

SPECIAL SESSION
Herkimer County Legislature
Third Quarter – Fourth Day
Monday, August 31, 2020
9:00 a.m.

The Special Session of the Herkimer County Legislature was called to order by Chairman Vincent J. Bono at 9:00 a.m.

Chairman Bono called on Legislator Kurt Ackerman, to lead the Legislature in the Pledge of Allegiance.

Chairman Bono requested everyone to remain standing for a moment of silence in recognition and honor of all the current and past veterans of Herkimer County.

The Clerk called the roll, the following answered:

Present: Malta, Schrader, Hollum, Johnson, Stephens, Keeler, Brezinski, Bono, Ackerman, Donley, Campione, Russell, Shaw, Weakley (14).

Absent: Gaworecki, Manno, Smith (3).

Quorum present.

The Clerk read the Notice of the Special Session.

Chairman Bono stated that the communications received by the Legislature and the committees to which they were referred were as listed on the agenda and asked if any member of the Legislature requested mention of any particular communication. There were no requests.

No. 294 – A communication was received from the Chairman of the Legislature requesting Special Session. Filed.

No. 295 – A communication was received from the Executive Director of the IDA requesting authorization for Chairman to sign documents and schedule public hearing for CDBG Application. Referred to the Committee on County Planning & Development and the Committee on Ways & Means.

No. 296 – A communication was received from the County Administrator requesting Resolution for extension of LaBella contract. Referred to the Committee on Public Safety & Emergency Management and the Committee on Ways & Means.

On motion of Mr. Ackerman, seconded by Mr. Shaw, Report and Resolution No. 211 sponsored by the Committee on County Planning & Development setting public hearing in connection with an application for Community Development Block Grant funding was handed up, was voted on and adopted by voice vote:

For: Ayes (14). Against: None. Absent: Gaworecki, Manno, Smith (3).

Mr. Brezinski: “Mr. Chairman, I would like when it comes time for a vote, a roll call vote on Resolution No. 212 please.”

Mr. Ackerman: “What was the final outcome of our proposal to them and what was their offer back?”

Chairman Bono: “Jim Wallace, did you want to give us a break down of the specifics?”

Jim Wallace: “The motion that Mr. Shaw made was \$40,000 from September 5th through November 4th with \$20,000 to be paid as it is expended and \$20,000 to be paid when we get the Certificate of Occupancy and sign off from the SCOC. That was our proposal.”

Mr. Ackerman: “It was open ended with no completion date, remember we talked about that?”

Jim Wallace: “That is what I just said.”

Mr. Ackerman: “No you said until November 4th.”

Jim Wallace: “Right.”

Mr. Ackerman: “We didn’t have a date.”

Jim Wallace: “What we’re saying is those two things have to be included.”

Mr. Ackerman: “That was not my understanding in the meeting.”

Jim Wallace: “I thought that is what we wanted. We wanted the SCOC approval and the Certificate of Occupancy.”

Mr. Ackerman: “Yeah but not the end date. That gives them another option to come back for more money.”

Jim Wallace: “I thought we wanted to move it so we got it done so it wouldn’t just keep going because of the inmates. We are starting to see our inmates swell because courts are back in session. If I heard wrong then that is ok.”

Mr. Ackerman: “I know the discussion that I had I said I wanted to put in there they would finish this job to completion, not have a date on it, because that means that November 4th they will be knocking on our door for more money to finish the job.”

Jim Wallace: “Well they are not going to get paid the \$20,000.”

Mr. Ackerman: “Yeah but they will just walk away. The whole point was to keep them until completion and that is what the discussion was.”

Jim Wallace: “But the motion was from Fred so maybe Fred can clarify it.”

Mr. Ackerman: “I don’t want a date, I want it completed. They are not going to keep coming back to us to the well every month for more money and not finish their job that they started.”

Chairman Bono: “The liquidated damages, Lorraine can you expound on that maybe? I’m just going to ask our Counsel how that would affect us.”

Lorraine Lewandrowski: “As far as the one contractor that has contributed to the delay, Weydman Electric, taking a look at their contract...”

Jim Wallace: “I think you should go into executive session Mr. Chairman.”

Lorraine Lewandrowski: “There could be the possibility of litigation, I am just reading from the contract right now which is public record. If there is any possibility of litigation then perhaps we should go into executive session.”

Chairman Bono: “Are there any other questions or discussion before executive session?”

Mr. Schrader: “My whole point, like Kurt is saying, any time you put a date on something, you’re allowing them to keep coming back. They’re using COVID for an issue. If this is the issue then every small business in Herkimer County should be getting some money because of COVID. This company should be absorbing the same thing that every other small business is absorbing because of COVID. They’re coming to us using COVID as a reason, I don’t see how anyone could go ahead and vote for this, to give them more money for a job that they were supposed to do and now they are using COVID as a reason that it is not done. When you have small businesses and other companies absorbing the costs of the COVID issue and we are going to keep paying these people money with an open ended date because like Mr. Ackerman said, November 4th they are going to be coming back saying we need more money. I am not voting for it either way but as a taxpayer I would hope you guys would put an end date on that and leave it as November 4th.”

Chairman Bono: “Ok, Mr. Russell?”

Mr. Russell: “How does this break down between LaBella and Gilbane?”

Chairman Bono: “Sheri are you on?”

Sheri Ferdula: “Yes, I am on.”

Chairman Bono: “Can you give us an explanation?”

