

**SPECIAL CITY COUNCIL MEETING
CITY OF WATERTOWN
November 9, 2015
7:00 p.m.**

Mayor Jeffrey E. Graham Presiding

Present: Council Member Roxanne M. Burns
Council Member Joseph M. Butler, Jr.
Council Member Stephen A. Jennings
Council Member Teresa R. Macaluso
Mayor Graham

Also Present: Sharon Addison, City Manager
Robert J. Slye, City Attorney

City staff present: Matthew Roy, James Mills, Justin Wood, Shawn McWayne, Fire Chief Herman, Amy Pastuf, Yvonne Reff, Michael Sligar, Margaret Puccia

The City Manager presented the following reports to Council:

- Resolution 1 - Declaring a Public Emergency at the Site of the November 3, 2015 Arising From the Fire on Vanduzee Street and Authorizing Approval to Proceed Into Contracts With GYMO and ICC for Remediation Thereof
- Ordinance No. 1 - An Ordinance Authorizing the Issuance of \$600,000 Bonds of the City of Watertown, Jefferson County, New York, to Pay the Cost of the Demolition of the City-Owned Buildings in the City of Watertown, Which Buildings are No Longer of Any Use or Value and Are Dangerous or Detrimental to Human Life, Health or Safety, in and for Said City

Complete Reports on file in the office of the City Clerk

Meeting opened with a moment of silence.

Pledge of Allegiance was given.

P R E S E N T A T I O N

Shawn McWayne, Code Enforcement Supervisor, indicated there were photographs of the fire on Vanduzee Street for Council to review.

William Plante, Director of Environmental Services from GYMO Architecture, Engineering & Land Survey, P.C. (GYMO) reviewed the history of the fire, noting the buildings were demolished onsite prior to the Fire Department leaving the area. He reported that his company was hired by the City to complete an asbestos survey for the planned demolition of the buildings. He said the asbestos has been distributed across the site now due to the fire. Explaining that he follows the New York State guidelines found in the Asbestos Control Division of the Department of Labor, he said the fire has caused this to fall under the category of incidental distribution, which is an unplanned disturbance of asbestos. In addition, he said this turns it into an emergency project, as defined by the Code Rule. He defined the two things that need to happen under an incidental disturbance as immediate protection of the area, which has been done by fencing, and immediate cleanup of the site. He informed Council that he has

already applied for a variance to the Department of Labor to receive specific relief from some of the requirements found in the Code Rule and this was granted today. He explained the trucks do not have to be lined because there is so much brick, wood and large objects the lining would not survive and not serve its purpose. He noted this will save expense and time. In addition, he advised that non-asbestos certified workers are allowed to enter into the work area to drive trucks and loaders. He clarified that anyone working on the loaders has to have an alliance certification which is a two-day course. The third relief, he said, is from the 10 day notification to the Department of Labor. He stressed that the Department of Labor agreed to the fact that this is an emergency so with the City in agreement and with the financing in place, the project can start at the City's discretion. He pointed out the variance will expire in February so the entire cleanup should be completed by then.

Mayor Graham asked how much asbestos was in the building prior to the fire.

Mr. Plante explained that the majority of the roof that was not metal contained asbestos and thermal system insulation (TSI) was on the piping, noting most of this material had already deteriorated and was on the floor or hanging from the pipes. He indicated that all of this asbestos was distributed due to the fire and only residue is left on the pipes. He noted that chunks of the material are on the ground because it does not burn.

Mayor Graham asked if this will cost less than a demolition without the fire.

Mr. Plante replied it will save in some areas but it will cost more in other areas. He indicated the length of time will be a shorter window than if it was done conventionally, explaining the roofs would have been hand scraped and the insulation work on the pipes would have needed lifts or scaffolding. In addition, he said the area would have been enclosed in plastic and put under negative air. This process, he said, would be more labor intensive.

Mayor Graham mentioned the tipping fee is higher than originally estimated and the cost increased from \$125,000 to \$325,000.

