



Public Works Facility Building Committee Meeting Minutes

Montague Town Hall

One Avenue A, Turners Falls, MA 01376

Tuesday, July 23, 2019 @ 5:00 PM

AGENDA

Votes May Be Taken

Present: Ken Morin, Jay DiPucchio, Pam Hanold, Bob Macewicz, Mark Fairbrother, Tom Bergeron (Highway Supt.), Neil Joyce (CMS), Steven Ellis (Town Administrator), David Jensen, Jason Burbank, Ariel Elan, Chris Rice

Absent: Richard Widmer (Alternate Member), Mark Williams, Roger Hoyt (CMS),

- 1. Executive Session: To discuss strategy with respect to potential litigation where an open meeting may have a detrimental effect on the bargaining or litigation positions of the Committee, pursuant to G.L. c. 30A, Section 21(a)3.**

Motion to enter executive session / second. Unanimous vote by roll call, to move into executive session.

Discussion – CMS provided an overview of the potential for a bid protest, initiated by the sheet metal union, with the scope of work being the installation of the roofing panels for the engineered metal building. The Sheet Metal Union had initiated contact with the Office of the Attorney General (AGO), citing that the work associated with the roofing system should be subject to licensure and inspection by the sheet metal union. It was further offered that contrasting legislation was filed, suggesting that sheet metal work associated with the roof structures of pre-engineered metal buildings should be exempted. No action has been taken on this pending legislation as of yet. The AGO has extended this argument to include the requirement that the scope of the roofing work should be subject to Ch 149 filed sub-bid regulations, and provided an informal opinion

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which would allow a protest hearing to proceed, based on the evidence presented to date. After consultation with HKA, CMS and Stephen Marsters (Town Counsel / KP Law), the Town was advised that the informal opinion offered by the AGO was thought to be in conflict with past bidding practices and standards / guidelines of MGL Ch 149 which govern building construction. CMS and HKA voiced concerns to the AGO associated with breaking out components of an engineered metal building relative to single source manufacturing and warranty. In addition, it was presented that the Town may be subject to time and cost impacts if rebidding the roofing scope of the building was employed, as suggested by the AGO.

CMS reiterated that all correspondence and discussions have been informal to date, and as of this afternoon (July 23rd), no formal protest had been filed. It was confirmed with the AGO that award of the GC Contract to BW Construction is proper, and in the absence of a formal hearing, work can and should proceed. Should a formal protest be filed, discussion with the architect and Town Counsel will continue, and we will prepare and present a defense on behalf of the Town of Montague at a hearing date to be determined.

General discussion and/or clarification with the committee following the presentation by CMS. Points of discussion included some historical perspective from Committee Member Jensen, citing past discussions and experience with this issue. Committee Member Elan requested a copy of the pending legislation, which CMS will provide for the committee's consideration.

A motion was made and seconded, to adjourn executive session and reconvene at the appointed time (5:30pm) for normal committee business. By role call vote, the motion passed unanimously.

Executive Session Ended 5:25 PM

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