Office of the City Manager
City of Greensboro

GREENSBORO

May 11, 2012

TO: Mayor and Members of Council

FROM Denise T. Roth, Interim City Manager

SUBJECT: Items for Your Information

Council Agenda Items for May 15, 2012 Council Meeting

- Change Order: General Stormwater Improvements

Attached is a memorandum from Ted Partrick, City Engineer, dated May 8, 2012, regarding a change order that will be on the May 15, 2012 Council agenda for Council's consideration. The change order is for $62, 088.

Council Follow-up Items

- Coliseum Complex Hotel/Motel Activity

As a follow-up to an inquiry from Council at the April 26, 2012 Work Session, attached is a memorandum from Jerome Fletcher, Assistant to the Finance Director, dated May 4, 2012, regarding the number of hotel/motel nights, as well as the economic impact, the Coliseum Complex has generated in the current fiscal year.

- 305 Martin Luther King Boulevard

As a follow-up to a question by Councilmember Wade at the May 1, 2012, City Council meeting attached is a memorandum from Engineering and Inspection Director Butch Simmons, dated May 9, 2012, regarding the type of contamination at 305 Martin Luther King Boulevard for the approved encroachment agreement. Also included is an explanation of the process for monitoring the site for contamination.

Ethics Webinar Scheduled

An Ethics Live Webinar for Elected Officials is scheduled for May 16, 2012, starting at 10:00 am in the Executive Conference Room, in the Melvin Municipal Office Building.

Domestic Partner Benefits

Attached is a memorandum from Interim City Attorney Jamiah Waterman, dated May 11, 2012, regarding the impact to the City's benefit program due to Tuesday's election results to amend the North Carolina Constitution.

Municipal Solid Waste Management Services

Attached is a memorandum from Field Operations Director Dale Wyrick, dated May 11, 2012, regarding the proposals that the City received in response to the Request for Proposals #08-12 Municipal Solid Waste Management Services.

Procedure to Fill Council Vacancies
Attached is a memorandum from Assistant City Attorneys James D. Dickens and Tom Carruthers, dated May 11, 2012, regarding the City's procedure in the event that a City Councilmember leaves office prior to their term expiring.

City Participating in "Top Workplaces" Survey
The City of Greensboro has been nominated as one of the top places to work in the Triad. Starting May 14, 2012, employees are completing short online surveys to rate their experiences working for the City of Greensboro. The survey questions were developed by a third-party company, Workplace Dynamics LLP, and the responses will be compiled and used as part of the selection for the *News and Record's* "Top Workplaces" program.

Contact Center Feedback
Attached is the weekly report generated by our Contact Center for the week of April 30, 2012 through May 6, 2012.

Small Group Meetings
For the week of May 4, 2012 through May 10, 2012, there were no small group meetings between City Staff and [more than two but less than five] Councilmembers.

Grant Report
Attached is an updated list of grants for which the City intends to apply that do not require a match. Under the policy adopted by City Council, grants that do not require a match are not required to receive formal Council action.

DTR/mm
Attachments

cc: Office of the City Manager
Global Media Distribution

Engineering & Inspections
City of Greensboro

GREENSBORO

May 8, 2012

TO: Michael Speedling, Assistant City Manager

FROM: Ted Partrick, City Engineer

SUBJECT: General Stormwater Improvements
Contract 2010-075
Change Order #1

Summary

The contract 2010-075 has cost over-runs that will require approval of a contract change order by City Council. An agenda memo is being prepared for the May 15, 2012, Council meeting as a change order for the amount of $62,087.97. The stormwater improvement contract is complete and staff is trying to close out the contract.

Background

Pedulla Excavating and Paving, Inc., (Pedulla) a North Carolina Licensed General Contractor, was awarded the contract 2010-075 for the General Stormwater Improvements Contract by the City Council on November 9, 2010. It was awarded to the contractor in the amount of their bid, $347,901.70. The contract was estimated by the engineering staff in the amount of $427,280 using historical pricing data. Five other responsible bids were received between $391,607 and $464,266. The construction work is now complete.

Contracts for stormwater improvements are regularly issued on an annual basis. This is one of two contracts that were awarded for construction in 2011. The work includes repairing or replacing sections of existing storm drains and culverts, and making small additions to the storm sewer system. Working on the older portions of the City's underground infrastructure always involves risks of encountering unforeseen conditions that cause delays and add to the cost of the work. Contingency funds were included in the contract, so the relatively low bid and contract amount contained a correspondingly low contingency.

