

Approved by the Board 8-23-07

Members Present: Jeremy Dube, Cindy Balcius, Scott Williams, T. Hoopes, Bonnie Dunbar, Jim Bureau

Others Present: Monica Jerkins – Planning Assistant, Peer Kraft-Lund – Interim Planner, Rick Lundy, Randy Walker, Bill Straub, and William Rollins – PE for the applicant, Carl Norby

Members Absent: Bruce Holmes and Bill Curtin as Selectmen’s Representative

Call to Order: at 5:12p.m. by T. Hoopes, Chairman

Administrative Review:

T. Hoopes – Cindy Balcius has recused herself from the case because her company has done some advising, but this has to do with engineering not the subdivision so does anyone have a problem with it or should she still step down?

J. Dube – I think she should still step down.

B. Dunbar –I do too.

R. Walker – I agree as the applicant, I think that she has a bias and should not even though it is peripheral.

T. Hoopes – I will appoint both Jim Bureau and Bonnie Dunbar to sit on the board.

R. Walker – Thank you for getting us in as quick as you do. We have two issues: 1 – the cost of the construction observation agreement review and 2 – we would like some confirmation on the bond amount. Since we met here in January Carl and Dave have obtained all of the state approvals they needed, road construction bids from three different companies and have signed a contract with Richard Lundy to build the road per the Brown Engineering specs and town specs for \$563,000.00. Carl and Dave then went to the Meredith Village Savings Bank to get a bond for 110% of that amount, which is \$620,000.00, which the bank has given a commitment for, we were hopeful to have closed on that last week so that we could proceed forward, but we then were delivered this construction observation agreement that had a price tag of \$48,000.00 which to the applicant was shocking. They anticipated something much lower. Mr. Lundy who has been hired to do this project built a road in this town 900’ long and the observation costs were \$1200.00. This road is 4400’ +/- long and we anticipated an estimate of \$6,000.00. Carl & Dave then called up a few other companies to ask what they would charge and I have a book here with CMA’s information in front and then there is a one page estimate from Rollins and from start to finish would be \$8000.00-\$10,000.00. Carl & Dave got three other estimates, we did it strictly for comparative purposes. Mr. Rollins company represents and does this kind of work for different towns: Salem, Merrimack, Mount Vernon, Hillsboro, Atkinson, Hopkinton, Fremont, Londonderry, Tilton, Gilmanton, and Bow. They are a big company and do it all over the state and all daylong and their estimate was \$8k-\$10K. The next estimate was T.R. Selling from Laconia and his company happened to review Mr. Lundy’s work and they came in with an estimate of \$8K to do the work. Norway Plains gave an estimate of \$12, 500.00-\$15K, so all three of these were fairly closely grouped and significantly less than CMA. Again we didn’t think the original price was reasonable so we did some checking and it seem to bear out what we thought was reasonable and Carl

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and Dave are not unwilling to pay a fair price. \$48,000.00 is a lot of money and we wanted the board to take a look at it and it is possible that another company might be able to do it cheaper if the board was inclined to do that. I am sure that you don't want every developer to come in. This is the first time in my 23 years of practice that I have questioned any town's engineer, ever. Carl & Dave have never done it and I don't believe Mr. Lundy has done it. We think on this particular job another company that was cheaper could do this. I also did an attached estimate of the three bids that Carl and Dave got and they did hire Mr. Lundy for \$563K who agreed to reduce his normal profit down a little bit, he can get local gravel, which some of the other companies couldn't and we would like to get moving and we are here asking for your assistance and we would appreciate it if we could deal with somebody a little cheaper and if we could get a bond amount approved so that we could move forward.

P. Kraft-Lund – Just to go over something that engineering services does for us is guarantee that the standards and specifications of the town and the state are met. It is hard to be able to estimate how many times to go out there to guarantee to the town that the road, which the town for any mistakes made the town will have to pick up the cost in the long run. In security as you are all aware, security pays for if the town has to take over the road because the developer goes somewhere else and the town will have to finish the road and that security guarantees that there will be enough money to do the road. The issue in front of you is the intensity of the inspection that you feel comfortable that enough inspections are being done and the other part is do you feel comfortable that the cost in security will be enough to have the town do the road if they use some other contractors?

