

**MINUTES OF BOARD OF COUNTY COMMISSIONERS
OF GUILFORD COUNTY**

Greensboro, North Carolina

January 17, 2019

The Board of County Commissioners met in a duly noticed work session at 3:00 p.m. in the Blue Room, located on the first floor of the old Guilford County Courthouse, Greensboro, North Carolina.

PRESENT: Chairman Alan Branson, presiding; Vice Chairman Jeff Phillips, Commissioners Melvin “Skip” Alston, Kay Cashion (in at 3:51PM), Hank Henning, Alan Perdue, J. Carlvena Foster

ABSENT: Commissioners Carolyn Coleman and Justin Conrad

ALSO PRESENT: County Manager Marty Lawing; Deputy County Manager Clarence Grier; County Attorney Mark Payne; Budget Director Michael Halford; Information Services Director Hemant Desi; Tax Director Ben Chavis; Human Resources Director Karen Fishel; Planning/Parks/Property Management Director Dan Durham; Finance Director Harley Will; Clerk to Board Robin Keller; and members of the media.

Welcome/Call to Order

Chairman Branson called the meeting to order at 3:15PM and welcomed those present.

Discuss Upgrade/Transition Options for the County’s ERP System

Hemant Desi, County Information Services Director reviewed the County’s current Enterprise Resource Planning System (ERP) with the board. He discussed the suite of software programs that the County uses for its financials, payroll, procurement and Human Resources management. Desi reported, that while it is doing the job it is designed to do, the company merged with another vender and the system is becoming less user friendly and more difficult to use efficiently.

Desi referenced some of the challenges with the current vender such as lack of end user training and basic reporting functionality. Desi shared that they are seeking a more modern user interface, ease of reporting and better integration with other ancillary functions such as talent management, recruiting, procurement and bidding events.

Desi reported that that if the board approved moving to a new platform no additional funds would be required for this fiscal year. He stated if the County would like to move forward a decision would need to be made at the next February meeting in order to cancel the current

contract with Lawson/Infor Systems and use the funds allocated for system updates for the down payments to the recommended MUNIS platform.

Commissioner Alston clarified staff's request, that instead of investing the allocated 653K for maintenance and upgrades annually into the Lawson product, to move those funds and implement MUNIS. He pointed out that there is a onetime cost of 1.4 Million to get MUNIS in place.

Desi reviewed the re-occurring costs of the systems and confirmed Alston's assessment.

Commissioner Foster questioned if the migration process would be over two years. She noted that we would continue to have some overlapping costs during implementation.

Desi, confirmed that depending on how fast we can implement the new program there will be double spending during the implementation.

Commissioner Henning asked if the new program would be more expensive.

Desi shared that the first few years there is more cost, but over the next 10-12 years we would make more money.

Tyler technologies representative reviewed the upgrade fee model on the existing platform. He shared that they are committed to providing annual upgraded as a part of the contract. He noted that to date, they have been discussing a 5-year contract model with County staff.

Desi shared that we have spent significant funds annually on the existing system for updates.

Commissioner Perdue questioned how much productivity of staff time does the current system impact.

Hemant shared that it is immeasurable due to the current inefficiencies.

Henning questioned how to pay for the product.

Desi shared that the existing implementation amounts would be reallocated to the MUNIS from the existing upgrade costs set aside for Lawson.

Commissioner Alston shared his support of moving forward with the conversion.

Commissioner Henning made a motion to Approve a 5-year agreement with Tyler Technologies for MUNIS ERP implementation and Software as a Service subscription for a total cost not to exceed \$5,450,846. The agreement will be "piggy-backed" off existing contract with County of Ontario, NY; motion seconded by Commissioner Alston

AYES: 7

NOES: 0

ABSENT: Coleman, Conrad

Review proposed Construction Contract for EMS

Dan Durham, Facilities Director introduced the County's new Project Manager Tari Brady.

Ms. Brady reviewed the plan overview of the project. She noted that the bids were received on December 4, 2018 and New Atlantic Contracting was determined to be the lowest responsive bidder. She shared that all the prices submitted were competitive. She reviewed some recent project history on New Atlantic specific to those completed in North Carolina including facilities at NC A&T, Jamestown Middle School, UNC Greensboro. She reviewed bid alternates; 1) providing and installing heavy duty concrete pavement in lieu of heavy-duty asphalt and 2) providing and installing an extension of the sanitary sewer line and that staff are recommending approval of both alternates.

Ms. Brady reviewed the company's MWBE participation rate of 25.1%; noting that the majority of the participation is female owned business. She stated that New Atlantic has been asked to look at diversifying this participation. She shared that they reviewed several of their other projects and found that their average African American participation is 2% on those projects.

Deputy County Manager Clarence Grier shared additional information regarding New Atlantic's diversification of their MWBE participation. He provided a review of their diversification of the company's MWBE sub-contractors. He reported that New Atlantic is open to working to improve diversifying.

