

**Village of Dixmoor
Special Board Meeting
April 30, 2015**

CALL TO ORDER

Mayor Dorothy D. Armstrong called meeting to order at 7:05 pm.

INVOCATION – PRAYER

Major Bishop Johnson led the assembly with a prayer.

PLEDGE OF ALLEGIANCE

Mayor Dorothy D. Armstrong led the assembly with the Pledge of Allegiance.

ROLL CALL

Roll called showed the following Trustees present: Trustee Yolanda Williams-Corner-here, Trustee Yvonne Davis-here, Trustee Judnita Smith-here, Trustee Michael Smith-present, Trustee Fitzgerald Roberts-here and Trustee Ira Rolark-here.

UNFINISHED BUSINESS

NONE.

NEW BUSINESS

Mayor Dorothy D. Armstrong stated new business Rejection of the Agreement with Tower Construction for the Redevelopment of the Community Center – Trustee Michael Smith

Trustee Michael Smith stated he would like to yield the floor to two individual first Anthony Garth and then second the Legislative Counsel.

Mr. Anthony Garth stated, I'm a Mason Contractor and I was approached about another issue out here with the Community Center being built. I was able to look at the contract that was issued to the city and it raised a lot of questions for the way it was written up number one and number two there is no way for you all to protect yourself with it. Questions saw Prevailing Wages Federal Tax dollars not in there money given to the Design team and nothing was every presented to you guys you spent \$20,000. The Construction team you all hired I have an extensive relationship with them, me urging Mr. Smith to look at the contract I guessed some other trustee's got involved and other questions were raised so if you guys got any questions you want to ask me about I have no problems with answering.

Mr. Anthony Garth stated in the scope that they had in their package it was very vague on what they proposed to do and maybe 3days later they come up with a study with all this work they claim they done which should have been attached to the bid when they sent it in you all have 1.2 million to spend on this, on that contract it's says like that 1.2 million won't be it, theirs things that they got in there that can be added to the contract if they see something else down the line.

Trustee Michael Smith stated as a Trustee I went out to get someone with the expertise when it comes to construction I had to FOIA the contact because I had concerns when I went to look up the credentials on Tower Construction which was formerly Castle Construction and went to Illinois Attorney General Website and pulled up some information that was very alarming to me, that's when I went to contact Mr. Anthony Garth who I knew was a person who knows about contracts when it comes to construction. It concerned me because we were rushed about \$20,000. It was stated that if we didn't get this done we would go on to losing the grant. I then contacted the Illinois Department of National Resource and I received an email from Mrs. Jan Nation, it was told to me that if

we send it back out to bid that we would lose the funding well that was false it says here that if the Village re-bids they would not lose or jeopardize their funding. I wanted Attorney Vasselli to come up and explain the design build and we as a non-home rule municipality should not have even went into a design build because of the law. If Attorney Vasselli can come up and talk about that and the contract from his expertise.

Attorney James Vasselli stated we have asked for bidding contracts for design build , contact is subject to the same laws and regulations for home rule you have much more flexibility that can wave those I will read from the Illinois Institute for Continuing Legal Education; because the requirements of the code in statue mandating public bidding for construction contact it is extremely difficult for a non-home rule municipality to enter into a design build contract indeed unlike other stated Illinois is not granted municipality the authority to use the design build approach and then further reads non-home rule entities must take a more secure path only by first selecting the architect engineer negotiating a service contract including fees and then assigning the architect engineer contract with the design build. Can a non-home rule municipality back do a design build contact and that is again from the Illinois Institute for Continuing Legal Education section 3.9 which I will send to the Clerk for inclusion of the record. With that being the case we seek out those documents upon request of certain Trustee in the event the board does look to go in another direction with regards to this contract. There is a section under that on page 31 section 14.4 and again I am reading this from the contract; the owner at any time may terminate the design build contract for the owners convenience and without cause upon receiving a written notice from the owner of such termination for the owners convenience the design builders shall cease operations, take action necessary.

So, the first statement I guess is where are the bidding documents? Obviously they need to be out, need to see those. The second statement is the board does have some discretion as a legislative body and owner. Pursuit to Trustee Smith's statement this Jan Nation, please remember all grants are still suspended we don't know when the suspension will be lifted.

Trustee Michael Smith stated sent to you also it was stated again, if we do re-bid it out it wouldn't hurt us and then further in conversation with Ms. Nation she also stated to me that the Village was in the design phase as you had stated and that no contractor had been selected for the project it was not on file as of yet so also my concern is that we do the best thing here for the Village of Dixmoor and the documentation I got just the responses it make me look at this contract in a different way and that's why I raised questions to counsel and an outside contractor to give us some update and to also put on the record that this contract was signed in fact without our Village Attorney taking a look at it as well as without the board knowledge of the contract, so I just wanted to put that on record.

