

Millions of dollars spent without State law required bidding

West Jordan City built a soccer complex, spending over \$6 Million dollars. It appears, approximately \$5 million dollars of which was not exposed to the bidding process, required by State law. Furthermore it seems that council minutes authorizing such contracts that exceed \$10,000 are not available, and according two newspaper articles (attached) they were awarded by the administration. My understanding is this would be against the law.

A possible result may have been city employees "moonlighting" on projects they may have had direct influence regarding if that contractor they worked for received the job. In some cases it may have been family.

\$750,000 was spent on 1000 feet of I believe it was 12' line on Redwood Road and 7000 south. This is another project that may not have been through the bidding process required by law. My understanding is, the pavement was already dug up very deep in order to place new road base. The contractor would have only had to have dug a small trench in order to lay this line. My understanding is some contractors have made the comment it could have been done for as little as \$75,000. The company that was awarded the contract I believe is Wadsworth Construction.

Other rumored projects may be exposed if an investigation takes place.

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Did W. Jordan trio moonlight on project?

They may have worked for firms that got contracts

By Don Baker and Amy Joi Bryson Deseret News staff writers

WEST JORDAN -- County prosecutors are investigating alleged moonlighting activities by three West Jordan employees who reportedly worked for private contractors hired to construct the city's youth soccer complex.

A spokesman for the district attorney's office said Wednesday the probe was undertaken at the request of West Jordan police and city officials.

He indicated the investigators will determine "what, if anything, we will do or won't do" about the alleged incidents.

"The city felt like there was a conflict," the spokesman added.

West Jordan Attorney Greg Curtis confirmed there is an active investigation under way but said he cannot comment on the details.

The three employees were reportedly placed on administrative leave without pay last week and ordered to clean out their offices.

Included are Assistant City Engineer Keith W. Ludwig, who was involved in selecting contractors for the soccer complex; City Engineer L. Clarke McFarlane, who supervised Ludwig and was in the chain of command on the soccer field project; and building inspector Dennis Thatcher.

At least two of the men were observed by city workers last week being escorted out of the building by a police detective and a city administrator.

In addition, Thatcher's son is a principal in R&D Masonry -- a masonry company that was awarded nearly \$75,000 worth of work on the complex.

McFarlane, contacted at his home in Pleasant Grove Wednesday, said he has obtained an attorney to represent his interests and has been advised "to keep my comments to myself.

"I really don't have anything to hide," he said, "but that's what I've been instructed to do" by legal counsel.

Ludwig, contacted at his home in South Jordan, also declined to comment on the probe.

City officials have already come under fire because much of the work done on \$6.1 million complex was done without putting the contracts out for competitive bid, as required by state law on all public projects costing \$25,000 or more.

An ad hoc coalition of West Jordan residents has petitioned the Utah Attorney General's Office to investigate the lack of bidding and other alleged improprieties involving the city.

Bob Davis, the city's development services director and both McFarlane's and Ludwig's immediate supervisor, said it would be "inappropriate" for him to discuss the personnel action.

In an interview July 30, City Manager Dan Dahlgren said he became aware of one occasion when a city worker was reportedly moonlighting on the soccer field about 18 months previously.

"I had heard that there was some pay involved, and I sent out the message immediately that (such activity) should not happen again," he said. "To my knowledge, it has not . . . but I'm not sure. I'll check on it."

Davis said during an interview last month, however, that both he and Dahlgren had indicated McFarlane could work for a private company that had been contracted to work on the complex.

"I have never given permission for Clarke to work on any contract," Dahlgren said Thursday.

Last month Davis said, Ludwig was "responsible for selecting contractors for the work. Clarke (McFarlane) excluded himself from the bidding" and issuing of contracts.

City records, however, show that McFarlane did sign the letters awarding the only three competitive bids issued on the project (in 1993 and 1994), which added up to just over \$1 million.

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Inside Politics
Cleaning House

by *Katharine Biele*

Donna Evans keeps paying the price for shining light on West Jordan.
September 17, 1998

It was during a weekly progress meeting that the rumor blew up. One of those things you couldn't really believe, so you just had to ask. Like the Pentagon paying \$700 for a hammer. No way.

At least that's what the West Jordan city employee figured. So, I hear you put in a bid to replace that sewer line for \$750,000, he asked the subcontractor, almost facetiously. Cocky, the man answered, hey, not only did they put in a bid, but they'd already been paid for it.

