
**CONSTRUCTION PROJECTS COMMITTEE
THURSDAY, OCTOBER 25, 2007
NASHUA HIGH SCHOOL NORTH LECTURE HALL
6:30 PM**

A meeting of the Construction Projects Committee was held at Nashua High North on **Thursday, October 25, 2007**. Alderman McCarthy called the meeting to order at **6:40 p.m.**

Present: Alderman McCarthy, Alderman Tabacsko, Mr. Dowd, Mr. Kelley, Alderman Bolton

Also Present: Alderman Deane, Mr. Mealey, Mr. Smith, Attorney Bennett

Discussion & Approval—Construction Manager Bid

Mr. Mealey

I'm going to ask Mr. Shawn Smith to speak to the references, as he was the one who made to calls to check references.

Mr. Smith

I called a number of references for both Harvey and Eckman Construction. To keep it short, they both came back very excellent. Eckman, it was Mark Conrad who they just completed a \$50 million school project up in Bedford and he was very happy with them. I spoke with Mr. Shaw, the engineer at SNHMC where Harvey has a done a lot of work. He basically said the same thing. I spoke to a couple of owner's reps, architects, facility people for each and if I put them side by side they would be identical. So in terms of references, they're both excellent.

ALDERMAN TABACSKO MOVED TO RECOMMEND TO THE JSSBC THAT THE CONTRACT BE AWARDED TO HARVEY CONSTRUCTION AS CONSTRUCTION MANAGER FOR THE ELEMENTARY SCHOOL HVAC PROJECTS.

Mr. Dowd

Both companies are excellent firms. I think Harvey brings a slight edge to the project and I agree with the motion.

Voting on Motion:

ALDERMAN TABACSKO MOVED TO RECOMMEND TO THE JSSBC THAT THE CONTRACT FOR THE ELEMENTARY SCHOOL HVAC PROJECTS BE AWARDED TO HARVEY CONSTRUCTION AS CONSTRUCTION MANAGER.

SO VOTED.

Discussion & Approval – Settlement for Nashua High School North Athletic Field

Attorney Bennett

I received an updated draft today and the changes are noted on the side. Some were just typos. I think they also added a whereas paragraph where they deny each other's claim. As far as essential change, the only one is a wording change on page 6 of 15; 7B... that paragraph essentially states the contract between Gilbane and AMSCO survives this agreement except for the claims in 7A. If the settlement agreement is accepted, then those issues are going to be settled. Any other work that AMSCO did pursuant to their contract are not subject to this settlement.

There are number of parties involved here and there could be some minor tinkering, but the substance is what the final agreement will be.

Alderman Deane

So are we approving in principle tonight?

Attorney Bennett

I've been advised by the parties that they're going over it. But I haven't seen anything new being debated in the emails. Other than perhaps some typos that might be caught, I feel that this is going to be it.

Alderman Tabacsko

Could you just walk us through the settlement agreement?

Attorney Bennett

We start off with AMSCO who are contributed to the settlement, a total of \$450,000. That's broken down 2 ways. The first is that their contractor is still due them \$212,500. They do not have that, it's being held. I believe the school still has that money. But they have a claim against it pursuant to this litigation. They would release that amount of money so it could be used by the school. In fact, the parties would sign this in the next couple of days and that money would be released by AMSCO, if this were approved tonight. So there would be money available immediately if the committee decided to also go forward with the Tri-Turf proposal. They would also contribute an additional \$237,500, which totals \$450,000.

Hayner Swanson, who is the consultant to Lavallee/Brensinger who designed the fields, would contribute \$125,000. Lavallee/Brensinger project architect for the entire project would contribute \$50,000.

For Gilbane, there is a provision, which allows them to be reimbursed for attorney fees that they incur as a result of actions of sub-contractors. The exception to that is if the litigation results in their negligence. They would also forgive \$82,000 of their attorney fees.

Then there are funds available from the track, which was put in by SRI (Contractor) and that money was left over and would be returned. That's the \$125,000 contribution that they made at the sidebar agreement with the school district.

In addition, Gilbane would coordinate the work for the installation of a bypass drainage system on the upper field, and do the quality assurance control & coordinate the work without cost.

So, when we total up, it comes to new cash contributions of \$412,500 of new cash and then released cash of \$212,500... for a \$625,000 that would be available for whatever work the school district elects to do with that money. There is also a final invoice that I received from Gilbane, and that reflects instead of handing over the money from the SRI funds, they would just deduct it from their outstanding bill. The \$69,000+ of attorney fees is what is left over that the school would have to pay. The other costs are pretty well laid out and I think primarily have to do with the South High School.

