

**PAROWAN CITY COUNCIL MEETING**  
**MAY 4, 2015**  
**LIBRARY LOUNGE, 16 SOUTH MAIN, 5:30 P.M.**

**MEMBERS PRESENT:** Mayor Donald Landes, Councilmen Alan Adams, Troy Houston, Ben Johnson, Steve Thayer (via telephone), Steve Weston, City Manager Shayne Scott, City Recorder Callie Bassett

**MEMBERS ABSENT:** City Attorney Justin Wayment

**PUBLIC PRESENT:** Larry Pendleton, Nate Thayer, Jay Orton, Worth Grimshaw II, Scott Stubbs, Neil O'Brien

**CALL TO ORDER:** Mayor Landes called the meeting to order at 5:30 p.m.

**OPENING CEREMONIES:** Councilman Johnson opened the meeting with an invocation. He then led the Council and the public in the pledge of allegiance.

**DOES ANYBODY HAVE ANY CONFLICTS OR PERSONAL INTEREST IN ANY MATTER ON THE AGENDA WHICH NEEDS TO BE DECLARED?** No conflicts were declared.

**NEW CITY OFFICE CHANGE ORDER CLARIFICATION:** Mr. Scott said is taking responsibility for a lot of the problems and concerns with the last meeting because of his naïveté not only of construction in general but specifically about the design/build process. He said if he had to do things over again, he wouldn't have called this a change order.

Mr. Scott said he would like to have a discussion here tonight about the differences between the design/build process and the traditional process where the subcontractor contracts with the City to do specific things. What they were talking about last time was the foundation specifically, and that is a subcontractor of the contractor the City has and the team they have chosen. This team consists of Larry Pendleton, Kim Campbell and Alpha Engineering to some degree as well. Mr. Scott said he thinks there are a little bit of different kinds of scrutiny that we have the ability, not only legally but ethically, in scrutinizing a contractor that is Mr. Pendleton's. Mr. Scott thinks Mr. Pendleton is being very good about giving the City the full picture, and although he feels the Council should discuss why this is so much higher than the estimate, at the same time these are Mr. Pendleton's subcontractors. In Mr. Scott's opinion he would like to take back the idea of a change order, because to him it is not a change order until it goes over the contracted amount which is \$1.8 million.

Mr. Scott said if the Council will listen to what Mr. Pendleton says, they will either feel good about this process or they will have more questions and will maybe make some different decisions based on what he has to say.

Councilman Johnson explained that in the procurement process there is risk involved. He explained the differences in risk between the design/bid/build process, the cost plus percentage process, and the design/build process. In the design/build process we are looking for the best value, not necessarily the lowest cost. The risk is shared with the contractor. That is why it feels different than a low bid project. Everyone seemed to understand this explanation.

Mayor Landes said that the problem that has been created by this is the tremendous difference between the bid and the estimate for the foundation. Mr. Pendleton explained why this happened. He said that when he first did the estimate and got the square footage and design, he called a really good contractor (Tyler Allred) who does a lot of foundations and asked for an estimate for four foot walls and nine foot walls (without seeing any plans). He gave him an estimate on 4' walls, 8" thick, with standard footings. That's what Mr. Pendleton came into the bid with.

Mr. Pendleton said from the concept they came up with for the building, the foundations come up out of the ground approximately 3 feet. When they started designing the building, the architect, the engineer and he all had different ideas about how to do the foundation. They looked at several ways to do the walls. The way they have agreed on is very labor intensive.

After deciding how the foundation/walls were going to be done, Mr. Pendleton asked contractors to bid on this. He asked Allred & Allred, Bang Concrete, K. Burrows Construction, Spendlove & Johnson, and KW Concrete to bid. Pendleton Building also put in a bid. Of all those bidders Bang Concrete, K. Burrows, and Pendleton Building submitted bids. Mr. Pendleton said that every one is busy. He said Tyler Allred has so many jobs he's probably working 14 hours a day. He said because this job is so complicated, people aren't really interested. K. Burrows bid came in at \$150,000. Bang Concrete's bid came in at \$48,702.00 for the walls only. Mr. Pendleton said Bang doesn't do footings. Mr. Pendleton combined his expense for the footings with Bang's expense for the walls which is Pendleton Building's bid for \$88,000.

Councilman Johnson asked Mr. Pendleton if they had a good set of plans to bid off of. Mr. Pendleton said the plans were not that good. He said you really had to print out a large set and then scale them. The architect doesn't like to give out measurements on a structural set until it is a stamped set. It involved more time to scale them. Councilman Johnson asked if he thought they were throwing money at it because the plans were a little incomplete. Mr. Pendleton said the plans weren't incomplete – only the measurements. He said the details were there. He just thinks the job is labor intensive and the other guys are making easier money right now. One good thing about changing the design is that the cost of the excavation went down considerably. Mr. Pendleton said if we don't want to give him the change order on this, he will just take the extra on the excavation and call it square. ☺ Councilman Johnson asked how this will impact other areas of the project and if he anticipates whether this will continue to snow ball and increase costs. Mr. Pendleton said this will have positive impact on the project.