James Mills, City Comptroller, explained the initial estimate provided was the \$31 rate from DANC which is the clean-fill discounted rate; however the rate for this type of material is \$81. He calculated the additional \$50 per ton for 4,000 tons would require an amendment of the ordinance in order to increase the amount to \$800,000.

Council Member Burns pointed out there is a lot of metal on the site and asked if the plan was to repurpose this metal.

Mr. Plante responded the landfill will not take the metal so the metal will be separated and washed down in order to recycle it.

Council Member Burns mentioned there is a market for the metal and questioned why it is not being sold to remediate some of the costs for this project.

Mr. Plante explained the contractor builds this into his pricing as a credit. He noted the market for metal is down right now and has been for the last year. He advised if the metal is delivered to the recycling facility it is approximately \$60/ton but if the recycler has to pick it up it is approximately \$45/ton. He

estimated there are approximately 400 tons. He confirmed the cost of \$365,000 for the contractor is minus the materials that could be sold on the second market. In response to Mayor Graham's question, he explained there is not a contractor in the City that does this type of work and there is only one in the county, which is this contractor.

Attorney Slye clarified the cost of \$365,000 includes the credit received by the contractor for selling the metal.

In response to Council Member Burns' question, Mr. Mills confirmed the amount outlaid to the vendor by the City would be \$365,000 and the vendor would keep the metal as part of the arrangement.

Mr. Plante estimated the credit would be \$18,000 - \$24,000 for the metal.

Council Member Butler asked if the contractor submitted a proposal to the City with more detail and showing the credit for the constructional steel.

Mr. Plante stated that he can ask the contractor for a "schedule of values" which will value all of the components, including the cost for labor, fuel, trucking and equipment rentals.

Council Member Butler said he does not want to write a blank check for \$800,000, nor does he want to have it come back as a million dollars and there be no recourse other than having to pay it. He agrees he does not want to go through the bid process because it will take too long and time is of the essence. However, he would like something in writing to support the cost of it.

Mr. Plante replied that he thought his price was fixed at \$365,000.

Attorney Slye said that he has not seen anything in writing from the contractor and clarified that the City will pay the Development Authority for the tipping fees and GYMO for their services. He added that the contractor's fee includes the work that they have done to date, including the work done in the course of fighting the fire.

Mayor Graham asked if there is an additional building being torn down.

Mr. Plante replied that the building closest to the railroad tracks will come down. He advised the concrete floors and the stem walls that are poured concrete will remain onsite, but they will be washed down and cleaned. He explained that the top inch of dirt will be scraped up and inspected for any debris and then tested for asbestos. He said it will be reseeded in the spring.

Council Member Burns asked if any of the debris will be buried onsite.

Mr. Plante responded there is only one basement onsite but it will not absorb a lot of material, adding that none of the wood or asbestos debris can be put into it.

Council Member Butler questioned if there is any potential harm from any delay because the asbestos is disbursed throughout the fire scene. He asked if time is of the essence in terms of a public emergency.

Mr. Plante stated that material is still wet due to the work done by the fireman, but as it dries the asbestos will become more airborne by the prevailing winds blowing across it. He stressed that as winter comes, it will become more and more difficult to clean the site so the goal is to get as much asbestos debris done before they lose sight of it. He noted that asbestos can go into the river as well. He reiterated that the site has to be protected in case someone breaks into it looking for salvage material because the asbestos will become airborne. He summarized that there is a health threat.

Council Member Butler asked if the Health Department has an opinion regarding this.

Ms. Addison said there was a conference call this afternoon with the Department of Health Toxics Division and they deferred to the Department of Labor so the Department of Health was not concerned with this matter. She stated the Department of Environmental Conservation (DEC) was involved with the teleconference and also deferred to the Department of Labor. She clarified the Department of Labor was not available for the call but Mr. Hefferon is the point of contact.

Council Member Butler asked what the opinion is from the Department of Labor.

Mr. McWayne replied that he is currently following Code Rule 56, but he is waiting for a return call from them.

In response to Council Member Butler's question, Ms. Addison stated that she has not seen the "schedule of details". She advised this resolution gives the City authorization to move ahead, but she can ask the contractor for the schedule. She noted a lot of the work already done at the scene to help fight the fire was done at-risk and the contractor has not been paid for it.

