

COMMITTEE OF THE WHOLE MEETING

The Common Council of the City of Ashland will meet as the Committee of the Whole on **Tuesday, January 9, 2018** immediately following the City Council meeting which begins at **6:15** p.m. in the Ashland City Hall Council Chambers.

The following items will be considered:

1. Roll Call
2. Council President's Report
3. City Administrator's Report
4. Approval of the Agenda
5. Discussion and Possible Action on Preliminary Design Details for the 6th Street East Project (Public Works)
6. Discussion and Possible Action Related to Alley Upkeep and Maintenance (Councilor Ortman)
7. Discussion and Possible Action Related to Legal Representation for the Highway 2 Sewer Litigation Issue (Councilor Ortman)
8. Discussion and Possible Action Related to Approving, Disapproving, and Waiving of Permits and Fees (Councilor Ortman)
9. Discussion and Possible Action Regarding Bid Bonds for Construction Projects (Councilor Ortman)
10. Adjournment

The City of Ashland does not discriminate on the basis of sex, race, creed, color, national origin, sexual orientation, age or disability in employment or provision of services, programs or activities.

NOTE: Upon reasonable notice, the City of Ashland will accommodate the needs of disabled individuals or individuals with limited English proficiency through auxiliary aids or services. For additional information or to request this service, contact Denise Oliphant at 715-682-7075 (not a TDD telephone number) or FAX: 715-682-7048



AGENDA BILL

Ref: 015

**COMMITTEE AGENDA: 5 (01-09-2018)
COUNCIL AGENDA:**

SUBJECT: Discussion and Possible Action on Preliminary Design Details for the 6th Street East Project

RECOMMENDATION: Approval to Proceed

DEPARTMENT OF ORIGIN: Public Works Department

DATE SUBMITTED: January 2, 2018

CLEARANCES: Public Works and Engineering Staff

EXHIBITS: A. 6th Street East Construction Cost Estimate
B. Plan View of 6th Street East

EXPENDITURES REQUIRED: NA

AMOUNT BUDGETED: NA

APPROPRIATION REQUIRED: NA

TREASURER'S CERTIFICATE: NA

COMPLIANCE WITH ORDINANCE 51: Ordinance requirements will be followed.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD: Yes

RECOMMENDATION: Discussion and possible action on preliminary design details for the 6th Street East Project.

SUMMARY STATEMENT: After notice of securing funds through the CDBG Grant Program, City staff began working on design for the full reconstruction of 6th Street East with the goal of a project start scheduled for late spring early summer of 2018.

In order to move forward with final design of this project, Public Works staff needs direction from Council on certain design elements. In reviewing the scope of work for this reconstruction project, the City needs to ensure the following requirements are met or exceeded:

- 1. Create value for the City
- 2. Follow good engineering practices
- 3. Adhere to mandated regulations
- 4. Incorporate the experience of the Utility and Public Works staff
- 5. Discuss and include value engineering suggestions.

The design cost estimate for this project is roughly \$1,454,270. This includes a 5% contingency (\$65,000). Funding for this project includes a \$500,000 CDBG Grant. Initial project scope and cost

estimates required a City match of \$800,000 for a total project cost of \$1,300,000. After further review and design of the project, estimates show that there is a funding gap of \$154,270. The following options have been identified to change project scope that will allow for anticipated savings if the Council desires:

1. The City sidewalk design standard specifies a 5 foot wide requirement. The sidewalk from 2nd Avenue to 5th Avenue East on the south side is only 4 feet wide, but is in good condition and does not need to be replaced. There is light pedestrian traffic on this section and projected growth plans do not indicate that this would change. A savings of \$16,100 is achieved if this section of sidewalk was not replaced.
2. The City sidewalk policy map indicates that sidewalk should be installed on both sides of the street. Prior to the sidewalk policy, if sidewalks were installed on only one side of the street, it would be the north side. The north side of 6th Street East currently does not have sidewalk from 3rd Avenue East to 7th Avenue East. Pedestrian traffic in this area appears to be light and projected growth plans do not indicate that this would change. A savings of \$31,740 could be realized if this stretch of sidewalk was not installed.
3. 6th Street is 36 feet wide and allows for parking on one side while still accommodating 2 way traffic. Unlike 6th Street West, most of 6th Street East is residential. The posted speed is 25 mph. It appears that the residential areas utilize the avenues for parking rather than 6th Street. The pavement width could be reduce in width by 2 to 4 feet in the residential area and still provide for parking on one side and two way traffic. A 2 foot reduction from 3rd Avenue East to 7th Avenue East would provide a savings of \$13,290.

