

PERSONNEL COMMITTEE

Tuesday, February 16, 2021 - 10:00 AM

Clerk's note – This meeting was held virtually.

Stephanie DeZalia, Chairperson
Joseph Giordano, Vice-Chairperson

Chairwoman DeZalia called this Personnel Meeting to order at 10:08 am with the following Supervisors virtually in attendance: Clayton Barber, Robin DeLoria, Archie Depo, Stephanie DeZalia, Shaun Gilliland (in person), Joseph Giordano, Charlie Harrington, Roy Holzer, Kenneth Hughes, Steve McNally, Jim Monty, Noel Merrihew, Jay Rand, Tom Scozzafava, Jeffrey Subra, Ike Tyler, Joe Pete Wilson and Davina Winemiller.

Department Heads present: Dan Palmer (in person), Judy Garrison, Dan Manning, Jennifer Mascarenas and Michael Mascarenas.

Also virtually present: Sun News, Tim Rowland.

DEZALIA: Good morning we'll call this Personnel and Administration meeting to order and we'll start off with Jen Mascarenas, is she on?

MASCARENAS: I'm here. Good morning. I don't have anything in addition to my monthly report unless anyone has any question for me?

DEZALIA: Anyone have anything?

GIORDANO: I just have a quick question. Hi Jen. I just wanted to check, on the website were all those resolutions that Todd and Community Resources and you and I had worked out, were they able to be approved and put on for the wastewater?

MASCARENAS: We had to rewrite all the specs so I'm not sure if they're actually uploaded on the site yet but I can make sure that that's done.

GIORDANO: Okay were the other ones that are on there from the old language has that been removed?

MASCARENAS: I'm not sure without looking but I'll double check that today and make sure that the old ones are removed and the new ones get put on there.

GIORDANO: Okay, very good. I just had some questions from some of the employees here in Ti so thank you.

MASCARENAS: Okay.

DEZALIA: Anyone else have anything for Jen? No? Okay, thank you Jen.

MASCARENAS: Thank you.

DEZALIA: Next up will be Judy, Clerk of the Board. Good morning Judy.

GARRISON: Good morning. I submitted my monthly report and I do have on resolution listed on the agenda to reappoint Joseph Giordano to the Lake Champlain-Lake George Regional Planning Board for a three-year term, beginning January 1, 2021 through December 31, 2023.

RESOLUTION AUTHORIZING THE REAPPOINTMENT JOSEPH GIORDANO TO THE LAKE CHAMPLAIN-LAKE GEORGE REGIONAL PLANNING BOARD FOR A THREE-YEAR TERM, BEGINNING JANUARY 1, 2021 THROUGH DECEMBER 31, 2023. Scozzafava, Merrihew

DEZALIA: Discussion anyone? All in favor say aye, opposed – motion carries. Congratulations Joe.

GIORDANO: Thank you.

DEZALIA: Anything else Judy?

GARRISON: That's all I have unless anyone has any questions for me?

DEZALIA: Okay, thank you Judy. County Attorney, Dan is he on?

MANNING: I am here. I just wanted to bring you up to date. The first item on my agenda is the resolution of solicitation of applicants for the Office of Conflict Defender, Assigned Council Administrator. We already passed those resolutions. I just wanted to bring the board up to snuff, so to speak as to this ILS grant and what we're going to be receiving.

In year one, we received \$226,000 plus dollars, year two which is a year we're working on now, or we're using the money now we received \$452,600 and this year, year three we are going to get \$679,000 plus dollars. These monies really, really helped you know, defray costs that the county normally would have had to undertake. We installed a new blade server, Dan Palmer took care of that but this grant took care of half of that which is close to \$70,000. We had to lay a fiber optic cable from here to the public defender's office which we're renting which we would have had to have don there. We took half the cost of that, \$11,000. The rental of the office space on Church Street I think it's called from Bill Finucane which we would of have had to pay out of our pocket you know, this is coming out of this amount is \$25,000. There's a ton of money for computers and training and mileage for the Public Defender's office. We also received another public defender which this is paying for his support staff. We're going to get a Counsel at first appearance, as you know, now requires anybody for any reason that logs into court has to have an attorney at arraignment which is, in my opinion, ridiculous most of the time but it's mandated and we have three attorneys that do that and that's costing us over \$50,000 a year that's being paid for out of this grant.

