MINUTES SPECIAL COUNCIL MEETING  
CITY OF UNIVERSITY HEIGHTS, OHIO  
AUGUST 17, 2015

Mayor Infeld called the regular meeting to order at 7:13 p.m.

Roll Call:

Present:  
Mr. Phillip Ertel  
Mr. Mark Wiseman  
Ms. Nancy E. English  
Mr. Steven Sims  
Mrs. Pamela Cameron (not at roll call)

Absent:  
Mrs. Susan Pardee  
Mrs. Adele Zucker

Also Present:  
Law Director Luke McConville  
Finance Director Larry Heiser  
Police Chief Steve Hammett  
Fire Chief Douglas Zook  
Service Director Jeffrey Pokorny  
Clerk of Council Kelly M. Thomas

MOTION BY MR. SIMS, SECONDED BY MR. ERTEL to excuse the absence of Mrs. Zucker and Mrs. Pardee. On roll call, all voted “aye.”

Pledge of Allegiance

Agenda Item:

A. Motion to Accept bid from Cavanaugh Building Corporation as the lowest and best Bid for the Community Public Park Construction Project in an amount not to exceed $1,666,000.00.

Mr. Hable reported that bids were received and opened on Friday, August 7, 2015; 6 bids were received. Based on those bids 4 bids came in under the established estimated cost. The bids also listed nine (9) alternates and of those nine alternates two were offered from an either or standpoint. Instead of some of the products being deemed as equal they were deemed as to provide a choice in what the desired selection was regarding exercise and playground equipment. Upon review of the bids Braun & Steidl in conjunction with working with the City are recommending that the base bid received from Cavanaugh Building Corporation be accepted inclusive of the following alternates; A2 (Street Intersection Tabling), A3 (Additional 47 Trees), A4 (West Entry Trellis Structure), A5.1 (Walnut Grove Exercise Equipment), A6 (Monument Sign), A8.1 (Kompan Playground Equipment) and A9 (Extended Meadow Maintenance) for a total cost of $1,586,000.00. Mr. Hable noted that there was a recommendation to hold $80,000 within the City for contingencies such as the need to conduct earth work, etc this would be inclusive of the construct cost for $1,666,000.00. Mr. Hable stated that he spoke with Cavanaugh and that they were conformable with their bid prices and that they had work on previous projects for Braun & Steidl and is well suitable for this project. Mr. Hable also consulted with the Landscape Designers who help in the recommendation especially regarding playground and exercise equipment.

Mayor Infeld stated that Mr. Heiser reviewed the numbers to verify the $1,666,000.00.

Mr. Sims asked how the additional alternate items were evaluated and what the base bid was.

Mr. Hable responded that when the project was assembled Braun & Steidl looked at a base bid that that closes to the scope of work for the project that would also provide the gazebo and the majority of other things, such as the tabling of Fenwick Road all of which led to having the additional alternative items. This also allows the City to have a choice with regards to the selection of the total project and the ability to weigh the cost benefit. Mr. Hable added that the alternates for the playground and exercise equipment weren’t necessarily equal. The playground equipment was most significant because the company that is
recommended has a kept a unique style of equipment verse other company. The base bid estimate was $1,497,000.00.

Mr. Sims asked what would have happened if the bids had come in at that level.

Mr. Hable replied the City would have had fewer opportunities; the base bid was $1,162,000.00 and the highest bid was $1,715,000.00.

Mayor Infeld asked Mr. Hable to explain what the base bid included.

Mr. Hable explained that the base bid included the entire development of the park. It didn’t include the parking area, the entry, the trellis, play areas or exercise areas.

Mr. Sims asked for clarification from Mr. Hable whether there is only the one contingency for construction for $80,000 and that that contingency is not part of the base bid. Mr. Sims also asked whether the contingency was reasonable and Mr. Hable responded that he thought it was reasonable.

Mr. Sims asked about the parking.

Mr. Pokorny stated that with the current park design the parking lot was almost an add-on because there were some items that have to be done for drainage, but they weren’t necessarily required to do the parking lot. The City currently uses the parking lot for employees, additional spaces could be used but again the parking lot could remain and the public could still access the park with the current design from the existing parking lot. Mr. Pokorny noted that there may be an opportunity for additional land in which case the new parking lot design would have an a point of entrance in and a point of exit out as opposed to the current parking lot that has one entrance in, and vehicles circle around the parking lot and come back out the same entrance way.

Mr. Sims asked how many spaces does the current parking lot have and if expanded the alternative parking lot would add spaces.

Mr. Pokorny replied 21 spaces and the alternative would add 8 to 10 spaces.

Mr. Sims asked where the public park if the parking lot was full.

Mr. Pokorny answered that there is additional parking on the Fenwick Road side and also on Saybrook.

Mr. Sims asked the Braun & Steidl representatives to provide information about Cavanaugh Building Corporation.

Cavanaugh is located in Copley, Ohio and has done numerous projects with Braun & Steidl and are well respected within the community, they have a strong reputation in the earth work side of things. Cavanaugh has done all of the sport field expansions for Braun & Steidl; establishing new grades as well as drainage in area that had wetlands next to them. They had also done construction, but their niche is more landscaping, earth moving types of projects.

Mr. Sims asked if there was some language related to participation of women and minority owned businesses included with the bids when the bids went out.

Mr. Habel stated he wasn’t sure if that exact language was use, but the bids followed what the City’s ordinances and requirements were.