If items 1 and 2 with, regard to sidewalk questions, were included in the project, there would be no need for a sidewalk special assessment, including the necessity of a public hearing, staff time to prepare all the documents and mail out letters, tracking the work for special assessment costs, and invoicing for special assessments.

Public Works staff recommends approval to proceed with the project and include all three of the suggested savings in the project for a total savings of \$61,130.

The requested bids will include an option to provide a pavement finish coat the same year or delay one year with the finish coat to be applied after the first winter season hoping to capture any settlement issues.



**6TH STREET EAST CONSTRUCTION COST ESTIMATE
 REPLACE ALL STORM SEWER
 JANUARY 3, 2018**

PAY ITEM	ITEM DESCRIPTION	UNIT	BID QUANTITY	UNIT PRICE	TOTAL PRICE
201.0110	CLEARING	ID	250	\$15.00	\$3,750.00
201.0210	GRUBBING	ID	250	\$10.00	\$2,500.00
204.0280	SEALING PIPES	EACH	25	\$250.00	\$6,250.00
205.0100	EXCAVATION COMMON	LS	1	\$215,000.00	\$215,000.00
205.0100.1	EXCAVATION BELOW SUBGRADE	CY	300	\$12.00	\$3,600.00
213.0100	FINISHING ROADWAY (PROJECT)	EACH	1	\$1,500.00	\$1,500.00
305.0120	BASE AGGREGATE DENSE 1 1/4-INCH	TON	5400	\$13.00	\$70,200.00
305.0130	BASE AGGREGATE DENSE 3-INCH	CY	225	\$27.00	\$6,075.00
350.0135	SUBBASE 10-INCH	SY	10500	\$6.00	\$63,000.00
416.0160	CONCRETE DRIVEWAY 6-INCH	SY	200	\$55.00	\$11,000.00
	CONCRETE DRIVEWAY 8-INCH	SY	260	\$60.00	\$15,600.00
455.0605	TACK COAT	GAL.	600	\$5.00	\$3,000.00
465.0105	5" ASPHALTIC SURFACE (E-0.3)	TON	2500	\$60.00	\$150,000.00
601.0418	CONCRETE CURB AND GUTTER, 24-INCH TYPE L	LF	4112	\$10.75	\$44,204.00
619.1000	MOBILIZATION	EACH	1	\$22,000.00	\$22,000.00
624.0100	WATER	MGAL	2	\$25.00	\$50.00
625.0100	TOPSPOIL	SY	4000	\$3.50	\$14,000.00
627.0200	MULCHING	SY	4000	\$0.50	\$2,000.00
628.1504	SILT FENCE	LF	300	\$3.00	\$900.00
628.1520	SILT FENCE MAINTENANCE	LF	300	\$1.00	\$300.00
628.2002	EROSION MAT CLASS 1 TYPE A	SY	100	\$2.50	\$250.00
628.7560	TRACKING PAD	EACH	2	\$1,200.00	\$2,400.00
629.0210	FERTILIZER TYPE B	CWT	4	\$60.00	\$240.00
630.0140	SEEDING MIXTURE NO. 40	LBS	200	\$6.80	\$1,360.00
643.0100	TRAFFIC CONTROL (PROJECT)	EACH	1	\$4,500.00	\$4,500.00
645.0140	GEOTEXTILE FABRIC TYPE SAS	SY	10400	\$1.50	\$15,600.00
690.0150	SAWING ASPHALT	LF	500	\$2.50	\$1,250.00
690.0250	SAWING CONCRETE	LF	500	\$2.50	\$1,250.00
Subtotal Schedule A					\$661,779.00