T. Hoopes – There has been a set amount for security established?

R. Walker – We are looking to have that amount determined. We have a fixed price contractor, Mr. Lundy, the Town requires 110% on top of whatever the agreed amount is and we have a bond for \$620K which is a \$60k cushion but we don't have an amount agreed to, no, but we would like to have an amount agreed to.

T. Hoopes – We adopted a policy a few years ago of going to a letter of credit with a self-calling feature or cash because bonds, it is banks that decide if the road is $\frac{3}{4}$ done or $\frac{1}{2}$ done and that is where the money is and if it is only $\frac{1}{2}$ done and you have already spent $\frac{3}{4}$ of the money you only have $\frac{1}{4}$ of the money left to pay the $\frac{1}{2}$ of the road. The logic is protecting the town from our point of view. When we contract with an engineering company we want to make sure that something is built to town specifications.

R. Walker – As do we.

T. Hoopes – We are aware we need somebody and we do not have a town engineer and we use CMA a great deal simply because they deal only with municipalities.

Bill Straub – It is unfortunate that we are here because the facts of this whole thing are discombobulated top to bottom. We didn't submit a bid for \$48K we suggested that a budget of \$48K be established based on a number of factors. We would provide certified service to the Town of Alton a the work being done on this project meets the project specifications that you have established and are par of the approval. Along with that we would agree when certain amounts of work are done, so you can release the security, those are very serious matters. We are talking about a very rigorous program to protect you

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interest and protect the bond put up to your benefit. The point is you are not paying a lump sum fee for anything you are paying an hourly charge for time spent. The attorney mentioned paying someone's salary and that is not what we are talking about. We are talking about consulting businesses, so that is an inappropriate comment if you ask me. If this thing goes well and not much time is incurred that charges don't get incurred. It is clear with our master agreement with the Town of Alton we don't work on a bid basis we work on a time charge basis. Do you want us to spend the hours to protect your interests or not?

T. Hoopes – Randy, were you aware this concept of bid budget combination or not?

R. Walker – Yes we were and I think if you look at Mr. Rollins construction observation letter it indicates that this is an anticipated fee. We are aware of all of that it is just they are not double, triple, or 4x they are literally 5x-6x bigger as an estimated budget than these other companies that do the exact same thing.

B. Straub – It is not the exact same thing. These people have not discussed with you a budget to protect your interest, they discussed a budget to inspect the work, they are two different things.

R. Walker – Mr. Rollins is here and his company does exactly what CMA does. The price is so different and that is why we are here.

S. Williams – I would like for the gentleman over there to address what the difference is between protecting the town's interest and protecting the work because it should be one in the same.

B. Straub – I understand what Scott is saying but I don't necessarily agree. I think.

S. Williams – I am asking a question so there is nothing to agree or disagree with.

B. Straub – Representing the Town of Alton it is not our first care to make sure that their job is going well. Our goal is to make sure when the work is done it meets the town's requirement and there is documentation and a record to support that opinion. It is a very different thing if you are building it yourself it would be an entirely different budget. If we are going to have the responsibility to write-off, stamp, release monies and all the rest of it, there are plenty of scenarios that can involve a lot of time and if the time is not required it is not required.

S. Williams – How does your service protect the Town of Alton any better than one of these 3 people?

B. Straub – More time spent, more thought given, more prudence applied. I don't want to be flip about this but if you are not comfortable with us than that is fine. If you want to go in a different direction, that is fine. What I am saying is that we provided a scope and budget for services to protect the interest as we see fit. Another thing regarding the construction security as I understand your regulations and under this budget we were going to put that together as well.

P. Kraft-Lund – Maybe it would be important if the engineering sub-committee met on this and brought back a recommendation for the board. \$48K in an escrow account is a lot of money to ask for right off but maybe that could be negotiated in phases or sections.

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R. Walker – I don't know if it would be helpful but Mr. Rollins could at least explain what his company does.

T. Hoopes – Do we have room for public input?

J. Dube – For the engineering committee to meet on this, I don't think it would work to well because that would end up being Tom and I because Cindy is the other part of that and she would have to step down from this case, so I think it is better for the whole board to handle this certain situation.

