



TOWN OF MADISON
CONNECTICUT
06443-2563

MEETING DATE:

Wednesday, August 17, 2009

MEETING PLACE:

Madison Room (Room A) - Town Campus

**Special Board of Selectmen Meeting
Minutes**

First Selectman Goldberg called the **Special Meeting** of the Board of Selectmen to order at 5:01 p.m. Present were Selectmen Goldberg, MacDougald, Kokoruda, and Traugh. Selectman Gladstone was absent.

1. Discuss and take action on recommendation from the Senior Center/Ambulance Facility Building Committee to appoint Architect for the Senior Center/Ambulance Facility project.

DISCUSSION: First Selectman Goldberg welcomed members of the Senior Center/Ambulance Facility Building Committee (Committee). Committee Chairman Tom Scarpati introduced Committee members present: Barry Miller, Gus Horvath, Sam Franz, Diane Stadterman (Co-chairman), Sam DeBurra, Ed Kritzman, and Jan Melnik (Committee secretary). (A copy of Mr. Scarpati's 'Presentation to Special BoS Meeting on Aug 14, 2009' is attached to these minutes.) He highlighted the following:

- The Senior Center & Ambulance Center Building Committee (Committee) is ready to make its recommendation to the BoS for the Architect to carry the Project forward to its completion.
- This recommendation comes at the conclusion of a competition amongst the four architects based in Madison. The Committee reviewed its actions and concluded that while some missteps were made in the competition process, that its final conclusion and recommendation should stand.
- Therefore, the Committee recommends that the Board of Selectmen approve the selection of the East Wharf Architects with a base fee of \$288,000.

Duo Dickinson, Madison resident and one of the architects participating in the competition, asked the Selectmen to invalidate the entire process of this Committee and start the process over again. (A copy of his 'Address to the Board of Selectmen' is attached to these minutes.)

Comments and questions were received from resident Barbara Davis (Stone Road), Mike Ott (Director of Public Works), Diane Stadterman (Committee Co-chairman), Tom Scarpati (Committee Chairman), and Gus Horvath, Barry Miller, Ed Kritzman (Committee members).

DISCUSSION: First Selectman Goldberg praised the committee members for their intent and dedicated work. Selectman Kokoruda stated the Committee's biggest mistake was they were too accommodating; the final decision was based on a fair playing field. She would not favor starting

over. Selectman Traugh stated the irony is that everyone wanted to be fair; it is not easy to be fair in this case. Maybe knowing why one of the three was chosen would be nice to have in our records. Selectman MacDougald suggested the topic of 'how to bid' should be put on as a Board of Selectmen agenda item soon.

Mr. Scarpati noted the three architects' proposals were John Matthews \$499,900, Golden Mean Group \$318,071, and East Wharf Architects \$288,000. East Wharf Architects was voted on and selected by the Committee.

MOVED by Selectman MacDougald and seconded by Selectman Kokoruda to accept the recommendation from the Senior Center/Ambulance Facility Building Committee to **appoint East Wharf Architects for the Senior Center/Ambulance Facility project subject to successful negotiation of the contract for base services fee in the amount of \$288,000.**

VOTE: This motion was approved unanimously.

2. Discuss and take action on the Senior Center/Ambulance Facility Building Committee's sole source justification for Construction Manager for the Senior Center/Ambulance Facility project.

MOVED by Selectman Kokoruda and seconded by Selectman Traugh to **recommend sole source justification for Construction Manager for the Senior Center/Ambulance Facility project and appoint KBE Building Corporation (KBE) (successor to Konover Construction) of Farmington, CT as the Construction Manager for the Senior Center/Ambulance Facility project pending successful review of the contract.**

DISCUSSION: Ed Kritzman, member of the Senior Center/Ambulance Facility Building Committee, presented an understanding of single source justification and sole source justification contracts and presented reasons as to why the Town should follow a sole source justification for a Construction Manager.

Reasons:

- (a) KBE has been involved in the Senior Center/Ambulance Facility project since its inception.
- (b) KBE has provided all construction-related cost estimates for both the Senior Center and the Ambulance Facility and has updated those costs as requested by the Pre-referendum Project Committee.
- (c) KBE construction cost estimates were an integral part of the pre-referendum presentations made to the public and Town officials in support of these projects.
- (d) KBE, because of its familiarity with the project and the work it has done to date, will enable the committee to maintain the planned schedule. Time is of the essence due to the variables of bond and construction costs.

