

**City of West Orange  
Tuesday, May 4, 2021  
Special Session**

**West Orange Community Center  
2700 Western Avenue (rear entrance)  
West Orange, Texas  
5:15 p.m.**

**COUNCIL MEMBERS PRESENT:**

Mayor Roy McDonald	Mayor-Elect Randy Branch	Shirley Bonnin
Brent Dearing	Dale Dardeau	Michael Shugart, Sr.

**APPOINTED OFFICIALS PRESENT:**

Theresa Van Meter	Mike Stelly	Jon Sherwin
Chris Leavins	David Roberts	Simmie Gibson

**OTHERS PRESENT:**

Melinda Smith	Dan Perrine	Jay Odom
Meritta Kennedy	Linda Atkinson-Pettee	

**Call to Order**

Mayor McDonald called the meeting to order at 5:15 p.m., stating that a quorum of Council was present. Mayor Pro-Tem Bonnin gave the invocation. The mayor then led in the Pledges of Allegiance to both the American and Texas flags.

**Special Session**

**Discussion and Possible Action on awarding bid for purchase of a fire truck** – The mayor reported that several bids came in, were opened, and then sent to Mrs. Smith (the grant administrator) to scrutinize. Now the time had come to decide which truck to purchase. He stated that in looking over these bids, he had noticed something. At that point, Council Member Shugart asked if a motion and second were needed in order to continue discussion. Mr. Leavins responded that, as the topic the mayor was talking about was on the agenda, it did not need a motion for discussion. However, the mayor stated that if it would please the Council he would ask for a motion and second to discuss.

Council Member Shugart made a motion that the City buy the Deep South Custom Cab fire truck. Council Member Branch seconded his motion to allow for discussion.

Mayor McDonald stated that in reviewing the bids, he noticed some “non-compliance” with the specifications as they were sent out. He asked Mrs. Smith to explain those to Council. She explained that the specifications required a 5% bid bond, with a bank draft or certified check allowable as well. Deep South sent no bid bond, bank draft or cashier’s check with their bids. They sent company checks. There is a reason that the specifications are worded the way they are...it is for the protection of the City. A bid bond, bank draft or certified check is a guarantee that the funds are available. A company check may or may not have adequate funds in the account to cover the check. It can also have a “stop payment” put on it at any time. Discussion followed on the different types of bid guarantees and “negotiable” instruments. Mr. Leavins stated that basically, the intent is the assurance that the funds are, in fact, in the account.

Mrs. Smith then distributed a page from the GLO Implementation Manual pertaining to Bonding Requirements. It does use the word “should” regarding grant subrecipients requiring a bid guarantee from each bidder. She stated her firm’s inclination is when a state agency says you “should” do something, they do it. This is why it was included in the RFP itself. The bid request specifically stated “A bid bond in the amount of 5% of the bid issued by an acceptable surety is required with each bid for contracts that exceed \$100,000. A certified check or bank draft payable to the City of West Orange or negotiable U.S. Government Bonds (as par value) may be submitted in lieu of the Bid Bond”. She continued by saying that it was up to the City on how to proceed from here.

The mayor then stated that, keeping that in mind, he would like Council to reject the Deep South bids and buy the Siddons-Martin truck, which was the next lowest bid custom truck.

Asst. Fire Chief Gibson asked if Deep South could be given a time period to get a cashier’s check turned in. Mrs. Smith responded that if that were done, then the same courtesy would

have to be given to everyone to change their bid. Mr. Leavins explained that the Deep South bid, at the time of bid opening, was non-complaint. He added that there are irregularities that can be addressed, or potentially waived, but something that does not meet the bid specs is usually not considered in that.

Fire Chief Roberts stated that Siddons Martin did not provide a proper bid bond due to the fact that the amount was not written out on the bond. The percentage was stated, but not the amount. He does not believe their bid to be in compliance with the specs. Mr. Leavins disagreed, in that the bid specifications required 5% of the bid issued, which is what was stated on the Siddons Martin bid bond, even though an actual dollar amount was not.

Council Member Shugart stated the Siddons Martin still did not meet the bid requirements. He asked Asst. Chief Gibson to provide examples. He listed several items, but said the main thing was in the warranties. He stated that the bid specs called for ten-year warranties, and Siddons Martin offered pro-rated warranties. They were also not providing warranties for everything required. He added that they provide no warranty for corrosion. They will have a steel substructure, then weld "dis-similar" metal (aluminum) on top of it.

Mayor McDonald then asked Mrs. Smith that if Council accepted Deep South's bid as submitted if it would pass the grantor. She replied that they would not review the bid before they award the funds, but would see it during the grant audit afterward. If, at that time, they determine the bid to be non-compliant, then the City would have to pay the \$315,000 grant back.

Council Member Branch asked if the bid could be sent in to GLO first to get their approval before proceeding. Mrs. Smith replied that she could, but added that it was her experience that they are not likely to give a "black and white" answer. It is also very likely that whomever issues that opinion would not be the same person who conducts the audit at the end of the project.

Council Member Shugart then amended his motion to table this until Council receives word back from Mrs. Smith with whatever guidance is provided by the GLO. Council Member Branch seconded this amended motion.

