

**Malone Town Board  
Special Meeting  
08/29/2012**

**SPECIAL MEETING**

We, the Undersigned, Town Board of the Town of Malone, do hereby Waiver a Special Meeting, Wednesday, August 29th 2012 at 10:00am, to review the bid award decision from the July 18<sup>th</sup> 2012 Town Board meeting, regarding blacktop materials; and for any other business to come before the Board.

PRESENT:

\_\_\_\_\_  
Supervisor

\_\_\_\_\_  
Councilor

\_\_\_\_\_  
Councilor

\_\_\_\_\_  
Councilor

\_\_\_\_\_  
Councilor

ABSENT: Councilor Scharf

ALSO PRESENT:

Susan M. Hafter, Town Clerk  
Lillian Anderson-Duffy, Town Attorney  
Tom Shanty, Superintendent of Highways  
Mark Besio, Highway Clerk

Scott Bombard, Graymont Sales Manager    Tonya Finnegan, Graymont Controller

Supervisor Maneely called the meeting to order at 10:02am.

**Blacktop Bid Award** - Attorney Duffy recapped the circumstances pertaining to the invitation to bid and bid award for blacktop materials for the Town of Malone for 2012.bid. The bid was awarded on 7/18/2012 to Barrett Paving although they were not the lowest bid. The Board had stated the reasons to be product quality and proximity. The Board had also noted last year's breach of contract by Graymont, as they cut off the town supply prior to the completion of scheduled jobs; but did not note this as a reason for selecting Barrett, hoping to protect Graymont's reputation. Graymont's attorney, James Coffey, advised Attorney Duffy that the Town had not afforded Graymont notice, as prescribed by law, as to the reason the lowest responsible bidder was not chosen. He submitted to her a lengthy argument supporting his stance. Attorney Duffy noted that the Town bid specs were vague and did not contain requirements as to quality or proximity. In addition, Graymont refutes the breach of contract claim. Attorney Duffy recommended the Town Board rescind the decision of 7/18/2012 and re-advertise for bids, using NYS approved specs as provided by Franklin County.

**Motion** – Deputy Supervisor Walbridge

**Second** – Councilor Taylor

**Resolved (#160- 2012):** that, upon the recommendation of Town Attorney Anderson-Duffy, the Malone Town Board hereby rescinds their action of 7/18/2012, Town of Malone Resolution #141-2012, which awarded the 2012 blacktop bid to Barrett's Paving.

**CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye  
Councilor Sullivan - Aye    Councilor Taylor - Aye    Councilor Scharf - Absent**

**Malone Town Board  
Special Meeting  
08/29/2012**

**Motion** – Deputy Supervisor Walbridge

**Second** – Councilor Taylor

**Resolved (#161- 2012):** that the Town of Malone is accepting sealed bids from qualified suppliers for the purchase of grades of blacktop as follows: 403.13 - dense binder and 403.17 — top coat. Prices should be quoted per ton.

Sealed bids will be accepted at the office of the Malone Town Clerk, 27 Airport Rd., Malone, NY 12953, during normal business hours, until 1:00 pm, Wednesday, September 5, 2012, at which time they will be opened and read aloud. A Certificate of Non-Collusion must accompany each bid. The Town Board reserves the right to waive any informalities and/or to reject any and all bids

MATERIALS CERTIFICATION:

All materials are to be provided in strict conformance to the provisions of the most current Standard Specifications for Construction and Materials issued by the New York State Department of Transportation.

Upon request the supplier of any material listed in this bid shall provide an acceptable proof to the requesting municipality verifying all material being furnished under this bid complies with all applicable requirements of the standard specifications. Acceptable proof will be a NYSDOT approved material certification indicating that the material(s) to be furnished comply with these specifications.

OUT OF STOCK ITEMS:

It is imperative that the contractor's supplies be adequate to meet the Town of Malone Highway Department's needs. Should the contractor fail to provide goods for either of the following reasons: Does not have product on hand when it is needed; Unable to provide the product because of prior commitments or breakdown. In this event, a product deemed by the Town Highway Superintendent to be the equal of the specified product must be substituted by the contractor at no additional cost or expense to the Town.

If an appropriate commodity of equal specification is still not available, the Town reserves the right to purchase the goods from the next best available source. An alternative supplier will be selected from the bid tabulation to furnish material in accordance with the specifications.

The Town of Malone reserves the right to purchase materials on the NYS Contract, or from NYS county contracts.

DELIVERY:

Delivery of material must be made within 24 hours of receipt of order.

OFFICIAL MILEAGE:

The Highway Superintendent will determine the mileage from each paving site to the vendor's plant and from the Town garage to the vendor's plant before the final award of this bid. Consideration of this mileage amount may be a factor in the determination of the bid award.

**Discussion** – Scott Bombard, Graymont Sales Manager and Tonya Finnegan, Graymont Controller addressed the Board to defend the company's reputation and repudiate the claim of last year's breach of contract. Supervisor Maneely said they should have addressed the Board regarding this issue last year. Councilor Sullivan asked what assurance the Town has that Graymont would fulfill the Town's needs this year, if awarded the bid. Mr. Bombard said they would keep both plants open until all needs were met. Mr. Bombard asked that the Town's new specs for blacktop, as presented by Attorney Duffy, be altered to include an escalation/de-escalation clause. Superintendent Shanty does not want that clause included, and the Board agreed to leave them as presented.

**CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye  
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Absent**

**Malone Town Board  
Special Meeting  
08/29/2012**

**Code Truck –**

**Motion –** Deputy Supervisor Walbridge

**Second –** Councilor Sullivan

**Resolved (#162- 2012):** that the Town Board declares obsolete, a 2000 GMC Sonoma, VIN#1GTCS145YK289758, formerly used by the Town Code Officer, and will offer the truck for sale through the Franklin County Surplus Auction.

**CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye  
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Absent**

**Training Requests –**

**Motion –** Councilor Taylor

**Second –** Deputy Supervisor Walbridge

**Resolved (#163- 2012):** to authorize the following training opportunities as requested, for, with all necessary costs to be paid by the Town: 1)Code Officer Crossman, a training session, with certification, provided through Franklin County Solid Waste Authority to be held in Malone September 6, 2012; 2)Assessor Hewitt, Mass Appraisal training; and 3) Assessment Field Worker Tichenor, self-study data collection, both to be held 9/12/2012 in Raybrook .

**CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye  
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Absent**

**Motion –** Deputy Supervisor Walbridge

**Second –**Councilor Taylor

**At 10:44am -Resolved (#164- 2012):** there being no further business to come before the board, that it duly adjourn.

**CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye  
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Absent**

**Respectfully Submitted,**

---

**Susan M. Hafter, Town Clerk  
September 10, 2012**