

**ARLINGTON CITY COUNCIL
COUNCIL SPECIAL MEETING AGENDA
MAY 13, 2019 AT 6:30 PM
COUNCIL CHAMBERS**

1. Call meeting to order
2. Roll Call
3. Approve Special Meeting Agenda
4. Discussion regarding Northland Drying and compliance with City requirement for noise level testing.

RESOLUTIONS

5. 2019 Street & Utility Project revised bid from Mueller & Sons, Inc.

A) Resolution 23-2019 – Accepting a Bid With Removal of the Sidewalk Portion of the Project and Awarding a Contract for the 2019 Street & Utility Improvement Project.

B) Resolution 24-2019 – Accepting a Bid for the Project and Awarding a Contract for the 2019 Street & Utility Improvement Project.

C) Resolution 25-2019 – Denying All Bids for the 2019 Street & Utility Improvement Project.

D) Resolution 26-2019 – Adopting an Assessment

ADJOURNMENT

**ARLINGTON CITY COUNCIL
SPECIAL MEETING MINUTES
MAY 13, 2019**

The regular meeting was called to order at 6:43 p.m., Mayor Richard Nagel presiding.

Members present: Mayor Rich Nagel, Michelle Battcher, Adam Cowell, Tom Hatlestad, Jim Heiland, Ben Jaszewski

Members absent: None

Also present: City Adm. Pat Melvin, City Atty Arneson, Joshua Holwell – on behalf of Northland Drying, City Engineer Jason Femrite, and Cory, a representative from Wm. Mueller & Sons, Inc., Nathan Kellermann, Amy Berger, Janet Deno, Lisa Pasvogel, Stacy Hoechst, Bailey Hoechst, Casandra Barnes, Terry Deno, Joshua Holwell, Howard Brinkman, Mary Kistner, Skyler Barnes, Kurt Menk

Motion by Jaszewski, seconded by Hatlestad, and passed by unanimous vote, to approve the revised agenda as presented.

Mayor Nagel reminded those present that this was a special meeting – there are no provisions for public input at this meeting.

The Council then began with Item #4 – Discussion regarding Northland Drying and compliance with City requirement for noise level testing. Adm. Melvin then spoke to advise the Council that since the last meeting where ESI Engineering had done a 1 hour testing for Northland Drying, which showed that within that 1 hr. testing period Northland Drying was compliant with MPCA standards for noise levels, he had reached out again to ESI Engineering. ESI has now done multiple days of testing – May 6, 7, 9 and a portion of May 10. A copy of the preliminary document was given to the Council members by Adm. Melvin. The cover letter from ESI stated that there were times when the noise level did exceed the level, but at some of those times, it was other noise that caused the noise levels to be elevated. This is still only a preliminary report and ESI has stated that they believe it will take another 2 weeks to get a complete report compiled and provided. The Council then spent a fair amount of time reviewing the preliminary noise testing results.

As a part of their continued review, the Council asked Josh Holwell to come forward to answer some of their questions. The Council specifically asked if there was something that had been done differently over this past weekend because the noise was definitely louder during that time frame. Holwell said that they have done everything the City has asked, they have done the testing in the same locations as the City had done, they have done what was asked and the documentation shows that they are now in compliance. Holwell said that they are not changing anything, and he cannot speak to why the Councilmembers were hearing more noise over the weekend than previously. The Council questioned repeatedly about how that can be if the company is not doing something differently. Holwell felt they could have spent more time researching the silencer, engineered it a bit more, but it would have taken a great deal of time and still not yet necessarily have fixed the issue that is occurring in the City. There are still some engineering things they can do and hope to be able to do in May yet to help lessen the noise.

Debate continued as to what can be done but there was agreement that it's not an easy fix to allow the company to continue operating at the present level when we've got citizens who are as unhappy as they are presently. The Council then asked Atty. Arneson to render legal advice as to what they can do. Atty. Arneson advised that if the testing results are correct, the City cannot issue any nuisance/noise citations.

The on-going concern is the public perception is that on a given day the noise is louder than other days. Perhaps there is a testing unit that the City can obtain that would allow them to do random spot testing as necessary.

Arneson knows that the citizens would like the night shift to not operate at Northland Drying. Holwell said that their business plan necessitates running a night shift. Arneson speculated that the previous business that was there did not run year round and so that could be a big part of the issues being experienced by the citizens. Holwell was questioned as to what they would do if the City required them to shut down at night? He said that there would be no question but that if they were required to do that, they would move the company out of the City. Holwell stated that they are trying to run a business. The standards that are set by the MPCA are being met by them. They can't shut down just because the perception is that the plant is louder at times. The Council questioned if Northland Drying would be willing to be permitted by the MPCA? Holwell responded that the permitting that the MPCA does is for air quality, but not for noise levels. Arneson advised that when he spoke to the MPCA they also said they permit for monitoring of air quality. Northland Drying does not feel that they need to be permitted by the MPCA as they have proven by the testing they have met the requirements.