Attorney Slye discussed the contract, noting it should be fairly straightforward. He explained that it will be a fixed sum contract and the work will be described by the consulting engineer, under his supervision and inspection. He added that the requirements of insurance and training for the various pieces of equipment will be contained within it.

Mr. Plante confirmed the contractor is not working on the site currently and in order to start, the contract has to be in place, copies of the insurance need to be received and the Department of Labor still needs notification of the start date. He advised the variance expires in February, but if the work is not done then an extension can be applied for or the contractor can operate without the variance, following the rules as written.

Attorney Slye stressed it would behoove the City to start the work before winter starts.

Council Member Macaluso agreed there needs to be a contract, but said she does not see there are a lot of choices for the City.

Mayor Graham asked if the site would be "shovel ready" for redevelopment after the cleanup is completed.

Mr. Plante confirmed that it would be except for the concrete floors and stem walls that would remain. He added that he does not know what the condition of the utilities would be though. He noted there are two other property owners and describes those building involved.

Council Member Jennings asked if the City has the ability to remove the concrete floor with its own resources.

Ms. Addison replied this would need to be assessed.

Council Member Macaluso asked if the DEC would need to check the soil after the cleanup.

Mr. Plante advised that this would be done prior to completion by his company and the City would receive a copy of the closeout documents. He explained these will show all the testing that was done during the removals as well as the asbestos licenses of all the workers, the disposal receipts and daily operation logs. He said it is a legal document that will need to be retained for 30 years.

Mayor Graham said that staff should start thinking of potential reuses for this property.

RESOLUTIONS

Resolution 1 - Declaring a Public Emergency at the Site of the November 3, 2015 Arising From the Fire on Vanduzee Street and Authorizing Approval to Proceed Into Contracts With GYMO and ICC for Remediation Thereof

Introduced by Council Member Teresa R. Macaluso

WHEREAS on November 3, 2015, a major fire destroyed a City-owned warehouse on Vanduzee Street in the City of Watertown, and

WHEREAS as part of the firefighting efforts of the Watertown Fire Department, a private contracting company known as Independent Commercial Contractors, Inc. ("ICC") was called upon to assist to level portions of the structure to assist in firefighting efforts, and

WHEREAS as a result of the fire, the remains of the structure and the surrounding area are now contaminated with asbestos material, requiring immediate cleaning, sorting, and removal in order to avoid the onset of winter weather and the spread of contaminated materials to other portions of the property, and

WHEREAS in its present condition, the debris presents a danger to the health and safety of the citizens of the City, and

WHEREAS remediation of the site requires immediate action which cannot await the timeliness of the competitive bidding process set forth in the New York General Municipal Law, and

WHEREAS, ICC is qualified to, and currently capable of, proceeding to sort, clean, and remove contaminated material from the site, and is currently mobilized to the site as part of the firefighting efforts, and

WHEREAS the City's retained Engineer, GYMO Architecture, Engineering & Land Surveying, P.C. ("GYMO"), has provided a quote for its services and for the services of ICC for the remediation work, a copy of which is attached to this Resolution,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby determines that the fire of November 3, 2015, occurring in a City-owned warehouse on Vanduzee Street in the City of Watertown has created environmental conditions whereby public property and the life, health and safety of inhabitants of the City are jeopardized, and

BE IT FURTHER RESOLVED that such conditions have resulted in a public emergency such that immediate action must be taken to remediate those conditions, and

BE IT FURTHER RESOLVED that the City Manager of the City of Watertown shall proceed to enter into a contract with GYMO and ICC for the remediation of the site to standards established by the City Engineer and/or the City's Consulting Engineer in connection with the same, and shall proceed to implement remediation of the property on an emergency basis, all as authorized by Section 103(4) of the New York General Municipal Law, and

BE IT FURTHER RESOLVED that the City Clerk of the City of Watertown shall ensure that a complete record of the proceedings of the Special Meeting wherein this Resolution was adopted and shall provide a complete copy of the proceedings certified to the City Comptroller for additional safekeeping.