Sheri Ferdula: “The original proposal with the \$56,000, broke it down between LaBella and Gilbane but the second proposal for \$40,000 was for \$30,000 for the first month for a full time Gilbane person and a part time Gilbane person and then just go to a part time one in October but they didn’t give us a break down of how that money went to each.”

Mr. Russell: “So the entire \$40,000 is going to Gilbane?”

Sheri Ferdula: “No.”

Chairman Bono: “No the entire amount is not going to Gilbane.”

Mr. Russell: “Well that is what I am asking for, what is the breakdown?”

Jim Wallace: “They did not specify Pat, they gave us an hourly sheet that we shared with everybody.”

Mr. Russell: “Well Gilbane is getting paid out of that then?”

Jim Wallace: “Yes.”

Mr. Russell: “I just want to say I don’t see how you guys can hire somebody to do a job and then all of the sudden pay them more after they didn’t get the job done. Maybe you should go into executive session.”

At 9:11 a.m. on motion of Mr. Russell, seconded by Mr. Ackerman, the Legislature went into Executive Session under Public Officers Law Section 105(d). Mr. Gaworecki and Mr. Manno were present during the Executive Session. On motion of Mr. Stephens, seconded by Mr. Ackerman, the Legislature came out of Executive Session at 9:53 a.m. Ayes: 15. Against: Russell (1). Absent: Smith (1).

Chairman Bono: “Ok we are back in session, I am going to ask the Clerk to do a quick roll call again.”

The Clerk called the roll, the following answered:

Present: Malta, Gaworecki, Schrader, Hollum, Johnson, Stephens, Keeler, Brezinski, Manno, Bono, Ackerman, Donley, Campione, Russell, Shaw, Weakley (16).

Absent: Smith (1).

Chairman Bono: “At hand is Resolution No. 212 as written, anymore discussion on that? Clerk will call the roll.”

On motion of Mr. Stephens, seconded by Mr. Shaw, Report and Resolution No. 212 sponsored by the Committee on Public Safety & Emergency Management and the Committee on

Ways & Means authorizing contract modification with LaBella Associates was handed up, discussion was held; was voted on and adopted by roll call vote:

For: Gaworecki, Hollum, Stephens, Keeler, Bono, Donley, Campione, Russell, Shaw, Weakley (10).

Against: Malta, Schrader, Johnson, Brezinski, Manno, Ackerman (6).

Absent: Smith (1).

On motion of Mr. Stephens, seconded by Mr. Ackerman, this Special Session of the Herkimer County Legislature was adjourned at 10:00 a.m.



HERKIMER COUNTY LEGISLATURE

No. 211

RESOLUTION SETTING A PUBLIC HEARING IN CONNECTION WITH AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING

Sponsored by: Committee on County Planning & Development

WHEREAS, it is necessary that a public hearing be held to hear public comment in regard to an application for an economic development assistance grant on behalf of HPK Industries in the amount of \$450,000; now, therefore, be it

RESOLVED, that a Public Hearing be held by the Committee on County Planning and Development on the 16th day of September, 2020 at 6:25 p.m., via teleconference, Phone Number: 1-978-990-5000, Access Code: 548560, with written comments submitted to 109 Mary Street, Suite 1310, Herkimer, NY 13350 for the purpose of hearing public comment upon the aforesaid application; and, be it further

RESOLVED, that a certified copy of this Resolution be forwarded to the Executive Director of the Herkimer County Industrial Development Agency.

Dated: August 31, 2020.



HERKIMER COUNTY LEGISLATURE

No. 212

RESOLUTION AUTHORIZING CONTRACT MODIFICATION WITH LABELLA ASSOCIATES

**Sponsored by: Committee on Public Safety/Emergency Management
Committee on Ways & Means**

WHEREAS, by Resolution No. 85 of 2011, this Legislature approved a contract with LaBella Associates, P.C. for architectural/engineering and construction management services in connection with the construction of a new Herkimer County Correctional Facility; and

WHEREAS, by Resolution No. 66 of 2018 and by Resolution No. 312 of 2018, this Legislature authorized the execution of modifications of contract with LaBella Associates, D.P.C. for Professional Services in connection with the Herkimer County Correctional Facility Project [hereafter “the Facility”]; and

WHEREAS, a further proposed modification of that contract has been submitted to the Legislature by communication of LaBella Associates, D.P.C. [hereafter “LaBella”] dated August 24, 2020, proposing an additional \$40,000 in professional fees for time extension of construction administration and construction management professional services from September 5, 2020 through November 4, 2020, together with other terms and conditions; and

WHEREAS, by letter dated August 26, 2020, James W. Wallace, Jr. County Administrator advises this Legislature of proposed terms and conditions of a contract modification and extension agreement with LaBella, now, therefore, be it

RESOLVED, that the Chairman of the Legislature is authorized to execute a contract modification agreement with LaBella Associates, D.P.C. for a contract extension from September 5, 2020 to November 4, 2020; and, be it further

RESOLVED, that up to \$20,000 be paid by the County to LaBella with claims for payment to be submitted by LaBella on an hourly billing rate basis at rates set forth in the attachment hereto, and that the remaining \$20,000 be paid by the County to LaBella when the County has obtained a Certificate of Occupancy and final approval of the State Commission of Correction to operate the Facility; and, be it further

RESOLVED, that any necessary amendments to the above contract modification agreement will be submitted to the appropriate committees for ratification.

RESOLVED that certified copies be of this Resolution be forwarded to the Herkimer County Treasurer, Auditor, Budget Officer, County Attorney and LaBella Associates, D.P.C.

Dated: August 31, 2020.