

River's Edge Advisory Committee (REAC)

Minutes of Meeting held on January 8, 2015

The following members were present: Jerome Heller (Chair), Rebecca Stanizzi, Daniel Hill, Robert Morrison, Bill Steinberg, Bill Sterling, Christine DiBona, and Michael Wegerbauer (8:45). Absent: Anthony Boschetto

Guests: Stephen Anderson, David Weiner of Anderson & Kreiger (A&K)

Meeting was called to order at approximately 7 P.M.

No public comment

Minutes of Dec 16, 2014. One minor correction. Minutes were approved on motion by Bill Steinberg, seconded by Becky, and unanimously voted.

Steve Anderson stated that A&K had made significant progress on the drafting of the RFP and related documents such as the Land Disposition Agreement (LDA), Right of Entry Agreement, and Repurchase Agreement. However there are some major business points that need to be discussed to provide guidance to the firm in finishing the drafting before they can circulate the documents. He referred to an Outline for River's Edge Advisory Committee Meeting (1/8/15) for the key issues to be addressed for the RFP/LDA.

1. The first item to be addressed was the Deposit. After discussion it was generally agreed that an initial \$10,000 deposit was appropriate with an additional deposit due upon execution of the LDA bringing it up to 5% of the purchase price.
2. The next item was the Due Diligence Period following the execution of the LDA. After discussion, the committee agreed with the recommended option shown on the Outline at Par 2.a.i,ii,iii, and iv, basically providing for a 60 day due diligence period. However, if the Buyer finds something material not already disclosed in the material provided by the Town and terminates the LDA, he is entitled to his deposit except for the \$10,000 initial deposit.

3. The next item was Conditions Precedent to Closing dealing with what occurs after the expiration of the due diligence period that would require the Buyer to close. Referring to the Outline, the committee agreed that the options shown at Par 3.a.ii.1,2,3,and 4 all should be required however, the Buyer will have 6 months to obtain the items listed. Provided the Buyer is proceeding in good faith, this period of time may be extended an additional 3 months upon payment of a \$50,000 deposit, and a further 3 months upon payment of a \$100,000 deposit. If the Buyer terminates the LDA, he will forfeit all of the deposit. There was some discussion about granting further extensions if the Buyer has been denied a permit and is diligently appealing or where a permit has been granted and then appealed by a third party. In such cases, the Board of Selectmen (BOS) may have to decide if the extension should be granted or if the delay is a result of a third party appeal, the Buyer can elect to extend to the end of the appeal period.
4. The next item on the Outline was the Ongoing Right of Review and Approval (If Any) that dealt with ensuring that the Buyer constructs the project substantially in accordance with the approved design and does not change in construction. Following discussion, the Committee decided to accept the recommended option for provisions in the LDA as shown on Par 4.b.i.ii.iv.and c.ii. that basically provides that the BOS will approve the Buyer's plans and any material changes to such plans except where the Planning Board requires the changes.
5. The next item on the Outline was titled Comparative Evaluation Criteria. It is understood that the proposers will have to be interviewed but it appears from the AG guidance that if one of the proposers is interviewed then all must be interviewed. However, if the proposer's response doesn't meet the minimum criteria for being awarded the project then he need not be interviewed. The RFP should state that the REAC reserves the right to do the initial interview although it appears the BOS will be required to do the final interview even if it consists of a viewing of a taped interview by the REAC.

Noting the proposer's redlined exceptions to the LDA and Exhibits will provide insight to the proposer's view of the project or special requirements such as an application for tax credits.

6. Mr. Anderson then referred to the proposed Exhibit to the RFP entitled Price Summary Form, Project Pro Forma, and Statement of Estimated Tax Revenues. The form deals principally with determining the amount of the purchase price of the Property and requiring the buyer to disclose their engineering estimate of the component costs in the purchase price including the demolition of the septage facility, the water main extension, and the on-site package treatment plant. The buyer is required to attach its pro forma for the project and its estimated tax revenues. The foregoing pertain to the Base Case where the Buyer is responsible for all of the component costs. There are three Alternatives (at the Town's option if and only if the Town secures funding from the State) that relate to computing the purchase price where (1) the Town elects to design and construct the water main extension (2) the Town elects to design and construct the sewer extension and, (3) the Town combines the first two alternatives. It was suggested that the RFP contain an engineer's description of the work that would be required if the alternatives were elected by the Town. It may be possible for the Project to connect to the Town Center treatment facility where the Project waste goes to the facility and the outflow from the facility is sent to the Project's leaching field. In this case mutual easements would have to be worked out.
7. Referring back to the Outline, Par. 6 entitled Development/Construction Milestone; Breach of Use Restrictions dealing with situations where the buyer defaults by failing to timely commence construction, timely complete construction or breaches the use restrictions. It was agreed that the recommended option of repurchase and formula as shown in Par.6.b.i. ii. and v. should be included in the LDA.
8. Finally, the last item on the Outline was discussed and it was agreed that the proposers' offers should remain open for a period of 6 months.

9. It was agreed that the next meeting will take place on Thur. Jan 29th at 7P.M. Prior to the meeting A&K will circulate the next drafts of the RFP and the LDA.
10. The meeting adjourned at approximately 9:30 P.M.

Respectfully submitted by Jerome Heller

Attachments:

Outline for River's Edge Advisory Committee 1/815

Exhibit 1.2 – Price Summary Form, Project Pro Forma, and Statement of Estimated Tax Revenues