

**MINUTES OF THE MILLVILLE
TOWN COUNCIL WORKSHOP
May 28, 2019 (5:30 p.m. Executive Session; 7:00 p.m. Open Meeting)**

In attendance were Mayor Bob Gordon, Deputy Mayor Steve Maneri, Treasurer Peter Michel, Secretary Ronald Belinko, Council Member Sharon Brienza, Town Manager Debbie Botchie, Town Solicitor Seth Thompson, and Town Clerk Matt Amerling.

MOTION TO GO INTO EXECUTIVE SESSION.

Secretary Ronald Belinko motioned to go into Executive Session at 5:30 p.m. Council Member Sharon Brienza seconded the motion. Motion carried 5-0.

1. **EXECUTIVE SESSION** - Strategy session involving legal advice or opinion from an attorney-at-law, with respect to potential litigation, when an open meeting would have an adverse effect on the litigation position of the public body.

MOTION TO COME OUT OF EXECUTIVE SESSION AND RECONVENE OPEN MEETING.

Deputy Mayor Steve Maneri motioned to come out of Executive Session at 6:20 p.m. Ms. Brienza seconded the motion. Motion carried 5-0.

2. **CALL TO ORDER**

Mayor Gordon called the meeting to order at 7:00 p.m.

3. **PLEDGE OF ALLEGIANCE TO THE FLAG**

Mayor Gordon led the pledge of allegiance.

4. **ROLL CALL**

All Council members were present.

5. **NEW BUSINESS**

- A. Discuss and possible vote on Executive Session matters.

There was no vote necessary.

- B. Review and possible vote on awarding the work on the Town Park, specifically the hall and recreation buildings, for building and site work, also known as GMB Project No. R170093. The Town has received bids for the aforementioned project. The Mayor and Council will consider the bids, including determinations on the bids' responsiveness, any waiver of informality in bids received, the responsibility of bidders, and whether to accept or reject any items on any bid or to reject any or all bids.

Town Solicitor Seth Thompson stated section fourteen (14) of the Town Charter requires there be competitive bidding to be followed for most projects with certain exceptions. Mr. Thompson stated 14-B requires "[a]ll contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be accomplished by

competitive bidding and the awarding of contracts to the lowest responsible bidder who submits a responsive bid.” Mr. Thompson stated in terms of determining a responsible bidder, Delaware law has found that to be someone qualified to perform the particular work; and in terms of responsive bids, the State procurement statute explains a responsive bid as “a bid conforming in all material respects to the requirements and criteria set forth in the contract plan and specifications.”

Mr. Andrew Lyons Jr., of GMB, stated on April 12, 2019, bids for the Millville Town Park and buildings were received, opened and read publicly. Mr. Lyons stated there were a total of five (5) bids submitted by contractors from Maryland and Delaware, and the total bid amounts ranged from approximately \$1.67 million dollars to \$2.23 million dollars. Mr. Lyons stated the lowest base bid was one-million-six-hundred-seventy-thousand dollars (\$1,670,000.00), which was submitted by Delmarva Veteran Builders of Salisbury, Maryland; the second lowest bid was submitted by the Whayland Company of Laurel, Delaware, which was one-million-seven-hundred-seventy-seven-thousand dollars (\$1,777,000.00); Willow Construction followed the third bid with one-million-eight-hundred-twenty-thousand dollars (\$1,820,000.00); and the contract difference between the three (3) lowest bids was one-hundred-fifty-thousand dollars (\$150,000.00), representing approximately a nine percent (9%) spread. Mr. Lyons stated bids were submitted by Bunting Construction and Kent Construction, which were substantially higher than those other three (3), so we do not consider them for further bid analysis. Mr. Lyons stated GMB did review the lowest three (3) bids and found their recommendation is to award the bid to the Whayland Company for one-million-seven-hundred-seventy-seven-thousand dollars (\$1,777,000.00), which was the second lowest bid, due to the fact GMB recommends the Delmarva Veterans Builders being non-responsive due to a lack of the qualification statement and financials, as well as inconsistency in listing of the unit prices which is not applicable in the bid schedule. Mr. Thompson asked if the second lowest bid included the qualification statement and unit prices. Mr. Lyons stated they did include the unit prices and they had a qualification statement for financials. Mr. Thompson asked what the purpose would be for the qualification statement. Ms. Morgan Helfrich, of GMB, stated the qualification statement is a general accounting of the business, the construction company’s current projects under hand and the amount of money they have able to take on a new project and finish it. Ms. Helfrich stated the unit prices are contingency amounts which are above and beyond the base bid that will be used as needed; the three (3) which were not listed on the non-responsive bid were the modified proctor test, the secure density test, and secure concrete test. Mr. Lyons stated the three (3) tests were listed as non-applicable even though, more than likely, those tests will have to be done.

Mr. Thompson asked if it’s GMB suggestion the qualification statements and/or the unit prices are material respects to the requirements for the bid. Mr. Lyons stated yes. Council Member Sharon Brienza asked Mr. Thompson if the reasons provided by GMB are reasons enough not to award the bid. Mr. Thompson stated it ultimately is the Mayor and Council’s determination as far as whether they consider them to be material to the responsiveness of the bid; and obviously Council has heard from the Town Engineer (Mr. Lyons) that their recommendation would be those are material. Ms. Helfrich stated GMB looked at all of the information provided and the two (2) missing pieces of information were the unit prices, which GMB does believe will be required for the project, and the financial statement, which

was not included so GMB did not have a basis to review anything on behalf of that. Mr. Thompson asked if all of the contractors included the unit prices. Mr. Lyons stated yes. Mr. Thompson asked if all of the contractors submitted the financial statements. Ms. Helfrich stated Willow did not, but Kent, Whayland and Bunting did.

Secretary Ron Belinko motioned – based on what he has heard tonight, the recommendation from the Town Engineer that the lowest bid was not a responsive bid – to accept the Whayland Company’s bid. Treasurer Peter Michel seconded the motion. Deputy Mayor Steve Maneri voted yes based on GMB’s recommendation. Mr. Belinko voted yes. Mr. Michel voted yes based on the same reason previously given. Council Member Sharon Brienza voted based on the same reason previously given. Mayor Gordon voted yes based on the same reason previously given. Motion carried 5-0.

6. CITIZENS’ PRIVILEGE

There were no comments.

7. ANNOUNCEMENT OF NEXT MEETING –TOWN COUNCIL MEETING, TUESDAY, JUNE 11, 2019, AT 7 P.M.

8. ADJOURNMENT

Ms. Brienza motioned to adjourn at 7:13 p.m. Mr. Belinko seconded the motion. Motion carried 5-0.

Respectfully submitted,
Matt Amerling, Town Clerk