

**Minutes of the Meeting of the Finance Committee of Council
Held in the Caucus Room of the Municipal Building
On Monday, February 11, 2019**

Councilwoman-at-Large Tammy Holtzmeier, called the meeting to order at 6:34 P.M.

Committee Members Present:

Chairman, Ward 2 Councilman Dennis McBride

Ward 1 Councilman Bob Butkowski; Councilwoman-at-Large Tammy Holtzmeier

Others in Attendance:

Ward 3 Councilman Tony Moore; Council President Craig Witherspoon; Don Johnson, Kimble Recycling & Disposal; Law Director John Gasior; Resident, Larry Escalante; Resident, Mariann Reitz, Asst. Finance Director Beth Raicevich; Service Director Mike Farmer; Finance Director Bill Logan; Mayor Bryan Jensen; Ward 4 Councilman Scott Radcliffe; Councilman-at-Large Brian Fischer

Garbage Hauler Options

Mr. Butkowski stated, with regard to the garbage hauler selection process, so far we have had one reading at Council on January 28th. Last Wednesday Republic responded with an alternative bid for services for the City and it took a moment of pause to consider the options based on those unsolicited responses from Republic. As we all know it is our fiduciary responsibility to the residents to obtain the best value for them and this unsolicited, alternate bid from Republic, caused a pause in the process to move forward with the Consortium bid. He said that the way he looked at where we are today is that we have three options as the Finance Committee: 1.) Award the bid to Kimble 2.) Award the bid to Republic 3.) Take a pause and do not award a bid

Mr. Gasior said there is one correction and that is, take the bid from Kimble through the Consortium. Mr. Butkowski said that is correct and he thanked Mr. Gasior. He then said, again, the third option would be that we reject all the bids from the Consortium and evaluate what our options are moving forward. We are in a unique situation from the perspective that we do not have a contract that is coming up because we have an ongoing Memorandum of Understanding with Republic, so we have a month to month service process with them. So we are not forced to make a decision. When the Consortium came before us at City Council, they proposed what they would provide for us and that was going to be a \$5,000. entrance fee to go through the bid process, take a look at the bids, and either take one of the bids or reject all the bids. So in his opinion, we are at that point right now of those three options that he laid out for all of them to consider tonight.

Mr. Logan reviewed the comparison sheet that was handed out and pointed out that, with the current situation, Avon residents are paying \$68.07 per quarter for garbage, recycling, and yard waste during the yard waste period of April – November. The alternate proposal from Republic that Mr. Butkowski alluded to, would be \$65.55 per quarter for those services and that would be in effect for two years. After that two years, that rate would go up 3-1/2% to \$67.84 and that would remain in effect for another three years so it is a total five-year proposal from Republic. He said, again, this is not a Consortium bid; this is a negotiation directly to the City. Also, Republic proposed that there would be no charge for our municipal facilities and the City's recycling and garbage pickup and they also indicated that effective June 1st, there would be no charge for the schools. The Kimble proposal through the Consortium is \$73.11 per quarter for the same services of garbage, recycling, and yard waste during yard waste period. That would be effective whenever we could make it effective and those prices would be effective for a five-year period,

through March 31, 2024. There would be a minimal amount of fuel surcharge increases that could happen in that time period, whereas under Republic's bid, there are no fuel surcharge increases. And like the Republic proposal, Kimble again is saying no charge for school pickups, no charge for the City municipal facilities pickup.

Mr. Butkowski stated that through this process, we have learned a lot about this and the evolution of where we are today. The Consortium has done a great job but we have understood from some of the haulers that there are some things within some of the contracts that kind of hamstring them when it comes to giving us a competitive price. With the potential option of us rejecting the bids that the Consortium has put forth and going back out to see what the haulers could do if they were not hamstrung by those contractual confines, we might be able to give the residents a better service at a better rate.

Mr. Gasior stated that it is going to be important to formulate one contract and then let everybody have a shot at it, but certainly Republic. They have presented us with a contract just on Friday to back up the proposal that they made on Wednesday, but it is not the same contract that they submitted to the Consortium with their bid. He thought that the bid contract with the Consortium was a contract prepared by the Consortium, so it is specific to the folks that the Consortium represents which is primarily townships and not necessarily municipalities. So we were going to have to tweak that contract to some degree if we would have gone with the Consortium and in this case, it would have been Kimble. Looking now at the two contracts, he can see that we are going to have to spend some time clarifying terms and just carefully drafting exactly what we want and need vs what somebody else thinks we need. If we can get that done in the next week or so we will be in a far better position to decide which way to go on this.

