

VILLAGE OF CORNWALL-ON-HUDSON BOARD OF TRUSTEES

November 14, 2011

The special meeting of the Board of Trustees was called to order at 7:00 P.M., at 325 Hudson St., Cornwall-on-Hudson, N.Y.

The following Board Members were in attendance:

Mayor Brendan G. Coyne
Deputy Mayor Mark J. Edsall
Trustee Barbara J. Gosda
Trustee James P. Kane
Trustee Andrew Argenio

Also present were: DPW Superintendent David Halvorsen, Water Superintendent Robert June, Police Officer John Peña, and Village Clerk Jeanne Mahoney.

NEW BUSINESS

DPW BUILDING STRUCTURAL RENOVATIONS – BID AUTHORIZATION

David Wieboldt, Architect for the Village on the DPW Building structural renovations, was invited to speak with the Village Board.

He has completed bid documents for a structural redesign on the outside of the building. This includes digging holes by each of the existing wood columns for the building and placing a steel column adjacent to it. A steel column will also be used to support a beam across the long axis of the building. This will provide support for the trusses to compensate for the lack of ability of existing laminated veneer lumber over the overhead doors to support the weight. Some exterior siding will be removed and replaced. He has also addressed issues in the Department of State letter.

Trustee Kane asked if installing steel columns outside rather than inside will save money. Mr. Wieboldt replied yes and it would have also required removal and relocation of existing interior piping and electrical work.

Trustee Argenio had several concerns with the bid documents. First, several items are listed “done by owner” – how will the Village get the “true costs” if we are doing the work ourselves. He would like to see all required work priced in order to get a real fixed price and provide accountability from an outside agency to fix a problem if it arises. Second, the excavation of the

dirt is listed as unclassified. This property was once a landfill and the material must be disposed of properly. Third, the engineering plans are not stamped.

Mr. Wieboldt replied the “done by owner” is an alternate bid option that would allow the Village to perform some of the work. Electrical work was not included in this bid package and will be bid separately if needed. He anticipates the excavation to include 3’ of fill, which was put in when the building was constructed, 1’ of concrete, and 1’ of a cap that was put over top to close landfill.

Trustee Argenio stated that he has an opinion from the NYS DEC stating that the Village should notify them prior to digging. If the soil is unclassified, disposal of a yard of “dig out” is not very expensive; however, if the soil is classified as “toxic” material it will cost significantly more. He wants the Engineer and Attorney for the Village to review these documents before proceeding.

Deputy Mayor Edsall stated that he has no concerns about splitting of the work to provide flexibility for force account work to handle some of the finish work if in the long run it saves Village taxpayers money. It is a worthwhile option and it has been segregated to the more technical work and to the finish work. Obviously multiple layers of material have been brought in since the landfill was closed so as to not penetrate into the impermeable layer and we are just working above that layer. However he sees no reason not to document it and notify the DEC as well.

Mr. Wieboldt reported that he reviewed documents from 1971 and 1972. Originally, the DEC required us to surround the perimeter of the landfill with 2’ of clay and put 1’ of clay on top of the landfill. That was since modified in previous correspondence in that it didn’t require any clay to be put over the landfill cap, basic fill would suffice. Therefore there is no “impermeable layer”.

Deputy Mayor Edsall stated that is “even more telling” in the fact that the federal regulations require different types of closures for different levels of contamination. If it was declassified and determined not to be a contaminated site, which would have required a clay layer, the DEC made that decision back then. We will not be working in a clay layer which is even “less of a problem”.

Trustee Gosda stated that the projected total cost for this project is \$360,000. She was “rather astounded” that the plan includes a file room on the first floor because of the recent flood. She “absolutely” wants the DEC to review the bid documents. The air quality testing has not yet been done and she feels that bidding at this time is premature.

Mayor Coyne replied that all we are looking to do now is “going to bid”.

Mr. Wieboldt offered to add a line item in the bid for remediation/removal of any type of “toxic material”. He estimates 10-20 yards of material to come up with that cost.

Deputy Mayor Edsall wants to see that item flexible. Whatever type of material we encounter is “our” material. It is our responsibility and our obligation to dispose of properly without having to pay a contractor his “mark-up”.

Mayor Coyne asked for a motion to approve the bid documents and authorization to set a bid date and time.

Trustee Gosda stated that before authorizing a bid, we should first notify the DEC. In addition we do not have results of air quality testing, and we don’t have “real costs”.