Mr. Sims asked Mr. Habel to state what language was included in the bid documents for the public record.

Mr. Pokorny stated that the verbiage is always part of the legal notice with all bids for the City and continued to read in it into the record as follows: The City of University Heights is an equal opportunity employer and encourages minority business enterprises, women business enterprises, small business enterprises to submit bids or proposals for this project.

Mr. Sims noted that all of the conversations that had been held that pertained to this project noted that just as important indicating to women, minorities, small owned businesses that they should bid, it was a major concern that companies that bid includes diversity in their sub-contracts. Mr. Sims asked Mr. Hable if he could tell him anything about the subcontractors that would be a part of this contract.
Mr. Hable replied not at this time but Braun & Steidl did not have a full list of subcontractors. Cavanaugh will be required to provide that list upon award of the contract. Mr. Hable stated he did have some discussions with Cavanaugh and they informed Braun & Steidl that there were some contractors that they could work with, but didn’t provide Braun & Steidl definitive’s on their sub-contractors.

Mr. Pokorny stated that upon award of the contract the contractor has to submit their listing of who their sub-contractors are within 14 days of notification from the City that they’ve been awarded the contract.

Mr. Sims asked if there was a likelihood based on what is known about this company that they would include women and minorities owned companies as a part of the subcontracting team.

Mr. Hable stated that he didn’t know if he could answer that question for the company. Mr. Hable added that all he could say it that Braun & Steidl has had that conversation with them and can certainly continue to do so. Mr. Hable explained that the contractor will review and interview all of their subcontractors that were below bid.

Mr. Sims continued to ask based on Braun & Steidl’s conversation with the Cavanaugh whether Braun & Steidl believed that they made outreach to women and minority owned companies.

Mayor Infeld asked Mr. Pokorny to respond to Mr. Sims.

Mr. Pokorny stated that the number of notification companies which are out there to provide potential bidders with information about what is being bid; such as Builder’s Exchange, Builder’s Exchange of East Central Ohio, Construction News Corporation, Minority Business Solutions, Subcontractors Association of Northeast Ohio, Kent PTAC and Northeast Ohio PTAC.

Mr. Sims explained how the process usually works and noted that he didn’t know how this particular process worked but when the bid documents were received by the various companies and the ones that serve as prime contractors usually there is some type of pre-bid meeting. At that pre-bid meeting there would have been an affirmative effort by the company to be inclusive in the contract. Mr. Sims stated that this was trying to get a sense of; what did Cavanaugh in order to ensure that the companies that were a part of their contract would be of a diverse nature.

Mayor Infeld stated that the bid contained the information that was previously read, the bid document did not contain any percentage requirement.

Mr. Sims stated that he was not looking for a percentage requirement. It could be a 1% participation on the contract as far as he was concerned. But he was concerned that there is some level of participation and stated that never at any point did he try to indicate what level of participation should be in this contract. But what he has always indicated is that there should be an affirmative effort to ensure that there was participation, so Mr. Sims stated that all he wanted to know was what affirmative effort was made by Cavanaugh, Platform, Sona and any of the other companies to identify and work with a diverse group of subcontractors.

Mr. Hable replied the only way he could answer that was that there was a pre-construction meeting and when through the entire front end of the bid spec and asked for the contractor’s consideration thereof. Some cities do require a signed affidavit that they (the contractor) made this effort, certain communities do have certain percentage requirements, to which to Mr. Hable’s knowledge University Heights did not have. Mr. Hable noted that he could not answer for the contractors on what efforts they made and added that his office has been in direct contact with Cavanaugh and they said that generally there are opportunities within the asphalt, concrete and fencing subcontractors that they frequently deal with, in regards to minority requirements so they are looking into that. So when Cavanaugh comes back within that 14 day time period, there may very well be some minority contractors. Cavanaugh works with many subcontractors, many who are minorities, other’s that are not so Mr. Hable stated he would assume that they will get bids by some of the minority firms but that he couldn’t answer directly for Cavanaugh on what they received and from whom did they receive.

Mr. Sims asked what did the bid documents say happens within the 14 days.

Mr. Pokorny answered that the contractor who is offered a contract has to provide the city a list of their subcontractors.

Mr. Hable further stated those who are the subcontractors that will be participating in the project under their umbrella. That would be the asphalt, concrete, landscaping, structures, etc.
Mr. Sims stated that personally he didn’t support this until he had an advance understanding of what affirmative steps Cavanaugh use to solicit participation from any minority owned business, at the end of the day it may prove that it doesn’t work for this contract. However, he wanted to know what they had done and added that if the company had done nothing, we will get nothing. Mr. Sims noted that this is one of the larger projects that this City will make and from that point it is public money. And that public money should be spent in a way that is representative of demographics of the community to the extent possible. The City spends monies on goods and services and capital goods every single year, and over and over and over again and we give no consideration or concern to ensure that we are inclusive in the participation in the expenditure of that money. Mr. Sims stated that this time he was drawing the line.

Mr. Wiseman asked Mr. Hable if any of the six companies noted in the summary bids designate themselves as a woman or minority business.

Mr. Hable replied not to his knowledge.

Mr. Wiseman asked Mr. McConville if it would be appropriate or inappropriate for Council to place a certain percentage – to grant/accept the bid, let’s say a certain percentage of the bid for example 7% has to be done by a woman or minority owned business.

Mr. McConville replied that inappropriate because it was not in the bid documents.