**6TH ST. E. Reconstruction
 Schedule B - Storm Sewer Division**

PAY ITEM	ITEM DESCRIPTION	UNIT	BID QUANTITY	UNIT PRICE	BID COST
204.0210	REMOVING MANHOLES	EACH	10	\$350.00	\$3,500.00
204.0220	REMOVING INLETS	EACH	20	\$300.00	\$6,000.00
204.0245	REMOVING STORM SEWER, 12-INCH TO 18-INCH	LF	450	\$10.00	\$4,500.00
204.0245	REMOVING STORM SEWER, 30-INCH	LF	1110	\$14.00	\$15,540.00
209.0100	SPECIAL BACKFILL GRANULAR	CY	300	\$14.00	\$4,200.00
520.8000	STORM SEWER CONNECTION	EACH	7	\$500.00	\$3,500.00
530.0112	STORM SEWER PIPE REINFORCED CONCRETE CL III -12- INCH	LF	315	\$50.00	\$15,750.00
	STORM SEWER PIPE REINFORCED CONCRETE CL III -15- INCH	LF	51	\$54.00	\$2,754.00
	STORM SEWER PIPE REINFORCED CONCRETE CL III -18- INCH	LF	31	\$60.00	\$1,860.00
	STORM SEWER PIPE REINFORCED CONCRETE CL III -24- INCH	LF	62	\$75.00	\$4,650.00



**6TH STREET EAST CONSTRUCTION COST ESTIMATE
REPLACE ALL STORM SEWER
JANUARY 3, 2018**

530.0115	STORM SEWER PIPE REINFORCED CONCRETE CL III - 30- INCH	LF	834	\$85.00	\$70,890.00
	STORM SEWER PIPE REINFORCED CONCRETE CL III - ELLIPTICAL 24X38-INCH	LF	346	\$90.00	\$31,140.00
611.1230	CATCH BASIN 2'X3' WITH CASTING	EACH	15	\$1,700.00	\$25,500.00
	INLETS 4-FT DIAMETER	EACH	2	\$2,000.00	\$4,000.00
611.2005	MANHOLES 5-FT DIAMETER WITH CASTING (TYPE 3)	EACH	5	\$2,700.00	\$13,500.00
	MANHOLES 6-FT DIAMETER WITH CASTING (TYPE 3)	EACH	5	\$3,700.00	\$18,500.00
612.0406	PIPE UNDERDRAIN WRAPPED 4-INCH	LF	4112	\$5.00	\$20,560.00
628.7015	INLET PROTECTION, TYPE C	EACH	23	\$60.00	\$1,380.00
Subtotal Schedule B					\$247,724.00

**6TH ST. E. Reconstruction
Schedule C - Water Division**

PAY ITEM	ITEM DESCRIPTION	UNIT	BID QUANTITY	UNIT PRICE	BID COST
209.0100	SPECIAL BACKFILL GRANULAR	CY	300	\$14.00	\$4,200.00
0050.0105	REMOVE EXISTING WATERMAIN	LF	400	\$1.00	\$400.00
0050.0110	ABANDON EXISTING WATER MAIN	EACH	16	\$200.00	\$3,200.00
0050.0300	REMOVE EXISTING HYDRANT	EACH	3	\$250.00	\$750.00
0050.0108	PROVIDE, INSTALL, MAINTAIN AND REMOVE TEMPORARY WATER SERVICE	LS	1	\$3,000.00	\$3,000.00
0050.0109	WATER MAIN PVC C900 PIPE 6-INCH	LF	68	\$65.00	\$4,420.00
0050.0110	WATER MAIN PVC C900 PIPE 8-INCH	LF	460	\$55.00	\$25,300.00
0050.0112	WATER MAIN C900 16-INCH	LF	1805	\$75.00	\$135,375.00
0050.0113	GATE VALVE AND BOX, 8-INCH	EACH	9	\$2,000.00	\$18,000.00
0050.0114	GATE VALVE AND BOX, 16-INCH	EACH	3	\$7,500.00	\$22,500.00
	45-DEGREEE FITTINGS : 8-INCH	EACH	8	\$200.00	\$1,600.00
0050.0115	FIRE HYDRANT	EACH	4	\$4,000.00	\$16,000.00
0050.0117	WATER SERVICE 1-INCH TYPE K COPPER	LF	328	\$35.00	\$11,480.00
0050.0118	CORPORATION STOP 1-INCH	EACH	10	\$350.00	\$3,500.00
0050.0119	CURB STOP AND BOX 1-INCH	EACH	10	\$250.00	\$2,500.00
0050.0210	CONNECT TO EXISTING WATER MAIN	EACH	12	\$1,600.00	\$19,200.00
0050.0205	CONNECT TO EXISTING WATER SERVICE	EACH	12	\$200.00	\$2,400.00
0060.0200	UTILITY LINE OPENING	EACH	4	\$1,000.00	\$4,000.00
Subtotal Schedule C					\$277,825.00

