

## CITY OF EDEN, N.C.

A special meeting of the City Council, City of Eden, was held on Monday, April 24, 2023 at 6 p.m. in the Conference Room, 308 E. Stadium Drive. Those present for the meeting were as follows:

Mayor:	Neville Hall
Council Members:	Gerald Ellis
	Jerry Epps (absent)
	Kenny Kirkman
	Greg Light
	Bernie Moore
	Bruce Nooe
	Tommy Underwood
City Manager:	Jon Mendenhall
City Attorney:	Erin Gilley
City Clerk:	Deanna Hunt
Media:	Roy Sawyers, Rockingham Update

MEETING CONVENED:

Mayor Hall called the special meeting of the Eden City Council to order and welcomed those in attendance.

CONSIDERATION TO APPROVE AN AMENDMENT TO THE CITY-COUNTY UTILITY AGREEMENT:

City Attorney Erin Gilley wrote in a memo: The City and County executed an extension agreement for 120 days to the current sewer contract in January 2023. Staff of both Boards have been in the process of negotiating that agreement over the past few months. Based upon comments from the City Council at the February City Council meeting, staff has been working on obtaining more in-depth answers and information to the City Council questions and to provide updates to the agreement based upon the Council feedback. The extension is set to expire in May. Staff is requesting that you approve an additional 120 day extension for the Agreement to be finalized. We anticipate bringing an updated agreement to you at the May City Council meeting. We recommend that you adopt the Interim City County Utilities Agreement so that we can proceed with the finalization. If you should have any questions or concerns, please do not hesitate to contact me.

Ms. Gilley read from her memo and noted the current extension was set to expire May 11. Staff would like to bring it back for Council at the May meeting and they wanted enough time to get all the kinks worked out so they requested a 120-day extension.

Mayor Hall asked if the County was good with the 120-day extension.

Ms. Gilley advised they were. Staff hoped it did not take that long and they could present a final agreement in May but they just wanted to have that extra cushion.

A motion was made by Council Member Underwood to approve an amendment to the City-County Utility Agreement for a 120-day extension. Council Member Kirkman seconded the motion.

Mayor Hall noted this was the issue they had discussed several months prior where the County was going to sell the pump station for \$800,000 to the City which was how much the County would have in it. What Council had received was a confusing description and all of Council had the same hesitant reaction. That was not what was being proposed and negotiated. It would be several million dollars' worth of equipment, the pump station was just the newest part being added on. He had asked City Manager Jon Mendenhall and Ms. Gilley to find out exactly what the County was offering. When Mayor Hall talked with the chair of the Rockingham County Board of Commissioners, the chair was surprised the City Council had not jumped on the agreement. The County was proposing a deal that more than likely would be in the City's favor, especially if the City ever intended to have sewer on the other side of the river. The extension just gave the City more time to figure out what the County was trying to give them.

Ms. Gilley agreed. Staff hoped to have all the information in May so Council would have a month to look at it.

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Council Member Ellis asked if any new information had come up since the previous meeting.

Ms. Gilley said they did and hoped to discuss that in closed session. They wanted the extension done so they could have some extra days for Council to look over it, process it and ask any questions they had.

Council Member Ellis asked if the City had to use all the 120 days.

Ms. Gilley said no. The agreement said 120 days or until the agreement was voted on by both parties, whichever one came first.

All members voted in favor of the motion. The motion carried 6-0.

*A copy of this agreement is on file in the City Clerk's Office.*

**CONSIDERATION TO APPROVE A BID FOR EPA CONTRACT 5A: JUNCTION BASIN SEWER LINES REHABILITATION:**

Special Projects Manager Terry Shelton wrote in a memo: The first bid opening for this project Contract 5A (Junction Basin Replacement and Smith River Outfall Replacement and Rehabilitation February 1, 2023). We did not receive the three required bids to open the bids. A second bid opening was rescheduled for March 1, 2023, to allow additional time for contractors to prepare bids.

The March 1 bid opening had only one contractor to submit a bid even with extensive re-advertisement and solicitation of numerous contractors who had done work for the City before. We were able to open bids. The bid submitted was from Yates Construction, INC., \$8,666,348.50. The original engineering estimate that was prepared on January 5 of this year was for a total cost of \$6,193,426.80. The only bidder was \$2,472,921.70 more than the engineer's estimate. Like all contracts recently bid on, this project also came in significantly higher than the estimates had predicted. PVC and Ductile Iron Pipe and Precast Concrete Manhole have steadily increased in price and still have long lead times for delivery.

WK Dickson's engineering staff have reviewed the bids for any errors or omissions and went into negotiations with the contract bidder to see if the price could be reduced by making changes that would not affect the overall performance of the completed project. The consulting engineer's recommendation letter for the award of this contract was forwarded to me late on Friday, April 14, and had been too late to place it on the April agenda. This contract has many items (pipe and manholes) with a long lead time, the sooner we can give the contractor notice to proceed, the better to keep this project within our EPA-mandated timeframe. This is also an exceptionally large contract at \$8,146,318.48 after negotiation, and the contractor has much of his bonding capacity tied up in this single bid preventing him from bidding on other work and not knowing if he will receive this contract. Due to the critical time factor to get this work done by December 31, 2024, we wanted to bring this to the Council for approval on April 24, rather than wait until the May meeting.

