

**FINANCE COMMITTEE MEETING**  
**May 28<sup>th</sup>, 2019**  
**Chairman Kurt Becnel**  
**Vice-Chairman Julia Remonet**

Members: Larry Sorapuru, Jr., Kurt Becnel, Julia Remonet, Lennix Madere, Marvin Perrilloux, Larry Snyder, Michael Wright, Thomas Malik, Jaclyn Hotard Gaudet

**PRESENT:** Kurt Becnel, Larry Snyder, Thomas Malik, Julia Remonet, Larry Sorapuru, Marvin Perrilloux, Jaclyn Hotard Gaudet, Michael Wright, Lennix Madere

**ABSENT:** None

**PUBLIC COMMENT - AGENDA ITEMS ONLY (2 minutes per citizen)**

There was no public comment at this time.

**BID OPENING REPORT/AWARDS**

**Jean Stewart - Bid Opening - West Bank Public Safety Complex**

LaVerne Toombs stated, "The bids for the West Bank Public Safety Complex were opened on May 16<sup>th</sup>, 2019. We received four bids, they are:

<b><u>Contractor</u></b>	<b><u>Base Amount</u></b>	<b><u>Alt. 1</u></b>	<b><u>Alt. 2</u></b>	<b><u>Alt. 3</u></b>
Aegis Con. LLC	\$1,795,000	\$18,000	\$9,500	\$33,000
CM Combs Con. LLC	\$2,037,000	\$32,000	\$36,000	\$45,000
B.E.T. Con. Inc.	\$1,908,550	\$18,715	\$8,975	\$32,898
Stallings Con Inc.	\$2,097,000	\$33,900	\$29,400	\$26,600

*the administration requests that we take these under advisement."*

**MOTION:** Councilman Perrilloux moved and Councilman Sorapuru seconded the motion to take the four bids for the West Bank Public Safety Complex under advisement. The motion passed with 8 yeas and 1 abstaining (Remonet).

**Robert Figuero/Rob Delaune - (Tabled 04-23-19) Authorization to award the St. John Water Meter Reading and Billing System Project to Thirkettle Corporation, dba Aqua Metric Sales Company**

**MOTION:** Councilman Perrilloux moved and Councilman Sorapuru seconded the motion to REMOVE the authorization to award the St. John Water Meter Reading and Billing System Project to Thirkettle Corporation, dba Aqua Metric Sales Company from the table. The motion passed unanimously.

Councilwoman Gaudet stated, "We just received information on the legal report at 5:48 PM this evening."

(not on microphone couldn't understand)

Councilman Becnel stated, "Based on the comprehensive legal review and analysis our office performed on the St. John the Baptist Parish Water Meter Reading and Billing Project bid process, we find that the Parish Administration violated LSA-R.S. 38:2215(D) of the Louisiana Public Bid Law by its failure to mention, in the bidding documents for this project and in the official advertisements for bids, that the time limit requirements of LSA-R.S. 38:2215(A) are not applicable to this bid because of the exception that the contract is to be financed, in whole or in part, by federal or other funds, which will not be readily available at the time bids are received. Our determination that this contract meets the exception requirement is based on the Environmental Protection Agency ("EPA") allocation of federal grant dollars to cover about eighty (80%) of the Clean Water State Revolving Fund ("CWSRF") loans, with the State of Louisiana contributing the additional twenty percent (20%). In accordance with the approved project budget, the CWSRF loan will finance the entire project. As such, the contract for this project will be financed in whole, by federal and other funds. Further, the loan proceeds are disbursed to a recipient, after the required payment request and supporting documentation are reviewed and approved by the appropriate State agency. Therefore, the federal or other funds will not be readily available at the time the bids are received. Inclusion of this information is a mandate by LSA-R.S. 38:2215(D), in the event a political subdivision is subjected to an exception to the time limit imposed under LSA-R.S. 38:2215(A). The mandate is solidified under LSA-R.S. 38:2215(E). Due to the violation, our office strongly recommends a motion of the Parish Council "to remediate this violation by starting the public bid process over, from the beginning to fully comply with mandates and requirements of the Louisiana Public Bid Law, specifically but not limited to LSA-R.S. 38:2215(D)."

Councilwoman Gaudet asked, "Can we have someone from legal to explain for the public just what all of that means?"

Keith Green, Jr., Legal Counsel, stated, "Pursuant to LSA-R.S. 38:2215, the public entity has forty-five calendar days after the opening of bids to actually reject a bid or to award it, however, subsection D of that statute specifically states that the provisions of that section shall not be applicable when a contract is going to be financed in whole or in part by federal or other funds. If such is the case, the statute requires and specifically states that at any time limit stipulated in this section is not applicable because of one of the exceptions outlined, i.e. the federal funds, LDEQ EPA Loan, then that fact shall be mentioned in the bidding documents for the project and in the official advertisement for bids required under 38:2212, in our review of the bids documents, the bid advertisement did not indicate that federal funds were going to be used or other funds were going to be used to fund the project and neither did the advertisements indicate that the funds were not going to be readily available at that time the bids were opened, as such that is a violation of subsection D, subsection E of that particular statute specifically states that those provisions shall not be waived so that makes it a mandate and makes it mandatory language."

