Approved Meeting Minutes

Middle School Building Committee Meeting

January 30, 2014 – 8:15 a.m.
BOE Conference Room, 3rd Floor Annex Building
5 Linsley Street, North Haven, CT

Committee Members in Attendance:

Michael Brandt, , Miriam Brody , Lou Coppola, Sr., Gary Johns (committee chairman), David Mikos, Bruce Morris , Walter Nester, Jr., Michelle Spader (committee secretary), Dyann Vissicchio (committee vice-chair)

Absent: Goldie Adele, Joseph Porto

Others in Attendance:

Kristine Carling, Dr. Robert Cronin, Phil Diana, Attorney Jeffrey Donofrio, First Selectman Michael Freda, Edward Swinkoski,

As acting temporary Chairman, Mr. Freda called the meeting to order at 8:16 am.

Mr. Freda thanked the committee for providing a fine presentation on Tuesday evening and gave special thanks to the speakers, Dyann Vissicchio, Michelle Spader, and Gary Johns along with Diversified Technology Consultants. Freda was pleased to see that the committee he empowered was able to be an autonomous group and remarked that he has been watching the meetings on NHTV and reading the meeting minutes that Spader has been preparing and that he was proud of 'each and every one' of the committee members.

Freda remarked that he will be attending more meetings from this point forward, as we head towards the referendum. Today he is re-certifying the committee and calling for a re-election of the management structure and he wanted to make sure the committee realizes that a great deal of work is going to need to be done from this point forward. Freda said that he hoped each of the committee members would continue forward, however if there is anyone who feels that they cannot devote the time to it, please let the committee know.

Freda asked for the nomination for 3 positions on the building committee – chairperson, vice-chair and secretary.

Mr. Freda opened the floor for nominations of a Committee Chairman; Bruce Morris motioned the nomination of Gary Johns as chairman and that was seconded by Walter Nester, Jr. There were no other nominations. The motion passed unanimously.

Mr. Freda then opened the floor for nominations of a Committee Vice Chairman; Dyann Vissicchio was nominated by Bruce Morris and that was seconded by Michael Brandt. Hearing no other nominations, the motion unanimously passed.

Mr. Freda opened the floor for nominations of a Committee Secretary; Michelle Spader was nominated by Bruce Morris. The nomination was seconded by Dyann Vissicchio. Hearing no other nominations, the motion passed unanimously.

Newly reappointed Chairman Johns then took a moment to thank the committee for their support and recognized Vissicchio and Spader for the hard work they put into preparing the presentation. He was pleased that everything went well and we are able to move into the next phase of the project. The next phase will involve legal contracts, so Attorney Donofrio will explain the process to the committee.

Donofrio explained that the third resolution that was passed on January 28, 2014 allows us to move forward in the process with procuring an architect. The reason why we want to procure an architect is because the next step is to file an EDO 49, which is an application to the State Department of Education for a grant from the CT School Building Grant Program. The way that you become eligible for reimbursement is to apply for a grant. When you apply for a grant you provide a very detailed cost estimate.

Last month the CT Department of Administrative Services announced to Superintendents of Schools throughout CT that going forward the State Department of Education was going to require that cost estimates for grant application purposes be formulated in accordance with ASTM standard E1557, which is a very detailed standard that sets forth different components of buildings. Traditionally the only way that applicants for grants have been able to prepare a cost estimate is by actually having a schematic design done, because it is virtually impossible to prepare a meaningful, accurate cost estimate without knowing what you are building. Up until 2007, the legislature allowed municipalities to simply procure an architect without any bidding process. In 2007 the legislature decided to require architects and construction managers to be procured the same way that trade contractors are procured, which is under CT General Statute 10-287 via public bid with award to the lowest qualified bidder. The General Assembly didn't have a good understanding of the difference between procuring architectural services and procuring trade contracted services because when a trade contractor bids a job they are bidding a scope of work based on plans and specifications. When an architect bids a job they are bidding on it based on a concept or a vision. In 2008 the statute was amended due to some lawsuits created by the statute. The current process requires an RFQ (Request for Qualifications) be published in the newspaper and on the state contracting portal and seek qualifications based on the criteria outlined in the RFQ from full service architectural and engineering firms.

