

Minutes

Public Facilities Committee

November 12, 2019, 4:00 pm

Gerace Office Building, Mayville, N.Y.

Members Present: Hemmer, Wilfong, Gould, Nazzaro

Member Absent: Scudder

Others: Tampio, Ames, Bentley, Cummings, Dennison, Wright, Walsh, S. Kohler, J. Bodway, Davis, Abdella

Chairman Hemmer called the meeting to order at 4:02 p.m.

Approval of Minutes (10/15/19)

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

Unanimously Carried

Privilege of the Floor

Mr. Bentley: This is Sam Kohler and he's going to speak to the resolution on the lease for the oil & gas for property number nine in the Town of North Harmony. I've asked him to introduce himself and give a brief description what he does.

My name is Sam Kohler, owner of Sam Kohler Enterprises, Inc., oil and gas producer. Looking to take over the lease on one your guys properties located on Warner Road. I'm not sure what parcel number it is myself but, I've been an operator myself for 14 years(ish). I've been in the business better than half of my life so it's nothing new to me by any means. I do contract and service work for other people sometimes but I guess that's me in a nutshell as far as the oil & gas goes.

Chairman Hemmer: Does anyone have any questions for Mr. Kohler?

Legislator Gould: Do we question him now or later?

Mr. Bentley: Why don't we do it later when the resolution comes up.

Mr. Kohler: You can make me sweat on it for a while if you want.

Mr. Bentley: If you got like general questions for who he is and what he does – can you describe how many wells you got Sam?

Legislator Gould: And where are they? (*Cross talk*) operating wells now.

Mr. Kohler: There are approximately 150 operating wells right now. They are predominately all in the Allegheny County, some in Steuben County, Towns of Andover, Greenwood, Wellsville, Willing, Alma, Bolivar, I think it's most of them.

Chairman Hemmer: Thank you very much Sam and we'll have back up here again. Our other guest here today is Jacob Bodway and Jacob is going to talk to us about his desire to work on our bicycle trails. I'm going to let him come at the end under "other" and speak to us.

Proposed Resolution - NCLSD Administrative Board – Membership Reduction

Mr. Cummings: The North Chautauqua Lake Sewer District board, which has been comprised of 7 members and for the last year, we've only had 5 members on the board. We had one who had resigned the first of January this past year and then with the passing of Dave Himelein, that was one more board member position that we lost. The board has not been able to fill those two seats. So the board has discussed it and was looking at possibly reducing the board down to 5 members so their quorum could be 3. That's what they are looking to do and Kristen has helped the board with that information. So that is what they are looking to do, to reduce down to 5 members on the board.

Legislator Gould: Who are the five board members?

Mr. Cummings: Chris Ames is the Vice Chairman and kind of the acting Chairman. I don't have a Chairman right now. The Chairman had resigned. Marty Bova is on the Board, Susan Aldrich from down by Chautauqua is on the board, Dave Thomas from here in Mayville is on the board and then Marlene Scarpino from down at Chautauqua Shores is on the board. She is new.

Legislator Nazzaro: And you did say that you have tried to fill these? What happens when somebody else resigns?

Mr. Cummings: Well they are all older unfortunately and when they went to having them do the financial disclosure form, that's how they lost one board member. Things like that. People just aren't as willing to join the boards as they used to be because of the different restrictions now that they have to have. That's part of it and just the time. People just don't volunteer like they used to, so it's been difficult.

Legislator Nazzaro: The other districts, do they have seven, the other sewer districts?

Ms. Wright: They vary. So South & Center is big, how many board members?

Mr. Walsh: We have 7 plus 1 Chair, 8 total.

Mr. Cummings: The PPD board that we deal with, that's a 7 member board also. As a matter of fact, two of them, their term expires end of this year so I'm going to be down to 5 after the first of the year on that board and then the North County Industrial Water & Sewer, they're a 5 member boards.

Ms. Wright: With the volume of the work, they did also mention that they felt that a 5 member board was sufficient to do the work that needed to be done. Right now, they have a lot going on so the fact that they feel they have enough board members to contribute what needs to be done right now with a lot going on, that's giving some comfort that they are truly going to be able to (*inaudible*) with five members.

Legislator Nazzaro: So legally, this just has to go through the Legislature?

Ms. Wright: Yes. So you had a resolution 38-76, which established the administrative board as the administrative body of the district and it called for 7 board members. So what they are looking to do is amend this resolution to say that it is five instead.

Chairman Hemmer: With five members, it will be easier to get a quorum.

Mr. Cummings: Right now that quorum is four so we could only have one board member missing to have a meeting. It's been difficult.

Chairman Hemmer: Any further questions or concerns?