Mr. Sims stated that he wanted to be clear that he wasn’t proposing a number. Mr. Sims stated that he was very much interested in what affirmative steps did Cavanaugh take; who did they call, who did they contact? The answer may be no one, which would be of great concern. Mr. Sims continued to say that now that he knew that there are 14 days in order for them to provide Council with a list of subcontractors; Mr. Sims wanted to know what Cavanaugh is going to do in those 14 days, so that he could have a sense for his self whether it was sufficient, because if it is insufficient then he still doesn’t support it. Mr. Sims added that he understood that Braun & Steidl could not answer for Cavanaugh and that is why Mr. Sims needs Cavanaugh to answer for their selves.

Mr. Pokorny noted that unfortunately the 14 day requirement means that the City has to offer them the contract first. The contract has to be sign the contract to them and then all of the documents of submittals and other requirements work that they would have to then start doing kicks in.

Mrs. Cameron asked Mr. Pokorny to clarify that the recommendations that Cavanaugh or any bidder to process was given the list of options or places that they could contact to provide their selves with information about the project.

Mr. Pokorny replied that that information is out there, he couldn’t say that the City provided them with a list of minority or women businesses or others that they needed to call.

Mrs. Cameron clarified that she meant that the City gave them an outline of resources so that they could access on their own.

Mr. Pokorny stated that the City gave them the verbiage that is written in the City Ordinance Book that states that the City encourages the contractors to use minority, women and small businesses. Mr. Pokorny explained that the companies he listed before, i.e. The Builders Exchange, Minority Business Solutions, etc. are businesses their selves which provide the information from the bid documents to potential bidders.

Mr. Hable added that those entities would allow for any contractors to review, formulate their price. The distributor, BluePrint who facilities giving out the bid documents and listings. All contractors who took out bids received all information pertaining to the bidding process and information.

Mayor Infeld commented that the effort was made to notify every contractor out there so that there would be a large pool of contractors responding to the bid request. With the main idea that the more people who received the information the more choices the City would had for pricing.

Mr. Sims noted the point the Mrs. Cameron made is in essence and further supports his interest in knowing what the company did. Mr. Sims noted the City encourages it, what did the company do? Mr. Sims acknowledged that the City give the contractors resources/references hopefully those references also shared this with whoever they worked with. That also meant that everyone who bid on this project had a resource that they could turn to and say “we want to try to be inclusive” and furthermore say “we would like to know whether or not you have companies that participate on this contact. If you do let us know who they are so that we can contact them and get a bid from them so we can put our entire bid
package together.” Mr. Sims noted that was all he was saying and that that was the only question that he had—“what did they (Cavanaugh) do; that is all he wanted to know.”

Mr. Hable responded that he didn’t have that answer; contractors don’t provide that information until after the bids have been opened.

Mr. Pokorny commented that the City has not received that information from any of the bidders.

Mr. Hable stated that Cavanaugh does a lot of public work where there are specific requirements on percentages and they basically stated that they have numerous contractors that they work with who meet requirements. Did Cavanaugh contract them, Mr. Hable stated he couldn’t answer yes or no but they certainly have relationship so he would assume, without knowing for sure, that they were contacted by many subcontractors. Braun & Steidl can ask Canvannah, but that all we can do.

Mr. Sims stated without that information he would be willing for Council to table this and have a Special Meeting at the pleasure of Council because he needed to know the answer to that question. Mr. Sims stated it is not a new question and the mayor knew how important the issue was to him as an individual. Mr. Sims stated that this is a conversation that he has made apparent every time he has had the opportunity and he made it especially apparent on this contract, as Council doesn’t often see this amount of money, although $1.8 mill is not a lot of money, it is more than University Heights usually spends on one project. Mr. Sims added he wanted to know that the City made every effort possible to ensure that this be representative of a diverse and inclusive population.

Mayor Infeld addressed Mr. Sims and stated that when that question has come up, and it’s come up several times in this process and there’s been discussions about hiring Braun & Steidl to manage the bid process. Mayor Infeld added that Mr. Wiseman had also brought this up and stated she assigned it to his committee but that there has been no action. Council could have at any time interjected some legislative action to change the ordinance as written to meet the requirements that Council would now like to have met. The bid document was answered by six different companies who answered the bid documents appropriately at different price levels. Short of Council taking any action to change the legislation the Administration was just working with the ordinances as written and that is what is represented in the bid documents. Mayor Infeld stated that she understood the value sentiment expressed but that she believed that it is expressed in the ordinance as written that the City of University Heights has made it known that it would like be subject to participating business enterprises give the opportunity to minority based businesses. Mayor Infeld added that she believed that the process was followed appropriately by the ordinance as written. After the fact it is always nice to think that things could have been different but until the legislation changes the Administration is following the ordinance.

Mr. Sims noted that he agreed with Mayor Infeld in that the firms that responded, responded to the document that they were given, but that he didn’t agree with the idea that it has to be a legislative change. What was talked about was language to incorporate into the procurement policy; Council did not talk about legislative change. Secondly, the ordinance does not speak to the issue or the concern that he (Mr. Sims) personally raised more than one time. If the Mayor is trying to suggest that anybody didn’t do what they needed to do, it is not singularly on Council to move proactively in these issues. The Administration could have easily done this same thing if it was something they believed in and wanted to see happen.

Mayor Infeld responded that she believed that the language of the ordinance expresses the sentiment of the city; that it would like to have inclusion of traditionally unrepresented members of society as stated in the ordinance. Mr. Sims asked the mayor to explain how the City encouraged participation on the project?

