



MAY 28 2024

BOARD of CLALLAM COUNTY COMMISSIONERS

MINUTES for the week of May 20-24, 2024

WORK SESSION – 9 a.m.

The work session convened at 9 a.m., Monday, May 20, 2024. Present were Commissioners French and Johnson, and Administrator Mielke. Commissioner Ozias was excused.

Items of discussion per the agenda published May 16 were:

- Calendar/Correspondence
- Resolution appointing Colleen Robinson to the Peninsula Housing Authority Board of Commissioners
- Resolution appointing David Gedlund to the Revenue Advisory Committee
- Agreement with Washington Water Trails Association for water access and camping at Salt Creek Recreational Area Park
- Pre-application questionnaire with Office of Crime Victim Advocacy for Victim Witness Assistance Grant
- Agreement with Washington Association of Sheriffs and Police Chiefs for mental health field response
- Agreement for Kitsap Critical Incident Response Team
- Agreement with Department of Commerce for STOP Violence Against Women Formula Grant
- Agreement with MUIR Communications LTD for radio connections
- Letter of support for Washington State Department of Commerce for Clean Energy Grant
- Letter to Rayonier Corporate Headquarters regarding the Olympic Discover Trail
- Agreement with Peninsula Behavioral Health for affordable sales and use tax 1406 funding grant
- Agreement with Port Angeles Waterfront Center for 2024 Hotel/Motel Tax Funds/\$100,000
- Agreement with Washington Festival and Events Education Foundation for 2024 Hotel/Motel Tax Funds/\$157,500
- Agreement with Clallam County Public Works for 2024 Hotel/Motel Tax Funds/\$84,400
- Agreement with Clallam County Parks, Fair and Facilities for 2024 Hotel/Motel Tax Funds/\$75,500

Meeting concluded at 9:54 a.m.

REGULAR MEETING OF THE BOARD OF CLALLAM COUNTY COMMISSIONERS

Chair French called the meeting to order at 10 a.m., Tuesday, May 21, 2024. Also present were Commissioner Johnson and Administrator Mielke. Commissioner Ozias was excused.

REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

ACTION TAKEN: CRJm to adopt the agenda as presented, CMFs, mc

PUBLIC COMMENT

- John Worthington, Sequim, commented on item 2a
- Jim Stoffer, Sequim, commented on item Revenue Advisory Committee Meeting, Trust Land Transfer Program, school districts

CONSENT AGENDA

- 1a Approval of vouchers for the week of May 13
- 1b Approval of payroll for the period ending April 30
- 1c Approval of minutes for the week of May 13
- 1d Call for hearing to be held on Tuesday, June 4, 2024 at 10:30 a.m. regarding amending Clallam County Code Title 21, Building and Construction Code
- 1e Letter to Rayonier Corporate Headquarters regarding the Olympic Discover Trail

ACTION TAKEN: CRJm to adopt the consent agenda as presented, CMFs, mc

REPORTS AND PRESENTATIONS

- CRJ commented on Dream Playground, workforce training, Peace Officer Memorial Ceremony, Revenue Advisory Committee Meeting
- CMF commented on Opportunity Fund Meeting
- ATM commented on school district tour

CONTRACTS AND AGREEMENTS

2a Agreement with Department of Ecology for Water Resources Streamflow Restoration Program

ACTION TAKEN: CRJm to approve, CMFs, mc

2b Memorandum of understanding amendment 2 with City of Forks for Opportunity Fund Program Waste Water Treatment Facility Project

ACTION TAKEN: CRJm to approve, CMFs, mc

2c Agreement with Washington Association of Sheriffs and Police Chiefs for mental health field response

ACTION TAKEN: CRJm to approve, CMFs, mc

PUBLIC COMMENT

- Karin Cummins, Sequim, commented on hearing information, \$13 septic fee+
- Karen Hubert, Sequim, commented on Towne Road bids
- Margaret Walthall, Sequim, commented on Towne Road (see attached)
- Jeff Tozzer, Sequim, commented on Sequim Prairie Ditch Meeting, Clallam Conservation District, Towne Road

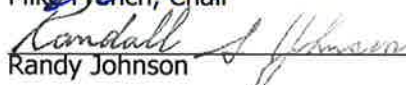
Meeting concluded at 10:32 a.m. and continued to 9 a.m., Tuesday, May 28, 2024

The Board of Commissioners attended WSAC Virtual Update, RAC Special Meeting, Board of Health and Coffee with Colleen during the week of May 20.

PASSED AND ADOPTED this 4 day of June 2024.

BOARD OF CLALLAM COUNTY COMMISSIONERS


Mike French, Chair


Randy Johnson


Mark Ozias

ATTEST:


Loni Gores, MMC, Clerk of the Board

KEY TO ABBREVIATIONS:

ATM Administrator Todd Mielke
CMO Commissioner Mark Ozias
CRJ Commissioner Randy Johnson
CMF Commissioner Mike French

m moved
mc motion carried
s seconded



BOCC Mail Correspondences Received from other Jurisdictions



RECEIVED
CLALLAM CO. COMMISSIONERS

MAY 13 2024

1...2...3...A...

