

Town Council Meeting
May 11, 2011

COUNCIL PRESENT: Oscar Emerson, Audrey Wilcox, Fred Gifford, Lillian Coulter, Nicholas Wood. Town Office staff present, Town Manager Melissa Doane.

FIRE STATION CONTRACT: Chairman Emerson stated that at his request the three low bidders/contractors to make a 15 minute presentation and a brief question and answer period, he explained that this was for the Town Council and contractors only, citizens can observe. He further clarified that after the presentation there is an agenda item for citizen's request in which comments can be made. Councilor Emerson added that after speaking with the contractors, he will look for comment from Robert Fenney, architect.

First to speak was Scott Dunbar, president of Dunbar & Brawn Construction; he stated he had been in the construction business for 25 years, graduate of University of Maine. Their business is located in Bangor, most business they do is within a 60 mile radius of the services and Bangor area. They were excited about bidding on this particular project, 75 % of their business in private negotiated work, 25% is in public. He further stated that they are choosy on what they do as they like to work for architect and engineers that they have worked for in the past and have had success, he stated that they had done a few jobs with Bob Fenney and Carpenter Associates, they are delighted to participate in the selection process. Councilor Wilcox asked what projects that they have worked on in this area. Mr. Dunbar stated that they had done the Brooks Fire Station; with Mr. Fenney, they have done work for the University of Maine, Eastern Maine Medical Center and Jackson Laboratories. Chairperson Emerson asked if they had anyone secured or anticipated for the site work, as their bid documents list to be determined. Mr. Dunbar stated that they received 3 quotes that were in \$1000, if they were awarded the project they would go through each and verify the scope before deciding on a subcontractor. Mr. Dunbar added that they were all within in a 60 mile radius of the project. Mr. Dunbar added that with the bid alternate number 1, they made an obvious mistake, he believes the intent of alternate number 1 was to price out the difference between cement board siding versus vinyl siding, they did not deduct the vinyl siding therefore inflating their price. Manager Doane asked what their price would be on the alternative; Mr. Dunbar stated that had they done it correctly it would have been \$5400.

Second to speak was Joseph Picoraro from Pizzagalli Construction, he stated that they are located in Portland Maine, though they were incorporated in Vermont in 1958, they have had projects in Maine since 1967, more importantly they have had an office in Maine since 1986. Mr. Picoraro stated that they have over 40 employees working in Maine, 30 in the Portland the other 10 in the Bangor area. Mr. Picorara introduced Garrett Bertolini and Eric Price that will go into more discussion regarding the interest they have in the project. Mr. Picorara stated that they do various types of projects throughout the State of Maine, anywhere from \$200,000 municipal building to multi-million dollar projects, the ones that were recent that would compare to this facility would be the Westbrook Public Safety Building and in Falmouth. He added that they are currently working on a fire station in Saco. Mr. Bertolini, Senior Project Manager for Pizzagalli stated he has been with the company for 24 years; most of his career has been in the State of Maine, a lot in Northern Maine. One of the reasons that Eric (Price) and he were chosen for this project is because they have done a lot of work in this area. He explained that they have

