

Minutes

Public Facilities Committee

December 10, 2018, 4:00 pm

Gerace Office Building, Mayville, N.Y.

Members Present: Hemmer, Wilfong, Nazzaro, Scudder, Gould

Others: Tampio, Ames, Dennison, Bentley, Abdella, Almeter, Borrello, Davis

Chairman Hemmer called the meeting to order at 4:00 p.m.

Approval of Minutes (11/13/18)

MOVED by Legislator Scudder, SECONDED by Legislator Nazzaro to approve the minutes.

Unanimously Carried

Privilege of the Floor

No one chose to speak at this time.

Proposed Resolution- Authorize Agreement for Purchase and Removal of Standing Timber From County Airport Property at the Chautauqua County Jamestown Airport

Mr. Almeter: Mr. Chairman the County has a forced management agreement with Forecon to manage the County's reforestation parcels. Under that agreement we have approached Forecon and asked them for assistance in marketing standing timber on the airport property. This forced management agreement doesn't technically cover airport property per say, but they've agreed to operate under the terms of that agreement, which is basically a 7% commission to manage the harvest standing timber on the airport property. We put this parcel out for bid in June through Forecon and we received no bids. So, Brad and I met with the management consultant and he advised that the structure of the County's (*inaudible*) timber solicitations is somewhat cumbersome for private sector timber harvesters. He suggested that we streamline it by basically reducing the timeline-the timeframe from when the bids are received to when the contract is issued and the purchaser is allowed to cut and remove the timber. This is particularly important in the current market place because of the foreign tariffs and the volatility of standing timber in the international markets.

So, the purpose of this resolution is basically to give the County Executive approval to award a timber harvest contract provided that a responsive bid comes in at or above the fair

market value assessment of the timber. The fair market assessment was done by our forestry consultant.

Chairman Hemmer: And I see that it says that the proceeds derived from the sale must be expended by the County for capital and operating costs of the airport.

Mr. Almeter: Yes. Under the FAA grant assurances that we sign when we accept capital grant money for the airports under the FAA's airport capital improvement program- when we accept that grant money we sign grant assurances that say that revenue generated from airport assets will be utilized at the airport. That's an obvious effort on the part of the FAA to make sure that the airport is carrying their fair share of the operating costs of the airport in exchange for these 90 or 95 percent capital grants that we get from the FAA.

Chairman Hemmer: Sounds good. Any questions about this one?

Legislator Nazzaro: So, are they- just so it's clear to me, Forecon- are they the ones that are going to be actually moving the timber or are they contracting with somebody else?

Mr. Almeter: They're acting as our-

Legislator Nazzaro: Agent? Like a broker?

Mr. Almeter: They are acting as our project manager.

Legislator Nazzaro: And in this agreement, based on their appraisal the minimum value of the timber is \$40,000?

Mr. Almeter: That's correct.

Legislator Nazzaro: So, if something comes in below that-

Mr. Bentley: The County Executive would not have the authorization to do that.

Legislator Nazzaro: They must feel fairly confident that the value of this timber is at least \$40,000.

Mr. Almeter: Based on current prices, that's correct. They've surveyed and marked every tree. I think there is 90,000 board feet. It's 500 and some odd trees there in the plot that's being offered for bid.

Mr. Bentley: And just to emphasize what Ron brought up at the beginning- why we didn't get any bids the first time around. The people that bid it have to pay us the full amount upfront and they are cash poor. They don't get their money back until they harvest and sell all the timber. So, the longer it takes them to bid and for us to award and them to cut down and get back, there's such volatility that they just don't want to take the risk. So, this allows us to shorten the County's processing time- the purchasing time that was seen as a hindrance to bidding. It

wasn't that there wasn't value out there; the contractors just didn't want to take the risk. This, upon Forecon's recommendation, said that this might be one way that might help incentivize bidders to actually come forth with an actual bid.

Chairman Hemmer: So, what are we going to do? Are we going to look at these bidders beforehand and say OK, you've got the insurance, you've got the equipment before they even bid?

Mr. Almeter: With their bid they have to- they don't pay until we sign a contract. They bid a fixed price for the timber and between the date that we open those bids and accept that price and the day that we put them under contract, typically it takes about two months. A month of that is the Legislative process and a month of that is these other administrative chores- verifying insurance, collecting a performance bond, and actually the administration of the contract. The point at which they pay is when they sign the contract, but the point that Brad's making is that from the time they bid a fixed price for the timber until when they can sell it at a minimum under our current protocols is two months. We're trying to do what we can to shorten that interval. It's still going to be a couple of months. It's going to be a month to get it under contract and then they mobilize and cut the timber and sell it to their buyers. There's still a certain amount of lapse time. To the extent that we can shorten that, it removes risk from their cash flow.

Legislator Nazzaro: Have these trees been marked already?

Mr. Almeter: Yes sir.

Legislator Nazzaro: So, they've all been identified and marked.

