

**Herkimer County Legislature
Public Safety/Emergency Management and Ways & Means
Committee Meeting
Thursday, August 20, 2020
Via Teleconference
5:15 p.m.**

Persons Attending:

John P. Stephens (Chairman, Public Safety/W&M committee member)
Gregory Malta, Sr. (Public Safety committee member)
Raymond Johnson (committee member, both)
Kurt J. Ackerman (committee member, both)
William Weakley (Public safety committee member)
Peter Campione (Public Safety committee member)
Patrick E. Russell (Ways & Means Committee Chairman)
Raymond Smith (Ways & Means committee member)
Frederick J. Shaw, Jr. (committee member, both)
Vincent J. Bono, Chairman of the Legislature
James W. Wallace, Jr., County Administrator
Lorraine Lewandrowski, County Attorney
Sheri Ferdula, Budget Officer
Scott Scherer, Sheriff

(Non Committee Members Signed In)

Legislator Mark Gaworecki
Legislator Robert J. Schrader
Legislator Bob D. Hollum
Legislator William E. Keeler, Sr.
Legislator John L. Brezinski
Legislator Peter F. Manno
Legislator Ray Donley

Absent:

N/A

Mr. Stephens and Mr. Russell called the meeting to order at 5:15 p.m.

Items Discussed:

PUBLIC SAFETY/EMERGENCY MANAGEMENT AND WAYS & MEANS:

1. Extension of LaBella Contract
2. Other

Committee Vote Record:

PUBLIC SAFETY/EMERGENCY MANAGEMENT AND WAYS & MEANS:

Mr. Stephens: "First thing on the agenda, extension of the LaBella Contract. Who wants to open the flood gates?"

Mr. Ackerman: "I have one of many questions. My first question is our contract was two people on sight from Gilbane and we are paying roughly \$40,000 a month for them and from my understanding we are down to one right now so over the next six weeks, the contract goes to October 1st, that would be about \$30,000 savings that they owe us back and if we go forward they are going to have a part time person after October 1st, so if we pay them a quarter of the rate now, which is about a \$10,000 bill for four weeks. So I say we go to November 1st and they owe us \$20,000 back because that is the difference

between what they owe us for shorting us now than what we signed for a contract. I don't know why we owe them any money."

Mr. Schrader: "I second that motion."

Mr. Bono: "I don't know if there is a response. Say that one more time."

Mr. Ackerman: "We signed the contract with them to have two people at \$40,000 a month, correct? \$900,000 divided by two months or whatever it is \$41,000. They pulled one of the people off and another one left as well so we are really down to one replacement person on site which is a reduction over the next six weeks of \$30,000 we have to pay them. If you do the math, instead of paying them \$10,000 we are paying them \$5,000 so they owe us back that money. Going forward they are going to have a part time person there from my understanding talking to you guys."

Mr. Wallace: "The twenty months ended in June."

Mr. Ackerman: "I thought it was twenty two."

Mr. Wallace: "No, it was twenty through June."

Mr. Ackerman: "What was the two months then?"

Mr. Wallace: "It was from November through June."

Mr. Ackerman: "I thought I was told it was twenty two months?"

Mr. Wallace: "I didn't tell you so I don't know."

Mr. Ackerman: "That's what I was told by the three people on the committee. Two out of the three. It was twenty plus two months."

Mr. Wallace: "But it's not. It's through June."

Mr. Bono: "I don't remember having that conversation."

Mr. Ackerman: "You said it was twenty plus two which puts us to September 1st."

Mr. Bono: "When did I say this?"

Mr. Wallace: "It doesn't matter. It is twenty months and it runs through June."

Mr. Ackerman: "So we owe them back money? Where did September 1st come into play?"

Mr. Wallace: "There was two months for closeout."

Mr. Ackerman: "So that was a part of the bid? Twenty plus two, right?"

Mr. Wallace: "Not to my knowledge Kurt."

Mr. Ackerman: "You said two months for closeout. Is that a part of the contract though?"

Mr. Wallace: "That's the one remember they did it for free? They put it in and they said they were going to do it for free."

Mr. Schrader: "They didn't do anything for free."

Mr. Wallace: "Yes they did, Bob. You can make up whatever you want to make up but I'm just telling you."

Mr. Ackerman: "I was told until September 1st."

Mr. Wallace: "They are not charging us. They need to be paid from September through November."

Mr. Johnson: "I thought the contract ended October 1st? Is that LaBella or is that LaBella and Gilbane?"

Mr. Wallace: "No. Remember, any contract we had was just LaBella. We don't have a contract with Gilbane, which is great because now you are fighting with one company. You don't have two companies going like this at you. Lorraine, please jump in."

Lorraine Lewandrowski: "Sheri had given me some calculations. So the one is originally twenty months and it was two months for closeout. Twenty months of actual work and two months supposedly for the inspections, reviewing of whatever paper needs to be done."

Mr. Ackerman: "So is it twenty or twenty two?"

Mr. Stephens: "Twenty we paid for, two that they are doing on their own."

Mr. Wallace: "The contract is twenty months."

Mr. Ackerman: "So we signed a contract to hire an architect, I don't recall this but twenty months, anything over that we wouldn't pay them so what incentive did they ever have to finish the job? I don't know why anybody would sign that contract."

Mr. Wallace: "The incentive Kurt was to get out of here because you are not going to get paid any more money."

Mr. Ackerman: "Well they are. They are coming to us for \$50,000 a month."

Mr. Wallace: "Well, who knew COVID was going to happen."

