

**MINUTES OF A SPECIAL SESSION OF THE EDGEWATER MAYOR AND COUNCIL HELD IN THE NANCY MERSE COUNCIL CHAMBERS, LOCATED AT 55 RIVER ROAD, EDGEWATER, COUNTY OF BERGEN, STATE OF NEW JERSEY ON SEPTEMBER 24, 2014**

**PRESENT:** Councilman Henwood, Councilman Doran, Councilman Monte , Councilman Vidal and Councilman Bartolomeo

**PRESIDING:** Mayor James F. Delaney

**ALSO PRESENT:** Administrator Gregory S. Franz, Borough Clerk Barbara Rae and Borough Attorney Philip Boggia.

**ABSENT:** Councilman Jordan

**OPEN PUBLIC MEETING ACT**

Mayor Delaney read the Open Public Meetings Act Statement into the Record.

**MOMENT OF SILENCE**

Mayor Delaney asked for a moment of silence.

**SALUTE TO FLAG**

Mayor Delaney led the Pledge of Allegiance.

**MOTION**

September 24, 2014

**INTRODUCED:** Councilman Bartolomeo

**SECOND:** Councilman Vidal

Motion to go out of regular order of business.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Jordan	Absent
Councilman Vidal	Yes
Councilman Bartolomeo	Yes

- At this time Special Environmental Counsel Tim Corriston spoke about the history of the litigation, bid process and provided an update on the field since he was hired.
- Within one week, he placed the DEP on notice as to what happened. He explained the DEP process. The DEP continues to investigate and has issued enforcement letters to Waterside Construction.
- After interviews for Environmental Professionals, the Borough retained First Environment, Inc. First Environment looked at all materials available, and made a determination .
- He stated that the SIP plan submitted by TERMS was inadequate and that additional testing was needed. He advised Waterside Construction Company that they were in default of the contract. He further explained that process. Attorney Corriston contacted Liberty Mutual, the Bonding Company and advised them of the default and demanded they turn over the Bond. He then met with the DEP representatives at the site. Mr. Corriston explained the mediation process. Negotiations began with Waterside in May. Got EPA involved and they are currently conducting an investigation. At the request of the EPA, withdrew SIP Plan submitted by TERMS. Explained why.

- In May the Borough had their first Mediation Session with Judge Mecca which is required by Public Contract Law. Attorney Corriston gave a review of the legal process.
- In June First Environment began sampling. The sampling process was explained. He noted that the mediation did not slow down any process. He explained the changing of the bid specs. The Borough is continuing to work with DEP and EPA.

Mayor Delaney then read the following in its entirety:

**RESOLUTION  
2014-231**

September 24, 2014

**INTRODUCED:** Councilman Vidal  
**SECOND:** Councilman Bartolomeo

**WHEREAS** the Borough of Edgewater previously adopted Resolution No. 2014-063 which Resolution set forth the procedural history of the award of a contract to Waterside Construction, LLC (“Waterside”) for the remediation and renovation to Veteran’s Field in accordance with the bid specifications; and

**WHEREAS** the Borough was presented with documentation that confirmed that during the remediation phase of the contract, Waterside imported contaminated fill onto Veteran’s Field that contained elevated levels of PCB’s. The importation of contaminated fill onto the field constituted a breach of Contract by Waterside. The Borough of Edgewater thereafter declared Waterside in Default of the Contract; and

**WHEREAS** pursuant to the terms of the Contract, the Borough made a good faith effort to mediate the claims that arose as a result of the Breach of Contract with Waterside; and

**WHEREAS** after several mediation sessions between the Borough and Waterside which included the assistance of Retired Superior Court Judge Daniel Mecca, the parties were unable to reach a mutually agreeable settlement of the issues in this matter.

**NOW, THEREFORE BE IT RESOLVED BY** the Borough of Edgewater that the Borough hereby declares that Waterside, which was previously declared to be in Default of their Contract with the Borough for the remediation of Veteran’s Field has failed to cure such default, and therefore in accordance with the Contract, Waterside is hereby **TERMINATED** for the reasons previously set forth on the record.

**BE IT FURTHER RESOLVED** that the Borough shall pursue all legal remedies available to them for the full reimbursement of all damages and expenses against Waterside and other responsible parties.