The Council would like to see Northland Drying take a next step to see what they could do to continue to lower the noise level. Holwell says that Northland will do more but that they need to be given additional time to implement. A question was asked about the containment building and if it is done yet. The answer was that it is not yet done but that they are continuing to work on that. They are looking at putting the directional part back on the stack but they need more supports before that is done.

The Council then questioned about the trucks that are bringing the potatoes in, why are they using Henderson Road instead of coming in from the Hwy. 5 route? Holwell said that there are maybe some issues with the trucks being able to turn around if they come in on Hwy. 5 as opposed to the Henderson Road direction. Atty. Arneson said that historically when the canning company was there, there had also been some issues and the City had banned the trucks from using that route. Holwell said that they would not be opposed to having the trucks quit utilizing the Henderson Road route. They will let their regular trucking companies know that they should no longer use the Henderson Road route. Atty. Arneson said it would be the City's obligation to put up proper signage and then enforce it. There was discussion about Northland Drying putting up some business signage also.

The next item on the agenda is Item #5 – the revised bid from Wm. Mueller & Sons on the 2019 Street & Utility Project. Adm. Melvin presented an outline of what had occurred previously regarding this matter. Since all bids were not rejected at the previous meeting, there was an opportunity to do additional research regarding the sidewalk, and the use of engineered material to reduce the cost of the project. Battcher expressed that she did not understand how or why this project could even be coming back. She thought that at the last meeting the decision had been made to not go forward on the project. Mayor Nagel added in that the vote had been on the cost of the total project, not to reject all bids in their entirety. Adm. Melvin advised that the Council can certainly still decide to reject the bid as it has been re-worked tonight.

Cory from Wm. Mueller & Sons spoke to advise the Council that this was an important job for them as a company, they had passed up other work when they placed this bid to the City for the project. As soon as they learned that the Council had decided to not go ahead with the project, they immediately questioned if there was some way to re-work the bid so that there would be a possibility to still get the project for this year. Femrite joined with Cory to say that they too wanted to see if there was anything that could be done in order to lower the costs and see if the City would then go ahead with the project. Councilmember Hatlestad spoke and said that he was happy to see that this had occurred, that the engineers and Wm. Mueller had gone over the numbers to see if costs could in some way be reduced, because he does not feel

that if we wait until next year that the project will be cheaper. He feels there is a distinct chance that the interest rates will be higher and so in fact the project will cost even more.

Femrite provided information regarding the differences between using “c” oil in the street project vs. using “b” oil, which provided cost savings. Cory and Femrite also explained using the polypropylene in some areas, but not all, vs. entirely using concrete piping which is what Mueller’s had elected to use in their original bid. Cory also explained that Muellers does not do all the work themselves they use sub-contractors, so even though the City only saw 2 total bids for the project, within the bids themselves there were a number of other bids as they received from the sub-contractors. It was explained more fully the differences between the polypropylene piping and the concrete piping. Additional discussion occurred regarding whether the next highest bidder should have been contacted to see whether they wanted to submit a lower bid. The Council then, in looking over the 2 bids originally received, determined that there was a substantial difference between the 2 bids and it would not have been possible to get the 2nd bidder to an amount close enough to be considered. Discussion occurred also regarding the top soil that was bid and would be used in the project.

Mayor Nagel provided information from the City’s Comprehensive Plan which specifically states that it was the City’s feeling and plan at that time going forward was that when a new project occurred, sidewalks would be a portion of that. The cost of the sidewalk is not assessed to the resident, but paid for through other methods, utilizing monies received from the Ridgeview Sibley Medical Center, in their lease payment to the City – as a health initiative. The Council at the time that the payments were initiated determined to use the monies for health initiative matters, such as sidewalks, etc. Councilmember Heiland spoke to the fact that this area is prone to extreme flooding and that should be taken into consideration. Atty. Arneson spoke about the fact that the Council can, in cases of financial hardship, grant a deferment allowing the assessment to be paid upon the sale of the house. There continued to be considerable discussion between the Council members themselves as to whether sidewalks should be included in the project or not. Cory from Mueller even suggested that the decision on the sidewalks could still be made later. The Council could make the decision to go ahead with the project, but decide in July/August as to whether to do the sidewalks or not.

Motion by Heiland, second by Jaszewski to Approve Resolution 24-2019 – Accepting a Bid for the Project and Awarding a Contract for the 2019 Street & Utility Improvement Project. This resolution calls for the sidewalks to be a part of the project. Femrite answered a question by Hatlestad about changing the location of the sidewalk from the south side to the north side. It is not just a matter of “flipping” from one side of the street to the other but would require re-design and re-engineering, changing elevations of the road, looking at every driveway and their elevation and grade, and thereby there would be additional engineering costs estimated at an additional \$5,000 to \$7,000 incurred to do this.

