

Minutes

Audit & Control Committee

June 20, 2019, 8:35 a.m., Room 331

Gerace Office Building, Mayville, NY

Members Present: Chagnon, Nazzaro, Muldowney, Niebel

Member Absent: Gould

Others: Tampio, Ames, Geise, Cresanti, Abdella, Rice, Carrow, Griffith, Bentley, Almeter, Dennison, Melquist, Crow, Barone, Button

Chairman Chagnon called the meeting to order at 8:36 a.m.

Approval of Minutes (05/16/19)

MOVED by Legislator Niebel, SECONDED by Legislator Nazzaro

Unanimously Carried

Chairman Chagnon: I will note for the committee that Legislator Gould is at Southern Tier West trying to help get some additional priorities for projects in Chautauqua County.

Privilege of the Floor

No one chose to speak at this time

Proposed Local Law Intro. 3-19 - Amending Local Law 7-90 Providing for a Management Salary Plan for County Officers and Employees
(Re: Assigned Counsel Administrator)

Mr. Abdella: This Local Law has been discussed now in two committees. Maybe Kevin is the only one that hasn't had the benefit of the description but, this has been discussed previously as far as a State grant was made available to create this position. I'll note that there was discussion last night at Public Safety and an inquiry was made about the exact job description. Clerk Tampio did send out the current draft of the job description that you all can review along with this. HR made an analysis of the qualifications and job description and has recommended placement of the position in Range 10. It's my understanding the budgeted salary for the position is within that Range. Certainly happy to answer any questions.

Chairman Chagnon: Any questions or comments? We vote on this?

Mr. Abdella: Yeah, I guess for the minutes but it will be on the floor.

Unanimously Carried

Proposed Resolution - Authorization of Funding to Replace Boiler at the Mayville Municipal Building

Mr. Bentley: I messed this up in Public Facilities so I said that I would get it right in Audit & Control. We have two boilers over at the Mayville Municipal Building. One failed in 2018, we had to do an emergency replacement to do that and that's completed. The original budget for that was \$57,000. Came in cheaper by \$16,000 – we didn't spend \$16,000 of it so that money is available and unfortunately the other one failed. So, we're under emergency replacement for the other one. We're looking to replace that this year and use that \$16,000. The estimate came in at \$36,000 so we'll be needing an additional \$20,000 to do that. If we don't have the second boiler up there and the first one goes, the building will be without heat. It's highly recommended that we get this done before winter. That is the short story.

Chairman Chagnon: I will point out to the Committee that there was a typo on this proposed resolution regarding the account number. Olivia, could you explain that please?

Ms. Ames: In the last RESOLVED clause where it says, Increase Capital Appropriation Account, it should read H.1620.25005.4 and the same in Increase Capital Revenue Account. Should be changed to H.1620.25005.

Chairman Chagnon: Any questions or comments on the proposed resolution?

Legislator Muldowney: It should have a good 50 year life to it?

Mr. Bentley: Yeah and actually with the new one, it will be under warranty. You get something, we'll make sure it works. I believe the last one went through pretty good through the winter. We just don't like to be in minus one condition.

Chairman Chagnon: My question is, other than your extraordinary negotiating skills, why was this boiler \$5,000 less expensive than the previous one?

Mr. Bentley: I am not exactly sure as I wasn't here in 18'. I don't know all the details but it is a complicated, I believe it's on the roof. So there were some complicating factors in trying to estimate for the crane so it could be some crane costs, it could be various functions. So it's not a simple install like it's going into a basement. If I had to take a stab at it, it's the complexity and we didn't know the first one so we were able to figure out how to do it more efficiently on the second. The more times you do it, the better you get at it, right?

Chairman Chagnon: I would have accepted extraordinary negotiating skills.

Mr. Bentley: I'll blow smoke for another day.

Chairman Chagnon: Any other questions or comments on the proposed resolution ?

Unanimously Carried

Proposed Resolution - Obligate County Funds for Local Share Funding of Essential Air Service Contract to Subsidize Commercial Air Service To/From Chautauqua County/Jamestown Airport

Mr. Bentley: I'll kick it off. I know that we've had a number of discussions at Public Facilities and a discussion at Planning and Economic Development last night, so I will try and keep it brief. Most of you have heard it a multiple times (*inaudible*) Mr. Muldowney so, -

Legislator Muldowney: I have heard about it.

Mr. Bentley: So certainly, if you have any questions, we'll be here to answer them. The short version here is, we're looking to get reestablished in essential air service for Chautauqua County at the Jamestown Airport. Through a series of events, we've ended up at needing to put up a proposal to satisfy responses that we have gotten back from various agencies to accommodate this. I think with the extraordinary help of Mr. Almeter and Mr. Geise, and the County Executive, Tom Reed, Chamber of Commerce, there have been multiple groups out there trying to hammer away at this and come up with a proposal and with their efforts, I think this is really good. I guess where I ended yesterday was, if we do nothing, I know what the answer is. If we try this, we have a shot at success. We go through the money aspect of it and I think that is important because the money that we're putting on the table for the County's cash portion of this, is money that we would pay otherwise because we have a capital plan to improve the airports that accepts Federal and State dollars and that is the lion share. If we don't have essential air service, we pay an extra 2 ½%. So, we're taking that 2 ½% that we would be paying otherwise and we've estimated that to be about \$72,000, in saying that would be the County's cash portion. So this is money that we're going to pay anyway. So, we're saying, here, that is our portion, but we also are going to throw in about \$52,000 of in-kind services. Meaning, rent space, fuel costs, bus service to the Airport through CARTS. Things that we can just say, we can provide this as an in-kind service to help facilitate this proposal. Along with that, we have the Chamber of Commerce and the business community and a number of folks out there that were asking to also help support this from their proposal. We're asking for them for cash and in-kind services as well. Dollar amounts are –

Mr. Almeter: Seventy five thousand in cash and –

Legislator Nazzaro: Eighty seven in-kind.

Mr. Bentley: Yes and as we've talked about it, Mr. Borrello mentioned that we're asking the business community to pre-purchase tickets. It's like a season pass holder. You are buying those tickets as their show of support for this service. Mr. Geise got some survey results that he'll talk about but we heard pretty loud and clear from the Chamber and the business

community. They are looking for this service. They want to help support it so they have a very vested interest in this. I will end my sales pitch on the service aspect of this. The DPF as a whole, I have CARTS, Parks and Recreation, the Landfill, the Airports, roads and bridges, plowing, so, I am a service provider. It cost money. It's just the nature of what we do here. So, this essential air service is a service. It does cost money, it costs money to build that up with it was originally dealt with so, I think this is a logical extension. I believe that this service can be useful for a number of wide-ranging constituents, business community – I even talked about it last night, for people that don't have private transportation, you could take a CARTS bus – if you don't have a car, you could take a CARTS bus to the airport and get on a plane and fly to many destinations. I think it's a little bit unknown how many people don't have private transportation in this community. I see them on the bus. I have ridden with them on the bus. I talked to a family of four, young family, probably in their late 20's, two kids, and they are taking their kids to the doctor on the bus. I asked them, why don't you have private transportation and their response was, we chose not to have it. That's impressive and it's those types of things where this is a service and it goes provide some stuff. So, Ron may be able to answer questions on destinations and things like that but in my picture, if we don't try this, I know what the answer is. If we try it, we have a lot of opportunity. You want to talk through the destinations and kind of the Boutique proposal a little bit.

Mr. Almeter: The questions that came up on Monday, presuming you have some of the same questions and Mark has the data that we've gotten from the business community which helps to inform the plan as well. We've sent out to the Legislature the Boutique proposal along with the basis for the estimated cost savings on the capital side of the budget from the reduction and the local share that we will realize once we resume commercial air service. The one point that I wanted to bring up was, there is a widely held perception that this is a very expensive taxpayer funded subsidy for commercial air service for relatively small segment of the market. There is no denying that the program is structured on a \$200 per seat subsidy. About half of that money, 45% of it, comes from fees collected on foreign air carriers over flying the United States. So the latest data I have is from fiscal year 2017. A \$122,000,000 of the program budget, and that is 100 airports with routes or 106 airports, \$122,000,000 of the funding, total of \$272,000,000 came from these foreign over flight fees. So about half of the cost of the program is borne by foreign air carries, not by the taxpayer. Do you have any questions about the route in particular, we've been told that we have to try different route. That was part of the Department of Transportation's criticism or justification for rejecting our last proposal, Boutique's last proposal. So, they have submitted a new proposal, cost more, \$2.9 million in annual subsidy but it incorporate flights to BWI and to Pittsburgh. Our survey results indicate that those two destinations are by far the preference of the business community.

Legislator Muldowney: What was the first one?

Mr. Almeter: Baltimore/Washington International and Pittsburgh.