Mr. Bentley: That's how they did the *(inaudible.)*

Legislator Nazzaro: Now it goes to the highest bidder?

(Cross-talk)

Mr. Almeter: As part of this service that Forecon provides- it's not a true brokerage, but it's a project management type service- as part of that they will host a pre-bid conference, they'll take the prospective bidders out and show them the trees. They can come and measure them and arrive at their own bids.

Legislator Nazzaro: And Forecon gets 7%?

Mr. Almeter: Yes.

Legislator Gould: When did Forecon become the broker? They weren't for a while and that's why I'm asking- and why?

Mr. Almeter: You're correct. Forecon had the contract for several years. They lost it in a competitive procurement with Dave Span working as Soil and Water Conservation service. They held the contract for five years and then it was re-competed in 2017 and Forecon basically underbid Dave by about a one and half percent and we gave the contract to Forecon. They have since managed- they did two harvests this year, County forest reforestation parcels 9 and ten and I think they did one last year. They inherited- basically, Dave had put together the solicitation and Forecon inherited it when they got the contract. So, they've got three successful sales under their belt with the County in the last year and a half.

Legislator Gould: They were not a desirable agency when they lost the bid. There were some things going on that shouldn't have been.

Mr. Almeter: There were some perceptions of conflicts of interest and that's what- I don't believe that is the situation today. We've been very careful to manage our contract- structure our contract with Forecon very similar to the way it was structured with Soil and Water. The County issues the solicitation and the County collects the revenue from the sale to the private vendor and then from those gross proceeds, we pay Forecon their 7% share.

Legislator Gould: So they aren't touching the money?

Mr. Almeter: Which is different from the structure of the agreement as it existed previously.

(Cross-talk)

Mr. Almeter: Dave continues to provide valuable insights into the value of our forests. I consult with on a pro bono basis.

Chairman Hemmer: Thank you. Are there any other questions? All in favor of the proposed resolution please say aye? Opposed?

Unanimously Carried

Proposed Resolution- Authorizing Lease Agreement for Development of Renewable Natural Gas at Chautauqua County Landfill

Mr. Abdella: Maybe I should lead off, Mr. Chairman. I think there had been a conceptual discussion about this potential project some months ago and an RFP was issued for the possibility of developing the renewable natural gas. This would involve either reducing or mothballing our current existing electric generating facility, which has not been receiving the optimal return that it had been previously. These markets are ever changing and this now appears to be a more lucrative option to pursue, as was the case with the electricity generation- address the capturing of the landfill gas that's emitted due to the breakdown of the materials deposited there. In both cases- it serves us in two purposes, as I understand it. One is to address our regulatory obligation to harness the gas and manage it, but as it turns out in both cases it can be a revenue source for the County. This resolution would authorize us to move to a different system

of renewable natural gas. Instead of the gas being processed and then turned into electricity at our plant it would instead involve us leasing the rights to that gas to an entity that would then process it and directly sell the gas on the market. Others may speak to the finances, but this is designed to allow us to complete the payment of the current debt service on the electricity plant with the possibility of additional revenues on top of that.

Legislator Nazzaro: What is the balance of the debt?

Mrs. Dennison: I don't have the answer to that question, but I will look it up.

County Executive Borrello: The both of you were involved in the reviewing of the bids and looking at opportunities here. We kind of reviewed everything and Montauk ended up being the best option. There is still obviously debt that has to be paid down on the power plant. However, we do have some assets there. The turbines can be sold. We also have reserves to handle some of the debt. Right now the reserves are going to fund the deficits of the power plant. So, in addition to servicing the debt we're also covering the losses. We figured that this year it was around \$200,000 for 2018. So, shutting it down and then using the reserves that we have set aside to pay down the debt and then potentially looking at selling the turbines would also help offset some of that debt as well.

Legislator Scudder: So, we're going to get out of the electric-

County Executive Borrello: Yeah. One of the things we talked about was not selling all of the turbines- leaving a couple there so we could turn it back on. Let's just say electricity prices go through the roof for whatever reason, we'd have the option. Or if there was a need to generate electricity in the County for whatever reason- where we actually had a shortage of electricity-

Legislator Scudder: Would we be allowed to though? Aren't these people going to want-

County Executive Borrello: They're going to harness the gas and take it-

Mr. Bentley: There could be a time when the processing plant shuts down if they have to do maintenance. So, if for some reason that plant- we can try to fire that up.

County Executive Borrello: So it wouldn't just have to burn up into the atmosphere. There's a reason to keep maybe one or two turbines in functioning order.

Mr. Bentley: We'd have to look at the requirements and find out how to keep our ability to generate alive.

(Cross-talk)

County Executive Borrello: We also discussed if you could have a small amount to power the facility itself. So, that's something else that could potentially-

Chairman Hemmer: We have a contractor that runs the plant, right? Our County employees do not run the plant?

County Executive Borrello: Correct.

Chairman Hemmer: Wouldn't that be a little difficult to have someone just on call to come in and run it?