Councilman Johnson asked Mr. Pendleton what he is requesting now. Mr. Pendleton said he doesn't really think this is a change order. He said after they get through 5 or 6 line items, they are going to be in the black. Councilman Johnson said this is just part of the design process. He said he appreciates the information and Mr. Pendleton bringing it forward. He said he doesn't

think he will get approval to go over the total budget amount on this project. Councilman Adams said we can't go over the \$1.8 million. He said he knows that and he knows Mr. Pendleton knows that. This just got everyone running a little scared.

Mr. Pendleton stated this is the part of the design/build that is hard to wrap your mind around. There will be things that come along that the City is going to want. He said finish packages can really drive up the costs. He said when they come and present finish packages they can either save us a little money or you can spend a little more. That is up to the Council. That's the whole process. It's kind of hard to wrap to wrap your mind around, but that's the way it is. Mr. Pendleton said what they did, in a nutshell, is to keep the look we want that will be durable and hold up. It cost more money to maintain that look.

Councilman Weston said he's now builder so he appreciates Mr. Pendleton leading the Council through this process. He asked, looking back, is there something we wished we had done differently to get us here. Councilman Johnson said this is just how the design/build process works, and it doesn't surprise him for a design/build. He said if you don't want this headache then you go through a design/bid/build process, but you still run into unforeseen challenges. He said in this you end up robbing Peter to pay Paul. It is a challenge because it becomes a team effort. You won't always get the lowest price, but hopefully you get the best value.

Councilman Weston said he just doesn't want us to have to end up cutting corners or decrease quality in order to stay in budget. Mr. Pendleton said they have the stamped drawings now so everything is called out and he thinks we are in pretty good shape. Mr. Worth Grimshaw spoke up and said that Mr. Pendleton won't cut corners. He said he knows Mr. Pendleton wants to do a good job and have a nice looking building. He said he is just worried about staying on budget. Mr. Pendleton said he is concerned about that too. Mr. Nate Thayer spoke up and said he doesn't want to see them pulling money from the end to the very beginning so there is less money to finish at the end. Councilman Johnson said Mr. Pendleton is contractually obligated to give us a certain finish.

Mr. Nate Thayer discussed why different options for the foundation weren't considered. They discussed foundations and why Mr. Pendleton is doing it the way they decided on. Mr. Pendleton said they kicked around a lot of options.

Mayor Landes asked Councilman Thayer if he was still awake and with us (via telephone). Councilman Thayer said he was getting most of the information. He commented that he doesn't want the quality of the building to be jeopardized at all, and wants to see it stay within the budget. He said going \$40,000 over on this first item gave him heartburn. But he could see that Mr. Pendleton looked at different options and tried to several different things. He said he will just keep listening.

Mayor Landes asked the Council if they had any questions or comments. Councilman Johnson encouraged Mr. Pendleton to continue to look for local sub-contractors. He said the Council's preference is to see the local contractors have a chance to bid. He also said that one thing he was impressed with as we went through this process is that Mr. Pendleton is part of Parowan, always has been. He knows he wants this building to be a gem for Pendleton Building as well as

Parowan City. He said maybe there are contractors who would be willing to take a little bit of a hit to do that same thing locally. He asked that he please visit with them and give those local guys an opportunity.

Mr. Pendleton said they did modify and get the grading down to where it was a lot more affordable. With that being said Johnny Orton of Orton Excavating wanted to do this job. Their pricing was reflective of that. Mr. Pendleton said they are doing a great job.

Mr. Pendleton said they sent a letter out to all of the contractors in Parowan. He said he couldn't create his schedule until they started pouring footings. He said once they can start the footings and foundation, their will be a critical path schedule. He said he will send this out and everyone is welcome. They want the local contractors who feel they can meet the schedule.

Mr. Nate Thayer spoke up and asked how that process of gather bids works. Mr. Pendleton said he is the general contractor and he gathers the bids. Councilman Johnson said it has nothing to do with the City. Mr. Thayer said there are a lot of local foundation contractors, so gathering bids from contractors that are far away who you know will be higher than local guys, he asked if there was any oversight or preference to giving the local guys the bid. He said he feels there is still an opportunity to get a foundation for a lot cheaper. Mr. Pendleton told Mr. Thayer that on the next job he gets he can do it the way he wants. Mr. Thayer said he is just concerned about the City's money. Councilman Johnson pointed out that Mr. Pendleton is under contract with the City to perform on schedule too. Mr. Thayer said Mr. Pendleton is a good man and a good contractor, but to him \$40,000 is more important than going a couple of weeks over on the schedule.

Councilman Johnson said we are not approving a change order tonight; it is more thank you for the information. Councilman Adams said he doesn't think there is any decision to be made. Councilman Johnson said he is pleased and asked Mr. Pendleton to keep the Council in the loop. Councilman Adams said there is a meeting every Tuesday.

Mr. Pendleton showed the Council the plans and the detail that they are doing on the foundation.

There was a discussion among the Council about how the proceedings for the special meeting on Thursday will go. They will be choosing a Council member to replace Councilman Weston when he leaves at the end of the month.

**ADJOURN:** Councilman Houston moved to adjourn the meeting. Councilman Johnson seconded the motion. All Council members voted in favor of the motion. The meeting was adjourned at 6:18 p.m.

Signatures on following page.



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Donald G. Landes, Mayor



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Callie Bassett, City Recorder