

The stated meeting of the Public Works Committee of the Board of Commissioners of the Township of Abington was held on Monday, February 2, 2015 at the Township Administration Building, Abington, PA., with Commissioner Bowman presiding.

**CALL TO ORDER:** 7:17 p.m.

**ROLL CALL:** Present: BOWMAN, SPIEGELMAN, ZAPPONE, HECKER

Excused: KALINOSKI

Township Manager LEFEVRE  
Township Engineer POWERS  
Director of Code Enforcement MATTEO  
Director of Public Works MICCIOLO  
Director of W.W.T.P. WRIGLEY  
Planning & Zoning Official PENECALE  
Legal Assistant GALLAGHER

Also Present: Commissioners LUKER, KLINE, JONES, SCHREIBER, SANCHEZ, MARKMAN, DiPLACIDO, MYERS, GILLESPIE

**MINUTES:** Commissioner Bowman made a MOTION, seconded by Commissioner Spiegelman to approve the minutes of the December 1, 2014 Public Works Committee Meeting.

MOTION was ADOPTED 4-0.

Bid Award – Ready Mix Concrete

Commissioner Bowman made a MOTION, seconded by Commissioner Spiegelman to accept the lowest Responsible Bidder and enter into a contract with J.D.M. Materials for the purchase of Ready Mix Concrete as per bid specifications.

Commissioner Bowman asked for any comments from Commissioners. There were none.

Commissioner Bowman asked for any public comments. There were none.

MOTION was ADOPTED 4-0.

Bid Award – Super Pave Asphalt Paving Material

Commissioner Bowman made a MOTION, seconded by Commissioner Zappone to accept the lowest Responsible Bidder and enter into a contract with Eureka Stone Quarry for Part 1 of the bid in the amount of \$479,825.00 and Glasgow, Inc. for Part II in the amount of \$49,975.00 for the purchase of Super Pave Materials as per bid specifications.

Commissioner Bowman asked for any comments from Commissioners. There were none.

Commissioner Bowman asked for any public comments. There were none.

MOTION was ADOPTED 4-0.

Resolution No. 15-009 – Edge Hill Road/Tyson Avenue Flood Control/Street Reconstruction Project

Commissioner Bowman made a MOTION, seconded by Commissioner Spiegelman to approve Resolution No. 15-009, for the Edge Hill Road/Tyson Avenue Flood Control/Street Reconstruction Project Reimbursement Agreement No. 064132-C Supplement “C.”

Commissioner Bowman asked for any comments from Commissioners.

Commissioner Zappone asked for the status of this project.

Mr. Power replied we are working on getting agreements for review by Township Solicitor and Pennoni is working on the utility agreements and, once that is done, we will put together packets to give to residents.

This resolution needs to be adopted so it can be forwarded to the State for reimbursement of 80% for right-of-way acquisitions with a 20% match by the Township.

Ms. Gallagher added that Resolution No. 15-009 is to authorize Commissioner Luker to authorize the reimbursement agreement that was approved at the December committee meetings.

Commissioner Zappone clarified that all parties are actively working to get this project to move forward. Is that correct?

Mr. Powers replied yes.

Commissioner Bowman asked for any public comments. There were none.

MOTION was ADOPTED 4-0.

Edge Hill Road/Tyson Avenue Flood Control/Street Reconstruction Project – Resolution No. 15-011 – Right-of-Way Agreements

Commissioner Bowman made a MOTION, seconded by Commissioner Hecker to approve Rudolph Clarke, LLC price proposal in the amount of \$769,660 for Supplement “C” of the Edge Hill Road/Tyson Avenue Street Reconstruction Project right-of-way acquisitions.

Also, to approve Resolution No. 15-011, to add Rudolph Clarke, LLC for legal, appraisal and title services relating to the Edge Hill Road/Tyson Avenue Flood Control/Street Reconstruction Project Reimbursement Agreement No. 064132-C Supplement “C” for right-of-way acquisitions.

Commissioner Bowman called on Township Manager.

Manager LeFevre explained that the Township previously received a proposal from Arrow Engineering for right-of-way acquisition services and PennDOT is paying 80% of the cost for these services, but after discussion with Township Solicitor, they indicated they could provide the same service and a more complete proposal at a substantially reduced rate as compared to Arrow.

Mr. Clarke submitted a separate proposal that is before the Board this evening. It is approximately \$300,000 less than the proposal submitted by Arrow.

Commissioner Bowman asked how did the Township get a proposal from Arrow?