**BE IT FURTHER RESOLVED** that a copy of this Resolution shall be sent to Waterside and Liberty Mutual Insurance Company which company issued the Performance and Payout Bond for this project.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Jordan	Absent
Councilman Vidal	Yes
Councilman Bartolomeo	Yes

**RESOLUTION  
2014-232**

September 24, 2014

**INTRODUCED:** Councilman Vidal  
**SECOND:** Councilman Monte

**WHEREAS** the Borough of Edgewater has received solicited bids for the re-bid of the Veterans Field Site Remediation; and

**WHEREAS** consistent with the New Jersey Local Public Contract Law, N.J.S.A. 40A:11-1 et seq., the Borough of Edgewater did publicly solicit bids for said project under the title "Veterans Field Site Remediation" issued on August 29, 2014; and

**WHEREAS** in response to said solicitation, eight (8) bids were received; and

**WHEREAS** the lowest base bid of \$2,024,100.00 was submitted by Enterprise Network Resolutions Contracting LLC, maintaining offices at 874 Piney Hollow Road, Winslow, NJ 08095; and

**WHEREAS** Enterprise's price for Alternate Bid was \$2,955,350.00; and

**WHEREAS** Enterprise's combined price for the Base Bid plus Alternate Bid of \$4,979,450.00 was the lowest received; and

**WHEREAS** said bid was within the funds allocated for this project; and

**WHEREAS** the offices of the Borough Engineer and Borough Attorney have reviewed this bid and have deemed it responsive to the bid specifications; and

**WHEREAS** I, Joseph Iannaconi, Jr., C.F.O., do hereby certify that funds have been appropriated for this purpose as authorized by Joseph Iannaconi, Jr., C.F.O.

**WHEREAS** the Borough has advised the Bond Company, Liberty Mutual Insurance Company, of the Borough's intention to award a Contract to the lowest responsible bidders for the remediation of Veteran's Field and that the Borough shall seek full reimbursement and restitution for the costs thereof from the Bond Company; and

**WHEREAS** the Borough has further advised the Contractor, Waterside Construction, LLC that they are in default of their Contract with the Borough by bringing contaminated material onto Veteran's Field and therefore the Contract with Waterside Construction, LLC is hereby terminated; and

**WHEREAS**, the Borough did receive two challenges to the award of bid from unsuccessful bidders, Applied Landscape Technologies and Creamer Environmental, Inc., and the Borough has determined that said challenges are without merit.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Edgewater that a contract for the above referenced project shall be awarded, consistent with the bid specifications and contractor's bid as follows:

Contractor	Amount
Enterprise Network Resolutions Contracting	Base Bid: \$2,024,100.00
	Alt. Base \$2,955,350.00
	<b>TOTAL</b> \$4,979,450.00

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Jordan	Absent
Councilman Vidal	Yes
Councilman Bartolomeo	Yes

Councilman Henwood thanked Tim Corrison and Tom Bambrick. He suggested that a thank you letter be sent to Judge Mecca. He also thanked Michael Neglia and Tom Quinton.

**MOTION**

September 24, 2014

**INTRODUCED:** Councilman Henwood

**SECOND:** Councilman Doran

Motion to return to regular order of business.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Jordan	Absent
Councilman Vidal	Yes
Councilman Bartolomeo	Yes

**OPEN TO PUBLIC**

Mayor Delaney then opened the meeting to the public and the following were heard:

Mary Hogan, 606 Undercliff Avenue:

- Asked about the hiring of Waterside.
- Asked about the number of cubic yards and the bids.
- Hope Enterprise does not have a relationship with Waterside or Mr. Daibes.
- Asked about other bids.
- Concerned with lengthy process.
- Asked about money paid to Waterside and additional charges.
- Asked who directed the removal of the RICOH clause in the complaint.

Valory Bardinas, 16 Hudson Terrace:

- Asked what this remediation plan is for.
- Questioned the Law Suit and relationships.

Tom Tansey, 611 Undercliff Avenue:

- Responded to Ms. Bardinas' comments about relationships.
- People on Council should have spent more time on considering the Green Acres funding.

Rage, Legend Hills:

- Asked about the policy regarding default.

- He suggested having a policy that would disallow people from getting further contracts or approvals should be helpful.

Katie Jones, 359 Undercliff Avenue:

- Can't sit here listening about blaming people who were in the minority of the Council.
- There are people who don't even know it is a park. How much more will it cost to bring the Park back to the way it was?
- How much more money will amenities cost?
- Criticized Governing Body waiting to the end of the public session to answer questions from the public.

No one else wished to be heard therefore the Mayor closed the meeting the public.

Attorney Corrison responded to public's questions. Waterside is not allowed on the project until DEP approval. LSRP was TERMS. RICOH issue is just being deferred. It can be reengaged at any time. Borough Attorney Boggia also spoke and responded to the public's questions. Mayor Delaney also commented. Borough Attorney Boggia spoke about legal requirements in association with the Local Public Contracts Law, contractual obligations and policies. Councilman Henwood also spoke. Borough Attorney Boggia said that remediation will commence and the public will soon see a lot of activity. Borough is on the way to seeing the field remediated.

Mike Neglia, Borough Engineer, spoke about awarding of the contact for remediation of the site. Spoke about amenities and costs. Will work closely with LSRP and will seek direction from the Governing Body.

**MOTION**

September 24, 2014

**INTRODUCED:** Councilman Henwood

**SECOND:** Councilman Monte

Motion to adjourn.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Jordan	Absent
Councilman Vidal	Yes
Councilman Bartolomeo	Yes

Barbara Rae, RMC, CMC  
Borough Clerk

**APPROVED:** October 20, 2014