

**PHYSICAL SERVICES COMMITTEE
MINUTES**

**MONDAY, APRIL 22, 2013
3:30 P.M.**

PRESENT: Leigh J. Benton, Chairman
Katie Bonelli, L. Stephen Brescia, Albert W. Buckbee III,
Michael Paduch, Thomas Pahucki, Dennis W. Simmons

ALSO

PRESENT: Michael R. Pillmeier, Chairman
Jeffrey D. Berkman, Minority Leader
Roxanne Donnery, Legislator
Roseanne Sullivan, Legislator
Antoinette Reed, Legislative Counsel
James O'Donnell, Deputy County Executive
Charles W. Lee, P.E., Commissioner of Public Works
Peter Hammond, Deputy Commissioner, EF&S
Tim Tucker, Budget Analyst

Chairman Benton opened the committee meeting at 3:32 p.m. by asking everyone to stand for the Pledge of Allegiance to the flag. All committee members were present with the exception of Ms. Kemnitz.

Mr. Hammond addressed the committee with a discussion regarding the Orange County Landfill. He stated that the subject matter is disproving the un-provable, sometimes that is what they are talking about which the potential of leachate from the landfill getting into the Walkkill River. The Department of Environmental Facilities and Services has been working with the State for over a year and they have asked that several things be submitted such as; a sampling protocol. The conclusion of the sample was that the analysis of seep, service water, and flocculent samples are consistent with previously reported ground water quality at the site. The data does not indicate a release from the landfill has or is currently occurring. Furthermore, the water quality is within the naturally occurring range. He stated that at this point his department continues to work with the State.

Mr. Benton commented that the article in the newspaper mentioned the arsenic level and clarified that no other metals are of concern.

Mr. Hammond replied that there are no other metals to be concerned about. He explained that there were elevated levels of ammonia but two of the substances that occur in leachate that were not in the samples were volatile or semi-volatile and arsenic naturally occurs.

Mr. Simmons clarified that the arsenic could be naturally occurring or at least the causation is not the landfill.

Mr. Hammond replied that is correct.

Mr. Pahucki stated that it is possible that the landfill was a farming area at one point because arsenic was used in apple orchards as a chemical which was sprayed and used as pesticide.

Chairman Pillmeier commented that this topic is on the agenda today for discussion because there seems to be some individuals in the local area who have drawn attention to the seepage into the Wallkill River claiming that it is from the landfill; therefore, he wanted to get what the cause of this is on public record today at this meeting.

Mr. Simmons stated that this isn't the first time they have spoken about this and they are not hiding anything.

Mr. Buckbee asked if there were soil samples taken.

Mr. Hammond replied that there were water samples taken.

Mr. Buckbee asked if lead is involved.

Mr. Hammond replied that there were no issues with lead, the iron was a little bit elevated but there were no issues with lead.

Mr. Benton asked that Mr. Hammond update the committee regarding a picture that was taken at the transfer station.

Mr. Hammond stated that at the transfer station there are two areas; one is the commercial areas where the big trucks come in and the other is the bag drop where all kinds of things are brought in. Unfortunately, there was a fire in one of the dumpsters. Once the fire was put out the department made sure that the dumpster was sealed so nothing leaked out. He stated that quite frequently people dispose of pool chemicals which can cause a fire because it is dried up.

Mr. Brescia moved to create a resolution making supplemental appropriation for Corwin Bridge Replacement, \$40,000.00 (bonding), seconded by Mr. Pahucki.

Mr. Lee stated that this bridge is located on County Route 11 down from White Bridge Road and \$40,000.00 is for the design of the bridge.

Mr. Benton asked what town the bridge is located in.

Mr. Lee replied that the bridge is located in the Town of Mount Hope.

Motion carried. All in favor.

Mr. Brescia moved to create a resolution making supplemental appropriation for Fleet Washer, \$500,000.00 (bonding), seconded by Mrs. Bonelli.

