

MINUTES
SPECIAL SESSION
Herkimer County Legislature
Thursday, February 10, 2011
6:30 p.m.

The Special Session of the Herkimer County Legislature was called to order by Chairman Smith at 6:30 p.m.

Chairman Smith called on Mrs. Deming and Mrs. LaLonde to lead the Legislature in the Pledge of Allegiance.

The Clerk called the roll, the following answered:

Present: Piseck, Rose, Keblish Maneen, Stone, Hendrix, Hyde, Brezinski, Manno, Smith, Bono, Ackerman, Peplinski, Korce, Russell, Shaw, Weakley (17).

Absent: None.

The Clerk read the Notice of the Special Session.

Mrs. Rose asked that the rules be suspended to allow for a general comment period. There was no unanimous consent for this request.

Chairman Smith stated that the communication received by the Legislature and the Committee to which it was referred was listed on the agenda and asked if any member of the Legislature requested mention of that particular communication. There was no request to have the communications read.

No. 49 – A communication was received from the Chairman of the Legislature requesting the Special Session. Ordered filed.

No. 50 – A communication was received from the County Attorney concerning retention of bonding attorney. Referred to the Committee on Public Safety/Emergency Management and the Committee on Ways and Means.

No. 51 – A communication was received from the County Administrator concerning retention of financial advisors. Referred to the Committee on Public Safety/Emergency Management and the Committee on Ways and Means.

On motion of Mr. Hendrix, seconded by Mr. Russell, Resolution No. 41 of the Committee on Ways and Means and the Committee on Public Safety and Emergency Management authorizing construction of New County Correctional Facility, in and for the County of Herkimer, New York, at a maximum estimated cost of \$34,572,630, and authorizing

the issuance of \$19,750,000 Bonds of Said County to pay part of the cost thereof was handed up; discussion was held; was voted on and adopted by the following roll call vote:

For: Piseck, Keblish, Maneen, Stone, Hendrix, Hyde, Manno, Smith, Bono, Ackerman, Peplinski, Russell, Shaw, (14).

Against: Rose, Brezinski, Korce (3).

Absent: None.

No. 41

RESOLUTION OF THE COMMITTEE ON WAYS AND MEANS AND THE COMMITTEE ON PUBLIC SAFETY/EMERGENCY MANAGEMENT AUTHORIZING THE CONSTRUCTION OF A NEW COUNTY CORRECTIONAL FACILITY, IN AND FOR THE COUNTY OF HERKIMER, NEW YORK, AT A MAXIMUM ESTIMATED COST OF \$34,572,630, AND AUTHORIZING THE ISSUANCE OF \$19,750,000 BONDS OF SAID COUNTY TO PAY PART OF THE COST THEREOF.

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, have been performed; and

WHEREAS, the capital project hereinafter described, as proposed, has been determined to be a Type I Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, which it has been determined will not have a significant effect on the environment; and

WHEREAS, it is now desired to authorize the financing of such capital project, NOW, THEREFORE,

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the County Legislature of the County of Herkimer, New York, as follows:

Section 1. The construction of a new County Correctional Facility, on a parcel of land located on New York State Route 28 in the Village of Herkimer at the former P&C site, in

and for the County of Herkimer, New York, including land acquisition, site improvement, original furnishings, equipment, machinery, apparatus, appurtenances, and other costs and expenses incidental thereto, is hereby authorized at a maximum estimated cost of \$34,572,630.

Section 2. It is hereby determined that the plan for the financing of the aforesaid maximum estimated cost is as follows:

- a) by the issuance of \$19,750,000 bonds of the County hereby authorized to be issued therefor, pursuant to the provisions of the Local Finance Law; and
- b) by the expenditure of \$14,822,630 other monies of the County, which expenditure is hereby authorized therefor.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is thirty years, pursuant to subdivision 94 of paragraph a of Section 11.00 of the Local Finance Law, based on subdivisions 11(a)(1) and 21(a) thereof.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the County Treasurer, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said County Treasurer, consistent with the provisions of the Local Finance Law.

Section 5. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the County Treasurer, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as the County Treasurer shall deem best for the interests of the County.

Section 6. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the County by the facsimile signature of the County Treasurer, providing for the manual countersignature of a fiscal agent or of a designated official of the County), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the County Treasurer. It is hereby determined that it is to the financial advantage of the County not to impose and collect from registered owners of such serial bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the County Treasurer shall determine.

Section 7. The faith and credit of said County of Herkimer, New York, are hereby irrevocably pledged to the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. To the extent not paid from other sources, there shall annually be levied on all the

taxable real property in said County a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 8. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the specific object or purpose described herein.

Section 9. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said County is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 10. This resolution, which takes effect immediately, shall be published in summary form in the official newspapers, together with a notice of the Clerk of the County Legislature in substantially the form provided in Section 81.00 of the Local Finance Law.

