

TOWN OF THORNTON

BOARD OF SELECTMEN

Approved on: 9/4/13
BOS Initial: JHS
Rec'd by Town Clerk on: 12 Sept 13
Town Clerk Initials: JL

Board of Selectmen Meeting Minutes August 28, 2013

R. Sabourn called the meeting to order at 12:02PM.

ROLL CALL:

The following Board members were present:

R. Sabourn, Vice-Chairman S. Morton M. Peabody J. Paul-Hilliard

R. Sabourn stated the purpose of the meeting is to review the concerns/comments submitted by Town counsel and Alba Architects on the draft contract agreement between the Town of Thornton and Conneston Construction, Inc. for the Police Department Addition – Phase 1.

K. Bolger stated that representatives from CCI and Alba Architects met with him yesterday to go over the concerns listed by both S. Anderson and W. Mitchell.

B. Lehr, CCI, stated he has been in contact with his insurance providers and that the concerns that relate directly to CCI seem to be ironed out.

R. Sabourn noted that the town does a manifest once every two weeks and that payments to contractors for the project need to fall in line with the town's schedule.

All parties agreed that wording to reflect working within the town's payment schedule will be added to the contract.

R. Sabourn asked if an agreement regarding retainage had been reached.

B. Lehr stated he would agree with what the town determined to request.

After a brief discussion the Board agreed to request 5% flat rate throughout the project to be released at substantial completion.

R. Sabourn clarified with S. Anderson and B. Lehr that the retainage would be released at substantial completion which is when B. Lehr, CCI is complete but prior to addressing punch list items and added that final payment would not be made until after all items on the punch list are resolved.

R. Sabourn confirmed that a statement reflecting the retainage agreement would be included in the contract.

R. Sabourn addressed the issue of defining the role of the clerk of the works.

K. Bolger stated that he would take care of the minor decisions but he would bring any changes to design, or changes that have a financial impact back to the Board of Selectmen.

The Board agreed that the process described by K. Bolger will be acceptable.

All parties agreed that wording to reflect that process will be added to Section 9.8

B. Lehr asked whether the electrical service upgrade was going to be part of Phase 1 or not.

After a brief discussion it was determined that the service upgrade would be included as part of Phase 1.

S. Morton pointed out that moving the electrical service panel to the Police Department side of the building should be considered because it would keep the disruption of the Selectman's office to a minimum during Phase 1 and it would avoid permanently decreasing the available work space in the Selectman's office before knowing for sure that Phase 2 is going to occur.

Chief Moller stated that the Police Department could work around having the electrical panel moved to the Police Department side of the building.

B. Lehr stated he will confirm the cost estimates of his electrical contractor and PSNH for the electrical upgrade and panel relocation to be included in Phase 1.

R. Sabourn asked if the entire building will need to be brought up to current code relative to monitored fire extinguishers due to the work being done on Phase 1.

K. Bolger stated that only the renovated area will need to be brought up to code during Phase 1.

S. Anderson indicated that the code is not clear on this point, and it will ultimately be up to the local official to make a determination as to meeting the code requirements.

K. Bolger stated he has confirmed with CPT Defosses that the Fire Department will issue a new letter that states due to design changes resulting from proceeding with only Phase 1 the letter from the former chief will be superseded.

K. Bolger stated the letter will also address the compliance status of the renovated area associated with Phase 1.

R. Sabourn confirmed with S. Anderson that he is comfortable that his concerns regarding the draft contract document have been addressed.

R. Sabourn asked if there were other comments regarding the concerns S. Anderson listed and moved on to the concerns of W. Mitchell.

R. Sabourn stated that the concern regarding Section 4.1.2 and 4.1.3 relating to payment schedule has already been discussed and that payments will occur within the town's current schedule of issuing a manifest once every two weeks.

R. Sabourn stated that the concern regarding Section 9.8 has been discussed and the Board agrees to include language in Section 9.8 that states there is an understanding that the Clerk of the Works, the Architect and the Contractor will handle most decisions but issues involving design changes or that have a financial impact will be brought back to the Board of Selectmen.

R. Sabourn stated after reading RSA 447:16 that the word 'shall' is used and that the project exceeds the \$35,000 threshold listed so there is no question as to whether the town will require a bond to be posted.

