

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in a Special Meeting on Thursday, September 17, 2015 at 2:00 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC. The purpose of the Special Meeting was to discuss and take any action necessary regarding the Veteran's Monument Project.

Members Present: Robert Griffith, Chairman; Maxine Laws, Vice-Chair; Martha Hicks; Faye Lacey; Blake Vance

Members Absent: None

Call To Order

Chairman Griffith called the meeting to order at 2:00 p.m.

Chairman Griffith stated that this meeting was to award a contract for a monument which will sometime in the near future be designated as Veteran's Park in Newland.

Veteran's Monument Project

Chairman Griffith advised that Martha Hicks had chaired the Veteran's Committee and had done a wonderful job with that.

Commissioner Hicks stated that the committee had worked very hard and she thanked Kevin Holden, Mike Halus and the others for their hard work. She said that she thought that they had worked out a good plan for the monument. She commented that there were three bids on the project. These include Austin and Barnes; Henline and Hughes; and Reins Sturdivant. Reins Sturdivant's (Hitchcock Memorials would be doing the work) bid was \$197,013.30; Austin & Barnes bid was \$163,981.00; and Henline & Hughes bid which does not include the flagpoles which would be at cost plus 10% is \$159,000.00. Tim Greene sent these to the companies on August 27, 2015. Austin & Barnes replied on September 2, 2015 and Henline and Hughes replied on September 3, 2015. Hampton Funeral Service did not provide a quote. Hitchcock Memorials bid does not include the foundation. Austin & Barnes did include the foundation which was \$8,250.00. Ms. Hicks stated that the committee has discussed this and it is very important to consider the bids and consider that the foundation is being done in two of the bids.

Chairman Griffith asked legal counsel to brief the board on the informal bidding process.

Gerald McKinney, County Attorney, explained that the School of Government had a publication regarding contracts. In the section "Standards for Awarding Contracts" the publication states "both formal and informal bid statutes require that contracts be awarded to the lowest, responsible bidder taking into consideration quality, performance and the time specified in the proposals for the performance of the contract." That is the standard we deal with here. You go with the lowest bidder all things being equal although you may consider quality, performance and the time specified. It goes on to say that the Court of Appeals has had at least one case about it and it defined or explained what responsible was and it authorizes the Board to request information from bidders about their experience and financial strength in determining whether the low bidder is responsible. The court says the term responsibility refers to the bidders capacity to perform the contract and that the statute authorizes the board to evaluate their experience, training and quality of personnel, and financial strength and any other factor that bears on their ability to perform the work. It also says you must carefully document the factual basis for giving an award to a bidder who did not submit the lowest bid and be diligent in investigating the facts to make sure the information you got is reliable and accurate. That is the standard you need to apply in making this decision.

Blake Vance had no comment.

Maxine Laws stated that the only thing that I see with this is that the foundation is included and the foundation with something of this magnitude has to be considered because you have a lot of weight. That is one thing I have been looking at on these bids.

Faye Lacey stated that the quality of the materials is important to me and I want the nicest material. Ms. Lacey questioned if there were guarantees with this contract.

Mr. McKinney stated that there is no warranty to compare because we did not ask for that.

Chairman Griffith stated "As Ms. Martha has read the bid quotes, Hitchcock Memorial is several thousand dollars more. I personally have dealt with Hitchcock Memorials with the law enforcement memorials out on the square. Their quality of work is beyond reproach. If they give you a date and time for something to be done they are good at their word. They have made one trip to McDowell County measuring and getting a diagram put together on their own free will. They have come to Avery County once. We are basing our similarities of the monument from the McDowell County monument. They did us a computer

diagram and sent that back to the subcommittee. They have spent numerous hours both on the job site and at their office on this project and as I have already said I have personal knowledge of their workmanship. A warranty was mentioned. I have personal knowledge that if they erect a monument they will come back and do what they say they will do. Just here recently one of the monuments was leaning and they drove up and took care of that. The foundation, as Ms. Martha and Ms. Maxine has brought up, is an issue. Austin and Barnes have included a price for a foundation. Hitchcock Memorials which is part of Reins Sturdivant from here in the county does not provide the foundation. They provide the specs. There has to be some engineering in the process and they provide the specs for it to be done before they set the monument on it. I have spoken with Ms. Rachelle out of the Hitchcock office and they do have the specs for the project. I am advocating for Hitchcock Memorials; I have personal experience that they will do a super job and their workmanship is beyond reproach. With what I have said, is there any further discussion?"

Maxine Laws said when all of this was sent in I am assuming that all of the materials are the same from each bidder. Tim Greene said that is correct. Ms. Laws questioned should we be asking for a warranty? Mr. McKinney said that is one more thing to compare but that would take more time. Ms. Laws said we are not talking just about \$50 dollars here we are talking about almost \$200,000 of taxpayer's dollars. Is it worth asking for a warranty? Blake Vance asked if the Board could take a brief recess and call about the warranties. Tim Greene said we can do that. Ms. Laws says she thinks that is something that needs to be considered. Martha Hicks said I am not sure if we do the foundation ourselves that we can get a warranty. I did a little study for myself and I have checked on Austin and Barnes and they have been in business since 1961. Blake Vance said he called some references for Henline and Hughes and they were all positive. Ms. Hicks stated that none of the funeral homes does anything this big. I also checked with Doug Buchanan in Spear and he said he doesn't do anything that big.

Chairman Griffith called for a recess so that the County Manager could call the companies regarding warranties.

Chairman Griffith declared the meeting to be back in Regular Session after a brief recess.

Tim Greene, County Manager, advised that he attempted to call all three companies. I attempted to call Hitchcock Memorials and had to leave a message to call me back on my cell phone. I was able to reach the other two companies. Austin and Barnes said they do certainly warranty their work and all of them warranty the quality of their workmanship. The foundation is engineered and that would be under warranty. They provide a one year warranty. Henline and Hughes said he could warranty it but sounded like he has not provided a written warranty but he certainly stands by his workmanship and he says he does have the foundation engineered. Hitchcock Memorials I am sure would have their foundations engineered even though I didn't get to talk to them. I think all of them are doing basically the same thing with having the foundations engineered.

Mr. McKinney stated that with the statutory requirement that we take the lowest responsible bidder, keep in mind you can justify a difference, but you are talking about \$40,000 or more difference not knowing what the cost of the foundation would be also; to my mind it would be difficult to document that big of a difference because we don't see any evidence that these bidders are not responsible. They have the financial wherewithal and some of you have done due diligence to find out that they have done good work. There is nothing that stands out. To my mind it would be really difficult to justify that huge of a difference. Keep that in mind. That is about a third more and that would be really hard to justify.

Chairman Griffith stated we have discussed and talked and have had this information before us for some time. The special committee that Ms. Martha chairs has been very diligent in this process.

Motion by Martha Hicks and second by Faye Lacey to accept the bid from Austin and Barnes for \$163,981.00 which includes the flagpoles and the foundation. Motion unanimously approved.

Chairman Griffith entertained a motion that the County Manager have the authority to sign any and all contracts pursuant to this bid. Motion by Blake Vance and second by Maxine Laws. Motion unanimously approved.

This should be expedited hoping for a Veteran's Day completion.

Adjourn

Chairman Griffith declared the meeting to be adjourned at 2:48 p.m.

Robert Griffith, Chairman
Avery County Board of Commissioners

ATTEST: _____
Cindy Turbyfill, Clerk

