

SPECIAL STREETS COMMITTEE MINUTES

March 10, 2009

The Special Streets Committee meeting was held on March 10, 2009, at North Royalton City Hall, 13834 Ridge Road. The meeting was called to order at 6:00 p.m.

Present: Chair John Nickell, Vice Chair Larry Antoskiewicz, Vince Gentile; **Council:** Gary Petrusky, Dan Kasaris, Mike Farrell; **Administration:** Law Director Tom Kelly, Service Director Kris Kamps, City Engineer Mark Schmitzer; **Other Attendees:** Joanne DuMound, Pat Jones, Wayne Phillips, Wayne Phillips, Jr., Nick Cinquepalmi.

NEW BUSINESS

1. Proposed Ordinance 09-29 accepting the bid of S.E.I. Excavating for the State Road Culvert #139 Replacement Project for an amount not to exceed \$113,559.55 as the lowest and best bid.

Mr. Kelly stated that the bid for the State Road Culvert was awarded to S.E.I. Excavating Company, however prior to the Council meeting where this bid was to be considered, an email was received suggesting that S.E.I. Excavating was a successor of Snyder Excavating, a company that had a terrible safety record with multiple violations including the death of an employee. Mr. Kelly said that this email prompted the Law Department to ask the Streets Committee to review this matter prior to awarding the bid. Mr. Kelly said that Mr. Phillips, owner of S.E.I. Excavating, did purchase a corporate entity, Snyder Excavating, in 2005 and that while Snyder Excavating has a checkered past with OSHA, S.E.I. Excavating has no violations that the Law Department was able to locate.

Mr. Gentile asked Mr. Schmitzer if there are any standards that the city has in place that require the bidders to divulge any previous OSHA violations. Mr. Schmitzer said no, there are not any standards in place. Mr. Gentile asked if S.E.I. Excavating was in compliance the day the bid was opened. Mr. Schmitzer said yes, S.E.I. Excavating was a qualified bidder.

Mr. Antoskiewicz asked how far back you are able to go when looking into OSHA violations. Mr. Kelly said he is not sure how far back records are kept, however, he said that when Mr. Jones researched this information he went back to 1999. Mr. Antoskiewicz asked if that means that all of these violations noted in the email occurred between 1999 and 2005. Mr. Kelly said that he did notice a violation for Snyder Excavating in 2007. Mr. Phillips said that the 2007 violation they are referring to was from another Snyder Excavating in Adena, Ohio. Mr. Phillips said the only violation Snyder Excavating had was in 2002. Mr. Phillips said that he was not the owner of Snyder Excavating at the time of the OSHA violation. He did not purchase Snyder Excavating until 2005.

Mr. Kasaris asked Mr. Kelly if we are able to go outside of the bid documents and bid specifications when determining who to award the contact to. Mr. Kelly said that Council has great discretion in making the selection of the lowest and best bidder.

Mr. Kasaris asked Mr. Phillips if Snyder Excavating is a completely different entity than S.E.I. Excavating. Mr. Phillips said when he purchased the company in May of 2005 he purchased it with the understanding that within five years, he would get rid of the name Snyder. He later changed the name to S.E.I. Excavating. Mr. Gentile asked if S.E.I. Excavating is a DBA. Mr. Phillips said no, this was just a name change.

Mr. Kasaris asked about the accident that occurred in 2002 involving Snyder Excavating. Mr. Phillips said that it was a trench failure where one of the walls caved in and an employee was killed. Mr. Phillips was not present when this accident occurred and he was not affiliated with Snyder Excavating when this accident occurred. Mr. Kasaris asked if any of his employees were affiliated with Snyder Excavating when this accident occurred. Mr. Phillips said that some of his current employees were affiliated with Snyder Excavating at the time of the accident. Mr. Kasaris asked if there was any litigation as a result of the death that occurred during this accident. Mr. Phillips said that the gentleman who was in the trench at the time the wall caved in was rescued by another employee, but that employee was the employee who

was killed as a result of the caved in trench. The gentleman who was rescued sued Synder Excavating, but the case was dismissed and settled out of court. Mr. Kasaris asked Mr. Phillips where he was working at the time of this accident. Mr. Phillips said he and his son had their own excavating company called Wayne Phillips Excavating.

Mr. Kasaris asked if there is any other management personnel for S.E.I. Excavating. Mr. Phillips said they have foremen, but no superintendents. Mr. Phillips said if the city reviews other bidders' OSHA records, he is certain they will find S.E.I.'s record pretty impeccable. Mr. Kasaris asked if he is a separate entity than Snyder. Mr. Phillips said that 90 percent of the employees that are working for him today, are the same people who worked for Snyder Excavating. Mr. Phillips said that Jim Snyder, who ran Snyder Excavating prior to him purchasing the company, retired. He said his record has been impeccable since he took over the company and said they have no violations.

Mr. Farrell asked Mr. Schmitzer if he has any issues with S.E. I. being awarded this contract. Mr. Schmitzer said he actually did some checking of his own and contacted several people who have used S.E.I. Excavating. He said he called Scott Goldberg who has worked with Snyder Excavating, and Mr. Goldberg gave them a glowing recommendation. He also contacted Rusty Rosewicz in the Wastewater Department, who was an inspector on the Huntington Park Subdivision when S.E.I. was working on that project. Rusty stated that they are probably one of the top contractors in the city. He also contacted Rick Capone, President of QCI who has worked with Snyder Excavating and S.E.I. and although he did not have an opportunity to get them to Mr. Schmitzer, he said he would provide him with letters of recommendation.

Moved by Mr. Antoskiewicz, seconded by Mr. Nickell **to recommend Ordinance 09-29 accepting the bid of S.E.I. Excavating for the State Road Culvert #130 Replacement Project for an amount not to exceed \$113,559.55 as the lowest and best bid.** Yeas: 3. Nays:0. **Motion carried.**

ADJOURNMENT

Moved by Mr. Gentile, seconded by Mr. Antoskiewicz **to adjourn the meeting.** Yeas: 3. Nays: 0. **Motion carried.** Meeting adjourned at 6:13 p.m.