Robert Figuero stated, "To what Attorney Green was talking about subsection D states that when the contract has to be financed in whole or in part which will not be readily available. The reason why that information wasn't put into the bid document or the advertisement was because the loan was closed with the DEQ in January of 2019. So, we had secured those funds for that project and again this statute specifically says when not readily available but again the loan was closed and we had those funds in place already and that was the reason why that

wasn't put into the advertisement because there was no need for it because we had the funds available."

Councilman Snyder stated, "This is still foggy to me. So, what I want to find out is what does that have to do with the issue with the uncompleted bid sheets, that is what I don't quite understand. What does this have to do with that?"

Keith Green, Jr. stated, "Public Bid Law specifically states that if there are any violations to the public bid law any contract entered into would be null and void as being contrary to those provisions. So, with this mandate not being adhered to that would in affect disqualify the entire bid process."

Councilman Snyder asked, "What mandate are we talking about here, the one with the bid forms?"

Keith Green, Jr. stated, "Oh no sir, we are talking about the mandate in 38:2215 where federal funds are being used to finance the project and not readily available and the readily available deals more or less with the request for payments process that typically has to be engaged when you receive funds from the federal government."

Councilman Snyder asked, "So you are saying that this could be a one-day project and he asks for the money tomorrow and we just don't have it because we haven't sent a requisition in to the government to get the money?"

Keith Green, Jr. stated, "Yes Sir, I think it is called a request for payment."

Councilwoman Gaudet stated, "Just really quickly, in the last little comment it says here that the District Attorney's full legal opinion will be sent to the council and the parish administration by close of business day on Wednesday, May 29<sup>th</sup>, 2019. So, what specifically will that opinion address?"

Keith Green, Jr. stated, "The opinion is going to address some other concerns that we recognized within the bid process itself due to the exceeding authorities and things of this stuff but as far as the meat and potatoes of the bid itself, that is what this was, this was an actual violation that we found."

Councilwoman Gaudet asked, "Will we get a legal recommendation tomorrow, May 29<sup>th</sup>, I think the biggest question, at least for me is, how do we proceed? We have questions about the bids, the responsiveness of one or both bids, will we get a legal opinion on how we should proceed, lawfully proceed, with this project whether it be award/reject combination?"

Keith Green, Jr. stated, "That is actually what we have recommended tonight, that is with the updated legal report was it is actually a recommendation for the council for you guys to make a motion to remediate the violation at this time by disqualifying the process and starting the over just ensuring full compliance with the public bid law."

Councilwoman Gaudet stated, "Okay, I guess if that is what you wanted to speak to about the funding, the reason why I wanted to just get clarity on what opinions we were waiting for and then, if it so pleases the chair you can proceed."

Robert Figuero stated, "Again, to Attorney Green's comments about the request for pay afterward, that is standard with every project. So, again once the project is complete or if you have the thirty days, you submit your pay application, it is

processed and then it is paid. My confusion is just with the funding being not available. Again, it is a loan that we had secured back in January. So, the money has already been awarded to us, we have made draws on it already for the engineering and so forth and the specifications and so forth and to pay the Bond Attorneys etc. to close the loans etc. So, again the funds are there, so my disagreement is with the statement that the funds are not available. The funds are available and that is what I am confused as to what they are trying to stipulate because here it just says again that you need to put that into the advertisement when the funds are not available because the public bid law, you know when you put out a public bid there is an understanding that your funds are already in place and that is a requirement of public bids. So what this statute, in my opinion, is saying is that if the funds are not available you have to make all of the bidders aware that hey the funds might not be available at the time the bids are opened, the reason why we felt we didn't have to do that was because again we had already secured the loan and it was closed. We had already drawn on the loan to take care of the bond attorneys, the engineering for the specifications, etc."

Councilwoman Gaudet asked Legal, "Can you address that? If the loan was closed and the funds were already available would that revised statute would that requirement need to be met if the funds were available?"

Keith Green, Jr. stated, "The statute actually says readily available it doesn't just say available and so we take the posture that readily available is that you can access it at that moment, with that not being the case because essentially you have got to get a draw down, then the funds are not readily available, there is a process that you have to engage in which you receive the funds. Now the question is whether they are available and like I said we just read the plain text of the statute and the plain text of the statute was funds readily available at the time the bids are opened."

Councilwoman Gaudet asked, "Have there been any interpretations when a municipality has closed on a loan, the loan funds are available to define what readily available is?"

Keith Green, Jr. stated, "The courts have not, that issue has not come before the courts. So, based on our understanding and our legal background, readily available would mean immediate access."