Our Conflict Defender which we will have in place soon and his assistant, their fringes are covered by this Counsel Administrator who will administrate all the red tape, which is another matter will be paid for as will all their office equipment, their mileage and things of that nature.

Another important thing that we often get nailed on is investigators. In certain high profile cases under the 18b county law, we are required to provide an investigator should one be necessary and in the past, we've had to pay for that and there's money in that we've been using to help pay for that. Another thing is interpreters, that's covered under here and experts that's another thing. If it's a high profile case and you're an indigent defendant, not only do you get your legal fees paid for but you get your expert fees paid for as you probably all know, experts don't come and sit

around very cheaply. So those are all things that in the past that we're covering now I just want to bring to your attention you know, we're now going to receive \$679,000 plus for year three a lot of these are re-occurring costs but I anticipate we're going to have a couple hundred thousand dollars left over and this is the point of the game where I feel that the board or at least Dan and his department would be involved because we're now not just paying for regular sundry costs you know, that everybody want to be encompassed in this thing but we're going to have some extra money. So we're going to keep you apprised and Dan will work with us so that you know, if there might be something that needs to be done that'll help public defender or anybody so that's out there. I just felt that I hadn't given anybody an update.

I have the budget. I can send you all a copy of the budget, should you want one the current two years and of course we haven't put the year three budget in place. You should also know that year four we're going to get \$905,000 and in year five we're going to get \$1.1 million dollars. Some of things we're talking about is trying the Assigned Counsel Administrator to do the administration for family court matters which is a no-no usually but they've kind of tacitly agreed that we'll be able to do that. They're still working on whether it will be able to. They've always said we couldn't use any of this money for family court assigned counsel but that might be coming down the line. We will, by establishing the Conflict Defender's office there are about 100 cases, like 78 misdemeanors then some sundry felonies and a few appeals that were being held which were being done by assigned counsel. This is picking up the lion's share of that, not that there won't be conflicts that will then go to assigned counsel there's another area. Although I think they're throwing a lot of money in some places where it could very well be used for assigned counsel like family court this is pretty much a godsend for the county because these expenses are no longer being paid for out of the tax payer's dollar but indirectly but not out of the Essex County taxpayer's dollar. So that's all I have on that. I just wanted to kind of give you an update. Any questions? I'm happy to answer.

SCOZZAFAVA: I have a question. Dan, are they reducing that? I'm assuming that's state money obviously, is that being reduced?

MANNING: Yeah, they are not reducing it. They say the Governor will not well, they're not reducing for this year and they haven't reduced for the other two years and they say we're on solid ground. This is a big statewide thing, and I think if it were to fall apart it wouldn't look politically so what I hear is we're alright.

SCOZZAFAVA: Okay, thank you.

DEZALIA: Dan, is that for just five years? And after five years?

MANNING: That's the \$64,000 question. As far as we know they do tell us it will continue but I wouldn't, you know, who knows?

DEZALIA: Okay. So are you asking for a resolution authorizing the –

MANNING: No, I am not that should have said discussion. We already passed the resolution of those. We've been speaking to the Clinton County Assigned Counsel Administrator and I think that's what we're going to bring before the board, but to hire him as assigned counsel administrator just to get the ball rolling. He's been doing it for a long, long time. He's got everything in place. He's got the computer system that we have. He knows it and we thought this would be, Brandon, myself, that that would be the better of course to get somebody that already knows what they're doing and then next year we'll have somebody that we hire or want

or even in house and there maybe some way we can defer some expenses from, they used to tell us we couldn't do this, it was a conflict but now, I asked come on, can we use our auditor's office? And then I found out Clinton County did it so I threw them under the bus in the phone call we had last week, I didn't really throw them under the bus but they said, well, we don't like it but maybe so that would be another deferred cost that we could pay some of the auditor salary with these monies and you know, there's a way to do that would pay, so we pay half of our salary, we might be able to do that.

DEZALIA: Does anyone else have any questions on this?

MONTY: Dan, hypothetically speaking if this does go away in five years, does the salary increases go away, does the manpower that we've hire because of this go away or we're going to have to pick those up?