County Executive Borrello: Yeah, there are a number of challenges there but I think the idea is do we completely shut it down and sell everything or do we at least have something there that we can hang onto as an alternative. It's not that- we may never end up using it, but for the value of the equipment on the secondary market is it worth it?

Chairman Hemmer: Yeah.

County Executive Borrello: We will look into it.

Legislator Nazzaro: What is the time frame for this?

Mr. Abdella: We're in the process of negotiating a contract and this lays out the basics of it. I think once that's settled there would be a period of construction for them to build a facility. I think the time frame- there's an initial payment at signing. In essence, it's an advance and I believe that was included in the 2019 budget. I think in terms of them being operational that would be more like 2020-2021.

County Executive Borrello: So, this year we would get the initial payment of a million dollars. I believe you budgeted \$750,000? Something like that?

Mrs. Dennison: Yes, we're using- the anticipation is there would be a million dollar signing bonus that would be received in 2018 and put into the energy fund balance. Then we would draw from that fund balance \$750,000 as income, if you will, to the general fund with anticipation that the new system would begin generating its own revenue in 2020. We are using part of the signing bonus in the 2019 budget.

Legislator Nazzaro: Were you able to find the debt?

Mrs. Dennison: The bonds payable- \$9,441,000.

Legislator Gould: We're getting back what we-

(Cross-talk)

Legislator Gould: Is the County going to pay for the new gas wells or is this developer going to pay for them? We'll have to drill new wells because they don't work well for long term and we also have more garbage that we're burying every day, so we have to drill on-

Mr. Bentley: So, the way I believe it's structured is that they- Montauk has a lot of experience in doing this type of work and their goal is to optimize the gathering system. So, they're not necessarily going to drill wells it's more optimizing the efficiency.

Legislator Gould: Re-pipe it?

Mr. Bentley: Re-pipe it, makes sure there's no leaks- they can make sure the flow is- because you don't want stuff escaping through the air. It's all about the capping and measuring. We're going to take their knowledge because everything we can get out of there is money to them. It's really to leverage a win-win.

Legislator Gould: In twenty years we'll have to drill some new wells. Who is going to pay for those?

County Executive Borrello: The contract only goes for twenty years-

Legislator Gould: Is it the County or the developer that pays for those?

County Executive Borrello: Well, the contract goes for twenty years.

Legislator Gould: Right.

County Executive Borrello: After that we would have no agreement. We could strike a new agreement-

Legislator Gould: But in these twenty years we're going to have to drill some new wells and you can count on that and I just want to know who's going to pay for it.

Mr. Bentley: As we build up the levels, we put the piping in as we go. It's actually put in as we build up the levels. Pantelis can speak to it more than I can. It's not really drilling new wells. It's really as you put the garbage in, you're putting in the piping that's going to gather it. So, instead of drilling a gas well into the ground, there's piping that is already put in place as we expand the landfill that would gather the gas and deliver it.

Legislator Gould: So, we are.

Mr. Abdella: We'll get clarification on that for you.

Mr. Bentley: The contract is still being negotiated.

County Executive Borrello: We're doing it as we're going. That's what we're saying. If there's a new infrastructure needed, I guess we will have to clarify that.

Chairman Hemmer: Montauk is going to advise us on how to do it, but we're going to actually do the work?

County Executive Borrello: They're going to develop the collection and cleaning infrastructure that's needed to turn this into what is sufficiently called renewable natural gas. So, all that's going to be their responsibility, but as far as tapping into new sources of gas within the landfill- again, Pantelis is not here, but what Brad's saying is as we create the new cells there is piping that is already there. What needs to be drilled, I'm not sure. We have to find that out.

Mr. Bentley: I don't think we actually drill gas wells, it's a collection system. You have the existing piping which- think about it if the landfill sells, as garbage decays you get elevation changes and if the pressure on the piping cracks the gathering system- what do you do? How do you go in and fix it? Can you put a sleeve on it? How do you go after it? Can you find out where it's at? So, that's were Montauk's experienced about optimizing the efficiencies so you lose the least amount of gas on a daily basis. I think that's something that needs to be finalized in the contract. As we build out the system, I think it's our investment that gets paid by the user fees that goes to putting in the infrastructure or not in the initial step.

Mr. Gould: How much was our original debt on our electric plant? I can't remember.

(Cross-talk)

Legislator Nazzaro: While they're looking at that- (*inaudible*) less the administrative costs associated with monetizing of the available environmental credits or offsets. It sounds like our payments will be reduced by costs that they endure to monetize administrative costs. So, do we have an idea what that is and is there a cap on those costs.

(Cross-talk)

Legislator Nazzaro: But we want to have some- I would think as we finalize the negotiations I would think you would want some kind of cap or at least an approval process if the costs ran especially high. I think you want some protection that those administrative costs are contained within a reasonable-

(Cross-talk)

Legislator Scudder: I have a question. We factored in \$750,000 into next year's budget from this, but we haven't approved this yet?