Seconded by Council Member Joseph M. Butler, Jr.

Rules waived by Motion of Council Member Teresa R. Macaluso, seconded by Council Member Stephen A. Jennings and carried with all voting in favor thereof.

At the call of the chair, a vote was taken on the foregoing resolution and carried with all voting yea.

ORDINANCES

Ordinance No. 1 - An Ordinance Authorizing the Issuance of *\$600,000 \$800,000 Bonds of the City of Watertown, Jefferson County, New York, to Pay the Cost of the Demolition of the City-Owned Buildings in the City of Watertown, Which Buildings are No Longer of Any Use or Value and Are Dangerous or Detrimental to Human Life, Health or Safety, in and for Said City

Introduced by Council Member Teresa R. Macaluso

BE IT ORDAINED, by the Council of the City of Watertown, Jefferson County, New York, as follows:

Section 1. For the class of objects or purposes of paying the cost of the demolition of City-owned buildings in the City of Watertown, which buildings are no longer of any use or value and are dangerous or detrimental to human life, health or safety, including incidental expenses in connection therewith, in and for the City of Watertown, Jefferson County, New York, there are hereby authorized to be issued *\$600,000 \$800,000 bonds of said City pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the estimated maximum cost of the aforesaid class of objects or purposes is ~~*\$600,000~~ **\$800,000** and that the plan for the financing thereof is by the issuance of the ~~*\$600,000~~ **\$800,000** bonds of said City authorized to be issued pursuant to this bond ordinance.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is ten years, pursuant to subdivision 12-a of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the City Comptroller, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Comptroller, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said City of Watertown, Jefferson County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the City of Watertown, Jefferson County, New York, by the manual or facsimile signature of the City Comptroller and a facsimile of its corporate seal shall be imprinted thereon and may be attested by the manual or facsimile signature of the City Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the City Comptroller, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he shall deem best for the interests of the City, including, but not limited to, the power to sell said bonds to the New York State Environmental Facilities Corporation; provided, however, that in the exercise of these delegated powers, he shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the City Comptroller shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. The power to issue and sell notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the City Comptroller. Such notes shall be of such terms, form and contents as may be prescribed by said City Comptroller consistent with the provisions of the Local Finance Law.

Section 9. The City Comptroller is hereby further authorized, at his or her sole discretion, to execute a project financing agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the class of objects or purposes

described in Section 1 hereof, or a portion thereof, by a bond, and, or note issue of said City in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 10. The intent of this resolution is to give the City Comptroller sufficient authority to execute those applications, agreements, instruments or to do any similar acts necessary to effect the issuance of the aforesaid bonds and, or notes, without resorting to further action of the City Comptroller.

Section 11. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the City by the facsimile signature of its City Comptroller, providing for the manual countersignature of a fiscal agent or of a designated official of the City), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the City Comptroller. It is hereby determined that it is to the financial advantage of the City not to impose and collect from registered owners of such bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by Section 52.00 of the Local Finance Law, as the City Comptroller shall determine.

- Section 12. The validity of such bonds and bond anticipation notes may be contested only if:
- (1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
 - (2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
 - (3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 13. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.151 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 14. This ordinance, which takes effect immediately, shall be published in summary in the Watertown Daily Times, the official newspaper, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Seconded by Council Member Stephen A. Jennings

Motion for unanimous consent moved by Council Member Teresa R. Macaluso, seconded by Council Member Stephen A. Jennings and carried with all voting in favor thereof.

Motion was made by Council Member Joseph M. Butler, Jr. to amend the foregoing ordinance changing all references of \$600,000 to \$800,000. Motion was seconded by Council Member Teresa R. Macaluso and carried with all voting in favor thereof.

At the call of the chair, a vote was taken on the foregoing ordinance and carried with all voting yea.

ADJOURNMENT

At the call of the chair, meeting was duly adjourned at 7:30 p.m. by motion of Council Member Joseph M. Butler, Jr., seconded by Council Member Teresa R. Macaluso and carried with all voting in favor thereof.

Ann M. Saunders
City Clerk