Once we get statements of qualifications (up to February 10, 2014) the committee will meet and score the firms based on their statements of qualifications. There may be firms that don't meet the basic criteria. The statue says the committee must then select from a pool of qualified firms (not more than four) to send an RFP to (Request for Proposal). The committee will need to develop a scoring matrix (Donofrio can make suggestions or give the committee a form to use) and determine weighting of each

of the criteria. There are different attributes to a proposal – qualifications and past experience, their concept, the workload that they currently have, litigation against them, and price. Donofrio suggests that price be handled in the following manner. When the committee does the RFP's the firms should submit two separate envelopes. One is a proposal and the other is a fee proposal and the committee shouldn't open the envelope with the price until after we have scored them on their actual proposal. Donofrio recommends it be done that way because the price may taint how you score them with respect to other attributes. It is the committee's decision to decide what percentage/weight is given to each attribute. Only members of the building committee will score the firms. The committee will score all the attributes (including fee) and when interviews are conducted the committee scores this as well. Whomever's combined total is the highest number, is the firm that is chosen. You are not required to hire the low bidder. When it comes to architectural or construction management services you are simply required to proceed with an RFQ and an RFP and select the firm that you deem most qualified based on the process that Donofrio outlined.

Donofrio then went over the draft of the RFQ that is set to be posted tomorrow (Friday, January 31, 2014). Anything the committee wants to see added or changed on the RFQ needs to be done today. The two page notice gets published in the New Haven Register on January 31, 2014. It also gets posted on the state contracting portal, a website that is maintained by the State Department of Administrative Services where state agencies, municipalities and quasi municipal entities advertise bids.

Donofrio also recommended that we notify the firms that do most of the school projects in Connecticut that we have posted our RFQ, due to the limited, ten day time frame. Even if we just send them the link to the town's website where the RFQ is listed because we want as many interested parties as possible. The more competition the better in terms of price and in terms of the amount of effort the firms will put into the RFP stage. There was also a discussion about putting a deadline in the notice for questions (February 6), so that we can make sure everyone that is interested, receives a response to their question(s).

Attorney Donofrio walked the committee thru the contents of the RFQ (for the next 10 days RFQ #14-25 will be posted on the town website under 'Bids and Proposals'.

The grant application should be based on a cost estimate that is based on a schematic design. We are looking to get an architectural firm to prepare a schematic design. The preparation of the schematic design is done by reviewing the Ed Specs, coming to the committee meetings, and getting information they need from consultants they hire. Their proposal will identify consultants and engineering firms that the architectural firm is responsible for. A civil engineer, a structural engineer, a mechanical, electrical, or plumbing engineer – will need to verify existing conditions at the site and get a handle on what we are looking to do based upon the limited information in the feasibility report.

The firms that decide to submit the RFQ will have two months to develop the schematic designs that can then be presented to the Board of Education, the Board of Finance, and if necessary, the Board of Selectmen. The Board of Selectmen does not have any approval because they are not our legislative

body. The Board of Education has approval over the schematic design because it is responsible, thru the superintendent, for submitting the grant application.

The committee may have to have multiple meetings within the same week in order to communicate with the architect. If the committee feels like it could be a problem getting a quorum, we could create a sub-committee to act as a liaison with the architect for pre-referendum services.

Another thing that the architect is responsible for, after the grant application is submitted, is attending the pre-review evaluation process meeting, along with the superintendent and the chairman of the building committee. Before the state begins its review of the schematic design for the project they have conversations with the design team about certain aspects of the project that are required by things such as the CT High Performance Building Standards, which are regulations that have to do with high efficiency buildings as well as safety issues and other components.

The second phase, which comes after referendum is the design development phase. This is a critical phase because it fleshes out the building and adds mechanical, electrical, and plumbing detail. It is the phase when the project specifications are developed.

