

TOWN COUNCIL SPECIAL MEETING - THURSDAY AFTERNOON
FEBRUARY 12, 2009

A3

PRESENT: Marshall, Cordeiro, Barboza, and Herreshoff

ABSENT: Parella

The Council met in special session on Thursday afternoon, February 12, 2009 in the Town Hall, Council Chambers, beginning at 4:35 o'clock PM, Council Chairman Marshall presiding:

Documents Received: None

Council Chairman Marshall informed those present that the purpose of this special meeting was to discuss matters relating to the Library expansion project. He noted that there appeared to be a difference of opinion regarding some of the outstanding payments issued and wished to finalize some resolution regarding same.

Council Chairman Marshall suggested that the Council might agree to make a final payment of approximately \$271,000 to Lusi Construction and that Lusi will, in turn, donate \$44,000 to the Library. He also noted that there would be other considerations.

Stephen Cornwall, a member of the Capital Project Committee stated that the installation of audio-visual equipment in the Library meeting room was yet to be completed and that the cost of this equipment is estimated to be \$45,000. He further stated that the Lusi donation might be applied to this outstanding cost.

Mr. Cornwall also informed the Council that the audio-visual equipment and its installation were not part of the project's specification and outside of the building contract thus making this cost an "extra."

David Swanson, Chairman of the Capital Project Committee informed the Council that he was of the opinion that the Town was "grossly overbilled" by Lusi in consideration of some changes that were made to the plan to install electrical service to the building. He noted that the plan calls for the electrical service to be installed via a trench through private property located on Bradford Street and that this plan was ultimately changed to install the electrical service across Hope Street directly in front of the Library. He noted that the initial plan called for a line to be run approximately three hundred and fifty feet (350') and was ultimately replaced by a line running only seventy feet (70').

Mr. Swanson speculated that the cost related to this shorter route change should have resulted in a reduction in cost but

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rather it resulted in an extra cost of \$9383. He also explained that the change ultimately resulted in the finished building with a "downgraded" total electrical service of 600 amps versus the planned service of 800 amps. Mr. Swanson also speculated that the Library's future electrical needs might not be satisfied by its current electrical limitations.

Mr. Swanson also explained that calculations provided by the electrical contractor seem to support his contention that the change should have resulted in a credit of approximately \$20,000-30,000.

Council Chairman Marshall asked to know if the Committee had approved the Lusi change order for the additional cost versus a credit with Mr. Swanson responding affirmatively.

Council Chairman Marshall noted that although Mr. Swanson's concerns appeared to be valid, the issue of proving the matter after-the-fact was problematic; especially in light of the fact that the change order was approved by the committee. He also noted that it was understandable that the committee may have approved this change order in error in light of the fact that the committee was constantly "under the gun" to keep the project moving during the hectic construction phase.

Councilman Herreshoff asked to know if the Bradford Street installation had begun and afterwards stopped midstream with Mr. Swanson noting that it had not.

Mr. Swanson also noted that on July 3, 2008, the Lusi people, the architect and Bob Allen, the owner's representative determined that the building was "substantially complete." Mr. Swanson takes exception to this finding since the building had no restrooms, no sprinklers, and no fire alarms on July 3 but rather did not obtain an occupancy permit until September 24, 2008.

Mr. Swanson stated that this fact should have realized a \$65,000 reduction in Lusi's early completion bonus.

It was noted that since Mr. Allen, as the Town's representative, appeared to be in agreement that the building was "substantially complete" then the Town had in-effect agreed also.

It was also noted that the Town remains to have a claim against A. I. Designs in that errors in the building plans resulted in additional costs and change orders and that this matter remained pending.

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Council Chairman Marshall explained that any agreement for settlement with Lusi Construction should include a requirement that the firm should cooperate with the Town in its actions against any of the other suppliers including A. I. Designs.

Councilman Herreshoff noted that Mr. Swanson's points all appear to be valid but that the issues, including the completion date, can become subjective and difficult - if not impossible - to prove. He suggested that the Town might wish to move forward lest it might expend funds unnecessarily on legal fees and that these fees might surpass any savings.

Council Chairman Marshall noted that A. I. Designs has submitted a bill for \$57,000 and that the Town does not plan to pay this bill. He also noted that there remains a Town claim against the architect's insurance.

Mr. Cornwall informed the Council that he is assured that the 600 amp service is sufficient and that the Committee may have tried to "drive a better bargain" regarding the matter but that the fact remains that it did not.

Councilman Herreshoff suggested that these matters always appear clearer "after the fact."

Council Chairman Marshall noted for the record that despite the "pain and heartache" the Town now has an "excellent project" completed and that the new Library is being "better utilized than [originally] anticipated."

Robert Arruda, also a member of the Capital Project Committee explained that the Committee was "interested but inexperienced" and that it did the best job that it could due to the constant "overhanging threat" of stalling the project.

Councilman Cordeiro and Councilman Herreshoff stated that the Committee did an excellent job overall and is well-worthy of congratulations.

Mr. Cornwall stated that the Committee plans to submit a final report before April 1. Councilman Herreshoff suggested that this report should remain confidential to the Council pending its review of same.

Barboza/Cordeiro - Voted unanimously to
approve a final payment to Lusi
Construction in the amount of \$271,569
subject to the following conditions:

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- Lusi will donate \$44,000 to the Library.
- Lusi will provide full close-out documents including as-built drawings to the Town.
- Lusi will cooperate fully with the town in any and all actions concerning third party claims.

There being no further business, upon a motion by Councilman Barboza, seconded by Councilman Herreshoff and voted unanimously, the Chairman declared this meeting to be adjourned at 5:19 o'clock PM.

Louis P. Cirillo, CMC, Council Clerk