Mr. Geise: Congressman Reed suggested that we have a meeting with all the business community to discuss the airports and the need for or lack thereof of for the airports. We had more than 40 businesses show up and had a very good conversation about the airports and the needs of the business community. Anecdotally, I can say that they were overwhelming in support

of having an airport here for the business needs. To quantify that, we did a survey. We pushed it out through the Chamber, through the IDA and had more than 40 responses. The business community gave us a real good indication of what they were looking for and what would influence whether they used the airport or not. Those things were like the location of the airport, what airlines are at the airport, flight schedule, proximity to their clients, the cost of travel, and all of these things and certainly the Baltimore and Pittsburgh being connections, they overwhelming said that that's where they would like to go. So, these are all things that Boutique is bringing to the table. It's a quality aircraft, they are offering schedules that they would fly out early in the morning and come back in the evening. They have a proven track record where they have turned around other airports, so we feel very strongly that we have the support of the business community on this and that Boutique is the right airline to do this.

Chairman Chagnon: Questions or comments on the resolution?

Legislator Niebel: Mark and committee, look, we've had companies try to establish commercial air service in the past and we have been unsuccessful. What makes you think that Boutique will be successful where these other companies in the past have failed.

Mr. Almeter: They're service delivery model is substantially different than the last three carriers that we've had here.

Legislator Niebel: Substantially better?

Mr. Almeter: Yes. Well, we don't know better until we see it obviously see but substantially different. In that they have a better aircraft with a better performance record, safety and uptime performance record. They have a better schedule, early departures, late arrivals. Perhaps the biggest difference in their service model is they have a full coach air business relationship with United Airlines and an inter-line agreement with American Airlines. That allows the traveler to buy one ticket from point of origin to end destination and that ticket has transferability. It's not just transferability of the baggage or security checks but the ticket itself has it as cash value or value with the other carriers, United Airlines in this case. Those tickets can be purchased on the major marketing platforms. The Expedia's, the Saber's, all of the airline ticket outlets can sell a flight to Jamestown. That was not the case with the last two carriers. Really the last three carriers. It was the same management team, they just changed their brand with each succeeding contract, but it was the same chief of operations, chief marketing officer, chief financial officer, they just kept bouncing from one company to the next. So we were getting the same product for the last six years. Well, not even the same product, it was getting progressively worse. But it's a whole different business approach that's one factor. Another factor is the BWI destination. There probably is an element to truth to the fact that Pittsburgh isn't the premium destination for vacation travelers and for some business travelers. It's not bad. We got their profile, they have about 132 daily departures all over the country. They have 10 domestic departures, they are a growing market. They are doing well. BWI, on the other hand has 330 plus or minus daily departures and connects to a lot of the discount carries and so forth. And it gets you to the Washington/Baltimore metropolitan area. So, a combination of those factors, we think will make a difference.

Mr. Bentley: If you could talk about Johnstown and the turnaround they did there.

Mr. Almeter: Yes. Boutique displaced Southern Airways Express in a EAS subsidized route from Johnstown, Pennsylvania to Pittsburgh. An 87 mile (*inaudible*). They took the route over last November, the dead of the season, they picked up where Southern left off with about 63% completion and have, through the winter months, have built that to a 90 plus flight completion rate. Their load factors are running about 60%, their subsidies, per seat subsidies have gone from over \$400 a seat down to about \$230 a seat. So they are not fully compliant yet but that is a little bit different market. They are only 87 miles from Pittsburgh and we're 180 or so. But this is illustrative of their performance in other markets as well. They have gone into a number of distressed airports. There is one down in the (*inaudible*) area, southwest that they went into and the media coverage of the thing is very encouraging. They are just thrilled with the quality of service that they have brought in and have been able to restore confidence in the route. I think that's the baggage at the airport, the County has. We are guilty by association with an underperforming carrier.

Mr. Bentley: To add onto that, it's not that they just took it over. I think they came in with a better business plan, they made it more convenient for the customer, they have the coach air, they are giving the customers what they want and the customers have responded. I think that is what we're asking here is, there probably an uncertainty, we're hearing it from the business community and we ought to give them a chance to show it.

Mr. Almeter: They went into Massena, New York about two years ago and I think that George Borrello commented that he went up and took a look at their operation up there and they went into that market and saw a need for a rental car service at the airport and brought a rental car service with the airline. They are very much a customer focused operation.

Legislator Niebel: There has been some history of success with this company with some of these other places.

Mr. Bentley: Absolutely.

Legislator Niebel: Mr. Chairman, I'm skeptical but I will vote in favor of the resolution assuming that we'll have periodic updates as to how Boutique is doing from these guys.

Mr. Bentley: Absolutely.

Chairman Chagnon: If we are successful in getting the essential air subsidy.

Mr. Bentley: Yeah, obviously we have to put the proposal to those that are going to approve it and once it's there, we'll move forward with this.

Mr. Almeter: As I related earlier in the week, our plan of attack is to gain the Legislature's approval to proceed with the joint proposal and list subscriptions or pledges from business community, get those commitment in writing, combine that with Boutique's proposal

and submit a joint proposal by the middle of August in the hopes of getting a contract by the end of September.

Legislator Nazzaro: I have given a lot of thought to this and we heard a lot in Public Facilities and like I mentioned before, Jay Gould being on this panel for six terms, have discussed the airports a lot, we have had a lot of proposals, different carriers, different models, but at the end of the day, I will support this because financially, I do have a question about the accounting of this. But financially it's a wash for the County because of the reduction and for the Federal funds. The community is going to have to get behind this and yes, the businesses and I think its rebuilding confidence again in the airport. Like I said before, I used to fly out of there all the time. It's convenient, you park your car, you don't have to pay a parking fee. Pittsburgh was a busier hub then, going way back. It was a hub for US Airways, I guess. So I will support it and hope that the community supports it but I will put a little asterisk there that we've had a lot of studies on the airport and hopefully this will work but eventually we may have to come to the realization that commercial air service out of Jamestown just isn't going to happen, but I hope it does. So I will support it.

Legislator Muldowney: Just out of curiosity because I think there is a big market for someone (*inaudible*), can someone fly out of Jamestown and go to Florida? Go into Baltimore and then –

Mr. Almeter: Through either. Baltimore or Pittsburgh. Pittsburgh actually has quite a number of daily departures to Orlando and Ft. Myers. As Legislator Nazzaro pointed out, Pittsburgh went through a (*inaudible*) change about 10 years ago when they lost their US Air hub and they have redeveloped their business model. They have a very good business report on their web site if you are at all interested. But in rebuilding themselves as a medium hub airport with folks on domestic destinations, they have made a point of attracting a lot of different carriers. Not anchoring themselves to a single US carrier because when we fail, do we not pass. So we have a good mix of Untied, American, Delta flights but they also have some of the low cost and ultra-low cost carriers. The low cost and ultra-low cost carriers that are flying several dailies to Florida destination.

Legislator Muldowney: Did you hear like people going to Erie or people going to Niagara Falls?

Mr. Almeter: I might even have their route map with me.

Legislator Muldowney: Like you said, you pull right up to the gate and you can park for free, I mean it's –

Mr. Bentley: The line at the TSA is not very long.

Legislator Muldowney: And you said the baggage and stuff would continuously go on?

Mr. Bentley: Yes. If you are on the coach air with United or airline agreement – I mean, having the ability to be on all the major sites and say, your leaving destination is Jamestown, you

can actually go research the prices. I mean, it's going to be all right there. You don't have to do multiple tickets, it's all done in one.

Chairman Chagnon: Brad, I just want to clarify something you said early on. You were referring to the potential savings to the County from additional Federal funding for the capital projects, which I understand, you said that money for those capital projects was money spent to improve the airport. I want to clarify that what we're doing is maintaining the airport, we're not really improving it so, I don't want the public to get the perception that because we're trying to attract an airline, we're doing these big improvements to the airport. Capital projects are money spent to maintain the airport.

Mr. Bentley: Correct. Thank you for the clarification. When I say the word improvement, by maintaining, you are improving – it's just like maintaining a road. You are improving the road from the prior condition.

Chairman Chagnon: For a period of time.

Mr. Bentley: For a period of time. I probably use that term a little too loosely and I apologize.

Chairman Chagnon: I just want to clarify with a reporter in the room as we don't want to perception to be out there that –

Mr. Bentley: Yeah, the term has multiple definitions so the improvement is maintenance whether we're doing a runway, hangar, rehabilitation, it's those types of things that will help go towards keeping the airport fully function as it is sometimes.