**6TH ST. E. Reconstruction
Schedule D- Sidewalk Division**

PAY ITEM	ITEM DESCRIPTION	UNIT	BID QUANTITY	UNIT PRICE	BID COST
204.0155	REMOVING CONCRETE SIDEWALK	SF	8910	\$0.55	\$4,900.50
205.0100	EXCAVATION COMMON	CY	600	\$12.00	\$7,200.00
305.0110	BASE AGGREGATE DENSE 3/4-INCH	TON	700	\$18.00	\$12,600.00
602.0404	CONCRETE SIDEWALK 4-INCH	SF	13400	\$4.60	\$61,640.00
602.0406	CONCRETE SIDEWALK 6-INCH	SF	606	\$5.60	\$3,393.60
602.0408	CONCRETE SIDEWALK 8-INCH	SF	775	\$6.20	\$4,805.00
602.0505	CURB RAMP DETECTABLE WARNING FIELD (UNPAINTED)	SF	280	\$42.00	\$11,760.00
602.1500	CONCRETE STEPS	SF	50	\$65.00	\$3,250.00



**6TH STREET EAST CONSTRUCTION COST ESTIMATE
REPLACE ALL STORM SEWER
JANUARY 3, 2018**

Subtotal Schedule D	\$109,549.10
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**6TH ST. E. Reconstruction
Schedule E- Sanitary Sewer Division**

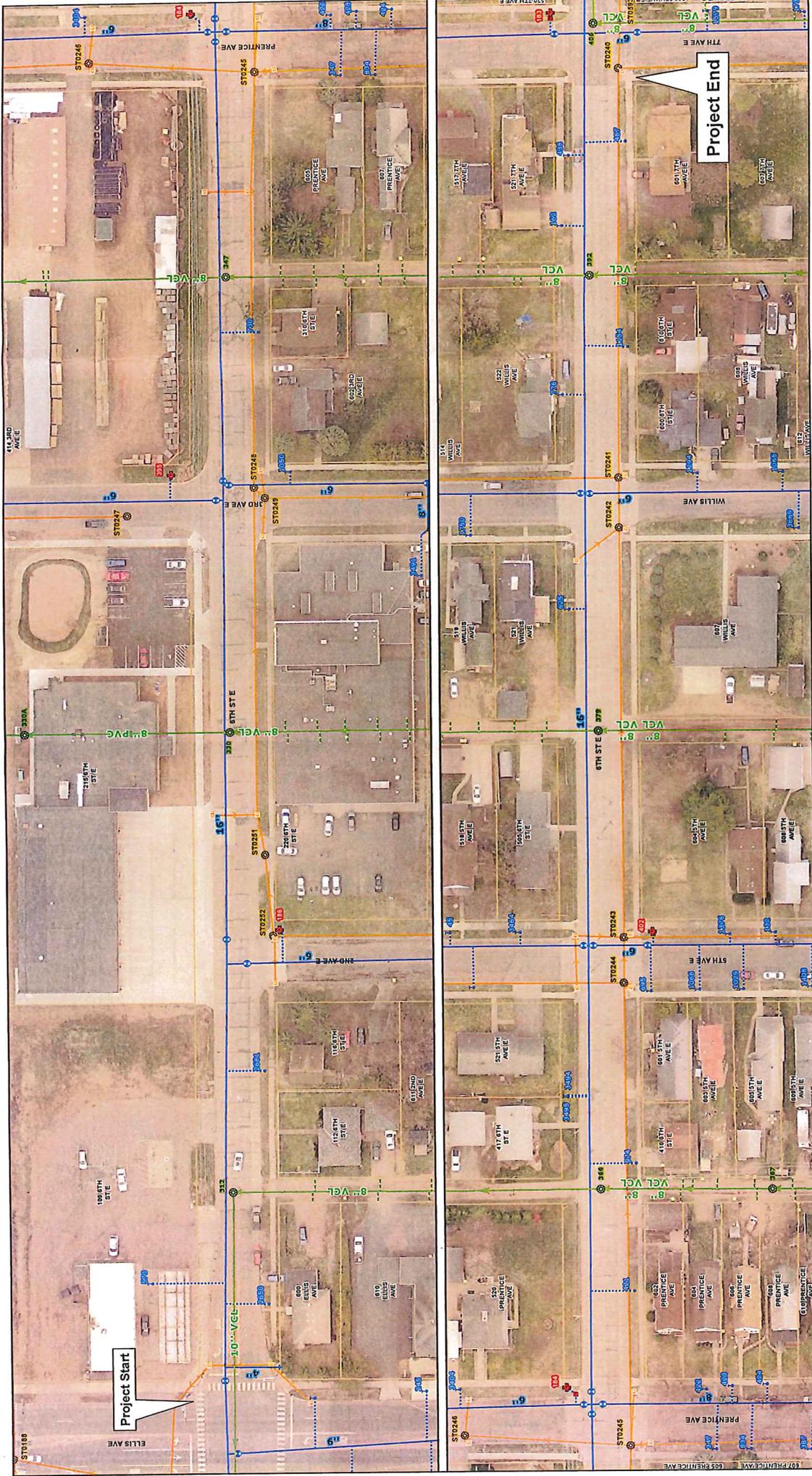
PAY ITEM	ITEM DESCRIPTION	UNIT	BID QUANTITY	UNIT PRICE	BID COST
209.0100	SPECIAL BACKFILL GRANULAR	CY	100	\$14.00	\$1,400.00
0090.0110	REMOVE EXISTING SANITARY SEWER MAIN	LF	496	\$8.00	\$3,968.00
0090.0210	REMOVE EXISTING SANITARY SEWER MANHOLE	EACH	6	\$250.00	\$1,500.00
0090.0408	SANITARY SEWER PIPE 8-INCH PVC SDR 35	LF	370	\$55.00	\$20,350.00
	SANITARY SEWER PIPE 10-INCH PVC SDR 36	LF	125	\$60.00	\$7,500.00
0090.0500	SANITARY SEWER MANHOLE TYPE B WITH CASTING	EACH	6	\$3,000.00	\$18,000.00
0090.0606	SANITARY SEWER WYE, 8-INCH BY 6-INCH	EACH	1	\$275.00	\$275.00
	SANITARY SEWER SERVICE 6-INCH	LF	8	\$50.00	\$400.00
0090.0700	CONNECT TO EXISTING SANITARY SEWER MAIN	EACH	12	\$1,000.00	\$12,000.00
Subtotal Schedule E					\$65,393.00