Unanimously Carried

Proposed Resolution – Amend Resolution 21-18 – Confirming User Charges: Portland-Pomfret-Dunkirk Sewer District

Mr. Cummings: What we're trying to do and Kristen has helped us with this, we're trying to get the sewer use charges kind of, from all the sewer districts, to kind of read the same and bring the language in. So under Section 6 in their billing, two paragraphs have been added, C & D that have been added to the PPD user charge. They were not in there before and maybe Kristen has a better explanation than myself. I think C is something that the South & Center has in theirs, we do not?

Ms. Wright: Correct. So this all started with the South & Center Sewer District. Got a call from Tom Walsh and he brought his figures today, if you want them today. They had two customers that had water leaks who said "hey, can we take a look at my sewer bills?" Tom it was, what was the sewer bill that you had?

Mr. Walsh: So the average sewer rate per quarter was \$88.50. They had a bit of a malfunction with their indoor plumbing and the next quarter billing was \$22,939 and the building was vacant. They forgot to winterize.

Ms. Wright: So we said, “well, it does seem reasonable because the cost of treating clean water is not the same as the cost of treating sewage.” So that initiated the conversation with South & Center wanting to add what is shown in the PPD as paragraph D. Then when looking at the South & Center, I noticed that the other district boards didn’t have that authority if there was a water leak to address it. Then in looking at it, I also noticed that paragraph C which was in South & Center’s user charge resolution, was not included in the others. That is basically if they’ve missed a charge, they can go back in and it’s come up a couple of times, well then how far back would we go if we missed something? So the decision was made, if we missed something we go back a year but to not make it unduly difficult for someone not go back more than a year. So that was the idea with that one and as Scott said, to make the sewer districts have more uniform policies and procedures pertaining to billing.

Chairman Hemmer: Sounds like it could help to clear up any confusion. Any questions?

Legislator Nazzaro: I want to know what happened to the \$22,000? We’ll talk later.

Mr. Cummings: And that can happen in any district, just like it happened in Tom’s. We’ve all dealt with things like that and not sure how to do it. This gives us a legal way of following it properly.

Ms. Wright: What the boards would do is, they would come up with a policy just to make sure it’s consistently applied. They would come up with a policy and they’d look at things such as was your insurance company able to cover the cost, some or all of the cost of this. How long did you know about the water leak before you addressed it, things like that. So the boards will come up with policies and then this will give them the ability in accordance with their policies to address the charges.

Chairman Hemmer: So they might be able to make up part of that. That was the total of the changes?

Ms. Wright: For the PPD, yes.

Chairman Hemmer: The rates were not changed.

Ms. Wright: Correct so there is no need to have a public hearing.

Chairman Hemmer: It’s confirming user charges, not changing them.

Ms. Wright: It’s called confirming because that’s what the sewer district boards will vote on it and then the Legislature confirms it so it is the user charge resolution being confirmed but you are correct, there is no, for PPD, no change in rate.

Chairman Hemmer: Any more questions?

Unanimously Carried

Proposed Resolution - Amend Resolution 125-18 – Confirming User Charges: North Chautauqua Lake Sewer District

Ms. Wright: The North Chautauqua Lake Sewer District is the same changes.

Mr. Cummings: It's identical.

Chairman Hemmer: Same thing just adding both C & D and no changes to the rates.

Ms. Wright: Correct.

Chairman Hemmer: Any further questions or discussion?

Unanimously Carried

Proposed Resolution – Confirming User Charges: North County Industrial Sewer District No. 1

Mr. Cummings: This one has two components I guess we could say. Exactly what we did with PPD and North District is one part of this resolution, same thing, C & D.

Chairman Hemmer: Oh, C & D are added even though they are not noted the same way, they are not underlined?

Ms. Wright: Right, so I had a memorandum that went with this resolution that unfortunately did not make it into your packets so I gave you each a copy. But they are changing their user rates. They had a public hearing, Kathy Tampio has a copy of the publication notice and as I understand it, nobody attended the public hearing. They are looking at their operational costs and they feel that they need to have a rate increase. Their rate has traditionally had in the resolutions, it's listed two components. One is a per acre charge and the other is based on water usage. Notwithstanding the language in the resolution that it is for the collection conveyance treatment and disposal of sewage. The most recent resolution did not include any costs for treatment and disposal. When it came to our attention recently that the treatment and disposal which is being done by the City of Dunkirk was billed by the City of Dunkirk directly. So this is adjusting the user charge but also adding a "C" component to what is to be charged to different customers which is the amount of money that is attributable to such user for the treatment charges. So, it specifically reads, a sewage treatment charge equal to that part of the sewage treatment bill issued by the City of Dunkirk which is attributable to the user. So, that's not going to cost them any more money, it's the same charge it's always been but it wasn't in previous resolutions. So the "C" component is new but is not affecting their bill. The "D" component is new, it's going from 35 cents per thousand gallons to 55 cents per thousand gallons and part "A", the per acreage charge is the same. They are also coordinating their billing date to match that of the Industrial Water District so their customer will receive the billing together.