done ten (10) different projects at the University of Maine, seven (7) at the Orono Campus. He listed other jobs that they have done which included projects in Lincoln and Bangor, stating that they know the local subs and vendors adding they have a good understanding of the area. Mr. Bertolini stated that they know how important it is to work with local contractors and that the success of the project relies on this fact. If they were awarded the project, the company will sit down with each bidder and review the bid scopes to insure that they understood the job, insure that they have reviewed the specs and drawings, make sure that they understood what their expectations are for quality and safety, make sure they understand what the schedule is and make sure they know what the project specifics requirements are. They feel that if they educate their bidders up front once they reward the job and construction begins, they will understand the job much better therefore eliminating the need for change orders. Mr. Bertolini stated that they want to make sure that they bid the job for the plans and specs that Robert Fenney gave them to bid; they want to work with the subs to make this a successful job. Mr. Bertolini stated that Pizzagalli feels that it is very important to pay the subs very quickly, they feel it gives them benefits as to the subs are more responsive should more manpower be requested and in future jobs. He added that they tend to have a loyal following especially with Eric (Price) and his management style; they enjoy working with him as they know the job will be well managed and they will make money. Mr. Bertolini further stated that they feel it is extremely important that we all work as a team, Robert's group; consultants, Town, and subcontractors, to be successful on a project all have to work together. Mr. Bertolini stated that a lot of their work is repeat clients, therefore client satisfaction is very important to them, they want to be sure that when the project is complete they will get a great reference from them and would be considered for future projects. Mr. Bertolini and Mr. Price have worked together since 1989 on different projects; they both have the same type management style which is fairly low key, a lot of experience in the industry and have brought projects in on time, safely and with the quality expected. Mr. Eric Price introduced himself as from the Moosehead Lake, Rockwood area and has been with Pizzagalli since 1988, he has held most positions through the company from laborer to superintendent. Mr. Eric Price has worked up and down the State of Maine, including three jobs in the Orono area, Orchard Trails Housing, a few on the Campus. He added that his job will be to get the station completed and that he will be the day to day guy that will be seen, if there are any problems or questions he would be here at all times. He stated that they want to get this project up with a high level of quality and efficiency. They want to work with the Town on interface, and the neighbors to make sure there are not disruptions, also considered will be the traffic flow. Mr. Price stated that work flow with the contractors is one of his responsibilities, maintaining an efficient friendly workflow is what makes a successful job for everybody. Mr. Price stated that a schedule will be developed, both long and short term, that the Town could review, therefore there will be no surprises, safety orientation is giving to everyone who enters the job site. Another item that is done is a weekly meeting with subcontractors so that focus is gained for the next week. Mr. Price stated he is looking forward to working in the area, he has found that the local contractors high level of quality, they are a real competent punch and he looks forward to working with the Town.

Third to speak with David Trask, President of David Trask & Sons from Hudson. Mr. Trask stated he has been a general contractor for 42 years and never has been late in completing a project, no liquidated damages; he has a good bonding relationship with Cross Insurance. Generally he employees 6 to 15 people according to his work load. He listed engineers that he has worked for in the past, which included, Carpenter Associates, Sewall Company, CES, WBRC, Plymouth Engineering, Eric Grandal, AE Hodgkin's and a lot of work for the Bangor and Brewer Housing Authority. He added that he has done work on Community Block Grant projects, forty three (43)

Salt and Sand Buildings in the State of Maine, fifteen (15), for the State of Maine the rest for surrounding towns. Mr. Trask stated that he used to do a lot of houses for private owners that have since gone downhill, he still does spec houses to try and sell but that is a lot less than he used to. Chairperson Emerson asked if Mr. Trask had ever constructed a fire station before. Mr. Trask stated he has built two fire stations, one in Detroit Maine with Plymouth Engineer's and Lowell Maine with CES Engineers; both were similar to this project. Chairperson Emerson stated that he noticed that Mr. Trask had listed Advanced Development for the site work. Mr. Trask stated he had spoken with him and he would have interview again before putting him on site. Mr. Emerson asked if he had done site work for him before. Mr. Trask stated that he had not, that is why he would have to probe deeper. Councilor Wilcox asked if all the contractors would be ready to start as the bid is awarded, Mr. Trask stated yes.