Natalie Robottom stated, "I am sure Mr. Figuero will address some of that, but the funds are readily available, we have used them before and in all of our projects it would be like we would have to have the cash for it to be readily available. We have money in banks and we pay bills based on that which means that the funds are readily available. So, that language is confusing because our funds are available. We would not have been able to submit the bid just keep in mind that all of this was approved by DEQ. It is their money and their loan. They knew we closed. They knew we made a draw. So, before we could even advertise their permission was granted with the language and the specs that were submitted to them again if we go back and document every production to you it was always with DEQ approval. So, again that readily available versus available the money is there, we have already drawn on it. Should we get a pay request tomorrow, we could actually satisfy that. So, that is not unusual. I do have a couple of questions and comments about this process. One, and I have stated it before, following the April 23<sup>rd</sup> meeting, there was a request for information which was submitted with questions and comments to the District Attorney's Office. I think it is highly unusual for the client to receive the legal recommendation at the

same time that the newspaper receives it. So, the first that we are getting of this is now, which is problematic on a lot of fronts. Two, the decision or whatever investigation that has been going on for five weeks did not address your concerns, which was the responsiveness of the Greenup bid and compliance with the bid process. As a member of the contractor's board, I think you have pointed out to me bid law and the specifics of what is required and the analysis was on the submittal of the bids, which again we have still not heard, I think that was your question Mr. Snyder, did you address the responsiveness of the Greenup bid which we still have not had that on the other hand too, to make a recommendation tonight for your action, while saying that the full report will not be delivered to us until tomorrow I think is asking for a bit much and the fact that we are getting this right now is also problematic and with the difficulty trying to explain what is in it I think there are a lot of reasons why there shouldn't be any action on this tonight because it is clear that he is not clear, had no conversation with us to know where the funds were or what the specifications were, who all approved this and what our processes are. I think to make that type of recommendation based on faulty information which this is, is problematic. As I have said before, the funds are available. The specific request was whether we followed or complied with bid law, with regard to analyzing the two bids that were submitted again the responsiveness of the Greenup bid was at question and we still don't have anything to say that it was responsive and we are going to stick to the fact that it wasn't. So, unless there is something in these five weeks of investigation that determines that that bid is responsive, we haven't gotten that information."

Councilman Snyder asked, "If it wasn't disclosed in the bid, about this availability of funds, could that have caused us a problem later on? Like this empty blank causing us a problem right now, because of disclosure if the bid law says it has to be disclosed one way or the other."

Natalie Robottom stated, "It says if you don't have the funding, but we know we have the funding, we have already used the funding."

Councilman Snyder asked, "So it wasn't disclosed, am I right?"

Natalie Robottom stated, "We didn't have to disclose it because we had the money. It says if you don't have the money or if it is going to be financed you have to make that disclosure, if you don't have it at the time of the bid, we had the money."

Councilman Snyder stated, "We know that. What I am saying is as far as the bid itself was concerned, the paperwork, should it have been disclosed in the paperwork that the money is available or is not available and because we are saying here that it is understood, well it may not be understood in a court of law. It may be understood to each other."

Natalie Robottom stated, "I think Robert is trying to address that, but hang on to your thought. The requirement is if you don't have the money to make it part of your advertisement. It is not to say that you have the money. It is not a requirement to say this if you don't have it readily available. What we are saying is that we had it readily available which is why it wasn't addressed. Number two with regard to the bid submittals, it is very specific as to what needs to be submitted and the forms that they need to be submitted on. We have heard a couple of times there was only a blank missing, well that is not the case."

Councilman Snyder stated, "I understand that and I see where you are going with this."

Natalie Robottom stated, "Okay, well I just wanted to comment that that wasn't the only

Councilman Snyder stated, "I know what you are commenting on. I know that."

Natalie Robottom stated, "Okay, well I would like to finish."

Councilman Snyder stated, "The issue with these nine people up here is to make sure that we are within the law, that we are doing things right because we are spending public money. Now maybe the public may not know this but regardless if these things goes the way you want it to go tonight we are going to spend an extra six or seven hundred thousand dollars because somebody forgot to fill in a blank."

Natalie Robottom stated, "That is incorrect."

Councilman Snyder asked, "It might be incorrect but what are the bids? The bids were what five million two and five million sixty-seven? So that is what I am talking about."

Natalie Robottom stated, (Interrupting) "I understand Mr. Snyder."

Councilman Snyder stated, "Alright, so if we go with what you want to go with tonight and that is where I am right now, as long as we get some new meters and new system. I am satisfied. I don't care who puts it in but we have to be sure we are doing the right thing and that what is it going to cost us because someone forgot to fill a blank in on a bid form but we are saying that on the same bid form we don't have to disclose whether we have the money at hand or not."

Robert Figuero stated, "Councilman there were several items that were left blank, that we required, so those functions are going to have to be done so the fact that they are putting zero or left it blank telling us that they have a zero amount when we know it is going to cost several hundreds of thousands of dollars in order to accomplish that. So, then my concern was are they going to come back for a change order and say oh wait I've got to get paid for this but their bidding was blank. So, again and these are requirements in the bid that we were going to require to occur and because they didn't put an amount well that tells me that they have zero intention on performing that function which doesn't meet our bid specs."

Councilman Snyder asked, "One of the functions was the total price of the system, are you telling me that it wasn't on that bid anyplace?"

Natalie Robottom stated, "That is correct. There were three items."

Councilman Snyder stated, "You are wrong because it is on there in another place."

Natalie Robottom stated, "No you are talking about the alternate."