Trustee Judnita Smith stated this question is for Mr. Garth I did have a question I wanted to talk about Tower Construction was Castle and I did read something on that company, where Chicago Transit Authority, they no longer can work for the city?

Mr. Anthony Garth stated city or state.

Trustee Judnita Smith stated and now they are Tower Construction owned by the same owner?

Mr. Anthony Garth stated same entity correct.

Trustee Judnita Smith stated also I do remember reading; they are currently working on two projects, two schools in Hazel Crest. So I had concerns with that from reading that they have been barred from the city and they are currently working on two projects that uncompleted in Hazel Crest and also if I'm not mistaking something about this company one of the reasons that they had a suit was because they failed to hire minorities?

Mr. Anthony Garth stated it wasn't that they failed to hire minorities, they are known for using minorities to get the projects and not using them to do the work that's why they were barred out of the city of Chicago for doing work Mr. Bloom was found guilty of fraud, banned from the City to do any work in the State, Him and the man who signed that contract Anthony Bloom, he's barred from doing work with the city and state also.

Trustee Judnita Smith stated that's what I had concerns with because they can't be working for this Village if they are barred from doing work in the City and also if they are getting money but not using the minorities and you currently, you said that you were part of the building for what Walmart?

Mr. Anthony Garth stated yes we do a lot of big building in the City, actually I build these schools for Harvey for Castle at the time, and my company is responsible for building the development on 115th and 119th Marshfield we built Kennedy King Collage, Chicago State, Providence Hospital, Stroger Hospital we do a lot of big work around the City.

Ms. Val Williams from Robinson Engineering stated what is your company name?

Mr. Anthony Garth stated AG Construction Services.

Attorney Hubert Thompson stated were you the general contractor for this project.

Anthony Garth stated no I've been a Mason Contractor; I didn't start doing general contracting until about 3 years ago.

Mayor Dorothy D. Armstrong stated is there someone here from Tower Construction

Attorney Hubert Thompson stated no there is no one here.

Trustee Michael Smith stated I would like to address also in the contract there were several phases that were scratched out, correct? Throughout the entire contract and I wanted to asked you some of those sections were the cost of the work plus the builders design fee the design builders fee the cost of the work plus the design builders fee with the guaranteed maximum price, the unit prices for the different structures that would be used in the building the allowances then also we talked about a schedule, the payment schedule how important that is to understand who's getting paid when the job is being done could you also go into detail about that

Trustee Judnita Smith stated so you are saying the contract was lacking a lot of the information we needed and I'm told that the Corporate Attorney did not see it, this is what I have concerns with also because even with reading Tower Construction even with the minorities they were collecting money and if I recall right they would even ask for more money when that money was not even given to the minority.

Mr. Anthony Garth stated correct, I can give you an example of that, they would put a contract out to you for \$100,000, and they would turn the contract in to the board for \$150,000, you are signing two contracts for one thing the board would never see the \$100,000 contract they would only see the \$150,000 contract the \$50,000 go to the general contractor who would be them, and you're paid the \$100,000

Trustee Judnita Smith stated now you had some dealings with them, you said you are the reason for the stop or the suit?

Mr. Anthony Garth stated I am the reason they blew the whistle, because they have a history of screwing over minority contractors.

Mayor Dorothy D. Armstrong stated I understand about the legal law that's why I asked that question when you are making these type of allegations about people they are not here to defend their selves. I hear what you are saying and it may be factual or it may not be but I'm just saying the point is Tower Construction.

Mr. Anthony Garth stated they chose not to be here I called somebody from there earlier today it's not allegations this stuff has been proven in court you have the documents that I gave you.

Mayor Dorothy D. Armstrong stated okay but my whole point is that that's why I asked is there someone here from Tower to represent them.

Trustee Michael Smith stated my other question is how the price is calculated on building a building that size?

Mr. Anthony Garth stated you can do it a couple of ways you can do it by square foot they have a system for that or by putting a project out for bid what should have taken place in this situation before an contract was even entered upon, walk through should have took place with that site, a plumber should have been involved, electric should have been involved, the gas guy should have been involved and everybody should have put a package together to present to the board and it get voted on and then you decide from what you do from there. According to what I seen none of that took place even when I started looking at the scope of the work in itself nothing was never defined no narrative study or anything everything in there was visage, for example you have a slab on grade you got concrete in there so what are you going to do with that. What can of floor you going to put on top of that? They talked about the electrical work, they want the city to pay for the electrical work to be brought out to the city and get tied in. None of this stuff was mention in detail in the contract.

Mayor Dorothy D. Armstrong asked the board is there anymore question for Mr. Anthony Garth.

Ms. Val Williams from Robinson Engineer asked how many bids was it?