Legislator Nazzaro: So what would that mean as an average rate increase?

Mr. Cummings: That would be a question for Kathleen. That is an amount that their board came up with to adjust their rates.

Mrs. Dennison: Sorry, I didn't hear the full question.

Legislator Nazzaro: What would be the average increase for the customer, per month? Just a ball park.

Mrs. Dennison: Every 10 cent increase in rate, equates to about \$3,500 increase in that income for the district. In that district, there is a wide variety of usage figures. So, they have Purina which is like 80% of the usage or maybe more and they have some that use next to nothing. So you are going from –

Legislator Nazzaro: You don't have how many customers.

Mr. Cummings: Fourteen industrial customers.

Legislator Nazzaro: Again, nobody came.

Mr. Cummings: Nobody came to the public hearing, either when they did the water one last year or the sewer one this year. They were all sent letters, none of them were returned to me that letters didn't make it so they all received the letters.

Chairman Hemmer: I'm surprised that Purina didn't show up.

Mr. Cummings: And they have three of the accounts, but they didn't.

Mrs. Dennison: We went through a variety of different rate scenarios, or I did with the board, so I don't –

Legislator Nazzaro: That's o.k..

Mrs. Dennison: We had one time talked about a rate increase as much as \$2.00 per thousand gallons and at that \$2.00 increase, at the \$2.00 rate, the change to the sewer customers, (*inaudible*).... it's small. Looking at an annual change of anywhere from \$16.00 to \$11,000, depending on the customer. That was with going to \$2.00 and obviously they are not going anywhere near that. So maybe like \$10.00 to maybe \$3,000. That was annual change.

Ms. Wright: The other item to just bear in mind as you are looking at this is, their water rates are also changing at the same time but now the cost of water is less because it's being purchased from the County instead from the City of Dunkirk. So some customers will have a water rate savings and some will have a water rate increase but it is tied in at the same time, one quarter difference.

Legislator Nazzaro: I probably should have asked this a different way, what does this mean in revenue increase for the district?

Mrs. Dennison: Seven thousand dollars.

Legislator Nazzaro: O.k., thank you.

Mrs. Dennison: At the current rate of the 35 cents per thousand, they are very close to a breakeven and trending a little bit to a net loss. So, I strongly advised the district that the rates need to go up. As I said, we talked about – we looked at scenarios going from 35 cents per thousand up to \$2.00. The board came back to me and said, we're looking at either a 10 to 20 cent increase, do you think that's advisable. At that level, in my opinion, they will be out of the danger zone of losing money. They are not going to be making lots of money. As I said, projections would be that the net income after the rate increase would be around \$7,000 a year. So essentially they are going from breakeven to \$7,000.

Chairman Hemmer: Any other questions concerning this resolution?

Unanimously Carried

Proposed Resolution - Amend Resolution No. 45-15 – Confirming User Charges: South & Center Chautauqua Lake Sewer Districts

Mr. Walsh: I would just like to start by saying, I got a call and this is the result.

Chairman Hemmer: It sounded like it was quite an event.

Mr. Walsh: It was quite an event. This all transpired and I really reached out to Kristen on how to handle this because it is somewhat unique but I think we need some vehicle to handle such an occurrence. A restaurant had closed. The tenant that was leasing had left the building and as they did, they failed to winterize the building. All utilities were shut off all except for the water and BPU responded in February to the building and shut the water off at the main curb stop in the street. It was actually in February so the bills went out in May and in June we never heard anything from the property owner which would have received the bill, which was a little odd. August, Pierre and I were going over and he even noticed that, that's very large for that customer and I said, yea. Then late August early September, I got a call. Their bill – their average bill was \$88.50 down through because there is nobody occupying so it's just a bare minimum cost and then the bill went to \$22,939 and the late fee was \$2,293. So a bill of \$25,000 and not only did we charge \$25,000 but BPU with the water bill, that's four and half million gallons of water that went through the facility. It must have hit a floor drain because there was no damage. It must have been in the kitchen somewhere because we went up to see if there was – I actually asked BPU, was there water in the road? At some point, did you see it coming out the door and they said no. They just tracked it down. They could see the water was – somewhere they were losing water. There was no water damage so it all basically came to us. But in this event, as we discussed, there is really no biological contamination that we really base our billing on. Each household bill, we average your consumption as 17,500 gallons per 3 months. In that 17,500 gallons, we have an average of biological contamination that we treat and we have costs broken down. This was basically clean water that transpired through the system with very minimal cost really to the district in how we treated it whether it was removing solids, any

phosphorus or anything like that, did it really cost us the \$88.50 per 17,500 gallons that we averaged. So I came to Kristen, where is the language and are we able to reduce this and Kristen pointed out, there is really no language for the Board of Directors to compensate, reduce, for this occurrence. Not only did this happen but we had another – I mean, I've only been in charge for 5 years but this is something else. Another gentleman called, he had a toilet that ran. His bill was \$1,000 rather than \$88.50. But again, it's clean water, can we do anything and this is where this all came from.