Mr. Rollins – Mr. Norby called me and explained what he is looking for. I did give him an estimate over the phone, this is not a bid based on our experience doing this type of construction observation for the other communities we work in. We would generally provide the same service as CMA and we would do a boundary deed for the town. We visit the site in different stages.

B. Straub – He has an \$8K-\$10K budget, which amounts to about \$100.00 over the course 17-20 weeks which is about 5-6 hours per week, which we are going to do a lot more than that.

T. Hoopes – I s all contact with the applicant with an engineer not somebody in training?

Mr. Rollins – I would manage the project, the gentleman, Dave Flynn, he just sat for the PE exam, but has been doing this type of work for a while, I can't tell you if he is a PE or not.

S. Williams – So he is an EIT at this point.

T. Hoopes – We have had problems in the past where the engineer's work was being questioned by somebody other than an engineer and that is something that we felt was not right.

B. Dunbar – This doesn't only concern roads, I assume there are other things to be inspected such as a cistern.

Mr. Rollins – We do that observation work also but that is not included in this.

B. Dunbar – The other thing is this project contains a rather large retaining wall as part of the road construction, did you bear in mind some expenses for that/

Mr. Rollins – I did not, again this was a phone call.

B. Straub – You haven't seen the plan.

Mr. Rollins – I have not.

J. Dube – This seems highly irregular to me this process. We have somebody who has seen the bids and who has had phone conversations, this board just needs to hear the facts, get the correct information to make our decision. This here is a big waste of time. We know they think it is too much money and therefore it might be so we need to get in contact with these companies from the town to these

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companies and say this is what we need and what we need inspected, same type of thing we have with CMA. Then we get a quote from these other companies and see what it is. The board needs the proper information rather than to go back and forth and I think it is unfair for Bill from CMA here to have to go through this.

T. Hoopes – Carl just said the other two companies did have plans.

J. Dube – Cindy you need to step down you are not on the board right now and it is not open to public right now.

S. Williams – One thing that concerns me is we should follow up with what Mr. Walker said contact some other communities, Wolfeboro, and back up that information if they haven't seen things this high, I just don't know what the difference is and I think we have a responsibility to the applicant's to make sure they are treated properly and I am not saying CMA is treating them improperly, we don't know that answer, but we should investigate it and make a rational decision.

T. Hoopes – I was unaware something Bill said that made sense, the idea of rather than making a bid this is a budget and he said that even though Chestnut Cove, which has had problems, so there has been extensive visits made the budget is just over half.

S. Williams – I understand that but we are asking these people to front this money and that is a nut to crack, \$48K is a lot of money.

T. Hoopes – The point that Peer made earlier was the possibility of phasing.

S. Williams – If they can get the same job done and protect the town for half of that or so it should be afforded the right to provide us that information as long as we are getting the same thing done.

M. Jerkins – We do have a 6pm site walk at Chestnut Cove so does the board want somebody to run over there where there is going to be people to meet us and let them know that the board may be delayed for 15 minutes or so.

T. Hoopes – I think we are at a point where we need to make a decision. Do we ask for other bids that are matching what CMA has proposed, in other words not to be a low-ball. CMA has given us a level of guarantee that I have been comfortable with for quite a while.

B. Straub – I think if you choose to do that than choose to discharge us on this project because we are not going to be competing with people. We gave you a budget in good faith and explained what that budget is and we have worked for this town for a long time on these kinds of services and we have been very fair to everybody and people are reacting to a number which isn't what it is being perceived as, so if you want to discharge us on this that is fine and obtain somebody else but we are not going to be competing with people on this. It is not a professional way to do business.

C. Balcius – Being on the engineering committee before when we ran into this project back a few years ago, one of the things we had done was choose three engineers and we were getting a different set of prices depending on the size project. The price difference is so big I think we need to look at some other

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quotes and make sure. I am questioning it because I feel bad for applicant's at this point.

J. Bureau –if we ask for more bids from other engineers how long will that take?

T. Hoopes – I don't know

R. Lundy – Norway Plains had a set of the prints and they gave an estimate, Tom Selling had a set of prints and he gave an estimate.