Chairman Chagnon: Thank you and the other thing is, last night at PED, I brought this topic up that the financial treatment of this is a little bit challenging because the savings that we could enjoy from having a commercial carrier at the airport is that we'll get additional Federal funding for capital projects and yet there is no opportunity for us to give financial support to the proposal out of the capital fund so this proposed resolution is proposing to take that money out of occupancy tax and other economic development funds. So, it's two completely different funds that the savings are coming from and the subsidy is coming from. My concern was the use of occupancy tax for this. As was described last night, it's not the entire \$72,000 that's envisioned out of occupancy tax to support this proposal but, there in lays my concern because the \$72,000 per year would equate to additional occupancies of 12,000 occupancies per year. So, I certainly understand that having commercial air service at the Jamestown airport, there would be a few additional people that would come here because of that but my belief is that most of the people that utilize the airport, will be for convenience. There are people that are going to come here anyway, that rather than fly to Buffalo and drive here or business travelers who leave here, drive to Buffalo, they could use this airport as a convenience but it's not going to attract a lot of new tourism, a lot of new occupancies. The comparison that I would give is the golf tournament at Peek n' Peak brought a lot of people in that wouldn't have come here if there wasn't a golf tournament. A lot of occupancy. So what we discussed last night is that, I support some occupancy tax going to this but nowhere near the entire \$72,000. But as was pointed out last

night, that's a decision that will be made by the Legislature if and when we get the essential air services contract and then the Legislature will have to decide where the funds will come from. I just wanted to be on the record that I do not support anywhere near the total \$72,000 coming from occupancy tax.

Legislator Nazzaro: And Mr. Chairman, you know that I agree with you.

Mr. Bentley: And I didn't disagree, right?

Chairman Chagnon: You didn't disagree, no.

Legislator Nazzaro: The only other quick comment, you said, we said it, and that is sort of what sunk into my head, the airports are still going to be there. You are not closing the airports so you might as well try this, hope it works, because we're still going to have the airports, we're committed to that because of the funding we receive in the past from the Federal government so why not. Let's hope it works.

Chairman Chagnon: Any other questions or comments on the proposed resolution?

Unanimously Carried

Proposed Resolution – Quit Claim Deeds

Ms. Crow: Jim is in a training with somebody so if there is more detailed questions I can have him come up but I don't know if there will be.

Chairman Chagnon: Is there any questions or comments for Kitty standing in?

Legislator Nazzaro: Was there any discussion in the other Committee?

Ms. Crow: I think that Admin Services just had question on one of them that had a different numeric code than the others and that was just a classification of how the property was handled.

Chairman Chagnon: No other questions or comments?

Unanimously Carried

Proposed Resolution – Amend 2019 Budget for Office of the Sheriff

Ms. Cresanti: The Sheriff sends his apologies, he's not able to be here this morning. Two of our Deputies were actually taken to Lakeshore Hospital. I have since received notification that they are o.k., but they were exposed to carbon monoxide and other chemicals from a call that they attended so the Sheriff was kind of tied up this morning and couldn't make it. So he sends his apologies but everybody is o.k..

Twenty nine hundred dollars is being requested to be added to the equipment budget for the Jail. This expense will be fully reimbursed from commissary funds but it was not an anticipated expense. It's a floor cleaning machine that broke and we cannot fix it so we have to replace it. Since it's fully reimbursed, we figured we would add it to the budget. Then the second one is for bomb equipment for one of our grants. It was not originally budgeted in this year's expense but they were ready to place the order for the equipment so we're requesting that that is also added and that is also fully reimbursed.

Chairman Chagnon: Any questions or comments?

Unanimously Carried

Proposed Resolution – Authorize Execution for New York State Office of Homeland Security Grant for State Law Enforcement Terrorism Prevention Program (SLETPP) FY 19

Ms. Cresanti: This is a multi-year grant that we request and we've gotten the last two years in a row. It's to offset the salary for our Communications Coordinator which is Matt Trusso. It's already budgeted for the year this year so there is no amendment needed at this time.

Chairman Chagnon: Any questions or comments?

Unanimously Carried

Proposed Resolution – Amend 2019 Budget for State Homeland Security Program (SHSP) Grant Award

Mr. Griffith: This is our normal Homeland Security grant monies coming in and going out. We're spending the money to – it's coming in from the Federal government through the State government. There is no local share involved. That means just raising a revenue account and raising an equal amount to the expenditure account.

Chairman Chagnon: And what are we spending the money on?

Mr. Griffith: Heart monitor and defibrillator.

Chairman Chagnon: And these are additional equipment or replacement equipment?

Mr. Griffith: Additional equipment.

Chairman Chagnon: O.k., any questions or comments?

Unanimously Carried

Proposed Resolution - Modify Capital Project Requests Related to Shared Storage Pole Barn

Mr. Griffith: One of the projects that the Sheriff and I and somewhat inherited from our predecessors was the possibility of building a new pole barn storage building on the campus of Emergency Services by the old Chautauqua School bus garage. When the original estimates came in for that, they came in much higher than we had thought they were. We had originally, along with the Sewer District had monies in the budget to build that building. We cannot build that building. We don't have enough monies but what we're asking and it went through the channels to get done is to take some of that money – the Sheriff to take some to buy a piece of equipment and me to take some to buy 39 new AED's that are located throughout the County. In this building, other buildings, DPF buildings, all the way around the County. Our office is going to set up to be a central location for those for the servicing and maintenance on those and they would come through a new life packs(?). They are long term, long item thing, they come with an 8 year guarantee on (*inaudible*). Capital projects has approved this.

Chairman Chagnon: So the Planning Board has reviewed and approved this?

Mr. Griffith: Yes.

Chairman Chagnon: The resolution John, also refers to purchasing a devise to safely and quickly provide presumptive analysis of various narcotics.

Mr. Griffith: I can speak to the Sheriff because I know he's tied up. This is a device that does allow the Sheriff, - I've heard this because I heard the presentation. It's a device that he would have, he would leave it in Dunkirk and through the Sheriff's office which would allow the quick and easy identification and start the legal process for identifying narcotic substances in the field. The City of Jamestown has one and the Sheriff working with the other police agencies have put this up in the Dunkirk area to have one north and one south.

Legislator Nazzaro: This is just sort of a comment or maybe a question. You asked the question Mr. Chairman, it went through the Planning Board. When I see something like this, o.k., this project was not done, we're returning it to the reserve and I know that we have been dipping into the capital reserve. I just want to make the point, it does not always mean we have to spend it immediately on something else. So, these other projects that we're replacing it with, where do they fall in the – I mean, the Planning Board reviewed it so I'm assuming these were ranked fairly high enough.

Mrs. Dennison: These projects were not part of the general – it's kind of like an off cycle occupancy project, if you will. They did not go through the formal ranking process with the Planning Board because that only happens once a year.

Chairman Chagnon: It had not been submitted.

Mrs. Dennison: But they were presented to the Planning Board during a review process this May so the Board was reviewing all the projects that are proposed for 2020. These two projects, Director Griffith and the Sheriff made a presentation to the Planning Board, explained

that one project that the Board ranked highly (*inaudible*) was not going to be done. Suggested that the funds be repurposed for these projects. So, there was no official ranking on them.

Legislator Nazzaro: So these projects are something that – they needed to be done. I just don't want to send out the message to departments that if one project is shelved for whatever reason or postponed, that, I would like to (*cross talk*) the capital reserve a little more. I just don't want to be spending money if we don't need to but if these went through the process –

Mrs. Dennison: They were reviewed by the Planning Board and this change, if you will, was approved as John said but they did not – they were not formally presented during the several month long process. There was not an official ranking form filled out on these projects which there is for the ones that are presented that is part of the regular cycle. But I would also comment that as you saw with the Mayville boiler replacement project, that's an item that is similar to these projects. That Mayville boiler project, the second one that you just approved, that was discussed with the Planning Board, it was discussed during the review process in May but it was articulated as a current year, 2019, project. So it was not ranked among the projects for 2019.

Legislator Nazzaro: I sort of consider the boiler almost like, quote, emergency, because even though we are not in the heating season, you are going to need that boiler to provide heat.

Mrs. Dennison: There have been other projects that were presented off cycle and approved.

Chairman Chagnon: I appreciate that message being conveyed Chuck because I'm fully in agreement with that. I think one thing that is germane here is that, we're canceling \$250,000 worth of capital projects and they are using \$87,000 of that. So, it's not like they are using the entire \$250,000 in which case, I would be coming out of my chair. I appreciate the message that you are sending.

Mrs. Dennison: Mr. Chairman, just to clarify. The \$250,000 was the portion of the project that was going to be financed by the North Chautauqua Lake Sewer District. The capital reserve was financing \$170,000. So these projects, in my opinion, they are in place of that \$170,000 because the \$250,000 was from a different source.

Chairman Chagnon: Right. Other questions or comments?

