

STORM WATER COMMITTEE MINUTES
APRIL 4, 2017

The Storm Water Committee meeting was held on April 4, 2017 at North Royalton City Hall, 14600 State Road. The meeting was called to order at 6:00 p.m.

PRESENT: Committee Members: Chair Dan Langshaw, Vice Chair Cheryl Hannan, Gary Petrusky; **Council:** Larry Antoskiewicz, John Nickell, Paul Marnecheck, Dan Kasaris; **Administration:** Mayor Robert Stefanik, Law Director Thomas Kelly, City Engineer Mark Schmitzer, Service Director Nick Cinquepalmi, Wastewater Supt. Dave McNeeley; **Other:** Lou Krzepina.

APPROVAL OF MINUTES

Moved by Mrs. Hannan, seconded by Mr. Petrusky to **approve the March 7, 2017 minutes**. Yeas: 3. Nays: 0.
Motion carried.

UNFINISHED BUSINESS

1. **Storm Water/Infrastructure Maintenance Monthly Report**
A copy of this report is attached to these minutes.
2. **2017 Projects**
See Item 1 under new business.
3. **Turnpike Mitigation**
Mr. Schmitzer said he expects to hear soon on when they will move forward on the sound walls. He said ODOT had some comments on the York Road plans so we will be getting these plans back to them by April 20, 2017.

NEW BUSINESS

1. **Ordinance 17-51 – Bids for Cedar Estates Retention Basin project**
Mr. Kelly said that at our last meeting we requested that this legislation be placed on second reading and there was a reason for that. The bids were called to be opened at City Hall at noon on March 16, 2017 under the auspices of the Mayor's designated representative City Engineer Mark Schmitzer. Mr. Schmitzer and Assistant City Engineer Dan Collins have a regular custom and practice that they follow on all these matters. They proceeded to open the bids, read out the bids and read out the numbers. They concluded their business by filling out the appropriate sheets designating which bid was representative of which bidder and as it turns out the lowest bid was that of DiGioia Suburban. The next lowest bidder was Great Lakes Crushing. Mr. Kelly said that on Friday, March 17, 2017 around 4:00 p.m. Mark Belich President and CEO of Great Lakes Crushing sent an email to the city and to Mr. Kelly specifically advising that they wanted to challenge the bidding process. They felt that there were a number of issues that had been raised that they wished to challenge. Mr. Kelly said that he did not respond to Mr. Belich on March 17, 2017 at 4:00 p.m. because he was not available and did not find the email until over the weekend. On Monday, March 20, 2017 we received an email from attorney Eric Walter with Dworkin and Bernstein. Mr. Walter was effectively advising us of his representation of Great Lakes Crushing and essentially reiterated the points that Mr. Belich had made in his email to us on March 17, 2017 and was concerned that we were going to immediately present this matter to Council and that the bid would be awarded to DiGioia Suburban when in fact they felt that they needed to be heard on the question of their arguments and their allegations. We asked Council to place the legislation on second reading so that we would have time to meet with them and hear them out. A few days thereafter, Mr. Schmitzer, Mr. Collins, Ms. Vozar, Mayor Stefanik and Mr. Kelly met with Mr. Walter, Mr. Belich and his chief superintendent Frank Fatica. We conducted a meeting and gave everyone an opportunity to be heard. Mr. Schmitzer and Mr. Collins responded to each and every allegation that had been made by Mr. Walter in his correspondence of March 22, 2017. After the meeting, Mr. Kelly said that the administration was satisfied that all of the things that were done were done so appropriately and with the integrity of the process in mind. Mr. Belich, as a disappointed bidder, does not believe that this is so. In fact, he has indicated through his attorney that in the event that Council approves this bid they intend to file a lawsuit to challenge it. This is of course their