County Executive Borrello: We budgeted assuming we were going to approve this.

Legislator Nazzaro: Based on discussions that have already been had.

Legislator Scudder: So, if we don't approve this that's \$750,000-

Chairman Hemmer: That's short in the budget.

County Executive Borrello: But that's not to say we couldn't find something else to- but yes, based on- we're projecting based on what we're going to be doing.

(Cross-talk)

Mrs. Dennison: It started at \$10 million and there were some additions. I'm seeing that the highest balance was \$13 million and that was in 2013.

(Cross-talk)

Legislator Nazzaro: The high was \$13 million?

Mrs. Dennison: \$13-

Chairman Hemmer: It started at \$10 million, went to \$13 million-

Legislator Gould: Now it's back to \$10 million.

Chairman Hemmer: But it's not going down at all now because it costs more to run it than we're getting out of it.

County Executive Borrello: But we have reserves to pay the debt- service the debt.

Mr. Abdella: The debt service is being paid-

(Cross-talk)

Mr. Abdella: I think the years one through ten were structured with that base payment of a million to assure that the debt service could be completed regardless of how the RNG plant was performing.

Legislator Scudder: We still have \$2 million in reserve?

Legislator Nazzaro: What do we have in reserve?

(Cross-talk)

Legislator Scudder: And that money came from the sale of electricity? Am I missing something?

Mrs. Dennison: Unrestricted fund balance in the energy fund is \$2.4 million.

Legislator Scudder: That came from the sale of the-

Legislator Nazzaro: It's the excess over the life of the plant.

(Cross-talk)

Legislator Nazzaro: At one time I think we put in \$1.2 million?

Mrs. Dennison: There was \$1.2 million in the capital assets-

County Executive Borrello: But there were \$2.4 million in reserves. The \$200,000 that-

(Cross-talk)

Chairman Hemmer: Does that represent the equipment there and the building and the plant infrastructure?

Mrs. Dennison: Right.

Chairman Hemmer: This whole thing is as negotiated by the County Executive, so we're counting on you, George.

Mr. Scudder: This isn't too good to be true?

(Cross-talk)

County Executive Borrello: The thing that appeals with this is that we have a guaranteed payment of a million dollars. Whatever their issues are on that end with fluctuation in the price of renewable natural gas- that's their issue. The key thing for me and I think when we've discussed this is right now we're at the mercy of the price of electricity and the subsidies for renewable electricity. With this deal, that's not our issue. Our issue is to cover the debt- whatever debt we have to deal with beyond the \$2.4 million that we have in reserves, but what we're getting in revenue is fixed. Once we get to years ten and beyond there's additional revenue possibilities, but we're not going to turn around and say OK the bottom fell out on renewable natural gas *(inaudible)* and the next thing you know we're losing money. That's why we kind of took the bird in the hand.

Legislator Nazzaro: As the County Executive mentioned at the beginning, some of us were made aware of this- involved in final review. So, if this goes through the Legislature then there is no further action required by the Legislature to- we're giving the County Executive- which is normal because he's the chief executive of the County, the right to finalize this agreement. So, it would not come back at all? The final agreement for final approval by the Legislature? Is that correct?

Mr. Abdella: That's correct.

Legislator Nazzaro: I have- and this is not directed towards you- I have a little discomfort with that because this is truly a new concept, at least to me. Just to protect him, so ten years from now we're saying how did this get into that contract. Is that normal practice to give him the authorization to go ahead and negotiate a full contract? We have this but there are still some unknowns that we're not- Jay had asked and myself about the administrative fees and a couple other things. Should it come back? Can it come back?

Mr. Abdella: Well-

Legislator Nazzaro: I don't want to slow it up, that's not my intention. I just want to make sure we understand exactly what we're doing here.

Mr. Abdella: It's really whatever your desire is. Even if it's adopted by the Legislature- if there was a desire to have us consult further with any particular members that would be an option or we could bring it back to the Legislature in some respect. Yeah, this is structured to authorize to go ahead-

County Executive Borrello: With these terms.

Legislator Nazzaro: Well, there is the "other" clause that states, "As negotiated by the County Executive." That is pretty open. Again, it has nothing to do- it's just that this is a twenty year commitment that we're putting onto future legislators, future executives, and administration. I would feel comfortable- if I'm the only one that feels this way that the final adoption would still have to be adoption would still have to be approved by the Legislature- sort of like when we sold the County Home. I know that was the sale of an asset and was different, but it required final ratification by the Legislature. It's up to you guys.

Chairman Hemmer: Is this renewable- or I mean can either party get out? I didn't see-

County Executive Borrello: Like normally we can terminate with 30 days' notice like we have all of our other contracts-I don't think so in this case.

Chairman Hemmer: So, we sign this and its twenty years.