Councilman Snyder stated, "I am not talking about the alternate. I am talking about the five million two hundred thousand dollars. It is on the form in another place."

Natalie Robottom stated, "Mr. Snyder, I think we are confusing a few things. One, there were thirty-eight items."

Councilman Snyder stated, "I am not confused."

Natalie Robottom stated, "Three of the items were left blank."

Councilman Snyder stated, "I know that. I know that. Some of it changed from square footage to cubic yards."

Natalie Robottom stated, "And five items were added okay. All of that is a violation of public bid law. Each one and one by itself would have been cause for rejection. So to add five of your own items that we didn't request is a problem to change the unit of measure and the quantity on three items is a problem, to leave off three items that we know we need for example one of them being to replace sidewalk or driveways that are broken, there is going to be a cost for making those repairs, there was no amount placed in those and there were two other items again I think the alternate was included in the bid so it wasn't in the alternate spot but they did account for an alternate but they referenced the wrong addendum. So, there are at least seven things that would make this bid nonresponsive in itself. Looking at the cost, you are right, if you look at the base bids one is two hundred thousand dollars more than the other but it is compliant. The one that was left failed to meet the bid requirements and that is not even looking at the specs, that is looking at what is required of a bid submittal document. There is very specific language as to what must be included in that bid and what you cannot and can do that bid was altered, the bid submittal was altered and was not compliant so we can't even get to the price because you submitted a document that didn't meet the requirements of the public bid law. So, we are talking legal, that is a legal requirement in that what you submit meets the bid law and that one didn't so we can't even get to the pricing because your submittal was nonresponsive. So, again we would like to pay less too but we are not going to violate the law and that would be a violation to say that bid was acceptable when we can look at it and see the mere number of errors on that submittal for a project of this size is problematic."

Councilwoman Gaudet stated, "I guess I have a question maybe Rob and even legal in reading the document here and obviously right we just received it and it is a lot to digest but where it says that was readily available, if the funds are readily available then we would be able to submit payment, like we would do on a regular purchase order but here it seems as if the funds will need to be reviewed and approved before we can actually draw on them. So, do the funds have to be reviewed and approved before we can actually disperse funds or do we just write a check for it like we would pay any other bills?"

Robert Figuero stated, "The loan was closed on so the funds are ours. So, once we get approval from the engineer, like all of our standard federal and state contracts, the information is submitted to DEQ and then they in turn say you are good to go you have met the specifications and then we can distribute the funds from there."

Councilwoman Gaudet asked, "So, you could run into a situation where something is submitted and not approved a document and I will just for a reminder, I vividly recall when we went through this in January and or maybe it was February with RFP's and bids. This project is not a construction project. It should not have been a bid project to start out. My motion failed but a lot of the problems that

we are having is because we are trying to fit a non-construction project into a construction bid model but we can proceed there. I just wanted to put that back on the record, but if the funds readily available, the money that I have in my checking account is readily available. I can go to Wal-Mart and I can make a payment but if I have to pick out the items that I want and submit something to someone else and then they have to either approve or deny what I have submitted and I am not sure if that is the case. So, if that is the case then I would say yes, we probably have two things maybe working in tandem. One, the responsiveness of one or both bids and then also whether the specs themselves met legal requirements based on the funding sources. So, that might be a question for Rob, I see you are here, once we have this loan and the loan has been closed you said, are the monies sitting in our bank account and we can disperse immediately upon receipt of an invoice or do those documents have to be reviewed and approved by someone else before we can submit payment?"

Rob Delaune, Digital Engineering, stated, "A pay request has to be submitted to DEQ for the funds to be released, that is their standard."

Councilwoman Gaudet asked, "And they have to approve it?"

Rob Delaune stated, "They review the pay request and if everything is good they issue the check."

Councilwoman Gaudet asked, "So, if everything is not good then they don't issue the check?"

Rob Delaune stated, "Right, they would provide a comment on what needs to be addressed and then that would have to be addressed."

Councilwoman Gaudet asked, "So, would it be safe to say that in that instance then those funds are not meeting a readily available because the person who is issuing the money has the ability to say no this document didn't meet you need to go back and revise it?"

Rob Delaune stated, "I guess you could look at it that way but the process is even if the funds were readily available in an account the contractor has to submit a pay request for the services that were provided and if that is reviewed and it is incorrect then it would be sent back and they would have to address that and that situation so it is the same process whether the funds were St. John Parish funds or whether they were LDEQ funds a review of the request has to be done and has to be approved before any payment can be issued."

Councilwoman Gaudet stated, "But in this case the review is being done by a third party who is issuing the funds unlike when it is our own project for example a concrete panel repair, the invoice gets turned into I guess public works, the inspector signs off on it, Rob cuts a check for it. There is no third party outside agency review other than internal. Correct?"

Rob Delaune stated, "Correct. That is my understanding of the process."

