

**MINUTES OF THE FEBRUARY 28, 2017 SPECIAL SESSION
GREEN COVE SPRINGS CITY COUNCIL**

Call to Order

A duly called Special Session of the Green Cove Springs City Council was called to order Tuesday, February 28, 2017, at 7:03 p.m. in the City Council Chambers, 321 Walnut Street, Green Cove Springs, Florida.

Invocation and Pledge of Allegiance to the Flag

The invocation was given by Mayor Lewis followed by the Pledge of Allegiance to the Flag of the United States of America.

Roll Call

COUNCIL MEMBERS PRESENT:

Constance W. Butler
Steven R. Kelley
B. Van Royal
Roy M. Timberlake, Jr., Vice Mayor
Pamela J. Lewis, Mayor

STAFF MEMBERS PRESENT:

L. J. Arnold, III, City Attorney
Derek Asdot, Asst. Chief of Police
Julia W. Clevinger, City Clerk
Danielle J. Judd, City Manager
Mike Null, Asst. City Mgr. / Public Works Dir.
Kimberly Thomas, Exec. Asst. to the City Mgr.

**Mayor to call on members of the audience wishing to address
the Council on matters not on the Agenda.**

There were none.

COUNCIL BUSINESS

**1. Contract with CORE Construction, Inc. for Historic Spring Park Pool Capital Project.
*Judd/Arnold/Null***

Discussion ensued with the City Council regarding the contract with CORE Construction, Inc. for the Historic Spring Park Pool Capital Project as presented by Ms. Judd, Mr. Arnold, and Mr. Null. The following were also in attendance:

Albert Franson – Franson & Iseley, P.A., representing the City
John Clark – Skanska USA, representing the City
Kelly Hartwig – Cypress Management & Design, representing the City
Steve Thomas – Field Supervisor, representing the City
Shaun Saliba – St. Johns Law Group, representing CORE Construction
Sandy Robinson – Office Manager, CORE Construction
Jay Chung, President – CORE Construction (entered the meeting at 7:07 p.m.)

Mr. Franson explained the potential four (4) week process involved with the surety bond, the Notice of Default, and declaring the contractor in default.

The following points were discussed:

- Funding sources and payments made to CORE Construction;
- The original completion date was December 20, 2016;
- Review of “Critical Path” schedule, Line Items not completed and reasons for delays;
- Termination of the Contract for Cause;
- Surety Bond;
- Notice of Default;
- The possibility and timeframe if new bids were to become necessary;
- The additional expenses incurred by the City for oversight of the project;
- Lack of coordination between CORE Construction and its sub-contractors;
- The contract did not have but should have had a monetary amount regarding Liquidated Damages; monetary options per business day for failure to complete project on schedule as proposed by the contractor and the City;
- Realistic expectations of Substantial Completion dates: April 14th minus the Railing and Capstones and April 21st with the Railing and Capstones;
- The City needs assurances that project will be completed on time;
- The City needs time, at least 30 days, to test the pool and splash pad, hire lifeguards, and make preparations for the Memorial Day RiverFest to be held on Monday, May 29, 2017;
- Notice was received this date that repair was needed on a manhole installed by City Staff at the splash pad that was set too high and prevented the contractor from proceeding; Mr. Chung noted that it would take two (2) weeks for his sub-contractor to fix it; Mr. Null and Mr. Thomas countered that the repairs would be completed by City Staff the next morning in a couple of hours and would not hold up the contractor at all as claimed;
- Daily Reports and Time Schedule from the contractor are to continue;
- Contractor alleges that delays are blamed on the City;
- Contractor and sub-contractors to address safety violations (roofers);
- Mitigation of safety issues if the railing is not completed by the Substantial Completion date;
- There are delay days anticipated in every contract but the contractor still has the opportunity to work on Saturdays or add a 2nd and 3rd shift; and
- Lien releases need to be submitted to the City to be recorded.

Mr. Null gave an updated review (February 28th) of the activity list of items not completed as of the last update on February 23rd – the cupola, rough underslab plumbing for the water feature, stucco, sidewalks, brick pavers, ceramic tiles, electrical switch gear and power to the building; pool deck drain. Since the last update, and due to the leak in the building, several items had also slipped on the time schedule which in effect created a domino effect on other items. He also had not received a daily update today. Mr. Null also advised that the roof

underlayment that has already been installed could only be exposed to UV rays for 90 days and it had already reached 60+ days. If it slipped on the schedule any further, it would be a monumental task to remove and reinstall.

After his review, Mr. Clark felt a Substantial Completion date of May 5th was more realistic. He also noted that the site would become more restrictive as the project proceeded to the end. Ideal conditions were also required for specific items such as the epoxy coating. Reiterating his concerns regarding the safety issues where the roofers were not wearing safety lanyards, Mr. Clark reported that he and Mr. Hartwig had been told by the site superintendent that “lanyards only slow people down.” Not only was this an OSHA requirement but it posed a high risk to sub-contractor workers. He also noted that requested documentation and submittals had not been received in a timely manner or when requested. He also agreed that the railing was a safety issue and, thus, a critical item to the completion of the project. His main concern was the long lead items and the inability to demonstrate a detailed and coordination of work by the contractor.