Alderman McCarthy

There's just one issue I'm still confused about. I understand the cash that's coming back to us from those 3 parties. The \$212,500 is the current retainage on the AMSCO part of the contract with Gilbane. And that will be forgiven. But we have that money encumbered in the project budget, so that becomes available cash at that point. When I go down to the \$82,000... do we have that money encumbered in the project or is that unencumbered liability that we don't have anymore after that?

Mr. Mealey

It's unencumbered right now.

Alderman McCarthy

So effectively we have a settlement on the final bills with Gilbane that would come to somewhere around \$200,000 less \$82,000 that they've forgiven in legal expenses and then we're going to apply the SRI funds of \$42,919 to the balance beyond that, leaving \$54,262.76. So when the dust settles, we will have had \$625,000 and we'll have to pay \$54,000 of that which will leave us with about \$570,000 left in the project. And we anticipate spending a little over \$200,000 of that on the field repairs.

Attorney Bennett

I think you're probably underestimating the field repairs. I think the \$208,000 is for the drainage system. That will bring the fields back up. There is by all accounts, enhanced maintenance that we'd be required to pick some of the cost for. I think it's safe to say that the available cash would be sufficient to cover that in the foreseeable future.

Alderman Bolton

As I understand, one of the aspects of this enhanced maintenance is to buy this specific piece of equipment. Do we have an estimate for the price of that?

Attorney Bennett

There's actually more than one machine. I think one does the slits, and there's another one behind it that fills it full of sand. I believe that it's about \$54,000 if you were to buy all the machines. The option that was brought up at the last meeting is to hire professional outside contractors to come in on an annual basis.

Alderman Bolton

Is there a 3rd machine that is needed?

Mr. Smith

Yes, there's the tractor, the breaker and then we could buy the attachment for the sander. So you basically could have 3 pieces of machinery in tandem. The third piece of machinery they're talking about is an over sheeter, which slices the ground and physically inserts the seed at the same time. I think the first machine is something we certainly should get and we can use it Citywide, not just for the School Department. I'm still on the fence about the other two.

Alderman Bolton

If it's needed for this purpose, this might be where we want to use the money.

Alderman Deane

At our last meeting I had brought up my opinion on purchasing equipment. Perhaps not doing that and taking the balance of the settlement and putting in a trust account for the BOE to have control over getting pricing on outsourcing these functions... as compared to purchasing the equipment and having in-house labor. And what the costs would be in terms of mileage and time that we would get out of the dollar here as opposed to doing it in house and if we have adequate staff, etc. My other question is the \$212,500 is part of the original bond, so that's under the jurisdiction of the JSSBC. The remaining balance of the lawsuit, I guess was due to whatever you want to describe it as for the settlement. So are those dollars also falling under the jurisdiction of the JSSBC as well?

Attorney Bennett

My understanding is that all these monies would fall under the jurisdiction of the JSSBC.

Alderman McCarthy

It's reimbursement of bond proceeds that were already expended.

Mr. Smith

Actually Mr. Mealey and I have been talking about how to best utilize the money for the fields and the grounds around the school. We're still wrestling with it and trying to come up with the best plan. We can certainly look at outsourcing various pieces of it or purchasing equipment.

Alderman McCarthy

That's not a decision that we need to make tonight. My recollection is that the timing is such that if we're going to put the drainage system in we want to do that as soon as possible. But we won't be doing any of the maintenance operations until the spring, so we have time to look into outsourcing.

Attorney Bennett

A couple of other things... One of the reports that I gave out to the committee last time was from Dr. Hubble, one of the experts from one of the other parties and you always take those with a grain of salt. I was speaking with Nick over at Parks & Rec about the machines and what we're doing. And I mentioned Dr. Hubble and apparently Dr. Hubble is the "God of turf and compaction" according to Nick. He thought that you could rely on Dr. Hubble as a reliable source.

Also, I have kept in contact with Tri-Turf. We had said that if the JSSBC approves this agreement and wants to go forward, he (Jerry Hutchinson) is prepared to go forward and he needs between 3 and 6 weeks to do the project.

Alderman McCarthy

So the actions we would anticipate this evening are the recommendation for approval of the settlement agreement and to approve entering into an agreement with Tri-Turf for \$208,300 for the drainage system.

ALDERMAN TABASCKO MOVED TO RECOMMEND TO THE JSSBC THAT WE APPROVE THE SETTLEMENT AGREEMENT AS PROPOSED (ALLOWING FOR MINOR TYPOGRAPHICAL AND GRAMATICAL CHANGES) AND TO RECOMMEND ENTERING INTO A CONTRACT WITH TRI-TURF IN THE AMOUNT OF \$208,300 FOR A DRAINAGE SYSTEM ON THE UPPER FIELD.

SO VOTED.

Mr. Dowd moved to adjourn. **So voted at 7:10 p.m.**

Submitted by Jacki Waters