Mr. Sims requested that the Administration to provide him with a list of the companies that are women or minority owned that this community has done business with in the past three (3) years to demonstrate what the City had done to encourage the participation of women and minority owned businesses.

Mr. McConville stated that he thought that the issue was that coming from the City; that is what is in the ordinance. The city is not requiring as part of the ordinance or bid package that any specific is taken. Mr. McConville stated that he had a concern that this topic of discussion would be more appropriate for executive session and that he didn’t think that Council would find a situation where the contractor isn’t going to comply with the elements of the bid package.

Mr. Wiseman added that the city’s statutory language seems kind of weak; the city encourages women and minority businesses to apply. Mr. Wiseman didn’t believe that it impresses anybody to action, if only it were inclusion in the city’s statute we probably wouldn’t be having this discussion. Mr. Wiseman noted that he thought it was a very reasonable request by Mr. Sims to get the company with the winning bid into a Council meeting to asked what they did in the past to encourage women and minority
Mr. Hable stated Cavanaugh could be asked to provide something in writing to indicate what they have done or who was solicited or who solicited them, but suggested that the company would be under no obligation to do so

Mrs. Cameron commented that Cavanaugh’s potential contract is $1.56 mil and asked that Braun & Steidl if they would be willing to ask the company to provide the requested information in the interest of City Council consideration.

Mayor Infeld noted that she would include in the record from this meeting the email she received from Mr. Sims asking for this information and her response saying that the Administration didn’t have it and that the contractor had been awarded and not until the contract is awarded would the Administration have that specific information of the names, addresses of subcontractors and other suppliers.

Mr. Heiser noted that he had a few concerns; there is a monetary concern as he followed the documents and set up a closing so that the City could get the funding, if this ends up dragging on the city will have additional cost. Mr. Heiser stated he has been through this process before; Cavanaugh was this lowest and best bidder, the Braun & Steidl knows who they are so he went ahead with the financing under the assumption that Council was going to award to the lowest and best bidder. Now, there some cost involved to the City if the dates have to be pushed back based on the discussion tonight. Mr. Heiser stated he has a closing date for August 27, 2015 so now that date will change, also the City is supposed to expend the funds in a certain period of time. The financing rate is 2.42 based on having a closing date of August 27, if we don’t have a contractor in place you don’t borrow the $1.8mil and that will change what the funding will cost.

Mr. Sims noted that when the City conducted the bid process there was no guarantee that any single bidder would come in at a level that would be found acceptable. So, all the bids could have come in above the provided estimate. Secondly, and in most bid processes there are two (2) pieces to it; 1.) being responsive and 2.) being responsible. Mr. Sims stated that he appreciated what Mr. Heiser was saying but that he didn’t feel that the fact that this is being discussed and the possibility of Council not taking action tonight, as justification or trying to make it look as if Council has done something that might put the bond issue at jeopardy or anything else. That is not a good proper characterization.

Mayor Infeld asked Mr. Sims to explain what he meant by responsive and responsible.

Mr. Sims explained that responsive is relative to the financial aspect and responsible is relative to any other aspect. Mr. Sims stated that he has the responsiveness is usually to the letter of the finances of the contract and responsible is to other elements of the contracts that are pertinent as to whether or not you want to make that award and whether or not you will be awarded to the lowest bidder. Mr. Sims cited that he has been involved in many situations where the contract was not responsible and as a result of that the contract was awarded to the next highest bidder.

Mr. McConville stated his concern and legal advice that the responsibility of the assets can be build into the bid documents and the contractual argument in this instance they were not so Council’s concern is a asset question that was not required by the contents of the bid documents.

Mr. Funk, Braun & Steidl added that they did their due diligence when the bids were received; references were verified. Mr. Funk stated that he personally checked out 3 references that were provided by Cavanaugh.

Mayor Infeld voiced her concerns that the project was bid and to change things after the fact and insert a requirement because persons who responded to the bid, responded with the numbers they thought were appropriate. Mayor Infeld noted that there is a limited amount of money that was voted on by the community for this park. That is why the alternatives were placed out separately from the base bid. To come now after the bids have been issued and companies have already submitted their cost and want to be considered to being awarded the bid is too late. To do this after the fact didn’t seem to be fair to the bidding process; it would seem that it being changed after the fact. Mayor Infeld added that she understood the value behind the words in the ordinances but this was already bid.

Mr. Sims asked Mayor Infeld to explain what would be changed after the fact.
Mayor Infeld responded that the project was bid out and six (6) responses were received. All six responses were vetted and all had appropriate responses and are listed before Council. There is a recommendation based on the expertise of Braun & Steidl as to which company is the lowest and best bidder and that is what is before Council.

Mr. Sims asked again, what process is being changed if Council did not act tonight and received additional information.

Mr. McConville stated from his standpoint the issue is that the contractor is going to be asked to provide information that presumably will influence Councilmembers vote, that had they not been contracted out and are not obligated to give/provide documents. Therefore they could either not provide any information or provide information that influences the members one way or another. It’s not part of the documents or it not part of any contract that is bid on. That is the issue; that is the change.

Mayor Infeld commented that there is a financial cost. The community voted to pay for the park construction. There’s been a number of years talking about getting this built and a number of years of input to come up with the park design. The Finance Director explained that there will be a financial cost if the project is delayed, the city would have to back and find a new investor because the timeline will not match the note. So there is a financial cost to the city, to the community and there may be a lesser park as a result.