Donofrio added that the design firm is going to be responsible for preparing CT Clean Energy or any other available funding resource applications. The Clean Energy fund and other green building funds are constantly in flux. Sometimes there is money for fuel cells and for other green building initiatives and other times there is not. He is not referring to availability or lack thereof from year to year. It can vary from week to week. So this puts much of the responsibility on the architect and the construction manager as they are willing to abide by that contract stipulation, for when it comes to designing the project in accordance with any potential grant requirements and applying for any grants. The more money we can get back from the State of CT or any other related agencies, the less money the taxpayers of North Haven will have to pay.

During the design development phase, the architect writes specifications for every trade package (structural steel, concrete, site work, mechanical, electrical, HVAC, roofing, masonry, etc.). These specifications get finalized in the construction documents phase, but they begin to be drafted during the design development phase. It is during the design development phase that you need the construction manager to come aboard because the construction manager as a constructor, working under a guaranteed maximum price structure, is of the most value if they are involved during the design. Because they can participate in pricing different alternatives, they can participate in value engineering, and from a liability standpoint if we have them involved earlier we can hold them responsible for design errors and omissions in the event we experience anything that departs from the standard of care.

It is also important to get input from the town's police, fire and building department during the design development phase. In a lot of municipalities they do not consult with these agencies early enough in the project and then they end up having issues. The way to maximize the public safety aspect of a building project is by having the people who are the experts in public security and safety involved at the design phase. You do not want to have to make changes once you have already gone to construction. That would then require costly change orders.

The third phase is the construction documents phase. During the construction documents phase, everything is prepared for bid. Your design is complete, your specs are complete and now it's time to finalize the documents that are going to be put forth for bidding. In the 'construction manager at risk' or 'construction manager as constructor' project structure, the construction manager holds the trade contracts. That is the only way to go, according to Donofrio. Other towns think they can save money by holding the trade contracts directly, and Donofrio feels that is a big mistake. There is not a municipality in the state of CT that has the staff expertise to be a general contractor. Most cities learn that the hard way and now hire companies to act as their program managers. Otherwise the municipality is responsible for scheduling and then if there are claims about lack of coordination or delays or sequencing the town would be responsible. It sets you up for liability and it sets your project up for a greater likelihood of claims and a higher likelihood of failure. The way we avoid that is we have the construction manager hold all the trade contracts. The town of North Haven will not enter into a single contract with a trade contractor, if we follow Donofrio's advice. The building committee should not be in a situation where the chairman should have to be dealing with problems on the job site. We avoid this by having the construction manager hold all the trade contracts. The construction manager will do the work for a guaranteed maximum price, which means after 90% of the trade contracts are bid they will give you a number, and absent scope changes or different site conditions, they are the one at risk for overages and at risk for the schedule.

Phil Diana wanted to make sure he was understanding correctly and asked Donofrio if he meant that the construction manager won't give us a price for his cost until after 90% of the project is bid. Donofrio said Diana's statement was correct. Diana also asked if the construction manager would be doing the bidding of the subcontractors. Donofrio said the way it works is when you do the RFQ and RFP for the construction manager, you will get numbers from the construction manager that will consist of 3 components – general conditions (which is the staff time-time supervising the project), percentage of fee (profit - 1.5 to 1.75% of the hard costs, typically), and general requirements (reimbursables such as trailer, copier, fencing, workers comp, performance and payment bonds, portable toilets, etc.).

After the construction documents phase is done the construction manger, thru the town, puts all the trade packages out to bid. The trade bids would be received and opened by the building committee and then we assign them to the construction manager. The reason you can't set a guaranteed maximum price until you have 90% of the bids in, is because you don't know what the cost of the work is going to be. The construction manager will make recommendations to the building committee as to who it deems to be the lowest qualified responsible bidder. After the bids come in, the architect and construction manager conduct a scope review meeting (that can be attended by building committee members) where the first couple of bidders are brought in separately and you go thru their bid to make sure that they saw the project the way that you did and that they carried everything in their number because the last thing that you want to do is award based on a low bid and then find out that they didn't carry everything in their number. The best way to avoid omissions is to vette it thoroughly by having this pre-award scope review meeting. The construction manager then comes back to the building committee with recommended awards for every trade contract and it will be in the agreement that we have authority to reject any recommended awards. The ultimate decision as to who the trade

contractors are is the building committee, guided by state law which says lowest qualified and responsible bidder.