Mr. Lee explained that the request was on a previous Capital Plan and he wanted to bring it back because it is an important issue. This was proposed in the Capital Plan and is a supplemental appropriation to the Department of Public Works budget. He stated that he is looking to have for a two-sided building. One side of the building would be where the vehicles drive in and the washer tracts would wash the outside of the van as well as a bar underneath to spray and clean the frame and undercarriage. The bar would also get all of the salt and sand out. Currently, they try to keep the vehicles in shape for 150,000 miles and they are find that they cannot get to that number anymore because of brake line and framework failures. He stated that he is hoping that is one good reason for the legislature to go ahead with this request. Another reason is the heavy fleet wash side of it because right now, the employees have to climb over the truck and around the truck with a pressure washer. Furthermore, environmentally he cannot use soap on the outside or any collection system without paying for treatment. By approving this request, the body of the trucks as well as the life of them will be extended and the building will be situated. He then showed the committee a few photos of where the fleet washer would be located.

Mr. Simmons clarified that this is total funding.

Mr. Lee replied it is total funding for design and construction.

Mr. Simmons then asked Mr. Lee if he would have some type of computer program that would track the vehicles to make sure they are brought in on a regular basis.

Mr. Lee replied that the department has a fleet manager system where they wash the trucks and cars. In the smaller fleet, the cars are washed and given an oil change. He stated that his purpose is deeper than just washing the vehicles and there are tracking devices on all of them.

Mrs. Bonelli stated that in 2011 when they looked at this they were talking about \$250,000 and now they are talking about \$500,000. She asked what the difference is since 2011.

Mr. Lee replied that he was involved in both projects and he thinks what happened was the \$250,000 didn't have the real fleet side and now they got better pricing on the system so they are looking at for the car side. The truck side was not included much in the \$250,000 and it is safer to be inside of the building.

Mrs. Bonelli clarified that this is a totally different project from the one in 2011.

Mr. Lee replied yes, the other project was a basic car wash.

Mr. Pahucki commented that he is surprised that they cannot use any kind of soap on the vehicles.

Mr. Lee replied that they can on the cars but not on the commercial vehicles and the biggest thing is underneath the vehicles.

In regards to the photos, Mr. Paduch confirmed the placement of the new fleet washer.

Mr. Buckbee commented that he agrees with fully cleaning the vehicles better because it will help them last longer and asked Mr. Lee how much longer of the vehicles will last with the fleet washer.

Mr. Lee replied that right now the vehicles last until they reach 150,000 miles but most of them are riding until 110,000 to 120,000; therefore, they are taken off the fleet.

Mr. Buckbee asked who controls SEQRA on this project.

Mr. Lee replied that this building is covered through SEQRA as far as an accessory building so it would be a Type II Action under SEQRA.

Mr. Berkman asked Mr. Lee to elaborate on the SEQRA.

Mr. Lee replied that SEQRA is up to a 4,000 square foot building and this one is about 2,000 square feet.

Mr. Berkman then clarified that there is no further action required and Mr. Lee replied that is correct.

Mr. Berkman asked Mrs. Reed if she has had a chance to look at that because he has a concern of not having SEQRA done on a car wash.

Mrs. Reed replied that she has not looked at it yet.

Mr. Berkman asked if they contract out with private vendors.

Mr. Lee replied they do not contract out with private vendors because it would be very expensive, however, they did compare it to look at the cost savings. He added that the county saves over \$200,000 a year by not going to contract and the cars get cleaned on site.

Mr. Simmons assumed that they will have less repairs by having the fleet washer on site.

Mr. Lee replied that is correct and right now he is replacing total systems such as exhausts and shocks.

Mr. Buckbee asked how many vehicles would be going through the washer.

Mr. Lee replied, 350 cars, pick-ups and vans, 105 trucks that he has and 32 heavy equipment vehicles.

Mr. Buckbee then asked if someone from the outside can wash their trailer.

Mr. Lee replied no because it is a liability issue and is behind a gated area.

Motion carried. All in favor.