Mr. Sims replied that it may not be at cost because the rates can go down, the market is up. Mr. Sims stated that the information that he is requesting is not going to influence his decision. Mr. Sims again stated he wanted to know what did Cavanaugh do, simply what they did in response to the city’s encouragement. There is a lot of things that Cavanaugh can do or say; one being that they reached out to 100 women and minority owned firms and all the bids that they received were excessive so they decided not to use them. They could say that and that would be perfectly acceptable but Council/City should know what they did.

Mr. Wiseman stated he would like to motion that Council tables the motion to accept the bid from Cavanaugh Building Corporation as the lowest and best Bid for the Community Public Park Construction Project so that Cavanaugh can come before Council to answers questions. Mr. Sims seconded the motion and the mayor asked for further discussion.

Mayor Infeld stated she was very concerned about Council tabling this and delaying the process. This will cost the city additional money. The Finance Director has said that, Mayor Infeld added that she understood Mr. Sims comment that the market will change, but the Finance Director has been talking to the bank that issues the bonds and it is going to cost money. Mayor Infeld continued to say that she thought it was unfair to the citizens of the community to use the proceeds of this bond for this reason. The project was appropriately bid out, it was answered appropriately, and the recommendation is before Council. To not accept the recommendation or even any other ones because after the fact Council wants ask questions that are covered by the language in the bid document is inappropriate and unfair to the residents of this community.

Mr. Ertel asked Mr. McConville, if Council were to approve the bid tonight, would there be any recourse once the subcontractors list is submitted and Council decides it is not acceptable as far as the language is concerned.

Mr. McConville answered that Council would not have any recourse. Mr. McConville stated his concern is that information that is not a requirement of the bid documents would be information that could influence your decision one way or another. And, information can be available to Council post acceptance of the bid. There is no issue in terms of Council being provided with information; the issue is whether Council will make your consideration matching your vote up or down.

Mr. Wiseman commented that Braun & Steidl was not the lowest bidder for the park. Council accepted them anyway because there were concerns and expectations on behalf of Administration, so every decision clearly is not driven just by the penny we are saving or not saving. Second of all, Mr. Wiseman stated he didn’t see how it ever inappropriate for Council to say they want further information to make this decision. Mr. Wiseman didn’t think the City would lose any money, he didn’t think it was a serious thing that could possibly lose investors; people are always looking for investment in municipal bonds. Mr. Wiseman stated that there was a reason Council has to approve something like this, because Council reflects the community and have the community’s concerns. Mr. Wiseman noted that there is a Council meeting in two weeks and he didn’t see way this can’t go on that agenda. Mr. Wiseman also added that he didn’t think anybody present wanted to say no, but that they have concerns. This is Council only
chance to ask and address their concerns with the general contractor for what is the biggest for the next 20 years.

Mayor Infeld voiced her disagreement with Mr. Wiseman; anything that is going to increase the cost of the project will mean that the community will likely not have one of the features. Something won’t get done in the park that could have been done if Council had accepted the bids. Again the bids were done appropriately, now after the fact Council wants to ask questions. Council had ample opportunity before this went out to bid to interject any concerns, change the legislation, make some type of requirement/goal; Council didn’t do that. Now after the fact Council wants to satisfy itself that certain conditions are met and the conditions are going to cause a delay or Council’s questioning of the whole bid process and the adding on of these conditions were not included. The conditions are to delay project to have the people come back in at a future date. The delay is going to cost money and money will translate into fewer park features.

Mr. Wiseman commented that no one was adding conditions and he hadn’t heard that from Braun & Steidl.

Mayor Infeld replied that it is a financial question and Finance Director previously stated that.

Mr. Heiser explained the finances again.

Mr. Sims asked the Finance Director why was he emphatic that this would cost money.

Mr. Heiser responded that because the rate went up three (3) days after he locked it in on August 7, for 2.42% over 15 years after he received notification that the bidders were good. Mr. Heiser further stated that he followed exactly what you do with bid documents.

Mr. Sims asked if subsequence to that, have the rates have gone up.

Mr. Heiser responded yes. The rate this morning was 2.48%.

Mrs. Cameron asked how long is the rate was good for.

Mr. Heiser replied that he would discuss that with the Huntington Bank and with bond counsel. Mr. Heiser stated his concerns aligned with Mr. McConville concerns and the legal position the City could be putting itself in.

Mr. McConville read into the record, a certificate of compliance issued by the Ohio Department of Administrative Services Equal Opportunity Division to Cavanaugh Building Corporation. The certificates read "The Equal Opportunity Division of the Ohio Department of Administrative Services (Division) hereby issues Cavanaugh Building Corporation a Certificate of Compliance. The Certificate shall be in force for 180 days from the date of issuance. Effective Dates: 5/21/2015 through 11/17/2015. Section 9.47 of the Revised Code requires the Division to review affirmative action programs and plans of each company desiring to participate on state-assisted construction contracts and determine whether that company has violated any affirmative action programs and goals for which that company was obligated to meet during the preceding five years. Based on the above-referenced review, the Division has found no such violation(s). Please be advised that for Cavanaugh Building Corporation to maintain certification status, Cavanaugh Building Corporation must continue to ensure equal employment opportunities in accordance with applicable State and Federal EEO laws, rules, regulations and guidelines, and meet those contractual obligations for which Cavanaugh Building Corporation has agreed."