Natalie Robottom stated, "I think part of the problem is the funds are readily available. It is upon the contractor to submit adequate paperwork. So, the funds are there. If you submit your documents and they are correct and you account for all the requirements you get your money. So, it is not that the funds aren't there. They are there but there is a requirement on your part to submit documents and this isn't the only process that works in. All of other grant funding is the

same, the money is there it is our money, but it is incumbent upon the contractor to submit correct documents to access the money. So, again the readily available is not about the money, it is about you doing your job to get your money. So, there are some questions there and I know you referenced bid versus RFP, that really one is not causing the problem. The problem is about looking for a reason to throw these bids out when the original request to the responsiveness of the bid has not been addressed and two, I think it was Mr. Malik's question was whether or not a hearing of the compliance issue came up because there was an accusation that we were required to provide the nonresponsive bidder a hearing which the law is very specific and says we don't. We can but we didn't have to. So, that hasn't been addressed one way or another which you know the fact is it wasn't a requirement. If your bid was determined to be not responsive a hearing was required. So, for your information Mr. Malik I know that was your question, we didn't violate anything because we weren't obligated to provide a hearing on a bid that is none responsive. So, that is the answer to that one. The bid is still none responsive. In addition to the blanks, there are a number of other issues associated with the bid that was submitted of course we would have loved to have that price with all the items that we were requiring on the bid at that price but it wasn't. So, we can't accept it because it wasn't completed properly in accordance with the law but I know we are going back and forth over readily available. The money is there. When you submit an appropriate draw. You get your money."

Councilwoman Gaudet stated, "And it still won't resolve the issue I guess that we are waiting for to be answered which is whether or not the bid is responsive. I guess from what legal is saying, and maybe Keith help me, it seems like now what legal is saying is that the process wasn't done correctly. The only way to remedy that and to correct the process is to reject them both and start over and do it right. Is that what you are saying?"

Keith Green, Jr. stated, "Not reject them but to disqualify the process. So, if the process was not done correctly or properly, the responsiveness is irrelevant."

Councilwoman Gaudet stated, "Right, okay."

Natalie Robottom asked, "Can you get a ruling on the responsiveness?"

Keith Green, Jr. stated, "Our legal report said that the council and the administration would receive the full legal opinion by close of business tomorrow."

Natalie Robottom asked, "Okay and it will address the responsiveness of the bids?"

Keith Green, Jr. stated, "It will address a number of issues responsiveness being one of them."

Natalie Robottom stated, "Okay, so obviously if we are waiting on a report I would suggest we table this until we get a full report."

Councilwoman Gaudet stated, "That would be the wishes of the council. I think what legal is saying is that there were issues in the advertisement."

Natalie Robottom stated, "And just for clarification, that is their suggestion. We have not agreed to that. We thought we cleared up that the money was

available. The advertisement was approved. It was submitted at the time the advertisement was submitted we had the money. We had already released money from it and we still have the money so their exception doesn't exist according to us but again just getting this again we are hearing it as you guys are reading it so again unfair to any of us actually to ask us to take action with a report that was delivered to us while we were seated at our tables."

Councilman Wright stated, "I think Mrs. Hotard addressed most of my concerns, I do have to say I do disagree I think to say that the funds are readily available having a third party managing and dispersing the funds would be a stretch. So, I do have to agree with the District Attorney's office that I don't see where the funds would be technically considered readily available."

Councilman Malik stated, "Some of the statements I was going to make earlier was what impact R.S. 32:2211 has with 2212X but anyway I did have a question for Mr. Figuero. Was there a value of zero placed on those because you said something?"

Robert Figuero stated, "No sir, there was no value at all. It was blank. So, again if they would have put a value of zero then yes you understand it would have been based off of that line item would have costs zero dollars. However, it was left blank so therefore hence the none responsiveness because you can't compare apples to apples when you are comparing it to the other bids."

Councilman Malik asked, "Zero to no response or no value placed?"

Robert Figuero stated, "Correct."

Councilman Madere stated, "One thing and I do agree that we probably need to table this and take a look at all of these explanations that are going back and forth. I want to go back to one comment that Mr. Figuero made you mentioned that you didn't think you needed to include that in the documents, because you said the funds were available."

Robert Figuero stated, "That was based off of the recommendation of our bond attorney and our project engineers."

Councilman Madere stated, "Right, but the key thing is you said you didn't think it needed to be put in there but according to legal it should have been on that document. It should have been in there. According to what you said, because I am not a lawyer either and a lot of things have been flying around, we going to follow the bid law, we are not going to follow the bid law, we are going to throw them out because of the bid law but we are not going to follow the bid law when it came to this particular document that he just said. Everything is the bid law, so to violate any part of it is wrong and I am just going back to the comment that you made that you didn't think it was necessary to put it in there and according to what the District Attorney is telling us, it is important to put it in there and that is all I am saying."

Robert Figuero stated, "And again based off of other legal representation with our bond attorneys as well as the project engineers, they felt it wasn't necessary and again obviously the issue here is the interpretation of those words and people are interpreting them differently."

Councilman Madere stated, "I am going to say it like I said it before, if I get a hundred lawyers in here. I am going to get a hundred different opinions. But this council is bound to follow the advice of our legal advisor which is the District

Attorney office. So, I am not going to rely on ninety-nine other lawyers okay, this council, that is who represents us, so in their opinion, which is the only one that matters to this council, we left something out."

