

Almost \$200K more for debt mountain; town settles landfill lawsuit

Town settles suit on capped dump

BY TIM GANNON | STAFF WRITER



BARBARAELEN KOCH PHOTO

Riverhead Town has reached a settlement with a contractor over work on capping the town landfill, which will soon be opened to the public for activities such as hiking and biking.

Riverhead Town will pay \$192,000 more to Terry Contracting under the terms of a settlement that will end a legal dispute over costs associated with the town's newly completed landfill capping project.

The town bonded \$10 million in January 2008 to cap the fill still left there after an attempt at reclaiming the dump property -- a process that involves removing garbage and recyclables -- went way over budget. The town spent \$41 million on reclamation and completed only about one-third of the job, according to officials.

Terry Contracting, a Riverhead firm, was awarded the capping contract after submitting a \$7.4 million bid, which was much lower than any of the others. The \$10 million bond also included money for construction management as well as for contingency funds, in case the project cost more than expected, which officials initially said was possible given that some of the landfill had spilled onto neighboring property.

'We didn't want to get into a long protracted litigation so we kind of split the difference.'
Supervisor Sean Walter

Town officials said last year that the final capping price was \$8.2 million.

The dispute with Terry Contracting involved a disagreement over which section of the contract some work fell under, according to Riverhead Supervisor Sean Walter.

"There was no way of knowing the extent of the garbage, because it went off onto other people's property," Mr. Walter said. "Terry Contracting went and removed it from the other people's property, and put it on top of the landfill. He was to be paid for a certain height of the landfill, but all the extra garbage required him to go over

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that height, so there was a dispute."

Mr. Walter said Terry was seeking about \$350,000.

"The attorneys discussed it and came to a resolution that, since nobody knew the scope of where the garbage went and nobody knew the height of the cap was going to be changed because we didn't know [how much] garbage was on other people's property, we didn't want to get into a long protracted litigation so we kind of split the difference."

The cost still comes under the \$10 million that was bonded for the capping, Mr. Walter said.

"He's done a good job," Councilman John Dunleavy said of Terry Contracting.

Representatives of Terry Contracting could not be reached for comment, although their attorney has signed the settlement. The Town Board was expected to approve the settlement agreement at its Wednesday-afternoon meeting.

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On Thursday, July 08, 2010 9:56am **Angela DeVito** said:

Although it is plausible that the extent of work was not certain from the very beginning, one does have to suspect Terry Contracting as being a bit disingenuous when it comes to bidding. It seem that Terry Contracting manages to under bid all contractors, even though all are bound to pay prevailing wage and benefits. Each contract the Town has awarded this firm in the last 5 years has always wound up costing more than the original bid. Even if the profit margin for Terry Contracting is less than the usual construction 8%-10%, perhaps an audit of the certified payrolls that need to be submitted to the Town is in order. In fact, the greater question is, does the Town review these payrolls regularly, and go on-site to ascertain first hand [which as an entity responsible for taxpayers dollars] if the certified payroll matches the weekly wage packages for Terry Contracting employees. And most significantly are there claims for "helpers", paying a lesser prevailing wage and wage package, when Terry Contracting does not have bone fide apprentices that would allow for such reduction in wage rate packages. Again, it is not possible to forsee all future events, but it is probable that terry Contracting is submitting low bods to get the work, knowing that once started the Town will not stop but as in each instance come up with the extra money. I would urge 2 things: coordinate submitted certified payrolls with

on-site "surprise" visits and worker interviews and secondly, re-examine bid specs that have such apparently large and lucrative loopholes.

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