

MINUTES OF THE CITY COUNCIL OF LAUREL

September 22, 2009

A special meeting of the City Council of the City of Laurel, Montana, was held in the Council Chambers and called to order by Mayor Ken Olson at 5:30 p.m. on September 22, 2009.

COUNCIL MEMBERS PRESENT: Emelie Eaton Doug Poehls
 Kate Hart Mark Mace
 Chuck Rodgers Chuck Dickerson

COUNCIL MEMBERS ABSENT: Alex Wilkins Norm Stamper

OTHER STAFF PRESENT: Mary Embleton Kurt Markegard
 Sam Painter Chad Hanson

PUBLIC INPUT: None.

SCHEDULED MATTER:

- **Resolution No. R09-97: A resolution accepting the bid from Castlerock Excavating Inc. and authorizing the Mayor to negotiate and execute a contract with Castlerock Excavating Inc. for the installation of a waterline and fire hydrant on East Main Street.**

Motion by Council Member Rodgers to approve Resolution No. R09-97, seconded by Council Member Poehls. There was no public comment.

Council Member Dickerson asked for clarification regarding the bonding requirements for contractors doing projects in the City of Laurel. This project is supposed to be done in five calendar days, but he asked how the city is protected if that does not happen and if a dollar amount is required.

Sam stated that with the smaller contracts, the city typically attaches the proposal to a contract he prepared with the department head. The contract stipulates the requirements for whatever bond, typically a performance bond, up to the percent of the cost of the contract.

Council Member Dickerson stated that performance bonds were required in the past. Lately, the city has done projects but has not had any kind of a bond to protect the city if the deal goes south. He stated that the city has been burned and he does not know the current procedure.

Chad Hanson stated that this is not a city adopted policy, but as engineers, they typically do not require bonding for projects under \$100,000 because it precludes smaller local contractors from bidding because they cannot get the bonding. Bonding is just like insurance. It costs \$5,000 plus for a bond, regardless of the size, and goes up from there, which adds additional cost. For a \$30,000 job, the contractor would add the \$5,000 bond to the bid. Chad stated that it is often cost prohibitive to require bonding on something this small. In the long run, it has been proven that, although the city could get burned, it is cheaper to have the employees fix it or hire another contractor to fix it than go through the legal proceedings to pursue a bond. With the \$1 million plus water project, performance payment bonds and all sorts of insurance certificates are required to protect the city. As an industry standard with projects under \$100,000, it has been proven that bonding does not really serve its intended purpose and ends up costing more than it saves in the long run.

Council Member Dickerson stated that he could see that in a way, but it is contradictory. If the bond costs \$5,000 and the job is not completed at a \$30,000 cost, he questioned where the city is at on that.

Chad stated that the city would not pay the contractor if the work was not performed. The contractor has to be a registered contractor, which means he would be generally bonded. It does not mean there is a specific bond for a specific project, but he is a licensed and bonded contractor. He has to prove that he is registered with the Montana Contractors Association. The contractor has an umbrella bonding insurance versus a specific payment or performance bond for this project alone, which would allow the city some recourse to go after the contractor if he did not perform.

Council Member Dickerson stated that, if he understood Chad correctly, he did not need to worry about it if the project is under \$100,000.

Chad stated it has been shown in the industry that at the breaking point of anything over \$100,000 it is necessary to start requiring payment performance bonds specific to a project. In the long run, with projects less than that, additional bonding does not necessarily serve their clients in the best interest. It ends up costing more than it saves. Chad stated that, if that is something the council wants in the future, he could visit with Kurt and add it on every project.

Council Member Dickerson stated that he had never really understood the requirements or stipulation for bonding. When the city used to get equipment, bonding was required, and the practice was talked about more long ago than it is now. He just wanted a better understanding because he has noticed that the council has approved contracts without bonding.

Chad stated that \$100,000 is the breaking point for industry standards but we use \$50,000. Anything \$50,000 and less where the city can get quotes, bonding is not usually required because it adds \$5,000 to a less than \$50,000 contract. That is 10 percent of the project cost and it can preclude some local contractors. If the project is over \$50,000 and it has to be bid competitively anyway, the bond requirements will be added in the bidding process anyway. Chad asked Council Member Dickerson if that answered his questions or provided a little better background.

Council Member Dickerson stated that it did, but it does not make him feel any more comfortable.

Chad stated that, if the contractor does not perform the work satisfactorily, payment will not be approved and the work will be fixed or completed somehow. The city does not have to pay the contractor for the work. The contractor still has to warranty the work for a year just like a standard contract. The payment performance contract is needed more for a huge project in which the contractor could leave in the middle of the project. With the installation of a fire hydrant, it would be inconvenient if the contractor left in the middle, but the project would get finished by another contractor or the city crew. However, if COP walked off the big job, it would not be good and the bonding would be used to hire another contractor at the original price.

Sam Painter stated that the council adopted a Procurement Policy. In that Policy, for contracts under \$50,000, staff is required only to solicit bids from companies who have successfully performed. He stated that staff does not look for companies that have not performed but looks for those that have previously performed.

Chad stated that the bid package was hand delivered to four contractors that have worked with Great West and the City of Laurel.

Council Member Dickerson stated that he was more comfortable now knowing that city staff is working on it.

A vote was taken on the motion to approve Resolution No. R09-97. All six council members present voted aye. Motion carried 6-0.

ADJOURNMENT:

There being no further business to come before the council at this time, the meeting was adjourned at 5:41 p.m.


Cindy Allen, Council Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 6th day of October, 2009.


Kenneth E. Olson, Jr., Mayor

Attest:


Mary K. Embleton, Clerk-Treasurer