Natalie Robottom stated, "Mr. Madere, what I wanted to tell you was we didn't leave it out because we didn't think it was important and those were the words you used, we didn't include it because the funds, to us, were readily available and they are readily available because we have used them. The loan has been granted to us. The money has been awarded to us and if we submit actual documents they will pay it. So, it wasn't that it wasn't important, we didn't feel it met the exception of not having the funds available. Now keep in mind by law we can't bid any project, as a governmental entity, without having the funds available. Now we have funds in different banks and in different sources and again we have to request payment for those. So basically the interpretation is that you have these funds available whether they are in your hands or in a check book or not, we have access to them and we always have to submit documents and even our staff, like as a director they might approve something from their supervisor it gets to Julie, she approves it and then it gets to Robert and he approves it. So that is four people with out own money. So, that is just a process of accountability and fiscal responsibility is that you have eyes on the document verifying they are accurate before you submit a payment. But again, I don't want you to think that we didn't think it was important. We did it just wasn't a requirement because the funds are available and that exception occurred when you didn't have the funds available."

Councilman Madere stated, "Okay I am not saying that anything was done intentionally wrong. I am not saying that. I am just saying that we have found out legally from our DA office that these things should always be included and that is what we are finding out right now. And intention is not the problem and I am not trying to make a joke but I got a ticket for not coming to a complete stop at a stop sign because I didn't see anything coming. I didn't see the need to stop but the guy gave me the ticket and said whether someone was coming or not you need to stop. So, what we are finding out tonight is that when you deal with these bid laws everything should be included regardless of how we feel or what we think it should be in there that is all I am saying and we found that out tonight through our attorney but I do agree that we need to table it."

Councilman Wright asked, "My question is for legal, will your full report at all change the recommendation that you have in this legal report tonight?"

Keith Green, Jr. stated, "No, it will not."

Councilman Wright asked, "So, at this point, regardless of what other violations are found or what other or anymore legal analysis that is done a recommendation is going to be to disqualify all of them and start over?"

Keith Green, Jr. stated, "Because you are disqualifying the process based on the violation in 2215."

Councilman Wright stated, "Okay."

Councilman Perrilloux stated, "That was my question Mr. Wright if it won't change anything and we keep going back and forth and it won't change anything than I am going to offer a motion. I am going to offer a motion to remediate this violation by starting the public bid process over from the beginning to fully comply with mandates and requirements of the Louisiana Public Bid Law, specifically but not

limited to LSA-R.S. 38:2215(D). That is my motion."

Councilman Sorapuru stated, "Second."

Councilwoman Gaudet stated, "Thanks. I guess the clarity that I am looking for is even if the recommendation won't change tomorrow, the reasoning for what we are doing could change because either we are trying to remedy a process or we are rejecting none responsive bids and I believe that makes a difference especially for the record even though the outcome will be the same and we won't know that without the full legal analysis that we will receive tomorrow. We may receive something tomorrow that says that both bids are nonresponsive. So, then we would have rejected or started the process over for one reason when there was something else. Secondly, with the motion I would like to if our motion is to re-do this particular process, it locks us back into a process that I believe is problematic. So, if possible and that is your choice, if we are going to start over maybe we need to look at what we are going to start over and do. Are we just going to re-submit or solicit again bids in this same manner, with this same information and end up potentially with this same result, that would be something that we need to think about and if we are going to start all over the time to make any changes like that would be now. So, I will just throw those two things out there. The first thing is we could possibly be starting the process over but it could be for a different reason and I think that everyone should know exactly what it is, is it a flawed process or were the bids problematic and secondly, do we want to restart this exact same bid process exactly in its form that it is in right now."

Councilman Madere asked, "Yes, legal, Mrs. Hotard just said that we have a motion, well the recommendation was to start the process over by the DA Office, right? And you said that the full report that you give tomorrow is not going to affect the change that you recommended tonight right? So, there is a possibility that when you give the full report that you will find something else that would require us to start the process over, but this violation by itself is enough to warrant that the process start over, regardless of what you find in the other two things?"

Keith Green, Jr. stated, "That is absolutely correct. That stems from public bid law, I think it is 38:2020, specifically states that any contract that is entered into contrary to the provisions of the public bid law it is declared null and void."

Councilman Madere stated, "So, that is what I am saying, regardless to what you find on your final report, what you initially found and reported to us right now is enough to throw everything out and start all over again?"

Keith Green, Jr. stated, "Yes, sir."

Natalie Robottom stated, "With all due respect, that is an assertion and again that none of us have actually had time to review and look at, which in itself if problematic and it is an assertion."

Councilman Madere stated, "I would like to agree that it is an assertion because it is a legal opinion by the DA."

Natalie Robottom stated, "And it is an opinion."

Councilman Madere stated, "Right and like I said everyone in here has an opinion

but that is the legal opinion that governs this council. So, I am not going to go back and forth or this council doesn't need to go back and forth as to who is legal and who is not legal. There is a motion on the floor and I think we need to vote on it."