That's \$750,000 for something like a 12-inch line running a little more than 1,000 feet — \$500 a foot. For that kind of money, the employee thinks he would have dug the trench with his fingernails. That part of Redwood Road was already under construction; the pavement gone, excavated down about four feet. All you had to do was lay the line and backfill a little. Maybe it was worth \$50 a foot.



photo: Fred Hayes
 Assistant City Manager Penny Atkinson: Construction in West Jordan is so fluid that city administration is being asked to return to procedure.

The exchange is documented in a personal journal from June 1997, but perhaps nowhere else. The common wisdom was that the \$750,000 had been paid, but the contract was elusive. Maybe it was done on a change order.

Then there was the soccer field deal a few years ago. Yes, there was an initial bid for the field, whose cost was immediately inflated by a change order. After that, it appears that the rest of the field was parceled out to certain contractors on a negotiated basis. In other words, jobs were awarded without competitive bids to friends of staff members.

The construction environment in West Jordan became so fluid that some business people confronted the city administration asking for a return to procedure. One employee told them, gee, West Jordan's growing so fast we just can't do everything by the book.

Along comes Mayor Donna Evans to open the can of worms. She's had an earful from discouraged employees and confused contractors. And for it all, she's being lambasted in City Council meetings and behind closed doors for making the city look bad. Bad, as in corrupt. Or incompetent. Or lazy.

It's hard to know because the council has consistently rebuffed her efforts to investigate some of these questionable matters. Instead, the situation has deteriorated into personal rebuke and huffy justifications. It was enough to make The Salt Lake Tribune editorialize for the city to chill out and get

on with business.

The Tribune implies that it's championing the status quo. Assuming there is no malfeasance, there is still an inordinate amount of concern that goes beyond the finger-wagging by Evans.

"I think because it happened on their watch, they (the council members) maybe care more than they should," says a local businessman who fears retribution if he's identified. "They take personal affront to it instead of looking into it."

Not all the council members are ganging up against Evans, but most are. In the most recent show of disgust with the mayor, the council issued an apology — including Evans' name — for "misunderstandings" about the soccer field and a women's shelter. Evans says she has no reason to apologize for asking questions about fiscal policies.

From a taxpayer's point of view, the mayor should indeed be questioning how money is spent on city projects. And she should get answers. From a political point of view, Evans probably should have sat silent on the women's shelter issue.

Evans won no points when she suggested that the city clarify whether public workers were used to help in the construction of the shelter, which was a pet project of Assistant City Manager Penny Atkinson. The council now insists that it agreed to donate workers to the project.

"It's the Robin Hood syndrome," says one longtime observer of city politics. "People see it as a good thing, and even if Penny Atkinson did something wrong, it would be OK."

But at some point, council members need to get over the kindergarten mentality of feeling blamed for every problem. They need to realize that Evans is the likely conduit for dissatisfaction from the community because, as a local contractor puts it, "The city wields a lot of power over businessmen, and they can abuse that power."

In fact, some business people now believe that the often painful attention to city practices has put West Jordan back on track, and most of the abuses are relics of the past — a past that saw city expenditures double in the last five years.

Part of the reason is growth, of course. And it should be a simple matter for city officials to show documentation that growth is, in fact, the only good reason for the budget explosion. Instead, the administration and the council stay mired in their own self-attention.

Evans, meanwhile, takes the jabs and tries to be philosophical. "It's been exhausting and very stressful, and it's frustrating as well for me because I can't seem to pull that majority vote ... And if I don't build consensus, we'll be throwing rocks and nothing will be solved."

That is, in fact, a strong possibility. But Evans' supporters see her as a strong mayor who will ultimately get the backing.

"She's a good watchdog," the local businessman says. "But there's nothing more dangerous than a good leader who expects proper performance."

And in West Jordan, particularly, it's going to be hard to clean up government without cleaning house.

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Most park work done without any competitive bids

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Did W. Jordan sidestep law for soccer?

By Don Baker, staff writer

City records indicate most of the work done on West Jordan city's imposing \$6.1 million youth soccer complex was awarded to local contractors without being competitively bid, as required by state law.

Title 10 of the Utah Code provides "contracts for public improvements" that exceed \$25,000 must go out for competitive bid and cannot be divided into smaller packages to circumvent the bidding statute.

West Jordan's own municipal code, however, is even more stringent - requiring competitive bids on purchases that cost more than \$10,000 and public works projects with price tags in excess of \$8,000.

Of the \$6 million-plus worth of work done on the soccer complex, according to the city's records, slightly more than \$1 million was awarded through competitive bid.

The remaining \$5 million was not bid, but was awarded via contracts apparently approved by city administrative staff.