The architect is involved in the bidding (fourth phase) and they are involved with the construction manager on making recommendations and they will make these recommendations in writing and present them to the building committee. For every trade package there will be a recommended award with the dollar amount of that award and a copy of the bid attached for the committees approval or disapproval.

The last phase that the RFQ covers is the construction administration phase. That is the phase where the work is actually being done and the building is being built. The architect's role during the construction administration phase is often overlooked. Having regular onsite presence by the architect is critical to ensure that the building is being built in accordance with the plans and specifications authored by the architect. Why would you have anyone other than the author of the plans and specifications be responsible for ensuring that compliance is occurring?

The architect will make observation reports, which means if the architect sees something being done that is not in accordance with plans and specifications the committee will get a written report with photographs. The construction manager will have reporting requirements as well.

In terms of other general requirements we talked about having the project being designed with the new SSIC (School Safety Infrastructure Standards), so that is included. We deleted money for applying for LEED certification because the consensus of the professionals was that the CT High Performance Building Standards are adequate and the amount of money that would be added to the project just to say it was LEED certified (close to $1 million) isn't a good expenditure of taxpayer money. We can still look at efficient, value added concepts as part of our design. It is the architect's responsibility to bring those forth in all phases of design.

The latest design software is BIM – Building Information Modeling. It is replacing the use of CAD to design. The benefit of CAD was 2D or 3D design. Now BIM is a step up from CAD and the primary software is called Revit. All the subcontractors and the construction managers, by the time we have the construction phase of our project, will be using this and they can share information and make changes to documents much more efficiently and effectively and see what the impact of those changes are.

In his contracts, Donofrio requires the architect to print out the drawings for the committee to look at and one of the things he recommends is an engineering firm called Ready Check (and other firms like it), which conduct a peer review of the design documents before they get filed with the state. Once you file the documents with the state you have to wait until they approve you to go out to bid. They are very understaffed and the fewer errors and omissions there are in our documents, the easier it makes for the Dept. of Construction Services to go thru the documents and the faster we get to go out to bid. One of the ways you make your documents as pristine as possible is to spend the money to have a firm like Ready Check go through them and give you a report. It is approximately a $30-40,000 expense, but when looked at in terms of this being a $60 million project, it is something Donofrio recommends and it is reimbursable. Money for Ready Check was included in the cost estimate provided for the hybrid

option. Ready check would provide a written report line by line from the specs, drawing by drawing, to our architect – the architect would make the changes that Ready Check suggests before it ever goes to the state. It saves a tremendous amount of time and cuts down on change orders and other issues.

Spader stated that she saw a few typographical errors that should be fixed before this RFQ goes out. Spader will provide a list of necessary edits to Ed Swinkoski by the end of the day.

The time line of the RFQ process was discussed. The committee decided to alter the dates slightly to allow two days for interviews of selected firms to occur. The reason that the contract execution period is so short is because we will provide the proposed contract along with the RFP and state in the RFP that the firm must be prepared to sign the contract (without alteration) within two days, if the contract is awarded to them. If the firm we have awarded the contract to decides they want to make alterations to the contract, we move onto our second choice of firms, since we are not permitting changes to the contract. Normally that firm will then stand down and accept the contract as is, knowing they will lose it otherwise.

Spader asked if the RFP due date had changed from what was mentioned during the presentation on Tuesday night. It was stated that the date had not changed, but perhaps this was drafted before we had decided that interviews would occur over the course of two days, rather than just one. This RFP will be amended to include two days in the timeline for interviews. The problem with doing all four (if applicable) interviews in one day is aside from the fact that the committee will need to set aside the whole day to do them, but also scoring might be rushed and it is not something that should be rushed. The committee decided it would be best to do the interviews over two days. Spader stated that she would not be available on one of the interview days, but hoped to be able to participate in the other interview day and the final selection of the firm (via phone).

There is no question that it is a very tight timeframe. The more time we give the firm that we select to do the schematic design, the better the work product is going to be.