Trustee Argenio stated we should have the DEC, Attorney and Engineer for the Village review the documents first. He agrees with Trustee Gosda’s concern that the plan shows a file room on the first floor.

Deputy Mayor Edsall stated that if approved tonight, the motion should indicate authorization to proceed is subject to “front end” legal portion being reviewed by Mr. McKay, and receipt of final stamped plans by the Village Clerk. Mr. Edsall has no requested changes on the structural work.

Trustee Kane stated that an addendum regarding removal of dirt needs to be part of the motion.

Trustee Kane made a motion to accept the bid documents prepared by David Wieboldt, Architect for the Village for Structural Repairs and miscellaneous alterations on the DPW building, and authorize advertisement for bid. This approval is subject to completion of legal review, addition of addendum for removal of dirt, final plans stamped by Architect and Engineer, and notification to DEC of bid authorization and advertisement. The motion was seconded by Deputy Mayor Edsall and upon a vote of 3 Ayes (Coyne, Edsall, Kane) and 2 Nays (Gosda, Argenio) motion was carried.

Trustee Kane amended his motion to include authorization for the Mayor and Village Clerk to set a bid opening date and time which was seconded by Deputy Mayor Edsall and upon a vote of 3 Ayes (Coyne, Edsall, Kane) and 2 Nays (Gosda, Argenio) motion was carried.

Discussion followed regarding the General Fund budget line item for Engineering.

BOARD OF ASSESSMENT REVIEW

Mayor Coyne reported that he reached out to all candidates who have served in the recent past and only one was agreeable to help us again this year. We do not have the necessary quorum for a Board of Assessment Review. He read from a memo prepared by Mr. McKay which stated in part: “In circumstances where a BAR cannot meet to review complaints, section 527 of the Real Property Tax Law provides that the County treasurer, the chairman of the legislature and the clerk of the legislature must perform the BAR function”. Mr. McKay suggested the Village Clerk accept all tax assessment complaints and forward them to the County for handling.

Discussion followed regarding proceeding toward the elimination of the Village as a separate tax assessing unit.

Deputy Mayor Edsall made a motion to forward assessment complaints to Orange County in accordance with section 527 of Real Estate Tax Law, which is consistent with the recommendations of the Attorney for the Village. Further, authorizing Mr. McKay to prepare the proper documents required to eliminate the Village of Cornwall-on-Hudson as a separate tax assessing unit. The motion was seconded by Trustee Kane and carried by a vote of 5 Ayes and 0 Nays.

TAYLOR BIOMASS

Jim Taylor, President and CEO of Taylor Biomass Energy, was invited to speak with the Village Board.

Mr. Taylor reported that the contract contains an exclusion regarding ongoing litigation involving an adjacent parcel of land. To comply with a court order, Taylor must make the record permanent by December 12th which will be followed by oral arguments. A decision is expected either April or May of 2012. A Brooklyn court judge has null and void the stay issued by an Orange County judge and has allowed Taylor to continue with construction since all required permits are in place with the Town of Montgomery and DEC.

Mr. Taylor spent 18 months negotiating with the Orange County Executive's Office and Legislature for a 20 year agreement. Within the last 90 days and with no known reason, the County decided not to sign a long term agreement with Taylor Biomass. He is now going to Cities, Towns, and Villages who are true owners of the waste. He anticipates being ready to open by May, 2013. The Village will be charged \$66.00 per ton effective May 1, 2013 and the County price at that time, due to a 5 year pricing schedule, will be \$85 per ton. He explained that we will not only realize a cost savings, but also future savings on environmental liability and exposure from putting waste in a landfill.

Members of his firm have met with attorneys representing a dozen municipalities. They agreed to draw up a common contract and continue that negotiation to the point of where we "met the common good of as many municipalities" as possible. The USDOE loan guaranty program, which is the federal finance bank, the congressional budget office, and the US Treasury, require that terms and conditions must meet minimal lending requirements for them to provide a technology loan in the amount of \$100,000,000. The deal should be finalized by December 20th and loan will be closed on February 29, 2012.

Mr. Taylor reported that construction is underway, the site is fully prepared, and is ready for concrete and steel work in March, 2012.

Trustee Kane asked if the current litigation is on the court calendar for oral argument. Mr. Taylor replied they expect to receive the date for oral argument after his firm submits the final

record on December 12th. The litigation does not affect his contractual relationship with Towns, Cities, and Villages.

Trustee Argenio asked why Mr. Taylor is not waiting to operate the site until his firm receives the necessary permits from the DEC.