Commissioner Alston questioned the status of the efforts made regarding MWBE participation. Alston shared that he met with over 30 local contractors and none of them are on the County's vendor listing. Alston noted that the policy requirements is lowest responsive, responsible bidder and shared that he would prefer to spend additional funds if the next lowest bidder had stronger MWBE diversity. Alston shared that the lack of effort in the review of the minority participation of the other bidders is insulting. He expressed frustration with New Atlantic's lack of MWBE diversity and found the proposal unacceptable.

Cashion questioned if the runner up bid had been reviewed for their MWBE participation.

Grier shared that he will have staff look into it further. Grier shared with the board that he is not in concurrence with how the awards came out; however, noted that based on statutory requirements of bid processes that County staff are under legal constraints on how they advocate for vendors.

Alston shared that he is not interested in working with New Atlantic, and in his opinion he would recommend continuing to work with the alternate bidders.

Commissioner Cashion shared that she is surprised that the runner up bidder did not have additional vetting, prior to the work session with the knowledge that the MWBE diversity of the bidders was to be a topic on the agenda.

Commissioner Foster shared that she echoed Commissioner Alston's concerns and that she would not support moving forward with New Atlantic with less than one percent of the MWBE participation being African American.

Commissioner Perdue shared that we have a purchasing policy and a formal bid, and we need to be cautious that we are not in the process of changing the policy and move forward with a bid or improperly excluding a bid without legal guidance.

Commissioner Henning shared that moving forward with upcoming projects, staff need to anticipate these questions and be able to answer questions about the whole process. He shared

that the issue is folks want assurances that they had a fair shake in the bid process. We need to make sure moving forward that we have a fair process.

Commissioner Alston shared that he has seen that some of the lower bidders in on school programs that were the lowest bidder, but that they had to go to the school board to advocate for consideration.

Commissioner Phillips questioned the processes for value engineering questions unless they are the lowest responsive bidder.

Dan Durham shared that, in his professional opinion, New Atlantic is the lowest responsible bidder.

Commissioner Phillips asked the Attorney what is the responsibility of this board for lowest responsible, responsive bidder?

Payne reported that from all that he has seen, New Atlantic meets the criteria, and that unless we have some new restrictions MWBE diversification is not included as a factor. He stated that the statute for MWBE participation only discusses goals. He shared that the State has a 10% goal. The Statutory requirements speaks to making good faith efforts. Attorney Payne advised that if the lowest responsible and responsive bidder is not selected the County cannot move to the next bidder, but staff could be instructed to re-bid.

Commissioner Alston questioned if the Board felt that the company is irresponsible, do they have the authority to make that conclusion.

Payne stated that the goal is 10% for MWBE participation and that this contractor provided at 25% participation. So from a staff perspective the selected bidder met those goals.

Commissioner Alston shared that he would urge the Board to consider their lack of outreach to African American contractors as a clear indication of irresponsibility.

Commissioner Perdue noted that the goal is to have MWBE participation, but nowhere in the goal or statutes is direction or responsibility to parse out that designation. If the company exceeded the County's goal and the State's goal based on the requirements and the Board decides to throw out the bid, then the County would need to re-bid the project.

Payne concurred, and elaborated that is why staff are providing the recommendation to move forward with the bidder.

Commissioner Perdue stated that this project has been kicked down the road for over 20 years and to start over now is going to subject the County to receiving a higher bid. He shared that he is not satisfied with MWBE figures, but with the statutory requirements we cannot move to the next bidder as they exceeded the policy.

Commissioner Alston countered that in his opinion the bidder did not make a good faith effort to reach all minorities.

Payne added that some of the changes referenced regarding the school board contracts happened post award of bid and post negotiation stage. He advised that the County still has an option to award the bid, but we can continue to negotiate some terms of the contract.

Commissioner Foster noted that we have had a similar discussion at the annual retreat. And that a local contractor said that he was disinterested in doing business in the County. She offered that

this Board should look further into setting some sort of goal for African American contractors. The County spends significant amount of dollars and those funds should be spent throughout the county, women owned, Hispanic and African Americans.

Commissioner Henning questions the legality of moving to next bidder Payne stated that he would defend the County if they board determines that their minority participation is not satisfactorily responsible in providing a good faith effort.

Lawing shared that the listing that the contractor provided are all HUB certified. And that the County may have several contractors that are not HUB certified.

Cashion shared she is concerned

Payne stated that it is staff's recommendation that this bid does meet responsible, responsive based on the fact that the MWBE goal is 10% and does not have a further sub-category breakdown. However, if the board decides contrary he can defend both paths.

Phillips sought direction from the Attorney and asked where the line is to be set when defining what percentage is adequate and he worried about continuing to go out for bid.

Alston shared that he does not have a set number but it is certainly not zero. Alston shared several other concerns with this contract regarding questionable business practices.

The Board asked staff to look at the MWBE participation of the second lowest bidder.

The Board continued to discuss the bidding process and good faith efforts.

Henning made a motion to go into closed session to discuss terms and conditions of the contract.

By general consensus the board entered into closed session at 5:10PM

The board returned from closed session at 5:44PM

There being no further business the board unanimously adjourned from the work session at 5:45P

J. Alan Branson, Chairman

Guilford County Board of Commissioners

Robin Keller, Clerk to Board

