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**CITY OF ESSEX JUNCTION
CITY COUNCIL
SPECIAL MEETING
MINUTES OF MEETING
April 3, 2023**

COUNCILORS PRESENT: Andrew Brown, President; Raj Chawla, Vice President; Dan Kerin; Amber Thibeault; George Tyler.

ADMINISTRATION: Regina Mahony, City Manager; Jessica Morris, Finance Director.

OTHERS PRESENT: Danielle Brown, Charles Bucchioni, Marcus Certa, Brian Curtis, Tamara Jaques, Brett Johnson, Christopher Kline, RSM, James Pfeiffer, Shaun Robinson, Ken Signorello, Harlan Smith, Jack Smith, Edward Snowden, Tracie Spencer, Chris Sterzinar, Jason Struthers, CCTV, Ken's iPhone, Heidi, Iphone, Brent, Ken, Guest, Chris, CCK, AKorb, Chris, g...lol, Erna's iPad, iPhone(2), Tim, AliPhone, Elle, Brandon, Bob, Rick, Upkar, Andrew.

1. **CALL TO ORDER**

Councilor Brown called the meeting to order at 7:00 P.M.

2. **AGENDA ADDITIONS/CHANGES**

None.

3. **APPROVE AGENDA**

No approval needed as no changes were made to the agenda.

4. **PUBLIC TO BE HEARD**

a. Comments from public on items not on the agenda

None.

5. **PUBLIC HEARING**

a. Public Hearing on the IT RFP Bid Protest

Councilor Brown began by noting that the Appellant is Simpleroute and the Appellee is the City of Essex Junction staff, and by swearing in the witnesses that would be giving testimony during this public hearing.

Brett Johnson testified on behalf of the Appellant. He noted that Simpleroute is a managed services provider out of Burlington, Vermont. He noted that his firm was only firm to find vulnerabilities in the NEMRC software that is used by both the City and Town, which exposed bank and social security information for taxpayers and staff. He said that notifying municipalities of this at the company's own expense is a good demonstration that the company puts the values of its clients first. He said that his company is the most qualified for this Request for Proposals (RFP). He noted that the City Manager made comments during his company's walkthrough that were dismissive of the RFP process itself. He also noted that the City Manager arrived late for his company's one-hour interview with the City as part of the RFP process. He noted that while his company is not the cheapest bidder, they typically draft the most comprehensive and strongest proposals, and he was greatly surprised that the most expensive bid was selected as the apparently successful bid for this RFP. With respect to this process, he asked the City Council to consider whether cost considerations were taken into account when selecting the apparently successful bidder. He also asked whether the City's purchasing policy was followed and at least three quotes were obtained from vendors when the City engaged with Open Approach [the apparently successful bidder] on a smaller project with the City's Water Department. He noted that his firm included on-site and off-site support, but that Open Approach's bid included on-site support only for emergency work. He noted that the apparently successful bid included replacement of the majority of core equipment, though several of the City's devices are under active support and warranty and are still

54 viable. He asked whether selecting the bid that is chosen would set a precedent by the City for ignoring
55 price as a qualifier in the RFP process. He said that his firm proposed an alternative approach to splitting
56 the Town and City infrastructure, but that it was dismissed even though it could save the municipalities
57 money. He asked what makes the apparently successful bid stand out as the winning bid.

58
59 He submitted evidence along with his testimony, including the Purchasing Policy from the Town of
60 Essex/Village of Essex Junction, the FAQ under the Village Website from August 21, 2021, and a
61 September 2, 2022 Town of Essex Accounts Payable posting from August 5, 2022.

62
63 Regina Mahony, City Manager and Appellee, declined to cross-examine the witness.

64
65 Councilor Tyler asked for clarification on the connection between the conversation about the Town and
66 Village separating and the current issue around the IT department and this bid. Mr. Johnson said he
67 brought it up because the separation conversation discussed how the Village could save money by
68 separating their IT costs from the Town, and that statements made about the IT department's cost to
69 the Village should be compared to the current costs proposed by the apparently successful bidder's
70 quote.

71
72 City Manager Mahony testified on behalf of the Appellee. She spoke to several points in the appeal letter
73 received from Simplero. She said that with regards to the RFP process being a forgone conclusion,
74 she assured the Council that the process was fair, sound, a thorough process to secure the best vendor
75 for the City. She said she has no recollection of making remarks that would compromise the RFP
76 process. She acknowledged that she was late to the interview with Simplero, but noted that the City
77 had an 8-person review committee for this RFP and that the process was in good hands while she was
78 unavailable for the beginning of the interview. She said that this was an involved process, including the
79 issuing of the RFP in October, 2022 with site visits scheduled in November, and that 5 proposals were
80 received. She said that interviews were conducted with finalists and that staff sent additional information
81 to finalists prior to final proposal submission. She noted that the migration approach proposed by
82 Simplero would not have worked for the City for security reasons, citing stringent federal
83 cybersecurity requirements in a contract that the Police Department holds with the Federal Bureau of
84 Investigation (FBI). She outlined the scoring approach and results from the 8-person bid review team,
85 noting that Open Approach scored the highest for 5 out of the 8 individuals on that team. She said that
86 staff recommended selecting Open Approach as the finalist and Dominion Technologies as the second
87 choice for bidders, and that she made the final decision to select Open Approach as the apparently
88 successful bidder. She said that the contract between the City and Open Approach is currently being
89 negotiated. She spoke about the scoring criteria used in the RFP process, which included experience,
90 understanding of services to be provided, personnel expertise, compatibility with end users, project
91 approach, satisfaction of clients and users, and cost. She said that Open Approach scored highly
92 because it had a realistic project approach that included conducting a more in-depth, investigative step
93 of inventorying the current equipment before narrowing in on a more refined cost proposal. As a result
94 of this, Open Approach's cost proposal in the bid was "worst-case scenario" and would be refined if it
95 were selected as the bidder and able to conduct that more investigative inventory step. She said that
96 additionally, the migration approach was in line with the direction provided to vendors prior to final
97 submittal, the monthly service fees were inclusive of licenses, the addendum was a helpful explanation
98 of security risk and mitigation, and while the proposal was more costly, the bid review team felt that the
99 approach best matched current needs. She noted that with regards to Simplero's proposal, their
100 migration approach would violate the Police Department's service agreement with the FBI, and they
101 submitted this approach in their final proposal, plus an alternative, even when they were notified that
102 their initial approach would not meet the City's needs. She noted that while Simplero uncovered
103 security weaknesses in NEMRC's data, the repeated statement of that by Simplero has the effect of

