

COMMISSIONERS MEETING
MINUTES
June 4, 2008

The Commissioner's convened at 10:00 a.m. in the training room at the Wastewater Treatment Plant, 104 Sawmill Lane, North Conway, NH. The following were present: Chairman James Umberger, Commissioner Robert Porter, Commissioner John Santuccio, Superintendent David Bernier, Fire Chief Patrick Preece and Recording Secretary Kristine Cluff

Meeting called to order at 10:00 a.m.

Purpose of today's meeting is to discuss Contract #6. Superintendent Bernier, Jennifer Osgood and Paul DegliAngeli attended a meeting with Park Construction. Park Construction is the low bidder on the Project and their bid is over budget in engineering, resident engineering and contingency.

If the Mechanic Street and The Lane water portion is removed, that would reduce the bid by \$185,000.00.

If the Precinct eliminates installation of the sewer from manhole 15-1 at the intersection of Intervale Crossroad/Kearsarge Road North would save \$655,000.00. Both deducts would be done through a change order. The Board would go to the next annual meeting and ask to reauthorize the \$\$895,161.35 through a change order.

The above were scheduled to be constructed in 2009 and all 2008 project construction will be accomplished this year. The Precinct has received a legal opinion from Precinct Counsel stating the Precinct can legally make these deductions because it does not change the spirit of the original articles.

Commissioner Umberger explained if the voters turn down the reauthorization of the \$840,000.00, then that part of the project does not get done. Superintendent Bernier stated the Precinct has the Buy In Accounts and these funds could be utilized. The additional funds of \$655,000.00 are eligible for R.D. grants but the water portion of \$165,000.00 would be the Precinct's responsibility. We would also look to DES for additional funding.

Superintendent Bernier stated there was a motor failure at Well #3 last Friday and funds to fix this may need to come from the infrastructure account.

Bill Hounsell stated the Precinct should look at all the water installations to be completed under the Master Plan. Consider raising our water rates to qualify for RD grants under the new farm bill and make application for one big project with all the remaining streets that need to do water. It was suggested to do the water because we have the funds and ask Park to negotiate the bid price. We would reapply to RD in October and consider including Well #6 and Echo Acres going to a water bill level that allows the Precinct to obtain RD grants and then raise our water bills. This would take the long term debt off the tax base. The magic number we need for water bills is \$526.00 and Mr. Hounsell suggested the Precinct do the analysis to get these RD grants. Look at Contracts #7 and #8 upgrades these should be included. Mr. Hounsell reiterated the Precinct should be talking from a global position. Superintendent Bernier

stated between now and annual meeting, the Precinct needs to decide where we are going and look at eligible grants.

Karen Umberger stated that she could not believe RD would move on the application within six months. You need to make sure when you go to annual meeting that it is noted the funding is dependent on receiving RD funding. Mr. Hounsell stated the Precinct has done this before and RD came back with a proposal that the Precinct turned down because we wanted the 50/50 grant/loan configuration.

Commissioner Umberger stated that we don't have enough money to do what we want and the first thing we need to do is go back to the voters and ask them if they want to finish the project. Commissioner Umberger questioned when we could make application to RD. Mr. Hounsell stated that we need to apply for all that we can – meaning all the streets on the water master plan under one application. Commissioner Umberger questioned if the Precinct can make more than one application. Mr. Hounsell stated the Precinct can make more than one application or just make application for the entire water portion. Commissioner Umberger stated he is not willing to jeopardize the sewer portion of RD funding. Mr. Hounsell reminded the Board that any project can be done in phases.

Superintendent Bernier stated Park Construction has locked the price through a change order until April 1, 2009. Anytime between now and April 1, 2009, the Precinct can do a change order for the \$185,000.00.

Superintendent Bernier stated the taxpayers will receive \$491,250.00 in grants from the sewer overage of \$655,000.00 and the project will cost the taxpayers \$165,000. Commissioner Umberger stated that he had a conversation with Greg McPherson and he explained no one is asking for it. "Well let's ask for it".

Karen Umberger stated she would like to go back to the failure at Well #3. The Precinct has already established a fund to handle unplanned failures. Well #3 does not need to play any role in the decision for Well #6.

Well #3 was slated to be upgraded with the Well #6 construction. We will be installing a spare 100 hp motor on Thursday of this week but consideration should be given to do these upgrades now. Superintendent Bernier believes any decision the Board makes to fix the problem at Well #3 would not be looked at in any negativity.

Superintendent Bernier stated Park has agreed to lower their bid for drainage by \$100,000.00 making their bid \$330,000.00 within \$50,000.00 of the lower bidder for drainage. It really is in the Precinct's best interest to have one contractor do both. If a separate contractor was hired for the drainage and they hold up the project, our contractor may start looking at cost delays and costing the Precinct money. Commissioner Umberger suggested putting the Town on notice. The Precinct could have Precinct

Counsel send a letter to the Town of Conway stating any delays on the drainage part of the project could lead the Precinct to holding the Town of Conway responsible. If we don't send the letter, the Board could be leaving the Precinct wide open.