right. Mr. Kelly explained that the first allegation they made was that the bids were not read aloud at the bid opening as they are required to be. Mr. Schmitzer and Mr. Collins made it plainly clear that the bids were in fact read aloud. As it happens neither Mr. Belich nor Mr. Fatica were present for and on behalf of their company when the bids were read aloud. Mr. Kelly said that there is also an allegation that the successful bidder was given the opportunity to change his bid price. That did not happen. The bid that was submitted, the bid that was read out loud and the bid that is to be awarded with one minor modification are all the same. What you will discover tonight is that there will be an amendment that Council will be asked to approve having to do with a transposition of two Arabic numerals creating a difference of \$9.00. That is not a sufficient basis upon which to challenge or overturn a bid. He said that there is also a further discrepancy. As it turns out when you add up all of the individual bid prices in the bids submitted by DiGioia and compare it to the number that they totaled, there is a difference of ten cents. This is one of the allegations that Mr. Walters makes on behalf of his client, that that difference of ten cents is evidence of a defective process and they were going to challenge us on that basis. He said that in no world that he is familiar with is it likely that they will find a judge that will overturn Council's decision in this matter for ten cents. Mr. Kelly said that there were two other allegations that were made. One of which is a fairly esoteric argument having to do with the weighting of different categories within the bid itself. The argument is that DiGioia Suburban more heavily and inappropriately weighted the mobilization cost number against a different spread where all the other bidders had lower numbers in this category. It is his understanding that Mr. Schmitzer feels that this does not hurt us in any respect and does not hurt the tax payers in any way. Mr. Kelly said that as far as he is concerned the real serious question here is what is the lowest and best bid in toto as opposed to in pieces parts, because in pieces parts they are all different. Mr. Kelly said that the day after the bids were opened on March 17, 2017, Mr. Schmitzer had to send out some emails to all of the bidders advising them of who the successful bidder was and in the process he made an error in the email. He followed that up with another email correcting the error. None of this speaks to the questions of "what was the bid". The bid was \$1,425,000, \$100,000 under the bid of Great Lakes Crushing. Mr. Kelly said that Mr. Belich makes this point and it is a point that Council needs to consider; the question is not so much are we up or down or right or wrong, but is the process one with integrity. Was it done properly. Are the tax payers protected. Is this the lowest and best bid. Mr. Kelly said that nothing he has heard or seen or read suggests to him that this was anything other than a process done with integrity. From the administration's point of view, we support the award of the lowest and best bid to DiGioia Suburban and the adoption of the ordinance in question. Mr. Schmitzer agreed with Mr. Kelly's summarization of the situation. He said the issue that is being brought up is the integrity of the process. What we have done with this bid opening is no different than he has done since he started working here in 2008. We open up a sealed bid that has been stamped and date stamped in the office in the order they were received, checking for bonds, clarifications, addendums, etc. Mr. Kelly said that there is one other thing he should point out. One of the allegations that was made with regard to whether or not there was any irregularity in the proceedings had to do with the fact that at the bid opening, when Mr. Schmitzer read out the numbers, the bid number that DiGioia Suburban submitted is marked on the bid sheet as "difficult to read". He said that this refers to the fact that the bid number that someone at DiGioia Suburban wrote down contained a digit in the thousandths place, so in the \$1,425,000 figure, the "5" was difficult to decipher. Mr. Kelly said that as he understands it, Mr. Schmitzer read it as a "5", Mr. Collins wrote it down as a "5" and as it turns out, it is a "5". This was confirmed by speaking to a representative from DiGioia Suburban after the bids were opened. One of the arguments being made by Mr. Walters and his client is that simply seeking that clarification alone is a violation of law. Mr. Kelly said that he does not find that to be the case. He said that if they file suit, we are prepared to fight and defend our process; we believe we have done the right thing from start to finish. However as he has stated in the past, he has won cases he should have lost and lost cases he should have won. He doesn't know what judge this is going to. Mayor Stefanik said that if we were to lose this case by some fluke, basically we would have to go back out to bid again. Mr. Kelly said this would be the other option, to send everything back out to a second bid. He said that the notified Mr. Belich and his attorney that under no circumstances are we going to the second, disappointed bidder with this contract. If for any reason this bid is overturned judicially, we would come back and attempt to persuade Council that the thing to do would be to throw them all out and start fresh. Mr. Schmitzer said that sometimes the handwritten numbers are hard to read and this is why he

stated that it was difficult to read. He said that not one single representative from any of the other contractors would have left that room if the numbers were not read aloud. He said that they all come up at the end and they want to look at the low bid, they take their phones out and they start taking pictures of all the unit pricing so that they can compare it, even though he tells them that he will tabulate the numbers and send it to them. He said that they did nothing wrong here and followed the same process. DiGioia Suburban is the low bidder, not the apparent low bidder, and the most qualified bidder and he would recommend the passage of Ordinance 17-51 this evening. Mr. Antoskiewicz said that he has attended a few bid openings in the past and the one thing he knows is that all the bidders that attend have been through this many times and he firmly believes that if there was any issue the day of the bid opening, it would have been brought up immediately because they all know and understand the process. They are allowed to look at, and even receive copies of, all the other bids to make sure that it was bid properly. He said that the second lowest bidder is \$100,000 higher so any mistake that may have inadvertently happened adds up nowhere near \$100,000. He said that he has no problem with this. Mr. Kasaris said that he recommends that we simply vote yea or nay and not say too much because anything that anyone of us says as representatives of the city in the event that we are sued can be used against the city. His recommendation is to vote yea or nay and leave it at that. Mr. Nickell, Mr. Petrusky and Mr. Langshaw agreed. Moved by Mr. Petrusky, seconded by Mrs. Hannan to recommend Ordinance 17-51 to Council for approval per the recommendation from the Law Director and City Engineer. Roll Call: Yeas: 3. Nays: 0. **Motion carried.**

ADJOURNMENT

Moved by Mr. Langshaw, seconded by Mr. Petrusky **to adjourn the April 4, 2017 meeting.** Yeas: 3. Nays: 0. **Motion carried. Meeting adjourned at 6:21 p.m.**

Street Department & Storm Department Monthly Report – March 2017

3/1/17-WEDS.