Mr. Abdella: It's more (*inaudible*) to an oil and gas lease at this point where they're going to invest in the facilities. With the electricity plant we could have done it that way, but we chose to own the facilities ourselves. This is more like a traditional gas lease situation.

Legislator Nazzaro: We still have to define the capital costs, right?

County Executive Borrello: That's their responsibility. The fact that they're going to build this facility to scrub the gas that comes out- the landfill methane and turn it into renewable natural gas, so it can go right into the natural gas pipeline. That's not going to be a cheap date for them. They're going to have to build a facility there to do that, similar to this electrical plant that we have. It's not our responsibility, it's their responsibility to build it and maintain it. Again, that's the purpose of the twenty year lease. They can amortize the infrastructure cost into twenty years.

Legislator Scudder: Did they approach us on this or did we put this out?

County Executive Borrello: This is actually- Pantelis had this thought. He had heard about this at other facilities.

Legislator Scudder: Were they the only ones that-

County Executive Borrello: No, we had bidders. We put the RFP out.

Legislator Scudder: How many do you think?

County Executive Borrello: We had three bidders- three responsible bidders.

Legislator Scudder: Do you remember if they were close or was this just heads and tails above?

Legislator Nazzaro: They had the most experience.

Legislator Scudder: And what was that experience?

Chairman Hemmer: They have a number of landfills that are under contract.

County Executive Borrello: It was myself, Chuck, John and Pierre along with Pantelis and George Spanos that were part of the RFP process in reviewing all of the bids. We had a nice committee that reviewed all this. This started early this year. It's been a bit of a process to get to this point.

Legislator Nazzaro: I guess I would like to know- I'm not going to make a motion unless others – I would like to know – I think you should have a cap on the administrative costs or have some type of definition what that would be. That's my recommendation.

County Executive Borrello: That's important.

Legislator Scudder: Everyone heard \$1 million. \$750,000 is still close to a million, but-

County Executive Borrello: We only budgeted that – we're still getting the million.

Legislator Scudder: No, our first payment. Once you start getting into this they take out administrative- I don't want to get-

(Cross-talk)

County Executive Borrello: I understand that. We can make sure we nail that down.

Mr. Abdella: Just to clarify, those administrative costs are associated with the 12% royalty and not with the base.

County Executive Borrello: We're getting the million, it's additional above that.

Mrs. Dennison: If I could just ask a point of clarification, I should have asked this before. It is a little bit confusing in the wording. We get the million dollars-

County Executive Borrello: Plus the 12% of the sales, minus administrative costs. We get a million plus 12%, minus their administrative costs of the 12%.

Legislator Scudder: You know that?

County Executive Borrello: We could clarify that.

Legislator Nazzaro: It is a little- I did not realize that.

Mr. Abdella: It's 12% of all sale revenues that include the credits and offsets that they get. They just appropriately said that our costs associated with getting those credits or offsets should be a net. They get paid something for the gas, they also get credits and offsets which might cost them some money to get.

Legislator Nazzaro: So to put it another way, we are guaranteed in the first ten years \$1 million. If there was no RNG revenue stream we would still get the \$1 million because the administrative fee is attributable to the 12% and not to the million?

(Cross-talk)

Mr. Abdella: Well, it's not even to the 12%. It's to the credit.

Legislator Nazzaro: OK, to the credits, but we're going to get- the million dollars cannot be reduced?

Mr. Abdella: That's right, but also-

Mr. Bentley: There are some performance expectations. Obviously if we're producing zero it means the agreement- I get what you're saying, but in reality there's a performance expectation from them that we're going to produce "x" amount of-

Chairman Hemmer: Will that be part of the contract? Will they expect a certain amount of-

(Cross-talk)

County Executive Borrello: I'm not exactly sure on that, but I'm assuming that will be part of the negotiations.

Chairman Hemmer: That will be part of the negotiations? How much gas we have to produce in order for us to get the million?

County Executive Borrello: They know how much we're producing now and the anticipation is that we continue to produce about the same level.

Mr. Bentley: And use their expertise to optimize to get more.

Chairman Hemmer: No matter what we have to capture that gas, right?

County Executive Borrello: Yes.

Mr. Bentley: And we keep adding more garbage, so that allows us to produce more methane.

County Executive Borrello: We're expanding the landfill. As Brad mentioned before, they want to produce as much gas as possible, so we're going to use their expertise to maximize the flow of gas.

Legislator Nazzaro: I remember when we talked I did ask the question and maybe someone else did too- what is the down side risk of this agreement? I remember that there was really no down side. I mean, we're getting a guaranteed cash flow. The worst case scenario is if we didn't generate enough gas or something then we're still going to have costs that we would have regardless of operating this. There is a possibility you could get less than a million if certain things happened.

(Cross-talk)

County Executive Borrello: That's part of the RFP, but it hasn't been negotiated in the final contract.

Legislator Nazzaro: Now I'm kind of changing- I'm all supportive of this, but I really think I would be comfortable if the Legislature had one more review of this.