VOTE: This motion was denied 1-3-1. (Selectman Kokoruda - yes, Selectman Traugh - no, Selectman MacDougald - no, First Selectman Goldberg - no, Selectman Gladstone - absent)

DISCUSSION: Dotty Bavin, Director of Finance, provided the Board of Selectmen with copies of the "Bid Process for the Purchase of Goods and Services and Engineering and Consultant Services" from the Town's accounting manual which is part of the Board of Finance Regulations. In accordance with the accounting manual, the members of the Board of Selectmen agreed to request that the

Committee interview two (2) more companies and then present their recommendation on the basis of reviewing qualifications, expertise, and experience. The Town Engineer was requested to obtain information regarding fee structures for this type of service.

3. Discuss and take action on promotion of Ms. Valerie Soule to the full-time position of Records Specialist, Police Records Division, Union Local UPSEU - \$20.81 per hour, retroactive to August 11, 2009.

MOVED by Selectman Traugh and seconded by Selectman Kokoruda to approve the promotion of Ms. Valerie Soule to the full-time position of Records Specialist, Police Records Division, Union Local UPSEU - \$20.81 per hour, retroactive to August 11, 2009.

VOTE: This motion was approved unanimously.

4. Discuss and take action on hiring Ms. Liz Burzenski for the position of Assistant Animal Control Officer - \$13.84 per hour - effective August 24, 2009. Note that this is a *Conditional Offer of Employment* and is contingent upon successful completion of a complete background investigation, a physical examination, and a post-offer drug test.

MOVED by Selectman Kokoruda and seconded by Selectman Traugh to approve the hiring of Ms. Liz Burzenski for the position of Assistant Animal Control Officer - \$13.84 per hour - effective August 24, 2009.

VOTE: This motion was approved unanimously.

5. Discuss and take action on waiving a dual representation attorney conflict.

MOVED by Selectman MacDougald and seconded by Selectman Kokoruda to waive a dual representation attorney conflict.

DISCUSSION: Wiggin and Dana, LLP will represent the Town for pension work; they will also represent the bonding company on our bonding.

VOTE: This motion was approved unanimously.

6. Adjournment.

MOVED by Selectman Kokoruda and seconded by Selectman Traugh to adjourn the Special Board of Selectmen meeting at 7:42 p.m.

VOTE: This motion was approved unanimously.

Respectfully submitted,

Judy Palmer
Recording Secretary

- The Senior Center & Ambulance Center Building Committee (Committee) is ready to make its recommendation to the BoS for the Architect to carry the Project forward to its completion.
- This recommendation comes at the conclusion of a competition amongst the four architects based in Madison. There were mistakes made by the Committee in the management of this competition. The Committee reviewed its actions and concluded that the mistakes were made in good faith, in an attempt to be as fair and open-minded as possible to all concerned and that its final conclusion and recommendation should stand. I'm sure that this decision will be challenged.
- As the BoS weighs the recommendation and the issues surrounding the competition, let's review the process the Committee followed and how we got here.
 - The current Administration formed the Pre-Referendum Review Committee and charged us with the task of reviewing and refining the \$6.8M project that was defeated at the 2007 referendum. All Town architects were asked to compete by providing pro-bono preliminary designs of their ideas to the Pre-Committee. All refused citing a number of reasons and suggested that we continue with the architect that supported the paid activity leading up to the 2007 referendum, which we did.
 - What evolved was the \$5.5M concept that was summarized in a final report and presented to the BoS and BoF as the basis of the next referendum on this Project. The design that was the basis of the referendum needs to be characterized. In architect language, is it a Concept or is it the next step, a Schematic Design. It is neither. It is much more than a Concept. The Pre-Committee went well beyond the normal Concept definitions in order to develop and justify a lower cost design. But, it is still less than a Schematic Design and much more work will be needed to complete this phase.
 - When the Administration formed the Building Committee (Committee), our charge was *to continue* the work of the Pre-Committee.
 - Our recommendation to the Selectmen, given the progress of the design through the pre-referendum process, was that we continue with the architect and construction manager that were key, integral elements of the design and its cost that was the basis of the successful 2009 referendum. The architect recommendation was rejected; the construction manager recommendation is still pending.
 - The Request for Proposal to the architects was specific in that we would not be starting over and that we pick-up where the Pre-Committee design ended. We also asked that individual creativity be expressed in areas of HVAC, construction methods, LEET certification, and environmental friendliness. This RFP was not "typical", was confusing (and upsetting) to some or all of the architects. There were calls to Mike Ott for clarification, and an e-mail to the Committee which was the basis of the Committee's mistake. It offered "better ideas". The Committee should have rejected the

