

**AS AMENDED ON NOVEMBER 8, 2010**

**CITY OF SALISBURY, MARYLAND**

**#18 MEETING**

**OCTOBER 25, 2010**

**PRESENT**

*Council President Louise Smith  
Councilwoman Eugenie P. Shields  
Councilwoman Terry E. Cohen*

*Council Vice President Gary Comegys  
Councilwoman Deborah S. Campbell  
Mayor James Ireton, Jr. (left 6:14 p.m.)*

**IN ATTENDANCE**

*Assistant City Clerk Kimberly Nichols, CMC, Assistant City Administrator Loré Chambers, City Attorney Paul Wilber, Public Works Director Teresa Gardner, Internal Services Director Pam Oland, Planning and Zoning Director Jack Lenox, and interested Citizens and Members of the Press.*

\*\*\*\*\*

**CONVENING - ADOPTION OF AGENDA**

*The City Council met in regular session at 6:00 p.m. in Council Chambers. Council President Smith called the meeting to order. The Lord's Prayer and the Pledge of Allegiance were recited.*

*Ms. Cohen moved and Mrs. Campbell seconded to adopt the agenda as presented. Mr. Comegys moved and Mrs. Campbell seconded to amend the agenda by adding the October 19, 2010 Closed Session minutes to the Consent Agenda. The amendment unanimously passed. Ms. Cohen moved and Mrs. Campbell seconded to remove Ordinance No. 2126, amending Ordinance No. 2058 Section A – lot rates to add a parking permit rate for Parking Lot #35, from the agenda to be discussed in work session. The motion failed to pass with aye votes from Mrs. Campbell and Ms. Cohen, and nay votes from Mrs. Smith, Mrs. Shields and Mr. Comegys. The agenda, as amended, was unanimously adopted.*

**PROCLAMATION**

*Mayor Ireton proclaimed November, 2010 as "Municipal Government Works Month" in the City of Salisbury.*

**RESOLUTION OF CONDOLENCE**

*Mayor Ireton read a Resolution of Condolence (copy attached with the original minutes) to pay tribute to the fallen soldiers who lost their lives in a helicopter crash on September 21, 2010*

during combat operations in Zabul Province, Afghanistan while supporting Operation Enduring Freedom. These soldiers were in the unit adopted by the City of Salisbury through the America Supporting Americans Adopt-A-Unit program. Sgt. Steve Schweikert, the City's liaison with the Adopt-A-Unit program, accepted the Resolution of Condolence.

**CONSENT AGENDA** - presented by Assistant City Clerk Kim Nichols

The Consent Agenda, consisting of the following items, was unanimously approved on a motion by Mr. Comegys and seconded by Ms. Cohen:

- October 11, 2010 minutes
- ~~October 19, 2010 Closed Session minutes~~ Note: rescinded at November 8, 2010 Council meeting – adoption was done in error
- Resolution No. 1986 – appointment of Tim Spies to the Recycling Advisory Committee for a term ending May 31, 2012
- Manufacturing exemption request from Viskon-Aire Corporation granting an exemption from personal property tax for equipment purchased in 2007, 2008 and 2009 for a total savings of \$1,517 over the next five years

**AWARD OF BIDS** - presented by Internal Services Director Pam Oland

Mr. Comegys moved and Mrs. Shields seconded to approve the Award of Bids. Mr. Comegys moved to amend the Award of Bids by declaring the contract in default and to strike the word cancellation. Ms. Cohen seconded and the amendment passed unanimously. The following item, as amended, was unanimously approved:

1. Default of Contract #6-07-SD, Waverly Drive storm drain project to Total Engineering, Inc. <\$112,323.58>

**PUBLIC HEARING** – presented by City Attorney Paul Wilber

- Ordinance No. 2124 – establishing a fee structure for the Planning & Zoning Commission, the Salisbury Board of Zoning Appeals, and the Mayor and City Council relative to advertising fees for certain public hearings

No public comments were received.

**ORDINANCES** – presented by City Attorney Paul Wilber

- Ordinance No. 2125 – 2<sup>nd</sup> reading – amending the FY11 General Fund Budget to provide additional funds (\$7,979.58) to cover repairs of the slate roof and gutters at the Poplar Hill Mansion

*On a motion by Mr. Comegys and seconded by Ms. Cohen, Ordinance No. 2125 for second reading passed unanimously.*

- *Ordinance No. 2126 – 1<sup>st</sup> reading – amending Ordinance No. 2058 Section A – Lot rates to add a parking permit rate (\$9.00) for Parking Lot #35 effective December 1, 2010*