Ms. Wright: And we said yes, we can do something, we can file a resolution.

Legislator Nazzaro: So would these be retrospective? These cases that you just stated.

Chairman Hemmer: Are you forgiving the whole works?

Mr. Walsh: No, we would not forgive the whole. There would be a percentage because we still did do some transmission, it did come through a pump station, there were some lift station, I mean, minimal costs.

Legislator Nazzaro: I believe and I could be wrong but the Jamestown Board of Public Utilities when something like this happens, I believe, can reduce it up to 25%.

Mr. Walsh: Reduce it yes, correct and I believe they got a reduction in that.

Legislator Nazzaro: Then you have to show that you – because this happened to me with one of my rentals and you had to show that you bought the parts and fixed it. I don't know if this is similar type of situation or not.

Mr. Walsh: Yep. Actually I have been in discussion on what BPU did do for them. They did reduce it 25%.

Ms. Wright: Then reduces the sewer bill correspondingly if they said I was less water but they just go by reported water and they haven't changed the reported water.

Mr. Walsh: So that's where we are.

Chairman Hemmer: There is going to be some negotiation, right?

Mr. Walsh: Correct and that will be at the discretion of the sewer board what the compensation should be.

Chairman Hemmer: Any more questions concerning this resolution?

Legislator Nazzaro: There is no rate increase in this one?

Ms. Wright: No rate increase.

Chairman Hemmer: All in favor?

Unanimously Carried

Proposed Resolution – Adjust 2019 Budget for Public Facilities Maintenance of Roads

Chairman Hemmer: This resolution is being ruled out of order with the explanation that the next resolution was sent and was intended to replace this one.

Proposed Resolution - Amend 2019 Budget for Public Facilities Maintenance of Roads and Capital Highway Improvements

Mr. Bentley: Thank you for that. I think I have to take the blame for that because we just changed the title which caused some confusion in getting those two together so I appreciate you recognizing that.

This is for moving some money around for necessary road repair. It was greater than anticipated. This includes paving, potholes, shoulder work. We had a significant amount of shoulder work that we had to do this year and we have money allocated in roads and bridges at the beginning of the year and so it's a guesstimate of how much each side is going to do. Depending on how the roads turn out, at the end of the day, we can move that money between the two accounts. If you look under the decrease, the program \$250,000, that's coming from our bridge program and being funded into the roads that we're done. This is to make sure that we can pay the bills. We're not using anything from the fund balance. We also had some other money from contractual in Public Facilities Admin and personal services, maintenance of roads, so we're kind of balancing the accounts out there at the end of the year to pay for the work that needed to be done. We also saw some refunds in prior years, this is like insurance refunds and some other various small items. Other than that, it nice to be able to get the work done and improve our roads.

Chairman Hemmer: It's fortunate that you had the money left over in the County bridge program. What happened with the bridge, did it get completed?

Mr. Bentley: It's a guesstimate because when we do bridges in-house, we guess what we have to do and this budget was put together by George Spanos.

Legislator Nazzaro: Oh sure, throw him under the bridge.

Mr. Bentley: I'm not throwing him under the bridge, he actually left me enough money to do it without fund balance so I have to give him credit. I just have to move the money around. It's really a reallocation and not an under run or over spend type of situation, it's just recognizing what work needs to be done at the end of the year here.

Legislator Nazzaro: Your budget for 2020 is not a guess?

Mr. Bentley: I think by nature all budgets are guesses, by definition.

Legislator Wilfong: He's been hanging around Kathleen to long.

Legislator Nazzaro: Kathleen does not use that terminology.

Mrs. Dennison: No, I wouldn't phrase it that way.

Mr. Bentley: How about educated guess, informed estimate.

Mrs. Dennison: (*Cross talk*) analysis. But I would say that just the distribution between roads and bridges are somewhat arbitrary, was in 19' and also is in 2020. So, I agree with Brad that, that distinction is, as I said, somewhat artificial and so we do more with four or five roads versus bridges being that it could be in the same situation in 2020 as we are today.

Mr. Bentley: Goals are the same, keep our roads and bridges in safe working order.

Chairman Hemmer: That's the goal. Any further questions?

Unanimously Carried

Proposed Resolution – Adjust 2019 Budget for Public Facilities Parks Division

Mr. Bentley: There is no increase or ask for fund balance here. What this is, is, employee benefits change due to Parks realignment and other Park staffing changes that we kind of did in midyear. This is a little bit of balancing and we're taking the money from contractual, out of the Engineers and Parks because with that realignment we were able to do a lot more more in-house. So we're farming out less, do more in-house so this is kind of compensates. It balances itself out in that regards.

