

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota

November 27, 2006

Pursuant to due call and notice thereof, a special meeting of the City Council of the City of Rapid City was held at the City/School Administration Center in Rapid City, South Dakota on Monday, November 27, 2006 at 7:00 P.M.

The following members were present: Mayor Jim Shaw and the following Alderpersons: Michael Schumacher, Karen Olson, Ron Kroeger, Sam Kooiker, Malcom Chapman, Tom Johnson, Lloyd LaCroix, Bill Okrepkie, and Bob Hurlbut; and the following Alderpersons arrived during the course of the meeting: None; and the following were absent: Deb Hadcock.

Staff members present included Finance Officer Jim Preston, City Attorney Jason Green, Civic Center Manager Brian Maliske, Growth Management Director Marcia Elkins, Public Works Director Dirk Jablonski, and Administrative Coordinator Jackie Gerry.

Mayor Shaw indicated the City Council would discuss the Rushmore Plaza Civic Center Multipurpose Addition – Bid Package 2, Project No. IDP06-1555.

Public Works Director Jablonski summarized the events of the development of the Civic Center project noting this project was originally intended to be designed and constructed in two phases to take advantage of the 2006 summer construction period. January 2006 the City entered into a design contract for a 4,500 seat arena at an estimated construction cost of \$14,297,000. March 2006 the project scope was expanded to include suites, a club area, and the addition of 250 general seats at an estimated construction cost of \$17,097,000. May 2006 the City opened bids for the site and foundation improvements and the low bid was \$1,446,000. The contract was not awarded until an estimate was reviewed for phase 2 of the project. Later in May 2006 a design estimate was presented by enVision Design in the amount of \$17,968,000. Jablonski noted that the consultant used an independent consultant, Building Cost Consultants, Inc. to review the project and their estimate was \$17,792,000. June 2006 the construction contract for the site and foundation improvements was awarded. October 2006 the estimate was prepared after the final construction documents were completed for Phase 2, a 120,000 SF addition to the Civic Center. He noted that estimate was set at \$18,401,000. Late October 2006 the bids were received and the low bid with the alternates totaled \$23,524,000. In the essence of time, staff asked the City Council to include the foundation beams in Phase 1, resulting in a construction change order for an additional \$138,000. He noted that the beams did not increase the cost of the project, but merely moved the costs from Phase 2 into Phase 1.

Chapman moved, second by Olson that during the Public Comment period, each speaker be allowed five minutes of Public Comment time. Motion carried.

Brian Volken, enVision Design indicated they enlisted the help of Leo A. Daly, a large architectural company in the United States who are experts in event center design. He explained that they also enlisted the help of local professionals – Albertson Engineering for structural engineering, Skyline Engineering for mechanical and electrical, Rink Tech for ice sheet design and engineering, Skydrive for acoustical engineering, and American Engineering & Testing for geotechnical.

Volken explained that the high bids for this project resulted from rising costs for material and labor, and an over-aggressive construction schedule. In order to move forward, Volken suggested several questions need to be answered, i.e. – what was the design teams asked to do, what was designed, what are some of those key decisions that were made along the way, and why were the bids so far over the estimate.

Volken explained that the design contract was based upon a preliminary design that established the basic parameters of the building. Volken reiterated that the original intent was to design and construct in two phases. He explained that the 4,500 seat arena is intended to support professional hockey teams, other sporting events, and concerts. The budget to support the work was a little over \$14 Million. A contract amendment was approved and signed to increase the arena size to add suites, sky boxes and added general seats, increasing the budget over \$17 Million. Volken explained that there are three phases of a design process – preliminary design to illustrate the scale of the project and a general construction cost; the next phase being the design / development drawings; and the last phase is the construction document -- drawing the details. The expansion is designed with 5,007 seats in the ice configuration, 6,000 for the end stage concert configuration, 5,400 for basketball, 12 skyboxes, club seating, and the finishing is basic with no frills. He indicated key decisions were made, the first being to separate the site package and begin early construction. When at the end of the design / development stage, they would stop and reassess the project. Because the project was schedule driven, to keep the project moving along, the commitment was made on the size of the project. Volken indicated the budget was based on the design; and in May when the budget was presented it was within the budget and verified by Leo A. Daly. The estimate for the budget was also compared to the National Standard for Cost Estimating, which is the RS Means Manual that is updated quarterly. As a last insurance, an independent cost estimating firm was consulted.

Volken outlined the process of developing the estimates as quantities, cost to buy the quantities of materials, totaled, and add the cost to install, and add the markup from a contractor which would include profit, general conditions, and risks. Volken explained that the information used by a consultant to develop estimates are lagging indicators; information that is dated. The contractor, when submitting a bid will use costs that are accurate on that day. He suggested that competition affect prices.