Unanimously Carried

Proposed Resolution – Authorize Litigation Against Telecommunications Companies Regarding 911 Surcharges

Mr. Abdella: The resolution fairly self-explanatory but New York State Association of Counties has been looking into - wide spread concerns actually nationwide that telecommunication companies have either failed to collect the E911 surcharges that would be coming otherwise to the County or failing to remit them to the counties. So they have organized a legal effort to look into that and file law suits as necessary to recover those sums. The retained

firm has agreed to do this on a contingency fee basis so the County would not be needing to invest any sums of money to participate in the effort. So this resolution would authorize Chautauqua County to join the other counties in New York State and participate in this effort organized by NYSAC.

Chairman Chagnon: Questions or comments proposed on this resolution?

Unanimously Carried

Proposed Resolution – Authorize Acceptance of Funds from the Administration for Community Living (ACL) through New York State Office for the Aging (NYSOFA) for the NY Connects No Wrong Door (NWD) System

Mr. Melquist: This is fairly straight forward and I will give it some high level and most of the details. It's a two year grant through our State Office for the Aging from the Administration for Community Living. The purpose of it is to document the value of our existing New York Connects system. Basically showing how New York Connects empowers individuals to seek and obtain quality long term care. How they are going to do this is, we're working with, I think, 8 or 9 other States, ACL's kind of running the whole thing and then 8 or 9 States are developing a return on investment calculator, just to figure out how much money we're saving individuals if they were going to long term care, if they were going to nursing homes, whatever it is, constant (*inaudible*) whatever it might be. Our New York Connects staff is going to help do that. They are going to provide option counseling to these individuals to keep them out of the (*inaudible*), keep them out of nursing homes, etc.. We're going to track results over time, so over the two years and then after that, once everything is kind of established, we'll keep going. The weird thing about this is, always with our State, we didn't get the application for this until I think April. The funding started last October so it's the funding year that they go by started last October. So that is the breakdown and that's why it's not 75/75 for the expenses. We're expected to spend the full \$75,000 through September of this year and then an additional portion for October to December and that's why the disparity in the amount below not being split up. The two year grant was \$75,000 each year. There is no local share. It's all revenue and every penny we spend, will be covered. That's pretty much the details.

Chairman Chagnon: You got the key phrase right there at the end. Any questions or comments on the proposed resolution?

Unanimously Carried

Proposed Resolution – Close, Modify and Create Petty Cash Funds

Mrs. Dennison: This is the second resolution this year to try and, as the title says, close, modify, and create petty cash funds. We had the first one in April and this resolution includes all of the changes that we expect to happen. I apologize that it's very lengthy and convoluted. It follows the example of previous resolutions that build up the history of each petty cash account. So, to give you the summary, we have three accounts that are going away. Two of those accounts

are with Child & Family Services units. One in Jamestown and one in Dunkirk. They are \$50.00 a piece and they are being abolished. Then there is also a petty cash fund with the South & Center Chautauqua Lake Sewer District, \$100.00, that one is being abolished. Then we have a petty cash account that's with the Health Department in Mayville and that one is being – one of them is being abolished, one of them is being increased from \$75.00 to \$100.00 and then the Health Department would like to initiate two additional petty cash funds. One is a fund for making change at the entrance to the clinic in Hall R. Clothier Building, for \$50.00 and then the Health Department also would like to establish a petty cash fund in the Jail of \$50.00 for purchase of emergency medical supplies. After all these changes are implemented, we would have the petty cash funds throughout the County would total \$13,300. Of that amount, \$5,500 are checking accounts so there is no cash on hand and those are reconciled monthly with the bank reconciliations sent to the Finance Department. There is \$5,575 which are change funds. So just used for making change at installations that accept cash. Then the remainder would be \$2,225, those are what you would consider traditional petty cash accounts for people who are making purchases for incidental expenses.

Legislator Nazzaro: I just question here, I understand the need for change funds, absolutely. I'm questioning why you need a petty cash fund for the Jail for emergency medical supplies? Why could you not use a – I thought the plan was sort to go to debit cards.

Mrs. Dennison: Yes. The Jail, since it functions 24 hours a day, I mean – perhaps they could have a purchasing card there are – it's for the nursing staff and so there are a lot of different staff members that depending on the day, may or may not be there so it's not really practical. You would have to have a purchasing card for a lot of people. So, I think they feel that it is more practical just to have a fund in case they need a particular medicine or supply in the middle of the night, that kind of thing.

Chairman Chagnon: And what would they use the cash for in the middle of the night?

Mrs. Dennison: I don't know how late Tops is open, but, -

Legislator Nazzaro: You have a CVS, I'm sure that's not open 24/7. I still think that they could use a purchasing card. That's my recommendation.

Mrs. Dennison: That is the best explanation that I can offer and what they have told me is just that they apparently – they can't always predict what medical supplies they need because it depends on the patient. That's as much as I can offer. I don't know if they don't want to have a purchasing card but like I said, there would be quite a few to cover all the individuals.

Chairman Chagnon: How about the check-in desk at Hall R. Clothier Building?

Mrs. Dennison: That is going to be a change.

Chairman Chagnon: What is it used for, who is checking in and why do they need to make change?

Mrs. Dennison: I believe they have clients that are making payments for services. It is one of their medical clinics.

Chairman Chagnon: So this is not the Health Department, this is –

Mrs. Dennison: It's a Health Department facility. I mean, the Department of Health & Human Services is requesting it, not Mental Hygiene.

Chairman Chagnon: So it's the nursing unit.

Legislator Nazzaro: I have to go back to the Jail. You said the new petty cash fund for the Jail, and you probably said it and maybe I zoned out, what were they using it for?

Mrs. Dennison: They don't have one at all. They don't so now (*cross talk*) probably the individuals if they have emergent need, they are buying it out of their own pocket, probably requesting reimbursement from one of the other Health Department petty cash accounts. I mean, there is a petty cash fund in the Sheriff office, for Sheriff general operations. But now the Health Department administers the Jail Clinic so, I mean, they maybe could use the same one.

Ms. Crow: I just want to comment. In terms of the number of credit cards. I think the question should be more whether or not they need to have any fund. I would agree that limiting the number of credit cards issued would be – I would prefer to have the petty cash fund than issuing multiple purchase cards. The purchase cards they can take with them wherever they go. It's not to the petty cash fund is only on site so it's not like they can take it home with them and maybe make a mistake purchase. So, in this case, I would say an argument to have the cash versus multiple purchase cards. If it was one person, I would say the purchase card would be preferable to having the cash. How much is it?

Mrs. Dennison: Fifty dollars.

Legislator Nazzaro: O.k., as long as we do periodically auditing.

Ms. Crow: Oh yeah.

Mrs. Dennison: I appreciate your comments that this is going in the wrong direction. I tried to talk them out of it, let's put it that way but they are continuing to make a case that this is necessary for their operations.

Legislator Nazzaro: We can move on. I'm not happy with it but –

Chairman Chagnon: You can amend it.

Mrs. Dennison: Or if you would like to table it and get more information. Unfortunately, Christine Schuyler and Val Lis are both out of town today so they couldn't be here. They might be able to give a more (*cross talk*) answer than I can.

Ms. Crow: It can be reviewed to see the activity in 6 months or one year timeframe. We can review to see how much activity that petty cash fund has had and then maybe annually review the activity to see. If it's used twice a year, then, it doesn't make sense to have it. If it's used once a week, then we know that it's being used for the intended purpose.

Legislator Nazzaro: How many purchasing cards do we have to have, any idea? I don't want to make this difficult. To Pierre's point too, they don't have it now, this is going in the wrong direction of what the recommendation was in the internal audit. I prefer for now to strike the creation of that account. Until I have more information.

Legislator Niebel: This is for \$50.00, petty cash?

Chairman Chagnon: Yes.

Legislator Niebel: And the intent is to use it for emergencies, basically.

Mrs. Dennison: Correct.

Legislator Niebel: I'm willing to give it a try with the caveat that we revisit this sometime in the future. I'm o.k. with it.

Legislator Nazzaro: Mr. Chairman, may I make an amendment?

Chairman Chagnon: Sure, you may.

Legislator Nazzaro: I will just again, this is the old accountant in me and auditor, so, because this is going in the wrong direction, because the account is not there now, I would like to remove the creation in the second to the last RESOLVED where we're creating a new petty cash account for the County Jail. Pending, I would like to know what number of purchasing cards – how many purchasing cards they would need and also, is it the proper term for the Mayville Clinic, is that petty cash or should that be a change fund?

Mrs. Dennison: They are all referred to as a petty cash accounts, even if they are used for change.

Legislator Nazzaro: I know in my previous life we designated, we had a distinction between change fund and petty cash. So, I will make that amendment. I don't know if I will have a second to remove the creation of the petty cash fund for the Jail.

Legislator Muldowney: I'll second it, I think to the key point. I do understand what Terry is saying but I think the key point is it's going in the wrong direction. I'll support that.

Chairman Chagnon: Alright, any other comments or questions on the proposed motion to amend?