Councilor Chairperson asked Robert Fenney to speak. Mr. Fenney stated he was very pleased with the bids, fourteen (14) bidders all very reputable, the three (3) firms that spoke tonight were the low bidders, however all 14 were a very good group. The numbers were extremely, much lower than expected; it is incredibility competitive time period. A lot time was spent making sure that everybody knew about all the subcontractors out there. A multiple list was e-mailed, so everyone who was involved with the project subcontractors, supplies, truss manufactures, knew who was bidding various parts. This is reflected on the bid sheets because there were a lot subs that were on bids. The general contractors were obviously trying to put together the lowest bids. One of the things was that the Town had asked for a few alternates, the Town Council may recall, they were trying to make sure that there were some possibilities in case the bids came in too high, there were some options to pull back. One of those items was the possibility of considering cement board siding. Mr. Fenny brought that up because it could impact their decision making, he explained that the hardy board siding is a project made up of cement and fibers. When placed on a wall it is done and looks like clap board. The finish is guaranteed for 15 years if touch up it an additional 7 years is added, the guarantee can be up to 20 years. The base bid was vinyl siding, from a distance they will look very similar. The cement siding was developed in the south because of the bugs. When he put together the project, he assumed that the difference between vinyl siding and cement board siding would be somewhere between \$10,000 to \$12,000 range. When he went through the bids and did the average of all fourteen (14) contractors, it came out to be \$10,400. Pizzagalli had the lowest price, they admitted that they probably made a mistake; the price was \$2800 however they are willing to install it for that price. The second two bidders, Trask and Dunbar & Brawn had different prices:

Contractor	Base Bid	Alternate #1	Base +Alternate #1
Pizzagalli Construction:	\$651,900	\$2800	\$654,700
David Trash & Son Inc	\$656,000	\$18000	\$674,000
Dunbar & Brawn	\$656,000	\$25000 *(5400)	\$681,000 *(661,400) *change @ mtg

Mr. Fenny stated that when the building committee and Town Council decided that a radius was going to be established to where the bidders were going to come from, he had argued for 75 miles, the Town Council elected to go to the State of Maine. He wrote the specifications as they were trying to avoid having an out of state company come up rent store front and state they are a Maine company, therefore establishing the wording of "primary" place of business in the State of Maine, he added that he is not a lawyer. In looking over the low bidder, Pizzagalli, he felt that they not meet a lawyer's definition of what we were looking for, however they

certainly met the criteria, which is from the State of Maine, had workers in the State of Maine and was using local sub contractors and suppliers. There bid is lower than the other and including the cement board it is better than that. They are obviously a firm that has the background and capability. Representing the Town of Bradley and doing what is in the best interest of the Town of Bradley, he thinks that their price and background would be a company that he would recommend. He added that again, he is not a lawyer and to parse the word "primary place of business", that is up to Town Council. He added that all the contracts state, to insure that someone does not get excluded because of a mistake, that the Town Council is the sole arbitrators of determining who they want to use, they can reject and start over, they can accept any of the bids they accepted not only the low three (3) but so up the list if they desired. He believes that most lawyers would agree that what was written gives the Town Council the sole responsibility for determining who they want to use. They can negotiation with the lower three (3) or someone else, they can accept the bids as written. Mr. Fenney stated that the Town Council has three (3) very good contractors in which he is comfortable with. Chairperson Emerson asked about the other alternatives, such as eliminating the sprinkler system. Mr. Fenney stated that when a sprinkler system was considered, the engineers called Old Town Water looking for pressure and flow of the hydrant, the superintendent did not, the information would be available in early May. The engineers went ahead and made the assumption of pressure being there as a booster pump could be added if not enough pressure was available; the booster pump was not designed in. Two days before the bids were due, one of the sprinkler suppliers called Old Town Water and discovered an old test in 98 and 99, that test was low for the sprinkler system designed, it was too late to change anything. Since the time of starting this project, the State Fire Marshall has ruled that all public safety buildings will have sprinkler systems. After the adoption of that rule, several small towns pointed out those rural systems do not have water systems to support sprinklers, since then a caveat allowing opting out if there isn't a water system to support. The question has not been asked if there is a water system, but not enough pressure. The alternative allows taking the system out if it can, the bids represent there being a sprinkler system but not a booster pump, and additional money may have to be added to the base bids to make the sprinkler system work. Manager Doane asked what the life expectancy of vinyl siding versus cement board. Mr. Fenny stated that siding after 20-25 years it fades and cracks, 15 -20 years it is a good product however they are not guaranteed for that long, cement board has a 20+ if maintained. Councilor Chair asked about the pavement alternative, whether we were going to consider not paving. Mr. Fenney stated that that was only in case the bids did not come in low enough to do the project, the project should be completed and turnkey. He added that most pavers will not give a price today for October, the contract will likely have a clause to tied to the price of asphalt, that may be another change order. His change orders are generally low, around the \$10,000 in a range in a project this size, typically they are as a result of the owner adding something or unforeseen site work such as ledge etc. Before signing the contract he will sit with the contractor to insure that they both understand the expectations and allowing the contractor to raise any concerns that they may have seen during the review of the plans. He added that one project that he did once digging they found blue clay and more material was needed, he does not foresee that being a problem as a lot of holes have been dug and the soil is decent. Councilor Wilcox stated that when he made the statement to the Town Council regarding drafting the bids that a recommendation was made that a 75 mile radius for contractor location, what was the purpose? Mr. Fenny stated that the purpose was to try and insure that subcontracts were not from a great distance away, his fear was the heating contractor, not too much trouble is expected with electrical and plumbing, however with heating the boiler is under warrantee he did not want someone from far away to maintain boiler. When the Town Council went to the State of Maine limitation, he still found that the subcontractors are within 50 miles, very local.