Legislator Gould: You can do the same thing next year?

Mr. Bentley: What, realign the Parks Division?

Legislator Gould: Yes, like you did this year, used more labor or what's your plan?

Mr. Bentley: Yes, I do actually plan on doing more in-house with the staff that I got. Definitely more stuff in-house. Keep (*inaudible*) there and resources are there.

Chairman Hemmer: Any further questions on this proposed resolution?

Unanimously Carried

Proposed Resolution – Authorize Lease Agreement with Sam Kohler Enterprises, Inc. for Oil & Gas Production on Reforestation Property No. 9 in the Town of North Harmony

Mr. Bentley: I'll start with, this is an oil and gas lease that had expired. Originally it was Stillwater Development in 1981. It's expired, it's been sold and transferred. The latest owner is Rod West, or GFS and he hasn't probably actively produced these wells in five or six years would be my guess. So they are just sitting on our reforestation property sitting idle and the responsibility to close the well is still with GFS even though the lease expired. He has full liability to close the wells. Rod has been trying to see if anybody has been interested in purchasing the assets and trying to reproduce them. Sam here, is the fourth person to try and take this on and the other three, I'll just say this, it's a large hurdle to get up and over to do this. I personally walked all three wells myself with Sam last week and I have the boots to prove it minus a pair of pants. Hip waders wouldn't have done it. But Sam I think has the expertise and the youthfulness I will say, that may be required to get these things reproducing. So, I've been working with Sam to try and get some terms together and that's what's in the resolution or the high level terms that I think we're all trying to see if it's agreeable for the Legislators.

To the money side, the royalties on gas and oil are 12 ½%, that is pretty standard in the industry. To go outside of that would require something unusual, I would think. So that's how that percentage is determined. So it's 12 ½% of the value of the gas and oil that is produced. Given that the wells haven't been produced for many, many years, there is some unknowns about what may be down there and I'll let Sam speak to what his expectations are. But, from our perspective in order to incentivize that they be produced other than save money to make money. (*Inaudible*) to make money is there is going to be a payment for non-production in over a year. If nothing happens in a year, we need to incentivize Sam to do something so that's going to be in the lease.

Initial term is going to be a 10 year term with an option to renew for another 10 year term upon another resolution notwithstanding. So if everything is going well and he's not in arrears, I would say that we come back and say, it should be a good thing to keep going with.

It's on approximately 173 acres of what's known as reforestation property number nine. For those that are interested, I did my homework. These are all the reforestation properties that the County owns.

Legislator Nazzaro: Are these the properties that we're paying school taxes on?

Mr. Bentley: Yes.

Legislator Nazzaro: That we discussed during the budget hearings.

Mr. Bentley: Yes and I can confirm through Kristen's hard work at trying to figure this all out, we cannot sell these properties. We can only give them to the State.

Ms. Wright: The State can accept them but under State law reforestation properties have special provisions that apply to them. They can be used for timbering, oil, and gas and whatnot but you can't just simply sell the property.

Legislator Nazzaro: So Kristen, is that – a little bit off track and I'll try not to go too much here, so the reason these properties, you have to keep them unless we give them to the State as you just said, the reason we have to pay school taxes on these, is it because of the timber, because of the gas, the wells? It's not just because we own it because we're a

government agency and the question came up, why are we paying taxes to another government agency and the assumption was because gas wells or you are – or is it a State law that we have to pay taxes?

Ms. Wright: It's in State law and I think the practical reason for it is, you have some communities where there are large swaths of reforestation property that are owned by the State because the State also has reforestation property and it would be difficult for those smaller communities that – they would be losing all that revenue for their schools because of the State having this and other municipalities such as the County having reforestation property. So I think it's a practical matter that's why those taxes are still paid just to not cause a hardship upon those communities that are hosting, if you will, the reforestation property. They still need to operate their schools and whatnot so I think as a practical matter, that's why it was written that way.

Legislator Nazzaro: How did we originally get these properties?

Ms. Wright: (*Inaudible*) research on that, Amy Reynolds.

Mr. Bentley: Here's my guess. They are either assumed in a tax foreclosure or donated or some form or fashion thereof. So I don't know that the County actively sought out these things. A lot of them look like they were retained in the 50's. (*Inaudible*) I haven't gotten that far down but we have approximately 885 acres of reforestation property. That does not include any of the parks acreages, so Erlandson, Luensman, the property up in Arkwright, and some in Kiantone. We have 525/526 acres of parks property. That is different. It's not reforestation so there are probably things we can do with some of that but it's parks property. That would fall under the Parks Commission analysis. So those are what the (*inaudible*). It doesn't include the airport properties so there is airport property as well that is out there for timber harvest. We are doing some of that. That is what I found on reforestation and what I have found out on Parks but getting back to this one, I'm going to end with at least my part, Sam will also be taking over the liability. So he will be responsible for the closure of the wells. So Rod will be divesting himself with that responsibility, Sam will take that on in whole, we'll have insurance bonds to make sure that in the event something happens, hopefully it never does, but the County is protected from any liability from that perspective or cost.