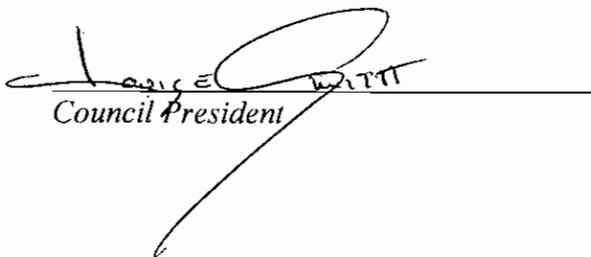
*Mr. Comegys moved and Mrs. Shields seconded to approve Ordinance No. 2126 for first reading. Mrs. Campbell moved and Ms. Cohen seconded to amend Ordinance No. 2126 by changing the paragraph that begins with “NOW, THEREFORE” by replacing the word “from” following (\$9.00) to “effective” and inserting after December 1, 2010 “for 120 days”. After discussion, Mrs. Campbell and Ms. Cohen withdrew the motion and second to amend Ordinance No. 2126. Ordinance No. 2126 passed unanimously on first reading.*

### **PUBLIC COMMENTS**

*A citizen commented on the perception that Neighborhood Services and Code Compliance is being redundant with some of their rental property inspections. (handout of list of properties and inspection dates attached to original minutes).*

*With no further business, the meeting adjourned at 6:50 p.m.*

  
Assistant City Clerk

  
Council President

# COUNCIL AGENDA

October 25, 2010

1. ~~Cancellation~~/default of Contract #6-07-SD to Total Engineering, Inc. <112,323.58>

# City of Salisbury



MARYLAND

Salisbury



2010

125 NORTH DIVISION STREET  
SALISBURY, MARYLAND 21801  
Tel: 410-548-3170  
Fax: 410-548-3107

JAMES IRETON, JR.  
MAYOR

JOHN R. PICK  
CITY ADMINISTRATOR

LORÉ L. CHAMBERS  
ASSISTANT CITY ADMINISTRATOR

PAMELA B. OLAND  
DIRECTOR OF INTERNAL SERVICES  
PROCUREMENT DIVISION

## COUNCIL AGENDA

October 25, 2010

TO: Mayor and City Council

SUBJECT: Requesting Contract 6-07-SD Waverly Drive Storm Drain Project cancellation

The City of Salisbury Internal Services Department, Procurement Division, received a request from the Salisbury Public Works (SPW) to declare Contract 6-07-SD with Total Engineering, Inc. in default due to lack of progress and to cancel the balance of the contract with a balance of \$112,323.58 in unspent funds. The Procurement Division requests approval from the City Council to authorize this request.

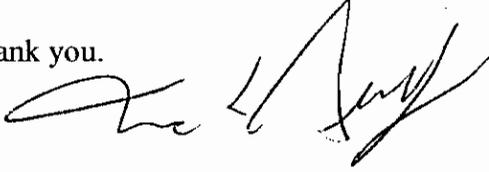
The contract expired on April 30, 2010 and since that time SPW has worked extensively with TEI on getting the outstanding items addressed, as can be seen in the following timeline. However, over the past several months the project has followed a pattern of no activity from TEI, followed by SPW making numerous phone calls, emails and letters to TEI instructing them to restart the project, followed by TEI working for several weeks then disappearing again. At this point the project has been past the contract expiration date for 162 days as of October 8, 2010.

The remaining construction work is estimated to cost approximately \$30,000 which could be completed using the City's current concrete contractor so no bidding process would be needed. The only exception is the installation of the concrete flow channel in manhole A15. The flow channel would most likely have to be completed by a contractor specializing in sewer work. The cost is estimated at \$3,000 so it would also not have to be bid however, three quotes would have to be obtained by SPW.

The work to finish the as-built drawings is estimated to cost approximately \$20,000. There is enough of a balance left on a current purchase order with a vendor we are currently using in another project that can be used to complete the drawings. A change order altering that vendor's scope of work would have to be processed to allow the remaining funds to be utilized.

This would not involve any additional funds not already authorized for this project but would just have other vendors complete the project in a timely manner. The subcontractors for TEI must be paid by TEI before the City of Salisbury will pay the retainage withheld for the project to them.

Thank you.

A handwritten signature in black ink, appearing to read 'Mark L. Reilly', written in a cursive style.