Mr. Buckbee moved to create a resolution to amend Resolution Nos. 233 of 2009, 287 of 2010 and 121 of 2011 for Runway Realignment 3/21 to reflect change in funding sources (the original project was 95% FAA share, 2 ½%

NYSDOT share, 2 ½% County share. Additional funding in the amount of \$445,000.00 is requested for the County share) (bonding), seconded by Mrs. Bonelli.

Mr. Lee stated that as the legislative request reads, he was here in 2009, 2010 and 2011 so everyone is familiar that everything is related around the 3/21 extension with the runway being rehabbed and raised up to get it out of the flooding zone and out of the river. What the FAA does is come into the money with a month's notice so what he did was prepare for that because it is estimated at \$17.8 million and federal regulations have changed; therefore, they asked the Department of Public Works for the increase in the share. He added that he is asking this request be approved because the FAA will come up with the money and then he will come back to committee to get it signed off very quickly. It is basically a paperwork issue to get it straight so he has the right resolution for the county share.

Mr. Simmons commented that he sees they are only paying 2 ½% and asked if the federal funds would have to be re-paid if the airport was sold.

Mr. Lee replied that they would have to pay the federal government and that is called assurances.

Mr. Benton added that the money would have to be returned if they sold the airport.

Mr. Simmons stated that he wanted to get that on the record because he has heard other people saying things.

Mr. Lee replied that they are still looking at 5% and that is typically what is done on bridges.

Mr. Pahucki commented that ever since he has been a legislator he has heard that if they sell the airport, they will have to pay it all back. He asked Mr. Lee to look into the FAA laws because it doesn't seem to him that if they take the airport and transfer it's ownership to another entity and that entity continued as the airport, Orange County would be responsible to pay for every dollar received. Furthermore, this doesn't make sense because small airports change hands frequently and they also have received FAA loans.

Mr. Lee asked Mr. Pahucki if he is he speaking to a private entity.

Mr. Pahucki replied that he is speaking to any entity other than us. As long as it maintains the status of an airport, he would think that those improvements stay with the airport.

Mrs. Reed stated that she believes the assurance revisions are contractual because when they receive a grant it is part of the agreement. The assurances are a provision of the contract. If the facility is sold to a third party, it would be subject to a review by the FAA who will determine whether or not the county will pay and how much it will pay. She added that everything is negotiable.

Mr. Pahucki stated that it doesn't make any sense to him and asked what if they decided to close it down because they cannot afford it.

Mr. Benton commented that he would think that if they closed it down they wouldn't have to pay anything back.

Mrs. Reed stated that they would have more exposure if they close it down. The bottom line is that the FAA has it in writing that the county has made assurances that the money will be used for the airport and that the airport will continue to be used for that purpose. If this changes, the county is negotiating against them with the FAA unless the FAA believes that was in the best interest.

Mr. Pahucki clarified that it is not set in stone.

Mrs. Reed replied that it is set in stone because it is in the agreement.

Mr. Pahucki then pointed out that it is almost \$18 million to build a runway up so it doesn't flood but they can't do anything to prevent the Wallkill River from flooding.

Mr. Lee replied that it is not principally for the flood, it is principally for a safety area which is mandated by the FAA.

Mr. Buckbee asked how many planes fly in and out of the airport and is air-traffic control shutting them down because they can't get out when it floods. Furthermore, he would like to know what is wrong with the current runways.

Mr. Benton replied that the safety zones at the end of the runways are the problem.

Mr. Lee added that the way the airport was oriented is there is a river that goes right around it and the flooding they are talking about happens in the low end on one end. Since it is a general aviation airport there is no tower or control. If the airport floods they have to call the FAA and the airport people and put a notice out that the runway is closed. The employees from the Department of Public Works are the ones that put the notice out. In regards to the alignment of the runway, it is an original alignment before the new safety standards came out years ago. The way the alignment wraps around and the river is right there, the FAA does not want it orientated that way they want it turned and they are willing to finance if that is done. Mr. Lee stated that if this isn't passed, the money is gone.

