

Special Commission Meeting Minutes
October 31, 2023
5:30 pm

Mayor Scott Roberts said before we begin the official meeting of the Starke City Commission there will be a time of voluntary prayer. Those willing to do so are asked to stand and Commissioner Redding will lead us in prayer and the Pledge of Allegiance.

Mayor Roberts called the meeting to order at 5:30 pm.

Members attending included Mayor Scott Roberts, Commissioner Danny Nugent, Commissioner Andy Redding and Commissioner Shannon Smith. Also present were Executive Assistant Cathy Bradley, City Clerk Jimmy Crosby, Deputy Clerk Lisa Heeder, Attorney Clay Martin and City Manager Drew Mullins. Commissioner Janice D. Mortimer was absent.

Mayor Roberts asked if there were any agenda changes. Clerk Crosby asked to add public participation. Mayor Roberts entertained a motion to approve the agenda. Commissioner Smith made a motion to approve the agenda with public comments. It was seconded by Commissioner Nugent. The motion passed 4-0.

Mayor Roberts asked for public comments. There were none.

Mayor Roberts called for the real property acquisition proposal rankings. He asked Clerk Crosby to give an introduction. Clerk Crosby said they put out a proposal for any properties in a certain geographical area. He said we had two that put in a proposal. Clerk Crosby said 320 East Call Street received the highest ranking at 139. Property B was 435 East Madison Street and it's ranking was 127. Clerk Crosby said the offer for property A was \$225,000 and the offer for property B was \$280,000. Clerk Crosby said the ranking team ranked both of them and both are acceptable pieces of property for the city to consider. He said they have identified \$225,000 in ARA money but have not identified funding for the \$280,000 but if the commission is interested in it they can check into possible funding. Mayor Roberts asked if anyone had any questions. Commissioner Smith asked if they need to make a motion to accept the rankings. Attorney Martin said if it was a bid process then you would accept rankings but with a request for proposals you are not locked into the rankings. Commissioner Smith asked about an environmental review. He said he would like a purchase to be contingent on it passing phase 1. Clerk Crosby said they have not done an environmental review but that would be the next step. Commissioner Smith said they should consider whether or not retention ponds would be necessary. Commissioner Nugent said they could do a lot with that property. He asked if the other property is Bug Blocker. Clerk Crosby said yes, it is right between the two churches. Commissioner Smith asked if there was any interest from the churches. Clerk Crosby said no. Mayor Roberts said the environmental review should be done anytime they are looking at land.

He said he prefers property A but would like to open up negotiations for property B.

Commissioner Nugent made a motion to move on purchasing property A and same motion start looking at property B and see where that takes us down the line. Mayor Roberts said let's go ahead and make that two motions. Commissioner Nugent said ok property A is the first motion and let someone else make the second motion. Attorney Martin said I was going to say before a second motion is offered on that let me make a couple of observations here. The proposal submitted by property A technically did not comply with the request for proposals we sent out and the way it did not comply you have them in front of you and if you will look at parcel B there is some pre-typed in language in paragraph 3 and then paragraph 4 where it says that close on or before 60 days following the effective date. That was intentionally put in the proposal to allow us the time to be able to do a phase 1 and if a phase 1 determined that we needed to move on and do a phase 2 there were also some extensions to the 60 day period and some language in the paragraph and you can see the language that was included in parcel B if you look in paragraph 23 at the end the due diligence extension and so that allowed for some extensions of that 60 day period to finalize any due diligence that needed to be done but as property A submitted their proposal they have given us a hard and fast 30 day due diligence period and December 8th close date and under conditions I don't even know if it would be possible to get a phase 1 done and have an analysis done and determine if we need a phase 2 or not within that time so if the commission does proceed to move to enter into a contract on property A I would suggest that you may want to end that motion with that it be that we enter into a contract with property A but only on the terms and conditions that were in the request for proposals because I think the thing the seller needs to understand when they are doing business with a governmental entity we are giving them their asking price but the trade off for giving them their asking price is that they've got to work with us to make sure that the public's dollars are protected by making sure that this is not an environmental hazard that the city is taking on. Mayor Roberts said I want to make sure that I followed that that be included in the motion but that does not throw out anything. We can just push forward with that like any property that you start negotiations as far as we come back and do that but we can vote to move forward with property A. Commissioner Smith said by using the terms of property B's contract. Commissioner Nugent said no. Mayor Roberts said that was a question to you. Attorney Martin said so this was not an invitation to negotiate. It was an invitation to them to give us their proposal to sell us the property based on the parameters that we were willing to work with them on which was effectively price and that that was it but the other parameters were not negotiable under the RFP and so they are willing to sell it to us at this price on the terms that were set forth in the RFP then we are ready to move forward to contract and it's not a negotiation per say and that was you know it's very clear in the RFP document itself and of course the property B proposal seems to get that but property A did not. Mayor Roberts said so we can move forward with the way we laid it out with property A in the RFP. Attorney Martin said correct and we can sign that and move to contract if they want to. If they don't want to we just wouldn't go under contract on it. Commissioner Smith said basically they didn't follow our RFP. Attorney Martin said correct. Mayor Roberts said so we can accept the ranking which would go forward with property A as it read in our RFP so therefore we can still move forward as outlined in our RFP. Attorney Martin said correct. Mayor Roberts said so that's the way the motion should state. Clerk Crosby said you'll tell me what that means later. Attorney Martin said yes that we just need to put their price into our form that's truly the only thing we asked them to fill in is the price and they put in a price but