Manager LeFevre replied reps of Arrow has worked with PennDOT in the past as they are one of PennDOT’s approved vendors, so Pennoni, through a recommendation from PennDOT, solicited a proposal from Arrow and were prepared to move forward with their proposal, but after discussion with reps of Township Solicitor’s Office, the Township was able to obtain a second proposal.

Commissioner Bowman clarified that the Solicitor’s proposal is based on PennDOT’s 80/20 ratio as well. Is that correct?

Manager LeFevre replied yes.

Commissioner Bowman questioned whether Arrow’s proposal was based on a bid.

Manager LeFevre replied no.

Commissioner Spiegelman asked was the firm of Rudolph Clarke privy to the price quoted by Arrow prior to submitting its own quote?

Ms. Gallagher replied we did have Arrow's documents and we are confident that our firm will encompass everything contained in Arrow's proposal and then some. Arrow's proposal is a flat fee of \$817,000, whereas Rudolph Clarke's fee is an hourly rate up to a maximum, which is \$500,000 plus fees for appraisal and title services and appraisal and title services were not included in Arrow's proposal.

Commissioner Bowman asked how did the Township come into possession of Arrow's proposal?

Manager LeFevre replied though Pennoni Associates.

Ms. Gallagher added that PennDOT asked Pennoni to solicit that quote from Arrow.

Mr. Powers commented that he feels the proposal by Rudolph Clarke's firm is a very sound proposal and he is comfortable with it. This project has been delayed for a long time and it is finally moving forward, and he would like it to proceed without any problems and get it done.

Commissioner Bowman clarified that the parameters of this project are governed by PennDOT's rules and regulations. Is that correct?

Mr. Powers replied yes.

Commissioner Zappone clarified that since PennDOT is paying 80% of the project, so they make the final decisions, and it is the same reps that we have been meeting with in the past. Is that correct?

Mr. Powers replied that is correct.

Ms. Gallagher said we are confident that PennDOT is comfortable with using our firm.

Commissioner Zappone questioned why Arrow's proposal included other items that increased their price.

Mr. Powers replied Arrow's proposal was controlled by PennDOT and both he and Pennoni feel the Township has a better proposal by Rudolph and Clarke to meet the requirements of this project.

Ms. Gallagher added that appraisal services are not included in Arrow's proposal and our firm includes an appraiser, Coyle, Lynch & Company to provide that service.

Commissioner Hecker asked is reps of PennDOT aware that the Township will be coming to them with an alternate proposal, and if so, what if they do not agree with the Township's recommendation?

Mr. Powers replied they are aware of it, and if they do not agree, they would be delaying the project.

Commissioner Kline clarified that Arrow submitted a proposal based on assumed scope of work designated by Pennoni, and then the Township received a proposal by Rudolph Clarke's firm who saw Arrow's proposal. Is that correct?

Mr. Powers replied that is correct.

Commissioner Kline asked why wasn't this sent out for a quote on an even scope of work to whomever wanted to provide a quote and why are the procedures not being followed?

Mr. Powers replied there was not enough time to do that.

Commissioner Kline said the Township has been working on this project for years and this should have been sent out for RFP.

Mr. Powers replied this is not a Township project, it is a State-oriented project and the State hires the consultants to do the work. But, after review of the Rudolph Clarke's proposal, he decided their proposal was better.

Commissioner Kline expressed concern that Rudolph Clarke knew what Arrow's proposal was and there are certain procedures that need to be followed.

Mr. Powers replied according to Pennsylvania State law, the RFP process is not required.

Commissioner Kline questioned whether that is correct or not.

Manager LeFevre replied it is unique in that the Township has a set policy adopted by the Board on how to handle contracts under \$25,000 for professional services, and since PennDOT is not required to solicit for multiple proposals, they have a working relationship with Arrow and were satisfied by their quoted price and were prepared to proceed with their proposal.

Only after discussion with the Solicitor's Office indicating that Arrow's proposal was incomplete they then submitted an alternate proposal that was more complete at a cheaper price. The Township could solicit RFP's from other firms, but it will delay the project. Public meetings were held last year and the Township indicated to those residents that the right-of-way process of the project would be ready by March 1, 2015.

Commissioner Kline said if there were concerns about the scope of work included in Arrow's proposal and it was reviewed by Township Solicitor, then the Solicitor should have indicated what the scope of work should be and send it back to Arrow or send it out through the RFP process, which is what should have happened and this does not look right to him.