Mark L. Reilly  
Assistant Director of Internal Services - Procurement & Parking

# City of Salisbury



MARYLAND

Salisbury



2010

125 NORTH DIVISION ST., RM 202  
SALISBURY, MARYLAND 21801  
Tel: 410-548-3170  
Fax: 410-548-3107

PUBLIC WORKS  
TERESA GARDNER, P.E.  
DIRECTOR

October 8, 2010

JAMES IRETON, JR.  
MAYOR

JOHN R. PICK  
CITY ADMINISTRATOR

LORÉ L. CHAMBERS  
ASSISTANT CITY ADMINISTRATOR

## MEMORANDUM

**TO:** Mark Reilly-Assistant Director of Internal Services, Procurement Division

**FROM:** Dallas Baker-Project Engineer

**SUBJECT:** 6-07-SD, Waverly Drive Storm Drain Project

**CC:** Teresa Gardner, Tom Tengman, File

---

Salisbury Public Works (SPW) would like to have Total Engineering, Inc. (TEI) declared in default of contract 6-07-SD, due to the lack of progress on the Waverly Drive Storm Drain Project. The contract expired on April 30, 2010 and since that time SPW has worked extensively with TEI on getting the outstanding items addressed, as can be seen in the following timeline. However, over the past several months the project has followed a pattern of no activity from TEI, followed by SPW making numerous phone calls, emails and letters to TEI instructing them to restart the project, followed by TEI working for several weeks then disappearing again. At this point the project has been past the contract expiration date for 162 days as of October 8, 2010.

April 30, 2010: Contract 6-07-SD expires

May 7, 2010: SPW conducted the 1<sup>st</sup> project walk through, with TEI, to document any outstanding items that needed to be addressed for the project to be considered substantially complete.

May 12, 2010: City Solicitor Skip Cornbrooks sends a letter to TEI per SPW request, documenting: major deficiencies in the work; indicating that seven (7) subcontractors had notified SPW that they had not been paid for work performed, for a total amount exceeding \$123,000 and; that liquidated damages may be pursued.

May 20, 2010: A punch-list of the outstanding items from the May 7<sup>th</sup> walk through was sent to TEI.

Memo: Mark Reilly  
October 8, 2010  
Page 2

June 11, 2010: SPW sent a letter to TEI president Pablo Osorio and other TEI leadership discussing the: work deficiencies; lack of payment to the subcontractors; lack of progress on the job; lack of an onsite project manager (The project has been through 5 TEI project managers, # 4 left on June 2<sup>nd</sup>.) and; that demobilization activities had begun despite the job not being complete.

June 17, 2010: SPW, City Purchasing Dept. and Maryland State Highway Administration met with Pablo Osorio reiterating the work deficiencies, the unacceptable lack of progress, the lack of payment to subcontractors and reminding him that the project was in the liquidated damages phase. Mr. Osorio apologized for all of the issues and indicated all issues would be resolved as soon as possible.

June 24, 2010: SPW conducted a 2<sup>nd</sup> project walk through with the new TEI project manager.

June 24-August 16, 2010: Work progressed at an acceptable rate.

August 16, 2010: SPW met with TEI project manager Geoff Reichelt and safety manager Jorge Colindres to review which punch list items had been addressed and which were remaining. TEI indicated it would take 3 weeks to complete remaining items. To date, it has been 7 weeks and the items are still not done.

SPW has been told by TEI that a cash flow problem is preventing them from paying all of the outstanding balances to the subcontractors at one time. It is SPW's understanding that the lack of payment to the subcontractors is the reason work has stopped progressing. SPW contacted all of the subcontractors that indicated to us that they were still owed money. Several had been paid while others were owed even more money than originally indicated for additional work they had performed. As of October 5, 2010 Total Engineering owed over \$170,000 to subcontractors including George & Lynch, KAP, Tieder Controls and Hillis-Carnes.

The following items still need to be finished before SPW will issue final acceptance:

Completion of the as-built drawings.

On the east side of Waverly Drive

- Replace the section of missing sidewalk from the southeast corner of the intersection with Newton Street.
- Repair the cracked gutter pan south of Florida Avenue.

Memo: Mark Reilly  
October 8, 2010  
Page 3

- Repair the cracked curb and gutter at Florida Avenue and replace the valley gutter. Contact Jay Trott at 410-430-9089 prior to forming up the new curb to explore the option of modifying the replacement curb to match a future handicap ramp.

On the west side of Hanover Street

- Repair the cracked inlet and gutter pan north of Powell Avenue.

On the east side of Hanover Street

- Replace the valley gutter at Cynthia Place.
- The handicap ramp at Lloyd Street needs to be regraded to meet ADA standards and provide a rake finish that meets City standards.

On the south side of Lloyd Street

- Install a truncated dome pad and provide a rake finish per City standards for the handicap ramp at Route 13.

On the north side of Lloyd Street

- The handicap ramps at Register Street and at Hanson Street need to be regraded to meet ADA standards and the cracked gutter pans need to be repaired.

On the north side of South Boulevard

- Repair the curb at the northwest corner of Route 13.

On the south side of South Boulevard

- Repair the curb and sidewalk at approximately the mid-point of the Rite Aid property.
- Install a flow channel in manhole A15.

On the west side of Route 13 at South Boulevard

- Replace the damaged traffic signal wires per SHA specifications.