T. Hoopes – Do they know the role that CMA has been fulfilling?

R. Lundy – They had the sheet.

M. Jerkins – I would like to request that I be allowed to proceed over to the Chestnut Cove site so that I can let them know that you will be delayed.

T. Hoopes – I have been very pleased with dealing with CMA over the last few years that the level of competence and the information that has come to the board has been excellent.

B. Straub – If you want a lower budget we will give you one and let you know when you run out.

R. Walker – We don't mind paying a fair price but the estimates is so far out there.

P. Kraft-Lund – I think CMA should go back and come up with an estimate that would be lower than what we are looking at the budgeted amount.

M. Jerkins – This is for Mr. Straub – a while ago Mr. Williams said that a project had been done a while ago with your company reviewing and the cost had been less or something along those lines and you made a statement that that was a completely different type.

B. Straub – That was different and that was in New Durham.

J. Bureau – When you came up with this budget, was there any best case scenario?

B. Straub – Best case scenario I would say would be about \$25K based on our experience. If things go well it should be about that.

J. Bureau – I am kind of more comfortable knowing that it is a budget and not a bid.

P. Kraft-Lund – Bill you coming up with that \$25K amount do you think you would stick with if the board used that as a motion could you go along with it?

B. Straub – Not on the spot, I would have to go back and look at the hour breakdown and I would have to examine that without being irresponsibly quick.

S. Williams – I feel if the board said they wanted a 100% increase in the security amount just so they

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don't have to look back I take shame on the board. 100% additional funds is a lot and I hope the board didn't say that.

B. Straub – They never have and also in that budget there is other work before construction. There is cost associated with work during the design process, getting estimated for security work, pre-construction cost, which is out of the budget. There is also \$5k-\$6K worth of work prior to.

S. Williams – Mr. Rollins, would you say there is \$5k-\$6K worth of work prior to moving the first grain of dirt?

B. Straub – He has no knowledge of these things and it is an unfair question.

S. Williams – Ho do you know what Mr. Rollins does and doesn't know.

B. Straub – He doesn't know anything about what we have done.

Mr. Rollins – I could tell you my firm would not incur \$5K before.

S. Williams – In your past experience

M. Rollins – In my past 27 years experience. I am not questioning what CMA does but I am telling you what we do to prepare. We do the pre-construction meeting, meeting minutes, distribute those, review the bonds and we typically don't incur as much as \$5K, it would be \$1K-\$1500. I have to apologize to the board, Mr. Norby called me and asked that I be here and my son is graduating from Belmont and tonight is class night and if I don't get there by 7pm, I will be sleeping on the back porch for a while.

T. Hoopes –Thank you for coming in.

S. Williams – I think there is enough information to cast some question in all of our minds that we need to pursue this and find out what the best thing to do is.

T. Hoopes – The question now is do we ask CMA to come back with a confirmed bid?

B. Straub – I won't do that.

B. Dunbar – You can't do that. CMA has already put in about \$5K worth of preparation time for this. There is an outstanding bill for that. We could accept perhaps \$25K as a bond to be drawn upon for CMA's bill and accept that as being acceptable to us with the understanding that it may go over if there are issues that come down like Chestnut Cove or other construction issues. The third way to go is they would need to pay CMA for the services rendered here and deal with one of three recommendations apps in here. The committee would need to look at RFP and backgrounds and choose one, but in the mean time they would still have to be responsible for the bills.

T. Hoopes – Also there is a time factor. To get estimates from anybody else and back to the board to make a choice, what are you talking?

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B. Dunbar – Actually they don't go get it, the town would have to contact the engineers. It is the town contracting to these people so the word has to come from our office as to their instruction, these are the plans, this is the engineering issues, this is what we want you to cover, everything from erosion control oversight right from the beginning, cistern development, retaining walls, a project of 3-phasing in this road, and all to be given to three different companies.

J. Bureau – Than you have to wait for all of those three companies to come back in.

P. Kraft-Lund – I just want to clarify the record, we are not talking bonding, security, we are talking escrow account for engineering and inspection.