Council Member Dearing asked if the GLO did not approve, would the bidding process have to start all over. Mr. Leavins responded that Council would have to vote to reject all bids before that would happen. Mrs. Smith agreed, stating that it would be a decision of Council at that point. If the GLO recommends not accepting the Deep South bid, the City could then accept another vendor's bid or reject them all and start over.

Council Member Shugart then amended his first amended motion to have Council reject any and all bids until this can be cleared up.

Council Member Branch wanted to clarify that Mrs. Smith had been asked to contact the GLO to inquire as to whether or not Deep South's company check is satisfactory for the bid. She responded that the page from the GLO manual that she had passed out earlier addressed that question. She expects to be told that it will be a decision of the City.

Council Member Branch stated that some of the council members would like to purchase the Deep South truck, the next closest bid is the Siddons Martin truck which is almost \$70,000 more. He feels the responsible thing to do would be to see if the Deep South bid would be acceptable to the GLO. He then questioned if the company check was a "negotiable" instrument to the city. He did not want to take a chance of the City having to pay back the \$315,000.

Mr. Leavins stated that the bid, as it came in, was not compliant. The question is was that simply an irregularity that Council wants to waive, or could waive, or will GLO say that it was OK to do so.

Fire Chief Roberts explained that the bid bond will only come into play if the company does not meet its delivery time for the truck. Only in that instance would the check be cashed. He also stated that the Siddons Martin truck does not meet the bid specs due to them pro-rating the warranties. Because of this, he thinks they should be thrown out. He believes the best thing to do is go back out for bids again. Mrs. Smith responded that that would be a decision of the City, but her fear at that point would be that vendors may stop bidding on the project.

Mayor McDonald stated that there was a motion and second to amend the original motion on the floor, followed by a motion to amend the amended motion (without a second). The motion to amend the amended motion therefore died for lack of a second.

Mayor Pro-Tem Bonnin asked how long these grants were held. Mrs. Smith responded "about another year, but you can request an extension."

She was also asked if going to the GLO with this question, or going out for bids for a third time, could possibly "raise any red flags." She responded that it was a possibility.

Mayor McDonald stated that a vote needed to be taken on the amendment to the original motion. The amendment was to table this until Council receives word back from Mrs. Smith with whatever guidance is provided by the GLO. He called for a vote by show of hands:

For the amendment: Council Member Shugart  
Mayor Pro-Tem Bonnini

Against the amendment: Council Member Dardeau  
Council Member Dearing  
Mayor McDonald

Abstained: Council Member Branch

Mr. Leavins explained that unless there is conflict of interest on file, an abstention is considered a "no" vote.

The motion therefore failed. As this was an amendment to the original motion made at the beginning of the meeting, it took care of that motion as well.

Council Member Shugart then made a motion that any and all bids be denied as they do not meet bid specifications. Council Member Branch seconded this motion. Discussion turned to the timeline involved in going out for bids again, with the earliest possible bid opening being May 24<sup>th</sup>, with a vote of Council in early June. The same bid specs can be used, just changing the dates in it. Mayor McDonald then called for a vote on the motion by show of hands:

For: Mayor Pro-Tem Bonnini  
Council Member Shugart  
Council Member Branch

Against: Council Member Dardeau  
Mayor McDonald

Abstained: Council Member Dearing

Per Mr. Leavins, a tie vote fails unless specifically provided for in the City's Charter. He then reviewed the Charter and found that it was not addressed, therefore the motion failed.

Council Member Shugart made a motion that Council reconsider his motion to deny any and all bids and rebid. Council Member Branch seconded this motion. This motion passed unanimously.

Council Member Shugart then made a motion that Council deny any and all bids and rebid the truck. Council Member Branch seconded his motion. Council Member Dearing stated that in doing so, they would be taking a chance on the prices increasing.

Mayor McDonald then called for a vote on the motion by show of hands:

For: Council Member Branch  
Council Member Shugart

Against: Council Member Dearing  
Council Member Dardeau  
Mayor McDonald

Abstained: Mayor Pro-Tem Bonnini

Motion failed.

Mayor Pro-Tem Bonnini asked if she could change her vote. Mr. Leavins responded that she could if the motion was reconsidered.

Council Member Shugart then made a motion that Council reconsider his motion to deny any and all bids and rebid. Council Member Branch seconded this motion. The mayor called for a vote by show of hands:

For: Council Member Branch

Council Member Shugart  
Council Member Dearing  
Mayor Pro-Tem Bonnin

Against: Council Member Dardeau  
Mayor McDonald

Mayor McDonald stated that he was of the opinion that the fire department needed a fire truck and they had a bid for a custom fire truck like they wanted. Council Member Shugart disagreed, in that the frame was not what they wanted.

Council Member Shugart then made a motion that Council deny any and all bids. Council Member Branch seconded this motion. A vote by show of hands was called.

For: Council Member Dearing  
Council Member Shugart  
Council Member Branch

Against: Council Member Dardeau  
Mayor McDonald  
Mayor Pro-Tem Bonnin

Tie vote; motion failed.

At that point, those present agreed that no progress was being made on this subject.

**Adjournment**

Mayor McDonald then adjourned the meeting at 6:25 p.m.

  
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Randy Branch, Mayor

ATTEST:

  
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Theresa Van Meter, City Secretary

