

The Crawford County Highway Committee held a special meeting on Tuesday, March 1, 2016 at the Crawford County Highway Department in Seneca, WI.

The meeting was called to order by Chairman Tom Cornford at 9:00 a.m. Proof of Publication was verified by Tom Cornford.

Gerry Krachey made a motion to approve the Agenda, seconded by David Olson. Motion carried by a voice vote. Members present were: Tom Cornford, David Olson, Gerry Krachey and County Board Chairman Pete Flesch. Wade Dull and Henry Esser were excused. Also present were Commissioner Dennis Pelock, State Superintendent Todd Myers and Corporate Counsel Mark Peterson. Superintendent Todd Myers took meeting minutes.

CTH S – County Project ID: B-0190 - Commissioner Pelock explained the situation (county board member involvement on bridge project). Corporate Counsel Mark Peterson addressed the committee regarding the matter. Attorney Peterson explained he was reversing his original opinion, dated February 23, 2016, on the issue and explained his reasons. After discussion the Highway Committee directed Corporate Counsel Mark Peterson to provide a written opinion to put in the record. (See Attachments One & Two).

Gerry Krachey made a motion for the Highway Department to sell the 2013 Ford F150 to Land Conservation for \$15,000.00 plus their old pickup, seconded by David Olson. Motion carried by a voice vote.

Tom Cornford made a motion to except the fuel contract from New Horizons for purchase of 70,000 gallons. Transport deliveries \$1.724, tank wagon deliveries \$1.809, seconded by Pete Flesch. Motion was carried by a roll call vote.

The committee scheduled the meeting for bids on oil, gravel, asphalt and culverts to be March 24, 2016 at 10:00 a.m. in Prairie du Chien, at the Administration Building, Room 215.

At 10:48 a.m. with no further business, Gerry Krachey made a motion to adjourn, seconded by Tom Cornford. Motion was carried by a voice vote and the meeting was adjourned.

Tom Cornford

David Olson

Gerry Krachey
Committee

Wade Dull
Commissioner

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March 3, 2016

Mr. Dennis Pelock
Crawford County Highway Commissioner
21515 State Highway 27
Seneca, WI 54654

RE: Supplemental (Revised) Ethics Opinion -- Bridge Project Supply Contract

Dear Mr. Pelock:

At the request of the Highway Committee, we are forwarding to your attention the following in regard to the hypothetical earlier presented to us and our written response thereto dated February 23, 2016:

- A. We were under a misunderstanding of facts when we rendered the earlier opinion. We assumed that the issue presented a potentially "interested" entity or officer or of employee bidding, contracting or negotiating directly with the County relative to the supply goods or services as a "prime contractor" (if you will) pursuant to a "public contract" with the County. We understand that our opinion should be directed as relating to an entity, officer or employee who is so "contracting", etc., not directly with the County but as a proposed supplier ("subcontractor") to the "prime" who is "contracting," etc. with the County.
- B. Our research clearly confirms and directs that applicable case law requires that any application of Sec. 946.13 Wis. Stats relating to "Public Contracts" must be "strictly" interpreted as to who is covered by its prohibitions and who is not.
- C. The term "Public Contract" is clearly defined by Sec. 66.0901 (1) (e) Wis. Stats.
- D. The County Ethics Code most particular at Section 4.63 (f) speaks directly to prohibiting individuals (subject to the Code) from "entering into a contract with the County".

With these distinctions, and based on our further review and research, it is our conclusion and opinion that any such hypothetical "subcontractor"/supplier has no "privity of contract" with the County and is not under the facts subject to the prohibitions or limitations of state statutes or the County Ethics Code. Thank you for your kind attention.

Sincerely,

CRAWFORD COUNTY CORPORATION COUNSEL

By:


Mark A. Peterson

MAP:drg

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February 23, 2016

Attachment TWO

Mr. Dennis Pelock
Crawford County Highway Commissioner
21515 WI-27
Seneca, WI 54654

Re: Ethics Opinion – Bridge Project Supply Contract

Dear Mr. Pelock,

In response to your February 22, 2016 request for opinion please be advised and informed that:

- A. We have reviewed §946.13 Wis. Stats. and County Ordinance No. 193-2015 (the County Ethics Code).
- B. We have also discussed the issue presented with Attorney Andrew Phillips (Legal Counsel for the Wisconsin County Highway Association).

It is our opinion that under the facts and assuming a supply contract exceeding \$15,000.00 it would not be proper for a County Board Supervisor to be involved in any private or commercial fashion in regard to supplying goods, services or supplies to the project. The County Board has general and specific overview and approval authority over County Highway projects (specifically over budget items and expenditures). The referenced State Statute prohibits such involvement even if the Supervisor recused himself from any voting (approval) involvement since if a Supervisor is in fact “authorized” to perform some “official function” he/she is prohibited. The County Ethics Code is actually even more stringent in these regards. This opinion is consistent with that of Attorney Phillips. Thank you for your kind attention.

Sincerely,

CRAWFORD COUNTY CORPORATION COUNSEL

By:

Mark A. Peterson