MANNING: I would say, it's the public defender's office I mean, you certainly can qualify that if you want to like you've done in the past, where you say, this position is only grant funded and we should lose the grant then that position is abolished. You can also abolish positions anyway but my guess is with this new disclosure and everything that's going on Brandon could speak to it better or maybe Dan can I know the District Attorney –

PALMER: I think what you're going to find is that a little bit of both so to speak. Some of it you're going to be able to eliminate and fall back others you're not just not going to be able to meet the requirement to have an attorney at all arraignments is going to continue, there's no way around it. It doesn't matter whether you've got grant funds or not, you're going to have to provide that so I think there's things that we would certainly look at, if they got to the point where they said they were no longer funding. I do think the state will probably have to seriously consider continuing funding and I say that only in the sense that this was a court settlement, which said that they weren't providing enough representation for indigent defense and therefore, you know, in order to avoid a full-blown lawsuit, they did arrive at this agreement and I don't think the issue of indigent defense goes away after five years. So I think the argument will probably continue to be that the state needs to fund these things to what level we don't know. We've asked that question both Dan and I in meetings with the state. What happens in five years? Well, we intend to continue but that's all the answer we get. So we don't get a solid answer but I do think, at that point where you're ready, where you would know that you were going to lose that funding you would have to re-evaluate those things that you could control and some of them you're not going to be able to control.

MANNING: Keeping with that, your assigned counsel administrator and your conflict defender will remain because you're mandated to have those but I agree with Dan my gut tells me this is going to continue maybe not to the top level of funding we have but I think enough to cover what we'll need. We're trying to find places to do – all the other counties are putting up bullet proof glass that have nothing to do with their money. I think Clinton County did that. We have things so far to deal with our money but that's why when we get this overage we're going to have to start thinking about how to best use our money. I don't think we need bullet proof glass but maybe.

DEZALIA: Okay. Anybody else have anything? Dan, did you have something else about Local Law #2?

MANNING: Yes, I do and this is for discussion purposes. As you know, we've been talking with the C-Space people about a sustainable energy loan program which the general municipal law

allows us to create our own sustainable energy loan program in order to provide funds for developers and residential but we're talking about developers in this case for projects so they go green and they can use these funds exclusively for anaerobic digesters, solar power panels, windmills whatever low electric, anything that is green. This is, NYSERDA has a program where the C-Space people are involved and they have had local laws and agreements with about 28 counties and municipalities to do this program and I've been dealing with them. It's sort of like a lingering tooth ache dealing with these people. The law provides that we do this so they slide the local law under our noses and an agreement that they have and say, sign it which it rubs me the wrong way you know, I'm not trying to be an obstructionist or anything but you know, don't tell me what to do but that's their approach. They slide the agreement and the local law under all the municipalities names and faces and they comply with it. There were some things that I felt should be changed. I can live without them being changed but still the major is what happens if we, if someone takes advantage of the program, the program basically is this organization they find financiers for projects then they administer the project. We don't have to do anything though. They comply with NYSERDA's laws and they administer the whole program but the only issue I have is pursuant to the agreement with them and the local law if we are to foreclose for back taxes, then the property is to be sold at auction whatever existing debt is still on those financier's does not get extinguished but carries over to the new buyer so that's problematic because you may find that there's not going to be a new buyer who's going to want to buy this piece of property and pay the debt on it unless he gets a real deal and that could happen so in that case, then we would end up with the property and that debt would still be on so we got a piece of property that we're holding onto that we can't market, it might go to rack and ruin. So that's one aspect of not being able to foreclose on it.

Another aspect would be if you got a developer who wanted to play fast and loose, he could be paying the financier's their "mortgage payments" but not pay the taxes and let it go for a long time and what is our recourse? Well, we could foreclose on it but then we might have a problem.

Now, practically speaking do I think this is ever going to happen? No because no financier is going to let the borrower not pay the taxes, they are going to pay it just to keep it out of foreclosure anyway. So it is an issue but I don't think it's a major issue. That's the only issue that really boils down.