Memo: Mark Reilly  
October 8, 2010  
Page 4

The following is a financial breakdown of the funds remaining:

Contract Price:	\$4,317,244.03
Work Completed:	\$3,989,058.25
<u>Retainage Withheld:</u>	<u>\$ 215,862.20</u>
Unspent Funds:	\$ 112,323.58

The remaining construction work is estimated to cost approximately \$30,000 which could be completed using the City's current concrete contractor, Malone & Phillips so no bidding process would be needed. The only exception is the installation of the concrete flow channel in manhole A15. The flow channel would most likely have to be completed by a contractor specializing in sewer work. The cost is estimated at \$3,000 so it would also not have to be bid however, three quotes would have to be obtained by SPW.

The work to finish the as-built drawings is estimated to cost approximately \$20,000. There is \$24,778.17 left on purchase order 00202363-02 with Davis Bowen and Friedel (DBF is the engineering firm that designed the Waverly Storm Drain) that can be used to complete the drawings. A change order altering DBF's scope of work would have to be processed to allow the remaining funds to be utilized.

Please contact me if there are any questions.

# City of Salisbury



MARYLAND

## Resolution of Condolence

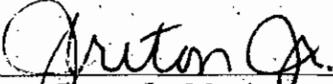
WHEREAS, the City of Salisbury, through the America Supporting Americans Adopt-A-Unit program, adopted Headquarters and Headquarters Company, 6<sup>th</sup> Battalion, 101<sup>st</sup> Aviation Regiment, 101<sup>st</sup> Airborne Division located at Fort Campbell, Kentucky on March 22, 2010 to support those men and women serving our country; and

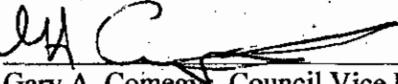
WHEREAS, it is with deep sorrow that the City of Salisbury inscribes among its records the deaths of five soldiers in this unit who died in a helicopter crash on September 21, 2010 during combat operations in Zabul Province, Afghanistan while supporting Operation Enduring Freedom; and

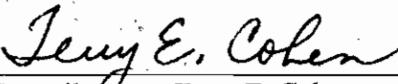
WHEREAS, the City of Salisbury pays tribute in honor of these brave soldiers who lost their lives in support of the freedoms of our country;

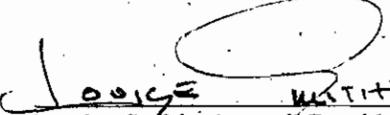
NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Salisbury, Maryland, do hereby declare our deepest regret on the loss of these fallen soldiers – Maj. Robert F. Baldwin of Muscatine, Iowa, Chief Warrant Officer Matthew G. Wagstaff of Orem, Utah, Chief Warrant Officer Jonah D. McClellan of St. Louis Park, Minnesota, Staff Sgt. Joshua D. Powell of Pleasant Plains, Illinois and Sgt. Marvin R. Calhoun, Jr. of Elkhart, Indiana; and

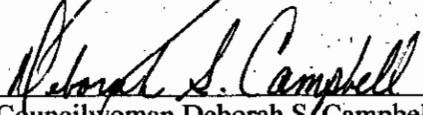
BE IT FURTHER RESOLVED, that this Resolution of Condolence be sent to the America Supporting Americans organization and a copy included with the minutes of the Salisbury City Council meeting held on October 25, 2010.

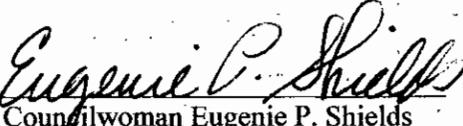
  
James Ireton, Jr., Mayor

  
Gary A. Comegys, Council Vice President

  
Councilwoman Terry E. Cohen

  
Louise Smith, Council President

  
Councilwoman Deborah S. Campbell

  
Councilwoman Eugenie P. Shields



# CITY INSPECTIONS

<i>PROPERTY</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
202 Carrolton Ave					8/12/2009		
205 Carrolton Ave					10/14/2009		
300 Carrolton Ave					3/17/2009		
301 Carrolton Ave					10/14/2009		
303 Carrolton Ave					10/14/2009		
1001 Cecil St					10/14/2009		
1002 Cecil St					10/14/2009		
1018 Cecil St					10/14/2009		
927 S Division					10/14/2009		
929 S Division					8/12/2009		
1001 S Division					1/5/2009		
1000 John St					8/12/2009		
1002 John St					10/14/2009		
1004 John St					5/19/2009		
1006 John St					5/19/2009		
1007 John St					10/14/2009		
1008 John St					10/14/2009		
1010 John St					10/14/2009		
1019 John St					8/12/2009		
1021 John St					3/18/2009		
1004 Marion					8/14/2009		
1017 Marian					4/9/2010		
108 Princeton					8/12/2009		
1017 Roger St					5/19/2009		
1005 Cecil					Within the last year		
1003 Ceil				11/5/2008			
1009 Cecil				11/5/2008			
1010 Cecil					10/19/2009		
1011 Cecil					2/6/2009		

*61 Verified Ins*