Trustee Michael Smith stated there were only 2 bids there should have been 3 bids when it's dealing with federal dollars.

Mayor Dorothy D. Armstrong stated is that all we were seeing were two bids out of the project?

Trustee Michael Smith stated you have to have 3 bids.

Mayor Dorothy D. Armstrong stated but you can't make anybody bid on this.

Trustee Michael Smith stated it must be 3 bids Mayor before anything is proceeded on that's why she went on to state if it's not done correctly we could lose the money. We had two bids and you know you were supposed to have 3 bids we only had two we should have sent them back out for another bid. That's just only right and fair. I'm not going to jail for anybody.

Mayor Dorothy D. Armstrong stated okay The Tower Company is not here, Mr. Thompson do you choose to elaborate on anything? Perhaps the Attorney can shine some light on this

Attorney Hubert Thompson stated I saw only today in an email.

My understanding is that this matter went out to bid, it was advertised bids came in they were evaluated by the Village's engineer concluded that Tower was the most responsive bid by the state's qualifications, then the engineer's recommendations was approved by

the board the Mayor signed the contract within the Village of Dixmoor with Tower Construction for 1.25 million contract. Further this board voted and approved the payment of 20,000 to Tower Construction which has been paid to Tower Construction with regards to this matter in this contract. Also, this contract can be terminated by the owner's convenience that is correct, you don't get your money back and the contractor is entitled to his profit and overhead. So that's additional money that this Village will be paying to Tower Construction if it chooses to void a contract that was entered into in addition I assume if you re-bid it Tower Construction.

But right now what you have is this contract that's been signed and executed and this is a 1.25million dollar contract, I think that it is unrealistic to think you can void this contract and not be in litigation that what I think.

Trustee Michael Smith stated when did you look at this Mr. Thompson?

Attorney Hubert Thompson stated I looked at this the last time it was up.

Trustee Michael Smith stated, so you had no prior look at this before it was signed, for a matter of record.

Trustee Michael Smith stated after it was signed and dated by the Village President

Attorney Thompson stated that is correct.

Mayor Dorothy D. Armstrong stated Recommendation to Reject All Bids and Rebid The Community Center Redevelopment Project.

Motion by: Trustee Michael Smith to Reject All Bids and Rebid the Community Center Redevelopment Project also to add Tower Construction.

Mayor Dorothy D. Armstrong stated it is very clear that the Attorney Thompson have given you advice and the consequence.

Seconded by: Motion failed

Trustee Judnita Smith would like to know how much is the overhead profit and how much cost to the village.

Mr. John Thompson will have the information available on how much it will cost the village to get out of the contract with Tower Construction. (Information will be available at the next board meeting)

Trustee Judnita Smith stated with her reading that she do not want to use Tower Construction.

Mayor Dorothy D. Armstrong stated to the board is this something you would like to have before you take your vote.

Trustee Judnita Smith stated I would like to have the information.

Trustee Michael Smith stated he would also like to know what happen to the \$20,000.00 it was stated it was for Design and you read further it states before any design it will come before the board.

Mr. John Thompson responds they had to do an inspection of the facility to see if the building can even be done.

ORDINANCES & RESOLUTIONS

Mayor Dorothy D. Armstrong entertained a motion for AN ORDINANCE AMENDING CHAPTER 13, SECTION 13-12 OF THE VILLAGE CODE REGARDING NUISANCES FOR THE VILLAGE OF DIXMOOR COUNTY OF COOK, STATE OF ILLINOIS.

Motion by: Trustee Michael Smith
Seconded by: Trustee Judnita Smith

Discussion: Trustee Yolanda Williams-Corner asked Attorney Thompson was he able to look at the Ordinance and what was the exact amendment.

Corporation Counsel answered the Ordinance that was previous submitted to the board it preclude Officers acting as witness for a nuisance. The Ordinance has been amended and abandoning police officers from being witness has been stricken. The current Ordinance basic side and it is included on Page 3. Section 13-12 that a nuisance in the Village of Dixmoor will be whatever the state laws says. This new Public Nuisance Ordinance has different things that are consider a Nuisance. Mr. Thompson read some things that are a nuisance in the last Ordinance none was specified.

Trustee Yvonne Davis asked Attorney Thompson are saying that we are not going to deal with the State guideline and we are only going to go with the itemize things for a nuisance.

Attorney Thompson you are defining what a nuisance are and something are done by case law and this is the entire universe.

Trustee Yvonne Davis asked who proposal this Ordinance. Attorney Thompson stated the Delgado done this Ordinance.

Legislative James Vasselli answered he was asked to do this Ordinance by several Trustees.

Trustee Yvonne Davis asked the village should add all things that are nuisances.

Trustee Yvonne Davis stated she would like the two Attorneys to look at the Ordinance and she can't make a vote on it.

