

**ADJOURNED COUNCIL MEETING
CITY OF WATERTOWN
June 13, 2011
7:00 P.M.**

MAYOR JEFFREY E. GRAHAM PRESIDING

**PRESENT: COUNCIL MEMBER ROXANNE M. BURNS
COUNCIL MEMBER JOSEPH M. BUTLER JR.
COUNCIL MEMBER TERESA R. MACALUSO
COUNCIL MEMBER JEFFREY M. SMITH
MAYOR GRAHAM**

**ALSO PRESENT: MARY M. CORRIVEAU, CITY MANAGER
CITY ATTORNEY ROBERT J. SLYE**

City staff present: Justin Wood, Doug Osborn, Gene Hayes, Gary Pilon, Jim Mills, Elliott Nelson

- 1 - Approving Professional Services Agreement with Symphony Syracuse
- 2 - Approving Professional Services Agreement, Bernier, Carr & Associates
- 3 - Readopting Fiscal Year 2010-2011 Tourism Fund and Capital Fund Budgets

Presentations:

1. Destination Marketing Proposal for Fiscal Year 2011-2012 Presentation by Gary DeYoung, Director of Tourism, TIITC

Discussion Items:

1. City Cave Exploration -Memorandum from Elliott Nelson, Confidential Assistant to the City Manager; June 10, 2011
2. Outdoor Skating Rink -Memorandum from Mary M. Corriveau, City Manager; June 10, 2011
3. Veterans' Memorial River Walk -Memorandum from Mary M. Corriveau, City Manager; June 10, 2011
4. Water and Sewer Rates –Memorandum from James E. Mills, City Comptroller; June 10, 2011

Mayor Graham opened the adjourned session.

The following resolutions were presented:

INTRODUCED BY COUNCIL MEMBER JEFFREY M. SMITH

WHEREAS the City of Watertown is desirous to continue to support the “Concert in the Park” provided each year, and

WHEREAS Symphony Syracuse has agreed to provide professional services to support said “Concert in the Park”, and

WHEREAS the services provided by the Symphony Syracuse promote a public purpose, and

WHEREAS the services promote the education, charity, health, and welfare of the citizens of the City of Watertown,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the Agreement for Professional Services between the City of Watertown and the Symphony Syracuse, a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that City Manager Mary M. Corriveau is hereby authorized and directed to execute this Agreement on behalf of the City of Watertown.
SECONDED BY COUNCIL MEMBER JOSEPH M. BUTLER, JR. AND CARRIED WITH ALL VOTING YEA

RULES WAIVED BY MOTION OF COUNCIL MEMBER SMITH, SECONDED BY COUNCIL MEMBER BUTLER AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.

INTRODUCED BY COUNCIL MEMBER TERESA R. MACALUSO

WHEREAS the City Council of the City of Watertown desires to evaluate the design of the conversion of the current Aviary Building at the Thompson Park Zoo, and

WHEREAS the City of Watertown Engineering Department issued an RFP to three firms and received three responses, after reviewing the responses, City Engineer Kurt Hauk is recommending that the City enter into an Agreement for Professional Services with Bernier, Carr & Associates, Architects, Engineers and Land Surveyors P.C. for an evaluation and design for the conversion of the current Aviary Building at the Thompson Park Zoo,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the Professional Services Agreement between the City of Watertown, New York and Professional Services with Bernier, Carr & Associates, Architects, Engineers and Land Surveyors P.C., for a not to exceed amount of \$42,775, a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that City Manager Mary Corriveau is hereby authorized and directed to execute the Agreement on behalf of the City Council.

SECONDED BY MAYOR JEFFREY E. GRAHAM AND DEFEATED WITH COUNCIL MEMBER MACALUSO AND MAYOR GRAHAM VOTING YEA, COUNCIL MEMBER

BURNS AND COUNCIL MEMBER SMITH VOTING NAY AND COUNCIL MEMBER BUTLER ABSTAINING.

RULES WAIVED BY MOTION OF COUNCIL MEMBER MACALUSO SECONDED BY MAYOR GRAHAM AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.

Prior to the vote on the foregoing resolution, Council Member Smith asked if this was a recommendation from Mr. Hauk or if there had been a committee making this recommendation.

Mrs. Corriveau advised that it was the recommendation of a committee composed of Mr. Hauk, Mr. Hayes and Mr. Mix. Due to the two other individuals being on vacation, Mr. Hayes is here this evening to answer Council's questions.

Council Member Smith remarked that he thought GYMO was going to do the work. He questioned what was different about Bernier Carr's proposal that made it so much better and shot the other two proposals out of the water.

