

METRO EAST PARK AND RECREATION DISTRICT
104 United Drive, Collinsville, Illinois
Tuesday, August 18, 2009
Special Meeting of the Board of Directors

I. Call to Order President Paul Evans called the meeting to order at 12:02 p.m.

II. Pledge of Allegiance

III. Attendance Roll call

Present were: Harold Byers, Madison County
Jerry Kane, Madison County
Gene Peters, Madison County
Paul Evans, St. Clair County
Pamela Hogan, St. Clair County
Earl McDowell, St. Clair County

Mike Buehlhorn, Executive Director
Bryan Werner, Planner
Paul Homann, TWM, Inc.
John Papa, Attorney
Mike Ratliff, Arcturis, Inc.

IV. New Business

a) Resolution 09-17 Re: Facility Improvements/MWMMP

Engineer Paul Homann researched all the contractors that submitted bids for the Malcolm W. Martin Memorial Park security building in regards to the financials strength and minority participation. In regards to Litteken Construction their information shows that Mrs. Litteken is the 100% stock holder of the company. Jason Litteken advised Paul that they were no longer a WBE. On August 6, 2009 Jason Litteken supplied data stating that his minority firms were J. Williams Heating and Cooling \$16,000.00, Commercial Bathwares, LC \$10,000.00 and Litteken Construction \$175,000.00. But since the company has not been approved as a certified WBE firm with the Illinois Department of Central Management Services, their minority participation is only \$26,000.00. On August 13, 2009, Litteken supplied additional information on his minority firms as J. Williams Heating and Cooling \$13,470.00, Commercial Bathwares, LC. \$10,115.00, Litteken Construction \$224,033.00 but this time added McKittrick Pre-cast Concrete as an alternate bid of \$76,570.00. When he found out he was not a WBE firm he solicited additional firms to try and achieve his minority participation. New information was again received on August 14, 2009 with additional minority firms. Paul Homann has yet to receive WBE certification on Bethalto Glass and B. Garcia Trucking which were included in the alternative bid, but if they were his minority participation would be \$76,570.00.

Based on this information, Litteken Construction Company was found to be non-responsive to the bid by Engineer Paul Homann and District Attorney John Papa.

L. Wolf Construction Company submitted a bid with the following minority contractors: Commercial Bathwares, LC. \$12,500.00, Guarantee/Two State Electrical, Inc. \$42,950.00, Mason's Plumbing \$38,500.00 and Bruce Concrete/Slater Construction \$106,000.00 for a total minority participation of \$199,950.00.

T. Rollo did not submit the information to Paul Homann in time for this meeting.

Engineer Paul Homann suggested that the second bidder, L. Wolf Company, was responsive to the minority participation clauses and complied with the intent of the contract, be awarded the contract.

President Paul Evans asked the district attorney John Papa his opinion on the matter and the attorney stated that he has reviewed the material and it does appear clear that Litteken Construction Company did not submit a responsive bid and had some deficiencies which they tried to correct more than once in their bid. It appears that L. Wolf Construction's bid was non deficient and was responsive and therefore it would appropriate to award the contract to L. Wolf Company.

President Paul Evans asked for a motion to award the bid to L. Wolf Construction Company.

Director Kane asked about the alternate added items on the Resolution 09-16 and Executive Director Buehlhorn stated that the additional items were things needed to complete the whole project and that Gateway would be paying for. The breakdown was to show how much each item would cost to finish.

Director Kane made a motion, seconded by Director Peters, that based on information that has been presented, it has been determined that Litteken Construction is not responsive in this bid.

Director McDowell asked Attorney Papa if there was any recourse for Litteken Construction Company. Attorney Papa responded by stating that any successful or unsuccessful bidder has the legal right to challenge any irregularities that took place in the bidding process or awarding for bidding. Litteken Construction Company could challenge the action, or has the right to, just as if L. Wolf Construction Company was not awarded, and they felt that Litteken Construction Company did not properly respond to the bidding process.

President Paul Evans asked if all our procedures have been consistent and equal for everyone involved. Engineer Paul Homann responded that yes all procedures have been consistent and equal for all bidders. At this time President Evans asked for a vote.

Voice Vote All Ayes No Nays Motion carried

Director Kane stated that based on the fact that we now have L. Wolf Construction Company as the low bidder and also have six alternates what is the status on recommendations for the alternates. Executive Director Buehlhorn stated that the only question that he has is the wall. There is a significant difference between the other two bidders and L. Wolf Construction Company bid and we should not award the wall portion until the difference in pricing can be identified. Executive Director Buehlhorn recommends we accept Resolution 09-16 as presented except alternate A2. Director Kane made a comment that we will want the wall, and that the owner of the bid project is at risk. If we reject the alternate and in fact we want the wall it is possible that a change order could be higher so we should be willing to accept the alternate. Executive Director Buehlhorn replied that we would prefer to have the wall.