Chairman Hemmer: To see the final contract –

(Cross-talk)

Chairman Hemmer: Just to review it or have another vote on it?

Legislator Nazzaro: I think it requires adoption. I think this is pretty big. It's positive, but I think it should require approval of the legislature. It protects everybody.

County Executive Borrello: We should just add an amendment?

Legislator Nazzaro: I'm going to make a motion, if the Chairman allows me to.

Chairman Hemmer: Please.

Legislator Nazzaro: I would make a motion to add a seventh- under the resolved, or where would I do that?

Chairman Hemmer: Probably add a number 7.

Legislator Nazzaro: That the final agreement needs to be adopted by the full Legislature. Mr. Abdella, you can tell me how that should be worded.

Mr. Abdella: If you're seeking to have your approval be of the final agreement and not just the basic terms, then we would just bring this back to you as a resolution approving the actual agreement. That is essentially what we did with the County Home.

Legislator Nazzaro: That's what I would like.

Mr. Abdella: This would be tabled or just not acted upon until we have the final agreement to bring to you.

Legislator Nazzaro: Again, I think this is a great- I'm supportive of this.

(Cross-talk)

County Executive Borrello: They would table this and we would have nothing until we brought a final agreement back to the Legislature for approval?

Chairman Hemmer: Are you going to negotiate this before the December meeting?

County Executive Borrello: No.

Legislator Nazzaro: I will say that I don't want to jeopardize this. So, if you need something going through this committee that we can do legislatively to show that we're supportive of this, I'm all for that.

County Executive Borrello: What if we just added an amendment to this saying that this is all subject to the final approval of the Legislature- the Legislatures approval of the final contract.

Chairman Hemmer: We can pass this so you can negotiate the agreement.

Legislator Nazzaro: I want you to know that we're serious about it.

County Executive Borrello: My only concern would be that are we in a better position to negotiate knowing that we have something that's been authorized by the Legislature versus saying that we're going to negotiate every last thing, you're going to spend a lot of money, and in the end the Legislature could say no. At least we've defined the parameters in this.

Mr. Abdella: I can work on adjusting it- I think I know what you're seeking.

Legislator Nazzaro: I'm just changing one thing; that the agreement needs to be adopted by the full Legislature.

Mrs. Dennison: Could it just be to add a resolved clause that says resolved that-

County Executive Borrello: Subject to the final agreement-

(Cross-talk)

Mr. Abdella: Well, right now the first resolved clause says that he's authorized to execute all necessary agreements. Obviously we're not giving him that authority now. Technically, he doesn't need approval to negotiate. I could rework something to state that you support going forward with the negotiation of an agreement within these parameters. In essence, you're stating you agree with the selection of the preferred developer at this point. That's essentially what it is and then these terms which were part of the proposal.

Legislator Nazzaro: Basically I'm just saying that we're authorizing the County Executive to negotiate this agreement with the terms specified before us, with the final agreement coming to the Legislature for adoption.

Legislator Scudder: You want it to say negotiated by the County Executive and adopted by the County Legislature.

County Executive Borrello: Could you change the "other" to say that?

(Cross-talk)

Mr. Abdella: I just want to draft something that's consistent with the Charter.

Legislator Nazzaro: I understand.

Chairman Hemmer: If we just table it- we don't want to do that do we? We want to-

Mr. Abdella: We're contemplating a January passage of this now.

Chairman Hemmer: Well, I guess we do table it and then you can rework it.

Legislator Wilfong: Mr. Chairman, can't we just move forward- have this document ready when we vote next week when it comes in front of the whole Legislature?

County Executive Borrello: I think what you're saying is whatever changes have to be made- so, it wouldn't technically be approved by this committee, but all the recommendations that you're making will be on the document for the full Legislature next week.

Mr. Abdella: We'd have something to amend by substitution.

Mrs. Dennison: Is this on the agenda for Audit & Control?

Mr. Abdella: Yes.

Mrs. Dennison: Could we have a modified resolution to be voted on by Audit & Control?

Mr. Abdella: Most likely. Audit & Control would amend it and then that would go before the full Legislature.

Legislator Nazzaro: I just want to ask if the Committee- I don't want to go through all this exercise unless you're in support of what I'm trying to do here just to protect everyone on both sides of the table. If you think-

Legislator Wilfong: I'm 100% behind Chuck.

Chairman Hemmer: All in favor of amending the-

Mr. Abdella: You could pass this without recommendation or subject to amendments to be recommended by the Law Department.

Legislator Nazzaro: That will move it out of here and then you'll have something for Audit & Control to amend?

Mrs. Dennison: If I could just make a comment. Just to give you some additional financial perspective. The energy fund in 2016, there was a gain of \$426,000. In 2017 there was a loss of \$139,000. As we discussed earlier, our projection for this year is a loss of \$57,000-\$58,000. In 2019, the budget is based on the existing operations of the energy plant and the budgeted loss from operations is \$28,000.

