

November 17, 2017

The Martin County Board of Commissioners met in a Special Called Meeting on Friday, November 17, 2017 at 4:30 p.m. in the Commissioners' Boardroom, Martin County Governmental Center, 305 East Main Street, Williamston, NC.

ASSEMBLY

Those in attendance: Chairman Elmo "Butch" Lilley, Vice Chairman Tommy Bowen, Commissioner Ronnie Smith, Commissioner Dempsey Bond, Jr., Commissioner Joe R. Ayers, County Manager David Bone, County Attorney J. Melvin Bowen, Clerk to the Board Marion B. Thompson and Finance Director/Deputy Clerk Cindy Ange.

Chairman Lilley called the meeting to order around 4:30 p.m. Commissioner Bond led the pledge of allegiance. Vice Chairman Bowen provided the invocation.

AGENDA APPROVAL

Commissioner Smith made a MOTION to approve the agenda as presented, with a SECOND by Commissioner Bond. The Board APPROVED the motion unanimously.

Reconsideration of Bids – Industrial Park Rail Extension Project

On October 6, 2017, Martin County publicly posted the solicitation for qualified contractors to construct the lead rail track and spur for Project AC/Weitron at the Martin County Regional Business Park. The solicitation appeared as an advertisement in the October 6, 2017 edition of the Enterprise & Weekly Herald, and Staff posted the notice on the County's website. The County's rail engineering team, along with Creative Rail Solutions, and Civil Design, held the mandatory pre-bid meeting for the Industrial Park Rail Extension project on October 19, 2017 and held the bid opening on November 2, 2017 at 3 p.m. After review, the engineering team deemed six (6) of the eight (8) bids as qualified bids. Of the six (6) remaining bids received, the apparent lowest bid for the project was from STX for \$1,656,416 (\$150,000 add-on items included). Engineers, of Creative Rail Solutions and Civil Design recommended the STX, as the lowest responsible bidder.

After further review, the STX realized total would have been \$1,506,416, with add-on items for \$111,500 (\$1,617,916 total), instead of the previously stated amount of \$1,506,416, plus \$150,000 for add-on items (\$1,656,416 total).

County Manager Bone stated Amtrac Railroad Constructors of Maryland made the claim that STX Corporation had only a Limited license to operate construction project in North Carolina. The County gave STX Corporation 24 hours to respond to the allegations. After review, STX Corporation admitted there had been an oversight in the license renewal. Apparently, STX had allowed its North Carolina Unlimited license to expire.

As a result, County Manager Bone stated even though the County originally voted to award the bid to the lowest bidder, STX Corporation was consider to be non-responsive due to its licensing limitation not meeting the project value.

County Manager Bone explained that North Carolina divides construction licenses into three types: Limited, Intermediate, and Unlimited.

- The *Limited License* has a financial limit per project of up to \$500,000. In order to qualify, an applicant must be financially stable and show total worth exceeds total liabilities by \$17,000.
- The *Intermediate License* has a financial limit of up to \$1,000,000 per project. In order to qualify, an applicant must be financially stable and show total worth exceeds total liabilities by \$75,000.
- The *Unlimited License* is not restricted to the value of the project. In order to qualify an applicant must be financially stable and show total worth exceeds total liabilities by \$150,000.

Attorney Bowen, along with the School of Government lawyers, advised the County to move forward with the process and name the next lowest responsive, responsible bidder, rather than open itself up to a potential liability by continuing to work with STX Corporation.

After further review, the engineering team, Creative Rail Solutions and Civil Design, deemed five (5) instead of six (6) of 8 bids to be qualified bids. Engineers, of Creative Rail Solutions and Civil Design recommended the lowest responsible bidder to be Amtrac RR Constructor of Maryland at \$1,798,129 (\$1,701,729 construction and \$96,400 add-on items).

County Manager Bone stated while Creative Rail Solutions and Civil Design were not liable for the difference in increased project cost (\$180,213), he would seek some consideration of their engineer fee for not realizing the company's license was not valid for the Industrial Park Rail Expansion project. The Board consensually agreed some consideration was due and gave County Manager Bone suggestions on how to proceed with the request.

Commissioner Smith made the MOTION to approve the lowest responsible, responsive bidder, Amtrac RR Constructor of Maryland, for Project AC/Weitron – Martin Regional Business Park Rail Extension and to award the construction contract, pending review of NC Department of Transportation, for a not to exceed amount of \$1,798,129, with the understanding that the bid for STX Corporation was unresponsive. Vice Chairman Bowen SECONDED the motion. The Board APPROVED the motion unanimously.

ADJOURNMENT

With no further business to discuss, Commissioner Ayers made the MOTION to adjourn the meeting at 4:55 p.m., with a SECOND by Commissioner Bond. The Board APPROVED the motion unanimously.

Elmo "Butch" Lilley, Chairman

Marion B. Thompson, NCCCC
Clerk to the Board