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request, but in its zeal to do the best job for the Town of Madison voted to permit new thinking as an additive to a responsive proposal. That message was fumbled in its hand-off to the architects and lead to further confusions downstream as we tried to recover from the miscommunication. However, in order to stop the confusion and insure a "level playing field", we formally notified the architects that no additional ideas should be submitted and that they should submit responses to the original request by the original closing date. Responses were required by COB July 17, 2009.

- All four architects responded, on time. Three were fully responsive to the intent of the initial RFP; the fourth was not, but close enough that the Committee invited all four back for an interview (another mistake, in hindsight). The interviews of the three conforming submittals were professional and straightforward. All would carry forward the base design and provided their fee requirements to do so. The fourth interview was different. The architect indicated no desire to carry forward the base design and provided a conceptual model and impressive discussion of his view of the project and its opportunities, as well as his belief that he could complete the project within the \$5.5M referendum total. At the conclusion of the presentations and interviews, the Committee voted to invite back two architects, one of the conforming proposals, the other the non-conforming proposal. Once again, the Committee was dazzled by style and the desire to do something "better". I asked Mike Ott to "whisper in the ears" of the two who would be returning (an unofficial notice to provide them the maximum time to fill in the blanks on some of the issues with the proposed concepts). Obviously, another mistake.
- Some members of the Committee reviewed that decision over the weekend, had strong second thoughts about it, and a re-vote was scheduled for the next meeting. Again, I asked Mike Ott to notify the architects that the second interview was being re-thought and that they shouldn't expend any additional assets on the project until the re-vote was concluded. At the Friday Committee meeting, after much discussion, the Committee voted to proceed with only the single conforming proposal for many valid reasons. It was deemed that we would be starting at the beginning with the new concept, a time and cost risk with no verifiable gain over the base design.
- So, finally, we are here to share that recommendation and request your approval so we can move on. We recognize the mistakes we have made with this procurement and considered starting over, but rejected the notion. For all the missteps, we did receive three fully conforming responses, on time. The fourth response was non-conforming by choice, not by confusion, as was verified at the interview. So, if we were to start again, we would still base the request on the continuation of the base design and not entertain "better ideas". So, we see nothing to be gained by a re-start and recommend we proceed.
- Therefore, the Committee recommends that the Board of Selectmen approve the selection of the East Wharf Architects with a base fee of \$xxx,xxx.

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Duo's Address to the Board of Selectmen:

The bottom line is simply this: the Committee initially asked for free design information from the four architecture firms in town when they already had an in place standing contract with one of them, the Committee then sent out a Request for Proposals that was internally contradictory and noted that it would respond to all requests for clarification and when they received my request for clarification did not respond prior to the proposal's due date, and their definition of acceptable presentation materials was repeatedly and arbitrarily changed during the period between the receipt of proposals and interviews. The Committee voted to extend an invitation for a second interview to two architects, this request was then overruled without a committee vote and the invitation was rescinded.

I ask the Selectman to invalidate the entire process of this Committee and start the process over again.

I have no political ax to grind (I've never said who I vote for or why) but I think the Selectmen have a very stark and simple choice. Either they can endorse this Committee's means and methods and say that business was conducted legitimately and it is the policy of the town that its committees should operate in the manner that this committee has evidenced, or they can reject the methodology of this committee and reconstitute one that would actually have a method of operation that is followed by thousands of other building committees every year in towns all over the country to define the design and contract requirements for projects just like this.