BASE BID SCHEDULE TOTALS

TOTAL SCHEDULE A (ROAD)	\$661,779.00
TOTAL SCHEDULE B (STORM SEWER)	\$247,724.00
TOTAL SCHEDULE C (WATER)	\$277,825.00
TOTAL SCHEDULE D (SIDEWALK)	\$109,549.10
TOTAL SCHEDULE E (SANITARY SEWER)	\$65,393.00
BASE ESTIMATE TOTAL	\$1,362,270.10
ASSOCIATED COSTS (OUTSIDE CONSULTANT AND TESTING SERVICES)	\$27,000.00
CONTINGENCY (5%)	\$65,000.00
TOTAL CONSTRUCTION AND ASSOCIATED COSTS	\$1,454,270.10

POSSIBLE DEDUCTS

SIDEWALK NORTH SIDE	\$31,740.00	NO SIDEWALK ON NORTH SIDE
4' SIDEWALK NOT REPLACED	\$16,100.00	4' SIDEWALK NOT REPLACED
8" GRAVEL BASE	\$14,302.05	10" PROPOSED; REDUCE TO 8" THICK
4" ASPHALT	\$30,421.33	5" PROPOSED; REDUCE TO 4" THICK
A	\$92,563.38	
ADDITIONAL SAVINGS NARROW ROAD 3RD TO 5TH (34' F-F)		
8" GRAVEL	\$2,000.00	
4" ASPHALT	\$2,900.00	
SAND BASE	\$1,890.00	
COMMON EXCAVATION	\$6,500.00	
B	\$13,290.00	
A+B	\$105,853.38	
TOTAL WITH ALL DEDUCTS	\$1,348,416.72	



6th Street East Project Overview

- Sanitary Manholes
- Hydrants
- Main Valves
- Water Main
- Sanitary Lateral
- Sanitary Mains
- Grated Catch Basin
- Grated Surf. Drain
- Open Surf. Drain
- Water Laterals
- Curb Stops
- CleanOut
- Manhole
- Storm Mains
- Parcel Mapping



1 inch = 72 feet
0 33 66 Feet

Find yourself next to the water
ASHLAND
 WISCONSIN
 City of Ashland
 Dept. of Public Works
 Geographic Information Systems Division
 Created: January 3, 2018
 Map for informational purposes only.