Mrs. Bonelli commented that her concern was the percentage change and clarified that this is likely going to happen.

Mr. Lee replied that it is in place right now but it is being challenged and does not look like it is going to be defeated.

Mrs. Bonelli asked if the rate could increase.

Mr. Lee replied that the rate will not go up and if it did he would come back to the committee and discuss it.

Mrs. Sullivan confirmed with Mr. Lee that the cost of the share doubled.

Mr. Lee replied yes, it doubled.

Mrs. Sullivan asked what is the obligation of the county to fund the airport that is being used by less than 1% of the population. She stated that she knows that question has been asked before and she received some answers but the reason she is asking again is because right now the county is having some financial difficulties so even though her question has been asked, she thinks it is valuable to ask again especially at this time. Furthermore, she is not hearing specific numbers or answers regarding selling the airport. She requested a financial spreadsheet on how much it is costing the county to keep the airport running so they will know how much money they would have to pay back and how much money they would be expected to sell it for. From there, they would be obligated to make an educated financial decision on it. Furthermore, from listening to all of this she is wondering how vital the airport is to Orange County and how they have gotten to a place in an economic environment to where it is dragging them down.

Mr. Lee disagreed with Mrs. Sullivan that the airport is dragging them down. The airport is not just for 1% of the population. The people that fly in the airport and drive our economy throughout the county such as the Fed Ex people and Home Depot executives drive the economy into a positive direction. By having the airport here under their control, as the county, is a definite plus. As far as the budget and the money, there are two budgets here operating. He stated that this is a bonding source to a capital budget and yes the county does contribute taxes to support the everyday functioning of that airport. He added that they cannot use bonding money for operating money so this is a long term payback period. The airport gets an influx of people who utilize the surrounding towns and hotels which is a big benefit for Orange County. Therefore, he sees the airport as a positive and does not side with those who would like to sell it.

Mrs. Sullivan stated that she understands the difference between the bonding and the operational budget, but sooner or later all of that money is paid by the State people. She added that she is not coming into this saying "sell, sell, sell," what she is asking for though is an explanation of what their obligations would be if they did sell.

Mr. Benton replied that he will get all of that information for her.

Mr. Simmons commented that for the record, he believes it was himself that started the lines of questioning and while he appreciates Mr. Pahucki's follow-up questions, he thinks many of the strips around here started as dirt strip airports and later on the FAA came up with additional requirements as each one of them was upgraded. Also for the record he takes nothing for granted as this is what he has been told over the years and he is asking for answers. When it comes to sale he is sure that Mrs. Reed would probably tell them that anything which was actually realized from the sale would be utilized to go ahead and payback any of the FAA monies that they have accepted. Obviously, if there is an "overture" they would be able to keep it and if it is an "underture" they may still have to continue to pay.

Mrs. Reed stated that she thinks that if they want to go down this road or want the correct answers they would have to hire a consultant because they are the ones who specialize in airports as well as the sale of county or municipally owned airports. The consultants are the ones who will tell everyone the value of the facility and say how much money the county has acquired from the federal government, the state government and the FAA. Over the course of the life of the airport, the value of money has depreciated because the county has invested it so the consultants would describe a lot of intricate details about the value and the obligations to give the money back to the FAA. She then suggested that if the legislature wants those kinds of answers they may have to

do a request for a proposal and hire someone to give them the analysis. It is more complicated than what the agreement says.

Chairman Pillmeier read a page from the budget book regarding the airport and stated that last year the county had 225 aircrafts based at the airport and there were 85 airport "ins and outs" with airplanes. He added that the average yearly operations are around \$115,000 and this year the county has budgeted \$267,000 of county taxation for the airport.

Mr. Benton commented that the county makes money on the fuel.

Mr. Berkman commented that this is a substantial item and part of the reason this has been under the radar is because they have been told over and over that it was break even or near break even. He stated that there is no compelling need to change things; however, he has a few specific questions. He asked if there was a vote on this specific item at 2 ½%.

