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Council Makes a U-Turn on Road Repair Contract

By Sophie Braccini

The Moraga Town Council changed its collective mind June 26 and voted unanimously to award a \$2 million pavement construction contract to VSS International instead of Central Valley Engineering and Asphalt.

A technicality enabled the Town Council to reverse its June 19 decision to give the contract to Central Valley Engineering and Asphalt- a required form was unsigned in that company's bid. But council members also heard testimony and public comment, including that of Public Works director Edric Kwan, which made them doubt the firm would produce a satisfactory result for the town.

Councilmember Mike Metcalf queried Kwan, "In your professional opinion, would it be risky to award the contract to Central Valley (given their inexperience in working with rubberized cape seal)?" Kwan replied, "I'm uncomfortable with it, but they do meet the minimum qualifications (listed in the bid document)."

Two weeks ago, the council voted 3 to 1 (with Metcalf opposed and Dave Trotter absent) in favor of Central Valley Engineering and Asphalt, despite Kwan's recommendation to go with VSS International.

Because Central Valley Engineering and Asphalt's bid was significantly lower than VSS International's bid, Kwan based his recommendation on the fact that the firm had not signed a waste demolition form. A majority of council members found the omission inconsequential, but changed their minds after hearing the legal perspective presented by the town's attorney, Michelle Kenyon.

"There are two issues here: are the bidders responsible bidders and are bids thereafter responsive," explained Kenyon. She went on to say that both companies were responsible bidders, meaning they both met the minimum requirements listed in the bid documents. But she added that Central Valley Engineering and Asphalt had an irregularity in its bid document-the unsigned form.

Kenyon said that there was now enough evidence in the record, including a protest from VSS International and additional testimony, that the Town Council could consider that the omission could possibly create a competitive advantage and therefore deem Central Valley Engineering and Asphalt's bid non-responsive.

Central Valley Engineering and Asphalt did not attend the meetings, but VSS International did. Its argument to protest the award focused on its perception of Central Valley Engineering and Asphalt's lack of experience in the kind of road treatment the town required.

However, experience in microsealing and rubberized cape seal were not a bid requirement. In explaining his decision not to include these conditions, Kwan said that adding too many technical prerequisites to a bid may be perceived as artificially restricting the competition and open the process to other types of bid protests.

Several residents came to support awarding the contract to the most qualified bidder rather than the least expensive. Dick Olson and John Haffner, who both participated in the campaign to pass the sales tax that is generating funding for the project, told council members that residents would judge the Town Council's competence on the quality of the work done. They also harkened back to the 2010 cape seal project on Moraga Road that became a fiasco when part of the asphalt peeled away, and urged the council to make the right decision.

The Town Council voted 5-0 to accept VSS International's protest, rescind its former decision to award the contract to Central Valley Engineering and Asphalt, and award the pavement project to VSS International for construction this summer.

(For more details about this summer's paving project, visit our archive at www.lamorindaweekly.com and read "Council Awards Low Bid for Road Repairs" and "Getting the Word Out About the Roads" in our June 19 issue)

Storm Drain Study

Nobody wants to see brand new roads damaged by failing underground storm drains; but Moraga's storm drain system dates back prior to the town's incorporation.

In 2009 the public works director at the time, who sent cameras into Moraga's storm drains, stated that 40 percent were more than 45 years old and that storm drains are expected to perform for 65 years. In 2006 a sinkhole formed when a storm drain collapsed beneath Rheem Boulevard.

Under the Capital Improvement program approved by the Town Council June 26, a storm drain master plan will be created before major road repairs, although not this summer's resurfacing, are completed in 2014. This should give Edric Kwan the tools he needs to evaluate the cost of maintaining the drains at a good level of service and to plan for the repair of a storm drain underneath a road prior to repair of the road itself.

"Pipes that are failing can pose a problem to our paving program," said Kwan. "The (Measure K) Oversight Committee suggested that we use some of the Measure K money to expedite the study of our storm drains." The total cost of the plan is \$200,000-25 percent of that is coming from the town's general funds.

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