Carl Norby – I have a note here from May 25th that says the outstanding invoice that we have is \$1073.93, which I paid to the town today and up here it says engineering fees for the inspection portion are estimated at \$48K, if that said estimated at \$24k We wouldn't be here.

B. Straub – If we had a discussion about that before all of this we wouldn't have been here either.

C. Norby – We discussed this when we had the round table down stairs. I said we protested that amount of money, we thought it was too much.

B. Straub – And you already initiated this process. Do what you want, I have given you my best recommendations of what the town should do and I don't need to explain it any further.

P. Kraft-Lund – it did come out down stairs and I recommended not to talk about it because it is not up to staff or anybody it is up to the Planning board to negotiate a settlement if there is a problem with our engineer and they have a problem with the amount and that is why we are here today.

T. Hoopes –Bill you said you would have to go back and check to see if the hours and everything else, if \$25K would be a legitimate figure you could work with, is that something you are willing to do?

B. Dunbar – I don't think he can do that, they offer it the way he told us they offer it. He has told you what the figure represents. It doesn't seem to be acceptable to the applicant. I also feel for the applicant's right in that they have an ability to choose different engineers if they bring it up and wish to do so.

B. Straub – Between \$25K-\$30K is where I think everything is going to come in.

S. Williams – For what reason why didn't you come in with that to begin with?

B. Straub – Because my understanding was you wanted to set an amount and move on.

R. Lundy – Two other guys had the plans and came up with prices \$8K, \$10K, &15K, what \$20K that is twice as high as the other guys wanted.

B. Straub – Rick, do they understand that they have to release the bond.

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R. Lundy – It kind of seems like you guys are the only game in town.

C. Norby – Stantec is a billion dollar company, they do this all of the time. I spoke to the Town Planner in Hopkinton, Freemont, Londonderry, Tilton, Salem.

B. Dunbar – Fine of the can and you choose two or three of them and the subcommittee looks at it.

C. Norby – To get these people I just went on the internet and I pulled three names, I don't know any of them, I have never done this before on my life, this is not my background.

T. Hoopes – We went through several years ago with the engineering committee and interviewed about 5 different companies. People do things very differently. A lot of companies actually don't have engineers doing the inspection work. We had a circumstance that came up and you have an inspector who is inspecting something who is in training talking to and reviewing plans and then dealing with another engineer, so when you are paying for a full time engineer you want to be dealing with an engineer. We have been extremely satisfied with the work that has been provided for the town by CMA.

C. Norby – We are not doubting their ability, we have no doubts about that. If someone came to put a roof on your house and three guys are here and one guy is 3x as much wouldn't you wonder why?

T. Hoopes – It is up to you, if you wish for us to put out other bids we will gladly put out other bids. It is going to cost you time.

P. Kraft-Lund – if the board would like to motion that CMA can look at what they got and reconsider if they want to on the minimum amount and send the Planning Office the figures and then we will go to the applicant and then the applicant find that and give us the money. Bottom line is get the plan signed and get the job on the way and then if they don't agree to that then we will come back to you. If you give a motion to give the Planning Office the authority to receive an amended amount if that comes from CMA and we will go to the applicant and if they agree on that than we will go on forward with this project and I could cross it off my list.

R. Walker – That sounds very reasonable and maybe we could speed it up even fast, we would be willing even though based on what we have the knowledge, we would be willing to say \$25K as an amount and if you go over it we will deal with that and if it goes under that would be great, it is just that the \$49K was a surprise to us and we do have to get a letter of credit bond to guarantee performance.

B. Straub –If you want to put up \$25K and work against it that is fine.

R. Walker – If that works for them it works for us.

B. Straub – We have a master agreement that the town signs. I am not going to change what I have said here but I will say the first installment is agreed to be \$25K and if need be it will go against a larger budget later.

B. Dunbar – It is up to the applicant to decide how they want to go.

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R. Walker – We are willing to do that reluctantly but just for closure time is an issue for us.

Motion made by S. Williams that the applicant put \$25K in escrow with the knowledge that it may go under or over and CMA will address it in writing in anticipation of the funding running out, seconded by J. Bureau. Motion passed with all in favor.

J. Dube – Motion to adjourn