In addition, West Jordan records do not show the City Council ever formally approved the majority of the contracts - despite the fact city code requires council authorization for any expenditure of \$10,000 or more that is not routine or not included as a line item in the annual budget.

A city response to a Deseret News records request for minutes indicates most soccer complex contracts not bid competitively were "approved administratively."

These two issues are at the heart of a complaint filed with the Utah Attorney General's Office by a group of West Jordan residents.

The Citizens for Integrity in Government Committee has also asked the state to determine whether the city has circumvented the competitive bid procedure on city roads and other projects.

Those allegations are undergoing a state legal review.

Meantime, the city has moved quickly to shore up its purchasing and bid procedures by issuing a "check-off" list for the acquisition of supplies and services.

That checklist requires city officials to initial the sheet to verify that they have sought competitive

bids or RFPs (requests for proposals) on any non-budgeted, non-routine acquisition in excess of \$10,000 on most projects and \$8,000 on public works projects.

In addition, the checklist requires a council signoff on purchases over \$10,000 that are not routine or budgeted as a line item.

While CIG members welcome the procedural change, they say it does not resolve the concern that the process used for doling out the work may have been illegal.

"The city needs to follow the law," said CIG Committee member Terry Trease. "Why has this been going on? Who's been at the helm and not watching out for our interests?"

"There's a perception (in City Hall) that wrongdoing is not wrongdoing if you say I'm sorry or explain why you did it," said CIG member Richard Smith. "Nothing connects."

Bob Davis, city development services director, said he and other staffers believed they were carrying out the council's wishes in getting the complex built as quickly, cost-effectively and with as many private donations as possible.

Concerns over lack of competitive bidding on the complex surfaced in a council meeting last spring when Mayor Donna Evans raised the issue during a heated verbal exchange with City Manager Dan Dahlgren

With the potentially embarrassing issue on the table, the City Council issued a glowing press release on the soccer complex last August that was quickly followed by a supporting "apology."

Extolling the soccer complex as a "national legacy," the release was sent out in residents' water bills and contained a short paragraph on the second page admitting "some problems, oversights and errors" in building the complex.

But the news release did not specify the exact nature of those "oversights and errors" other than the vague admission that "some" work had been done without written contracts or formal bids.

The subsequent apology, advanced by Councilman Gordon Haight, did not address the "errors" but was aimed at apologizing on behalf of certain City Council members who might have publicly questioned the project.

Citing "millions" in city loans to build the complex, the apology suggested any controversy might "harm the fund-raising ability of the city" and jeopardize chances of a timely payback.

Evans objected to the wording of the apology and having her name attached to it, however, and publicly complained that it had been sent out over her objections without her approval.

Both the news release and the apology suggest it was the need to have at least 15 soccer fields ready for the Far West Regional Soccer Championship tournament in June 1997 that precipitated those "problems" and "mistakes."

"With time running out" to complete 15 fields for the tourney, the press release said, "more volunteers, material donations and discounts for supplies were solicited and offered by contractors hired directly, some without written contracts or formal bids to finish the soccer fields.

"This was the only feasible way to complete the task directed by the City Council," it noted.

But it would have been far more accurate, at that point, to say without "any" formal bids instead of just "some."

While the press release intimates West Jordan only began skirting around competitive bid procedures in 1997, city records indicate no competitive bids have been issued for any work on the soccer complex since August 1994.

And other un-bid work has continued at the soccer complex for more than a year after the tournament.

Dahlgren has subsequently referred press inquiries about the soccer complex to Davis.

But during a July 30 interview with Deseret News staffers, the city manager was asked whether he felt comfortable that West Jordan had complied with proper competitive bidding procedures in developing the complex.

In response, Dahlgren said he feels "comfortable in the fact we've got a great park that has been pulled together in a manner that I think has saved the city a substantial amount of money" through sizable donations of labor and materials.

Smith disagrees.

"Show me the proof," he said. "Without competitive bidding, there's no way the city can substantiate the claim they're saving taxpayers' money."

The three area companies that were awarded competitive bids for Phase 1 included:

- Newman Construction; September 1993; earthwork and utilities; \$296,000.
- Cottonwood Builders Inc.; August 1994; sidewalks, curb and parking lot; \$357,660.
- Randall and Blake Inc.; August 1994; landscaping and irrigation system, \$271,710.

That company also did another \$179,000 worth of work on the soccer complex, however, eventually receiving a total of \$451,198.

City officials estimated at least 169 different contractors worked on the soccer complex.

Contracts in excess of \$25,000 that were not competitively bid included more than \$600,000 for electrical work, \$489,631 for excavation and \$325,525 for sprinkler installation.

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