Mr. Lee replied that there was a vote on 2 ½ % three times which was allowed by the FAA and those all total up to \$17.8 million.

Mr. Berkman stated that even if this were to go through at 5% he wouldn't give up on the other 2 ½% because the obligations were met and the FAA didn't come through and he feels this is a lot stronger than ignoring it.

Mr. Lee clarified that if this is voted on and approved at 5% they want him to keep pursuing the 2 ½% share.

Mr. Berkman replied yes. He then agreed with Mr. Pahucki and Mrs. Sullivan that have a question mark as to the whole issue of what their obligations are to payback the FAA. Furthermore, he is not arguing the point because he does not know what the laws are but it doesn't make sense to him that they would be obligated to payback all that money in order to comply with FAA requests for public safety.

Mr. Lee stated that he did not anticipate this many questions regarding the operation of the airport.

Mr. Berkman stated that if they are talking about airport expenditure, he would like the Director of Aviation at the committee meeting.

Mr. Lee replied that Mr. Sussey will be here for the Ways and Means Committee meeting.

Mr. Paduch commented that the more information they have, the better and everyone has made a lot of good points. He asked that the committee make the resolution subject to the 5%.

Mr. Lee replied that 2 ½% has already been approved and nothing will change.

Mr. Brescia commented that he agrees that they do not have to look to an outside consultant right now. He stated that things can always be tweaked and improvements can be made; therefore, there is no reason to jump at the idea of selling the airport.

Mr. Buckbee suggested that Maureen Halahan come up with ideas of how much airport traffic she sees through Orange County Partnership.

Mr. Lee replied that two of his directors can tell who shows up where and when.

Motion carried. All in favor.

Mr. Paduch moved to approve a Local Law of the County of Orange, New York, known as the "Hydraulic Fracturing Brine Prohibition Act" (tabled for one month at 3/26/13 Rules), seconded by Mr. Buckbee.

Mr. Berkman addressed the committee by stating that last month he drafted a resolution that was on the same point as this and counsel did some helpful research and created a resolution that is a bit different. This refers to county owned properties and today he would like to get a policy on county-owned roads and keep fracking water which is highly salineated water and has other chemicals involved that is reported to be sold by some people to municipalities as a ice melt on roads so this would prohibit that. He stated that other counties around us have taken even stronger action by prohibiting it on all county roads which he is not suggesting; he would just like to get control over this county's 217 miles of county road. One other thing is that Mrs. Reed found, which is not in his original draft, is the penalties for violation. The penalties for violations states that "damages sought shall be determined by the County Attorney but may include, and not be limited to the cost of consequential damages of the breach contract and any person who violates this article shall be guilty of an unclassified misdemeanor and subject to a fine not to exceed \$25,000.00 per violation and/or up to fifteen days imprisonment." He asked that the committee consider his proposal.

Mr. Benton commented that Mr. Lee is responsible for county roads and asked if this is something they need a law for.

Mr. Berkman replied that he has read a little bit and he is not going to debate the point whether the radioactive element is natural, which it very well could be, or whether it has some other chemical issues involved. Either way, he thinks it's a fact that during the hydro-fracking process there are chemicals used that has become a trade secret. He added that not all companies use the same thing but there are chemicals involved throughout the process.

Mrs. Bonelli commented that at the risk of putting someone on the spot, she would like to see what Mr. Lee has to say about this.

Mr. Lee stated that he would like to see Mr. Berkman's information that he has regarding the fracking. In regards to salineated water, he added that if he puts that on the county roads he will have ice so the type of brine they are discussing involves a bunch of hype. The reason it is a bunch of hype is because there is no testing that has been done and/or publicized that says what is in it and down the road it may be an alternative for salt which is a good thing to have. Furthermore, he will not use fracking fluid or brine and the banning of this on the roadways is taking a step and not letting the DEC make judgment on it.

Mr. Berkman commented that he is not surprised to hear what Mr. Lee has said but he is disappointed because Mr. Lee is on record for saying that he does not use it anyway and opposes the resolution.