Motion of Commissioner Porter seconded by Commissioner Santuccio to award Contract #6 to Park Construction for a bid of \$5,014,180.00 and to further authorize change order #1 for a deduction of \$895,161.35. Motion carried by voice vote 3-0-0.

Superintendent Bernier stated the Precinct has spent a fair amount of money on the design for the drainage and strongly recommends the Precinct ask the Town of Conway to consider accepting Park Construction at the revised new number.

Bill Hounsell suggested it may be gentler to have the Board write a letter to the Selectmen instead of the attorney. Also it may be better to have Superintendent Bernier meet with Selectmen and explain the Precinct's position. Superintendent Bernier cannot fault the Town of Conway for protecting their taxpayers. Karen Umberger asked if the two projects could be done separately and the answer is yes.

Motion of Commissioner Porter seconded by Commissioner Santuccio to notify the Town of Conway Selectmen, the Board of Commissioners strongly recommends they accept Parks Construction Alternate A Bid as amended for the drainage on Contract #6. Motion carried by voice vote 3-0-0.

The Board authorized Superintendent Bernier to present to the Conway Board of Selectmen that the North Conway Water Precinct Commissioners strongly recommends that the Selectmen accept Park Construction's Alternate A Bid as amended for Contract #6.

The Board authorized Precinct Counsel Stephen Judge to attend a meeting on Audley's claim they are due another \$92,000.00. This needs to be settled before Contract #5 can be closed out and allow the Precinct to move forward with seeking the 30% grant funding from DES. Basically, Audley did not keep good records and they depended on CDM's log books. Pay Estimates determine what gets paid and all parties have to sign off on the pay estimate. You don't come back a year and half later using someone else's records and claim you have been underpaid. Contract #5 provides that Audley will provide the Precinct with record drawings. These have not been completed. CDM has offered to do the record drawings at a cost of \$10,000.00 to Audley. Audley also needs to come up with the cost for the epoxy lining. When the record drawings and epoxy lining issues are completed, then the Precinct can talk with Audley about the underpayment. The cost of Attorney Judge to resolve this matter will be expended against the Commissioners general legal budget. Superintendent Bernier stated we have sent three letters requesting the record drawings.

Bill Hounsell is not sure the attorney needs to be present for the meeting with Audley. Hopefully a recommendation will come out of the meeting and the Precinct would need that recommendation to move legally forward if necessary. It was suggested sitting down face to face with Franz Vail of the DES and explain the situation.

Motion of Commissioner Santuccio seconded by Commissioner Porter to authorize Superintendent Bernier and Precinct Counsel Stephen Judge to attend a meeting with DOT, Audley and CDM at the DOT office in Concord to work the details of the Audley dispute on Contract 5B. Motion carried by voice vote 3-0-0.

NCFD Architectural Study

Chief Preece requested the Board choose the top two candidates and request a proposal of cost from them. Chief Preece stated he spent time with all interested bidders. It was felt that Glen Builders is a general contracting company while Tierney Associates and H.E. Bergeron have gotten the engineer and architect together.

Motion to authorize Chief Preece to request cost information from Tirey & Associates PC and H.E. Bergeron and send a thank you letter to Glen Builders. Motion carried by voice vote 3-0-0. Karen Umberger questioned if this is following procedure and Chief Preece responded in the affirmative.

Response Force 1

Commissioner Umberger questioned if the article in the paper today regarding Response Force 1 was anything that would interest the department. Chief Preece stated this is a unique piece of equipment and it has been offered to the department when and if we ever need it. It is not something the department would want to own.

Commissioner Porter stated the Conway Police Department is looking at acquiring a command vehicle. Chief Preece noted this may be a valuable thing for the Town to look at through their Emergency Management Program.

Public Comment

There was no public comment at this meeting.

Non Public Session

Motion of Commissioner Porter seconded by Commissioner Santuccio to enter non public session at 11:21 a.m. for a personnel issue under RSA 91-A: 3, II (c) – Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the body or agency itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant. Motion carried by roll call vote – Umberger – aye, Porter – aye, and Santuccio – aye.

Reentered Public Session at 11:34 a.m.

The Board reported no votes were taken during the non public session.

Sign Checks

Motion of Commissioner Porter seconded by Commissioner Santuccio to sign checks out of session. Motion carried by voice vote 3-0-0.

Anti Harassment Policy

Chief Preece presented the Board with the Precinct's Anti-Harassment Policy and stated it needed to be updated. Chief Preece stated he made no changes to the policy. Chief Preece requested the Board review the policy for the next meeting.

Adjourn

Having no further business to discuss at this public meeting, **Motioned by Commissioner Porter seconded by Commissioner Santuccio to adjourn this public meeting at 11:36 a.m. Motion carried by voice vote 3-0-0.**

Respectfully,



Kristine M. Cluff
Recording Secretary