B. Lehr stated it will cost \$2,520 for CCI to carry a bond in the amount of \$290,000.

R. Sabourn confirmed that cost is not included in the contract now and will need to be added.

R. Sabourn stated that the concern regarding Section 9.10.4 relates to arbitration.

After a brief discussion the consensus of the Board was to heed the advice of town counsel and remove Section 9.10.4 and ask town counsel if there should be any wording in place of it.

R. Sabourn moved to the concern on Section 16 regarding insurance.

B. Lehr provided the Board with a copy of his Certificate of Liability Insurance.

R. Sabourn stated that T. Beaulieu will confirm with the Town's insurance provider that the Certificate of Insurance presented for CCI is adequate coverage for the project.

R. Sabourn stated the concern regarding Section 16.5 requires that the Town's insurance provider review the waiver of subrogation clause and to get a written approval from them prior to removing the section.

R. Sabourn stated that T. Beaulieu will confirm with the Town's insurance provider that the terms of all of Section 16 are acceptable to the Town and that adequate insurance is in place.

R. Sabourn stated the last concern listed by W. Mitchell regarding Section 18.4 relates to the discovery period of the statute of limitations and that W. Mitchell recommends removing Section 18.4. The Board agreed to remove Section 18.4.

B. Lehr stated he will need to have his insurance provider review all of the recommended changes to the contract.

S. Morton asked if reducing the cost of the contract was going to result in getting a substandard building and referred specifically to the change in the type of insulation used.

S. Anderson confirmed that using fiberglass insulation instead of the spray foam insulation results in a cost savings and that the building will still meet the NH Energy Code requirements.

R. Sabourn clarified that the contract amount is close to the \$290,000.

R. Sabourn stated there may be up to \$5,000 to cut from the electrical systems 16-100 line but that the added bond requirement would take up \$2,520 of that.

R. Sabourn stated that unless there are other additional costs that come in the contract could come in under \$290,000.

R. Sabourn noted that the bottom line of the contract needs to align with the motion made by the Board of Selectmen.

R. Sabourn stated that one added cost may be for CCI to carry additional insurance if that is determined to be necessary after the town's insurance provider reviews the contract terms and insurance provided.

S. Morton asked how the supervision of town employees that will be doing the site work will be handled.

B. Lehr stated that the town employees will be under the CCI supervisor and treated as subcontractors.

S. Morton asked if a CCI employee will be on site to direct the town employees and B. Lehr confirmed that would be the case.

S. Morton noted that the cost for several items were removed from the contract with the understanding the town would provide the work such as the site work, job trailer, temporary fencing, temporary heating, trash removal and final cleaning.

S. Morton stated his opinion that moving the costs associated with the items listed to the operating budget of the town is not a cost savings to the project but rather only a reduction in the bottom line of the contract.

S. Morton stated his concern that the Board of Selectmen must clearly identify the total cost of the project and not just the cost of the contract.

S. Morton stated that in his opinion the Selectmen need to make a determination as to whether or not doing Phase 1 needs to go back to town meeting because the total cost of completing Phase 1 is close to exceeding what he feels the town voted for.

R. Sabourn agreed that the items cut from the contract are not necessarily a true cost savings and that the items can come out of the FY2013 operating budget.

R. Sabourn stated that in his opinion the town voted unanimously to address the deficiencies in the Police Department building.

R. Sabourn reminded those present that the Article mentioning the \$250,000 for Phase 1 was passed over at the annual town meeting and that in his opinion the \$250,000 is not a valid bottom line number for Phase 1.

R. Sabourn stated his opinion that the Board of Selectmen has a responsibility to correct the deficiencies in the Police Department building and that he can justify using some of the operating budget of FY2013 to reduce the amount of the contract to make Phase 1 happen.

R. Sabourn indicated that he agrees that Phase 2 needs to go back to the voters at the annual town meeting.

R. Sabourn stated that at town meeting the Selectmen indicated that they would address the deficiencies in the Police Department building and that if they ran out of money they would not do the whole project which is exactly how the Board is proceeding.

S. Morton questioned whether addressing the deficiencies in the Police Department building is being done for a reasonable amount of money.

R. Sabourn responded that the proposed renovations are not "for the Cadillac" but rather for a sound structure that meets code and that he is ready to vote to move forward on Phase 1 but respects the individual opinions of each Board member.