May 7, 2024

Mike French
Clallam County Commissioner
223 4th Street
Port Angeles, WA 98362

Dear Commissioner French,

The members of the Friends of Forks Animals want to thank you for listening and understanding our frustration to provide optimal care for West End animals. Your insight and recommendations are spot on.

We appreciate that you arranged a very positive interaction with Sheriff King at our May 1st meeting. Working with both of you to complete your suggestions portends a very improved future for the West End animals.

We look forward to collaborating with you to follow your suggestions and recommendations.

Best regards,

Judy Schindler, Secretary

Gores, Loni

From: sean@bruchandbruch.com
Sent: Monday, May 13, 2024 4:33 PM
To: Gores, Loni
Cc: Mahan, Rebecca; Jdonisi@clallamcountywa.gov
Subject: McDonald Creek Bid Rejection

Loni

I am writing in regards to the McDonald Project. I won't be available to be part of the commissioner's meeting or able to call in, so I am writing.

Bruch & Bruch Construction has been the only bid in three bid advertisements. We were over the engineer's estimate but also figured that Community Development would want to understand why and explore options prior to rejecting the bid, that does not seem to be the case. Just the concrete was over \$350,000 without any markup and 4 weeks of 7-day a week work. Half of the project time line.

Here are some recommendations for Community Development if they are going to ever build the project and within a reasonable budget. With all the stream work, there is a lot of risk and tight access and short window to build. Some recommendations are listed below-

- Understand the access and the work you are asking to be built by the contractor.
- Release the request for bids earlier in the year to allow for more lead time and planning.
- Find access on the west side.
- Shorten the irrigation window
- Get fish window to start in July
- Remove all the cold joints in the concrete and the backfill cure requirements
- Find more funding and review actual building costs in the Port Angeles area. We have one concrete supplier for State & County projects and with all the Wsdot work, the price is higher than what an engineer from out of the area might find to be reasonable.

Sincerely

Sean Coleman

Sean Coleman
Bruch & Bruch Construction, Inc.
C: 360-460-1435 O: 360-452-5388 F: 360-452-5433
Sean@bruchandbruch.com
www.bbruchandbruch.com

Heavy - Highway
Construction



*An Equal
Opportunity
Employer*

May 14, 2024

Board of Clallam County Commissioners
223 East Fourth Street, STE 4
Port Angeles, WA 98362-3015

RECEIVED
CLALLAM CO. COMMISSIONERS

MAY 17 2024

1...2...3...A...

ATTN: Mark Ozias;
Randy Johnson; and
Mike French
Board of Commissioners

RE: Lower Dungeness River Floodplain Restoration
& Levee/Road Realignment Project – Phase 3
Bid Protest

Dear Board of Commissioners:

In accordance with RCW 39.30.060, Scarsella Bros., Inc. ("Scarsella") respectfully submits this bid protest challenging the bids submitted by Nordland Construction NW, Inc. ("Nordland") and Jamestown Excavating ("Jamestown").

1. Identification of Subcontractors

Every invitation to bid on prime contracts that cost more than \$1,000,000.00 have specific requirements, as outlined in the Revised Code of Washington. Specifically, RCW 39.30.060¹ defines the various requirements for a bid to be considered responsive. One of these requirements, section 1(a), states the following:

Within one hour after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of: HVAC (heating, ventilation, and air conditioning); plumbing as described in chapter **18.106** RCW; and electrical as described in chapter **19.28** RCW, or to name itself for the work;

Additionally, Contractors must also identify the subcontractors intended for the structural steel and rebar installation. As mandated in the following provision:

Within 48 hours after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of structural steel installation and rebar installation.

¹ Revised Code of Washington 39.30.060

Finally, if a bidder fails to meet either of these requirements, their respective bid shall be considered nonresponsive and void. RCW 39.30.060 Sec. 2 establishes this requirement:

The prime contract bidder shall not list more than one subcontractor for each category of work identified, unless subcontractors vary with bid alternates, in which case the prime contract bidder must indicate which subcontractor will be used for which alternate. Failure of the prime contract bidder to submit as part of the bid the names of such subcontractors or to name itself to perform such work or the naming of two or more subcontractors to perform the same work shall render the prime contract bidder's bid nonresponsive and, therefore, void.

2. Bidder Responsiveness

On May 9, 2024, Scarsella inquired with Clallam County whether Nordland or Jamestown had identified their intended subcontractors, as required by RCW 39.30.060. On May 13, 2024, Clallam County responded with the information they have received to date:

- a) **Nordland Construction NW, Inc.**: a note was included on Proposal Signature Page stating "Rebar installation will be self-performed by Nordland Construction." However, no Subcontractor list was included with the bid proposal.
- b) **Jamestown Excavating**: No information regarding subcontractors was included with the bid proposal.
- c) **Del Hur Industries, Inc.**: No information regarding subcontractors was included with the bid proposal.
- d) **Scarsella Bros., Inc.**: Local Agency Subcontractor List included with the bid proposal.