Why were the bids high? Volken indicated that market unpredictability was an influence, the lack of competition, and an increased risk to the contractor. The schedule of the project dictated the risk to the contractor. The contractor was required to complete the project in twenty months with four work stoppages. There were significant penalties assessed for the four mild-stones. He indicated that the two contractors, who submitted bids, did not plan to make the four mild-stones. The professionals in this business have indicated that the project can be completed in twenty to twenty-four months without work stoppages.

Volken indicated the City has three options – take no action and cancel the project; modify the existing plans, remove the scheduling restrictions and rebid the project; or do a major redesign to make the building fit the budget. Volken recommended the City allow enVision Design to modify the existing plans, removing the scheduling restrictions, and rebid the project. He indicated that the exercise of modifying the plans will be at no extra cost to the City, and will be born by enVision Design.

Alderman Johnson indicated his support for the second option and suggested the City needs to move forward in a positive fashion as the Civic Center is considered to be the crown jewel. In response to a question from Alderman Chapman, Volken indicated that the bids are what they are and the contractor is the one making the projections. Volken recommended the City rebid the project as soon as possible, because the inflation is outpacing the power of the City's money. Responding to a question from Alderman Schumacher, Civic Center Manager Maliske indicated that what they have budgeted for the following year is approximately \$500,000 which will be used to finish the furniture, fixtures and equipment that is needed. In response to questions from Alderman Kooiker, Ken Anderson, enVision, indicated that the energy plant will not be used to provide power other than a supplementary power to the building. The expansion is a stand-alone building. Maliske noted that the energy plant is the same age as the Civic Center; it is twenty-nine years old. He indicated that there are parts that have had substantial rebuilds and modifications, and there other parts of the plant that are twenty-nine years old. The hearing of the Civic Center works well and the cooling of the Civic Center has always been a challenge. When originally designed in 1997, the Civic Center arena did not have air conditioning, it was added later. As time goes, especially from the cooling side, this will need to be looked at in conjunction with the Central High School. Volken, responding to a question from Alderman Kooiker, indicated there was no contingency.

At 8:21 P.M. the Chair recessed the proceedings and reconvened at 8:31 P.M.

Responding to a question from Alderman Kooiker, Jablonski indicated that when the advertising amount was set, it matched the estimate at the time. After the bid authorization was approved, the bids were let and at the point staff received another estimate which was higher than the bid authority and was after the bids were let. The decision was made at that time, to let the bids come in, hoping they would come in at the budgeted amount. There was some potential for some funding from the Civic Center to cover a shortfall, if it was reasonable.

Finance Officer Preston indicated that staff with members of the Council to discuss various funding options in the event the Council would decide to proceed with the Civic Center expansion project. He explained that the figure being used is \$6.5 Million. He explained that the options discussed included naming rights, restoration fee for each ticket sold for an activity at the Civic Center, parking fees, larger percentage of the restaurant, lodging and liquor tax, additional skyboxes, and marquee. Three options were proposed for consideration. Option 1 is to loan the Civic Center \$1.4 Million from the SAB 28 Fund and another \$1.6 Million from CIP to be repaid over a fifteen year period beginning in 2010. The remaining \$3.5 Million could be financed as a 2012 economic development project by moving a portion of the Futures Fund and Street Improvement allocations into the unfunded year of 2011. It is noted that an ordinance change would be required because the intent would be that 2012 funding and projects would be considered on a running five-year plan. Option 2 is to loan the Civic Center \$3 Million from SAB 28 Fund to be repaid over a fifteen year period beginning in 2010, and authorize expenditure of \$3.5 Million from CIP by reallocating projects or eliminating CIP Contingency of \$350,000 per year and reducing City Owned Buildings in 2008 by \$200,000 and adding that amount o 2009. Option 3 is to issue \$6.5 Million in 20-year sales tax revenue bonds with annual payments of approximately \$520,000. Sales / excise backed revenue bonds to not require an election. The City would be required to loan the bond payments through 2009 when the Civic Center pays off its existing loan from CIP. At that time, the \$259,355 the Civic Center is currently paying on that loan will be available for debt redemption on the new issue. Additional revenue sources must

be developed to fund the remaining \$260,645 of the debt service. Preston indicated that staff's recommendation is Option No. 1.