CITIZENS REQUEST: Jeff Morin stated that he had a concern with the bid list and the contractors that are on it. He believes that as the architect stated the intent was to keep people local. As he has gone down through the list he sees that the original scope was to have those that have their primary place of business within the State of Maine, they will find that Pizzagalli is incorporated in Vermont. Mr. Morin stated that he hoped that they hadn't wasted their time, there are other people that have cooperate offices outside the State of Maine that would have liked to bid on the project who if one out of state of company is allowed to bid, maybe the Town has opened themselves up to a concern. It has come to attention that there was a legal from the Town attorney stating that the Town Council is in their legal right to make up their mind. The bid clearly states that the bid requires that the primary place of business be in the State of Maine, adding that not the whole qualification but it is one part of it. Mr. Morin added that it has also been discovered that in February of this year the Supreme Court issued a ruling, Hertz vs. Friend that the primary place of business is the nerve center of the operation is where cooperate office is, is where they are incorporated. As a citizen he hopes they haven't wasted time to people who have come up here and bid on the project, they need to keep ourselves as a Town legally responsible and he fears that if they don't to go to black and white rules and laws, and the opinion from Rudman and Winchell, he may not have been aware of case law by the supreme court. In that case, the fire station of the utmost importance as what it is needs to go forward and forthright, if there were some lines that were skewed and not allowing other people from other cooperate States to bid on it, it may give justification to halt the process and put the Town in a legal situation and put the fire station on hold until court cases were ruled out or the project out to bid. Mr. Morin stated that someone made a mistake in allowing the cooperate entity from outside the State whose nerve center falls outside of the State, not having their primary place of business in the State of Maine, he believes that they should through that bid out unless they want to re-bid. Brian Wilcox stated that one of the problems he had with the Pizzagalli bid was that they approached Missy to bid on this project, Missy does a good job for the Town and we are lucky to have her, however they should have approached the architect. It states in the bid documents that all inquires are to be directed to the architect, and at that time if they deemed it within the Towns best interest for them to bid, he could have issued an addendum to the project, he issued 3 addendum to this project during the procedure, at that time he could have changed the primary place of business requirement to place of business. It clearly states primary the Supreme Court ruled this on February 23 that is a done deal. The bidding process was somewhat flawed. Pizzagalli knows how this process works, they don't go to the owner you go to the architect to ask questions then that is his responsibility. He hopes that Missy doesn't take any of this personally, she does a great job for the Town and we are lucky to have her, they should have gone to Mr. Fenney and he address it with a addendum if it was in the Town's best interest. Clearly their primary place of business is in Vermont, he provided Town Council with this decision. His best recommendation is that Mr. Trask and Mr. Dunbar "duke" it out that is the safest route and the way to get this project moving along.