Legislator Nazzaro: You said that there is currently how many wells?

Mr. Bentley: There is 3 wells on the property, oil and gas. I'm sure Jay is going to have a couple of questions so I won't steal his thunder.

Chairman Hemmer: Any questions or you going to let Sam –

Mr. Bentley: Here's the wells (*showed committee map*), that's the property and the various wells, front to back. Fourteen (*inaudible*) in the front, one is in the middle and fourteen three is in the back. There is a plugged well on the site already. You can tell that was the map (*cross talk*).

Legislator Gould: Do you plan on producing the wells that are there?

Mr. Kohler: Yes. There are no drilling rights with the contract.

Legislator Gould: O.k., that was a question I had.

Mr. Bentley: If we were to issue drilling rights, we'd have to issue an RFP because we can't grant anyone exclusive rights to that. So this would be just to take over the existing production.

Legislator Gould: Do you ever sell a lease, have you sold a lease?

Mr. Kohler: No, I never have.

Legislator Gould: Are you planning on selling the lease?

Mr. Kohler: No. Everything I've ever gotten, I still own. Even if I ever did want to part ways with this, if I wanted to sell it, it would have to go before the County's approval to do it. You would have to approve who I was transferring it to.

Legislator Nazzaro: So it says in here these are non-assignable.

Ms. Wright: Yea, we have an assignment paragraph. (*Inaudible*) must not assign, transfer, convey, sub-let or otherwise dispose of this agreement or any of its right, title, or interest therein, or the power to execute this agreement without the prior approval of the County.

Mr. Bentley: Can I ask your next question? How much money we going to make?

Legislator Nazzaro: No, minimum quarterly payment of \$2,500 and you are getting 12 ½% which is standard so you are going to project, I mean, how do you know.

Mr. Bentley: Yea, so who knows what the actual volumes will be.

Legislator Nazzaro: You know that you are going to get \$10,000 minimum.

Mr. Kohler: If I don't do anything, yes.

Mr. Bentley: So I've worked with Sam to kind of make sure he makes money, make sure we make money. Based on the expected volumes, I think we're in the neighborhood of \$25,000 a year, if that is based on expected volumes. Obviously, that can vary and over a 10 year lease that's \$2.5 million dollars.

Legislator Nazzaro: So you are figuring about \$400,000. No, I did that wrong.

Mr. Kohler: I'm not sure what your figuring there.

Legislator Nazzaro: You said, \$25,000 –

Mr. Bentley: Twenty five thousand times 10, right?

Mr. Kohler: That's for you guys.

Legislator Nazzaro: No, we get 12 ½%.

Ms. Wright: So I guess the question is, 12 ½% is –

Legislator Nazzaro: Is \$200,000.

Mr. Bentley: Sorry, I read the wrong one. So I got revenue to the County, I did it on a 20 year because 10 years with another 10 years but divided by two, but, \$520,000 if it's 20 years. So \$260,000 for –

Legislator Nazzaro: When you said \$25,000, I figured 12 ½% , we get 12 ½%.

Mr. Bentley: My actual numbers are \$26,031.25.

Legislator Nazzaro: Your legal counsel is following this.

Legislator Gould: I have a great idea and I wake up at night with these ideas so I have to run it by you guys. I think the way the resolution is with the Parks board, is that they get money off of timber sales. It doesn't say anything about gas leases so this money should go in a fund to pay taxes on this property or the other ones, reforestation properties we have rather than put it in a deep dark hole of the Parks Department. Are you listening Chuck?

Chairman Hemmer: You mean the deep dark hole of the general fund?

Legislator Nazzaro: I like what he is saying. What Jay is saying is to use, because we have taxes on these properties, it should not just go into the general fund –

Legislator Gould: No, we should pay them first.

(Cross talk)...

Mr. Bentley: So in the resolution that's currently proposed, it actually does fence it in for the Parks, it doesn't go to the general fund.

Legislator Gould: Right so we'll take the money for the taxes out of the general fund when that time comes.

Legislator Nazzaro: Is that correct Kathleen?

Mrs. Dennison: Yes.

Legislator Nazzaro: So Kathleen, how can put language in there?

Mrs. Dennison: I think that question would be a question for Kristen. Is there a legal requirement of where the revenue goes?

Ms. Wright: No.

Legislator Nazzaro: It's not like the airport, if we sold the airport (*cross talk*)...