104 repeatedly identifying a failure of NEMRC, a company the City works with, and that did not sit well with
105 review committee members. She submitted evidence along with her testimony, including talking points
106 and confidential pages from vendors' bids that she submitted under seal.
107

108 Mr. Johnson cross-examined the Appellee. He noted that Open Approach, the awardee, needs to do a
109 review of work to provide a price. He asked why none of those questions were asked up front, prior to
110 the second round of questions and responses. City Manager Mahony replied that the process was the
111 same and fair for everyone and that Open Approach's response to the proposal said that their first step
112 would be taking a more investigative approach to refining its cost proposal. Mr. Johnson clarified that
113 Simpleroute's approach to migration would in fact not run afoul of federal requirements or violate the
114 Police Department's service agreement with the FBI. He asked for a summary of the water resources
115 project that the City engaged Open Approach for. City Manager Mahony replied that she was not
116 employed by the City at the time of that project. Mr. Johnson asked if other quotes were received for
117 that work. City Manager Mahony replied that she believed it was a sole source contract. Mr. Johnson
118 asked about the scoring methodology for the bid and how each criteria was weighted. Ms. Mahony
119 replied that the criteria were weighted equally, that the score was between 0 and 10 for each, and that
120 they were summed to arrive at a total score for each bid.
121

122 Councilor Chawla noted that mention of the uncovering of NEMRC vulnerabilities didn't sit well with the
123 bid review team and asked how much of an impact that may have had on scoring. City Manager Mahony
124 said that it did not seem to have much of an effect on scores and that the scores were all relatively close.
125 She said that NEMRC was brought up in every interaction with Simpleroute, and that it didn't sit well.
126

127 Councilor Brown asked about the updated inventory that was shared with two of the three vendors later
128 on in the process. City Manager Mahony said that the inventory was shared with all three vendors
129 following the interviews and prior to the final submission of bids. Councilor Brown asked if Open
130 Approach's "worst case scenario" cost estimate was unique to that vendor or whether all vendors shared
131 a "worst case scenario" estimate, and City Manager Mahony replied that the cost estimate provided by
132 Open Approach was unique and that they proposed to conduct an investigatory step to narrow and
133 refine their estimate as part of their proposed scope of work.
134

135 Councilor Chawla asked about the level of information each vendor was given and City Manager Mahony
136 replied that each vendor was invited to a site visit to tour the City's facilities and view its equipment and
137 given the same level of information.
138

139 The Appellant, Mr. Johnson, made his closing remarks. He spoke in more detail about the NEMRC
140 software and its security flaws and said that his company designs software around that. He spoke about
141 the RFP process, saying that every firm was afforded the same opportunity and the same level
142 information. He said that it is concerning that Open Approach was not able to provide a more accurate
143 cost estimate than its "worst case scenario" estimate, given that other vendors were able to provide
144 more accurate and definitive cost estimates when submitting their final bids.
145

146 The Appellee, City Manager Mahony, made her closing remarks. She expressed confidence that the
147 RFP process was thorough, comprehensive, and well-executed. She said that the bid review team felt
148 that Open Approach's costs would not come in as high as their initial proposal and that she still believes
149 that selecting Open Approach was the right decision.
150

151 Councilor Brown closed the public hearing.
152

153 6. **BUSINESS ITEMS**

154 a. Deliberative session to discuss the IT RFP Bid Protest

155
156 **ANDREW BROWN made a motion, seconded by RAJ CHAWLA, that the City Council enter into a**
157 **deliberative session to discuss the IT contract award appeal, pursuant to 1 V.S.A. §312(e) & (f)**
158 **to include the City Council and City Attorney. The motion passed 5-0 at 8:11 P.M.**

159
160 **ANDREW BROWN made a motion, seconded by RAJ CHAWLA, to exit deliberative session. The**
161 **motion passed 5-0 at 9:55 P.M.**

162
163 7. **CONSENT AGENDA** – none.

164
165 8. **READING FILE** – none.

166
167 9. **EXECUTIVE SESSION**

168 a. *An executive session is not anticipated

169
170 10. **ADJOURN**

171
172 **DAN KERIN made a motion, seconded by RAJ CHAWLA to adjourn the meeting. The motion**
173 **passed 5-0 at 9:56 P.M.**

174
175 Respectfully Submitted,
176 Amy Coonradt