changed a bunch of other stuff and terms that we didn't want changed so if they will move forward on our terms on proposal A then we are ready to go to contract. Clerk Crosby asked are we being directed to do an environmental study in 1 week. I don't even know if that can be done and what expense it is and if we can go on their property. He asked where we are on that. Attorney Martin said so the contract allows us to go on their property to do the environmental study and we have 60 days plus 2 extensions. Clerk Crosby asked on A. Attorney Martin said under our proposed contract we can do that for 60 days and we have permission to go on and do that. We would as a follow up motion. Attorney Martin said perhaps ask the commission to approve us moving forward with one of our preapproved engineering firms to commence the environmental review assuming one has the ability to do environmental studies. He said I'm not sure if they do or not. He asked Mr. Mullins if any of them are qualified to do environmental studies. Mr. Mullins said Kimley Horn and Woodard and Curran are. Clerk Crosby said so the manager will get those studies done and if they are clear this motion passes and we can go ahead with the contract or does it have to come back to the commission. Attorney Martin said no we would sign the contract and then commence the studies. He said if the studies come back we have 60 days to withdraw from the contract for any reason. Clerk Crosby said ok. Commissioner Nugent said he is going to change his motion and reword it. He said his motion is to approve the purchase of A with it meeting the criteria of our RFP with the seller's agreement to do so and that's all. Commissioner Smith asked attorney Martin if that works. Attorney Martin said he would add to that on the terms and conditions of the RFP. Commissioner Nugent said that's what he said. Mayor Roberts said we have a motion. Commissioner Smith said he will second it. Commissioner Nugent asked if he could ask a question. He said just for clarity in your writing because I ain't read your whole thing Clay what you're talking about it does say about the soil test in there. Attorney Martin said we can do any kind of test. He said if it turns out it's not suitable for our purposes then we can terminate the contract. He said soil or anything. Mayor Roberts said we have a motion and a second he asked for any further questions. Clerk Crosby asked Mr. Mullins if he is clear on what he needs to get for us. Mr. Mullins said yes. Mayor Roberts said all in favor say aye. The commissioners all said aye. Mayor Roberts said the motion carries 4-0.

Mayor Roberts said we had another submission for the RFP request which is 435 East Madison Street. He asked what the pleasure of the commission would be on this one. Clerk Crosby said there is concern about the price but we could negotiate a note with the seller. He said he could look at options. Mayor Roberts entertained a motion. Commissioner Nugent made a motion that we entertain, explore the possibility of purchasing after the clerk researches it and sees if the price is what we can afford. Mayor Roberts said and negotiate within a wide range of information. He asked if that is Commissioner Nugent's motion. Commissioner Nugent said yes sir. Mayor Roberts asked if there was a second. Hearing none he passed the gavel to Vice Mayor Redding and made a second. Commissioner Smith said he would like the clerk to look into the funding issues. He said if there was a grant he would definitely be interested. Mayor Roberts agreed and said when it's brought back to them they could decide they can't afford it. Commissioner Smith asked how long the RFP would stay open. Attorney Martin said he thinks they have to hold these open for 90 days. Andy Redding said we need to treat this move as a feasibility study. Clerk Crosby said the motion could be amended to make it a feasibility study and bring back possible proposals. Attorney Martin said the RFP required the owner to hold the property off the market through tonight's meeting. He said he is going to bring an ordinance back to the commission that would

allow them to entertain purchasing properties without having to go through this process to do it. Commissioner Nugent asked if it could be ready for the next meeting. Attorney Martin said probably by the end of the year. Vice Mayor Redding said we have a motion and a second all in favor say aye. The commissioners all said aye and the motion passed 4-0. Vice Mayor Redding passed the gavel back to Mayor Roberts. Commissioner Nugent asked Mr. Mullins when he can have the inspection. Mr. Mullins said he will get back to them. Attorney Martin said we should not get it until we are under contract.

There being no further discussion Mayor Roberts entertained a motion to adjourn. Commissioner Nugent said he will not be at the next meeting. Commissioner Redding made a motion. It was seconded by Commissioner Smith. The meeting was adjourned at 6:03 pm.