Legislator Nazzaro: The loss for 2019?

Mrs. Dennison: Because this new program would not be operational until 2020, we're currently budgeted to lose \$28,000 in 2019 operating the plant as it exists today.

Chairman Hemmer: OK, so explain this to me.

Legislator Nazzaro: We're just going to vote on this.

Chairman Hemmer: Just vote on it and say that we pass it on to the-

County Executive Borrello: You're going to vote on it as is and then the Law Department is going to make changes that will be amended at Audit & Control.

Chairman Hemmer: Is that right?

(Cross-talk

Chairman Hemmer: All in favor of sending this on and expecting additional amendments?

Legislator Scudder: Wait a minute. We're not voting on this?

County Executive Borrello: You are.

Legislator Scudder: Are voting on passing this along or are we voting on this?

Legislator Nazzaro: We're approving it as is in this committee with the intention- believe me, I'll bring it up in Audit & Control-

Chairman Hemmer: Alright. All in favor of moving this resolution along?

Legislator Scudder: So, we're just voting to move it along?

Legislator Nazzaro: Once it's approved here, it will go to the floor.

County Executive Borrello: No, it will go to Audit & Control.

Legislator Nazzaro: No, it still goes to the floor.

County Executive Borrello: After-

Legislator Nazzaro: Even before. If it's approved here- right, Kathy?

County Executive Borrello: But you're going to amend it in Audit & Control. The amended version will go to the floor.

Chairman Hemmer: Do both versions end up on the floor?

Legislator Nazzaro: I don't remember that ever happening. Once any committee approves it, it goes to the Legislature-

Chairman Hemmer: Maybe we should just approve this and then let Audit & Control-

Legislator Nazzaro: If it's approved here- we can amend it in Audit & Control, but once it's approved in any committee it goes to the floor. Is that correct?

Mr. Abdella: Yes.

Clerk Tampio: Can you just make a motion to refer this to the Audit & Control Committee and take no action?

Legislator Nazzaro: I make a motion that we refer this to the Audit & Control Committee and take no action.

Legislator Gould: This end of the table can't hear you.

Legislator Nazzaro: I made a motion that we take no action on this resolution and refer it to Audit & Control.

Legislator Wilfong: I second that.

Legislator Gould: But we can't change the policy of it in Audit & Control. All we can change is the money.

Mr. Abdella: I mean, that's kind of the Committee structure but they are free to pass amendments. They might get criticized but I think this circumstance-

(Cross-talk)

Mr. Abdella: Given the discussion that relates to wanting to turn this into a future approval- I think that will be OK.

County Executive Borrello: Chuck, I think since this was your idea to say that I'm bringing the amendment before the Audit & Control Committee and we can do it here or if you like, we can do it on the floor of the Legislature.

Legislator Nazzaro: I think the issue was that our County Attorney needs a day or two to draft the proper language, so I can't really make an amendment without the language being before us.

Mr. Abdella: I think it's as much Audit & Control- the desire to see more details of the agreement before passage. That's as much an Audit & Control function as this Committee.

Chairman Hemmer: All in favor of that motion say aye. Opposed?

Motion is Unanimously Carried

Other-

Proposed Resolution- Confirm Re-Appointments – South & Center Chautauqua Lake Sewer Districts Board

Chairman Hemmer: Any discussion about this resolution? All in favor of confirming the reappointments please say aye. Opposed?

Unanimously Carried

Chairman Hemmer: Is there anything else to come under other?

Mr. Bentley: We do have one more resolution to come before you.

Proposed Resolution- Establish Capital Accounts for Land Purchase and Avigation Easements at
The Dunkirk Airport

Mr. Bentley: I'll do my best to summarize this. At the Dunkirk Airport we have an obligation to remove obstructions on the runways to make sure we have a fully functioning airport. We're now at the point where we need to negotiate with some land owners in order to apply for a federal grant to get reimbursed for the obstruction removals. So, we have a situation where we have our engineer who is willing to do all the leg work for us at their own risk. We've had preliminary discussions with them. They're willing to do this- in the past they would be reimbursed by a future grant. One of the things we're- we did draft something that could be used, but part of it is I want early notification of transparency of what we're doing at the airports. This also goes towards making the airport more marketable towards an FBO. I've been having discussions with Ron and Steve and the question is whether we need a resolution just to tell (*inaudible*) at their own risk to just go out and negotiate land appraisals because this is what we actually need to submit the grant. They're going to do all the leg work at their cost, keep track of it, and then they'd be reimbursed once the grant is approved.

Mr. Abdella: Just to clarify, I don't think this would be at their risk. They would wish to be paid for their work whether or not the grant is accepted. This draft resolution would establish capital accounts for us to move forward with the project based on the reasonable expectation that we're going to receive the half a million dollars in grants for the avigation easement work.

Legislator Gould: How much is the work going to cost?