Now, we can also change our local law and we can back out of the contract with these people, with the caveat that if we back out while they're in a program with someone that we have to continue that program. We don't do anything. It doesn't cost us any money but we have to allow that builder to complete the project. So this doesn't cost us money. I don't like being told what to do and there is that foreclosure problem but we can get out of it and I don't think it's going to happen. As a belt and suspenders we could ask any town that participates to sign an agreement with us that says, hey, if that should ever happen, we'll take the property, you give it to us, we'll worry about so that would take the county out of the whole equation.

Now the whole reason this came before us is this project in Lake Placid which you know, is a really, looks like a great project, it would be great for the county. You're talking 34 acres, with 265 apartments, 90 condominiums, they have a clubhouse, green house, gardens, maintenance building, parking lots the whole nine yards this is up on the old Alton Jones Cell Center so you sort of have to at this point I've talked to everybody in that company they even had some French guy on, they're kind of full of crap sometimes you know, they tell me well, look at the law and I'm like, yeah look at the law it says you can't do this, this and this and they do it. Anyway my recommendation would be to pass the local law to do this, so that the project in Lake Placid can take advantage of this, see how it rolls. If it doesn't roll the way we want it we shelve the local law or we repeal it and the only project that we would have on board if it were in the hopper would be this Lake Placid project. And another caveat to that is, we don't know whether the Lake Placid developer is going to take advantage of this but I think Jay Rand is confident that he will so, with

that being said, I just wanted to bring you up to date on that. I can bring the local law before ways and means and I can field any questions you have.

DEZALIA: Tom, go ahead.

SCOZZAFAVA: Dan, explain to me again why the county has to be involved with this program? I mean, I have a solar farm going through in Moriah, they are going right straight through NYSERTA.

MANNING: The enabling legislation states that any municipality can do this but because the county, you know, has the ability to foreclose on properties the program only goes, well no it doesn't only go, mostly go they want to go to the counties.

SCOZZAFAVA: So most solar farms that I'm aware of and I don't have a whole lot of background or I'm assuming this will be a solar farm? You're certainly not putting wind towers up there.

MANNING: Not really it could be across the board sustainable energy stuff.

SCOZZAFAVA: Well, most that I'm aware of are leased. They lease the property from the farmer or they lease it from whoever owns the property and they continue to pay a property tax on the owner and then there's a PILOT agreement for the equipment. I'm just trying to understand why the county even needs to get mixed up in this?

MANNING: It's because the law says that only a municipality can establish this type of sustainable energy loan program.

SCOZZAFAVA: So, who finances the loan? NYSERTA?

MANNING: The loan is financed by financier's that this group has vetted and they have found.

SCOZZAFAVA: Are there any other counties currently involved in any of this?

MANNING: Yeah, there's a ton. Hold on a second I can tell you.

SCOZZAFAVA: I don't need it right now but I guess you know; I think we need to tread carefully with this. I don't need a lot of detail. I mean, I'm just saying that we need to go into this with eyes wide open because I've been dealing with it here on a couple of different levels and it's not like a lingering tooth ache it's more like a root canal.

MANNING: My negotiations with them is just, you know it's just but the standard response I get is we want to keep everything uniform with every county in every town so we don't have to go in and do something different and I said, in my responses in the age of computers you certainly can.

SCOZZAFAVA: So what this company is saying, whomever this company is, is it an LLC, I mean, they're saying well, if the county doesn't do this we don't have a project. Is Jay on board? Is Jay on right now? Jay Rand? In other words, is this project dead in the water if the county doesn't do this?

MANNING: Yes. If it weren't, I just wouldn't do it.

DEZALIA: Joe Pete I think had something to add to this.

WILSON: So, Dan I know that is program is in effect across the state you know, a majority of counties have adopted this law have difficulties that Tom is referring to where you draw it up have those things occurred in other counties where projects have gone forward under this law?

MANNING: I haven't heard that no but you know, I haven't heard it no. I think it's rare there'll be a problem but you know. I can read some these counties, Albany County, Broome County, Chautauqua County, Canandaigua, Dutchess County, Franklin County, Niagara County, Oneida County, Wyoming, Yates, Warren, Ulster, Sullivan, Suffolk, Rockland, Putnam and Oswego and I've gone onto the Attorney General's website where we have to file our local laws, and I've seen their local laws, and they all signed onto every single work they said. They didn't contest it. I do the city of Buffalo had a problem with some of it. I have a call into them but I haven't gotten a return call.