Mr. Hayes responded that Bernier Carr's proposal was very good. It was concise and identified actions that they would take. It was clear, concise and superior to the others.

Council Member Smith asked if Mr. Hayes could point out some of those things that made it superior because when he read it through, he didn't get that. He stated that GYMO was detailed and he didn't see the separation and details in the Bernier Carr proposal.

Mr. Hayes commented that perhaps GYMO gave more information than was necessary for the evaluation. He stated that when the committee began the review, they were looking at the RFP and not the price. It was a unanimous decision and then the bid numbers were presented and Bernier Carr was the lowest. However, had they been a little higher, it wouldn't have affected the committee's decision.

Council Member Smith asked if alternative energy costs were included in Bernier Carr's price and if the committee was comparing apples to apples.

Mrs. Corriveau referred to the cover letter from Mari L. Cecil, VP at Bernier Carr, which states that "We will work with the City to identify the structural limitations of the existing building, potential "green building initiatives", appropriate mechanical and ventilation systems, as well as meet the budgetary limitations that may occur for this challenging project." Mrs. Corriveau advised that Ms. Cecil is in the audience this evening and would be able to answer Council's questions.

Council Member Smith asked if the alternative energy costs were included.

Ms. Cecil responded that they are.

Mr. Hayes remarked that when discussing alternative energy, it is difficult to put a price on it.

Council Member Smith responded that GYMO did.

Mr. Hayes explained that this wasn't the corner stone of the project.

Council Member Smith referred to the section of the report that indicated that Bernier Carr was going to utilize the work done by GYMO. He stated that he didn't think that it was necessarily fair. He stated that he was just trying to understand what was better, specifically, he didn't see where it is.

Mr. Hayes explained that you take tools and information that you have and go with it. He stated that when it comes to reading this stuff it is the difference between the French Enlightenment and the English Enlightenment. He advised that the Bernier Carr proposal told him exactly where we were going with the project. It is not vague.

Council Member Burns reviewed the process where by an RFP was put out to three companies. The Purchasing Agent wasn't involved and it was done by a committee.

Mr. Hayes stated that this was correct. Mr. Hauk put the RFP out and then contacted him and Mr. Mix to be on the committee.

Council Member Burns remarked that Bernier Carr has done wonderful work for the City over the years. She commented that she had spoken with other colleagues on Council and she and they thought that we were moving forward with GYMO. She wondered how this makes us look as a body when we got all this pro bono work from GYMO. She commented to Mayor Graham that he had indicated to her that he was under the same impression.

Mayor Graham responded by asking if there had been some kind of complaint from other bidders.

Council Member Burns responded that there hadn't been. She stated that by reading the proposals she didn't see Bernier Carr being superior, but she guessed that she'd have to take the professionals' opinion.

Mr. Hayes stated that he thinks Bernier Carr's is the best proposal that he has ever seen from them, in terms of giving the customer a response that lets them know they understand what we are looking for and that there is a road map for the project.

Mayor Graham remarked that Bernier Carr did have the lowest cost. He remarked that he is sure that if a company submits for projects, that they don't win them all.

Mr. Hayes advised that everyone does pro bono work as it is just business.

Council Member Butler referred to phase one in the Bernier Carr presentation listing review previous consultant's report. He asked what this refers to.

Ms. Cecil advised that this refers to a gathering of data information such as from Mr. Yaussi, the consultant who designed the original building.

Council Member Butler thanked Ms. Cecil and stated that he appreciated her taking the time to answer Council's questions. He advised that GYMO's presentation does list separate alternative energy. He asked where Bernier Carr's was.

Ms. Cecil advised that it is included in phase 2 and phase 3. She explained that they look at alternative energy practices all through their processes and are constantly reviewing those items. Council Member Butler advised that he would be abstaining on this as he has a conflict of interest.

Council Member Burns asked him to state the conflict.

Council Member Butler commented that if he recused himself he would have to state the conflict, but didn't have to if he abstained.

Attorney Slye asked if it was a legal conflict or if he was friends with someone there.

Council Member Butler advised that it involves a client.

Attorney Slye remarked that an abstention is a no vote.

Following the vote, Mayor Graham asked if the project was dead.

Council Member Smith commented that he would like to see the aviary move forward. He stated that he knows that he is not an engineer. However, he did review the proposals and feels that the City should move forward with GYMO.

Attorney Slye remarked that while he knows that Council Member Burns was concerned about the perception of having GYMO do free work, by awarding a contract because of free work, it is exactly what you are not supposed to do. He stated that he was consulted before and he advised at that time that GYMO had to understand that they didn't have a leg up on the project because of the pro bono work.