Mr. Gasior said, if we decide not to go with the Consortium at this point, he does not think that it hurts us in any way as we have an ongoing relationship with Republic and we have a proposal from Republic that is even better than what they are currently doing. On the surface, it looks like the Republic deal offer is better than anything that can come out of the Consortium, so with that in mind, the Committee might want to recommend to Council to leave the Consortium deal behind and move on. As part of the Consortium membership, which we paid to join, we could deal with something in year four, year three, year two. The only thing we lose is the benefit of one year. The Consortium is going to contract for five years with someone and they made it clear to us when they came to our City Council meeting, that if we joined but did not take advantage of the bid in the first year, we may be able to do something in subsequent years. He said that he thought that we can certainly do some work here with the Republic bid. We can continue with Republic under the MOU that we have which goes on until April 30th. And the contract has always been directly with the resident and he likes that idea. We want to set the parameters so that we are able to contact the haulers when our residents have complaints, etc. so we want a relationship with the haulers, but the contract is truly with the resident. So the decision really in the short term here is, do we even look at the Consortium bid any longer or not and from all that he has seen he is not certain that the Consortium bid has much validity anymore for the City. It is higher than what we are dealing with right now and in the worst case scenario, Republic has offered to go lower, and even if that just locks us in for one or two years, it is still lower.

Mr. McBride stated that, based on what Mr. Gasior and Mr. Butkowski have said, maybe the smart move is to abandon the Consortium at this point. It would be easy to put a quick outline together of the services we want, the contract duration, and ask for submission of a sample contract as part of that new bid process. Mr. Butkowski noted that all the haulers are aware of what we want with that Exhibit E that we attached to the submittal to the Consortium. Mr. Gasior stated that those contractual issues are important because those are the places where you think you have a fixed price but there are clauses in those contracts that are on the vague side right now and it is possible that a certain regulation could

change and cost the hauler more money and then that cost could be passed on down to us. And if we do have to make adjustments to any clauses in the contract, it should be something that is made with say a 30-day notice. We should have 30 days to digest the adjustments. Mr. Logan said, if the billing is quarterly, it should be a 90-day notice.

Mr. Johnson stated that the City of Avon has had some negative issues with Republic with service, and you all look out for the best interests of your residents so he commends them for partnering with the Consortium to see what they could get. He has been following that bid for a long time to know when it was coming out. Meagan Moore, the attorney who represents the Lorain County Solid Waste District for the bid and puts together the bid specifications, knows what she is doing. Michael Greenberg of GT Environmental, attended the meeting as well and they offered that to every hauler. We met with them and we each had input as to what we would like to see in the bid specs before they were drawn up and advertised for bid on November 4th or 5th. There was a pre-bid meeting attended by Rumpke, Republic, and Kimble. We voiced our dismay for some of the things in the bid specs. One of the big things in the bid specs that the haulers were concerned about was the state of recycling. We asked for some leeway to adjust price for the items that are accepted in a bid when the times are really terrible like they are right now on the recycling side. They did that; they added that to the bid specs. The same thing for yard waste. We called Kurtz Bros. several times for a rate. In December they told us the EPA was going to shut them down in Avon. We went looking elsewhere for rates. All of those items were discussed at the pre-bid. Republic knew that they had to go out and shop to get other rates for providing yard waste service for the communities. At the pre-bid it was also mentioned that the yard waste portion of the bid was earmarked probably for Avon and Avon Lake only because the townships were not going to go for it.

Mr. Johnson said that the bid specifications that the Consortium put together protect the residents of Avon, to make sure that the haulers provide service properly and this is something that you have not had. So Kimble answered the bid specs in that manner. Exhibit E that you referred to were items that everybody saw, everybody was aware of them and we bid accordingly. Mr. Johnson said that he asked at the pre-bid meeting if alternate bids could be put in and they said yes, so Kimble did so. Everybody at that pre-bid meeting knew that they could do an alternate bid. Republic submitted a bid of \$26.00 per month for a 96 gallon cart with no yard waste service. So what were they doing? They did not want to lose your business but they probably just guessed that Avon and Avon Lake would not go with Kimble. He said that a little over a year ago, he sat in a meeting with Barberton who had similar negative issues with Republic as far as service and customer service that you have had and they made the decision that was the best for their residents, taking in mind service and rate, and they selected Kimble. They made a decision for their constituents to have them pay a little bit more for service because they felt in the long run it was in the best interest for them.

Mr. Johnson concluded by saying that he was there tonight to tell them that Kimble is on track to get carts and for having everything ready to begin service on April 1st and they can do it with very few glitches. He was asking the Committee to continue to consider Kimble just as they did at the meeting that they had on January 22nd. He said that Kimble would love to have the opportunity to provide service to the City of Avon; the residents will not be disappointed and you will not be disappointed.

Ms. Reitz stated that she felt as a community, we have a social obligation. She did not think that any resident wanted to see their yard waste going to a non-compostible facility for the next year which is her understanding the only way one of the companies can do it, and that is Republic. And they do not even have the variance to do that yet. She would be offended as a resident to know that every time she puts out her yard waste, it was going to go fill a landfill. She said she appreciates that they want to negotiate the best price for her but that best price should include that yard waste goes to a proper facility at a

reasonable cost. Also, whoever you negotiate that contract with, it needs to be a long-term contract. What she heard said was, well, we could negotiate it for the residents in the next year. No, it needs to be negotiated for a five-year contract. To say that maybe we could put this off for another year and maybe renegotiate it next year – no resident wants that. Mr. Butkowski stated that, just to be clear, he did not want to have to go through this again in a year; his goal is, and he can only speak one of seven, at least a five-year contract. Mr. Gasior said to Ms. Reitz that she has to understand all of the possible avenues that are available. It is not a high priority to go one year but it is an option and you have to lay everything out on the table. It is not a good option and he thought that everybody agrees with that but it is out there.

