

## MINUTES OF THE ANCHORAGE SCHOOL BOARD

### SPECIAL MEETING OF MAY 25, 2000

The Anchorage School Board met in Special Session on Thursday, May 25, 2000 at 9:30 a.m. in the Board Room, at the Anchorage School District Administration Building. President Peggy Robinson presided.

#### A. CALL TO ORDER, ROLL CALL, FLAG SALUTE

Board Members Present: Peggy Robinson, Dave Werdal, Kathi Gillespie, Rita Holthouse, Bettye Davis, Harriet Drummond and Debbie Ossiander.

Others Present: Bob Christal, Carol Comeau, Ray Amsden, Mary Tanghe and other interested people.

#### B. CONSENT AGENDA

##### ASD Memorandum #314 – Award of Contract: Chugiak High School Renewal Phase I – Site Improvements

It is the Administration's recommendation that the School Board approve and authorize the Superintendent to award a contract for the Chugiak High School Renewal Phase I – Site Improvements work to Construction Unlimited, Inc. in the amount of \$251,250.

##### ACTION:

Moved by Kathi Gillespie to bring Memorandum #314  
seconded by Debbie Ossiander back to the table.

Bob Christal stated that all Board members have been provided with the requested copies of the responses to the bids from both parties as well as a letter received from Seacoast Construction this morning. Copies of the Invitation To Bid are available for review in the Board office.

Mike Stephenson, Jermain, Dunnagan and Owens, stated that the award of contract is being challenged because of questions surrounding the submittal of the substantial and the final completion schedule by Construction Unlimited. Mr. Stephenson explained that certification included in the bid stated that the contractor agrees to complete all work listed in the bid by signing and submitting the bid form. The contractor is bound by the dates stated in the bid documents.

Stu Nibeck stated that a revised schedule was to be submitted on Friday, May 19, 2000. Construction Unlimited had explained that there

was a glitch in the computer program when the original schedule was made and that a revised schedule would be submitted.

Grant Watts, attorney for Seacoast Construction, stated that a contractor either submits the provisional preliminary schedule or a revision in accordance with the bidders own plan. Mr. Watts noted that Construction Unlimited was non-responsive in their bid when they provided a schedule that doesn't show substantial completion by August 7th. The rules weren't followed.

Mike Stephenson noted that a written response regarding the revised schedule would have been appropriate and that when Construction Unlimited submitted a revised schedule, they may have thought they were in compliance.

Bob Christal asked Stu Nibeck why the award of contract wasn't pulled from the May 22, 2000 School Board Agenda if the revised schedule was not received in the requested timeframe.

Stu Nibeck explained that the revised schedule was to be delivered on Friday, May 19, 2000 but that he was not available Friday because of a death in the family.

Bob Christal inquired if Stu Nibeck expected that the bid award would move forward as it did.

Stu Nibeck stated that he expected that Construction Unlimited would submit a detailed schedule that would give the District the right to enforce the substantial completion date. Construction Unlimited also signed their portion of the contract which indicates a final completion date of August 21, 2000.

Rita Holthouse expressed concern that two different answers were given to the same questions asked of Construction Unlimited at the May 22, 2000 School Board meeting concerning the submittal of the completion schedule. Dr. Holthouse inquired about the difference in those answers and if the questions surrounding the completion schedule had to do with having experience in Chugiak or if it was indeed a computer glitch.

John Herring, President of Construction Unlimited, explained that the landscaper needs more time for maintenance and yes, the computer program made an error as far as extending the bar chart on the schedule is concerned. Construction Unlimited has done work for the District in the past and has cleaned up and maintained a project after the contract has ended. Mr. Herring stated that there was a computer error and that they are aware that time is needed for cleanup.

Construction Unlimited also submitted a schedule showing completion by a specific date. Mr. Herring further stated that a preliminary schedule was also submitted noting that Construction Unlimited went above and beyond their duty in submitting their completion schedule. Mr. Herring noted that when Larry Johnstone went to drop off the revised schedule on Friday, he planned to review the entire schedule with Stu Nibeck and submit a written confirmation. However, there wasn't anyone available to review the schedule with Mr. Johnstone until Monday afternoon. In submitting the revised schedule as requested, Mr. Herring stated that Construction Unlimited had every reason to believe the revised schedule was not an issue in the award for contract.

Mike Stephenson noted that the decision was made to award the contract to the low bidder. The schedule was non-responsive but it had been clarified. It would have been better to receive a written clarification from Construction Unlimited but the District did receive an oral clarification. In Mr. Stephenson's opinion, the District was justified in going forward. It is fairly typical for contracts of this nature to have a revised completion schedule.

Dave Werdal commented that it's imperative that all bidders have a level playing field noting that he would not want to have any contract awarded that could be perceived as one bidder have an advantage over another bidder. Mr. Werdal stated that he could not support this recommendation at this time.

