Line

Houston Mesa Road