Lorraine Lewandrowski: "There is a clause in there that if they got done early they would get some bonus as well."

Mr. Ackerman: "Yes but contracting was never held up for any kind of these builds they were not held up."

Mr. Wallace: "It was held up. Weydman. The whole reason we are still here is Weydman."

Mr. Bono: "Weydman used that as an excuse in their argument."

Mr. Ackerman: "So we have until September 1st or the end of September?"

Mr. Wallace: Mr. Chairman, if we need to go into executive session let us know. I'm getting close."

Mr. Johnson: "Do we want to just go in to talk?"

Mr. Wallace: "I don't know. No, you have to have a specific reason to go in."

Mr. Wallace: "I don't care if we go in or not. I don't. I don't care who hears it. I think the public should know this."

Mr. Johnson: "Right now LaBella leaves the job site October 1st?"

Mr. Wallace: "Right. Then you have all of October. Sheri, speak up."

Sheri Ferdula: "The contract is for twenty months from the start of construction with was November 5, 2018. That brings you to July 5th, 2020 and two months for closeout which brings you to September 5th. That's what the contract says."

Mr. Wallace: "So now you are going from that until the end of October."

Mr. Ackerman: "What constituted November 5th? And what was the start of the contract for the building?"

Mr. Wallace: "That's when we sent the notice, correct Sheri? Lorraine?"

Sheri Ferdula: "Correct."

Mr. Wallace: "A Notice to Proceed."

Lorraine Lewandrowski : "Yes. After the bids then they give you a formal notice called Notice to Proceed so then they mailed out the Notice to Proceed and that's the start date when you say go."

Mr. Ackerman: "I guess I was confused between the start and the beginning of the twenty months otherwise I wouldn't have done that."

Mr. Johnson: "So our contract with Labella ends September 5th, the extension will take us to October 5th, right?"

Mr. Wallace: "No and again Sheri or Lorraine, my understanding this would take us to November 4th."

Mr. Ackerman: "So September 4th to November 4th?"

Mr. Wallace: "Yes, two months."

Mr. Johnson: "But your project isn't going to be done."

Mr. Wallace: "I can't say that."

Mr. Johnson: "I can. I just looked at these. I've got five pages for electrical, all the security wire that is supposed to be conduit is zip tied up to the ceilings and stuff. I guess the biggest stumbling block here is Weydman and how to move forward to get the project completed."

Mr. Schrader: "Jim, can I ask you and Lorraine, you weren't here when this whole cluster started but was it our fault, they've been on this whole site for how many years and they did not see the asbestos on the

P&C concrete floor. So that's counting into this time that took them how many weeks to grind it off or whatever. That should have been something that they should have been responsible for. They defended the case how many times in court saying it was the only site available that they could possibly build the jail and you are telling me they didn't examine enough to know that there was asbestos flooring on a concrete pad that they have to take out of there so now we are paying for something on their negligence in my opinion and that would have probably put us back a month and a half."

Mr. Johnson: "That delay wasn't that long."

Mr. Schrader: "Check into it because we had to hold it off because the neighbor called in, they had to have OSHA come in there."

Mr. Bono: "It was a week."

Mr. Schrader: "It was more than a week. I'm just saying regardless."

Mr. Ackerman: "There was another delay that the architect cost us when they put the beam too low and the electrician had to go around it. It cost us more money and Sheri brought that up. It was a delay and a cost to the electrician which cost us more which was a mistake on LaBella."

Mr. Schrader: "And a crooked wall."

Mr. Bono: My take on it is this, anyway you look at it we need a Certificate of Occupancy. The only way to get a Certificate of Occupancy is to have an architect whether it's LaBella or anyone else to sign off on it and if you say no to this, I don't know what option B is. It could be a thousand different things but I personally don't know what option B would be outside of canceling, shutting down the project. You need a Certificate of Occupancy. Another thing is, you have a new codes inspector over there, new State guy, and I will tell you what he is not pleasurable to get along with and if you have nobody there to oversee the project this guy will knit pick you to death. You need someone to push back on the guy. Like LaBella was doing, like Gilbane was doing there were conversations, they did decent jobs for the most part pushing back on the codes guy so we can't just walk away. There has got to be a plan B here and I think tonight we need to have a plan B whatever that is. That's all I am saying and I think we should stay with LaBella for continuity, we should stay with Gilbane for continuity and finish this out and then whatever we want to do afterwards, go after Weydman, I agree with Ray, we should go after Weydman."

Mr. Wallace: "Can we go into executive session?"

Item #1 – On motion of Mr. Johnson, seconded by Mr. Ackerman for Public Safety, and on motion of Mr. Johnson, seconded by Mr. Ackerman for Ways & Means, the committees went into Executive Session at 5:29 p.m., under Public Officer's Law, Section 105 (d). On motion of Mr. Weakley, seconded by Mr. Campione for Public Safety, and on motion of Mr. Shaw, seconded by Mr. Bono for Ways & Means, the committees voted to extend the LaBella contract. Yes: Stephens, Weakley, Campione, Bono, Smith, Shaw (6). No: Malta, Johnson, Ackerman, Russell, (4). On motion of Mr. Bono, seconded by Mr. Johnson for Public Safety, and on motion of Mr. Russell, seconded by Mr. Weakley for Ways & Means, the committees came out of Executive Session at 6:18 p.m.

Item #2 – N/A

On motion of Mr. Bono, seconded by Mr. Johnson for Public Safety/Emergency Management and on motion of Mr. Bono, seconded by Mr. Johnson for Ways & Means, both committees adjourned at 6:21 p.m.