AGENDA BILL

Ref: 012

COMMITTEE AGENDA: 11 (09-12-2017)
7 (09-26-2017)
7 (10-10-2017)
5 (10-31-2017)
6 (11-14-2017)
6 (01-09-2018)

COUNCIL AGENDA:

SUBJECT: Discussion and Possible Action Related to Alley Upkeep and Maintenance

RECOMMENDATION:

DEPARTMENT OF ORIGIN: Council President

DATE SUBMITTED: 09-12-2017

CLEARANCES: Council President

EXHIBITS: N/A

EXPENDITURES REQUIRED: N/A

AMOUNT BUDGETED: N/A

APPROPRIATION REQUIRED: N/A

TREASURER'S CERTIFICATE: N/A

COMPLIANCE WITH ORDINANCE 51:

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD:

SUMMARY STATEMENT:

Councilor Ortman has requested a discussion of alley upkeep and maintenance. In particular, he is interested in addressing issues related to potholes and sinking areas in the alleys.



AGENDA BILL

Ref: 014

COMMITTEE AGENDA: 8 (09-12-2017)
10 (09-26-2017)
8 (10-10-2017)
7 (10-31-2017)
7 (11-14-2017)
7 (01-09-2018)

COUNCIL AGENDA:

SUBJECT: Discussion and Possible Action Related to Legal Representation for the Highway 2 Sewer Lateral Issue

RECOMMENDATION:

DEPARTMENT OF ORIGIN: Councilor Ortman

DATE SUBMITTED: September 4, 2017

CLEARANCES: Council President

EXHIBITS: Correspondence to Mayor Lewis from Attorney Scott Clark

EXPENDITURES REQUIRED: N/A

AMOUNT BUDGETED: N/A

APPROPRIATION REQUIRED: N/A

TREASURER'S CERTIFICATE: N/A

COMPLIANCE WITH ORDINANCE 51:

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD:

SUMMARY STATEMENT:

Councilor Ortman has requested a discussion regarding the legal representation for the City of Ashland and the City's insurance company for the Highway 2 sewer lateral issue. In particular, he is interested in determining if there are, or have been, any conflicts of interest in this matter.

Clark & Clark

SCOTT W. CLARK
DALE R. CLARK (1923-2015)
FACSIMILE: 715-682-8407
EMAIL: swclark@clarkandclarklaw.net

LAW OFFICES
214 WEST MAIN STREET
POST OFFICE BOX 389
ASHLAND, WISCONSIN 54806
TELEPHONE: 715-682-2711

SANBORN, LAMOREUX & PRAY (1904-1960)
PRAY, PRAY & CLARK (1961-1979)
CLARK & CLARK (1980-PRESENT)
A CENTURY OF LEGAL TRADITION

September 14, 2017

Mayor Deb Lewis
601 Main Street West
Ashland, WI 54806

VIA EMAIL ONLY

Re: Ashland, Wisconsin, US Highway 2 Sewer Laterals
Subject: Alleged Conflict of Interest

Dear Deb:

This letter confirms my receipt of the scheduling of an item before the City of Ashland Committee of the Whole regarding an allegation that my representation of the City and Liberty Mutual in the sewer case is supposedly a conflict of interest. It is apparent that the item requested to be placed on the agenda by Counselor Ortman has as its source, Zygmund Jablonski, Jr.

Mr. Jablonski's allegation of an alleged conflict of interest is nonsense.

I repeat and incorporate herewith the content of my letter to you of July 25, 2017, a copy of which is attached hereto.

In addition, I am attaching hereto a copy of the October 22, 2010 correspondence from City Administrator Pete Mann to Liberty Mutual Insurance confirming the City's authorization to have Liberty Mutual utilize my professional services as Defense counsel for the City and Liberty for the Highway 2 Sewer Suit, Ashland County Circuit Court Case No. 10CV-041. I also enclose the email from Liberty Mutual to City Administrator Mann accepting me as Defense counsel for the City and Liberty Mutual for the litigation.