Mrs. Dennison: I will just say that I did receive an email from Ms. Lis earlier this week and she said, has the resolution been passed yet to establish the petty cash fund in the Jail? I said, no, we're discussing it this week. She said, is it on the docket for June or July? I said, it's on the docket for June. And she said, oh good, the people in the Jail will be very pleased that it's moving forward sooner rather than later. Just indicating their –

Legislator Niebel: Maybe not.

Mrs. Dennison: Yeah, maybe not. Indicating that the people in the Jail –

Legislator Nazzaro: Again, part of my comment was to have additional information provided, what would be the number of purchasing cards they would need to have. They don't have it now.

Mrs. Dennison: Correct.

Legislator Nazzaro: It's not like we're taking – once you give it to them then it's harder to take it away. I'm done.

Chairman Chagnon: We have a motion to amend, no further discussion? All those in favor?

Amendment - Carried with Niebel voting "no"

Chairman Chagnon: Onto the proposed resolution as amended, any further questions or comments?

Carried with Niebel voting "no" as amended

Proposed Resolution - Authorize Use of 3% Occupancy Tax Undesignated Reserve Funding to Pay for the Cost of Printing Marketing Brochure

Mr. Geise: This resolution as the Chairman explained, authorizes the use of 3% occupancy tax, undesignated reserve funding, to pay for the cost of printing this brochure. We have been working on this, the IDA, the Division of Economic Development along with our partner the CCVB, the Chamber of Commerce, WIB, and other stakeholders to develop a marketing piece that we can use to, not only attract tourists and visitors and current residents and potential residents and businesses, it's something that we get calls all the time about. Do you have anything that we can send out that speaks to the quality of life and the businesses here? So, for years we have been sending out either internally created materials or the CCVB annual catalogs. Certainly the County Executive has been talking about this for some time as well, creating this marketing piece. Along with this, we have a web site that is currently almost complete that is being created by Obtis(?). You will notice in this brochure that there is no links to any individual attractions or agencies or anything, there is one web site and it's on the front and back cover. That web site will be a one stop and it has all of these. You can navigate through

there to locate anything that is discussed in here and other resources. We spent over \$10,000 probably closer to \$20,000 getting it to this stage, the IDA. We had a couple of stops and starts but we ended up contracting with some local people, Sue Kellogg and Stephanie Burdo and they worked with us very closely over the last 8 to 10 months to get it to this point and we're really excited to have this piece. The idea is, we're going to print 15,000 copies of this. We're going to get it out to the hospitalities, to the service agencies, businesses, realtor's, (*inaudible*), anybody that wants it that is trying to convince people that this is a good place to come and visit or a good place to locate a business, or good place to get a job for that matter. You will notice it's kind of a 10,000 foot overview of the County and all its amenities. I guess that is it in a nutshell what we are trying to do here.

Chairman Chagnon: Any questions or comments other than quality piece? Last night I pointed out to the PED Committee, this is a fabulous piece of work, fabulous creation. I clearly get that this has economic development impact as well as tourism impact. As Mark pointed out, the majority of the cost of creating this document came from Economic Development funds and the smaller portion of it is being proposed to come from occupancy tax for tourism. This clearly, in my mind, will bring people to the area who weren't planning to come in the first place. Unlike previous proposed resolution, so I'm all in favor of using the occupancy tax for this and I think that this is a terrific creation on behalf of Mark and his staff.

Mr. Geise: Thank you.

Legislator Muldowney: Was this created in the County?

Mr. Geise: Yes and it will be printed in the County. Stephanie and Sue are both local, they both worked for CCVB, various times over their careers. Our original attempt at making this was through Invest Buffalo Niagara and it just wasn't local enough. It wasn't personal enough, it really wasn't – we know our County so we created this knowing our County. I think it conveys that.

Chairman Chagnon: It's a true sense of who we are. Any other questions or comments on the proposed resolution?

Unanimously Carried

Proposed Resolution – Close Capital Projects

Mrs. Dennison: As part of the capital planning process for the 2020 and forward capital projects we asked all of the department heads to give us an update on existing capital projects, to give us a status report on them and during that process, we learned that these three projects have been completed and so we would like to close them at this time and return any remaining budgets to the capital reserve.

Chairman Chagnon: Any questions or comments? Well done, thank you.

Mrs. Dennison: You are not going to ask me how much is going to the capital reserve?

Legislator Nazzaro: How much is going to go to the capital reserve?

Mrs. Dennison: Thank you for asking. I just wondered if you would ask and so I was scrambling to get the numbers so I would have them in time because I forgot to do that until 5 minutes ago. The Buildings and Ground project has a remaining budget of \$3,899, the Scattered Sites Development has a remaining budget of \$286.00 and the Chautauqua County Airport project, that has a remaining budget of \$4,863, however, I suspect some of that is funded by outside sources so I do not know the amount that is actually going to be returning to the capital reserve but it would be somewhat less than that, properly (*inaudible*) less than that. So unfortunately not big dollars. All these projects came in under budget and so there is a small surplus that will return to the capital reserve.

Chairman Chagnon: I will note that one of the projects is from 2013. We're still cleaning up. Any other questions or comments on the proposed resolution? Any other questions that Kathleen can't answer?

Unanimously Carried

Proposed Resolution – Financial Management Policy for the County of Chautauqua

Mr. Abdella: Two things Mr. Chairman. First of all, on an annual basis, we do bring the Financial Management Policy in front of you to reconfirm. Secondly, this year, as you may recall in the last month or so, there had been an amendment to the Administrative Code that changed the definition of capital projects. So incorporated in this version of the Financial Management Policy is an amendment that will put the policy in line with the Code. As I drafted it, I decided that it might be easier to have the Financial Management Policy incorporate by reference, the definition as it is defined in the Administrative Code so that as it gets tweaked in the Administrative Code, that will act as an automatic instant amendment to the Financial Management Policy. We won't necessarily have to remember we need to also go and change the Policy. But the two will now be hand-in-hand.

Chairman Chagnon: Any questions or comments?

Unanimously Carried

Chairman Chagnon: Alright, we have discussions listed but we now have a couple of proposed resolutions under "other" that have been laid on the desk this morning.

Proposed Resolution – Authorize Acceptance of Indigent Legal Services Grant for the Period of January 1, 2017 to December 31, 2019

Mr. Barone: Thanks very much for taking this particular proposed resolution under "other". It was actually brought to my attention yesterday concerning (*inaudible*) and how we filed it but just for clarification because it did raise some questions is that, these distributions as you may be aware that are distributed by Indigent Legal Services, usually have a considerable lag time, unfortunately. Once the Office of Indigent Legal Services determines that they are

going to follow through with the grant, they will put together a contract. That contract then in turn is sent directly to our County Attorney's office. I don't see the contract when it initially comes in. Then once the County Attorney gets it then what they will do is directly send it to me with a copy of the contract and then will instruct us to put together the resolution. That is no different, that is the same process that happened in, I think we're talking about distribution seven, in regard to distribution eight. So we just received those. Actually the County Attorney received them and then they came to us. We want to get moving on these because there are several things that are tied up to these distributions that are essential for us to move along as we have been planning. That is why the lateness of the filing or getting them under "other" had no other purpose whatsoever other than to get these in motion so that we can make sure that we're fully covered and that the County has those contracts in place. So we appreciate the Committee taking these and I appeared in front of Public Safety last night and that is something that I didn't discuss but like I said, it was brought to my attention and so I thought that – which was a good point.

These particular funds, again, we've been dealing with these distributions now for the last several years. As the Committee may be aware, it's at no cost to the County but rather are supplemental funds to enhance our services to the indigent in the County and to provide, hopefully, effective assistance of counsel with the increase in caseloads we have. There is a number of different things, as I know Mr. Chagnon is aware, these particular funds are earmarked for specific enhancements in the Public Defender's office. They're not where we just get these funds and decide what to do with that. As Mr. Chagnon is aware, we have several items that these particular funds will go directly to, to enhance services. For example, we're raising Public Defender's salaries, Assistant Public Defender's. We're hiring new Assistant District Attorney's, we're moving people who are already Assistant Public Defender's into higher positions. For example, 1st Assistant Public Defender, 2nd Assistant Public Defender, those are positions that are being created, those have increase salary, and hopefully we have then parity with the District Attorney's office, salary wise. In addition, then we have vacancies for additional attorney's. Also, we're enhancing and supplementing our support staff. We're hiring three new clerical staff, new investigators, and actually we have a Senior Case Worker that we're entitled to hire under these distributions which will be Mental Health certified and/or addiction (*inaudible*.) They will work right in our office. So the whole idea is to really enhance and increase the ability of the Public Defender's office to handle not only the volume of cases that are increasing on a yearly basis but more importantly, to be effectively handling these cases. That is what these funds are all about.

