

Type of Decision									
Meeting Date	Friday, April 23, 2010				Report Date	Thursday, April 21, 2010			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	x	Information Only			Type of Meeting	X	Open		Closed
REPORT TITLE									
Contract Award Report 23/04/10/206									

Subject: Award of contract for road grading.

RECOMMENDATION: That Council adopt the following resolution awarding the contract for the grading to Pat Stewart.

**WHEREAS** the municipal procurement by-law (#2008-07) allows for a tender or request for proposal process allowing employees to award contracts;

**AND WHEREAS** this by-law (section 9.1 ii and iii) also allows for Council consideration when the conditions are not straightforward, where there are irregularities and/or where costs are higher than budgeted for;

**AND WHEREAS** Pat Stewart has agreed to have his equipment at the ready at all times and is willing to work on short notice to improve the condition of our heavily used roads during the summer season;

**AND WHEREAS** in the past we have had some difficulty in hiring a grader and operator when our Road Super needed one;

**AND WHEREAS** we currently have two bids for grading that are identical in price but not in operations;

**THEREFORE BE IT RESOLVED THAT** for reasons other than cost alone, and including availability and past performance, the Council of the United Townships of Head, Clara & Maria does hereby determine that the grading contract be awarded to Pat Stewart.

BACKGROUND/EXECUTIVE SUMMARY: When contracts are straightforward and are to be awarded to the lowest bidder with no other consideration, employees may make the decision to award so long as the project has been approved under the budget or by resolution of Council.

In this instance the projects were approved through the Roads department budget however; all things are not equal with the contracts, there are irregularities. There are also considerations other than cost. Because of these issues, our procurement by-law allows Council consideration.

As explained in my email in response to a request for a deputation for Friday's meeting there has been some questioning of staff around this tender. As we are all aware, economic times are tough. We have policies and procedures to govern our operations and award of contracts. We also have precedent, past practise and long-standing work arrangements with some contractors.

Weeks ago, Pat Stewart contacted Terry and asked if he could bid on the grading contract this spring as he had purchased a new grader. Terry's first response was, "we do not have a tender, I hire Monty to do it". Upon conversation with me, I explained that if we have another interested bidder, we had an obligation to post the request for quotes and award the contract based on the price, all other things being equal.

Since that time, both Steve Stewart and Monty Stewart have attended at the office on more than one occasion asking questions about the grading, plowing and disposal site contracts. Ruth and I both explained that the plowing contract would be advertised in May or June and that we currently do not have a disposal site maintenance contract. If and when that should be tendered it would be advertised on our website and in the NRT.

*On April 15 we received two quotes for the grading. Based on the information that we have, both quotes are at \$95 per hour. The difference is that Monty's quote simply states the total price. Pats quote states that his grader would be available at all times on short notice and that he recommends that high traffic roads be graded more often.*

I discussed this with Terry.

- He agrees that some of our roads require additional grading but we have not routinely done this in the past.
- He stated that once the roads were graded in the spring, calcium was applied and any further grading would only decrease the effectiveness of the calcium.
- We discussed the method of grading, how Monty graded the way Terry wanted it graded and how all the others did it differently. My solution here is – you are the road super, direct them to grade it the way you want it.
- His recommendation was to award to Monty as has been done in the past few years as Monty understands and agrees with the way Terry wants the roads graded.

For further consideration:

- Past performance, there have been times when obtaining a grader was difficult and a lease agreement with Laurentian Hills had to be used.
- There have been availability issues, when Monty did not have access to the equipment and Terry had to work around the grader owner's schedule.
- Price is not the only issue. We have to consider past work performance. Pat is always ready to provide services to our municipality and on short notice.

Options/Discussion: Award contract to Pat Stewart or Monty Stewart.

Draft a contract that will allow for:

- Replacement of contractor upon unsatisfactory performance.
- Contract extension upon satisfactory performance.
- Insistence that all work be completed as per the Road Supers direction and that failure to do so will result in breach of and end to the contract.

An additional issue is that of the disposal site maintenance. We do not have a contract for that service but instead a long-standing work agreement, approximately 20 years. I would guess that in a court of law our continuation of that arrangement might be construed as a work contract.

Although we have a procurement by-law that sets out the rules for awarding contracts or calling tenders, it does not state that we have to go out to tender for every purchase. In a move towards openness and transparency this is however; something that we have planned to do.

For the past two years I have noted that we should prepare a process and documents to go out to tender for our disposal site engineering services and our disposal site maintenance services. Other commitments and developments have precluded this from occurring. At this point, we are not ready to do this and for the following reasons:

- Staff time, knowledge and conflicting demands.
- The amount of specific knowledge required to manage and maintain our sites.
- Currently Jp2g is working to obtain the buffer zones around the sites from MNR. I would like to see that process completed before we have to start from the beginning with a new engineering firm again.
- As for the site maintenance, the same holds true. Our current disposal site attendant does not have the experience, education or training to adequately direct a new contractor. Terry has more knowledge of the site history than Carol. At this point the employee with the most experience with maintaining the disposal sites is not an employee at all, but our contractor. Replacing him as this point would not be beneficial to this municipality. For these reasons the disposal site maintenance and engineering contracts will not likely be up for tender any time soon.

Financial Considerations/Budget Impact: Cost difference is non-existent.

Policy Impact: None. As per the municipal procedure by-law.

Approved and Recommended by the Clerk

Melinda Reith,  
Municipal Clerk

*Melinda Reith*