

11/12/2013

..Title

Matters relative to Northwest Connector Sections II and III

..Body

SUMMARY:

Section II (Northside Drive) originally was considered from Hwy. 70N to Hwy. 127N. However, Section I was extended to cover approximately 1/3 of the Section II. Section III is from Hwy. 127N to Genesis Road (Interstate Drive)

The State and City signed an agreement (Contract #050205) that has been amended regarding the engineering and construction of all three phases. This contract provides the following:

- TDOT responsible for utility relocation, construction, construction engineering, construction inspection, contract administration
- City responsible for acquisition, engineering (STP monies used for Section III), maintenance of electrical devices

The environmental is complete and approved for all three sections

The engineering and design are complete on Section III and is ready for acquisition by the City to proceed. TDOT is awaiting word from the City to proceed and know how the utilities are going to be relocated.

Parcels involved:

Section II - 11

Section III - 25

An engineering proposal from Gresham Smith & Partners, who designed Section I and the preliminary design of Section II, with estimated construction costs is attached for Section II. As originally conceived, this is a 5 lane paved road, with sidewalks and bike paths. It also includes a significant bridge that is estimated at \$2.5M. The project could be reduced by about \$2M if it was reduced to 3 lane and mirrored Section I in construction details. It would still be recommended to acquire the right-of-way for the 5 lane road, as was done for Section I.

BUDGET ACCOUNT:

..Recommended Action

NECESSARY COUNCIL ACTION: Provide direction on proceeding with acquisition on Section III and engineering on Section II.

vote:

Aye: 5 - Mayor J.H. Graham III, Mayor Pro-tem Danny Wyatt, Council Member George Marlow, Council Member Pete Souza and Council Member Jesse Kerley

c.

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Parcels involved:

Section II - 11

Section III - 25

An engineering proposal (attached and made a part of these minutes) from Gresham Smith & Partners, who designed Section I and the preliminary design of Section II, was presented with estimated construction costs. As originally conceived, it is a 5 lane paved road, with sidewalks and bike paths. It also includes a significant bridge that is estimated at \$2.5M. The project could be reduced by about \$2M if it was reduced to 3 lane and mirrored Section I in construction details. It would still be recommended to acquire the right-of-way for the 5 lane road, as was done for Section I. The proposal from Gresham Smith & Partners for design of Section II was \$353,000. Councilman Souza commented that he would like to spend money on an indoor recreation facility and a downtown convention center and suggested the matter be tabled for a further workshop. It was estimated that it might take 1 1/2 yrs on acquisition for Section III and 1 1/2 - 2 years on engineering and acquisition for Section II. Mayor Graham pointed out that the City has an approximate 80% grant under the current contract, but current contracts with TDOT generally share the costs 50/50. Councilman Souza stated that he did not feel the road was as important as other things and that if the Council commits to the engineering, it is also committing to constructing the road. Councilman Kerley questioned if the route of the project on Section II could be settled before final design. City Engineer Begley responded that the decision on the route would be jointly made by both the City and TDOT. City Manager Rutherford commented that he would expect TDOT to choose the route with the least cost for construction. Mayor Graham stated that the Northwest Connector is #2 on the priority list of the Regional Planning Organization for TDOT projects in the Upper Cumberland. He recommended using the Surface Transportation Program funds of approximately \$133,000/year for 2014 and 2015 to help pay for the engineering. Councilman Marlow pointed out that the City should continue with the project to finish what has already been started. Mayor Graham noted that he had a potential conflict of interest with the ownership of property by his cousin, but that he had no property ownership interest in any of the property. He has been the Trustee on some of the property for his cousin. City Attorney Kenneth Chadwell opined that since he had no direct economic interest, he did not have a conflict. Councilman Souza stated that in 1997-1999, Mayor Graham acquired land where the road was

going, had a feasibility study done by TDOT in 2002, and then quit-claimed the property to his cousin. Mayor Graham responded that Councilman Souza was inaccurate in that statement as he acquired the land only as a Trustee for his cousin Bill Graham. At the request of the Mayor, City Clerk Sally Oglesby reported that she had researched most of the properties in question and found no direct ownership of any of the properties by Mayor Graham.

A motion was made by Mayor Pro-tem Danny Wyatt, seconded by Council Member George Marlow, to continue the Northwest Connector Sections II and III. The motion carried by the following vote:

Aye: 3 - Mayor J.H. Graham III, Mayor Pro-tem Danny Wyatt and Council Member George Marlow

Nay: 2 - Council Member Pete Souza and Council Member Jesse Kerley

d.

Matters relative to Ethics Ordinance

In 2007, the Tennessee General Assembly passed a law requiring that all cities adopt an Ethics Ordinance to apply to all elected and appointed boards and employees. MTAS was charged with developing a model ordinance for municipalities. This model ordinance is the basis for the code section in the Crossville Municipal Code. Councilman Souza led a discussion of proposed changes to the Ethics Ordinance. As indicated in the city charter, all ethics complaints either coming to the attention of the ethics officer (city attorney) or in written form may be investigated. He argued that it is inconceivable that the ethics officer would investigate the member or members that put him/her in an appointed position wherein that appointment monetarily increases his or her wealth. Further, he felt that it was even more inconceivable that a ethics officer would investigate a member of council to whom he or she would have business relations. Finally, he concluded that it was also conceivable that in a small community that the city attorney would also represent vendors and real estate interest. To insure that these situations do not exist, he believed the ethics officer should be independent of the the city attorney. He also stated his opinion that citizens of Crossville should have the right to make an ethics complaint to the council for action.

He proposed the following changes:

(A) Allow citizens to file a written ethics complaint directly to the City Council for review and action. Currently any complaints from citizens are filed directly to the District Attorney General, Comptroller of the Treasury's Fraud Hotline, or the Tennessee Open Records Counsel.

(B) The City Council directs the City Manager to hire an ethics lawyer to investigate. Currently, the City Attorney serves in that position, but may request the City Council to hire another attorney, individual or entity if he has or will have a conflict of interest.

(C) The City Council will hold a public meeting and appoint an ethics lawyer within 30 days of receipt of a complaint. Currently, a similar process takes place, but there is no timeframe included.

Mayor Graham stated that any citizen can contact the City Manager at any time to file a complaint. City Manager Rutherford concurred and further commented that the ethics ordinance is for the benefit of elected officials and employees and that there are several other avenues for citizens to file complaints. He also warned that citizen complaints coming to the City Council could be costly and time consuming as they would have to be investigated. City Attorney Chadwell reiterated the City Manager's comments and stated that there are adequate avenues for citizens, including an "800" hotline number to the Comptroller. He further stated that the Council can change the ordinance and who it appoints, but that any changes must be certified by the State. The current ordinance has been approved by the state. Mayor Pro-Tem Wyatt reiterated the provisions in the current policy and stated his belief that the