Chairman Chagnon: For the benefit of the Committee, I'll point out that I appreciate everything that Ned said and when these two resolutions, this one and the following one came late to be considered under "other", I agreed to sponsor them because I consider them to be urgent. The quicker that we get these grants accepted and implement the actions that Ned detailed, in my mind, in addition to improved representation of the indigent, it also has the potential to reduce our assigned counsel costs because of the additional capability and availability of Assistant Public Defenders. So, I consider this one and the following one to be urgent, that is why I sponsored them. So, just for clarification, that is why I agreed to consider them under "other". Any other questions or comments on this proposed resolution?

Legislator Nazzaro: Are there any budget amendments necessary for any of this?

Chairman Chagnon: There are no budget amendments necessary because this is already reflected in the 2019 budget. Any other questions or comments on the proposed resolution?

Legislator Niebel: Both myself and the County Executive has also cosponsored this resolution because we do need to get these funds, we do need to start hiring these people. There's a time element involved and the sooner the better.

Chairman Chagnon: If there are no other questions or comments.

Unanimously Carried

Proposed Resolution – Authorize Acceptance of Indigent Legal Services Grant for the Period of January 1, 2018 to December 31, 2020

Chairman Chagnon: This is very closely related to the one we discussed. Do you have anything to add to this one?

Legislator Niebel: Distribution eight.

Mr. Barone: Distribution eight was - nothing really to add other than this was monies that ILS indicated that they had extra monies and I don't know quite frankly how they came up with them but, we weren't going to complain. This particular distribution was very important for a number of enhancements. Most particularly hiring the additional attorney's and support staff. So this particular distribution- I know personally, I've been on ILS since probably February. We found out about the monies contained and I think that Pierre can talk to you about the fact, we actually met with ILS here in this office probably nine months ago and sat down with the attorneys and counsel for ILS working specifics out. One of the things that is very important and tied to this distribution as well and Pierre mentioned it, is the Assigned Counsel or the creation of a Conflict Defender for the County. So these distributions again, are instrumental in not only allowing my office to effectively handle our increase caseloads but also more importantly, it has the opportunity- a real opportunity to decrease the cost for Chautauqua County in assigned counsel fees. We've talked about this and I know that Pierre has been heavily involved with this and it has a tremendous potential in saving this County hundreds of thousands of dollars, truly. Beyond that, more importantly, when it comes to the indigent within the County, it has the opportunity to provide real effective assigned counsel when representation is needed and when my office has conflicts. So this is a key, key distribution. So we've been working on this for a lot of months. I have been on ILS for the last several months and it only came as a result because I talked to Bill Layee(?) who's the Director of ILS and I personally spoke with him literally two days before this contract came through to the County Attorney's office. We're happy to get it and we're looking for the Legislature to approve this so that we can get moving on it.

Chairman Chagnon: Any questions or comments on this proposed resolution?

Mr. Abdella: I think it's a positive move certainly to have the Assigned Counsel Administrator come in. Mr. Barone's optimism I think is a good thing, but I think it needs to be

in the context of, the constitutional litigation that occurred regarding the effectiveness of counsel applies equally to Assigned Counsel. So part of the responsibility of that, Assigned Counsel Administrator, will be to assure that not only is appropriate billing is taking place but that appropriate representation is taking place as well. I think that there is just some unknowns as far as, in this new world of making sure that representation is effective, where they costs are going to come out. But, it's certainly best to have a program being actively managed on a day to day basis to make sure we're getting our best results, financially and as far as representation.

Chairman Chagnon: Thank you for that elaboration. Any other questions or comments on the proposed resolution?

Unanimously Carried

Proposed Resolution – Confirming 2019 Salary of Public Defender

Chairman Chagnon: You will note that I did not agree to sponsor this proposed resolution in contrast to the previous two because I don't believe, in all due respect to Mr. Barone, that this is an urgent matter. This would be retroactive to the beginning of the year 2019 and I feel that I need more time to understand this and discuss this before I would support this. So I agreed to bring it to the committee for discussion this morning but I did not agree to sponsor it.

Mr. Barone: This particular, if the Committee might be aware, previously my appointment in 2012, was at a base salary of \$75,000. That was at a 95% work rate. Subsequent to that or since that time, I believe, that my base salary that the County is responsible for paying, is approximately \$80,000 now. So the County's increase cost to my salary in particular, literally in the last 8 years has gone up approximately \$5,000. Now, not to mention and I touched on this last night, that is now at a full time rate as well. So, the increase cost to the County for me as Public Defender, has been \$5,000 in 8 years. Not to mention that I have gone from a part time employment to full time employment. Again, that is something that in order to save the – one of the issues and this goes back a few years, but when OILS was beginning to distribute the funds and their settlement was resolved as a result of the Hurrell law suit, one of the keys to OILS and their affective assistance to counsel with indigent providers in New York State is to create pay parity between Public Defender's and the District Attorney's. As this Committee I am sure is aware, the District Attorney in this particular County, I believe is at a pay rate of \$188,000. That of course, as I have learned last night from Mrs. Dennison, is not entirely paid by the County. New York State supplements or has a grant that is provided to the County to pay a portion of that. That is similar to what I worked out with OILS and their agency regarding my salary. Even with this particular supplement or grant, I would be at approximately \$35-\$40,000 below what the District Attorney is making. I don't think that my job is any different. As a matter of fact, I think, quite frankly, my responsibilities as Public Defender are increased tremendously from when I was first appointed in 2012 to now. Our caseloads have increased tremendously, not only in the Criminal division but also in the Family Court division. Because of the increased distribution and grants that we have received, our Public Defender department has increased its work numbers. We've gone from approximately four or five part time Assistant Public Defender's to now having 11 full time Public Defender's with three more being hired in the next month or two. So we'll be at 14 full time Public Defender's in the Criminal division, three full

time Public Defender's in the Family Court division. That is something else that I implemented after I came into the department, is transforming the part timers, from part time positions to full time positions. I believe strongly at a significant benefit to the County, not only cost wise or cost effectiveness, but the ability to handle the cases in an effective manner. I thought that was always necessary so this particular supplement to my salary, I think, is reasonable, it's something that is being provided by New York State and is at no cost to the County. No cost because the benefit package that is included in this, is also included in the grant monies. So there is no matching funds on the part of the County for my increase – or for this supplemental grant to my salary. There is no other associated cost, I believe, in the administration of this particular grant or supplement to my salary by the County. And, not to mention, if the County stops for whatever reason receiving grants or the distributions from OILS in the future, the County is under no obligation to continue any salary that I'm set at or anyone else in the office, quite frankly. That is something I know Mr. Chagnon brought up to OILS directly and asked them directly. Would we be under, Chautauqua County, would we be under any continued obligation to continue whatever is established pursuant to these distributions. They indicated, absolutely not. That is, as a matter of fact, and I think you can talk to the County Attorney about that, but I think that is also laid out pretty clearly in the contracts that are sent out for authorization. So, again, even with this supplement, I'm nowhere near parity with the District Attorney.

Legislator Nazzaro: I certainly do not disagree with the difference in the D.A.'s salary but the D.A.'s salary is set by the State to be with the Judges, is it not?

Mr. Barone: Yes.

Legislator Nazzaro: So we have no control of setting the salary of the D.A.. Ned, aren't you receiving a supplement now?

Mr. Barone: I was, up until January 2019. For last year, yes. This arrangement had actually been in place but at a lesser amount in 2017 and 2018.

Legislator Nazzaro: Can you refresh my mind, what was (*cross talk*)..

Mr. Barone: Sure, I believe that was \$50,000 which was salary and benefits. So the actual salary I believe, and I may be off here, for last year may have been \$37,000 and benefits of like \$13,000 added to my base of \$75 or \$80,000.

Legislator Nazzaro: That was in 2017?

Mr. Barone: It was 2018.

Legislator Nazzaro: So \$37,000 was the additional supplement plus the benefits in 2018. The \$75,000, does that include benefits?

Mr. Barone: Yes, the \$75,000 also includes benefits. I don't want to speak for Kathleen Dennison but she may be able to indicate the actual breakdown.

Legislator Nazzaro: She actually just gave it. It was \$62,127 was the additional salary.

Clerk Tampio: No, you have to take out the benefits.

Legislator Nazzaro: The benefits are –

Mr. Barone: Thirteen thousand.

Clerk Tampio: It was \$41,374 and base salary was \$78,795.

Legislator Nazzaro: So for 2019, the supplement, for what is in this resolution, of \$75,000 from \$62,127, is that -

Mrs. Dennison: That's the proposed salary supplement and the fringe (*cross talk*)

Legislator Nazzaro: So my only question and again, I believe in fair compensation and we've had these discussions over the years, I'm not against this because there is a little difference between, we appointed the Public Defender, we set the salary in the budget for the Public Defender. It's not set for us like the D.A. is.

Mr. Barone: That's correct.