During and after the construction of the improvements, the contractor submitted 33 change order requests (CORs) for additional compensation. Engineering staff reviewed each COR and approved, modified or rejected them per standard procedures. Pedulla and staff then reviewed together each response and payment request to identify items on which both agreed. For the ten requests rejected by staff, Pedulla then appealed to the Director of Engineering & Inspections to overturn the rejections. The Director overturned two staff decisions. The total amount approved by staff and the Director is $62,087.97, the amount for this change order.

Pedulla has informed staff that a request for mediation on all the denied CORs and additional compensation will be forthcoming. Aside from the CORs, Pedulla had requested additional compensation

for interest on unpaid invoices, additional bonding, traffic control, and clearing & grubbing on city streets. Any compensation paid as a result of the mediation will be in addition to this request.

The contract change order is the result of several factors. The most significant factors are the following:

> Estimated quantities for the amount of work in the contract did not include sufficient amounts of spoilage or enough contingency for construction unknowns.
>
> Poor soil was encountered in one location and required extensive replacement with stone backfill and pipe bedding.
>
> Underground utilities in the older areas of Greensboro are difficult to locate accurately prior to construction. Downtime and additional expenses were caused by relocating or working around unexpected gas mains, telecommunication wiring and fiber, and water and sewer mains.

This contract appears to have been bid by the general contractor without a clear understanding of the nature of the work or the requirements for its completion. One concern from the time of the award was the large gap between the low bid price of this contractor and the prices of the rest of the bidders. The construction of this contract included many persistent disagreements over the contract requirements and acceptable work practices. With the low bid price and this change order amount, the contract is still within budget and below the engineer's estimate of the cost.

THP

cc: Butch Simmons – Director, Engineering & Inspections Department
Steve Drew – Director, Water Resources Department
Mike Borchers – Engineering Manager, Water Resources Department

Office of the City Manager
City of Greensboro

GREENSBORO

May 4, 2012

TO: Denise T. Roth, Interim City Manager

FROM: Jerome Fletcher, Assistant to the Finance Director (On Assignment in the CMO)

SUBJECT: Greensboro Coliseum Complex Hotel / Motel Activity FY 11-12

At the City Council Work Session on Thursday, April 26, 2012, the inquiry arose regarding the number of hotel/motel nights the Greensboro Coliseum Complex has generated in the current fiscal year. The Greensboro Area Convention and Visitors Bureau (GACVB) is responsible for tracking this information, as well as, the economic impact on the City of Greensboro.

In order to determine the number of hotel/motel nights and the economic impact associated with businesses generated from the Coliseum, according to GACVB President Henri Fourier "*We take into consideration the number of athletes participating, as well as the number of spectators. We then determine how many are staying here vs. local participants and commuters by checking with the event registration and we also check history of the event with other destinations that have previously hosted the event to verify hotel room pick up. We then factor in competition days and the length of the event. Based on the group, we attempt to figure how many per room. Kid events usually sleep four per room and adults two per room. We then apply a multiplier of $228 per day for overnighters, which covers the cost of hotel, food, entertainment local transportation shopping and some miscellaneous expenses. A multiplier of $114 is used for the number of day trippers, not staying overnight. At best this is just a quick way to estimate economic impact, but as we are consistent in our methods, it does give a consistent approach*".

The GACVB estimates that thru April 30, 2012, the hotel/motel nights and economic impact of the Coliseum Complex as:

- Coliseum (excluding Greensboro Aquatic Center) - **42,728** room nights resulting in an economic impact value of **$89.89 million.**
- The Greensboro Aquatic Center – **25,212** room nights resulting in an economic impact value of **$26.15 million**

The total estimated number of hotel/motel room nights generated by the Coliseum Complex is **67,940** and an economic impact of **$116.04 million**.

AJF

Engineering & Inspection
City of Greensboro

GREENSBORO

5-9-2012

TO: Michael Speedling, Assistant City Manager

FROM: Butch Simmons, Engineering & Inspections Director

SUBJECT: 305 Martin Luther King Blvd

Councilmember Trudy Wade requested clarity regarding the type of contamination at 305 Martin Luther King Blvd for which the City Council approved an Encroachment Agreement on May 1st 2012.

Wells Fargo Bank engaged The EI Group, Inc. as their environmental consultant to work with the NC Division of Waste Management - Guilford County Environmental Health Division on obtaining a "*No Further Action*" status. The contamination which needs to be monitored is petroleum from a service station that previously existed on this property.