Mr. Bentley: Here's the thing- when you're doing land acquisition, it's all based on what the seller wants to sell it at. It's hard to determine. That's why we need to have someone do some preliminary appraisals of what the land is worth. We don't know at this point. I think the value on there-

Mr. Almeter: There are 24 different parcels that are within the scope of the proposed grant. The FAA will not grant funds for the acquisition of easements for land until an appraisal has been done, survey work, title research, and a negotiated letter of intent between the County and the landowner to acquire the land. Once that preliminary acquisition work has been completed then the FAA will grant funds for the purchase of the land and or the easement and any of the preliminary costs associated with acquiring that land. We're attempting to complete this land acquisition work in fiscal year 2019. To meet the deadline for the grant application this appraisal work has to be completed before January 31st thus the late notice of bringing it to the committee.

Mr. Bentley: Otherwise we'd have to wait another fiscal year before we could submit this.

Mr. Almeter: Like I said, there are 24 different land owners that we have to deal with to get these preliminary letters of intent.

Chairman Hemmer: Sounds like it will take a year to do that.

Mr. Almeter: It may take more than a year. We've conferenced with legal and with our engineering consultants last week and have a strategy to break it into two phases if need be. The first phase would be focusing on negotiating with landowners for the primary runway easements and the second phase would be negotiating with secondary runway land owners. Once we get it under contract and get the grant application into the FAA we can phase it however we'd like.

Mr. Bentley: We brought this forward to the Airport Commission and Mr. Odell was in favor of bringing this forward. Yes, we did canvas our constituents.

Mr. Almeter: To the point that Steve was making, the proposed contract structure with the A&E is that they will accrue the cost and carry the cost of money until we can get reimbursed. They're not actually taking on this work at risk. They've agreed to take it on on a cost plus fee basis.

Mr. Abdella: This resolution would set up capital accounts, it shows the projected revenues- I guess just to be clear, the grant hasn't been received yet but it is the expectation to the extent that this was part of the approved airport master plan approved by both this Legislature and the FAA – NYS DOT that if we pursue these steps as described the grant will be received. There's a high enough confidence and expectation of receipt of the revenues that it's recommended that we go ahead and authorize the project at this point.

Legislator Scudder: Is this a resolution we are dealing with now or we're suggesting that you go forward with it?

Mr. Abdella: The request would be to have the committee adopt the resolution tonight.

Mr. Bentley: Again, it's 5% local share, 5% state and 90% federal.

Legislator Gould: Eventually will we see a map of what land you want to acquire? I realize you can't yet because some of the land owners haven't been contacted.

Mr. Almeter: I don't have that with me today, but I can share that with you immediately. We had a meeting with the landowners. Allison Carrow and I met with the landowners earlier this year to explain to them what the program was about and why it is that we need to negotiate these new easements and so forth. We know all the parcels, we know what we need on each parcel- in most cases we need an easement and in some cases we need to acquire some land.

Legislator Gould: Please email that to me.

Mr. Almeter: Yes, sir.

Chairman Hemmer: Any other questions on this?

Legislator Nazzaro: So, we are taking \$30,000 out of the reserve for capital at this point?

Mrs. Dennison: It is structured the way most of the airport capital projects are structured in that the concepts, as part of the airport capital plan are (*inaudible*) to the Planning Board and are agreed upon by the Planning Board, but they're not specifically funded because we don't know when and if we will get the funding from the outside sources. This follows the same routine as the other ones that when there is the expectation that we would get the funding, we would take the appropriate amount from the capital reserve and then use the other funding sources that are available.

Chairman Hemmer: Did that answer your question?

Legislator Nazzaro: It did.

Chairman Hemmer: Are there any other questions concerning this resolution?

Clerk Tampio: From the office perspective of the Legislature, I don't see George's initials on this yet. Is this going to come through the channels and then come from your office? Is there an MIS with this? I just want to make sure we have the original.

County Executive Borrello: I will initial it before it's voted on. Here you go.

Chairman Hemmer: Thank you Kathy. Any other discussion? All in favor please say aye. Opposed?

Carried with Legislator Scudder Voting No

Chairman Hemmer: Is there anything else?

Legislator Scudder: I have one other thing. Is there any way we could move this committee to 3:30 because everyone has to sit here for 15-20 minutes for Administrative Services. Maybe nobody else could make it at 3:30, but that's just a request. I'm just throwing that out there.

Chairman Hemmer: We have two of our group that are working. Would that be a hardship?

Legislator Wilfong: I'd like to see it stay the same. Usually-

(Cross-talk)

Legislator Gould: Maybe Administrative Services should start at 5:30.

Chairman Hemmer: That's a topic for the next committee to discuss. At this time- you know, it doesn't always happen. I think we'll leave it.

Legislator Scudder: Thank you for considering my request.

MOVED by Legislator Scudder, SECONDED by Legislator Nazzaro to adjourn

Unanimously Carried (5:16 p.m.)

Respectfully submitted and transcribed,
Olivia L. Ames, Committee Secretary