Councilman Snyder asked, "I would like to clear up something with Mrs. Gaudet. Are you suggesting that we go through the proposals instead of a bids next time or are you suggesting that we think about that?"

Councilwoman Gaudet stated, "I would suggest that we do think about it and I would suggest that we look at what other municipalities or other cities similarly situated as us have done. It may be a combination of bid and RFP, your meters is something that you could possibly procure with a true hard bid because meters is different it is just like when we do chlorine or things like that you can have it is very specific versus your software systems and your professional service type items that you would be procuring would be better suited in a proposal. So, I think that what we should do is look to those municipalities or even out of our state because I am not sure of the municipalities here in Louisiana that have successfully completed an AMI system like this. I know Rob, when I asked in I believe February or January, at the time you all hadn't successfully completed an AMI system, they were all in that beginning process, but I would say yes we need to look at maybe breaking that up, hard bidding which you can and looking at proposals for the services and then we can carefully look at the companies who have submitted and see where they have been successful in other areas with these similar systems, that would be what I think that we should do. At the end of the day, and I have said this in February, we replace water meters in 2005 or 2006 and I remember the team of folks they had here before the council telling us that this would answer the problem of water meters, this would answer the water bill problems and here we are in 2019 with the biggest water bill, water meter, meter gate problem that I have ever seen and so you know I said that a few months ago in all seriousness we don't want to make that same mistake twice and you guys did not sit through it, I was here and right now like I said we have a problem. That would be my recommendation, if we are going to re-do it maybe not lock us into another bid, maybe that is the answer, we heard from Rob Delaune a few months ago. I even had the minutes typed up again, it wasn't a requirement, it was told to us that it was a requirement to bid this entire project out. It was not a requirement. It never was a requirement. Again, meters yes, just like chlorine tablets, but your actual service you want firms who this is what they do and this is what they have done successfully whether it is Aquametric, I see they are here and he has a nice little grin on his face, whether it is them or anybody else I don't know but we need to get this right for our residents."

Councilman Snyder asked, "Rob, how long would it take for bids or proposals, are we talking about another two months possibly?"

Rob Delaune stated, "If we were to continue with the bid process as it is and the specifications stay the same then you could re-advertise and you are probably looking at two months. If there is an RFP that has to be prepared, that takes additional time so it would probably be more like three to four months before that could be put out."

Councilman Snyder asked, "So the only thing in these bid packages would be to disclose what the district attorney office said that would need to be disclosed more or less and that would be the only difference all of the specs would be the same?"

Rob Delaune stated, "You would just have to put the language that they are saying that needs to be provided in the advertisement and re-advertise."

Councilman Snyder asked, "You said we had our bond attorney look at this? Did they look at this thing with a microscope too and they said it looked good to them?"

Rob Delaune stated, "Actually, LDEQ reviewed the specs and the advertisement and this is not something that they required or have done on any other projects in the past, is putting this language in these advertisements. We bid many projects. Actually, I believe five projects in St. John Parish on the LDEQ sewer loan have been bid in the past and this language was not part of those bids."

Councilman Snyder asked, "Were the circumstances similar? Was the money at hand? Did we have the money in the bank? Did we have to write up?"

Rob Delaune stated, "Yes, it is the exact same circumstances."

Councilman Snyder stated, "Okay."

Councilman Madere stated, "I just think we have talked about this too much. We have talked about it too much as far as what is going, what is legal, how long is it going to take and all of that kind of stuff, when you have the citizens in this parish that have been dealing with this problem for three years. Now, you said that you have done this before similar and stuff and we also know dealing with the federal government and anybody else they can change a rule at the snap of a finger and you have to adjust. So, it doesn't make any difference about what I used to do or what I am going to do, the problem here is what's legal okay and according to our DA it was not done legal okay and I don't think we need to be discussing about how long it is going to take. The discussion tonight is to make sure that we get it right and it is done legal. I agree with Mrs. Hotard and everything that she said but that is not what we are voting on. We are not voting on that process right now. We are voting on what the DA recommended to us. We are voting on the motion that was made by Mr. Perrilloux and seconded by Mr. Sorapuru. So, I am calling for the question to get this voting on and anything after this vote is done, anything else like what Mrs. Hotard is talking about or anybody else that is a discussion that is going to be held after, because this vote is not going to determine what she is saying..."

Councilwoman Hotard Gaudet stated, "Yes it does."

Councilman Madere asked, "What is it going to determine that we do the same process?"

Councilwoman Hotard Gaudet stated, "Yes."

Councilman Madere stated, "So it is going to be the same process, well here is the problem if you don't vote to start over then you accept something that is possibly illegal."

Natalie Robottom stated, "Or you table it until you find out."

Councilwoman Hotard Gaudet stated, "You can start the process. We can follow the recommendation of the District Attorney office to start this process over but I don't believe they are requiring us to start over a public bid process. I believe that they are asking us to start this process over. (Asking legal) Are you

requiring us to do another bid or are you just saying that this advertisement was whatever, flawed?"

Keith Green Jr, stated, "We are just saying that this advertisement was flawed and to move forward with it, we believe would be in violation."