Council Member Burns stated that this is not what she meant. She explained that the renditions that she saw were at a work session and she didn't know who did them. She also stated that she never asked for pro bono work and she is not saying it should be awarded to someone else because of that. She stated that she was not here to debate it with Attorney Slye. She commented that Mr. Hayes didn't give a strong enough reason to select the Bernier Carr proposal. She stated that there was a directive given by Council to move forward with GYMO and not put it out for bid. She also commented that the Council was given misinformation that Mr. Yaussi was able to clarify.

Attorney Slye responded that his comments were directed towards Council Member Smith's comments. He stated that if members want to vote no on a contract, he doesn't care. However, to do so because one firm did free work, he objects to as point of law.

Council Member Smith remarked that he reviewed each proposal and based on that, he would have picked GYMO.

Mrs. Corriveau stated that staff was not directed to look at a contract with GYMO. Staff was directed to move forward with an aviary design. To do so, an RFP was prepared and a committee reviewed the responses and submitted the responses to Council with a recommendation. She stated that this was brought up at the last meeting.

Council Member Burns asked Mayor Graham to clarify if she or the City Manager was wrong.

Mayor Graham commented that early on, he was under the impression that GYMO would have the advantage until the point at which Mr. Hauk stated that Bernier Carr was going to be recommended. He stated that three months ago when Mr. Wright and the other gentleman came to Council, everyone came together and everyone was for it. It was a unique moment of collegiality. Now, it is dead in the water. He stated that he couldn't bring himself to get in the middle of this. He stated that if the position is to award this to one firm, than make the motion to do so. He stated that he is disappointed.

Attorney Slye commented that the reason we used the process that was used was to have a process and this obliterates that process.

Mayor Graham agreed and stated that it would be worst to have it go down the drain.

Council Member Burns remarked that she has been disappointed from the very start when they found out that staff was going to tear down the building. She stated she was lobbied very heavily to tear it down. She stated that she is not an obstructionist and is not trying to be one up for a firm. However, she is not sure that Bernier Carr was superior and stated that perhaps Mr. Hauk will be able to explain the reasons for the selection. She asked Mayor Graham if he felt they were being held hostage.

Mayor Graham said no.

Council Member Macaluso stated that the committee said Bernier Car was the best and the members of the committee are the experts.

Council Member Smith remarked that his questions were specifically on the proposals that he reviewed. He wanted to know why one was more superior to the other. He stated that he didn't see it. He stated that his decision is not based on the free work but is based on the specifics. He asked Mr. Hayes to explain it to him as to specifically how it is different. He stated that maybe he was missing something and if so, show him and he would change his mind.

Mayor Graham responded that if Council is saying that they want to accept the GYMO proposal, then do so.

Mrs. Corriveau referred to the GYMO proposal and stated their figures were \$38,400 for basic design services and \$5,800 for evaluation of renewable energy alternative. You would have to add \$15,000 to those figures for the estimated design costs for alternative energy.

Council Member Smith asked if she was saying that the Bernier Carr report includes the design for solar and geothermal.

Mr. Hayes said he didn't know and the person that did left after the vote. He stated that the City Engineer put together the RFP. The responses were reviewed by two engineers and a planner and then all three agreed with the Bernier Carr proposal. He stated that it was not the objective to go in and dissect the proposal. He stated that they saw an opportunity to work with Bernier Carr and what they presented was good.

Council Member Burns asked when the decision was made by the committee to go with Bernier Carr.

Mr. Hayes advised that it was in early May.

Mrs. Corriveau advised that the proposals came in on April 16th.

Council Member Smith stated that he would like to hear from Mr. Hauk as it would be unfair to use Bernier Carr if Council were under the assumption that energy was included in the design.

Mr. Hayes responded that if there are questions about the existing document, then they should seek answers and that is Council's prerogative.

Mayor Graham suggested that those who wish to seek clarity should do so. He stated that we need to know if it is the desire of the Council to move ahead with this project. He urged members to avail themselves of the services of staff and bidders. He stated that it is his intention to push the matter next week and he didn't care if an engineering firm from Syracuse was selected. He stated that as long as there were 3 votes for the project, he would support it.

Due to the foregoing resolution being defeated, the third resolution on the agenda was not presented to Council.

ADJOURNMENT

**AT THE CALL OF THE CHAIR MEETING WAS DULY ADJOURNED AT 7:55 PM.
BY MOTION OF COUNCIL MEMBER BUTLER, SECONDED BY COUNCIL
MEMBER BURNS AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.**

Donna M. Dutton

City Clerk