The committee talked about the submission of qualification statements, as listed on page eight of the RFQ. This basically states the type of information the firms must provide to us. Donofrio recommends that committee members go visit projects that these firms have completed. A superintendent or principal of a school would allow a non-quorum of the committee to visit. Historically building committees divvy up who is going to be responsible for checking references and which committee members will do the visitations and then they all report back on their findings to the full committee.

Technical competence will be evaluated by looking at their experience in being the lead design firm on other CT public school building projects that have received reimbursement. The requirement is a minimum of three public school projects in CT in the past eight years with a construction budget in the range of $50 million and in at least two other municipalities – not someone that just received the award for multiple building projects for the same municipality. We won't know enough about them from only one municipal reference.

The firms will be given forty minute interviews with twenty minutes for questions. They can use video as part of their presentation.

The communications effort is critical to getting a referendum passed. There should be a PR/Community Outreach sub-committee that does things like prepare FAQ's, and establish a website for the project with information including models of the schematic design. The architect should assist with the website as part of their schematic design pre-referendum fee.

Spader asked Donofrio if it would be permissible for her to set up a Facebook page for the renovation project, similar to one that she has been viewing for the Wethersfield High School renovation project. Donofrio said it was fine to set up a page now. Although his recommendation was a webpage, because the platform allows you more options for posting video, etc. It should be something the committee approves and vets before it goes live. Social media is certainly an important aspect of the communications effort.

Everything submitted becomes our property. There will be no oral agreements.

Donofrio stressed it is not so much the name of the firm that matters, it is the individuals in the firm that will be assigned to the project and what their availability is for that project (how many other projects they are working on) because you want individuals assigned who are dedicated to the project and can provide the highest level of focus to your project. The quality of the firm is dependent solely on the quality of the individual members of the team.

The contract provides that the chosen firm cannot replace anyone on the team without our permission, but we can request that someone be removed from the project. The same thing goes for the construction manager contracts. They can't replace anybody without our permission, however we can remove/replace people. Termination for convenience is a concept that arose in the federal government contracting realm after WW2 when the government needed to get rid of a lot of contractors – it allows us to terminate without cause and without cost or damages.

Insurance requirements which will end up knocking out some of the smaller firms are the specific requirements pertaining to professional liability insurance. Professional liability is a high limit per claim of $5 million. This is a larger amount than most small to mid-sized firms carry because it is expensive, but on a large project especially with a renovation component, $5 million is not that much money anymore. We also require that they maintain their professional liability insurance continuously for a total of seven years after completion of the project because seven years is the statutory limit to sue an architect for negligence. We enforce that by having them provide a certificate of insurance each year. This is stated in the contract.

The next part of the RFQ is a non-collusion /non-conflict affidavit. In North Haven, we require that the architect and the construction manager will have the same provision in their RFQ that they must sign an affidavit that they haven't colluded with anyone in connection with their proposal and that they have no conflict of interest. In other words, there is no selectman, building committee member, officer,

employee or person who's salary is payable in whole or in part by the town of North Haven or the Board of Education who will benefit in any way from the awarding of the contract.

Bruce Morris remarked that this was a very thorough review of the RFQ.

Donofrio suggested that the committee should approve the issuance of the RFQ so the town can publish and post it. Johns asked for a motion to approve the issuance of the RFQ (with fixes made to typos and making the interviews of selected firms be changed to February 26 & 27). The motion was made by Bruce Morris and seconded by David Mikos. The motion passed unanimously.

In order to be fair to all parties, we specifically did not ask Perkins Eastman or DTC to be at our meeting today, so they would not have any advanced look at the RFQ prior to its issuance on January 31, 2014.

Johns discussed when our next meeting should be and since the RFQ's are due back on February 10, 2014 it will be important for us to meet before then to have our criteria/scoring matrix established. We should have the RFP approved and ready to go as well as the contract, which will be submitted with the RFP. It was determined that the next meeting of the committee will be Monday, February 3, 2014 at 8:15 am. We will discuss the criteria and the weighting of the criteria for the RFQ.

Motion to adjourn at 9:29 am by Bruce Morris and seconded by Michelle Spader.

Respectfully submitted,

Michelle Spader
Committee Secretary