Manager LeFevre replied he understands the concern and agrees it is not the ideal situation.

Commissioner Gillespie said what if reps of Arrow see the proposal made by Rudolph Clarke and indicate they can match it. What happens then?

Mr. Powers replied we would need to bring it back next month for approval by the Board, which would delay the project. His concern was to keep the project moving and not have it delayed.

Commissioner Jones suggested structuring it so that Arrow would see the best standing offer and then ask whether they could match it or do better and then the Board makes a decision at next week's Board meeting without delaying he project.

Mr. Powers replied to be fair he would then have to go back and forth between the two to see whether they could do better.

Commissioner Bowman asked is the resolution for the RFP process only for Township projects or does it pertain to PennDOT's payment share of 80% for projects as well?

Manager LeFevre replied the resolution adopted by the Board does not go into specific detail, but it does provide for exceptions to the policy if unusual circumstances arise such as timing issues.

Ms. Gallagher added that the resolution says, "Any professional or personal services in connection with any Township project or in connection with the handling of any Township matter and the cost of services are anticipated to be in excess of \$25,000."

Commissioner Schreiber said Township's original RFP was awarded to Pennoni and they have a list of who they work with and one of them is the Arrow Company. Is Rudolph Clarke also on that list?

Ms. Gallagher replied we are not on that list; however, our firm has worked with Pennoni in another context.

Commissioner Schreiber clarified that she assumes there are other companies on both Pennoni and PennDOT's list of consultants. Is that correct?

Ms. Gallagher replied if we comply with PennDOT's rules, we can be on their list. There are certain types of appraisals that have to be done by a PennDOT certified appraiser and Coyle, Lynch & Company is a certified appraiser.

Commissioner Schreiber asked does Pennoni always work with that particular company or did they send it out for RFP process and award it to Arrow?

Mr. Powers replied they chose Arrow as the company they want to work with.

Commissioner Bowman clarified that the general contract goes out for RFP in which it was awarded to Pennoni and then Pennoni is free to enter into appropriate contracts to effectuate that agreement. Is that correct?

Mr. Powers replied that is correct.

Ms. Gallagher added that it is a service that Pennoni does not provide so they contract it out.

Commissioner Kline questioned whether the firm of Rudolph Clarke would be paid by Pennoni or by PennDOT.

Ms. Gallagher replied PennDOT.

Commissioner Kline questioned whether through Pennoni's work is that the next aspect of the execution of the overall project.

Ms. Gallagher replied that is correct.

Commissioner Kline said so Arrow is not a subcontractor of Pennoni.

Ms. Gallagher replied it is part of the overall project and Pennoni obtained a quote from Arrow.

Commissioner Kline said he understands that, but Arrow is not a subcontractor of Pennoni. It is a separate contract, and it happens to be that Arrow has a relationship with reps of Pennoni.

Ms. Gallagher replied it would be a supplement to the reimbursement agreement with PennDOT.

Commissioner Spiegelman commented the residents of Edge Hill and Tyson have been waiting a generation and no one wants to delay the project. He is concerned about the specifics not only in this case, but also moving forward knowing there will be similar large PennDOT projects upcoming in our Township.

Had Rudolph Clarke not noticed issues with Arrow's proposal, there would have been no quotes provided to PennDOT through Pennoni and now the Township has a more solid proposal from Rudolph Clarke.

Our allegiance as a Board is to do what is best for the residents who have been waiting for this project for a very long time; however, he hopes the Township is never put in this situation again because if the Board acts on our concerns, it delays the project, which is not fair to the residents. So whatever can be done to avoid this type of situation, he hopes that every effort will be made in the future.

Commissioner Myers commented that she shares the concerns of some of the Commissioners because it is the job of Township Solicitor to review the contracts and find those missing items. She is not sure it is the job of the Solicitor to quote a price on this and the lines are being blurred between the job of Township Solicitor and their firm doing this work because he should be overseeing the work. She does not think it is a legal conflict of interest, but it sure feels like a perceived one, and she is not comfortable with it.

Commissioner Zappone asked has Rudolph Clarke ever been involved in a matter similar to this situation?

Ms. Gallagher replied yes, for many municipalities. We are familiar with PennDOT and their rules. Negotiation is what our firm does and she has personally been involved in a four-year long project that involved many parcels.

Commissioner Myers asked whether Rudolph Clarke was also the Solicitor for those municipalities at that time?

Ms. Gallagher replied yes.