The value added changes that are included in this bid are the topsoil, bituminous and the storm sewer changes. Additional discussion occurred regarding the comparison of this project vs. a recently done project in Gaylord. Also more in depth discussion occurred regarding the differences between use of the concrete pricing vs. the polypropylene piping to help explain why although this was in the bid specs, it was not in the original bids. There are many variables in every project which are unknown and therefore unable to predict. Upon roll call vote, the following voted in favor of APPROVING Resolution 24-2019: Jaszewski, Cowell, and Heiland. Those OPPOSED: Hatlestad and Battcher. With 3 votes in favor, and 2 votes opposed, Resolution 24-2019 is APPROVED.

Councilmember Heiland introduced the following resolution and moved for its adoption:

**RESOLUTION 24-2019
A RESOLUTION ACCEPTING A BID FOR THE PROJECT AND AWARDING A CONTRACT FOR THE
2019 STREET & UTILITY IMPROVEMENT PROJECT**

WHEREAS, pursuant to an advertisement for bids for the 2019 Street & Utility Improvement project; and

WHEREAS, it appears that Wm. Mueller & Sons, Inc. is the lowest responsible bidder; and

WHEREAS, the City Engineer Jason Femrite met with representatives of Wm. Mueller & Sons, Inc. to obtain revised bids reflecting cost savings that could be achieved through use of different materials;

AND WHEREAS, said REVISED bid was received on May 9, 2019. Said revised bid submitted provides for value engineering between City Engineer and Wm. Mueller & Sons, Inc. Revised bid is in the amount of:

	<u>Bid Amount</u>
Wm. Mueller & Sons Inc.	\$2,382,770.76

NOW THEREFORE BE IT RESOLVED, by the City Council of Arlington, Minnesota:

1. The Mayor and City Administrator are hereby authorized and directed to enter into a contract with WM Mueller & Sons Inc. in the name of the City of Arlington for the 2019 Street & Utility Improvement Project according to the plans and specifications therefore approved by the City Council and on file in the office of the City Administrator.
2. The City Engineer (Bolton & Menk) is hereby authorized and directed to return forthwith to all bidders the deposits made with their bids, except that the deposits of the successful bidder and the next lowest bidder shall be retained until a contract has been signed.

The motion for the adoption of the foregoing resolution was duly seconded by Jaszewski; poll being taken thereon the following voted in favor thereof: Cowell, Heiland, and Jaszewski; and the following voted against the same: Battcher and Hatlestad; and the following abstained from voting: none; and the following were absent: none.

The foregoing resolution was adopted by the City Council of the City of Arlington this 13th day of May, 2019.

Attest: /s/ Patrick Melvin
City Administrator

Signed: /s/ Richard Nagel
Mayor

Whereupon the resolution was declared to duly passed and adopted and was signed by the Mayor whose signature was attested by the City Administrator.

Thereafter the Council conducted a roll call vote on Resolution 23-2019 – Accepting a Bid with Removal of the Sidewalk Portion of the Project and Awarding a Contract for the 2019 Street & Utility Improvement Project. Voting in FAVOR of this Resolution was: Hatlestad. Voting in OPPOSITION to this Resolution were: Cowell, Jaszewski, Battcher, and Heiland. With 1 vote in favor, and 4 votes opposed, Resolution 23-2019 FAILS.

The following resolution was voted on by roll call:

**RESOLUTION 23-2019
A RESOLUTION ACCEPTING A BID WITH REMOVAL OF THE SIDEWALK PORTION OF THE
PROJECT AND AWARDING A CONTRACT FOR
THE 2019 STREET & UTILITY IMPROVEMENT PROJECT**

WHEREAS, pursuant to an advertisement for bids for the 2019 Street & Utility Improvement project; and

WHEREAS, it appears that Wm. Mueller & Sons, Inc. is the lowest responsible bidder;

WHEREAS, the City Engineer Jason Femrite met with representatives of Wm. Mueller & Sons, Inc. to obtain revised bids reflecting cost savings that could be achieved through use of different materials; and

WHEREAS, removal of the sidewalk portion of the plans was brought up by the City Council as a consideration in the proposed project costs;

AND WHEREAS, said REVISED bid was received on May 9, 2019. Revised bid submitted removes the sidewalk portion of the project, and additionally provides for value engineering between City Engineer and Wm. Mueller & Sons, Inc. Revised bid is in the amount of:

	<u>Bid Amount</u>
Wm. Mueller & Sons, Inc.	\$2,294,770.76

NOW THEREFORE BE IT RESOLVED, by the City Council of Arlington, Minnesota:

1. The Mayor and City Administrator are hereby authorized and directed to enter into a contract with WM Mueller & Sons Inc. in the name of the City of Arlington for the 2019 Street & Utility Improvement Project according to the plans and specifications therefore approved by the City Council and on file in the office of the City Administrator.
2. The City Engineer (Bolton & Menk) is hereby authorized and directed to return forthwith to all bidders the deposits made with their bids, except that the deposits of the successful bidder and the next lowest bidder shall be retained until a contract has been signed.