Storm Basin Maintenance-check and clean all of our storm structures [raining hard on & off all day both shifts].
Storm Water-12850 Patricia Dr. jetting the storm line, all clear.

3/2/17-THUR.

Patching-Mains & secondary's.
Ditching-9901 Gabriella Dr.

3/3/17-FRI.

Plowing-All Shifts.

3/6/17-MON.

Patching-we will be working on cul-de-sacs Helen Dr., Stuart ct. and Perl ct.
Storm Water-11215 Drake rd. A tree fell in the creek by the headwall. We cut it up and hauled it out.

3/7/17-TUES.

Storm Water-sent the Vac.Truck to Industrial Park to Vac. storm line. Also Vac. the storm line at 3135 Perl ct.
Patching-continue on Perl ct.

3/8/17-WEDS.

Patching-continue patching on Stuart ct. add Perl ct.
Storm Water-The Vac.Truck will be checking and cleaning the basins on Evergreen Tr.
Ditching-16874 Ridge Rd. we did some minor ditching to get the water to flow. The ground is to wet to do any digging, we will return when the property dries out.
Tree Clean Up- Pulled the crews in at 11:30am. Heavy winds rolled in and multiple trees fell across our roadways.
The clean up lasted well into second shift.

3/9/17-THUR.

Tree Clean Up-sent three crews out to check and clean any debris left in the roadways. CEI was out all night cutting trees down that were caught up in their power lines.
Signs-fixing and replacing all the damaged signs from the wind storm.

3/10/17-FRI.

Salting-light snow.
Patching-checking our mains and secondary's.
Hauling-moving salt from the compost building to our salt barn.

3/13/17-MON.

Patching-finished our secondary's and moved into our developments.
Tree Trimming-start in Prince Charles.
Saw Cutting-cut driveway aprons on Ridge Rd. for culvert pipe replacement.

3/14/17-TUES.

Plowing-started plow the night before [this was the beginning of the three day storm].

3/15/17-WEDS.

Plowing-still cleaning up.

Mailboxes-1 crew repairing boxes

3/16/17-THURS.

Patching-continue in our developments.

Mailboxes-2 crews out repairing boxes.

Garage-cleaning trucks

3/17/17-FRI.

Storm Water-start removing the culvert pipes on Ridge Rd. north of Cady Rd.

Patching-continue in our developments.

3/20/17-MON.

Storm Water-continue removing and replacing the culvert pipes on Ridge Rd.

Patching-checking our mains and secondary's before moving into our developments.

3/21/17-TUES.

Storm Water-continue removing and replacing the culvert pipes on Ridge Rd.

Tree Trimming-finish Prince Charles and moved to Eagle Chase.

3/22/17-WEDS.

Storm Water-continue removing and replacing the culvert pipes on Ridge Rd. We stopped work until the Gas Co. can come out to lower the gas line, they have been notified. They will lower it at no charge but its low priority and it may be a few weeks.

Tree Trimming-Hunters Creek

Patching-moved to our developments in the northeast corner.

3/23/17-THURS.

Tree Trimming-continue in Hunters Creek

Mailbox-repaired a brick mailbox on Buckingham Shire.

Patching-continue in our developments.

3/24/17-FRI.

Tree Trimming-finish in Hunters Creek.

Vac. Truck-started cleaning and jetting the basins leading into the WW Plant. Also starting repairing them [6 total].

Patching-Woodridge.

3/27/17-MON.

Tree Trimming- start in the Planets.

Storm Water-continue to rebuild the catch basins leading down to the Waste Water plant.

Vac. Truck-cleaning our basins at Bennett corners, Boston, W130th and Bennett Rd. The basins will be repaired after inspection.

3/28/17-TUES.

Tree Trimming-continue in the Planets.

Storm Water-finished rebuilding the catch basins on Waste Water driveway. The crew started the Bennett corners catch basin program [we will be reimbursed from Cuyahoga County for all materials used as long as it a county road].

Patching-checking and patching in our developments.

3/29/17-WEDS.

Tree Trimming-continue in the Planets.

Storm Water-continue rebuilding the basins on Boston rd and W130th St.

Patching-continue working in our developments.

3/30/17-THUR.

Tree Trimming-continue trimming in the Planets.

Storm Maintenance-checking and cleaning all our storm structures. Heavy rains in the forecast.

Patching-Glenwillow Dr. and Oakwood development.

3/31/17-FRI.

Tree Trimming-finish up in the Planets. Start in Royal Valley.

Storm Maintenance-still raining, we sent crews out to keep our storm structures open and waterways flowing.