

**Wachusett Regional School District (WRSD) Building Committee
Meeting of 9/29/04**

In Attendance: Joe Bondi (TLT), Catherine Collins, Frank Fiore (URS, Construction Manager), Ben Gary (Moriece & Gary), Roger O. Hoit (SHR, Architects), Duncan Leith, Mike McLarney (URS), Maria Millett, Steve Penka (WRSD), Joe Raimondo (SHR), Ralph Rondinone, Mike Tsotsis, Emerson W. Wheeler, III, and Tom Pandiscio (WRSD).

- I. The meeting was called to order at 6:07 pm.
- II. Shawn Ilinituh from the T&G was present for most of the meeting.
- III. Approval of prior meeting minutes from 8/25 & 9/8 was deferred until the 8/25 minutes are circulated for review, and until the 9/8 minutes are reviewed by SHR for further comments/changes.
- IV. Architect Update.

Roger noted that Joe Bondi of TLT was to come to the meeting to speak about the extent of the erosion control over the past several weeks and the process that has taken place, including the visits of Con Com (almost daily), and a consultant retained by Con Com to review the erosion control. Roger noted that TLT will state that in their opinion there were items requested by Con Com and the consultant, as well as by DCR, that go beyond the requirements in the specs. In Roger's opinion there is a line as to what's owned and not. The Order of Conditions was in the contract documents that TLT bid on. It was mentioned by Roger that there might be additional erosion control requested by Con Com that in Roger's opinion would be above and beyond what's considered base contract work. He noted that the contractor owns erosion control measures, but then gave examples of items that he thought would be considered above and beyond the contract documents by TLT, such as some of the screening and orange tarp. The precautions required by Con Com and their consultant have made a substantial difference. Roger believes that there will be ongoing discussion on the responsibility and cost for all the work that has gone on since the storms, but noted that he wanted the committee to consider changes (that will be mentioned) to the project plans that will help assist the project financially and procedurally with regard to future work and expenses, such as blasting ledge.

Roger said there is work done by the GC that is owned by the GC, such as the detention basins behind the football field. The GC owns it, although the shape is different – it will be modified later to conform to fit the project plans. TLT has said they have spent over \$200,000 on erosion control that TLT does not own as part of their contractual obligation. Roger said he thinks we believe TLT does own the work.

Roger then mentioned the export site of material and the additional ledge in the baseball field area that would require blasting. The raising of the field was discussed which is a redesign, done to minimize ledge removal. The unsuitable material from the school site

can be used in the play fields, which would help use the material that currently cannot be sold. The material is not hazardous; ongoing discussion with TLT regarding the material is continuing.

The discussion then reverted to erosion control. Mike noted that at the last meeting Roger said the cost to control the site is the GC's responsibility, and read from the contract specs. Now it has been noted by Roger that a lot of work has been done that could be over and above the contract. Roger is now telling the committee at this meeting that the contract covers us to an extent, but there has been more work that could be deemed above and beyond the contract. Discussion ensued.

Ben Gary noted that the specs say the GC is to provide erosion control, and it is noted in detail, but the GC did not do what was required in Ben's opinion. Ben Gary never saw an erosion control plan and does not believe one was done. He said the specs specifically state what to do and the Order of Conditions specifies what is to be done, but the work was not done. Roger said TLT did submit an erosion control plan with hay bales around the site, but it doesn't comply with the requirement of the erosion control plan. At the first break, there were modest efforts made by TLT, and then at the 2nd break Ben Gary got involved and started to do the erosion control plan to facilitate the work getting done. Conservation got involved and their consultant was retained; Con Com required additional measures to be taken. Per Ben, the specs are very clear and the drawings are too, but the work wasn't done by TLT.

Ben Gary stated he has said all this to TLT and pointed this out to others as well. He put all this in a letter. (Exh 7C). Roger believes some things requested by the Department are beyond what the contract required, but he agreed that we wouldn't be discussing this problem if there wasn't a breach.

Ben Gary suggested that when Joe Bondi arrived at the meeting to present the position of TLT that the committee listen, ask questions, get TLT's concerns (sub-contractor bills, etc) and later we can get down to the details of TLT's charges for the work and look at each item for review. Tonight is a broad review of the position of TLT – for TLT to present their story.

There was a meeting break of approximately 10 minutes as Joe Bondi arrived. The meeting then resumed with introductions of each member present.

Joe Bondi began, noting the unfortunate situation we had, and he stated TLT's position that this is extra to the contract, as he has told SHR. Joe said that TLT would still proceed with whatever it takes. They made great progress and in fact had no occurrence today. TLT got a report from the consultant for Con Com who reviewed the site today and said the site was in good shape. TLT said there were a lot of costs for the work done. He said he could answer questions, otherwise TLT would proceed with the contract and the procedures under it. TLT said they own the grading, the perimeter control and maintaining erosion control per the drawing and Order of Conditions. The specs were written and the Order of Conditions was attached and therefore, the Order of Conditions

supersedes anything in the contract. The Order of Conditions overrides the specs per TLT. TLT said prior to 7/24/04 they did all that was on the erosion control drawings and when they were done, he had to contact Con Com and do a walk through with Con Com. It was done and approved by Con Com. Ben Gary referred to the Order of Conditions, paragraph 15 on page 4, and said a conflict was needed to override the specs. Further discussion ensued on this point. TLT said they would go as far as they can. To date, TLT has done \$130,000 to \$150,000 in work that is non-contractual and belongs to the applicant (WRSDBC). Not all of the work that has been done since the first storm is non-contractual per TLT, for example, the 2 detention basins.

In response to the question being raised, TLT noted that no one that walked the property asked for more work to be done, but the walk through was before the trees were cut.

