



CITY AND BOROUGH OF SITKA

ASSEMBLY CHAMBERS
330 Harbor Drive
Sitka, AK
(907)747-1811

Minutes - Final

City and Borough Assembly

Mayor Matthew Hunter
Deputy Mayor Steven Eisenbeisz,
Vice Deputy Mayor Bob Potrzuski,
Aaron Bean, Kevin Knox, Dr. Richard Wein,
Benjamin Miyasato

Municipal Administrator: Keith Brady
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson

Thursday, June 14, 2018

6:00 PM

Assembly Chambers

SPECIAL MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 5 - Miyasato, Eisenbeisz, Hunter, Knox, and Wein

Absent: 2 - Potrzuski, and Bean

IV. PERSONS TO BE HEARD

None.

V. NEW BUSINESS:

- A [18-117](#) Consideration of an appeal filed by Tamico, Inc. of the bid evaluation and letter of intent to award for the O'Connell Bridge Lightering Facility Pile Replacement Project (*possible executive session*)

Municipal Attorney Brian Hanson spoke to the process for the appeal and reminded the Assembly was acting as a quasi judicial body. Regarding the appeal of the bid rejection, Hanson stated the scope encompassed the bid documents, proposal made by Tamico, grounds for the City and Borough of Sitka (CBS) rejecting the proposal, materiality of the grounds, and the reasonable basis for rejecting. Hanson recommended that upon reaching a decision the Assembly include findings to support their decision.

Appellant

Jim Martinsen of Tamico, Inc. stated the main reason for his appeal pertained to

permitting. Martinsen stated requirements for an Incidental Harassment Authorization (IHA) permit were unclear and believed CBS had not disclosed all information with regards to permitting. He relayed that because it was a maintenance project, the US Army Corp of Engineers (USACE) and National Marine Fisheries Service (NMFS) had indicated that with some sound mitigation measures, a standard nationwide permit could be attained. He suggested the CBS reject all bids and rebid the project.

City and Borough of Sitka

Hanson stated in June 2017, CBS Harbor staff discovered the pilings at the O'Connell Lightering Float were leaning towards shore. Moorage was suspended and an investigation ensued. After CBS Public Works staff determined the pilings were in need of repair, a project was initiated and appropriations for the project were obtained from the Assembly. In October 2017, the USACE informed CBS that the project area fell within an Endangered Species Act (ESA) action area of 7000 meters. CBS determined the action area to be impractical and hired an environmental consultant, Solstice Alaska Consulting, to work with USACE and NMFS and investigate possibilities for a reduced action area. Despite efforts, NMFS denied a reduction from 7000 meters and CBS determined extraordinary permitting to be required, one of which could include a high cost IHA permit. Hanson stated at the April 2018 pre-bid meeting, CBS verbally advised all participants that an ESA action area would be required and an IHA permit would likely be required and noted the contractor was responsible for determining, coordinating, and acquiring all authorizations required and for permit compliance. CBS received two bids for the project: Tamico, Inc. and Turnagain Marine. Upon evaluation of the bids, CBS requested permission from Tamico, Inc. to speak with their proposed permitting specialist. It was determined the firm did not meet the required bidder qualification specifications: evidence of having obtained 2 prior IHA permits within the last 5 years. CBS rejected Tamico's bid as "non-responsive" for (1) failure of their permitting specialist to list at least 2 previous IHA authorizations of similar scope within the last 5 years and (2) failure to demonstrate the ability to obtain the required insurance. In addition, CBS deemed Tamico a "non-responsible bidder" for its failure to strictly comply with governmental permits when performing the Sitka Transient Float Project.

Assembly Deliberation

Assembly members discussed the materials presented by both parties. Mayor Hunter reminded the Assembly was tasked with determining whether or not CBS had justly found the bid to be responsive or not. Items discussed were insurance, permitting, and failure to comply with local, state, and federal permits.

A motion was made by Eisenbeisz to DENY THE APPEAL based on bidder qualification 1.2.c.4 Permitting Specialist (List of at least two previous Incidental Harassment Authorizations successfully obtained for marine projects of similar scope and considerations within the past 5 years). The motion PASSED by the following vote.

Yes: 5 - Miyasato, Eisenbeisz, Hunter, Knox, and Wein

Absent: 2 - Potrzuski, and Bean

VI. PERSONS TO BE HEARD:

None.

VII. ADJOURNMENT

A motion was made by Miyasato to ADJOURN. Hearing no objections, the meeting ADJOURNED at 9:10pm.

ATTEST: _____

Sara Peterson, MMC
Municipal Clerk