Mayor Dorothy D. Armstrong stated the Officers have to put in there what a nuisance is.

Trustee Yvonne Davis asked for both Attorney to explain why would you exclude a police officers and it seems to her that my opinion that this is streamline for somebody and she need to add something about what is a nuisance.

Legislative Counsel Vasselli stated there are case laws since 1950 and it has been going back and forth.

Trustee Michael Smith made a motion to end discussion and call a question for a vote for AN ORDINANCE AMENDING CHAPTER 13, SECTION 13-12 OF THE VILLAGE CODE REGARDING NUISANCES FOR THE VILLAGE OF DIXMOOR COUNTY OF COOK, STATE OF ILLINOIS.

Motion by: Trustee Michael Smith
Second by: Trustee Fitzgerald Roberts

Roll called showed Trustee Yolanda Williams-Corner-no, Trustee Yvonne Davis-no, Trustee Judnita Smith-yes, Trustee Michael Smith-yes, Trustee Fitzgerald Roberts-yes and Trustee Ira Rolark-yes.

Motion carried.

Mayor Dorothy D. Armstrong entertained a motion for approval of AN ORDINANCE AMENDING CHAPTER 13, SECTION 13-12 OF THE VILLAGE CODE REGARDING NUISANCES FOR THE VILLAGE OF DIXMOOR COUNTY OF COOK, STATE OF ILLINOIS.

Motion by: Trustee Michael Smith

Seconded by: Trustee Judnita Smith

Roll called showed Trustee Yolanda Williams-Corner-no, Trustee Yvonne Davis-no, Trustee Judnita Smith-yes, Trustee Michael Smith-yes, Trustee Fitzgerald Roberts-yes and Trustee Ira Rolark-yes. 15-DO-01

Motion carried.

PUBLIC COMMENT

Rev. Donald C. Luster spoke about:

- Commending John Thompson and Val Williams from securing grant for Village
- Commending Anthony Garth
- Tower Construction Contract
- Design build is not a healthy alternative for construction projects at this time.
- Village should pass an ordinance to designate an owner rep to represent the best interest of the Village
- Inspect what you expect
- We can't afford any more lost funds
- Mr. Cody cannot enforce these codes
- Don't lose this money because you won't get it again

Bishop Major Johnson spoke about:

- Make sure your paperwork is right
- When a lawsuit comes they can sue everybody sitting up there

Mayor Dorothy D. Armstrong stated

- The village was told by Governor Quinn to get all your paperwork in secure the money
- Mayor followed advice from Governor Quinn staff
- Mayor sign paperwork

Trustee Ira Rolark asked

- Rev Donald C. Luster to send him the template of the Ordinance
- bout the Representative Owner Rep

Clerk Juanita Darden stated

- send the information to me and I will send it to the board

Trustee Yolanda Williams-Corporation stated

- Thanks Rev. Luster for advice, Mayor have Corporate Counsel look into it
- Meet with John to let him know what direction we want to go in

Mayor Dorothy D. Armstrong stated

- Too much interference going on
- discussion came up when I was in Springfield for our Community Center
- I was told it was suspended until the end of the fiscal year and then they will re-visit this again

Trustee Michael Smith spoke about:

- Suspension of grant
- Illinois Dept. of Natural Resource is reviewing application
- Conversation with State Rep.

Resident Rose Jackson spoke about:

- Blames board for lack of oversight
- It's too late you should have taken better care of the residents' interest
- Don't sign anything until you get a full understanding
- Contact manager should have been a part of initial negotiation
- We are in need of a Village Administrator, someone who can implement

Trustee Fitzgerald Roberts spoke about:

- Never agreed for Tower Construction to be the Construction Company for this project
- We voted on the 20,000 for Tower not the 1.25 million
- Lock in a contract that we didn't know about
- Never seen the Contract
- we are not saying that John Mr. Muse or anyone was under the table with this people, all we are saying is that it's been a misunderstanding

EXECUTIVE SESSION

None

ADJOURNMENT

Mayor Dorothy D. Armstrong entertained a motion to adjourn the meeting at 8:45 pm.

Motion by: Trustee Michael Smith
 Second by: Trustee Fitzgerald Roberts

Roll Call: By consent

Motion carried.

Meeting adjourned at

Submitted May____, 2015
 Correction Submitted May__, 2015
 Approval May____, 2015

April 30, 2015 Special board meeting minutes motion call.

Motion By:
 Seconded By:

	YES	NO
--	-----	----

Trustee Yolanda Williams- Corner	___	___
Trustee Yvonne Davis	___	___
Trustee Judnita Smith	___	___
Trustee Michael Smith	___	___
Trustee Fitzgerald Roberts	___	___
Trustee Ira Rolark	___	___

ABSENT: _____

Juanita Darden
Village Clerk