S. Morton asked if the Board can present the true costs of the project which would include not only the cost of the contract but also all of the costs associated with the services provided by the Town.

R. Sabourn responded that he agrees a full report of all the costs associated with the project will be presented for review at the end of the project, but that coming up with an itemized list at this time may not be the best use of time.

S. Morton asked what the exact wording of the motion that the Board made regarding Phase 1.

J. Demeritt stated the words "not to exceed \$290,000" were used in the motion.

S. Morton asked if the motion referred to the cost of the contract or the cost of the project and that clarification may be needed on that point.

R. Sabourn agreed that the Board of Selectmen should be up front regarding the total cost of Phase 1.

S. Morton noted that the vote at the September 4th meeting will be critical.

The Board agreed to meet at 5:00pm on September 4, 2013 instead of noontime.

R. Sabourn asked if S. Morton was going to come up with some numbers for the items covered by the town.

S. Morton suggested that using 75% of the original cost of each item as presented by the contractor in the original contract would be reasonable.

R. Sabourn stated that the exact costs of the items provided by the Town can be tracked during the project for a true disclosure at the end of the project.

S. Morton stated the Board needs to be aware of the estimated total cost of Phase 1 prior to voting on the contract next week.

R. Sabourn stated that the vote next week will be on how much of the \$596,000 appropriated at the annual meeting will be spent on the contract for Phase 1.

R. Sabourn indicated that it is not necessary to have an exact figure for the cost of items coming out of the FY2013 operating budget at this point but that a full accounting will be made after completion.

J. Paul-Hilliard stated that the Board needs to be prepared to answer questions regarding the financing of Phase 1 at the annual meeting.

S. Morton agreed and stated that the perception of how the Board of Selectmen handles the financing of Phase 1 will have a direct effect on how the town votes on Phase 2.

Chief Moller stated that the individuals circulating the idea that the Board of Selectmen is trying to hide something in how they are financing Phase 1 have no basis for the claim because from the very beginning, all of the Building Committee meetings and Board of Selectmen meetings have been open to the public.

J. Demeritt stated that the Building Committee has done their due diligence from the beginning.

J. Demeritt stated that he has no reservations moving forward with Phase 1.

S. Morton stated that he respects R. Sabourn's position of being 100% in favor of the project to protect the interests of the Town.

S. Morton stated that not fracturing the community needs to be a consideration as well, and that the project should not be pushed through just because so many people have invested so much time in it.

S. Morton restated the importance of making full disclosure of the total cost of Phase 1 and that the Board needs to be ready with the answers for questions relating to the financing of Phase 1.

R. Sabourn suggested that the parties involved touch base on Tuesday to go over the information they have been tasked to look into and the impact it will have on the contract in order to produce a document for signature at the Wednesday, September 4, 2013 meeting.

Public Forum:

J. Demeritt stated that the concerns he brought up at a recent Board of Selectmen meeting regarding work that needed to be done on Millbrook Road have been taken care of by the Road Agent and that the Road Agent did an excellent job.

At 1:35pm the following motion was made:

MOTION: "To adjourn."

Motion: R. Sabourn

Seconded: M. Peabody

Discussion: None

Motion Passes: 4 – Yes, 0 – No

Respectfully Submitted,

Nancy Decoteau

**TOWN OF THORNTON
Selectmen's Agenda
August 28, 2013
12:00 PM (Noon)**

12:00 PM Flag salute

Agenda Items: (no public input unless approved by the Chairman)

12:00 PM Police Department Phase I/addition (motion contract approval & signatures if acceptable)

Public Forum (5 minute session per person)

Other business or non-public issues as needed pursuant to RSA 91-A: 3, II

Residents may contact the Town Administrator to get placed on a future agenda.

*The board may review decisions made during the meeting in public input, at the closing of the meeting, provided information that could result in an adjustment to a decision that was made during the meeting.

Board of Selectmen
August 28, 2013
SIGN IN SHEET (Please Print)

- 1 James Donerath 76 Fadden
- 2 BRYANT LETHR
- 3 ~~John J. Andrews~~ - Ann Andrews
- 4 Chief Moley
- 5 Kelly M Bolger
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24