I would appreciate your efforts in restricting the latitude allowed Mr. Jablonski in airing his misdirected, frivolous and defamatory attack on me.

If you have any questions or wish to discuss this matter further please contact me.

Regards,

CLARK & CLARK

Scott W. Clark

SWC/jmk
Enclosures

- cc: Mary Garness, City Administrator
- cc: David Siegler, City Attorney
- cc: Denise Oliphant, City Clerk
- cc: Randy Schubert, Liberty Attorney



Ashland

WISCONSIN

October 22, 2010

Via U.S. Mail & E-Mail

Mr. Michael Glover
Liberty Mutual Insurance
P.O. Box 245037
Milwaukee, Wisconsin 53224

e-mail: Michael.glover@libertymutual.com

Re: Third Party Complaint against City of Ashland by
Reuben Johnson & Son, Inc. and RJS Construction Group
Ashland County Circuit Court Case No. 10CV-041
(Ashland USH 2 Sanitary Sewer Laterals)

Dear Mr. Glover:

Pursuant to our conversation earlier today, this correspondence serves as the City's authorization to utilize Mr. Scott W. Clark, of the Law Office of Clark & Clark, 214 W. Main Street, Ashland, Wisconsin 54806 as defense counsel for the above noted suit.

Sincerely,

CITY OF ASHLAND

Pete Mann
City Administrator

cc: Scott W. Clark

Clark & Clark Law

From: "Pete Mann" <pmann@coawi.org>
Date: Monday, October 25, 2010 8:07 AM
To: "Scott Clark" <cclaw@cheqnet.net>
Subject: Fwd: Ashland, WI USH 2 Sewer Laterals

FYI

Sent from my iPhone

Begin forwarded message:

From: "Glover, Michael" <Michael.Glover@LibertyMutual.com>
Date: October 25, 2010 8:04:19 AM CDT
To: PETE MANN <pmann@coawi.org>
Subject: RE: Ashland, WI USH 2 Sewer Laterals

Pete Mann -

Thank you for the letter outlining the City of Ashland's request to continue to use Scott Clark as defense counsel. Scott Clark and I will establish a litigation action plan and budget for the suit. I will also make sure he has a copy of all documents obtained to date.

Please let me know if you have any questions.

Thank you,

Michael Glover, AIC
Claims Case Manager III
Liberty Commercial Markets
11800 W. Park Place
Milwaukee, WI 53224
800-537-2350 ext 268
603-334-8174 (Fax)
SND 8-263-2268

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-----Original Message-----

From: PETE MANN [mailto:pmann@coawi.org]
Sent: Friday, October 22, 2010 4:27 PM
To: Glover, Michael
Cc: cclaw@cheqnet.net

Clark & Clark

SCOTT W. CLARK
DALE R. CLARK (1923-2015)
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EMAIL: swclark@clarkandclarklaw.net

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SANBORN, LAMOREUX & PRAY (1904-1960)
PRAY, PRAY & CLARK (1961-1971)
CLARK & CLARK (1980-PRESENT)
A CENTURY OF LEGAL TRADITION

July 25, 2017

To: Mayor Deb Lewis
dlewis@coawi.org
VIA EMAIL ONLY

Re: Bayfront, LLC v. SEH, RJS and City of Ashland
Ashland County Circuit Court Case No. 10CV41

Subject: Response to allegations from Zygmund Jablonski, Jr. upon review of Scott W. Clark invoices to Liberty Mutual Insurance Company

Dear Deb:

I submit the following comments in response to the allegations of Mr. Jablonski in his July 23rd correspondence to you. My invoices to Liberty Mutual Insurance followed my being retained in October, 2010, to defend the City of Ashland under its liability insurance policy. Mr. Jablonski was provided all of my invoices to Liberty Mutual pursuant to his Public Record Request.