Mr. Lee stated that he does oppose the resolution based on Mr. Berkman's proposal.

Mr. Berkman pointed out that Mr. Lee doesn't use brine but opposes the resolution to prevent something that he is not doing. He then pointed out that he disagrees with Mr. Lee when it comes to the definition of brine. He stated that brine has a specific legal definition according to this resolution and it is called production brine.

Mr. Lee commented that he was hoping the DEC had taken some action over the last two or three years that this has been discussed.

Mrs. Sullivan stated that she is hearing that this is a practice that the county does not use this method and she is comfortable with that because there has to be a reason it isn't used. Even though they have not reached this point, she asked if this is something that is safe for children.

Mr. Benton commented that he would like to wait for the DEC's ruling.

Mr. Lee added that they haven't looked at anything regarding this but if this is passed, there is no choice down the road to even decide whether it is economical or not. He stated that he wouldn't use it as a practice unless the DEC authorizes it.

Mr. Berkman asked Mr. Lee if he would possibly use the fracking water if the DEC approves it.

Mr. Lee replied that he would possibly use it if the DEC approved it.

Mr. Berkman stated that is all the more reason why they need to pass this resolution.

Mrs. Reed explained to the committee the genesis of the local law. She then stated that she thinks the argument in support of this local law is that at least Mr. Lee will know what brine is being put down so that if it is brine from a different source, he will know. If it is the hydro-fracking brine that is put down he can say that the county does not allow it because no one knows what is in it.

Mr. Lee stated that the DEC hasn't submitted any restrictions which means they do not know what is in the brine.

Mrs. Reed replied that's right but it doesn't preclude a municipality at a lower level for saying they do not know what is in the brine.

Mr. Lee stated that if they want that in the contract for towns, he does not see it as being a local law, it would be a request.

Mrs. Reed replied that the legislature has the authority to pass a local law on it as a policy procedure.

Mr. Lee stated that the legislature's policy is restricting any choices down the road.

Mr. Berkman stated that they are restricting choices about fracking water.

Mr. Simmons commented that he has mixed emotions about this and he understands that in some respects this is the limitation of property rights. He added that he does not know enough about this and whether or not there is enough science out there to give the people knowledge about it.

Mrs. Bonelli commented that in reviewing all of this she doesn't think it is a bad idea and her understanding is that Mr. Berkman is trying to narrow it down on county roads. She stated that she is starting to wonder if they need this at this point in time because there is a lot in the newspapers as well as information out there on it.

Mr. Berkman stated that lots of people feel that they don't know enough about contaminants or additives are put into this water and the Department of Public Works doesn't even use the water but shows a receptivity maybe to use it.

Mr. Pahucki commented that he understands what Mr. Lee is saying and this has been a very intelligent conversation. He added that Orange County has an opportunity to say "this is what we want and are making a statement that we are not going to be a utilizer of a fracking bi-product and are not going to be a dumping ground." Furthermore, he thinks this belongs in a local law and it needs to be voted on.

Motion carried. All in favor.

Mr. Benton and Mr. Lee addressed the committee with the last agenda item which was a discussion and update on projects regarding the Clark Patterson Lee Study and RFQ's for the renovations (Construction Managers and Engineers/Architects).

Mr. Benton stated that there was a meeting last Monday with Clark Patterson Lee regarding their draft report.

Mr. Lee explained that the meeting on Monday was with the building committee where they went over some of the budget and the budget core numbers went into all the philosophy behind the report. They looked at all of the statements in the report and every one was documented. He stated that on Friday he had a meeting with Phil Clark on general issues and then his team will be in this week to go over item by item and they will finalize the report. A final report should be issued to the legislature late in the week or the following week.

Mr. Benton stated that interviews started today for a construction and engineering firm for the Government Building renovations. He added that four people were interviewed and next Monday, the last two selections will be interviewed.

The meeting adjourned at 5:12 p.m.