The staff requests that the Council approve the sole bid from Yates Construction of \$8,146,318.48, which would be contingent upon approval by the Local Government Commission of a loan increase of \$5,000,000 of our current ASADRA and CWSRF loan. The approval would also be subject to review and approval by the Division of Water Infrastructure as well. With the loan increase of \$5,000,000 we will have the necessary funding available for this project.

**EPA Updated Information for Projects and Funding:**

- A) EPA – AOC work that we currently need to be completed by December 31, 2024.
  - 1) Contract 2B – Rehabilitation of the Junction Pump Station
  - 2) Contract 5A – Smith River Replacement and Rehabilitation of Piping in Junction Pump Station Basin
  
- B) These two Projects have been funded by ASADRA (Additional Supplemental Appropriations for Disaster Relief Act of 2019) and CWSRF (Clean Water State Revolving Fund) for a total of \$10,129,852.
  - 1) Contract 2B - Two bids were received and were within \$34,567 of each other. The cost of this project with engineering fees and contingency is \$6,121,127.
  - 2) Contract 5A – One bidder after advertising and soliciting bids twice produced a bid of \$8,666,348.50.
  - 3) These two contracts total \$14,787,476. This leaves a shortfall of \$4,657,624 needed to complete these two projects.
  - 4) We have sought additional funding of \$5 million by increasing the ASADRA and CWSRF loan we currently have. The Division of Water Infrastructure (DWI) allows increasing loans by this amount without reapplication in the normal funding rounds in spring and fall.

- 5) We are currently waiting for the LGC (Local Government Commission) to meet on May 5 to approve the city for the combined loan of \$15,172,225. City Council would have to accept this loan package when the loan offer is made to the City when sent from DWI.
- C) If this loan is approved by the LGC the city would have the funding available to continue these two projects with the necessary funding to complete Contract 5A.
- D) We are requesting that the Council approve the bid for Contract 5A tonight to be awarded to Yates Construction Inc., contingent upon approval of the loan by the LGC and approval and release of funding by DWI.
- E) If acceptance of Contract 5A is approved tonight and the requested additional funding is approved, it will speed up the process to subsequently award this contract in a shorter time frame. This will help meet the EPA completion date.
- F) Please keep in mind that the last three years have seen unprecedented increases in the costs of materials, huge increases in labor costs, and incredibly long delivery times for needed construction materials. These costs have driven our cost for construction up as much as 200% in some cases. We have no control over these costs or the timeframe in which we must complete this work.
- G) Currently, there is funding available in our budgeting process to pay for the initial payments on this loan.
- H) Our latest projections indicate that we may have to increase our future water rates by as much as 8% to support the repayment of these loans.
- I) With the completion of the two projects discussed here, there will be about \$4 million worth of lining work on three sewer lines that will need to be done later when more funding can be obtained. Funding will be sought for these sewer lines where possible over the next 20 months.
- J) In addition, Contract IV which was Glovenia/Spruce/Chestnut Streets Sewer Relocation has been delayed to be completed when funding is available and to possibly be done by the new city construction crew.

Mayor Hall called on Mr. Shelton.

Mr. Shelton thanked the Mayor and City Council for scheduling the special called meeting. Normally when he submitted information for the funding of a job, it had been pretty cut and dry. The funding had already been appropriated and everything was ready to go for Council's approval. There were some moving parts to the current item. The City had been funded by ASADRA (Additional Supplemental Appropriations for Disaster Relief Act of 2019), which were federal funds, and CWSRF (Clean Water State Revolving Fund), which were state funds. Both of those loans had been combined into one for a total of \$10,129,852. The first contract was Junction Pump Station that this money would have been going to and originally it was estimated to cost over \$5 million. Two bids were received and the lowest one was \$6,121,127. It was considerably over the engineering estimate but the two contractors were within \$34,000 apart on a \$6 million bid so it showed that the price of materials they were bidding on was pretty close to being correct. There was also the Smith River replacement rehabilitation which was piping in the Junction Pump Station basin. The two contracts totaled \$14,787,476. That left a shortfall of \$4,657,624 needed to complete both. Staff found out from the Division of Water Infrastructure (DWI) that they had some ASADRA money left over. DWI would allow the City \$5 million additional without going through the application process and reaching out for funding. Staff was currently waiting on the Local Government Commission (LGC), who would meet May 5 to consider a combined loan of \$15,172,225. That was contingent on Council accepting the loan package if the LGC approved it.