1. In October, 2010, I was engaged by Liberty Mutual to represent the City of Ashland for Liberty Mutual under the City's liability insurance policy. After the filing of the above captioned litigation Liberty Mutual became obligated to defend and indemnify the City of Ashland and was entitled to control the defense and pay the fees of an attorney for the City of Ashland.
2. I maintained my private practice throughout the thirty-four and a half years that I was City Attorney for the City of Ashland as a part-time employee. As part of my private practice I represented many insurance companies and their insureds, including the City of Ashland, in addition to my City Attorney position.
3. All of my services performed for Liberty Mutual/City of Ashland in connection with the above case were billed at the rate of \$175.00 per hour. All of my invoices were reviewed, approved and paid by Liberty Mutual Insurance Company.
4. The above captioned case involves complex class action litigation involving some forty-five plaintiffs. Mr. Jablonski does not mention the fact that Plaintiffs' attorneys have charged approximately \$450,000.00 for their representation of the Plaintiffs in the action.
5. In my opinion, Mr. Jablonski has caused significant delays, protraction and increased expense in the litigation. The increased time and expense in litigation

arose from Mr. Jablonski's "Ziggy being Ziggy" contacts with State of Wisconsin Department of Safety and Professional Services (DSPS), Department of Transportation and OSHA and the badgering of the plumbing and CIPP contractors doing repair work. I estimate the protraction of time and expense due to "Ziggy being Ziggy" to be 30% to 50%.

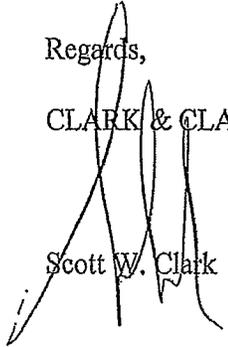
- 6. My representation of the City through Liberty Mutual has resulted in the City of Ashland not having to pay City tax dollars for any of the defense of the action or any of the sewer repairs which have been done or will be done through the conclusion of this suit.
- 7. Prior to this time an arbitrator, who will ultimately decide the disputes between the Defendants SEH, RJS and the City, has found the City to be "provisionally immune" from responsibility or liability for damages arising from the lawsuit. Final arbitration may take place after the conclusion of the repairs which are anticipated to be completed in the 2017 construction season, if Mr. Jablonski doesn't cause further delays by his interference.

I would be pleased to answer any questions you or any City Counselor may have regarding the litigation and its anticipated conclusion in the not too distant future.

Regards,

CLARK & CLARK

Scott W. Clark



SWC/jmk
Enclosures

- cc: David Siegler
- cc: Mary Garness
- cc: Liberty Mutual Claims



AGENDA BILL

Ref: 013

**COMMITTEE AGENDA: 10 (09-12-2017)
11 (09-26-2017)
9 (10-10-2017)
8 (10-31-2017)
8 (11-14-2017)
8 (01-09-2018)**

COUNCIL AGENDA:

SUBJECT: Discussion and Possible Action Related to Approving, Dissapproving, and Waiving of Permits and Fees

RECOMMENDATION:

DEPARTMENT OF ORIGIN: Councilor Ortman

DATE SUBMITTED: 09-04-2017

CLEARANCES: Councilor President

EXHIBITS: N/A

EXPENDITURES REQUIRED: N/A

AMOUNT BUDGETED: N/A

APPROPRIATION REQUIRED: N/A

TREASURER'S CERTIFICATE: N/A

COMPLIANCE WITH ORDINANCE 51:

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD:

SUMMARY STATEMENT:

Councilor Ortman has requested a discussion related to the approving, disapproving, and waiving of permits and fees. In particular, he is interested in determining if the City has a clear written policy and if it is uniformly applied.



AGENDA BILL

Ref: 011

COMMITTEE AGENDA: 9 (01-09-2018)
COUNCIL AGENDA:

SUBJECT: Discussion and Possible Action Regarding Bid Bonds for Construction Projects

RECOMMENDATION:

DEPARTMENT OF ORIGIN: Councilor Ortman

DATE SUBMITTED: December 28, 2017

CLEARANCES: Council President

EXPENDITURES REQUIRED: NA

AMOUNT BUDGETED: NA

APPROPRIATION REQUIRED: NA

SUMMARY STATEMENT:

Councilor Ortman has requested a discussion regarding bonds for construction projects. He would like to discuss why the City requires bonds and what is considered when determining whether or not to invoke a bond.

In particular, Council Ortman would like to discuss the 6th Street project from Sanborn Avenue to Ellis Avenue that was completed in 2016. On August 29, 2017 the council was asked to appropriate \$18,500 from Fund 470 for geotechnical testing rather than invoking the bond.