Mr. Moore asked if the yard waste with the new Republic bid is going to a recycling center or to the landfill. Mr. Butkowski answered that Republic was talking to the Ohio EPA to get a temporary allowance to take the yard waste to the landfill. Mr. Moore then asked when we would know if it is going to a recycling facility or if it will go to a recycling facility and Mr. Butkowski said as far as the information that Republic has provided to us right now their only option would be to take the yard waste to the landfill. They did not propose an alternate option to compost or to recycle that material. Mr. Moore asked about cart options and Mr. Butkowski said that they only discussed the 96 gallon option. Mr. Moore noted that the Consortium bid for yard waste was \$3.75 per month and asked if that was going into a landfill. Mr. Johnson said that for those who did not want the yard waste service, it would be collected as trash.

Mr. Radcliffe asked, if the decision was made from the group here to not go with the Consortium bid, are we proposing then that Avon would go back out on our own for a bid? We have had an unsolicited bid come in but it would be nice to get solicited ones that meet our specifications. Mr. Gasior said he believed we would put together a contract and see if Republic would be willing to sign that contract at those prices. Mr. Radcliffe said he was questioning if we were going to go out and solicit other bids from people and Mrs. Gasior responded, that was up to the Committee. Mr. Radcliffe asked if the bidders that were in the Consortium have the option to come back and bid for us and Mr. Butkowski said, yes, and anybody else beyond those three.

Mayor Jensen stated that one other thing to keep in mind is that we have had a Memorandum of Understanding with Republic, so through this whole process, each person in the City of Avon has been able to make their decision on their own. Now you as a Council are going to make that decision for everybody and you are going to ask them to do it at a higher price range and you are locking it in for five years. Mr. Radcliffe said that the whole reason we went to the Consortium was that we were frustrated with the services and the proposed price changes from Republic and we wanted to go out and have fresh options. That was one of the things that the Consortium brought to us with a bid package that was put together by a group of people that understood and knew a lot more about garbage than we did because the City was not in the job of managing garbage at that time. So he guessed that we are now saying that we want to get into that business of managing that contract on our own. Mr. Gasior said that his understanding was that we never really had a bid process going in the City with Republic. Republic has been the waste hauler who contracted with the residents and gave us an MOU that essentially said, here is what we are going to do for your residents and then Council adopted that and it was an “understanding.” Here is what happened with the Consortium: There was displeasure voiced about the way Republic was doing its business here and the Consortium came to us and told us that there was an alternative to going out and bidding ourselves. They said that we could join the Consortium and they would go out and bid and we could take a look at those bids. We would not be bound by anything but it would give us an opportunity to look at those bids. Mr. Gasior said he thought that a lot of us felt that if Republic saw us join the Consortium and look at those bids, that maybe Republic would be more responsive to us and realize that they were not the only game in town, that we were out looking for other people to service us. It took awhile but it finally happened; they came forward and offered something better than what they

had been doing and that is the situation that we are in right now. So we have to look at the contracts, we have to make sure we compare the contract that is being offered by Kimble through the Consortium, and the contract that Republic has now presented. And the reason that we are into a contract and not an MOU anymore is because we are trying to lock everybody down for five years. Mr. Radcliffe said he thought it would only be fair to the residents to get contracts from the other haulers to compare with Republic. Mr. Gasior noted that even though the City would have a "contract" the billing and everything is still going to go to the resident and the resident is still going to be contracting. Mr. Radcliffe said, but the City is taking responsibility now for that contract. Mr. Gasior said, we are going to contract to make sure that they stay in the City and take care of the residents per the terms and conditions for five years. That was the whole reason for the contract. We can call it an MOU again if we want to, as long as they are committed to doing it for five years.

Mr. Butkowski made a formal recommendation that we reject all the bids from the Consortium and Mr. McBride seconded it. Mrs. Holtzmeier stated that she was not ready to do that at this time; we have a second reading tonight at the Council meeting that allows us the time to be able to do that. Mr. McBride said if we make a motion we can just reject it and be done with it and then we can go back out directly to all the waste haulers and get the numbers. Mayor Jensen stated that if you do not reject, he was not sure they can come back to the table. Mr. Johnson stated that Kimble's position is that they have answered the bid and they feel that they are the lowest, best bid; you have the backbone of a strong bid specification.

Mr. Witherspoon asked, if we decide not to go with the Consortium, if Kimble could come back and bid on their own and Mr. Johnson added that Kimble would not do that. They have an obligation to the bid they have answered.

Mrs. Holtzmeier stated that this Committee is voting to reject the Consortium bids by a vote of 2 to 1.

Mrs. Holtzmeier adjourned the meeting at 7:21 P.M.

Transcribed by Gail Hayden, Assistant Clerk of Council