Dated: February 10, 2011.

PATRICK E. RUSSELL
DENNIS KORCE
VINCENT J. BONO
BRUCE WEAKLEY
JOHN J. PISECK, JR
BERNARD PEPLINSKI, SR.
Committee on Ways and Means

LEONARD R. HENDRIX
VINCENT J. BONO
JEFFREY M. STONE
DENNIS KORCE
ROBERT N. HYDE
BRUCE WEAKLEY
Committee on Public Safety/ Emergency

Management

On motion of Mr. Russell, seconded by Mr. Peplinski, Resolution No. 42 of the Committee on Public Safety and Emergency Management and the Committee on Ways and Means authorizing retention of financial advisor in connection with Correctional Facility Project was handed up; discussion was held, was voted on and adopted by voice vote:

Ayes: (15).

Against: Rose, Brezinski (2).

Absent: None.

No. 42

REPORT AND RESOLUTION OF THE COMMITTEE ON PUBLIC SAFETY/EMERGENCY MANAGEMENT AND THE COMMITTEE ON WAYS AND MEANS AUTHORIZING RETENTION OF FINANCIAL ADVISOR IN CONNECTION WITH CORRECTIONAL FACILITY PROJECT

WHEREAS, it is necessary to obtain financial advisory services in connection with the issuance of bonds to finance the cost of construction of a New Herkimer County Correctional Facility; and

WHEREAS, your Committees have recommended retention of Fiscal Advisors and Marketing, Inc. to serve as financial advisor to the County of Herkimer in connection with the issuance of these bonds; now, therefore, be it

RESOLVED, that Fiscal Advisors and Marketing, Inc., 120 Walton St., Suite 600, Syracuse, NY 13202, be retained as Financial Advisor to the County of Herkimer in connection with the issuance of bonds for the construction of a New Herkimer County Correctional Facility at the fee schedule attached to the proposal from Fiscal Advisors and Marketing, Inc.; and, be it further

RESOLVED, that certified copies of this Resolution be forwarded to the Herkimer County Treasurer, Auditor, Budget Officer, County Attorney and Fiscal Advisors and Marketing, Inc.

Dated: February 10, 2011.

LEONARD R. HENDRIX
VINCENT J. BONO
JEFFREY M. STONE
DENNIS KORCE
ROBERT N. HYDE
BRUCE WEAKLEY
**Committee on Public Safety and
Emergency Management**

PATRICK E. RUSSELL
DENNIS KORCE
VINCENT J. BONO
BRUCE WEAKLEY
JOHN J. PISECK, JR.
BERNARD PEPLINSKI, SR.
Committee on Ways and Means

On motion of Mr. Russell, seconded by Mr. Hendrix, Resolution No. 43 of the Committee on Public Safety and Emergency Management and the Committee on Ways and Means authorizing retention of bond counsel in connection with Correctional Facility Project was handed up; there being no discussion, was voted on and adopted by voice vote:

Ayes: (15).

Against: Rose, Brezinski (2).

Absent: None.

No. 43

REPORT AND RESOLUTION OF THE COMMITTEE ON PUBLIC SAFETY/EMERGENCY MANAGEMENT AND THE COMMITTEE ON WAYS AND MEANS AUTHORIZING RETENTION OF BOND COUNSEL IN CONNECTION WITH CORRECTIONAL FACILITY PROJECT

WHEREAS, it is necessary to retain bond counsel in connection with the issuance of bonds to finance the cost of construction of a New Herkimer County Correctional Facility; and

WHEREAS, by Memorandum dated February 2, 2011, County Attorney Robert J. Malone has recommended retention of Orrick, Herrington & Sutcliffe, LLP, in connection with the issuance of these bonds; now, therefore, be it

RESOLVED, that Orrick, Herrington & Sutcliffe, LLP, 666 Fifth Avenue, New York, New York 10103 be retained as bond counsel in connection with the issuance of bonds for the construction of a New Herkimer County Correctional Facility at the fee schedule attached to the above described Memorandum; and, be it further

RESOLVED, that certified copies of this Resolution be forwarded to the Herkimer County Treasurer, Auditor, Budget Officer, County Attorney and Orrick, Herrington & Sutcliffe, LLP.

Dated: February 10, 2011.

LEONARD R. H ENDRIX
VINCENT J. BONO
JEFFREY M. STONE

DENNIS KORCE
ROBERT N. HYDE
BRUCE WEAKLEY
**Committee on Public Safety and
Emergency Management**

PATRICK E. RUSSELL
DENNIS KORCE
VINCENT J. BONO
BRUCE WEAKLEY
JOHN J. PISECK, JR.
BERNARD PEPLINSKI, SR.
Committee on Ways and Means

On motion of Mr. Manno, seconded by Mr. Stone, the Special Session adjourned at 6:58
p.m.