Mrs. Dennison: So Jay's (*cross talk*) is correct that the legal requirement only applies to timber sales, it would not apply to the revenues from this endeavor. Is it stipulated that the timber –

Legislator Gould: I was on the Parks board for quite a while so I understand.

Mrs. Dennison: The timber sales have to go but these do not have to go to the capital.

Legislator Gould: No, this was a gift that we're going to take away now.

Legislator Nazzaro: But Jay, the difference just for clarification, is that the timber is for capital, is that correct?

Legislator Gould: Right and this was to capital.

Mrs. Dennison: The way it's worded right now –

Legislator Gould: It was to capital.

Mr. Bentley: If you look under the last WHEREAS clause.

Legislator Gould: We should be able to make a fund to pay taxes with on these properties.

(*Cross talk*).....

Chairman Hemmer: We don't like to pay taxes out of the capital.

Mrs. Dennison: I think that we could do that. We wouldn't need a special fund. If you wanted to, you could change this last WHEREAS clause and just say, revenue received from lessee will be utilized for operating expenses of Chautauqua County Parks Department or well, but it's saying this is Parks and not forestry.

Mr. Bentley: I was trying to make it simple.

Chairman Hemmer: I assume there are gas and oil wells on other reforestation properties. What happens to the proceeds from them, where do they go now?

Mr. Bentley: So in certain years right now, the revenue goes into the –

Legislator Gould: The general fund.

Mr. Bentley: Well, it goes into the general fund but on the budget, we show the revenue and sometimes it exceeds property taxes and sometimes it doesn't. It's all based on production, obviously. So it's not initially tied – property taxes get paid out of the general fund, the revenue goes into the general fund and the net wash is the net wash. Sometimes you make money, sometimes you (*inaudible*).

Legislator Nazzaro: I think the reason Jay is bringing this up and I agree, we had to make a budget amendment during the budget hearing (*cross talk*) to increase the amount because the taxes were higher than we thought.

Mr. Bentley: But sometimes it works in reverse. I've seen – Sam tells me there are some years where we've actually made more money than what the taxes are.

Legislator Nazzaro: So here the money, the way it's currently written, is for capital in the Parks.

Legislator Gould: We can't get it out of capital to pay property taxes with it.

Mrs. Dennison: No.

Legislator Gould: It would have to come out of the general fund so we either make a special account for this money to pay property taxes or we continue to stumble along the way we have been.

Mr. Bentley: Let me put a little feather out there, I guess. There is a lot of work that needs to be done in the Parks, a lot and when we talk about using- to your question about using in-house crews, I need money to fund those guys to do the work. Meaning the actual projects themselves. I need this money to do this. If you put it towards taxes, I will not be able to – I will probably be searching for money for capital projects to put those resources to work.

Legislator Gould: Dark hole got deeper. I'm sorry Brad.

Ms. Wright: Taking it from a different approach is, is this agricultural – is this designated as agricultural property?

Mr. Bentley: No. I would just say this. There are a lot of lean-tos that need to be fixed, bridges that need to be fixed, we're going to be talking to a guy later on about all the trail work that needs to be done. I don't have the resources and the money. This is a sorely needed revenue for the Parks capital. Just like we – I give you a lot of credit for putting the timber sales as has to go there, has to go to Parks, because they need the money. It's something that has been neglected for many years, as you well know and we need to have the access to that capital money.

Legislator Gould: How much is it used, the Parks?

Mr. Bentley: What this year?

Legislator Gould: Right now there is cross country skiers going on them but normally in a normal year, how much are these Parks used?

Mr. Bentley: We're getting a ton of reservations for wedding receptions in our Parks. We have an on-line reservation to it. We've seen actual donations kick up.

Chairman Hemmer: Do they have a log of the number of visitors and it has increased over the years, the number of visitors increases and with the publicity we have given the Parks, I think that has helped usage as well. They are not abandoned, they are getting used.

Mr. Bentley: As a matter of fact, I have a guy right here who is going to tell you all about how he wants to increase the use of our Parks. So, I'm telling you, we have a need. There is a dire need here for this money to be in the Parks department.

Legislator Nazzaro: I'm o.k. with it going to capital.

Legislator Gould: I'm not. If it's going to go into capital, I will have to vote no.

Mrs. Dennison: If I could answer the original question that was posed, in 2019, in the Forestry department we have a revenue budget of \$6,000. That revenue is commissions on existing gas wells. So there is the opportunity to put this money into that account, in the general fund.

Legislator Nazzaro: But then it is used for anything, right?

Mr. Bentley: That's the (*cross talk*) of the general fund.

Legislator Nazzaro: But that \$6,000 Kathleen, then is not designated for use of taxes.

Mrs. Dennison: It is not –

Mr. Bentley: No it isn't because it just goes into the general fund.