Councilor Emerson asked if Pizzagalli had any comment regarding the principal place of business concern that has been raised. Mr. Picoraro stated that as he mentioned before the company is incorporated Vermont, however they have been in the Portland area for a regional office since 1987, most importantly doing business in Maine since 1967. As far as their entity is concerned they do have their primary place of business in the Portland area. He added that they look toward the Town of Bradley to make a decision for what is best for the Town of Bradley, they support that decision whichever way they decide to go, we felt in bidding the project the question was raised at the pre-bid meeting in terms in of the folks asking the questions and how it got orchestrated did not get to an

addendum format, however we felt that in proceeding with the bid, they were following the rules at the time. He stated they are here to expose and explain their Maine team, because they do a lot of work for all the clients in Maine, that is all that we have know for the people that will be on this project and on our other projects, they do not have people that come from away. He wanted to reintegrate that they will support their decision no matter which way it works out.

Councilor Emerson stated he will close the citizen request and thanked everyone for their input. He pointed out that this process is not a straw poll, Town Council is held accountable for their decision making and they will be the ones taking the heat, they are they are the ones do have the responsibility of making the decision and they do have latitude on who they choose.

REVIEW OF MINUTES: Councilor Wilcox made a motion to accept the April 27, 2010 minutes as presented, seconded by Councilor Coulter, Councilor Emerson and Wood stated they are listed as being present and they were not, vote 3/0.

MANAGERS REPORT: Manager Doane stated that nomination papers for the one Town Council seat were due on May 4, 2010. Sally Strout was the only resident that took out nomination papers. She returned the nomination papers and had significant signatures to be placed on the ballot.

The Annual Town Report was sent to the printers on Friday May 7, 2010; Manager Doane anticipates they will be ready by Tuesday May 18.

Absentee Ballots for the June 8, 2010 election are now available she added that residents can go to the website and request ballots if they are not able to come to the office.

Viola Rand 2nd and 4th graders visited the Town Office last week and presented recycling flyers they had made for distribution. Manager Doane has placed these flyers in the Municipal Building foyer and on the Town of Bradley website.

Manager Doane stated that Maine Municipal Association does not currently have the shed located at Evergreen Cemetery listed on the insurance policy. They estimate that it will cost between \$10 and \$15 per year to insure for replacement, there will be a \$250.00 deductible. Manager Doane is looking for direction as to if the building should be added to the policy? Her recommendation is that not be placed on the policy. Councilor Emerson asked about liability issue, Manager Doane stated we would be covered for liability not for replacement. The consensus was not to place on the policy.

Manager Doane placed a copy of an e-mail she received from David Walker, superintendent of RSU 34 regarding the school budget; the e-mail provided an estimate on the fiscal year 2011 RSU assessment. The assessment is estimated to be \$1,088,986 which is 19,551.65 less than fiscal year 2010 (1,108,538.59). Once the final amount is approved Town Council will have to decide how much of the reserve they want to use towards, to keep the assessment the same as last year \$87,322.94 would be needed. She added that this appears to be good news for the taxes as the school assessment has actually gone down this year, should be hold even easily.

Maine Department of Transportation is requiring municipal officer's signature on a construction over limit permit regarding Jenkins's Bridge construction. The request is standard for all State projects, the request grants permission for the contractors to haul non divisible over limit loads on municipal ways.

Cemetery Committee that was scheduled for 12th of May has been cancelled.

NEW BUSINESS:

Councilor Emerson chair stated that he would like to address the general contractor award. Manager Doane stated regarding the contract and the bid documents, she stated that Pizzagalli did approach her and ask if they could bid on the project, she asked where they were located and they explained they had an office in Portland for several years, but were incorporated in Vermont. She added knowing the intent of the restrictions placed on the bid documents she could not see any reason why they could not and should not bid on the project. When the project documents were being discussed, Bob had recommended a 75 mile radius of the project and the Town Council expanded that so the Town could insure that we received Portland contractors that were the purpose of changing the restriction. Therefore she did authorize them to bid because she believed that was the intent. She also knew that in the bid documents there was language that it was going to be Town Council's decision and that is why she moved forward with the decision. In the last couple of weeks she has received a lot comments about this, mostly from Brian (Wilcox) which are valuable points, she also has received comments from taxpayers wanting to know why any limitation was placed as they felt we needed to be competitive.