Upon poll being taken thereon the following voted in favor thereof: Hatlestad; and that the following voted against the same: Battcher, Cowell, Heiland, and Jaszewski; and the following abstained from voting: none; and the following were absent: none.

Based upon the roll call vote taken the foregoing resolution FAILED to be adopted by the City Council of the City of Arlington this 13th day of May, 2019.

Attest: /s/ Patrick Melvin
City Administrator

Signed: /s/ Richard Nagel
Mayor

Whereupon the resolution was declared to have duly FAILED and was signed by the Mayor whose signature was attested by the City Administrator.

The Council then conducted a roll call vote on Resolution 25-2019 – Denying All Bids for the 2019 Street & Utility Project. Voting in FAVOR of this Resolution were: Battcher and Hatlestad. Voting in OPPOSITION to this Resolution were: Cowell, Jaszewski, and Heiland. With 2 votes in favor, and 3 votes opposed, Resolution 25-2019 FAILS.

The following resolution was voted on by roll call:

RESOLUTION 25-2019
A RESOLUTION DENYING ALL BIDS FOR THE 2019 STREET & UTILITY IMPROVEMENT
PROJECT AND AWARDING NO CONTRACTS

WHEREAS, pursuant to an advertisement for bids for the 2019 Street & Utility Improvement project; and

WHEREAS, two bids were received for the 2019 Street & Utility Improvement project; and

NOW THEREFORE BE IT RESOLVED, by the City Council of Arlington, Minnesota:

1. The City Council does not elect to move forward with the 2019 Street & Utility Improvement project.

Upon poll being taken thereon the following voted in favor thereof: Battcher and Hatlestad; and that the following voted against the same: Cowell, Heiland, and Jaszewski; and the following abstained from voting: none; and the following were absent: none.

Based upon the roll call vote taken the foregoing resolution FAILED to be adopted by the City Council of the City of Arlington this 13th day of May, 2019.

Attest: /s/ Patrick Melvin
City Administrator

Signed: /s/ Richard Nagel
Mayor

Whereupon the resolution was declared to have duly FAILED and was signed by the Mayor whose signature was attested by the City Administrator.

Prior to calling for vote Resolution 26-2019, Mayor Nagel confirmed with Engineer Femrite that the assessments amounts previously provided would now be reduced to reflect the value engineering changes that had been made. Upon hearing affirmatively from Femrite that this was true, the Council then conducted a roll call vote in regard to Resolution 26-2019 – Adopting an Assessment. Voting in FAVOR of this Resolution were: Cowell, Jaszewski, and Heiland. Voting in OPPOSITION to this Resolution were: Battcher and Hatlestad. With 3 votes in favor, and 2 votes opposed, Resolution 26-2019 is APPROVED.

The following resolution was voted on by roll call:

**RESOLUTION 26-2019
A RESOLUTION ADOPTING AN ASSESSMENT**

WHEREAS, pursuant to proper notice duly given as required by law, the council has met and heard and passed upon all objections to the proposed assessment for the 2019 Street & Utility Improvement Project, an improvement affecting properties on East Clinton Street between 1st Avenue SE proceeding to the east terminus and 2nd and 3rd Avenues SE both from E. Dayton Street to E. Baker Street and has amended such proposed assessment as it deems just;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ARLINGTON, MINNESOTA, AS FOLLOWS:

1. Such proposed assessment, a copy of which is attached hereto and made a part hereof, is hereby accepted and shall constitute the special assessment against the lands named therein, and each tract of land therein included is hereby found to be benefitted by the proposed improvement in the amount of the assessment levied against it.
2. The assessments shall be payable in equal annual installments including principal and interest extending over a period of 20 years, with interest accrued at the rate of five percent (5%) per annum, the first of said installments to be payable with general property taxes, collectible during the year 2020.
3. The owner of any property so assessed may, at any time prior to certification of the assessment (November 15, 2019) to the County Auditor, pay to the City of Arlington, the entire assessment, or portion thereof, without interest. And thereafter at any time prior to November 15 of any year pay to the City of Arlington, the whole, or portion thereof, of the principal amount of the assessment remaining on such property, understanding that the current year's installment of principal and interest through December 31 is payable to the County Auditor.