Additional work still to be done is approximately \$100,000 because TLT needs to maintain erosion control. Total extra/non-contractual costs are \$250,000, per TLT. Roger noted that he believed 90% of the work has already been done so he is surprised by the additional \$100,000.

Con Com voted to lift the cease and desist order at a recent meeting and SHR was verbally told this, but the cease and desist order has not been lifted in writing. The building is still being worked on, but other areas, site work, are not being done per the cease and desist order. The next meeting of Con Com is 10/21 at 7 am.

The unsuitable soil was then discussed, as well as the 37 – 45 days lost, resulting in the C building probably not being ready as early as TLT had first planned. The opening of the school is scheduled down to the wire due to the lost days, which may not be made up, per TLT. A number of activities will have to be underway in the winter in order to try to make up time. The unsuitable removal costs were discussed; they are estimated at \$1 million for the unsuitable soil removal and ledge removal. Joe R. will issue an RFP to look at the additional cost for using the unsuitable material and build up the field compared to blasting for the fields, but it was noted that blasting is not a credit as it was a contingency item.

There was considerable discussion on the proposed changes to the baseball field presented by Ben Gary.

The following items were also noted and discussed.

Flooring – Attachment 1 – signed releases.

Schedule – float 35-47 days delay was noted. We have asked for a recovery plan.

Intel – equipment in storage – renting trailers costs, items in storage include fixtures, plumbing, metal insulation, and valves. The District has used much of the light bulbs, if not all of them from Intel. The issue of payment from the District for the light bulbs was raised and noted for Steve.

V. CM report – see Report 16. Project Adventure is well underway. The Change Order number is higher due to the bond. The Report was reviewed section by section by the CM, URS.

VI. Payment Authorizations.

The following were already approved by the Superintendent.

URS bill for \$18,000. **MOTION:** To approve, made by Emerson, seconded by Duncan, unanimously approved.

SHR bill for \$109,591.65. **MOTION:** To approve, made by Emerson, seconded by Duncan, Unanimously approved.

Leo McCabe's bill for \$2175. for the Meyer lawsuit. **MOTION:** To approve, made by Duncan, seconded by Maria, opposed by Cathy, approved by the remainder of the Committee. Leo McCabe's bill for \$1495. **MOTION:** To approve, made by Maria, seconded by Duncan, opposed by Cathy as to the portion of the bill relating to the Meyer lawsuit, approved by the remainder of the Committee.

Change Order #6 for \$580,089.00 for TLT. **MOTION:** To approve, pending confirmation by URS of the numbers, made by Duncan, seconded by Maria, unanimously approved.

TLT bill for \$1,513,259.70, which bill includes change order #6 (this bill is not for any disputed work). **MOTION:** To approve, made by Emerson, seconded by Duncan, unanimously approved.

\$6500 bill for professional services, Moody rating. **MOTION:** To approve, by Emerson, seconded by Duncan, unanimously approved.

\$4250 administration fee for general obligation bond. **MOTION:** To approve, by Duncan, seconded by Maria, unanimously approved.

Bill for \$641.68 was previously voted on, and requires signatures at tonight's meeting.

\$75 for 2 bills for 2-one month rental periods for the trailer rental. **MOTION:** To approve, made by Duncan, seconded by Mike, unanimously approved.

\$1285 plumbing bill for work done on 9/9, 9/13, and 8/31 to clear the blockage next to the temporary courtyard. **MOTION:** To approve and to pass the bill on to TLT to pay, made by Ralph, seconded by Duncan, unanimously approved.

Tom raised the issue of overtime by staff of the WRSD for the flooding that had to be cleaned up (not sure what caused the flooding). This bill will be brought to the WRSDBC.

IX. New Business.

Erosion control, CCDs # 8 & 9 (not to exceed \$12,000 & \$10,000) were presented and tabled. Mike suggested we not approve these CCDs as they are related to erosion control. The Superintendent contacted the District counsel who said it would raise a liability concern for the District if the bills were approved and paid. Additionally, SHR reported that the work was not done by TLT as described (TLT used a different product and therefore, the scope of the work changed). This work was for items requested by the Town's consultant. **MOTION:** To not approve CCDs 8 & 9, made by Mike, seconded by Duncan, unanimously approved.

CCD # 10 for the berm. This cost to TLT was not to exceed \$5000; the CCD is being revised and will be presented as CCD # 10R for \$10,000. The main item on this is safety of the students and traffic flow of buses. Jersey barriers and paving was required. URS already saw this item and said the work needs to be done. This item wasn't figured in originally because of changes in the construction site with the basin. **MOTION:** To approve this item, made by Ralph, seconded by Duncan, unanimously approved. Thus, this item will now go to the Superintendent.

The payment approval process was briefly reviewed – bills will go to URS, then to the Building Committee, and last to the Superintendent.

CCD # 11 for the video of the pipeline to identify the cause of the problem, not to exceed \$2000. SHR explained that we can always amend the contract on an approved CCD if it is later determined to be attributed to the fault of the GC. **MOTION:** To approve, made by Emerson, seconded by Emerson, unanimously approved.

VII. Budget Review. Project Budget was handed out by SHR.

VIII. Nike – They needed information – to be provided. No update.

Peer review by the Town of Holden – no update.

Modulars – no update.

Construction issues – cease and desist already noted; commemorative plaque – Roger agreed to suggest ideas, such as the use of Wachusett stone, brass plaque. Roger will draft something and bring it to the committee.

No other construction issues.

MOTION: To adjourn the meeting; made by Ralph, seconded by Maria; unanimously approved.

The meeting was adjourned at 9:33 pm.