Mr. Taylor replied that he has a permit to construct and that rolls over into a permit to operate because he has all of the operating requirements in the permit to construct. The DEC has taken a “very strong, helpful, and supportive” methodology in this first innovative commercialized technology in New York. His firm has a part time Environmental Monitor-DEC Region 3 employee who will be assigned full time once the concrete starts “going in the ground”.

Deputy Mayor Edsall asked if Mr. Taylor was moving forward with version #9 of the contract. In addition can people who do not sign contracts now join in next year?

Mr. Taylor replied that several municipalities have signed contracts and 4 or 5 more have agreed that version #9 “is it”. His firm is only permitted to accept 500 tons of waste each day, so the offer is available until that number is reached.

Trustee Gosda asked Mr. Taylor if he is asking the Village Board tonight for a 20 year contract commitment.

Mr. Taylor replied that the DOE requires a 20 year contract to give a 20 year loan. He is asking for a 20 year contract which has a “termination with cause with a cure”. There is no constraint to sign tonight; however if the Village waits too long, the 500 ton limit may be reached and he will not be able to contract with us.

Trustee Argenio stated that the Village estimates 7 tons of waste per day. He asked if there will be a penalty if that number is exceeded.

Mr. Taylor replied his firm has allowed a 25% increase on the prior years’ tonnage. If the Village’s number was to dramatically change, a letter would be required from us and Taylor would then have to send an amendment letter to DEC to get that additional tonnage to the permit capacity. There is no penalty if the Village’s tonnage is dramatically decreased.

Deputy Mayor Edsall reported that the Village went out to competitive bid. That bid is open at this point. Action was deferred and the sole bidder (Taylor Biomass) agreed to extend it. The Board needs to speak with Attorney for the Village McKay as to the proper steps to act under that bid, deal with SEQRA, and negotiate contract version 9.

CORRESPONDENCE

- Letter from New York Military Academy regarding the Veteran’s Day ceremony.
- Letter from the NYS Comptroller’s Office regarding the 2010-2011 financial report.

- Letter from the Town of New Windsor denying our request for tax exemption on our water lands.
- Letter from the Girl Scouts regarding a Silver Award ceremony.
- Letter from Peter Miller regarding the Police Chief search.
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TREASURERS REPORT

Village Treasurer Mahoney reported that monthly bank statements are being reconciled. She is working with the Mayor on a draft 2012-13 budget. Auditors from Nugent & Hauessler were in the office November 7, 8 and 9 to work on a compilation report for the 2010-2011 fiscal year. They require a 2010-11 interim GASB45 update report and disclosures from Armory Associates who prepared the initial report. The cost of this report is \$1,000. The tentative assessment roll has been prepared and shows a 3.1 million dollar increase in assessed value, and a 3.2 million dollar increase in taxable value. A verbal confirmation has been received from our insurance claim representative that an advance partial payment of \$100,000 has been approved and will be forwarded upon the signing of a proof of loss form. The money will be used to replace the generator at 50 Shore Road and the loss of the temporary trailer at the same location resulting from Hurricane Irene. She continues to work with another claim representative on vehicle and equipment damage which is still under review.

Trustee Argenio requested the Board be provided a breakdown of “how much we get in and how much goes out” with regard to Hurricane Irene. He then asked the Treasurer to provide our plan to comply with General Municipal Law §30 and the NYS Comptrollers letter regarding the delinquent filing of the 2010-11 annual report.

Treasurer Mahoney replied that the auditors are in the process of preparing a compilation report for 2010-11. Once that is complete, an annual report can be prepared and forwarded to the State Comptroller. Discussion followed.

Deputy Mayor Edsall made a motion authorizing the Mayor to execute an agreement for the Village to pay \$1,000 for a 2010-11 interim GASB45 report from Armory Associates which was seconded by Trustee Argenio and carried by a vote of 5 Ayes and 0 Nays.

Budget: Mayor Coyne reported that he is making progress on the budget. He has met with each of the department heads and they have submitted their requests. He has been working with the Treasurer and Deputy Treasurer to better understand the process. He expects to have a preliminary budget ready by next Monday. He hopes to have a “comfortable” budget in place prior to the February 1st deadline.

Having concluded the business set before them, Trustee Gosda moved to adjourn the special meeting which was seconded by Trustee Argenio and upon a vote of 5 Ayes and 0 Nays, the meeting was adjourned at 8:20 PM.