The purpose of the monitoring wells is to evaluate current soil and groundwater quality via sampling using NC DWM Risk-Based laboratory analytical methods. The wells will be plugged and abandoned according to applicable rules once monitoring is no longer warranted.

BS/jg

City Attorney's Office
City of Greensboro

GREENSBORO

May 11, 2012

TO: Mayor and Members of City Council

FROM: Jamiah K. Waterman, Interim City Attorney

SUBJECT: Domestic Partner Benefits

As you know, on Tuesday May 8th, North Carolina voters voted to amend the North Carolina Constitution to state that "Marriage between a man and a woman is the only domestic legal union that shall be valid or recognized in this state." I am currently evaluating the amendment and its legal implications; however, at this time I am not prepared to make any definite pronouncements about its impact on the City's domestic partner benefits.

I am writing to inform you that there is an argument that the City's domestic partner benefits may be unconstitutional if these benefits are only granted to employees upon the recognition of a narrowly defined status – "domestic partner" – which requires the non-married individuals seeking the benefits to be in a committed domestic union similar to marriage.

If the City's current "domestic partner" requirements are deemed to be recognition of a domestic union that is not a marriage between a man and a woman, the City could change the requirements and grant coverage to household members and/or dependents. Coverage would be constitutional as the employees would not be required to prove a domestic union to be entitled to the City's benefits. Due to the fact that unmarried men and women who live together, in any combination, would be eligible for coverage, this expansion would increase the number of people covered and the cost of the City's benefit program.

The City Attorney's Office will provide more guidance on this subject as more information becomes available.

cc: Denise Turner-Roth, Interim City Manager

Field Operations Department
City of Greensboro

GREENSBORO

May 11, 2012

TO: Denise T. Roth, Interim City Manager

FROM: Dale Wyrick, P.E., Field Operations Director

SUBJECT: Proposals Received for Municipal Solid Waste Management Services, RFP #08-12

This memo is to inform you that staff received proposals back from five (5) companies yesterday, May 10, 2012, in response to our RFP #08-12 Municipal Solid Waste Management Services. The proposing companies are as follows:

- FCR Greensboro, LLC (d/b/a "ReCommunity)
- Hilco Transport, Inc.
- Republic Services of NC, LLC
- Waste Connections, Inc.
- Waste Industries, LLC

In addition, we received two (2) statements of no response from the following companies:

- Advanced Disposal Services Carolinas, LLC
- Waste Management of Carolinas, Inc.

All proposals and statements of no response documents will be posted on the Request for Proposals page on the Field Operations website today. The link to that site is http://www.greensboro-nc.gov/index.aspx?page=576.

In addition, an initial report summarizing these proposals will be presented to the City Council at their next meeting on May 15, 2012.

If further information is required, please advise.

ddw

Office of the City Attorney

City of Greensboro

GREENSBORO

May 11, 2012

TO: Denise T. Roth, Interim City Manager

FROM: James A. Dickens, Assistant City Attorney
Tom Carruthers, Assistant City Attorney

SUBJECT: Procedure to Fill Council Vacancies

Pursuant to Section 3.02(c) of the Greensboro City Charter ("City Charter"), if there is a vacancy in the office of city council, "the council shall choose some person for the unexpired term, to act as councilman; councilmen so selected shall have all authority and powers given under this charter to regularly elected councilmen . . . ." Additionally, Section 3.02(b) of the City Charter states that the person chosen by council must be a qualified voter and resident of the city and of the district where the vacancy occurred.

Neither the City Charter, nor the North Carolina General Statutes, sets a specific time frame for appointing a citizen to fill the vacancy and does not require a particular process for this selection.

The City Council has adopted procedures in the past to fill these open positions. Councilperson Alma Adams was appointed to the North Carolina House in 1994 while she served as a City Council member. The following procedure was recommended by the City Attorney and was adopted and followed by the City Council:

Council must choose the procedure to fill any vacancies that may occur. The procedure set out below was utilized in 1994. This is offered for historical reference only.

1. The Councilmember selected to rise to the General Assembly will her tender her resignation at the Council meeting. Since the Councilmember has not yet sworn the oath of her new office, she remains eligible to serve until her replacement is selected.

2. The Mayor will open the floor to receive nominations to fill the seat. These nominations by Council members will not require a second.

3. The candidate must receive five votes to win the open seat. If there is more than one candidate, the Council will vote upon the slate of candidates. If one candidate receives five votes, that person is selected. If not, the top two candidates are voted upon again and the one receiving five votes is selected. Votes are cast in open session.