Moreover, Section 1.02.13 of the project specifications² identifies the various ways a bid proposal will be considered irregular. More definitively, Section 1.02.13(e) states a bid project will be considered irregular and will be reject if "the bidder fails to submit or properly complete a subcontractor list (WSDOT Form 271-015)."

As previously stated in RCW 39.30.060(2), the failure of a prime contractor to identify the names of specific subcontractors, or to name itself for such work, shall render the prime contractor's bid nonresponsive and void. Reinforcing this requirement, Section 1.02.13 of the project specifications asserts that a Bidder must submit a subcontractor list, WSDOT Form 271-015³, to be considered responsive. Consequently, Nordland, Jamestown, and Del Hur Industries failed to submit responsive bids consistent with RCW 39.30.060. Clallam County must reject and void each nonresponsive bid proposal.

Scarsella requests the County award the project to the lowest responsible and responsive bidder: Scarsella Bros., Inc.

Sincerely,



Anthony Scarsella, Esq.
Director of Construction Management and Dispute Resolution

² Contract Provisions: Lower Dungeness River Floodplain Restoration & Levee/Road Realignment Project – Phase 3

³ WSDOT Form: Subcontractor List in compliance with RCW 39.30.060



CLALLAM COUNTY Public Works/Road Department
223 E. 4th St., Suite 6. Port Angeles, WA 98362 360-417-2319

May 17, 2024

Anthony Scarsella, Esq.
Scarsella Bros. Inc.
PO Box 68697
Seattle, WA 98168-0697

Subject: Bid Protest
Lower Dungeness River Floodplain Restoration & Levee/Road
Realignment Project Phase 3 – 2024 Construction

Dear Mr. Scarsella,

Clallam County is in receipt of your bid protest letter dated May 14, 2024 for the subject project.

On May 7, 2024, four bids were received, opened, and read aloud by the Board of County Commissioners in public with Nordland Construction being the apparent low bidder. On May 8, 2024, a recommendation to award to Nordland Construction was submitted jointly by the County Engineer and the Director of Community Development to the Board as a part of their packet and posted on May 9, 2024, to the County website. By close of business on May 9, 2024, none of the bidders, including Scarsella, had requested copies of any of the bids received by the County. On May 14, 2024, at their regular meeting, the Board awarded the bid to Nordland Construction. The Board authorized the Chair of the Board to execute a contract with Nordland Construction. This is expected to happen within two weeks.

Your bid protest was submitted (via email) on May 14, 2024, after the Board awarded the bid to Nordland Construction.

RCW 39.04.105 defines the deadline for submission of bid protests. Section 1 states the following:

"Within two business days of the bid opening on a public works project that is the subject of competitive bids, the municipality must provide, if requested by a bidder, copies of the bids the municipality received for the project. The municipality shall then allow at least two full business days after providing bidders with copies of all bids before executing a contract for the project. Intermediate Saturdays, Sundays, and legal holidays are not counted."



CLALLAM COUNTY Public Works/Road Department
223 E. 4th St., Suite 6. Port Angeles, WA 98362 360-417-2319

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May 17, 2024

The request by Scarsella on May 9, 2024, specifically inquired whether bidders 1 & 2 submitted their lists indicating their sub-contractors for installation of structural steel and rebar. This request was for specific information and was not a request for "copies of the bids...received for the project." Because Scarsella did not request copies of the bids within two business days following the bid opening, any bid protest needed to be submitted within two days of the bid opening, as required under RCW 39.04.105. Therefore, this bid protest is untimely and is hereby rejected as such.

Even if the bid protest was timely, the answer by the County (referenced in the bid protest) that "Nordland intends to self-perform the Rebar installation," and the fact that there is no Structural Steel, HVAC, Plumbing or Electrical work on the project, clarifies why no subcontractors were listed. The referenced RCW 39.30.060 that requires the Prime contractor to submit the names of such subcontractors, or to name itself, has been met by Nordland as evidenced by the quote "Rebar installation will be self-performed by Nordland Construction" in the bid protest under Item 2a. Additionally, the last sentence of the third paragraph of Section 1-02.6 of the Standard Specifications states: "If no subcontractor is listed, the Bidder acknowledges that it does not intend to use any subcontractor to perform those items of work."

Finally, the referenced Specification 1-02.13(e) states (in full) "The Bidder fails to submit or properly complete a subcontractor list (WSDOT Form 271-015), if applicable, as required by Section 1-02.6" (emphasis on if applicable). Since Nordland does not intend to utilize a subcontractor for rebar installation, has indicated they will be providing that installation themselves, and there is no structural steel, HVAC, Plumbing or Electrical work, the sub-contractor form is not applicable.

We trust this explains why Nordland did not include a subcontractor list and that their bid submittal was proper.

Clallam County appreciates the time and effort Scarsella Bros put into bidding and asking questions on this matter.

Sincerely,

A handwritten signature in blue ink that reads "Joe Donisi".

Joe Donisi, P.E.
County Engineer
360-417-2404