Mrs. Dennison: Right, yes it does, but if you look at -

Mr. Bentley: It goes to anything.

Mrs. Dennison: It goes to anything yes but if you look at the Forestry department, it has this year, local share, \$11,000. Because we have the revenue of \$6,000 and we have the property tax budget of \$17,000 so in forestry, there is a local share of \$11,000. I think Mr. Gould's point is that, when we are looking to profit about at least \$10,000 a year from this lease, if we did not earmark that money for capital, it would go into the commissions revenue in the Forestry department and hopefully make the local share close to zero.

Legislator Wilfong: And you are saying that you need that money.

Mr. Bentley: For the Parks. I have countless number of projects that I would need that money for.

Legislator Nazzaro: But why couldn't that go through the normal capital budget process?

Mr. Bentley: Because it won't get allocated.

Legislator Nazzaro: Not a high enough ranking to qualify.

Mr. Bentley: And the thing about this, this is reforestation property. This is revenue coming from kind of nature and I think as a County, we should be putting it back in.

Legislator Nazzaro: I'm looking at the clock because we have another committee coming in, but, I do see Jay's point now that I have been thinking about this. I can see where Kathleen is at, these properties are not our parks. These properties are reforestation lands that we've had since the 50's, so the revenue Jay, generated from this, is not generated because of anything to do with the parks. It just happens that this comes under the Parks. So with that being said, if you make a motion or an amendment to your satisfaction, I might second it.

Mr. Bentley: Can I make one other suggestion?

Chairman Hemmer: Sure.

Mr. Bentley: To the extent that revenues exceed taxes, can that money be going to the Parks?

Legislator Nazzaro: And I was going to recommend –

Legislator Gould: Sure.

Legislator Nazzaro: I agree with that.

Chairman Hemmer: Jay, do you have an amendment to the proposed resolution?

Legislator Gould: Go ahead.

Mrs. Dennison: I believe the proposed amendment is at the 5th WHEREAS clause be changed to strikeout the words, "will be reserved and utilized for capital projects to the benefit of the Chautauqua County Parks Department" and add a phrase to the effect that it should be revenue in the Forestry department exceed the expenses for property taxes, that revenue would be contributed to capital projects for the Chautauqua County Parks Department.

Legislator Nazzaro: O.k., the revenue received from (*cross talk*) will be reserved for the payment of property taxes on the reforestation properties with any excess above the property taxes to be utilized for capital projects. Something like that.

Legislator Gould: Capital projects for the parks.

Legislator Nazzaro: We're just doing it off the cuff and if we could have that drafted because this has to go to Audit & Control. You got the point, right Kathleen?

Mrs. Dennison: Yes.

Legislator Nazzaro: So Jay, are you making that?

Legislator Gould: Sure, I'll make it.

Legislator Nazzaro: And I will second it.

Chairman Hemmer: O.k., there is an amendment proposed to this resolution to change the wording of the last WHEREAS to reflect payment to property taxes and then money in excess of the property taxes would be then placed for the benefit of the County Parks department capital projects at the County parks. All in favor of the proposed amendment?

Unanimously Carried

Chairman Hemmer: Now on the resolution as amended?

Unanimously Carried

Proposed Resolution – Adjust 2019 Budget for Public Facilities Airports Division

Mr. Bentley: Again, this is similar to the other ones. This was caused because we had a replacement of an account clerk at the airport that we (*inaudible*) earlier this year. That employee had a higher than budgeted insurance plan so we do have some contractual money left at the Jamestown airport that we're going to use to do that. So no use of fund balance.

Chairman Hemmer: Any questions concerning that resolution?

Unanimously Carried

Other

Proposed Resolution – Authorize Supplemental Agreement No. 2 w/ NYSDOT for Performance of Federal-Aid project PIN 5762.26, Dale Drive Shoulder Expansion

Mr. Bentley: So this one is pretty quick. This is a resolution that is needed. The first time the State has asked for a resolution in regards to this. There is money left over from the design phase and needs to go over to the construction side. Normally that's just happened in the past resolutions and the State is now requiring a resolution to do that. This is effectively what this does.

Legislator Nazzaro: The \$19,445, is that what it is?

Mr. Bentley: Yes, in the 4th WHEREAS.

Legislator Nazzaro: We don't need any type of accounting on this Kathleen?

Mrs. Dennison: No.

Mr. Bentley: I don't know if this is going to be a standard, the way the State is going to want to do it every time, but it may be. They required it on this one.

Chairman Hemmer: Any questions concerning this resolution?

Unanimously Carried

Discussion - Bentley & Jacob Bodway – Trail/Parks Improvements

MOVED by Legislator Gould, SECONDED by Legislator Wilfong to adjourn.

Unanimously Carried (5:16p.m.)

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