DEZALIA: Roy, did you have something to add?

HOLZER: I have a question for Dan. Dan, for this particular project how much are we looking at that could potentially roll over to a new owner, what would be the county's exposure financially if it did roll over to another owner, like how much money are we talking about here?

MANNING: I don't know that Roy. That I don't know.

HOLZER: That's important to know.

MANNING: You know, I don't know how I know it unless, and here's this we may pass this and the developer, Joseph Barile may say, I'm not doing it, I don't want to do it the terms whatever they might be if that's the case I would just leave the law on the books until we see if somebody else is going to ever use it. I think it's used basically, it sounds like it's used for large, large projects. It would sound to me, if I'm a developer and I can get – it's a lower interest rate it's a much lower interest rate and it helped also to defer other borrowing that he might do with traditional borrowing sources. So the way they have explained it, it's good for him but I don't know I'll try. It can be as much as, I might have this wrong, I will have to check, I don't want to misquote it. It could be up to 10% of the overall appraised value of the property where the renewable energy systems will be located or the actual cost of installing the system improvements but this is a huge project so you know, it's across the board anything that saves energy.

HOLZER: Does the contract have a timeline?

MANNING: The contract between us and C-Space can be terminated upon a 60-day notice however, if there is a project, like I said, in the hopper like say this project is in the hopper we can terminate the contract but they still have to be allowed to continue to do all they do. We don't do a thing. Actually, we do nothing here. There's no monetary exposure to us and the only exposure to us is very slight and as I said, if we foreclose on a piece of property we get it with the debt on it. Now, we're not responsible for that debt now a new buyer would be but we aren't.

HOLZER: To me Dan I think it would be more of a Town of North Elba issue to have a piece of property just sitting there like a white elephant. Personally, I'm going to go with what Jay Rand's recommendation is as far as my vote goes on this.

MANNING: Right and I would too you know, you're all in this together and there's certain times

towns need a vote and I'm confident the benefits are going to outweigh any you know any problems. We don't have any money in the game. We have no skin in the game. It's kind of weird, the whole thing. You know I asked questions like who at NYSERTA can I talk to? Oh, they don't know anything about this. Really? They set your rules. So I think this is legit. I think it's a way for them to make money. They get 1.5% on everything they do, that they borrow so there's – it's a local development corporation. It's the only one in the State that's allowed to do this right now on a NYSERTA's program. My recommendation would be to pass it. We'll be able to get out of it if we need to.

DEZALIA: Robin, did you have anything?

DELORIA: Well, I think the only thing that's come into my mind here is this is essentially a business transaction at the end of the day and you know, the property in and of itself would be you know, wouldn't that be lien able where a lien could be placed on it to get the money back so we wouldn't have to go down all this foreclosure business and be responsible of the debt? I don't know, it's just a question.

MANNING: No, it's a good question. The way the process works though is a builder goes to them, they find a financier, the financier gives them the money, they sign a thing called a benefit assessment lien which is a mortgage. I told these guys why all this smoke and mirrors why don't you just do a mortgage? But whatever. This benefit assessment lien is akin to a mortgage and gets filed in the County Clerk's office. If the developer reneges on that then the financier can foreclose on that and get the property and if the developer doesn't pay his taxes the financier can foreclose on it. So that's all it is but we can't foreclose or get rid of any lien that exists when we foreclose for taxes. I've talked until I'm blue in the face on this and they are saying no. As I say, the benefit risk I'm probably thinking too hard on whether it's going to or could ever be a problem but if we have the ability to get out of the contract we could get bitten once but not twice and if we had a side agreement with the Town of North Elba that would cover us then no harm, no foul we've got no money, no skin nothing in the game and it's a big project for North Elba so I mean, you know in your town Robin I would recommend we go forward.

DEZALIA: Okay it appears that Jay is on. Jay, are you on? Okay. Is there anything else Dan?

MANNING: No, I'll get you some more information before regular board or to ways and means.

DEZALIA: Okay, thank you. Is there anything else to come before this committee? Okay, we are adjourned. Thank you.

As there was no further discussion to come before this Personnel Committee it was adjourned at 10:40 a.m.

Respectfully submitted,

Judith Garrison, Clerk
Board of Supervisors