Mr. Hartwig noted he was trying to keep quality control and design intact. At this point, he did not feel the contractor had reached the finishing stage. However, there was work that could be done on Saturdays to help accelerate the schedule to reach the April 21st date.

Upon questioning by the City Council, Mr. Chung explained that he had not underestimated the completion date until the City had made changes. He noted that aside from the three (3) critical items, stone veneer, stone cap and railing, the remaining items would be done within the next four (4) weeks. The railing would not be completed for about six (6) weeks or so (April 14th) with and installation the next week (April 21st). Mr. Chung now felt very confident with the new momentum seen by the sub-contractors and that the Substantial Completion date could be met. However, he also noted that there were no “float” days incorporated into these dates and he requested an additional week (April 28th).

Mr. Arnold advised the City Council that he believed the Contractor would be more receptive to modifying the Substantial Completion Dates of April 21st at \$500 per day and April 28th at \$1,000 per day. Mayor Lewis believed these amounts for liquidated damages were not substantial enough for the contractor to work toward. She reiterated that this project had been mismanaged from the start and the City employees had worked diligently and endlessly. Mr. Franson concurred that a contract modification at these levels was very reasonable and something that could be upheld if it were challenged after the project was completed. Mr. Arnold noted that a modification would basically start the contract over with all the allegations being taken off the table.

Vice Mayor Timberlake suggested the following for a motion:

1. Modify to extend the end date to not later than April 28th with \$1,000 a day in liquidated damages requiring substantial completion by the 28th.
2. In the event that we don't hit the 28th, we proceed with holding the contractor in default with the contract.

Council Member Royal countered with April 14th except the hand rail and capstone and \$500 per day and April 28th and \$1,000 per day.

Vice Mayor Timberlake agreed to modify his motion to say that the initial substantial completion date is April 14th except the hand rail and capstone and \$500 per day in liquidated damages if we don't hit that date and April 28th with \$1,000 per day.

Council Member Kelley also confirmed that any date after April 28th would preclude declaring the contractor in default.

In the contract modification to be prepared by Mr. Franson, a new timeline would be prepared; however, the verbiage in the provisions to protect the City and the Contractor in the original contract would remain in effect. This would be like starting new. All past allegations would be gone.

Vice Mayor Timberlake also requested that the daily reports and time schedule would continue to be submitted. Mr. Arnold added that the subcontracts were to be continued to be furnished to the City. Vice Mayor Timberlake also added that the safety issues would be addressed by Mr. Chung.

Following further discussion and after consulting with his attorney in the hallway, Mr. Chung agreed to accept the following Contract modifications:

1. Substantial Completion date of April 14, 2017 less the railing and the capstones with liquidated damages of \$500 per business day minus Sundays;
2. Substantial Completion date of April 28, 2017 including the railing and the capstones with liquidated damages of \$1,000 per business day minus Sundays;
3. The Daily Reports and time schedules would continue to be submitted; and
4. The safety issues would be addressed by Mr. Chung.

A MOTION WAS MADE BY VICE MAYOR TIMBERLAKE TO MODIFY THE CONTRACT TO REFLECT THE FOLLOWING:

1. Substantial Completion date of April 14, 2017 less the railing and the capstones, with liquidated damages of \$500 per business day, Monday through Saturday; and
2. Substantial Completion date of April 28, 2017 including the railing and the capstones, with liquidated damages of \$1,000 per business day, Monday through Saturday;
3. The Daily Reports and Master Construction Schedules (11 x 17) would continue to be submitted; and
4. The safety issues would be addressed by Mr. Chung.

THE MOTION WAS SECONDED BY COUNCIL MEMBER BUTLER. THERE BEING NO FURTHER DISCUSSION, THE MOTION WAS APPROVED BY THE FOLLOWING ROLL CALL VOTE: AYES – COUNCIL MEMBERS CONSTANCE W. BUTLER, STEVEN R. KELLEY, B. VAN ROYAL, ROY M. TIMBERLAKE, JR., AND PAMELA J. LEWIS, MAYOR. NAYS – NONE.

Mr. Franson advised the City Council that he would have the documents prepared and to Mr. Silabi by Thursday, March 2, 2017 and ready for signatures by Friday, March 3, 2017.

2. City Manager and City Attorney Reports and/or Correspondence.

There were none.

3. City Council Reports and/or Correspondence.

There were none.

Adjournment.

There being no further business to come before the City Council, the meeting was adjourned at 9:34 p.m.

CITY OF GREEN COVE SPRINGS, FLORIDA

Pamela J. Lewis, Mayor

Attest:

Julia W. Clevinger, City Clerk