Mr. McConville reiterated that the timing issue did not make sense to him. If it was not the intent to base information as provided on these issues as part of the consideration for an up or down vote, that information can be obtained from the contractor post approval when the contractor submit his account of subs.

Mr. Sims clarified that the information that was read into the record by Mr. McConville from the Ohio Department of Administrative Services speaks to the employment practices of Cavanaugh and not the company’s contracting practices.

MOTION BY MR. WISEMAN, SECONDED BY MR. SIMS to table the motion to accept the bid from Cavanaugh Building Corporation as the lowest and best Bid for the Community Public Park Construction Project in an amount not to exceed $1,666,000.00. On roll call, all voted “aye,” except Mrs. Cameron who “abstained”
Mayor Infeld asked Mrs. Cameron if there was a reason why she abstained and that the community needs to know her answer and asked for a repoll.

Mr. Wiseman questioned if the motion passed, is Mrs. Cameron required to vote.

Mr. McConville replied that there was no requirement; but it is typical that abstentions are reserved for conflicts of interest.

Mayor Infeld asked Mrs. Cameron again if she was going to share for the record why she abstained and if not if she could indicate that she wasn’t going to share her reasoning.

Mrs. Cameron stated the reason why she had difficulty with this question was because I value the point of view Mr. Sims has brought to the table many times. Mr. Sims has asked many times that the City consider amending its procedures and its contracting information so that the City can clearly do more than just encourage, that the City specify that it is open to utilizing contractors and people who have disadvantage means in our hiring and contracting processes. Mrs. Cameron noted that she was sensitive to what Mr. Sims was asking. Mrs. Cameron stated that she was also hearing that the Finance Director has initiated a process based on Council’s approval that in fact gives him cause to have to recalculate and reconfigure his work in anticipation of what Council may or may not do. Mrs. Cameron continued to say she felt that conflict is a little bit more than she wanted to address in this limited session and that she wanted a moment to ponder the concern, that is why she had been asking for information that would give her some avenue to have time to think about it. Mrs. Cameron asked when would the finances be affected, how much time for action; she thought if she could get some clarity in terms of how much time there would be to consider anything that Council might do it would help her make a decision, and that was why she wanted to abstain or pass. However, since the mayor seems adept that person who was making the decision, she would participate in a repoll.

On repoll, Mrs. Cameron voted “nay.”

Mayor Infeld informed Mrs. Cameron that cost have already expended to come up with the bond amount, to shop the marketplace those cost have already been spent. So by delaying this, the City will have to spend those costs again and there may be additional cost due to higher interest rates.

Mrs. Cameron thanked the Mayor but noted with all due respect that she was concerned that there may be a minority woman somewhere thinking she may have a chance to extend their business if the City gave her some consideration. Mrs. Cameron stated she respected that every action is a financial decision and concluded that she would not vote to delay the project.

B. **Motion Authorizing the purchase of the following:** eight (8) Mobile Data Terminal (MDT) units for the Fire Department; of which six (6) will be for the CAD Software and two (2) will be for the EMS charting software for each ambulance; eight (8) Bluetooth keyboards; one (1) 3-bay battery charger; one (1) protection plan for equipment and eights (8) digital styluses from MCPc as the lowest and best quote in the amount of $40,152.54. The purchase will use the proceeds from the 2014 FEMA grant.

Fire Chief Zook stated that MCPc is the recommend company for this purchase. MCPc bid was the second lowest bid but there were concerns with the lowest bidder Insight because upon contacting Panasonic who manufacture of the equipment, Panasonic was not sue about Insight because Insight is not a global company and possibly purchases Panasonic equipment via a secondary market and were unsure of Insight’s ability to manage the purchase. MCPc is a well known reputable company to Panasonic and is a Cleveland area company. Chief Zook stated that after the FEMA grant takes care of its 95% share of the cost the remaining cost to the City would be $65.98 and for the $65.98 he felt more comfortable using the local vendor who also has a good reputation with Panasonic.

Mr. Wiseman asked if the MDT units were on iPads.

Chief Zook replied that some are iPads or portable the others are mounted in the cabs of the apparatus. Chief Zook explained that when the department response to an address the dispatcher (EASTCOM) can send out certain information pertaining to the building structure, etc., or details about the patient. Cleveland Heights and Shaker Heights have been using this type of computer aided dispatch for years. EASTCOM already have this equipment on their end.

Ms. English asked if this purchase would be through State purchasing.
Chief Zook replied no.

Ms. English asked Mr. McConville with the cost exceeding $15,000 does the City have to competitively bid.

Chief Zook stated that checked with Mr. Heiser about that since the purchase was using a FEMA grant and Mr. Heiser informed him that it would not be necessary to competitively bid.

Mr. Heiser added that this is a single source being that the Fire Department was looking at variable take of a piece of equipment.

Mr. McConville stated that he disagreed with Mr. Heiser; as he didn’t think that it was consistent with the City’s ordinance, it not a state bid. Section 212.01 is explicated on the dollar amount of $5,000.00.

Mayor Infeld asked Chief Zook if he felt that there was something about the Panasonic that can’t be duplicated by somebody else’s tablet.

Chief Zook responded that Panasonic is the standard for this type of use and it was his understanding that that was the product that the other two (2) departments use in their emergency vehicles.

Mr. McConville asked Chief Zook if he was say that there was no other product.