Commissioner Jones clarified with Commissioner Zappone that his question to Ms. Gallagher was whether the firm Rudolph Clarke has ever dealt with a project like this in terms of scope in nature or has that firm ever been in this type of negotiation where they were the Solicitor and then responding after the fact. Was that the focus of the question?

Commissioner Zappone replied yes.

Ms. Gallagher replied that Abington has a unique set up for RFP's for projects that exceed \$25,000, and typically when legal work is involved, we handle it and it is within the parameters of what our firm does everyday.

Commissioner Zappone said if Rudolph Clarke does this work; who will this firm be taking direction from Abington Township or PennDOT?



Ms. Gallagher replied the Township because the Township and Mr. Powers are overseeing the construction, and although, we are bound by PennDOT's rules because they are footing the bill, when the project is completed, the Township will take dedication of the roads.

Commissioner Hecker asked for the timeframe of how long Township staff knew that an alternate proposal was going to come forward.

Mr. Powers replied last December.

Ms. Gallagher added that her firm found out about the project at the beginning of December and began reviewing proposals by Arrow over the past month.

Commissioner Hecker said his concern is being notified by this in the last 24-hours. He feels an obligation to the Township residents who have been suffering and needing to deal with this and he wants to see it move forward. But at a minimum, the committee should have been notified so that we could have helped shaped thought that might have given some direction to a process that would have been clearer even though there are exceptions that provide for this eventuality.

He is torn, but suggested that the Board move forward with the idea that we revisit this issue with the possibility of another ordinance/resolution in regards to PennDOT projects in a bid process going forward.

Commissioner Kline asked how long has this project been ongoing and at what point did this project begin moving forward again?

Commissioner Zappone replied about 10 years and in the last year.

Commissioner Kline said if this was being discussed back in December and it is now February and now there is a deadline before us that is unfair to the Board.

Commissioner Zappone clarified that this is legal and that we will proceed forward. Is that correct?

Ms. Gallagher replied of course.

Commissioner Sanchez noted that as a real estate lawyer, he has worked with the firm Coyle, Lynch & Company as appraisers and he has found them to be of the highest caliber appraisers in the industry. He is also familiar with Southeast Reality Transfer LLC and has heard nothing negative about their qualifications either.

Commissioner Luker asked what if this is turned down by this committee, what happens then?

Manager LeFevre replied it can move forward to the full Board for a vote without a recommendation by the Public Works Committee.

Commissioner Myers said if the committee moves this item onto the full Board without recommendation that would give time for Township staff to provide opportunity for Arrow to match in services and cost as compared to the firm of Rudolph Clarke and then final decision can be made by the Board at its next meeting, which is when the final decision will be made anyway, so there will be no time lost.

Commissioner Markman clarified that PennDOT will be bound by the recommendation of the Board of Commissioners. Is that correct?

Mr. Powers replied that is correct.

Commissioner Markman said the Township has an obligation to the residents to get this done after 10 years, so we need to make a decision and get it done by February 12<sup>th</sup>.

Commissioner Spiegelman questioned whether there is the possibility that PennDOT would not accept using the firm Rudolph Clarke?

Mr. Powers replied he does not know.

Commissioner Spiegelman suggested having Arrow and Rudolph Clarke submit two final proposals before next Thursday, so then this committee could pass this onto the full Board without recommendation.

Commissioner Spiegelman made a MOTION, to AMEND the MOTION to pass agenda Item PW4 onto the full Board of Commissioners without recommendation, seconded by Commissioner Zappone.

Commissioner Bowman asked for any public comments.

Lora Lehmann, 1431 Bryant Lane, was in opposition of this item.

MOTION as AMENDED – PASSED 4-0.

2014 Capital Improvement Program – 1004 Irvin Road

Commissioner Bowman made a MOTION, seconded by Commissioner Spiegelman to authorize the appropriate Township officials to complete an appraisal for 1004 Irvin Road for a potential buyout; to be funded from 2014 Bond Issue.

Township Engineer Mike Powers gave a power point presentation on 1004 Irvin Road Stream Reconstruction and a copy was provided to the Board. Depending on the appraisal, we can stay within budget for this project to buy the home and have it demolished and then widen the channel of the stream, which would meet all Army Corp of Engineers and DEP requirements.

Commissioner Bowman asked for any comments from Commissioners.

Commissioner Jones commented that this home is located in his ward and this is the best course of action that will bring an ending of discomfort and suffering for the resident, so he supports it.

Commissioner Zappone questioned whether this home sustained damage from storms of 1996 and 2001 such as the homes on Madison Avenue.