President Paul Evans asked if we award the present bid is MEPRD obligated to stay with that or have room to negotiate the price. Director Peters commented to clarify that we did not bid each alternative separately, even though they were listed separately we asked for a total bid amount. Paul Homann stated that a request was for a price. MEPRD has the choice to accept each individual price.

Director Kane stated that the way the resolution is worded that in Section 1 we can award L. Wolf Construction Company for the base bid and then it states the following alternate bids were approved. Director Peters asked if we approved the base bid all but the wall would it be legal to open a whole new bid process for the wall. Director Kane stated that if we say we don't like the price and we are going to negotiate it then Litteken Construction Company has a reason to fight the decision of the board. If we choose the alternate to build the project you have to use the price on the bid. Earl McDowell asked if everyone had the ability to bid on the alternatives and the answer was yes. Gateway stated they would cover any expenses to build the wall, so Executive Director Buehlhorn said that we should put the wall in because it is going to be tied into other things such as irrigation and grass. Without the wall it will be incomplete and another issue we need to address later. President Paul Evans asked if an investigation has been done on the differences in the bids, in regards to the wall. Paul Homann stated that he knows what the material costs are but does not know what L. Wolf has allocated toward the concrete or curbing. President Evans asked if Director Kane had any suggestions for more action. He stated that he has a problem with the language in Resolution 09-16 as presented and was then informed an updated resolution has been printed and upon the presentation of the new Resolution.

After review Director Kane made a motion to adopt Resolution 09-16 as presented with alternate bids stating not to exceed prices. Motion was seconded by Director McDowell.

Director Earl McDowell asked to make sure all contractors had the same opportunity to bid on the alternatives and Executive Director Buehlhorn stated yes everyone had the same opportunity and he can't explain the difference in the pricing for the walls as well as other items on the bid items since all contractors bid items differently.

President Paul Evans wanted to confirm for the board that Resolution 09-16 states that L. Wolf Construction Company has been identified as the lowest responsive bidder and it goes forward to set forth the bid prices submitted by L. Wolf Construction Company for all alternates.

Roll Call Vote

Harold Byers	Aye	Paul Evans	Aye
Jerry Kane	Aye	Earl McDowell	Aye
Pamela Hogan	Aye	Gene Peters	Aye

6 Ayes No Nays No Abstained No Absent Motion Carried

b) Resolution 09-17: Resolution regarding the advertisement of the invitation for bids for construction of the Eagle Points Trail Phase I on Chouteau Island.

Executive Director Buehlhorn stated that they are all ready to go out for bids on Eagle Points; all information from the Corp of Engineers has been received. The Corp of Engineers has accepted our last revised changes to the plans and we are ready to advertise for bids in the Edwardsville Intelligencer and other local papers within the next three to four days. This would give everyone about three weeks to get a bid into the district and since there was a concern with opening the bids at the board meeting he feels that the bids would be opened at 10:00 a.m. on September 8, 2009. Then the engineers have some time to review and make a recommendation to the board. Otherwise if we open the bids at the meeting we have to wait another month to get a recommendation from the

engineers. There will not be a pre-bid meeting due to this being a simple trail per the engineer. Director Peters asked due to Resolutions 09-16 if we needed to make any changes. Executive Director Buehlhorn stated that he and Bryan will review what all the items that will be submitted so when plans are picked up all the items needed will be in there.

Director Kane stated that he believes that the staff and consultants need time to review the bids in order to make a studied recommendation to the board. President Evans asked if September 8 would give adequate time for a review and analyses to be presented to the Board at the next meeting and the answer was yes.

Director Byers made a motion, seconded by Director Peters to approve Resolution 09-17.

Roll Call Vote

Harold Byers	Aye	Paul Evans	Aye
Jerry Kane	Aye	Earl McDowell	Aye
Pamela Hogan	Aye	Gene Peters	Aye

6 Ayes No Nays No Abstained No Absent Motion Carried

V. Executive Session to discuss Litigation ILCS 120/2 (c) (4)

Executive Session was not held

VI. Adjournment

At 12:51 p.m. President Evans asked to adjourn the meeting. A motion was made by Director Byers, seconded by Director Kane to adjourn meeting. All voted aye on a voice vote and the meeting was adjourned.

**Respectfully Submitted,
Rene' St. Peters
Administrative Assistant**