Mayor Infeld answered that the Chief was trying to match it with the City’s other dispatch cities who use these tablets for their CAT system.

Ms. English commented that even though the Fire Department wants the Panasonic, the city has three (3) companies that quoted, so those three companies could have bid.

Mayor Infeld asked if there was a motion to table agenda item b.

Mr. Wiseman asked what date was the deadline to spend the funds.

Mayor Infeld replied the deadline was August 26, 2015. Mayor Infeld added that the Fire Department was not aware that there was a timing issue until recently.

Chief Zook stated that he spoke with FEMA about the August 26th deadline and they indicated that that could be extended.

Mrs. Cameron asked Chief Zook who determined which system/vendor would best meet the needs of University Heights.

Chief Zook answered he did, based on the information received from Panasonic regarding the three vendors.

Mr. Sims asked if these were the only companies solicited for prices.

Chief Zook stated he would have to ask Lt. Perko, as he was given the assignment of obtaining quotations. Chief Zook added that he was aware that there were other companies the Lt. Perko spoke with on various issues but they did not submit their prices.

Mr. Sims asked Mr. McConville, according to the ordinance what the flexibility is, if any.

Mr. McConville noted he wasn’t sure if he completely understood Mr. Sims question but replied that the language is that if the expenditure exceeds $15,000 the contract shall be made only to lowest and best bidder following advertising.

Mr. Sims clarified his question to if there was any flexibility, must we (city) bid this.

Mr. McConville stated his concern was that the auditors who look at the transaction and say we (city) didn’t follow the ordinances.

Mr. Wiseman asked if that meant you don’t have to take the lowest bidder.

Mr. McConville commented the lowest and best bidder which is determined by the bid.

Mayor Infeld again asked for a motion to table this item.
MOTION BY MR. CAMERON, SECONDED BY MS. ENGLISH to table authorizing the purchase of the following: eight (8) Mobile Data Terminal (MDT) units for the Fire Department; of which six (6) will be for the CAD Software and two (2) will be for the EMS charting software for each ambulance; eight (8) Bluetooth keyboards; one (1) 3-bay battery charger; one (1) protection plan for equipment and eights (8) digital styluses from MCPc as the lowest and best quote in the amount of $40,152.54. The purchase will use the proceeds from the 2014 FEMA grant. On roll call, all voted “aye.”

MOTION BY MS. ENGLISH, SECONDED BY MR. ERTEL to remove agenda item B from the table authorizing the purchase of hardware to mount mobile data terminals from Parr Cleveland as the lowest and best quote in the amount of $12,733.00. The purchase will use the proceeds from the 2014 FEMA grant from the table. On roll call, all voted “aye.” Note: This motion was made under agenda item C

MOTION BY MS. ENGLISH, SECONDED BY MR. WISEMAN authorizing the purchase of the following: eight (8) Mobile Data Terminal (MDT) units for the Fire Department; of which six (6) will be for the CAD Software and two (2) will be for the EMS charting software for each ambulance; eight (8) Bluetooth keyboards; one (1) 3-bay battery charger; one (1) protection plan for equipment and eights (8) digital styluses from MCPc as the lowest and best quote in the amount of $40,152.54. The purchase will use the proceeds from the 2014 FEMA grant. On roll call, all voted “aye.”

C. Motion Authorizing the purchase of hardware to mount mobile data terminals from Parr Cleveland as the lowest and best quote in the amount of $12,733.00. The purchase will use the proceeds from the 2014 FEMA grant.

Chief Zook stated that although this purchase falls under the $15,000 limit. The hardware from Parr Cleveland matches the computer equipment from MCPc, so if there is some possibility that the Department won’t have the Panasonic brand the Chief said he wouldn’t want to commit to Parr Cleveland and then have to withdraw the order later on.

Mayor Infeld asked for a motion to table this item.

MOTION BY MS. ENGLISH, SECONDED BY MRS. CAMERON to table authorizing the purchase of hardware to mount mobile data terminals from Parr Cleveland. On roll call, all voted “aye.”

Mr. Sims asked if the Fire Department was going to mount the terminals once the hardware was purchased.

Chief Zook responded that Parr Cleveland would also mount all the terminals, it included in the package.

Mr. Sims asked if there was a reason why these weren’t bid as a package, i.e. mobile data terminals, hardware, mounting and installation.

Chief Zook stated he was dealing with different vendors because the MCPc sells the equipment but doesn’t conduct the installation, etc.

Mr. McConville amended his earlier comment and stated that Chapter 212.02 does provide for what Mr. Sims was inquiring about - Competitive bidding shall not be required in cases in which a product and/or service is unique or so rare or so specialized that there can be no true competition. Mr. McConville added that he thought that if the Fire Department has a ligament concern with the matching the data terminals then that circumstances does exist and there’s no longer a bid requirement.

Mayor Infeld stated that the idea behind the Panasonics was that the other cities have this CAT capability and the FEMA grant funding allows our Fire Department to obtain it.

Mayor Infeld asked for a motion to remove agenda item B from the table.

MOTION BY MS. ENGLISH, SECONDED BY MR. ERTEL to remove agenda item B from the table authorizing the purchase of hardware to mount mobile data terminals from Parr Cleveland
as the lowest and best quote in the amount of $12,733.00. The purchase will use the proceeds from the 2014 FEMA grant. On roll call, all voted “aye.”

Mayor Infeld asked for a motion to remove agenda item C from the table.