4. After the selection of the nominee, the Council will then consider and accept the resignation of the Councilmember.

5. Oaths of office for the rising General Assembly member and the rising City Council member may be given in sequence.

The City Attorney will evaluate this procedure in light of current laws when a vacancy is imminent.

JAD, TDC
Attachments

CITY CHARTER

Sec. 3.02. - Qualifications and term of mayor and council; vacancies.

(a)
Members of the council shall serve for terms of two (2) years, beginning the day and hour of the organizational meeting of the council, but members shall continue to serve until their successors are elected and qualified. The mayor shall continue to serve until his successor is elected and qualified.

(b)
No person shall be eligible to be nominated or elected to the city council from an electoral district or to continue to serve thereon unless he is a qualified voter and resident of the city and the district which he represents. No person shall be eligible to be nominated or elected to the city council at large or to continue to serve thereon unless he is a qualified voter and resident of the city. In addition, no person shall be eligible to be nominated or elected [to] the office of mayor or to continue to serve as mayor unless he is a qualified voter and resident of the city.

(c)
If any elected councilman shall refuse to be qualified, or if there is a vacancy in the office of councilman after election and qualification, or if any councilman be unable to discharge the duties of his office, the council shall choose some person for the unexpired term, or during his disability, as the case may be, to act as councilman, councilmen so selected shall have all authority and powers given under this charter to regularly elected councilmen and shall be subject to recall. Any vacancy occurring in the office of mayor shall be filled by appointment made by the city council for the remainder of the unexpired term.

(S.L. 1973, Ch. 213, §§ 8—10; Ord. No. 83-7, § 4, 2-7-83)

The Mayor noted that nominations for the Council position would now be accepted.

Councilmember Jones nominated B. J. Battle, Jr.

Councilmember Adams nominated Edward Whitfield.

Councilmember Johnson nominated Claudette Burroughs-White.

Councilmember Grubar nominated Lila Lloyd.

Voting in order of nomination and by roll call vote, Council voted on Mr. Battle. After the vote was recorded, Councilmember Adams noted that she had not voted as she had intended. Upon motion of Councilmember Grubar, seconded by Councilmember Jones, the Clerk was instructed to clear the board. Mr. Battle thereupon received the following votes by roll call vote: Ayes: Jones and Vaughan. Abstentions: Adams, Allen, Carmany, Clotfelter, Grubar, Johnson and Perkins.

The following roll call vote was recorded on the nomination of Mr. Whitfield: Ayes: Adams and Allen. Abstentions: Carmany, Clotfelter, Grubar, Johnson, Jones, Perkins, Vaughan.

The following roll call vote was thereupon recorded on the nomination of Ms. Burroughs-White: Ayes: Carmany, Clotfelter, Johnson and Perkins. Abstentions: Adams, Allen, Grubar, Jones and Vaughan.

The following roll call vote was recorded on the nomination of Ms. Lloyd: Ayes: Grubar. Abstentions: Adams, Allen, Carmany, Clotfelter, Johnson, Jones, Perkins and Vaughan.

The City Attorney instructed that the Council would now vote on the top three nominees, since two candidates had tied for second place.

The following roll call vote was recorded for Mr. Battle: Ayes: Jones and Vaughan. Abstentions: Adams, Allen, Carmany, Clotfelter, Grubar, Johnson and Perkins.

The following roll call vote was recorded for Mr. Whitfield: Ayes: Adams. Abstentions: Allen, Carmany, Clotfelter, Grubar, Johnson, Jones, Perkins and Vaughan.

Before a vote could be recorded for Ms. Burroughs-White, Councilmember Adams noted that she had inadvertently not voted as she had intended. Upon motion of Councilmember Vaughan, seconded by Councilmember Grubar, the Clerk was instructed to clear the board. The following vote was thereupon recorded for Ms. Burroughs-White: Ayes: Allen, Carmany, Clotfelter, Grubar, Johnson and Perkins. Abstentions: Adams, Jones and Vaughan.

After brief discussion with the City Attorney regarding correct procedure involved with appointing Ms. Burroughs-White by acclamation, Councilmember Grubar, seconded by Councilmember Vaughan, moved that Claudette Burroughs-White be appointed by acclamation; the motion was adopted on the following roll call vote: Ayes: Adams, Allen, Carmany, Clotfelter, Grubar, Johnson, Jones, Perkins and Vaughan. Noes: None.