Legislator Nazzaro: So my question is, has and I see this is sponsored by Chairman Wendel, Mr. Niebel, and County Executive Borrello. You eluded to it but how does this salary now compare to other Public Defender's in counties of our size? I mean, we're giving a supplement, which I'm not against it, I just want to be able to justify the amount. How is the amount set and how does it compare?

Mr. Barone: I don't think Kathy can answer that but I can. First of all, I am not sure what other Public Defender's make. I know what I should be making in this County for the work loads and the responsibilities I have. I know that I have some ball park figures of what other Public Defenders make and I know that this is something I discussed with OILS because they actually were the ones that suggested in order to create some pay parity between Public Defenders and the prosecutors that the grants or the monies or the distributions, go towards salary increases. I also know that for example, every one of the attorneys in the office, who by the way, distribution eight provides for increase pay raises for all the Assistant Public Defenders and that's a percentage. Approximately 10% I believe is where ILS was going to try and cap it or propose. So the funds that we're getting out of distribution eight, which also would supplement my pay, were established by OILS in regards to what they thought was fair compensation. Mostly for Assistant Public Defenders but I also took into consideration and I did talk to other Public Defenders and I can tell you that they range anywhere from, the ones that I spoke to, \$90,000 to \$135,000. Again, depending on what county they are in and the type of work that they are doing. But, that's where that figure comes up to. Not to mention where it was last year with the supplement and the salary increase for 2017 and 2018. That's really where or when we looked at the work increases not to mention the centralized arraignment coverage that all the attorneys are responsible that I cover as well. I'm in the mix in the rotation so I'm also now on 24/7 call. By the way, just so the

Committee is aware, with centralized arraignment, that is something that is done at the Jail. Our 11 attorneys including myself are on a daily rotation of 24/7 coverage and Raise the Age. Pat Rice from my office is here and he'll tell you that I'm the one that the Jail calls with any difficulties concerning any of the attorneys from my office. Someone doesn't show or whatever. I have to be available so that the Committee's aware, 24/7. They have my phone number I've gotten calls any day of the week, any time of the day. Raise the Age, either Pat or myself is on call. That is 365 days a year. So I don't know. I guess, let the Committee decide what is fair. Because I'm not sure but that's the figure I thought was a fair figure based on what OILS suggested to me, what the pay increases were across the State from my discussions with other attorneys, not to mention our work loads and also not to mention that since 2012, I haven't received any pay increase from the County's contribution, at all. Not even a cost of living increase.

Legislator Niebel: Ned and Pat, I view the Public Defender as being on a par with the District Attorney. I think those are both equally important jobs. Ned, even with this \$75,000 increase, you'll be making what, approximately 75% of what the District Attorney is making, about?

Mr. Barone: I'm not good with those but that sounds about right.

Legislator Niebel: This will bring you up to about \$140-\$150,000?

Mr. Barone: Yes, \$142,000.

Legislator Niebel: And the District Attorney is close to \$200,000.

Mrs. Dennison: Yes.

Legislator Niebel: Or thereabouts. I'm just doing a rough estimate about 75%.

Mr. Barone: Yes, that sounds about right.

Legislator Niebel: Mr. Chairman, I don't have a problem with the salary that Mr. Barone has come up with. We did discuss some other things in Public Safety last night which we can discuss further, but as far as the salary part, I guess I am o.k. with that.

Mr. Abdella: Just to clarify. I think conceptually from OILS perspective, they view this as a supplement and so our acceptance of all or a portion of those monies has to be in addition to the base amount that we have committed to in the past. We wouldn't be able to reduce our local share contribution, so to speak, and qualify for the supplemental funds.

Chairman Chagnon: Other questions or comments?

Legislator Muldowney: I've just always had a problem with the Public Defender's office being nowhere near what the District Attorney's office is so I've always fundamentally had a problem with how low the Public Defender's office was versus the District Attorney's office.

Just a clarification. I'm showing \$62,127 is the supplement that you are talking about so that's the increase and that would come directly from the grant. Would that be on a year to year basis or how would that work?

Chairman Chagnon: We're only discussing 2019 with this number.

Mr. Barone: That would be retroactive to January of this year. That was the only amount that was discussed with OILS for the rest of this year quite frankly. As far as the remaining years, that is something that is still open and it hasn't even been addressed.

Legislator Muldowney: And Pierre, you see the real need to move these first two along, right?

Chairman Chagnon: Right. In my mind those are urgent.

Legislator Muldowney: And it's urgent to get the whole program moving, right?

Chairman Chagnon: Right.

Legislator Muldowney: I guess where I'm coming from then is, then it's also, I don't know if it's urgent, but the person that's running this program should be compensated as a result of all this extra duties and hiring or whatever. I don't have a problem with the bottom number.

Chairman Chagnon: Kevin, since you mentioned it, let me clarify what I said earlier and that is, in my mind it's urgent to get the contract in place so we can start implementing the program. This resolution that we're talking about now is adjusting the Public Defender's salary, retroactive to the beginning of the year. If we do it this month, next month, the following month, it's going to have the same affect. It will be a slight deferral of compensation in the paycheck for the Public Defender for a couple of months, but he'll get that money. So the urgency in my mind is not (*cross talk*).

Legislator Muldowney: It will be retroactive?

Chairman Chagnon: It will be retroactive. It's not that by us delaying it, he's not going to get it. Us delaying it is just a delay in the amount of time before he gets that additional compensation in his paycheck.

Legislator Niebel: But Mr. Chairman, whether we table this or study it, whether we delay it, ultimately, I thinking the result is going to be the same so – possibly not.

Chairman Chagnon: I will continue to clarify. I've been concerned for many months now that we get numerous proposed resolutions that come to us late. We don't get, in my opinion, sufficient time in all cases to do adequate review and discussion of those. I understand that many of those are of urgent nature. Some of them are of an emergency nature, so, I understand that those need to come to us late. Those that don't come to us late, I'm frankly fed up. So, I want to draw the line, if it's not urgent, I'm not going to accept it as a late resolution because we don't

have an opportunity to review this. This proposed resolution came to us yesterday afternoon. We received the County's financial draft audit yesterday afternoon. I was up all night, thank you Tom, reviewing the financial audit, the draft financial audit. I just don't have 27 hours in the day to be reviewing all of these things on a late basis. So, if it's not urgent, I'm not supporting it.

Legislator Nazzaro: Well said Mr. Chairman. I'm not against the amount, I definitely agree there is big disparity obviously, we all know that, between the D.A. office and the Public Defender's office. My question is this and maybe I'm off base, is the process to set the salary, the supplement. We have and I don't want to have it to be a long dragged out process and I'm sure we very well, to Terry's point, could end up at this exact amount, it's not the amount, it's the process. Many times we do a review of compensation for like the County Executive. What should that be? This position is appointed by this body, we set the salary. I've had no input, no review saying is this a fair salary? Should it be more? Is this the right amount? Should it be less? I mean, I don't think that it should be less, I'm just saying, how do I know this is a fair compensation? What other counties pay? There are 62 counties or whatever in the State of New York. So I haven't seen any process of how the salary is determined other than based on discussions and we've had no input and we're responsible for the budget. That goes to your point Pierre that we just got this. I'm not against the amount, it's the process. How do we know this is the right amount? I mean, this is an appointment by this body. It's just like when we set any salary this is under our control and is not set by the State. So, I will be voting at this time, I don't know if we want to table it or what you want to do. I don't want to vote it down but –

Chairman Chagnon: It has been passed by Public Safety so it will be going to the Legislature.

Mr. Barone: If I may add, I respect that and I understand that in being able to analyze or come up with what you believe is a fair compensation. Obviously, it's not going to be more than this whatever you determine because I'm already locked in pursuant to the distribution in the contract agreement with ILS. So you can talk for the next year, it's not going to be any more. I understand that and I appreciate that. But at the same time, what your determination is to being urgent and what I would consider to be urgent are two different things. Yes, it's retroactive, but that means, still, I have gone without compensation for the additional work that I am doing, going back to January of this year. That's almost 6 full months. Now, if this tabled or however you look at it, another month, another two months, means additional time without that being paid. I realize it, it's like money in the bank. But that doesn't help me week to week or any other time. I just want the Committee to be aware of that. And I appreciate that.

Legislator Nazzaro: So Ned what you are saying is, and I know that we still have several things to discuss, the salary – that's my meaning of the process. I want to understand, this \$75,000 has already been submitted.

Mr. Barone: That's already been submitted and approved by ILS.

(Cross talk)

Legislator Muldowney: So \$62,127 –

Legislator Nazzaro: Well, \$75,000 is the whole – *(cross talk)*....

Legislator Niebel: The \$62,127 is just the additional salary. I think the \$75,000 includes the fringe benefits.

Mr. Barone: That's correct.