MOTION BY MR. WISEMAN, SECONDED BY MS. ENGLISH to remove agenda item C from the table Authorizing the purchase of hardware to mount mobile data terminals from Parr Cleveland as the lowest and best quote in the amount of $12,733.00. The purchase will use the proceeds from the 2014 FEMA grant. On roll call, all voted “aye.”

MOTION BY MR. WISEMAN, SECONDED BY MRS. CAMERON to approve authorizing the purchase of hardware to mount mobile data terminals from Parr Cleveland as the lowest and best quote in the amount of $12,733.00. The purchase will use the proceeds from the 2014 FEMA grant. On roll call, all voted “aye.”

D. Motion Authorizing the purchase of software and licenses for computer-aided dispatch equipment from New World as the sole source in the amount of $24,265.54. The purchase will use the proceeds from the 2014 FEMA grant.

Chief Zook stated that this is a sole source vendor that EASTCOM and other Fire Departments use for the computer-aided dispatching. If a different type of programming University Heights would not be able to interface with EASTCOM and the other Fire Departments.

Mr. Wiseman asked about the licensing period and cost.

Chief Zook replied that the license is ongoing and that is paid by EASTCOM. Chief Zook added that the city already pays EASTCOM for their services, but we hadn’t been taking full advantage of all the services they offer.

MOTION BY MR. ERTEL, SECONDED BY MRS. CAMERON to authorizing the purchase of software and licenses for computer-aided dispatch equipment from New World as the sole source in the amount of $24,265.54. The purchase will use the proceeds from the 2014 FEMA grant. On roll call, all voted “aye.”

E. Motion Authorizing the Fire Department to purchase exercise equipment for use by firefighters and all city employees from Specialty Fitness Equipment as the lowest and best quote in the amount of $30,495.92. The purchase will use the proceeds from the 2014 FEMA grant.

Mayor Infeld stated that the workout room is available for all city employees to use and that the equipment was previously purchased through a Police Department grant.

Chief Zook stated that various vendors were contacted and quotes were only received from 2 vendors and that Specialty Fitness Equipment is under the State bid.

Mr. Wiseman noted that the equipment terms listed of the information sheets are different and asked Chief Zook if the equipment is the same in comparison of the 2 vendors.

Chief Zook said the equipment is substantially the same from the 2 vendors.

MOTION BY MR. WISEMAN, SECONDED BY MR. SIMS to Authorizing the Fire Department to purchase exercise equipment for use by firefighters and all city employees from Specialty Fitness Equipment as the lowest and best quote in the amount of $30,495.92. The purchase will use the proceeds from the 2014 FEMA grant. On roll call, all voted “aye.”

F. Motion Authorizing the purchase of medical examinations for the firefighters by Cleveland Clinic as the lowest and best quote in the amount up to $15,200.00.
Chief Zook explained that this is considered an occupational work exam and does not replace insurance that an employee has through the city employment and their ability to see his own physician. The Cleveland Clinic puts them through a series of exams and test that are appropriate to Fire Fighters. The City is not privy to the particular information that is protected by HEPA. But the City would be privy for in anything found that would be of concern with that fire fighter ability to perform their job. The cost is dependent on the age of the fire fighter who’s taking the exam. Chief Zook said that Cleveland Clinic is being recommended because the Clinic’s examination is a little more thorough and complete in the information than the one offered from University Hospitals.

Mr. Sims voiced his concern about the difference in the pricing between the Cleveland Clinic and University Hospitals and clarified that the actual cost will be based on who uses it.

Chief Zook stated that Mr. Sims was correct, that the $15,200 was the max cost and that it is also age dependent.

Mrs. Cameron asked how frequently would the assessments be done; is there a time frame or will it be annual, etc.

Chief Zook replied according to the representative from Cleveland Clinic the initial exam would set the base line for the fire fighter then after that depending upon the employee’s condition it could be every other year or every other year with a thorough exam, etc. depending on the underlining health of the employee. Chief Zook said it was great the City received the grant for the initial round of testing exams; optimally it would be good if the City could do this periodically for the fire fighters.

Mr. Sims asked if the City is restricted to the use of FEMA grants to the Fire Department and fire employees

Chief Zook said yes.

**MOTION BY MR. SIMS, SECONDED BY MR. ERTEL to Authorizing the purchase of medical examinations for the firefighters by Cleveland Clinic as the lowest and best quote in the amount up to $15,200.00. The purchase will use the proceeds from the 2014 FEMA grant. On roll call, all voted “aye.”**

**G. Motion Authorizing the Service Department to seek bids for a Bombardier Sidewalk Snow Plow**

Mr. Pokorny stated that one of the sidewalk bombardiers broke at the end of the winter season last year. Mr. Pokorny noted that Bombardier Inc. was brought out by Prinoth Ltd, which is out of Quebec, Canada. The bombardier will have a 4 cylinder diesel engine and have a hydraulic drive type system with a steering wheel as opposed to the two levers like the previous bombardier. Mr. Pokorny commented that he didn’t know if there will be very many bidders for this as there is really only one manufacturer.

**MOTION BY MS. ENGLISH, SECONDED BY MRS. CAMERON Authorizing the Service Department to seek bids for a Bombardier Sidewalk Snow Plow. On roll call, all voted “aye.”**

There was no further business.

**H. Motion to adjourn the meeting**

**MOTION BY MR. ERTEL, SECONDED BY MR. WISEMAN to adjourn the meeting. On roll call, all voted “aye.”**