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Councilmember Adams announced her resignation from the City Council. She expressed her appreciation to family members, friends, supporters, and City staff for the excellent support she had received throughout her tenure as a Council member; she also spoke to the many accomplishments had been achieved during this time. Upon motion of Councilmember Johnson, seconded by Councilmember Vaughan, the Council unanimously voted to accept Councilmember Adams' resignation.

On behalf of the City Staff, the Manager expressed appreciation to Ms. Adams for her support. He thereupon presented to her a framed copy of the City Seal and her official Council photograph.

The oath of office for the General Assembly was administered to Ms. Adams by Judge Lawrence McSwain.

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The Deputy City Clerk administered the oath of office for City Council to Claudette Burroughs-White. Ms. Burroughs-White recognized family members, friends and supporters and expressed appreciation to the City Council for her appointment as representative for District 2.

On behalf of City staff, the Manager welcomed Ms. Burroughs-White and noted that the staff looks forward to working with her.

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Nettie Coad, residing at 706 Martin Luther King Jr. Drive, and representing the Asheboro Street Neighborhood, requested the Council to take action to not allow the widening of Martin Luther King Jr. Drive.

Representative Alma S. Adams, residing at 1412 Larchmont Drive, requested the Council to be sensitive to this neighborhood and take action as expeditiously as possible to resolve this issue.

After lengthy discussion by Council concerning various opinions and concerns, the Manager stated that a report with respect to the proposed Martin Luther King Jr. Drive widening would be included in the Council's May 16 agenda packet for possible action at the regular Council meeting on that date.

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Bill Hearon, residing at 2407 Princess Ann Street, requested the Council to investigate what he perceived to be a violation in the report by the survey company as it related to the monuments at the entrance to the Timbroley Hollow property. He requested the Council to stop the construction in the area until a determination could be made as to whether or not a violation had occurred.

Joy Farlow, residing at 1805 Independence Road, reiterated her concern with respect to the development that is taking place in this area; she invited the Council to visit their neighborhood to witness the inconveniences the construction is causing the Kirkwood Neighborhood residents.

Wendy Schaitberger, residing at 2407 Princess Ann Street, also spoke to the neighborhood's concerns with respect to this development, detailed the disturbance created in this area and spoke to the contents of the Unified Development Ordinance, particularly the charge of the Technical Review Committee.

After lengthy discussion concerning the Council's efforts to assist this neighborhood and the preparation/adoption/contents of the Unified Development Ordinance, the Deputy City Attorney advised that the issue raised by Mr. Hearon would not change the City's original opinion.

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Councilmember Jones spoke to the donations and ongoing efforts to convert the Woolworth building to a Civil Rights Museum. He requested the Council to consider a public/private partnership in the amount of $75,000 per year for three years to fund the proposed Museum. The Council requested that Councilmember Jones provide detailed information and a breakdown for the intended use of the money requested. It appeared to be the consensus of Council that after the receipt of the requested information, Council could address this matter at the May 16 Council meeting.

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In response to an inquiry by Councilmember Jones, the Manager noted that a memorandum would be forthcoming to Council with respect to the Foxx's Den, a business located on Elm Street.

Public Affairs
Contact Center Weekly Report
Week of 4/30/12 - 5/6/12

Contact Center

5580 calls answered this week

Top 5 calls by area

Water Resources	Field Operations	All others
Balance Inquiry – 1611	Bulk Guidelines – 114	Police/Watch Operations – 235
General Info – 221	HHW/Landfill/Transfer – 93	Overgrown Lots – 118
New Sign up – 205	E-Waste Pick up – 67	Privilege License – 77
Bill Extension – 147	Repair Can/Garbage – 54	Police Records – 74
Sign up/Owners – 129	Collection Day – 43	HR/Employment – 40

Comments

We received a total of **2** comments this week:

Field Operations – 2 comments:

- Customer wants to thank Solid Waste for getting the trash picked up off Lakefield Dr.
- Caller wishes to say thank you. Good job picking up yard waste.

Overall

Calls about overgrown lots and privilege licenses increased last week. Call volume was busy through the end of the week.

City of Greensboro
Grant Applications Submitted

Grantor	Grants Projects / Description of Purpose	Amount Requested	Department Requesting Funding	Council Notification Date	Status
Office of Community Policing Services (COPS Office)	The grant funds Community Policing training and technical assistance in Problem-Oriented Policing for a two-year period.	$50,000	Police Department	May 11, 2012	Approved by Department on May 8, 2012

Date printed: 5/10/2012
MM

* This list does not represent grants that require Council's approval.