Legislator Nazzaro: I'm trying to understand everything here. So what you are saying is, this amount has been submitted, approved, contracted for, we can't go up –

Legislator Niebel: He's locked in for 2019 only.

Mr. Barone: Yes, that is what they have agreed to. The distribution as I indicated before, any funds we use out of those distributions are specifically designated already by OILS. It was based on the discussions with myself and OILS as to why we needed those funds or the grant and it's listed out right in the contract. I think the contracts that the County Attorney got, it's actually listed where those funds are going. For example, distribution eight provides for rent monies in the amount of approximately \$26,000 to be used for our new Jamestown satellite for Dunkirk and for any other rent outside of the County. That's specifically put in there. We have to use those monies for that.

Legislator Nazzaro: Who's involved in the negotiation? You are obviously as the Public Defender. Is the Chair of the Legislature, is P.J. involved?

Mr. Barone: No.

Legislator Nazzaro: I mean, who's involved in negotiating? I mean, this is a great thing and I'm just trying to understand.

Mr. Barone: My department. Myself, at one point Mr. Chagnon, I believe Mr. Wendel, I know Kathy sat down with OILS and myself when they came to the County and discussed certain amounts of money in that distribution eight, most notably, the monies that are assigned for the Conflict Administrator. Which I believe for this year was \$89,000. That is wrapped up on distribution eight. As is the supplement for my salary. So, that's specifically listed in there as well. But, other than those discussions, it was myself. It was based on figures that we have been providing to OILS for the last several years on the caseloads, the types of cases we're handling, the number of town courts we have, a number of different things. So those were the figures that OILS came up with based on their work with the other counties as well. But they take a look at everything in the office and they say, o.k., this is where I think or they think the money should go.

Mr. Abdella: Just as part of the background. At the start of the Public Defender's term when he was appointed for that term, the resolution provided that his salary – it identified the base salary, the local share be paid by the County directly and then also referred to the supplement from the State that would be fixed at the time grant funds were confirmed. I think

from the OILS perspective, the benchmarking if you will, is the parity with our own D.A.'s office and our own D.A.'s salary structure. Not to say that seeing what Public Defenders are being paid in other parts of the State isn't relevant but from the OILS perspective the goal was to achieve relative parity with the D.A.'s office both in terms of the District Attorney and then the Assistants in the respective offices.

Legislator Nazzaro: Aren't the D.A.'s paid the same in all counties?

Mr. Abdella: Well the rates that the Judges are paid are different depending on which county you are in.

Legislator Muldowney: Based on population?

Mr. Abdella: I don't (*cross talk*)..... As I last recall, it was not identical in Chautauqua's compared to say larger counties.

Legislator Muldowney: But the County Judge and the County D.A., have to have the identical (*cross talk*.....)..

Mr. Barone: And what Steve said is correct. As a matter of fact, just to amplify what Steve indicated, for example, OILS, we have the Assistant District Attorneys, a 1st Assistant District Attorney in this County makes approximately I believe, \$95,000. My Assistant Public Defenders before I was able to negotiate out these new contracts and new distributions, were at approximately \$60,000. Now for example, my Assistant D.A.'s, my 1st Assistants will be at \$92,000 approximately. So for the first time ever, they are on pay parity with the District Attorney's office. The whole idea behind this push, the lawsuit settlement by Hurrell, is effective assistance of counsel which means it's not just one or two things they take a look at. It's a lot of different thing. Most notably pay parity. You can't expect an Assistant Public Defender or a Public Defender to do the same quality job or get the same quality attorney at half the cost of what you are paying District Attorneys and it is by way of pay comparison as Mr. Niebel indicated. Even with what it is set up by OILS at right now, my pay supplement is still not even 75% of what the District Attorney in this County makes. So the whole idea behind this push and what the salaries are set up at, is, believe me, it's not just an arbitrary figure that is pulled out for me. It's something that really they take into comparison a number of different things. And again, I think if you just look at what my office now pays an Assistant Public Defender and what the District Attorney pays an Assistant District Attorney, it's almost one in the same for the first time ever in the history of Chautauqua County. So my attorneys who are just as capable and quite frankly do a hell of a good job are making what they should be making and they still aren't making what they should be making. But, at least we have some pay parity. That was the whole purpose behind any supplement to me. Not to mention, again, keep in mind, this is at no increase to this County. I haven't cost the taxpayers one dime in the salary increase since I was first appointed except for the \$5,000 that I have been increased at. So, is it arbitrary? I don't think so but perhaps after you discuss it the next two or three months, you might come up that it is and that's totally your decision and I appreciate that. But like I said, my interpretation of urgent is obviously a lot different and I can only push ILS so quickly on these distributions. Mr. Chagnon knows himself, I have been on ILS for distribution seven and eight for months now. I've sent all

kinds of emails, phone calls, personal meetings to get these contracts to us. I can't do it any quicker and if I could have, I would have. But in order for us to put this off for another month, either the distribution or my salary, I thought was inappropriate. We have been sitting on this. These are monies we need to move forward. Yeah, I mean, obviously, you know –

Chairman Chagnon: Any other discussion on this proposed resolution?

Legislator Niebel: Ned and you just recently got notification concerning distribution seven and eight from OILS?

Mr. Barone: Yes. Steve would have to be able to tell you –

Legislator Niebel: That's why it came about the way it has.

Mr. Barone: Right, I'm not sure how else we could have done it.

Legislator Niebel: That's o.k., Mr. Chairman, I think Mr. Barone is an outstanding Public Defender and whether we increase the salary at this time or a month or two from now, regardless, I think the increase is warranted. Now having said that, we did discuss one other issue Ned last night at Public Safety and that concerned private practice. This increase in effect will double your salary, basically. So, with that comes a lot more administration, a lot more record keeping, a lot more hiring, a lot more dealing with HR, so, therefore my concern or my suggestion to you was that, to the extent that you could, I would like to see you limit your outside practice because of the increase in the administration with the Hurrell settlement. Also last year we voted additional funds for your department to increase some of your part time people to full time with the understanding that they again, either eliminate or limit their outside practice. So, I'm in favor of this but I do suggest to the extent that you can, to limit your outside practice.

Mr. Barone: I understand that completely and that's what I've done. That's what I believe that everyone has done. But, again, just so I'm clear. My first responsibility is the Public Defender's office and my duties. I've never shunned those, I've never put those as a second seat to anything.

Legislator Niebel: I'm not questioning that.

Mr. Barone: I've given up a huge private practice and I have limited that considerably. I'm no longer on any type of Federal practice, CJA panels, I don't operate a private office, I don't maintain a private phone number, any private practice. I will, if someone calls me and says, hey, can you do me a favor. If I've known someone for a long time and they need help doing a will which I don't even do anymore, but, yeah, the whole idea is that my only real practice is the Public Defender's office.

Legislator Niebel: O.k., but you know where I'm coming from.

Mr. Barone: Yes, absolutely.

Legislator Nazzaro: I promise Mr. Chairman that I will be very brief because we still have quite a bit on the agenda. I certainly respect our Chairman and his comments of why he cannot vote on this at this time. After listening to all this and understanding better, I will support this because I don't see a point delaying it since we already have a contract, the amounts been set –

Legislator Niebel: It's been approved by OILS.

Legislator Nazzaro: (*Cross talk*).. but again to the Chairman's point, we cannot have these, unless they are truly emergent nature, we need time to review things in this Committee. So, I will support this, however I don't want the message that our Chairman made to be lost in the deliberation.

Chairman Chagnon: Any other questions or comments on the proposed resolution?

Legislator Muldowney: I guess I will echo the comments made by Mr. Nazzaro. I wasn't the one up all night long.

Legislator Niebel: Neither was I Kev.

Legislator Muldowney: I will support this also.

Chairman Chagnon: I will make it clear that I will not be voting in favor of this proposed resolution and it has nothing to do with the merits of the resolution but simply because of the timing and my lack of ability to do my independent review and research. O.k., if there are no further questions or comments, all those in favor of the proposed resolution?

Carried with Chagnon voting "no".

Discussion – Internal Audit Report for Social Services – Legislator Nazzaro

Discussion – Internal Audit – Drescher & Malecki - Annual Audit 2018

Other

Chairman Chagnon: At this point the County Attorney has requested an Executive Session to discuss some pending litigation.

Mr. Abdella: Also the financial history of a particular person.

MOVED by Legislator Nazzaro, SECONDED by Legislator Niebel to go into Executive Session. *Unanimously Carried (11:25 a.m.)*

MOVED to come out of Executive Session by Legislator Nazzaro, SECONDED by Legislator Muldowney. *Unanimously Carried (11:48 a.m.)*

MOVED by Legislator Niebel, SECONDED by Legislator Muldowney to adjourn.

Unanimously Carried (11:55 p.m.)

Respectfully submitted and transcribed,
Olivia Ames, Deputy Clerk/ Lori J. Foster, Sr. Stenographer