Mr. Powers replied yes.

Commissioner Kline suggested getting another opinion on how the engineering should be done if the appraisal comes in higher than expected.

Manager LeFevre noted that a certain amount of money was allocated from capital funds for this project and it is our understanding as proposed by the engineer that it can be done at that cost or less by acquiring this property. If that is not the case, we will come back to the Board with an alternate proposal.

Commissioner Kline asked for an estimate of cost for overall project including acquisition and streambank work.

Mr. Powers replied \$350,000-\$375,000.

Commissioner Hecker clarified that the committee is voting to authorize the appraisal that will come back before this committee next month and, at that time, there will be a better understanding of projected cost for entire project. Is that correct?

Mr. Powers replied that is correct.

Commissioner Spiegelman clarified that if nothing were done; how long would it be before the streambank on the 1004 Irvin side would collapse?

Mr. Powers replied it could happen with any storm as it is undermined now.

Commissioner Myers commented prior to the home across the street being demolished; she visited it because, at that time, the Board was considering doing the same as for the home at 1004 Irvin, and it was easy to see the damage that was being done to the inside of the home and the homeowners were in potential danger. Is that the case with this home?

Mr. Powers replied he has never been inside the home.

Commissioner Myers asked about financial assistance from FEMA or DEP for this project.

Mr. Powers replied that is only when the home is declared an emergency.

Commissioner Sanchez questioned whether this could be done by declaration of taking of the house and pay the homeowner just compensation.

Ms. Gallagher replied the fair market value appraisal should take into account the stream that is there and there is potential damage to the house.

Commissioner Schreiber clarified that once the home is demolished there will be no further building on that land, so what about open space funds that may available.

Commissioner Markman replied there is a grant available this year for parks and we can look into it.

Commissioner Bowman asked for any public comments.

Lora Lehmann, 1431 Bryant Lane, asked how many homeowners asked the Township to buyout their property?

Mr. Powers replied three.

MOTION was ADOPTED 4-0.

Sump Pump Connections

Commissioner Bowman made a MOTION, seconded by Commissioner Spiegelman to approve \$30,000 for sump pump connections to be added to Account No. 07-07-566-7506; to be funded from Fund Balance.

Mr. Powers said we are experiencing a lot of problems with sump pumps and funds from capital have been spent and there are several that need to be connected.

Commissioner Bowman asked for any comments from Commissioners.

Commissioner Kline asked about funds in the budget for sump pumps.

Mr. Powers replied we had \$15,000 for sump pumps, but that was spent.

Commissioner Bowman asked for any public comments. There were none.

MOTION was ADOPTED 4-0.

Delaware Valley Regional Planning Commission (DVRPC) Transportation & Community Development Initiative (TCDI) Grant Program

Commissioner Bowman made a MOTION, seconded by Commissioner Spiegelman to enter into contract with Simone Collins Landscape Architecture (in association with Traffic, Planning & Design) in an amount not to exceed \$75,000.00 (\$60,000 to be reimbursed by the Transportation & Community Development Initiative (TCDI) Master Bicycle Plan Grant and \$15,000 from Contingency Fund to develop and provide the Abington Township Master Bicycle Plan; to be funded from Account No. 06-07-301-5305.

Commissioner Bowman asked for any comments from Commissioners.

Commissioner Kline asked if this is approved, what is the next step?

Manager LeFevre replied we will enter into contract for design work and the project will begin. There is a timeline for when it needs to be completed, which is sometime early next year and that will meet the guidelines of the grant.

Commissioner Kline asked about the interaction between this firm and Township staff in regards to the elements of the design of the project.

Manager LeFevre replied they will work with the Township Engineer meeting with staff as well as hold public meetings soliciting input from residents about the project.

Commissioner Markman asked was this the low bid?

Manager LeFevre replied there was interest from about 33 firms with 10 submitting proposals and all coming in between \$73,000-\$75,000. Staff then reviewed the proposals based on our criteria scores and chose this firm based on their extensive background.

Commissioner Bowman asked for any public comments.

Lora Lehmann, 1431 Bryant Lane, commented that she feels the section of Rydal Green “needs bicycle and walking work.”

MOTION was ADOPTED 4-0.

Commissioner Bowman asked for any general comments relating to Public Works.

Lora Lehmann, 1431 Bryant Lane, expressed concern that she feels her street needs to be repaved.

**ADJOURNMENT:** 8:48 p.m.

Respectfully submitted,

Michael LeFevre, Township Manager

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