Councilman Madere stated, "That is exactly what I was saying that the process that they recommend is wrong but I agree with the fact that we may want to look at what you spoke about before."

Natalie Robottom stated, "Just for clarification, the recommendation that you all received was to remediate the violation by starting the public bid process over. That is the legal recommendation, that is what is in their document."

Councilwoman Hotard Gaudet stated, "Legal has just stated that the recommendation is that we discontinue this process because it is flawed and they are not requiring us to do a bid or an RFP."

Natalie Robottom stated, "That is not what their language says."

Keith Green, Jr. stated, "If I may, you all are the council and how you all choose to move forward is definitely your decision. Being that the public bid process was, in our opinion, flawed, that is why we recommended that you do the public bid process over again but if you all decide to do another process then we can't tell you not but our recommendation was to redo the process that was declared or deemed flawed."

Councilman Becnel read the motion again for the public and the council.

**MOTION:** Councilman Perrilloux moved and Councilman Sorapuru seconded the motion to remediate this violation by starting the public bid process over from the beginning to fully comply with mandates and requirements of the Louisiana Public Bid Law, specifically but not limited to LSA-R.S. 38:2215(D). The motion passed with 8 yeas and 1 against (Jaclyn Hotard Gaudet).

**Jean Stewart/Verdell Kindrick - (Tabled 04-23-19) Authorization to enter into a contract with Crochet Equipment Company, Inc. for the operation of the Parish's Bio-Mass and Wood Waste Disposal Facility**

**MOTION:** Councilman Perrilloux moved and Councilman Madere seconded the motion to REMOVE the authorization to enter into a contract with Crochet Equipment Company, Inc. for the operation of the Parish's Bio-Mass and Wood Waste Disposal Facility from the table. The motion passed unanimously.

Verdell Kindrick stated, "This contract is to operate the Parish's facility which accepts and processes approved bio-mass waste at no cost to Parish residents. Through December 31, 2019, the contract will be for 40 hours a week at a cost of \$14,000 a month. Effective January 1, 2020, the contract will increase to 58 hours a week at a cost of \$16,000 a month. The contract is for 5 years with an option to renew for an additional 5 years and it is funded through the Solid Waste budget. The contract document was sent to Legal Counsel for review and deemed legally sufficient. Administration recommends approval."

**MOTION:** Councilman Perrilloux moved and Councilwoman Remondet seconded the motion to grant administration authorization to enter into a contract with Crochet Equipment Company, Inc. for the operation of the Parish's Bio-Mass and Wood Waste Disposal Facility. The motion passed with 8 yeas and 1 against (Sorapuru).

**LaVerne Toombs - (Tabled 05-14-19) Authorization to enter into a Professional Services Agreement with Xavier University of Louisiana to serve as the fiscal agent for the Louisiana Small Business Development Center (LSBDC)**

**MOTION:** Councilman Perrilloux moved and Councilman Madere seconded the motion to remove the authorization to enter into a Professional Services Agreement with Xavier University of Louisiana to serve as a fiscal agent for the Louisiana Small Business Development Center (LSBDC) from the TABLE. The motion passed unanimously.

LaVerne Toombs stated, *"This contract is for technical assistance through the Business Training Center and includes workshops/seminars, Kauffman FastTrac 10-week sessions and other entrepreneurial training courses in connection with the Small Business Development Center. The contract is for a not to exceed amount of \$123,213.00 and is funded through the Economic Development Department budget. The contract document was sent to Legal Counsel for review and deemed legally sufficient. This is a highly successful program and Administration recommends approval."*

**MOTION:** Councilwoman Remondet moved and Councilman Perrilloux seconded the motion to grant administration authorization to enter into a Professional Services Agreement with Xavier University of Louisiana to serve as the fiscal agent for the Louisiana Small Business Development Center (LSBDC). The motion passed unanimously.

**Rhonda Lemons - (Tabled 05-14-19) Authorization to enter into a Cooperative Endeavor Agreement (CEA) with St. John the Baptist Parish School Board to provide transportation for the Summer Feeding Program**

**MOTION:** Councilman Madere moved and Councilman Sorapuru seconded the motion to remove the authorization to enter into a Cooperative Endeavor Agreement (CEA) with St. John the Baptist Parish School Board to provide transportation for the Summer Feeding Program from the TABLE. The motion passed unanimously.

Rhonda Lemons stated, *"This Agreement provides transportation services for Summer Feeding and Summer Recreation programs. It is funded through the Nutrition Division with the Louisiana Department of Education and the Recreation Department. The CEA was approved by the School Board and a copy sent to Legal Counsel for review. Administration recommends approval."*

**MOTION:** Councilman Madere moved and Councilman Wright seconded the motion to grant administration authorization to enter into a Cooperative Endeavor Agreement (CEA) with St. John the Baptist Parish School Board to provide transportation for the Summer Feeding Program. The motion passed unanimously.

**Adjournment**

**MOTION:** Councilman Perrilloux moved and Councilman Malik seconded the motion to adjourn the finance meeting. The motion passed unanimously.

The meeting can be viewed in its entirety at [www.sjbparish.com](http://www.sjbparish.com).