He explained staff requested Council approve Contract 5A to be awarded to Yates Construction Inc., contingent upon approval of the loan by the LGC and approval and release of funding by DWI. Subsequently, Council would have to accept the additional \$5 million expected to be offered. He asked Council to please keep in mind that the last three years have seen unprecedented increases in the costs of materials, huge increases in labor costs, and incredibly long delivery times for needed construction materials. There were 20 months left before the EPA deadline of December 31, 2024. If Council had not met that night, the approval would have been delayed until the regular meeting and the City would have lost another three weeks which could be critical to the end of completing the work. It was important to note there was funding available in the

budgeting process to pay for the initial payments on the loan. The loans usually did not have payments come due on them until about six months after the work was completed. It would probably be May 2025 before the payments would start. Staff's latest projections indicated the City may have to increase future water rates by as much as 8 percent to support the repayment of the loans. That could possibly be late in the 2024-25 budget.

Mr. Shelton said staff had delayed doing some pipe lining work on Kings Highway to the Junction Pump Station on Valley Drive. The total currently for the three separate legs of that would be about \$4 million above what they had already discussed. Staff would continue to look for funding over the next 20 months to at least be started on those projects before the time ran out. He thought staff would have produced enough reduction in the sewer system overflows that the EPA should be reasonable and accept the work that had been done up to that point. The time extension modification the EPA gave had language in it that mentioned as far out as 2030 to complete some of the rest of the things that were not currently in the schedule at that point to work on. Contract 4 was delayed and it was specifically mentioned in the time modification that had been given. It took in the sewers that were in the backyard of houses on Glovenia, Spruce, Chestnut, Ash and that general neighborhood. The sewer came out of the houses into a very small main behind the houses that needed to be changed out to better access the sewers should they stop up and the City have to service them. There was a possibility that City forces could do some or all of that work. The sewer lines would be rerouted from the back and come out on the front to a new sewer line in the street. There was a projected estimate of another \$4 million to do that work but if the City could do that in house, it would drop that price considerably as it would just be materials like pipe and possibly a couple of manholes. It was important for Council to have the information before they voted on the memo.

Mr. Shelton said the bidding for Contract 5, which was the Junction Pump Station and Smith River outfall rehabilitation, was first accepted on Feb. 1, 2023 with only two bids coming in so it had to be rebid. Staff waited four weeks to try and get more interest from contractors and had even sent solicitations to contractors they had worked with before trying to get participation. On March 1, they only had one bid and that was Yates Construction who had also submitted one bid on the first bid day. Their bid came in at \$8,666,348.50. It was \$2,472,921 more than the engineer's estimate that was redone Jan. 5, 2023. They estimated based on current jobs they were getting in. It was much more than the City anticipated. W.K. Dickson went through and checked for errors and omissions in the bid, as well as entering into negotiations. They were able to take roughly \$500,000 out of the contract. The new contract wound up being \$8,146,318. Another reason to work hurriedly for acceptance was that the contractor had all his bid bonds tied up in the bid and it was only good for 90 days. With the LGC's consideration, the City would probably be right on the mark where the contractor could withdraw the bid and the City would be back at having to bid it again. Staff was trying to stay ahead of that, work with the contractor and get the work completed. Council's vote would be to approve \$8,146,318.48 and that would be contingent on the LGC approving the loan and Council's eventual acceptance of the additional \$5 million added to the ASADRA and CWSRF loan.

Council Member Moore asked if the loan would be low or zero interest.

Mr. Shelton said it was one-tenth of a percent so it was about as low as money could be loaned out. That rate would apply to the entire loan.

Council Member Ellis noted the LGC was meeting May 5. He asked if Council needed to approve it prior to that meeting.

Mr. Shelton said his thought was if Council had already accepted the bid contingent on the LGC's action that day, the City would be able to move ahead rapidly after May 5. If Mr. Shelton could inform the contractor that Council had accepted the bid, it would reassure the contractor about waiting.

Council Member Ellis asked Mr. Shelton to confirm he did not receive a second bid between Feb. 1 and March 1.

Mr. Shelton said he did not.

Mayor Hall asked about the difference between the bids that came in.

Mr. Shelton said staff could not open the first bid because they had only received one.

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Council Member Ellis asked if Yates was already doing work in the City.

Mr. Shelton said they were. They had done a majority of work along with Sam Smith. Mr. Smith was busy and did not bid at all on the project. Yates had been competitive when there was competition and at the same time came in low.

Ms. Gilley advised Yates was pretty good to work with regarding property owners over the years.

Council Member Ellis said this project revolved around the required EPA work. He asked if that correct.

Mr. Shelton said yes. It included parts of the remediation plan and there was a deadline of Dec. 31, 2024.

Council Member Moore said it had to be done and if they waited, it would probably cost more. He made a motion to approve awarding Contract 5A. Council Member Ellis seconded the motion. All members voted in favor of the motion. The motion carried 6-0.

CLOSED SESSION:

To discuss real property and personnel, pursuant to NCGS 143-318.11(a)(5) and (6).

A motion was made to go into closed session by Council Member Kirkman. Council Member Underwood seconded the motion. All members voted in favor of the motion. The motion carried 6-0.

A motion was made to return to open session by Council Member Ellis. Council Member Underwood seconded the motion. All members voted in favor of the motion. The motion carried 6-0.

ADJOURNMENT:

As there was no further business to discuss, a motion was made by unanimous consent to adjourn.

Respectfully submitted,

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Deanna Hunt  
City Clerk

ATTEST:

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Neville Hall  
Mayor