Kathi Gillespie commented that while there may be some technical irregularity in the awarding of this contract, everything is spelled out in the bid documents concerning the dates that need to be honored and observed. Ms. Gillespie stated that she will be supporting the Administration's recommendation to award this contract.

Rita Holthouse noted that changing end dates on a completion schedule cannot be made without making the bidder non-responsive. If a contractor had a contract hinged on the timely submission of a timely document, that document would have been date stamped and left with someone in the office even if the person who was to actually review the document was not available. Dr. Holthouse stated that she will not be supporting this recommendation.

Debbie Ossiander brought to the Board's attention Board policy listing the specific reasons for rejection of a bid. Ms. Ossiander urged the Board to rely on the advice of the District's attorney and to carefully consider Board policy which is very specific in the Board's discretionary power in rejecting bids. Ms. Ossiander stated that she will be supporting the Administration's recommendation.

Bettye Davis commented that it is her belief that even though Construction Unlimited is the low bidder, they have been given an unfair advantage over the other bidders and this award needs to go to the next bidder in line.

Peggy Robinson commented that she is having a difficult time in accepting Construction Unlimited's construction network as a substitute to the District's required time schedule noting that it doesn't list the critical dates. Ms. Robinson further commented that she believes that Construction Unlimited did have a computer error, which happens under timeline pressure, but at the same time, accepting errors that could be considered substantial creates unfair advantages.

Debbie Ossiander suggested that the Board go into executive session to discuss potential liability the District could incur before a decision is made on this award of contract.

Dave Werdal commented that if an executive session was needed it should have been done beforehand and not at this time.

Rita Holthouse stated that she does not agree to go into executive session at this point and that she will not participate if the Board so chooses to go into executive session.

Kathi Gillespie commented that it is appropriate to go into executive session to discuss potential litigation and this clearly falls within the guidelines of going into executive session.

After a brief recess, Debbie Ossiander withdrew her request for an executive session.

VOTE ON MAIN MOTION:

Ayes: Drummond, Ossiander, Robinson, Gillespie

Nays: Werdal, Holthouse, Davis

MOTION PASSED.

Peggy Robinson stated that in Policy Section 725.415, if one of the options is indicated for rejecting an appeal and it is found that there was not a substantial non-compliance or non-responsiveness and that allowing the revised schedule in the proposal is appropriate.

ASD Memorandum #334 - Award Of Contract: Russian Jack Elementary School Demolition





Debbie Ossiander stated that bids are not awarded until the Board approves an award of contract. Nothing is final until the School Board awards the contract.

Charles Bowers noted that he is merely saying that costs have already been incurred and the he is confident that L & C Services will prevail in this appeal.

Mike Stephenson noted that the Administration initially rejected Chenega's bid as non-responsive based on the schedule issue. Chenega responded with a letter clarifying its schedule which was identical to the District's requested dates. The only difference was the watering of the landscape and the clean up. All major elements of landscaping would be completed by August 15th. Chenega submitted their schedule with their original bid and provided written clarification in their letter.

Bob Christal recommended that the Board reject the appeal of L & C Services. The Administration will meet with the appellant regarding the reimbursement of money already expended by the appellant. Mr. Christal further stated that the Administration will meet with the appellant immediately following this meeting.

Kathi Gillespie stated that she will support the Administration's recommendation.

ACTION:

Moved by Kathi Gillespie  
seconded by Debbie Ossiander

to approve the Award of  
Contract for Russian Jack  
Elementary School Demolition

to

Chenega Management.

VOTE:

Ayes: Drummond, Ossiander, Werdal,  
Robinson, Gillespie, Davis

Nays: Holthouse

MOTION PASSED.

C. SCHOOL BOARD COMMENTS

Bob Christal noted that an executive session is needed to discuss personnel issues and student hearing issues.

Bob Christal requested that a Board meeting be scheduled at 3 p.m. on June 5, 2000 to deal with the remaining budget reductions and to

address the activity fees for sports at both the middle school level and the high school level.

D. EXECUTIVE SESSION - (PERSONNEL, FINANCE, NEGOTIATIONS, LITIGATION)

ACTION:

Moved by Kathi Gillespie to recess to executive session.  
seconded by Debbie Ossiander  
and unanimously approved

Tape 5/25/00-1: Personnel Issues and Student Hearing Issues:  
There shall be no release of this tape of the executive session as it pertains to matters required to be confidential by law relative to right to privacy matters.

The Special Meeting was reconvened at 12:50 p.m.

D. ADJOURNMENT

The Special Meeting of May 25, 2000 was adjourned by unanimous consent at 12:55 p.m.

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Peggy Robinson, President

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Kathi Gillespie, Clerk

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Date Minutes Approved