Alderman Johnson indicated that the SAB 28 fund has more money than the \$1.4 Million. He pointed out that there are the .16 funds available for any assessed project, and the SAB fund will be repaid. He also pointed out the CIP is out of the reserve balance, and there would be no projects cut if money was borrowed from the CIP, but the balance would be reduced. The remaining \$3.5 from 2012 only extends the Futures Fund and street improvements. Johnson believed Option No. 1 does not negatively impact projects and maintains the 2012 program. He offered support for a running five-year 2012 program. Alderman Okrepkie favored Option No. 1 as projects are carried forward to future years. Preston, in response to a question from Alderman Okrepkie, explained that the adjustment to the CIP Government Buildings moves a project for a new fire station for north Rapid. Alderman Olson reminded the members that there were talks with the Economic Development Partnership about a three-year program and commitment to supporting the investment at the School of Mines. Under Option No. 1, Mayor Shaw indicated there are no funds available in 2008 and 2009 and not enough in 2007; but pointed out there is no formal proposal to the City by the Economic Development Partnership. He indicated that there is a potential for other funding sources, such as the Black Hills Vision. Alderman Kroeger questioned what happened to the discussion about extending the bonding of the 2012 for an additional year. Preston indicated that staff looked at bonding, but did not explore extending the bond for another year. Kroeger indicated concern about using funds intended for street improvements and did not favor the three options presented. Alderman Johnson outlined that if Option No. 1 is chosen, it requires an ordinance change; there would need to be a 2012 hearing; and Council would have to direct staff to amend the ordinance to allow a five-year running plan. Alderman Chapman indicated concern over the options presented, questioned what would happen if a proposal came forward for the Futures Fund, and suggested another meeting to discuss the options once the Council has had an opportunity to review the options. Chapman supported moving the expansion project forward. Alderman Schumacher did not support using funds intended for street improvements or adjusting funds of the Future funds. Alderman Johnson pointed out that Option No. 2 takes \$3 Million from SAB 28, which takes all the money for assessments. It also takes \$350,000 in Capital Improvements Contingency, which stops projects. It takes away money and does not repay the funds and eliminates possible projects. Johnson also pointed out that if the intent is to fund the expansion, is to cut a project or look at future years in 2012. He urged the Council to direct staff to bring forward an ordinance amendment for a running five-year 2012 program.

Kooiker moved, second by Schumacher to ask the consultant to proceed with modifying the existing plans, removing the schedule restrictions, and bring forward a revised construction estimate to include a reasonable contingency. Volken indicated that it would take approximately two weeks to make changes to the plans, reprint the plans, and readvertise the project. Also need to give the contractors a minimum of thirty days to prepare the bids. The middle or third week in January bids could be opened. Alderman Kroeger stressed that he did not support a five-year running 2012 program at this time. Alderman Hurlbut offered support for a five-year running plan to avoid dash-for-cash with the beginning a new round with the 2012 program. Johnson asked the Council to direct the City Attorney to bring forward, for consideration at the Legal & Finance Committee, an ordinance amendment for a five-year running program; set a 2012 hearing; and direct the Finance Officer to look into the possibility of extending the bond another year. He indicated that the consultant may modify the plan, but the City can not let the project for bid until the City knows how it will pay for the project. Chapman indicated that it is

not necessary to talk about an ordinance change if another option, other than Option No. 1, is considered. He indicated there needs to be a larger discussion about 2012.

The Chair declared the meeting was open public comment.

Steven Brenden, Rapid City asked the Council not to rush through the process, and offered support to have the plans modified with a revised construction estimate. Dan Michael, Rapid City read the mission of the Rapid City Council about providing a cost effective public administration that ensures public trust. He pointed out that the consultants, who desire the expansion, did it to the best of their ability. He indicated the contractors bid the plans as they see the plans and put in their contingencies to cover their costs. He believed the consultants put in contingencies in their design to cover their expenses. Finance Officer Preston, in response to a question from Michael about debt service, explained there are two debt service – debt service payment for existing through 2007; and the new issue for a total of \$6.2 Million. He suggested putting all 2012 projects on hold and taking care of the Civic Center. Don Frankenfeld, Rapid City suggested that what is missing is a cost-benefit analysis. He offered support for the Civic Center because he thinks it is feasible. He asked to know the benefits that would be generated from the expansion project. He suggested that it should not be difficult to sell revenue bonds to the finance the project, if the project remains feasible at \$22 Million. He indicated that it makes sense for the Civic Center to ultimately be responsible for discharging the revenue bonds. Frankenfeld believed there is another option, Option No. 4, which is borrowing more money with the City being the borrower, and loan the money to the Civic Center and expect repayment.

The Chair called for a vote on the motion to ask the consultant to proceed with modifying the existing plans, removing the schedule restrictions, and bring forward a revised construction estimate to include a reasonable contingency. Motion carried.

Johnson moved, second by LaCroix to direct the City Attorney to prepare, for consideration for Council at a future Legal & Finance Committee meeting, for a five-year running plan on 2012; and have additional discussion on that agenda regarding other 2012 options.

Substitute motion was made by Olson to ask the Mayor and leadership and staff put in place the process to further define and discuss how we are going to move forward with the issue. Second was made by Kooiker for discussion purposes. Alderman Chapman suggested the first step is to set a meeting of the 2012 Committee and asked the Mayor’s Office to poll the Council for a meeting date.

Second substitute motion was made by Kooiker, second by Chapman to ask the Mayor’s Office to poll the Council on a meeting date to happen within the two weeks, for a 2012 Committee meeting. Motion carried.

As there was no further business to come before the Council at this time, the meeting adjourned at 10:28 P. M.

ATTEST:

CITY OF RAPID CITY

Mayor

CITY COUNCIL

NOVEMBER 27, 2006

Finance Office

(SEAL)