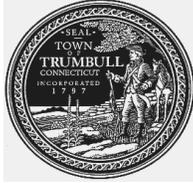


TOWN COUNCIL
Town of Trumbull
CONNECTICUT
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TOWN HALL
Trumbull

TELEPHONE
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November 4, 2010
MINUTES

CALL TO ORDER: Chairman Carl A. Massaro, Jr., called the meeting to order at 8:37 p.m. at the Trumbull Town Hall, Trumbull, Connecticut. All present joined in a moment of silence and the pledge of allegiance.

ROLL CALL: The clerk called the roll and recorded it as follows:

PRESENT

Debra A. Lamberti
Suzanne S. Testani
Tony J. Scinto
Chad Ciocci
Jane Deyoe
Martha A. Jankovic-Mark
Mary Beth Thornton
Michael J. London
Michael Rappa

Jeff S. Jenkins
Kristy L. Waizenegger
Daniel Helfrich
Robert J. Pescatore, Jr.
Ann Marie M. Evangelista
Mark S. Altieri
Roberta A. Bellows
John A. DelVecchio, Jr.
Carl A. Massaro, Jr.

ABSENT

John M. Rotondo
David R. Pia
James F. Meisner

Also Present: Dan Nelson, Chief of Staff and Town Attorney Edward Walsh, Mr. Stephen Savarese, Town Engineer, Mr. Tim Hampford, WPCA Commissioner and Karen Egri, WPCA alternate member.

* Chairman Carl A. Massaro, Jr. exercised his right not to vote unless otherwise noted.

APPROVAL OF MINUTES: By unanimous consent the Trumbull Town Council accepted the minutes of the regular October 4, 2010 Town as submitted.

The Chair noted at the Boards & Commissions dinner held this evening, November 4, 2010 there had been a tour of the new Trumbull High School auditorium. The Chair commended the Building Committee and the professionals on the project for a job well done.

1. RESOLUTION TC23-113: Moved by Ms. Bellows, seconded by Mr. London.

BE IT RESOLVED, That \$2,500 is hereby appropriated from the WPCA Retained Earnings 20-315200 to WPCA 20100000-522202 Professional Services

Committee Report: the Finance Committee met on October 25, 2010 and voted 5-0 unanimously to recommend to the Town Council.

Mr. Savarese stated that this resolution represents ten (10) hours of an engineer's time at \$250 per hour. The services were requested by the town. Included in the ten (10) hours billed was the review of contract 4, an unannounced site visit and a meeting with the Director. The intent of the unannounced site visit was to allow the engineer to view the present construction process. This included more than the inspection of the man-hole construction process as indicated in the committee minutes. This one-day study was not part of the original scope of the audit. There are no known plans of adding this type of one-day study to every contract.

Mr. Nelson explained that the one-day study performed involved one person; the CCR Forensic Audit included two (2) people, a professional engineer and a professional accountant.

Mr. Savarese submitted Appendix/Schedule C of the original Forensic Audit agreement with CCR listing the hourly rates for each of CCR's personnel from the Forensic Audit. The Chair noted that the committee minutes reflect what was explained in committee, there is a discrepancy in testimony given at this meeting from the committee minutes. Appendix C clearly lists the different rates for different CCR personnel. The Chair noted that all councilmen were distributed a copy of the invoice prior to this meeting.

Mr. Savarese stated the WPCA was not aware of the procedure with the 20 Account at the time this service was requested. Attorney Walsh noted the 20 Account does need approval by the Board of Finance and the Town Council. This invoice was paid prior to the legal opinion.

The Chair clarified that the resolution before the Town Council is required for the WPCA to transfer funds from the 20 Account to the professional services expense account; the WPCA has the right to expend operating dollars.

VOTE: Resolution TC23-113 was Adopted 13-0-4 (Abstentions: Jankovic-Mark, Pescatore, Thornton and DelVecchio)

2. RESOLUTION TC23-114: Moved by Mr. Ciocci, seconded by Mr. London.

BE IT RESOLVED, That \$57,700 is hereby appropriated from WPCA Retained Earnings 20-315200 to WPCA 20100000-522202 Professional Services.

Committee Report: the Finance Committee met on October 25, 2010 and voted to recommend to the Town Council unanimously 5-0.

Ms. Egri stated that this appropriation would enable them to see if there are any defects, depending on what is found, who is responsible would be determined and what course of action should be taken. Contract 3's contractor is Mark IV. The warranty date is one year from the completion date. The completion was one year ago.

Attorney Walsh stated the contract includes a one-year warranty. The exact completion date is not clear. The warranty is only one part of the contract. Breaches of contract will survive and there can be claims against the contractor based on those breaches and/or negligence.

Ms. Egri stated the distinction is that contract 3 has already been assessed; due to that distinction, the WPCA made a decision that this item would come out of the operational account. The WPCA would look at where expenses are paid from on a case by case basis.

Attorney Walsh stated that if the warranty does not survive; there are other claims, which will survive. There may be breaches of contract claims; there is a six (6) year statute of limitation on those claims. There is also a potential negligence claim. The oversight by Tighe & Bond is important. The forensic audit shows significant issues with regard to the work performed.

Mr. Hampford explained that scope of work of this item not only covers failures, it also will verify whether all items were installed. This is not only about failure(s) or short-cutting and settling. This encompasses more than a one-year warranty.

Mr. Savarese stated the date of completion is within the next three (3) weeks. The final payment, invoice #27, was paid in November 2009. The Tighe & Bond study would not be ready until January 2011.

Atty. Walsh confirmed for the Chair that if there are any claims of defective workmanship that the claims would be made within the one-year warranty period.

The Chair reiterated that the WPCA is charged with the sewer operations and construction projects. This is the WPCA's recommendation.

Mr. Hampford stated it is not possible to go back and reassess those residents whose assessments have already been completed.

In response to Ms. Thornton, the Chair stated that where the funds for the Tighe & Bond's first contract was paid from was debated at length at a previous meeting, it had been explained that this is an on-going construction project; the assessments had not been done and that the project is currently under construction. The converse question is why the entire town should, (Districts 3,6,5,4), unrelated to either of these sewer projects pay in their sewer user fees, when the rest of the town did not pay for the cost of the projects that went into those districts?

Ms. Egri stated that it would have to be verified whether it is within the WPCA's power to issue a supplemental assessment for additional costs incurred for a particular project after the assessment is complete. It is the intent of the WPCA Commission to do everything possible to keep the assessments down for the residents of North Nichols and has been the intent with everything done with this contract.

VOTE: Resolution TC23-114 was Adopted 10-7 (Against: Jankovic-Mark, Pescatore, Thornton, Altieri, DelVecchio, Helfrich and Rappa).

ADJOURNMENT:

Upon motion made by Mr. Helfrich, seconded by Mr. DelVecchio the Town Council adjourned by unanimous consent at 9:25 p.m.

Respectfully Submitted,

Margaret D. Mastroni,
Town Council Clerk