Chairperson Emerson stated that as far as he was concerned she did exactly right and the intent was to include the Portland area and to get a diverse infix of contracts bidding on the project. It is the Town Council's final decision and they have to weigh the best interest of the Town monetary and moral stand point, both need to be considered. Opening up the dialog he will ask each Councilor to express an opinion. Councilor Coulter stated that the Council was looking at the prices before and was always considering the lowest bid and that is what looks good to her. Councilor Emerson asked if she was then in favor of Pizzagalli, she stated yes. Councilor Gifford asked what the Townspeople would say to them if they low bidder out and take the next highest one, that is his concern, Pizzagalli is a good company and the have a lot of positive things, but he would like to see local contractors get the work. Councilor Emerson asked for a particular contractor, Mr. Gifford stated no they were all good. Councilor Wood stated they were all good contractors, believes that is important to use local contractors, spending money should be in our local economy, but again they should focus on the cheapest to save the taxpayers' money which is the bottom line. Councilor Wilcox stated that Mr. Fenny's recommendation in the beginning that his recommendation was that we keep it within a 75 mile radius, she does have concerns for the Town if they award this to a company from Vermont, her son is Brian Wilcox, he has valid points and he has put a lot of work into this, she does not think it is fair to award this bid to a company in Vermont when we have David Trask in Hudson and Dunbar in Bangor, it should be kept local. She is concerned with the outcome if do anything that is not in the best interest in the Town of Bradley. Chairperson Emerson stated that with a project this size he sees this as a dead heat, the base price not counting the alternatives is a difference of \$4100, Mr. Fenny stated that there is a low percentage of change orders, and the likely hood of change orders with a project this size there is going to be a swing back in forth of \$4000 he sees it as a dead heat. The matter of principal place of business he

believed to be a valid point, as far as the Supreme Court decision, the Town hires the legal attorney for a reason and they did state that the wording gave the Town Council the final say, he is not going to second guess the Town attorney in a case like that. He believes that it muddy's the waters since they are established in Vermont, but that a total determine factor based on the attorney counsel. He agrees with Councilor Gifford as far as keeping it local, he believes that Dunbar & Brawn is local that is his recommendation. He added that as a chairman he would like to act as a moderator rather than forcing opinion for awarding this bid. Councilor Gifford made a motion to accept Dunbar and Brawn, seconded by Councilor Wood, no discussion vote 5/0. Robert Fenney stated that there is still some question regarding the clarification regarding the alternative, he suggested he meet with Dunbar and bring information back to the Town Council. The consensus of the Council that was appropriate.

Motion made by Councilor Emerson to set public hearing for the 2010-2011 municipal budget and the June 8, 2010 referendum for May 25, 2010 at 6:00 p.m. seconded by Councilor Gifford, no discussion vote 5/0.

Councilor Wilcox asked if the spring clean up was this weekend, Manager Doane stated it was May 21 and 22.

UNFINISHED BUSINESS:

Councilor Coulter asked what the status of West Street was. Manager Doane stated that West Street was done. Councilor Wilcox asked if all the road work for last year had been completed, Manager Doane stated it had.

MUNICIPAL WARRANTS: Councilor Coulter made a motion to accept warrant 87 in the amount of \$3758.89 and warrant #88 in the amount of \$91,616.00, seconded by Councilor Emerson, no discussion, vote 5/0.

NEXT MEETING: Motion made by Councilor Emerson set for May 25, 2010 at 6:00 pm, seconded by Wood no discussion vote 5/0.

ADJOURN: Motion made Councilor Wilcox to adjourn, seconded by Councilor Emerson, no discussion, vote 5/0.